(1)

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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 #-20110000-TK
Treasure Island / Yerba Buena Island
APN Blk. 1939 Lots 1 and 2

San Francisco Assessor-Recorder
Phil Ting, Assessor-Recorder
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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 (30th) 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 Security. Developer shall have the right to substitute any Adequate Security (including any Base Security) provided to the Authority hereunder, or any portion thereof, for another form of Adequate Security that meets all of the requirements or Approvals needed for it to be Adequate Security as defined in this DDA. Without limiting the generality of the foregoing, upon providing any security in the form required pursuant to the TI/YBI Subdivision Code for Infrastructure and Stormwater Management Controls as and when required thereby, any prior Sub-Phase Security provided by Developer for that Infrastructure and Stormwater Management Controls obligation shall be released or reduced to the extent of such required security.

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

27.1 Non-Discrimination in City Contracts and Benefits Ordinance.

(a) Covenant Not to Discriminate. In the performance of this Agreement, Developer covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under Chapter 12 of the San Francisco Administrative Code against any employee of Developer or any City and County employee working with Developer, any applicant for employment with Developer, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Developer in the City and County of San Francisco.

(b) Subleases and Other Contracts. Developer shall include in all subleases and other contracts relating to the Project Site to which Developer is a signing party a non-discrimination clause applicable to such subtenant or other contractor in substantially the form of Section 27.1(a) above. In addition, Developer shall incorporate by reference in all Subleases and other contracts the provisions of Sections 12B.2 (a), 12B.2 (c)-(k) and 12C.3 of

the San Francisco Administrative Code and shall require all subtenants and other subcontractors to comply with such provisions. Developer's failure to comply with the obligations in this Section 27.1(b) shall constitute a material breach of this Agreement.

(c) Non-Discrimination in Benefits. Developer does not as of the Reference Date and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits (collectively "**Core Benefits**") as well as any benefits other than the Core Benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local Law authorizing such registration, subject to the conditions set forth in Section 12B.2 of the San Francisco Administrative Code.

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

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Developer shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Developer understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Developer and/or deducted from any payments due Developer.

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

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

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

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

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

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

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

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

(d) If, within 30 days after receiving written notice of a breach of this Agreement for violating the HCAO, Developer fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period, Developer fails to commence efforts to cure within such period, or thereafter fails to diligently pursue such cure to completion, the City shall have the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City and the Authority.

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

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

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

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

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

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

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

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

27.6 Developer Conflicts of Interest. Through its execution of this Agreement, Developer acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, certifies that it knows of no facts which would constitute a violation of such provisions and agrees that if Developer becomes aware of any such fact during the Term Developer shall immediately notify the Authority. Developer further certifies that it has made a complete disclosure to the Authority of all facts bearing on any possible interests, direct or indirect, which Developer believes any officer or employee of the City or the Authority presently has or will have in this Agreement or in the performance thereof or in any portion of the profits thereof. Willful failure by Developer to make such disclosure, if any, shall constitute grounds for the Authority's termination and cancellation of this Agreement.

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

27.8 Notification of Limitations on Contributions. Through its execution of this Agreement, Developer acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code (the "**Conduct Code**") which prohibits or a state agency on whose board an appointee of a City elective officer serves, for the selling or leasing of any land or building to or from the City or a state agency on whose board an appointee of a City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six (6) months after the date the contract is approved. Developer acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. Developer further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Developer's board of directors; Developer's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Developer; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Developer. Additionally, Developer acknowledges that Developer must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Developer further agrees to provide the Authority the name of each person, entity or committee described above.

27.9 Sunshine Ordinance. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between the Authority and persons or firms seeking contracts will be open to inspection immediately after a contract has

been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

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

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

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

27.13 Tobacco Product Advertising Prohibition. Developer acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City or the Authority, including the Project Site. This prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product, or on any sign. The foregoing prohibition shall not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

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

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

27.15 Pesticide Ordinance. Developer shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**") which (i) prohibit the use of certain pesticides on City or Authority property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Developer to submit to the Authority an integrated pest management ("**IPM**") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Developer may need to apply to the Project Site during the Term, (b) describes the steps Developer will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance, and (c) identifies, by name, title, address and telephone number, an individual to act as Developer's primary IPM contact person with the City or the Authority. In addition, Developer shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Through the Authority, Developer may seek a determination from the City's Commission on the Environment that Developer is exempt from complying with certain portions of the Pesticide Ordinance with respect to this Agreement, as provided in Section 307 of the Pesticide Ordinance. The Authority shall reasonably cooperate with Developer, at Developer's sole cost and expense, if Developer seeks in good faith an exemption under the Pesticide Ordinance.

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

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

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

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

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

(i) The disclosure is authorized by this Agreement;

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

(iii) The disclosure is required by judicial order.

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

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

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

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

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

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

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

27.20 Food Service Waste Reduction Ordinance. Developer agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth herein. This provision is a material term of this Agreement. By entering into this Agreement, Developer agrees that if it breaches this provision, the Authority and City will suffer actual damages that will be impractical or extremely difficult to determine; further, Developer agrees that the sum of one hundred dollars ($100.00) liquidated damages for the first breach, two hundred dollars ($200.00) liquidated damages for the second breach in the same year, and five hundred dollars ($500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that the Authority and City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by the Authority and City because of Developer's failure to comply with this provision.

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

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

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

28. Miscellaneous Provisions.

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

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

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

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

and

Office of the City Attorney
City Hall, Rm. 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Real Estate/Finance

28.2.2 in the case of a notice or communication to Developer,

Treasure Island Community Development, LLC
c/o UST Lennar HW Scala SF Joint Venture
One California Street, Suite 2700
San Francisco, CA 94111
Attn: Kofi Bonner

and

Gibson Dunn & Crutcher LLP
555 Mission Street, Suite 3000
San Francisco, CA 94105
Attn: Mary G. Murphy

To be effective, every notice given to a Party under the terms of this DDA must be in writing and must state (or must be accompanied by a cover letter that states) substantially the following:

(a) the Section of this DDA under which the notice is given;

(b) if applicable, the action or response required;

(c) if applicable, the period of time within which the recipient of the notice must respond thereto;

(d) if applicable, the period of time within which the recipient of the notice must cure an alleged breach;

(e) if applicable, that the failure to object to the notice within a stated time period will be deemed to be the equivalent of the recipient's approval or disapproval of the subject matter of the notice;

(f) if approval is being requested, shall be clearly marked "Request for Approval"; and

(g) if a notice of a disapproval or an objection that requires reasonableness, shall specify with particularity the reasons for the disapproval or objection.

Any mailing address may be changed by a Party at any time by giving notice of such change in the manner provided above, and any such change shall be effective ten (10) days thereafter (or such later date as is set forth in such notice). All notices under this DDA shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

28.3 Time of Performance.

28.3.1 All performance (including cure) dates expire at 5:00 p.m. on a Business Day (San Francisco, California time) on the applicable date for performance (including cure), as such date may be extended pursuant to the effect of Article 24 or any other extension of time permitted in this DDA.

28.3.2 Where the Outside Date (or other date set forth in this DDA) set forth in the Schedule of Performance is a calendar month without reference to a specific day in such month, or a year without reference to a specific month in such year, then the Outside Date shall be the last day in such month or year, as applicable.

28.3.3 Time is of the essence in the performance of all the terms and conditions of this DDA.

28.4 Extensions of Time.

28.4.1 The Authority or Developer may extend the time for the performance of any term, covenant or condition of this DDA by a Party owing performance to the extending party, or permit the curing of any related default, upon such terms and conditions as it determines appropriate; provided, however, any such extension or permissive curing of any particular default shall not operate to release any of the obligations of the Party receiving the extension or cure rights or constitute a waiver of the granting Party's rights with respect to any other term, covenant or condition of this DDA or any other default in, or breach of, this DDA.

28.4.2 In addition to matters set forth in Section 28.4.1, the Parties may extend the time for performance by any of them of any term, covenant or condition of this DDA by a written instrument signed by authorized representatives of such Parties without the execution of a formal recorded amendment to this DDA, and any such written instrument shall have the same force and effect and impart the same notice to third parties as a formal recorded amendment to this DDA.

28.5 Attorneys' Fees.

28.5.1 Should any Party institute any action or proceeding in court or other dispute resolution mechanism permitted or required under this DDA, the prevailing party shall be entitled to receive from the losing party the prevailing party's reasonable costs and expenses incurred including, without limitation, expert witness fees, document copying expenses, exhibit preparation costs, carrier expenses and postage and communication expenses, and such amount as may be awarded to be reasonable attorneys' fees and costs for the services rendered the prevailing party in such action or proceeding. Attorneys' fees under this Section 28.5.1 shall include attorneys' fees on any appeal.

28.5.2 For purposes of this DDA, reasonable fees of attorneys and any in-house counsel shall be based on the average fees regularly charged by private attorneys with an equivalent number of years of professional experience in the subject matter area of the law for which the in-house counsel's services were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the City.

28.6 Eminent Domain. The exercise by the Authority of its eminent domain power, if applicable, with regard to any portion of the Project Site owned by Developer or any Vertical Developer in a manner that precludes or substantially impairs performance by Developer or any Vertical Developer of any of its material obligations (or would otherwise give rise to a default by Developer) hereunder shall constitute a Material Breach by the Authority.

28.7 Successors and Assigns; No Third-Party Beneficiary. Subject to the provisions of Article 21, this DDA shall be binding upon and inure to the benefit of the Mortgagees and transferees of Developer and any transferee of the Authority, including, without limitation, the San Francisco Port Commission and the City and County of San Francisco, if applicable. This DDA is made and entered into only for the protection and benefit of the Parties and their successors and assigns. No other Person shall have or acquire any right or action of

any kind based upon the provisions of this DDA except as explicitly provided to the contrary in this DDA.

28.8 Estoppel Certificates. Any Party, within twenty (20) days after notice from any other Party, shall execute and deliver to the requesting Party and, if requested, any Mortgagee or prospective Mortgagee, an estoppel certificate stating:

28.8.1 whether or not this DDA is unmodified and in full force and effect. If there has been a modification of this DDA, the certificate shall state that this DDA is in full force and effect as modified, and shall set forth the modification, and if this DDA is not in full force and effect, the certificate shall so state; and

28.8.2 whether or not the responding Party is aware of any Event of Default (or event which, with notice or the passage of time or both, could be an Event of Default) by any other Party under this DDA in any respect and, if so, describing the same in detail.

28.9 Counterparts. This DDA may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same instrument. Such counterparts may be delivered by facsimile, electronic mail or other similar means of transmission.

28.10 Authority and Enforceability. Developer and the Authority each represents and warrants that the execution and delivery of this DDA, and the performance of its obligations hereunder, have been duly authorized by all necessary action, and will not conflict with, result in any violation of, or constitute a default under, any provision of any agreement or other instrument binding upon or applicable to it, or any present law or governmental regulation or court decree.

28.11 References. Wherever in this DDA the context requires, references to the masculine shall be deemed to include the feminine and the neuter and vice-versa, and references to the singular shall be deemed to include the plural and vice versa.

28.12 Correction of Technical Errors. If by reason of inadvertence, and contrary to the intention of Developer and the Authority, errors are made in this DDA in the identification or characterization of any title exception, in a legal description or the reference to or within any Exhibit with respect to a legal description, in the boundaries of any parcel (provided such boundary adjustments are relatively minor and do not result in a material change as determined by the Authority's counsel), in any map or drawing which is an Exhibit, or in the typing of this DDA or any of its Exhibits, Developer and the Authority by mutual agreement may correct such error by memorandum executed by both of them and replacing the appropriate pages of this DDA, and no such memorandum or page replacement shall be deemed an amendment of this DDA.

28.13 Brokers. Developer and the Authority each represents to the other that it has not employed a broker or a finder in connection with the execution and delivery of this DDA, and agrees to indemnify the other from the claims of any broker or finder asserted through such Party.

28.14 Governing Law. This DDA shall be governed by and construed in accordance with the laws of the State of California. All references in this DDA to California or federal laws and statutes shall mean such laws, regulations and statues as they may be amended from time to time, except to the extent a contrary intent is stated.

28.15 Effect on Other Party's Obligation. If Developer's or the Authority's performance is excused or the time for its performance is extended under Article 24, the performance of the other Party that is conditioned on such excused or extended performance is excused or extended to the same extent.

28.16 Table of Contents; Headings. The Table of Contents is for the purpose of convenience of reference only and is not to be deemed as a part of this DDA or as supplemental hereto. Section and other headings are for the purpose of convenience of reference only and are not intended to, nor shall they, modify or be used to interpret the provisions of this DDA.

28.17 Numbers.

(a) Generally. For purposes of calculating a number under this DDA, any fraction equal to or greater than one half (1/2) shall be rounded up to the nearest whole number and any fraction less than one half (1/2) shall be rounded down to the nearest whole number.

(b) Number of Days. References in this DDA to days shall be to calendar days, unless otherwise specified; provided, that if the last day of any period to give notice, reply to a notice, meet a deadline or to undertake any other action occurs on a day that is not a Business Day, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding Business Day.

28.18 No Gift or Dedication. Except as otherwise specified in this DDA, this DDA shall not be deemed to be a gift or dedication of any portion of the Project Site to the general public, for the general public, or for any public use or purpose whatsoever. Developer shall have the right to prevent or prohibit the use of any portion of the property owned by it, including common areas and buildings and improvements, by any Persons for any purpose inimical to the operation of a private, integrated mixed-use project as contemplated by this DDA. Any dedication must be evidenced by an express written offer of dedication to and written acceptance by the Authority, the City, the SFPUC, CFD or other Governmental Entity, as applicable, for such purposes by a recorded instrument executed by the owner of the property dedicated.

28.19 Severability. Except as is otherwise specifically provided for in this DDA for Conflicting Laws, invalidation of any provision of this DDA, or of its application to any Person, by judgment or court order shall not affect any other provision of this DDA or its application to any other Person or circumstance, and the remaining portions of this DDA shall continue in full force and effect, except to the extent that enforcement of this DDA as invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate a fundamental purpose of this DDA.

28.20 Entire Agreement. This DDA contains all of the representations and warranties and the entire agreement between the Parties with respect to the subject matter of this DDA. Any prior correspondence, memoranda, agreements, warranties or representations between the parties relating to such subject matter are incorporated into and superseded in total by this DDA. Notwithstanding the foregoing, this DDA shall not supersede the ENA, which shall remain in full force and effect according to its terms; provided, however, that so long as the DDA is in full force and effect, the terms of the DDA shall control in the event of any inconsistency. No prior drafts of this DDA or changes from those drafts to the executed version of this DDA shall be introduced as evidence in any litigation or other dispute resolution proceeding by Developer, the Authority or any other Person, and no court or other body shall consider those drafts in interpreting this DDA.

28.21 No Party Drafter; Captions. Although certain provisions of this DDA were drawn by the Authority and certain provisions were drawn by Developer, (i) the provisions of this DDA shall be construed as a whole according to their common meaning and not strictly for or against any Party in order to achieve the objectives and purposes of the Parties, and (ii) no Party nor its counsel shall be deemed to be the drafter of any provision of this DDA.

28.22 Conduct; Covenant of Good Faith and Fair Dealing. In all situations arising out of this DDA, subject to the provisions of Article 16, Developer and the Authority shall each attempt to avoid and minimize the damages resulting from the conduct of the other and shall take all reasonably necessary measures to achieve the provisions of this DDA. This DDA is subject to the covenant of good faith and fair dealing applicable under California law.

28.23 Further Assurances. Each of Developer and the Authority covenants, on behalf of itself and its successors, heirs and assigns, to take all actions and to do all things, and to execute, with acknowledgment or affidavit if required, any and all documents and writings that may be necessary or proper to achieve the purposes and objectives of this DDA. The Authority Director is authorized to execute and deliver on behalf of the Authority any closing or similar documents and any contracts, agreements, memoranda or similar documents with State, regional and local entities or enter into any tolling agreement with any Person if the Authority Director determines that such execution and delivery are necessary or proper to achieve the purposes and objectives of this DDA and in the Authority's best interests.

28.24 Approvals.

(a) As used herein, "**Approval**" and any variation thereof (such as "**Approved**" or "**Approve**") refers to the prior written consent of the applicable Party or other Person. When used with reference to a Governmental Entity such terms are intended to refer to the particular form of consent or approval required from such Governmental Entity in order to obtain the Authorization being sought.

(b) Whenever Approval is required of Developer, the Authority, the Authority Board or the Authority Director under this DDA, it shall not be unreasonably withheld, conditioned or delayed unless the Approval is explicitly stated in this DDA to be within the "sole discretion" (or words of similar import) of the Party whose Approval is sought. The reasons for failing to grant Approval, or for giving a conditional Approval, shall be stated in reasonable

detail in writing, except by the Authority Board, which as a public body will grant or deny Approval in open session at a duly held and noticed public meeting in accordance with applicable public meeting laws. Approval by Developer or the Authority to or of any act or request by the other shall not be deemed to waive or render unnecessary Approval to or of any similar or subsequent acts or requests. The requirements for Approvals under this DDA shall extend to and bind the partners, officers, directors, shareholders, trustees, beneficiaries, agents, elective or appointive boards, commissions, employees and other authorized representatives of Developer and the Authority, and each such Person shall make or enter into, or take any action in connection with, any Approval in accordance with these requirements. In determining whether to give an Approval, no Party shall require changes from or impose conditions inconsistent with (i) the Development Requirements or (ii) matters it has previously Approved with respect to the matter at issue.

(c) Unless otherwise provided in this DDA, whenever Approval or any other action is required by the Authority Board, the Authority Director shall upon the request of Developer submit such matter to the Authority Board at the next regularly-scheduled meeting of the Authority Board for which an agenda has not yet been finalized and for which the Authority can prepare and submit a staff report in keeping with Authority standard practices.

(d) Unless otherwise provided in this DDA, Approvals or other actions of the Authority (as opposed to the Authority Director or the Authority Board) will be given or undertaken, as applicable, by the Authority Director.

(e) Developer shall from time to time by notice to the Authority designate the Persons who may act as its "**Developer Representative**". Approvals or other actions of Developer shall be given or undertaken, as applicable, by Developer's Representative or such other Person that provides evidence reasonably acceptable to the Authority Director that such Person is duly authorized to act on behalf of Developer.

28.25 Cooperation and Non-Interference. Developer and the Authority shall each refrain from doing anything that would render its performance under this DDA impossible, and subject to Article 16 each shall do everything which this DDA contemplates that the Party shall do to accomplish the objectives and purposes of this DDA.

28.26 Interpretation. Unless otherwise specified, whenever in this DDA, including its Exhibits, reference is made to the Table of Contents, any Article, Section, Exhibit, Attachment or any defined term, the reference shall be deemed to refer to the Table of Contents, Article, Section, Exhibit, Attachment or defined term of this DDA. Any reference to an Article or a Section includes all subsections and subparagraphs of that Article or Section. The use in this DDA of the words "including", "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific statements, terms or matters, whether or not language of non-limitation, such as "without limitation" or "but not limited to", or words of similar import, is used with reference thereto. In the event of a conflict between the Recitals and the remaining provisions of this DDA, the remaining provisions shall prevail.

28.27 Legal Representation. Developer and the Authority each acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of its choice in connection with the rights and remedies of and waivers by it contained in this DDA and after such advice and consultation has presently and actually intended, with full knowledge of its rights and remedies otherwise available at law or in equity, to waive and relinquish those rights and remedies to the extent specified in this DDA, and to rely solely on the remedies provided for in this DDA with respect to any breach of this DDA by the other, or any other right that either Developer or the Authority seeks to exercise.

28.28 Recordation; Run with the Land. It is understood and agreed by Developer and the Authority that after execution by Developer and the Authority, this DDA will be recorded by the Authority; provided that the recordation shall affect only Developer's and the Authority's interest in the Project Site (including any real property acquired by either of them after the Effective Date). If this DDA is terminated in accordance with its terms, Developer or the Authority may record a Notice of Termination as provided in Section 28.36. Before any such termination of this DDA by the terms hereof, and subject to release of the lien of this Agreement in accordance with Section 2 hereof, the covenants and agreements of Developer and the Authority contained herein shall be covenants running with any land conveyed from the Authority to Developer shall bind every Person having any interest in such real property, and shall be binding upon and inure to the benefit and burden of Developer and the Authority and their respective heirs, successors and assigns. This DDA shall not burden or bind any other property in the Project Site that is not acquired by the Authority or Developer under this DDA.

28.29 Survival. Termination of this DDA shall not affect (i) the right of any Party to enforce any and all Indemnifications or Adequate Security (including any Guaranty) to the extent they relate to the period before termination, (ii) any provision of this DDA that, by its express term, is intended to survive the expiration or termination of this DDA, or (iii) the rights and obligations under the Financing Plan or under any Acquisition and Reimbursement Agreement, including Developer's right to receive reimbursements, to the extent they relate to the period before termination or are intended to survive the expiration or termination of the Financing Plan or Acquisition and Reimbursement Agreement, as applicable. Notwithstanding the foregoing, all Indemnification obligations under this DDA shall expire five (5) years after the earlier to occur of (a) the Authority's issuance of a Certificate of Completion with respect to the Improvements for which the Certificate of Completion was issued or (b) the termination of this DDA with respect to the portion of the Project Site to such termination relates; provided, that the foregoing expiration shall not apply as to (i) any Indemnification obligation under Section 11.2, which shall expire as set forth in Section 11.2, (ii) any Indemnification obligation as to which the Authority has given notice in accordance with the first sentence of Section 22.4 on or before the date of such expiration, and (iii) any Indemnification Obligation under Sections 22.1(b), 22.1(c), 22.2(b) and 22.2(c), which shall expire five (5) years after Developer Transfers the applicable portion of the Project Site. No termination under Section 3.8.1 shall (1) affect Developer's rights under this DDA for any then-existing Sub-Phase Approval or (2) prevent the Authority, in its sole discretion, from later accepting and/or Approving any Major Phase Application or Sub-Phase Application from Developer.

28.30 Nondiscrimination.

28.30.1 There shall be no discrimination against or segregation of any person or group of persons on any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, or on the basis of age, race, color, creed, sex, sexual orientation, gender identity, marital or domestic partner status, disabilities (including AIDS or HIV status), religion, national origin or ancestry by Developer or any occupant or user of the Project Site in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Project Site, or any portion thereof. Neither Developer itself (nor any person or entity claiming under or through it), nor any occupant or user of the Project Site or any Transferee, successor, assign or holder of any interest in the Project Site or any person or entity claiming under or through such Transferee, successor, assign or holder, shall establish or permit any such practice or practices of discrimination or segregation in connection with the Project Site, including without limitation, with reference to the selection, location, number, use or occupancy of buyers, tenants, vendees or others. But Developer shall not be in default of its obligations under this Section 28.30 where there is a judicial action or arbitration involving a bona fide dispute over whether Developer is engaged in discriminatory practices and Developer promptly acts to satisfy any judgment or award against Developer.

28.30.2 Any Transferee, successor, assign, or holder of any interest in the Project Site, or any occupant or user thereof, whether by contract, lease, rental, sublease, license, deed, deed of trust, Mortgage or otherwise, and whether or not any written instrument or oral agreement contains the above prohibitions against discrimination, shall be bound by, and shall not violate in whole or in part, directly or indirectly, the nondiscrimination requirements set forth above. The covenants in this Section 28.30 shall be covenants running with the land and they shall be: (i) binding for the benefit and in favor of the Authority, as beneficiary, and the City and the owner of any other land or of any interest in any land in the Project Site (as long as such land remains subject to the land use requirements and restrictions of the SUD and the Design for Development), as beneficiary, and their respective successors and assigns; and (ii) binding against Developer, its successors and assigns to or of the Project Site and any improvements thereon or any portion thereof or any interest therein, and any party in possession or occupancy of the Project Site or the improvements thereon or any portion thereof.

28.30.3 In amplification, and not in restriction, of the provisions of Sections 28.30.1 and 28.30.2, the Authority, the City and their respective successors and assigns, as to the covenants provided in this Section 28.30 of which they are stated to be beneficiaries, shall be beneficiaries both for and in their own right and also for the purposes of protecting the interest of NSTI and other parties, public or private, and without regard to whether the Authority or the City has at any time been, remains, or is an owner of any land or interest therein to which, or in favor of which, such covenants relate. The Authority, the City and their respective successors and assigns shall have the right, as to any and all of such covenants of which they are stated to be beneficiaries, to exercise all the rights and remedies, and to maintain, any actions at law or suits in equity or other proper proceedings, to enforce such covenants to which it or any other beneficiaries of such covenants may be entitled including without limitation, restraining orders, injunctions and/or specific enforcement, judicial or administrative.

28.31 Lead-Based Paint Prohibition. Developer shall comply with the regulations issued by the Secretary of HUD set forth in 37 C.F.R. 22732-3 and all applicable rules and orders prohibiting the use of lead-based paint in residential structures undergoing federally-assisted construction or rehabilitation and requiring the elimination of lead-based paint hazards.

28.32 Modifications; Waiver. Any modification or waiver of any provision of this DDA must be in writing and signed by a Person having authority to do so, on behalf of both the Authority and Developer. Material Modifications to this DDA shall require the approval of the Board of Supervisors, which the Board of Supervisors may give or withhold in its sole and absolute discretion.

28.33 Relationship of the Parties. The Authority is not, and none of the provisions in this DDA shall be deemed to render the Authority, a partner in Developer's or any Vertical Developer's business, or a joint venturer or member in any joint enterprise with Developer or any Vertical Developer. No Party shall have the right to act as the agent of any other Party in any respect hereunder.

28.34 ENA. After the Reference Date and before the expiration or termination of the ENA in accordance with its terms, in the event of a conflict between the ENA and this DDA, the provisions of this DDA shall prevail. Notwithstanding the foregoing, with respect to conflicts between the DDA and the ENA relating to Authority's Transaction Costs as defined in the ENA as further described in Section 3.2(b) thereof, the terms of Section 3.2(b) of the ENA shall control.

28.35 Plans on Record with Authority. The most recent versions of the Exhibits to this DDA, as such Exhibits may be amended or supplemented from time to time in accordance with this DDA or the terms of such Exhibits, shall not be required to be recorded but shall be kept on file with the Authority. In addition, as of the Reference Date the Proforma is on file with the Authority and upon each submittal of a Major Phase Application and Sub-Phase Application in accordance with the DRDAP, the updated Proforma as Approved by Developer and the Authority shall be similarly kept on file with the Authority. The Authority Director and Developer shall update or supplement the Schedule of Performance from time to time to reflect changes to the same as permitted in this DDA. Full color copies of all recorded documents are also on file with the Authority. All documents on file with the Authority shall be made available to members of the public at reasonable times in keeping with the Authority's standard practices.

28.36 Notice of Termination. In the event of any termination of this DDA in whole or in part in accordance with the terms of this DDA, the terminating Party shall provide the other Parties and any applicable Mortgagee with a copy of any proposed Notice of Termination at least fifteen (15) days before recording the same. After the expiration of such fifteen (15) days, the terminating Party may cause the Title Company to record such Notice of Termination in the Official Records. Any "**Notice of Termination**" shall be in recordable form and describe the portion of the Project Site to which such termination pertains. Following the recordation of any Notice of Termination, the terminating Party shall promptly provide a conformed copy of such recorded Notice of Termination to the Authority, Developer, and any applicable Mortgagee, and any applicable Vertical Developer. The recordation of a Notice of

Termination shall not affect in any manner the rights of the Authority, Developer, or any applicable Mortgagee, or Vertical Developer to contest the terminating Party's right to cause such recordation.

28.37 Developer Termination Rights. Developer shall have the right to terminate this DDA, together with the ENA, if a lawsuit is initiated to challenge the Authority's approval of this DDA or the Project, and Developer elects to not continue to reimburse the Authority for all of Authority's Costs and City Costs relating to such lawsuit; provided that any such termination shall not release Developer for the Authority's Costs and City Costs (including any attorney's fees that may be awarded to the initiator of the lawsuit) for the period before such termination.

28.38 Execution of Certain Attachments and Exhibits. The Parties acknowledge and agree that as of the Reference Date Attachment 1 (Public Trust Exchange Agreement), Attachment 2 (Conveyance Agreement) and Exhibit Q (Pre-Approved Arbiters List), Exhibit T (Auction Bidder Selection Guidelines for Commercial Lots), Exhibit U (Qualified Appraisal Pool), Exhibit V (Appraisal Instructions by Appropriate Product Type), Exhibit W (Auction Bidder Selection Guidelines for Residential Auction Lots) and Exhibit X (Guidelines for Residential Auction Lots), have not been completed and, in certain cases, Approved by the applicable Governmental Entities or executed and delivered by the Parties thereto. Accordingly, the Parties have attached drafts of such Attachments and Exhibits. Upon completion or Approval of such Attachments and Exhibits, Developer and the Authority shall substitute the final Attachments and Exhibits for such drafts and confirm such substitution in writing. Upon completion, Exhibit H (Approved Vertical DDA Form), Exhibit I (Approved Vertical LDDA Form) and Exhibit M (Ground Lease) shall be appended to this Agreement in accordance with Section 4.1 hereof and Developer and the Authority shall confirm such addition in writing.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Authority and Developer have each caused this DDA to be duly executed on its behalf as of the Reference Date.

"AUTHORITY"

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

By: _____
Name: Rich Hillis
Its: Treasure Island Project Director

Approved as to form:

DENNIS J. HERRERA,
City Attorney

By: _____
Name: Eileen M. Malloy
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: ~~SIGNED IN COUNTERPART~~
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: SIGNED IN COUNTERPART
Name: Rich Hillis
Its: Treasure Island Project Director

Approved as to form:

DENNIS J. HERRERA,
City Attorney

By: SIGNED IN COUNTERPART
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

By: KSWM Treasure Island, LLC,
a California limited liability company
its co-Managing Member

By: WMS Treasure Island Development I, LLC,
a Delaware limited liability company
its Member

By: Wilson Meany Sullivan LLC,
a California limited liability company
its Sole Member and Manager

By: _____
Name: Christopher Meany
Title: Managing Member

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

On June 29, 2011, before me, Christine M. Silva, Notary Public, personally appeared Rich Hillis, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Christine M Silva
Notary Public

CHRISTINE M. SILVA
COMM. # 1856017
NOTARY PUBLIC-CALIFORNIA
CITY & COUNTY OF SAN FRANCISCO
MY COMM. EXP. AUG. 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 Bonner (Name(s) of Signer(s))

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

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.

MICHAEL J.P. MERCADO
Commission # 1914059
Notary Public - California
San Francisco County
My Comm. Expires Nov 21, 2014

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: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	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. # 1784200
NOTARY PUBLIC - CALIFORNIA
San Mateo County
My Comm. Exp. Mar. 23, 2012

(Seal)

EXHIBIT A
DEFINITIONS

"**2006 Development Plan**" shall have the meaning set forth in Recital K of the DDA.

"**Acquisition and Reimbursement Agreement**" shall have the meaning set forth in the Financing Plan.

"**Additional Transportation Subsidy**" shall have the meaning set forth in Section 13.3.2(g) of the DDA.

"**Adequate Security**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Administrative Delay**" shall have the meaning set forth in Section 24.1.3 of the DDA.

"**Affiliate**" means any Person that directly or indirectly Controls, is Controlled by or is under Common Control with, a Party (or a partner or managing or other member of a Party, as the case may be).

"**Affordable Housing Units**" shall have the meaning set forth in the Housing Plan.

"**Agreement**" shall have the meaning set forth in the Introductory Paragraph of the DDA.

"**Allocated Parking**" shall have the meaning set forth in Section 4.2.1(a)(ii) of the DDA.

"**Amendment Action**" shall have the meaning set forth in Section 12 of the DDA.

"**Annual Authority Budget**" shall have the meaning set forth in Section 19.1.1 of the DDA.

"**Annual Authority Draft Budget**" shall have the meaning set forth in Section 19.2 of the DDA.

"**Annual Preliminary Budget**" shall have the meaning set forth in Section 19.2 of the DDA.

"**Annual Transportation Subsidy**" shall have the meaning set forth in Section 13.3.2(a) of the DDA.

"**Annual Transportation Subsidy Maximum Amount**" shall have the meaning set forth in Section 13.3.2(b) of the DDA.

"**Annual Transportation Subsidy Payment**" shall have the meaning set forth in Section 13.3.2(a) of the DDA.

"**Applications**" shall have the meaning set forth in the DRDAP.

"**Applicable Regulations**" shall have the meaning set forth in the Development Agreement.

"**Appraisal Process**" shall have the meaning set forth in Section 17.4 of the DDA.

"**Approval**" shall have the meaning set forth in Section 28.24(a) of the DDA.

"**Approved DDA/LDDA Form**" has the meaning set forth in Section 4.1 of the DDA.

"**Approved Vertical DDA Form**" shall have the meaning set forth in Section 4.1 of the DDA.

"**Approved Vertical LDDA Form**" shall have the meaning set forth in Section 4.1 of the DDA.

"**Arbiter**" shall have the meaning set forth in Section 15.3.1 of the DDA.

"**Arbiter's Qualifications**" shall have the meaning set forth in Section 15.3.1 of the DDA.

"**Arbitration Matter**" shall have the meaning set forth in Section 15.1.1 of the DDA.

"**Architect**" means the licensed architect of record, if any, for any Vertical Improvement as selected by a Vertical Developer.

"**Architect's Certificate**" means a certificate issued by the Architect in accordance with Section 9.2 that is in the form attached hereto as Exhibit Z with only such changes as may be Approved by Vertical Developer and the Authority Director.

"**Art Fee**" shall have the meaning set forth in the Development Agreement.

"**Associated Public Benefits**" shall have the meaning set forth in Section 1.8(b) of the DDA.

"**Assignment and Assumption Agreement**" means an assignment and assumption agreement between Developer and a Transferee for a Transfer of rights and corresponding obligations under this DDA, consistent with the requirements of this DDA and, to the extent required under this DDA, in the form Approved by the Authority Director.

"**Attachments**" means, individually or collectively as the context requires, each of the attachments to this DDA listed on the List of Attachments, including any attachments thereto, as they may be amended or supplemented from time to time in accordance with the terms thereof and of this DDA.

"**Auction**" shall mean the process of offering Lots for sale or ground lease to qualified bidders at the minimum bid price and selling the Lot to the highest qualified bidder, in accordance with Article 17.

"**Authority**" means the Treasure Island Development Authority, a California non-profit public benefit corporation, or any successor public agency designated by or under law, which may include the City and County of San Francisco or the San Francisco Port Commission, authorized as the Authority's successors under the terms of the Conversion Act.

"**Authority Housing Units**" shall have the meaning set forth in the Housing Plan.

"**Authority Board**" means the Board of Directors of the Authority, or any successor governing body of the Authority designated by or under law.

"**Authority Costs**" shall have the meaning set forth in Section 19.1.1 of the DDA.

"**Authority Costs and Revenue Report**" shall have the meaning set forth in Section 19.4 of the DDA.

"**Authority Director**" means the Executive Director of the Authority, or any successor executive officer of the Authority designated by or under law.

"**Authority Fiscal Year**" means July 1 through June 30 of each year, or such other Authority Fiscal Year as is adopted from time to time.

"**Authority Housing Lots**" shall have the meaning set forth in the Housing Plan.

"**Authority Quitclaim Deed**" means a deed substantially in the form of Exhibit AA or as otherwise Approved by Developer and the Authority Director in their respective sole and absolute discretion.

"**Authority Revenues**" shall have the meaning set forth in Section 19.1.2 of the DDA.

"**Authority's Title Covenant**" shall have the meaning set forth in Section 10.2.2 of the DDA.

"**Authorization**" shall have the meaning set forth in Section 9.1.1 of the DDA.

"**Base Line Budget**" shall have the meaning set forth in Section 19.2 of the DDA.

"**Base Security**" shall have the meaning set forth in Section 26.2.1 of the DDA.

"**Base Security Cap**" shall have the meaning set forth in Section 26.2.1 of the DDA.

"**Base Security Termination Date**" shall have the meaning set forth in Section 26.2.6 of the DDA.

"**Board of Supervisors**" means the Board of Supervisors of the City, or any successor governing body of the City designated by or under law.

"**Building Permit**" means a building permit issued by DBI.

"**Business Day**" means a day other than a Saturday, Sunday or holiday recognized by the Authority.

"**CCRL**" shall have the meaning set forth in Recital G.

"**CEQA**" means the California Environmental Quality Act, California Public Resources Code section 21000 et seq., and the Guidelines for the California Environmental Quality Act, California Code of Regulations, Title 14 section 15000 et seq., as amended from time to time.

"**CEQA Delay**" shall have the meaning set forth in Section 24.1.4 of the DDA.

"**Certificate of Completion**" means a certificate issued by the Authority in accordance with Section 9.2 that is substantially in the form attached hereto as Exhibit BB.

"**Certificate of Occupancy**" means an instrument issued by DBI certifying that a Unit or non-residential Project is fit for occupancy or use in accordance with the San Francisco Building Code.

"**CFD**" shall have the meaning set forth in the Financing Plan.

"**City**" means, as the context requires, (i) the City and County of San Francisco, a charter city of the State, or (ii) the territorial jurisdiction of the foregoing.

"**City Agency**" means, individually or collectively as the context requires, all departments, agencies, boards, commissions and bureaus of the City with subdivision or other permit, entitlement or approval authority or jurisdiction over any Major Phase, Sub-Phase or Lot in any portion of the Project Site, including but not limited to the San Francisco Port Commission, the Department of Public Works, the Public Utilities Commission, the Planning Commission, the Municipal Transportation Authority, the Building Inspection Commission, the Public Health Commission, the Fire Commission and the Police Commission, or any successor public agency.

"**City Costs**" shall mean the actual and reasonable costs incurred by a City Agency in performing its obligations under this Agreement, the Interagency Cooperation Agreement or the Development Agreement as determined on a time and materials basis,

including any defense costs as set forth in Section 6.3.2 of the Development Agreement, but excluding work and fees covered by Administrative Fees (as defined in the Development Agreement).

"**City Party**" shall have the meaning set forth in Section 22.1 of the DDA.

"**Commence**" and any variation thereof means the commencement of substantial physical construction as part of a sustained and continuous construction plan.

"**Commercial Lot**" shall have the meaning set forth in Section 17.2 of the DDA.

"**Community Facilities Lot**" shall have the meaning set forth in the Community Facilities Plan.

"**Community Facilities Obligations**" means Developer's obligations under this Agreement to develop or subsidize certain community facilities, attached hereto as Exhibit F.

"**Community Facilities Plan**" means that certain Community Facilities Plan and related Needs Assessment, prepared for the Authority, dated as of June 28, 2011, which outlines a community facility program for Treasure Island, as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**Community Facilities Space**" shall have the meaning set forth in the Community Facilities Plan.

"**Community Facilities Subsidy**" shall have the meaning set forth in Section 13.3.3(a) of the DDA.

"**Complete**" and any variation thereof means, as applicable, that: (i) a specified scope of work has been completed in accordance with Approved plans and specifications; (ii) Governmental Entities with jurisdiction have issued all Authorizations required for the contemplated use and, with respect to Vertical Improvements, occupancy of the work including, if applicable, Certificates of Occupancy; (iii) the site has been cleaned and all equipment, tools and other construction materials and debris have been removed; and (iv) with respect to Public Property and Public Improvements, (a) all bills for the work have been (x) paid and any obligor of Adequate Security has consented to final payment or (y) releases have been obtained from all mechanics and material suppliers or bonds have been provided to secure such liens in a form and amount required by law to cause any such lien to be removed from the applicable portion of the Project Site, (b) no mechanics', materialmen's or other liens have been recorded (unless they have been bonded as provided in (a)(y) above) and the period for recording such liens have expired and (c) all as-built plans and warranties, guaranties, operating manuals, operations and maintenance data, certificates of completed operations or other insurance, and all other close-out items required under any applicable Authorization or Approval have been provided to the Authority.

"**Complete Application**" shall have the meaning set forth in the DRDAP.

"**Complete Major Phase Application**" shall have the meaning set forth in the DRDAP.

"**Complete Sub-Phase Application**" shall have the meaning set forth in the DRDAP.

"**Conduct Code**" shall have the meaning set forth in Section 27.8 of the DDA.

"**Conflicting Law**" means legislation enacted by the Congress of the United States, by the legislature of the State or the enactment of a regulation or statute by any Governmental Entity (other than a City Party) with jurisdiction that precludes or substantially increases the cost of performance or compliance with any provision of this DDA by Developer.

"**Construction Documents**" consist of the documents and materials described for Construction Documents in Exhibit 2 of the DRDAP for a specific Improvement.

"**Construction Work**" shall have the meaning set forth in the Jobs EOP.

"**Construction Contractor**" shall have the meaning set forth in the Jobs EOP.

"**Control**" means the ownership (direct or indirect) by one Person and/or such Person and its Affiliates of day-to-day control of the activities of a Person coupled with a significant and voting interest in such Person.

"**Common Control**" means that two Persons are both Controlled by the same other Person or Persons. "**Controlled**", "**Controlling Interest**" and "**Controlling**" have correlative meanings.

"**Conversion Act**" shall have the meaning set forth in Recital G of the DDA.

"**Conveyance Agreement**" shall have the meaning set forth in Recital Q of the DDA.

"**Core Benefits**" shall have the meaning set forth in Section 27.1(c) of the DDA.

"**CRC**" shall have the meaning set forth in Recital D of the DDA.

"**Critical Commercial Lots**" shall have the meaning set forth in Section 17.2 of the DDA.

"**Critical Commercial Lots Payment**" shall have the meaning set forth in Section 17.2.4 of the DDA.

"**Cumulative Sub-Phase Event**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**DBI**" shall mean the San Francisco Department of Building Inspection.

"**DDA**" shall have the meaning set forth in the Introductory Paragraph of the DDA.

"**Department of Public Works**" means the Department of Public Works of the City, or any successor public agency designated by or under law.

"**Design for Development**" means the Treasure Island and Yerba Buena Island Design for Development approved by the Planning Commission and the Authority, dated June 28, 2011, as amended from time to time consistent with Section 12.

"**Destroyed Land Records Relief Law**" shall have the meaning set forth in Section 10.2.3 of the DDA.

"**Developable Lot**" shall have the meaning set forth in Section 7.8 of the DDA.

"**Developable Market Rate Lots**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**Developed Critical Commercial Lots**" shall have the meaning set forth in Section 17.2.5 of the DDA.

"**Developed Parking**" shall have the meaning set forth in Section 4.2.1(a)(iii) of the DDA.

"**Developer**" means Treasure Island Community Development, LLC, a California limited liability company, or its successors and assigns of all or substantially all of its rights and corresponding obligations under this DDA, as and to the extent permitted in accordance with the terms of this DDA.

"**Developer Commercial JVs**" shall have the meaning set forth in Section 17.2.1 of the DDA.

"**Developer Extension**" shall have the meaning set forth in Section 24.3.1 of the DDA.

"**Developer Housing Subsidy**" shall have the meaning set forth in Section 13.3.4 of the DDA.

"**Developer Lot(s)**" shall have the meaning set forth in Section 17.3 of the DDA.

"**Developer Party**" shall have the meaning set forth in Section 11.1.6 of the DDA.

"**Developer Residential Units**" shall have the meaning set forth in the Housing Plan.

"**Developer Representative**" shall have the meaning set forth in Section 28.24(e) of the DDA.

"**Developer Return**" shall have the meaning set forth in the Financing Plan.

"**Developer's Consent**" shall have the meaning set forth in Section 12.4 of the DDA.

"**Development Agreement**" means that certain Development Agreement entered into by and between the City and County of San Francisco and Developer, dated as of June 28, 2011.

"**Development Fees or Exactions**" has the meaning set forth in the Development Agreement.

"**Development Increment**" shall have the meaning set forth in Section 4.2 of the DDA.

"**Development Increment Remainder Parking**" shall have the meaning set forth in Section 4.2.1(a)(iv) of the DDA.

"**Development Opportunity**" shall have the meaning set forth in Section 3.8.3 of the DDA.

"**Development Plan**" shall have the meaning set forth in Recital L of the DDA.

"**Development Plan Update**" shall have the meaning set forth in Recital L of the DDA.

"**Development Requirements**" means (i) the Project Approvals, (ii) the Transaction Documents and (iii) the documents approved under the DRDAP and the SUD, as they may be amended from time to time.

"**Distributions**" shall have the meaning set forth in the Financing Plan.

"**DRDAP**" means the design review and document approval procedures for the Project Site attached to this DDA as Exhibit CC, as may be amended or supplemented from time to time.

"**Economic Delay**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**Effective Date**" means the date that this DDA becomes effective, which shall be the later of (i) the date this DDA is executed and delivered by the Parties, or (ii) the date the Board of Supervisors Ordinance approving the Development Agreement is effective.

"**ENA**" shall have the meaning set forth in Recital I of the DDA.

"**Engineer**" means the licensed engineer of record for Infrastructure as selected by Developer and Approved by the Authority Director.

"Engineer's Certificate" means a certificate issued by the Engineer in accordance with Section 9.2 that is in the form attached hereto as Exhibit DD with only such changes as may be Approved by Developer and the Authority Director.

"Entitled Units" means, individually or collectively as the context requires, the maximum number of Units permitted for the Project Site pursuant to the SUD, which number is, as of the Effective Date, eight thousand (8,000).

"Environmental Laws" shall have the meaning set forth in Section 11.2.4 of the DDA.

"Environmental Remediation" means the undertaking of any activities to determine the nature and extent of Hazardous Substances that may be located in, on, under or about real property or that has been, are being or threaten to be Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Substance.

"Escrow" shall have the meaning set forth in Section 10.2.1 of the DDA.

"Event of Default" shall have the meaning set forth in Section 16.1 of the DDA.

"Exchange Act" shall have the meaning set forth in Recital M of the DDA.

"Excess Land Appreciation Structure" shall have the meaning set forth in Section 6.2.3(d) of the DDA.

"Excluded Properties" shall have the meaning set forth in Recital B of the DDA.

"Existing Navy Exceptions" shall have the meaning set forth in Section 10.2.2 of the DDA.

"Excusable Delay" shall have the meaning set forth in Section 24.1 of the DDA.

"Exhibit" means, individually or collectively as the context requires, each of the exhibits to this DDA listed in the Table of Contents, including any exhibits thereto, as they may be amended or supplemented from time to time in accordance with the terms thereof or of this DDA.

"Expedited Arbitration Matter" shall have the meaning set forth in Section 15.1.2 of the DDA.

"Experience Requirement" shall have the meaning set forth in Section 21.1(a) of the DDA.

"Federal Facility Site Remediation Agreement" means the September 29, 1992 "Federal Facility Site Remediation Agreement for Treasure Island Naval Station", executed by the U.S. Department of the Navy, the California Environmental Protection

Agency, the California Department of Toxics Substances Control, and the California Regional Water Quality Control Board for the San Francisco Bay Region.

"**Final Subdivision Map**" shall have the meaning set forth in Section 1.6(d) of the DDA.

"**Financial Obligations**" shall have the meaning set forth in Section 1.5.

"**Financing Plan**" means the plan attached hereto as Exhibit EE as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**Force Majeure**" shall have the meaning set forth in Section 24.1.1 of the DDA.

"**Foreclosed Property**" shall have the meaning set forth in Section 20.6 of the DDA.

"**FOST**" shall have the meaning set forth in Recital Q of the DDA.

"**Funding Sources**" shall have the meaning set forth in the Financing Plan.

"**Fractional Interest Unit(s)**" means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or other private or commercial structure containing toilet facilities therein that is designed and available, pursuant to applicable law, for use and occupancy as a residence by one or more individuals, and which is subject to any plan whereby a purchaser, in exchange for consideration, receives ownership rights in or the right to use accommodations for a period of less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.

"**Governmental Entity**" means any court, administrative agency or commission, or other governmental or quasi governmental organization with jurisdiction.

"**Gross Revenues**" shall have the meaning set forth in the Financing Plan.

"**Ground Lease**" shall have the meaning set forth in Section 4.1 of the DDA.

"**Guarantor Net Worth Requirement**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Guarantor**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Guaranty**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Guidelines for Residential Auction Lot Selection**" shall have the meaning set forth in Section 17.5.3 of the DDA.

"**Hazardous Substance**" shall have the meaning set forth in Section 11.2.3 of the DDA.

"**HCAO**" shall have the meaning set forth in Section 27.5 of the DDA.

"**High Rise Lot**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**Housing Data Table**" shall have the meaning set forth in the Housing Plan.

"**Housing Plan**" means the plan attached hereto as Exhibit E, as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**ICT**" shall have the meaning set forth in Section 7.9 of the DDA.

"**ICT Design**" shall have the meaning set forth in Section 7.9 of the DDA.

"**ICT Products and Solutions**" shall have the meaning set forth in Section 7.9 of the DDA.

"**ICT Rights**" shall have the meaning set forth in Section 7.9 of the DDA.

"**IFD**" shall have the meaning set forth in Recital P of the DDA.

"**IFD Act**" shall have the meaning set forth in Recital P of the DDA.

"**IFD Amendment**" shall have the meaning set forth in Section 3.8.2.1 of the DDA.

"**Improvements**" means all physical improvements required or permitted to be made to the Project Site under this DDA, including Infrastructure and Stormwater Management Controls and Vertical Improvements.

"**Inclusionary Units**" shall have the meaning set forth in the Housing Plan.

"**Increased Adequate Security**" shall have the meaning set forth in Section 16.5.4 of the DDA.

"**Increment**" shall have the meaning set forth in the Financing Plan.

"**Indemnify**" means reimburse, indemnify, defend, and hold harmless. "**Indemnification**" has a correlative meaning.

"**Indemnifying Party**" shall have the meaning set forth in Section 22.4 of the DDA.

"**Index**" means the Consumer Price Index (CPI) for All Urban Consumers in the San Francisco-Oakland-San Jose region (base years 1982-1984 = 100) published by the Bureau of Labor Statistics of the United States Department of Labor, but in no event shall any increase adjusted by the Index hereunder be less than two percent (2%) per annum or greater than five percent (5%) per annum.

"**Infrastructure**" means those items identified in the Infrastructure Plan including open space improvements (including park improvements and restrooms), streets, rails, sewer and storm drainage systems, water systems, street improvements (including freeway ramps or other demolition), traffic signal systems, dry utilities, transit facilities, associated public buildings and structures, and other improvements any of which are to be constructed in or for the benefit of the applicable real property or any other matters described in the Infrastructure Plan, and shall include such work as is necessary to deliver real property to the State Lands Commission in the condition required under the Public Trust Exchange Agreement, or otherwise so as to create Developable Lots as set forth in Section 7.8. Infrastructure does not include Stormwater Management Controls.

"**Infrastructure Obligations**" shall have the meaning set forth in Section 7.1.1 of the DDA.

"**Infrastructure Plan**" means the document attached hereto as Exhibit FF, as such document may be amended from time to time in accordance with the terms of this DDA.

"**Initial Closing Phase**" shall have the meaning set forth in Section 6.1.2 of the DDA.

"**Initial Major Phase**" shall have the meaning set forth in Section 1.5 of the DDA.

"**Initial Major Phase Application**" shall mean the Major Phase Application for the Initial Major Phase.

"**Initial Sub-Phases**" shall have the meaning set forth in Section 3.5 of the DDA.

"**Insurance Requirements**" shall have the meaning set forth in Section 22.6 of the DDA.

"**Interagency Cooperation Agreement**" means that certain Interagency Cooperation Agreement (Treasure Island/Yerba Buena Island) entered into in connection with the Project between the Authority and the City and attached hereto as Attachment 3, as amended from time to time.

"**Interim Lease Revenues**" shall have the meaning set forth in the Financing Plan.

"**IP**" shall have the meaning set forth in Section 7.9 of the DDA.

"**IPM**" shall have the meaning set forth in Section 27.15 of the DDA.

"**Jobs EOP**" shall have the meaning set forth in Section 13.1.8 of the DDA.

"**Jobs-Housing Linkage Fee**" shall have the meaning set forth in the Development Agreement.

"**JV Lots**" shall have the meaning set forth in Section 17.3 of the DDA.

"**Land Acquisition Agreements**" shall have the meaning set forth in Section 25.2 of the DDA.

"**Losses**" shall have the meaning set forth in Section 22.1 of the DDA.

"**Lot**" means a parcel of land within the Project Site that is a legal lot shown on a Subdivision Map.

"**LRA**" shall have the meaning set forth in Recital C of the DDA.

"**Major Phase 1**" means the area identified as Major Phase 1 in the Phasing Plan.

"**Major Phase 4**" means the area identified as Major Phase 4 in the Phasing Plan.

"**Major Phases**" shall have the meaning set forth in Section 3.1 of the DDA.

"**Major Phase Application**" shall have the meaning set forth in Section 3.5 of the DDA.

"**Major Phase Approval**" shall have the meaning set forth in Section 3.3 of the DDA

"**Major Phase Community Facilities Maximum Amount**" shall have the meaning set forth in Section 13.3.3(c) of the DDA.

"**Major Phase Decisions**" shall have the meaning set forth in Section 6.2.3 of the DDA

"**Management Plan**" means a Soil and Groundwater Management Plan approved by the applicable regulatory agencies.

"**Marina**" means the waterside Marina improvements to be developed by Treasure Island Enterprises, LLC, or such other successor party, as more particularly described in the Marina Term Sheet.

"**Marina Access Improvements**" shall have the meaning set forth in Section 8.3 of the DDA.

"**Marina Developer**" means Treasure Island Enterprises, LLC, or such other successor party developing the Marina.

"**Marina Revenues**" means all revenues received by Authority attributable to or in any way related to the Marina operations from the Marina Developer or any party other than Developer.

"**Marina Term Sheet**" means the Term Sheet for the Redevelopment, Expansion and Operation of the Treasure Island Marina between the Authority and Treasure Island

Enterprises, LLC dated November 8, 2000, as amended by that certain Addendum dated November 10, 2004, and that Second Addendum to Term Sheet dated October 10, 2007.

"**Market Rate Lots**" shall have the meaning set forth in the Housing Plan.

"**Market Rate Units**" shall have the meaning set forth in the Housing Plan.

"**Master CC&Rs**" shall have the meaning set forth in Section 10.3.2(e) of the DDA.

"**Master Developer**" shall have the meaning set forth in Section 1.5 of the DDA.

"**Material Breach**" shall have the meaning set forth in Section 16.2.3 of the DDA.

"**Material Modifications**" means amendments or modifications to this DDA or any of its Attachments that would materially increase the burdens and responsibilities of the Authority or materially decrease the benefits to the Authority, as reasonably determined by the Authority Director. Notwithstanding the foregoing, amendments or modifications to the Infrastructure Plan that modify construction standards, materials, practices or specifications for Infrastructure shall not require approval by the Board of Supervisors unless the Authority Director and, with respect to any Infrastructure and Stormwater Management Controls to be owned or maintained by the City, the Director of Public Works, reasonably determine that such amendment or modification under the circumstances, would significantly increase costs to the City or Authority of ownership.

"**Minimum Bid Price**" shall have the meaning set forth in Section 10.3.2(g) of the DDA.

"**Mitigation Measures**" shall have the meaning set forth in Section 18.1 of the DDA.

"**Mortgage**" shall have the meaning set forth in Section 20.1 of the DDA.

"**Mortgagee**" shall have the meaning set forth in Section 20.1 of the DDA.

"**Mortgagee Acquisition**" shall have the meaning set forth in Section 20.6 of the DDA.

"**Mortgagor**" shall have the meaning set forth in Section 20.1 of the DDA.

"**Navy**" shall have the meaning set forth in Recital O of the DDA.

"**Navy Payment**" means that Initial Consideration and Additional Consideration as those terms are defined in the Conveyance Agreement.

"**Net Worth**" means net worth calculated using generally accepted accounting principles ("**GAAP**"). In the case of a corporation, "**Net Worth**" shall mean

shareholders' equity calculated in accordance with GAAP. Any reference in this DDA to a minimum Net Worth or a Net Worth Requirement shall mean that the Net Worth must be satisfied and maintained at all times. Upon the Authority's request, a Person required to maintain a minimum Net Worth under this DDA shall provide to the Authority reasonable evidence that it satisfies the Net Worth Requirement, including a copy of the most recent audit of such Person (which shall in no event be dated more than thirteen (13) months before the date of the Authority's request). Any such audit must have been performed by an independent third-party auditor and must include the opinion of the auditor indicating that the financial statements are fairly stated in all material respects.

"**Net Worth Requirement**" means (i) for Transfer of a Major Phase or portions of a Major Phase that cumulatively equal or exceed a land area of seventy percent (70%) or more of the Major Phase, a Net Worth equal to or more than Seventy Five Million Dollars ($75,000,000), increased automatically by ten percent (10%) on each five (5) year anniversary of the Effective Date and (ii) for Transfers of one or more Sub-Phases that cumulatively equal less than seventy percent (70%) of the land area in a Major Phase, a Net Worth equal to or more than the higher of (A) Twenty Five Million Dollars ($25,000,000), increased automatically by ten percent (10%) on each five (5) year anniversary of the Effective Date or (B) the amount determined under clause (i) above times the percentage of the total land area in the Major Phase that is being Transferred. Any entity required to satisfy the Net Worth Requirement can do so either by either meeting the Net Worth Requirement itself or by providing a Guaranty, covering all of that entity's obligations under this DDA without limitation, from an entity that meets the Net Worth Requirement.

"**Non-Critical Commercial Lots**" shall have the meaning set forth in Section 17.2 of the DDA.

"**Non-Developer Critical Commercial Lot**" shall have the meaning set forth in Section 17.2.5 of the DDA.

"**Notice of Termination**" shall have the meaning set forth in Section 28.36 of the DDA.

"**Notifying Party**" shall have the meaning set forth in Section 16.1 of the DDA.

"**NSTI**" shall have the meaning set forth in Recital A of the DDA.

"**Official Records**" means the Official Records of the City and County of San Francisco maintained by the City's Recorder's Office.

"**Open Space Lot**" means a Lot primarily used for Improvements constructed in accordance with the Parks and Open Space Plan.

"**Original Project Guaranty**" means that certain Guaranty provided by Lennar in connection with the ENA, dated as of June 1, 2003.

"**Original TIHDI Agreement**" shall have the meaning set forth in Recital F of the DDA.

"**Outside Date**" means the last date by which a particular obligation may be satisfied, as such date is set forth in the Schedule of Performance.

"**Owner/Occupant**" means for a Lot, Unit or commercial condominium in the Project Site, as applicable, the Person holding fee title thereto.

"**Park Extension**" shall have the meaning set forth in Section 24.4 of the DDA.

"**Parking Data Table**" shall have the meaning set forth in Section 4.2.1(a) of the DDA.

"**Parks and Open Space Plan**" means the plan attached hereto as Exhibit GG, as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**Party**" means, individually or collectively as the context requires, Developer, the Authority and any Transferee that is made a Party to this DDA under the terms of an Assignment and Assumption Agreement Approved by the Authority Director.

"**PCBs**" shall have the meaning set forth in Section 11.2.3 of the DDA.

"**Permit to Enter**" means, initially, the document attached to this DDA as Exhibit HH, as such document may be revised from time to time by the Authority upon notice thereof to Developer. The Authority may from time to time amend the attached form of Permit to Enter and impose such insurance, bond, guaranty and indemnification requirements as the Authority determines are necessary or appropriate to protect its interests, consistent with the Authority's custom and practice and in a manner that will not unnecessarily interfere with or materially increase the cost or risk of Developer's ability to perform under this DDA or if it would unnecessarily interfere with or materially increase the cost or risk, such amendment must be consistent with commercial industry practice.

"**Permitted Exceptions**" means permitted title exceptions at a close of Escrow as set forth in Section 10.2.

"**Person**" means one or more natural persons or corporations, partnerships, trusts, limited liability companies, limited liability partnerships or other entities.

"**Pesticide Ordinance**" shall have the meaning set forth in Section 27.15 of the DDA.

"**Petroleum Corrective Action Plan**" means the Final Corrective Action Plan, Sites 06, 14/22, 15, and 25, Naval Station Treasure Island dated June 28, 2002, prepared by Tetra Tech EM Inc. for the Department of the Navy, and the Corrective Action Plan,

Inactive Fuel Lines, Naval Station Treasure Island dated December 2003, prepared by Tetra Tech, Inc. for Department of Navy, as amended from time to time.

"**Phase 1 Area**" shall have the meaning set forth in Section 6.1.2 of the DDA.

"**Phasing Goals**" shall have the meaning set forth in Section 3.2 of the DDA.

"**Phasing Plan**" means the map attached hereto as Exhibit H, as such map may be amended from time to time in accordance with the terms of this DDA.

"**Planning Commission**" shall have the meaning set forth in the DRDAP.

"**Police and Fire Station Lot**" shall have the meaning set forth in the Community Facilities Plan.

"**Political Activity**" shall have the meaning set forth in Section 27.7 of the DDA.

"**Port**" shall have the meaning set forth in Section 21.12 of the DDA.

"**Pre-Approved Arbiters List**" shall have the meaning set forth in Section 15.3.1 of the DDA.

"**Private Information**" shall have the meaning set forth in Section 27.18(c) of the DDA.

"**Product Types**" shall have the meaning set forth in Section 17.5.2 of the DDA.

"**Proforma**" shall have the meaning set forth in Section 3.9.

"**Project**" shall have the meaning set forth in Section 1.1 of the DDA.

"**Project Account**" shall have the meaning set forth in the Financing Plan.

"**Project Approvals**" shall mean the Project Approvals listed in Exhibit C to the Development Agreement.

"**Project Cost**" shall have the meaning set forth in the Financing Plan

"**Project EIR**" shall have the meaning set forth in Recital W of the DDA.

"**Project MMRP**" shall have the meaning set forth in Recital W of the DDA.

"**Project Site**" shall have the meaning set forth in Recital B of the DDA.

"**Project Special Taxes**" shall have the meaning set forth in the Financing Plan.

"**Project Subsidies**" shall have the meaning set forth in Section 13.3 of the DDA.

"**Protection of Information Ordinance**" shall have the meaning set forth in Section 27.18 of the DDA.

"**PTR Package**" shall have the meaning set forth in Section 10.2.2 of the DDA.

"**Public Financing**" shall have the meaning set forth in the Financing Plan.

"**Public Improvements**" shall have the meaning set forth in Section 9.2.5 of the DDA.

"**Public Property**" shall have the meaning set forth in Section 3.7 of the DDA.

"**Public Trust**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Public Trust Exchange**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Public Trust Exchange Agreement**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Public Trust Parcels**" shall mean portions of the Project Site that are subject to the Public Trust upon completion of a Public Trust Exchange.

"**Qualified Appraiser Pool**" shall have the meaning set forth in Section 17.4.1 of the DDA.

"**Qualified Buyer**" means a third-party buyer (i) who is not an Affiliate of Developer and is reasonably creditworthy given the obligations it is assuming, and (ii) the principals of which have at least five (5) years of experience in developing the kind of housing or commercial product to be developed on the Lot the Qualified Buyer is seeking to purchase.

"**Qualified Housing Developer**" shall have the meaning set forth in Exhibit E.

"**Quiet Title Action**" shall have the meaning set forth in Section 10.2.3 of the DDA.

"**Ramps Subsidy**" shall have the meaning set forth in Section 13.3.6 of the DDA

"**Redesign Plan**" shall have the meaning set forth in Section 6.2.5(b) of the DDA.

"**Redesign Budget**" shall have the meaning set forth in Section 6.2.5(c) of the DDA.

"**Redesign Costs**" shall have the meaning set forth in Section 6.2.5(c) of the DDA.

"**Redesign Trigger Event**" shall have the meaning set forth in Section 6.2.5(a) of the DDA.

"**Reference Date**" shall have the meaning set forth in the Introductory Paragraph of the DDA.

"**Related Infrastructure**" shall have the meaning set forth in Section 7.1.1 of the DDA.

"**Release**" shall have the meaning set forth in Section 11.2.5 of the DDA.

"**Remainder Parking**" shall have the meaning set forth in Section 4.2.1(a)(iv) of the DDA.

"**Remediation Agreement**" means an agreement, not contained in this DDA, between Developer and another Person relating to the remediation of Hazardous Substances on some or all of the Project Site.

"**Replacement Housing Obligation**" shall have the meaning set forth in the Housing Plan.

"**Replacement Housing Units**" shall have the meaning set forth in the Housing Plan.

"**Requested Change Notice**" shall have the meaning set forth in Section 3.8.2 of the DDA.

"**Required Improvements**" means the police/fire station as described in the Community Facilities Obligations, the ferry terminal and quay, as described in the Infrastructure Plan, and the grocery store consisting of 15,000 s.f., as described in the Community Facilities Obligations.

"**Required Retail**" shall have the meaning set forth in Section 8.2 of the DDA.

"**Required Vegetation Removal**" shall have the meaning set forth in Section 6.1.4 of the DDA.

"**Residential Auction Lot**" shall have the meaning set forth in Section 17.3 of the DDA.

"**Re-Setting of the Minimum Bid Price**" shall have the meaning set forth in Section 17.5 of the DDA.

"**Residential Auction Lots**" shall have the meaning set forth in Section 17.3 of the DDA.

"**Residential Developable Lot**" shall have the meaning set forth in Exhibit E.

"**Residential Project**" means a Vertical Project that is consistent with the Development Requirements and contains Units and other consistent uses, if any.

"**Residential Unit**" shall have the meaning set forth in the Housing Plan.

"**Reuse Plan**" shall have the meaning set forth in Recital E of the DDA.

"**Reversionary Contest Period**" shall have the meaning set forth in Section 16.5.1(f) of the DDA.

"**Reversionary Cure Notice**" shall have the meaning set forth in Section 16.5.1(a)(ii) of the DDA.

"**Reversionary Default**" shall have the meaning set forth in Section 16.5.1(a)(i) of the DDA.

"**Reversionary Quitclaim Deed**" shall have the meaning set forth in Section 16.5.1of the DDA.

"**Reversionary Recordation Notice**" shall have the meaning set forth in Section 16.5.1(d) of the DDA.

"**Reverter Release**" shall have the meaning set forth in Section 16.5.4 of the DDA.

"**Reverter Release Recordation Notice**" shall have the meaning set forth in Section 16.5.4 of the DDA.

"**Right of Reverter**" shall have the meaning set forth in Section 16.5.1(a) of the DDA.

"**Secured Amount**" shall have the meaning set forth in Section 26.1 of the DDA.

"**Schedule of Performance**" means the schedule of performance attached hereto as Exhibit JJ, as such schedule of performance may be updated under the terms of this DDA, including Article 3, amended upon the Approval by Developer and the Authority, or extended by Excusable Delay.

"**School Subsidy**" shall have the meaning set forth in the Section 3.3.6(a) of the DDA.

"**SFCTA**" means the San Francisco County Transportation Authority

"**SFCTA MOA**" as defined in Section 13.3.6 of the DDA.

"**SFPUC**" means the San Francisco Public Utilities Commission.

"**SFUSD**" means the San Francisco Unified School District.

"**Significant Change**" means (i) Developer files, or is the subject of, a petition for bankruptcy, or makes a general assignment for the benefit of its creditors, (ii) a receiver is appointed on account of Developer's insolvency, (iii) a writ of execution or attachment or any similar process is issued or levied against any bank accounts of Developer, or against any property or assets of Developer being used or required for use in the

development of the Infrastructure and Stormwater Management Controls or against any substantial portion of any other property or assets of Developer, or (iv) a final non-appealable judgment is entered against Developer in an amount in excess of Five Million Dollars ($5,000,000.00), and the party against whom judgment is entered is unable to either satisfy or bond the judgment.

"**Significant Change to Guarantor**" as defined in Section 26.3.2 of the DDA.

"**Soil Stockpile**" shall have the meaning set forth in Section 13.3.7 of the DDA.

"**SOQHD**" shall have the meaning set forth in Section 17.2 of the DDA.

"**State**" means, as the context requires, (i) the State of California, or (ii) the territorial jurisdiction of the foregoing.

"**State Lands**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Stormwater Management Controls**" means the facilities, both those to remain privately-owned and those to be dedicated to the City, that comprise the infrastructure and landscape system that is intended to manage the stormwater runoff associated with the Project, as required by the San Francisco stormwater management standards, the applicable NPDES permit, and/or state and federal law, and as described in the Infrastructure Plan. Stormwater Management Controls include but are not limited to: (i) swales and bio-swales (including plants and soils), (ii) bio-retention and bio-filtration systems (including plants and soils), (iii) constructed ponds and/or wetlands (vi) permeable paving systems, and (v) other facilities performing a stormwater control function constructed to comply with the San Francisco stormwater management standards, the applicable NPDES permit, and/or state and federal law. Stormwater Management Controls shall not mean Infrastructure that is part of the traditional collection system such as catch basins, stormwater pipes, stormwater pump stations, outfalls, and other such facilities that are located in the public right-of-way.

"**Sub-Phases**" shall have the meaning set forth in Section 3.1 of the DDA.

"**Sub-Phase Application**" shall have the meaning set forth in Section 3.5 of the DDA.

"**Sub-Phase Event**" shall have the meaning set forth in Section 24.1.2 of the DDA.

"**Sub-Phase Approval**" shall have the meaning set forth in Section 3.4 of the DDA.

"**Subdivision Map**" means a subdivision map as defined in the TI/YBI Subdivision Code.

"**Submerged Lands**" shall have the meaning set forth in Recital A of the DDA.

"**Subsequent Closing Phase**" shall have the meaning set forth in Section 6.1.3 of the DDA.

"**Subsidies**" shall mean those Subsidies described in Section 13 hereof.

"**Substantial Completion**" and any variation thereof means (A) for Infrastructure and Stormwater Management Controls, that the Authority Director determines, in his or her reasonable discretion following consultation with the Department of Public Works, that (i) the work has been substantially completed in accordance with the Construction Documents, and (ii) the Infrastructure and Stormwater Management Controls has been Completed except for (x) customary punch list work that does not prevent a Vertical Developer from constructing Vertical Improvements and (y) work customarily not Completed until Vertical Improvements have been substantially Completed in order to avoid damage to such work or to achieve customary sequencing of the work (e.g., testing that requires Vertical Improvements to be in place) and (B) for Vertical Improvements, that the Authority Director determines, in his or her reasonable discretion following consultation with DBI, that the applicable Vertical Improvements are substantially complete and that the life safety systems within the applicable Vertical Improvement have been installed and are fully functional.

"**Substantially Complete Application,**" "**Substantially Complete Major Phase Application**" or "**Substantially Complete Sub-Phase Application**" means a Major Phase or Sub-Phase Application, as applicable that has been submitted to Authority in accordance with the DRDAP along with substantially all of the required submittal materials, but Authority has not fully accepted the Application as Complete pending Developer's submittal of additional information or materials determined by Authority as reasonably necessary to accept the Application as Complete.

"**Summary Proforma**" means the summary proforma attached to the DDA as Exhibit S, as it may be amended from time to time in accordance with Section 3.9 of the DDA.

"**SUD**" shall have the meaning set forth in Section 4.2 of the DDA.

"**Sustainability Obligations**" shall have the meaning set forth in Section 13.1.7 of the DDA.

"**Taxable Parcel**" shall have the meaning set forth in the Financing Plan.

"**Tentative Subdivision Map**" shall have the meaning set forth in Section 1.6(d) of the DDA.

"**Term**" shall have the meaning set forth in Section 2 of the DDA.

"**Third Party**" means a Person other than Developer and its Affiliates.

"**TI/YBI Subdivision Code**" means the Subdivision Code of the City and County of San Francisco for Treasure Island and Yerba Buena Island and the regulations promulgated thereunder, as each may be amended from time to time.

"**TICAB**" shall have the meaning set forth in Recital K of the DDA.

"**TICD**" means Treasure Island Community Development, LLC, a California limited liability company.

"**TIHDI**" shall have the meaning set forth in Recital E of the DDA.

"**TIHDI Agreement**" shall have the meaning set forth in Recital E of the DDA.

"**TIHDI Job Broker Program Subsidy**" shall have the meaning set forth in Section 9.1 of the Jobs EOP.

"**TIHDI Member Organizations**" shall have the meaning set forth in the TIHDI Agreement.

"**Title Company**" means Chicago Title Company, or such other reputable title company determined by Developer and Approved by the Authority Director, licensed to do business in the State and having an office in the City.

"**Title Objection Period**" shall have the meaning set forth in Section 10.2.2 of the DDA.

"**TITMA**" shall have the meaning set forth in Recital N of the DDA.

"**Transaction Documents**" means (1) this DDA, the Vertical Disposition and Development Agreements, Lease Disposition and Development Agreements and Ground Leases, and related conveyance agreements governing the development of the Project Site in accordance with the DDA, (2) the Land Acquisition Agreements, (4) the Interagency Cooperation Agreement, and (4) other necessary transaction documents for the conveyance, management and redevelopment of the Project Site.

"**Transfer**" means to convey, transfer, sell, or assign as and to the extent permitted under this DDA.

"**Transfer Map**" means a Transfer Map as defined in the Treasure Island/Yerba Buena Island Subdivision Code.

"**Transferable Infrastructure**" shall have the meaning set forth in Section 7.2.1 of the DDA.

"**Transferee**" means any Person to whom Developer Transfers any rights and corresponding obligations under this DDA relating to a Major Phase, Infrastructure and Stormwater Management Controls or horizontal development, as permitted under this DDA, including Transfers to Affiliates of Developer, Vertical Developers, or any

transferee of the right to apply for or to construct Vertical Improvements, shall not be deemed to be Transferees as such term is used in this DDA.

"**Transportation Capital Contribution Account**" shall have the meaning set forth in Section 13.3.2(f) of the DDA.

"**Transportation Plan**" means that certain Treasure Island Transportation Implementation Plan, approved by the Authority on April 21, 2011 by Resolution No. 11-17-04/21, which outlines the transportation program for Treasure Island and Yerba Buena Island, as such plan may be amended or supplemented from time to time in accordance with the terms of this DDA.

"**Transportation Subsidy Account**" shall have the meaning set forth in Section 13.3.2(b) of the DDA.

"**Transient Occupancy**" means occupancy for a period of less than thirty (30) consecutive calendar days.

"**Transient Occupancy In-Lieu Fee**" shall have the meaning set forth in the Development Agreement.

"**Transit Hub**" shall have the meaning set forth in Section 1.3(n) of the DDA.

"Transition Housing Rules and Regulations" means those Transition Housing Rules and Regulations for the Villages at Treasure Island, adopted by the Authority on April 21, 2011.

"**Transition Requirements**" shall have the meaning set forth in Section 10.3.3(h) of the DDA.

"**Transportation Capital Contributions Subsidy**" shall have the meaning set forth in Section 13.3.3 of the DDA.

"**Transportation Plan Obligations**" means those obligations of the Transportation Plan for which Developer is responsible, as described in Exhibit N attached hereto.

"**Transportation Subsidy Payment Date**" shall have the meaning set forth in Section 13.3.2(a) of the DDA.

"**Trust Exchange Closing Phase**" shall have the meaning set forth in Section 6.1.1 of the DDA.

"**Unrelated Infrastructure**" shall have the meaning set forth in Section 7.1.2 of the DDA.

"**Vertical Application**" shall have the meaning set forth in the DRDAP.

"**Vertical Approval**" shall have the meaning set forth in the DRDAP.

"**Vertical Developer**" means for a particular Lot or Vertical Improvement, the Person that is a party to the applicable Vertical DDA related thereto.

"**Vertical Development**" means the development of Vertical Improvements.

"**Vertical Improvement**" means an Improvement to be developed under this DDA that is not Infrastructure and Stormwater Management Controls or Improvements required to be Completed by Developer for the Parks and Open Spaces.

"**Vertical DDA**" shall have the meaning set forth in Section 1.2 of the DDA.

"**Vertical LDDA**" shall have the meaning set forth in Section 1.2 of the DDA.

"**Vertical Project**" means the process of designing, Commencing and Completing a Vertical Improvement under a Vertical DDA.

"**Wastewater Treatment Facility**" shall have the meaning set forth in the Infrastructure Plan.

"**Work Program**" shall have the meaning set forth in Section 6.2.5(c) of the DDA.

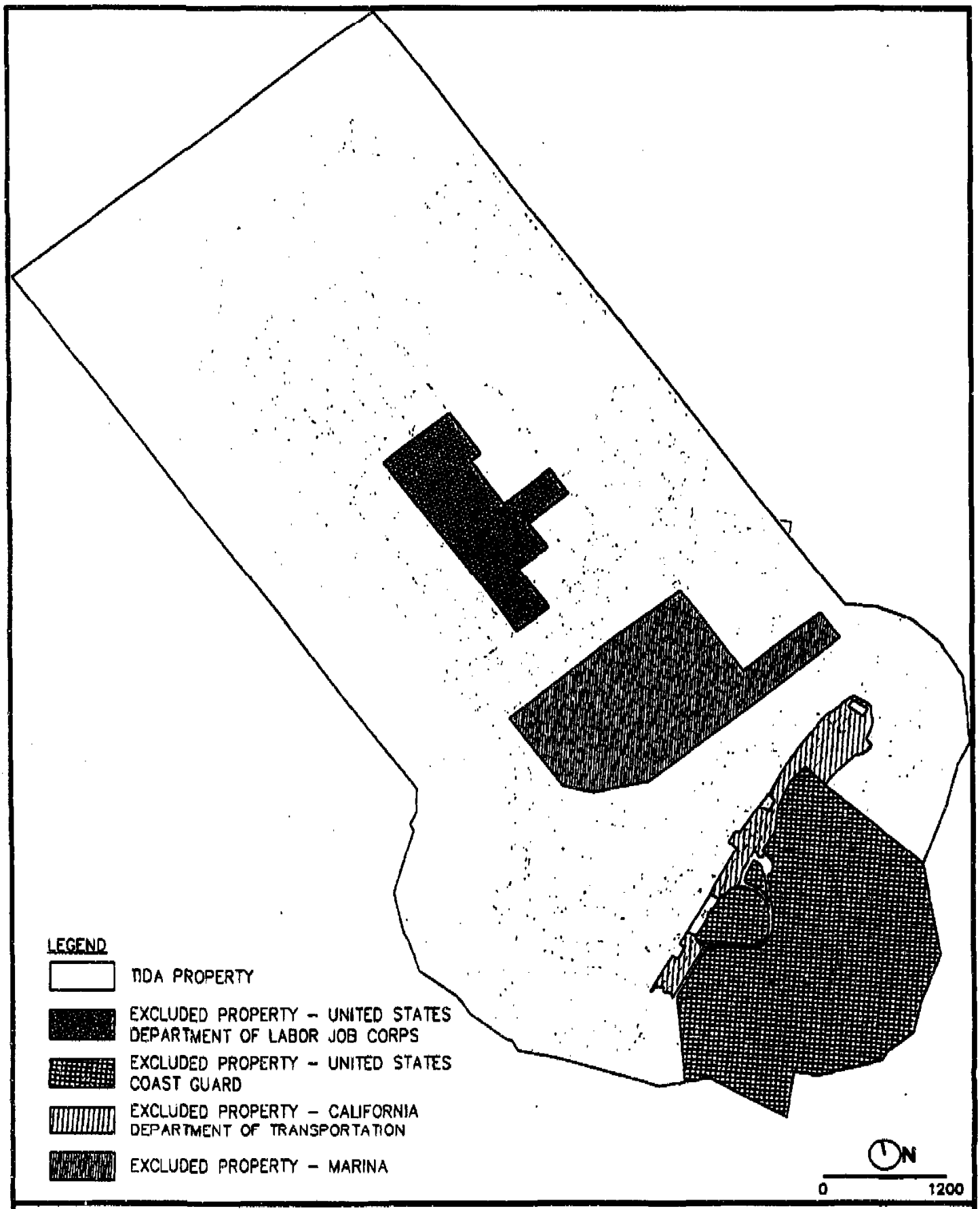

EXHIBIT B-1: PROJECT SITE / EXCLUDED PROPERTIES

Pacific Land Surveys
June 27, 2011
PLS Job No. 20110101-01

Exhibit "B-2"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

All those lands comprised of portions of the lands commonly known as Treasure Island and Yerba Buena Island lying within the City and County of San Francisco, State of California described as follows:

That portion of the lands described in that certain Presidential Reservation of Goat Island (now Yerba Buena Island), dated November 6, 1850, lying northwesterly of Parcel 57935-1 as described in that certain Quitclaim Deed, recorded October 26, 2000, as Document Number 2000G855531, in the office of the Recorder of the said City and County of San Francisco (hereinafter referred to as Doc. 2000G855531);

Together with all of the underlying fee to Parcel 57935-5 as described in said Quitclaim Deed (Doc. 2000G855531) and all of the underlying fee to Parcel 57935-6 as described in said Quitclaim Deed (Doc. 2000G855531),

Also together with that portion of the tide and submerged lands in San Francisco Bay, relinquished to the United States of America by that certain act of the Legislature of the State of California by Statutes of the State of California of 1897, Chapter 81 (hereinafter referred to as Stat. 1897, Ch. 81);

Also together with all of the Tidelands and Submerged Lands in San Francisco Bay known as Treasure Island as described in that certain Final Judgment of Condemnation, filed April 3, 1944, in the District Court of the United States in and for the Northern District of California, Southern Division, Case Number 22164-G (hereinafter referred to as Case 22164-G),

Also together with all of that portion of the lands described in that certain Presidential Reservation of Goat Island (now Yerba Buena Island), dated November 6, 1850, lying southeasterly of Parcel 57935-1 as described in that certain Quitclaim Deed, recorded October 26, 2000, as Document Number 2000G855531, in the office of the Recorder of the said City and County of San Francisco (hereinafter referred to as Doc. 2000G855531); excepting therefrom those lands shown as the Lands of the United States Coast Guard on that certain Record of Survey, entitled "Record of Survey #5923" recorded in Book DD of Maps at Pages 24-28 on April 28, 2010;

Also excepting therefrom, that portion of the said Tidelands and Submerged Lands in San Francisco Bay known as Treasure Island (Case 22164-G), commonly referred to as the Job Corps

Center, Treasure Island, which was transferred to the United States Department of Labor by that certain document entitled "Transfer and Acceptance of Military Real Property", Dated March 3, 1998;

Also excepting therefrom, portions of: the Tidelands and Submerged Lands in San Francisco Bay known as Treasure Island as described in that certain Final Judgment of Condemnation, filed April 3, 1944, in the District Court of the United States in and for the Northern District of California, Southern Division, Case Number 22164-G (hereinafter referred to as Case 22164-G), and the tide and submerged lands in San Francisco Bay, relinquished to the United States of America by that certain act of the Legislature of the State of California by Statutes of the State of California of 1897, Chapter 81 (hereinafter referred to as Stat. 1897, Ch. 81); being more particularly described as follows: commencing at the southwest corner of the lands described above in Case Number 22164-G, said point being marked by a brass disk labeled "Goat", thence northerly along the westerly line of said lands North 26 degrees 51' 06" West 601.09 feet; thence leaving said line, North 63 degrees 08'47" East 1173.50 feet to the True Point of beginning of this exception; thence along the following eight courses: North 26 degrees 51' 13" West 878.38 feet; North 63 degrees 08' 47" East 2121.50 feet; South 26 degrees 51' 13" East 1024.20 feet; North 63 degrees 08' 47" East 961.00 feet; South 26 degrees 51' 13" East 320.20 feet; South 63 degrees 08' 47" West 2391.50 feet; thence South 88 degrees 38' 47" West 543.80 feet; thence North 67 degrees 39' 13" West 306.35 feet to the True Point of Beginning of this exception.

Also excepting therefrom, that portion of the said Tide and Submerged Lands in San Francisco Bay, relinquished to the United States of America (Stat. 1897, Ch. 81), within the "Army Reservation, Occupied by U.S. Light House Service under Permit from Secretary of War dated May 27, 1872" as shown and described upon that certain map entitled "Plat of Army and Navy reservations on Yerba Buena (Goat) Island, San Francisco Bay, California";

And further excepting therefrom, that portion of the Tide and Submerged Lands in San Francisco Bay, relinquished to the United States of America (Stat. 1897, Ch. 81) which were transferred to the United States Coast Guard by that certain document entitled "Transfer and Acceptance of Military Real Property", Dated November 26, 2002.

As portions of said land are shown on those certain Records of Survey filed for record: July 15, 2003 in Book M of maps at pages 85 through 95, inclusive, and as shown on the map entitled "Map and Metes and Bounds Description of United States Military and Naval Reservations, Yerba Buena (Goat) Island, California" including land ceded by the State of California by Act of Legislature of the State of California, approved March 9,1897 (Stat. Cal., 1897, p. 74) filed April 12, 1934 in Book N of Map at Page 14; and on April 28, 2010, in Book DD of Maps at Pages 24-28, entitled "Record of Survey #5923"; recorded in the Office of the Recorder of the City and County of San Francisco.

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.

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
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:	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	
(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 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.	

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.

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
• 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			

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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
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	

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.

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
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.

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 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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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
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 *Documentation* 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_{dn} 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-1: 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 covenants 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 frited 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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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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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 of 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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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
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 covenant, 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. Soil management requirements. 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 150 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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Exhibit D: Land Use Plan

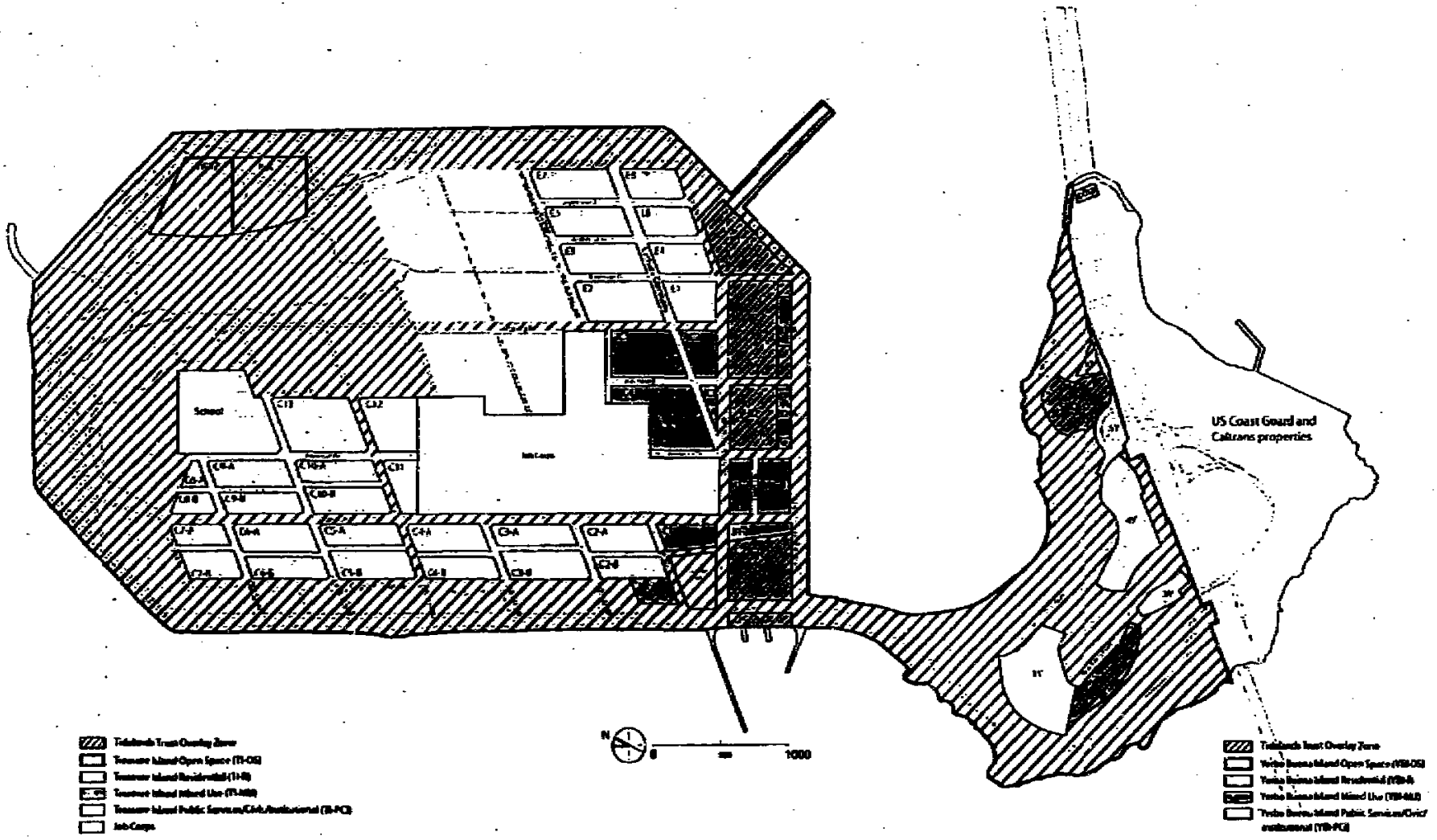

EXHIBIT E

DISPOSITION AND DEVELOPMENT AGREEMENT

(TREASURE ISLAND/YERBA BUENA ISLAND)

HOUSING PLAN

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ATTACHMENTS

SUMMARY

The development plan for Naval Station Treasure Island ("NSTI") under the DDA calls for the development of up to 8,000 residential units. This housing plan (the "Housing Plan") provides that not less than 25% of the residential units that may be developed at the Project Site (2,000 units if the full 8,000 units are developed) will be below market rate units affordable to low and moderate income households or Transitioning Households, and provides that this percentage may increase to 30% if additional public funds for affordable housing becomes available. Of the 2,000 below market rate units, the parties anticipate that up 1,684 units will be developed by Qualified Housing Developers, including approximately 435 to be developed by TIHDI member organizations. And approximately 21.7% of the acreage of the developable residential pads will be available and used for the development of these 1,684 affordable housing units.

The remainder of the below market rate units will be inclusionary units built by Vertical Developers in concert with the private market-rate development projects. Five percent (5%) of the total Developer Residential Units shall be Inclusionary Units. Developer may sell land to Vertical Developers, including Developer and its Affiliates as permitted in the DDA, to develop up to Six Thousand (6,000) Market Rate Residential Units. If the maximum total number of Market Rate Units is built, then the total number of Inclusionary Units would be Three Hundred Sixteen (316), for a total number of Developer Residential Units of Six Thousand Three Hundred Sixteen (6,316) units. The Inclusionary Units will be constructed and sold or rented in accordance with this Housing Plan.

Developer will submit to the Authority Major Phase Applications and Sub-Phase Applications pursuant to the DDA and the DRDAP. Each Major Phase will include one or more Sub-Phases. Following each Sub-Phase Approval, the Authority will convey the Market Rate Lots within that Sub-Phase to Developer and Developer will prepare Developable Lots in Sub-Phases in accordance with the Phasing Plan and the Schedule of Performance. Developer will then convey the Market Rate Lots to Vertical Developers for residential development in accordance with an approved Vertical DDA and the Development Requirements. The Authority Housing Lots will be used for the development of Authority Housing Units in accordance with this Housing Plan. While the Developer will retain flexibility and discretion to respond to market conditions regarding the types, sizes and locations of Developer Residential Units consistent with the Development Requirements, the Project will phased so as to include a mix of Market Rate Lots and Authority Housing Lots as needed to meet the proportionality requirements of this Housing Plan.

Developer and the Authority have designated the general location of the Authority Housing Lots, which are distributed throughout the Project Site. The Authority and TIHDI will be responsible for causing the development of Affordable Housing Units and Transition Units on the Authority Housing Lots. The Affordable Housing Units are expected to include a range of unit types and tenures, including family housing units and senior units. The Authority shall retain the discretion to determine the type of Affordable Housing Units to be constructed so long as the Units are consistent with the Development Requirements. The Authority shall enter into a separate agreement with TIHDI for the development of the TIHDI Units on specified Authority Housing Lots.

In addition to the Affordable Housing Units, the Authority will also be responsible for causing the development of the Transition Units. The Transition Units are to provide housing for existing residents who qualify for benefits under the Transition Housing Rules and Regulations and who, when noticed that they must make a long term move, elect to rent a new unit on Treasure Island in accordance with the Transition Housing Rules and Regulations. The Transition Units will be deed restricted to require that upon vacancy of the Transitioning Household, subsequent households occupying the Transition Unit must meet Affordable income requirements and each such Transition Unit will become an Affordable Housing Unit. If a Transitioning Household does meet Affordable income requirements, then the applicable Transitions Unit will be a deed restricted Affordable Housing Unit from its inception. The Transition Housing Rules and Regulations provide certain benefit options to Transitioning Households, including moving assistance, down payment assistance, an in lieu payment and the opportunity to move to Transition Units at specified rents. The estimated costs of implementing the Transition Housing Rules and Regulations have been factored into the Developer Housing Subsidy to be paid by Developer to the Authority.

The DDA calls for the use of a variety of private and public funding sources to create the Authority Housing Units envisioned by this Housing Plan, including Developer Completion of Infrastructure and Stormwater Management Controls in accordance with this Housing Plan, the Developer Housing Subsidy, tax increment financing generated from one or more infrastructure financing districts, the jobs-housing linkage fees, low-income housing tax credit proceeds and various State and Federal sources of funding. Collectively, the Project is expected to contribute more than $460 million towards the creation of the Authority Housing Units, including the costs of needed infrastructure, site preparation and construction costs. The Project-generated funds will come from three sources:

- Net Available Increment and Developer contributions in an amount equal to the Housing Percentage, as defined in the Financing Plan, will be deposited into the Housing Fund in accordance with the Financing Plan and used by the Authority for the development of the Affordable Housing Units.

- Second, the commercial development on the Project Site is anticipated to generate Jobs-Housing Linkage fees paid by Vertical Developers in accordance with the DDA and the commercial Vertical DDAs/LDDAs. All Jobs-Housing Linkage fees payable under these DDAs from the commercial development on the Project Site will be used for the production of Authority Housing Units in accordance with this Housing Plan.

- Third, Developer shall pay a direct subsidy to the Authority to be used toward the costs of the Authority Housing Units and implementation of the Transition Housing Rules and Regulations. The Developer Housing Subsidy will equal Seventeen Thousand Five Hundred Dollars ($17,500) per Market Rate Unit. The actual amount of the Developer Housing Subsidy will be determined based on the maximum number of Market Rate Units allowed for development in each Vertical DDA (but subject to a minimum and maximum amount, as described below), and will become payable upon the transfer of each Market Rate Lot to a Vertical Developer (subject to an initial five (5) year period in which no Developer

Housing Subsidy will be payable, except as described below). The Developer Housing Subsidy will be $105 million if the maximum 6,000 Market Rate Residential Units are developed, and the minimum Developer Housing Subsidy will be $73.5 million as set forth in Section 6.1 below.

The Parties acknowledge that the Development Plan Update contemplated that the Project Site would be included within a Redevelopment Project Area and that tax increment financing under the Community Redevelopment Law would be available to the Parties to finance Project Costs, including affordable housing. As a result of potential changes to the Community Redevelopment Law, the Parties have determined to proceed with development of the Project Site using an Infrastructure Financing District model rather than a redevelopment model under the Community Redevelopment Law. Current laws on Infrastructure Financing Districts provide substantially reduced incremental tax revenue from that provided under the Community Redevelopment Law, and furthermore place different restrictions and limitations on the use of such funds. Accordingly, the Parties have reduced the percentage of Authority Housing Units to twenty five percent of the total number of Residential Units with a corresponding increase in the number of Market Rate Units (as compared to the Development Plan Update) to compensate for the reduced public financing available for the Project. If, as a result of changes to the current Infrastructure Financing District law or other public financing vehicles, the amount of public financing available for affordable housing in the Project is increased, the Parties agree to increase the percentage of Authority Housing Units as set forth in Article 9 of this Housing Plan.

The foregoing summary is provided for convenience and for informational purposes only. In case of any conflict, the provisions of the Housing Plan and the DDA shall control.

1. DEFINITIONS

Initially capitalized terms unless separately defined in this Housing Plan have the meanings and content set forth in the DDA. Terms defined in the DDA and also set forth in this Section are provided herein for convenience only.

1.1 Adequate Security shall have the meaning set forth in the DDA.

1.2 Affordable, Affordability, or Affordable Housing Cost means (a) with respect to a Rental Unit, a monthly rental charge (including the Utility Allowance applicable to the Household Size of such Rental Unit but excluding Parking Charges) that does not exceed thirty percent (30%) of the maximum Area Median Income percentage permitted for the applicable type of Residential Unit, based upon Household Size; and (b) with respect to a For-Sale Residential Unit, a purchase price based on a five percent (5%) down payment and a commercially reasonable thirty (30) year fixed mortgage with an interest rate as set forth below, points and fees and total annual payments for principal, interest, taxes and owner association dues, but excluding Parking Charges, not exceeding thirty three percent (33%) of the maximum Area Median Income percentage permitted for the applicable type of Residential Unit reduced by five percent (5%), based upon Household Size. With respect to the Inclusionary Units, Parking Charges to be paid by residents shall be in addition to the Affordable Housing Cost and shall not be included in rent or the purchase price in determining Affordable Housing Cost. With respect to Authority Housing Units, the Authority shall have the right to determine whether Parking

Charges will be included in the rent or purchase price for purposes of determining the Affordable Housing Cost in accordance with Section 7.1 of this Housing Plan and the Design for Development. The interest rate for the mortgage loan that is used to calculate the purchase price for a Sale Unit shall be the higher of (1) the ten (10) year rolling average interest rate, as calculated by the Authority based on data provided by Fannie Mae or Freddie Mac, or if such data is not provided by Fannie Mae or Freddie Mac, then based on data from an equivalent, nationally recognized mortgage financing institution approved by the Vertical Developer and the Authority, or (2) the current commercially reasonable rate available through the Authority approved lender, in either case as in effect on a date mutually agreed upon between the Authority and the Vertical Developer but before the date the Authority approves the marketing plan for the Sale Residential Unit.

1.3 Affordable Housing Loan Fund has the meaning set forth in Section 6.4 of this Housing Plan.

1.4 Affordable Housing Unit means a Residential Unit constructed by a Qualified Housing Developer (including Qualified Housing Developers selected by TIHDI) on an Authority Housing Lot that is available for lease or purchase at an Affordable Housing Cost for households with an annual income up to one hundred twenty percent (120%) of Area Median Income, but may be leased or sold to households with lower income levels as determined by the Authority. Inclusionary Units are not included in Affordable Housing Units. The Authority shall determine the affordability level and other relevant restrictions for each Authority Housing Project in conformance with the Development Requirements, shall comply with Government Code Section 53395.3(c) to the extent applicable, and, with respect to the Replacement Housing Units shall comply with Government Code Section 53395.5, provided that Transition Units shall initially meet the standards required under the Transition Housing Rules and Regulations.

1.5 Approved Sites has the meaning set forth in Section 2.5 of this Housing Plan.

1.6 Approval (Approve, Approved and any variation) is defined in the DDA.

1.7 Area Median Income means for the Inclusionary Units, unadjusted median income for the San Francisco area as published from time to time by the United States Department of Housing and Urban Development ("HUD") adjusted solely for household size. If data provided by HUD that is specific to the median income figures for San Francisco are unavailable or are not updated for a period of at least eighteen months, the Area Median Income may be calculated by the Authority using other publicly available and credible data as approved by Developer and the Authority. For the Authority Housing Units, Area Median Income shall be the higher of the above definition or the definition used by any federal, State or local funding source providing financing for the Authority Housing Units.

1.8 Authority Housing Lot shall mean the lots identified as Authority Housing Lots on the Housing Map, subject to any revisions as may be requested by Developer and approved by the Authority as part of the Major Phase and Sub-Phase Approval processes, or otherwise as set forth in the DRDAP.

1.9 Authority Housing Lot Completion Date means the date an Authority Housing Lot meets the requirements for a Developable Lot including Completion of all Infrastructure and Stormwater Management Controls except for the Transferable Infrastructure related to the Authority Housing Lot.

1.10 Authority Housing Project means a Residential Project constructed by a Qualified Housing Developer selected by the Authority or TIHDI, as applicable, containing Authority Housing Units and possibly also containing other uses permitted under the Design for Development and this Housing Plan.

1.11 Authority Housing Unit means a Residential Unit developed on an Authority Housing Lot, which shall be either an Affordable Housing Unit or a Transition Unit. Transition Units may be Affordable Housing Units at inception (for income-qualifying Transitioning Households) or, if not, shall become Affordable Housing Units upon the vacancy of the initial Transitioning Household.

1.12 Commence (Commenced, Commencement and any variation) has the meaning set forth in the DDA.

1.13 Complete (Completed, Completion and any variation) has the meaning set forth in the DDA.

1.14 Completed Authority Housing Lot means an Authority Housing Lot that meets the requirements for a Developable Lot including with all Infrastructure and Stormwater Management Controls except for the Transferrable Infrastructure Completed.

1.15 CRL Funding Amount has the meaning set forth in Section 9.1 of this Housing Plan.

1.16 Declaration of Restrictions means a document or documents recorded against an Inclusionary Unit requiring that the Unit remain Affordable in accordance with the terms of this Housing Plan. The Declaration of Restrictions for the Rental and For Sale Inclusionary Units shall be in a form Approved by the Developer and the Authority in accordance with Section 5.1(f) of this Housing Plan.

1.17 Developer Housing Subsidy means the subsidy to be paid by Developer to the Authority for the development of Authority Housing Units on the Authority Housing Lots and the implementation of the Transition Housing Rules and Regulations. The Developer Housing Subsidy shall be paid over time as set forth in this Housing Plan, and shall equal the total number of Market Rate Units allowed to be constructed on each Market Rate Lot as set forth in the Vertical DDA for such Lot multiplied by Seventeen Thousand Five Hundred Dollars ($17,500), subject to the true-up provision set forth in Section 6.1(b) of this Housing Plan.

1.18 Developable Lot has the meaning set forth in the DDA.

1.19 Developer Residential Units means the Market Rate Units and the Inclusionary Units.

1.20 Development Agreement has the meaning set forth in the DDA.

1.21 Development Requirements has the meaning set forth in the DDA.

1.22 Event of Default has the meaning set forth in the DDA.

1.23 Fair Market Value Price has the meaning set forth in Section 9.3 of this Housing Plan.

1.24 Financing Plan means the Financing Plan attached to the DDA.

1.25 For-Rent or Rental Unit means a Residential Unit which is not a For Sale Unit.

1.26 For-Sale or Sale Unit means a Residential Unit which is intended at the time of completion of construction to be offered for sale, e.g., as a condominium, for individual unit ownership.

1.27 Household Size means the total number of bedrooms in a Residential Unit plus one (1).

1.28 Housing Data Table means the table attached here to as Attachment A.

1.29 Housing Fund has the meaning set forth in the Financing Plan.

1.30 Housing Map means the map attached hereto as Attachment B.

1.31 Housing Percentage has the meaning set forth in the Financing Plan.

1.32 IFD has the meaning set forth in the Financing Plan.

1.33 IFD Act has the meaning set forth in the Financing Plan.

1.34 Inclusionary Milestone has the meaning set forth in Section 5.1(c) of this Housing Plan.

1.35 Inclusionary Obligation has the meaning set forth in Section 5.1(a) of this Housing Plan.

1.36 Inclusionary Units means (i) for a Rental Unit, a unit that is available to and occupied by a household with an income not exceeding sixty percent (60%) of Area Median Income and rented at an Affordable Housing Cost for households with incomes at or below sixty percent (60%) of Area Median Income, and (ii) for a For Sale Unit, a unit that is available to and occupied by households with incomes not exceeding One Hundred Twenty Percent (120%) of Area Median Income and sold at an Affordable Housing Cost for households with incomes from Eighty Percent (80%) to One Hundred Twenty Percent (120%) of Area Median Income. The mechanism for setting the maximum Affordable Housing Cost and income level for each Inclusionary Unit is set forth in Section 5 of this Housing Plan.

1.37 Infrastructure has the meaning set forth in the DDA.

1.38 Interim Move has the meaning set forth in the Transition Housing Rules and Regulations.

1.39 Major Phase has the meaning set forth in the DDA.

1.40 Market Rate or Market Rate Unit means a Residential Unit constructed on a Market Rate Lot that has no restrictions under this Housing Plan or the DDA with respect to Affordable Housing Cost levels or income restrictions for occupants.

1.41 Market Rate Lot shall mean a lot of the approximate size and location identified as a Market Rate Lot on the Housing Map at each Major Phase Approval, subject to any revisions as may be requested by Developer and Approved by the Authority as part of the Sub-Phase Approval process or otherwise as set forth in the DRDAP.

1.42 Market Rate Project means a Residential Project constructed by a Vertical Developer, including Developer and its Affiliates, and containing Market Rate Units, Inclusionary Units (if required), and possibly also containing other uses permitted under the Design for Development.

1.43 Marketing and Operations Guidelines has the meaning set forth in Section 5.1(h) of this Housing Plan.

1.44 Maximum Public Financing Revisions has the meaning set forth in Section 9.1 of this Housing Plan.

1.45 Minimum Affordable Percentage has the meaning set forth in Section 2.1 of this Housing Plan.

1.46 MOH shall mean the City of San Francisco's Mayor's Office of Housing or any successor agency.

1.47 Net Available Increment has the meaning set forth in the Financing Plan.

1.48 Non-Inclusionary Projects means the Residential Projects of the following types, on which Developer and Vertical Developers may, but are not required to, include any Inclusionary Housing: (i) any Residential Project of 19 or fewer units; (ii) townhomes; (iii) residential towers exceeding 240 feet in height; and (iv) residential condominiums with hotel services ("Condotel"). Notwithstanding the foregoing exclusions, not less than five percent (5%) of the total Developer Residential Units constructed on Treasure Island and not less than five percent (5%) of the total Developer Residential Units constructed on Yerba Buena Island must be Inclusionary Units.

1.49 Parking Charge means the rental rate or purchase price for a Parking Space, as determined in accordance with Section 7.2.

1.50 Parking Space means a parking space constructed in the Project Site by or on behalf of Vertical Developers or Qualified Housing Developers and accessory to one or more Residential Projects.

1.51 Partial Public Financing Revisions has the meaning set forth in Section 9.3 of this Housing Plan.

1.52 Premarketing Notice List has the meaning set forth in the Transition Rules and Regulations.

1.53 Proforma has the meaning set forth in the DDA.

1.54 Project Cost has the meaning set forth in the DDA.

1.55 Project Site has the meaning set forth in the DDA.

1.56 Qualified Housing Developer means non-profit or for-profit organizations selected by the Authority (or, for Authority Housing Lots to be developed by TIHDI member organizations, by TIHDI or the applicable TIHDI member organization with Authority Approval) with the financial and staffing capacity to develop affordable housing consistent with the character and quality of the Development Requirements and the Residential Projects, and a history of successful affordable housing development, demonstrated by the completion of not less than 75 affordable housing units and 2 affordable housing projects in the previous 7 years that are comparable to the Authority Housing Project the Qualified Housing Developer is selected to develop. If the Qualified Housing Developer is a joint venture, partnership or other type of entity consisting of two or more entities, then the joint venture managing partner, managing general partner or other entity primarily responsible for the development (but not necessarily the ownership or long-term management) of the Authority Housing Lot must meet the criteria of a Qualified Housing Developer.

1.57 Replacement Housing Obligation shall mean the obligation to construct or rehabilitate dwelling units as required under Government Code Section 53395.5.

1.58 Replacement Housing Units shall mean the Affordable Housing Units on the Project Site that satisfy the Replacement Housing Obligation, and any Inclusionary Units that are affordable under the standards set forth in Government Code Section 53395.3(c) that are designated as Replacement Housing Units pursuant to Section 3.1(a)(4). .

1.59 Residential Acreage means buildable net acres including applicable setback areas as required by the Design for Development, but not including adjacent easement areas, midblock alleys, neighborhood parks, community facilities and central parking facilities serving residential and/or commercial developments.

1.60 Residential Developable Lot means the Developable Lots that are designated primarily for residential use on the Housing Map, as may be revised in a Major Phase Approval or Sub-Phase Approval or otherwise in accordance with the DRDAP. Residential Developable Lots shall only include lots that are not subject to the Tidelands Trust and shall not

include adjacent easement areas, midblock alleys, neighborhood parks, community facilities and central parking facilities serving residential and/or commercial developments.

1.61 Residential Project has the meaning set forth in the DDA.

1.62 Residential Unit means a room or suite of two or more rooms that is designed for residential occupancy for 32 consecutive days or more, including provisions for sleeping, eating and sanitation, for not more than one family, and may include senior and assisted living facilities.

1.63 Section 415 means San Francisco Planning Code section 415.

1.64 Stormwater Management Controls has the meaning set forth in the DDA.

1.65 Sub-Phase has the meaning set forth in the DDA.

1.66 Term shall have the meaning set forth in the DDA.

1.68 Thirty Percent Minimum has the meaning set forth in Section 2.1 of this Housing Plan.

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

1.70 TIHDI Replacement Units shall have the meaning set forth in the Amended and Restated Base Closure Homeless Assistance Agreement between the Authority and TIHDI entered into concurrently with the DDA.

1.71 TIHDI Units means the Affordable Housing Units constructed by Qualified Housing Developers selected by TIHDI subject to Authority Approval on Authority Housing Lots in accordance with this Housing Plan.

1.72 Transferable Infrastructure has the meaning set forth in the DDA.

1.73 Transferable Infrastructure Liquidation Amount has the meaning set forth in Section 2.8(d) of this Housing Plan.

1.74 Transition Housing Rules and Regulations means the rules and regulations adopted by the Authority, as amended from time to time. The currently adopted Transition Housing Rules and Regulations are attached as Attachment C.

1.75 Transition Units has the meaning set forth in the Transition Housing Rules and Regulations.

1.76 Transitioning Households shall have the meaning set forth in the Transition Housing Rules and Regulations.

1.77 Twenty-Five Percent Minimum has the meaning set forth in Section 2.1 of this Housing Plan.

1.78 Utility Allowance means a dollar amount determined in a manner acceptable to the California Tax Credit Allocation Committee, which may include a dollar amount established periodically by the San Francisco Housing Authority based on standards established by HUD for the cost of basic utilities for households, adjusted for Household Size. If such dollar amount is not available from the San Francisco Housing Authority or HUD, then Developer or Vertical Developer, as applicable, may use another publicly available and credible dollar amount that is Approved by the Authority.

1.79 Vertical Approval has the meaning set forth in the DRDAP.

1.80 Vertical DDA shall have the meaning in the DDA. Each reference to a Vertical DDA in this Housing Plan shall include Vertical LDDAs, as applicable.

1.81 Vertical Developer shall have the meaning set forth in the DDA.

1.82 Vertical Improvement is defined in the DDA.

2. HOUSING DEVELOPMENT

2.1 Development Program. Vertical Developers and Qualified Housing Developers may develop up to 8,000 Residential Units on the Project Site, including 1,684 Authority Housing Units (of which up to 435 will be TIHDI Units), 316 Inclusionary Units, and 6,000 Market Rate Units. The number of Authority Housing Units and the Inclusionary Units allowed shall be equal to twenty-five percent (25%) of the total number of Residential Units that are allowed to be developed on the Project Site (the "Twenty-Five Percent Minimum"), provided, if certain conditions are satisfied as described in Article 9 of this Housing Plan, then the Parties will increase the percentage of Authority Housing Units and Inclusionary Units that are allowed to be developed to thirty percent of the total number of Residential Units allowed on the Project Site (the "Thirty Percent Minimum"). The minimum percentage of Affordable Housing Units, as it may be increased from the Twenty-Five Percent Minimum to the Thirty Percent Minimum in accordance with Article 9, shall be referred to as the "Minimum Affordable Percentage". The Parties understand and agree that the Authority's right to construct the number of Authority Units and Vertical Developers' right to construct the n umber of Developer Residential Units specified in this Housing Plan is absolute and is based on the total number of Residential Units entitled under this Housing Plan. The Authority's right and entitlement shall not decrease if Vertical Developers ultimately build less than the full entitlement of Developer Residential Units permitted on the Project Site, and Vertical Developers' right and entitlement shall not decrease if the Authority ultimately builds less than the full entitlement of Authority Housing Units on the Project Site. Any such decrease in the actual number of Developer Residential Units or Authority Housing Units constructed may, at Project completion, cause the actual affordable housing percentage (expressed as a comparison of Affordable Units to Market Rate Units) to vary from the Minimum Affordable Percentage.

2.2 Development Process.

(1) Subject to the terms of the DDA, Developer shall develop the Project Site in a series of Major Phases and, within each Major Phase, in a series of Sub-Phases. The DDA includes a process for Developer's submittal of Major Phase Applications and Sub-Phase Applications, and for the Authority's review and grant of Major Phase Approvals and Sub-Phase Approvals, in accordance with the DRDAP. The anticipated order of development of Major Phases, and Sub-Phases in each Major Phase, including the Completion of the Authority Housing Lots, is set forth in the Phasing Plan and the Schedule of Performance, subject to revision in accordance with the procedures set forth in the DDA and the DRDAP.

(2) Developer shall preliminarily identify the number and location of anticipated Inclusionary Units for each anticipated Market Rate Project in a Major Phase Application, and may revise such number in a Sub-Phase Application, subject to the requirements of this Housing Plan. The final number of Inclusionary Units for each Market Rate Project (if any) shall be specified in the applicable Vertical DDA.

(3) Subject to the terms of the DDA: (i) upon receipt of a Sub-Phase Approval, Developer shall construct Infrastructure and Stormwater Management Controls within such Sub-Phase in accordance with the Schedule of Performance, including Infrastructure and Stormwater Management Controls to serve the Authority Housing Lots; and (ii) at the close of conveyance of Market Rate Lots to Vertical Developers (including Developer and Affiliates of Developer) for the construction of Residential Projects, Developer shall transfer such Market Rate Lots consistent with the requirements of the DDA and this Housing Plan and shall pay to the Authority the Developer Housing Subsidy as set forth in this Housing Plan.

(4) Subject to the terms of the applicable Vertical DDA, following receipt of all Vertical Approvals, the Vertical Developer may construct the applicable Market Rate Project(s), and upon such construction, the Vertical Developer must include the number of Inclusionary Units for such Market Rate Project(s) as are set forth in the Vertical DDA.

2.3 Developer's Obligations Related to Authority Housing Units. Developer's obligations related to the Authority Housing Units are: (i) Completion of the Infrastructure and Stormwater Management Controls (or, with respect to Transferable Infrastructure, payment of the Transferable Infrastructure Liquidation Amount as set forth in Section 2.8(e) of this Housing Plan) on the Authority Housing Lots in accordance with the DDA; (ii) if the Authority retains the Authority Housing Lots as anticipated, to cooperate with the Authority in effectuating any post-closing boundary adjustments in accordance with Section 10.5 of the DDA; (iii) if the Authority transfers the Authority Housing Lots to Developer pursuant to Section 2.7(b), transfer of all Authority Housing Lots to the Authority upon Completion of all Infrastructure and Stormwater Management Controls serving that Lot except for the Transferable Infrastructure in accordance with the provisions of the DDA, including this Housing Plan as set forth in Section 2.7(b) at no cost to the Authority and without consideration to either Party; (iv) payment of the Developer Housing Subsidy in compliance with Section 6.1 of this Housing Plan; (v) recordation of Vertical DDAs on the Market Rate Lots specifying the number of Inclusionary Units to be built on the Market Rate Lots consistent with the applicable Sub-Phase Approval; and (vi) if applicable, completion of the Replacement Housing Units as set forth in Section 3.1(a) of this Housing Plan. Except as set forth in Section 3.1(a) of this Housing Plan, Developer shall have

no obligation to Complete the Replacement Housing Units or the Authority Housing Projects. Developer shall have no obligation to Complete the Transition Units except as may be agreed to by Developer in accordance with Section 8.4 of this Housing Plan.

2.4 Developer Land Conveyances.

(a) Authority Housing Lots. The Completed Authority Housing Lots shall comprise Residential Acreage equal to approximately twenty-one and seven-tenths percent (21.7%) of the total Residential Acreage of the Residential Developable Lots on Treasure Island. The total expected Residential Acreage of the Residential Developable Lots and the Completed Authority Housing Lots is set forth on the Housing Map.

(b) Major Phases. The approximate location and size of the Authority Housing Lots is set forth in the Housing Map , and may be revised as part of a Major Phase Approval or Sub-Phase Approval or otherwise as set forth in the DRDAP. The Housing Map has been designed and Approved so as to maintain general proportionality in location and phasing between the development of Market Rate Units and Authority Housing Units at all times. Without limiting the foregoing, the Parties agree that in order to provide flexibility in implementation: (i) within each Major Phase, the total Residential Acreage of the Authority Housing Lots on Treasure Island shall not be less than fifteen percent (15%) of the total Residential Acreage of the Market Rate Lots and Authority Housing Lots combined in that Major Phase, (ii) at the time of the Approval of the Major Phase that includes the 3,160th Developer Residential Unit, the Cumulative Total Authority Housing Acreage on Treasure Island shall not be less than twenty percent (20%) of the total Residential Acreage of the Market Rate Lots and Authority Housing Lots combined; and (iii) upon the Completion of all Major Phases, the Cumulative Total Authority Housing Acreage on Treasure Island shall not be less than twenty-one and seven-tenths percent (21.7%) of the total Residential Acreage of the Market Rate Lots and Authority Housing Lots combined. For purposes of this Section, the Percentage of Cumulative Total Authority Housing Acreage shall be calculated as follows: (i) the total Residential Acreage of the Authority Housing Lots on Treasure Island in a Major Phase Application plus the total Residential Acreage of all Authority Housing Lots on Treasure Island in all previously Approved Major Phases, divided by (ii) the total Residential Acreage of all Market Rate Lots and Authority Housing Lots on Treasure Island in that same Major Phase Application plus the total Residential Acreage of all Market Rate Lots and Authority Housing Lots on Treasure Island in all previously Approved Major Phases.

(c) Housing Data Table. In order to track Developer's compliance with this Housing Plan, Developer shall submit a Housing Data Table as part of each Major Phase Application and Sub-Phase Application that includes Residential Projects, in the form and containing the information set forth in Attachment A, subject to changes and modifications Approved by the Authority. The Authority shall review the Housing Data Table in connection with its consideration and Approval of each Major Phase or Sub-Phase Application in accordance with the procedures set forth in the DRDAP. Each Housing Data Table shall include the applicable information set forth in Attachment A, including:

(1) The location and Residential Acreage for each Authority Housing Lot and each Market Rate Lot in that Major Phase or Sub-Phase, as applicable, and whether there are any proposed changes from the Housing Map or previous Approvals;

(2) The percentage of Residential Acreage of Authority Housing Lot(s) to the Residential Acreage of Authority Housing Lot(s) and Market Rate Lot(s) in that Major Phase or Sub-Phase, as applicable, and the Cumulative Total Authority Housing Acreage to date;

(3) The cumulative number of Developer Residential Units (including the number of Inclusionary Units) permitted for development, or if construction is complete, actually developed, on Market Rate Lots previously conveyed to Vertical Developers, and the number of Developer Residential Units (including the number of Inclusionary Units) allocated for development in that Major Phase or Sub-Phase, as applicable; and

(4) the anticipated location of each anticipated Residential Project within the Major Phase or Sub-Phase, as applicable, and the anticipated Authority Housing Lot Completion Date, and for each such Market Rate Project, the anticipated acreage, height and density and the number of residential units, including the proposed number of Inclusionary Units.

(d) Upon conveyance of property within a Sub-Phase to the Developer in accordance with the DDA, the Authority shall retain the Authority Housing Lots, unless the Parties mutually agree to the transfer of the Authority Housing Lots to the Developer. In connection with development of each Sub-Phase, if the Authority Housing Lots are transferred to Developer, Developer shall convey to the Authority Developer's interest in the Authority Housing Lots without cost to the Authority upon Completion of all Infrastructure and Stormwater Management Controls except for the Transferable Infrastructure for such Authority Housing Lots in accordance with the procedures set forth below in the DDA and Section 2.7(b) of this Housing Plan. If the Authority Housing Lots are retained by the Authority, Developer shall Complete the Infrastructure and Stormwater Management Controls on the Authority Housing Lots in accordance with the procedures set forth below in Section 2.8 of this Housing Plan.

2.5 Selection of Approved Sites.

(a) Developer has selected and the Authority has Approved generally designated sites for the development of the Authority Housing Units as shown on the Housing Map (individually, an "Approved Site" and collectively, the "Approved Sites"), including additional sites if the Maximum Public Financing Revisions or the Partial Public Financing Revisions are made as set forth in Article 9 below.

(b) In each Major Phase Application and Sub-Phase Application, Developer will confirm the location and size of the Approved Sites, or propose any changes to the Approved Sites with an explanation for the proposed change. Any proposed change will be shown on a revised Housing Map in the form of Attachment B. The final Approved Sites shall be as set forth in each Sub-Phase Approval, and shall be the Authority Housing Lots in that Sub-

Phase. Notwithstanding a Sub-Phase Approval, Developer may subsequently seek a substitution or alteration as set forth in Section 2.6 of this Housing Plan.

(c) Within sixty (60) days following the Authority Housing Lot Completion Date, Developer shall (if applicable) convey to the Authority Developer's interest in the applicable Authority Housing Lot.

2.6 Site Alteration Process. Developer may request to substitute an alternate Authority Housing Lot for any of the Approved Sites or to make material changes to the size or boundaries of an Approved Site, with a brief explanation as to why Developer is requesting the substitution or change. Any substitution or material change shall be subject to the Authority's review and Approval, in its reasonable discretion if the request is made before or as part of a Sub-Phase Application, and in its sole discretion if the request is made at any time after receipt of a Sub-Phase Approval. In determining whether to approve a substitution or material change before or as part of a Sub-Phase Application, the Authority will consider, at a minimum, the following:

(1) Size. The alternative parcel should be approximately the same size as the parcel it is intended to replace (or, if it is different, then Developer shall show what other adjustment(s) are proposed to Approved Sites on the Housing Map to meet the required Percentage of Cumulative Total Authority Housing Acreage as required pursuant to Section 2.4(b)).

(2) Dimensions. Parcel dimensions shall be generally typical in shape as compared to Market Rate Lots, reflective of the block configuration.

(3) Frontages. Each parcel shall have a minimum of one (1) frontage that provides immediate vehicular access in a manner consistent with the Design for Development and immediate pedestrian access to a public walkway or right of way.

(4) Fiscal Impact. The alternative parcel or material change should not have a negative impact on the reasonably anticipated or proposed financing for the development of Affordable Housing Units on the site when compared to the original parcel.

(5) Dispersal of Affordable Units, Timing and Location. The alternative parcel, when compared to the site it is intended to replace, maintains the overall balance of providing Authority Housing Lots with access to transit, proximity to parks and other public amenities and that are dispersed throughout the Project Site, integrates the Affordable Housing Units and the Market Rate Units, and generally maintains the timing and proportionality of Market Rate Lots and Authority Housing Lots relative to the Phasing Plan and the Schedule of Performance.

(6) Site Conditions. The proposed substitution or change should not result in a parcel that is more difficult or expensive to develop (i.e., sites that include the need for extensive retaining walls, subsurface improvements, ongoing monitoring responsibilities, or that cannot accommodate the contemplated parking or common areas).

(7) TIHDI Approval. If the proposed substitution or change is to an Authority Housing Lot that the Authority has designated for development by TIHDI or a TIHDI member organization, then the Authority will consult with TIHDI and the TIHDI member organization and take into account any reasonable objections raised by TIHDI or the TIHDI member organization.

(8) Other Matters. The Authority may consider such additional or unique matters as may arise during the course of the development of the Project.

2.7 Transfer of Authority Housing Lots.

(a) Retention of Authority Housing Lots. The Parties anticipate that the Authority will retain the Authority Housing Lots in each Sub-Phase (although the Authority may transfer the Authority Housing Lots to Developer at Sub-Phase Approval upon mutual agreement of the parties, as set forth in the DDA). If boundary corrections to the Authority Housing Lots and the Market Rate Lots are required upon Completion of the Infrastructure and Stormwater Management Controls in a Sub-Phase or in connection with the conveyance of a Residential Developable Lot, the Parties agree to cooperate in effecting such boundary adjustments in accordance with the DDA.

(b) Transfer of Authority Housing Lots. In the event that the Authority transfers the Authority Housing Lots to Developer at the time of the Sub-Phase conveyance, Developer shall convey back to the Authority and the Authority shall accept Developer's interest in the Authority Housing Lots in accordance with Section 3.7 of the DDA. Any conveyance of the Authority Housing Lots from Developer to the Authority shall be at no cost to the Authority and without consideration to either Party. The Authority shall accept conveyance of the Authority Housing Lots no later than sixty (60) days following the Authority Housing Lot Completion Date.

2.8 Completion of Authority Housing Lots.

(a) Subject to the terms of the DDA, Developer shall Complete the Infrastructure and Stormwater Management Controls for the Authority Housing Lots as set forth in the Schedule of Performance and the applicable Sub-Phase Approval and Developer shall either Complete the Transferable Infrastructure or pay the Transferable Infrastructure Liquidation Amount as set forth in subsection (d) or (e) below. Each Completed Authority Housing Lot shall meet the standards for it to be a Developable Lot as set forth in the DDA. The Parties understand and agree that the Infrastructure and Stormwater Management Controls (excluding the Transferable Infrastructure) on the Authority Housing Lots and the Market Rate Lots within a Sub-Phase shall be Completed at or around the same time, subject to variations as set forth in the applicable Sub-Phase Approval and the Phasing Plan.

(b) Developer and the Authority agree to work together and keep the other informed as to the expected dates for the Completion of Infrastructure and Stormwater Management Controls within a Sub-Phase, the Authority Housing Lot Completion Date, the status of any pending tax credit applications, the closing date for the transfer of Market Rate Lots to Vertical Developers, the expected date for the Commencement of Market Rate Projects and

Authority Housing Projects, and the expected payment date for the Developer Housing Subsidy. Without limiting the foregoing, Developer shall use good faith efforts to notify the Authority approximately six (6) months before the anticipated date of the Authority Housing Lot Completion Date.

(c) Not less than ninety (90) days before the Authority Housing Lot Completion Date, Developer shall give the Authority notice of the availability of the Authority Housing Lot and include with such notice a parcel map showing the Authority Housing Lot.

(d) The Parties intend that Transferable Infrastructure related to an Authority Housing Lot will be completed by Developer in coordination with the development of the Authority Housing Project on the Authority Housing Lot. Developer's obligation to Complete the Transferable Infrastructure will be secured by Adequate Security as set forth in the DDA, and the Authority shall provide Developer with all access needed to Complete the Transferable Infrastructure on the Authority Housing Lots. Developer shall coordinate the construction of the Transferable Infrastructure with the construction of the Authority Housing Project to ensure that (i) the Transferable Infrastructure (other than utility laterals serving the applicable Authority Housing Lot) is Completed at or before Completion of the Authority Housing Project, (ii) the utility laterals serving the applicable Authority Housing Lot are Completed in coordination with the construction of the Authority Housing Project, and (iii) Developer's work does not interfere with or obstruct the Qualified Housing Developer's work during such construction to the maximum extent reasonably feasible and that the Qualified Housing Developer's work similarly does not interfere with Developer's work. Notwithstanding the foregoing, if Developer or Vertical Developer have Commenced the Transferable Infrastructure on all of the Lots adjacent to an Authority Housing Lot, then Developer shall have the right to Commence and Complete the Transferable Infrastructure related to that Authority Housing Lot (other than the utility laterals for that particular Authority Housing Lot) even though development of the applicable Authority Housing Project may not yet have Commenced. Developer may exercise such right by providing to the Authority not less than ninety (90) days notice of its intent to Commence the Transferable Infrastructure, and such right shall accrue unless (i) the Authority objects within thirty (30) days following the Authority's receipt of Developer's notice, and (ii) the Parties agree, within ninety (90) days following the Authority's objection, to a payment amount equal to Developer's anticipated cost of Completing some or all of the Transferable Infrastructure on the remaining Authority Housing Lots (the "Transferable Infrastructure Liquidation Amount"). The Parties shall meet and confer in good faith during the 90-day period (or such longer period as may be agreed to by the Parties) to reach agreement on the Transferable Infrastructure Liquidation Amount. Developer shall provide its estimate of such costs, together with reasonable backup documentation, based upon the Transferable Infrastructure Completed by Developer to date in that Sub-Phase. If the Parties are able to reach agreement on the Transferable Infrastructure Liquidation Amount, then Developer shall promptly pay this sum to the Authority and thereafter (i) Developer shall be released from the obligation to Complete that portion of the Transferable Infrastructure for which Developer has paid the Transferable Infrastructure Liquidation Amount, and (ii) the Authority shall release any associated Adequate Security in accordance with the DDA. Upon receipt, the Authority shall contribute the Transferable Infrastructure Liquidation Amount to the applicable Authority Housing Projects for Completion of the Transferable Infrastructure and for no other purpose. If the Parties are not able to reach agreement on the Transferable Infrastructure Liquidation

Amount within the time frame set forth above, then Developer shall have the right to Complete the Transferable Infrastructure related to the Authority Housing Lots notwithstanding the Authority's failure to Commence the applicable Authority Housing Projects. The Parties agree that Completion of the utility laterals on the Authority Housing Lots prior to commencement of construction of the Authority Housing Project on a particular Authority Housing Lot may result in the lateral being moved or replaced. Notwithstanding anything to the contrary above, to avoid unnecessary costs and duplication of work if Developer elects to Complete the Transferable Infrastructure on an Authority Housing Lot before Completion of the Authority Housing Project on that Authority Housing Lot, Developer shall complete all of the Transferable Infrastructure except for the utility laterals and Developer shall pay to the Authority a Transferable Infrastructure Liquidation Amount payment equal to the cost of Completing the utility lateral, as determined by Developer and Approved by the Authority. Developer shall pay this amount upon Completion of the remaining Transferable Infrastructure and upon such payment (i) Developer shall be released from any obligation to Complete the applicable utility lateral and (ii) the Authority shall release any associated Adequate Security in accordance with the DDA.

(e) Developer shall also have the right to request at any time following the Authority Housing Lot Completion Date to pay the Transferable Infrastructure Liquidation Amount in lieu of the obligation to Complete the Transferable Infrastructure for such Authority Housing Lot. If the Parties are able to agree upon the Transferable Infrastructure Liquidation Amount as set forth in subsection (d) above, then Developer shall pay this amount to the Authority at such time and thereafter (i) Developer shall be released from the obligation to Complete the Transferable Infrastructure for which the Transferable Infrastructure Liquidation Amount has been paid and (ii) the Authority shall release any associated Adequate Security as set forth in the DDA. The Authority shall use such funds for the Transferable Infrastructure, and for no other purpose, as set forth in subsection (d) above. If the Parties are not able to agree upon the Transferable Infrastructure Liquidation Amount, then there will be no action or payment on the Transferable Infrastructure unless and until Developer provides notice to the Authority pursuant to subsection (d) above of its intent to Commence the Transferable Infrastructure on a particular Authority Housing Lot or Developer is otherwise required to Commence and Complete the Transferable Infrastructure in accordance with this Section 2.8.

(f) If Developer has Completed all of the Infrastructure and Stormwater Management Controls except for the Transferable Infrastructure in a Sub-Phase and Developer or a Vertical Developer have Commenced the Transferable Infrastructure on all of the Market Rate Lots in the Sub-Phase, and Developer has not yet begun the Transferable Infrastructure or paid the Transferable Infrastructure Liquidation Amount for one or more of the Authority Housing Lots in that Sub-Phase, then the Authority shall have the right, by giving Developer written notice, to require Developer to Complete the Transferable Infrastructure related to the Authority Housing Lots in that Sub-Phase in accordance with the DDA and the Development Requirements. Developer shall Commence the Transferable Infrastructure within one hundred twenty (120) days following the Authority's notice and diligently prosecute the same to Completion, in accordance with the DDA and the Development Requirements (and in a time frame generally consistent with the Completion of the Transferable Infrastructure on the Market Rate Lots but in no event later than 12 months following the date of Commencement of the Transferable Infrastructure). Transferable Infrastructure shall be accepted in accordance with

the process and procedures set forth in the DDA and the Treasure Island Subdivision Code for the acceptance of public infrastructure.

(g) If the Authority transfers the Authority Housing Lots to Developer as part of a Sub-Phase conveyance, Developer shall take such actions as may be reasonably requested by the Authority (including the early transfer of the applicable real property or entering into binding agreements for the transfer of the real property) to provide evidence of site control for the Authority or a Qualified Housing Developer (including a Qualified Housing Developer selected by TIHDI) or as otherwise may be needed in connection with any financing application for an Authority Housing Lot, provided that Developer shall assume no liability relating to any such application or the failure to obtain financing.

2.9 Maintenance of Authority Housing Lots.

Following Completion and conveyance to the Authority, the Authority shall maintain or cause to be maintained the Authority Housing Lots in a safe and orderly condition free from debris and unsightly vegetation.

3. AFFORDABLE HOUSING DEVELOPMENT

3.1 Authority Development of Authority Housing Units.

(a) The Authority may cause to be constructed by Qualified Housing Developers, (including Qualified Housing Developers selected by TIHDI with Authority Approval) up to One Thousand Six Hundred Eighty Four (1,684) Authority Housing Units on the Authority Housing Lots (or 21.1% of the maximum build-out of the Project Site with Eight Thousand (8,000) Residential Units). The mix of For-Sale and For-Rent Residential Units, the size of the Authority Housing Units, whether the Authority Housing Units are senior or family units and the allocations of Authority Housing Units among affordability levels shall be determined by the Authority in the exercise of its sole and absolute discretion in accordance with applicable law, including the Replacement Housing Obligation, provided that the Authority shall ensure that the Transition Housing Rules and Regulations are properly and timely implemented. Notwithstanding anything to the contrary set forth above, the Parties have agreed to the following to ensure that the Replacement Housing Obligation are satisfied:

(1) Developer shall not demolish any housing units on YBI until Developer has (i) obtained a Sub-Phase Approval for the first Sub-Phase that includes an Authority Housing Lot large enough to build not fewer than 55 Affordable Housing Units, the Market Rate Lots in that Sub-Phase are conveyed to Developer, Developer has Commenced the construction of Infrastructure and Stormwater Management Controls in that Sub-Phase and provides evidence reasonably satisfactory to the Authority that the Authority Housing Lot Completion Date for the applicable Authority Housing Lot is scheduled to occur within twenty-four (24) months, or (ii) the Authority has approved an alternative means of meeting the Replacement Housing Obligation;

(2) Developer shall not have the right to rely on a Developer Extension or Economic Delay (as those terms are defined in the DDA) to extend the Authority

Housing Lot Completion Date for the Authority Housing Lot designated for satisfaction of the Replacement Housing Obligation related to the demolition of the YBI units;

(3) Notwithstanding the five (5) year deferral on the payment of the Developer Housing Subsidy as set forth in Section 6.1 of this Housing Plan, the Authority shall have the right to all of the accrued Developer Housing Subsidy during such five (5) year period as and when needed to Complete the first Authority Housing Project satisfying the Replacement Housing Obligation (including, at the Authority's sole discretion, a smaller number of Authority Housing Units than contemplated on the Housing Data Table if the Authority elects to develop a smaller project);

(4) Inclusionary Units that meet the Affordability requirements of the Replacement Housing Obligation may be counted for purposes of satisfying the Replacement Housing Obligation. Furthermore, if the Authority reasonably believes that the first Authority Housing Project will not be completed in time to satisfy the Replacement Housing Obligation for the demolished YBI housing units, the Parties shall designate additional Inclusionary Units as may be required to satisfy the Replacement Housing Obligation, and the cost to Developer of any required decrease in the Affordable Housing Cost for any Inclusionary Unit will be credited against the next Developer Housing Subsidy payable by Developer. Developer shall include in the Vertical DDAs entered into before satisfaction of the Replacement Housing Obligation related to the demolition of the YBI units the ability for Developer to adjust the Affordable Housing Cost level for Inclusionary Units required in such Vertical DDA (and not yet Completed or sold to occupying households) in order to meet this requirement. Upon any such adjustment in the Affordable Housing Cost level for an Inclusionary Unit, Developer (or Vertical Developer, if applicable) shall provide evidence of the increased cost to Developer (or Vertical Developer) and the parties shall meet and confer in good faith to reach agreement on the amount of such cost. If the Parties are not able to agree on the cost within sixty (60) days, then either Party shall have the right to initiate arbitration to determine the cost in accordance with section 15.3.2 of the DDA;

(5) If the Replacement Housing Obligation is not satisfied for the demolished YBI housing units notwithstanding the agreement in clauses (1) through (4) above, then Developer shall be required, upon the Authority's request, to Complete the first Authority Housing Project on the Authority Housing Lot as needed to satisfy the Replacement Housing Obligation, provided (i) Developer shall be permitted to develop the Authority Housing Project with only as many Affordable Housing Units as may be required to satisfy the Replacement Housing Obligation but Developer may increase the number of Affordable Housing Units to the extent there is available Developer Housing Subsidy to Complete such larger project, and (ii) the Authority and Developer shall meet and confer in good faith to reach agreement on the number of additional Affordable Housing Units to be built, the cost of building such Affordable Housing Units, and the building footprint of the Affordable Housing Project to be built recognizing the Authority's goal of maximizing land available for future development of Affordable Housing Projects. If the parties are not able to reach agreement on the number, cost or building footprint of additional Affordable Housing Units to be built within sixty (60) days, and the Authority still wants Developer to Complete the Affordable Housing Units to satisfy the Replacement Housing Obligation, then Developer shall only be obligated to build the number of Affordable Housing Units needed to satisfy the Replacement Housing Obligation for the

demolished YBI housing units and Developer shall retain and use existing or future Developer Housing Subsidy as needed to Complete the Authority Housing Project, and such Developer Housing Subsidy used by Developer shall no longer be due or payable to the Authority.

(b) The Authority shall have the sole discretion to determine the number of Authority Housing Units to be constructed on an Authority Housing Lot, provided that such construction is permitted by the Development Requirements and is supportable by the Infrastructure and Stormwater Management Controls applicable to such Authority Housing Lot.

(c) The Parties currently contemplate that the Authority will construct up to 1,684 Authority Housing Units on the Authority Housing Lots in order to meet the Twenty-Five Percent Minimum when combined with the Inclusionary Units. Notwithstanding the foregoing, the Authority shall have the right to construct or cause the construction of Affordable Housing Units in excess of the Twenty-Five Percent Minimum if construction will not (i) materially adversely affect Developer's development in the remaining portions of the Project Site, (ii) require any material changes in the Infrastructure and Stormwater Management Controls or the costs thereof, (iii) create any material adverse changes in traffic or other environmental considerations, including delays to Developer or Vertical Developer because of environmental review or compliance, (iv) decrease the number of Market Rate Units that can be developed by Developer and Vertical Developers below 6,000 Market Rate Units, or (v) otherwise materially increase the cost to Developer or any Vertical Developer of performing its obligations under the DDA; provided, however, in no event will the Authority have the right to construct or cause to be constructed more than the 2,105 Authority Housing Units allowed under the Thirty Percent Minimum, except as may occur pursuant to subsection (d) below.

(d) Upon the last Sub-Phase Approval in the last Major Phase, any difference between the cumulative total of Market Rate Units to be built by Vertical Developers at the Project Site (as set forth in all of the Sub-Phase Approvals) and the cumulative total number of Market Rate Units that were entitled under the Project Approvals shall be available for Affordable Housing on the Authority Lots. Any increase in the number of Authority Units under this Section 3.1(d) shall be made without cost to Developer and without any change to the Infrastructure and Stormwater Management Controls to be Completed by Developer.

3.2 Authority Housing Project Design. On or before submission to the Authority Board, the Authority or a Qualified Housing Developer (including a Qualified Housing Developer selected by TIHDI with Authority Approval), as applicable, shall submit proposed Schematic Design Drawings for each proposed Authority Housing Project to Developer for review and comment. Developer's review shall be reasonable and shall be limited to conformity with the Development Requirements. If Developer believes that any Design Drawings are not consistent with the Development Requirements, Developer shall provide a written statement of the inconsistencies and a statement of the changes needed in order to cause the Authority Housing Project to be consistent with the Development Requirements. Developer shall review and provide any comments within thirty (30) days of submission to Developer. Notwithstanding anything to the contrary above, the Authority shall have the right to approve or reject the Schematic Design Drawings notwithstanding any Developer objection, provided that the Schematic Design Drawings are consistent with the Development Requirements.

3.3 Uses of Authority Housing Lots. The Authority Housing Lots shall only be used for development of Authority Housing Units, provided that the Authority Housing Projects may contain Parking Spaces and ancillary uses such as child care, social services or related tenant-serving uses consistent with the Development Requirements. Ancillary neighborhood retail uses may only be developed on the Authority Housing Lots with the prior Approval of Developer. The Authority shall record restrictions on the Authority Housing Lots to ensure that the Affordable Housing Units remain affordable in accordance with the requirements of this Agreement. The Authority shall record covenants on Transition Units that do not initially qualify as Affordable Housing Units (based on the income level of the applicable Transitioning Household) to make them Affordable Housing Units immediately upon the vacancy or departure of the initial Transitioning Household. The Authority will not subordinate its fee interest in the Authority Housing Lots to any financing lien; provided, however, the affordability restrictions may in the Authority's sole discretion, be subordinated to construction and permanent financing related to the development of an Authority Housing Project.

3.4 Requirements for Authority Housing Projects. The Authority shall require all Qualified Housing Developers to comply with the applicable requirements of the DDA and this Housing Plan, including but not limited to the Development Requirements. Each Authority Housing Project will be developed under a lease disposition and development agreement Approved by the Authority and substantially similar in form to the Vertical DDA attached to the DDA.

4. VERTICAL HOUSING PROGRAM

4.1 Unit Count and Mix. Vertical Developers may develop up to Six Thousand (6,000) Market Rate Units on the Project Site. The Vertical DDAs for the Market Rate Projects will require a mix of For Sale and Rental Residential Units, provided that, at the time of Approval of each Major Phase, not less than ten percent (10%) of the Developer Residential Units designated to date shall be For Rent, subject to any deviations as may be agreed to by the Authority Director in his or her discretion. Units shall be considered designated For Rent (i) if located on a Lot that has not been transferred to a Vertical Developer, they are identified in the then current Approved Housing Data Table as For Rent (and, as a condition subsequent, such Units will be designated as For Rent in the applicable Vertical DDA), and (ii) if located on a Lot that has been transferred to a Vertical Developer, the Vertical DDA for that Lot requires the Units be For Rent. The Developer Residential Units required under this Section 4.1 to be Rental Residential Units shall remain For Rent for the useful life of the applicable building and such units will not be mapped for individual unit ownership, provided, however, this prohibition on condominium conversion shall only apply to the ten percent of the Rental Residential Units required pursuant to this Section 4.1 and shall not apply to any Developer Residential Units Developer elects to designate as Rental Residential Units that exceed the required ten percent (10%). The prohibition on condominium conversion on the required Rental Residential Units shall be included in the applicable Vertical DDAs.

The Housing Data Table submitted with each Major Phase and Sub-Phase Application will provide the maximum number of Developer Residential Units, including the number of Inclusionary Units, per Market Rate Lot. The Housing Data Table shall also provide the breakout between the number of For-Rent and For-Sale Units. Developer may revise these

numbers at any time before execution of a Vertical DDA and the corresponding transfer of a Market Rate Lot to a Vertical Developer, subject to the prior written Approval of the Authority in accordance with this Housing Plan and the DRDAP.

4.2 Vertical DDA. Each Vertical Developer of a Market Rate Lot shall enter into a Vertical DDA before or in connection with the conveyance of the applicable real property to a Vertical Developer and before the start of development of that Residential Developable Lot. The Vertical DDA will be substantially in the form required under section 4.1 of the DDA and shall specify, among other things (i) the maximum number of Market Rate Units allowed to be developed on the Residential Developable Lot, (ii) if applicable, the minimum number of Inclusionary Units to be constructed in connection with the development of the Residential Developable Lot (consistent with Section 5.1(a) of this Housing Plan), (iii) if applicable, the Affordability level of each Inclusionary Unit (consistent with Section 5.1(a) of this Housing Plan), (iv) the maximum number of Parking Spaces that can be developed on the Residential Developable Lot, and (v) the Authority's right to approve the location of the Inclusionary Units before recordation of the Declaration of Restrictions as set forth in Section 5.1(f) of this Housing Plan.

4.3 Vertical Developer Discretion. Vertical Developers will have the flexibility to select the size and type of Residential Units, subject to the Development Requirements and the approved Vertical DDA. Vertical Developers may also adjust the number of Market Rate Units so long as they do not exceed the maximum number of Market Rate Units permitted in the Vertical DDA, provided, any such adjustment shall not change the Developer Housing Subsidy payment obligations of Developer as set forth in this Housing Plan.

5. INCLUSIONARY HOUSING REQUIREMENTS

5.1 Inclusionary Housing Requirements.

(a) Development of Inclusionary Units. Five percent (5%) of all Developer Residential Units shall be Inclusionary Units, with an average Affordable Housing Cost for the For-Sale Inclusionary Units Affordable to households with incomes not exceeding one hundred percent (100%) of Area Median Income and an Affordable Housing Cost for the For-Rent Inclusionary Units Affordable to households with incomes not exceeding sixty percent (60%) of Area Median Income (the "Inclusionary Obligation").

(b) Developer Flexibility. Developers shall not be required to include any Inclusionary Units within the Non-Inclusionary Projects. Developer shall have discretion to determine the exact number of Inclusionary Units to be developed on each Market Rate Lot and the Affordability level of each Inclusionary Unit, provided that (i) the Housing Data Table to be provided with each Major Phase and Sub-Phase Application shall identify the location of the Market Rate Lots containing Inclusionary Units, the number of Inclusionary Units, and for Sub-Phase Applications only, the Affordability level and tenure (i.e., ownership or rental) for the Inclusionary Units, and the Inclusionary Unit allocation shall be in accordance with the Approved Housing Data Table subject to any subsequent revisions approved by the Authority in accordance with the DRDAP, (ii) the number of Inclusionary Units in each Market Rate Project, excluding the Non-Inclusionary Projects, shall range from five percent (5%) to no more than ten

percent (10%) of the total For-Sale Units and to no more than twenty percent (20%) of the total For-Rent Units within that Market Rate Project (subject to the Authority's right to require a higher number of Inclusionary Units in a Market Rate Project if required following Developer's failure to meet an Inclusionary Milestone as set forth in subsection (c) below); and (iii) Developer can demonstrate that the Inclusionary Obligation has been or will be satisfied at each Inclusionary Milestone as set forth in Section 5.1(c) of this Housing Plan.

(c) Inclusionary Milestones. Developer shall demonstrate compliance with the Inclusionary Obligation at each Inclusionary Milestone, which are the dates of the conveyance to Vertical Developers of Market Rate Lots allowing for the development of (i) two thousand two hundred ten (2,210) Developer Residential Units, (ii) three thousand one hundred sixty (3,160) Developer Residential Units, (iii) four thousand seven hundred forty (4,740) Developer Residential Units, and (iv) the last Residential Developable Lot (each, an "Inclusionary Milestone"). Developer shall demonstrate compliance with the Inclusionary Obligation at each Inclusionary Milestone by providing the Authority with executed Vertical DDAs stating the required number of Inclusionary Units and the required Affordability level for those units, as well as the maximum number of Developer Residential Units allowed in the Vertical DDAs. If for any reason, the number of Inclusionary Units is less than five percent (5%) or the average Affordable Housing Cost level is higher than one hundred percent (100%) of Area Median Income for the For Sale Units at any one of the Inclusionary Milestones, then the Authority may, in its discretion, delay Approval of the next Major Phase or Sub-Phase Application, as the case may be, until the Authority has Approved a plan prepared by Developer to achieve the required number of Inclusionary Units as soon as possible. As part of the Approved plan, the Authority may allow exceptions to the requirements or limitations in this Housing Plan, including, but not limited to an increase in the percentage of Inclusionary Units exceeding the maximum percentages set forth in Section 5.1(b) above, the inclusion of Inclusionary Units in Non-Inclusionary Projects and/or Affordable Housing Costs lower than the ranges set forth in Section 5.1(f). As part of an Approved plan, the Authority may also require Developer to record Notices of Special Restrictions on Lots that are Completed but not yet sold to a Vertical Developer setting forth the required number of Inclusionary Units for such Lots, but this shall not, by itself, count toward compliance with the Inclusionary Obligation unless the Approved plan expressly provides that it will count toward compliance. Developer's proposed plan for achieving the Inclusionary Housing obligation shall be presented to the Authority no later than thirty (30) days after the Inclusionary Milestone in which the Inclusionary Obligation was not met. Notwithstanding anything to the contrary above, if Developer has not satisfied the Inclusionary Obligation at an Inclusionary Milestone, and such failure is not remedied in accordance with the requirements and timing set forth in the Approved plan, then the failure to meet the requirements of the Approved plan shall be an Event of Default.

(d) Recordation of Inclusionary Restrictions. Developer shall impose the Inclusionary Obligation on each Vertical Developer of a Market Rate Lot excluding the Non-Inclusionary Projects. The obligation will be imposed in the Vertical DDA for the Market Rate Lot and shall include the following (i) the designated number and Affordable Housing Cost level of Inclusionary Units to be developed on that Market Rate Lot, (ii) whether the Market Rate Units (and thereby the Inclusionary Units) will be For Rent or For Sale and the minimum term of the Inclusionary Obligation, and (iii) specifying the Authority's right to Approve the location of each Inclusionary Unit.

(e) Financing Inclusionary Units. Vertical Developers are responsible for financing the development of the Inclusionary Units included within their Market Rate Residential Projects and may access financing sources such as Four Percent (4%) Low Income Housing Tax Credits, Tax Exempt Bond proceeds and other sources of below market rate housing financing, to the extent the Market Rate Residential Project qualifies for such financing and such financing is available. The Authority has no obligation to provide any funding to Vertical Developers for the construction of Inclusionary Units or otherwise. Units that are financed with Four Percent Low Income Housing Tax Credits shall count as Inclusionary Units but such Inclusionary Units shall not be subject to any restrictions or monitoring by MOH or the Authority except as set forth in Section 415.3(c)(4)(C) and (D). Upon recordation of the deed restriction required by the Four Percent Low Income Housing Tax Credits, any Notice of Special Restriction or other Declaration of Restriction recorded against the Inclusionary Units or the property for the benefit of the City or the Authority shall be removed.

(f) Continued Affordability of Inclusionary Units. No later than the first rental or sale of an Inclusionary Unit (except for those Inclusionary Units financed with Four Percent (4%) Low Income Housing Tax Credits), Vertical Developers will record against the Inclusionary Unit a Declaration of Restrictions appropriate for the Inclusionary Unit as required by MOH. The form of such restrictions or notices shall be consistent with the forms used by MOH under Section 415 as of the effective date of the DDA, with such modifications to conform to this Housing Plan and shall be Approved by the Developer and the Authority. Vertical Developers will, upon recordation, provide to the Authority a copy of the applicable Declaration of Restriction. Upon the sale of each For-Sale Inclusionary Unit, the Vertical Developer shall promptly provide to the Authority a copy of the recorded grant deed as well as the above recorded documents showing the date of recording and the document numbers. Sale Inclusionary Units shall be Affordable to households with incomes permitted by the specified Affordable Housing Cost for that Inclusionary Unit in accordance with this Housing Plan.

(g) Comparability. The Inclusionary Units shall be intermixed and dispersed throughout the Project Site in locations approved by the Authority, and will be indistinguishable in exterior appearance from the Market Rate Units in the same Residential Project. The Inclusionary Units and the Market Rate Units in the same Residential Project with the same Household Size shall be substantially similar in size, type, amenities and overall quality of construction, but interior features need not be the same as those of the Market Rate Units as long as such features are of good quality and are consistent with the Development Requirements.

(h) Marketing and Operations Guidelines for Inclusionary Units. A Vertical Developer may not market, rent or sell Inclusionary Units until MOH has Approved the following for such Inclusionary Units: (i) the marketing plan (that includes any preferences required by MOH pursuant to the MOH Manual following the pre-marketing set forth in Section 8.5 of this Housing Plan); (ii) conformity of the rental charges and purchase prices for such Inclusionary Units with this Housing Plan; (iii) conformity of purchase prices or rental charges for Parking Spaces with this Housing Plan; (iv) eligibility and income-qualifications of renters and purchasers (collectively "Marketing and Operations Guidelines"). The Marketing and Operating Guidelines shall conform to the City and County of San Francisco Residential Inclusionary Affordable Housing Program Monitoring and Procedures Manual, attached to this Housing Plan as Attachment D (the "MOH Manual") with such updates or changes as are

permitted under the Development Agreement. To the extent that the terms of the MOH Manual, either in its current form or as amended from time to time, are inconsistent with or conflict with this Housing Plan as amended from time to time, the terms of this Housing Plan shall prevail. Accordingly, the Parties agree to the following changes to the MOH Manual: (a) all Inclusionary Units shall be on the Project Site, and there will be no in-lieu payment, off-site, or land dedication option; (b) the income requirements for ownership units shall be 100% of Area Median Income on average and 60% of Area Median Income for rental units; (c) the pricing methodology for the Sale Inclusionary Units shall be calculated as provided in Section 1.2 of this Housing Plan; (d) there shall be no bundling of parking with an Inclusionary Unit as set forth in Section 7.1 of the Housing Plan; and (e) pre-marketing requirements as set forth in Section 8.5 of this Housing Plan shall prevail. Vertical Developers shall submit the Marketing and Operations Guidelines to the Authority not later than ninety (90) days before the date Vertical Developer expects to begin marketing the Market Rate Units. The Authority shall review and consider Approval of the Marketing and Operations Guidelines in accordance with the Vertical DDA and this Housing Plan.

(i) Homeowners' Association Assessments. The initial amount of contributions to a homeowners association required to be made by a purchaser of an Inclusionary Unit shall not be increased for a period of one year following the date that the first Inclusionary Unit in the Residential Project has been sold to an owner/occupant, provided, any such provisions are approved by the California Department of Real Estate. Neither Developer nor any Vertical Developer shall be required to make any contribution to any homeowners' association to cover any shortfall in the association budgets as a result of the above requirement.

(j) Planning Code Section 415. Due to the detail set forth in this Housing Plan, and the differences between the City's inclusionary program under San Francisco Planning Code section 415 and 415.1 through 415.11 (collectively "Section 415") and the Inclusionary Obligation as defined in this Housing Plan, the Parties have not imposed or incorporated the requirements of Section 415 into this Agreement. However, the Parties acknowledge and agree that (i) the location of the Inclusionary Units within a Market Rate Project shall be approved by the City's Planning Department in accordance with the standards and practices established by the Planning Department to comply with Section 415, (ii) the monitoring and enforcement of the Inclusionary Obligation shall be performed by MOH in accordance with Sections 415.9(b) and (c), except that all references therein to Section 415.1 *et seq.* shall instead refer to the requirements under this Housing Plan, (iii) the provisions of Section 415(c)(4)(C) and (D) shall apply, if applicable, as set forth in Section 5.1(e) of this Housing Plan, and (iv) if and to the extent there are Inclusionary Obligation implementation issues that have not been addressed in this Housing Plan, then the provisions of Section 415 and the MOH Manual (as updated from time and time, with such changes to the extent permitted under the Development Agreement) shall govern and control such issues.

6. FINANCING OF AFFORDABLE HOUSING UNITS

6.1 Developer Housing Subsidy.

(a) Payment of Developer Housing Subsidy. The Developer Housing Subsidy shall accrue and be payable by Developer to the Authority upon each transfer of a

Market Rate Lot to a Vertical Developer, including Developer and its Affiliates, provided that for transfers during the first five (5) years following the first Sub-Phase Approval, the Developer Housing Subsidy shall accrue but shall not be payable until the earlier of (i) the date that is five (5) years following the first Sub- Phase Approval, (ii) forty-five (45) days after the Authority provides notice that it requires all or a portion of the accrued Developer Housing Subsidy to fulfill the Replacement Housing Obligation, to develop TIHDI Units, or to implement the Transition Housing Rules and Regulations, including predevelopment and administrative expenses as needed or (iii) an Event of Default by Developer. If the Authority requests payment pursuant to subsection (ii) above, Developer shall pay to the Authority the amount of the funds requested up to the accrued balance of the Developer Housing Subsidy. Developer may, before making any payment pursuant to subsection (ii) above, request evidence from the Authority verifying the amount requested is necessary for the purposes set forth in the request and that no other affordable housing funds are reasonably available to the Authority from the Project for such requested activity. The amount of the Developer Housing Subsidy shall be calculated in accordance with Section 1.17 of this Housing Plan. Except as set forth above, the Developer Housing Subsidy shall be paid by Developer to the Authority at the closing for each transfer of a Market Rate Lot to a Vertical Developer.

(b) Housing Subsidy True-Up Requirements. As set forth in section 1.17 of this Housing Plan, each payment of the Developer Housing Subsidy will be equal to $17,500 times the total number of Market Rate Units allowed to be constructed on a Market Rate Lot as set forth in the applicable Vertical DDA. The Parties have further agreed (i) that the minimum total amount of the Developer Housing Subsidy shall not be less than $73,500,000 (the "Minimum Subsidy Amount"), which is based on a minimum number of Market Rate Units of 4,200 and (ii) to a mid-point and end-point true-up for payment of the Minimum Subsidy Amount. On the date that Developer transfers the Market Rate Lot to a Vertical Developer that causes fifty percent (50%) or more of the total Residential Acreage of Market Rate Lots on Treasure Island to have been transferred to Vertical Developers (the "Mid-Point Date"), Developer shall notify the Authority of the transfer and of the total Developer Housing Subsidy paid by Developer to the Authority as of such date. If Developer has not paid to the Authority a Developer Housing Subsidy equal to or greater than one-half of the Minimum Subsidy Amount or $36,750,000 as of the Mid-Point Date, then Developer shall pay to the Authority within sixty (60) days of the Mid-Point Date an amount equal to the difference between $36,750,000 and the amount of the Developer Housing Subsidy previously paid to the Authority ("Mid-Point True-Up Amount").

Subsequent to the payment of the Mid-Point True-Up Amount, if any, Developer will continue to pay the Developer Housing Subsidy upon each transfer of a Market Rate Lot to a Vertical Developer in accordance with Section 6.1(a) above, provided, however, after Developer has paid the Developer Housing Subsidy equal to the Minimum Subsidy Amount excluding the Mid-Point True-Up Amount, then the Mid-Point True-Up Amount shall be credited toward the Developer's Housing Subsidy payments owed by Developer on subsequent transfers of Market Rate Lots (including Market Rate Lots on Treasure Island and Yerba Buena Island) until the amount of the Developer Housing Subsidy paid by Developer to the Authority including the Mid-Point True-Up Amount is equal to the Minimum Subsidy Amount. Upon completion of the credit (i.e., when Developer has paid the Minimum Subsidy Amount including any Mid-Point True-Up Payment), Developer will thereafter continue to pay the Developer Housing Subsidy

upon each transfer of a Market Rate Lot to a Vertical Developer in accordance with Section 6.1(a).

In addition, not less than 15 days before the date that Developer transfers the last Market Rate Lot to a Vertical Developer, Developer shall notify the Authority of the proposed transfer and of the total Developer Housing Subsidy paid by Developer to the Authority as of such date. If Developer has not paid to the Authority a Developer Housing Subsidy equal to or greater than the Minimum Subsidy Amount as of such date, then Developer shall pay to the Authority on or before the transfer of the last Market Rate Lot an amount equal to the difference between Minimum Subsidy Amount and the amount of the Developer Housing Subsidy previously paid to the Authority.

(c) Use of Developer Housing Subsidy. The Authority shall use the Developer Housing Subsidy for predevelopment and development expenses and administrative costs associated with the construction of the Authority Housing Projects on the Authority Housing Lots and for implementation of the Transition Housing Rules and Regulations, and for no other purpose. The Authority shall maintain reasonable books and records to account for all expenditures of the Developer Housing Subsidy, and make such books and records available to Developer upon request. Developer shall maintain reasonable books and records to account for all payments of the Developer Housing Subsidy, and shall make such books and records available for inspection to the Authority upon request. The Parties shall coordinate and keep each other informed of all development timelines. The Authority shall prioritize the use of the Developer Housing Subsidy for predevelopment and development expenses associated with the construction of Transition Units and TIHDI Replacement Units before other Authority Housing Units, as may be necessary to prevent delays in the close of Escrow for failure to satisfy Section 10.3.3.(h) of the DDA.

6.2 Designated Tax Increment and Other Funds. Each year, the Housing Percentage shall be deposited into the Housing Fund in accordance with Section 3.6 of the Financing Plan. All funds deposited into the Housing Fund shall be used by the Authority for administrative, predevelopment and development costs associated with the construction of the Affordable Housing Units on the Authority Housing Lots, and shall not be used to reimburse Developer for any of Developer's costs in Completing Infrastructure and Stormwater Management Controls on the Authority Housing Lots.

6.3 Jobs-Housing Linkage Fees. The commercial development within the Project Site is anticipated to generate Jobs-Housing Linkage fees to be paid into a housing fund held by the Authority in accordance with the DDA. The Authority shall use all Jobs-Housing Linkage fees payable by Vertical Developers of commercial uses within the Project Site for the development of Authority Housing Projects on the Authority Housing Lots and the implementation of the Transition Housing Rules and Regulations in accordance with this Housing Plan. The Authority shall maintain at all times an accounting of the Jobs-Housing Linkage fees that have been paid and that have been used to date, and shall make that information available to the Developer upon request.

6.4 Affordable Housing Loan Fund. To facilitate the design and construction of the Affordable Housing Units and the implementation of the Transition Housing Rules and

Regulations, Developer shall provide and make available to the Authority within thirty (30) days following the first Sub-Phase Approval a revolving loan fund in the amount of Seven Hundred Fifty Thousand Dollars ($750,000) to be administered by the Authority or by a designee of the Authority Approved by Developer (the "Affordable Housing Loan Fund"). The Authority or its designee shall maintain the Affordable Housing Loan Fund in a segregated interest-bearing account, with interest earned to be retained in the account and added to the Affordable Housing Loan Fund. The Authority shall use the Affordable Housing Loan Fund for the Authority Housing Projects and for the implementation of the Transition Housing Rules and Regulations, including payment of administrative costs such as consultant costs and planning costs, to pay benefits to Transitioning Households and other related costs, and to pay construction costs for the Transition Housing Units. The Authority may also make loans to Qualified Housing Developers to aid their development activities, with such loans to be repaid when sufficient sources are available to finance the Authority Housing Projects. The Authority shall maintain books and records to account for all revenues and expenditures from the Affordable Housing Loan Fund and make all such records available to Developer upon request. The amounts deposited in the Affordable Housing Loan Fund by the Developer shall be credited against all future payments of the Developer Housing Subsidy without interest until the credit is exhausted. Developer shall not be responsible for any loan losses, write-offs or any other diminution in the balance of the Affordable Housing Loan Fund and has no obligation to replenish the Affordable Housing Loan Fund once established. The Authority may choose at any time to use amounts in the Affordable Housing Loan Fund to directly pay for construction costs relating to the Authority Housing Units, and any remaining balance shall be used by the Authority to fund the construction of the Authority Housing Units.

7. VERTICAL DEVELOPMENT PARKING REQUIREMENTS

7.1 Separation. For Market Rate Projects, all Parking Spaces shall be "unbundled" (i.e., purchased or rented separately from a Unit within such Residential Project). For the Authority Housing Projects, Parking Space can be bundled with an Authority Unit if such bundling is Approved by the Planning Director in accordance with the Design for Development. It is anticipated that such bundling may be necessary in connection with the financing of the Authority Housing Project. Vertical Developers shall have the sole discretion to determine whether Parking Spaces in a Market Rate Project are available for rent or purchase, if parking is offered.

7.2 Parking Charge.

(a) Market Rate and Inclusionary Units. The Vertical Developer of the Market Rate Lot will determine, in its sole discretion, the charge for Parking Spaces that are owned or developed by the Vertical Developer. The rental charge or purchase price for each Inclusionary Unit shall not include the Parking Charge, and the Parking Charge to a renter or purchaser of an Inclusionary Unit shall be the same as the Parking Charge charged to a renter or purchaser of a Market Rate Unit for a comparable Parking Space. Vertical Developers (and their successors) may not charge renters or purchasers of Inclusionary Units any fees, charges or costs, or impose rules, conditions or procedures on such renters or purchasers, that do not equally apply to all Market Rate renters or purchasers.

(b) Authority Housing Units. In the event a Qualified Housing Developer constructs Parking Spaces as part of or in connection with an Authority Housing Project, the Qualified Housing Developer may set and the Authority shall Approve in its sole discretion, the Parking Charge for such Parking Spaces.

7.3 Parking Allotments. The permitted parking allowance for each Authority Housing Lots shall be the same as the Island-wide ratio for residential parking set forth in the Design for Development, as it may be amended from time to time. As of the Effective Date, the permitted parking allowance for each Authority Housing Lot shall be one Parking Space per Authority Housing Unit. The Authority or a Qualified Housing Developer (including a Qualified Housing Developer selected by TIHDI with Authority Approval) may elect to build Parking Spaces on the Authority Housing Lots. To the extent that Developer or Vertical Developer construct or cause to be constructed Parking Spaces in a central garage for use by multiple Residential Projects, the Authority or the Qualified Housing Developer (including the Qualified Housing Developer selected by TIHDI with Authority Approval) may contract with the owner of such central garage to rent or purchase spaces in the garage for use by residents of the Authority Housing Projects; provided, however, that the number of spaces constructed on the Authority Housing Lots and the number of spaces constructed in a central garage and dedicated to the Authority Housing Projects cannot exceed the number of residential units constructed on the Authority Housing Lots. Within each Major Phase, if and to the extent the Authority or a Qualified Housing Developer (including a Qualified Housing Developer selected by TIHDI with Approval) does not wish to construct the full allotment of Parking Spaces permitted on an Authority Housing Lot and does not wish to use this permitted allotment on another Authority Housing Lot or on other Authority property in the Major Phase, then Developer shall have the right to use the unused parking allotment for a Market Rate Lot subject to terms and conditions agreed upon by the Parties.

7.4 Inclusionary Parking Allotment. For each Market Rate Project containing Inclusionary Units, the number of Parking Spaces first offered to renters or purchasers of Inclusionary Units shall be equal to the number of Inclusionary Units in the Market Rate Project, divided by the number of Residential Units in the Market Rate Project, times the total number of Parking Spaces associated with the Market Rate Project. Allotments yielding a fractional number of Parking Spaces shall be rounded down to the nearest whole number. The Parking Spaces reserved for Inclusionary Units must be first offered to Inclusionary Units. After all Inclusionary Units have been offered an opportunity to rent or purchase the Parking Spaces in the Inclusionary allotment as set forth above, the Vertical Developer may sell or rent any remaining Parking Spaces to the occupants of Market Rate Units, provided when new Parking Spaces become available, there shall be no discrimination between occupants of Market Rate Units and Inclusionary Units as set forth in Section 7.2 of this Housing Plan.

7.5 Transit Passes. Residents of Market Rate Units and Inclusionary Units shall be required to purchase a Prepaid Transit Voucher, the cost of which shall not be included in determining the Affordable Housing Cost for the Inclusionary Unit. Residents of the Authority Housing Units will not be charged for, nor will they receive, a Prepaid Transit Voucher, but they will have an opportunity to purchase a Transit Voucher at the same price as the price offered to other residents in the Project.

7.6 Congestion Pricing. As set forth in the Transportation Plan, all residents in the Project will be subject to Congestion Pricing and residents of Inclusionary Units and the Authority Housing Units will not receive any discount or reduction in the Congestion Pricing.

8. TRANSITION HOUSING

8.1 Transition Housing Plan. The Authority has adopted Transition Housing Rules and Regulations to govern the Authority's obligations regarding the Transitioning Households, which rules shall not be amended in a manner that materially impacts Developer without Developer's Approval. The Transition Housing Rules and Regulations provide certain benefits to Transitioning Households, including the opportunity to occupy Transition Units in the Project, moving benefits and down payment assistance. Developer and the Authority have estimated the costs of implementing the Transition Housing Rules and Regulations and have included those costs as part of the Developer Housing Subsidy.

8.2 Transition Benefits. Under the Transition Housing Rules and Regulations, the Authority shall offer all Transitioning Households Transition Benefits (as defined in the Transition Housing Rules and Regulations). Transition Benefits include the opportunity to rent a unit on Treasure Island, the opportunity to purchase a newly constructed unit within the Project, or the opportunity to select an in lieu payment, as more particularly described in the Transition Housing Rules and Regulations.

8.3 No Damages. Nothing in this Housing Plan, the Transition Housing Rules and Regulations or any rules or regulations subsequently Approved by the Authority regarding the transition of residents gives any person or tenant, including any member of any Transitioning Household, the right to sue the Authority, TIHDI or Developer for damages of any kind, including but not limited to actual, incidental, consequential, special or punitive damages. The Parties have determined and agreed that (i) monetary damages are inappropriate, (ii) equitable remedies and remedies at law, including specific performance but excluding damages, are particularly appropriate remedies for enforcement of tenant rights under the Transition Housing Rules and Regulations or any other rules or regulations Approved by the Authority regarding the transition of residents, (iii) the payment of damages would, if made, adversely impact the amount of Affordable Housing Units that could be developed on the Project Site, and (iv) the Authority, TIHDI and Developer would not have made the commitments to tenants set forth in the Transition Housing Rules and Regulations or any other rules or regulations Approved by the Authority regarding the transition of residents if it could subject them to liability for damages as a result thereof. Accordingly, notwithstanding anything to the contrary set forth in this Housing Plan, the Transition Housing Rules and Regulations or any other rules or regulations Approved by the Authority regarding the transition of residents, the Authority, TIHDI and the Developer shall not be liable in damages to any third party or tenant as a result of the failure to implement this Housing Plan, the Transition Housing Rules and Regulations or any other rules or regulations Approved by the Authority regarding the transition of residents in any manner. The foregoing shall not limit any rights or remedies available to persons or tenants under applicable law or any rights or remedies that the Parties may have with respect to other Parties pursuant to the DDA.

8.4 Implementation.

(a) Order; Costs. The Authority shall use good faith efforts to first transition households that are located on land to be transferred to the Developer as set forth in the Phasing Plan. Subject to the terms of this Housing Plan, the Authority shall be responsible for all costs associated with the implementation of the Transition Housing Rules and Regulations, including, to the extent applicable, payment of relocation benefits under the Uniform Relocation Act and California Government Code section 7260 et seq. and its implementing guidelines. The Parties understand and agree that all of the costs of implementing the Transition Housing Rules and Regulations shall be funded with the Developer Housing Subsidy or other Project-generated affordable housing funds, and implementation of the Transition Housing Rules and Regulations may be delayed until such time as there are sufficient Developer Housing Subsidy or other Project-generated affordable housing funds available.

(b) Construction. Except as set forth in this Housing Plan, the Authority shall be responsible for the construction of the units offered to Transitioning Households in accordance with the Transition Housing Rules and Regulations, including the obligation to construct sufficient units of the appropriate size based on the occupancy standards in the Transition Housing Rules and Regulations. To the extent Transitioning Households qualify for occupancy of Affordable Housing Units, Transition Units will be Affordable Housing Units as set forth in Section 3.3 of this Housing Plan. For any Transition Unit that is not an Affordable Housing Unit at inception, each such Transition Unit will be deed restricted so that it will become an Affordable Housing Unit immediately upon the vacancy of the Transitioning Household. Without limiting Developer's obligations under the DDA, Developer shall use good faith efforts to ensure that the Authority Housing Lots are Completed, and the Authority shall use good faith efforts thereafter to ensure that Authority Housing Projects are Completed for the Transitioning Households, at the times required for development of the Major Phases and Sub-Phases as contemplated in the DDA.

(c) Timing; Delay. The DDA provides that, as a mutual condition to close on any Sub-Phase, the Transition Housing Rules and Regulations must be implemented as to all units in that Sub-Phase. Accordingly, Developer shall not have the right to demolish any existing occupied residential units on YBI or Treasure Island until the Transition Requirements, as defined in Section 10.3.3.(h) of the DDA, have been satisfied. In the event that the failure to satisfy the Transition Requirements causes a delay in the closing of a Sub-Phase, the Parties agree to meet and confer in order to determine how best to proceed with the Project in the most efficient and cost-effective manner, provided that (i) the Authority and TIHDI shall have no liability to Developer for the failure to Complete any Transition Units on or before specified dates, (ii) Developer shall have the right, but not the obligation, to offer Market Rate Units, and for income-qualifying Transitioning Households, Inclusionary Units, as may be needed in order to implement the Transition Housing Rules and Regulations and permit Developer to close escrow for the Sub-Phase, (iii) the Parties shall consider Interim Moves for Transitioning Households if the Parties can reach agreement on the source of payment for such Interim Moves and (iv) Developer shall have the right, but not the obligation to satisfy the condition to closing by electing to construct Transition Units on Authority Housing Lots as provided in Section 8.4(d) below. Without limiting the foregoing, the Parties understand and agree that (A) Interim Moves for Transitioning Households from YBI to Treasure Island as contemplated by the Phasing Plan shall be paid for by the Authority as part of the implementation of the Transition Housing Rules and Regulations, (B) Interim Moves for TIHDI units shall be paid for by

Developer, as set forth in subsection (f) below, and (C) any additional Interim Moves shall not be required unless the Parties reach agreement on the payment source for such moves as set forth above.

(d) Potential Developer Construction. The Authority may request that Developer construct the Transition Units on Authority Housing Lots in order to facilitate the implementation of the Transition Housing Rules and Regulations, provided the Authority shall not request that Developer construct any such Transition Units if such construction is not required for the satisfaction of the Transition Requirements by the anticipated closing date of a Sub-Phase that would trigger the Transition Requirements. If all conditions to close a Sub-Phase have been met except for satisfaction of the Transition Requirements, then Developer may satisfy the Transition Requirements by electing to construct the Transition Units on one or more Authority Housing Lots. The Parties shall meet and confer in good faith to reach agreement on the location, density, funding and the terms for construction of the Transition Units to enable Developer to construct such Transition Units in accordance with this Agreement, provided, however, Developer agrees that any Transitions Units constructed by Developer shall have a density of at least fifty dwelling units per acre. The cost to construct the Transition Units shall be a Project Cost and either (i) an advance payment of the Developer Housing Subsidy in an amount agreed to by the Parties or (ii) subject to such alternative financial arrangement as agreed to by the Parties. If the Developer undertakes the obligation to construct the Transition Units, the Authority shall cooperate with Developer, including entering into necessary Permits to Enter and issuing approvals consistent with the Design for Development and the DRDAP.

(e) Potential Subsidy Advance. The Authority may also request from time to time that the Developer provide an advance of the Developer Housing Subsidy, in excess of the amounts deposited in the Affordable Housing Loan Fund and in excess of any payments required under Section 3.1 of this Housing Plan, if necessary to implement the Transition Housing Rules and Regulations, including the payment of reasonable administrative costs associated with the Transition Housing Rules and Regulations, the cost of providing benefits to Transitioning Households for either Interim Moves or Long Term Moves and costs associated with the construction of the Transition Units. Before requesting any advance of the Developer Housing Subsidy, the Authority shall first use any funds available in the Affordable Housing Loan Fund that have not been pledged for the construction of an Authority Housing Project that has already Commenced construction. Developer shall be required to advance the sums requested by the Authority for implementation of the Transition Housing Rules and Regulations if the funds are necessary to provide benefits to Transitioning Households required to move in order for Developer to proceed with residential or commercial development in an Approved Sub-Phase, unless (i) the Developer chooses to delay proceeding with that Sub-Phase if and as permitted by the Schedule of Performance and Excusable Delay provisions of the DDA and (ii) Transition Benefits have not yet accrued to Transitioning Households. Developer shall not be obligated to fund any such requested advance if the funds are requested for Transitioning Households who could remain in their existing housing without interfering with Developer or Vertical Developer's construction in an Approved Sub-Phase.

(f) TIHDI Interim Moves. Notwithstanding anything to the contrary above, if the Developer's schedule for construction results in the need to move residents of existing TIHDI units before replacement units for the TIHDI units have been constructed, (i)

Developer shall pay for the costs associated with moving those TIHDI residents to other units currently existing on Treasure Island, including the costs associated with upgrading such existing units to meet any licensing requirements and to allow for continuation of the then existing programs and (ii) the costs of such moves and upgrades shall be in addition to the Developer Housing Subsidy.

8.5 Premarketing Requirement. The Vertical DDAs will require that all Vertical Developers of Market Rate Lots comply with the requirements of the Transition Housing Rules and Regulations to offer Transitioning Households and certain other Households that are former residents of NSTI, as more particularly described in the Transition Housing Rules and Regulations, an opportunity to make an offer to purchase a new unit during a premarketing window of not less than 30 days for any Sale Units in accordance with the requirements of the Transition Rules and Regulations. Each Vertical Developer will be required to offer only one premarketing opportunity per Market Rate Project. In the event that the Authority has not Approved the Marketing and Operations Guidelines for Inclusionary Units as set forth in Section 5.1(h) of this Housing Plan within 60 days following submittal, Vertical Developers may proceed with the premarketing and marketing of the Market Rate Units in that Residential Project and will offer a one-time, separate premarketing window of 30 days for the Inclusionary Units in that Residential Project following the Authority's Approval of the Marketing and Operations Guidelines.

The Authority will be responsible for maintaining the Premarketing Notice List and Transitioning Households and former residents of NSTI are exclusively responsible for updating their own contact information with the Authority. Vertical Developers will be obligated to provide the Authority with the required notice regarding the availability of new units and it shall be the Authority's responsibility to distribute such Notice to the Premarketing Notice List. Neither Developer nor Vertical Developers will be responsible for updating the Premarketing Notice List, verifying the accuracy of the information in the list, or for any errors or omissions in the list. The Authority's provision of notice to the address on the Premarketing Notice List will be conclusive evidence that the Households on the Premarketing Notice List were provided adequate and proper notice.

9. INCREASED AFFORDABLE HOUSING IF LAW AMENDED OR ADDITIONAL PUBLIC FUNDS BECOME AVAILABLE.

9.1 IFD Revisions. As described in the Summary of this Housing Plan, the Minimum Affordable Percentage for the Project was reduced from the Thirty Percent Minimum to the Twenty-Five Percent Minimum as a result of the Parties' reliance on available property tax increment from Infrastructure Financing Districts instead of Community Redevelopment Law for the public financing component of the Project. The Parties understand and agree that if the following revisions are made to the IFD Act, then the public funding available for the Project, including the funds available for Affordable Housing, will equate to the public funding that would have been available under the Community Redevelopment Law as of the Effective Date as estimated by the Parties (the "CRL Funding Amount"): (i) the incremental tax revenue available for Project Costs excluding the Housing Percentage is equal to sixty percent (60%) or more of the total incremental tax revenue from the property in the IFD; (ii) the life of an IFD is extended to forty-five (45) years or longer, and the ability to incur debt to fund Project Costs is at least

twenty years; (iii) subordination of taxing agencies' share of incremental tax revenues to debt issued by the IFD is authorized in a manner similar to the current provisions of Health and Safety Code Section 33607.5; and (iv) the public improvements eligible to be funded with the incremental tax revenues from the IFD are consistent with those allowed to be funded with tax increment revenue under the California Community Redevelopment Law (collectively, the "Maximum Public Financing Revisions").

9.2 Potential Future Changes to Housing Plan. If, on or before the later of (i) the date that is sixty (60) months after the Effective Date, and (ii) the Initial Closing under the Conveyance Agreement (the "Outside IFD Revision Date"), the Maximum Public Financing Revisions are made to the IFD Law or other public financing options become available so that the public funding available for the Project is the same as the CRL Funding Amount, then the Twenty-Five Percent Minimum shall become the Thirty Percent Minimum and:

(a) the Authority Housing Units shall be increased to a maximum of 2,105 units and the Developer Residential Units shall be decreased to a maximum of 5,895 unit and the Authority Housing Lots shall include the Additional Authority Housing Lots Under the Thirty Percent Minimum as shown on the Housing Map attached as Attachment B;

(b) this Housing Plan shall be amended to provide that Completed Authority Housing Lots shall comprise 27% of the total Residential Acreage of the Residential Developable Lots, the total Residential Acreage of the Authority Housing Lots on Treasure Island shall not be less than twenty percent (20%) in each Major Phase, and that the Cumulative Total Authority Housing Acreage on Treasure Island shall be twenty five percent (25%) at the time of Approval of the Major Phase that includes the 2,950 Developer Residential Unit;

(c) the Inclusionary Milestones set forth in Section 5.1(c) of this Housing Plan shall be amended to be the dates of conveyance to Vertical Developers of Market Rate Lots allowing for development of (i) 2,065 Developer Residential Units; (ii) 2,950 Developer Residential Units and (iii) 4,420 Developer Residential Units; and

(d) Developer shall submit a new or revised Housing Data Table that reflects the revised Authority and Market Rate Housing Units numbers.

If the Maximum Public Financing Revisions are not made on or before the Outside IFD Revision Date, then: (A) the Authority Housing Units shall be increased to a maximum of 1,866 units and the Developer Residential Units shall be decreased to a maximum of 6,134 units, although there will be no change to the number, acreage or location of Authority Housing Lots shown on Exhibit B; (B) the Inclusionary Milestones set forth in Section 5.1(c) of this Housing Plan shall be amended to be the dates of conveyance to Vertical Developers of Market Rate Lots allowing for development of (i) 2,150 Developer Residential Units; (ii) 3,065 Developer Residential Units and (iii) 4,600 Developer Residential Units; and (C) Developer shall submit a new or revised Housing Data Table that reflects the revised Authority and Market Rate Housing Units numbers.

9.3 Increases from the Twenty-Five Percent Minimum to the Thirty Percent Minimum. If some but not all of the Maximum Public Financing Revisions are made to the IFD

Act or other public funding for affordable housing is made available during the Term ("Partial Public Financing Revisions"), then the Authority shall have the right to acquire one or more of the Authority Housing Lots shown as Additional Authority Housing Lots Under the Thirty Percent Minimum on the Housing Map attached as Attachment B, together with an appropriate increase in the Minimum Affordable Percentage if requested, at the Fair Market Value Price. The Fair Market Value Price shall be fair market value of the land and the corresponding housing entitlement (if any), using the same methodology as used in the Proforma and taking into account all costs and savings to Developer resulting from the loss of the land and any increase in the Minimum Affordable Percentage, including all changes in estimated IFD and CFD revenues to Developer and the decrease in the Developer Housing Subsidy payable by Developer, but excluding estimated profits from the vertical development on the land. Upon the Authority's request following a Partial Public Financing Revision, the Parties agree to meet and confer in good faith for a period of not less than ninety (90) days to determine the Fair Market Value Price and any change in the Minimum Affordable Percentage (if applicable) and the corresponding adjustments to this Housing Plan. If the Parties are not able to agree on the Fair Market Value Price, the Minimum Affordable Percentage, or the corresponding adjustments to this Housing Plan within ninety (90) days, then either Party shall have the right to initiate the appraisal process set forth in Section 17.4 of the DDA.

9.4 Initial Applications. The Parties agree that before such time as the Maximum Public Financing Revisions or the Partial Public Financing Revisions occur, Developer may submit Major Phase Applications and Sub-Phase Applications based upon the terms of this Housing Plan without assuming that there will be any change to the IFD Law or the public financing available for Affordable Housing at the Project Site. However, the Parties agree to make the revisions set forth in Section 9.2 above as soon as the Maximum Public Financing Revisions occur and the revisions in Section 9.3 above as soon as the Partial Public Financing Revisions occur.

10. NON-APPLICABILITY OF COSTA HAWKINS ACT

The Parties understand and agree that the Costa-Hawkins Rental Housing Act (California Civil Code sections 1954.50 et seq.; the "Costa-Hawkins Act") does not and in no way shall limit or otherwise affect the restriction of rental charges for the Affordable Housing Units or the Inclusionary Units developed pursuant to the DDA and the Development Agreement (including this Housing Plan). This DDA falls within an express exception to the Costa-Hawkins Act because the DDA is a contract with a public entity in consideration for a direct financial contribution and other forms of assistance specified in Chapter 4.3 (commencing with section 65915) of Division 1 of Title 7 of the California Government Code. Accordingly, Developer, on behalf of itself and all of its successors and assigns, including all Vertical Developers, agrees not to challenge, and expressly waives, now and forever, any and all rights to challenge, Developer's obligations set forth in this Housing Plan related to Inclusionary Units, under the Costa-Hawkins Act, as the same may be amended or supplanted from time to time. Developer shall include the following language, in substantially the following form, in all Vertical DDAs:

> "The DDA (including the Housing Plan) implements the California Infrastructure Financing District Law, Cal. Government Code §§ 53395 et seq. and City of San

Francisco policies and includes regulatory concessions and significant public investment in the Project. The regulatory concessions and public investment include, without limitation, a direct financial contribution of net tax increment, the conveyance of real property without payment, and other forms of public assistance specified in California Government Code section 65915 et seq. These public contributions result in identifiable, financially sufficient and actual cost reductions for the benefit of Developer and Vertical Developers, as contemplated by California Government Code section 65915. In light of the Authority's authority under Government Code Section 53395.3 and in consideration of the direct financial contribution and other forms of public assistance described above, the parties understand and agree that the Costa-Hawkins Act does not and shall not apply to the Inclusionary Units developed at the Project under the DDA."

The Parties understand and agree that the Authority would not be willing to enter into the DDA, without the agreement and waivers as set forth in this Article 9.

11. MISCELLANEOUS

11.1 No Third Party Beneficiary. Except to the extent set forth in the DDA, there are no express or implied third party beneficiaries to this Housing Plan.

11.2 Severability. If any provision of this Housing Plan, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Housing Plan or the application of such provision to any other Person or circumstance, and the remaining portions of this Housing Plan shall continue in full force and effect. Without limiting the foregoing, in the event that any applicable law prevents or precludes compliance with any term of this Housing Plan, the Parties shall promptly modify this Housing Plan to the extent necessary to comply with such law in a manner that preserves, to the greatest extent possible, the benefits to each of the Parties. In connection with the foregoing, the Parties shall develop an alternative of substantially equal, but not greater, cost and benefit to Developer and any applicable Vertical Developer so as to realize from the Project substantially the same (i) overall benefit (from a cost perspective) to the public and (ii) overall benefit to Developer and any applicable Vertical Developer.

EXHIBIT E. ATTACHMENT A
HOUSING DATA TABLE

MAJOR PHASE AND SUB-PHASE (Cells that are shaded to be provided at Sub-Phase Only)

Major Phase:	
Sub-Phase:	
Block:	

	ALL LOTS		MARKET RATE LOTS ONLY														AUTHORITY LOTS	
Residential Project Lot Number & Location	Lot Type (Multifamily, Auction, Colony)	Acres	Anticipated Product Type (TH, Flat, Tower, etc.)	Max Bldg Ht Allowed	Anticipated Bldg Ht	Density (in DUs)	Total Developer Unit Count	Number Min Sq Units	Number Inclusion (Rental)	Owned or For Sale	Number Inclusion @ 40% (Rental)	Number Inclusion @ 60% (For Sale)	Number Inclusion @ 90% (For Sale)	Number Inclusion @ 100% (For Sale)	Number Inclusion @ 110% (For Sale)	Number Inclusion @ 120% (For Sale)	Change to Lot or Location?	Target Infrastructure Completion Date
1																		
2																		
3																		
4																		
5																		
Block Subtotal		0.00				#DIV/0!	0	0	0									

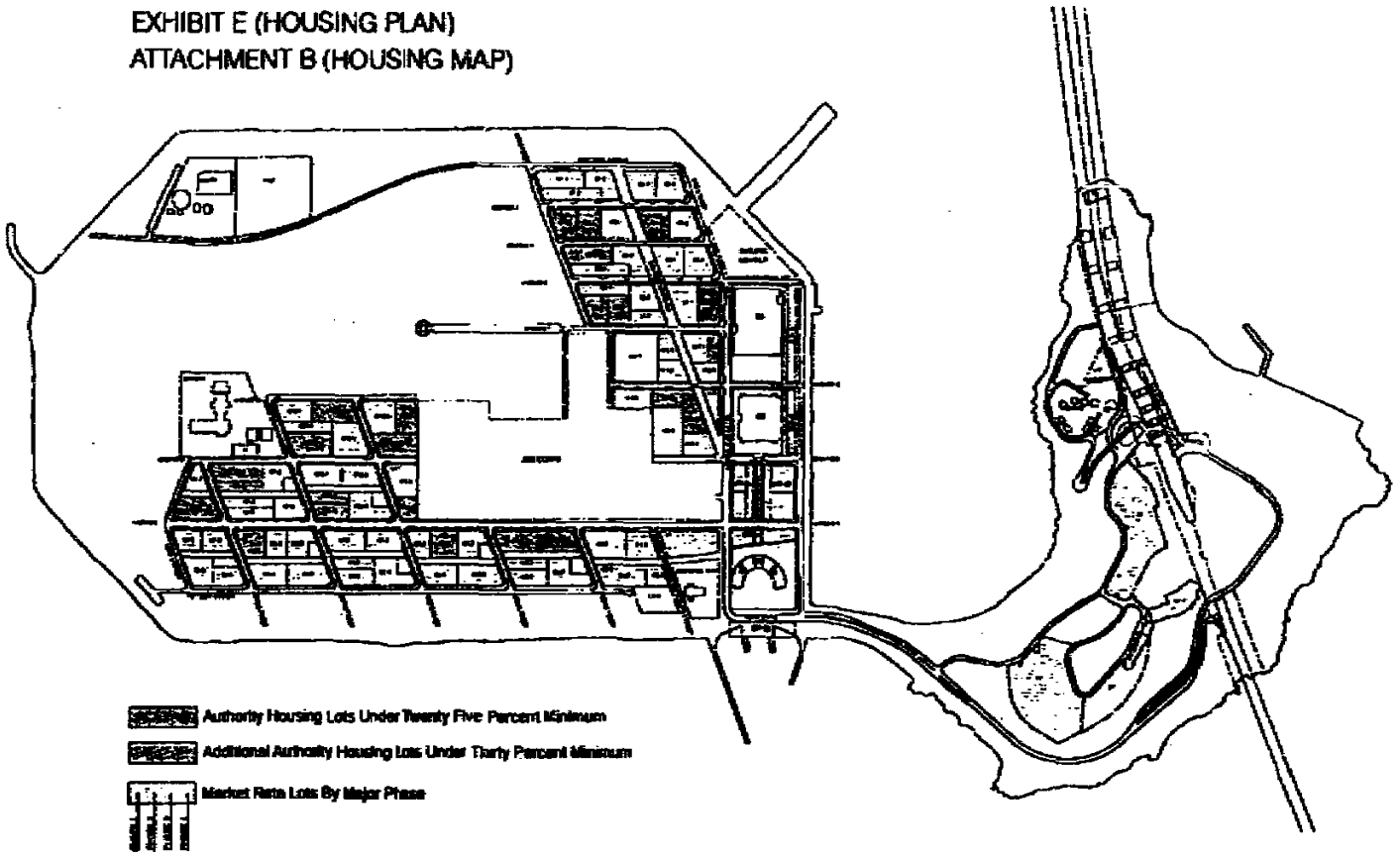
Major Phase:	
Sub-Phase:	
Block:	

	ALL LOTS		MARKET RATE LOTS ONLY														AUTHORITY LOTS	
Residential Project Lot Number & Location	Lot Type (Multifamily, Auction, Colony)	Acres	Anticipated Product Type (TH, Flat, Tower, etc.)	Max Bldg Ht Allowed	Anticipated Bldg Ht	Density (in DUs)	Total Developer Unit Count	Number Min Sq Units	Number Inclusion (Rental)	Owned or For Sale	Number Inclusion @ 40% (Rental)	Number Inclusion @ 60% (For Sale)	Number Inclusion @ 90% (For Sale)	Number Inclusion @ 100% (For Sale)	Number Inclusion @ 110% (For Sale)	Number Inclusion @ 120% (For Sale)	Change to Residential Lot or Location?	Target Infrastructure Completion Date
1																		
2																		
3																		
4																		
5																		
Block Subtotal		0.00				#DIV/0!	0	0	0									

PROJECT SUMMARY

	Total Residential Acreage	Total Authority Residential Acreage	Total Market Rate Residential Acreage	Total Developer Residential Units	Number Min Sq Units (For Sale)	Number Inclusion (For Sale)	Number Inclusion (Rental)	Number Inclusion (Rental) @ 40%	Number Inclusion @ 60%	Number Inclusion @ 90%	Number Inclusion @ 100%	Number Inclusion @ 110%	Number Inclusion @ 120%
Total for all Prior Approved Major Phases / Sub-Phases													
Total for this Major Phase/Sub-Phase													
Total of Prior Approved plus Proposed Major Phase/ Sub-Phase													
Percentage for this Major Phase/Sub-Phase	% Auth Land	#DIV/0!											
Cumulative Percentage	% Auth Land	#DIV/0!	% Agreed	#DIV/0!									

EXHIBIT E (HOUSING PLAN)
ATTACHMENT B (HOUSING MAP)



TREASURE ISLAND DEVELOPMENT AUTHORITY

TRANSITION HOUSING RULES AND REGULATIONS

FOR THE VILLAGES AT TREASURE ISLAND

ADOPTED BY

TREASURE ISLAND DEVELOPMENT AUTHORITY

BOARD OF DIRECTORS

Resolution No.

[date]

TRANSITION HOUSING RULES AND REGULATIONS

FOR THE VILLAGES AT TREASURE ISLAND

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TRANSITION HOUSING RULES AND REGULATIONS

FOR THE VILLAGES AT TREASURE ISLAND

I. GENERAL

A. Background

These Transition Housing Rules and Regulations for The Villages at Treasure Island ("**Transition Housing Rules and Regulations**") reflect the decision of the Treasure Island Development Authority Board of Directors ("**TIDA Board**") to implement certain recommendations made by the Board of Supervisors of the City and County of San Francisco ("**City**") in Resolution No. 699-06 (the "**Term Sheet Resolution**"). Definitions used in these Transition Housing Rules and Regulations are provided in **Appendix 4** for reference.

During World War II, Naval Station Treasure Island ("**NSTI**") was used as a center for receiving, training, and dispatching service personnel.

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

The City opted to negotiate for the transfer of NSTI under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. Law 103-421) (the "**Base Redevelopment Act**") amending BRAC, under which certain portions of NSTI would be set aside for homeless assistance programs in a manner that balances the economic development needs of the redevelopment process. A consortium of nonprofit organizations is providing a variety of services to the formerly homeless (currently, Catholic Charities, Community Housing Partnership, Rubicon Programs, Swords for Ploughshares, and Walden House), organized as the Treasure Island Homeless Development Initiative ("**TIHDI**"), to coordinate the homeless assistance programs to be provided under the Base Redevelopment Act.

In anticipation of base closure and following a public planning process, the Mayor, the Board of Supervisors, and the Planning Commission endorsed a Draft Base Reuse Plan for NSTI in 1996 outlining opportunities, constraints, policy goals, and recommendations for the redevelopment of NSTI. The City entered into an agreement with TIHDI in 1996 to develop and implement the homeless component under the Base Reuse Plan, which includes the right to temporary use of former military housing at NSTI and permanent housing through the base redevelopment process. The City formed Treasure Island Development Authority ("**TIDA**") as a redevelopment agency under California redevelopment law and designated TIDA as the City's

Local Reuse Authority for NSTI as authorized under the Treasure Island Conversion Act of 1997 (Assembly Bill No. 699, Stats. 1997, ch. 898).

TIDA initiated formal negotiations with the Navy in 1997, the same year the Navy formally closed base operations at NSTI. Also in 1997, the Navy contracted with the City (and subsequently, TIDA) to manage the property pending negotiations for its transfer and redevelopment. As part of managing NSTI on behalf of the Navy, TIDA began subleasing at market rates a portion of the former military housing now known as The Villages at Treasure Island ("**The Villages**") through a master lease with The John Stewart Company, and directly leasing space to a variety of commercial tenants. The master leases, the Residential Leases for Villages units, and commercial leases are interim pending the Navy's transfer of NSTI to TIDA for redevelopment and reuse.

TIDA selected Treasure Island Community Development, LLC ("**TICD**") in 2003 for exclusive negotiations for the master redevelopment of NSTI. The Board of Supervisors adopted the Term Sheet Resolution in 2006, endorsing the Development Plan and Term Sheet for the Redevelopment of Naval Station Treasure Island (as updated and endorsed by the TIDA Board of Directors and the Board of Supervisors in 2010, the "**Development Plan**"), conditioned on completion of environmental review under the California Environmental Quality Act ("**CEQA**"), an extensive community review process, and endorsement by the Treasure Island/Yerba Buena Island Citizen's Advisory Board and the TIDA Board. The Development Plan will serve as the basis for a Development and Disposition Agreement between TIDA and TICD (as amended, the "**DDA**"), which will govern their respective rights and obligations for the redevelopment of certain portions of NSTI if approved by the TIDA Board and the Board of Supervisors after completion of CEQA review. In the Term Sheet Resolution, the Board of Supervisors recommended that the TIDA Board create a transition program setting forth terms by which existing residents of NSTI could have the opportunity to rent at reduced rents or buy newly-constructed units on Treasure Island.

Consistent with Assembly Bill No. 699, the Development Plan specifies that all of the former military housing on the NSTI (except certain historic buildings) eventually will be demolished. As outlined in the Development Plan, TIDA and TICD intend to phase redevelopment so that new housing can be built on NSTI before demolishing most of the existing residential structures as follows.

- Redevelopment of Yerba Buena Island is planned as part of the first phase of the redevelopment project, requiring demolition of existing Yerba Buena Island housing to be among TICD's first development activities. Transitioning Households on Yerba Buena Island affected by the early phases of redevelopment will be offered Existing Units on Treasure Island through Interim Moves.

- Demolition of the housing on Treasure Island is proposed to occur in the later phases of the redevelopment project. But some Transitioning Households may be asked to make Long-Term Moves in earlier phases as new housing becomes available for occupancy.

B. Purpose

These Transition Housing Rules and Regulations:

- are designed to ensure that eligible Villages Households who satisfy all qualifications of Transitioning Households under **Section II.A** (Determination of Household Eligibility for Transition Benefits) receive housing opportunities consistent with the Term Sheet Resolution;

- describe benefits below ("**Transition Benefits**") that are available only to Transitioning Households;

- specify the eligibility criteria for Transitioning Households to receive Transition Benefits; and

- outline the procedures by which Transitioning Households will be offered Transition Benefits, including the opportunity to occupy new housing to be built on TI.

C. Limits of Applicability

The Transition Benefits under these Transition Rules and Regulations:

- apply only to Transitioning Households required to move to accommodate redevelopment of NSTI in accordance with the DDA;

- do not apply if TIDA must relocate Villages and TIHDI residents due to disaster or other declared emergency affecting living conditions on NSTI; and

- do not apply to:

  - Villages Households that do not satisfy all qualifications of Transitioning Households under **Section II.A** (Determination of Household Eligibility for Transition Benefits); or

  - residents in housing managed by TIHDI member organizations, who will have the opportunity to move to new supportive housing that TIHDI will develop under the proposed Amended and Restated Base Closure Homeless Assistance Agreement; or

  - TIDA's commercial tenants.

D. Overview and Program Framework

Two types of moves affecting Transitioning Households are anticipated as NSTI is redeveloped:

- **Interim Moves**, in which a Transitioning Household moves from one Existing Unit in The Villages to another Villages Existing Unit on Treasure Island following receipt of a Notice to Move. An example of this would be a move from an Existing Unit in an area proposed for redevelopment in an early phase to an Existing Unit on Treasure Island. *Most Transitioning Households will not be asked to make an Interim Move.*

- **Long-Term Moves**, in which a Transitioning Household moves from one of the Existing Units to a newly-constructed Dwelling on Treasure Island. All Transitioning Households (including those that previously made an Interim Move) will have the opportunity to make this move.

Key elements of these Transition Housing Rules and Regulations are:

- All Transitioning Households that receive a Notice to Move for either an Interim Move or a Long-Term Move will be eligible for Transition Benefits under these Transition Housing Rules and Regulations.

- NSTI residents who move off-Island before they receive a Notice to Move and an offer of Transition Benefits are not Transitioning Households and will not be eligible for Transition Benefits.

- All Transitioning Households will have the opportunity to remain on Treasure Island. No eligible Transitioning Household will be required to move before receiving an offer of Transition Benefits.

- Transitioning Households will have an opportunity to select one of the three Transition Benefit Options described in these Transition Housing Rules and Regulations:

  - the Transition Unit Option to move into rental housing on Treasure Island (See Article V (Description of Transition Unit Option));

  - the In-Lieu Payment Option for a lump sum payment upon moving off-Island (See Article VI (Description of In-Lieu Payment Option)); or

  - the Unit Purchase Assistance Option for down payment assistance in the purchase of a newly-constructed Dwelling on NSTI (See Article VII (Description of Unit Purchase Assistance Option)).

- Moving assistance will be provided to Transitioning Households that:
  - make Interim Moves to other Existing Units on Treasure Island; or
  - select the Transition Unit Option and make Long-Term Moves from their Existing Units to new Transition Units.
- A Premarketing Window to purchase newly-constructed Dwellings on NSTI will be available to:
  - all Transitioning Households in Existing Units before they have selected a Transition Benefit; and
  - Post-Transition Tenants that selected the In-Lieu Payment Option and received an In-Lieu Payment.
- Any resident of The Villages who moves onto NSTI after the DDA Effective Date will be a Post-DDA Tenant under these Transition Housing Rules and Regulations. Post-DDA Tenants who by definition do not qualify for an exception under Section II.A.1 (Defined Terms for Determining Eligibility) are ineligible for Transition Benefits, but will be offered transition advisory services when required to move.

E. Effective Date

These Transition Housing Rules and Regulations will be effective on the date the DDA becomes effective (the "**DDA Effective Date**"), if the DDA is approved by the TIDA Board and the Board of Supervisors after completion of CEQA review.

II. ELIGIBILITY

A. Determination of Household Eligibility for Transition Benefits

The first step in determining whether a Villages Household is eligible for Transition Benefits is determining the status of the Household, based on the criteria below.

Only Transitioning Households are eligible for Transition Benefits. Transition Benefits are offered to each Transitioning Household as a Household and not to individual members of the Household

1. Defined Terms for Determining Eligibility. TIDA will determine the members of a Transitioning Household based on the following definitions:

a. "**Existing Unit**" means a Dwelling located on NSTI that is occupied by a Transitioning Household as its primary Dwelling before receipt of a First Notice to Move or an Interim Notice to Move.

h. **"Good Standing"** means that TIDA does not have grounds for eviction as described in Section XII.A (Eviction).

c. **"Household"** means an individual, or two or more individuals, related or unrelated, who live together in an Existing Unit as their primary Dwelling, or one or more families occupying a single Existing Unit as their primary Dwelling, including: (i) all adult Household members who are named in the Residential Lease; (ii) minor children in the Household; and (iii) the spouse or registered domestic partner of a Household member. Under these Transition Housing Rules and Regulations, all occupants of a single Existing Unit constitute a single Household, and a Household may include both Post-DDA Tenants and members of a Transitioning Household.

d. **"Post-DDA Tenant"** means a resident who moves onto NSTI after the DDA Effective Date, except as follows: (i) a spouse or registered domestic partner of a member of a Transitioning Household; (ii) a minor child of a member of a Transitioning Household; and (iii) a live-in caregiver for a member of a Transitioning Household who has been approved by TIDA or its agent to reside in the Existing Unit. Persons in categories (i) and (ii) above will only be considered Post-DDA Tenants if the Household notified TIDA in writing of the new Household member, and requested that the Person's name be added to the Residential Lease at the time that the Household member joined the Household, or, if that Person became a member of the Household after TIDA's most recent notice of annual change in base rent under the Residential Lease.

e. **"Residential Lease"** means the lease agreement, including any addenda, under which a Transitioning Household or a Post-DDA Tenant lawfully occupies an Existing Unit, or under which an employer provides employee housing for employees working on NSTI.

f. **"Transitioning Household"** means a Villages Household consisting of residents who: (i) lawfully occupied an Existing Unit in The Villages as its primary Dwelling on the DDA Effective Date as evidenced by each adult resident's signature on the Residential Lease and each minor child identified as an occupant in the Residential Lease; (ii) continue to live in an Existing Unit until the Household receives a First Notice to Move for a Long-Term Move or accepts an In-Lieu Payment or Down Payment Assistance; and (iii) remain in Good Standing under its Residential Lease until the Household receives a First Notice to Move for a Long Term Move or accepts an In-Lieu Payment or Down Payment Assistance. A Transitioning Household specifically excludes the following: (A) any Person or Household in Unlawful Occupancy of the Existing Unit; (B) any Post-DDA Tenant in the Household; (C) any Person who occupies an Existing Unit under an arrangement with a business entity that has entered into a Residential Lease with TIDA; and (D) any Person who occupies the Existing Unit solely for the purpose of obtaining Transition Benefits.

g. **"Unlawful Occupancy"** means: (i) a Person or Household has been ordered to move by a valid court order; (ii) the Person's or Household's tenancy has been lawfully terminated, if the termination was not undertaken for the purpose of evading the obligations of these Transition Housing Rules and Regulations; or (iii) a Person is not listed on

the Residential Lease, except for a: (x) spouse or registered domestic partner of a member of a Transitioning Household; (y) minor child of a member of a Transitioning Household; or (z) live-in caregiver for a member of a Transitioning Household who has been approved by TIDA or TIDA's agent to reside in the unit, provided that Persons in categories (x) and (y) have met the requirements to be considered a Post-DDA Tenant.

2. TIDA Records of Eligibility. Based on information available to TIDA, including information provided by Villages Households during and in follow-up to interviews under Section III.B (Interview Households and Offer Advisory Services), TIDA will maintain records indicating which members of each Villages Household constitute an eligible Transitioning Household and which members are Post-DDA Tenants or otherwise not qualified for Transition Benefits.

B. Ineligible Residents

1. Post-DDA Tenants. Post-DDA Tenants are ineligible for Transition Benefits. A Post-DDA Tenant may be a resident in an Existing Unit in which other residents constitute a Transitioning Household. Post-DDA Tenants will be eligible only for transition advisory services under these Transition Housing Rules and Regulations.

2. Unlawful Occupancy. A resident in Unlawful Occupancy of an Existing Unit is ineligible for Transition Benefits or advisory services under these Transition Housing Rules and Regulations.

III. TRANSITION NOTICES AND PROCEDURES

A. First Notice to Move

1. Delivery of First Notice to Move. TIDA will deliver a First Notice to Move to each affected Household before the Household is required to move to facilitate the ongoing redevelopment of NSTI.

2. Time of Notice. The First Notice to Move will be delivered: (a) no less than 90 days before the date by which an Interim Move must occur; and (b) no less than 120 days before the date by which a Long-Term Move must occur.

3. Contents of Notice. The First Notice to Move will state:

a. whether the move will be an Interim Move or a Long-Term Move;

b. TIDA's intent to terminate the Residential Lease for the Existing Unit on a specified date, by which the Household will be required to move;

c. whether TIDA records: (i) list any or all of the members of the Household as an eligible Transitioning Household; or (ii) indicate that any members of the Household are Post-DDA Tenants or are otherwise ineligible for Transition Benefits;

d. if TIDA records indicate that any members of the Household are or may be a Transitioning Household: (i) additional information or verifications necessary to determine eligibility as a Transitioning Household; (ii) a general description of the Transition Benefits that a Transitioning Household may receive under these Transition Housing Rules and Regulations; (iii) additional steps a Transitioning Household must take to secure Transition Benefits, such as setting up an interview to provide TIDA with the information necessary to complete income certification requirements and determine the composition of the Transitioning Household; and (iv) the time-frame for setting up the informational interview to establish the Transitioning Household's housing needs and certify Household income;

e. if TIDA records indicate that the entire Household (or any member of the Household) is not a Transitioning Household but is a Post-DDA Tenant, information regarding advisory services available to Post-DDA Tenants and on the Household's opportunity to present information demonstrating its eligibility as a Transitioning Household;

f. contact information for questions about the notice or process; and

g. that the notice and all future notices will be translated into a language understood by the Household if the Household notifies TIDA that the Household does not include an adult fluent in English.

B. Interview Household and Offer Advisory Services

1. Schedule Interview. After the First Notice to Move is delivered, TIDA will contact each Household to set up interviews. TIDA will provide sufficient advance notice and scheduling flexibility to enable each adult in the Household (except those in Unlawful Occupancy of the Existing Unit) to be interviewed, so that TIDA can obtain required information and provide advisory services described below.

2. Advisory Services for Transitioning Households:

a. The interviews will enable TIDA to: (i) describe and explain any applicable eligibility requirements for the specific Transition Benefits available to the Transitioning Household under these Transition Housing Rules and Regulations; (ii) advise and assist the Transitioning Household in evaluating its housing needs; (iii) identify any special needs for that Transitioning Household; (iv) assist each Transitioning Household to complete applications for Transition Benefits; and (v) ensure that no Transitioning Household will be required to move from an Existing Unit without an opportunity to relocate to a Transition Unit, except in the case of: (A) an Interim Move; (B) a major disaster as defined in § 102(2) of the federal Disaster Relief Act of 1974; (C) a state of emergency declared by the President of the United States or the Governor of the State of California; or (D) any other emergency that requires the Household to move immediately from the Existing Unit because continued occupancy of the Existing Unit by the Household constitutes a substantial danger to the health or safety, or both, of the Household.

b. For Long-Term Moves only: (i) the Transitioning Household must begin the process of determining Household Income; and (ii) to qualify for an income-restricted Transition Unit under Sections V.E.1, V.E.2, or V.E.3 (Calculation of Base Monthly Rental Cost), Household Income of the entire Transitioning Household must be certified, subject to third-party verification. For all Households, TIDA will use the then-current Tenant Income Certification Form published by the California Tax Credit Allocation Committee to determine Household Income. A copy of the current form is attached as **Appendix 1**.

c. If all adult members of a Transitioning Household do not consent to be interviewed or do not provide all of the required information requested during or within 30 days after the interview, TIDA will be entitled to rely solely on the limited information provided in response to the interview and contained in its records relating to the Household when making its determination about eligibility for Transition Benefits.

3. Advisory Services for Post-DDA Tenants. The interviews will enable TIDA to offer the following advisory services to Post-DDA Tenants: (a) assist in evaluating their housing needs and any special needs; (b) provide references to providers of special needs services and other housing in San Francisco; and (c) provide a Household with the opportunity to present information to TIDA to support a claim of eligibility for Transition Benefits.

C. Second Notice to Move

1. Time and Contents of Second Notice to Move. No less than 60 days before a Household is required to move, TIDA will deliver a Second Notice to Move. The Second Notice to Move will state:

a. TIDA's determination of whether the Household is an eligible Transitioning Household;

b. which members of the Household, if any, are Post-DDA Tenants, in Unlawful Occupancy, or otherwise ineligible for Transition Benefits;

c. the actual date by which the move must be complete (the "**Move Date**"); and

d. the options available to the Transitioning Household under these Transition Rules and Regulations.

D. Selection of a Transition Benefit

After receipt of the Second Notice to Move, each Transitioning Household will be required to make certain decisions about Transition Benefits.

1. Transition Benefit Options for Long-Term Moves. For Long-Term Moves, the Second Notice to Move will offer each Transitioning Household a choice of:

a. the Transition Unit Option to move into a Transition Unit in a specifically identified new building on TI, with the number of bedrooms, initial rent, and long-term rent protection as described in **Article V** (Description of Transition Unit Option);

b. the In-Lieu Payment Option to receive an In-Lieu Payment, calculated in accordance with **Article VI** (Description of In-Lieu Payment Option); or

c. the Unit Purchase Assistance Option to receive Down Payment Assistance calculated in accordance with **Article VII** (Description Unit Purchase Assistance Option), but only if new for-sale units are then available for purchase and the Transitioning Household can demonstrate that it can close escrow on the purchase of and move into a new Dwelling on NSTI before the Move Date.

2. Options for Interim Moves. For Interim Moves, the Second Notice to Move will offer each Transitioning Household a choice of the following options:

a. the right to occupy an Existing Unit on Treasure Island with the number of bedrooms and initial rent calculated in accordance with **Article IV** (Interim Moves); or

b. the option to receive an In-Lieu Payment in accordance with **Article VI** (In-Lieu Payment Option).

3. Written Notice to TIDA of Selection. For both Long-Term Moves and Interim Moves, the Transitioning Household's selection may be made by delivering written notice to TIDA, signed by each adult member of the Transitioning Household at any time up to 45 days before the Move Date.

4. Transitioning Household Entitled to Single Transition Benefit. Each Transitioning Household receiving a Long Term Move Notice is entitled to only one of the Transition Benefits described in **Article V** (Transition Unit Option), **Article VI** (In-Lieu Payment Option), and **Article VII** (Unit Purchase Assistance Option). As a condition to receipt of the selected Transition Benefit, each member of the Transitioning Household will be required to waive all other Transition Benefits under these Transition Housing Rules and Regulations.

E. Complete the Move

1. Eligibility for Moving Assistance. Moving assistance to cover the costs of moving the Household will be provided to every Transitioning Household that makes an Interim Move from an Existing Unit on NSTI to another Existing Unit on TI and/or a Long-Term Move from an Existing Unit on NSTI to a Transition Unit. Moving assistance is not provided to: (a) Transitioning Households that receive the In-Lieu Payment Option or Down Payment Assistance; (b) Post-DDA Tenants; (c) Persons in Unlawful Occupancy of their Existing Unit; or (d) other Persons ineligible for Transition Benefits.

2. Actual Costs. A Transitioning Household will be compensated for Actual Reasonable Moving Expenses incurred in moving the Household for an Interim Move to an

Existing Unit or a Long-Term Move to a Transition Unit. Costs that may be included in a claim for Actual Reasonable Moving Expenses are listed in **Article VIII.B (Moving Assistance)**.

3. Moving Allowance Alternative. A Transitioning Household that is eligible to be reimbursed for Actual Reasonable Moving Expenses may elect instead to receive a Moving Expense Allowance that will be determined according to a schedule established by TIDA, based on a moving expense allowance determined in accordance with established federal Highway Administration schedules maintained by the California Department of Transportation. The current schedule is shown in **Appendix 3.**

F. Early Transition Benefits

1. Limited Circumstances. Under certain circumstances, Transitioning Households may be eligible to receive certain Transition Benefits before receipt of a Notice to Move.

a. The In-Lieu Payment Option may be available earlier, if, and only if, TIDA provides written notice to Transitioning Households offering an early opportunity to receive an In-Lieu Payment, which may be conditioned on the Household moving out of its Existing Unit by a specified date ("**Notice of Early In-Lieu Payment Option**").

b. The Unit Purchase Assistance Option is available at any time a Transitioning Household completes the purchase of a new Dwelling on NSTI, unless the Transitioning Household has previously lost its status as a Transitioning Household by accepting an In-Lieu Payment or moving into a Transition Unit.

IV. INTERIM MOVES

A. Required Interim Moves

Some Transitioning Households will be required to make an Interim Move from one Existing Unit to another Existing Unit on TI.

An Interim Move will be required for those Transitioning Households that reside in areas proposed for redevelopment in an early phase of development. Although not currently anticipated, Interim Moves also may be required in later phases of development. Transitioning Households required to make an Interim Move will receive a First Notice to Move not less than 90 days before the Move Date and a Second Notice to Move not less than 60 days before the Move Date.

B. Benefits for Interim Moves

Transitioning Households required to make an Interim Move may elect to move to an Existing Unit on TI under the following terms:

1. Size. The offered Dwelling will have at least the same number of bedrooms as the Existing Unit unless the Transitioning Household elects to move to a smaller unit. The

Transitioning Household may be offered a Dwelling that has a greater number of bedrooms if the available Dwellings with the same number of bedrooms as the Existing Unit will result in a reduction in total square footage from the Existing Unit by 10% or more.

2. Rent. The initial monthly rent for Transitioning Households making an Interim Move to an Existing Unit on TI will be determined as set forth below. In each case, the initial monthly rent will be subject to annual increases calculated by the Rent Board Adjustment.

a. If the offered Dwelling has the same or a greater number of bedrooms as the Existing Unit, the initial monthly rent for the offered Dwelling will be the lesser of: (a) the rent the Transitioning Household is paying for its Existing Unit on the date of the First Notice to Move; or (b) the market rent that TIDA would otherwise charge for the offered Dwelling on the date of the First Notice to Move.

b. If Transitioning Household has elected to move to an offered Dwelling with fewer bedrooms than its Existing Unit, the initial monthly rent on the offered Dwelling will be the lesser of: (a) the monthly rent for the Existing Unit on the date of the First Notice to Move, reduced by 10% for each reduction in bedroom count; or (b) the market rent that TIDA would otherwise charge for the offered Dwelling on the date of the First Notice to Move. For example, if a Transitioning Household occupies an Existing Unit with four bedrooms on the DDA Effective Date, but elects in an Interim Move to move into an offered Dwelling with two bedrooms, the initial monthly rent under (a) would be 80% of the monthly rent on the Existing Unit on the date of the First Notice to Move.

3. Unit Selection. The Notice to Move for an Interim Move will provide information on the process for Transitioning Households electing to move to an Existing Unit on TI to select a Dwelling.

4. Status as Transitioning Household. The Transitioning Household will retain its status as a Transitioning Household following an Interim Move, and will continue to be eligible for Transition Benefits as long as the Household continues to meet the eligibility requirements stated in Section II.A.1.d (Determination of Household Eligibility for Transition Benefits).

C. Option to Elect In-Lieu Payment

Instead of making an Interim Move, Transitioning Households may elect the In-Lieu Payment Option in accordance with Article VI (Description of In-Lieu Payment Option).

V. DESCRIPTION OF TRANSITION UNIT OPTION

A. Transition Unit Option

1. Time of Option. The Transition Unit Option is available for Transitioning Households only after TIDA delivers a Notice to Move for a Long-Term Move.

2. Benefits. Transitioning Households will have the opportunity to rent a newly-constructed Transition Unit on Treasure Island. Transitioning Households that elect to move into the offered Transition Unit will be eligible for Actual Reasonable Moving Expenses or a Moving Expense Allowance.

3. Designated Unit. TIDA will designate at least one Transition Unit for each Transitioning Household selecting the Transition Unit Option.

4. Loss of Status. A Transition Unit will be offered to each Transitioning Household unless it has lost its status as a Transitioning Household by its prior receipt of Transition Benefits for a Long-Term Move or it no longer meets the eligibility requirements stated in Section II.A (Determination of Household Eligibility for Transition Benefits).

5. Leases for Income-Restricted Units. Leases for Households with Section 8 vouchers, Tax Credit Eligible Households and others occupying Transition Units assisted with state, federal, or local housing funds will be subject to applicable regulations and requirements of such funding programs.

6. Loss of Option. TIDA's obligation to provide a Transitioning Household selecting the Transition Unit Option with a Transition Unit will be deemed to be satisfied if the Transitioning Household is offered and refuses to accept the Transition Unit offered.

B. Standards Applicable to Transition Units

1. Size. Except as provided below, a Transition Unit offered to a Transitioning Household under the Transition Unit Option must contain the same number of bedrooms as in the Existing Unit. Exceptions include:

a. Program regulations of certain government housing programs (e.g. tenant-based Section 8) may limit the number of bedrooms that participating Transitioning Households can be offered.

b. In determining the size of a Transition Unit, Post-DDA Tenants, Persons in Unlawful Occupancy and other Persons ineligible for Transition Benefits are excluded as Persons in the Transitioning Household, but Post-DDA Tenants will be allowed to move into a Transitioning Household's Transition Unit.

c. If the Transitioning Household is smaller when it moves into the Transition Unit than it was when its eligibility was established, TIDA will offer a Transition Unit with one bedroom per Person remaining in the Transitioning Household up to a maximum of four bedrooms.

2. Decent, Safe and Sanitary. The Dwelling must be "Decent, Safe and Sanitary," which means it:

a. conforms with all applicable provisions for existing structures that have been constructed under state or local building, plumbing, electrical, housing and occupancy codes, and similar ordinances or regulations;

b. has a continuing and adequate supply of potable water;

c. has a kitchen or an area set aside for kitchen use that: (i) contains a sink in good working condition connected to hot and cold water and to an adequate sewage system; and (ii) has utility service connections and adequate space for the installation of a stove and a refrigerator;

d. has an adequate heating system in good working order that will maintain a minimum temperature of 70 degrees in all habitable rooms, and all rooms must be adequately ventilated;

e. has a bathroom, well lit and ventilated and affording privacy to a person within it, containing a lavatory basin and a bathtub or stall shower, properly connected to an adequate supply of hot and cold running water, and a flush closet, all in good working order and properly connected to a sewage disposal system;

f. has an adequate and safe wiring system for lighting and other electrical services;

g. is structurally sound, weather tight, in good repair, and adequately maintained;

h. has a safe unobstructed means of egress leading to safe open space at ground level that conforms to building and fire codes;

i. has at least one room that has not less than 150 square feet of floor area, and other habitable rooms, except kitchens, that have an area of not less than 70 square feet;

j. has sleeping room(s) that include at least 70 square feet of habitable floor space for the first occupant and 50 square feet of habitable floor space for each additional occupant; and

k. is available to the Transitioning Household regardless of race, color, sex, marital status, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968 and any other applicable local, state, or federal nondiscrimination laws.

C. Required Information for Option

1. Relevant Household Information. Transitioning Households must provide all of the following information to receive the Transition Unit Option:

a. Household Income;

b. Household composition and size, including: (i) the full names of all Household members and relationship of Household members to each other; (ii) age and number of any children and elderly members of the Household; (ii) whether any members of the Transitioning Household are disabled; (iii) whether any members of the Transitioning Household are Adult Students: and (iv) special needs (social and public services, special schools, and other services, need for in-home care); and

2. Time to Provide Information. To the extent all required information is not provided at the interview, Transitioning Households wishing to obtain Transition Benefits will have 30 days after the interview to provide all required information to TIDA.

D. Calculation of Household Income

A Transitioning Household's annual Household Income will be determined using the current Tenant Income Certification Form (see **Appendix 1**).

Households will be required to verify Household Income with third-party documentation such as W-2 forms, pay check stubs, tax returns or other forms of verification. Monthly Household Income will be determined based on the most recent 12 month period preceding the First Notice to Move.

E. Calculation of Base Monthly Rental Cost

The Transitioning Household will be offered a Transition Unit at an initial rent not exceeding the Base Monthly Rental Cost as determined below:

1. Adjustments for Changes in Bedroom Count. If the size of the Transitioning Household changed after the Effective Date, and the Transition Unit contains fewer bedrooms than the Household's Existing Unit as provided in **Section V.B(3)(c) (Standards Applicable to Transition Units)**, for purposes of determining the Base Monthly Rental Cost the monthly rent for the Existing Unit will "**Adjusted for Changes in Bedroom Count,**" according to the following calculation: (a) calculate the Existing Unit's monthly rent by adding any annual Rent Board Adjustments to the rent for the Existing Unit on the DDA Effective Date; (b) multiply (a) by the product of 10% times the reduction in bedroom count and (c) deduct the applicable Utility Adjustment. For example, if a Transitioning Household originally rented an Existing Unit with four bedrooms but due to changes in the Transitioning Household's size received a unit with two bedrooms, the monthly rent would be reduced by 20% and adjusted for the applicable Utility Allowance based on the new unit bedroom count.

2. Households Participating in Governmental Housing Programs

a. Tax Credit Eligible Households: Base Monthly Rental Cost for Tax Credit Eligible Households will be the lesser of: (i) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count (as defined below), if applicable, less Utility Adjustment; (ii) 30% of the Transitioning Household's Average Monthly Income; or (iii) the maximum allowable rent under applicable tax credit regulations less Utility Adjustment. Tax Credit Eligible Households will be offered a

Transition Unit in housing financed with low income housing tax credits and may be required to certify Household income annually while occupying the rent-restricted unit.

b. Households with Section 8 Vouchers: Base Monthly Rental Cost for Households with Section 8 vouchers will be the fair market rent for a Dwelling for the Household size under Section 8 program regulations, less Utility Adjustments.

3. Low Income Household (defined in Calif. Health & Safety Code § 50079.5): Base Monthly Rental Cost for Low Income Households that do not include Adult Students will be the lesser of: (a) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count, if applicable, less Utility Adjustment; or (b) the maximum rent for a Low Income Household allowed by Health and Safety Code § 50053, less Utility Adjustment.

4. Moderate Income Household (defined in Calif. Health & Safety Code § 50079.5): Base Monthly Rental Cost for Moderate Income Households that do not include Adult Students will be the lesser of: (a) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count, if applicable, less Utility Adjustment; or (b) the maximum rent for a Moderate Income Household allowed by Health and Safety Code § 50053, less Utility Adjustment.

5. All Other Transitioning Households: Base Monthly Rental Costs for all other Households, consisting of: (i) Transitioning Households that are not Tax Credit Eligible Households, Households with Section 8 vouchers, Low Income Households, or Moderate Income Households; (ii) Transitioning Households that include an Adult Student; and (iii) Transitioning Households that do not provide the required Household information within 30 days after their interview under Section III.B (Interview Household and Offer Advisory Services) will be the lesser of: (a) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count, if applicable, less the Utility Adjustment; or (b) the market rent that would otherwise be charged for the Transition Unit.

F. Lease Terms for Transition Unit; Occupancy Verification

1. Lease Terms. The following will apply to each Transitioning Household accepting a Transition Unit, except for Tax Credit Eligible Households and Households with Section 8 vouchers (whose leases will comply with applicable federal regulations):

a. The Transitioning Household will enter into a lease containing the following key terms: (i) an initial period of 12 months, with automatic renewal on a month-to-month basis; (ii) a limitation on annual rent increases to the Rent Board Adjustment; (iii) a statement that the Transitioning Household may remain in the Transition Unit as long as the Household remains in Good Standing under its lease; and a description of the events that will cause the Household to be in default of its lease; and (iv) a prohibition against subleasing.

b. Each lease for a Transition Unit will require the Transitioning Household to: (i) identify each occupant of the Household by name; (ii) acknowledge that subleasing is not permitted and that subleasing will be a default under the lease; (iii) acknowledge that at least one member of the Transitioning Household must maintain the Transition Unit as his or her primary Dwelling; (iv) cooperate fully with any subsequent occupancy verification; and (v) comply with all other terms of the lease.

2. Right to Verify Occupancy by Transitioning Household. TIDA, or any subsequent owner or property management company for the Transition Unit, will have the right to verify occupancy of the Transition Unit at any time. If a Transitioning Household does not cooperate with an occupancy verification request or any member of the Household is discovered to have provided knowingly false responses: (a) the entire Transitioning Household will lose the right to continue to rent at the Base Monthly Rental Cost; (b) rent will be increased to the then-current market rate; and (c) future rent increases will not be limited to the Rent Board Adjustment. In addition, TIDA, or any subsequent owner or property management company for the Transition Unit will have the right to charge and collect the additional rent it would have charged, had the rents not been reduced under these Transition Rules and Regulations.

3. Termination of Lease for Transition Unit. If the Transition Unit is no longer occupied by any members of the Transitioning Household, the Transitioning Household's lease for the Transition Unit will terminate.

VI. DESCRIPTION OF IN-LIEU PAYMENT OPTION

A. In-Lieu Payment Option

1. Time. A Transitioning Household may elect to receive an In-Lieu Payment in response to a written offer from TIDA. TIDA currently anticipates offering the In-Lieu Payment Option at the following times:

a. when TIDA delivers a Notice to Move for an Interim Move to a Transitioning Household;

b. when TIDA delivers a Notice of Early In-Lieu Payment Option, currently anticipated to occur during a specified period between TIDA's approvals of Major Phase 2 and Major Phase 4; and

c. when TIDA delivers a Notice to Move for a Long-Term Move to a Transitioning Household.

2. Calculation of Payment. The amount of the In-Lieu Payment will be calculated using the schedule for Relocation Payments for No Fault Evictions published and updated annually by the San Francisco Rent Board (as of the date of the calculation, the "Rent Board Schedule"). The 2010 In-Lieu Payment Schedule, based on the 2010 Rent Board Schedule, adjusted for up to four adults, is attached as Appendix 2. The Transitioning Household's In-Lieu Payment will be the product of the payment per adult tenant in the Rent

Board Schedule times the number of adults in the Transitioning Household, up to a maximum of four, plus any of the following applicable adjustments:

a. if the Transitioning Household includes elderly or disabled Persons, the product of the payment per elderly or disabled Person under the Rent Board Schedule times the number of elderly or disabled persons in the Transitioning Household; and

b. if the Transitioning Household includes any minor children, an additional lump sum equal to the payment for minors under the Rent Board Schedule.

c. In determining the number of adults in a Transitioning Household, Post-DDA Tenants and, Persons in Unlawful Occupancy and other Persons ineligible for Transition Benefits are excluded as Persons in the Transitioning Household.

3. Effect of Election. Transitioning Households that elect to receive the In-Lieu Payment:

a. will no longer be eligible for the Transition Unit Option or the Unit Purchase Assistance Option

b. will not receive moving assistance;

c. will be required to vacate their Existing Units by the date specified in the Notice to Move or Notice of Early In-Lieu Payment Option to receive the In-Lieu Payment; and

d. upon written request to TIDA, will be placed on the Premarketing Notice List if not already listed.

VII. DESCRIPTION OF UNIT PURCHASE ASSISTANCE OPTION

Transitioning Households that elect to receive the Unit Purchase Assistance Option will be entitled to Down Payment Assistance.

A. Down Payment Assistance

1. Amount of Payment. A Transitioning Household electing the Unit Purchase Assistance Option will receive "Down Payment Assistance" described in this Section. The amount of Down Payment Assistance will be equal to the amount the Transitioning Household would have received had it chosen an In-Lieu Payment, based on the Rent Board Schedule and the number of eligible members in the Transitioning Household, up to four Persons, when the Household enters into the purchase contract for the new Dwelling on NSTI.

2. Conditions to Payment. A Transitioning Household electing to purchase a new Dwelling on NSTI will receive Down Payment Assistance only if: (a) the Household meets all applicable eligibility criteria to purchase the new Dwelling; (b) its purchase offer for the new

Dwelling is accepted; and (c) the purchase closes escrow. No Household is guaranteed that its offer to purchase a new Dwelling on NSTI will be accepted, and the purchased Dwelling need not be similar in size, bedroom count, and amenities to the Existing Unit previously occupied by the Household.

3. Escrow and Closing. Down Payment Assistance will be paid at closing into escrow. TIDA will verify the Transitioning Household's eligibility for and amount of the Down Payment Assistance to lenders and sellers of Dwellings during escrow upon request. If escrow does not close, the escrow officer will be instructed to return any Down Payment Assistance funds on deposit to TIDA.

4. Termination of Status. A Transitioning Household that elects to receive the Down Payment Assistance and closes its purchase on a new for-sale Dwelling on NSTI:

a. will no longer be eligible for the Transition Unit Option or the In-Lieu Payment Option

b. will not receive moving assistance;

c. will be required to vacate its Existing Unit by the date specified in the Notice to Move; and

d. will be removed from the Premarketing Notice List.

VIII. ADDITIONAL ASSISTANCE

A. Premarketing Assistance

1. Definitions. The following definitions will apply to the Assistance described in this Section VIII.A (Premarketing Assistance):

a. **"Post-Transition Household"** means a Transitioning Household that previously received an In-Lieu Payment.

b. **"Post-Transition Tenant"** means a Person who was a member of a Transitioning Household that previously received an In-Lieu Payment.

c. **"Premarketing Notice List"** means that email contact list that TIDA will maintain to provide notice of a Premarketing Window.

d. **"Premarketing Window"** means a specific and limited time period of no less than 30 days before the Dwellings in each new for-sale housing development on NSTI are offered for sale to the general public.

e. **"Sunset Date"** means the date that is seven years after the date that a Transitioning Household or a Post-Transition Tenant is placed on the Premarketing Notice List.

2. Early Notice. Transitioning Households, Post-Transition Households, and Post-Transition Tenants on the Premarketing Notice List will have the opportunity to make purchase offers on Dwellings in each new for-sale housing development on NSTI during the Premarketing Window.

a. If the purchase offer of a Transitioning Household that is not a Post-Transition Household is accepted: (i) the Transitioning Household also may select the Unit Purchase Assistance Option to receive Down Payment Assistance under Section VII.A (Down Payment Assistance); and (ii) TIDA will remove the Transitioning Household from the Premarketing Notice List after close of escrow. Post-Transition Households are not eligible for Down Payment Assistance.

b. If the purchase offer of a Post-Transition Tenant or Post Transition Household is accepted and escrow closes, TIDA will: (i) remove the Post-Transition Tenant or Post Transition Household from the Premarketing Notice List; and (ii) have no further obligation to the Post-Transition Tenant or Post Transition Household under these Transition Housing Rules and Regulations. Post-Transition Tenants are not eligible for Down Payment Assistance.

c. A Transitioning Household whose purchase offer is not accepted may stay on the Premarketing Notice List for subsequent notices of Premarketing Windows until the earliest of: (i) the date escrow closes on a subsequent purchase offer; (ii) the date the Transitioning Household moves into a Transition Unit; or (iii) the Sunset Date.

d. Post-Transition Households and Post-Transition Tenants whose purchase offers are not accepted may stay on the Premarketing Notice List for subsequent notices of Premarketing Windows until the earlier of: (i) the date escrow closes on a subsequent purchase offer; or (ii) the Sunset Date.

3. Notice List.

a. Each Transitioning Household and Post-Transition Household must: (i) provide TIDA with the names of Household members, the designated Household contact's name, and an email address for notices; and (ii) notify TIDA of any changes to Household information to remain on the Premarketing Notice List.

b. Each Post-Transition Tenant must: (i) provide TIDA with an email address for notices; and (ii) notify TIDA of any changes in the email notice address to remain on the Premarketing Notice List.

c. TIDA will have no obligation to: (i) verify that email notices that are sent are actually delivered; or (ii) update contact information of Transitioning Households, Post-Transition Households, or Post-Transition Tenants that do not notify TIDA that their email addresses have changed. TIDA will remove Transitioning Households, Post-Transition Households, and Post-Transition Tenants from the Premarketing Notice List on their respective Sunset Dates if they are then still on the list.

4. Required Acknowledgement. Before TIDA is obligated to add contact information to the Premarketing Notice List, each member of a Transitioning Household, Post Transition Household and Post-Transition Tenants will be required to sign an acknowledgment that neither TIDA nor any for-sale housing developer will be responsible for: (a) ensuring that the contact email address provided is current; (b) any inadvertent omission from the Premarketing Notice List, as long as the housing opportunity is marketed generally in the San Francisco area; or (c) guaranteeing that a Transitioning Household or a Post-Transition Tenant will qualify to purchase a new Dwelling.

5. Developer Notice Requirements. For-sale housing developers will be required to provide TIDA with advance notice of the Premarketing Window for each new for-sale housing development on NSTI, stating: (a) the start and end dates of the Premarketing Window; (ii) for each available Dwelling, the unit address, number of bedrooms, and initial offered price; (iii) the date(s) on which interested Transitioning Households, Post-Transition Households, and Post-Transition Tenants may tour the available Dwellings; and (iv) contact information for an authorized representative of the housing developer who can answer questions about the available Dwelling(s). TIDA will send email notices to all Transitioning Households, Post-Transition Households, and Post-Transition Tenants on the Premarketing Notice List before the Premarketing Window begins.

6. No Preferential Treatment. Transitioning Households, Post-Transition Households, and Post-Transition Tenants on the Premarketing Notice List will be offered the same purchase terms for the for-sale units as those offered to the general public.

a. Inclusionary units will be offered at a specified below-market-rate price to Transitioning Households, Post-Transition Households, and Post-Transition Tenants that meet all qualifying income and occupancy criteria for that Dwelling.

b. The purchase price of all other for-sale Dwellings will be the market-rate price.

c. Transitioning Households, Post-Transition Households, and Post-Transition Tenants will be required to qualify to purchase any Dwellings offered for sale during the Premarketing Window in the same manner as other members of the general public.

d. The Premarketing Window does not guarantee that a Transitioning Household, Post-Transition Household, or Post-Transition Tenant will qualify for the purchase or that its purchase offer will be accepted.

B. Moving Assistance

1. Covered Moving Expenses. All Transitioning Households that make Interim Moves and that select the Transition Unit Option for a Long-Term Move will receive either Actual Reasonable Moving Expenses or a Moving Expense Allowance. Actual Reasonable Moving Expenses will include:

a. transportation of persons and property upon NSTI;

b. packing, crating, unpacking, and uncrating Personal Property;

c. insurance covering Personal Property while in transit;

d. connection charges imposed by public utilities for starting utility service;

e. the reasonable replacement value of Personal Property lost, stolen, or damaged (unless caused by the Transitioning Household or its agent) in the process of moving, where insurance covering such loss, theft, or damage is not reasonably available; and

f. the removal of barriers to the disabled and installations in and modifications to a disabled Person's new Dwelling as needed to accommodate special needs.

2. Allowance Alternative. A Transitioning Household electing a self-move for an Interim Move or a Long-Term Move into a Transition Unit will be paid according to the Moving Allowance Schedule in **Appendix 3** promptly after filing a claim form provided by TIDA and vacating the Existing Unit, unless the Household seeks and is granted an advance payment to avoid hardship.

3. Advance Payment to Avoid Hardship. A Transitioning Household may be paid for anticipated moving expenses in advance of the actual move. TIDA will make an advance payment whenever the Household files a claim form provided by TIDA supported by documents and other evidence that later payment would result in financial hardship. Particular consideration will be given to the financial limitations and difficulties experienced by low and moderate income residents.

4. Moving Expense Claims. A claim for payment of Actual Reasonable Moving Expenses must be supported by a bill or other evidence of expenses incurred.

a. Each claim greater than $1,000 for the moving costs incurred by a Transitioning Household hiring a moving company must be supported by at least 2 competitive bids. If TIDA determines that compliance with the bid requirement is impractical, or if the claimant obtains estimates of less $1,000, a claim may be supported by estimates instead. TIDA may make payment directly to the moving company.

b. A Transitioning Household's Actual Reasonable Moving Expenses will be exempt from regulation by the State Public Utilities Commission. TIDA may effect the moves by directly soliciting competitive bids from qualified bidders for performance of the work. Bids submitted in response to such solicitations will be exempt from regulation by the State Public Utilities Commission.

IX. IMPLEMENTATION OF TRANSITION HOUSING RULES AND REGULATIONS

A. Administration

1. Information Program. TIDA will maintain an information program using meetings, newsletters, and other mechanisms, including local media, to keep Villages residents informed on a continuing basis about: (a) TIDA's transition housing program and other information about the redevelopment process; (b) the timing and scope of any anticipated Interim Moves; (c) the timing and scope of anticipated Long-Term Moves, (c) procedures for implementing and making claims under these Transition Rules and Regulations; and (d) other information relevant to these Transition Rules and Regulations.

2. Nondiscrimination. TIDA will administer these Transition Housing Rules and Regulations in a manner that will not result in different or separate treatment on account of race, color, religion, national origin, sex, sexual orientation, marital status, familial status, or any basis protected by local, state, or federal nondiscrimination laws.

3. Site Office. TIDA may establish a site office that is accessible to all Households to provide advisory assistance described in Section III.B (Interview Households and Offer Advisory Services). If TIDA establishes a site office, it will be staffed with trained and experienced personnel, who may be third-party housing specialists.

4. Amendments. These Transition Rules and Regulations may be amended by TIDA from time to time by a resolution of the TIDA Board adopting an amendment at a duly noticed public meeting.

B. Household Records

1. Contents. TIDA will maintain records for each Household containing information obtained during interviews, documents submitted by residents, and existing files of its property manager. The records will contain a description of the pertinent characteristics of the Persons in the Household, the assistance determined to be necessary, and the Household's decisions on Transition Benefits. Members of a Transitioning Household will have the right to inspect their own Transitioning Household records to the extent and in the manner provided by law.

2. Confidentiality. Household income information is confidential and will only be used for its intended purpose. Confidential information will not be disclosed to third parties outside of the Household unless all members of the Household provide their written consent to disclosure or a valid court order requires disclosure.

3. Publication of Aggregate Resident Data. TIDA will have the right to publish aggregate data about the resident population on NSTI, including information that is segmented according to aggregate Villages resident data and aggregate TIHDI resident data.

X. CLAIM AND PAYMENT PROCEDURES; TERMINATION OF TRANSITION HOUSING ASSISTANCE

A. Filing Claims; Tax Forms

1. Written Claims Required. TIDA will provide claim forms for payment under these Transition Rules and Regulations. All claims for In-Lieu Payments and Down Payment Assistance must be submitted to TIDA with the Household's notice of election of that specific Transition Benefit. All claims for moving expense payments must be submitted to TIDA within six months after the date on which the claimant makes an Interim Move or moves into a Transition Unit.

2. Tax Forms. TIDA: (a) makes no representations about the tax treatment of any payments or benefits of monetary value any Person receives under these Transition Housing Rules and Regulations; (b) will require all Persons who receive an In-Lieu Payment, Down Payment Assistance, moving assistance, or any other payment under these Transition Housing Rules and Regulations to provide TIDA with valid Social Security numbers for all recipients; and (c) will file W-9 forms for all payments and benefits of monetary value made or provided to any Person under these Transition Housing Rules and Regulations.

B. Treatment of Dependents

1. Allocation of Transition Benefits. The following will apply to any Person who derives 51% or more of his or her income from one or more Persons within the same Transitioning Household in an Existing Unit (the "**Supporting Household**") or otherwise meets his or her living expenses primarily through the monetary support of the Supporting Household (a "**Dependent**").

a. A Dependent who lives with the Transitioning Household will not be entitled to any Transition Benefit except as a part of the Household, and will be counted as a member of the Transitioning Household for determining Household size.

b. If the Dependent's primary Dwelling, as determined by voter registration, driver's license, or other forms of verification, is different from that of the Supporting Household when the Supporting Household selects and receives a Transition Benefit, the Dependent will not be counted as part of the Transitioning Household when determining: (i) the size of a Transition Unit; (ii) the amount of an In-Lieu Payment; or (iii) the amount of Down Payment Assistance.

2. Documentation of Dependent Status. Any Transitioning Household claiming a Dependent must provide third-party documentation that it is a Supporting Household. TIDA will have the right to require that the Supporting Household and Dependent, if applicable, provide copies of tax returns filed for tax years preceding the claim.

C. Adjustments for Multiple Claims; Nontransferability

1. Multiple Claimants. The amount of an In-Lieu Payment, Down Payment Assistance, or Moving Expense Allowance will be determined based on the total number of eligible members in the Transitioning Household. All adult members of a Household must sign the claim form and any other required documents as a condition to TIDA's obligation to pay Transition Benefits and moving assistance.

2. Multiple Claims. A single claim form for each payment claim by a Transitioning Household is preferred, but not required. Unless otherwise specified in a claim form, TIDA will issue separate checks to each adult in the Transitioning Household in equal shares, adjusted for Dependents and elderly or disabled members of the Household. If two or more eligible Persons in a single Transitioning Household submit more than one claim for any payment under these Transition Rules and Regulations, which in the aggregate exceed the payment limits to be made to the entire Transitioning Household, TIDA will pay each eligible claimant an equal share of the payment, up to the aggregate amount of the payment limits. As provided in Section VII.A (Down Payment Assistance), Transitioning Households that choose Down Payment Assistance will not receive direct payment; TIDA will deposit the entire amount of any Down Payment Assistance directly into escrow.

3. Nontransferability. The right to Transition Benefits and other assistance under these Transition Housing Rules and Regulations is personal to each member of a Transitioning Household and is not a property right. Therefore, a Transitioning Household's member's right to Transition Benefits and other assistance cannot be transferred by contract, inheritance, or any other means.

D. Termination of TIDA's Obligations

1. Termination of Right to Transition Benefits. TIDA's obligation to provide Transition Benefits to a Transitioning Household under these Transition Housing Rules and Regulations will terminate under the following circumstances:

a. The Transitioning Household moves off NSTI before receiving a Long-Term Notice to Move or a Notice of Early In-Lieu Payment Option.

b. The Transitioning Household moves to a Transition Unit and receives all moving assistance to which it is entitled.

c. The Transitioning Household moves off-NSTI after receiving a Notice to Move or a Notice of Early In-Lieu Payment Option and receives an In-Lieu Payment.

d. The Transitioning Household moves from an Existing Unit to a new for-sale Dwelling on NSTI and receives Down Payment Assistance.

e. The Transitioning Household refuses reasonable offers of assistance, payments, and a Transition Unit after receiving a Notice to Move.

f. TIDA determines a Household is not or has ceased to be a Transitioning Household or is otherwise not entitled to Transition Benefits.

2. Acknowledgement of Change in Status upon Receipt of Benefits. Each member of a Transitioning Household that receives Transition Benefits will be required to acknowledge in writing that he or she has received or is about to receive the Transition Benefits, and, upon receipt, the Household will cease to be a Transitioning Household entitled to any Transition Benefits, other assistance, and advisory services under these Transition Housing Rules and Regulations.

3. Records as Evidence. TIDA will be entitled to rely on and use its written offers of Transition Benefits to a Transitioning Household that refuses them, and all other information in the Transitioning Household's records, as evidence in any grievance proceeding or lawsuit.

4. Notice of Status. Except for a change in status after the Transitioning Household receives a Transition Benefit, TIDA will provide written notice of any determination that a Household is not or has ceased to be a Transitioning Household or is otherwise not entitled to Transition Benefits, delivered to the Transitioning Household's last known address.

5. Termination of Other Assistance. TIDA's obligations to provide moving assistance and to provide notices of Preminketing Windows will terminate as provided in Article VIII (Other Assistance).

XI. GRIEVANCE PROCEDURES

A. Administrative Remedies

1. Right to Appeal and Be Represented by Counsel. Any member of a Household, and any Household, that disagrees with a TIDA determination regarding eligibility for Transition Benefits, the proposed amount of payment, or the adequacy of the Transition Unit to which the Transitioning Household was referred may appeal the determination, but the Person or Household (individually, or as a Household, the "Grievant") must exhaust the prescribed administrative remedies before seeking judicial review. The Grievant will be entitled to be represented by an attorney at his or her, or the Household's, own expense at all stages of review under these Transition Housing Rules and Regulations.

2. Executive Director Review. The first step in administrative remedies available to a Grievant is the right to an appeal to the Executive Director of TIDA, as follows:

a. The Grievant must make a written request for review by the Executive Director no later than 12 months after the Grievant receives either a Long Term Notice to Move or an Interim Notice to Move. The Grievant's written request must state the basis for the claim and the relief sought.

b. The Grievant will be entitled to meet with the Executive Director and to present additional evidence and information that the Grievant has not presented previously through the interview process.

c. The Executive Director will make a determination based on the information the Grievant has provided to TIDA through the interview processes as well as any additional information presented by the Grievant.

d. The Executive Director must make a final determination in writing, stating the reasons for the determination within six weeks after conferring with the Grievant.

3. Hearing Before Relocation Appeals Board. If the Grievant is not satisfied with the Executive Director's determination, the second step in the administrative remedies available to a Grievant is an appeal to the Treasure Island Relocation Appeals Board (the "RAB"), which will be determined according the procedures below.

a. No later than 30 days after the TIDA Executive Director delivers his or her written determination under Section XI.A.2 (Executive Director Review) to the Grievant, the Grievant must submit a written appeal to the RAB, with a copy to TIDA, stating the basis for his or her claim and the relief sought by the Grievant. If the Grievant wishes to submit information in addition to that previously provided to TIDA, the additional information must be submitted with the written appeal, and TIDA will have 30 days to provide a response to any new material.

b. The RAB will review and reconsider the Grievant's claim in light of: (i) all material upon which the Executive Director based his or her original determination, including these Transition Housing Rules and Regulations; (ii) the Grievant's written request for an appeal; (iii) any additional written or relevant documentary material submitted by the Grievant; (iv) any material submitted by TIDA in response to new information submitted by the Grievant with the appeal; and (v) any further information that the RAB, in its discretion, obtains by request to ensure fair and full review of the claim.

c. The RAB may choose to hold a hearing, and must hold a hearing if requested by the Grievant. All RAB hearings will be public meetings subject to state and local public meeting laws. The RAB's review will be limited to whether the Grievant is entitled to the claimed relief under these Transition Housing Rules and Regulations. Its determination must be based on the information presented during the appeal and these Transition Rules and Regulations. All members of the RAB shall be required to disclose in a public meeting any communications and contacts such member has had with the Grievant outside of the hearing. The RAB will not be authorized to make any monetary award (including attorneys' fees and costs of appeal) other than a payment authorized under these Transition Rules and Regulations.

d. The RAB must issue a written determination to the Grievant and TIDA no later than six weeks from receipt of the last material submitted by any party or the date of the hearing, whichever is later, stating: (i) the RAB's decision; (ii) the basis upon which the decision rests, including any pertinent explanation or rationale; and (iii) a statement that the Grievant may appeal the decision in accordance with the procedure set forth below.

e. The RAB may reject an appeal for untimeliness by a written statement to the Grievant.

4. Administrative Law Judge Review. The final step in administrative remedies available to a Grievant is an appeal to an administrative law judge ("ALJ") on the Rent Board staff who is assigned to hear appeals under these Transition Rules and Regulations, as follows:

a. No later than 30 days after the RAB delivers its written determination under Section XI.A.3 (Hearing Before Relocation Appeals Board) to the Grievant, the Grievant must submit a written appeal to the ALJ, and deliver a copy of the appeal to TIDA at the same time, stating the basis for the claim and the relief sought.

b. TIDA will have 15 days after a signed appeal is filed with the ALJ to provide the ALJ with copies of information related to the Grievant's case, including all additional evidence or information submitted by the Grievant to the RAB and TIDA's records related to the Grievant.

c. The assigned ALJ may attempt to resolve the dispute without a hearing, but is not required to do so.

d. The ALJ will conduct a hearing unless the dispute has been resolved before the hearing date.

e. The ALJ must make a final determination in writing, stating the reasons for the determination, and deliver the determination to the Grievant, with a copy to TIDA at the same time. The ALJ determination must include a statement that the Grievant has exhausted administrative remedies under these Transition Rules and Regulations.

5. Right to Judicial Review. The Grievant may seek judicial review after the administrative remedies described above have been exhausted.

XII. PROPERTY MANAGEMENT PRACTICES

A. Eviction

1. Grounds for Eviction. In addition to all other grounds under the Residential Leases and California law, TIDA may initiate eviction proceedings to remove a Household from its Existing Unit:

a. after the date specified in a Notice to Move for an Interim Move or for a Long-Term Move has passed, and: (i) the Household is a Transitioning Household that has refused TIDA's offers of a Transition Benefit, including the right to relocate to a Transition Unit; or (ii) the Household is a Transitioning Household that has not vacated its Existing Unit after selecting and receiving a Transition Benefit; or (iii) the Household is a Post-DDA Household and has failed to vacate the Existing Unit after receipt of a Notice of Move.

b. after TIDA issues a notice to move due to: (i) a major disaster as defined in § 102(2) of the federal Disaster Relief Act of 1974; (ii) a state of emergency declared by the President of the United States or the Governor of the State of California; or (iii) any other emergency that requires the Household to move immediately from the Existing Unit because continued occupancy of the Existing Unit by the Household constitutes a substantial danger to the health or safety, or both, of the Household.

B. Post-DDA Tenants

1. Notice of Status. Before prospective Post-DDA Tenants move into any Existing Unit, TIDA will inform them:

a. that the Existing Unit will be available only for an interim period pending redevelopment of NSTI;

b. of the projected date that the Existing Unit is expected to be vacated and demolished for development, if known;

c. that, along with all other Villages residents, all Post-DDA Tenants will receive periodic notices from TIDA with updates about the progress of the project;

d. that TIDA will provide 90 days' notice of the date by which they must vacate their Existing Unit; and

e. that no Post-DDA Tenant is eligible for Transition Benefits under these Transition Rules and Regulations or relocation benefits under applicable relocation laws.

2. Advisory Services. Post-DDA Tenants are not eligible for Transition Benefits under these Transition Housing Rules and Regulations, unless an exception under **Section II.A.1** (Defined Terms for Determining Eligibility) applies, but are eligible for advisory services under **Section III.B** (Interview Households and Offer Advisory Services).

XIII. INTERPRETATION

A. Rules of Interpretation and Severability

1. The captions preceding the articles and sections of these Transition Housing Rules and Regulations and in the table of contents have been inserted for convenience of reference only and must be disregarded in interpreting these Transition Housing Rules and Regulations. Wherever reference is made to any provision, term, or matter in these Transition Housing Rules and Regulations, the term "in these Transition Housing Rules and Regulations" or "hereof" or words of similar import, the reference will be deemed to refer to any reasonably related provisions of these Transition Housing Rules and Regulations in the context of the reference, unless the reference refers solely to a specific numbered or lettered section, subdivision, or paragraph of these Transition Housing Rules and Regulations.

2. References to all laws, including specific statutes, relating to the rights and obligations of any person or entity mean the laws in effect on the effective date of these Transition Housing Rules and Regulations and as they are amended, replaced, supplemented, clarified, or superseded at any time while any obligations under these Transition Housing Rules and Regulations are outstanding, whether or not foreseen or contemplated.

3. The terms "include," "included," "including," and "such as" or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase "without limitation" or "but not limited to."

4. Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waiver" applies to "waiver," waived," waiving").

5. The provisions of these Transition Housing Rules and Regulations are severable, and if any provision or its application to any person or circumstances is held invalid by a final order or judgment of a court with valid jurisdiction over the matter, the invalid provision will not affect the other provisions or the application of those Transition Housing Rules and Regulations that can be given effect without the invalid provision or application.

APPENDIX 1

Sample of Tenant Income Certification Form
(as published by the California Tax Credit Allocation Committee)

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ 1st Recertification ☐ Other

Effective Date: _____
Move-in Date: _____
(YYYY-MM-DD)

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ BIN #: _____

Address: _____ Unit Number: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION

☐ Vacant

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (YYYY/MM/DD)	F/T Student (Y or N)	Last 4 digits of Social Security #
1				HEAD			
2							
3							
4							
5							
6							
7							

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	$	$	$	$

Add totals from (A) through (D), above — TOTAL INCOME (E): $

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
		TOTALS:	$	$

Enter Column (H) Total if over $5000 $_____ X Passbook Rate 2.00% = (J) Imputed Income $

Enter the greater of the total of column I, or J imputed income — TOTAL INCOME FROM ASSETS (K): $

(L) Total Annual Household Income from all Sources [Add (E) + (K)] $

Effective Date of Move-in Income Certification: _____

Household Size at Move-in Certification: _____

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided the social security(s) set forth in Part II as requisite verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ (Date) _____ (Date)
Signature Signature

_____ (Date) _____ (Date)
Signature Signature

PART V. DETERMINATION OF INCOME ELIGIBILITY

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 $

Unit Meets Income Restriction at:
☐ 60% ☐ 50%
☐ 40% ☐ 30%
☐ ___%

RECERTIFICATION ONLY:
Current Income Limit x 140%: $

Household Income exceeds 140% at recertification:
☐ Yes ☐ No

Current Income Limit per Family Size: $

Household Income at Move-in: $

Household Size at Move-in: ___

PART VI. RENT

Tenant Paid Rent $
Utility Allowance $

Rent Assistance: $
Other non-optional charges: $

GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges) $

Unit Meets Rent Restriction at:
☐ 60% ☐ 50% ☐ 40% ☐ 30% ☐ ___%

Maximum Rent Limit for this unit: $

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?
☐ yes ☐ no

If yes, Rider student explanation* (also attach documentation)
Enter 1-5

*Student Explanation:
1 AFDC / TANF Assistance
2 Job Training Program
3 Single Parent/Dependent Child
4 Married/Joint Return
5 Former Foster Care

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit ☐	b. HOME ☐	c. Trst Exempt ☐	d. AHDP ☐	e. _____ ☐ (Name of Program)
See Part V above.	*Income Status* ☐ ≤ 50% AMGI ☐ ≤ 60% AMGI ☐ ≤ 80% AMGI ☐ OI**	*Income Status* ☐ 50% AMGI ☐ 60% AMGI ☐ 80% AMGI ☐ OI**	*Income Status* ☐ 50% AMGI ☐ 80% AMGI ☐ OI**	*Income Status* ☐ _____ ☐ _____ ☐ OI**

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE _____ DATE _____

PART IX. SUPPLEMENTAL INFORMATION FORM FOR NEW MOVE-IN'S

(Part IX. Form to be completed only at Initial Move-in)

The California Tax Credit Allocation Committee (CTCAC) requests the following information in order to comply with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties. Although the CTCAC would appreciate receiving this information, you may choose not to furnish it. You will not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please check the box at the bottom of the page and initial.

Enter both Ethnicity and Race codes for each household member (see below for codes).

TENANT DEMOGRAPHIC PROFILE

HH Mbr #	Last Name	First Name	Middle Initial	Race	Ethnicity	Disabled (Y or N)
1						
2						
3						
4						
5						
6						
7						

The Following Race Codes should be used:

1 - White – A person having origins in any of the original peoples of Europe, the Middle East or North Africa.

2 - Black/African American – A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" apply to this category.

3 - American Indian/Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

4 – Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

5 – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Note: Multiple racial categories may be indicated as such: 31 – American Indian/Alaska Native & White, 41 – Asian & White, etc.

The Following Ethnicity Codes should be used:

1 - Hispanic – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as "Latino" or "Spanish Origin" apply to this category.

2 - Not Hispanic – A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

Disability Status:

Check "Y" if any member of the household is disabled according to Fair Housing Act definition for handicap (disability):

- A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. For a definition of "physical or mental impairment and other terms used, please see 24 CFR 100.201, available at http://www.fairhousing.com/index.cfm?method=page.display&pagename=regs_fhr_100=201.
- "Handicap" does not include current, illegal use of or addiction to a controlled substance.
- An individual shall not be considered to have a handicap solely because that individual is a transvestite.

☐ **Resident/Applicant:** I do not wish to furnish information regarding ethnicity, race and other household composition.

(Initials) _____ _____ _____ _____ _____ _____ _____ _____

(Hhlr#) 1. 2. 3. 4. 5. 6. 7.

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

*Move-in Date	Enter the date the tenant has or will take occupancy of the unit. (YYYY-MM-DD)
*Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification. (YYYY-MM-DD)
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
BIN #	Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
Address	Enter the address of the building.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
*Vacant Unit	Check if unit was vacant on December 31 of requesting year.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of Household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and last four digits of social security number or alien registration number for each occupant. If tenant does not have a Social Security Number (SSN) or alien registration number, please enter the numerical birth month and last two digits of birth year (e.g. birthday January 1, 1978, enter "0178"). If tenant has no SSN number or date of birth, please enter the last 4 digits of the HIN.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List each respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment, distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for Imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than $5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)
Row (L)	Total Annual Household Income From all Sources Add (H) and (K) and enter the total
*Effective Date of Income Certification	Enter the effective date of the income certification corresponding to the total annual household income entered in Row L. If annual income certification is not required, this may be different from the effective date listed in Part I
*Household Size at Certification	Enter the number of tenants corresponding to the total annual household income entered in Row L. If annual income certification is not required, this may be different from the number of tenants listed in Part II.

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in Household size at move-in	For recertifications only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Current Income Limit x 140%	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, and deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.
*Units Meets Income Restriction at	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).

Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Full time is determined by the school the student attends.

Part VIII – Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicting the household's designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household's designation.
AHDP	If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicting the household's designation.
Other	If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

PART IX. SUPPLEMENTAL INFORMATION

Tenant Demographic Profile	Complete for each member of the household, including minors, for move-in. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.
Resident/Applicant Initials	All tenants who wish not to furnish supplemental information should initial this section. Parent/guardian may complete and initial for minor child(ren).

****Please note areas with asterisks are new or have been modified. Please ensure to note the changes or formats now being requested.***

APPENDIX 2

2011 In-Lieu Payment Schedule
Based on the 2010 San Francisco Rent Board Relocation Payments for No Fault Evictions
(Adjusted for maximum of four adults)

Date of Second Notice to Move	In-Lieu Payment Amount Due Per Tenant	Maximum In-Lieu Payment Amount Due Per Unit *(Maximum of 4 Adults)*	PLUS Additional Amount Due for Each Elderly (60 years or older) or Disabled Tenant or Household with Minor Children
3/01/11 – 2/29/12	$5,101.00	$20,404.00	$3,401.00

APPENDIX 3

Sample Moving Expense Allowance Schedule
(as published by the California Department of Transportation)

Fixed Moving Schedule CALIFORNIA (Effective 2009)	
Occupant Owns Furniture:	
1 room	$625
2 rooms	$800
3 rooms	$1,000
4 rooms	$1,175
5 rooms	$1,425
6 rooms	$1,650
7 rooms	$1,900
8 rooms	$2,150
Each additional room	$225
Occupant does NOT Own Furniture:	
1 room	$400
Each additional room	$65

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APPENDIX 4

Definitions

The following terms used in these Transition Rules and Regulations are defined as follows:

"Actual Reasonable Moving Expenses" is defined in **Section VIII.E** (Moving Assistance).

"Adjusted for Changes in Bedroom Count" is defined in **Section V.E.1** (Adjustment for Changes in Bedroom Count).

"adult" means a Person 18 years old or older.

"Adult Student" means an adult who, during the previous 12 months, was enrolled in two or more courses concurrently at an accredited educational institution, unless the Person is: (1) receiving assistance under Title IV of the Social Security Act; (2) enrolled in a job-training program; or (3) in a Transitioning Household composed entirely of full-time Adult Students who are single parents and are not listed as Dependents on someone else's tax return or who are married and file a joint return.

"ALJ" is defined in **Section XI.A.4** (Administrative Law Judge Review).

"Average Monthly Income" when used in determining **Base Monthly Rental Cost**, means the Transitioning Household's Household Income divided by 12.

"Base Monthly Rental Cost" means the amount that a Transitioning Household will pay as its initial rent for a Transition Unit, calculated as explained in **Section V.E** (Calculation of Base Monthly Rental Cost).

"Base Redevelopment Act" is defined in **Section I.A** (Background).

"BRAC" is defined in **Section I.A** (Background).

"CEQA" is defined in **Section I.A** (Background).

"City" means the City and County of San Francisco, a municipal corporation organized and existing under the laws of the State of California, or, as the context requires, the area within the City's jurisdictional boundaries.

"DDA" is defined in **Section I.A** (Background).

"DDA Effective Date" is defined in **Section I.E** (Effective Date).

"Decent, Safe, and Sanitary Housing" means a Dwelling that meets the minimum requirements specified in **Section V.B** (Standards Applicable to Transition Units).

"Dependent" is defined in **Section X.H.1** (Treatment of Dependents).

"**Development Plan**" is defined in **Section I.A** (Background).

"**Down Payment Assistance**" means the Transition Benefit offered as part of the Unit Purchase Assistance Option, described in **Section VII.A** (Down Payment Assistance).

"**Dwelling**" means the primary Dwelling of a Household, including a single-family residence, a single-family residence in a two-family building, multi-family or multi-purpose building, or any other residence that either is considered to be real property under state law or cannot be moved without substantial damage or unreasonable cost.

"**elderly**" means a Person who is 60 years of age or older.

"**Existing Unit**" is defined in **Section II.A.1** (Defined Terms for Determining Eligibility).

"**First Notice to Move**" means a written notice to a Household, as described in **Section III.A** (First Notice to Move).

"**Good Standing**" is defined in **Section II.A.1** (Defined Terms for Determining Eligibility).

"**Grievant**" is defined in **Section XI.A** (Right to Appeal and Be Represented by Counsel).

"**Household**" is defined in **Section II.A.1** (Determination of Household Eligibility for Transition Benefits).

"**Household Income**" means the total annual income of a Household including the total annual income of all adults, determined according to the then-current Tenant Income Certification Form published by the Tax Credit Allocation Committee.

"**Households with Section 8 Vouchers**" means Transitioning Households that meet all of the criteria for occupying a Dwelling under Section 8 regulations and has been allocated a Section 8 Voucher..

"**HUD**" means the United States Department of Housing and Urban Development or any successor federal agency.

"**In-Lieu Payment**" means the Transition Benefit offered to Transitioning Households in the In-Lieu Payment Option, described in **Section VI.A** (In-Lieu Payment Option).

"**In-Lieu Payment Option**" means the Transition Benefit offered to Transitioning Households described in **Article VI** (Description of In-Lieu Payment Option).

"**Interim Move**" is defined in **Section I.D** (Overview and Program Framework).

"**Long-Term Move**" is defined in **Section I.D** (Overview and Program Framework).

"**Low Income Household**" means a Transitioning Household: (1) whose income does not exceed the qualifying limits for lower income Households as determined in accordance with Health and Safety Code Section 50079.5; and (2) that does not contain any Adult Students.

"**minor**" means a member of a Household who is under 18 years of age, excluding foster children, the head of Household, and a spouse of a member of the Household.

"**Moderate Income Household**" means a Household: (1) whose income exceeds the maximum income limitations for a Low Income Household, but does not exceed 120% of area median income as determined in accordance with Health and Safety Code Section 50093; and (2) that does not contain any Adult Students.

"**Move Date**" is defined in **Section III.C.1** (Second Notice to Move).

"**Moving Expense Allowance**" is defined in **Section III.E** (Complete the Move).

"**Notice of Early In-Lieu Payment Option**" is defined in **Section III.F** (Early Transition Benefits).

"**Notice to Move**" means a First Notice to Move or a Second Notice to Move, as appropriate in the context.

"**NSTI**" is defined in **Section I.A** (Background).

"**Person**" means an individual.

"**Personal Property**" means tangible property that is situated on real property vacated or to be vacated by a Transitioning Household and that is considered personal property under the state law, including fixtures, equipment, and other property that may be characterized as real property under state or local law, but that the tenant may lawfully and at his or her election may move.

"**Post-DDA Tenant**" is defined in **Section II.A1** (Determination of Household Eligibility for Transition Benefits).

"**Post-Transition Household**" is defined in **Section VIII.A** (Premarketing Assistance).

"**Post-Transition Tenant**" is defined in **Section VIII.A** (Premarketing Assistance).

"**Premarketing Notice List**" is defined in **Section VIII.A** (Premarketing Assistance).

"**Premarketing Window**" is defined in **Section VIII.A** (Premarketing Assistance).

"**RAB**" is defined in **Section XI.A.3** (Hearing before Relocation Appeals Board).

"**Rent Board Adjustment**" means the annual rent increases allowed by the San Francisco Residential Rent Stabilization and Arbitration Board under Chapter 37 of the Administrative Code.

"**Rent Board Schedule**" is defined in **Section VI.A.2** (Calculation of Payment).

"**Residential Lease**" is defined in **Section II.A.1** (Defined Terms for Determining Eligibility.

"**Second Notice to Move**" means a written notice to a Household, as described in **Section III.C** (Second Notice to Move).

"**Section 8**" means Section 8 of the United States Housing Act of 1937.

"**Sunset Date**" is defined in **Section VIII.A** (Premarketing Assistance).

"**Supporting Household**" is defined in **Section X.B.1** (Treatment of Dependents).

"**Tax Credit Eligible Household**" means a Transitioning Household that meets all of the criteria for occupying a Dwelling subject to a low income housing tax credit regulatory agreement, including maximum income limitations (generally not exceeding 60% of area median income).

"**Tenant**" means a Person who rents or is otherwise in lawful possession of a Dwelling, including a sleeping room, that is owned by another Person.

"**Term Sheet Resolution**" is defined in **Section I.A** (Background).

"**The Villages**" is defined in **Section I.A** (Background).

"**TICD**" is defined in **Section I.A** (Background).

"**TIDA**" is defined in **Section I.A** (Background).

"**TIDA Board**" is defined in **Section I.A** (Background).

"**TIHDI**" is defined in **Section I.A** (Background).

"**Transition Benefits**" is defined in **Section I.B** (Purpose).

"**Transition Housing Rules and Regulations**" is defined in **Section I.A** (Background).

"**Transition Unit**" is a newly-constructed Dwelling on Treasure Island that meets the standards of **Section V.B** (Standards Applicable to Transition Units).

"**Transition Unit Option**" means the benefit offered to Transitioning Households described in **Article V** (Description of Transition Unit Option).

"Transitioning Household" is defined in **Section II.A.** (Determination of Household Eligibility for Transition Benefits).

"Unit Purchase Assistance Option" means the Transition Benefit offered to Transitioning Households, described in **Article VII** (Description of Unit Purchase Assistance Option).

"Unlawful Occupancy" is defined in **Section II.A.1** (Determination of Household Eligibility for Transition Benefits).

"Utility Adjustment" means the amount by which rent for a Transition Unit will be adjusted downward to reflect any utilities that are not included in the rent of the Transition Unit, if the same utilities were included in the rent of the Existing Unit. The downward rent adjustment will be calculated according to the Utility Allowance Schedule.

"Utility Allowance Schedule" means the schedule published by the San Francisco Housing Authority to determine allowances for tenant-furnished utilities for Dwelling Units in the City. If the San Francisco Housing Authority publishes a Utility Allowance Schedule that includes allowances for energy efficient appliances or Dwelling Units, the energy efficient schedule will be used for the Utility Adjustment. For these Transition Housing Rules and Regulations, only allowances specifically allocated to electricity, natural gas, trash, water, and sewer, if applicable, will be considered.

CITY AND COUNTY OF SAN FRANCISCO

RESIDENTIAL INCLUSIONARY AFFORDABLE HOUSING PROGRAM MONITORING AND PROCEDURES MANUAL

Adopted 8/28/2007

PREFACE

The Residential Inclusionary Affordable Housing Program ("Program") requires developers to sell or rent a certain percentage of units in new developments at a "below market rate" price that is affordable to low-income, median-income and moderate-income households. The Program is governed by San Francisco Planning Code Section 315 *et seq.*, and is administered by the San Francisco Mayor's Office of Housing ("MOH"). Planning Code Section 315 requires that MOH and the San Francisco Planning Department publish a Procedures Manual containing procedures for monitoring and enforcement of the policies and procedures for implementation of the Program. This Monitoring and Procedures Manual ("Manual") contains information regarding the Program for potential buyers and renters of below market rate units, as well as for information for projects sponsors, owners and property managers of units developed under the Program. Updates to the Manual occur as needed.

This Manual should be read in conjunction with the applicable requirements of the Program, found in San Francisco Planning Code Section 315 *et seq.*, including prior versions of that section. Previous versions of Planning Code section 315 et seq. can be found on the MOH website at www.sfgov.org/moh. While every effort has been made to harmonize the information in this Manual with the requirements of the Planning Code and previous versions of the Code, should there be any conflict with the Manual and the Planning Code or previous versions of Section 315 *et seq* (whichever is applicable to a particular development), the terms of the Planning Code or those previous versions shall prevail over this Manual. The provisions of a Notice of Special Restrictions recorded on a property or unit developed under the Program shall prevail over any general requirements in the Manual or the Planning Code.

Users of this Manual are encouraged to seek their own legal counsel to aid in understanding of the requirements of the Program. If there are general questions regarding the Manual, users may call the Mayor's Office of Housing at (415) 701-5500, or visit their website at www.sfgov.org/moh.

Any request for the interpretation and applicability of the provisions of the Planning Code may be sought by contacting the Zoning Administrator, pursuant to Planning Code Section 307(a).

Any BMR unit entering the marketing stage on or after the effective date of this Manual is subject to the Manual in its entirety.

The effective date of this Manual is June 28, 2007.

TABLE OF CONTENTS

i. **DEFINITIONS OF TERMS (Bold Face words are further defined in this subsection).**

AFFORDABLE HOUSING PROJECT	A housing project or mixed use project, whether new construction or conversion of use, which contains units satisfying affordable housing requirements imposed by the Inclusionary Housing Ordinance, planning approvals or other use restrictions.
APPRAISED FAIR MARKET VALUE	The value of a BMR unit determined without regard to sales or rental restrictions on that unit pursuant to (1) an independent appraisal conducted by an appraiser acceptable to MOH and paid for by the prospective purchaser of such unit, or (2) mutual agreement as to value between MOH and the prospective purchaser. This appraisal may be required by MOH prior to any sale of a BMR unit.
BMR OWNERSHIP UNIT	Below Market Rate ("BMR") Ownership Unit. A BMR unit owned and occupied by a qualifying household.
BMR RENTAL UNIT	Below Market Rate ("BMR") Rental Unit. A BMR unit rented and occupied by a qualifying household.
BMR UNIT	Below Market Rate ("BMR") Unit. An affordable dwelling unit or other approved residential unit which is sold or rented at a price specified in the planning approvals or other use restrictions which may be lower than the appraised fair market value of comparable units. BMR units may be either ownership for first time homebuyer households or rental. The sales or rental price limits on the BMR unit are as described in the planning approvals or other use restrictions as required by the City and County of San Francisco.
CAPITAL IMPROVEMENTS CAP	As referenced in section II (E) (5), the difference between the resale price and the final resale price of a BMR unit after the addition of approved eligible capital improvements and eligible replacement and repair. In order to maintain the affordability of the BMR unit for subsequent buyers, MOH will review and approve eligible capital improvements and eligible replacement and repair when submitted. However, at the time of sale, MOH will cap these improvements at 7% of the resale price. For example: Formula Calculated Resale Price

	+ Eligible Capital Improvements and/or Eligible Replacement and Repair (Cost of Approved CI's or 7% of Sale Price, whichever is less) + Special assessments (dollar-for-dollar) + 5% of Original resale price if using MLS = Final resale price
CERTIFICATE OF FINAL COMPLETION AND OCCUPANCY	A certificate issued to a Project Sponsor by the Bureau of Building Inspection (DBI) that certifies that all Building Code provisions and building specifications for the development project have been satisfied.
CITY	The City and County of San Francisco
CLOSE OF ESCROW	The closing of the sale of a BMR Ownership Unit to a qualifying household.
COMPARABLE UNIT	A unit that is of good quality and that is consistent with the current standards for new housing.
CONDITIONS OF APPROVAL	A set of written conditions imposed by the City Planning Commission or another permit-issuing City agency or appellate body when it receives a Conditional Use Permit for the construction of a principal project or other housing project subject to this program.
CONVERSION	Change in use of a property.
DEPARTMENT OF BUILDING INSPECTIONS, or "DBI"	San Francisco Department of Building Inspections
DOMESTIC PARTNER	A legal or personal relationship between individuals who live together and share a common domestic life but are not joined in a traditional marriage or a civil union as formalized through a local or state registry.
DWELLING UNIT	A room or suite of two or more rooms that is designed for, or

	is occupied by, one family doing its own cooking therein and having only one kitchen.
EQUAL OPPORTUNITY HOUSING SYMBOL	The federal fair housing symbol used to identify the adherence to fair housing rules.
ESCROW CLOSING DOCUMENTS	Documents signed by a buyer to complete the sale of a BMR unit.
FAIR HOUSING	State or federal laws that govern the fair and unbiased treatment of buyers and renters when selling or renting a housing unit.
FIRST CERTIFICATE OF OCCUPANCY	Either a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 109, whichever is issued first
FIRST SITE OR BUILDING PERMIT	The first Department of Building Inspection (DBI) issued permit for the construction of land.
FIRST-TIME HOMEBUYER EDUCATION WORKSHOP	A course designed to provide basic education to first time homebuyers offered by a counseling agency certified by MOH.
GROSS INCOME	All income from whatever source derived as provided in the Internal Revenue Code (26 USC Section 61), whether or not exempt from federal income tax. Such income includes, but is not limited to, the following: Compensation for services, including fees, commissions, and similar items; Income from assets; Gross income derived from business; Gains derived from dealings in property; Interest; Rents; Royalties;

	Dividends; Alimony and separate maintenance payments; Annuities; Income from life insurance and endowment contracts; Pensions; Income from discharge of indebtedness; Distribution share of partnership gross income; Income in respect of a decedent; Income from an interest in an estate or trust; and Public benefits including but not limited to CalWorks, SSI, Disability income.
HUD AREA MEDIAN INCOME	Unadjusted income levels derived from the Department of Housing and Urban Development ("HUD") on an annual basis and used to calculate the income levels of qualifying BMR households and to price BMR units.
HOME OWNERS ASSOCIATION, or "HOA"	A nonprofit association that manages the common areas of a condominium or planned unit development (PUD). Unit owners pay to the association a fee to maintain areas owned jointly.
HOME OWNERS ASSOCIATION DUES or "HOA" DUES	Monthly payments due to a homeowners association for the upkeep, maintenance and improvement of common areas in a residential building.
HOUSING PROJECT	A development that has residential units as defined in the Planning Code, including but not limited to dwellings, group housing, independent living units, and other forms of development which are intended to provide long-term housing to individuals and households. Housing project shall not include that portion of a development that qualifies as an Institutional Use under the planning code. Housing project for the purpose of the program shall also include the development of live/work units as defined by Planning Code Section 102.13. Housing project for the purpose of this Program shall mean all phases or elements of a multi-phase or multiple lot development.
HOUSING UNIT	"Housing Unit" or "unit" shall mean a dwelling unit as defined

	in San Francisco Housing Code Section 401.
IMPUTED INCOME	Gross income plus a percentage of the value of allowable assets. Ten percent (10%) of allowable assets between thirty thousand ($30,000) and one hundred thirty thousand ($130,000) dollars will be added to a household's gross income. Allowable assets over one hundred and thirty thousand ($130,000) dollars will be added to a household's gross income at a rate of thirty-five percent (35%).
INCLUSIONARY GUIDELINES	The Guidelines adopted by the Planning Commission on September 10, 1992, by Resolution 13405, setting forth inclusionary policies in effect as of that date.
INCLUSIONARY ORDINANCE	Sections 315-315.9 inclusive of the San Francisco Planning Code, as amended from time to time.
INCLUSIONARY PROGRAM	The Residential Inclusionary Affordable Housing Program.
INCOME TABLE	Income information that is based on a specific federal source and geographic area. Income tables in this Manual include the HUD Area Median Income table and the San Francisco Median Income table. The income table used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its first site or building permit. Income levels for buyers in principal projects that received their first site or site or building permit before September 9, 2006 will be reviewed using the HUD Area Median Income as adjusted for household size. Income levels for buyers in principal projects that received their first site or site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size.
LIFE OF THE PROJECT	The time period during which a principal project or off-site project exists as a residential development regardless of change in principal project or off-site project ownership. The affordable housing requirement of a principal project or off-site project shall be in effect shall be for the life of the project for units marketed after the formal adoption of this Procedures Manual.

LOW-INCOME HOUSEHOLD	A household whose combined annual gross income for all members does not exceed sixty (60) percent of median income.
MANUAL	The City and County of San Francisco Residential Affordable Housing Program Procedures and Monitoring Manual.
MARKETING CONSULTANT	A person representing a development of BMR units who markets and sells the BMR units in accordance with the procedures set forth in this Manual and by MOH.
MARKETING PLAN	A compliance procedure, described in Section IV (C), (D) and (E) of this manual, which requires the Project Sponsor of a principal project that has an affordable housing requirements to undertake certain measures that are directed to advertise and sell available affordable housing units to qualifying households.
MAYOR'S OFFICE OF HOUSING, or "MOH"	Mayor's Office of Housing ("MOH") or its successor.
MAXIMUM MONTHLY RENT	The monthly monetary consideration paid by a qualifying household for use of the designated BMR rental unit as the household's principal residence; it shall be determined at the time of first occupancy by a qualifying household based on either the income limit established for the percentage of median income specified in the planning approvals or other use restrictions for the BMR unit. Maximum monthly rent, together with a utility allowance in an amount determined by the San Francisco Housing Authority, shall not exceed thirty (30) percent of the percentage of the income limit required by the planning approvals or other use restrictions. The rent at first occupancy of a BMR unit shall not exceed the maximum monthly rent. Subsequent rents may be increased on each anniversary of a tenant's occupancy of a BMR Rental Unit according to the formula set forth in Section IV (D) (7) of this manual.
MAXIMUM SALES PRICE	The maximum initial or resale price of a Below Market Rate ownership unit as established by the Mayor's Office of Housing.

MEDIAN INCOME	The income that reflects the halfway point between all incomes for a certain-sized household based on a sample representation of the population. The income table used to determine the median income is determined by the date on which a housing development received its first site or building permit.
MEDIAN-INCOME HOUSEHOLD	A household whose combined annual gross income for all members does not exceed one hundred (100) percent of median income.
MODERATE-INCOME HOUSEHOLD	A household whose combined annual gross income for all members does not exceed one hundred twenty (120) percent of median income.
MINORITY COMMUNITIES	Minority communities or minority households shall include, as a guideline, members of the following racial, ethnic, gender or otherwise specially disadvantaged groups: African-American - defined as persons of African origin. Latino - defined as persons of Mexican, Caribbean, Central American or South American origin. Asian - defined as persons of Chinese, Japanese, Korean, Pacific Islander, Samoan, Filipino, Southeast Asian or Asian Indian origin. Native American - defined as persons whose origins are of indigenous peoples of North America. Women - defined as persons of female gender. Gay and Lesbian - defined as a male and female homosexual. Families with dependents - defined as a household with two or more persons in which the head of household is an adult and at least one other household member is an elderly or handicapped person who is financially dependent on the head of household or a person under the age of 18 years who is related to the head of the household by blood, marriage or adoption or related to the domestic partner by blood or adoption. Person with a disability - defined as a person who satisfied the definition of "handicapped" under Federal Fair Housing Law on the basis of presence of a long-term physical or mental impairment which substantially limits one or more of such person's major life activities including mobility, visual or

	hearing impairment, terminal illness or AIDS diagnosis. Elderly - defined as persons over the age of 65 years.
NEW CONSTRUCTION	The construction of new habitable living and accessory space, including additions to existing structures. It does not include conversion of use of existing building space or rehabilitation of existing building space.
NOTICE OF SPECIAL RESTICTIONS (NSR)	A document recorded with the City and County of San Francisco Recorder's Office for any unit subject to this Program detailing the sales and resale or rental restrictions and any restrictions on purchaser or tenant income levels included as a Conditional of Approval of the principal project relating to the unit.
OFF-SITE BMR UNIT	Shall mean unit affordable to a qualifying household constructed pursuant to the Inclusionary Ordinance, Section 315.4, on a site other than the principal project.
OFF-SITE PROJECT	A development constructed pursuant to the Inclusionary Ordinance, Section 315.4, on a site other than the principal project.
ON-SITE BMR UNIT	Shall mean a unit affordable to a qualifying household constructed pursuant to the Inclusionary Ordinance, Section 315.4, on the site of the Principal project.
ON-SITE PROJECT	Shall mean project constructed pursuant to the Inclusionary Ordinance, Section 315.4, with on-site BMR units.
PLANNING APPROVAL	A general term for the Planning Motion, Conditions of Approval, Planning Permits, Zoning Administrator determinations or other planning approvals issued for a specific housing development.
PLANNING CODE	The City and County of San Francisco Planning Code.
PLANNING MOTION	A planning approval issued by the San Francisco Planning Commission.
PLANNING PERMIT	A planning approval issued by the San Francisco Planning Departments.

PRINCIPAL PROJECT	A development on which a requirement to provide affordable housing units is imposed as a condition of planning approval, pursuant to other applicable use restrictions or any project that includes a certain number of residential units.
PROCEDURES MANUAL	The City and County of San Francisco Affordable Housing Monitoring Procedures Manual.
PROJECT SPONSOR	The applicant for a site or building permit and any other permit to allow construction of a principal project which, as a condition of approval or as a matter of the project being a certain number of units or greater, must provide affordable BMR unit(s). "Project Sponsor" includes any successors in interest to ownership of all or part of the principal project or any BMR unit. The term "Project Sponsor" shall be the developer or owner for the purposes of this Procedures Manual.
QUALIFYING HOUSEHOLD	A household that satisfies the following criteria: Annual income at the time of initial occupancy of a BMR unit, adjusted for household size, does not exceed the percentage of median income limits specified in the planning approvals or other applicable use restrictions of the project; The household must occupy the unit as a principal residence; The size of the unit must be compatible with the household size, at a minimum of one person per bedroom; In the case of a BMR Ownership Unit, a qualifying household must be a first-time homebuyer household; In the case of ownership BMR units, a percentage of the value of allowable assets will be added to a household's gross income. This new income shall be referred to as a household's imputed income; One titleholder lives or works in the City and County of San Francisco. In the case of ownership BMR units, all titleholders must be the holder of a standard mortgage from a primary lending institution. In the case of ownership BMR units, all titleholders must have attended an approved first-time homebuyer education workshop before applying for the unit.

	Each household member must either be on the loan and title for the BMR unit or be claimed as a dependent as reflected in the most recent tax years.
RESALE PRICE	The purchase price to be paid by a buyer of a BMR unit previously purchased by a qualified first-time homebuyer household, as calculated according to Section II (D) (5) of this Manual.
SAN FRANCISCO MEDIAN INCOME	Median income adjusted for household size derived from the statistical relationship between the American Community Survey (ACS) income profile and the regional U.S. Department of Housing and Urban Development (HUD) AMI calculation used to calculate the income levels of qualifying BMR households and to price BMR units. The index shall be updated every year or upon availability of an updated ACS.
SPECIAL ASSESSMENT	A proportional fee charged to the owner by the Homeowner's Association (HOA) to cover the cost of physical improvement to the entire building.
UNBUNDLED PARKING	A parking space that is not an amenity included in the price of a residential unit.
USE RESTRICTION	A restriction which is recorded in the official records of San Francisco County on the principal project and any linked off-site affordable housing project; (ii) restrictions contained in applicable provisions of San Francisco Codes, or (iii) restrictions contained in the Ordinance, any of which restricts the use of real property, either totally or partially as affordable housing.
UTILITY ALLOWANCE	A dollar amount established periodically by the San Francisco Housing Authority based on U.S. Department of Housing and Urban Development (HUD) standards for cost of basic utilities for households.
ZONING ADMINISTRATOR	The Zoning Administrator for the City and County of San Francisco

II. BUYER QUALIFICATIONS AND RESTRICTIONS ON BMR OWNERSHIP UNITS (Boldface words are defined in Section I)

A. Buyer Qualifications

1. Qualifying Household for BMR Ownership Units

A qualifying household meets the following standards:

a. The household is income qualified;

b. The household is a first-time homebuyer household;

c. The household must live in the unit as their primary residence within 60 days of the close of escrow on the unit;

d. The household includes one member who has lived or worked in San Francisco by the application deadline for the BMR unit;

e. The household includes all spouses or domestic partners of titleholders as joint titleholders;

f. The household must be of a size that is equal to or greater than the number of bedrooms in the BMR unit;

g. The household includes titleholders who have taken an approved first-time homebuyer education workshop;

h. The household is defined in terms of financial relationships and can include any owner partnerships as long as the combined household meets the eligibility requirements;

i. All titleholding household members must appear on the loan for the BMR unit.

2. Preferences for BMR Ownership Units

a. At least one applicant in each BMR household must live or work in San Francisco in order to apply for a BMR unit per Section 315.4 of the Planning Code. This household member must have lived or worked in San Francisco by the application deadline for a BMR unit.

b. Verification of Preference Qualification

i. MOH shall verify a person's residency by examining one document from the list below:

(a) One utility bill with a San Francisco address dated within the 45 days preceding the application deadline for the BMR unit. Utility bills can include gas, electric, garbage or water;
(b) Current paystubs with a San Francisco address; or
(c) A current, formal lease with a San Francisco address.

ii. MOH shall verify that a person works in San Francisco by reviewing an applicant's paystubs. If an applicant's employer is not based in San Francisco, or if a person's paystubs do not reflect a San Francisco work address, the applicant must supply a notarized letter from the employer stating that the person works primarily in San Francisco and demonstrate that at least 75% of their working hours are in San Francisco.

3. First-time Homebuyer Requirement for BMR Ownership Units

a. No member of the qualifying household must have *owned any interest in a dwelling unit, any commercial real* estate, or any land for a three-year period prior to applying to qualify for purchase of a BMR unit. The period shall be counted backwards from the application deadline for the BMR unit.

b. This definition is a legal requirement and includes, among other properties, those in which an applicant's name appears on title regardless of whether or not that interest results in a financial gain, is in another state or country, or if they have ever used the property as a primary residence. If any purchaser has had their name on title of a property but it was sold more than three years ago, the program considers them a first-time buyer.

c. MOH may verify first-time homebuyer status by (1) reviewing mortgage deductions on the three most recent years of federal tax returns for each person on title; (2) a signed statement on the application stating homeownership status; and (3) a title search.

4. First-time Homebuyer Education Workshop Requirement for BMR Ownership Units

Each BMR applicant who will hold title in a BMR unit must attend a qualified first-time homebuyer education workshop before applying for a BMR Ownership Unit. The workshop provider must

be approved by MOH. Applicants must provide a certificate of completion from the workshop with the BMR application package. For one year following the effective date of this Manual, MOH may allow applicants to provide certification of completion of a qualified workshop after the applicant's name is selected through a lottery.

5. Household Size Requirement for BMR Ownership Units

   The size of a household must be compatible with the size of the unit being purchased. A minimum of one person per bedroom is required. There is no restriction on purchasing a unit that has fewer bedrooms than the household size.

6. Income Requirement for BMR Ownership Units

   a. Unless stated otherwise in planning approvals or other use restrictions, BMR Ownership Units in one development will, on average, be available to households with a combined income of no more than 100% of median income. Income maximums are based on "gross" income derived from all sources as detailed in Internal Revenue Code (26 USC Section 61). The amounts are adjusted on an annual basis and are posted on the MOH website.

   b. The income table used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its first site or building permit. Income levels for buyers in principal projects that received their first site or site or building permit before September 9, 2006 will be reviewed using the HUD Area Median Income as adjusted for household size. Income levels for buyers in principal projects that received their first site or site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size. All off-site projects will be held to the date on which the principal project received its first site or building permit.

   c. MOH calculates income based on the gross income on each applicant's past three pay stubs. The income is derived by dividing the year-to-date gross income by the current pay period count and then by annualizing an estimated pay period amount by the total pay period count over one year.

   d. In the case of a self-employed person, MOH reviews the person's last 2 years of tax returns; past, present and projected Profit and Loss Statements; and other relevant documents on a case-by-case basis.

e. MOH must review qualifying requirements for all household members 18 years and older, regardless of dependency status.

7. Asset Test for BMR Ownership Units

MOH will apply an asset test to all applicants 18 years or older, including all custodial accounts held for minors. Assets include all liquid asset accounts, including but not limited to savings accounts, checking accounts, Certificates of Deposit, stocks, and gifts. Assets also include any money that will be used toward a down payment on a BMR unit. MOH will not count qualified retirement income toward an applicant's asset. 10% of all assets between $30,001 and 130,000 will be added to the total household income; and 35% of assets above $130,000 will be added to the total household income.

B. Buyer Application Requirements for BMR Ownership Units

1. Households applying for BMR ownership units must supply the following documentation in order to apply for a BMR unit:

a. An application from the proposed purchaser on a form specified by MOH;

b. Supporting documentation from all members 18 years or older of the purchaser household, including:
i. Past three (3) years IRS returns;
ii. Past three (3) years W-2 forms;
iii. Three (3) current and consecutive pay stubs or equivalent;
iv. Three (3) current and consecutive statements from every liquid asset account or personal cash holdings, including all custodial accounts held for minors;
v. Verification of San Francisco residency or employment;
vi. Verification of completion of an approved First-time Home Buyer Education workshop.

2. To proceed with a BMR unit purchase post-lottery, the BMR buyer's lender or sales agent must supply the following documentation:

a. A completed sales agreement;
b. An appraisal showing the Appraised Fair Market Value of the BMR unit;
c. A mortgage loan application to an institutional lender;
d. A Preliminary Title Report for the BMR unit.

C. Financing Requirements

1. Loan Review for BMR Ownership Units

   MOH will review loans for reasonable interest rates and other factors important to sound lending.

2. Allowable Loan Types for BMR Ownership Units

   All BMR buyers must be able to secure a loan through a lending institution for a BMR unit. BMR buyers must use fully amortizing 30- or 40-year fixed-rate loans.

3. Loan Types Not Allowed for BMR Ownership Units

   Except for specifically approved loans programs, BMR buyers cannot use stated-income loans, negative amortizing loans, adjustable rate mortgages, "balloon payment" loans, or interest-only loans. MOH reserves the right to identify additionally prohibited loan characteristics.

4. Documentation Requirements for BMR Ownership Units

   Loan agreement documents must name all BMR titleholders and no other persons.

D. Restrictions on BMR Ownership Units

1. Term of Restriction on BMR Ownership Units

   Per Section 316.7 of the Planning Code, all BMR ownership units that entered the marketing process on or after the effective date of this Manual are restricted in their resale price and other applicable restrictions for the life of the project unless otherwise noted in the planning approvals or other use restrictions for the project. All BMR ownership units that entered the marketing process before the effective date of this Manual are restricted in their resale price and other applicable restrictions for 50 years unless otherwise stated in the planning approvals or other use restrictions for the project. The 50-year restriction period shall restart with each resale of a BMR unit.

2. Documents that Govern the BMR Ownership Unit and Owner

   All titleholders to BMR Ownership Units will sign documents provided by MOH that maintain restrictions on a BMR unit. These documents include but are not limited to the following:

a. Deed of Trust – A deed that is subordinate only to the primary deed, executed by the buyer as trustor, for the benefit of the City to secure the Promissory Note described as follows:

b. Promissory Note – A lien that is based upon the difference between Appraised Fair Market Value and the BMR maximum sales price, insuring compliance with the resale restrictions outlined in the planning approvals or other use restrictions. The lien will be reconveyed to the new BMR unit owner upon resale. BMR owners in units marketed before the effective date of this Manual may only repay the lien when the unit leaves its restricted period, generally no sooner than 50 years from date of purchase for one BMR owner household. BMR owners living in units that entered the marketing period on or after the effective date of this Manual may not repay the lien at any time.

c. Grant of Right of First Refusal – A document that requires the seller to notify MOH upon resale, giving the City the option to exercise their right to substitute a qualified buyer.

d. Acknowledgement of Special Restrictions – Verification that the buyer has been advised of the terms of the affordability restrictions contained in the planning approvals and other use restrictions for the BMR unit.

3. Occupancy Requirement for BMR Ownership Units

BMR units are to be owner-occupied and never used as investment or rental property.

4. Restrictions on Renting BMR Ownership Units

a. An owner of a BMR unit may not rent or sublease any part or the entire unit without prior written consent of MOH.

b. BMR Ownership Units are to be owner-occupied and not used as rental property. However, MOH may grant consent to a BMR owner to rent in circumstances where the household is temporarily forced to temporarily relocate due to employment requirements, or for other reason deemed acceptable by MOH in its sole discretion, provided that:

I. The total period for which the unit may be leased does not exceed six (6) months;

II. The tenant satisfies the income, household size and other qualifying household requirements placed

on the BMR unit by planning approvals or other use restrictions; and

iii. Initial rent does not exceed the maximum monthly rent, calculated according to the income percentages under subsection IV (D) (2) above.

5. Resale Restrictions and Procedures for BMR Ownership Units

A BMR Ownership Unit owner shall follow the ensuing policies and guidelines of MOH when reselling a BMR ownership unit.

a. The owner of a BMR Ownership Unit shall, at least thirty (30) days prior to marketing the BMR unit, advise MOH of his/her intent to sell the unit and shall request a determination of resale price from MOH. MOH shall price the unit only upon receipt of a signed intent to resell the unit and request for pricing; a statement of all approved capital improvements made to the unit; and a signed listing agreement with a certified realtor.

b. Within the 30-day period, MOH shall inform the owner of the permissible sales price of that unit and any other conditions of sale.

c. Pricing Methodology for BMR Units Upon Resale

i. A BMR unit will be repriced so that it remains affordable to a household sized one person larger than the bedroom count of the unit at a designated percentage of median income.

ii. Units in developments that were not sold under this Manual will be re-priced using the methodology dictated by planning approval for the specific development.

iii. Units in developments that are initially sold under this Manual will be re-priced using the percentage change in the designated percentage of median income from the date of the current owner's purchase to the date of the resale pricing.

iv. Owners of BMR units purchased before the effective date of this Manual may opt to have their units repriced according to the change in median income by signing a contract agreeing to abide by the current the current Manual in all aspects except for the income table requirements set forth for projects

receiving their first site or building permit on or after September 9, 2006.

v. The income table used to calculate the resale price of a BMR unit shall be determined by the date on which the principal project received its first site or building permit. Units in developments with corresponding principal projects that received their first site or building permit before September 9, 2006 will be repriced using the historical and current percentage of HUD Area Median Income for a household sized one person larger than the number of bedrooms in the unit. Per Section 315.1 of the Planning Code, units in developments with corresponding principal projects that received their first site or building permit on or after September 9, 2006 will be repriced using the historical and current percentage of San Francisco Median Income for a household sized one person larger than the number of bedrooms in the unit.

vi. The resale price shall be equal to the sum of (a) plus (b) plus (c) below. If the resale price as calculated above is lower than the original purchase price for the unit, MOH will give the seller the option between the resale price as calculated, or the original purchase price (b) plus (c) below. A purchase price is recalculated at the time of sale pursuant to the following formula:

(a) The formula outlined in sections i through v above; plus

(b) The cost of approved capital improvements and special assessments as defined in Section II (E) of this Manual; plus

(c) The fee to the owner and buyer's realtor for representation and for listing the unit on the Multiple Listing Service, equal to five (5) percent of the sum of the dollar amount calculated pursuant to subsections (a) and (b) above.

d. Appreciation gained from the sale of a BMR Ownership Unit belongs to the owner unless the owner has an additional loan from the City or other entity that requires an appreciation share. However, the price of a BMR unit at resale is not guaranteed to exceed the initial purchase price of the unit.

e. The owner must market the unit. Marketing must include listing of the unit on the Multiple Listing Service (MLS) by a certified realtor and listing of the unit on MOH's website for at least 14 calendar days. All MLS listings must include information on the qualifications and restrictions of the BMR unit as supplied by MOH.

f. All potential buyers who are on the general BMR interest list shall be notified by MOH of units available for resale and invited to participate in the lottery, as will the general public.

g. A public lottery for the resale unit must be held by MOH for all BMR unit resales. MOH will record the results and the realtor will make the results available to all interested applicants or members of the public.

h. To enter a lottery for resale, a potential buyer must submit a BMR application and all supporting materials pursuant to section II (B) above as well as a loan pre-approval and a completed San Francisco purchase agreement. All applications and materials will be submitted directly to the buyer's realtor.

i. At least sixty (60) days prior to the anticipated date of the close of escrow, the buyer shall submit to MOH for approval the following documentation:

i. An application from the proposed purchaser on a form specified by MOH;

ii. Supporting documentation from all members 18 years and older of the purchaser household, including:

(a) Past three (3) years IRS returns;
(b) Past three (3) years W-2 forms;
(c) Three (3) current and consecutive pay stubs or equivalent;
(d) Three (3) current and consecutive statements from every liquid asset account and personal cash holdings, including all custodial accounts held for minors;
(e) Verification of San Francisco residency or employment;
(f) Verification of completion of an approved First-time Homebuyer Education Workshop;
(g) A loan pre-approval;
(h) A completed San Francisco Purchase Agreement.

j. To proceed with a BMR unit purchase post-lottery, the BMR buyer's lender must supply the following loan and sales agreement documentation at least thirty (30) days prior to the anticipated date of the close of escrow:

i. An appraisal showing the Appraised Fair Market Value of the BMR unit;
ii. A mortgage loan application to an institutional lender;
iii. A Preliminary Title Report for the BMR unit.

k. Timing of Buyer Approval by MOH

i. Upon receipt of a complete BMR homeownership application and all supporting materials, MOH shall verify the household qualification within 15 working days.
ii. Upon receipt of loan and sales agreement documentation, MOH shall draft escrow closing documents within five (5) working days.

l. No sale may proceed without the written approval of MOH.

m. Broker fees paid by the seller must be shared in a commission agreement with the buyer's representing agent.

n. Sales agreements with terms requiring the payment of seller's brokerage fees by the buyer will not be approved. No separate terms can be required within a sales agreement that requires the buyer to purchase appliances, furnishings, or other disallowed capital improvements.

o. BMR owners and realtors shall comply with the documentation and enforcement procedures set forth in Section IV (J) of this manual.

p. In cases where, despite the owner's good faith efforts, no qualifying household has contracted to purchase a BMR Ownership Unit within six (6) months after the lottery for the unit, the owner shall inform MOH, which may then increase the permissible income levels for prospective purchasers of that unit up to a maximum twenty (20) percent over the income percentage limit specified in the planning approvals or other use restrictions, but shall not increase any current or future permissible sale price of that unit as indicated in planning approvals or other use restrictions.

6. Restrictions on Title Transfer of BMR Ownership Units

a. Title transfers on BMR units are not allowed except as determined by MOH on a case-by-case basis. BMR owners must seek approval from MOH before adding or removing any person from title.

b. MOH may require that a spouse or registered domestic partner become a co-owner by assuming title and by executing an addendum to the Deed of Trust, Promissory Note, Acknowledgement of Special Restrictions, and Right of First Refusal.

7. Owner Refinancing of BMR Ownership Units

a. MOH must approve all refinancing agreements for BMR ownership units.

b. Owners may be permitted to refinance up to the original value of their first mortgage in order to obtain lower interest rates or lower monthly payments. The new loan must be approved under the guidelines set out in section II (C) of this Manual.

c. Owners may also refinance their units to withdraw cash only in an amount equal to the amount paid on the unit.

E. Capital Improvements for BMR Ownership Units

1. BMR units may begin claiming capital improvements made 10 years after the unit was originally occupied. Once the building becomes eligible for capital improvements credit, homeowners may begin submitting documentation of completed work.

2. MOH will review all capital improvements claims and categorize them into three distinct categories: Eligible Capital Improvements, Eligible Replacement and Repair and Ineligible Costs. Each category is defined below.

a. Eligible Capital Improvements include major structural system upgrades, special assessments, new additions to the unit and improvements related to increasing the health, safety and energy efficiency of the property. Improvements that meet these criteria will be given 100% credit.

b. Eligible Replacement and Repair includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition. Costs that meet these criteria will be given 50% credit.

c. Ineligible costs include cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Homeowners may undertake these projects at their discretion, however they will not be given capital improvements credit.

3. Procedure for Submitting Capital Improvements

a. Homeowners must submit capital improvements to MOH for review within 6-months of the completion of the project. In order to document the improvements, each homeowner must submit:

i. List of Capital Improvements with Description
ii. Receipt/Invoice for Each Eligible Improvement
iii. Proof of Payment, such as a cancelled check, bank account statement or credit card bill
iv. A Copy of Site or Building Permits, if required
v. Contractor's License Number for Projects Exceeding $500

b. Upon receipt of a complete capital improvements claim, MOH staff will arrange a site visit to inspect the completed project. Once the improvements have been verified, MOH will send a written response to approve or deny the submitted capital improvements within 60 days of original receipt. This information will be placed in the property file at MOH for use when the property is being sold.

4. Special Assessments

Homeowner's Association initiated special assessments are considered capital improvements and will be added to the resale price of the home. In order to receive credit for special assessments, homeowners must submit the following documentation within 6-months of payment:

a. Invoice for Special assessment

b. Proof of Payment, such as a cancelled check, bank account statement or credit card bill

5. Capital Improvements Cap

In order to maintain the affordability of the BMR unit for subsequent buyers, MOH will approve all eligible capital improvements, eligible replacement and repair, and special assessments when submitted. At the time of sale, MOH will cap

all eligible capital improvements and eligible replacement and repair at 7% of the resale price.

6. List of Approved Capital Improvements

a. **Eligible Capital Improvements** include major structural system upgrades, new additions to the unit and improvements related to increasing the health, safety and energy efficiency of the property. Improvements that meet these criteria will be given 100% credit.

i. Major Electrical Wiring System Upgrade
ii. Major Plumbing System Upgrade
iii. Room Additions
iv. Installation of Additional Closets and Walls
v. Alarm System
vi. Smoke Detectors
vii. Removal of Toxic Substances, such as:
  (a) Asbestos
  (b) Lead
  (c) Mold/Mildew
  (d) Insulation
  (e) Upgrade to Double Paned Windows
  (f) Fireplace Glass Screen
viii. Upgrade to Energy Star Built-in Appliances, as follows:
  (a) Furnace
  (b) Water Heater
  (c) Stove/Range
  (d) Dishwasher
  (e) Microwave Hood

b. **Eligible Replacement and Repair** includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition. Costs that meet these criteria will be given 50% credit for repairs.

i. Electrical Maintenance and Repair, such as:
  (a) Switches
  (b) Outlets
ii. Plumbing Maintenance and Repair, such as:
  (a) Faucets
  (b) Supply Line
  (c) Sinks
iii. Flooring
iv. Countertops
v. Cabinets
vi. Bathroom Tile

vii. Bathroom Vanity
viii. Replacement of Built-In Appliances, as follows:
(a) Furnace
(b) Water Heater
(c) Stove/Range
(d) Dishwasher
(e) Microwave Hood
(f) Garbage Disposal
ix. Window Sash
x. Fireplace Maintenance or in-kind Replacement (Gas)
xi. Heating System
xii. Lighting System (Recessed)

c. Ineligible costs include cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Homeowners may undertake these projects at their discretion, however they will not be given capital improvements credit.

i. Cosmetic Enhancements, such as:
(a) Fireplace Tile and Mantel
(b) Decorative Wall Coverings or Hangings
(c) Window Treatments (Blinds, Shutters, Curtains, etc.)
(d) Installed Mirrors
(e) Shelving
(f) Refinishing of Existing Surfaces

ii. Non-Permanent Fixtures, such as:
(a) Track Lighting
(b) Door Knobs, Handles and Locks
(c) Portable Appliances (Refrigerator, Microwave, Stove/Oven, etc.)

iii. Installations with Limited Useful Life Spans, such as:
(a) Carpet
(b) Painting of Existing Surfaces
(c) Window Glass
(d) Light Bulbs

F. Monitoring of BMR Ownership Units

MOH shall monitor and require occupancy certification for BMR ownership units on an annual basis. Owner(s) of a BMR unit will be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on a date and at a location determined by MOH. The report shall provide information regarding

occupancy status, changes in title, and any other information MOH may reasonably require to monitor compliance with the BMR units specific planning approvals or other use restrictions.

III. RENTER QUALIFICATIONS AND RESTRICTIONS ON BMR RENTAL UNITS

A. BMR Renter Qualifications

1. Qualifying Household for BMR Rental Units

A qualifying household meets the following standards:

a. The household is income qualified;

b. The household is a non-homeowner household;

c. The household must live in the unit as their primary residence within 60 days of the signing of the lease for the unit;

d. The household includes one member who has lived or worked in San Francisco by the application deadline for the BMR unit;

e. The household must be of a size that is equal to or greater than the number of bedrooms in the BMR unit;

f. The household is defined in terms of financial relationships and can include any rental partnerships as long as the combined household meets the eligibility requirements;

g. All non-dependents must appear on the lease for the unit.

2. Preferences for BMR Rental Units

a. At least one applicant in each BMR household must live or work in San Francisco in order to apply for a BMR unit per Section 315.4 of the Planning Code. This household member must have lived or worked in San Francisco by the application deadline for a BMR unit.

b. Verification of Preference Qualification

i. MOH shall verify a person's residency by examining one document from the list below. Each document must be in the applicant's name:

(a) One utility bill with a San Francisco address dated within the 45 days preceding the

application deadline for the BMR unit. Utility bills can include gas, electric, garbage or water;
(b) Current paystubs with a San Francisco address; or
(c) A current, formal lease with San Francisco address.

ii. MOH shall verify that a person works in San Francisco by reviewing an applicant's paystubs. If an applicant's employer is not based in San Francisco, or if an applicant's paystubs do not reflect a San Francisco work address, the applicant must supply a formal letter from the employer stating that the applicant works primarily in San Francisco and demonstrate that at least 75% of the applicant's working hours are in San Francisco.

3. Non-homeowner Requirement for BMR Rental Units

a. No member of the qualifying household must own any interest in a dwelling unit, any commercial real estate, or any land upon applying to qualify for the rental of a BMR unit.

b. This definition is a legal requirement and includes, among other properties, those in which an applicant's name appears on title regardless of whether or not that interest results in a financial gain, is in another state or country, or if they have ever used the property as a primary residence.

c. MOH may verify non-homeowner status by (1) a signed a statement on their application stating their homeownership status; and (2) a title search.

4. Household Size Requirement for BMR Rental Units

The size of a household must be compatible with the size of the unit being purchased. A minimum of one person per bedroom is required. There is no restriction on purchasing a unit that has fewer bedrooms than the household size.

5. Income Requirement for BMR Rental Units

a. Unless stated otherwise in the planning approvals or other use restrictions, BMR Rental Units in one development will be available to households with a combined income of no more than 60% of median income. Income maximums are based on "gross" income derived from all sources as detailed in Internal Revenue Code (26 USC Section 61). The amounts are adjusted on an annual basis.

b. The income table used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its first site or building permit. Per Section 315.1 of the Planning Code, income levels for renters in principal projects that received their first site or site or building permit before September 9, 2006 will be reviewed using the HUD Area Median Income as adjusted for household size. Income levels for renters in principal projects that received their first site or site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size. All off-site projects will be held to the date on which the principal project received its first site or building permit.

c. MOH calculates income based on the gross income on each applicant's past three pay stubs. The income is derived by dividing the year-to-date gross income by the current pay period count and then by annualizing an estimated pay period amount by the total pay period count over one year.

d. In the case of a self-employed person, MOH reviews the person's last 2 years of tax returns; past, present and projected Profit and Loss Statements; and other relevant documents on a case-by-case basis.

e. MOH must review qualifying requirements for all household members 18 years and older, regardless of dependency status.

6. Asset Test for BMR Rental Units

MOH will apply an asset test to all applicants, including all custodial accounts held for minors. Assets include all liquid asset accounts, including but not limited to savings, checking accounts, Certificates of Deposit, stocks, and gifts. Assets also include any money that will be used toward a down payment on a BMR unit. MOH will not count qualified retirement income toward an applicant's asset. 10% of all assets between $30,001 and 130,000 will be added to the total household income; and 35% of assets above $130,000 will be added to the total household income.

B. BMR Renter Application Requirements

a. Households applying for BMR rental units must supply the following documentation in order to enter the lottery for a BMR unit:

i. An application from the proposed purchaser on a form specified by MOH;

ii. Supporting documentation from all members 18 years or older of the purchaser household, including:

(a) Past one (1) year IRS returns;
(b) Past one (1) year W-2 forms;
(c) Three (3) current and consecutive pay stubs or equivalent;
(d) Three (3) recent and consecutive statements from every liquid asset account and personal cash savings, including all custodial accounts held for minors;
(e) Verification of San Francisco residency or employment.

b. To proceed with a BMR unit rental post-lottery, the rental representative must supply a draft lease agreement to MOH before MOH will approve the rental household.

C. Restrictions on BMR Rental Units

1. Term of Restriction on BMR Rental Units

Per Section 315.7 of the Planning Code all BMR Rental Units that entered the marketing process on or after the effective date of this Manual are restricted in their rent levels and other applicable restrictions for the life of the project unless otherwise stated in the planning approvals or other use restrictions for the project. All BMR Rental Units that entered the marketing process before the effective date of this Manual are restricted in their rent levels and other applicable restrictions for 50 years unless otherwise stated the planning approvals or other use restrictions for the project.

2. Documents that Govern the BMR Rental Unit and Renter

MOH may require all leaseholders of BMR Rental Units to sign documents stating leaseholders' acknowledgement of the restrictions on the BMR rental unit and any monitoring procedures.

3. Occupancy Requirement for BMR Rental Units

BMR units are intended to be renter-occupied and never used as investment or rental property.

4. Restrictions on Renting or Subleasing BMR Rental Units

i. A renter of a BMR unit may not rent or sublease any part or the entire unit without prior written consent of MOH.

ii. BMR Rental Units are to be occupied by the qualifying household and not used as rental property. However, MOH may grant consent to a BMR renter to rent in circumstances where the household is temporarily forced to temporarily relocate due to employment requirements, or for other reasons deemed acceptable by MOH in its sole discretion, provided that:

(a) The total period for which the unit may be leased does not exceed six (6) months;

(b) The sub-tenant satisfies the income, household size and other qualifying household requirements placed on the BMR unit by planning approvals or other use restrictions;

(c) The sublease complies with any requirements in the lease between the Project Sponsor and the tenant; and

(d) Initial sublease rent does not exceed the rent then payable by the current tenant.

5. Restrictions on Lease Changes for BMR Rental Units

BMR renters may not add or subtract any person from the lease for a BMR Rental Unit without consent from MOH. Should MOH consent to the addition or subtraction of a qualified household member in BMR Rental Unit, the new household must submit a new application for the unit and meet the current qualification standards for a BMR Rental Unit.

D. Permissible Rent Increases

The Project Sponsor may increase the maximum monthly rent for a qualifying household on each anniversary of a tenant's occupancy in an amount that does not exceed the amount determined by MOH based on the percent of median income established in planning approvals or other use restrictions and the then-existing median income amounts.

E. Monitoring of BMR Rental Units

BMR Rental Units shall be monitored by MOH on an annual basis to determine the continued eligibility of the BMR renter household. BMR rental households, owner(s) or those charged with the management of affordable BMR rental housing units satisfying the requirements of their planning approvals or other use restrictions may be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on a date and at a location determined by MOH. The report shall provide information regarding rents, household and income characteristics of tenants of designated affordable units, services provided as part of the housing service such as security, parking, utilities, and any other information MOH may reasonably require to monitor compliance with the BMR unit's specific planning approvals or other use restrictions.

IV. PROCEDURES FOR PROJECT SPONSORS, OWNERS AND PROPERTY MANAGERS

A. Monitoring and Reporting Procedure

1. Monitoring and Reporting Procedures for BMR Ownership Units

MOH shall monitor and require occupancy certification for BMR ownership units on an annual basis. Owner(s) of a BMR unit will be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on a date and at a location determined by MOH. The report shall provide information regarding occupancy status, changes in title, and any other information MOH may reasonably require to monitor compliance with the BMR units specific planning approvals or other use restrictions.

2. Monitoring and Reporting Procedures for BMR Rental Units

Project Sponsors of BMR Rental Units shall retain initial rental application forms and household income documentation for the greater of (i) five (5) years from the date of a tenant's occupancy of a BMR Rental Unit, or (ii) the duration of the tenure of the tenant occupying the BMR unit. This data may be requested by MOH, along with an administrative fee if any is authorized at the time of the request.

BMR Rental Units shall be monitored by MOH on an annual basis to determine the continued eligibility of the BMR renter household. BMR rental households, owner(s) or those charged with the management of affordable BMR rental housing units satisfying the requirements of their planning approvals or other use restrictions may be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on

a date and at a location determined by MOH. The report shall provide information regarding rents, household and income characteristics of tenants of designated affordable units, services provided as part of the housing service such as security, parking, utilities, and any other information MOH may reasonably require to monitor compliance with the BMR unit's specific planning approvals or other use restrictions.

3. Statistical Information for BMR Units

MOH may at any time require the Project Sponsor to collect information from the owners or tenants of all BMR units in the project regarding their ethnicity, gender, age, and such other information as may be requested to allow MOH to verify that there have been no discriminatory practices in the selection of such tenants or owners. The collection of such information shall be conducted in a manner and using a form acceptable to MOH, ensuring that the information is being collected after the tenant or owner selection process is complete, and is used solely for statistical reasons and not as the basis for making any decision regarding the qualification of a tenant or owner for occupancy of a BMR unit.

B. Compliance Procedures

1. Compliance Through New Construction On-Site

a. When required by planning approvals or other applicable use restrictions to adhere to the Inclusionary Ordinance, the Project Sponsor may provide the number and type of BMR units satisfying the planning approvals or other applicable use restrictions through the construction of said units on the site of the principal project.

b. Project Sponsors who submitted a first application to the Planning Department prior to July 18, 2006 for the construction of a project containing ten (10) or more units are required to provide ten (10%) or twelve (12%) percent, (depending on the distinction between an As-of-Right or Conditional Use authorization) of all units as BMR units. If the total number of BMR units required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above.

c. Project Sponsors who submitted a first application to the Planning Department on or after July 18, 2006 must provide fifteen (15%) of all units as BMR units for any project containing five (5) or more units or any project requiring rezoning, with exception to projects 120 feet in height or

higher. Projects 120 feet in height or higher which do not require a zoning map amendment or planning code text amendment that result in a net increase in the number of permissible residential units or in a material increase in the net permissible residential square footage are required to provide twelve percent (12%) of all units as BMR units. Unless amended by the Board of Supervisors, the exception of projects 120 feet in height or higher shall expire January 1, 2012.

d. If the total number of BMR units required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above.

e. Projects receiving Planning Commission or Planning Department approval on or after September 9, 2006, must make a Declaration of Intent stating the on-site, off-site and/or in-lieu fee option before receiving first planning approval. Project Sponsors may only amend the Declaration of Intent if they choose to change from the in-lieu fee or off-site option to the on-site option.

f. BMR units must be constructed, completed, and ready for occupancy no later than the principal project's market rate units. Additionally, BMR units must be a comparable unit to the market rate units.

g. The Project Sponsor shall construct and, when applicable, manage the BMR units. BMR units shall not remain vacant for more than sixty (60) days from the date of first certificate of occupancy.

h. Affordable housing units shall not have received development subsidies from any federal, state or local program established for the purpose of providing affordable housing. Any such units receiving such subsidies shall not be counted to satisfy any affordable housing project requirements for the on-site development, except as provided in Section IV (B) (1) (i).

i. A Project Sponsor may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds to help fund its obligations per Section 326.4 and 315.5 of the Planning Code as long as it provides 20% of the units as affordable at 50% of median income for on-site housing or 25% of the units as affordable at 50% of median income for off-site housing. Except as provided in this subsection, all units provided under this section must meet all of the requirements of the Inclusionary Ordinance and the Manual for either on- or off-

site projects. The income tables to be used for the CDLAC units are those used by MOH for Inclusionary Housing units and not those used by the Tax Credit Allocation Committee (TCAC) or CDLAC. Sponsors shall contact MOH for the applicable income table.

j. On-site units satisfying a Project Sponsor's On-site Inclusionary Ordinance obligation must be offered as BMR Rental Units affordable to households earning up to sixty percent (60%) of median income on average or as BMR for-sale units affordable to households earning one hundred percent (100%) of median income, unless stated otherwise in planning approvals or other use restrictions. In the case of BMR Ownership Units, the BMR units in one development may range in price from 80% to 120% median income when the average median income for the building is 100%. MOH will work with Project Sponsors on a case-by-case basis to determine the allowable range of income levels.

k. Projects must record a Notice of Special Restrictions (NSR) and provide a copy of the NSR to MOH prior to the issuance of the first site or building permit. The NSR must identify the restricted BMR units by unit name or number, the income level of the units, the final approved floor plans that identify the BMR units, and the portions of the planning approvals or other use restrictions that reference the Inclusionary Program requirements.

l. All BMR units that entered the marketing process on or after the effective date of this Manual are restricted in their resale price or rental price and other applicable restrictions for the life of the project. All BMR units that entered the marketing process before the final adoption date of this Manual are restricted in their resale price or rental price and other applicable restrictions for 50 years unless otherwise stated in the planning approvals or other use restrictions for the project.

2. Compliance Through Conversion of Use On-Site

The Conditions of Approval may provide that the Project Sponsor may partially or completely comply with its BMR obligation through the conversion of non-residential space to residential units, provided that the following provision is satisfied:

a. The unit shall satisfy all City Codes and standards; or

b. If rear yard, parking, exposure or other residential zoning standards are not met and requirements for exceptions or

variances are met pursuant to the Code, additional BMR units or lower income limits on qualifying households shall be imposed.

3. Compliance Through New Construction Off-Site

a. When required by planning approvals or other applicable use restrictions to adhere to the Inclusionary Ordinance, the Project Sponsor may provide the number and type of BMR units satisfying the planning approvals or other applicable use restrictions through the construction of said units off-site from the principal project.

b. Project Sponsors who submitted a first application to the Planning Department prior to July 18; 2006 for the construction of a project containing ten (10) or more units must provide fifteen (15%) or seventeen (17%) percent, (depending on the distinction between an As-of-Right or Conditional Use authorization), of all units as BMR units. If the total number of BMR units required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above.

c. Project Sponsors who submitted a first application to the Planning Department on or after July 18, 2006 must provide twenty percent (20%) of all units as BMR units for any project containing five (5) or more units or any project requiring rezoning. If the total number of BMR units required is not a whole number, the obligation shall be rounded up to the nearest whole number for any portion of .5 or above, with exception to projects 120 feet in height or higher. Projects 120 feet in height or higher which do not require a zoning map amendment or planning code text amendment that result in a net increase in the number of permissible residential units or in a material increase in the net permissible residential square footage are required to provide seventeen percent (17%) of all units as BMR units.

d. Projects receiving Planning Commission or Planning Department approval on or after September 8, 2006, must make Declaration of Intent stating the on-site, off-site and/or in-lieu fee option. Project Sponsors may only amend the Declaration of Intent if they choose to change from the in-lieu fee or off-site option to the on-site option. Additionally, off-site BMR units must be located within a one (1) mile radius of the principal project. Off-site units satisfying a Project Sponsor's inclusionary obligation must be offered as BMR Rental Units for the life of the project or as BMR for-sale

units affordable to households earning up to eighty percent (80%) of median income.

e. BMR units must be constructed, completed, and ready for occupancy no later than the principal project's market rate units.

f. The Project Sponsor shall construct and, when applicable, manage the BMR units. BMR units shall not remain vacant for more than sixty (60) days from the date of the certificate of final completion and occupancy.

g. Affordable housing units shall not have received development subsidies from any federal, state or local program established for the purpose of providing affordable housing. Any such units receiving such subsidies shall not be counted to satisfy any affordable housing requirements for the on-site development except as provided in Section IV (3) (h) below.

h. A Project Sponsor may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds to help fund its obligations per Section 325.4 and 315.5 of the Planning Code as long as it provides 20% of the units as affordable at 50% of median income for on-site housing or 25% of the units as affordable at 50% of median income for off-site housing. Except as provided in this subsection, all units provided under this section must meet all of the requirements of the Inclusionary Ordinance and the Manual for either on- or off-site projects. The income tables to be used for the CDLAC units are those used by MOH for Inclusionary Housing units and not those used by the Tax Credit Allocation Committee (TCAC) or CDLAC. Sponsors shall contact MOH for the applicable income table.

i. On-site units satisfying a Project Sponsor's Off-site Inclusionary Ordinance obligation must be offered as BMR Rental Units affordable to households earning up to sixty percent (60%) of median income or as BMR ownership units affordable to households earning eighty percent (80%) of median income on average, unless stated otherwise in planning approvals or other use restrictions.

j. Projects must record a Notice of Special Restrictions (NSR) and provide a copy of the NSR to MOH prior to the issuance of the first site or building permit. The NSR must identify the restricted BMR units by unit name or number, the income level of the units, the final approved floor plans that identify the BMR units, and the portions of the planning

approvals or other use restrictions that reference the Inclusionary Program requirements.

k. All BMR units that entered the marketing process on or after the effective date of this Manual are restricted in their resale price or rental price and other applicable restrictions for the life of the project. All BMR units that entered the marketing process before the final adoption date of this Manual are restricted in their resale price or rental price and other applicable restrictions for 50 years unless otherwise stated in the planning approvals or other use restrictions for the project.

l. Quality Standards for Off-Site BMR Units

All BMR units constructed off-site under the provisions of Section 315.5 shall be of good quality and generally equivalent to current market rate housing standards commonplace in San Francisco as determined by the Zoning Administrator in accordance with official Planning Department policy. Off-site affordable units shall be comparable in number of bedrooms, number of bathrooms, exterior appearance and overall quality of construction to market rate units in the principal project, and shall meet at a minimum, or exceed, the following standards:

i. Individual Unit Sizes

Average individual unit square footages shall be no less than 70% of the average principal project unit square footage for corresponding unit types classified by number of bedrooms, and in no case shall individual unit square footages be less than the following for each unit type:

Studios:	250 square feet
1-Bedrooms:	500 square feet
2-Bedrooms:	800 square feet
3-Bedrooms:	1,000 square feet
4-Bedrooms:	1,250 square feet

Exceptions to these square footage minimums may be made at the Zoning Administrator's discretion where the principal projects average unit size by corresponding unit type classification is less than these minimums. When using such discretion, the Zoning Administrator shall take into account any anticipated occupant needs of the BMR units for a particular development.

The average off-site BMR unit size for a given unit type may be permitted to be less than 70% of the average size of the corresponding unit type of the principal project at the discretion of the Zoning Administrator on a case-by-case basis, provided there is a corresponding increase in unit numbers and all other provisions of this section are met. No reduction in the required total minimum BMR unit square footage per Section 315.5(d) of the Planning Code shall be permitted.

ii. Design of Off-site BMR units

(a) Room sizes

(i) No required bedroom shall be smaller than 120 square feet, and at least one bedroom in every unit, except for studios shall be a minimum of 144 square feet. The minimum horizontal dimension for any bedroom, excluding alcoves not included in the minimum square foot calculation, shall be 10 feet.

(ii) Primary rooms in studios shall be no less than 165 square feet excluding any contiguous kitchen area. The minimum horizontal dimension for any such primary room, excluding alcoves not included in the minimum square foot calculation, shall be 11 feet.

(iii) No living room shall be smaller than 144 square feet, with a minimum dimension excluding alcoves not included in the minimum square foot calculation, of 11 feet.

(iv) At least one bathroom shall meet ADA size requirements, and all other full bathrooms required by this section must be at least 40 square feet in size.

(v) Smaller room size minimums may be permitted at the discretion of the Zoning Administrator on a case-by-case basis, if such smaller room sizes are typical of the principal market rate

project and are consistent with current City building and housing codes.

(b) Interior Heights

Prevailing floor-to-ceiling heights in each unit shall be no less than 8'-6". Lower ceiling heights in bathrooms, hallways, or small portions of other rooms may be permitted to allow for central heat and air ductwork where necessary, but in no case shall any ceiling height in such areas be less than 8'-0".

(c) Kitchen and Bathroom Amenities

(vi) At a minimum, all kitchens shall have a full size four-burner cook top and full size oven, with built-in exhaust hood/microwave oven unit (or an equivalent thereof), full size kitchen sink with in-drain electric disposal, full size dishwasher, full size refrigerator/freezer, good quality upper and lower level cabinets with doors, quality counter top surfaces, and a suitable good quality floor surface. While appliances and finishes need not match or be equivalent to those in the principal project, they should be new and of good quality in terms of performance, durability and appearance. At the discretion of the Zoning Administrator, appliance sizes may be scaled down for studio units if such downsizing is typical of the principal market rate project. For the purpose of preserving interior materials or character of older buildings or providing aesthetic compatibility therein, fully restored vintage appliances and finishes may be used as long as they are of good quality, durability, and in good working condition.

(vii) Bathrooms shall consist of a shower stall, toilet and lavatory. At least one bathroom in each unit shall have both a shower stall and standard size tub or a combination tub-shower unit.

(d) Closets

Each dwelling unit shall have a coat closet and a linen closet, plus a closet for each bedroom. Minimum dimensions for coat closet shall be 4'X 2'. Minimum closet dimensions for required linen closet shall be 36"X 18". Minimum closet size for the first/master bedroom shall be 18 square feet with a minimum depth of two feet. Minimum closet size for each additional bedroom shall be 12 square feet with a minimum depth of two feet.

(e) Laundry facilities

Off-site BMR projects shall provide laundry facilities comparable to the principal project. Each unit shall contain laundry facilities if such facilities are provided in the principal project. Each floor shall contain a laundry facility if such facilities are in the principal project, with one full-size washer and one-full size dryer for every four units per floor. There shall be a common laundry room for the entire building if such a facility is provided in the principal project with one washer and one dryer unit for every eight units. Individual laundry facilities within units shall consist of both a washer and dryer unit. Studios, one- and two-bedroom units may utilize stacker units; three bedroom units and larger shall have full size laundry machine units. Laundry machines shall be new and of good quality and durability.

(f) Finish qualities

(viii) Finish qualities throughout dwelling units and common areas including: doors; windows; wall and floor materials and finishes; bathroom finishes and fixtures; trim; hardware; lighting and other electric features, need not match or be equivalent to that of the principal project, but should be new and of good quality in terms of

performance, functionality, durability and appearance and should reflect current residential interior styles, except in cases where vintage styles are appropriate to the interior finish design of the building, or where it is desired to preserve historic features or finishes.

iii. Smaller room size minimums may be permitted at the discretion of the Zoning Administrator on a case-by-case basis, if such smaller room sizes are typical of the principal market rate project and are consistent with current City building and housing codes.

iv. The standards in this section may be reduced at the discretion of the Zoning Administrator on a case-by-case basis provided the intent of this section – that all affordable units shall be of good quality and generally equivalent to current market rate housing standards commonplace in San Francisco - is generally being met as determined by the Zoning Administrator. Absent timely amendments to this section, requirements may be added or eliminated at the discretion of the Zoning Administrator to allow for changes in market standards or in technology. In adding or eliminating such requirements, the Zoning Administrator shall take into account the likely occupancy of the Off-site BMR units in consultation with MOH.

4. Compliance Through In-Lieu Fee Payment

a. When permitted by planning approvals or other applicable use restrictions, the Project Sponsor may pay an in-lieu fee to satisfy the Inclusionary Ordinance requirements. The per-unit size fee shall be updated annually on July 1.

b. The fee is established as the amount of the affordability gap identified in the 2006 Planning Department Nexus Study for the Inclusionary Housing Program. Section 315.6 of the Planning Code calls for fees to be adjusted annually using the annual percentage change in the Construction Cost Index as published by Engineering News Report (ENR).

c. MOH shall conduct a comprehensive study of the in lieu fee structure every five years.

d. In lieu fees for developments that received their first site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size.

e. Projects receiving Planning Commission or Planning Department approval on or after September 9, 2006 must make a Declaration of Intent stating the on-site, off-site and/or in-lieu fee option prior to project approval. Project Sponsors may only amend the Declaration of Intent if they choose to change from the in-lieu fee or off-site option to the on-site option. Projects must provide a complete in-lieu fee payment before the issuance of the first site or building permit.

f. The in lieu fee unit requirement shall be calculated by using the direct fractional result of the total number of units multiplied by the percentage of off-site housing required, rather than rounding up the resulting figure.

g. The Project Sponsor shall request an in-lieu fee determination from MOH in the form of a letter. MOH shall provide a fee determination letter within fifteen (15) business days of the receipt of the request and the letter shall expire in thirty (30) business days. In cases where the determination has expired, the Project Sponsor will be required to request an updated determination in order to make the payment to the Treasurer's Office. The in-lieu fee request letter shall contain the following:

i. Project Sponsor contact information
ii. The name and address of the project
iii. Copies of all applicable planning approvals
iv. The number of total units by unit size

h. MOH may require the completion of a standard form in order to request an in lieu fee determination.

i. Prior to issuance by DBI of the first site or building permit for the project applicant, the Project Sponsor must have paid in full the sum required to the San Francisco Treasurer's Office.

C. Initial Sales Procedures for BMR Ownership Units

1. Request for Pricing for BMR Ownership Units

a. Prior to marketing a BMR ownership unit for initial sale, the Project Sponsor shall transmit a copy of the Notice of

Special Restrictions ("NSR"), final planning approval, approved floor plans indicating the location of the BMR units in the building, and final HOA dues for each BMR unit to MOH, together with a request for determination of initial sales price. The request for prices shall be submitted no sooner than 60 days prior to the beginning of the marketing period for the BMR units and at no time sooner than 6 months before the issuance of the First Certificate of Occupancy for the development. The pricing shall be valid for thirty (30) days and shall serve as the final pricing for the BMR units only upon approval of the Marketing Plan for the BMR units.

b. MOH may require the completion of a standard form in order to request an in BMR unit pricing.

2. Methodology for Pricing Initial Sale BMR Ownership Units

a. MOH shall calculate the initial sales price of the BMR unit according to the following assumptions: (i) the income limits specified in planning approvals or other use restriction documents; (ii) total payments of no more than thirty-three (33) percent of the gross monthly income, based on the income limits required by planning approvals or other use restrictions and including an allowance for taxes, insurance, homeowner or association's fees and related costs; (iii) a mortgage interest rate as identified by MOH that is the higher of the ten-year rolling average of interest rate data, based on 30-year interest rate data provided by Fannie Mae, Freddie Mac or an equivalent, nationally recognized mortgage lending institution; and (iv) a ten (10) percent down payment assumption. MOH shall transmit this information to the Project Sponsor within ten (10) working days after receipt of the request for determination.

b. The income table used to calculate the income level of a BMR household shall be determined by the date on which the principal project for which the household applies received its first site or building permit. Income levels for buyers in principal projects that received their first site or site or building permit before September 9, 2006 will be reviewed using the HUD Area Median Income as adjusted for household size. Income levels for buyers in principal projects that received their first site or site or building permit on or after September 9, 2006 will be reviewed using the San Francisco Median Income as adjusted for household size. All off-site projects will be held to the date on which the principal project received its first site or building permit.

3. Parking Space Policy for BMR Ownership Units

a. In developments in which parking is sold or leased as a part of the sales price for market rate units, parking spaces shall be granted to BMR buyers (1) at the same ratio of parking spaces to residential units, as identified in the planning approvals or other use restrictions for the building overall and (2) within the maximum purchase price set by MOH. All parking spaces granted to BMR buyer households shall be resold or re-leased with the BMR unit upon resale.

b. In developments in which parking is "unbundled," or sold or leased separately from every residential unit in a development, parking spaces shall be made available to BMR buyers at the same ratio of parking spaces to residential units as identified in planning approvals or other use restrictions for the building overall. The sales price of each BMR unit, as determined by MOH, shall be reduced by the cost of constructing a parking space (as determined by MOH) multiplied by the ratio of parking spaces to units in the building overall. The sponsor may then charge the BMR buyer the lowest market rate price available for a parking space to any buyer in the building.

The details of this policy are as follows:

i. Sponsors must offer BMR buyers the opportunity to purchase or lease parking spaces according to the overall ratio of parking spaces to units in the building.

ii. In developments where 1:1 parking is available in the building, the price of each BMR unit will be lowered by a standardized amount equivalent to the cost of constructing either a structured, above-ground parking space or a below-grade parking space, exact amount to be established by MOH through cost analysis and adjusted annually.

iii. In developments with less than 1:1 parking availability, MOH will lower the price of each BMR unit by an amount equivalent to the cost of constructing either a structured, above-ground parking space or a below-grade parking space multiplied by the ratio of parking spaces to units in the building overall.

iv. The price of each BMR unit will be reduced regardless of the BMR buyer household's choice to purchase or lease a parking space.

v. BMR buyers must be offered the opportunity to purchase or lease parking at the lowest market rate price offered to any buyer in the housing development.

vi. This policy applies only to developments in which the parking is 100% unbundled, or sold or leased separately, from the all units in the development.

vii. Project Sponsors cannot charge special fees for parking to BMR buyers that are not charged to all buyers.

viii. A first parking space that is purchased either (1) at the same time that the BMR unit is initially purchased or (2) purchased by BMR owner household anytime after the initial purchase of the BMR unit shall be re-sold with the BMR unit upon resale of the unit. The price of the parking space will be governed by the same limits as the overall resale price as outlined in Section II (D) (5).

ix. The price of a parking space must never exceed the maximum established during the initial marketing of the units, but it may fall below this price.

x. In buildings with less than 1:1 parking, the opportunity to purchase or lease a space will be allocated by lottery rank.

xi. BMR households may purchase or lease a second parking space at any time without any restrictions placed on the Project Sponsor or the BMR buyer household.

4. Marketing Procedures for BMR Ownership Units

The Project Sponsor shall commence marketing of the BMR unit according to the procedures set forth in Section IV (E) of this manual.

5. Verification of Owner Qualification for BMR Ownership Units

a. At least sixty (60) days prior to the anticipated close of escrow, the Project Sponsor shall submit to MOH for approval the following documentation:

i. An application from the proposed purchaser on a form specified by MOH;

ii. Supporting documentation from all members 18 years and older of the purchaser household, including:

(a) Past three (3) years IRS returns;
(b) Past three (3) years W-2 forms;
(c) Three (3) current and consecutive pay stubs or equivalent;
(d) Three (3) current and consecutive statements from every liquid asset account or personal cash holdings, including all custodial accounts held for minors;
(e) Verification of San Francisco residency or employment;
(f) Verification of completion of an approved First-time Home Buyer Education workshop.

b. To proceed with a BMR unit purchase post-lottery, the BMR buyer's lender or sales agent must supply the following documentation:

i. A completed sales agreement;
ii. An appraisal showing the Appraised Fair Market Value of the BMR unit;
iii. A mortgage loan application to an institutional lender;
iv. A Preliminary Title Report for the BMR unit.

6. Buyer Approval for BMR Ownership Units

a. Upon receipt of a complete BMR homeownership application, MOH shall verify the household qualification within fifteen (15) working days.

b. Upon receipt of lender and sales contract documentation, MOH shall draft escrow closing documents within five (5) working days.

c. Buyer Time to Qualify

The Project Sponsor shall allow the proposed purchaser no less than thirty (30) days from the time of the signing of the sales contract to qualify for mortgage financing and no more than sixty (60) days.

7. Financing for BMR Ownership Units

The Project Sponsor shall not allow mortgage financing that includes unreasonable or predatory fees associated with the loan.

Specifically approved and disapproved loan types are outlined in Section II (C) of this Manual.

8. Restrictions on BMR Ownership Units

The Project Sponsor must comply with the documentation and enforcement procedures contained in Section J of this manual. MOH shall prepare documentation to be placed into escrow, including (1) a Promissory Note, as applicable, for the difference in the appraised value and the BMR unit sales price as described in Section J; (2) a Deed of Trust securing the City's interest in the BMR unit, (3) a Grant of Right of First Refusal giving the City the right to find an eligible buyer should the BMR unit be sold; and (4) certification that the purchaser is aware of the special restrictions on the BMR unit.

9. Transaction Fees for BMR Ownership Units

The Project Sponsor shall pay all usual, customary and reasonable transaction costs normally borne by the seller in a residential real estate transaction, including but not limited to broker fees and real estate transfer taxes.

10. Inability to Find a Buyer for a BMR Ownership Unit

In cases where, despite the owners good faith efforts, no first-time homebuyer household purchaser of the required income level has contracted to purchase a BMR Ownership Unit within six (6) months after the lottery for the BMR units, the owner shall inform MOH, which may then increase the permissible income levels for prospective purchasers of that unit up to a maximum twenty (20) percent over the income percentage limit specified in planning approvals or other use restrictions, but shall not increase any current or future permissible sales price of that unit as indicated in planning approvals or other use restrictions.

D. Initial Rental Procedures of BMR Rental Units

1. Request for Initial Rental Rates for BMR Rental Units

a. Prior to marketing a BMR Ownership Unit for initial rental, the Project Sponsor shall transmit (1) a copy of the Notice of Special Restrictions ("NSR"); (2) the final Planning Motion or planning approval for the development; and (3) approved floor plans indicating the location of the BMR units in the building, together with a request for determination of initial rent levels. The request for rent levels shall be submitted no sooner than 6 months before the issuance of the First Certificate of Occupancy for the development.

b. Within ten (10) working days after receipt of a complete request for determination, MOH shall calculate the maximum monthly rent for each BMR unit, adjusted for unit size, based on the percent of median income established in the Conditions of Approval or other use restrictions and the then-existing median income amounts and shall transmit this information to the Project Sponsor.

2. Methodology for Setting Initial Rent Levels for BMR Rental Units

a. MOH shall calculate initial rent levels of the BMR Rental Unit according to the following assumptions: (i) the income limits specified in the Conditions of Approval or other use restriction documents; (ii) total payments of no more than thirty (30) percent of the gross monthly income, based on the income limits required by the Conditions of Approval or other use restrictions.

b. The income table used to calculate the income level of a BMR household and the subsequent BMR unit rent shall be determined by the date on which the project received its first site or building permit. Initial rent levels for BMR Rental Units in developments that received their first site or building permit before September 9, 2006 will be calculated using the HUD Area Median Income as adjusted for household size. Initial rent levels for BMR Rental Units in developments that received their first site or building permit on or after September 9, 2006 will be calculated using the San Francisco Median Income as adjusted for household size.

3. Parking Space Policy for BMR Rental Units

a. In developments in which parking spaces are provided to renters within the rent for market rate units, parking spaces shall be granted to BMR renters (1) at the same ratio of parking spaces to residential units as identified in planning approvals or other use restrictions for the building overall and (2) BMR renters shall be granted the parking space within the maximum monthly rent set by MOH.

b. In developments in which parking is "unbundled," or rented separately from every residential unit in a development, parking spaces shall be made available to BMR renters at the same ratio of parking spaces to residential units as identified in planning approvals or other use restrictions for the building overall. The rental price of each BMR unit, as determined by MOH, shall be reduced by the cost of constructing the parking space, as determined by MOH, multiplied by the ratio of

parking spaces to units in the building. This amount will be amortized over a 30-year period. The sponsor may then charge the BMR renter the lowest market rate rent available to any renter in the building.

The details of this policy are as follows:

i. Sponsors must offer BMR renter the opportunity to rent parking spaces according to the ratio of parking spaces to overall units in the building.

ii. In developments where 1:1 parking is available in the building, the rent of each BMR unit will be lowered by a standardized amount equivalent to the cost of constructing either a structured, above-ground parking space or a below-grade parking space, exact amount to be established by MOH through cost analysis and adjusted annually.

iii. In developments with less than 1:1 parking availability, MOH will lower the price of each BMR unit by an amount equivalent to the cost constructing either a structured, above-ground parking space or a below-grade parking space and multiplied by the ratio of parking spaces to units.

iv. In developments where 1:1 parking is available in the building, MOH will lower the maximum rent of each BMR unit by a standardized amount equivalent to the cost of constructing either a structured parking space or a below-grade parking space amortized over a 30-year period, exact amount to be established by MOH.

v. This amount will be deducted from the monthly rent of each BMR unit regardless of the renter's decision to lease a parking space.

vi. In developments with less than 1:1 parking availability, MOH will lower the maximum rent of each BMR unit by an amount equivalent to the monthly cost of parking in either a structured parking space or a below-grade parking space amortized over a 30-year period and multiplied by the ratio of parking spaces to units.

vii. BMR buyers must be offered the opportunity to rent parking at the lowest market rate rent offered to any market rate renter in the development.

viii. This policy applies only to developments in which the parking is 100% unbundled, or rented separately, from the all units in the development.

ix. Project Sponsors cannot charge special fees for parking to BMR renters that are not charged to all renters.

x. Parking spaces rented with rental BMR units must be offered to subsequent renters upon re-rental of the unit.

xi. In buildings with less than 1:1 parking, the opportunity to rent a space will be allocated by lottery rank.

4. Marketing Procedures for BMR Rental Units

The Project Sponsor shall commence marketing the BMR unit(s) according to the procedures set forth in Section IV (E) of this manual.

5. Verification of Renter Qualification for BMR Rental Units

At least thirty (30) days prior to the anticipated date of lease, the Project Sponsor shall submit to MOH for approval the following documentation:

a. A complete MOH BMR rental application from the proposed renter household;

b. Supporting documentation from all members of the BMR renter household, including:

i. Past one (1) year IRS returns;
ii. Past one (1) year W-2 forms;
iii. Three (3) current and consecutive pay stubs or equivalent;
iv. Three (3) recent and consecutive statements from every liquid asset account and personal cash holdings, including custodial account for all minors;
v. Verification of San Francisco residency or employment.

c. A sample lease agreement that clearly states the rent to be charged to the new tenant.

6. Renter Approval for BMR Rental Units

Upon receipt of a complete BMR rental application, supporting documentation, and a sample lease, MOH shall verify the household qualification within fifteen (15) working days.

7. Permissible Rent Increases for BMR Rental Units

The Project Sponsor may increase the maximum monthly rent for a qualifying household on each anniversary of a qualifying household's occupancy in an amount which does not exceed the amount determined by MOH based on the percent of median income established in the planning approvals or other use restrictions and the then-existing income amounts.

8. Rental Rate Upon Subsequent Occupancy by Qualifying Households for BMR Rental Units

a. The Project Sponsor shall notify MOH of a vacancy of a BMR unit prior to offering the unit for rent and prior to marketing the unit according to the marketing procedures set forth in Sections IV (E) of this manual.

b. Rental rates for qualifying households shall not exceed the applicable amounts published in accordance with the provisions of section IV (D) (2) and (3) above.

9. Documentation of Annual Rent Levels for BMR Rental Units

The qualifying household income limits and maximum monthly rent for BMR units shall be updated annually and will be available on the MOH website. Owner(s) or those charged with the management of affordable BMR rental housing units satisfying the requirements of their planning approvals or other use restrictions may be required to submit an annual monitoring and enforcement report on a form provided by MOH and submitted on a date and at a location determined by MOH. The report shall provide information regarding rents, household and income characteristics of tenants of designated affordable units, services provided as part of the housing service such as security, parking, utilities, and any other information MOH may reasonably require to monitor compliance with the BMR units specific planning approvals or other use restrictions.

E. Marketing Procedures for Initial Sale and Rental of BMR Units

1. General Requirements for Marketing of All Initial Sales and Rentals of BMR Units

a. The Project Sponsor shall use good faith and affirmative efforts to attract potential qualifying households from all

minority and low income, median income and moderate income communities through the marketing and advertising of the BMR units. Toward that goal, the Project Sponsor shall prepare and provide to MOH a copy of the Marketing Plan for the sale or rental of the BMR units prior to accepting applications or statements of interest for the purchase or lease of the units. No marketing or advertising material shall be distributed or published without the prior written approval of the Marketing Plan by MOH and all such materials shall be consistent with the approved Marketing Plan. Approval or disapproval of the Marketing Plan shall be made within ten (10) days of receipt of a complete marketing plan. In instances were the Marketing Plan has been disapproved; MOH will provide recommendations to remedy any deficiencies.

b. To insure access and outreach to minority and low income, median income and moderate-income communities, the Project Sponsor must hire as part of the marketing and outreach strategy a Marketing Consultant certified by MOH as having demonstrated capacity in reaching identified targeted populations. The targeted populations will be identified by MOH based on an analysis of the demographic characteristics of minority and low income, median income and moderate-income populations of San Francisco, and applicants to the BMR program. A list of certified Marketing Consultants will be maintained by MOH and updated on at least an annual basis on June 15th.

c. The Project Sponsor shall submit the Marketing Plan to MOH at least thirty (30) days prior to the anticipated commencement of the project's marketing and outreach and at least one-hundred and twenty days prior to the anticipated close of escrow for BMR ownership units and lease origination dates for BMR rental units.

2. Contents of Marketing Plan

a. MOH shall prescribe the form of the Marketing Plan and shall provide the format to the Project Sponsor for completion and submittal. Unless determined by MOH to be inapplicable to a particular project, the Marketing Plan shall include:

b. The name, address, email address, and phone number of the project sponsor;

c. The name, address, email address, and phone number of the sales or rental agent(s);

d. The planning approval for the project;

e. The Notice of Special Restrictions for the project;

f. The name of the City Planner assigned to the housing project;

g. A description of the total number of units in the principal project or applicable off-site project;

h. A description of the total number of market rate or non-BMR units in the building;

i. A description of the total number of BMR units in the building;

j. The Home Association Dues (HOA Dues) for each BMR unit;

k. All amenities included in the sale of the BMR unit;

l. Parking available to all residential tenants in the building;

m. Buyer or renter qualifications;

n. Workshop and open house dates;

o. A media plan;

p. A strategy for marketing to residents of the immediate neighborhood;

q. A comprehensive strategy for reaching out to low-income, median-income, moderate-income and minority communities in San Francisco;

r. Dates and strategy for the application process;

s. Dates and strategy for the lottery selection process;

t. Dates and strategy for the process of working with lottery winners;

u. Marketing materials which clearly define rental or first time homebuyer household eligibility and which specify documentation and monitoring procedures;

v. Notices that buyers of BMR units are subject to special use restrictions, including an acknowledgement of these

restrictions and a sample packet of the City's escrow closing documents that each buyer will be expected to execute upon the purchase of a BMR unit;

w. On resale, listing of BMR Ownership Units with the San Francisco Multiple Listing Service (MLS);

x. A list of community housing organizations which are to receive written notification regarding the availability of the BMR units prior to commencement of advertising or marketing of such units;

y. A list of community housing organizations that the Project Sponsor or the Project Sponsor's marketing representative must work with in order to meet language or cultural needs of minority communities;

z. An attached copy of all planning approvals, the NSR and approved floor plans associated with the principal project and any applicable off-site project.

3. Conduct of Marketing Plan

a. No marketing of the BMR unit(s) shall begin until the Project Sponsor has received written approval of the Marketing Plan and confirmation from MOH of the number, type, location, and price or rent of the BMR units and permissible income limits of purchasers or tenants, pursuant to Sections II (A), III (A), IV (C), IV (D) of this manual.

b. The Project Sponsor or the Project Sponsor's marketing and sales representative shall give adequate time, in no case less than twenty eight (28) days after first public notification or advertisement, for application submissions.

c. The Project Sponsor shall alert sales or rental staff to the BMR units and provide such staff with a copy of this Manual and the special use restrictions applicable to the BMR units.

d. The sales or rental programs and procedures shall not have the effect of excluding or discriminating against any person on the basis of race, religion, national origin, sex, sexual preferences, health status, source of income such as disability insurance, social security, TANF, or any other basis prohibited by federal, state or local law.

e. The Equal Housing Opportunity symbol shall be displayed in a visible location at any sales of rental office, and

shall be incorporated in all advertisements and printed materials.

f. Units must be advertised in at least five (5) local newspapers that reach minority and low-income, median income and moderate-income communities in San Francisco for a period of at least 3 weeks and at least one local newspaper of general San Francisco circulation for at least two Sundays prior to the established application deadlines for the BMR units.

g. All available BMR units must be listed on the MOH website of available BMR units for at least twenty-eight (28) days prior to the application deadline for the BMR unit(s).

F. Marketing Procedures for Resale of BMR Ownership Units

Marketing of resale of individual BMR Ownership Units shall be in compliance with all applicable federal, state and local laws related to fair housing. Owners and their agents may be asked to certify that the units have not been marketed in such a manner as to be discriminatory. The procedures for resales are more fully described in Section I of this Manual.

G. Marketing Procedures for Subsequent Rentals of BMR Rental Units

1. Marketing of re-rental of individual BMR Rental Units shall be in compliance with all applicable federal, state and local laws related to fair housing rules. Owners and their agents may be asked to certify that the units have not been marketed in such a manner as to be discriminatory.

The sales or rental programs and procedures shall not have the effect of excluding or discriminating against any person on the basis of race, religion, national origin, sex, sexual preferences, health status, source of income such as disability insurance, social security, TANF, or any other basis prohibited by federal, state or local law.

2. Upon re-rental, BMR Rental Unit managers must follow the process established by MOH for re-renting units. This process includes the following:

a. The Project Sponsor shall inform MOH at least thirty (30) days prior to the intended lease origination date of a new BMR renter of the availability of any such unit before beginning any general marketing;

b. Units must be listed on the MOH website list of available BMR units for at least a seven (7) working day period before

an established application review date. Applications must not be reviewed until the seven (7) working day application period has ended;

c. Applicants must complete a MOH BMR rental application and return the application and all supporting materials by the application deadline;

d. Project Sponsors must follow all fair housing rules when choosing a new renter for a BMR unit;

e. Marketing of BMR Rental Units following the vacancy of any such unit must include advertisement of that unit in at least one print media for at least one Sunday prior to entering into any rental agreement for that unit.

H. Selection of BMR Buyers or Renters at Initial Sale or Rental of BMR Units

1. The Project Sponsor shall utilize a public lottery to select BMR buyers or renters. The following guidelines shall be applicable to the lottery process:

a. Lotteries for BMR units shall be held in a public, accessible location,

b. A non-prioritized list of interested buyers will be kept by MOH ("general BMR list"). At least twenty-one (21) days prior to a lottery, all those signed up on the list will be notified of the availability of units and invited to participate in the lottery by MOH. The general public will be invited to participate in the lottery, as well.

c. All applicants who have submitted a complete application by the application deadline shall be entered into the lottery.

d. Households submitting significantly incomplete applications may be deemed ineligible to enter the lottery for the purchase or rental of a BMR unit or to proceed with a purchase or rental of a BMR unit following the lottery.

e. Applicants shall be invited to attend lotteries, but attendance is not mandatory.

f. A representative of MOH shall conduct the lottery and record the order of lottery numbers drawn.

g. Within 5 business days, the Project Sponsor shall notify all applicants of their position in the lottery and inform MOH of the lottery winners' intent to purchase or rent the BMR unit.

h. The Project Sponsor shall deliver complete applications and supporting materials of interested lottery winners to MOH within 21 days of the lottery date.

i. The Project Sponsor shall adhere to the rank order of the lottery list when offering BMR units to lottery winners.

j. Only those household members listed on the BMR application may move in to the BMR unit unless MOH allows the addition of an additional person.

l. Conversion of BMR Rental Units to Ownership Units

When authorized by planning approvals or other use restrictions placed on a principal project, a BMR Rental Unit may be permitted to be converted for owner occupancy only upon satisfaction of all of the following additional conditions:

1. If the rental BMR unit is subject to planning approvals or other use restrictions specifying that the BMR unit be a rental unit, conversion shall be subject to the approval of the Planning Commission;

2. The conversion from rental to condominium ownership of the BMR unit shall be subject to any applicable City procedures, standards, fees and regulations in effect at the time of application;

3. The BMR unit must have been maintained in good physical condition as an affordable rental unit at all times since its initial construction;

4. If the planning approvals or other use restrictions for the principal project specified a minimum period during which the BMR unit must be rented, that period shall have elapsed;

5. The Project Sponsor shall prepare and submit a Marketing Plan and conduct sales of the BMR units in conformity with the Requirements of this Manual in force at the time of marketing and sale;

6. The BMR ownership unit shall be priced at the level of affordability dictated for the current BMR rental unit as stated in the planning approvals or other use restrictions.

7. The prospective purchaser must be a first-time homebuyer household whose combined gross annual household income does not exceed the percentage of median income specified in the planning approvals or other use restrictions for permissible occupancy of the BMR unit as a rental unit;

8. Existing tenants who meet the requirements to purchase the BMR unit shall be offered a right of first refusal to purchase the unit, which right of first refusal shall afford the tenant at least six (6) months to exercise the right to purchase;

9. Once converted, units shall be subject to all restrictions applicable to the marketing, sale and resale of BMR Ownership Units as set forth in this Manual.

J. Documentation and Enforcement of Sales Restrictions for BMR Ownership Units

1. At the request of MOH, and at the time of the initial or any subsequent sale of a BMR unit, the purchaser shall enter into such agreements or other documents as MOH may require to ensure that the unit will be subject to the affordability restrictions described in the planning approvals or other use restrictions.

2. These documents include the following:

a. Promissory Note

i. To secure the obligations contained in the Conditions of Approval, a purchaser of a BMR unit shall execute and deliver to the City a promissory note in a form prepared by MOH (a "BMR Note") in an original principal amount equal to the difference between (i) the appraised fair market value of the BMR unit at the time of such sale, determined without regard to the sales and rental restrictions on such unit, and (ii) the affordable purchase price owed by the purchaser of that unit at the time of the initial sale of such unit pursuant to the planning approvals or other use restrictions. All such BMR Notes shall contain the above restrictions on resale and rental of a BMR unit. The BMR Note shall provide for a stated rate of deferred interest and/or a stated share of any appreciation in the value of the applicable BMR unit.

ii. No BMR Note shall be required if MOH determines that the affordable purchase price of the applicable BMR unit is approximately equal to the appraised fair market value of that unit at the time of its initial sale,

determined without regard to sales or rental restrictions on that unit. In the event that no BMR Note is required for a BMR unit, MOH may require the recordation of an Acknowledgment of Special Restrictions by the owner of such unit that the unit is subject to the affordability restrictions contained in the planning approvals or other use restrictions.

iii. Subject to the provision of subparagraph IV (J) (5) below, the BMR Note shall be due and payable, in full, upon (i) the sale of the BMR unit to which it pertains, or (ii) in the event of a default of any of the conditions, obligations or covenants contained in the BMR Note (including without limitation the covenant to sell the applicable BMR unit in compliance with the planning approvals or other use restrictions). All funds received by the City from the repayment of BMR Notes shall be used to subsidize low-income to moderate-income housing in the City.

b. Deed of Trust

Repayment of the BMR Note shall be secured by a deed of trust encumbering the applicable BMR unit in a form prepared by MOH.

c. Grant of Right of First Refusal

BMR buyers shall execute and deliver to the City a Grant of Right of First Refusal, a document that requires the seller to notify MOH upon resale, giving the City the option to exercise their right to substitute a qualified buyer.

d. Buyer Acknowledgment of Special Restrictions

BMR buyers shall execute and deliver to the City an Acknowledgement that they have thoroughly reviewed this Manual and the recorded NSR on the BMR unit.

3. Function of Documents

a. Reconveyance of Note and Deed Upon Resale

Upon any resale of a BMR unit, assuming (i) that there has been no event of default that is continuing under the existing BMR Note, and (ii) that the resale of the BMR unit complies with this Manual and the planning approvals or other use restrictions, MOH shall accept a replacement BMR Note made to the order of the City by the new

purchaser of the unit, in form and substance acceptable to MOH, as full satisfaction of the existing BMR Note by the City, the deed of trust securing the existing BMR Note shall be reconveyed by the City, and the new purchaser of the BMR unit shall deliver to the City new BMR Note and a new deed of trust securing the new BMR Note and encumbering the applicable BMR unit. The principal amount of the new BMR Note shall equal the difference between the appraised fair market value of the BMR unit and the affordable purchase price owed by the purchaser of such unit at the time of the resale.

b. Term of Note and Deed

I. For BMR units marketed before the effective date of this Manual, the following process applies:

(a) BMR Ownership Units

Upon the expiration of the 50-year term of the affordability restrictions contained in planning approvals or other use restrictions for any ownership BMR unit, any deed of trust securing a BMR Note shall remain a valid, enforceable lien on the applicable BMR unit until the next resale of such unit, at which time the maker of such BMR Note shall pay to the City the full amount due under the BMR Note. At such time a BMR Note is repaid pursuant to this subparagraph, the lien of the deed of trust securing such BMR Note shall be released and the unit shall no longer be subject to the affordability restrictions.

(b) BMR Rental Units

Upon the expiration of the 50-year term of the affordability restrictions contained in the Conditions of Approval or by ordinance for any rental BMR unit that has remained a rental unit for the duration of the restriction, the unit shall be released from all restrictions and the current building owner may rent the unit at market rate.

II. For all BMR units marketed on or after the effective date of this Manual, the following process applies:

The BMR unit will remain restricted for the life of the project. For ownership BMR units, the BMR note may not be repaid at any time. For rental BMR units, the rental unit will remain restricted for the life of the project.

4. Order of Liens

a. Any liens shall not be subordinated to any other liens or restrictions affecting the project or a BMR unit to which the planning approvals or other use restrictions apply except for the buyer's primary mortgage loan to which the BMR lien may take second place. The BMR lien can only be subordinated to the primary mortgage.

b. The restrictions imposed by planning approvals or other use restrictions, and any liens recorded pursuant thereto, shall not be subordinated to any other liens or restrictions affecting the project or a BMR unit to which the planning approvals or other use restrictions apply; provided, however, that MOH may approve a refinancing of a first-priority mortgage of the BMR unit to secure a lower interest rate, in an amount not to exceed the value of the original mortgage plus customary transaction costs.

5. Recordation of Restrictions

Before the issuance of the first site or building permit, a Notice of Special Restrictions and other appropriate documentation (including deeds of trust securing the obligations of the purchasers of BMR units) against the land record shall be filed with the Office of the Recorder of the City and County of San Francisco for the BMR units in order to implement the planning approvals or other use restrictions. Such deed restrictions and other recorded documents shall include language restricting the sale of the BMR units in accordance with planning approvals or other use restrictions.

K. Conflict of Interest

The Project Sponsor may not make an initial sale or rental of a BMR unit to the project architect, attorney, prime contractor, or to anyone of its or their employees, directors, officers or agents, or to any of their family members, as determined by MOH.

Exhibit F

Developer Obligations from the Community Facilities Plan

The Community Facilities Plan and related Needs Assessment, prepared for the Treasure Island Development Authority ("TIDA"), outlined a community facility program for Treasure Island. The following sets forth Developer obligations with regard to the Community Facilities Program.

Joint Use Police and Fire Station – Developer will construct a facility for use as a joint police/fire station in accordance with the timing set forth in the Schedule of Performance. The facility has been estimated to be approximately 20,000 sq ft, but the final design and program of the facility will be developed in conjunction with the City's Office of Emergency Services and Homeland Security, the San Francisco Fire Department, and the San Francisco Police Department, and will be sized to meet their needs.

The Treasure Island/Yerba Buena Island Design for Development allows this use to be developed within the areas designated as mixed-use and the land use plan identifies the island core as the preferred location.

Community Center Space – At TIDA's election, Developer will create 13,500 sq. ft. of Community Center space or provide a payment to the Treasure Island Development Authority of $9.5M (adjusted for inflation) or a combination thereof. If Developer provides physical space for the Community Center program, it may take the form of (i) a new free-standing building(s), (ii) space(s) within a new residential or commercial building(s) or public parking garages, and/or (iii) renovated space within an existing building(s) that are scheduled to remain as part of the final development program, such as Building One or Building Three. The timing of the provision of space or payment will be determined pursuant to the Community Facilities Subsidy provisions of the DDA.

Gymnasium – TIDA will retain the existing gymnasium for health and fitness activities in its current location and Developer will integrate the building into the surrounding park and open space program.

TIHDI Support Space – At the request of the Treasure Island Homeless Development Initiative ("TIHDI") Developer will provide TIHDI approximately 2,500 sq. ft. of administrative space (expected to be located in Building 1). In addition, TIHDI will be provided up to 9,500 square feet of general social services space. To the extent the general social services space can be co-located within Community Center Space and TIHDI can regularly access this space, the general social services space square footage can be reduced to 5,500 square feet. The delivery of the general social service space must occur prior to the demolition of the Shipshape Building to allow for the continuous operation of the various TIHDI programs currently housed in that facility.

School Improvement Payment – As set forth in Section 13.3.5 of the DDA, Developer will provide a $5.0M subsidy to be used for the refurbishment of school facilities on Treasure Island.

Childcare Facility – At TIDA's election, Developer will create 15,000 sq. ft. (7,500 sq. ft. of indoor space and 7,500 sq. ft. of outdoor space) of Childcare space or provide a payment to the Treasure Island Development Authority of $2.5M - adjusted for inflation. If Developer provides physical space for Childcare, it may take the form of (i) a new free-standing buildings, (ii) space(s) within a new building(s), or (iii) renovated space with an existing building(s) that are scheduled to remain as part of the final development program, such as Building One or Building Three. Developer is obligated to provide this space or provide the funding no later than the first approved Sub-Phase within Major Phase Three or 18 months before the existing facility is no longer operational due to development activity, whichever comes first, so that the facility can remain operational without interruption.

Chapel – TIDA will retain the Chapel in its current location and Developer will integrate the facility into the adjacent park and open space.

Treasure Island Museum - Developer and the Treasure Island Museum Association will work cooperatively to mutually agree on a space(s) and the timing for delivery of such space(s) that is suitable to meet the programmatic and visitor needs necessary to create a viable museum operation. This space is expected to be located in Building One but could be accommodated in other locations acceptable to both Developer and the Treasure Island Museum Association.

Treasure Island Sailing Center – Pursuant to the Schedule of Performance attached to the DDA, Developer will provide the Treasure Island Sailing Center a parcel of land, approximately 2 acres in size on the southeast portion of Treasure Island that is serviced by the infrastructure necessary to allow the Treasure Island Sailing Center to continue its operation at Treasure Island.

Environmental Education Center - Pursuant to the Schedule of Performance attached to the DDA, Developer will improve a site within the open space program to create an environmental learning center on the Island to help with interpretation and understanding of the ecological resources on Treasure Island and Yerba Buena Island. It is anticipated that the Environmental Education Center will start as interpretive signage in the early phases of the project and once the Open Space program has been substantially completed a site will be located on Treasure Island.

Life Learning Academy – TIDA will retain the Life Learning Academy in its existing location and Developer will integrate it into the surrounding development program.

Urban Agricultural Park, Marina Plaza, Parks and Open Space – Developer's obligations for the Urban Agricultural Park, the Marina Plaza and the various elements of the Parks and Open Space program are set forth in the Parks and Open Space Plan attached as an Exhibit to the DDA.

The location of all facilities not expressly agreed to in the DDA, whether in new buildings or provided within existing structures, are subject to TIDA's approval.

See Schedule of Performance for timing of space provision and payments, unless otherwise noted. All space shall be provided at no cost, unless otherwise indicated.

EXHIBIT G (PUBLIC PROPERTY MAP)

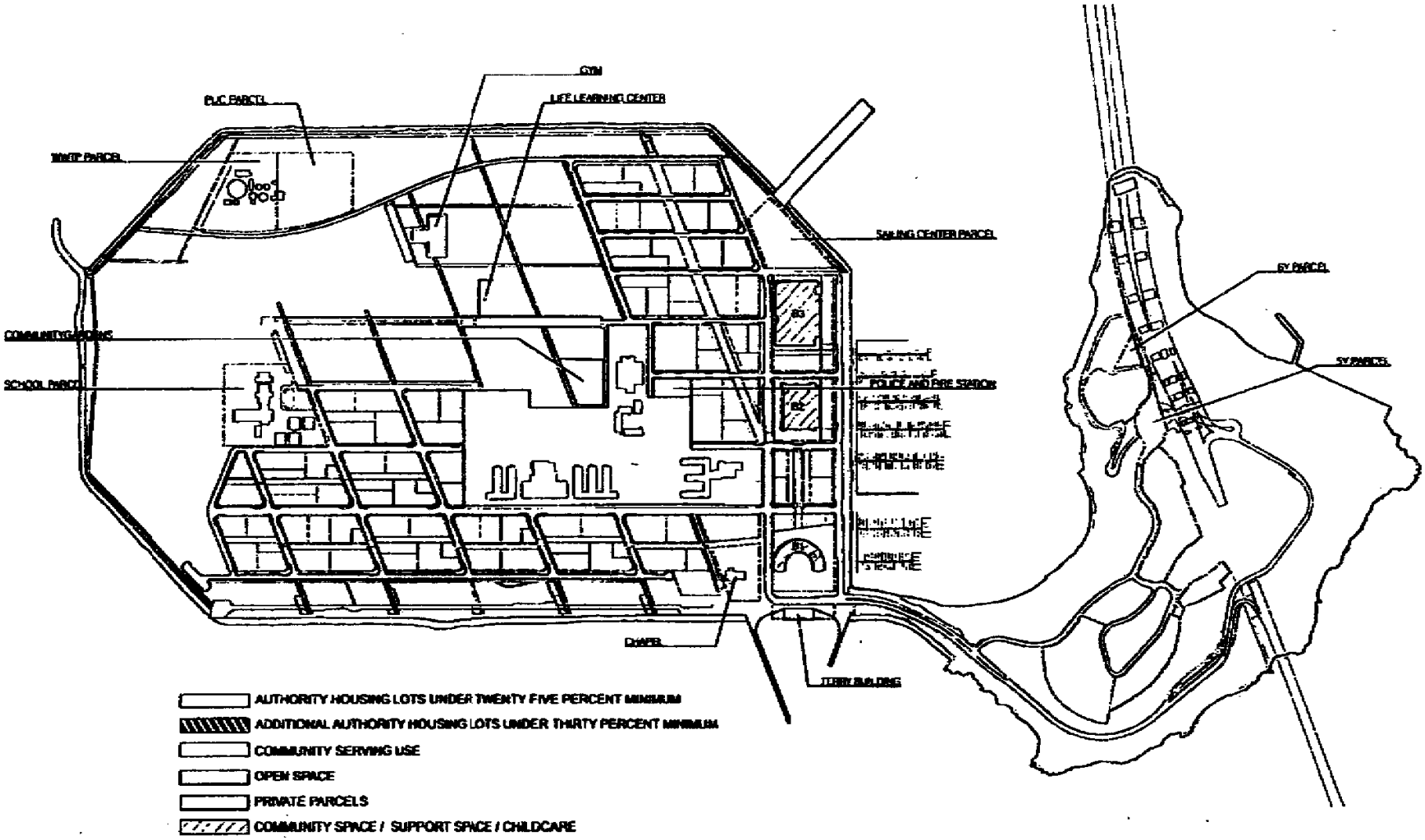

Exhibit H

Approved Vertical DDA Form

Exhibit H will be attached to DDA upon agreement of the parties in accordance with terms of Section 28.38 the DDA.

Exhibit I

Approved Vertical LDDA Form

Exhibit I will be attached to DDA upon agreement of the parties in accordance with terms of Section 28.38 the DDA.

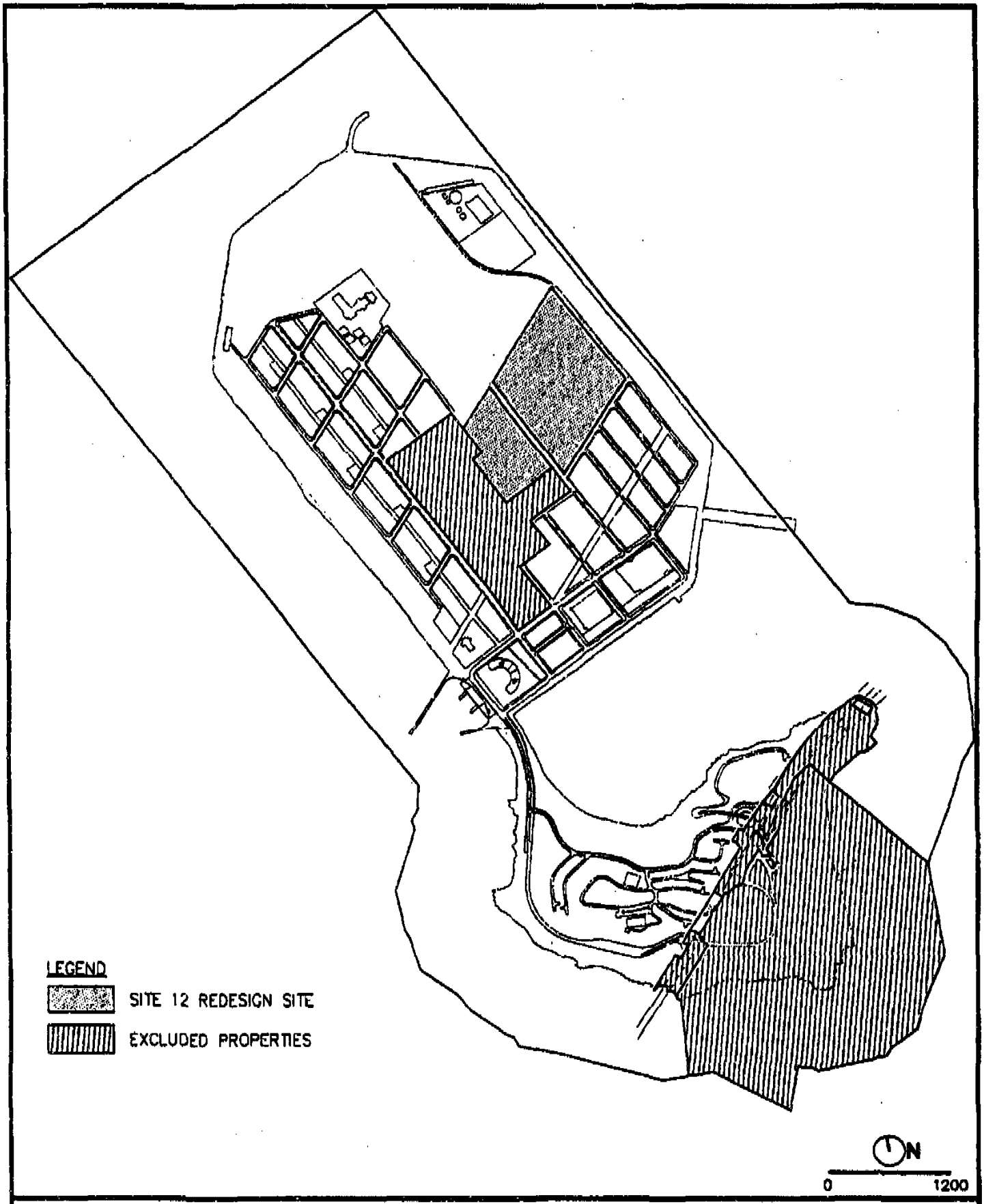

EXHIBIT L: SITE 12 REDESIGN SITE

Exhibit M

Ground Lease

Exhibit M will be attached to DDA upon agreement of the parties in accordance with terms of Section 28.38 the DDA.

EXHIBIT N
TRANSPORTATION PLAN OBLIGATIONS

The Treasure Island Development Authority (TIDA) has adopted a Transportation Implementation Plan that describes generally how the transportation program for the Islands will be implemented, including physical construction, transit service, and transportation demand management tools. The Transportation Implementation Plan will be implemented by the Treasure Island Transportation Management Agency (TITMA), in consultation with the Authority, SFMTA, and other transit service providers. The following list comprises the Developer's obligations related to implementation of the transportation program.

Infrastructure and Facilities

- Developer shall construct streets, sidewalks, and bicycle paths, as described and in accordance with the Infrastructure Plan attached to the DDA. The streets shall include bicycle racks, bus shelters, and other streetscape improvements to be proposed by Developer and Approved by the Authority as part of the Streetscape Master Plan required to be submitted prior to the first Major Phase Approval.
- Developer shall construct a ferry quay and terminal in two phases, as described and in accordance with the Infrastructure Plan attached to the DDA.
- Developer shall provide a subsidy of $10 million to the Authority for the reimbursement of design and construction costs associated with the ramps and viaduct projects. The terms of the subsidy are more specifically described in Section 13.3.6 of the DDA.

Transit Capital

- Developer shall purchase up to nine (9) buses for use in the East Bay bus service. The method of procurement and specifications of the buses will be as mutually agreed between Developer, TIDA, and the East Bay bus service provider, AC Transit. Up to five (5) buses will be provided when the service initially begins. Service is anticipated to start with the occupancy of the first new residential units, currently projected in 2015. The balance of the bus acquisition will be provided as needed based on service schedules, but no earlier than the occupancy of the five thousandth (5000^{th}) new residential unit. The parties will coordinate the timing of procurements so that buses are procured as part of the regular procurement process of the service provider.
- Developer shall purchase up to four (4) buses for use in the on-island shuttle service. The method of procurement and specifications of the buses will be as mutually agreed between Developer, TIDA, and the shuttle operator, who will be selected by TITMA. Up to two (2) buses will be provided when the existing Muni 108 ceases to circulate on the Island and the service initially begins, but no earlier than the occupancy of the three thousandth (3000^{th}) unit. In the event that the Muni service ceases to circulate on Island prior to the occupancy of the 3000^{th} unit, the Developer and the Authority

shall meet and confer to discuss making changes to the shuttle procurement schedule to accommodate the earlier start date. The remaining two (2) buses will be provided as needed based on service schedules.

- Developer shall provide a subsidy of $1.8 million to the Authority as matching funds for the purchase of six (6) Muni buses. The terms of the subsidy are more specifically described in Section 13.3.2 (f) of the DDA.

Transportation Demand Management Programs

- Developer shall purchase bicycles and equipment to establish the bicycle library, up to a maximum expenditure of $110,000. The library itself will be located in or near the ferry terminal building, to be constructed by Developer as described and in accordance with the Infrastructure Plan attached to the DDA.
- Developer shall provide up to 500 SF of office space for the TITMA's Administrative Offices, expected to be located in Building 1. The cost of office tenant improvements, office equipment and furniture, and utilities will be borne by the TITMA through its annual budgeting process, which will be supplemented by a Developer subsidy as described in Section 13.3.2 of the DDA.
- TIDA and/or the TITMA, in collaboration with the Developer and through a public process, shall update the Transportation Implementation Plan within one year of the time that building permits are issued for the 2,000th, 4,000th, 6,000th and 8,000th units based on documented travel behavior and the actual performance of the Project's transportation program, including Transportation Demand Management measure that have been implemented to that point, and make adjustments to the Transportation Implementation Plan as necessary to achieve the cumulative goals.

Operating Subsidy

- Developer shall provide an operating subsidy of $30 million, to be drawn by the Authority as needed on an annual basis, as more specifically described in Section 13.3.2 of the DDA.

Additional Transportation Subsidy

- Developer shall pay the TITMA an additional transportation subsidy in the total amount of $5 million, in five (5) consecutive annual installments of $1 million per year, payable in accordance with Section 13.3.2(g) of the DDA if the transit report required to be prepared within one year after the first certificate of occupancy is issued for the 4,000th dwelling unit on the Project Site, as more specifically described in Section 13.3.2(g) of the DDA, shows residential transit mode share is 50% or less.

Exhibit O

Developer Environmental Sustainability Obligations

Overarching Commitment:

Commit to good faith effort to implement the sustainability principles embedded in the Land Use Plan and Development Program while also: (1) retaining the ability to achieve Developer's targeted return on investment as established in the DDA, and (2) maintaining the project's ability to finance the level of public benefits described in the Development Program.

The following represents Developer's environmental sustainability obligations pertaining to the development of Treasure Island and Yerba Buena Island:

LAND USE

1. Commit to achieving Gold certification under the United States Green Building Council's LEED (Leadership in Energy & Environmental Design) for Neighborhood Development (ND) rating system (July 2010 version), while making a good faith effort to achieve the higher Platinum certification.

2. Implement the Land Use Plan attached to the DDA which includes the following fundamental environmentally sustainable elements:

    - Construct a dense, compact, walkable design centered around a robust transit hub;
    - Orient streets and buildings to maximize penetration of sunlight into parks, streets and buildings and to protect streets and open spaces from the prevailing winds, fostering a more comfortable outdoor environment;
    - Establish convenient neighborhood-serving retail and services that lessen the need for driving;
    - Adaptively reuse existing historic structures to honor the heritage of the site and contribute to the uniqueness of the islands;
    - Convert previously developed lands so that approximately 2/3 of the available land area is dedicated for parks and open space;

- Dedicate land for an Urban Agricultural Park to promote local organic food production and prepare land for development of agricultural and community garden uses in accordance with the Design for Development and Infrastructure Plan; and
- Complete additional remediation work beyond that done by the Navy to ensure the safety of future residents and users of Treasure Island, in accordance with the Infrastructure Plan.

3. Implement the Parks and Open Space plan attached to the DDA which includes the following elements:

   - Use of native or regionally appropriate species for landscaping where appropriate, with an emphasis on drought tolerant plantings;
   - Protection of sensitive species in accordance and consistent with applicable laws and the California Environmental Quality Act
   - Funding for on-going operations and maintenance, in accordance with the terms of the DDA;
   - Implementation of certain components of the Yerba Buena Island Habitat Management Plan.

4. Comply with the CEQA Mitigation Monitoring and Reporting Program.

TRANSPORTATION AND INFRASTRUCTURE

1. Provide transportation infrastructure and support for transportation programs and operations in accordance with the Transportation Plan Obligations, and as further detailed in the Infrastructure Plan and DDA. The transportation program includes the following elements:

   - An on-island transit shuttle connecting the islands' neighborhoods;
   - Transit stops buffered against wind and rain;
   - A Ferry Terminal on Treasure Island for ferry service to San Francisco;
   - New bus infrastructure for service to the East Bay;
   - An extensive and connected islands'-wide bicycle network;
   - Mandatory car sharing service available in larger residential and commercial projects; and
   - Required purchase of a prepaid transit voucher for each household.

2. Develop an infrastructure system set forth in the Infrastructure Plan, which includes the following elements:

   - Storm water treatment wetlands appropriately sized to handle projected storm water treatment flows;
   - Provision of water storage on Yerba Buena Island equal to two days average potable water demand plus four hours of fire flow;
   - Construction of a recycling and composting center for composting food and green waste;
   - Erosion and sedimentation control measures during construction based on an approved Storm Water Pollution Prevention Plan for each phase of construction;
   - Improvements to protect against seismic, flooding and climate change risks; and
   - Improvements to provide adequate emergency support services as outlined in the Infrastructure Plan.

ENERGY AND WATER

1. Reduce building energy demand by requiring developers to utilize the Green Building Specifications incorporated into the Design for Development.

2. Incorporate design standards that require building roofs to enable installation of photovoltaic panels or solar thermal applications and to provide appropriate access rights to enable third party energy providers to access rooftops.

3. Construct renewable energy infrastructure that will provide a minimum 5% of peak demand delivered from on-site renewable energy.

4. Achieve at least 15% compliance margin over Title 24 Part 6 2008 California Energy Standards.

5. Provide energy capacity and infrastructure to accommodate potential electric vehicle charging stations in public and private areas.

6. Provide for the use of recycled water for residential, commercial and irrigation applications, and install recycled water infrastructure as well as mandating dual plumbing in new buildings as required by code.

7. Reduce potable water consumption by by requiring developers to utilize the Green Building Specifications incorporated into the Design for Development

8. Install native or regionally appropriate landscaping and maximize vegetation that does not require permanent irrigation for landscaping in public and private open spaces, rooftops and green walls

BUILDING DESIGN AND CONSTRUCTION

1. Prescribe Treasure Island/Yerba Buena Island Green Building Specifications and incorporate into the Design for Development.

2. Use alternatively fueled construction equipment for at least 15% of the construction fleet.

SOLID WASTE

1. Diversion of at least 75% of construction debris from landfills and incinerators back to the manufacturing process or reuse at appropriate sites.

2. Provide for on-site area for separation, storage and loading of trash, recyclables and compostable waste.

3. Commit to good faith efforts to explore feasibility of installing automatic waste management system.

COMMUNITY BENEFITS

1. Provide public and community facilities, in accordance with the Community Facilities Obligations attached to the DDA, to serve the needs of residents and visitors commensurate with the phased development of the project.

2. Comply with the terms and conditions applicable to Developer outlined in the Jobs and Equal Opportunity Program attached to the DDA.

3. Provide developable land and developer subsidy to support the development of affordable housing that equals at least 25% and, depending on the circumstances, up to 30% of the homes built on the islands by implementing Developer's obligations under the Housing Plan attached to the DDA.

EXHIBIT P

DISPOSITION AND DEVELOPMENT AGREEMENT

(TREASURE ISLAND/YERBA BUENA ISLAND)

JOBS AND EQUAL OPPORTUNITY PROGRAM

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EXHIBITS:

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 Development, LLC (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 (Californin 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 1'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 after 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 I 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.

EXHIBIT Q
PRE-APPROVED ARBITERS LIST

Qualified arbiters with Real Estate expertise from the AAA's National Panel of Arbitrators and Mediators

1. **Bruce Belding**
2. **David Hellbron**
3. **Matthew Geyer**
4. **William Quinby**
5. **Hon. Carl West Anderson**

Qualified arbiters with Real Estate expertise from the CPR Institute for Dispute Resolution

6. **Zela G. Claiborne**
7. **Hon. Charles B. Renfrew**

EXHIBIT R

Form of Reversionary Quitclaim Deed

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: Rich Hillis**	Recorder's Stamp

Reversionary Quitclaim Deed

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, _____, a _____ ("**Developer**"), does hereby quitclaim to the TREASURE ISLAND DEVELOPMENT AUTHORITY, a California nonprofit public benefit corporation (the "**Authority**"), all of its right, title and interest in and to all of that real property located in the City and County of San Francisco, California described in Exhibit R-1 attached hereto.

AUTHORITY:

Authorized by Authority Resolution No. _____ adopted _____

Approved as to Form:
DENNIS J. HERRERA,
City Attorney

By: _____
Name: _____
Title: Deputy City Attorney

TREASURE ISLAND DEVELOPMENT AUTHORITY,
a California nonprofit public benefit corporation

By: _____
Name: _____
Title: _____

DEVELOPER:

_____,
a _____,

By: _____
Name: _____
Title: _____

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

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

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

WITNESS my hand and official seal.

_____ (Seal)
Notary Public

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

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

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

WITNESS my hand and official seal.

_____ (Seal)
Notary Public

EXHIBIT R-1

Legal Description

[ATTACHED]

Exhibit S - Summary Proforma

	Total	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Residential For Sale - Market Rate	5935	-	345	275	453	344	344	429	392	426	267
Residential For Sale - Affordable	307	-	18	16	25	17	12	18	9	23	15
Residential For Rent - Market Rate	503	-	-	43	112	107	-	85	-	-	156
Residential For Rent - Afford Incl	91	-	-	8	30	19	-	15	-	-	29
Branded Condo	117	-	-	-		-	-	-	-	-	-
TIDA/THDI[1]	1,684	-	177	642	72	262	-	175	45	-	164
Subtotal	7,637	-	540	954	662	754	386	722	646	451	631
Commercial Square Feet	352,901	-	-	65,379	-	-	-	-	-	193,836	-
Hotel Rooms	250	-	-	-	-	-	50	-	200	-	-
REVENUES											
Residential For Sale - Market Rate	462,010,032	-	76,040,376	82,911,005	64,270,211	40,300,673	21,577,301	62,320,010	26,317,425	37,002,535	16,097,559
Residential For Sale - Affordable Inclusionary	(58,361,213)	-	(3,913,275)	(3,576,310)	(7,540,409)	(5,933,901)	(4,209,526)	(5,509,577)	(2,002,701)	(6,834,650)	(3,151,301)
Residential For Rent - Market Rate	50,350,000	-	-	4,300,000	21,200,000	10,700,000	-	8,500,000	-	-	15,000,000
Residential For Rent - Affordable Inclusionary	(14,560,000)	-	-	(1,200,000)	(3,300,000)	(3,000,000)	-	(2,400,000)	-	-	(4,640,000)
Commercial Acreage Sales	17,500,000	-	-	-	-	-	2,500,000	-	-	-	-
Branded Condo	25,400,000	-	-	-	-	-	-	-	-	-	-
THDI / TIDA	-	-	-	-	-	-	-	-	-	-	-
Rental Revenues from Existing Buildings / Units	75,317,453	8,990,610	9,312,984	8,535,416	8,515,416	8,515,416	6,404,562	6,401,562	6,401,562	4,262,700	2,173,054
Marketing Revenue From Builders	33,521,032	-	-	2,121,464	1,574,961	3,227,766	2,367,229	3,218,351	3,043,870	4,023,264	2,680,771
Total Revenues Before Inflation	590,128,104	8,990,610	82,085,434	63,011,048	34,031,100	55,004,784	26,456,839	71,539,338	34,008,165	38,540,857	23,330,083
Plus: Inflation	765,763,143	92,703	24,963,973	20,221,000	44,752,654	44,703,934	45,795,263	60,223,696	101,350,772	60,673,670	45,776,901
Total Revenues	1,354,891,139	9,083,303	105,634,407	71,233,257	159,500,064	806,572,788	74,252,600	139,763,056	135,438,936	99,213,927	73,307,304
COSTS											
Initial Consideration	67,375,000	5,300,000	7,975,000	7,300,000	7,425,000	7,150,000	6,475,000	6,600,000	6,325,000	6,050,000	5,775,000
Additional Consideration	50,000,000	-	-	-	-	-	-	-	-	-	-
Total Land Costs	117,375,000	5,300,000	7,975,000	7,300,000	7,425,000	7,150,000	6,475,000	6,600,000	6,325,000	6,050,000	5,775,000
Hard Costs											
Site Closure Oversight & Insurance	8,000,300	1,989,136	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Historic Building 2 Grocery/Retail	25,000,000		-	-	11,458,333	12,500,000	1,041,667	-	-	-	-
Fees, Bonds, Permits	15,870,164	1,675,614	2,057,434	1,522,653	1,575,219	1,142,819	1,006,701	3,204,614	2,424,466	932,386	469,863
Site Development, incl. Cleanup & Ramps/Viaducts	277,291,146	33,299,121	34,657,305	20,345,007	33,315,414	40,553,290	14,216,283	34,925,230	26,088,126	17,745,703	5,308,485
Transportation, Ferry Terminal & Parking Garage	68,526,113	-	-	3,402,675	10,316,610	30,291,674	1,827,471	85,619	924,175	223,301	374,337
Infrastructure, Landscape, Police/Fire, Water Tanks	245,628,352	20,315,537	34,318,363	31,335,000	30,668,729	34,030,498	19,644,357	21,310,322	13,735,912	15,421,233	10,349,223
Construction Management	21,160,119	2,294,416	3,343,232	2,030,300	2,100,292	1,525,350	1,449,042	2,379,485	1,804,798	1,243,342	636,496
Engineering and Other Fees	49,508,482	4,276,600	5,021,097	3,309,405	3,220,334	3,363,345	5,831,738	4,483,713	3,008,231	1,565,290	2,040,348
Contingency	123,125,364	9,159,429	10,290,434	10,151,405	11,300,711	12,910,777	14,310,721	15,816,800	10,770,835	6,064,057	3,924,371
Total Hard Costs	784,393,133	77,000,000	96,603,922	75,004,524	83,646,400	78,506,541	60,000,652	82,351,833	61,409,176	44,247,537	24,156,071
Sales & Marketing											
Closing Costs	37,148,117	-	2,938,063	1,800,000	3,985,597	2,640,199	1,945,236	3,907,729	3,745,000	2,704,391	2,063,077
Residential Marketing	35,082,156	-	3,180,305	3,109,305	3,109,305	3,109,305	3,189,305	3,189,305	3,189,305	3,189,305	3,189,305
Total Sales & Marketing	72,230,670	-	4,118,168	4,903,374	7,094,902	5,829,504	5,134,541	7,097,034	6,938,413	5,893,696	5,251,382
Planning And Entitlements - Pre Acq./Land	96,725,105	96,725,105	-	-	-	-	-	-	-	-	-
Affordable Housing Subsidy	48,962,300	-	750,000	-	12,076,316	13,611,454	9,374,928	8,404,325	10,005,313	7,714,583	2,409,782
	-	-	-	-	-	-	-	-	-	-	-
Transportation Operating Subsidy	36,388,494	-	-	-	3,466,667	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Parks and Open Space Maintenance Subsidy	17,469,353	-	-	1,375,000	1,500,000	1,500,000	2,075,000	3,000,000	3,000,000	3,000,000	1,138,353
School & Community Facilities	21,512,429	-	-	1,165,833	1,250,000	1,250,000	1,250,000	6,000,022	5,762,447	1,250,000	1,250,000
Existing Rental Operating Expenses	40,652,503	4,000,604	5,150,025	4,537,327	4,532,327	4,537,327	3,402,995	3,402,969	3,403,965	2,266,663	1,134,332
TIDA Admin/THDI Job Broker	36,300,303	2,066,667	2,300,000	2,291,667	2,300,000	2,300,000	2,403,333	2,300,000	2,500,000	2,500,000	2,300,000
Property Taxes	25,285,563	666,614	1,500,812	2,097,936	2,490,951	2,662,999	2,638,108	2,700,703	2,545,000	2,461,776	2,009,764
G&A	8,450,333	450,333	500,000	500,000	300,000	500,000	300,000	300,000	500,000	500,000	300,000
Project Management Fee	22,515,767	2,252,128	2,672,304	2,236,034	2,218,272	1,722,605	1,751,232	2,465,465	1,963,343	1,322,000	724,631
Soft Cost Contingency	19,093,508	521,429	826,642	909,299	3,119,181	3,372,370	1,524,822	1,165,450	1,119,247	1,093,409	1,008,417
Sub-Total	437,306,365	109,606,881	13,606,847	15,266,000	33,646,596	35,656,715	29,000,698	35,664,948	38,006,710	26,041,321	21,675,367

Exhibit S - Summary Proforma

	Total	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Total Costs Before Inflation	1,401,390,974	192,146,067	118,385,937	102,966,278	133,772,907	119,142,388	100,[illegible]	132,713,916	109,365,117	82,232,353	56,840,722
Plus: Inflation	123,845,387	983,995	3,441,379	4,718,064	7,124,441	7,570,400	9,066,295	15,151,927	13,055,571	13,293,536	7,952,161
Total Costs	1,525,240,364	193,130,062	121,827,316	107,342,339	140,897,351	126,713,488	110,586,179	147,865,843	122,420,688	95,525,889	64,022,883
CASH FLOW BEFORE FINANCING	(170,340,833)	(194,445,509)	(14,888,979)	(56,514,082)	(3,315,488)	(26,348,730)	(36,611,576)	(8,502,786)	12,868,348	5,690,845	4,494,821
LAND SECURED TAX EXEMPT FINANCING											
CFD / Mello Roos Bonds	454,617,650	-	21,062,071	21,339,890	29,295,812	45,962,013	117,645,297	92,355,536	55,678,004	39,382,842	-
Tax Increment (After Debt Service)	451,734,378	-	-	-	6,186,540	4,010,960	25,484,888	29,586,420	34,981,839	33,183,635	35,906,608
Surplus Tax Increment Revenue	5,635,000	-	-	-	(15,300)	54,598	45,097	223,476	238,027	353,346	362,116
CFD Remainder Tax for Project Costs, net of O&M Subsid	20,634,542	-	-	-	-	-	865,503	-	-	-	-
Annual Special Taxes	(18,054,897)	-	(102,000)	-	-	-	-	-	-	-	(6,786,436)
Total Public Financing	874,560,300	-	21,960,071	24,839,890	36,467,087	49,128,576	144,065,097	113,888,430	88,788,825	72,918,822	29,632,288
CASHFLOW AFTER PUBLIC FINANCING	704,219,468	(194,445,509)	6,962,363	(11,974,991)	25,153,604	22,987,885	107,453,416	105,782,644	100,719,873	78,616,967	34,117,388

(1) Number of units can be increased per Housing Plan Sections 5 and 9

	Total	2022	2023	2024	2025	2026	2027	2028	2029
Residential For Sale - Market Rate	1,635	302	395	557	250	-	-	-	-
Residential For Sale - Affordable	207	15	23	16	-	-	-	-	-
Residential For Rent - Market Rate	509	-	-	-	-	-	-	-	-
Residential For Rent - Afford Incl	95	-	-	-	-	-	-	-	-
Branded Condo	117	-	117	-	-	-	-	-	-
TIDA/TIHDI[1]	1,484	117	25	-	-	-	-	-	-
Subtotal	7,637	434	610	573	250	-	-	-	-
Commercial Square Feet	353,590	-	-	-	-	-	150,226	-	-
Hotel Rooms	250	-	-	-	-	-	-	-	-
REVENUES									
Residential For Sale - Market Rate	463,060,022	28,043,314	23,756,734	25,147,728	5,156,336	-	-	-	-
Residential For Sale - Affordable Inclusionary	(56,364,213)	(3,471,469)	(8,346,841)	(3,702,589)	-	-	-	-	-
Residential For Rent - Market Rate	50,300,000	-	-	-	-	-	-	-	-
Residential For Rent - Affordable Inclusionary	(14,560,000)	-	-	-	-	-	-	-	-
Commercial Acreage Sales	17,500,000	-	-	-	15,000,000	-	-	-	-
Branded Condo	23,400,000	-	23,400,000	-	-	-	-	-	-
THDI / TIDA	-	-	-	-	-	-	-	-	-
Rental Revenues from Existing Buildings / Units	75,317,653	2,113,854	2,133,834	2,133,854	-	-	-	-	-
Marketing Revenue From Builders	33,322,002	2,300,497	1,791,973	8,864,364	-	-	-	-	-
Total Revenues Before Inflation	589,158,496	30,094,954	42,735,263	31,643,363	20,156,336	-	-	-	-
Plus: Inflation	763,763,045	46,210,426	61,139,283	106,389,260	67,438,290	-	-	-	-
Total Revenues	1,380,896,539	76,305,380	103,875,646	138,032,623	87,594,646	-	-	-	-
COSTS									
Initial Consideration	67,375,000	-	-	-	-	-	-	-	-
Additional Consideration	50,000,000	-	-	-	50,000,000	-	-	-	-
Total Land Costs	117,375,000	-	-	-	50,000,000	-	-	-	-
Hard Costs									
Site Closure Oversight & Insurance	6,000,000	205783.7817	183514.51852	1.64477E-11	0	0	0	0	0
Historic Building 2 Grocery/Retail	25,000,000	-	-	-	-	-	-	-	-
Fees, Bonds, Permits	15,878,364	872,915	801,535	489,663	95,387	17,246	1,836	-	-
Site Development, incl. Cleanup & Ramps/Viaduct	227,201,440	11,318,226	985,743	-	-	-	-	-	-
Transportation, Ferry Terminal & Parking Garage	66,526,313	15,039,441	17,265,537	5,315,625	351,623	1,178,348	187,123	944,440	-
Infrastructure, Landscape, Police/Fire, Water Tanks	145,628,052	4,903,805	8,650,977	8,330,086	2,334,305	574,832	34,323	-	-
Construction Management	21,160,219	1,163,887	1,060,760	540,730	127,449	22,994	1,361	-	-
Engineering and Other Fees	40,500,482	2,469,897	1,363,351	388,622	3,357,530	3,452	-	-	-
Contingency	129,125,208	6,260,296	5,940,567	2,996,086	1,353,358	121,309	7,300	-	-
Total Hard Costs	700,050,239	42,932,772	36,157,683	17,906,821	8,120,150	1,920,680	151,450	944,660	-
Sales & Marketing									
Closing Costs	37,148,317	2,132,620	2,982,817	1,816,904	2,627,834	-	-	-	-
Residential Marketing	35,082,336	3,188,385	3,189,385	-	-	-	-	-	-
Total Sales & Marketing	72,230,653	5,320,994	6,171,342	1,816,904	2,627,834	-	-	-	-
Planning And Entitlements - Pre Acq./Land	88,725,085	-	-	-	-	-	-	-	-
Affordable Housing Subsidy	48,062,580	5,461,058	8,683,750	9,681,875	4,827,788	364,383	-	-	-
	-	-	-	-	-	-	-	-	-
Transportation Operating Subsidy	30,288,494	4,000,000	4,000,000	2,330,653	103,375	-	-	-	-
Parks and Open Space Maintenance Subsidy	37,460,551	88,796	-	-	-	-	-	-	-
School & Community Facilities	21,342,029	1,250,000	1,250,000	2,728,372	236,595	-	-	-	-
Existing Rental Operating Expenses	40,652,583	1,134,332	1,134,312	1,134,332	-	-	-	-	-
TIDA Admin/TIHDI Job Broker	36,700,645	2,500,000	2,400,000	2,033,304	2,000,000	2000,000	2,000,000	166,667	-
Property Taxes	25,785,568	1,655,916	1,127,056	666,440	131,497	-	-	-	-
G&A	8,658,233	500,000	500,000	500,000	500,000	500,000	500,000	500,200	-
Project Management Fee	22,535,307	1,384,072	1,080,160	537,485	349,005	57,616	4,544	28,340	-
Soft Cost Contingency	19,080,560	817,000	616,083	609,909	531,878	562,191	300,000	133,333	-
Sub-Total	427,500,860	18,880,455	28,574,197	26,043,175	6,651,540	3426,302	3,004,544	828,340	-

	Total	2022	2023	2024	2025	2026	2027	2028	2029
Total Costs Before Inflation	1,481,344,974	67,056,159	63,309,821	81,776,101	69,340,538	5,384,902	3,153,994	1,772,999	-
Plus: Inflation	129,845,387	13,384,912	12,978,650	8,354,418	4,365,705	1,460,893	1,135,515	686,767	-
Total Costs	[illegible]	80,441,071	[illegible]	[illegible]	73,705,243	7,085,795	4,391,507	2,459,767	-
CASH FLOW BEFORE FINANCING	(570,340,522)	(4,435,681)	27,573,593	87,982,024	16,799,374	(7,085,795)	(4,391,507)	(2,459,767)	-
LAND SECURED TAX EXEMPT FINANCING									
CFD / Mello Roos Bonds	414,617,658	-	-	-	-	-	-	-	-
Tax Increment (After Debt Service)	451,234,378	13,130,535	47,418,725	34,702,723	37,664,790	30,854,255	46,172,195	58,529,325	-
Surplus Tax Increment Revenue	5,635,860	452,665	536,266	688,461	647,864	664,533	688,096	700,383	-
CFD Remainder Tax for Project Costs, net of O&M Subsid	28,434,592	-	-	-	2,367,391	3,546,544	5,304,386	6,082,679	-
Annual Special Taxes	(18,854,897)	(6,917,860)	(4,312,881)	-	-	-	-	-	-
Total Public Financing	874,568,384	16,665,340	43,641,609	35,481,488	40,649,246	37,065,832	51,667,876	58,212,385	-
CASHFLOW AFTER PUBLIC FINANCING	304,199,462	12,224,649	71,167,393	123,363,432	56,448,919	30,895,788	47,775,369	55,752,618	-

(1) Number of units can be increased per Housing Plan Sections 3 and 9.

EXHIBIT T

AUCTION BIDDER SELECTION GUIDELINES FOR NON-CRITICAL COMMERCIAL LOTS

Non-Affiliation Requirement

- Bidder is not an Affiliate of Developer
    - Affiliate of Developer means an entitity that directly or indirectly controls, is controlled by, or is under common control with, the Developer or its partners or members
- Bidder does not have any financial arrangements with Developer in submitting its bid

Financial Requirements

-Bidder is able to demonstrate the financial ability to perform the obligations it is assuming in association with the development of the auction lot. For purposes of this section, this includes evidence of access to adequate equity and debt capital along with commitment letters from those financing sources, and the ability to post the required security associated with the development of the auction lot.

- Provision of a commitment letter to fund a 10% refundable deposit within 10 business days of being selected the auction winner

Experience Requirements

-The managing principal of the bidder has at least five (5) years of experience in developing the type of commercial product to be developed on the auction lot the bidder is seeking to purchase.

-The principals of the bidder have collectively completed at least three (3) development projects containing at least 75% of the commercial square footage proposed for the auction lot.

Entity in Good Standing Requirements

-Documentation evidencing that the bidder and its constituent members, if any, have been duly formed, made all filings and are in good standing in the State of California and in the state of their respective incorporation. If the bidder is a joint venture, then the bidder shall provide evidence demonstrating the existence of a duly executed contractual relationship between the applicable parties.

-Bidder has not defaulted on its obligations on another lot or project within the Treasure Island or Yerba Buena Island development area.

No Unfair Advantage Requirement

- Bidder has not revieved an unfair advantage by receiving any bid information that is different from or in advance of such information being made available to other interested bidders

EXHIBIT U
QUALIFIED APPRAISER POOL

1. **Carneghi-Blum (Ron Blum)**
   595 Market Street, Suite 2230
   San Francisco CA 94015
   415.777.2666 x 109 (phone)
   415.977.0555 (fax)

2. **Cushman + Wakefield (James Myers)**
   Cushman & Wakefield Western, Inc.
   601 S. Figueroa Street
   47th Floor
   Los Angeles , CA 90017
   (213)955-6493
   (213)627-4044

3. **Integra Realty Resources (Brady Barbier)**
   East Bay Office
   200 Pringle Avenue, Suite 325
   Walnut Creek, CA 94596
   925 938-2600 ext. 108 - Phone
   925 930-6880 – Fax

4. **Martorana-Bohegian (Dave Bohegian)**
   400 Montgomery Street, Suite 930
   San Francisco CA 94104
   415.982.4733 (phone)
   415.982.0426 (fax)

5. **Cushman + Wakefield (Brian J. Curry CRE, MAI, SRA, FRICS)**
   4435 Eastgate Mall, Suite 200
   San Diego, CA 92121
   858.334.4051 (phone)
   858.334.6861 (fax)

Exhibit V-1 Appraisal Instructions (Commercial Properties)

I. Introduction:

This scope of work is to appraise the market value of the fee simple interest or ground lease value of certain land parcels or buildings designated for commercial uses (collectively referred to as commercial properties) of the former Naval Station Treasure Island (NSTI) in accordance with the standards and guidelines of the Uniform Standards for Professional Appraisal Practice (USPAP).

The following appraisal instructions are intended to detail the scope, standards, process, and guidelines for the valuations of the property assigned to be appraised, (the "Subject Property"). The appraisal instructions herein will represent the only guidance that shall be utilized in completing this valuation assignment. This appraisal will set the purchase price or ground lease value of such commercial properties . The appraisal will be reviewed by the Navy and the Developer.

II. Background Information:

The former NSTI is located on two islands located within one mile of the bay shores of the city of San Francisco and connected via the Bay Bridge to Oakland and the East Bay. NSTI is entirely within the jurisdictional boundaries of the City and County of San Francisco (the "Property"). NSTI covers all of Treasure Island, an artificial island, and most of Yerba Buena Island, a natural island.

Treasure Island was constructed in 1936 and 1937 for the initial purpose of hosting the Golden Gate International Exposition. After the exposition, the island was converted to a Navy base. During World War II, the island served as a center for receiving, training, and dispatching of service personnel. Since World War II, the Navy had used the island primarily as a training and administrative center. Yerba Buena Island is a natural island where the US Army established a post on the northeastern side adjacent to present day Clipper Cove in 1867. In the 1890's, the Army built a small torpedo station complex on the island; one building, the Torpedo Depot, remains. The US Army maintained a small base on the island until 1960. In 1898, the Navy also established a training station there, which after 1923 operated as a receiving station for servicemen returning from overseas.

In 1993, Congress and the President selected NSTI for closure and disposition by the Base Realignment and Closure Commission (BRAC). The Treasure Island Development Authority (TIDA) was designated as the Local Redevelopment Authority responsible for the redevelopment of NSTI.

In 1997, under the Treasure Island Conversion Act, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature and the City (i) designated TIDA as the redevelopment agency under California Redevelopment Law with authority over NSTI, and (ii),

with respect to those portions of NSTI which under the Act are subject to the public trust for commerce, navigation and fisheries (the "Tidelands Trust"), vested in TIDA the authority to administer the Tidelands Trust as to such property.

Under Senate Bill 1873, which the Governor signed into law on September 15, 2004, the California State Legislature authorized a Tidelands Trust Exchange for the Project. Because the Tidelands Trust generally does not apply to most of Yerba Buena Island, under the exchange, the Trust would be lifted from the portions of Treasure Island that are planned for residential and other nonpermitted Trust uses and imposed on portions of Yerba Buena Island that currently are not subject to the Tidelands Trust.

In July 2007, TIDA submitted an Economic Development Conveyance (EDC) application based on a development plan approved by the San Francisco Board of Supervisors in December 2006 (the "Development Plan"). In (June 2011) TIDA and a private developer executed a Disposition and Development Agreement ("DDA") governing the redevelopment of NSTI. In (December 2011) the United States of America executed an Economic Development Conveyance Memorandum of Agreement (EDC MOA) with TIDA regarding conditions of transfer of NSTI to TIDA. Per EDC regulations, the Navy is required to obtain Fair Market Value for the transfer and so has required TIDA to conduct appraisals of certain commercial properties.

III. Property Description:

Insert details and description of property to be appraised.

Details to include:

- Land identifier (parcel number, phase, etc.)
- Legal description
- Land area (size)
- Building areas
- Excess Land Appreciation Structure as defined by major phase by product type

Description to include:

- Entitled development plan (number of units, commercial space, parking, etc.)
- Environmental use restrictions
- Covenants, Conditions, and Restrictions
- Commercial property's relationship to major phase and island-wide development plan
- Neighborhood amenities and improvements, including views, recreational facilities, dining, shopping, parks, security, access to transportation and other community amenities.

IV. Services Required:

1. The appraisal will be a self-contained report based on a comprehensive study and analysis and setting forth, in detail, all data, analysis, and conclusions, as necessary and typical of a complete, self-contained appraisal report. The appraisal preparation, documentation, and reporting shall be in conformity with the standards of USPAP. The appraisal report shall consider the highest and best use as vacant for both unimproved and improved sites and highest and best use as improved for improved sites subject to the use dictated by the

Development Plan as amended by TIDA per the DDA. The appraisal report must contain the following sections:

Title Page - This should include (a) the name, street address and agency assigned tract, or parcel, number (if any), of the property appraised, (b) the name and address of the individual(s) making the report, (c) the effective date of the appraisal, and (d) the appraiser's license number and license expiration date. The effective date for the appraisal will be the date of the appraisal report.

Letter of Transmittal - This should include the date of the letter; identification of the property and property rights appraised; a reference that the letter is accompanied by a self-contained appraisal report; a statement of the effective date of the appraisal; identification of any hypothetical conditions, extraordinary assumptions, limiting conditions, or legal instructions; the value estimate, or estimates; factors considered beyond the expertise of the appraiser or otherwise not incorporated; and the appraiser's signature.

Table of Contents - The major parts of the appraisal report and their subheadings should be listed. Items in the addenda of any report shall be listed individually in the table of contents.

Appraiser's Certification - The appraisal report shall include an appraiser's signed statement certifying that:

- The statements of facts contained in the report are true and correct;
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions, limiting conditions, and legal instructions, and are the personal, unbiased professional analysis, opinions, and conclusions of the appraiser;
- The appraiser has no present or prospective interest in the property appraised and no personal interest or bias with respect to the parties involved;
- The compensation received by the appraiser for the appraisal is not contingent on the analyses, opinions, or conclusions reached or reported;
- The appraisal was made and the appraisal report prepared in conformity with the Appraisal Foundation's *Uniform Standards for Professional Appraisal Practice,;*
- The appraiser has made a personal inspection of the property appraised and that the property owner, or his/her designated representative, was given the opportunity to accompany the appraiser on the property inspection;
- No one provided significant professional assistance to the appraiser. (If professional assistance was provided the appraiser, the name of the individual(s) providing such assistance must be stated and their professional qualifications should be included in the addenda of the appraisal report. This requirement includes both professional appraisal assistance and providers of subsidiary assistance, e.g., planning and permitting consultants, engineers, cost estimators, marketing consultants.)

The appraiser's certification shall also include the appraiser's opinion of the market value of the property appraised as of the effective date of the appraisal.

Appraisers may also add to their certifications certain items that may be required by law, the USPAP, and the appraiser's professional organization(s). However, appraisers should avoid adding certifications that are not pertinent to the specific appraisal (e.g.,

that the report was prepared in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)) or that are beyond the scope of the appraisers' assignment. The appraiser's certification may alternately follow the appraiser's final estimate of value in the appraisal report.

Summary of Salient Facts and Conclusions - The appraiser shall report the major facts and conclusions that led to the final estimate(s) of value. This summary should include an identification of the property appraised; the highest and best use of the property; description of improvements (if any); indicated value of the property by each approach to value employed; the final estimate of value; and any hypothetical conditions, extraordinary assumptions, limiting conditions or instruction; and the effective date of the appraisal.

Photographs of Subject Property - Photographs are not required of existing improvements not deemed to be of highest and best use or historically significant and are likely to be demolished. Pictures shall show the front elevation of the major improvements, any unusual features, views of the abutting properties on either side and that property directly opposite, interior photographs of any unique features, and photographs of neighborhood amenities. When a large number of buildings are involved, including duplicates, one picture may be used for each type. Except for an overall view, photographs may be bound as pages facing the discussion or description of the photographs' content, or may be placed in the addenda of the report. Each photograph should be numbered, show the identification of the property and the date taken. In selecting photographs for inclusion in their reports, appraisers should bear in mind that some readers of the report may never have an opportunity to personally view the property. Therefore, they must rely on the photographs and the narrative description of the property provided by the appraiser to gain an adequate understanding of the physical characteristics of the property to judge the accuracy and reasonableness of the appraiser's analyses and value estimate(s).

Statement of Assumptions and Limiting Conditions - Any assumptions and limiting conditions that are necessary to the background of the appraisal shall be stated. Any client agency or special legal instructions provided the appraiser shall be referenced and a copy of such instructions shall be included in the addenda of the appraisal report. If the appraisal has been made subject to any encumbrances against the property, such as easements, these shall be stated. In this regard, it is unacceptable to state that the property has been appraised as if free and clear of all encumbrances, *except as stated in the body of the report;* the encumbrances *must* be identified in this section of the report. General assumptions and limiting conditions, such as typically contained in appraisal addenda, must be reviewed for pertinence to the assignment and allowability with respect to other provisions of the contract. General assumptions and limiting conditions that are not applicable and/or allowable shall be deleted, and all others shall be edited as necessary to be specifically applicable and appropriate. Also, assumptions and limiting conditions cannot be used by an appraiser to alter an appraisal contract, assignment letter, or the appraiser's scope of work. Unsupported hypothetical conditions, assumptions, or limiting conditions may result in disapproval of the appraisal report. The appraiser must also avoid assumptions and limiting conditions that are clearly the appraiser's own conclusions. While it may be appropriate for an appraiser to conclude and report that a probability exists that the property under appraisal could be rezoned, it is not appropriate for an appraiser to make an appraisal under the "assumption" that the property could be rezoned. The Development Plan, as amended

by TIDA, establishes a precedent for land uses at the property. The adoption of an unapproved assumption, or hypothetical condition, that results in a valuation of other than the market value of the property appraised as of the effective date of the appraisal will, as a general rule, invalidate the appraisal.

Scope of the Appraisal - The appraiser shall describe the scope of investigation. The appraisal's scope should conform to its purpose and intended use. The intended use and purpose of the appraisal places specific demands on the scope of the investigation and analysis presented in the appraisal report. The appraisal report should clearly link the appraisal's scope with its purpose and intended use. The geographical area and time span searched for market data should be included, as should a description of the type of market data researched and the extent of market data confirmation. The appraiser should state the references and data sources relied upon in making the appraisal; if preferred, this information may be shown within the applicable approaches to value. The applicability of all standard approaches to value shall be discussed and the exclusion of any approach to value shall be explained. The appraiser has the burden of clearly explaining the implications of any hypothetical condition or extraordinary assumption adopted. The required explanation and discussion of the implications of such hypothetical condition or extraordinary assumption must be included in this section of the appraisal report.

Purpose of the Appraisal - This section shall include an explanation of the reason for the appraisal, and the definition of all value estimates required, and a description of the property rights appraised. The purpose of the appraisal will be to estimate the market value as of the date of the appraisal report.

This section should specifically identify the intended use and the intended user of the appraisal report. The intended user of the appraisal report will be the Contracting Party, and the intended use of the appraisal report will be to estimate the fair market value of the property as of the effective date of the appraisal report. Care should be taken to prepare the appraisal report in a manner that clearly meets the intended use of the report by the intended user. It is imperative that the appraiser utilize the correct definition of market value. For appraisals prepared under these Standards, appraisers shall use the following definition of market value:

> Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold, or its leasehold interests transferred, on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

This definition must be placed in this section of the appraisal report. No other definition of market value for purposes of appraisals made under these Standards is acceptable, unless otherwise required by a specific and cited federal law or regulation. Contrary to USPAP Standards Rule 1-2(c), this definition of market value does not call for the estimate of value to be *linked* to a specific *exposure time* estimate, but merely that the property be exposed on the open market for a *reasonable* length of time, given the character of the property and its market. Therefore, the appraiser's estimate of market

value shall not be *linked* to a specific exposure time when conducting appraisals for federal land acquisition purposes under these Standards. It is recognized that some appraisers' client groups (e.g., relocation companies, mortgage lenders) may require appraisers to estimate a *marketing time* for the property under appraisal. However, such estimates are inappropriate for, and must not be included in, appraisal reports prepared for federal land acquisitions under these Standards. "The request to provide a reasonable marketing time opinion exceeds the normal information required for the conduct of the appraisal process" and is, therefore, beyond the scope of the appraisal assignment under these Standards.

Summary of Appraisal Problems - This section gives the appraiser the opportunity to acquaint the reader of the appraisal report with the specific appraisal problems, if any, which have been encountered by the appraiser and that will be discussed in detail in the body of the appraisal report. Appraisers are encouraged to take advantage of it. The appraiser should briefly describe the principal problems presented in estimating the market value of the property under appraisal and describe the estate to be taken. If the parcels under appraisal include water rights, minerals, or suspected mineral values, fixture values, timber values, or other rights of potential value, the treatment of their contributory value should be discussed, including the methodology employed to avoid the forbidden *summation* or *cumulative* appraisal. If the valuation of the property required the use of any consulting reports, these should be attached as addenda along with other sources of data for the analysis, and the appraiser should describe such reports, the method of utilization thereof, and the weight or reliance placed thereon.

2. The appraisal shall be performed based on the highest and best use that must take into account the Subject Property subject to the use dictated by the Development Plan as amended by TIDA per the DDA, and be accompanied by any supporting data.

All other methodologies other than that specifically addressed within this Scope of Work shall, to the extent practical, be based on market-derived data and methodology as formulated in a typical fair-market value appraisal. The appraiser shall consider all local, state, and federal ordinances, regulations, land use restrictions, engineering controls, and local practices when making a determination of the highest and best use.

3. All approaches to value should be considered when valuing the property. If the appraiser determines that a typical approach should be omitted, it must explain the reasons to support the exclusion in the appraisal report.

4. The appraiser shall explain the reasoning applied to arrive at the final opinion of value and how the results of each approach to value were weighed in that opinion, and the reliability of each approach to value for solving the particular appraisal problem. The appraiser shall also state his or her final estimate of value of all of the property under appraisal as a single amount.
5. TIDA shall provide the appraiser a copy of all records and data pertaining to the property detailed in Section VIII.

V. General Requirements:

1. The appraiser will be provided with Points of Contact for TIDA to assist in completing the assignment. For questions regarding the appraisal, please contact:

Name
Agency
Physical Address
Phone number and email address

2. All adjustments for dissimilarities between the appraised property and comparable market data, including sales comparables and rental data, as well as all discount and capitalization rates, etc., must be supported by market data. The narrative description of the adjustment process shall be sufficiently complete to indicate to the reader that the adjustments or rates were derived and applied in a reasonable and rational fashion consistent with market data. The actual adjustments shall be set forth in an adjustment grid(s) and discussed in sufficient detail to lead the reader to the appraiser's conclusions.

3. A detailed description/analysis, with photographs, of the property and improvements under appraisal is required which includes: a plot plan, improvement plans and specifications with dimensions, a description of any special features or copy of the "as-built" site survey; description and size and shape of site, topographical feetures, soil and subsoil conditions (if known), drainage and flood zone information, access and ingress/egress, utilities availability, site's relationship to neighboring properties, potential or existing nuisances and hazards, easements, encroachments and right-of-ways, and overall functional adequacy of the site.

4. In addition to above, the following information is required for existing improvements determined to be the highest and best use or historically significant and which would remain on site: estimated size of the improvements detailed in the most standard market acknowledged unit(s), a description of interior and exterior construction features and layout, available and required number of parking spaces, physical and chronological age, total economic life, remaining economic life, effective age, quality and condition, deferred maintenance, current use, and functional utility of the improvements.

5. Photographs of all comparable market data utilized in the report shall be provided within the appraisal. Maps displaying the location of all market data must also be included. These maps should be detailed enough to show specific site identification and location so that market data can be located during a field review of the appraisal.

6. Comparable market data shall be presented in individual write-up sheets. Rental Comparable data sheets shall include at a minimum: physical address, improvement description, lessor/lessee, date of lease(s) or most recent rental transaction(s), lease rates and terms including: type of lease (gross, modified gross, triple net), TI allowances, rental concessions, expense allocations, size of space leased, etc., and date and source of verification. Comparable sales data sheets must include, at a minimum: physical address or legal description, grantor/grantee, sales price & date, financing terms and conditions to include cash equivalency, zoning, size and shape of site, description of improvements, current use, development of capitalization rate (if sale comparable is income producing) and date and source of verification. The appraiser must physically inspect all principle comparable data used.

The documentation of each comparable sale shall include:

- Parties to the transaction
- Date of transaction

- Confirmation of the transaction with buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale, include names of person the sale was verified with and phone numbers.
- Buyer motivation
- Location
- Size
- Unit counts
- Property rights conveyed
- Consideration
- Financing terms
- Sale conditions, such as arm's length or distressed
- Improvements, include utilities available,
- Zoning
- Photographs

Cite pertinent facts such as date, size, buyer and seller, price, terms, location, and explain why each sale was not used. Properties on the market for sale, but not yet sold, may be included as comparables if the appraiser feels they are relevant to the analysis.

The appraiser shall adhere to USPAP direction pertaining to comparable sales requiring extraordinary verification and weighting considerations. These include sales to governmental agencies, sales to non-profit organizations, sales to environmental organizations, sales to parties desiring to exchange the land to the government, distressed sales, and other atypical or non-arm's length sales.

7. The appraiser must provide a line-item discussion reflecting the mathematical development of each income, expense, vacancy, infrastructure, cost-to-cure, or demolition item cited in the appraisal report. Property operating expenses must be supported by market data based on industry standards or supported by industry recognized income/expense manuals such as BOMA, IREM, etc.

8. If the appraiser chooses to use self-made or commercial appraisal software, such as ARGUS, DYNA, PROJECT, Microsoft Excel etc., he/she must provide all supporting printouts, spreadsheets, and electronic versions of the files, which support the Operating Statement or Discounted Cash Flow (DCF) Analyses provided within the appraisal.

VI. Special Considerations/Assumptions:

1. Tidelands Trust – use restriction applies to certain portions of land on YBI. Attached to this scope is an overview of Tidelands Trust.
2. Market Value – as of the effective date of the appraisal
3. Bay Bridge Completion Date – assume completion by 2013-2015 (including bridge demolition) - TBD.
4. Utilities – all required utilities will be available to support development.
5. Entitlements in place – all necessary entitlements will be in place as of the effective date. Assume the current status of development in the entitlements process.

6. Environmental Clean-up – areas affected by environmental contamination will be remediated to the proposed uses identified in the TIDA's July 1996 redevelopment plan, except in limited areas where otherwise agreed to with the regulatory agencies such as CERCLA Site 6. Use restrictions such as institutional controls may be imposed on certain portions of the property and these areas may require management of hazardous substances remaining in place in soil or groundwater during construction for development, or until concentrations have attenuated below unrestricted levels.
7. Geotechnical – assume stabilization and improvement of the Property for seismic purposes will be conducted.

VII. Appraiser Qualifications:

Appraisers shall be a State Certified General Real Property Appraiser in California where the subject property is located and be in good standing with the licensing authority where the credential was issued. Appraiser must also hold a current MAI membership designation from the Appraisal Institute. Additionally, appraiser must be practicing or working for at least 10 years in either a national firm, or a regional firm based in California and have particular experience with coastal California real property transactions involving the product type that is the subject of the appraisal. The appraiser must maintain independence from all Contracting Parties and not have any contractual relationships with Developers within the prior 24 months.

VIII. Information to be provided to the Appraiser:

1. TBD

IX. Timing & Process:

The following provides a projected schedule of key milestones. All days are completion dates from the date of award (number of days from previous task).

Contract Award Date – TBD
Kickoff Meeting with TIDA (+5 days) – TBD
Deliver Information to Appraiser (+3 days) – TBD
Property Inspection (+7 days) – TBD
Supplemental Information Request (if needed) – Anytime
Final Report (+30 days) – TBD

1. Pre-Work Conference: At the request of TIDA, the appraiser will be required to attend a pre-work conference for discussion and understanding of these instructions, including an update of the project schedule. The pre-work conference may be held in conjunction with the property examination.

2. The appraiser shall submit to the Contracting Party a complete, Self-Contained Appraisal Report along with three (3) signed copies and a live electronic copy of the appraisal report within the number of days (or date) specified within the fully executed contract for appraisal services.

4. The appraiser shall provide an electronic Portable Document Format (PDF) version of the signed appraisal report along with any maps, drawings, photos, graphs and all backup information to the Contracting Party.

6. Definition of Terms: Unless specifically defined herein or in USPAP, definitions of all terms are the same as those found in "The Dictionary of Real Estate Appraisal" (Appraisal Institute), current edition.

7. Testimony. Upon the request of the Department of Navy or United States Attorney or the Department of Justice, and the City of San Francisco, the appraiser shall, in any judicial proceedings, testify as to the value of any and all property included in the appraisal report as of the valuation date. Fees for these services shall be determined upon the Contracting Party's request for testimony.

X. Confidentiality:

The Contracting Party and the appraiser acknowledge and agree that in the course of performing the Work under this agreement, the Contracting Party may disclose Confidential Information, which has been approved and authorized by Contracting Party for release, to the appraiser.

The appraiser agrees not to disclose the Contracting Party Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that the appraiser may disclose the Contracting Party Confidential Information on a "need to know" basis to the appraiser's employees and Subcontractors. All such employees and Subcontractors of the appraiser shall have executed a confidentiality agreement with the Contracting Party requiring a promise of confidentiality concerning the Contracting Party Confidential Information.

Appraiser's valuations and supporting appraisal reports are confidential information as well and the appraiser shall strictly abide by the Confidentiality provisions of the Ethics Rule of USPAP, which provides as follows:

- An appraiser must protect the confidential nature of the appraiser-client relationship.
- An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.
- An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than:
    1) the client and persons specifically authorized by the client;
    2) federal, state enforcement agencies and such third parties as may be authorized by due process of law; and
    3) a duly authorized professional peer review committee.

Under exception #1 in the preceding paragraph, appraisers must obtain written authorization from the Contracting Party before disclosure. The passage of time in and of itself does not extinguish either the appraiser's responsibility for confidentiality or the appraiser/client relationship. The appraiser/client relationship is extinguished only upon written release from the Contracting Party. Even though the appraiser/client relationship may terminate, the appraiser remains subject to the confidentiality provisions of USPAP.

Exhibit V-2 (Developer Residential Lots)

Appraisal Instructions

I. Introduction:

This scope of work is to appraise the market value of the fee simple interest of certain land parcels of the former Naval Station Treasure Island (NSTI) in accordance with the standards and guidelines of the Uniform Standards for Professional Appraisal Practice (USPAP).

The following appraisal instructions are intended to detail the scope, standards, process, and guidelines for the valuations of the property assigned to be appraised, (the "Subject Property"). The Subject Property will consist of residential lots referred to herein as Developer Lots. The appraisal instructions herein will represent the only guidance that shall be utilized in completing this valuation assignment. This appraisal will set the purchase price of the land parcels for the Developer. The appraisal will be reviewed by the Navy and the Developer.

II. Background Information:

The former NSTI is located on two islands located within one mile of the bay shores of the city of San Francisco and connected via the Bay Bridge to Oakland and the East Bay. NSTI is entirely within the jurisdictional boundaries of the City and County of San Francisco (the "Property"). NSTI covers all of Treasure Island, an artificial island, and most of Yerba Buena Island, a natural island.

Treasure Island was constructed in 1936 and 1937 for the initial purpose of hosting the Golden Gate International Exposition. After the exposition, the island was converted to a Navy base. During World War II, the island served as a center for receiving, training, and dispatching of service personnel. Since World War II; the Navy had used the island primarily as a training and administrative center. Yerba Buena Island is a natural island where the US Army established a post on the northeastern side adjacent to present day Clipper Cove in 1867. In the 1890's, the Army built a small torpedo station complex on the island; one building, the Torpedo Depot, remains. The US Army maintained a small base on the island until 1960. In 1898, the Navy also established a training station there, which after 1923 operated as a receiving station for servicemen returning from overseas.

In 1993, Congress and the President selected NSTI for closure and disposition by the Base Realignment and Closure Commission (BRAC). The Treasure Island Development Authority (TIDA) was designated as the Local Redevelopment Authority responsible for the redevelopment of NSTI.

In 1997, under the Treasure Island Conversion Act, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature and the City (i) designated TIDA as the redevelopment agency under California Redevelopment Law with authority over NSTI, and (ii), with respect to those portions of NSTI which under the Act are subject to the public trust for

commerce, navigation and fisheries (the "Tidelands Trust"), vested in TIDA the authority to administer the Tidelands Trust as to such property.

Under Senate Bill 1873, which the Governor signed into law on September 15, 2004, the California State Legislature authorized a Tidelands Trust Exchange for the Project. Because the Tidelands Trust generally does not apply to most of Yerba Buena Island, under the exchange, the Trust would be lifted from the portions of Treasure Island that are planned for residential and other nonpermitted Trust uses and imposed on portions of Yerba Buena Island that currently are not subject to the Tidelands Trust.

In July 2007, TIDA submitted an Economic Development Conveyance (EDC) application based on a development plan approved by the San Francisco Board of Supervisors in December 2006 (the "Development Plan"). In (June 2011) TIDA and a private developer executed a Disposition and Development Agreement ("DDA") governing the redevelopment of NSTI. In (December 2011) the United States of America executed an Economic Development Conveyance Memorandum of Agreement (EDC MOA) with TIDA regarding conditions of transfer of NSTI to TIDA. Per EDC regulations, the Navy is required to obtain Fair Market Value for the transfer and so has required TIDA to conduct appraisals of certain Developer Lots.

III. Property Description:

Insert details and description of property to be appraised.

Details to include:

- Land identifier (parcel number, phase, etc.)
- Legal description
- Land area (size)
- Excess Land Appreciation Structure as defined by major phase by product type

Description to include:

- Entitled development plan (number of units, commercial space, parking, etc.)
- Environmental use restrictions
- Covenants, Conditions, and Restrictions
- Land parcel's relationship to major phase and island-wide development plan
- Neighborhood amenities and improvements, including views, recreational facilities, dining, shopping, parks, security, access to transportation and other community amenities.

IV. Services Required:

1. The appraisal will be a self-contained report based on a comprehensive study and analysis and setting forth, in detail, all data, analysis, and conclusions, as necessary and typical of a complete, self-contained appraisal report. The appraisal preparation, documentation, and reporting shall be in conformity with the standards of USPAP. The appraisal report shall consider the highest and best usesubject to the use dictated by the Development Plan as amended by TIDA per the DDA. The appraisal report must contain the following sections:

> ***Title Page*** - This should include (a) the name, street address and agency assigned tract, or parcel, number (if any), of the property appraised, (b) the name and address of the

individual(s) making the report, (c) the effective date of the appraisal, and (d) the appraiser's license number and license expiration date. The effective date for the appraisal will be the date of the appraisal report.

Letter of Transmittal - This should include the date of the letter; identification of the property and property rights appraised; a reference that the letter is accompanied by a self-contained appraisal report; a statement of the effective date of the appraisal; identification of any hypothetical conditions, extraordinary assumptions, limiting conditions, or legal instructions; the value estimate, or estimates; factors considered beyond the expertise of the appraiser or otherwise not incorporated; and the appraiser's signature.

Table of Contents - The major parts of the appraisal report and their subheadings should be listed. Items in the addenda of any report shall be listed individually in the table of contents.

Appraiser's Certification - The appraisal report shall include an appraiser's signed statement certifying that:

- The statements of facts contained in the report are true and correct;
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions, limiting conditions, and legal instructions, and are the personal, unbiased professional analysis, opinions, and conclusions of the appraiser;
- The appraiser has no present or prospective interest in the property appraised and no personal interest or bias with respect to the parties involved;
- The compensation received by the appraiser for the appraisal is not contingent on the analyses, opinions, or conclusions reached or reported;
- The appraisal was made and the appraisal report prepared in conformity with the Appraisal Foundation's *Uniform Standards for Professional Appraisal Practice,;*
- The appraiser has made a personal inspection of the property appraised and that the property owner, or his/her designated representative, was given the opportunity to accompany the appraiser on the property inspection;
- No one provided significant professional assistance to the appraiser. (If professional assistance was provided the appraiser, the name of the individual(s) providing such assistance must be stated and their professional qualifications should be included in the addenda of the appraisal report. This requirement includes both professional appraisal assistance and providers of subsidiary assistance, e.g., planning and permitting consultants, engineers, cost estimators, marketing consultants.)

The appraiser's certification shall also include the appraiser's opinion of the market value of the property appraised as of the effective date of the appraisal.

Appraisers may also add to their certifications certain items that may be required by law, the USPAP, and the appraiser's professional organization(s). However, appraisers should avoid adding certifications that are not pertinent to the specific appraisal (e.g., that the report was prepared in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)) or that are beyond the scope of the appraisers' assignment. The appraiser's certification may alternately follow the appraiser's final estimate of value in the appraisal report.

Summary of Salient Facts and Conclusions - The appraiser shall report the major facts and conclusions that led to the final estimate(s) of value. This summary should include an identification of the property appraised; the highest and best use of the property; description of improvements (if any); indicated value of the property by each approach to value employed; the final estimate of value; and any hypothetical conditions, extraordinary assumptions, limiting conditions or instruction; and the effective date of the appraisal.

Photographs of Subject Property - Photographs are not required of existing improvements not deemed to be of highest and best use or historically significant and are likely to be demolished. Pictures shall show the front elevation of the major improvements, any unusual features, views of the abutting properties on either side and that property directly opposite, interior photographs of any unique features, and photographs of neighborhood amenities. When a large number of buildings are involved, including duplicates, one picture may be used for each type. Except for an overall view, photographs may be bound as pages facing the discussion or description of the photographs' content, or may be placed in the addenda of the report. Each photograph should be numbered, show the identification of the property and the date taken. In selecting photographs for inclusion in their reports, appraisers should bear in mind that some readers of the report may never have an opportunity to personally view the property. Therefore, they must rely on the photographs and the narrative description of the property provided by the appraiser to gain an adequate understanding of the physical characteristics of the property to judge the accuracy and reasonableness of the appraiser's analyses and value estimate(s).

Statement of Assumptions and Limiting Conditions - Any assumptions and limiting conditions that are necessary to the background of the appraisal shall be stated. Any client agency or special legal instructions provided the appraiser shall be referenced and a copy of such instructions shall be included in the addenda of the appraisal report. If the appraisal has been made subject to any encumbrances against the property, such as easements, these shall be stated. In this regard, it is unacceptable to state that the property has been appraised as if free and clear of all encumbrances, *except as stated in the body of the report;* the encumbrances *must* be identified in this section of the report. General assumptions and limiting conditions, such as typically contained in appraisal addenda, must be reviewed for pertinence to the assignment and allowability with respect to other provisions of the contract. General assumptions and limiting conditions that are not applicable and/or allowable shall be deleted, and all others shall be edited as necessary to be specifically applicable and appropriate. Also, assumptions and limiting conditions cannot be used by an appraiser to alter an appraisal contract, assignment letter, or the appraiser's scope of work. Unsupported hypothetical conditions, assumptions, or limiting conditions may result in disapproval of the appraisal report. The appraiser must also avoid assumptions and limiting conditions that are clearly the appraiser's own conclusions. While it may be appropriate for an appraiser to conclude and report that a probability exists that the property under appraisal could be rezoned, it is not appropriate for an appraiser to make an appraisal under the "assumption" that the property could be rezoned. The Development Plan, as amended by TIDA, establishes a precedent for land uses at the property. The adoption of an unapproved assumption, or hypothetical condition, that results in a valuation of other than the market value of the property appraised as of the effective date of the appraisal will, as a general rule, invalidate the appraisal.

Scope of the Appraisal - The appraiser shall describe the scope of investigation. The appraisal's scope should conform to its purpose and intended use. The intended use and purpose of the appraisal places specific demands on the scope of the investigation and analysis presented in the appraisal report. The appraisal report should clearly link the appraisal's scope with its purpose and intended use. The geographical area and time span searched for market data should be included, as should a description of the type of market data researched and the extent of market data confirmation. The appraiser should state the references and data sources relied upon in making the appraisal; if preferred, this information may be shown within the applicable approaches to value. The applicability of all standard approaches to value shall be discussed and the exclusion of any approach to value shall be explained. The appraiser has the burden of clearly explaining the implications of any hypothetical condition or extraordinary assumption adopted. The required explanation and discussion of the implications of such hypothetical condition or extraordinary assumption must be included in this section of the appraisal report.

Purpose of the Appraisal - This section shall include an explanation of the reason for the appraisal, and the definition of all value estimates required, and a description of the property rights appraised. The purpose of the appraisal will be to estimate the market value as of the date of the appraisal report.

This section should specifically identify the intended use and the intended user of the appraisal report. The intended user of the appraisal report will be the Contracting Party, and the intended use of the appraisal report will be to estimate the fair market value of the property as of the effective date of the appraisal report. Care should be taken to prepare the appraisal report in a manner that clearly meets the intended use of the report by the intended user. It is imperative that the appraiser utilize the correct definition of market value. For appraisals prepared under these Standards, appraisers shall use the following definition of market value:

> Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

This definition must be placed in this section of the appraisal report. No other definition of market value for purposes of appraisals made under these Standards is acceptable, unless otherwise required by a specific and cited federal law or regulation. Contrary to USPAP Standards Rule 1-2(c), this definition of market value does not call for the estimate of value to be *linked* to a specific *exposure time* estimate, but merely that the property be exposed on the open market for a *reasonable* length of time, given the character of the property and its market. Therefore, the appraiser's estimate of market value shall not be *linked* to a specific exposure time when conducting appraisals for federal land acquisition purposes under these Standards. It is recognized that some appraisers' client groups (e.g., relocation companies, mortgage lenders) may require appraisers to estimate a *marketing time* for the property under appraisal. However, such estimates are inappropriate for, and must not be included in, appraisal reports prepared for federal land acquisitions under these Standards. "The request to provide a

reasonable marketing time opinion exceeds the normal information required for the conduct of the appraisal process" and is, therefore, beyond the scope of the appraisal assignment under these Standards.

Summary of Appraisal Problems - This section gives the appraiser the opportunity to acquaint the reader of the appraisal report with the specific appraisal problems, if any, which have been encountered by the appraiser and that will be discussed in detail in the body of the appraisal report. Appraisers are encouraged to take advantage of it. The appraiser should briefly describe the principal problems presented in estimating the market value of the property under appraisal and describe the estate to be taken. If the parcels under appraisal include water rights, minerals, or suspected mineral values, fixture values, timber values, or other rights of potential value, the treatment of their contributory value should be discussed, including the methodology employed to avoid the forbidden *summation* or *cumulative* appraisal. If the valuation of the property required the use of any consulting reports, these should be attached as addenda along with other sources of data for the analysis, and the appraiser should describe such reports, the method of utilization thereof, and the weight or reliance placed thereon.

2. The appraisal shall be performed based on the highest and best use that must take into account the Subject Property subject to the use dictated by the Development Plan as amended by TIDA per the DDA, and be accompanied by any supporting data.

All other methodologies other than that specifically addressed within this Scope of Work shall, to the extent practical, be based on market-derived data and methodology as formulated in a typical fair-market value appraisal. The appraiser shall consider all local, state, and federal ordinances, regulations, land use restrictions, engineering controls, and local practices when making a determination of the highest and best use.

3. All approaches to value should be considered when valuing the property. If the appraiser determines that a typical approach should be omitted, it must explain the reasons to support the exclusion in the appraisal report.

4. The appraiser shall explain the reasoning applied to arrive at the final opinion of value and how the results of each approach to value were weighed in that opinion, and the reliability of each approach to value for solving the particular appraisal problem. The appraiser shall also state his or her final estimate of value of all of the property under appraisal as a single amount.
5. TIDA shall provide the appraiser a copy of all records and data pertaining to the property detailed in Section VIII.

V. General Requirements:

1. The appraiser will be provided with Points of Contact for TIDA to assist in completing the assignment. For questions regarding the appraisal, please contact:

Name
Agency
Physical Address
Phone number and email address

2. All adjustments for dissimilarities between the appraised property and comparable market data, including sales comparables and rental data, as well as all discount and capitalization rates, etc., must be supported by market data. The narrative description of the adjustment process shall be sufficiently complete to indicate to the reader that the adjustments or rates were derived and applied in a reasonable and rational fashion consistent with market data. The actual adjustments shall be set forth in an adjustment grid(s) and discussed in sufficient detail to lead the reader to the appraiser's conclusions.

3. A detailed description/analysis, with photographs, of the property and improvements under appraisal is required which includes: a plot plan, improvement plans and specifications with dimensions, a description of any special features or copy of the "as-built" site survey; description and size and shape of site, topographical features, soil and subsoil conditions (if known), drainage and flood zone information, access and ingress/egress, utilities availability, site's relationship to neighboring properties, potential or existing nuisances and hazards, easements, encroachments and right-of-ways, and overall functional adequacy of the site.

4. In addition to above, the following information is required for existing improvements determined to be the highest and best use or historically significant and which would remain on site: estimated size of the improvements detailed in the most standard market acknowledged unit(s), a description of interior and exterior construction features and layout, available and required number of parking spaces, physical and chronological age, total economic life, remaining economic life, effective age, quality and condition, deferred maintenance, current use, and functional utility of the improvements.

5. Photographs of all comparable market data utilized in the report shall be provided within the appraisal. Maps displaying the location of all market data must also be included. These maps should be detailed enough to show specific site identification and location so that market data can be located during a field review of the appraisal.

6. Comparable market data shall be presented in individual write-up sheets. Rental Comparable data sheets shall include at a minimum: physical address, improvement description, lessor/lessee, date of lease(s) or most recent rental transaction(s), lease rates and terms including: type of lease (gross, modified gross, triple net), TI allowances, rental concessions, expense allocations, size of space leased, etc., and date and source of verification. Comparable sales data sheets must include, at a minimum: physical address or legal description, grantor/grantee, sales price & date, financing terms and conditions to include cash equivalency, zoning, size and shape of site, description of improvements, current use, development of capitalization rate (if sale comparable is income producing) and date and source of verification. The appraiser must physically inspect all principle comparable data used.

The documentation of each comparable sale shall include:

- Parties to the transaction
- Date of transaction
- Confirmation of the transaction with buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale, include names of person the sale was verified with and phone numbers.
- Buyer motivation
- Location
- Size

- Unit counts
- Property rights conveyed
- Consideration
- Financing terms
- Sale conditions, such as arm's length or distressed
- Improvements, include utilities available,
- Zoning
- Photographs

Cite pertinent facts such as date, size, buyer and seller, price, terms, location, and explain why each sale was not used. Properties on the market for sale, but not yet sold, may be included as comparables if the appraiser feels they are relevant to the analysis.

The appraiser shall adhere to USPAP direction pertaining to comparable sales requiring extraordinary verification and weighting considerations. These include sales to governmental agencies, sales to non-profit organizations, sales to environmental organizations, sales to parties desiring to exchange the land to the government, distressed sales, and other atypical or non-arm's length sales.

7. The appraiser must provide a line-item discussion reflecting the mathematical development of each income, expense, vacancy, infrastructure, cost-to-cure, or demolition item cited in the appraisal report. Property operating expenses must be supported by market data based on industry standards or supported by industry recognized income/expense manuals such as BOMA, IREM, etc.

8. If the appraiser chooses to use self-made or commercial appraisal software, such as ARGUS, DYNA, PROJECT, Microsoft Excel etc., he/she must provide all supporting printouts, spreadsheets, and electronic versions of the files, which support the Operating Statement or Discounted Cash Flow (DCF) Analyses provided within the appraisal.

VI. Special Considerations/Assumptions:

1. Tidelands Trust – use restriction applies to certain portions of land on YBI. Attached to this scope is an overview of Tidelands Trust.
2. Market Value – as of the effective date of the appraisal
3. Bay Bridge Completion Date – assume completion by 2013-2015 (including bridge demolition) - TBD.
4. Utilities -- all required utilities will be available to support development.
5. Entitlements in place – all necessary entitlements will be in place as of the effective date. Assume the current status of development in the entitlements process.
6. Environmental Clean-up – areas affected by environmental contamination will be remediated to the proposed uses identified in the TIDA's July 1996 redevelopment plan, except in limited areas where otherwise agreed to with the regulatory agencies such as CERCLA Site 6. Use restrictions such as institutional controls may be imposed on certain portions of the property and these areas may require management of hazardous substances remaining in place in soil or groundwater during construction for development, or until concentrations have attenuated below unrestricted levels.

7. Geotechnical – assume stabilization and improvement of the Property for seismic purposes will be conducted.

VII. Appraiser Qualifications:

Appraisers shall be a State Certified General Real Property Appraiser in California where the subject property is located and be in good standing with the licensing authority where the credential was issued. Appraiser must also hold a current MAI membership designation from the Appraisal Institute. Additionally, appraiser must be practicing or working for at least 10 years in either a national firm, or a regional firm based in California and have particular experience with coastal California real property transactions involving the product type that is the subject of the appraisal. The appraiser must maintain independence from all Contracting Parties and not have any contractual relationships with Developers within the prior 24 months.

VIII. Information to be provided to the Appraiser:

1. TBD

IX. Timing & Process:

The following provides a projected schedule of key milestones. All days are completion dates from the date of award (number of days from previous task).

Contract Award Date – TBD
Kickoff Meeting with TIDA (+5 days) – TBD
Deliver Information to Appraiser (+3 days) – TBD
Property Inspection (+7 days) – TBD
Supplemental Information Request (if needed) – Anytime
Final Report (+30 days) – TBD

1. Pre-Work Conference: At the request of TIDA, the appraiser will be required to attend a pre-work conference for discussion and understanding of these instructions, including an update of the project schedule. The pre-work conference may be held in conjunction with the property examination.

2. The appraiser shall submit to the Contracting Party a complete, Self-Contained Appraisal Report along with three (3) signed copies and a live electronic copy of the appraisal report within the number of days (or date) specified within the fully executed contract for appraisal services.

4. The appraiser shall provide an electronic Portable Document Format (PDF) version of the signed appraisal report along with any maps, drawings, photos, graphs and all backup information to the Contracting Party.

6. Definition of Terms: Unless specifically defined herein or in USPAP, definitions of all terms are the same as those found in "The Dictionary of Real Estate Appraisal" (Appraisal Institute), current edition.

7. Testimony. Upon the request of the Department of Navy or United States Attorney or the Department of Justice, and the City of San Francisco, the appraiser shall, in any judicial proceedings, testify as to the value of any and all property included in the appraisal report as of the valuation date. Fees for these services shall be determined upon the Contracting Party's request for testimony.

X. Confidentiality:

The Contracting Party and the appraiser acknowledge and agree that in the course of performing the Work under this agreement, the Contracting Party may disclose Confidential Information, which has been approved and authorized by Contracting Party for release, to the appraiser.

The appraiser agrees not to disclose the Contracting Party Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that the appraiser may disclose the Contracting Party Confidential Information on a "need to know" basis to the appraiser's employees and Subcontractors. All such employees and Subcontractors of the appraiser shall have executed a confidentiality agreement with the Contracting Party requiring a promise of confidentiality concerning the Contracting Party Confidential Information.

Appraiser's valuations and supporting appraisal reports are confidential information as well and the appraiser shall strictly abide by the Confidentiality provisions of the Ethics Rule of USPAP, which provides as follows:

- An appraiser must protect the confidential nature of the appraiser-client relationship.
- An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.
- An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than:
    1) the client and persons specifically authorized by the client;
    2) federal, state enforcement agencies and such third parties as may be authorized by due process of law; and
    3) a duly authorized professional peer review committee.

Under exception #1 in the preceding paragraph, appraisers must obtain written authorization from the Contracting Party before disclosure. The passage of time in and of itself does not extinguish either the appraiser's responsibility for confidentiality or the appraiser/client relationship. The appraiser/client relationship is extinguished only upon written release from the Contracting Party. Even though the appraiser/client relationship may terminate, the appraiser remains subject to the confidentiality provisions of USPAP.

EXHIBIT W
AUCTION BIDDER SELECTION GUIDELINES
RESIDENTIAL LOTS

Non-Affiliation Requirement

- Bidder is not an Affiliate of Developer
    - Affiliate of Developer means an entitity that directly or indirectly controls, is controlled by, or is under common control with, the Developer or its partners or members
- Bidder does not have any financial arrangements with Developer in submitting its bid

Financial Requirements

-Bidder is able to demonstrate the financial ability to perform the obligations it is assuming in association with the development of the auction lot. For purposes of this section, this includes evidence of access to adequate equity and debt capital along with commitment letters from those financing sources, and the ability to post the required security associated with the development of the auction lot.

- Provision of a commitment letter to fund a 10% refundable deposit within 10 business days of being selected the auction winner

Experience Requirements

-The managing principal of the bidder has at least five (5) years of experience in developing the type of residential product to be developed on the auction lot the bidder is seeking to purchase.

-The principals of the bidder have collectively completed at least three (3) development projects containing at least 75% of the number of units proposed for the auction lot.

Entity in Good Standing Requirements

-Documentation evidencing that the bidder and its constituent members, if any, have been duly formed, made all filings and are in good standing in the State of California and in the state of their respective incorporation. If the bidder is a joint venture, then the bidder shall provide evidence demonstrating the existence of a duly executed contractual relationship between the applicable parties.

-Bidder has not defaulted on its obligations on another lot or project within the Treasure Island or Yerba Buena Island development area.

No Unfair Advantage Requirement

- Bidder has not revieved an unfair advantage by receiving any bid information that is different from or in advance of such information being made available to other interested bidders

EXHIBIT X

GUIDELINES FOR RESIDENTIAL AUCTION LOT SELECTION

1. As stated in Section 5.5.3, "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."

2. The Navy, City, and Developer recognize that the factors to be considered are qualitative in nature and that each lot has both advantages and disadvantages relative to other lots. The Parties acknowledge that the Auction Lots cannot be "average" in each and every single qualitative respect, but that each lot will be average when considering the totality of all of the factors.

3. The Parties acknowledge that each product type (as defined below) has its own inherent characteristics and that the combination of factors that combine to create an "average" lot must be considered within the context of each product type. For example, the views of a townhome lot will be compared against the views of other townhome lots, not against the views offered by a high-rise lot.
    a. For purposes of this exhibit, the product types will be grouped into the following categories:
        i. Townhome
        ii. Low-Rise (Less than 70' in height)
        iii. Mid-Rise (Between 70' and 125' in height)
        iv. Towers (Greater than 125' in height)

4. The Parties acknowledge that while the goal is to distribute the auction of 20% of all market-rate units evenly among product types and Major Phases, it is not possible to achieve an exact 20% in any single Major Phase or for a given product type given the relatively small number of lots in each Major Phase and the relatively small number of Market Rate Lots slated for certain product types. The parties also acknowledge that an auction lot that is acquired by the Developer following an unsuccessful auction as described in Section 5.5 may not be used as a comparable sale in the Appraisal Process, unless agreed to by the Parties.

5. The Parties agree to the following:

a. The share of market-rate units to be auctioned in any single Major Phase may range from 10%-30% of the market-rate units in that Major Phase, so long as
    i. the first Major Phase contains Residential Auction Lots that total at least 15% of the market-rate units in the first Major Phase
    ii. the cumulative total of market-rate units identified for auction across all approved Major Phases is at least 15%, and
    iii. the Developer demonstrates that the 20% market-rate unit auction threshold can reasonably be achieved by the end of the Project.

b. Each Major Phase will contain at least one (1) Residential Auction Lot of each product type programmed in that Major Phase, so long as at least three (3) Market Rate Lots of that product type are programmed within that Major Phase. Should a Major Phase contain fewer than three (3) Market Rate Lots of a certain product type, no auction is required for that product type within the Major Phase if the following conditions have been met:
    1. That product type has been subject to a lot auction in a previous Major Phase; and
    2. The total share of auction units identified within the current Major Phase is within the guidelines established for Major Phase auction site selection in 5.a above.

EXHIBIT Y-1

FORM OF GUARANTY (BASE SECURITY)

GUARANTY AGREEMENT
(TREASURE ISLAND/YERBA BUENA ISLAND)

This GUARANTY AGREEMENT (TREASURE ISLAND/YERBA BUENA ISLAND) (this "**Guaranty**") dated as of _____, 2011 (the "**Effective Date**"), is made by _____ ("**Guarantor**"), to and for the benefit of the TREASURE ISLAND DEVELOPMENT AUTHORITY, a California non-profit public benefit corporation (the "**Authority**"). Unless otherwise defined in this Guaranty, all initially capitalized terms used in this Guaranty shall have the meanings given to them in the DDA (as defined below).

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

RECITALS

A. The Authority and Treasure Island Community Development, LLC, a California limited liability company ("**Developer**"), entered into that certain 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**").

B. In connection with the ENA, Lennar Corporation provided that certain Guaranty dated as of June 1, 2003 (the "**Original Project Guaranty**").

C. The Authority and Developer entered into that certain Disposition and Development Agreement (Treasure Island/Yerba Buena Island) dated for reference purposes as of June 28, 2011 (including all incorporated exhibits thereto and as amended from time to time, the "**DDA**").

B. Guarantor will derive material financial benefit from the DDA and the taking of actions in accordance with the DDA under which the obligation to provide this Guaranty arose. In accordance with section 26 of the DDA, Guarantor is willing to replace the Original Project Guaranty as set forth herein and provide this Guaranty to the Authority as Developer's Base Security under the DDA. As set forth in the DDA, the Authority shall return the Original Project Guaranty to Developer upon execution and delivery of such Base Security including this Guaranty.

AGREEMENT

ACCORDINGLY, in consideration of the matters described in the above Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Guarantor agrees as follows:

1. **Guaranty**

1.1 Guaranty. Guarantor unconditionally and irrevocably guarantees to the Authority the due and punctual payment (and not merely the collectability) and performance of the Guaranteed Obligations (as defined below), as and when the same shall become due and/or payable, on the terms provided in this Guaranty. In addition, Guarantor shall pay, and upon the Authority request shall reimburse the Authority promptly for, all costs and expenses actually incurred by the Authority to enforce the Authority's rights, powers or remedies under this Guaranty (including, without limitation, reasonable collection charges and Attorneys' Fees and Costs (as defined below)) (together with any late payment interest on amounts due as set forth below, the "**Reimbursement Amount**"). With respect to Guaranteed Obligations that constitute payment (i.e. not performance) obligations under the ENA or the DDA, as applicable, any amount due and payable by Guarantor under this Guaranty but not paid within sixty (60) days after receipt of the Authority's written demand therefor shall be accompanied by interest on such amounts at the lesser of ten percent (10%) per annum or the maximum amount permitted by law, calculated from the date of Guarantor's receipt of the Authority's written demand therefor through and including the date of payment of such amounts (calculated on the basis of a 365-day year and for the actual number of days elapsed).

1.2 Definition of Guaranteed Obligations.

As used herein, "**Guaranteed Obligations**" means (i) all of the obligations of Developer under the ENA arising on, before or after the Effective Date (the "**ENA Guaranteed Obligations**") and (ii) all of Developer's obligations for the payment of Financial Obligations and payment and performance of Indemnifications under the DDA, including Indemnification obligations relating to the construction of Infrastructure, Stormwater Management Controls, Associated Public Benefits and Required Improvements; provided, however, that under no circumstances shall the aggregate liability of Guarantor for the Guaranteed Obligations, excluding the Reimbursement Amount, exceed **[insert amount applicable to Guarantor determined under Section 26.2.1 of the DDA]** (the "**Secured Amount**"). Without limiting the generality of the preceding sentence, should the Guaranteed Obligations include a guaranty of performance, Guarantor shall not be obligated to incur obligations or spend funds for the Guaranteed Obligations that, in the aggregate (including payment obligations to the Authority for the Guaranteed Obligations), exceed the Secured Amount .

1.3 Acknowledgments by Guarantor. Guarantor acknowledges, confirms, and agrees that: (a) it has received fair and adequate consideration for its execution of this Guaranty; (b) it derived material financial benefit from the Authority's execution of the ENA and the DDA and

the Authority's actions under which the obligation to provide this Guaranty arose; and (c) there are no conditions to the full effectiveness of this Guaranty other than those expressly set forth in this Guaranty.

1.4 **Independent Obligations; Continuing Guaranty.** This Guaranty is a primary and original payment and performance obligation of Guarantor and is absolute, unconditional, continuing and irrevocable.

2. Waivers by Guarantor

2.1 Waivers. Guarantor hereby waives: (a) notice of acceptance of this Guaranty; (b) demand of payment, notice of nonperformance, notice of dishonor, presentation, protest, and indulgences and (except as specifically provided in this Guaranty) notices of any kind whatsoever; (c) any right to assert or plead any statute of limitations relating to this Guaranty, the ENA and the DDA (and Guarantor agrees that any act that tolls any statute of limitations applicable to the ENA and/or the DDA will operate similarly to toll the statute of limitations applicable to Guarantor's liability for the ENA Guaranteed Obligations and the DDA Guaranteed Obligations, respectively); (d) any right to require the Authority to proceed against Developer or any other person or entity liable to the Authority except to the extent expressly set forth in the ENA and/or DDA; (e) any right to require the Authority to apply to the cure of any default any letter of credit or other security it may hold under the DDA, except to the extent expressly set forth in the DDA; (f) until the Guaranteed Obligations have been satisfied in full, any right of subrogation; (g) any right to require the Authority to pursue or enforce any remedy that the Authority now has or may later have against Developer or any other person or entity; (h) any right to participate in any letter of credit or other security now or later held by the Authority; and (i) any defense that may arise by the reason of: (1) the incapacity, lack of authority, death, disability or other defense of Developer or any other person or entity; (2) the revocation or repudiation of this Guaranty by Guarantor; (3) failure of the Authority to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of Developer or any others; (4) any election by the Authority in any proceeding instituted under the United States Bankruptcy Code, as amended (11 U.S.C. §§ 101, *et seq.*); (5) any borrowing or granting of a security interest under section 364 of the United States Bankruptcy Code; (6) the Authority's election of any remedy against Guarantor or Developer or any other party to the extent permitted hereunder or under the ENA and/or the DDA, as applicable; (7) the Authority's taking, modification, or releasing of any collateral or guarantees, or any failure to perfect any security interest in, or the taking of or failure to perfect any other action with respect to any collateral securing performance of obligations under the ENA and/or the DDA, as applicable; (8) any amendment or modification of the ENA, the DDA or related documents, whether or not known or consented to by Guarantor; or (9) any offset by Guarantor against any obligation now or later owed to Guarantor by Developer or any other person, it being the intention of this Guaranty that Guarantor remain liable to the full extent set forth in this Guaranty until the full performance of each and every term, condition and covenant of the ENA and the DDA to be performed with respect to the ENA Guaranteed Obligations and the DDA Guaranteed Obligations, respectively, notwithstanding any act, omission or thing that might otherwise operate as a legal or equitable

discharge of Guarantor. Without limiting the generality of the foregoing, Guarantor expressly waives any and all benefits under California Civil Code sections 2809, 2810, 2819, 2839, 2845, 2846, 2848, 2849, 2850, 2855, 2899 and 3433.

Without limiting the foregoing, Guarantor understands and acknowledges that if the Authority exercises any rights under the ENA and the DDA or any related agreements, then the exercise of such rights could impair or destroy any ability that Guarantor may have to seek reimbursement, contribution or indemnification from Developer or others based on any right Guarantor may have of subrogation, reimbursement, contribution or indemnification for any amounts paid or cost incurred by Guarantor under this Guaranty. Guarantor further understands and acknowledges that in the absence of this Section 2.1, such potential impairment or destruction of Guarantor's rights, if any, may entitle Guarantor to assert a defense to this Guaranty based on law or in equity, including but not limited to, in the case of any real property security, section 580d of the California Code of Civil Procedure as interpreted in Union Bank v. Gradsky, 265 Cal. App. 2d 40 (1968). By executing this Guaranty, Guarantor freely, irrevocably, absolutely and unconditionally: (i) waives and relinquishes that defense and agrees that Guarantor will be fully liable under this Guaranty even though the Authority may exercise any right or remedy under the ENA and the DDA, including any act judicially or nonjudicially against any real property security; (ii) agrees that Guarantor will not assert that defense in any action or proceeding which the Authority may commence to enforce this Guaranty; (iii) agrees that the rights and defenses waived by Guarantor under this Guaranty include any right or defense that Guarantor may have or be entitled to assert based on or arising out of law or equity, including, without limitation, any one or more of sections 580a, 580b, 580d or 726 of the California Code of Civil Procedure; (iii) waives notice of default, acceleration, protest or dishonor; (iv) waives any notice of sale or other disposition of any security; (v) waives notice of acceptance of this Guaranty and of the existence, creation or incurring of new or additional guaranteed obligations, and all other notices of any kind with respect to any Guaranteed Obligations except for any notice required to be given to Guarantor under this Guaranty; and (vi) agrees that the Authority is relying on these waivers in entering into the DDA and taking the actions under which the obligation to provide this Guaranty arose and that these waivers are a material part of the consideration that the Authority is receiving in connection with such acts.

2.2 Waiver of Subrogation. Subject to the waivers set forth in Section 2.1, upon satisfaction in full of all of the Guaranteed Obligations, Guarantor shall be subrogated to the rights of the Authority against Developer or others with respect to the Guaranteed Obligations, and the Authority agrees to take such steps as Guarantor may reasonably request to implement such subrogation (provided Guarantor shall pay the Authority all costs actually incurred with respect thereto pursuant to the ENA and the DDA and that the Authority shall not incur any liabilities in taking any such steps).

3. Consents by Guarantor

3.1 Consents; No Discharge of Obligations. Without releasing, discharging, impairing, or otherwise affecting any obligations of Guarantor under this Guaranty or the validity or enforceability of this Guaranty, the Authority, by action or inaction, in its sole and absolute discretion and without notice to Guarantor, may refuse or fail to enforce all or any portion of the Authority's rights, powers or remedies under this Guaranty, the ENA, the DDA or any related documents. The Authority, in its sole and absolute discretion and without notice to Guarantor may additionally: (a) compromise, settle, extend the time for payment or performance of all or any part of the Guaranteed Obligations; and (b) deal in all respects with Guarantor as if this Guaranty were not in effect. It is the intent of the Guarantor and the Authority that Guarantor shall remain liable for the payment and performance of the Guaranteed Obligations and all other obligations guaranteed hereby to the extent set forth herein, notwithstanding any act or thing that might otherwise operate as a legal or equitable discharge of a surety.

3.2 Payments to Other Persons. The Authority shall be under no obligation to marshal any assets in favor of Guarantor or against, or in payment or performance of, any or all of the Guaranteed Obligations. If all or any part of any payment to or for the benefit of the Authority in respect of the Guaranteed Obligations is invalidated, declared to be fraudulent or preferential, set aside, or required for any reason to be repaid or paid over to a trustee, receiver or other person (a "**trustee**") under any insolvency law or any other law or rule of equity (collectively, "**set aside**"), to the extent of that payment or repayment, the Guaranteed Obligations (or the part thereof) intended to have been satisfied shall be revived and continued in full force and effect as if that payment had not been made, and Guarantor shall be primarily liable for that obligation, provided that nothing hereunder shall preclude Guarantor from obtaining a refund from a trustee.

3.3 Additional Rights. This Guaranty is in addition to, and not in substitution for or in reduction of, any other guaranty by Guarantor, or any obligation of Guarantor under any other agreement or applicable law that may now or hereafter exist in favor of the Authority. Except as may be expressly provided to the contrary in the ENA and/or the DDA, the liability of Guarantor under this Guaranty shall not be contingent upon the enforcement of any lien or realization upon the security, if any, the Authority may at any time possess with respect to the Guaranteed Obligations. Nothing herein shall limit the obligations of Developer or others under the ENA and/or the DDA.

3.4 **Recourse.** The Authority shall have the right to seek recourse against Guarantor to the full extent provided for in this Guaranty, which right shall be absolute and shall not in any way be impaired, deferred, or otherwise diminished by reason of any inability of the Authority to claim any amount of such Guaranteed Obligation from Guarantor or Developer or others as a result of bankruptcy or otherwise, including, but not limited to, any limitation on the Authority's claim from Guarantor or Developer or others under section 502(b)(6) of the United States Bankruptcy Code. No election to proceed in one form of action or proceeding, or against any person, or on any obligation, will constitute a waiver of the Authority's right to proceed in any form of action or proceeding or against other persons unless the Authority has expressly waived that right in writing.

4. Representations and Warranties of Guarantor

4.1 **Representations and Warranties.** Guarantor represents, warrants and covenants that it has full power and authority to execute, deliver and perform its obligations under this Guaranty, and that execution, delivery and performance have been duly authorized by all requisite action on its part.

4.2 **Independent Investigation.** Guarantor has performed its own independent investigation as to the matters covered by this Guaranty.

5. Termination of Guaranty

5.1 **Termination.** Guarantor's liability under this Guaranty shall be terminated, discharged and satisfied, and Guarantor shall be relieved of any and all further obligations under this Guaranty with respect to the terminated obligations, as follows:

(a) with respect to the ENA Guaranteed Obligations, on termination of the ENA; and

(b) with respect to the DDA Guaranteed Obligations, on the date that is five (5) years following the earliest to occur of the following events: (i) the issuance of the last Certificate of Completion for all Infrastructure to be Completed by Developer; (ii) the expiration or termination of the DDA with respect to Developer; or (iii) the expiration or termination of all of Developer's rights to develop or submit Applications to develop any portion of the Project Site; provided, that no such event shall result in termination of this Guaranty unless and until the expiration of any further period within which a trustee or other similar official in an action under any insolvency law may avoid, rescind, or set aside any payment previously made of any of the Guaranteed Obligations and provided further that if at the time of any such termination there is an unpaid Reimbursement Amount, then such termination shall be tolled until the payment in full of any then outstanding Reimbursement Amount in accordance with this Guaranty.

5.2 Evidence of Termination. Following any such termination and upon Guarantor's request, the Authority shall confirm in writing the fact of termination of this Guaranty and promptly return this Guaranty.

6. Notices

(a) A notice or communication under this Guaranty by either Guarantor or the Authority to the other shall be sufficiently given or delivered if given in writing and dispatched by hand, by registered or certified mail, postage prepaid, or by a recognized overnight carrier, such as Federal Express, addressed as follows:

(i) 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
Facsimile: 415.554.6018

and

Office of the City Attorney
City Hall, Rm. 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Real Estate/Finance
Facsimile: 415.554.4755

(ii) And in the case of a notice or communication sent to Guarantor:

[Insert Name and Address of Guarantor]

And to:

[Insert Name and Address of Guarantor's Legal Counsel]

And to:

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
Facsimile: 415.995.1778

And to: Gibson, Dunn & Crutcher
555 Mission Street, Suite 3000
San Francisco, CA 94105
Attn: Mary G. Murphy
Facsimile: (415) 374-8480

For convenience, copies of notices may also be given by facsimile.

Every notice pursuant to the terms of this Guaranty must be in writing and must state (or must be accompanied by a cover letter that states) substantially the following:

(b) the Section of this Guaranty pursuant to which the notice is given and the action or response required, if any;

(c) if applicable, the period of time within which the recipient of the notice must respond thereto;

(d) if approval is being requested, that it is a "Request for Approval under Guaranty Agreement"; and

(e) if it provides notice of a disapproval or an objection that requires reasonableness, specifically and with particularity the reasons therefor.

Any mailing address or facsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days before the effective date of the change. All notices under this Guaranty will be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed or delivered by a recognized carrier, on the delivery date or attempted delivery date shown on the return receipt or in the records of such carrier, as applicable. Official or binding notice may not be given by facsimile. The effective time of a notice shall not be affected by the receipt, before receipt of the original, of a facsimile copy of the notice.

7. General Provisions

7.1 Successors and Assigns. This Guaranty will be binding upon, and inure to the benefit of, Guarantor and the Authority and their respective successors, heirs, administrators and assigns.

7.2 Amendments. This Guaranty may be amended or modified only by a written instrument executed by the Authority and Guarantor.

7.3 Waivers. No action taken pursuant to this Guaranty by the Authority shall be deemed to be a waiver by the Authority of Guarantor's compliance with any of the provisions hereof. No waiver by the Authority of any breach of any provision of this Guaranty shall be construed as a waiver by the Authority of any subsequent or different breach. No forbearance by the Authority to seek a remedy for noncompliance hereunder or breach by Guarantor shall be construed as a waiver by the Authority of any right or remedy with respect to such noncompliance or breach.

7.4 Continuation and Survival of Covenants. All covenants by Guarantor contained herein shall be deemed to be material and shall survive any termination of the ENA, the DDA, or a portion of either if the Guaranteed Obligations have arisen and not been satisfied as of the date of any such termination.

7.5 Governing Law; Selection of Forum. This Guaranty shall be governed by and construed in accordance with the laws of the State of California. As part of the consideration for the DDA and the Authority's actions under which the obligation to provide this Guaranty arose, Guarantor agrees that all actions or proceedings arising directly or indirectly under this Guaranty may, at the sole option of the Authority, be litigated in courts located within the State of California, and Guarantor expressly consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon Guarantor wherever Guarantor may then be located, or by certified or registered mail directed to Guarantor at the address set forth in this Guaranty for the delivery of notices.

7.6 Merger of Prior Agreements. Guarantor and the Authority intend that this Guaranty shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. Guarantor and the Authority further intend that this Guaranty shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Guaranty. Without limiting the generality of this Section 7.6, Guarantor and the Authority acknowledge and agree that this Guaranty, together with any other Guaranty provided to the Authority for Base Security prior to the termination of the ENA Guaranteed Obligations, replaces the Original Project Guaranty in its entirety and therefore the Original Project Guaranty is of no further force and effect as of the Effective Date hereof.

7.7 **Interpretation of Guaranty.** Unless otherwise specified, whenever in this Guaranty reference is made to any Section, or any defined term, the reference shall be deemed to refer to the Section or defined term of this Guaranty. Any reference to a Section includes all subsections and subparagraphs of that Section. The use in this Guaranty 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 items 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, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter. In the event of a conflict between the Recitals and the remaining provisions of the Guaranty, the remaining provisions shall prevail. Any titles of the several parts and Sections of this Guaranty are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. The masculine, feminine or neutral gender and the singular and plural forms include the others whenever the context requires. References to days, months and years mean calendar days, months and years unless otherwise specified. References to any law, specifically or generally, will mean the law as amended, supplemented or superseded from time to time. The provisions of this Guaranty shall be construed as a whole according to their common meaning and not strictly for or against either Guarantor or the Authority in order to achieve the objectives and purposes of Guarantor and the Authority, regardless of who drafted this Guaranty.

7.8 **Attorneys' Fees and Costs.** Should either Guarantor or the Authority institute any action or proceeding in court to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Guaranty, the prevailing party shall be entitled to receive from the losing party court costs incurred by the prevailing party including, without limitation, expert witness fees and costs and expenses, travel time and associated costs; transcript preparation fees and costs; document copying expenses; exhibit preparation costs; carrier expenses and postage and communications expenses; such amount as a court or other decision maker may adjudge to be reasonable attorneys' fees for the services rendered to the prevailing party in such action or proceeding; fees and costs associated with execution upon any judgment or order; and costs on appeal and any collection efforts (the "**Attorneys' Fees and Costs**"). For purposes of this Guaranty, the Attorneys' Fees and Costs shall include the fees and costs of in-house counsel for the City, the Authority and Guarantor based on the fees regularly charged by private attorneys with the equivalent number of years of professional experience in the subject matter area of the law for which the City's, the Authority's or Guarantor's in-house counsel's services were rendered who practice in the City and County of San Francisco in law firms with approximately the same number of attorneys as employed by the City, the Authority or Guarantor.

7.9 **Severability.** Invalidation of any provision of this Guaranty, or of its application to any person, by judgment or court order, will not affect any other provision of this Guaranty or its application to any other person or circumstance, and the remaining portions of this Guaranty will continue in full force and effect, unless enforcement of this Guaranty as invalidated would be

unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Guaranty.

7.10 Substitute Security.

(a) Substitute Security. If at any time during the period this Guaranty is in effect, the Net Worth of Guarantor falls below Fifty Million Dollars ($50,000,000) (the "**Net Worth Requirement**") or Guarantor causes or allows to occur a Significant Change (as defined in Section 7.10(b) below) (each, a "**Substitute Security Event**"), then Guarantor shall notify the Authority and Developer as soon as reasonably practicable. Upon the occurrence of a Substitute Security Event, Developer is required under Section 26.3 of the DDA to supply the Authority with a substitute guaranty (in the form of this Guaranty), an unconditional letter of credit, or other form of security, in each case: (i) in favor of the Authority; (ii) in form and substance, and issued by persons or entities, reasonably satisfactory to the Authority (including satisfaction of the Net Worth Requirement); (iii) in the amount of one hundred percent (100%) of the Guaranteed Obligations up to the Secured Amount and (iv) to remain in effect until the Guaranteed Obligations are fulfilled (**"Substitute Security"**). If Developer does not supply the Authority with the Substitute Security within the time period required under the DDA, the Authority shall notify Guarantor and Guarantor shall provide such Substitute Security within ten (10) days after the Authority's notice. Failure of the Authority to give notice of Developer's failure to provide the Substitute Security shall not relieve Guarantor of its obligations hereunder. It shall be a default of Guarantor under this Guaranty, and a default of Developer under the terms of the DDA, if Guarantor fails to provide the Substitute Security within ten (10) days after the Authority's notice. The Authority's sole remedy against Guarantor for Guarantor's failure to provide the Substitute Security in the event Developer does not provide it as required under the DDA will be to require Guarantor to specifically perform its obligation to provide the Substitute Security in the Secured Amount and not to seek damages against Guarantor attributable to such failure; however, this limitation on remedies shall apply only to Guarantor's failure to provide the Substitute Security in the event Developer fails to provide the Substitute Security as required under the DDA, not to the Authority's rights to enforce this Guaranty generally, and shall not limit the Authority's rights against Developer under the DDA. Upon the Developer or Guarantor providing the Substitute Security required under this Section 7.11(a), the Authority shall promptly return this Guaranty.

(b) Significant Change. For purposes of Section 7.10(a) above, "**Significant Change**" means (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 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 (10%) of Guarantor's Net Worth and Guarantor does not satisfy or bond the judgment within twenty (20) days, 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.

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Guarantor and the Authority, each being duly authorized, have executed and delivered this Guaranty as of the Effective Date.

GUARANTOR:

_____

a _____

By:_____

Name: _____

Title: _____

[SIGNATURES CONTINUE ON NEXT PAGE]

ACCEPTED AND AGREED:

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Name: _____
Title: Deputy City Attorney

AUTHORITY:

TREASURE ISLAND DEVELOPMENT AUTHORITY

By: _____
Name: _____
Title: Executive Director

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EXHIBIT Y-1: FORM OF BASE GUARANTY

EXHIBIT Y-2

FORM OF GUARANTY (ADEQUATE SECURITY OTHER THAN BASE SECURITY)

GUARANTY AGREEMENT
(TREASURE ISLAND/YERBA BUENA ISLAND)

This GUARANTY AGREEMENT (TREASURE ISLAND/YERBA BUENA ISLAND) (this "**Guaranty**") dated as of _____, 20__ (the "**Effective Date**"), is made by _____ ("**Guarantor**"), to and for the benefit of the TREASURE ISLAND DEVELOPMENT AUTHORITY, a California non-profit public benefit corporation (the "**Authority**"). Unless otherwise defined in this Guaranty, all initially capitalized terms used in this Guaranty shall have the meanings given to them in the DDA (as defined below).

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

RECITALS

A. The Authority and Treasure Island Community Development, LLC, a California limited liability company ("**Developer**"), entered into that certain Disposition and Development Agreement (Treasure Island/Yerba Buena Island) dated for reference purposes as of June 28, 2011 (including all incorporated exhibits thereto and as amended from time to time, the "**DDA**").

B. Guarantor will derive material financial benefit from the DDA and the taking of actions in accordance with the DDA under which the obligation to provide this Guaranty arose. In accordance with Section 26.4 of the DDA, Guarantor is willing to provide this Guaranty to the Authority.

AGREEMENT

ACCORDINGLY, in consideration of the matters described in the above Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Guarantor agrees as follows:

1. Guaranty

1.1 Guaranty. Guarantor unconditionally and irrevocably guarantees to the Authority the due and punctual payment (and not merely the collectability) and performance of the Guaranteed Obligations (as defined below), as and when the same shall become due and/or payable, on the terms provided in this Guaranty. In addition, Guarantor shall pay, and upon the Authority request shall reimburse the Authority promptly for, all costs and expenses actually incurred by the Authority to enforce the Authority's rights, powers or remedies under this Guaranty (including, without limitation, reasonable collection charges and Attorneys' Fees and

Costs (as defined below)) (together with any late payment interest on amounts due as set forth below, the "**Reimbursement Amount**"). With respect to Guaranteed Obligations that constitute payment (i.e. not performance) obligations under the DDA, any amount due and payable by Guarantor under this Guaranty but not paid within sixty (60) days after receipt of the Authority's written demand therefor shall be accompanied by interest on such amounts at the lesser of ten percent (10%) per annum or the maximum amount permitted by law, calculated from the date of Guarantor's receipt of the Authority's written demand therefor through and including the date of payment of such amounts (calculated on the basis of a 365-day year and for the actual number of days elapsed).

1.2 Definition of Guaranteed Obligations. As used herein, "**Guaranteed Obligations**" means all of Developer's obligations with respect to Sub-Phase ____ (collectively, the "**Guaranteed Sub-Phase**"), 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, but excluding the payment of the Financial Obligations and all Indemnification obligations, each of which are secured by the applicable Base Security; provided, however, that under no circumstances shall the aggregate liability of Guarantor for the Guaranteed Obligations, excluding the Reimbursement Amount, exceed $_____ [***Insert Sub-Phase Construction Secured Amount determined under Section 26.4***] (the "**Secured Amount**"). Without limiting the generality of the preceding sentence, should the Guaranteed Obligations include a guaranty of performance, Guarantor shall not be obligated to incur obligations or spend funds for the Guaranteed Obligations that, in the aggregate (including payment obligations to the Authority for the Guaranteed Obligations), exceed the Secured Amount.

1.3 Acknowledgments by Guarantor. Guarantor acknowledges, confirms, and agrees that: (a) it has received fair and adequate consideration for its execution of this Guaranty; (b) it derived material financial benefit from the Authority's execution of the DDA and the Authority's actions under which the obligation to provide this Guaranty arose; and (c) there are no conditions to the full effectiveness of this Guaranty other than those expressly set forth in this Guaranty.

1.4 Independent Obligations; Continuing Guaranty. This Guaranty is a primary and original payment and performance obligation of Guarantor and is absolute, unconditional, continuing and irrevocable.

2. Waivers by Guarantor

2.1 Waivers. Guarantor hereby waives: (a) notice of acceptance of this Guaranty; (b) demand of payment, notice of nonperformance, notice of dishonor, presentation,

protest, and indulgences and (except as specifically provided in this Guaranty) notices of any kind whatsoever; (c) any right to assert or plead any statute of limitations relating to this Guaranty and the DDA (and Guarantor agrees that any act that tolls any statute of limitations applicable to the DDA will operate similarly to toll the statute of limitations applicable to Guarantor's liability hereunder); (d) any right to require the Authority to proceed against Developer or any other person or entity liable to the Authority except to the extent expressly set forth in the DDA; (e) any right to require the Authority to apply to the cure of any default any letter of credit or other security it may hold under the DDA, except to the extent expressly set forth in the DDA; (f) until the Guaranteed Obligations have been satisfied in full, any right of subrogation; (g) any right to require the Authority to pursue or enforce any remedy that the Authority now has or may later have against Developer or any other person or entity; (h) any right to participate in any letter of credit or other security now or later held by the Authority; and (i) any defense that may arise by the reason of: (1) the incapacity, lack of authority, death, disability or other defense of Developer or any other person or entity; (2) the revocation or repudiation of this Guaranty by Guarantor; (3) failure of the Authority to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of Developer or any others; (4) any election by the Authority in any proceeding instituted under the United States Bankruptcy Code, as amended (11 U.S.C. §§ 101, *et seq.*); (5) any borrowing or granting of a security interest under section 364 of the United States Bankruptcy Code; (6) the Authority's election of any remedy against Guarantor or Developer or any other party to the extent permitted hereunder or under the DDA; (7) the Authority's taking, modification, or releasing of any collateral or guarantees, or any failure to perfect any security interest in, or the taking of or failure to perfect any other action with respect to any collateral securing performance of obligations under the DDA; (8) any amendment or modification of the DDA or related documents, whether or not known or consented to by Guarantor; or (9) any offset by Guarantor against any obligation now or later owed to Guarantor by Developer or any other person, it being the intention of this Guaranty that Guarantor remain liable to the full extent set forth in this Guaranty until the full performance of each and every term, condition and covenant of the DDA to be performed with respect to the Guaranteed Obligations, notwithstanding any act, omission or thing that might otherwise operate as a legal or equitable discharge of Guarantor. Without limiting the generality of the foregoing, Guarantor expressly waives any and all benefits under California Civil Code sections 2809, 2810, 2819, 2839, 2845, 2846, 2848, 2849, 2850, 2855, 2899 and 3433.

Without limiting the foregoing, Guarantor understands and acknowledges that if the Authority exercises any rights under the DDA or any related agreements, then the exercise of such rights could impair or destroy any ability that Guarantor may have to seek reimbursement, contribution or indemnification from Developer or others based on any right Guarantor may have of subrogation, reimbursement, contribution or indemnification for any amounts paid or cost incurred by Guarantor under this Guaranty. Guarantor further understands and acknowledges that in the absence of this Section 2.1, such potential impairment or destruction of Guarantor's rights, if any, may entitle Guarantor to assert a defense to this Guaranty based on law or in equity, including but not limited to, in the case of any real property security, section 580d of the California Code of Civil Procedure as interpreted in Union Bank v. Gradsky, 265 Cal. App. 2d 40 (1968). By executing this Guaranty, Guarantor freely, irrevocably, absolutely and

unconditionally: (i) waives and relinquishes that defense and agrees that Guarantor will be fully liable under this Guaranty even though the Authority may exercise any right or remedy under the DDA, including any act judicially or nonjudicially against any real property security; (ii) agrees that Guarantor will not assert that defense in any action or proceeding which the Authority may commence to enforce this Guaranty; (iii) agrees that the rights and defenses waived by Guarantor under this Guaranty include any right or defense that Guarantor may have or be entitled to assert based on or arising out of law or equity, including, without limitation, any one or more of sections 580a, 580b, 580d or 726 of the California Code of Civil Procedure; (iii) waives notice of default, acceleration, protest or dishonor; (iv) waives any notice of sale or other disposition of any security; (v) waives notice of acceptance of this Guaranty and of the existence, creation or incurring of new or additional guaranteed obligations, and all other notices of any kind with respect to any Guaranteed Obligations except for any notice required to be given to Guarantor under this Guaranty; and (vi) agrees that the Authority is relying on these waivers in entering into the DDA and taking the actions under which the obligation to provide this Guaranty arose and that these waivers are a material part of the consideration that the Authority is receiving in connection with such acts.

2.2 Waiver of Subrogation. Subject to the waivers set forth in Section 2.1, upon satisfaction in full of all of the Guaranteed Obligations, Guarantor shall be subrogated to the rights of the Authority against Developer or others with respect to the Guaranteed Obligations, and the Authority agrees to take such steps as Guarantor may reasonably request to implement such subrogation (provided Guarantor shall pay the Authority all costs actually incurred with respect thereto pursuant to the DDA and that the Authority shall not incur any liabilities in taking any such steps).

3. Consents by Guarantor

3.1 Consents; No Discharge of Obligations. Without releasing, discharging, impairing, or otherwise affecting any obligations of Guarantor under this Guaranty or the validity or enforceability of this Guaranty, the Authority, by action or inaction, in its sole and absolute discretion and without notice to Guarantor, may refuse or fail to enforce all or any portion of the Authority's rights, powers or remedies under this Guaranty, the DDA or any related documents. The Authority, in its sole and absolute discretion and without notice to Guarantor may additionally: (a) compromise, settle, extend the time for payment or performance of all or any part of the Guaranteed Obligations; and (b) deal in all respects with Guarantor as if this Guaranty were not in effect. It is the intent of the Guarantor and the Authority that Guarantor shall remain liable for the payment and performance of the Guaranteed Obligations and all other obligations guaranteed hereby to the extent set forth herein, notwithstanding any act or thing that might otherwise operate as a legal or equitable discharge of a surety.

3.2 Payments to Other Persons. The Authority shall be under no obligation to marshal any assets in favor of Guarantor or against, or in payment or performance of, any or all of the Guaranteed Obligations. If all or any part of any payment to or for the benefit of the Authority in respect of the Guaranteed Obligations is invalidated, declared to be fraudulent or preferential, set aside, or required for any reason to be repaid or paid over to a

trustee, receiver or other person (a "**trustee**") under any insolvency law or any other law or rule of equity (collectively, "**set aside**"), to the extent of that payment or repayment, the Guaranteed Obligations (or the part thereof) intended to have been satisfied shall be revived and continued in full force and effect as if that payment had not been made, and Guarantor shall be primarily liable for that obligation, provided that nothing hereunder shall preclude Guarantor from obtaining a refund from a trustee.

3.3 Additional Rights. This Guaranty is in addition to, and not in substitution for or in reduction of, any other guaranty by Guarantor, or any obligation of Guarantor under any other agreement or applicable law that may now or hereafter exist in favor of the Authority. Except as may be expressly provided to the contrary in the DDA, the liability of Guarantor under this Guaranty shall not be contingent upon the enforcement of any lien or realization upon the security, if any, the Authority may at any time possess with respect to the Guaranteed Obligations. Nothing herein shall limit the obligations of Developer or others under the DDA.

3.4 Recourse. The Authority shall have the right to seek recourse against Guarantor to the full extent provided for in this Guaranty, which right shall be absolute and shall not in any way be impaired, deferred, or otherwise diminished by reason of any inability of the Authority to claim any amount of such Guaranteed Obligation from Guarantor or Developer or others as a result of bankruptcy or otherwise, including, but not limited to, any limitation on the Authority's claim from Guarantor or Developer or others under section 502(b)(6) of the United States Bankruptcy Code. No election to proceed in one form of action or proceeding, or against any person, or on any obligation, will constitute a waiver of the Authority's right to proceed in any form of action or proceeding or against other persons unless the Authority has expressly waived that right in writing.

4. Representations and Warranties of Guarantor

4.1 Representations and Warranties. Guarantor represents, warrants and covenants that it has full power and authority to execute, deliver and perform its obligations under this Guaranty, and that execution, delivery and performance have been duly authorized by all requisite action on its part.

4.2 Independent Investigation. Guarantor has performed its own independent investigation as to the matters covered by this Guaranty.

5. Termination of Guaranty

5.1 Release/Termination.(a) Partial Release. Upon request by Guarantor and approval by the Authority Director (which approval will not be unreasonably denied), Guarantor's liability under this Guaranty shall be proportionately reduced upon partial satisfaction of the Guaranteed Obligations by an amount equal to the cost of specified components of the Guaranteed Obligations when such components are fulfilled, except to the extent Authority has received notice by Developer in accordance with Section 16.5.4 of the DDA

that the amount of the Guaranty is to be retained by the Authority to the extent necessary to satisfy the requirements for recordation of the Reverter Release.

(b) Termination. Guarantor's liability under this Guaranty shall be terminated, discharged and satisfied, and Guarantor shall be relieved of any and all further obligations under this Guaranty for the Guaranteed Obligations upon the complete satisfaction of the obligation secured thereby, as evidenced by the issuance of Developer's last Certificate of Completion with respect to the Guaranteed Sub-Phase, and payment in full of any then outstanding Reimbursement Amount related thereto in accordance with this Guaranty; provided that (1) if the Authority records the Reversionary Quitclaim Deed with respect to the real property in the Guaranteed Sub-Phase, then this Guaranty shall be terminated as set forth in section 16.5.1(c) of the DDA, and (2) if the Authority terminates this DDA with respect to the Guaranteed Sub-Phase before the issuance of Developer's last Certificate of Completion for that Sub-Phase, then this Guaranty shall be terminated when the Guaranteed 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). Guarantor's liability under this Guaranty shall also be terminated, discharged and satisfied in whole or in applicable part, and Guarantor shall be relieved of any and all further obligations under this Guaranty for all or the applicable part of the Guaranteed Obligations if Developer substitutes this Guaranty, or any portion thereof, with another form of Adequate Security that meets all of the requirements or Approvals needed for it to be Adequate Security as defined in the DDA.

5.2 Evidence of Termination. Following any such termination and upon Guarantor's request, the Authority shall confirm in writing the fact of termination of this Guaranty and promptly return this Guaranty.

6. Notices

(a) A notice or communication under this Guaranty by either Guarantor or the Authority to the other shall be sufficiently given or delivered if given in writing and dispatched by hand, by registered or certified mail, postage prepaid, or by a recognized overnight carrier, such as Federal Express, addressed as follows:

(i) 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
Facsimile: 415.554.6018

and

Office of the City Attorney
City Hall, Rm. 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Real Estate/Finance
Facsimile: 415.554.4755

(ii) And in the case of a notice or communication sent to Guarantor:

[Insert Name and Address of Guarantor]

And to:

[Insert Name and Address of Guarantor's Legal Counsel]

And to:

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
Facsimile: 415.995.1778

And to: Gibson, Dunn & Crutcher
555 Mission Street, Suite 3000
San Francisco, CA 94105
Attn: Mary G. Murphy
Facsimile: (415) 374-8480

For convenience, copies of notices may also be given by facsimile.

Every notice pursuant to the terms of this Guaranty must be in writing and must state (or must be accompanied by a cover letter that states) substantially the following:

(b) the Section of this Guaranty pursuant to which the notice is given and the action or response required, if any;

(c) if applicable, the period of time within which the recipient of the notice must respond thereto;

(d) if approval is being requested, that it is a "Request for Approval under Guaranty Agreement"; and

(e) if it provides notice of a disapproval or an objection that requires reasonableness, specifically and with particularity the reasons therefor.

Any mailing address or facsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days before the effective date of the change. All notices under this Guaranty will be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed or delivered by a recognized carrier, on the delivery date or attempted delivery date shown on the return receipt or in the records of such carrier, as applicable. Official or binding notice may not be given by facsimile. The effective time of a notice shall not be affected by the receipt, before receipt of the original, of a facsimile copy of the notice.

7. General Provisions

7.1 Successors and Assigns. This Guaranty will be binding upon, and inure to the benefit of, Guarantor and the Authority and their respective successors, heirs, administrators and assigns.

7.2 Amendments. This Guaranty may be amended or modified only by a written instrument executed by the Authority and Guarantor.

7.3 Waivers. No action taken pursuant to this Guaranty by the Authority shall be deemed to be a waiver by the Authority of Guarantor's compliance with any of the provisions hereof. No waiver by the Authority of any breach of any provision of this Guaranty shall be construed as a waiver by the Authority of any subsequent or different breach. No forbearance by the Authority to seek a remedy for noncompliance hereunder or breach by Guarantor shall be construed as a waiver by the Authority of any right or remedy with respect to such noncompliance or breach.

7.4 Continuation and Survival of Covenants. All covenants by Guarantor contained herein shall be deemed to be material and shall survive any termination of the DDA or portion thereof if the Guaranteed Obligations have arisen and not been satisfied as of the date of any such termination.

7.5 Governing Law; Selection of Forum. This Guaranty shall be governed by and construed in accordance with the laws of the State of California. As part of the consideration for the DDA and the Authority's actions under which the obligation to provide this Guaranty arose, Guarantor agrees that all actions or proceedings arising directly or indirectly under this Guaranty may, at the sole option of the Authority, be litigated in courts located within the State of California, and Guarantor expressly consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon Guarantor wherever Guarantor may then be located, or by certified or registered mail directed to Guarantor at the address set forth in this Guaranty for the delivery of notices.

7.6 Merger of Prior Agreements. Guarantor and the Authority intend that this Guaranty shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. Guarantor and the Authority further intend that this Guaranty shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Guaranty.

7.7 Interpretation of Guaranty. Unless otherwise specified, whenever in this Guaranty reference is made to any Section, or any defined term, the reference shall be deemed to refer to the Section or defined term of this Guaranty. Any reference to a Section includes all subsections and subparagraphs of that Section. The use in this Guaranty 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 items 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, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter. In the event of a conflict between the Recitals and the remaining provisions of the Guaranty, the remaining provisions shall prevail. Any titles of the several parts and Sections of this Guaranty are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. The masculine, feminine or neutral gender and the singular and plural forms include the others whenever the context requires. References to days, months and years mean calendar days, months and years unless otherwise specified. References to any law, specifically or generally, will mean the law as amended, supplemented or superseded from time to time. The provisions of this Guaranty shall be construed as a whole according to their common meaning and not strictly for or against either Guarantor or the Authority in order to achieve the objectives and purposes of Guarantor and the Authority, regardless of who drafted this Guaranty.

7.8 Attorneys' Fees and Costs. Should either Guarantor or the Authority institute any action or proceeding in court to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Guaranty, the prevailing party shall be entitled to receive from the losing party court costs incurred by the prevailing party including, without limitation, expert witness fees and costs and expenses, travel time and associated costs; transcript preparation fees and costs; document copying expenses; exhibit preparation costs; carrier expenses and postage and communications expenses; such amount as a court or other decision maker may adjudge to be reasonable attorneys' fees for the services rendered to the prevailing party in such action or proceeding; fees and costs associated with execution upon any judgment or order; and costs on appeal and any collection efforts (the "**Attorneys' Fees and Costs**"). For purposes of this Guaranty, the Attorneys' Fees and Costs shall include the fees and costs of in-house counsel for the City, the Authority and Guarantor based on the fees regularly charged by private attorneys with the equivalent number of years of professional experience in the subject matter area of the law for which the City's, the Authority's or Guarantor's in-house counsel's services were rendered who practice in the City and County of San Francisco in law

firms with approximately the same number of attorneys as employed by the City, the Authority or Guarantor.

7.9 Severability. Invalidation of any provision of this Guaranty, or of its application to any person, by judgment or court order, will not affect any other provision of this Guaranty or its application to any other person or circumstance, and the remaining portions of this Guaranty will continue in full force and effect, unless enforcement of this Guaranty as invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Guaranty.

7.10 Substitute Security. (a) Substitute Security. If at any time during the period this Guaranty is in effect, the Net Worth of Guarantor falls below Fifty Million Dollars ($50,000,000) (the "**Net Worth Requirement**"), or Guarantor causes or allows to occur a Significant Change (as defined in Section 7.10(b) below) (each, a "**Substitute Security Event**"), then Guarantor shall notify the Authority and Developer as soon as reasonably practicable. Upon the occurrence of a Substitute Security Event, Developer is required under Section 26.3 of the DDA to supply the Authority with a substitute guaranty (in the form of this Guaranty), an unconditional letter of credit, or other form of security, in each case: (i) in favor of the Authority; (ii) in form and substance, and issued by persons or entities, reasonably satisfactory to the Authority (including satisfaction of the Net Worth Requirement); (iii) in the amount of one hundred percent (100%) of the Guaranteed Obligations up to the Secured Amount; and (iv) to remain in effect until the Guaranteed Obligations are fulfilled, but will be reduced from time to time, in accordance with the release provisions of Section 5.1(a) above ("**Substitute Security**"). If Developer does not supply the Authority with the Substitute Security within the time period required under the DDA, the Authority shall notify Guarantor and Guarantor shall provide such Substitute Security within ten (10) days after the Authority's notice. Failure of the Authority to give notice of Developer's failure to provide the Substitute Security shall not relieve Guarantor of its obligations hereunder. It shall be a default of Guarantor under this Guaranty, and a default of Developer under the terms of the DDA, if Guarantor fails to provide the Substitute Security within ten (10) days after the Authority's notice. The Authority's sole remedy against Guarantor for Guarantor's failure to provide the Substitute Security in the event Developer does not provide it as required under the DDA will be to require Guarantor to specifically perform its obligation to provide the Substitute Security in the Secured Amount and not to seek damages against Guarantor attributable to such failure; however, this limitation on remedies shall apply only to Guarantor's failure to provide the Substitute Security in the event Developer fails to provide the Substitute Security as required under the DDA, not to the Authority's rights to enforce this Guaranty generally, and shall not limit the Authority's rights against Developer under the DDA. Upon the Developer or Guarantor providing the Substitute Security required under this Section 7.11(a)„ the Authority shall promptly return this Guaranty.

(b) Significant Change. For purposes of Section 7.10(a) above, "**Significant Change**" means (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 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 (10%) of Guarantor's Net Worth and Guarantor does not satisfy or bond the judgment within twenty (20) days, 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.

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Guarantor and the Authority, each being duly authorized, have executed and delivered this Guaranty as of the Effective Date.

GUARANTOR:

_____

a _____

By: _____

Name: _____

Title: _____

| SIGNATURES CONTINUE ON NEXT PAGE |

ACCEPTED AND AGREED:

AUTHORITY:

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Name: _____
Title: Deputy City Attorney

TREASURE ISLAND DEVELOPMENT AUTHORITY

By: _____
Name: _____
Title: Executive Director

EXHIBIT Z

Form of Architect's Certificate

DATE:_____

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: _____

FROM: _____

RE: [Description of Required Improvement] ("Required Improvements")

This Architect's Certificate is being provided pursuant to Section 9.2 of that certain Disposition and Development Agreement, by and between Treasure Island Community Development, LLC, a California limited liability company ("**Developer**"), and the Treasure Island Development Authority, a California nonprofit public benefit corporation (the "**Authority**"), dated for reference purposes as of _____ __, 2011 and recorded in the Official Records of the City and County of San Francisco ("City") on _____, as Document No. _____ at Reel ____, Image ____ (as may be amended from time to time and including all exhibits attachments thereto, the "**DDA**"). The capitalized terms used but not otherwise defined in this Architect's Certificate have the meanings given to them in the DDA.

As Architect of Record for the design and construction of the Required Improvements, I visited the Required Improvements at intervals appropriate to the state of construction, or as otherwise agreed by me and Required Developer, to become generally familiar with the progress and quality of the construction completed and to determine in general if the construction was being performed in a manner indicating that the construction when completed would be in accordance with the Construction Documents approved by **[the City Planning Department] [the Authority]**. I observed the Required Improvements from _____, 20__ to , 20__, and all the statements made below are made as of the date(s) of my observation(s). My opinions and statements provided in this certificate are limited to my on-site inspections. I am not required to make nor have I made exhaustive or continuous on-site inspections of the Required Improvements.

I neither retained nor exercised control over or charge of, nor am I responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the construction of the Required Improvements.

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

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

1. I have observed the construction of the Required Improvements on the dates set forth above.

2. The Construction Documents provide for the construction of the Required Improvements in accordance with all applicable laws, including laws relating to accessibility.

3. Construction of the Required Improvements has been performed in a good and work person-like manner and in accordance with the Construction Documents, except as may be noted on Exhibit S-A attached hereto.

4. All work performed and material and fixtures used in connection with the construction of the Required Improvements are in accordance with the Construction Documents, except as may be noted on Exhibit S-A attached hereto.

5. Construction of the Required Improvements has been completed in accordance with all applicable building laws, regulations and ordinances.

6. The required certificates, approvals and permits of all governmental authorities having jurisdiction covering the work to date on the Required Improvements have been issued and are in force, and there is not an undischarged violation of applicable laws, regulations, or orders of any governmental authority having jurisdiction of which I have notice as of the date hereof, except as may be noted on Exhibit S-A attached hereto.

[Architect of Record]

By: _____
Name: _____
Title: _____

Document32

EXHIBIT AA

Form of Authority Quitclaim Deed

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:

Recorder's Stamp

Authority Quitclaim Deed

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the TREASURE ISLAND DEVELOPMENT AUTHORITY, a California nonprofit public benefit corporation (the "**Authority**"), does hereby quitclaim to TREASURE ISLAND COMMUNITY DEVELOPMENT, LLC, a California limited liability company ("**Developer**"), all of the Authority's right, title and interest in and to all of that real property located in the City and County of San Francisco, California described in Exhibit AA-1 attached hereto.

AUTHORITY:

Authorized by Authority Resolution
No. _____ adopted

Approved as to Form:
DENNIS HERRERA,
City Attorney

By: _____
Name: _____
Deputy City Attorney

TREASURE ISLAND DEVELOPMENT AUTHORITY,
a California nonprofit public benefit corporation

By: _____
Name: _____
Title: _____

DEVELOPER:

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

By: UST Lennar HW Scala SF Joint Venture,
a Delaware general partnership
its co-Managing Member

By: _____
Name: Kofi Bonner
Its: Authorized Representative

By: KSWM Treasure Island, LLC,
a California limited liability company
its co-Managing Member

By: WMS Treasure Island Development I, LLC,
a Delaware limited liability company
its Member

By: Wilson Meany Sullivan LLC,
a California limited liability company
its Sole Member and Manager

By: _____
Name: Chris Meany
Title: Co-Managing Member

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

By: _____
Name: _____
Title: _____

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

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

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

WITNESS my hand and official seal.

_____ (Seal)
Notary Public

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

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

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

WITNESS my hand and official seal.

_____ (Seal)
Notary Public

EXHIBIT AA-1

Legal Description

[ATTACHED]

EXHIBIT BB

Form of Certificate of Completion

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: _____

Recorder's Stamp

CERTIFICATION OF COMPLETION

WHEREAS, pursuant to Section 9.2 of that certain Disposition and Development Agreement (as it may be amended from time to time and including all exhibits and attachments thereto, the "**DDA**") by and between Treasure Island Community Development, LLC, a California limited liability company ("**Developer**"), and the Treasure Island Development Authority, a California nonprofit public benefit corporation (the "**Authority**"), dated for reference purposes as of ____, 2011 and recorded in the Official Records of the City and County of San Francisco (the "**Official Records**") on _____ ___, 2011 as Document No. _____, at Reel ____, Image ____, Developer did undertake certain obligations to construct certain Improvements on certain real property situated in the City and County of San Francisco, State of California, which Improvements are particularly described in Exhibit BB-1 hereto (the "**Completed Improvements**") and which property is more particularly described in Exhibit BB-2 hereto (the "**Property**");

WHEREAS, capitalized terms used but not otherwise defined herein have the meanings set forth in the DDA; and

WHEREAS, the Authority has conclusively determined that the construction obligations of Developer as specified in the DDA with respect to the Completed Improvements have been fully performed in accordance with the Construction Documents therefor [with the exception of the following:_____]; and

WHEREAS, the Authority's determination regarding the above construction obligations is not directed to, and the Authority assumes no responsibility for, engineering or structural

matters, latent defects, or compliance with building codes and regulations or applicable law regarding construction standards: and

[WHEREAS, together with all previously issued Certificates of Completion with respect to the Property, the Authority has conclusively determined that all of the construction obligations of Developer as specified in the DDA with respect to the Property have been fully performed.]

NOW, THEREFORE, as provided in the DDA, with respect to the Completed Improvements and the Property, and subject to the foregoing provisions hereof, the Authority does hereby certify that the Completed Improvements have been fully performed and completed as set forth above [except for the following_____].

Nothing contained in this instrument shall modify in any other way any other provisions of the DDA or any other provision of any documents incorporated in the DDA, including the survival provisions contained therein.

Upon recordation of this Certificate of Completion, the provisions of the DDA requiring construction and completion of the Completed Improvements shall be deemed satisfied.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

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

AUTHORITY:

Authorized by Authority Resolution No. _____ adopted _____ __, 20__.

Approved as to Form:
DENNIS J. HERRERA,
City Attorney

By: _____
Name: _____
Title: _____

TREASURE ISLAND DEVELOPMENT AUTHORITY,
a California nonprofit public benefit corporation

By: _____
Name: _____
Title: Executive Director

EXHIBIT BB-1

[Completed Improvements]

1.

EXHIBIT BB-2

[Property]

EXHIBIT CC

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

DESIGN REVIEW AND DOCUMENT APPROVAL PROCEDURE

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LIST OF EXHIBITS

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

DESIGN REVIEW AND DOCUMENT APPROVAL PROCEDURE

This DRDAP implements and is part of the DDA. As used herein, certain capitalized terms are defined in Exhibit 1 (Definitions). Capitalized terms used but not otherwise defined in this DRDAP shall have the meanings for such terms set forth in the DDA.

1. INTRODUCTION

This DRDAP sets forth the procedures for submitting, reviewing, and approving Major Phase and Sub-Phase Applications for the Project Site. The Authority shall review such Applications to ensure that they conform to and are consistent with the Development Requirements, and coordinate with applicable City Agencies for review in accordance with the ICA. The review and approval process set forth in this DRDAP relates primarily to horizontal infrastructure development and compliance with various obligations under the DDA. The procedure for submitting, reviewing and approving applications for Vertical Improvements in the Project Site is governed by the Treasure Island and Yerba Buena Island Special Use District that resides in Section 249.52 of the City's Planning Code.

1.1 REVIEW PROCESS

1.1.1 Overview of Review Process.

The Design Review and Document Approval Process set forth herein entails two general categories of design review and document approval, described as follows:

- The first category of design review requires review and recommendation to the Authority Board by the TI/YBI Citizens Advisory Board ("**CAB**") and approval by the Authority Board of (i) a Streetscape Master Plan, (ii) a Conceptual Parks and Open Space Master Plan, and (iii) a Signage Master Plan (as such terms are defined below, each a "**Master Plan**"). The "**Streetscape Master Plan**" shall include all streets that will be publicly owned on both Treasure Island and Yerba Buena Island. The Streetscape Master Plan application must be submitted for review and recommendation to the Authority Board by the CAB, and approved by the Authority Board prior to the approval of the first Major Phase Application. The "**Conceptual Parks and Open Space Master Plan**" shall include a conceptual description of all parks and open pace. The Conceptual Parks and Open Space Master Plan must be submitted for review and recommendation by the CAB, and approved by the Authority Board, prior to the approval of the first Major Phase Application. The "**Signage Master Plan**" shall address signage for all public streets and other property that will be publicly owned on both Treasure Island and Yerba Buena Island. The Signage Master Plan application must be submitted for review and recommendation to the Authority Board by the CAB and approved by the Authority Board prior to the approval of the first Sub-Phase Application within the first Major Phase. The Streetscape Master Plan, the

Conceptual Parks and Open Space Master Plan and the Signage Master Plan applications are generally at a concept plan level of detail and require a single submittal of plans.

- The second category of design review requires approval by the Authority Board of Major Phase Applications and approval by the Executive Director of Sub-Phase Applications. Major Phase Applications generally include overall site plans, vicinity plans, illustrative concept plans for Infrastructure and Stormwater Management Controls, including all Associated Public Benefits, and any proposed changes to the Phasing Plan attached to the DDA, as updated and approved from time to time. The Authority Board must approve the Major Phase Application, and the Executive Director must approve the applicable Sub-Phase Application for one or more adjacent Blocks within the Major Phase, before conveyance of the Sub-Phase to Developer under the DDA. The Sub-Phase Application, which must be approved by the Executive Director before building permits may be issued for Infrastructure and Stormwater Management Controls and before the Authority's consideration of and grant of Vertical Approvals, governs Infrastructure and Stormwater Management Controls within the Sub-Phase, including data charts, site plans, 50% Construction Documents for Infrastructure and Stormwater Management Controls within the Sub-Phase, and 100% Design Development Documents for Open Space Lots within the Sub-Phase, all as more particularly described in **Exhibit 2**.

1.1.2 Priority Project

The development of the Project is a priority to the City and the Authority. Accordingly, the Authority shall review all Applications as expeditiously as reasonably possible and use commercially reasonable efforts to enforce the applicable provisions of the ICA in accordance with its terms. In addition, the Authority shall provide Developer with multiple opportunities to meet and confer with Authority Staff before Applications are due.

1.1.3 Developer, Authority and City Roles in the DRDAP Process

To the extent required under the DDA, Developer shall submit all Major Phase Applications and Sub-Phase Applications to the Authority in accordance with this DRDAP.

The Authority shall review all Applications and submittals for completeness and consistency with the Development Requirements as set forth in this DRDAP. The Authority shall submit Complete Major Phase Applications and Complete Sub-Phase Applications to the applicable City Agencies for review in accordance with the ICA. The City Agencies will review submittals made to them pursuant to this DRDAP for consistency with the Applicable Regulations, and shall provide any comments on all Applications within the time required by this DRDAP and the ICA, as applicable. A City Agency's failure to review and comment on Major Phase or Sub-Phase Application submittals within the time frames set forth in this DRDAP shall not, by itself, be the basis for Excusable Delay. But such a failure that (i) results in a delay of an Authority action beyond the time frame permitted for Authority action under this DRDAP, or (ii) results in a delay of a City action beyond the permitted time set forth in the ICA when the City is

issuing a final Approval (i.e., when there is no subsequent Authority action on such matter), shall be the basis for Excusable Delay under the DDA, and that shall extend the time for Developer's performance under the DDA in accordance with Section 24 thereof.

The Parties understand and agree that the Applications will include detailed information, and the turnaround time for Authority and City staff will depend in part upon the amount of new information included in an Application that has not yet been seen by the Authority and the City at the time of Application submittal and the quality of the submittal. Accordingly, Developer shall submit information and materials, and schedule meetings with Authority Staff, for consultation and input in the formulation of Application materials in advance of the required submission of Applications as set forth below. The Authority shall make staff available for such requested meetings and consultation. The Parties understand and agree that input of Authority Staff throughout the design and development process will likely result in an expedited approval process and increased efficiencies.

Whenever Approval or any other action is required by the Authority Board, the Executive Director shall upon the request of Developer following the periods to meet and provide final comments described in this DRDAP, 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.

With regard to any public hearings and presentations relating to the Project, Developer shall cooperate with, prepare materials for, and participate in presentations to the CAB, Authority Board and the Arts Commission, as applicable.

1.1.4 Arts Commission Design Review

Although the Authority has land use authority over the entire Project Site, Developer shall submit certain Design Documents, the Streetscape Master Plan and the Signage Master Plan to the Arts Commission for review and comment as and to the extent required by Charter section 5.103 (for Improvements within public right-of-ways and other public areas that will be dedicated to the City). Submittals and review will be in accordance with the Civic Design Review Guidelines adopted by the Arts Commission. It is anticipated that Arts Commission review shall be limited to approvals of (i) Design Documents for structures to be constructed on City-owned property, and (ii) the Streetscape Master Plan and Signage Master Plan to the extent such Master Plans affect City- owned property and structures, and Improvements located within public rights-of-way to be dedicated to and owned by the City that are included within the applicable Sub-Phase Applications.

Developer shall meet with Authority Staff on all submissions to the Arts Commission before making each such submission to the Arts Commission. For the Streetscape and Signage Master Plan submittals , Developer shall seek design comments from the Arts Commission not less than ninety (90) days before submittal thereof to the Authority. For all other Improvements within public right-of-ways and other public areas that will be dedicated to and owned by the City, as specified in the ICA, Authority shall use good faith efforts to cause the Arts Commission to review submittals made to it pursuant to this DRDAP and provide any design comments on

matters within its purview on all Applications as expeditiously as possible but in no event later than thirty (30) days following submittal. Failure of the Arts Commission to complete its comments within a specified time period shall not waive the obligation to obtain design comments and approval from the Arts Commission before the Authority acts on an Application that is subject to review by the Arts Commission; provided, however, that the Arts Commission's failure to review and comment on the Design Documents or Master Plan submittals within the time frames set forth in this DRDAP that (i) results in a delay of an Authority action beyond the time frame permitted for Authority action under this DRDAP, or (ii) results in a delay of a City action beyond the permitted time set forth in the ICA when the City is issuing a final Approval (i.e., when there is no subsequent Authority action on such matter), shall be the basis for Excusable Delay under the DDA, and shall extend the time for Developer's performance under the DDA in accordance with Section 24 thereof.

1.1.5 Planning Department and Planning Commission Roles in Major Phase/Sub-Phase Applications

The Development Agreement provides that the Authority may choose to utilize the Planning Department in order to, among other things, establish work orders as necessary for Planning staff to provide design review of Major Phase Applications and Sub-Phase Applications. Planning staff would in all aspects be serving on behalf of the Authority under the direction of the Executive Director. If the Authority engages the services of the Planning Department to review such Applications, the Authority shall deliver to the Planning Department each applicable Application within three (3) days after Authority Staff determines that the applicable Application is a Complete Application and the Development Agreement requires the Planning Department to provide to the Authority timely comments to such submittals that will allow the Authority to comply with its time frames for review hereunder.

1.1.6 CAB Comment on Document Submittals

At the direction of the Executive Director, Developer shall provide the CAB with updates on the document submittal review process set forth in this DRDAP and shall submit the Streetscape Master Plan, the Conceptual Parks and Open Space Master Plan, Signage Master Plan and any other DRDAP submittals identified by the Executive Director for review and consideration by the CAB before any action is taken by the Authority Board. Developer shall provide the CAB with a summary description of such document submittals and such number of copy sets of such Applications as are reasonably requested by Authority Staff.

1.1.7 Subdivision Map Review

The review and Approval of Applications pursuant to this DRDAP are in addition to and do not waive the requirements for approval of Tentative and Final Transfer Maps, Tentative and Final Vesting Transfer Maps, Tentative and Final Vesting Subdivision Maps, Tentative and Final Subdivision Maps, and Parcel Maps by the City under the Subdivision Map Act, any of its implementing regulations and the Treasure Island and Yerba Buena Island Subdivision Code. The City's consideration and Approval or disapproval of Developer's applications for such maps shall be done in accordance with the procedures set forth in the Treasure Island and Yerba Buena Island Subdivision Code.

Developer, on behalf of the Authority, may submit a request for Approval of and, if Approved, may record a Final Transfer Map or a Final Vesting Transfer Map before a Major Phase Approval is given by the Authority Board. Developer, on behalf of the Authority or itself, may submit an application for a Tentative Subdivision Map or a Vesting Tentative Subdivision Map relating to the initial Sub-Phase within a Major Phase at the same time it submits the Sub-Phase Application and before a Major Phase Approval. However, in such case, DPW's time for determining that the Tentative Subdivision Map or a Vesting Tentative Subdivision Map application is complete and the Authority's time for reviewing and for providing comments and acting on the application shall not commence until there has been a Major Phase Approval given for the property located within such map.

1.1.8 [Reserved[

1.1.9 [Reserved]

1.1.10 Consistency with Development Requirements and Previous Approvals

Unless otherwise Approved by Developer in its sole and absolute discretion, and subject to the provisions of the DDA, ICA, and other Project Approvals, the Authority will not (i) disapprove any Major Phase Application or Sub-Phase Application on the basis of any element that conforms to and is consistent with the Development Requirements, or (ii) impose conditions that conflict with the Development Requirements.

1.1.11 Other Governmental Entity Approvals

Nothing contained in this DRDAP is intended to eliminate or alter the process or approval requirements set forth under applicable provisions of State or federal law or the regulations of other Governmental Entities, as applicable, with respect to any development at the Project Site.

1.1.12 Review Periods.

All review periods specified in this DRDAP shall refer to calendar days and not business days unless expressly stated otherwise.

2. SUMMATION OF DOCUMENT SUBMITTALS

Submissions under this DRDAP shall consist of the following components or stages, the requirements for which are set forth below:

1. Streetscape Master Plan;
2. Conceptual Parks and Open Space Master Plan;
3. Signage Master Plan;
4. Major Phase Applications; and
5. Sub-Phase Applications.

3. STREETSCAPE MASTER PLAN, CONCEPTUAL PARKS AND OPEN SPACE MASTER PLAN, AND SIGNAGE MASTER PLAN APPROVALS

3.1 APPLICATION PROCESS

3.1.1 Pre-Submission Conference for Streetscape Master Plan

The Streetscape Master Plan, as described in Exhibit 3 to this DRDAP, is applicable only to streets within the Project Site that will be publicly owned. Not less than thirty (30) days before submitting a Streetscape Master Plan, Developer shall submit to the Executive Director a draft of the materially important concept plans and documents of the type listed in Exhibit 3. Not less than twenty (20) days before submitting a Streetscape Master Plan, Developer and Authority Staff shall hold at least one pre-submission meeting at a mutually agreeable time, with appropriate City Agencies that elect to attend. Developer may submit information and materials iteratively, and Developer and the Authority may agree to hold such additional meetings as they may deem useful or appropriate. If Developer fails to submit such preliminary documents or to schedule such pre-submission meeting before submitting a Streetscape Master Plan as specified above, then such failure shall not, by itself, constitute an Event of Default and instead the Authority's time for review of the Streetscape Master Plan shall be extended by thirty (30) days.

3.1.2 Submission

The Streetscape Master Plan shall be submitted to the Authority not less than ninety (90) days before the submittal of the first Major Phase Application (the "**Streetscape Submittal Date**"). Alternatively, Developer may elect to submit the Streetscape Master Plan after the Streetscape Submittal Date but in no event later than the date of submittal of its first Major Phase Application, in which case the Authority's time for determination that such Major Phase Application is a Complete Application shall be automatically extended by the number of days from the Streetscape Submittal Date to the date that Developer submits the Streetscape Master Plan.

The Conceptual Parks and Open Space Master Plan, as described in Exhibit 3, shall be submitted to the Authority not less than ninety (90) days prior to the submittal of the first Major Phase Application.

The Signage Master Plan, as described in Exhibit 3, shall be submitted to the Authority not less than ninety (90) days before the submittal of the first Sub-Phase Application (the "**Signage Submittal Date**"). Alternatively, Developer may elect to submit the Signage Master Plan after the Signage Submittal Date but in no event later than the date of submittal of the first Sub-Phase Application, in which case the Authority's time for determination that such Sub-Phase Application is a Complete Application shall be automatically extended by the number of days from the Signage Submittal Date to the date that Developer submits the Signage Master Plan.

3.2 REVIEW BY AUTHORITY AND CITY AGENCIES

3.2.1 Authority Review - Initial

The Authority Staff shall review the Streetscape Master Plan, Conceptual Parks and Open Space Master Plan or Signage Master Plan Applications (each, a "**Master Plan Application**") for completeness and advise Developer in writing of any deficiencies within thirty (30) days after the receipt of the applicable Master Plan Application. In the event the Authority Staff does not so advise Developer, the Master Plan Application shall be deemed Complete and all time periods for Authority and City review shall run from the date of such deemed Completeness. Notwithstanding the foregoing, a determination that a Master Plan Application is deemed Complete shall not prevent the Authority Staff from requesting such additional materials as deemed reasonably necessary to complete the review by the Authority and City.

3.2.2 City Agency Review – Complete Master Plan Application

Within three (3) days of the Authority's determination that a Master Plan Application is a Complete Master Plan Application or the date that the Application is deemed Complete, Authority Staff shall submit the applicable Complete Master Plan Application, or applicable portions thereof, to applicable City Agencies. The City Agencies will review submittals made to them for consistency with the Applicable Regulations. Each City Agency will provide any comments on the submittal to the Authority within thirty (30) days from the City Agency's receipt of the submittal, subject to any longer period set forth in the ICA if applicable. Consistent with the Authority's responsibilities under the ICA, the Authority shall use commercially reasonable efforts to cause each applicable City Agency to complete its review of each Complete Master Plan Application, or applicable portions thereof, within such time.

3.2.3 Authority Review – Complete Master Plan Application

Authority Staff shall complete its review and consideration on the Streetscape Master Plan, Conceptual Parks and Open Space Master Plan, and the Signage Master Plan within ninety (90) days after the applicable Streetscape Master Plan, Conceptual Parks and Open Space Master Plan, or Signage Master Plan Application is Complete or deemed Complete. Authority Staff may propose changes to the Streetscape Master Plan, Conceptual Parks and Open Space Master Plan, and the Signage Master Plan that do not conflict with the Development Requirements. If Authority Staff proposes any such changes, then the Authority and Developer shall promptly meet and confer in good faith for a period of not more than forty-five (45) days, as such period may be extended by mutual agreement, to reach agreement on any such changes proposed by the Authority provided such meet and confer period shall run concurrently with, and shall not extend, the ninety (90) day period specified above unless agreed to by Developer and Authority Staff.

Upon the expiration of the ninety (90) day period specified above, as such ninety (90) day period may be extended by mutual agreement of Developer and Authority Staff, the Executive Director shall submit the applicable Complete Master Plan Application to the Authority Board for review and consideration, with or without Authority Staff recommendation. The Streetscape Master Plan and the Conceptual Parks and Open Space Master Plan must be Approved by the

Authority Board on or before the first Major Phase Approval. The Signage Master Plan must be Approved by the Authority Board on or before the first Sub-Phase Approval.

4. MAJOR PHASE APPROVALS

Developer shall submit, and the Authority Board shall review and Approve or disapprove, Major Phase Applications as set forth in the DDA and this Section 4. The purpose of a Major Phase Approval is for the Authority to confirm that the Major Phase Application conforms to and is consistent with the applicable Development Requirements, and for Developer to obtain Approval by the Authority of the additional detailed information included in a Major Phase Application that has not been previously reviewed or Approved by the Authority.

Prior to or concurrently with each Major Phase Application, Developer and Authority shall comply with the requirements for providing the Navy with notice of the Major Phase Decisions pursuant to Section 6.2.3 of the DDA and Section 5.6 of the Conveyance Agreement. In no event shall Authority be required to Approve a Major Phase Application until (i) the applicable Major Phase Decision notice has been provided and the period of time for Navy to object has passed without objection, or (2) if the Navy has objected in writing to one or more of the Major Phase Decisions, such objection has been resolved in accordance with the dispute resolution procedures set forth in the Conveyance Agreement and the DDA (in either event, a "**Major Phase Decision Agreement**").

4.1 APPLICATION PROCESS

4.1.1 Pre-Submission Conference

Not less than thirty (30) days before submitting a Major Phase Application, Developer shall submit to the Executive Director drafts of the materially important submittals of the type listed for Major Phase Applications in Exhibit 2, which shall consist of Items 1.1.1 through 1.1.7 as shown on Exhibit 2 (other than the approximate location of JV Lots described in 1.1.7.5), and any other data as Developer shall so desire concerning the Major Phase. Not less than twenty (20) days before submitting a Major Phase Application, Developer and Authority Staff shall hold at least one pre-submission meeting at a mutually agreeable time and with appropriate City Agencies that elect to attend. Developer may submit information and materials iteratively, and Developer and the Authority may agree to hold such additional meetings as they may deem useful or appropriate. If Developer fails to submit such preliminary documents or to schedule such pre-submission meeting before submitting a Major Phase Application as specified above, then such failure shall not, by itself, constitute an Event of Default and instead the Authority's time for review of the Application in order to determine that such Application is a Complete Application shall be extended by thirty (30) days. Any such extension shall not be the basis for Excusable Delay.

4.1.2 Submission

Subject to the terms of the DDA, Developer shall submit each Complete Major Phase Application to the Authority on or before the Outside Date for submittal of each such Major Phase Application as set forth in the Schedule of Performance. Unless otherwise Approved by

Developer and the Executive Director, all Major Phase Applications shall include all of the documents and materials described for Major Phase Applications in **Exhibit 2** and **Exhibit 3**.

4.2 REVIEW BY AUTHORITY AND CITY AGENCIES

4.2.1 Authority Review - Initial

Authority Staff shall review each Major Phase Application as expeditiously as reasonably possible for conformance with the Development Requirements. Within thirty (30) days following receipt of a Major Phase Application, Authority Staff shall notify Developer of any deficiencies and make any requests for additional information or materials that are reasonably necessary in order to process the Major Phase Application under this DRDAP and are consistent with the type of documents listed in **Exhibit 2** for Major Phase Applications. Developer shall promptly correct any such deficiencies and provide any such requested information and materials. The Executive Director shall make a determination of whether a Major Phase Application is a Complete Application no later than thirty (30) days following receipt of such Major Phase Application, as such time period may be extended in accordance with Section 4.1, or, if applicable, no later than fifteen (15) days following receipt of any additional information and materials requested under this Section 4.2.1, and notify Developer of the same. If the Executive Director does not so advise the applicant within such thirty (30) or fifteen (15) day period, as applicable, the Major Phase Application shall be deemed Complete and all time periods for Authority and City review shall run from the date of such deemed Completeness. Notwithstanding the foregoing, a determination that a Major Phase Application is deemed Complete shall not prevent the Executive Director from requesting such additional materials as deemed reasonably necessary for the Authority's and City's review of the Application in accordance with this DRDAP.

4.2.2 City Agency Review – Complete Major Phase Application

Within three (3) days after the Authority's determination that a Major Phase Application is a Complete Application or within three (3) days after the date that such Application is deemed Complete, Authority Staff shall submit such Complete Major Phase Application, or applicable portions thereof, to applicable City Agencies. The City Agencies will review submittals made to them for consistency with the Applicable Regulations. Each City Agency will provide any comments on the submittal to the Authority within thirty (30) days from the City Agency's receipt of the submittal, subject to any longer period set forth in the ICA if applicable. Consistent with the Authority's responsibilities under the ICA, the Authority shall use commercially reasonable efforts to cause each applicable City Agency to complete its review of each Complete Major Phase Application, or applicable portions thereof, within such time.

4.2.3 Authority Review - Complete Major Phase Application

Authority Staff shall review each Complete Major Phase Application as expeditiously as reasonably possible. No later than fifteen (15) days after the expiration of the 30-day City Agency review period described in Section 4.2.2 above, Authority Staff shall provide Developer with a summary of all comments received from City Agencies, Authority Staff and any other comments by applicable City Agencies and other Governmental Entities and community

organizations consulted by the Authority. Authority Staff shall provide final comments on each Complete Major Phase Application within eighty (80) days following the Authority's determination that the Major Phase Application is a Complete Application.

Authority Staff may propose changes to the Complete Major Phase Application that do not conflict with the Development Requirements, including changes responding to comments received by City Agencies or others during the 30-day City Agency review period. If Authority Staff proposes any such changes, then the Authority and Developer shall promptly meet and confer in good faith for a period of not more than forty-five (45) days, as such period may be extended by mutual agreement, to reach agreement on any such changes proposed by the Authority; provided such meet and confer period shall run concurrently with, and shall not extend, the eighty (80) day period specified above unless agreed to by Developer and Authority Staff.

Upon the later of (i) the expiration of the eighty (80) day period specified above, as such eighty (80) day period may be extended by mutual agreement of Developer and Authority Staff, or (ii) the occurrence of the applicable Major Phase Decision Agreement, the Executive Director shall submit the Complete Major Phase Application to the Authority Board for review and consideration, with or without Authority Staff recommendation as applicable, at the next regularly-scheduled meeting for which an agenda has not yet been finalized and for which the Authority can prepare and submit a staff report in keeping with standard practices of the Authority. The Authority Board shall take action on each Complete Major Phase Application in accordance with the standards in Section 4.2.4 within thirty (30) days after such Complete Major Phase Application is introduced at a public meeting of the Authority Board for review and consideration, unless Developer in its sole discretion Approves an extension of such period. Failure of the Executive Director to submit the Complete Major Phase Application to the Authority Board, and the failure of the Authority Board to act, within the time frames specified above shall each be a basis for Excusable Delay.

4.2.4 Authority Review - Approval Standard

All Major Phase Applications shall be reviewed and considered by the Authority Board, and shall be Approved by the Authority Board, in its reasonable discretion, if and to the extent the Major Phase Application (i) conforms to and is consistent with the applicable Development Requirements and, if applicable, the Land Acquisition Agreements, and (ii) as to matters or details that are beyond the scope of the foregoing, is reasonably acceptable to the Authority Board consistent with the requirements of Section 1.1.10 above and 4.2.6 below.

If a Major Phase Application is disapproved by the Authority Board, then the Authority Board shall, at the public hearing during which the Major Phase Application is being considered, state the basis for the disapproval, which basis shall be summarized in writing by the Executive Director, to the best of his or her knowledge, after the hearing and delivered to Developer within ten (10) days of the hearing date. Following any disapproval of a Major Phase Application, Developer may within ninety (90) days following receipt by Developer of such summary (subject to such extensions as may be Approved by the Executive Director) make changes to and resubmit the Major Phase Application. Promptly following the Executive Director's receipt of a revised Complete Major Phase Application, the Executive Director shall submit such revised

Complete Major Phase Application in accordance with the procedure set forth in this Section 4.2. The Schedule of Performance shall be automatically extended, if necessary, to allow for the foregoing procedure so long as Developer is making diligent good faith efforts to make changes to the Major Phase Application that are responsive to the matters that the Executive Director cited as the basis for disapproval of the Major Phase Application.

4.2.5 Amendments to Major Phase Approvals

Developer may apply to the Authority for an amendment to a Major Phase Approval in accordance with the standards and procedures for a Major Phase Application. All proposed amendments shall be subject to review and consideration by the Executive Director, unless the Executive Director determines that the proposed amendment is material, in which case the Executive Director shall submit the proposed amendment to the Authority Board. The Authority Board shall take action on the proposed amendment in accordance with the standards and procedures set forth in Section 4.2.4. Without limiting the foregoing, the Approval of the Authority Board shall be required for proposed amendments that: (i) materially amend the Infrastructure Plan; (ii) materially amend the Phasing Plan (as updated and Approved from time to time); (iii) extend the Outside Dates for Sub-Phase Applications for one or more Sub-Phases within the Major Phase; (iv) increase the number of Sub-Phases within the Major Phase; (v) materially delay the Completion of or otherwise reduce the Associated Public Benefits applicable to one (1) or more Sub-Phases; or (vi) materially extend the time for delivery of Authority Housing Lots within the Major Phase. Extensions of time to which Developer is entitled under the DDA shall not be considered an amendment subject to the provisions of this Section 4.2.5.

4.2.6 Amendments to Phasing Plan

As provided in Section 3.6 of the DDA, in determining whether to grant its Approval of amendments to the Phasing Plan as part of a Major Phase Application or amendment to a Major Phase Application, 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 affordable housing and other 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 Authority's ability to comply with the Replacement Housing Obligations or any of its obligations under the TIHDI Agreement, the Transition 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.

5. SUB-PHASE APPROVALS

Following a Major Phase Approval, Developer shall submit, and the Executive Director shall review and Approve or disapprove, Sub-Phase Applications as set forth in the DDA and

this Section 5. Notwithstanding the foregoing, Developer may submit the first Sub-Phase Application concurrently with, or at any time after submittal of a Major Phase Application for the Major Phase in which the Sub-Phase is located and prior to the applicable Outside Date set forth in the Schedule of Performance. The purpose of a Sub-Phase Approval is for the Authority to confirm that the Sub-Phase Application conforms to and is consistent with the applicable Development Requirements and for Developer to obtain Approval by the Authority of the additional detailed information included in a Sub-Phase Application that has not been previously reviewed or Approved by the Authority, before the Authority shall be obligated to convey the property within the Sub-Phase to Developer and before Developer may proceed with development within that Sub-Phase.

If as part of its Sub-Phase Application, Developer requests a modification in a particular Major Phase Decision previously approved by Authority and the Navy at the time of the applicable Major Phase Application, Developer and Authority shall comply with the requirements for providing the Navy with notice of the modification to the Major Phase Decision, pursuant to Section 6.2.3 of the DDA and Section 5.6 of the Conveyance Agreement. In no event shall Authority be required to Approve a Sub-Phase Phase Application until a Major Phase Decision Agreement has been reached on the revised Major Phase Decision.

5.1 APPLICATION PROCESS

5.1.1 Pre-Submission Conference

Not less than thirty (30) days before submitting a Sub-Phase Application, Developer shall submit to the Executive Director preliminary maps, plans, and design sketches of the type listed for Sub-Phase Applications in Exhibit 2, and any other data as Developer shall so desire concerning the Sub-Phase. Not less than twenty (20) days before submitting a Sub-Phase Application, Developer and Authority Staff shall hold at least one pre-submission meeting at a mutually agreeable time, with appropriate City Agencies that elect to attend. Developer may submit information and materials iteratively, and Developer and the Authority may agree to hold such additional meetings as they may deem useful or appropriate. If Developer fails to submit such preliminary documents or to schedule such pre-submission meeting before submitting a Sub-Phase Application as specified above, then such failure shall, by itself, not constitute an Event of Default and instead the Authority's time for review of the Application in order to determine that such Application is a Complete Application shall be extended by thirty (30) days. Any such extension shall not be the basis for Excusable Delay.

5.1.2 Submission

Subject to the terms of the DDA, Developer shall submit each Complete Sub-Phase Application to the Authority on or before the Outside Date for such Sub-Phase Application as set forth in the Schedule of Performance. Unless otherwise Approved by Developer and the Executive Director, Sub-Phase Applications shall include all of the documents and materials described for Sub-Phase Applications in Exhibit 2.

5.2 REVIEW BY AUTHORITY AND CITY AGENCIES

5.2.1 Authority Review - Initial

Authority Staff shall review as expeditiously as reasonably possible each Sub-Phase Application using the same procedures described for Major Phase Applications in Section 4.2.1. A Sub-Phase Application shall not be deemed a Complete Application for purposes of the review periods set forth below until (1) the Executive Director notifies Developer that it is a Complete Application, in which case the review periods shall commence on the date of such notification; or (2) the Executive Director fails to notify Developer that the Sub-Phase Application is either Complete or deficient within the time periods specified in Section 4.2.1 in which case the review periods shall commence on the date that the Sub-Phase Application is deemed Complete pursuant to Section 4.2.1.

5.2.2 City Agency Review – Complete Sub-Phase Application

Within three (3) days after the Authority's determination that a Sub-Phase Application is a Complete Application or within three (3) days after the date that the Sub-Phase Application is deemed to be a Complete Application, Authority Staff shall submit such Complete Sub-Phase Application, or applicable portions thereof, to applicable City Agencies. The City Agencies will review submittals made to them for consistency with the Applicable Regulations. Each City Agency will provide any comments on the submittal to the Authority within thirty (30) days from the City Agency's receipt of the submittal, subject to any longer period set forth in the ICA if applicable. Consistent with the Authority's responsibilities under the ICA, the Authority shall use commercially reasonable efforts to cause each applicable City Agency to complete its review of each Complete Sub-Phase Application, or applicable portions thereof, within such time.

5.2.3 Authority Review - Complete Sub-Phase Application

Authority Staff shall review as expeditiously as reasonably possible each Complete Sub-Phase Application. No later than fifteen (15) days after the expiration of the 30-day City Agency review period described in Section 4.2.2 above, Authority Staff shall provide Developer with a summary of all comments received from City Agencies, Authority Staff and any other comments by applicable City Agencies and other Governmental Entities and community organizations consulted by the Authority. Authority Staff shall provide final comments on each Complete Sub-Phase Application within eighty (80) days following the Authority's determination that the Sub-Phase Application is a Complete Application; provided, that if one or more Schematic Design Applications for Vertical Improvements are submitted concurrently with the Sub-Phase Application, then an additional thirty (30) days shall be added for the first Schematic Design Application and an additional twenty-one (21) days shall be added for each additional Schematic Design Application for Vertical Improvements submitted concurrently with the applicable Sub-Phase Application.

Authority Staff may propose changes to the Complete Sub-Phase Application that do not conflict with the Development Requirements, including changes responding to comments received by City Agencies or others during the 30-day City Agency review period. If the Authority proposes any such changes, then the Authority and Developer shall promptly meet and

confer in good faith for a period of not more than forty-five (45) days, as such period may be extended by mutual agreement, to reach agreement on any such changes proposed by Authority Staff; provided such meet and confer period shall run concurrently with, and shall not extend, the eighty (80) day period specified above (as extended if Schematic Design Applications are submitted simultaneously) unless agreed to by Developer and Authority Staff.

Upon the expiration of the eighty (80) day period specified above in this Section 5.2.3, as such eighty (80) day period may be extended by mutual agreement of Developer and Authority Staff or if Schematic Design Applications are submitted simultaneously, Authority Staff shall submit the Complete Sub-Phase Application to the Executive Director for review and consideration, with or without Authority Staff recommendation, and notify Developer of such submission. The Executive Director shall take action on each Complete Sub-Phase Application in accordance with the standards in Section 5.2.4 within thirty (30) days after such Complete Sub-Phase Application is submitted to the Executive Director for review and consideration, unless Developer in its sole discretion Approves an extension of such period. Failure of Authority Staff to submit the Complete Sub-Phase Application to the Executive Director, or for the Executive Director to act on the Complete Sub-Phase Application, within the time frames specified above shall be a basis for Excusable Delay.

5.2.4 Authority Review - Approval Standard

All Sub-Phase Applications shall be reviewed and considered by the Executive Director, and shall be Approved if and to the extent the Sub-Phase Application (i) conforms to and is consistent with the Development Requirements, and (ii) as to matters or details that are beyond the scope of the foregoing, is reasonably acceptable to the Executive Director consistent with the requirements of Sections 1.1.10 and 5.2.6 below.

Without limiting any Approvals required (or the standards for such Approvals) under the ICA or under Section 1.1.7 above, the Approval of the Authority Board shall be required for Sub-Phase Applications that include changes to the Development Requirements that (i) materially amend the Infrastructure Plan; (ii) materially extend the Outside Dates for Sub-Phase Applications for one or more Sub- Phases within the Major Phase; (iii) increase the number of Sub-Phases with the Major Phase; (iv) materially delay the Completion of or otherwise reduce the Associated Public Benefits applicable to one (1) or more Sub-Phases; (v) materially extend the time for delivery of Authority Housing Lots within the Major Phase; or (vi) materially amend the Phasing Plan.

If a Sub-Phase Application is disapproved by the Executive Director, then the Executive Director shall send a notice to Developer stating the basis for the disapproval by the end of the thirty (30) day review period cited above. Following any disapproval of a Sub-Phase Application, Developer may within ninety (90) days following receipt by Developer of such notice (subject to such extensions as may be Approved by the Executive Director) make changes to and resubmit the Sub-Phase Application. Promptly following the Executive Director's receipt of a revised Complete Sub-Phase Application, the Executive Director shall review and consider the Sub-Phase Application in accordance with the procedure set forth in this Section 5.2.4. The Schedule of Performance shall be automatically extended, if necessary, to allow for the foregoing procedure so long as Developer is making diligent good faith efforts to make changes

to the Sub-Phase Application that are responsive to the matters that the Executive Director cited as the basis for disapproval of the Sub-Phase Application.

5.2.5 Amendments to Sub-Phase Approvals

Developer may apply to the Authority for an amendment to a Sub-Phase Approval in accordance with the standards and procedures for a Sub-Phase Application. All proposed amendments shall be subject to review, consideration, and approval by the Executive Director and the Authority Board in the manner and under the approval standards established for Sub-Phase Applications, as set forth in Section 5.2.4 above, provided that the following proposed amendments shall, without limitation, require the Approval of the Authority Board in its sole discretion: (i) amendments that materially alter the matters Approved by the Authority Board as part of the applicable Major Phase Approval; (ii) material amendments to the Infrastructure Plan or the Conceptual Parks and Open Space Master Plan; (iii) material extensions of the Schedule of Performance for Completion of the Infrastructure, Stormwater Management Controls or the Authority Housing Lots within that Sub-Phase; (iv) amendments to the Design for Development; (v) material amendments to the timing or substance of the Associated Public Benefits within the Sub-Phase; or (vi) material amendments to the Phasing Plan. Extensions of time to which Developer is entitled under the DDA shall not be considered an amendment subject to the provisions of this Section 5.2.5.

5.2.6 Amendments to Phasing Plan

As provided in Section 3.6 of the DDA, in determining whether to grant its Approval of amendments to the Phasing Plan as part of a Sub-Phase Application or amendment to a Sub-Phase Application, 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 affordable housing and other 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 does not impair the Authority's ability to comply with the Replacement Housing Obligation or any of its obligations under the TIHDI Agreement, the Transition 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.

6. PERMIT PROCESS FOR INFRASTRUCTURE AND STORMWATER MANAGEMENT CONTROLS

At any time after submittal of a Sub-Phase Application and subject to Section 8 hereof, Developer may submit (1) a Street Improvement Permit application to DPW for all Infrastructure and Stormwater Management Controls to be owned or dedicated to the City or Authority that is contained within the applicable Sub-Phase or associated with the Developable Lots in the Sub-

Phase ("**Public Infrastructure**"), and (2) a Building Permit or Site Permit Application to DBI for all other Infrastructure and Stormwater Management Controls within the applicable Sub-Phase ("**Private Infrastructure**").

DPW shall process all Street Improvement Permit applications for Public Infrastructure in accordance with the ICA and Applicable Regulations. DBI shall process all Building Permit Applications for Private Infrastructure. However, if Developer submits a Street Improvement Permit application for Public Infrastructure or a Building Permit or Site Permit application for Private Infrastructure before the applicable Sub-Phase Approval, then the time for determining if the application is complete and the time for reviewing and providing comments on the application shall not commence until there has been a Sub-Phase Approval given for the property located within such Sub-Phase. In no event shall applicable Street Improvement Permits for Public Infrastructure or Building Permits for Private Infrastructure be issued prior to the Approval of the applicable Sub-Phase Application.

7. VERTICAL APPROVALS

Review and approval of Vertical Applications will be governed by the procedures set forth in the Treasure Island / Yerba Buena Island SUD (Planning Code Section 249.52). Developer shall be entitled to seek Approval of Vertical Applications on behalf of future Vertical Developers and assign such Approval to future Vertical Developers, whether such Vertical Developers have been identified or not and whether or not Developer or its Affiliates ultimately serve as such Vertical Developer. Submittal requirements for Vertical Applications shall be as adopted by the Authority and Planning Department from time to time as authorized in the Treasure Island/Yerba Buena Island SUD.

8. BUILDINGS AND STRUCTURES THAT ARE PART OF INFRASTRUCTURE OR STORMWATER MANAGEMENT CONTROLS INCLUDING BUILDINGS IN PARKS AND OPEN SPACE

Design review of buildings and structures that are included as Infrastructure or Stormwater Management Controls shall be reviewed and approved in connection with the applicable Major Phase and Sub-Phase Applications as described in Section 3, Section 5, Section 6 and the provisions of Exhibit 2 for Sub-Phase Applications.

9. OTHER CITY PERMITS

9.1 COMPLIANCE WITH OTHER LAWS

No review by the Authority will be made or Approval given as to the compliance of any Approval with any building codes and standards, including building engineering and structural design, or any other applicable State or federal law or regulation relating to construction standards or requirements, including, without limitation, compliance with any State or federal law or regulation related to the suitability of the improvements for use by persons with physical disabilities. Developer shall be responsible for all such compliance.

9.2 AUTHORITY REVIEW OF CITY PERMITS

No building permit, or any other City permit, including but not limited to any permits required by DPW, shall be issued unless the Authority has first reviewed such building permit or other City permit for consistency with the Development Requirements and has signed off on the building permit or other City permit. The Authority shall complete its review of permits within thirty (30) days from receipt of the permit.

10. GOVERNMENT REQUIRED PROVISIONS, CHANGES

Where a change in a Complete Major Phase Application or Complete Sub-Phase Application is required by a City Agency or other Governmental Entity and such City Agency or Governmental Entity has authority to require such change pursuant to either applicable State or federal law or, in the case of City Agencies, pursuant to the Development Agreement or ICA, the Authority and the Developer acknowledge and agree that: (i) they will meet and confer and make every reasonable effort to respond to such requirement in a manner that is consistent with the Development Requirements and applicable State and federal law; and (ii) the Authority will not deny its Approval of any change that is required to comply with applicable State or federal law or the requirements of City Agencies and Governmental Entities that do not conflict with the Development Requirements.

EXHIBIT 1

Definitions

"Applicable Regulations" as defined in the Development Agreement, which as of the Reference Date means: (1) the Project Approvals; (2) to the extent consistent with the Project Approvals and not otherwise superseded by the Development Requirements or Authority's powers as trustee under the Conversion Act, the Existing City Regulations (which include all provisions of the Building Construction Codes, i.e., the Parties understand and agree that no provision of the Building Construction Codes is inconsistent with or superseded by the Development Requirements); (3) Future Changes to Regulations, as and to the extent permitted by the DDA and the Development Agreement, (4) the Development Fees and Exactions, and such new or changed Development Fees and Exactions to the extent permitted under the DDA and the Development Agreement; (5) the Mitigation Measures; and (6) the Transaction Documents.

"Application" means, individually or collectively as the context requires, a Major Phase Application, Sub-Phase Application or Vertical Application.

"Associated Public Benefits" as defined in the DDA means public parks, open space, Required Improvements, affordable housing obligations and other public and community benefits that are tied to particular Sub-Phases as described in the Phasing Plan, the Housing Plan and the Schedule of Performance that Developer must Complete on or before the applicable Outside Date set forth in the Phasing Plan and the Schedule of Performance.

"Authority Staff" means employees of the Authority or other City staff or outside consultants retained and authorized by the Authority to review and/or approve Applications under this DRDAP on behalf of the Authority.

"Building Permit" means a building permit issued by DBI pursuant to the City's Building Code.

"CAB" as defined in Section 1.1.1.

"Charter" means the charter of the City.

"Complete Application" means, with respect to an Application, the submission of all documents and materials in such detail as is required under the DDA and this DRDAP for such Application.

"Conceptual Parks and Open Space Master Plan" as defined in Section 1.1.1 and Exhibit 3.

"Construction Documents" means construction documents to be submitted to, and in accordance with the requirements of, the Department of Building Inspection or

Department of Public Works (for public improvements) in connection with building permits, site permits or street improvement permits.

"**Conveyance Agreement**" means that certain Economic Conveyance Memorandum of Agreement (as amended and supplemented from time to time, the "**Conveyance Agreement**") by and between the United States of America, acting by and through the Department of the Navy and the Authority, that governs the terms and conditions for the transfer of NSTI from the Navy to the Authority.

"**DBI**" means the City's Department of Building Inspection, or any successor public agency designated by or under law.

"**DDA**" means that certain Disposition and Development Agreement (Treasure Island and Yerba Buena Island) between the Authority and Developer to which this DRDAP is attached.

"**Development Requirements**" means (i) the Project Approvals, (ii) the Transaction Documents and (iii) the documents approved under the DRDAP and the SUD, as they may be amended from time to time.

"**Design Document**" means, individually or collectively as the context requires, Schematic Design Documents, and/or Construction Documents.

"**Director of Public Works**" means the Director of the Department of Public Works, or his or her designee.

"**DPW**" means the San Francisco Department of Public Works.

"**Executive Director**" means the Authority Executive Director or his or her designee.

"**Housing Map**" as defined in the Housing Plan attached to the DDA.

"**ICA**" means the Interagency Cooperation Agreement between the City and the Authority for the Project, as defined in the DDA.

"**Infrastructure**" means those items identified in the Infrastructure Plan including open space improvements (including park improvements and restrooms), streets, rails, sewer and storm drainage systems, water systems, street improvements , traffic signal systems, dry utilities, transit facilities, associated public buildings and structures and other improvements any of which are to be constructed in or for the benefit of the applicable real property or any other matters described in the Infrastructure Plan, and shall include such work as is necessary to deliver real property to the State Lands Commission in the condition required under the applicable Land Acquisition Agreement, or otherwise so as to create Developable Lots as set forth in Section 7.8 of the DDA. Infrastructure does not include Stormwater Management Controls.

"**Major Phase**" as defined in Section 3.1 of the DDA

"Major Phase Application" means an Application for a Major Phase Approval.

"Major Phase Decision Agreement" as defined in Section 4.

"Master Plan" as defined in Section 1.1.1.

"Master Plan Application" as defined in Section 3.2.1.

"Open Space Lots" means all of the public open space areas on Treasure Island identified in the Design for Development Section T1.3 other than the School Open Space, and all of the public open space areas on Yerba Buena Island identified in the Design for Development Section Y1.

"Outside Date" means the last date by which a particular obligation may be satisfied, as such date is set forth in the Schedule of Performance.

"Planning Department" means the Planning Department of the City, or any successor public agency designated by or under law.

"Planning Commission" means the Commission of the Planning Department, or any successor governing body of the Planning Department designated by or under law.

"Private Infrastructure" as defined in Section 6.

"Project Approvals" means the project approvals listed in Exhibit C.

"Public Infrastructure" as defined in Section 6.

"Signage Master Plan" as defined in Section 1.1.1 and Exhibit 3.

"Site Permit" means a site permit issued by the City's Department of Building Inspection pursuant to Section 106A.3.4.2 of the City's Building Code

"Stormwater Management Controls" means the facilities, both those to remain privately-owned and those to be dedicated to the City, that comprise the infrastructure and landscape system that is intended to manage the stormwater runoff associated with the Project, as required by the San Francisco stormwater management standards, the applicable NPDES permit, and/or state and federal law, and as described in the Infrastructure Plan. Stormwater Management Controls include but are not limited to: (i) swales and bio-swales (including plants and soils), (ii) bio-retention and bio-filtration systems (including plants and soils), (iii) constructed ponds and/or wetlands, (vi) permeable paving systems, and (v) other facilities performing a stormwater control function constructed to comply with the San Francisco stormwater management standards, the applicable NPDES permit, and/or state and federal law. Stormwater Management Controls shall not mean Infrastructure that is part of the traditional collection system such as catch basins, stormwater pipes, stormwater pump stations, outfalls, and other such facilities that are located in the public right-of-way.

"Streetscape Master Plan" as defined in Section 1.1.1 and Exhibit 3.

"Streetscape Submittal Date" as defined in Section 3.1.2.

"Sub-Phase" as defined in Section 3.1 of the DDA.

"Sub-Phase Application" means an Application for a Sub-Phase Approval.

"Transaction Documents" means the (1) DDA, Vertical Disposition and Development Agreements, Lease Disposition and Development Agreements and Ground Leases, and related conveyance agreements governing the development of the Project Site in accordance with the DDA, (2) the Land Acquisition Agreements, (4) the Interagency Cooperation Agreement, and (4) other necessary transaction documents for the conveyance, management and redevelopment of the Property.

"Treasure Island / Yerba Buena Island SUD" means the Treasure Island / Yerba Buena Island Special Use District, as set forth in Section 249.52 of the Planning Code.

"Vertical Improvements" means an Improvement to be developed under the DDA that is not Infrastructure, Stormwater Management Controls or Improvements required to be Completed by Developer for the Open Space Lots.

EXHIBIT 2

Documents to be Submitted for Major Phase Applications and Sub-Phase Applications

During each stage of the project design review process set forth in this DRDAP, Authority Staff and the applicant may approve changes to the scale of the drawings set forth herein. Recognizing that each Improvement is unique, the applicant and the Authority may approve changes to the type and scope of documents set forth in this DRDAP for a particular Application, including in order to ensure consistency with standards and guidelines in the Development Requirements.

Construction Documents and other Design Documents to be submitted shall be prepared by an architect, landscape architect, or a civil engineer, as applicable, licensed to practice in and by the State of California.

1.1. Major Phase Applications

Major Phase Applications submitted to the Authority shall be in the form of six (6) hard copies and one (1) digital file. A Major Phase Application shall include the following documents:

1.1.1. Written Narrative Statement

Each submittal shall include a narrative as to the status of the Major Phase Decisions, including a schedule and manner of proceeding to the extent that a Major Phase Decision Agreement has not yet been reached. In addition, each submittal shall include a written statement regarding: (a) the proposed land use program; (b) conformance with the Design for Development; (c) sustainability measures to be implemented within the Major Phase and conformance with any Green Building Specifications attached to the Design for Development applicable to Infrastructure and Stormwater Management Controls within the Major Phase; (d) a summary of material conditions that must be satisfied under the DDA during the course of the Major Phase; (f) a written description and map to show each of the proposed Sub-Phases within the Major Phase, including an identification of the first Sub-Phase and the proposed sequencing of the subsequent Sub-Phases at a conceptual level, the proposed Commencement of the first Sub-Phase and the preliminary estimate of construction duration for the first Sub-Phase; (g) a description of those Infrastructure, Stormwater Management Controls and Associated Public Benefits that are triggered in the applicable Major Phase by reason of geographic adjacencies or completion of units count in accordance with the Schedule of Performance; (h) if there are any changes in the boundaries of the Sub-Phases as set forth in the Phasing Plan or the sequence of Application for or Commencement of the Sub-Phases as

set forth in the Schedule of Performance, a description of and explanation for the proposed changes.

1.1.2. Major Phase Decisions

Each submittal shall include written materials addressing each of the following Major Phase Decisions as required under the Conveyance Agreement and Section 6.2.3 of the DDA:

1.1.2.1. The proposed location of Residential Auction Lots within that Major Phase by various Product Types.

1.1.2.2. The qualifications of Auction Lot bidders by Product Type for that Major Phase based on the Auction Bidder Selection Guidelines.

1.1.2.3. Minimum bid prices for the Residential Auction Lots and Non-Critical Commercial Lots based on an updated pro forma submitted with the Major Phase Application.

1.1.2.4. The Excess Land Appreciation Structure for that Major Phase for each Product Type in the Major Phase.

1.1.3. Schedule of Performance

Each submittal shall include a report regarding compliance with the Schedule of Performance and proposed changes to the Schedule of Performance, if any, for the submission of Sub-Phase Applications and the Commencement and Completion of all Infrastructure, Stormwater Management Controls and Associated Public Benefits for each Sub-Phase within the Major Phase. Any proposed change to the Schedule of Performance shall include a description of and explanation for the proposed change.

1.1.4. Phasing Plan

Within the Major Phase, any anticipated changes to the Phasing Plan attached to the DDA, as may have been updated and approved from time to time, including a description of the reasons for the change and compliance with the Phasing Goals. In addition, the submittal shall include a description of the phasing of construction of temporary Improvements, including temporary or interim parking facilities, temporary or interim community facilities, construction staging areas, and interim Infrastructure and Stormwater Management Controls, if any, shall be indicated.

1.1.5. Data Charts

Each submittal shall include the following data charts:

1.1.5.1. Program of uses and approximate aggregate square footage of use type by Sub-Phase;

1.1.5.2. A Housing Data Table, as described in the Housing Plan.

1.1.5.3. Estimated Major Phase aggregate development in relation to the total allowable building program;

1.1.5.4. Approximate anticipated building heights;

1.1.5.5. A Parking Data Table, as described in Section 4.2.1(a) of the DDA

1.1.5.6. Status of overall development build-out for previous Major Phases, if any.

1.1.6. Vicinity Plan

In addition to the Site Plan covering the Major Phase, a diagrammatic Vicinity Plan should be submitted showing the Major Phase in the context of planned and existing Improvements surrounding the Major Phase and including the following information:

1.1.6.1. Land uses on surrounding blocks within and outside the Project Site;

1.1.6.2. Utilities, including interim facilities;

1.1.6.3. Vehicular, transit, bicycle and pedestrian circulation;

1.1.6.4. Public open space; and

1.1.6.5. Community Facilities proposed by Developer if known, subject to agreement by the Parties in accordance with Section 13.3.3 of the DDA.

If there are proposed changes to the location of these spaces from the Design for Development, Conceptual Parks and Open Space Master Plan or Infrastructure Plan, the submittal should include a description of and explanation for the proposed changes.

1.1.7. Site Plan

The Site Plan will pertain to the total area of development and improvement included in the Major Phase, including the Blocks, streets, Parks and Open Space, Infrastructure and Stormwater Management Controls. A Site Plan or Plans as needed (at a scale of 1" = 100'), should conceptually indicate:

1.1.7.1. Location of potential uses;

1.1.7.2. Sub-Phase blocks, proposed approximate parcel boundaries and dimensions to the extent reasonably known or anticipated;

1.1.7.3. Location of Public Property (i.e. sites that will either not be conveyed via Ground Lease or fee title to Developer, or will be conveyed to Developer and conveyed back to Authority upon Completion of applicable Infrastructure and Stormwater Management Controls);

1.1.7.4. Generalized lot coverage and conceptual diagrams of massing, height and bulk of future buildings illustrated in neighborhood-wide plans, sections and three dimensional figures (note that changes to the lot coverage and conceptual diagrams in subsequent Sub-Phase Applications shall not be considered deviations requiring additional review by the Executive Director).

1.1.7.5. Approximate location of Auction Lots and JV Lots;

1.1.7.6. Approximate location of Authority Housing Lots;

1.1.7.7. Planned public open space areas, within and surrounding the proposed Major Phase;

1.1.7.8. Diagram of proposed roads and sidewalks separating blocks, and, to the extent known, Mid-Block Alleys and pedestrian connections;

1.1.7.9. Identification of the streets and Blocks/Lots in the Major Phase that will be impressed with the Public Trust consistent with the Public Trust Exchange Agreement; and

1.1.7.10. Streetscape improvements consistent with the Streetscape Master Plan.

If there are any changes from the Land Use Plan or Housing Map, the submittal should include a description of and explanation for the proposed changes.

1.1.8. Infrastructure Plans and Documents

Illustrative concept plans for Infrastructure and Stormwater Management Controls shall be submitted for both transportation systems and utilities within that Major Phase and shall correspond to any Improvements to be provided with the applicable transfer map or vesting tentative transfer map.

1.1.8.1. Transportation

Plans submitted shall indicate the relationship of the Major Phase to the overall transportation system serving the Project Site. This may pertain to specific portions of these facilities to be constructed as a part of the Major Phase, and/or connections to facilities outside the boundaries of the Major Phase. For a particular Major Phase, the following shall be submitted as they relate to all public spaces within the Major Phase:

1.1.8.1.1. Transit

1.1.8.1.1.1. Narrative materials with a discussion of transit serving the Major Phase;

1.1.8.1.2. Roadways

1.1.8.1.2.1. Plans of new or reconstructed streets including any new or reconstructed streets to be impressed with the Public Trust consistent with the Public Trust Exchange;

1.1.8.1.2.2. Plan views and road sections consistent with the Infrastructure Plan and the Public Trust Exchange, as applicable;

1.1.8.1.2.3. Plan view of recreational bike trails and, if applicable, any separate commuter bike routes;

1.1.8.1.3. Pedestrian routes and improvements

1.1.8.1.3.1. Sidewalk widths and pedestrian amenities;

1.1.8.1.3.2. Approximate locations of Public Alleys adjacent to Parks and Open Space, and, to the extent known, other pedestrian connections, as applicable;

1.1.8.1.4. Bike Facilities

1.1.8.1.4.1. Location, alignment and width of Class One bicycle facilities;

1.1.8.1.4.2. Location of on-street bike routes, bike lanes or routes shall be identified on plan views of roadways.

1.1.8.2. Utilities

Plans for utilities shall be submitted, which indicate the relationship of the Major Phase to the utilities serving the Project Site, including where relevant:

1.1.8.2.1. Separated sanitary sewer and storm drain facilities and combined sanitary and storm drain facilities, if applicable.

For informational purposes, a generalized graphic and narrative description of these facilities, as related to the location of the Major Phase and the specific sewer and storm drain collection and conveyance facilities to be installed, shall be submitted.

1.1.8.2.2. Low and high pressure water mains, suction inlets, if applicable, and reclaimed water facilities.

1.1.8.2.3. Joint trench – electric power, natural gas, telephone and data communications.

Anticipated corridors for these facilities to be shown on the Site Plan or on utility subset of the Site Plan.

1.1.8.3. Stormwater treatment program including location and size of street and park based facilities, and Major Phase Stormwater Control Plan consistent with SFPUC submittal requirements.

1.1.8.4. Status of overall development build-out of utilities in previous Major Phases, if any.

1.1.8.5. Proposed changes to the Infrastructure Plan attached to the DDA, if any, and the reason for the proposed changes.

1.1.9. **Open Space Lots**

A Major Phase Parks and Open Space Plan shall be submitted consisting of Schematic Design Documents for the Open Space Lots within the Major Phase, consistent with this DRDAP, the Phasing Plan, Infrastructure Plan, and Conceptual Parks and Open Space Master Plan, including concept level connections between Parks and Open Space within the applicable Major Phase and outside the Major Phase boundaries. Schematic Design Documents for Neighborhood Parks shall not be submitted as part of any Major Phase Application, but shall instead be submitted with the Sub-Phase Application for the Sub-Phase in which the Neighborhood Parks are included.

1.1.9.1. Context Plan at 1" = 200' scale indicating existing conditions on the site, including but not limited to the following:

1.1.9.1.1. Existing structures and contours;

1.1.9.1.2. Adjacent future Infrastructure and Stormwater Management Controls, i.e., water, sewer, electrical power, storm drains, etc.;

1.1.9.1.3. Design constraints and opportunities including shadow and wind conditions that may suggest landscape opportunities or constraints (for example, related to the location of any proposed seating, special landscaping, etc.) based on existing sun/shadow diagrams and wind analysis. This provision is not intended to require studies beyond those otherwise available.

1.1.9.2. Site Plan at 1" = 100' scale illustrating schematic park designs including:

1.1.9.2.1. Park program and location of facilities;

1.1.9.2.2. Anticipated vehicular, bicycle and pedestrian circulation systems including parking;

1.1.9.2.3. Active recreational uses;

1.1.9.2.4. Proposed grading, landscaping and hardscape surface;

1.1.9.2.5. Generalized locations for furnishings, lighting, public art, signage, comfort facilities, stairs, ramps, and railing.

1.1.9.2.6. Schematic locations and sizes of all utility and drainage connections and other services requirements.

1.1.9.3. Description of how (1) the public streets impressed with the Public Trust conform to the Trust Streets Diagram attached to the Public Trust Exchange Agreement, and (2) the portions of such public streets adjacent to new development will be constructed prior to or concurrently with the construction of the adjacent new development as required under the Public Trust Exchange Agreement.

1.1.9.4. Isometric and/or perspective drawings or sketches sufficient to illustrate the general character of the open space, including its relationship to surrounding architecture.

1.1.9.5. A palette of open space materials and elements for use in expressing the particular character of the open space:

1.1.9.5.1. Paving and construction materials;

1.1.9.5.2. Plant materials;

1.1.9.5.3. Site and street furniture;

1.1.9.5.4. Lighting;

1.1.9.5.5. Water features and related art work.

1.1.10. Transfer or Subdivision Maps

Copies of any Tentative Transfer Maps, Vesting Tentative Transfer Maps, Tentative Subdivision Maps, or Vesting Tentative Subdivision Maps that have been filed with the City that relate to the real property in the Major Phase Application.

1.1.11. Geotechnical Report for the Entire Project Site

Updates, if any, to the comprehensive site-specific geotechnical investigation report, covering the geological conditions of the entire Project Site prepared by a California Certified Engineering Geologist or California Registered Geotechnical Engineer and any plans prepared in compliance with the requirements of the San Francisco Building Code, the Seismic Hazards Mapping Act, and requirements

contained in CGS Special Publication 117A "Guidelines for Evaluating and Mitigating Seismic Hazards in California" shall be submitted with each Major Phase Application.

1.1.12. Associated Public Benefits

A summary of compliance with the Schedule of Associated Public Benefits as shown in the Schedule of Performance and a description of the substance and the anticipated timing of the community benefits, including any payments or obligations to be fulfilled, in the Major Phase in accordance with the DDA.

1.1.13. Project MMRP

A report regarding compliance with the Project MMRP, and a description of the substance and timing of the Mitigation Measures to be completed during the Major Phase.

1.1.14. **Reserved**

1.1.15. **Updated Pro Formas**

An update of the proforma and summary proforma submitted to and kept on file by the Authority pursuant to Section 3.9 of the DDA.

1.1.16. **Community Facilities**

Except as may otherwise be agreed-upon by the Parties, a proposal for which Community Facility Obligations (as set forth in Exhibit H to the DDA) will be met within that Major Phase and related Sub-Phases, and a preliminary budget for the cost of each such Community Facility Obligation, as more particular described in Section 13.3.3 of the DDA.

1.2. Sub-Phase Applications

Sub-Phase Applications submitted to the Authority shall be in the form of six (6) hard copies and one (1) digital file. A Sub-Phase Application builds off the information of an Approved Major Phase, providing greater detail of the Infrastructure, Stormwater Management Controls and Associated Public Benefits and vertical development plans, and shall include the following documents:

1.2.1. Written Narrative Statement

1.2.1.1. Each submittal shall include a written statement regarding (a) the proposed land-use program; (b) conformance with the Design for Development and the Major Phase Approval; (c) a description of the proposed Infrastructure, Stormwater Management Controls and Associated Public

Benefits and Community Facilities approved for that Sub-Phase as part of the Major Phase Approval - Plan to be completed within the Sub-Phase; (d) a detailed written description of any proposed change to the substance or timing of development of the Sub-Phase, including but not limited to any boundary change, from what was previously in the Major Phase Approval for that Sub-Phase, and an explanation for the proposed change (or, if there are no proposed changes, a statement of such fact); (e) a detailed written description of any proposed changes to the Phasing Plan and an explanation of the consistency of the proposed change with the Phasing Goals; (f) the status of overall development build-out for previous Sub-Phases in the applicable Major Phase, if any.

1.2.2. **Schedule of Performance**

Each submittal shall include a report regarding compliance with the Schedule of Performance and a proposed Schedule of Performance that includes the dates by which Developer shall Complete all of the Infrastructure and Stormwater Management Controls for the Lots in the Sub-Phase, Complete all Associated Public Benefits and obligations under the Housing Plan and Complete all Improvements for the Open Space Lots. Any proposed change to the Schedule of Performance shall include a description of and explanation for the proposed change, including the extent to which any proposed changes are a result of Excusable Delay.

1.2.3. **Data Charts**

Data charts submitted should provide the following information including:

1.2.3.1. Program of uses and approximate aggregate square footage of each use by Lot.

1.2.3.2. If housing is included, a Housing Data Table, as described in the Housing Plan;

1.2.3.3. Approximate square footage of all proposed Lots.

1.2.3.4. Anticipated building heights, mass and bulk on a block by block basis for all Lots that do not contain Public Property, based on standards set forth in the Design for Development.

1.2.3.5. Sub-Phase aggregate development in relation to the Major Phase and the total allowable building program.

1.2.3.6. Status of overall development build-out for previous Sub-Phases, if any.

1.2.3.7. A Parking Data Table, as described in Section 4.2.1(a) of the DDA.

1.2.4. Vicinity Plan

In addition to the Site Plan covering the proposed development and the immediate area of the Sub-Phase, a diagrammatic Vicinity Plan at 1" = 200' scale should be submitted showing the Sub-Phase in the context of planned and existing Improvements:

1.2.4.1. Land uses on surrounding blocks;

1.2.4.2. Utilities, including interim facilities;

1.2.4.3. Vehicular, transit bicycle and pedestrian circulation;

1.2.4.4. Open Space Lots; and

1.2.4.5. Community Facilities to the extent agreed-upon by the Parties in accordance with Section 13.3.3 of the DDA..

If there are proposed changes to the location of these spaces the submittal should include a description of and explanation for the proposed changes.

1.2.5. Subdivision Maps

Copies of any Subdivision Maps that have been filed with the City that relate to the real property in the Sub-Phase Application.

1.2.6. Site Plan

The Site Plan will pertain to the total area of development and improvement included in the Sub-Phase, including the development sites, required streets, Parks and Open Space, Infrastructure and Stormwater Management Controls Improvements. A Site Plan or Plans as needed (at a scale of 1" = 100'), should indicate:

1.2.6.1. Location of potential uses;

1.2.6.2. General site circulation;

1.2.6.3. Sub-Phase blocks, approximate proposed parcel boundaries and dimensions;

1.2.6.4. Location of Auction Lots;

1.2.6.5. Location of Authority Housing Lots;

1.2.6.6. Proposed location of Community Facilities Lots and Community Facilities Space to the extent agreed-upon by the Parties in accordance with Section 13.3.3 of the DDA;

1.2.6.7. Illustrative examples of potential massing, height, and bulk of future buildings;

1.2.6.8. Planned public open space areas, within and surrounding the proposed Sub-Phase, including privately-owned publicly accessible open space;

1.2.6.9. Setback areas;

1.2.6.10. Diagram of proposed roads and sidewalks separating blocks; Public Alleys adjacent to Open Space Lots; and, to the extent known, any Private Alleys, mid-block connections or pedestrian connections;

1.2.6.11. Anticipated location of entrances to buildings, parking and loading facilities;

1.2.6.12. Identification of the streets in the Sub-Phase that will be impressed with the Public Trust consistent with the Public Trust Exchange Agreement;

1.2.6.13. Streetscape improvements consistent with the Streetscape Master Plan; and

1.2.6.14. Stormwater treatment measures.

If there are any changes from the Sub-Phase as described in the Major Phase Approval, the submittal should include a description of and explanation for the proposed changes.

1.2.7. Transit and Transportation Plans and Documents

50% Construction Documents for Infrastructure and Stormwater Management Controls shall be submitted for transportation systems, including all Infrastructure and Stormwater Management Controls to be developed in the Sub-Phase, and shall correspond to the Improvements to be provided with the applicable subdivision map.

1.2.7.1. Transportation

Plans submitted shall indicate the relationship of the Sub-Phase to the Major Phase and to the overall transportation

system serving the Project Site. This may pertain to specific portions of these facilities to be constructed as a part of the Sub-Phase, and/or connections to facilities outside the boundaries of the Sub-Phase. For a particular Sub-Phase, the following shall be submitted as they relate to all public spaces within the Sub-Phase:

1.2.7.1.1. Transit

1.2.7.1.1.1. Narrative materials with a discussion of anticipated transit to serve the Sub-Phase;

1.2.7.1.2. Public Roadways

1.2.7.1.2.1. Plans of new or reconstructed streets including any new or reconstructed streets to be impressed with the Public Trust consistent with the Public Trust Exchange;

1.2.7.1.2.2. Plan views and road sections consistent with the Infrastructure Plan and the Public Trust Exchange, as applicable;

1.2.7.1.2.3. Plan view of recreational bike trails and, if applicable, any separate commuter bike routes;

1.2.7.1.3. Mid-Block Breaks

1.2.7.1.3.1. Approximate locations of mid-block alleys and pedestrian ways.

1.2.7.1.3.2. Assignment of mid-block break construction responsibility to adjacent lots(s).

1.2.7.1.3.3. Conceptual design for mid-block breaks or assignment of design responsibility to a designated adjacent lot.

Conceptual design of mid-block breaks as well as assignment of construction and design responsibility to adjacent owners may be

subsequently modified by Developer or Vertical Developer in connection with a Schematic Design Documents Application submitted pursuant to the Treasure Island / Yerba Buena Island SUD, and shall not require additional review or approval beyond the process set forth therein for Schematic Design Documents Applications.

1.2.7.1.4. Pedestrian routes and improvements

1.2.7.1.4.1. Sidewalk width and pedestrian amenities;

1.2.7.1.4.2. Approximate locations of Public Alleys adjacent to Open Space Lots, and, to the extent known, other pedestrian connections, as applicable.

1.2.7.1.4.3. Description of Streetscape Improvements consistent with the Streetscape Master Plan

1.2.8. <u>Infrastructure Plans and Documents</u>

The following plans and documents shall be submitted for Infrastructure and Stormwater Management Controls to be developed in the Sub-Phase to the extent required below, and shall correspond to the Improvements to be provided with the applicable subdivision map.

1.2.8.1. Utilities. 50% Construction Documents for all utilities shall be submitted, along with a plan or narrative which indicates the relationship of the Sub-Phase to the Major Phase and to the utilities serving the Project Site, including where relevant:

1.2.8.1.1. Separated sanitary sewer and storm drain facilities and combined sanitary and storm drain facilities, if applicable. In addition, for informational purposes, a generalized graphic and narrative description of these facilities, as related to the location of the Sub-Phase within the Major Phase and the specific sewer and storm drain collection and conveyance facilities to be installed, shall be submitted.

1.2.8.1.2. Low and high pressure water mains, suction inlets, if applicable, and reclaimed water facilities.

In addition, for informational purposes, a generalized graphic and narrative description of these facilities, as related to the Sub-Phase within the Major Phase shall be submitted.

1.2.8.1.3. Joint trench – electric power, natural gas, telephone and data communications. In addition, anticipated corridors for these facilities shall be shown on the Site Plan or on utility subset of the Site Plan.

1.2.8.2. Proposed changes to the Infrastructure Plan, if any, and the reason for the proposed changes.

1.2.8.3. Stormwater Treatment Measures consistent with Major Phase Stormwater Control Plan and SFPUC requirements.

1.2.8.4. A description of any Transferable Infrastructure anticipated for the Sub-Phase if known.

1.2.8.5. Plans, elevations and sections, including structural, mechanical, electrical and other plans, at 1/16" = 1' or 1" = 20', at applicant's option, and with details as appropriate, including plans, elevations and sections for all buildings or structures that are the obligation of Developer to construct pursuant to the Infrastructure Plan.

1.2.9. Sub-Phase Parks and Open Space documents

Sub Phase Parks and Open Space documents shall be submitted consisting of 100% Design Development Drawings showing the following design elements for the Open Space Lots within the Sub-Phase, consistent with this DRDAP, the Phasing Plan, Infrastructure Plan, and Conceptual Parks and Open Space Master Plan.

1.2.9.1. Landscape architectural plans and sections at 1/16" = 1' or 1" = 20' at applicant's option and with details as appropriate, fixing locations and design of landscape elements, including the following:

1.2.9.1.1. Paving, site furniture, stairs and other construction items;

1.2.9.1.2. Grading and drainage;

1.2.9.1.3. Planting;

1.2.9.1.4. Irrigation;

1.2.9.1.5. Lighting;

1.2.9.1.6. Environmental Graphics and Signage;

1.2.9.1.7. Fountains and related art works;

1.2.9.1.8. Sidewalks, crosswalks and other street improvements, including ADA compliance;

1.2.9.1.9. Service and vehicular access.

1.2.9.2. Plans, elevations and sections, including structural, mechanical, electrical and other plans, at 1/16" = 1' or 1" = 20', at applicant's option, and with details as appropriate, including plans, elevations and sections for all buildings or structures that will be located within the Open Space Lots that are the obligation of Developer to construct pursuant to the Open Space Plan.

1.2.9.3. Outline specifications.

1.2.9.4. Preliminary materials and color board.

1.2.9.5. Narrative summary of sustainability measures utilized, including LEED-ND checklist (or its equivalent) and/or green building specifications checklist, as applicable

1.2.10. Cost Estimates

Cost Estimates for 50% Construction Documents for Infrastructure, Stormwater Management Controls and 100% Design Development Documents for Open Space Lots shall be submitted.

1.2.11. Adequate Security

Developer shall provide to the Authority a form of Corporate Guaranty or other Adequate Security in accordance with Section 26 of the DDA prior to close of Escrow for the applicable Sub-Phase.

1.2.12. Associated Public Benefits

A summary of compliance with the Schedule of Associated Public Benefits as shown in the Schedule of Performance and a description of

the substance and the timing of the Associated Public Benefits to be provided in the Sub-Phase.

1.2.13. Phasing Plan

Within the Sub-Phase, any anticipated phasing of construction or temporary Improvements, including temporary or interim parking facilities, construction staging areas, and interim infrastructure, if any, shall be indicated. If there are any changes from the Phasing Plan, the submittal should include a description of and explanation for the proposed changes, including the reason for the change and compliance with the Phasing Goals.

1.2.14. Project MMRP

A report regarding compliance with the Project MMRP, and a description of the substance and timing of the Mitigation Measures to be completed during the Sub-Phase. The Executive Director shall review such report to ensure compliance with CEQA and the Project MMRP.

1.2.15. Re-Evaluation of Excess Land Appreciation Structure and - Setting of Minimum Bid Prices

Developer, at its option, may include a submittal supporting a re-evaluation of the Excess Land Appreciation Structure approved as part of the applicable Major Phase.

In addition, under certain circumstances described in Section 6.2.3, 17.2.6 and 17.5 of the DDA, Minimum Bid Prices for Residential Auction Lots and Non-Critical Commercial Lots will be set. In either such event, the procedures for approval of the Major Phase Decisions set forth in the DDA shall apply to approval of the revised Excess Land Appreciation Structure or Setting of Minimum Bid Prices, as applicable.

1.2.16. Retail Plan

For any Sub-Phase Application that includes retail components, Developer shall submit a retail plan for public review that includes the sizes and types of retail that will be targeted during that Sub Phase, including an updated assessment of the needs of Project residents for retail goods and services.

EXHIBIT 3

Documents to be Submitted for Streetscape Master Plans, Conceptual Parks and Open Space Master Plan and Signage Master Plans

1.1. **Streetscape Master Plans.**

Building off the standards and guidelines of the Design for Development documents, the Streetscape Master Plans shall be applicable only to streets that will be dedicated to the Authority or the City and publicly owned, and will consist of concept level plans that include, at a minimum, the following:

1.1.1. Street Trees. The Streetscape Master Plan will depict the types of street tree species proposed (and alternate species), general location, frequency and spacing of tree plantings, planting size, specifications for tree wells, and relationship to the street hierarchy.

1.1.2. Landscaping. The Streetscape Master Plan will depict typical locations for additional landscaping along sidewalks, in medians, or other areas of the right-of-way including design concepts, and species palette concepts.

1.1.3. Lighting. The Streetscape Master Plan will describe lighting fixture types, general location and frequency.

1.1.4. Street Furnishings. The Streetscape Master Plan will describe examples of selection of street furnishings including benches, trash/recycling receptacles, railings, bollards, newspaper racks, bicycle racks and kiosks. The Streetscape Master Plan will identify the general location, frequency and types of furnishing including typical streets and special installations at activity centers. Locations of and materials for transit facilities shall be coordinated with the San Francisco Municipal Transportation Agency.

1.1.5. Sidewalk Treatment. The Streetscape Master Plan will depict generally the sidewalk treatment, including surface materials, scoring patterns, curb ramp designs, and special treatments for boulevards and retail streets.

1.1.6. Paving, Striping and Curbing. The Streetscape Master Plan will depict generally the paving, striping, crosswalk and curbing features including traffic calming measures and special intersection treatments.

1.1.7. Stormwater Treatment Measures. The Streetscape Master Plan will depict generally the stormwater treatment measures and concepts that are within the public right of way.

1.1.8. Utilities. The Streetscape Master Plan will describe generally the preferred locations for utility boxes and vaults. The Streetscape Master Plan shall provide designs for appropriate vault covers and control boxes where applicable.

The Streetscape Master Plan shall describe the overall circulation plans, land uses, street hierarchy and specific streetscape responses to the street typologies. Plans shall be described and illustrated with typical plans, and sections of each street in the applicable Project Area. Areas of special treatment or unique configurations shall be described in greater detail. Detailed studies and images of selected materials, furnishings, trees, and plant species shall be provided. Conceptual details of installation standards should be provided where appropriate.

1.2. Conceptual Parks and Open Space Master Plan

Building off the standards and guidelines of the Design for Development document, the Conceptual Parks and Open Space Master Plan shall be applicable to the Open Space Lots and will consist of concept level plans for the parks that include, at a minimum, the following:

1.2.1. A written narrative describing the overall conceptual design, including the park program, design elements, and facilities provided for each park and open space area;

1.2.2. An illustrative site plan to scale showing;

1.2.2.1. Conceptual circulation systems (vehicular, bicycle and pedestrian) including parking;

1.2.2.2. Conceptual grading and drainage;

1.2.2.3. Generalized locations of active and passive recreational areas; park elements and facilities;

1.2.2.4. Generalized locations and conceptual layout for landscaping and hardscape areas, including tree planting and any stormwater treatment areas;

1.2.2.5. Generalized locations for furnishings, lighting, public art, signage, comfort facilities, stairs, ramps, and railing.

1.2.3. Illustrative sections and perspectives representative of the overall conceptual design, including key relationships between programmatic areas, design elements, and defining park features and facilities;

1.2.4. Image "boards" showing proposed concepts, detailed studies and/or precedents for site furnishings, paving materials, site architectural elements, lighting, public art, signage, comfort facilities, stairs, ramps

and railings, tree species (and alternate species), and species palette concepts for major landscaping areas.

1.3. **Signage Master Plan.**

The Signage Master Plans shall be concept level plans that include, at a minimum, signage controls governing program area, text size and design, or volume dimensions or limitations, and a description of any uniform signage features proposed for all Public Property within the Project Site. The Signage Master Plan will address all signage in the public areas of the Project Site including temporary signs; parking and other wayfinding signs; kiosks, streetscape commercial signage, and street furniture-related commercial signage; but excluding standard street signs or park signage. Signage plans associated with Vertical Improvements located on property conveyed in fee to and retained by Developer will be reviewed and approved for consistency with the Design for Development Standards and Guidelines for Signage as part of the Vertical Approvals process set forth in the Treasure Island /Yerba Buena Island SUD.

EXHIBIT DD

Form of Engineer's Certificate

DATE:_____

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: _____

FROM: _____

RE: [Description of Infrastructure] (the "**Infrastructure**")

This Engineer's Certificate is being provided pursuant to Section 9.2 of that certain Disposition and Development Agreement (Treasure Island/Yerba Buena Island), by and among Treasure Island Community Development, LLC, a California limited liability company ("**Developer**"), and the Treasure Island Development Authority, a California nonprofit public benefit corporation (the "**Authority**"), dated for reference purposes as of _____, 2011, and recorded in the Official Records of the City and County of San Francisco on _____, as Document No. _____ at Reel ____, Image ____ (as amended, the "**DDA**"), [and that certain Assignment and Assumption Agreement related thereto dated as of _____ __, 20__ by and between Developer and _____, a _____ ("**Transferee**")]. Capitalized terms used but not otherwise defined in this Engineer's Certificate have the meanings given to them in the DDA.

As the Engineer of Record for the design and construction of the Infrastructure, I visited the Infrastructure site at intervals appropriate to the state of construction, or as otherwise agreed by me and [Developer/Transferee], to become generally familiar with the progress and quality of the construction completed and to determine in general if the construction was being performed in a manner indicating that the construction when completed would be in accordance with the Construction Documents approved by the Authority and the City under the TI/YBI Subdivision Code. I observed the Infrastructure construction from _____, 20__ to _____, 20__, and all the statements made below are made as of the date(s) of my observation(s). My opinions and statements provided in this certificate are limited to my on-site inspections. I am not required to make nor have I made exhaustive or continuous on-site inspections of the Infrastructure.

I neither retained nor exercised control over or charge of, nor am I responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the construction of the Infrastructure.

I shall not be responsible for the contractor's schedules or failure to carry out the work in accordance with the Construction Documents. I neither have nor have had control over or charge

of acts or omissions of any contractor, subcontractor or their agents or employees, or of any other person performing portions of the construction.

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

1. I have observed the construction of the Infrastructure on the dates set forth above.

2. The Construction Documents provide for the construction of the Infrastructure in accordance with all applicable laws, including the TI/YBI Subdivision Code.

3. Construction of the Infrastructure has been performed in a good and work person-like manner and in accordance with the Construction Documents, except as may be noted on Exhibit DD-1 attached hereto.

4. All work performed and material and fixtures used in connection with the construction of the Infrastructure are in accordance with the Construction Documents, except as may be noted on Exhibit DD-1 attached hereto.

5. Construction of the Infrastructure has been completed in accordance with all applicable building laws, regulations and ordinances.

6. The required certificates, approvals and permits of all governmental authorities having jurisdiction covering the work to date on the Infrastructure have been issued and are in force, and there is not an undischarged violation of applicable laws, regulations, or orders of any governmental authority having jurisdiction of which I have notice as of the date hereof, except as may be noted on Exhibit DD-1 attached hereto.

[Engineer of Record]

By: _____
Name: _____
Title: _____

EXHIBIT DD-1

Exceptions to Engineer's Certificate

The statements made on the Engineer's Certificate to which this Exhibit DD-1 is attached are subject to the following exceptions:

Exhibit EE

FINANCING PLAN

(TREASURE ISLAND/YERBA BUENA ISLAND)

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TABLE OF CONTENTS

LIST OF ATTACHMENTS

FINANCING PLAN
(TREASURE ISLAND/YERBA BUENA ISLAND)

This FINANCING PLAN (Treasure Island/Yerba Buena Island) (the "**Financing Plan**") implements and is part of both the DDA and the City DA. As used in this Financing Plan, capitalized terms used herein have the definitions given to them in Section 7.2.

1. OVERVIEW

1.1 Project Purposes; Project Accounts

(a) Funding Goals. Developer and Authority are entering into the DDA, and Developer and City are entering into the City DA, both of which include this Financing Plan as an exhibit, with the following financial goals for the Project (collectively, the "**Funding Goals**"):

(i) Ensure that the proposed Project is economically and fiscally feasible.

(ii) Fund the proposed Project's capital costs and on-going operation and maintenance costs relating to the development and long-term operation of the Project Site (including the Authority's administrative expenses, community facilities, open space maintenance and transportation) from revenues generated by the Project that would not exist but for the Project – including land sales, lease revenues, project-generated public financing revenues, and tax revenues created by the Project – in a manner that does not negatively impact the City's General Fund revenues over the life of the Project, except as set forth herein.

(iii) Ensure that the provision of the community benefits and facilities described in the DDA and City DA are a priority of the Project.

(iv) Provide a mechanism for Authority and Navy participation in Net Cash Flow from the development of the Project in the event Developer achieves a return in excess of agreed upon rates of return, and as consistent with the terms of the Conveyance Agreement.

(v) Incorporate the legal restrictions on the allowable uses of Gross Revenues arising under (i) the Conveyance Agreement and (ii) State law applicable to the Public Trust Parcels.

(vi) Provide mechanisms and Funding Sources that will allow Developer to maximize Developer's IRR.

(vii) Maximize Funding Sources available to finance Qualified

Project Costs, by, among other things, to the extent reasonably feasible and consistent with this Financing Plan, using tax-exempt debt.

(viii) Minimize the costs to Developer (such as costs of credit enhancement) associated with the Funding Sources to the extent reasonably feasible and to use debt requiring credit enhancement only with Developer's written consent.

(ix) Provide financing of the Housing Costs in the manner set forth in Section 3.6 and Section 3.7(c).

(x) Implement sound and prudent public fiscal policies that protect the City's General Fund, Authority's general funds, and the City's and Authority's respective financial standings and fiduciary obligations, while operating within the constraints of this Financing Plan and, as applicable, the IFD Act, the CFD Act, the CFD Goals, and Tax Laws.

(b) Purpose of Financing Plan. The purpose of this Financing Plan is to establish the contractual framework for mutual cooperation between Authority, City, and Developer in achieving the Funding Goals necessary to implement the Project. Accordingly, Authority and City shall take all actions reasonably necessary, and Developer shall cooperate reasonably with the efforts of:

(i) City to form requested CFDs, adopt RMAs, and levy Project Special Taxes within CFDs and incur CFD Bonds to pay as applicable Qualified Project Costs, Ongoing Park Maintenance, and, when authorized pursuant to Section 2.8, Additional Community Facilities.

(ii) City to form requested IFDs and to approve IFPs for each IFD that provide for the issuance of IFD Debt that is consistent with the Funding Goals to pay Qualified Project Costs.

(iii) City to allocate and approve IFPs that provide for the application of Net Available Increment to pay Qualified Project Costs as provided in this Financing Plan, and to allocate Conditional City Increment to pay debt service on IFD Debt as provided in this Financing Plan.

(iv) City and Authority to finance Ongoing Park Maintenance in the manner described in this Financing Plan.

(c) Project Accounts.

(i) Developer shall, and shall require all Transferees to, establish and maintain one or more accounts (each, a "**Project Account**") with the San Francisco branches of financial institutions Approved by Authority to which all Gross Revenues shall be deposited. Financial institutions holding Project Accounts may be changed from time to time with Approval of Authority and Developer.

(ii) Developer shall, and shall require all Transferees: (A) not to

commingle funds held in a Project Account with funds not related to the Project, including Affiliate accounts; and (B) to retain and make statements and all other records related to Project Accounts available for Authority's review and audit in accordance with Section 1.6.

(d) Security Interest in Project Accounts. Provided (A) Developer has completed all Developer Construction Obligations and (B) Authority has received an IRR Statement showing that Developer has achieved a cumulative IRR of more than 22.5% at the end of the last Quarter of the Reporting Period covered by such IRR Statement, Developer and Authority shall cooperate reasonably with one another to provide Authority and the Navy with security for Developer's obligation to make payments in accordance with Section 1.3. Security will be in the form of perfected security interests in the Project Accounts superior to any other security interests, evidenced by a UCC-1 financing statement and a control agreement with each financial institution holding a Project Account, or by other arrangements Approved by both Developer and Authority.

1.2 Funding Sources for Project Costs

(a) Funding Sources. Sources of public funding that will be used to pay or reimburse Developer for Qualified Project Costs include, but are not limited to: (A) Public Financing; (B) proceeds of Project Grants that Authority procures to the extent applied to Project Costs under Section 4.3; (C) Project Special Taxes and Remainder Taxes; (D) Net Available Increment and other Increment allocated to Qualified Project Costs pursuant to Section 3.7(c); and (E) Net Interim Lease Revenues described in Section 6.1(a)(iv). The sources identified in clauses (A)-(E) are collectively referred to in this Financing Plan as "**Funding Sources**."

(b) Limited Public Obligation. Developer acknowledges that in no event may the City's General Fund or any of Authority's general funds be obligated to finance the Qualified Project Costs other than as set forth in this Financing Plan without City's or Authority's express written consent, as applicable.

(c) Developer Sources.

(i) Developer Contributions for Project Costs. Developer's sources for Project Costs include: (A) Developer equity; (B) Gross Revenues; (C) Developer construction and development financing; and (D) proceeds of Project Grants that Developer procures.

(ii) Developer Construction Obligations. Developer acknowledges that the Developer Construction Obligations will not be affected if Project Costs exceed the actual Funding Sources.

1.3 **Distribution of Net Cash Flow**

(a) Implementation of Conveyance Agreement.

(i) Under the Conveyance Agreement, Authority and the Navy agreed that the Net Cash Flow from the Project will be shared by the Navy after certain thresholds are met. Authority shall also share in the Net Cash Flow after certain thresholds are met. This Section 1.3 implements (i) the provisions of the Conveyance Agreement and (ii) Authority and Developer's agreement with respect to the sharing of Net Cash Flow between them.

(ii) To the extent Authority has not paid the Initial Navy Consideration with Net Interim Lease Revenues pursuant to Section 6.1(a)(ii) or as otherwise provided in this Financing Plan, Developer will pay to Authority or Navy (on behalf of Authority) the Initial Navy Consideration in the manner described in Section 4.2 of the Conveyance Agreement and any related late payment penalties caused by Developer's failure to make timely payments to Navy, on behalf of Authority, as such penalties are imposed pursuant to Section 4.3.4 of the Conveyance Agreement.

(b) Calculation of IRR. Within forty-five (45) days after the expiration of the eighth full calendar Quarter occurring after the Initial Closing and forty-five (45) days after the expiration of each subsequent Quarter during the Term of the Conveyance Agreement with respect to the Navy, and until the Cash Flow Distribution Termination Date with respect to Authority, Developer shall submit a reasonably detailed statement to Authority and the Navy (the "**IRR Statement**") accompanied by an Accounting consistent with the Conveyance Agreement showing (i) for any IRR Statement provided during the Initial Consideration Term, the cumulative IRR achieved as of the end of each of the eight (8) immediately prior Quarters, and (ii) for any IRR Statement provided after expiration of the Initial Consideration Term, the cumulative IRR achieved as of the end of each of the six (6) prior Quarters (the eight or six Quarter Period, as applicable, the "**Reporting Period**"). The IRR Statement shall also calculate the average IRR over the Reporting Period, calculated by adding the cumulative IRR shown for each Quarter in the Reporting Period and dividing the total by the number of Quarters in the Reporting Period.

(c) Share of Net Cash Flow.

(i) Until the IRR Statement shows that Developer has achieved an average IRR of more than 18.00% over the Reporting Period, all Net Cash Flow shall be distributed to Developer.

(ii) If the IRR Statement shows that Developer has achieved an average IRR of more than 18.00% over the applicable Reporting Period, then Developer, on behalf of Authority, shall within forty-five (45) days after the end of the last Quarter of the applicable Reporting Period until the earlier of (A) such time as the aggregate amount of First Tier Payments equals Fifty Million Dollars ($50,000,000)

("**First Tier Compensation**") and (B) the Termination Date, pay the Navy an amount that would reduce the cumulative IRR as of the end of the Reporting Period to 18.00% (each, a "**First Tier Payment**"). Developer shall pay to Navy on behalf of Authority any related late payment penalties caused by Developer's failure to make timely payments to Navy, on behalf of Authority, as such penalties are imposed pursuant to Section 4.3.4 of the Conveyance Agreement.

(iii) If an IRR Statement shows that Developer has achieved, after reducing Net Cash Flow by the amount of any First Tier Payments, an average IRR of more than 22.5% within the applicable Reporting Period, then Developer, on behalf of Authority, shall within forty-five (45) days after the end of the last Quarter of the applicable Reporting Period, for the periods specified below, pay (A) during the Term, to the Navy 35% of the total amount of Net Cash Flow that would reduce the cumulative Developer's IRR to 22.5% as of the end of the Reporting Period (per the calculation methodology provided for in Exhibit DD to the Conveyance Agreement) (each, a "**Second Tier Payment**") and (B) to Authority, (i) during the Term, 10% of the total amount of Net Cash Flow and (ii) after the Term and continuing until the Cash Flow Distribution Termination Date, 45% of the total amount of Net Cash Flow, in each case that would reduce the cumulative IRR to 22.5% as of the end of the Reporting Period (per the calculation methodology provided for in Exhibit DD to the Conveyance Agreement) (an "**Authority Second Tier Payment**"). Developer shall pay to Navy, on behalf of Authority, any related late payment penalties caused by Developer's failure to make timely payments to Navy, on behalf of Authority, as such penalties are imposed pursuant to Section 4.3.4 of the Conveyance Agreement.

(iv) If an IRR Statement shows that Developer has achieved, after reducing Net Cash Flow by the amount of any First Tier Payments, Second Tier Payments, and Authority Second Tier Payments, an average IRR of more than 25.0% within the applicable Reporting Period, then Developer shall within forty-five (45) days after the end of the last Quarter of the applicable Reporting Period until the Cash Flow Distribution Termination Date, pay Authority an additional 5% of the total amount of Net Cash Flow that would reduce the cumulative Developer's IRR to 25.0% as of the end of the Reporting Period (per the calculation methodology provided for in Exhibit DD to the Conveyance Agreement) (each, an "**Authority Third Tier Payment**"), such that the share of Net Cash Flow above the IRR threshold of 25% to the Navy, Authority, and Developer are 35%, 15%, and 50%, respectively, during the Term, and 0%, 50%, and 50%, respectively, after the Term.

(v) Exhibit DD to the Conveyance Agreement provides a demonstration of the IRR calculation and the sharing of Net Cash Flow.

(d) Accounting. Developer shall maintain accurate books and records specific to the Project setting forth all components used for determining the Additional Consideration and the Authority Consideration, including, without limitation, each component of Net Cash Flow, and to determine the amount of Redesign Costs and credits against Initial Navy Consideration and Additional Consideration. Each IRR Statement submitted by Developer shall be accompanied by a complete Accounting.

The Accounting shall be in conformance with GAAP where applicable, or with respect to the IRR Statement, in conformance with appropriate industry standards.

(e) Reconciliation of Final Conveyance Agreement IRR.

(i) Developer shall, within one hundred and eighty (180) days after the Termination Date, submit a final Accounting to Authority and the Navy, showing Developer's cumulative IRR for the entire term of the Project through the Termination Date (the "**Final Conveyance Agreement IRR**") and all payments of Additional Consideration made to the Navy on behalf of Authority hereunder during the period specified in Section 1.3(c) and all payments of Authority Consideration made to Authority hereunder during the same period (the "**Final Conveyance Agreement IRR Statement**"). The Final Conveyance Agreement IRR Statement and Accounting shall be performed and certified by an independent CPA in accordance with appropriate industry standards.

(ii) If the Final Conveyance Agreement IRR Statement and Accounting discloses that the Final Conveyance Agreement IRR exceeded 18% but the First Tier Payments to the Navy were less than the amount required by Section 1.3(c)(ii), Developer shall pay to the Navy on behalf of Authority the amount of Net Cash Flow necessary to reduce the Final Conveyance Agreement IRR to 18%, so long as the total of all First Tier Payments does not exceed the maximum amount required by Section 1.3(c)(ii).

(iii) If the Final Conveyance Agreement IRR Statement and Accounting discloses that the Final Conveyance Agreement IRR exceeded 22.5%, but the Second Tier Payments totaled less than 35% of Net Cash Flow for the Project during the Term above a 22.5% Final Conveyance Agreement IRR, then Developer shall cause to be paid to Navy on behalf of Authority the amount of Net Cash Flow necessary to raise the total of Second Tier Payments to equal 35% of all Net Cash Flow during the Term above a 22.5% Final Conveyance Agreement IRR.

(iv) If the Final Conveyance Agreement IRR Statement and Accounting discloses that the Final Conveyance Agreement IRR exceeded 22.5%, but Authority Second Tier Payments during the Term totaled less than 10% of Net Cash Flow for the Project during the Term above a 22.5% Final Conveyance Agreement IRR, then Developer shall cause to be paid to Authority the amount of Net Cash Flow necessary to raise the total of Authority Second Tier Payments during the Term to equal 10% of all Net Cash Flow during the Term above a 22.5% Final Conveyance Agreement IRR.

(v) If the Final Conveyance Agreement IRR Statement and Accounting discloses that the Final Conveyance Agreement IRR exceeded 25.0%, but Authority Third Tier Payments during the Term totaled less than 5% of Net Cash Flow for the Project during the Term above a 25.0% Final Conveyance Agreement IRR, then Developer shall cause to be paid to Authority the amount of Net Cash Flow necessary to raise the total of Authority Third Tier Payments during the Term to equal 5% of all Net

Cash Flow during the Term above a 25.0% Final Conveyance Agreement IRR.

(f) Reconciliation of Final IRR.

(i) Developer shall, within one hundred and eighty (180) days after the Cash Flow Distribution Termination Date, submit a final Accounting to Authority, showing Developer's cumulative IRR for the entire term of the Project through the Cash Flow Distribution Termination Date (the "**Final IRR**") and all payments of Authority Consideration made to Authority hereunder (the "**Final IRR Statement**"). The Final IRR Statement and Accounting shall be performed and certified by an independent CPA in accordance with appropriate industry standards.

(ii) If the Final IRR Statement and Accounting discloses that the Final IRR exceeded 22.5%, but during the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date, Authority Second Tier Payments hereunder totaled less than 45% of Net Cash Flow for the Project above a 22.5% Final IRR during the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date, then Developer shall cause to be paid to Authority the amount of Net Cash Flow necessary to raise the total of Authority Second Tier Payments to equal 45% of all Net Cash Flow above a 22.5% Final IRR for the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date.

(iii) If the Final IRR Statement and Accounting discloses that the Final IRR exceeded 25.0%, but Authority Third Tier Payments hereunder totaled less than 5% of Net Cash Flow for the Project above a 25.0% Final IRR during the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date, then Developer shall cause to be paid to Authority the amount of Net Cash Flow necessary to raise the total of Authority Third Tier Payments to equal 5% of all Net Cash Flow above a 25.0% Final IRR during the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date.

(g) Reconciliation of Redesign Costs. Within one hundred eighty (180) days after completion of all planning, entitlement, design and rebuilding work required under the Redesign Plan, as evidenced by City acceptance of all public improvements and final building inspection sign-off for all improvements as identified in the Work Program, Developer shall provide Authority and the Navy with a statement that includes an Accounting of all Redesign Costs actually incurred by Developer and Authority and a statement of the amount to be credited against Initial Consideration in accordance with Section 4.3.6.2 of the Conveyance Agreement. The Accounting shall be performed and certified by an independent CPA in accordance with GAAP.

(h) Submission of IRR Statements. Developer shall continue to submit the IRR Statement and Accounting (A) to the Navy and Authority until the Termination Date, and (B) to Authority only following the Termination Date until the Cash Flow Distribution Termination Date.

(i) Compliance with Conveyance Agreement. Developer shall provide Authority with all information and shall cooperate with Authority to the extent necessary for Authority to comply with its reporting and audit obligations under the Conveyance Agreement.

(j) Audit. Authority shall be entitled from time to time to audit Developer's books, records, and accounts pertaining to the Net Cash Flow and all components thereof, the payment of Additional Consideration, the calculation and payment relating to the Authority Second Tier Payments and Authority Third Tier Payments, the calculation, payments and credits relating to the Redesign Costs, and shall be entitled to allow the Navy to undertake an audit to the extent described in Section 4.3.7 of the Conveyance Agreement. Such audit shall be conducted during normal business hours upon ten (10) business days notice at the principal place of business of Developer and other places where records are kept. Authority shall provide Developer with copies of any audit performed. If it shall be determined as a result of such audit that there has been a deficiency in the payment of any Additional Consideration, Authority Second Tier Payments and Authority Third Tier Payments, Developer shall immediately pay any such deficiency with interest at the Default Interest Rate. In addition, if it shall be determined as a result of such audit that an Accounting has understated the Net Cash Flow for the applicable period by more than five percent (5%), Developer shall be required to pay, in addition to interest as aforesaid, all of Authority's costs and expenses and all of the Navy's costs and expenses connected with the audit or review of Developer's accounts and records for the Project. All such payments shall be paid within thirty (30) days of receipt of written notice to Authority of such underpayment and such audit costs shall not be allowed as a Development Cost. The issue of whether Net Cash Flow is understated or overstated by five percent (5%) or more may be arbitrated according to the procedures in section 15 of the DDA, but the arbitration must be conducted by arbitrators who have at least ten (10) years' experience in arbitrating disputes involving complex financial accounting.

(k) Excess Land Appreciation Structure Profits. To the extent it is commercially reasonable to do so and consistent with market practices for each product type at the time, all sales agreements, leases or subleases, as applicable, between a Vertical Developer and Developer will require Vertical Developer to pay Developer a percentage of any net profits above a mutually agreed-upon forecasted rate arising from the Excess Land Appreciation Structure. The net profits from the Excess Land Appreciation Structure actually received by Developer shall constitute Gross Revenues.

1.4 Reimbursements of Additional Consideration

(a) Additional Consideration in Event of Termination. In the event that Authority terminates all or any portion of the DDA before the issuance of the last Certificate of Completion for the Project for any reason, Authority shall do the following:

(i) require that any other developer that agrees to develop the

property in the Project Site (the "**Other Developer**") make payments of Net Cash Flow to Authority in the same manner as set forth in Section 1.3;

(ii) in calculating the amount of the First Tier Payments and Second Tier Payments to be paid to the Navy, Authority shall calculate such amounts based on the cumulative IRR for the Project Site as a whole, and not on the cumulative IRR of any particular developer's project;

(iii) to ensure that Authority has sufficient funds, however, to pay the Navy its First Tier Compensation, the First Tier Payments shall be calculated separately for Developer and each Other Developer, and any First Tier Payments payable under the separate calculations shall be paid to Authority by Developer and each Other Developer, as applicable, and held as a deposit to be used to pay the Navy its First Tier Compensation (calculated based on the Project Site as a whole) as and when due, with any excess remaining on deposit with the Authority pending the payment of the full amount of the First Tier Compensation to the Navy;

(iv) if, following the payment of the First Tier Compensation to the Navy, the amount Authority collected from Developer and each Other Developer is greater than the amount of the First Tier Compensation actually paid to the Navy, then Developer and each Other Developer shall be reimbursed such excess amounts pro rata (based upon the cumulative amount Developer and each Other Developer paid in First Tier Payments);

(v) to ensure that Authority has sufficient funds to pay the Navy its Second Tier Participation, the Second Tier Payments shall be calculated separately for Developer and each Other Developer, and any Second Tier Payments payable under the separate calculations shall be paid to Authority by Developer and each Other Developer, as applicable, and held as a deposit, to be used to pay the Navy its Second Tier Participation (calculated based on the Project Site as a whole) as and when due, with any excess remaining on deposit with the Authority pending the calculation of the Final Conveyance Agreement IRR for the Project Site as a whole; and

(vi) if, following the determination of the Final Conveyance Agreement IRR for the Project Site as a whole, the amount Authority has on deposit from Developer and each Other Developer from Second Tier Payments is greater than the amount of Second Tier Participation actually paid to the Navy, then Developer and each Other Developer shall be reimbursed such excess amounts pro rata (based upon the cumulative amount Developer and each Other Developer paid in Second Tier Payments over the Term).

1.5 Consultants

(a) Authority Consultants. City and Authority, following consultation with Developer, will select any consultants necessary to implement their respective portions of this Financing Plan, including the formation of any IFD and CFD and the issuance of any Public Financing. To the extent that similar consultants are retained

customarily by local agencies in California that engage in public financing similar or of similar complexity to the Public Financing, the consultants may include special tax consultants, tax increment fiscal consultants, appraisers, financial advisors, bond underwriters, absorption consultants, bond counsel, bond trustees, escrow agents, and escrow verification agents. City's and Authority's reasonable out-of-pocket costs that are not contingent upon the issuance of a Public Financing will be advanced by Developer pursuant to a deposit agreement to be entered into among City, Authority, and Developer, and Developer shall be entitled to reimbursement of such advances from the proceeds of the Public Financing if authorized by the applicable CFD Act, the IFD Act, Tax Laws, and other governing law. To the extent not advanced by Developer, City's and Authority's reasonable out-of-pocket costs that are customarily paid by local agencies in the State for Public Financing consultants will be reimbursed from the proceeds of a Public Financing to the extent permitted under the CFD Act, the IFD Act, applicable Tax Laws, and other governing law. To the extent Authority is not so reimbursed, such unreimbursed consultant costs will be Authority Costs under the DDA.

(b) Developer Consultants. Developer may engage its own consultants to advise it on matters related to this Financing Plan or any Public Financing, and its reasonable out-of-pocket costs will be reimbursed from the proceeds of a Public Financing to the extent permitted under the CFD Act, the IFD Act, applicable Tax Laws, and other governing law. To the extent Developer is not reimbursed from the proceeds of a Public Financing, such costs will be Soft Costs.

1.6 Recordkeeping

(a) Annual Reports.

(i) Commencing as of the date that Developer obtains the Major Phase Approval for the Initial Major Phase and ending on the later of (A) the date on which Developer has received the final Certificate of Completion for all of the Infrastructure and Stormwater Management Controls and (B) the earlier of (i) the date on which Developer has been reimbursed for all Qualified Project Costs and (ii) the date on which there are no further Gross Revenues available to reimburse Developer for Qualified Project Costs, Developer shall prepare and deliver to Authority an annual financial report on the Project no later than four (4) months following the end of each Developer Fiscal Year for which a report is due (each, an "**Annual Report**"). If Developer obtains a Major Phase Approval less than six (6) months before the end of a Developer Fiscal Year, Developer may include reporting for that Major Phase in the Annual Report for the next Developer Fiscal Year. If any Annual Report shows any material discrepancy, then Developer must correct the discrepancy in its Records, and Developer and the Authority agree to meet and confer on the best method for correcting any overpayment or underpayment by the end of the next quarter in the Developer Fiscal Year.

(ii) Annual Reports must include the following information, reported separately for each Major Phase for which a Major Phase Approval has been

obtained and in the aggregate for the Project as a whole: (A) updated estimates of and actual Project Costs, Qualified Project Costs, and Gross Revenues; (B) if applicable, variances from the prior Annual Report; (C) a statement reflecting the application of any Net Cash Flow that Developer has received during the prior Developer Fiscal Year; (D) a statement of Qualified Project Costs reimbursed from Funding Sources; (E) a statement of Qualified Project Costs previously incurred but not yet reimbursed from the Funding Sources; (F) new development expected to occur or that is occurring, the assessed value of which is expected to be included on the secured real property tax roll for the next Fiscal Year; and (G) any sales of Lots under article 17 of the DDA that are expected to occur and the assessed value of which is expected to be included on the secured real property tax roll for the next Fiscal Year.

(iii) Developer's Annual Report must cover the entire Project, even if Developer has Transferred part or all of its interest in a Major Phase or Sub-Phase to a Transferee.

(iv) Developer's obligation to provide Annual Reports will terminate as to any portion of the Project as to which the DDA is terminated after Developer has provided to Authority the Annual Report covering the Developer Fiscal Year during which the termination took effect.

(b) Developer Books and Records. Developer shall maintain books and records of all: (i) Gross Revenues; (ii) application of Funding Sources to Qualified Project Costs; and (iii) Project Costs, organized by Major Phases, in accordance with generally accepted accounting principles consistently applied, or in another auditable form Approved by Authority (the "**Records**"). Developer shall maintain Records for each Major Phase in the City or at another location Approved by Authority for at least four (4) years after the applicable Major Phase closing date. After reasonable notice, Developer shall make the Records available to Authority at reasonable times.

(c) Authority Records. Authority shall provide copies of its audited financial statements relating to the Project Site to Developer as soon as practicable following their public filing or release.

(d) City Records. City shall provide copies of its audited financial statements relating to the Project Site to Developer as soon as practicable following its public filing or release. The IFP for each IFD shall provide that, if prepared, the IFD shall provide copies of any annual Statement of Indebtedness relating to the Project Site to Developer as soon as practicable following its public filing or release.

(e) Accounting. Developer, City, and Authority will separately track the use of all Funding Sources and any revenues generated from the Project as a whole and from the Public Trust Parcels in order to ensure that they are used only for purposes consistent with this Financing Plan and applicable law.

1.7 Unreimbursed Authority Costs. If: (a) Developer commits a Material Breach under the DDA; (b) Authority obtains a final judgment for the payment of any related amount under article 15 of the DDA; and (c) Authority makes demand for payment of the amount of the final judgment on any Adequate Security, but does not receive payment within thirty (30) days after Authority's written demand, then Authority may, to the extent permitted under applicable law, recover from any available proceeds of a Public Financing the amount of the final judgment, plus Authority's costs of collection and interest at the rate of ten percent (10%) per annum of the amount of the final judgment, calculated from the date the payment was due until paid in full, compounded annually. This provision will not apply to Authority Costs to be paid from the proceeds of any Public Financing as provided in the applicable indenture or other governing documents, or from Project Grants according to their terms. This provision will not apply to Authority Costs paid pursuant to Sections 6.1 and 6.2 of this Financing Plan.

2. COMMUNITY FACILITIES DISTRICT FINANCING

2.1 Formation of CFDs

(a) Formation. City shall establish all CFDs from time to time as Developer acquires Sub-Phases under the DDA. All CFDs will be formed and administered to achieve the Funding Goals and in accordance with the CFD Act and the CFD Goals. Developer acknowledges that the CFD Goals will prevail over any inconsistent terms in this Financing Plan, unless the Board of Supervisors in its sole discretion Approves a waiver of the CFD Goals. Any CFD may include separate Improvement Areas and tax zones. In addition, Developer and City may agree to identify property for future annexation and additional public capital facilities for the Project to be financed under the CFD Act in the CFD formation documents.

(b) Taxable Parcels. Developer and City intend that Project Special Taxes will be levied against all Taxable Parcels for the purposes described in this Financing Plan and agree that all Exempt Parcels will be exempt from Project Special Taxes.

(c) Petition.

(i) At any time, and from time to time, after Authority acquires all or part of the Project Site from the Navy, Developer may petition City under the CFD Act from time to time to establish one or more CFDs within the Sub-Phase. In its petition, Developer may include proposed specifications for the CFD, including Assigned Project Special Tax Rates, Project Special Tax rates, CFD boundaries and any proposed Improvement Areas and tax zones within the CFD (which may include one or more Sub-Phases or Major Phases), the identity of any property to be annexed into the CFD at a later date, the total tax burden that will result from the imposition of the Project Special Taxes (subject to the 2% Limitation for Taxable Residential Units), and other provisions. Developer's proposed specifications will be based on Developer's development plans, market analysis, and required preferences, but in all cases will be

subject to this Financing Plan, the Funding Goals, and the CFD Goals.

(ii) Following City's receipt of a petition, Developer and City will meet with City's Public Financing consultants to determine reasonable and appropriate terms of the proposed CFD that are consistent with Developer's petition and the Funding Goals.

(d) Authorized Uses. Each CFD shall be authorized to finance all of the Qualified Project Costs, Additional Community Facilities, and Ongoing Park Maintenance, irrespective of the geographic location of the improvements financed or maintained.

(e) Joint Community Facilities Agreements. Under the CFD Act, City may be required to enter into a joint community facilities agreement with another Governmental Entity that will own or operate any of the Infrastructure and Stormwater Management Controls. Authority and the City have agreed that the Interagency Cooperation Agreement, which will be executed in connection with the DDA, is a joint community facilities agreement under the CFD Act for all of the Infrastructure and Stormwater Management Controls to be financed by CFDs and owned or operated by the Authority. City and Developer agree that they will take all steps necessary to procure the authorization and execution of any other required joint community facilities agreement with a Governmental Entity other than Authority before the issuance of any CFD Bonds that will finance Infrastructure and Stormwater Management Controls that will be owned or operated by such Governmental Entity other than Authority.

(f) Notice of Special Tax Lien. Project Special Taxes will be secured by recordation in the Official Records of continuing liens against all Taxable Parcels in the applicable CFD.

2.2 Scope of CFD-Financed Costs

(a) Authorized Costs. A CFD may finance only Qualified Project Costs, Additional Community Facilities, and Ongoing Park Maintenance that: (a) are financeable under the CFD Act; and (b) qualify under Tax Laws, if CFD Bonds are issued and if CFD Bonds are issued as tax-exempt bonds.

2.3 Parameters of CFD Formation

(a) Cooperation. Developer and City agree to cooperate reasonably in developing an RMA for each CFD that is consistent with this Financing Plan and, to the extent consistent with this Financing Plan, Developer's petition. Developer and City will each use good-faith reasonable efforts at all times to furnish timely to the other, or to obtain and then furnish to the other, any information necessary to develop an RMA, such as legal boundaries of the property to be included and Developer's plans for the types, sizes, numbers, and timing for construction of Buildings, within the applicable CFD. Each CFD will be subject to its own RMA and authorized bonded indebtedness limit.

(b) RMA Consultants and Approval. The RMA for any CFD will be: (i) developed by City's special tax consultant, in consultation with Developer and City's staff and other consultants; (ii) consistent with Developer's petition to the extent consistent with this Financing Plan; and (iii) subject to Approval of the Board of Supervisors in the resolution of formation. Project Special Taxes on any Taxable Parcel must not exceed any applicable maximum rate specified in the CFD Goals and this Financing Plan, unless otherwise Approved by the Board of Supervisors and Developer.

(c) Priority Administrative Costs. In the formation process for each CFD, City and Developer will agree on the amount of annual CFD administrative costs that will have first priority for payment by Project Special Tax based on: (i) actual administration costs of other community facilities districts of the City; (ii) the CFD's complexity and size; and (iii) cumulative administration costs for all anticipated CFDs for the Project. The contracts for consultants administering the CFDs and the calculation of any City staff time deemed administration expenses will be determined in accordance with article 19 of the DDA.

(d) Assigned Project Special Tax Rates for Developed Property. Each RMA will specify Project Special Tax rates for Developed Property within the CFD (each an "**Assigned Project Special Tax Rate**"). The Assigned Project Special Tax Rates for Developed Property may vary based on sizes, densities, types of Buildings to be constructed, and other relevant factors when the CFD is formed. Each RMA will establish Assigned Project Special Tax Rates assuming that any First Tranche CFD Bonds issued will have a debt service coverage-ratio of one hundred ten percent (110%), unless City and Developer Approve a higher ratio to market the First Tranche CFD Bonds effectively.

(e) Total Tax Obligation. The Assigned Project Special Tax Rates will be set so that the Total Tax Obligation on any Taxable Residential Unit within a CFD will not exceed two percent (2%) of the projected sales price of that Taxable Residential Unit calculated at the time of the resolution of intention to form the CFD (the "**2% Limitation**"). If an RMA is modified to increase the Project Special Tax rates, the Assigned Project Special Tax Rates will be modified so that the Total Tax Obligation on any Taxable Residential Unit within a CFD does not exceed the 2% Limitation when the proposed modification goes into effect. The 2% Limitation will not apply to non-residential property in a CFD.

(f) Classification of Assessor's Parcels. Each RMA will provide for the taxation of Developed Property and Undeveloped Property. Each RMA will identify all Exempt Parcels, which will be exempt from payment of Project Special Taxes.

(g) Backup and Maximum Project Special Tax Rates. Each RMA will provide for: (i) backup Project Special Tax rates that will be applied to each Taxable Parcel in a tract map, Improvement Area, tax zone, condominium plan, or other identifiable area on Developed Property (each a "**Backup Project Special Tax Rate**"); and (ii) maximum Project Special Tax rates on Developed Property and Undeveloped

Property (each a "**Maximum Project Special Tax Rate**"). The Maximum Project Special Tax Rate for a Taxable Parcel of Developed Property will be the greater of the applicable Assigned Project Special Tax Rate or the applicable Backup Project Special Tax Rate. Developer and City will structure the Backup Project Special Tax Rates and Maximum Project Special Tax Rates for a CFD to be consistent with the funding goals established for the CFD, considering Developer's development plans and preferences for structuring the Project Special Tax rates within the applicable CFD, and this Financing Plan.

(h) Escalation of Special Tax Rates. At Developer's request, each RMA will provide for annual increases in the Project Special Tax rates so long as the total projected taxes levied for a CFD do not exceed any maximum specified in the CFD Act.

(i) Priority for Annual Levy of Special Taxes. Each RMA will provide for the levy of Project Special Taxes to fund debt service (not including capitalized interest), administrative costs, and Qualified Project Costs and, when authorized pursuant to Section 2.8, Additional Community Facilities to be financed by the CFD each year of its term (collectively, the "**Special Tax Requirement**") according to the priorities set in the Indenture, until the Special Tax Requirement is fully satisfied. Each RMA must reflect the priorities set forth below:

(I) First, Project Special Taxes will be levied on each Taxable Parcel of Developed Property at the applicable Assigned Project Special Tax Rate, regardless of whether City has issued CFD Bonds or the debt service requirements for any existing CFD Bonds, before applying any capitalized interest.

(ii) Second, to the extent the funds to be collected under clause (i) will not be sufficient to satisfy the Special Tax Requirement in full after application of any capitalized interest, Project Special Taxes will be levied proportionately on each Taxable Parcel of Subsequent Owner Property, up to one hundred percent (100%) of the applicable Maximum Project Special Tax Rate.

(Iii) Third, to the extent the funds to be collected under clauses (i) and (ii) will not be sufficient to satisfy the Special Tax Requirement in full after application of any capitalized interest, Project Special Taxes will be levied proportionately on each Taxable Parcel of Undeveloped Property that is not Subsequent Owner Property, up to one hundred percent (100%) of the applicable Maximum Project Special Tax Rate.

(Iv) Fourth, to the extent the funds to be collected under clauses (i), (ii), and (iii) will not be sufficient to satisfy the Special Tax Requirement in full after application of any capitalized interest, additional Project Special Taxes will be levied proportionately on each Taxable Parcel of Developed Property, so long as the total levy on Developed Property under clauses (i) and (iv) does not exceed the applicable Maximum Project Special Tax Rate.

(j) Use of Remainder Taxes.

(i) Developer and City contemplate that, within each CFD, Qualified Project Costs and Ongoing Park Maintenance will be paid from Remainder Taxes both before and after the issuance of CFD Bonds for such CFD and after the final maturity of any CFD Bonds for such CFD. Accordingly, each RMA will provide that Remainder Taxes may be used to finance Ongoing Park Maintenance and Qualified Project Costs. For each CFD, annually, on the day following each Principal Payment Date for such CFD, all Remainder Taxes for such CFD will be deposited in the applicable Remainder Taxes Project Account.

(ii) With respect to all CFDs:

(A) Before the Maintenance Commencement Date, for each CFD, annually, on or before October 1 of each year, Remainder Taxes for each CFD shall be deposited in the Remainder Taxes Project Account for such CFD and applied, from time to time at Developer's request, to finance Qualified Project Costs.

(B) After the Maintenance Commencement Date, for all CFDs, annually, on or before October 1 of each year, Remainder Taxes for all CFDs shall be transferred to Authority and held in the Remainder Taxes Holding Account and applied as set forth in Section 2.7.

(iii) Any amounts transferred to City pursuant to Section 2.7(c)(i)(B), shall be deposited to the Remainder Taxes Project Accounts pro rata (based on the ratio of Maximum Project Special Tax Rates) and shall be applied as follows:

(A) Prior to the CFD Conversion Date, amounts on deposit in the Remainder Taxes Project Accounts shall be applied, from time to time at Developer's request, to finance Qualified Project Costs.

(B) After the CFD Conversion Date, amounts on deposit in the Remainder Taxes Project Accounts shall be applied to finance Additional Community Facilities or for any other use authorized by the CFD Act.

(k) No Pledge for Debt Service. Remainder Taxes deposited in the Remainder Taxes Project Accounts or transferred to Authority for deposit in the Remainder Taxes Holding Account or the Ongoing Maintenance Account, will not be deemed or construed to be pledged for payment of debt service on any CFD Bonds, and neither Developer nor any other Person will have the right to demand or require that Authority, City, or Fiscal Agent, as applicable, use funds in the Remainder Taxes

Project Accounts, the Remainder Taxes Holding Account, or the Ongoing Maintenance Account to pay debt service.

(l) Prepayment. The RMA will include provisions allowing a property owner within the CFD that is not in default of its obligation to pay Project Special Taxes to prepay Project Special Taxes in full or in part based on a formula that will require payment of the property owner's anticipated total Project Special Tax obligation; provided, however, that prepayment shall not be allowed if it impacts the financing of Ongoing Park Maintenance without the written consent of the Authority. Prepaid Project Special Taxes will be placed in a segregated account in accordance with the applicable Indenture. The RMA and the Indenture will specify the use of prepaid Project Special Taxes.

(m) Amendment to RMA. Each RMA must be consistent with this Financing Plan. Nothing in this Financing Plan will prevent an amendment of any RMA for a CFD under its terms or under Change Proceedings.

(n) Reducing Project Special Tax Rates Before Issuance of First Tranche CFD Bonds. An RMA may contain a provision that allows Developer to request that the Total Tax Obligation be recalculated and Project Special Tax rates be reduced before any First Tranche CFD Bonds are issued so that the Total Tax Obligation does not exceed two percent (2%) of the actual or projected sales prices of Taxable Residential Units at the time of recalculation. Subject to the CFD Act, but only if expressly permitted and defined in the RMA, after consultation with Developer regarding its request, City shall reduce Project Special Tax rates in a CFD administratively without the vote of the qualified CFD electors before First Tranche CFD Bonds for such CFD are issued notwithstanding Sections 2.3(i), 2.7, or 2.6(a). If expressly permitted and defined in the RMA, a reduction in one taxing category does not have to be proportionate to the reduction in any other taxing category (i.e., disproportionate reductions may be expressly allowed in the RMA). If the Maximum Project Special Tax Rate is permanently reduced, City will record timely an appropriate instrument in the Official Records.

2.4 Issuance of CFD Bonds

(a) Issuance. Subject to Approval of the Board of Supervisors and Sections 4.4 and 4.5, City, on behalf of the CFD, intends to issue CFD Bonds for purposes of this Financing Plan. Developer may submit written requests that City issue First Tranche CFD Bonds, specifying requested issuance dates, amounts, and main financing terms. Following Developer's request, Developer and City will meet with City's public financing consultants to determine reasonable and appropriate issuance dates, amounts, and main financing terms that are consistent with the Funding Goals.

(b) Payment Dates. So that Remainder Taxes may be calculated on the same date for all CFDs and CFD Bonds, each issue of CFD Bonds shall have

interest payment dates of March 1 and September 1, with principal due on September 1.

(c) Value-to-Lien Ratio. The appraised or assessed value-to-lien ratio required for each First Tranche CFD Bond issue will be three to one (3:1), unless otherwise required by the CFD Act or the mutual agreement of Developer and City.

(d) Coverage Ratio. To preserve the ability to finance Ongoing Park Maintenance, an issue of First Tranche CFD Bonds will not have a debt service coverage-ratio of less than one hundred ten percent (110%), unless otherwise agreed to by City.

(e) Term. Subject to Section 2.8, First Tranche CFD Bonds will have a term of not less than thirty (30) years and not more than forty (40) years unless Developer and City agree otherwise.

(f) Second Tranche CFD Bonds. After the CFD Conversion Date for a CFD, City has the right in its sole discretion to issue Second Tranche CFD Bonds in such CFD as set forth in this Financing Plan.

2.5 Use of Proceeds

(a) First Tranche CFD Bond Proceeds. Subject to Tax Laws, the CFD Act, and the CFD Goals, First Tranche CFD Bond proceeds will be used in the following order of priority: (i) to fund required reserves and pay costs of issuance; (ii) to fund capitalized interest amounts, if any; (iii) to pay Qualified Pre-Development Costs (which do not include any return on such Pre-Development Costs); and (iv) to pay outstanding Qualified Project Costs and, when authorized pursuant to Section 2.8(e), outstanding Additional Community Facilities. The remainder will be deposited into the CFD Bonds Project Account as designated in the Indenture and must be used only to pay for Qualified Project Costs and those Additional Community Facilities authorized pursuant to Section 2.8(c).

(b) Qualified Project Costs; Additional Community Facilities. By this Financing Plan, City pledges the proceeds of First Tranche CFD Bonds on deposit in CFD Bonds Project Accounts or as otherwise provided in the applicable Indenture and, subject to Sections 2.3(i) and 2.7, all Remainder Taxes on deposit in each Remainder Taxes Project Account to finance Qualified Project Costs and, when authorized pursuant to Section 2.8, Additional Community Facilities. In furtherance of this pledge, City shall levy Project Special Taxes in each Fiscal Year in strict accordance with the applicable RMA and this Financing Plan.

2.6 Miscellaneous CFD Provisions

(a) Change Proceedings. Subject to the limitations in this Financing Plan, including the Funding Goals, and so long as the proposed changes do not adversely affect the issuance or amount of Second Tranche CFD Bonds or the application, timing of receipt, or overall amount of Remainder Taxes to pay Ongoing

Park Maintenance and Additional Community Facilities pursuant to Section 2.8, City will not reject unreasonably Developer's request to conduct Change Proceedings under the CFD Act to: (i) make any changes to an RMA, including amending the rates and method of apportionment of Project Special Taxes; (ii) increase or decrease the authorized bonded indebtedness limit within a CFD; (iii) annex property into a CFD; (iv) add additional public capital facilities for the Project; or (v) take other actions reasonably requested by Developer. For purposes of this Section 2.6(a), Developer acknowledges that any reduction in the Project Special Tax rates set forth in an RMA through Change Proceedings shall require the consent of City, which may be granted in its discretion. Except as set forth in the previous sentence, for purposes of this Section 2.6(a), City agrees that none of the following changes will be deemed to adversely affect the ability of City to issue Second Tranche CFD Bonds or apply the Remainder Taxes to Ongoing Park Maintenance or Additional Community Facilities pursuant to Section 2.8: (x) increasing the Project Special Tax rates in an RMA for any land use classification; (y) increasing the authorized bonded indebtedness limit; and (z) authorizing the financing of additional public capital facilities for the Project.

(b) Maintaining Levy of CFD Financing. Under section 3 of article XIIIC of the California Constitution, voters may, under certain circumstances, vote to reduce or repeal the levy of special taxes in a community facilities district. However, the California Constitution does not allow the reduction or repeal to result in an impairment of contract. The purpose of this Section 2.6(b) is to give notice that: (i) both the DDA and the City DA (including, in both cases, this Financing Plan) is a contract between Developer and Authority (in the case of the DDA) and Developer and City (in case of the City DA); (ii) the financing of the Qualified Project Costs and the Additional Community Facilities through the application of CFD Bond proceeds (which are secured by Project Special Taxes) and Remainder Taxes (as described in Section 2.3(i) and Section 2.7) is an essential part of the consideration for the contracts; (iii) the financing of Ongoing Park Maintenance through the application of Remainder Taxes is an essential part of the consideration for the contracts; and (iv) any reduction in City's ability to levy and collect Project Special Taxes would materially impair those contracts. To further preserve the contracts discussed above, City agrees that: (y) until all First Tranche CFD Bonds have been repaid in full or defeased before maturity for any reason other than a refunding, it will not initiate or conduct proceedings under the CFD Act to reduce the Project Special Tax rates without Developer's written consent or if legally compelled to do so (e.g., by a final order of a court of competent jurisdiction); and (z) if the voters adopt an initiative ordinance under section 3 of article XIIIC of the California Constitution that purports to reduce, repeal, or otherwise alter the Project Special Tax rates before all First Tranche CFD Bonds have been repaid in full or defeased before maturity for any reason other than a refunding, City will meet and confer with Developer to consider commencing and pursuing reasonable legal action to preserve City's ability to comply with this Financing Plan.

(c) Covenant to Foreclose. City will covenant with CFD bondholders to foreclose the lien of delinquent Project Special Taxes consistent with the general practice for community facilities districts in California and otherwise as determined by

City in consultation with its underwriter or financial advisor for the CFD Indebtedness and other consultants, subject to applicable laws.

(d) Reserve Fund Earnings. The Indenture for each issue of First Tranche CFD Bonds will provide that earnings on any reserve fund that are not then needed to replenish the reserve fund to the reserve requirement will be transferred to: (i) the CFD Bonds Project Account for allowed uses until it is closed in accordance with the Indenture; then (ii) the debt service fund held by the Fiscal Agent under the Indenture.

(e) Authorization of Reimbursements. City will take all actions necessary to satisfy section 53314.9 of the Government Code or any similar statute subsequently enacted to use First Tranche CFD Bond proceeds and Remainder Taxes to reimburse Developer for: (i) CFD formation and First Tranche CFD Bond issuance deposits; and (ii) advance funding of Qualified Project Costs.

(f) Material Changes to the CFD Act. If material changes to the CFD Act after the Reference Date make CFD Bonds or Remainder Taxes unavailable or severely impair their use as a source for financing the Qualified Project Costs or Additional Community Facilities, City and Developer will negotiate in good faith as to a substitute public financing program equivalent in nature and function to CFDs.

(g) CFD Goals. Until the CFD Conversion Date for a CFD, the City shall not change or amend the CFD Goals as they apply to such CFD if such changes or amendments adversely impact the Project or are inconsistent with this Financing Plan unless such changes or amendments are required under the CFD Act or other controlling State or federal law or, with respect to such CFD, as otherwise Approved by Developer in its sole discretion.

(h) Private Placement of CFD Bonds. Subject to Board of Supervisors Approval and Section 4.4(b), upon Developer's written request, City shall issue CFD Bonds in a private placement to a small number of investors (which may include Developer and its Affiliates). In connection with any such private placement, City and the investors may agree upon terms regarding the security of such CFD Bonds other than as required by this Agreement, including, but not limited to, the 3:1 value-to-lien ratio of Section 2.4(c); provided, however, any CFD Bonds must have a debt service coverage ratio of one hundred ten percent (110%) unless City consents to a lower amount. Subject to Board of Supervisors Approval and the CFD Goals, if the CFD Bonds are sold to Developer or its Affiliates, and if the CFD Bonds are not subject to transfer, credit enhancement may not be required.

(i) Levy for Ongoing Park Maintenance. For each CFD, prior to its CFD Conversion Date, Ongoing Park Maintenance shall be payable from Remainder Taxes and other sources identified in Section 2.7. For each CFD, after its CFD Conversion Date, Ongoing Park Maintenance may be payable from Project Special Taxes or Remainder Taxes. In both cases, Ongoing Park Maintenance may be funded irrespective of the issuance of CFD Bonds (First Tranche or Second Tranche) and

irrespective of whether there are unreimbursed Qualified Project Costs or Additional Community Facilities. Accordingly, each RMA shall provide for the financing of Ongoing Park Maintenance for the duration of the CFD.

2.7 Ongoing Park Maintenance

(a) Maintenance Budget. Not later than April 1 of each year following the Maintenance Commencement Date, Authority shall prepare a preliminary budget of the Estimated Maintenance Costs for the immediately succeeding Maintenance Period. The Estimated Maintenance Costs shall be determined by (i) estimating the costs of the Ongoing Park Maintenance to be incurred during the immediately succeeding Maintenance Period and (ii) subtracting (A) any funds, revenues, and Project Grants that are received for maintenance purposes, (B) any funds on deposit in the Remainder Taxes Holding Account, and (C) any funds on deposit in the Ongoing Maintenance Account that are not committed to the payment of Ongoing Park Maintenance during the current Maintenance Period..

(b) Delivery of Maintenance Budget. Upon completion by Authority, the preliminary budget will promptly be delivered to Developer for review. Developer shall have fifteen (15) days to review and comment on the preliminary budget. Authority will duly evaluate and implement the reasonable suggestions made by Developer, and Authority shall distribute a final version of the budget to Developer (as finalized, the "**Maintenance Budget**"). The Maintenance Budget shall also be delivered to the City upon completion. The Maintenance Budget must be completed by no later than June 1 in any given year.

(c) Calculation of Developer Maintenance Payment. Authority shall annually calculate the Developer Maintenance Payment at the same time that the Maintenance Budget is completed.

(i) If, on the date of calculation, the amount on deposit in the Ongoing Maintenance Account that is not committed to the payment of Ongoing Park Maintenance during the current Maintenance Period plus the amount on deposit in the Remainder Taxes Holding Account equals or exceeds the Estimated Maintenance Costs set forth in the applicable Maintenance Budget, then Authority shall (A) transfer funds from the Remainder Taxes Holding Account to the Ongoing Maintenance Account in such amount as is necessary so that the amounts on deposit in the Ongoing Maintenance Account equals the Estimated Maintenance Costs, (B) transfer the remaining funds on deposit in the Remainder Taxes Holding Account to City for deposit in the Remainder Taxes Project Accounts as set forth in Section 2.3(j)(iii), and (C) notify Developer that the Developer Maintenance Payment for such Maintenance Period shall be $0.

(ii) If, on the date of calculation, the amount of the Estimated Maintenance Costs set forth in the applicable Maintenance Budget exceeds the amount on deposit in the Ongoing Maintenance Account and the Remainder Taxes Holding Account, then Authority (A) shall transfer the entire balance of the Remainder Taxes

Holding Account to the Ongoing Maintenance Account and (B) may request in writing that Developer make a Developer Maintenance Payment in an amount equal to the lesser of:

(1) the difference between the Estimated Maintenance Costs set forth in such Maintenance Budget and amounts on deposit in the Ongoing Maintenance Account and Remainder Taxes Holding Account on such date of calculation; and

(2) the Maximum Annual Developer Contribution.

(d) Maximum Annual Developer Contribution. On any date of calculation, the Developer Maintenance Payment shall not exceed the lesser of ("**Maximum Annual Developer Contribution**"):

(i) (A) for the first five years in which Maintenance Budgets are prepared following the Maintenance Commencement Date, the greater of (1) $1,500,000 or (2) $1,500,000 plus the portion of the Maximum Annual Developer Contribution for each previous year, if any, that was not paid to Authority; and (B) for each year after the first five years in which Maintenance Budgets are prepared following the Maintenance Commencement Date, the greater of (1) $3,000,000, or (2) $3,000,000 plus the portion of the Maximum Annual Developer Contribution for each previous year, if any, that was not paid to Authority; or

(ii) the Maintenance Account Balance.

(e) Maintenance Account Balance. On the Rererence Date, Authority shall be credited with a non-cash balance (the "**Maintenance Account Balance**") of Fourteen Million Three Hundred Twenty Thousand Dollars ($14,320,000). Each Developer Maintenance Payment (whether through payments under Section 2.7(f) or through Conditional Maintenance Tax payments under Section 2.7(g)) shall reduce the Maintenance Account Balance by the corresponding amount. At the end of each Fiscal Year, commencing at the end of the Fiscal Year in which the Reference Date occurs, the Maintenance Account Balance shall be credited with interest based on the percentage 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 any Developer Maintenance Payment shall cease when the Maintenance Account Balance is reduced to $0. The Maintenance Account Balance shall not increase at any time after the account is first established, other than as a result of the accrual of interest earnings as set forth herein.

(f) Time of Payment. Developer shall make the Developer Maintenance Payment by the later of (i) June 30 in the year in which the written request is made by Authority or (ii) thirty (30) days following receipt of the written request from Authority. The failure to pay the Maintenance Payment by the later of such dates shall be deemed a "**Maintenance Default.**"

(g) Security for Payment. To secure the payments required in this Section 2.7, the RMA for each CFD shall contain provisions for a Conditional Maintenance Tax. Each RMA shall provide that the Conditional Maintenance Tax shall be levied only as follows:

(i) The Conditional Maintenance Tax may only be levied on property that is (A) owned by Developer at the time of the levy and (B) not subject to a purchase and sale agreement for the sale to a third party that is scheduled to close within six (6) months after the date of the levy.

(ii) The Conditional Maintenance Tax may only be levied in the calendar year in which City receives written notice from Authority that a Maintenance Default has occurred.

(iii) The Conditional Maintenance Tax may only be levied once in a calendar year.

(iv) The Conditional Maintenance Tax may only be levied on a parcel of property authorized by clause (i) in the amount of such parcel's pro rata share (based on acreage of such parcel to all parcels authorized by clause (i)) of the amount of the Maintenance Default.

(v) The Conditional Maintenance Tax shall be hand billed by City to Developer, and Developer shall have thirty (30) days to pay the amount due.

(vi) The failure by Developer to pay the Conditional Maintenance Tax within the time established by clause (v) shall subject the property upon which it is levied to foreclosure by City. The Conditional Maintenance Tax shall have the same lien priority and penalties as the Project Special Taxes.

(vii) The Conditional Maintenance Tax shall terminate and shall no longer be levied when, following the Maintenance Commencement Date, the Maintenance Account Balance is $0.

(h) Payment of Remaining Balance. If upon Completion of the Northern Wilds, as identified in the Parks and Open Space Plan, a balance remains in the Maintenance Account Balance, Developer, upon Authority's written request, shall pay Authority an amount equal to the remaining balance of the Maintenance Account Balance. Authority shall restrict the use of such funds to a segregated parks and open space fund, conservancy, or other separate fund or entity with use restricted to operation and maintenance of the parks and open spaces in the Project Area.

2.8 CFD Limitations

(a) City and Developer agree that each CFD will be formed so that the proceeds of CFD Bonds and Remainder Taxes may be applied to accomplish the following goals in the manner set forth in this Financing Plan: (i) to finance Qualified Project Costs; (ii) to finance Additional Community Facilities; and (iii) to finance

Ongoing Park Maintenance. To accomplish these goals, and subject to the limitations set forth in this Section 2.8, and in light of the 2% Limitation and the CFD Goals:

(i) each CFD will be authorized to finance the Qualified Project Costs, the Additional Community Facilities, and the Ongoing Park Maintenance;

(ii) for each CFD, the term for levying Project Special Taxes will be established at no less than 999 years from the first issuance of CFD Bonds in such CFD; and

(iii) for each CFD, the amount of authorized bonded indebtedness will be established to allow the issuance of the First Tranche CFD Bonds to finance Qualified Project Costs and the Second Tranche CFD Bonds to finance Additional Community Facilities.

(b) The CFD Conversion Date shall be calculated separately for each CFD.

(c) Until the CFD Conversion Date, in a CFD, CFD Bonds will be issued exclusively to finance Qualified Project Costs unless Developer, in its sole discretion, consents in writing to the issuance of CFD Bonds for such CFD to finance Additional Community Facilities. After the CFD Conversion Date in such CFD, City may issue CFD Bonds to finance Additional Community Facilities or for any other purpose authorized under the CFD Act.

(d) City and Developer agree that, within a CFD, City shall not be obligated to issue First Tranche CFD Bonds (including refunding bonds) with a final maturity of later than the date that is forty-two (42) years after the issuance of the first series of First Tranche CFD Bonds in such CFD without the Approval of Board of Supervisors in its sole discretion. Unless City and Developer agree otherwise, any CFD Bonds issued to refund First Tranche CFD Bonds shall comply with applicable provisions of the CFD Act pursuant to which refunding bonds will not result in a reduction of the total authorized amount of the bonded indebtedness of a CFD and, in any event, the final maturity date of the refunding bonds shall not exceed the latest maturity date of the First Tranche CFD Bonds being refunded. The previous sentence shall not prevent the issuance of a series of First Tranche CFD Bonds for new money and refunding purposes, so long as the portion of the First Tranche CFD Bonds attributable to the refunding purpose meets the requirements of the previous sentence.

(e) The City intends to include open space improvements, transportation facilities, renewable energy and other sustainability projects, and other public infrastructure within the authorized list of Additional Community Facilities for each CFD, including, but not limited to, future improvements necessary to ensure that the shoreline, public facilities, and public access improvements will be protected should sea level rise at the perimeter of the Project Site as set forth in the Infrastructure Plan (the "**Future Sea Level Rise Improvements**"). If required to be constructed or installed pursuant to the appropriate regulating authorities, City agrees

to finance the Future Sea Level Rise Improvements through the proceeds of the Second Tranche CFD Bonds and any Remainder Taxes that become available to City after the CFD Conversion Date pursuant to this Financing Plan, all in the manner required by the appropriate regulating authorities. However, notwithstanding the discretion vested in Developer with respect to the decision to fund Additional Community Facilities from CFD Bonds prior to the CFD Conversion Date for each CFD pursuant to Section 2.8(c), if, prior to the CFD Conversion Date for a CFD, sea levels in the waters at the perimeter of the Project Site rise by more than sixteen (16) inches from the levels in existence on the Reference Date, as defined in the Infrastructure Plan, Developer and City will finance Future Sea Level Rise Improvements from First Tranche CFD Bonds for the CFD.

(f) Pursuant to the definition contained in Section 7.2, the term "CFD" means an Improvement Area if one has been so designated. Accordingly, wherever the word "CFD" appears in this Section 2.8, it also means Improvement Area (with the result being that the CFD Conversion Date shall be calculated separately for each Improvement Area).

3. INFRASTRUCTURE FINANCING DISTRICT FINANCING

3.1 Formation of IFDs

(a) Formation. At any time, and from time to time, after Authority acquires all or part of the Project Site from the Navy, Developer may request in writing that City establish one or more IFDs under the IFD Act over all or any part of the property so acquired. In its written request, Developer may include proposed specifications for the IFD, including IFD boundaries. Developer's proposed specifications will be based on Developer's development plans, market analysis, and required preferences, but in all cases will be subject to this Financing Plan, the Funding Goals, and compliance with the IFD Act. To ensure compliance with the replacement housing provisions of the IFD Act in the formation of an IFD, City shall consider any input provided by Authority as to the specifics of the IFD formation.

(b) Boundaries. As soon as reasonably practical after receipt of a written request from Developer, City will establish each IFD over all of the property identified in the written request. If allowed by the IFD Act, the IFD shall include separate Project Areas, as requested by Developer in writing.

(c) Authorized Facilities. Each IFD shall be authorized to finance all of the Qualified Project Costs, irrespective of the geographic location of the improvements financed.

(d) Cooperation. Developer and City shall cooperate reasonably in developing the IFP for each IFD that is consistent with this Financing Plan. Developer and City will each use good-faith reasonable efforts at all times to furnish timely to the other, or to obtain and then furnish to the other, any information necessary to develop the IFP for each IFD. Developer and City agree that, for an IFD for which a Statement

of Indebtedness is required under the IFD Act or otherwise, (i) the IFP will include a declaration that the IFD's obligation to use Net Available Increment for the purposes specified in this Financing Plan constitutes an indebtedness of the IFD and (ii) the IFP will provide that the IFD will include the amount of such indebtedness in each applicable annual Statement of Indebtedness for the IFD.

3.2 Scope of IFD-Financed Costs

(a) Authorization. An IFD may finance only Qualified Project Costs that are financeable under the IFD Act.

(b) Communitywide Significance. On the Reference Date, City found and determined that the Qualified Project Costs to be financed by the IFDs are of communitywide significance that provide significant benefits to an area larger than the area of the Project Site (which will be the cumulative boundaries of all IFDs). The Board of Supervisors may be required under the IFD Act to make additional specific findings with respect to financing Qualified Project Costs under the IFD Act. City shall assist in making such findings as and when requested by Developer, subject to applicable law.

3.3 Issuance of IFD Debt

(a) Issuance. Subject to Board of Supervisors Approval and Sections 4.4 and 4.5, City will cause the IFP for each IFD to provide for the issuance of IFD Debt for purposes of this Financing Plan following Developer's submission of a written request to issue IFD Debt. Developer may, at any time and from time to time in its discretion, submit written requests that an IFD issue IFD Debt, specifying requested issuance dates, amounts, and main financing terms. Following each Developer's request, Developer and City will meet with City's public financing consultants to determine reasonable and appropriate issuance dates, amounts, and main financing terms that are consistent with Developer's request and the Funding Goals. Each IFP will provide that an IFD may not issue IFD Debt without first receiving a written request from Developer.

(b) Coverage Ratio. Each issue of IFD Debt will be structured with a debt service coverage-ratio that maximizes the proceeds of IFD Debt but is consistent with sound municipal financing practices and assures, to City's reasonable satisfaction, based on calculations, explanations, and other substantial evidence provided by Developer, that the IFD is unlikely to need the Conditional City Increment to pay debt service on the IFD Debt.

(c) Term. Unless Developer and City agree otherwise, the IFP for each IFD will provide for IFD Debt that will have a term that maximizes the proceeds of IFD Debt but is consistent with sound municipal financing practices and any limitations on the amount of Net Available Increment.

(d) IFD Debt Proceeds. Subject to Tax Laws and the IFD Act, the proceeds of each IFD Debt will be used in the following order of priority: (i) to fund

required reserves and pay costs of issuance; (ii) to pay Qualified Pre-Development Costs (which do not include any return on such Pre-Development Costs); and (iii) to pay outstanding Qualified Project Costs. The remainder will be deposited into the IFD Debt Project Account as designated in the Indenture and must be used only to pay for Qualified Project Costs.

(e) Conditional City Increment. Developer and City agree that, if permitted under existing law, City would have subordinated its right to receive its share of Increment other than Net Available Increment to the payment of debt service on IFD Debt. However, under existing law (including the IFD Act), the City cannot do so. Accordingly, City and Developer agree that, for each IFD, City will allocate in the IFP Conditional City Increment to such IFD for the limited purpose of paying debt service on IFD Debt in the event that Net Available Increment is insufficient for that purpose. For each IFD, the IFP will provide that, after first paying or setting aside amounts needed for debt service due during such Fiscal Year on IFD Debt for such IFD secured by or payable from Net Available Increment, such IFD shall repay the City out of Net Available Increment for any Conditional City Increment used to pay debt service on IFD Debt for such IFD as set forth in this Section 3.3(e) in an amount equal to the Conditional City Increment used to pay debt service on the IFD Debt plus interest through the date of repayment of the amount of Conditional City Increment used to pay debt service on the IFD Debt at the Default Interest Rate.

(f) Subordination. For each IFD, the IFP will provide that, at the request of Developer, the IFD will submit a Subordination Request to each of the Other Taxing Agencies at least ninety (90) days prior to the date proposed for delivery of a preliminary official statement for any IFD Debt. Developer acknowledges that, under existing law (including the IFD Act), the Subordination Request must be undertaken in connection with the formation of an IFD and would take the form of a conditional allocation of Increment by the Other Taxing Agencies.

3.4 Pledge of Net Available Increment

(a) Pledge of Net Available Increment. City agrees that each IFD, when formed, will irrevocably pledge the Net Available Increment to the financing of the Qualified Project Costs, to the repayment of any Conditional City Increment used to pay debt service on IFD Debt for such IFD in the manner set forth in Section 3.5(d) and to the extent set forth in Section 3.3(e), and to any IFD Debt issued for such IFD. City will take all actions necessary under the IFD Act and the policies of the County Assessor to ensure that Net Available Increment will be available for purposes of this Financing Plan, including providing in the IFP for each IFD for the filing of any required annual Statement of Indebtedness. Except for the subordinate pledge of Net Available Increment pursuant to the Navy Promissory Note (the "**Subordinate Pledge**"), City represents and warrants that there are no other pledges of Net Available Increment to any other projects or persons, and that neither the City nor the IFD will pledge, encumber, assign, allocate, or otherwise promise the Net Available Increment to any other projects or persons other than as set forth in this Financing Plan (with such covenant included in the IFP for each IFD).

3.5 Budget Procedures

(a) Estimate of Net Available Increment. No later than April 1 of each year, City staff will meet and confer with Developer with respect to the projected amount of Net Available Increment for the next Fiscal Year for each Major Phase. City will provide Developer with good faith estimates, for the next Fiscal Year, of: (A) Net Available Increment (based, in part, upon information provided by Developer as to any new development and Transfers of property); and (B) the amount of any debt service on Public Financings secured by a pledge of and expected to be paid from Net Available Increment. The April 1 date referred to in this Section 3.5(a) is based on the current budget process of the City. Developer and City will adjust the dates as appropriate if the City alters its budget process in the future.

(b) City Budget and IFD Budgets. Subject to the IFD Act and the Funding Goals, and based upon the information provided by Developer, City shall for each IFD:

(i) budget for the allocation of Net Available Increment described in this Financing Plan, and cause the IFP to contain provisions for the IFD to budget, the expenditure of the expected Net Available Increment only to: (A) pay debt service due in the next Fiscal Year on any applicable Public Financing incurred or to be incurred to pay Qualified Project Costs; (B) repay the City for any Conditional City Increment used to pay debt service on IFD Debt for such IFD in the manner set forth in Section 3.5(d) and to the extent set forth in Section 3.3(e); and (C) finance Qualified Project Costs; and

(ii) allocate Net Available Increment as set forth in this Financing Plan, and cause the IFP to contain provisions for the IFD to apply any Net Available Increment it receives to the budgeted purposes, subject to the covenants of the applicable Indentures for IFD Debt and the Funding Goals.

(c) Purpose of Pledge. Developer and City shall cause the IFP for each IFD to require all Net Available Increment in each Fiscal Year to be used as provided in this Financing Plan, and City shall prepare its annual budget and cause the IFDs to prepare their annual budgets to reflect the required use of Net Available Increment under this Financing Plan. Qualified Project Costs that Developer incurs will be eligible for financing from the Funding Sources in each Fiscal Year until such Qualified Project Costs are financed in full.

(d) Use of Net Available Increment. For each IFD, the IFP will provide that, after first paying or setting aside amounts needed for debt service due on IFD Debt for such IFD secured by or payable from Net Available Increment during Fiscal Year, and then after repaying the City for any Conditional City Increment used to pay debt service on IFD Debt for such IFD as set forth in Section 3.3(e), the IFD will use all Net Available Increment to finance, or accumulate funds to finance, Developer's Qualified Project Costs pursuant to this Financing Plan. In addition, upon and as

allocated in Developer's written request, Authority will use all or any part of Net Available Increment to:

(i) pay debt service on other Public Financing to the extent it financed Qualified Project Costs; and

(ii) refund or defease before maturity a Public Financing that financed Qualified Project Costs.

3.6 Housing Costs.

(a) Housing Proceeds. For each IFD, City and Developer agree that the IFP will provide for a portion of the IFD Proceeds for such IFD in any Fiscal Year to be applied to finance the Housing Costs in the following manner:

(i) If, in the written opinion of bond counsel to the IFD, all Housing Costs are or become authorized to be financed by the IFD Law, then an amount calculated by multiplying the Net Available Increment in any Fiscal Year by the Housing Percentage shall be reserved and used by the IFD to pay for Housing Costs. Amounts reserved for Housing Costs may, at the written direction of Authority, (A) be transferred to Authority to be held in the Housing Fund and applied to pay Housing Costs, or (B) secure on a first lien basis the issuance of IFD Debt, the proceeds of which will be used to pay for Housing Costs; or

(ii) If, in the written opinion of bond counsel to the IFD, all Housing Costs are not authorized to be financed by the IFD Law, then, in paying any Payment Request authorized pursuant to the Acquisition and Reimbursement Agreement, City shall pay (A) to Authority on behalf of Developer from amounts that would otherwise be paid to Developer pursuant to the Payment Request for deposit in the Housing Fund an amount calculated by multiplying the amount being paid pursuant to the Payment Request by the Housing Percentage and (B) to Developer the balance of the amount being paid pursuant to the Payment Request. Amounts paid to Authority on behalf of Developer pursuant to this clause (ii) are not the proceeds of IFD Debt, but are funds that Developer is entitled to receive from the sale of Improvements pursuant to a Payment Request that Developer is agreeing to be applied on Housing Costs.

(b) Combination of Financing Housing Costs. If, in the written opinion of bond counsel to the IFD, a portion, but not the entirety, of the Housing Costs is or becomes authorized to be financed by the IFD Law, then Authority and Developer may provide for the financing of Housing Costs by some combination of subsections (a)(i) and (a)(ii) by providing written direction to each IFD as to the implementation and priority of clauses (a)(i) and (a)(ii) and the amount of the Housing Percentage to be applied to determine (A) the amount of Net Available Increment to be reserved for Housing Costs pursuant to clause (a)(i), and (B) the amounts payable from Payment Requests pursuant to clause (a)(ii).

3.7 Miscellaneous IFD Provisions

(a) Shortfall. Developer agrees to the following measures to avoid shortfalls in projected Net Available Increment for the Project.

(i) If, after an IFD issues any IFD Debt under this Financing Plan that is secured by a pledge of Net Available Increment, Developer initiates a proceeding under the California Revenue & Taxation Code (a "**Reassessment**") to reassess the value of the parcels then owned by Developer within an IFD for which such IFD Debt was issued (the "**Encumbered Parcels**"), that results in a decrease in ad valorem property taxes levied on the Encumbered Parcels, Developer must pay to City in a Fiscal Year the amount equal to: (A) the amount of ad valorem property taxes that would have been levied on the Encumbered Parcels in such Fiscal Year if the Reassessment had not occurred; less (B) the amount of ad valorem property taxes actually levied on the Encumbered Parcels in such Fiscal Year (the difference being the "**Additional Payments**"). The City shall allocate the Additional Payments received consistent with the IFP for such IFD.

(ii) Developer's obligation to make Additional Payments will begin in the Fiscal Year following the Reassessment and continue until the earlier of: (A) the date that the IFD Debt related to the Encumbered Parcels that is outstanding on the date of the Reassessment is repaid in full or defeased before maturity for any reason other than a refunding; or (B) the date that the amount of the Additional Payments is reduced to zero or less due to a subsequent reassessment of the Encumbered Parcels for any reason.

(iii) Developer and City intend for this Section 3.7(a) to apply to Public Financing payable or secured only by Net Available Increment, and not to any other Public Financing issued by Authority or the City. Developer's obligations under this Section 3.7(a) are not for the benefit of any CFD Bonds. Should the Tax Laws change, or the Internal Revenue Service or a court of competent jurisdiction issue a ruling that might cause any tax-exempt IFD Debt to be deemed taxable due to the requirements under clause (i) or (ii), City will release Developer from its obligations under this Section 3.7(a), and this Section 3.7(a) will be deemed severed from this Financing Plan under section 27.19 of the DDA.

(iv) Developer and City understand and agree that City would not be willing to enter into this Financing Plan without the agreement set forth in this Section 3.7(a).

(b) Reserve Fund Earnings. The Indenture for each issue of IFD Debt will provide that earnings on any reserve fund that are not then needed to replenish the reserve fund to the reserve requirement will be transferred to: (i) the IFD Debt Project Account for allowed uses until it is closed in accordance with the Indenture; then (ii) the debt service fund held by the Fiscal Agent under the Indenture.

(c) Material Changes to the IFD Act. The IFD Act is currently the subject of pending legislation, and it is likely that the IFD Act will be the subject of legislation in the next several years, including legislation promulgated by City and Developer. In the event of any change to the IFD Act that occurs after the Reference Date, City, Authority, and Developer shall meet and confer and negotiate in good faith any appropriate changes to this Financing Plan, the DDA, the City DA, and any existing IFD. In the event of any change to the IFD Act that occurs after the Reference Date that results in Increment other than Net Available Increment becoming available for allocation to an IFD, City may allocate such additional Increment to an IFD and may provide in the IFP for such IFD that such additional Increment may be used by the IFD as follows: (i) first, to finance Housing Costs and increase the then-effective Minimum Affordable Percentage in the manner set forth in Articles 3 and 9 of the Housing Plan and to finance additional Qualified Project Costs that are required to receive additional increment as a result of the change in the IFD Act; and (ii) second, to pay Qualified Project Costs.

(d) If at any time during the term of this Agreement the City reasonably concludes that the provisions of this Article III as it relates to the allocation by the City of Net Available Increment or the IFP of an IFD would violate applicable provisions of State law, or if a court of applicable jurisdiction concludes that the provisions of this Article III as it relates to the allocation by the City of Net Available Increment would or the IFP of any IFD does violate applicable provisions of State law, City and Developer shall meet and confer about available alternatives.

3.8 IFDs and Net Available Increment Upon Termination

(a) Notice of Termination. In the event that Authority terminates all or any portion of the DDA before the issuance of the last Certificate of Completion for the Project for any reason, Authority shall send City and each IFD a Termination Notice providing the details of the termination and whether or not the termination was due to a Selected Default.

(b) Formation of IFDs After Termination. Any IFD formed over any part of the Project Site for each Other Developer following receipt of a Termination Notice for a non-Selected Default shall authorize the financing of the Island Wide Costs of Developer in the IFP so that such Island Wide Costs of Developer may be financed as set forth in this Section 3.8. The IFD formed over any part of the Project Site for each Other Developer following receipt of a Termination Notice for a Selected Default shall have no such obligation.

(c) Non-Selected Defaults. The IFP for each IFD will provide that, in the event the Termination Notice indicates that the termination was for any reason other than a Selected Default, then from and after the date that such Termination Notice is received by City and each IFD, the IFD shall distribute the IFD Proceeds as follows:

(i) The IFD Proceeds generated from the property in the Project Site that Developer has previously acquired from Authority (regardless of current ownership of such property) shall be reserved for, and paid upon request by, Developer to finance Developer's Island Wide Costs until all Island Wide Costs incurred by Developer are fully financed by IFD Proceeds.

(ii) Fifty percent (50%) of the IFD Proceeds generated from Non-Developer Property ("**Termination Proceeds**") shall be reserved for, and paid upon request by, Developer to finance Developer's Island Wide Costs until all Island Wide Costs incurred by Developer are financed by such Termination Proceeds; provided, that such Termination Proceeds may not be applied to pay Pre-Development Costs except for Pre-Development Costs incurred prior to the Reference Date ("**Liquidated Pre-Agreement Costs**") and then only in the amount not to exceed five percent (5%) of such Termination Proceeds. Developer and City shall agree in writing on the amount of the Liquidated Pre-Agreement Costs within ninety (90) days following the Reference Date, and the amount of Liquidated Pre-Agreement Costs shall not include any return on such costs. If City and Developer do not agree in writing on the amount of the Liquidated Pre-Agreement Costs within such 90-day time period, City and Developer shall work in good faith to agree in writing on the amount of the Liquidated Pre-Agreement Costs as soon as practical thereafter; provided, however, that City shall have no obligation to initiate formation of an IFD until City and Developer have agreed in writing to the amount of the Liquidated Pre-Agreement Costs.

(iii) Upon the occurrence and during the continuance of a High IRR Period, Authority may provide a written notice to City and each IFD indicating that there is a High IRR Period. The IFP for each IFD shall provide that, notwithstanding anything in clause (ii), upon receipt of the written notice about the High IRR Period, the IFD will suspend distribution of IFD Proceeds to Developer pursuant to clause (ii). The IFP for each IFD shall also provide that, immediately upon the conclusion of a High IRR Period, Authority shall provide a written notice to City and each IFD indicating that the High IRR Period has ended, and immediately upon receipt of such written notice, the suspension shall end and the IFD shall resume making payments to Developer of IFD Proceeds pursuant to clause (ii).

(iv) Once all of Island Wide Costs incurred by Developer are financed with IFD Proceeds, or during any period of suspension, IFD Proceeds generated from Non-Developer Property shall be distributed as agreed to by the IFDs and Authority.

(d) Selected Defaults. The IFP for each IFD shall provide that, in the event the Termination Notice indicates that the termination was due to a Selected Default, then from and after the date that such Termination Notice is received by the IFD and the City, the IFD shall distribute the IFD Proceeds as follows:

(i) The IFD Proceeds generated from the property in the Project Site that Developer has previously acquired from Authority (regardless of current ownership of such property) shall be paid to Developer to finance Developer's Island

Wide Costs until all Island Wide Costs incurred by Developer are financed by IFD Proceeds.

(ii) All of the IFD Proceeds generated from Non-Developer Property shall be paid to each Other Developer of such other property to use exclusively to pay its respective Island Wide Costs.

(e) Definition of Categories of Island Wide Costs. As a condition of Approval for the Initial Major Phase Application, Authority, City and Developer shall have agreed in writing upon the categories of Island Wide Costs.

3.9 Net Available Increment Under Certain Situations

(a) Application During Higher IRR Period. Upon the occurrence and during the continuance of a Higher IRR Period, Authority may provide a written notice to City and each IFD indicating that there is a Higher IRR Period. For each IFD, the IFP shall provide that, upon receipt of the written notice about the Higher IRR Period, the IFD shall suspend distribution of Net Available Increment remaining after payment of debt service due on IFD Debt and any other Public Financing. For each IFD, the IFP shall provide that, immediately upon the conclusion of a Higher IRR Period, Authority shall provide a written notice to City and the IFD indicating that the Higher IRR Period has ended, and immediately upon receipt of such written notice, the suspension shall end and the IFD shall resume making payments to Developer of Net Available Increment in the manner set forth in this Financing Plan.

(b) Application in Event of Default. The IFP for each IFD shall provide that, upon the occurrence of and only for the duration of and to the extent of any default in Authority's payment of Initial Navy Consideration under the Conveyance Agreement which is caused by an Event of Default by Developer under the DDA, Authority may provide a written notice to City and the IFD indicating that an Event of Default has occurred, and the IFD shall suspend distribution of Net Available Increment remaining after payment of debt service due on IFD Debt and any other Public Financing until the Event of Default is cured. The IFP for each IFD shall provide that the IFD shall hold any Net Available Increment withheld from Developer for the account of the Navy until the Event of Default is cured. The IFP for each IFD shall provide that, immediately upon the curing of the Event of Default, Authority shall provide a written notice to City and the IFD indicating that the Event of Default has been cured, and immediately upon receipt of such written notice, the suspension shall end and the IFD shall resume making payments to Developer of Net Available Increment in the manner set forth in this Financing Plan.

(c) Use of Net Available Increment During Suspension Periods. The IFP for each IFD shall provide that, during any period that the application of Net Available Increment under this Financing Plan is suspended pursuant to Sections 3.8(c)(iii), 3.9(a), and 3.9(b), the IFD may, unless otherwise permitted by this Financing Plan, use such Net Available Increment on a pay-as-you-go basis only (i.e., such amounts may not be pledged to any indebtedness) to finance the following costs to the

extent allowed by the IFD Act and so long as such uses does not adversely affect the tax-exemption of the interest on any IFD Debt:

(i) Installment Payments then due and unpaid; then

(ii) Future Installment Payments by a deposit to the Navy Payment Escrow until such time as the amount in the Navy Payment Escrow is sufficient to pay all remaining unpaid Installment Payments; then

(iii) Payment of any Financial Obligations that would have been the obligation of Developer; then

(iv) In any combination. (A) facilities benefitting the Project or the Project Site; or (B) payment of the Housing Costs (including any affordable housing subsidy).

4. ALTERNATIVE FINANCING AND PUBLIC FINANCING GENERALLY

4.1 Alternative Financing

(a) Request for Alternative Financing. Authority acknowledges and agrees that other methods of Public Financing for Qualified Project Costs may be viable, become available, or become necessary due to a Change in Law that affects the Funding Sources: (i) before Developer's completion of the Infrastructure and Stormwater Management Controls; or (ii) before Developer's full reimbursement for Project Costs. These other methods may include any municipal debt financing vehicle then available under applicable law, including tax-exempt bonds, taxable bonds, tax-credit bonds, federal or State loans incurred by Authority, the City, or a joint powers authority for application towards Qualified Project Costs and secured by Net Available Increment or Project Special Taxes, or special assessments or fees on Taxable Parcels of commercial property in the Project Site through a community taxing district formed by City ordinance (collectively, "**Alternative Financing**"). Therefore, from time to time, so long as Developer's Project Costs have not been fully paid or reimbursed, Developer may submit a written request for Alternative Financing, describing:

(i) the Qualified Project Costs to be financed with the proceeds of the Alternative Financing;

(ii) if the Qualified Project Costs relate to construction, the Completion date or estimated Completion date for the related Infrastructure and Stormwater Management Controls;

(iii) if the Qualified Project Costs relate to construction, the then current construction schedule for any other improvements to be made by Developer; and

(iv) the Alternative Financing.

(b) Implementation. Following Developer's request for Alternative Financing, Developer and Authority will meet with appropriate Authority or City consultants as to the necessity, feasibility, amount, and timing of the proposed Alternative Financing. Neither the City nor Authority will be required to implement Alternative Financing that: (i) is not consistent with the Funding Goals or (ii) proposes to tax or assess Exempt Parcels.

(c) Financing.

(i) If an Alternative Financing contemplates the formation of a CFD and the pledge of Project Special Taxes, Developer may petition City, as applicable, to form one or more CFDs over the Project Site in the manner and subject to parameters and limitations that differ from CFDs formed pursuant to Section 2 so long as Developer agrees to such terms in writing. Any such Alternative Financing CFDs may overlap all or any of the CFDs formed pursuant to Section 2.

(ii) If an Alternative Financing contemplates the pledge of Net Available Increment, Developer and Authority may mutually agree to adjust the application of Net Available Increment to accomplish the Alternative Financing.

4.2 Formation and Issuance Alternatives

(a) Alternative Formation Entity. Developer and City may agree in writing that the Governmental Entity forming a CFD or an IFD may be other than City, so long as the formation of the CFD or IFD by the Governmental Entity is consistent with this Financing Plan and is allowed by the CFD Act or IFD Act, as applicable.

(b) Alternative Financing Mechanisms to Further Funding Goals. One of the Funding Goals of this Financing Plan is to maximize Funding Sources available to finance Qualified Project Costs. To achieve this Funding Goal, City and Developer acknowledge that it may be necessary or desirable to aggregate revenue sources from two or more IFDs or CFDs to support Public Financing through a financing mechanism other than the issuance of Public Financing by City or an IFD, including, but not limited to the issuance of revenue bonds or other indebtedness by another Governmental Entity (such as a local joint powers authority or a multiple-entity joint powers authority like CSCDA or ABAG) secured by CFD Bonds, IFD Debt, Project Special Taxes, and/or Net Available Increment. Developer and City will cooperate to evaluate and implement opportunities for such alternative financing mechanisms provided that such mechanisms further the Funding Goals and are consistent with this Financing Plan.

4.3 Grants

(a) Cooperation. Authority and Developer will work together to seek appropriate Project Grants for the Project.

(b) Authority Project Grants. Subject to the conditions in Project Grant documents and applicable law, Authority will use Project Grants it procures in the following order of priority: (i) first, to finance Project Costs that are not Qualified Project

Costs under clauses (a), (b), (c), and (e) of the definition of "Qualified" (but in no circumstances would it be used to pay for a return on Pre-Development Costs); (ii) second, to finance the Qualified Project Costs incurred in connection with the Parks and Open Space Plan; (iii) third, to finance the costs of purchasing ferry boats for use on the Project Site; and (iv) fourth, to finance any other Qualified Project Costs. At the election of Authority, up to 50% of the Project Grant funds may be used for costs that benefit the Project (but that are not Project Costs).

(c) Developer Project Grants. Subject to the conditions in Project Grant documents and applicable law, Developer will use Project Grants it procures to finance Project Costs.

4.4 Provisions Applicable To All Public Financings

(a) Acquisition and Reimbursement Agreement. Developer and City will execute the Acquisition and Reimbursement Agreement (with only such changes as may be Approved by Developer and City in their respective sole discretion) before the earlier of: (i) the date the first Developer Construction Obligation is Commenced; or (ii) the date of the first Sub-Phase Approval. The Acquisition and Reimbursement Agreement describes the procedures by which: (x) Developer will seek reimbursement of Qualified Project Costs and Authorized Payments; (y) City and Authority will inspect and accept Infrastructure and Stormwater Management Controls and other Improvements that Developer is required to construct under the DDA and City DA; and (z) City will approve Developer's Payment Requests. City will reimburse Developer for Qualified Project Costs and Authorized Payments with any combination of Funding Sources then available for City's use, subject to any priority established in the Acquisition and Reimbursement Agreement. City will acquire the Infrastructure, Stormwater Management Controls, and other Improvements from Developer in accordance with, and subject to the limitations set forth in, the Acquisition and Reimbursement Agreement and applicable Supplements. Developer acknowledges that it must satisfy the conditions set forth in the Acquisition and Reimbursement Agreement as a condition to receiving reimbursement for any Authorized Payments or Qualified Project Costs.

(b) Financing Temporarily Excused. City and each IFD will be authorized to temporarily suspend the issuance of any Public Financing (and Authority will not be obligated to provide Project Grant proceeds if clause (i), (ii), or (iii) applies), and neither Authority nor the City will be obligated to issue any Alternative Financing, to finance Qualified Project Costs during the time in which:

(i) Developer is in default in the payment of any ad valorem tax or Project Special Taxes levied on any Taxable Parcel it then owns in the Project Site;

(ii) Developer is in Material Breach under the DDA;

(iii) Developer fails to cooperate reasonably with Authority or the City as necessary to implement Public Financing consistent with this Financing Plan;

(iv) in the judgment of Authority, City, or an IFD, as applicable, after consultation with Developer, and based upon the Funding Goals and advice of Authority or City staff and consultants, market conditions or conditions affecting the property in the Project Site (such as tax delinquencies, assessment appeals, damage or destruction of improvements, or litigation) make it fiscally imprudent or infeasible to incur the requested indebtedness at the time; or

(v) the First Tranche CFD Bond or IFD Debt underwriter (the "**Underwriter**") for any bond issue exercises any right to cancel its obligation to purchase the First Tranche CFD Bonds or IFD Debt during the occurrence and continuation of events specified in its bond purchase agreement ("**Underwriter Force Majeure**").

(c) Developer Financing Costs. Developer will not be entitled to reimbursements from any Public Financing for its financing costs (consisting of interest carry and lender fees) for any Infrastructure and Stormwater Management Controls construction financing:

(i) to the extent that the costs are commercially unreasonable as of the date that the payment obligation was incurred;

(ii) while Developer is in default in the payment of any ad valorem taxes or Project Special Taxes levied on any of the Taxable Parcels it then owns or while Developer is in Material Breach under the DDA; or

(iii) if the costs arise more than ninety (90) days after the later to occur of: (A) the date on which City has found the related Infrastructure and Stormwater Management Controls to be Complete under the Acquisition and Reimbursement Agreement; and (B) Developer has been reimbursed fully for the related Qualified Project Costs from Funding Sources.

(d) Continuing Disclosure. Developer must comply with all of its obligations under any continuing disclosure agreement it executes in connection with the offering and sale of any Public Financing. Developer acknowledges that a condition to the issuance of any Public Financing may be Developer's execution of a continuing disclosure agreement.

(e) Qualified Pre-Development Costs. To the extent required, (i) each CFD and IFD will be authorized at formation to finance the Qualified Pre-Development Costs and (ii) the payment of the Qualified Pre-Development Costs (which do not include any return on such Pre-Development Costs) will be budgeted in the same manner as Qualified Project Costs in Section 3.5.

4.5 Terms of the Public Financings

(a) Meet and Confer. City staff and consultants will meet and confer with Developer before the sale of any Public Financing to discuss the terms of any proposed debt issue, but City and each IFD, as applicable, will determine the final

terms in their reasonable discretion in light of the Funding Goals and subject to this Financing Plan. City will not, and the IFP for each IFD will provide that an IFD will not, enter into any Indenture for any form of Public Financing that is not bonded indebtedness, if the indebtedness must be secured by or repaid with Net Available Increment or Project Special Taxes without Developer's express written consent, which may be granted or withheld based on all relevant factors, including the timing and availability of funds, credit enhancement requirements, applicable interest rate and other repayment terms, and other conditions to the proposed indebtedness.

(b) Credit Enhancement. Any Developer credit enhancements for Public Financing must be without recourse to the City's General Fund or Authority's general funds or other assets (other than Net Available Increment to the extent pledged to the payment of Public Financing obligations). Any financial institution issuing a credit enhancement must have a rating of at least "A" from Moody's Investor's Service Inc. or Standard & Poor's Rating Service, or the equivalent rating from any successor rating agency mutually acceptable to Developer and City, on the date of issuance and at any later credit renewal date. Developer must provide substitute credit enhancements for any credit enhancement that does not meet this rating standard on a credit renewal date. If the fees (and replenishment of any draw or other use of the collateral for the obligation it secures) for any Developer credit enhancements will be reimbursable from funds other than Developer funds, they may be reimbursed from Project Special Taxes or Net Available Increment, as applicable, on a basis subordinate to any debt service and other annual costs for any related outstanding Public Financing.

(c) Tax-Exempt or Taxable. Developer and City shall cooperate, and the IFP for each IFD shall provide that the IFD will cooperate with Developer, to maximize the tax-exempt treatment of any Public Financing, but Developer and City or an IFD, as applicable, may agree to issue taxable Public Financings.

(d) No Other Land-Secured Financings. Other than the CFDs and the IFDs, City shall not to form any additional land-secured financing district or any district that pledges Increment over any portion of the property in the Project Site without Developer's Approval in its sole discretion.

4.6 Reimbursements for Qualified Project Costs

(a) Limited Reimbursement. Developer, City, and Authority acknowledge that:

(i) Developer is agreeing to pay for the Project Costs with the expectation that Developer will be reimbursed to the extent and in the manner set forth in this Financing Plan and the Acquisition and Reimbursement Agreement, subject to applicable laws and any financing instruments;

(ii) Developer may be required to begin paying Project Costs before Funding Sources to reimburse Developer are available;

(iii) Developer will be reimbursed for Qualified Project Costs and paid Authorized Payments in any number of installments as Funding Sources become available in accordance with this Financing Plan and the Acquisition and Reimbursement Agreement, with any unpaid balance deferred as long as necessary (subject to limitations on Funding Sources under applicable laws and financing instruments), until Funding Sources become available;

(iv) Developer's payment of Project Costs before the availability of Funding Sources to reimburse Qualified Project Costs is not a dedication or gift, or a waiver of Developer's right to reimbursement for Qualified Project Costs under this Financing Plan; and

(v) Funding Sources may not be sufficient to pay all of Developer's Qualified Project Costs and Authorized Payments.

(b) Acquisition of Infrastructure and Stormwater Management Controls. Developer, City, and Authority acknowledge that:

(i) Developer may be constructing Infrastructure and Stormwater Management Controls before Funding Sources that will be used to acquire it are available;

(ii) The Department of Public Works will inspect Infrastructure and Stormwater Management Controls and other Improvements and process Payment Requests even if Funding Sources for the amount of pending Payment Requests are not then sufficient to satisfy them in full;

(iii) Infrastructure and Stormwater Management Controls may be conveyed to and accepted by the City, Authority, or other Governmental Entity before the applicable Payment Requests are paid in full;

(iv) If the City, Authority, or other Governmental Entity accepts Infrastructure and Stormwater Management Controls before the applicable Payment Requests are paid in full, the unpaid balance will be paid when sufficient Funding Sources become available, and the Acquisition and Reimbursement Agreement will provide that the applicable Payment Requests for Infrastructure and Stormwater Management Controls accepted by the City, Authority, or other Governmental Entity may be paid: (A) in any number of installments as Funding Sources become available; and (B) irrespective of the length of time payment is deferred; and

(v) Developer's conveyance or dedication of Infrastructure and Stormwater Management Controls to the City, Authority, or other Governmental Entity before the availability of Funding Sources to acquire the Infrastructure and Stormwater Management Controls is not a dedication or gift, or a waiver of Developer's right to payment of Qualified Project Costs under this Financing Plan.

5. POLICE, FIRE STATION AND PUBLIC PARKING FINANCING

5.1 Request for Financing From City

(a) Lease Revenue Bonds. City agrees to consider Developer's request for financing certain Infrastructure and Stormwater Management Controls, including but not limited to the fire and police station and the public parking garages, with certificates of participation or lease revenue bonds, with the related lease payments to be reimbursed and paid from Funding Sources when available and the certificates of participation or lease revenue bonds to be refinanced with a Public Financing when feasible. Developer and Authority acknowledge that the City shall have no obligation to provide any such certificate of participation or lease revenue bond financing.

6. MISCELLANEOUS PROVISIONS

6.1 Interim Lease Revenues

(a) Distribution of Interim Lease Revenues. Interim Lease Revenues shall be collected by Authority, and distributed according to the following priorities:

(i) Through each Fiscal Year, Authority will use the Interim Lease Revenues to pay Authority Costs that the Authority has incurred and that have not been previously reimbursed; then

(ii) On June 30 of each Fiscal Year, Authority will apply any remaining Interim Lease Revenues to any Installment Payment then due and unpaid; then

(iii) On June 30 of each Fiscal Year, Authority will apply any remaining Interim Lease Revenues to the Navy Payment Escrow until such time as the amount in the Navy Payment Escrow is sufficient to pay all remaining unpaid Installment Payments; then

(iv) On June 30 of each Fiscal Year, Authority will either (i) transfer to Developer any remaining Interim Lease Revenues (the "**Net Interim Lease Revenues**"), if authorized; provided, however, that Developer shall only use the Net Interim Lease Revenues for Qualified Project Costs, or (ii) expend the Net Interim Lease Revenues on Qualified Project Costs at the direction of Developer. In either case, Developer will treat such Net Interim Lease Revenues as Gross Revenues.

(b) Material Default. Subject to the previous paragraph, all distributions of Net Interim Lease Revenues to Developer under Section 6.1(a)(iv) shall be withheld for the benefit of the Authority upon the occurrence of and for the duration of any Material Default under the DDA and may be applied by the Authority to any of its payment obligations with respect to the Project, including, but not limited to, payment of Initial Navy Consideration and Additional Consideration, construction of Infrastructure and Stormwater Management Controls if the security provided by

Developer is not sufficient for that purpose, payment of the affordable housing subsidy, payment of Authority Costs, and any other Financial Obligations that otherwise would have been the obligation of Developer.

6.2 Marina Revenues

(a) Use of Marina Revenues. Marina Revenues shall be used by Authority to pay Authority Costs.

(b) Interim Lease Revenues To the extent that any Marina Revenues are considered Interim Lease Revenues, those Marina Revenues shall be used to pay Authority Costs under Section 6.1(a)(i).

6.3 Key Money

(a) Sale of Project Site Property. In the event that (i) Authority terminates all or any portion of the DDA before the issuance of the last Certificate of Completion for the Project for any reason other than a Selected Default and (ii) Authority sells all or any part of the Project Site included in the termination that Authority did not otherwise convey to Developer (the "**Unconveyed Property**") or enters into an agreement with respect to the Unconveyed Property for which compensation is paid to Authority, then, through the escrow for the sale of such Unconveyed Property or upon receipt of any other compensation relating to such Unconveyed Property, Authority shall pay to Developer the Net Sale Proceeds associated with such Unconveyed Property until the Deficit is paid in full.

(b) Deficit. For purposes of this Section 6.3, the term "**Deficit**" shall mean the amount calculated pursuant to the following formula so long as such amount is greater than $0:

(Installment Payments actually paid by Developer)

minus

(Acreage Percentage Acquired x Total Installment Payments)

7. INTERPRETATION; DEFINITIONS

7.1 Interpretation of Agreement

(a) DDA and City DA. This Financing Plan is a part of the DDA and the City DA and is subject to all of its general terms, including the rules of interpretation.

(b) Inconsistent Provisions. Developer, City, and Authority intend for this Financing Plan to prevail over any inconsistent provisions relating to the financing structure for the Project and their respective financing-related obligations in any other document related to the Project.

7.2 Defined Terms

(a) Definitions. The following terms have the meanings given to them below or are defined where indicated.

"**Accounting**" means a complete accounting and computations setting forth the basis of each Additional Consideration to be paid, including the Gross Revenues and Development Costs for the relevant determination period, together with a narrative description of the methodology employed to calculate each Additional Consideration payment to be due for the relevant period.

"**Acquisition and Reimbursement Agreement**" means the agreement between Developer and City governing the terms of City's acquisition of Infrastructure and Stormwater Management Controls and reimbursement of Qualified Project Costs, in the form attached to this Financing Plan as Attachment A, as the same may be modified or amended from time to time.

"**Acreage Percentage Acquired**" means the percentage calculated by dividing (i) the cumulative total amount of acreage of the Market Rate Lots acquired by Developer from Authority by (ii) the cumulative total amount of acreage of Market Rate Lots programmed on lands conveyed by the Navy to Authority.

"**Additional Community Facilities**" means any public facilities that are contemplated to be financed by City with Second Tranche CFD Bonds and Remainder Taxes under applicable law and in the manner set forth in this Financing Plan, and shall include but not be limited to the Future Sea Level Rise Improvements.

"**Additional Consideration**" means the First Tier Payments and the Second Tier Payments.

"**Additional Payments**" is defined in Section 3.7(a)(i).

"**Adequate Security**" is defined in the DDA.

"**Affiliate**" is defined in the DDA.

"**Alternative Financing**" is defined in Section 4.1(a).

"**Annual Report**" is defined in Section 1.6(a).

"**Approval**" and any variation thereof (such as "**Approved**" or "**Approve**") is defined in the DDA.

"**Assigned Project Special Tax Rate**" is defined in Section 2.3(d).

"**Authority**" means the Treasure Island Development Authority.

"**Authority Board**" is defined in the DDA.

"**Authority Consideration**" means, collectively, the Authority Second Tier Payments and the Authority Third Tier Payments.

"**Authority Cost Payment**" is defined in the Conveyance Agreement.

"**Authority Costs**" is defined in the DDA.

"**Authority Second Tier Payment**" is defined in Section 1.3(c)(iii).

"**Authority Third Tier Payment**" is defined in Section 1.3(c)(iv).

"**Authorized Payments**" is defined in the Acquisition and Reimbursement Agreement.

"**Backup Project Special Tax Rate**" is defined in Section 2.3(g).

"**Board of Supervisors**" is defined in the DDA.

"**Building**" means any structure to be constructed within a CFD, including structures that contain Taxable Residential Units, commercial, industrial, science and technology, research and development, and office uses.

"**Cash Flow Distribution Termination Date**" means the date on which there are no longer any Gross Revenues generated by the Project.

"**Certificate of Completion**" is defined in the DDA.

"**CFD**" means (i) a community facilities district formed over all or any part of the Project Site that is established under the CFD Act to finance Qualified Project Costs and Additional Community Facilities, or (ii) if designated, an Improvement Area within a community facilities district formed over all or any part of the Project Site, which Improvement Area has been designated under the CFD Act to finance Qualified Project Costs and Additional Community Facilities.

"**CFD Act**" means the Mello-Roos Community Facilities Act of 1982 (Government Code § 53311 et seq.), as amended from time to time.

"**CFD Bonds**" means one or more series of bonds (including refunding bonds) secured by the levy of Project Special Taxes in a CFD, including First Tranche CFD Bonds and Second Tranche CFD Bonds.

"**CFD Bonds Project Account**" means the funds or accounts, however denominated, held by the Fiscal Agent under an Indenture containing the Net CFD

Proceeds to be used to finance Qualified Project Costs and, when authorized pursuant to Section 2.8, Additional Community Facilities.

"**CFD Conversion Date**" means, calculated separately for each CFD, the earliest to occur of (i) the date that all Qualified Project Costs have been paid or reimbursed to Developer for the Project as a whole, or (ii) the date that is forty-two (42) years after the issuance of the first series of First Tranche CFD Bonds in such CFD.

"**CFD Goals**" means, subject to Section 2.6(g), City's Local Goals and Policies for Mello-Roos Community Facilities Districts, approved by Resolution No. 387-09, adopted on October 6, 2009, and as thereafter amended from time to time.

"**Change in Law**" means legislation enacted by the Congress of the United States or by the legislature of the State, or the enactment of a regulation or statute by any Governmental Entity (other than City or Authority or any related entities) with jurisdiction over City or Authority.

"**Change Proceedings**" means proceedings under section 53332 of the CFD Act initiated by Developer's petition.

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

"**City DA**" means the Development Agreement by and between City and Developer relative to Naval Station Treasure Island.

"**City's General Fund**" means the City's general operating fund, into which taxes are deposited, excluding dedicated revenue sources for certain municipal services, capital projects, and debt service.

"**Commence**" is defined in the DDA.

"**Complete**" (or its variant "**Completion**") is defined in the DDA.

"**Conditional City Increment**" means, for each IFD, the amount allocated by the City on a conditional basis to such IFD for the purposes described in Section 3.3(e), which shall be equal to $0.08 of every dollar of Increment (which amount will come from Increment that would have otherwise been allocated to City).

"**Conditional Maintenance Tax**" shall mean a special tax that may be levied under an RMA only upon the occurrence of a Maintenance Default and only in the manner and in the amount set forth in Section 2.7(f).

"**Conveyance Agreement**" is defined in the DDA.

"**CPA**" means an independent certified public accounting firm Approved by Authority and Developer.

"**DDA**" means that certain Disposition and Development Agreement (Treasure Island/Yerba Buena Island) to which this Financing Plan is attached.

"**Default Interest Rate**" means an interest rate of three hundred (300) basis points above the Interest Rate.

"**Deficit**" is defined in Section 6.3(b).

"**Department of Public Works**" is defined in the DDA.

"**Developed Property**" means, in any Fiscal Year, an assessor's parcel of Taxable Property included in a recorded final subdivision map before January 1 of the preceding Fiscal Year, and for which a building permit has been issued before May 1 of the preceding Fiscal Year.

"**Developer**" is defined in the DDA.

"**Developer Construction Obligations**" means, to the extent required under the DDA in connection with the Project, Developer's obligation to construct or cause the construction of the Project in accordance with the Schedule of Performance, including: (a) the Infrastructure and Stormwater Management Controls; (b) Improvements pursuant to the Parks and Open Space Plan; and (c) Required Improvements.

"**Developer Fiscal Year**" means the fiscal year period for Developer, which currently commences on December 1 of any year and ends on the following November 30.

"**Developer Maintenance Payment**" means the payment made by Developer to pay for Ongoing Park Maintenance, subject to the limitations set forth in Section 2.7(d).

"**Development Costs**" means all Hard Costs, Soft Costs, and Pre-Development Costs, except to the extent specifically excluded under the Conveyance Agreement and specifically excluding any costs, fees or charges related to debt financing that are not also Permissible Financing Costs.

"**Encumbered Parcels**" is defined in Section 3.7(a)(i).

"**Entitlement**" is defined in the Conveyance Agreement.

"**Estimated Maintenance Cost**" means the estimated costs of the Ongoing Park Maintenance for a Maintenance Period, as determined pursuant to Section 2.7(a).

"**Event of Default**" is defined in the DDA.

"**Excess Land Appreciation Structure**" is defined in the Conveyance Agreement.

"**Exempt Parcel**" means the Public Property. Exempt Parcel does not include an assessor's parcel that, immediately prior to the acquisition by City, Authority, or other Governmental Entity, was a Taxable Parcel that Authority, City, or any other Governmental Entity acquires by gift, devise, negotiated transaction, or foreclosure (including by way of credit bidding), or an assessor's parcel that, immediately prior to the acquisition by Authority, was a Taxable Parcel that Authority acquires under its right of reverter under the DDA.

"**Final Conveyance Agreement IRR**" is defined in Section 1.3(e)(i).

"**Final Conveyance Agreement IRR Statement**" is defined in Section 1.3(e)(i).

"**Final IRR**" is defined in Section 1.3(f).

"**Final IRR Statement**" is defined in Section 1.3(f).

"**Financial Obligations**" is defined in the DDA.

"**Financing Plan**" means this Financing Plan.

"**First Tier Compensation**" is defined in Section 1.3(c)(ii).

"**First Tier Payment**" is defined in Section 1.3(c)(ii).

"**First Tranche**" means, calculated separately for each CFD, one or more series of CFD Bonds (including refunding bonds) issued prior to the applicable CFD Conversion Date and secured by the levy of Project Special Taxes in such CFD, the proceeds of which City is obligated under this Financing Plan to use to finance Qualified Project Costs.

"**Fiscal Agent**" means the fiscal agent or trustee under an Indenture.

"**Fiscal Year**" means the period commencing on July 1 of any year and ending on the following June 30.

"**FOST Parcel**" is defined in the Conveyance Agreement.

"**Funding Goals**" is defined in Section 1.1(a).

"**Funding Sources**" is defined in Section 1.2(a).

"**Future Sea Level Rise Improvements**" is defined in Section 2.8(e).

"**GAAP**" means generally accepted accounting principals.

"**Governmental Entity**" is defined in the DDA.

"**Gross Revenues**" means, for any period, all cash revenues received by Developer from any source whatsoever, and whether collected through or outside of escrow in connection with all or any part of the Project, in each case for such period, which shall include, the gross proceeds of sale or transfer of the Lots or any portion thereof, rents or other payments paid to Developer as the master landlord under any ground lease or as a property manager under an interim management agreement with Authority for existing facilities and open space, including any of Authority's revenues assigned to Developer pursuant to the DDA (which assignment may exclude revenues of Authority that are used to pay for Authority's costs and expenses that are not included in Authority Cost Payment pursuant to the DDA); proceeds from the first sale of ground leases or refinancing intended to capitalize ground value; any damage recoveries, insurance payments or condemnation proceeds payable to Developer with respect to the Project to the extent not otherwise used for repair or reconstruction of the Property, all revenues derived from agreements to which Developer is a party pursuant to which Developer participates in the proceeds of the operation or sale of any portion of the Property sold to a Vertical Builder, amounts paid to Developer from the proceeds of any assessment or special tax districts formed for purposes of providing funds for costs associated with the Project, and amounts paid to Developer from tax increment financing or other public financing, and grants and tax credits to reimburse Developer for Infrastructure and Stormwater Management Controls or other qualifying costs. Gross Revenues shall specifically exclude the proceeds of any capital contributed to Developer by its partners or members or the proceeds of any loan made to Developer. Gross Revenues includes Net Interim Lease Revenues to the extent provided in Section 6.1(a)(iii).

"**Hard Costs**" is defined in the Conveyance Agreement.

"**High IRR Period**" means the time period (i) commencing on the date that an IRR Statement shows that Developer has achieved a cumulative IRR in excess of 15% as of the end of the final Quarter of the applicable Reporting Period considering all First Tier Payments, Second Tier Payments, and Authority Second Tier Payments and (ii) ending on the date that a subsequent IRR Statement shows that Developer's cumulative IRR as of the end of the final Quarter of the applicable Reporting Period, considering all First Tier Payments, Second Tier Payments, and Authority Second Tier Payments, is 15% or below.

"**Higher IRR Period**" means the time period (i) commencing on the date that an IRR Statement shows that Developer has achieved a cumulative IRR in excess of 25% as of the end of the final Quarter of the applicable Reporting Period considering all First Tier Payments, Second Tier Payments, and Authority Second Tier Payments and (ii) ending on the date that a subsequent IRR Statement shows that Developer's cumulative IRR as of the end of the final Quarter of the applicable Reporting Period, considering all First Tier Payments, Second Tier Payments, and Authority Second Tier Payments, is 25% or below.

"**Housing Amounts**" means the amounts transferred to Authority for purposes of paying the Housing Costs under Section 3.6.

"**Housing Costs**" means the costs incurred by Authority to increase, improve, and preserve the City's supply of housing for persons and families of very low-, low-, or moderate-income pursuant to the Housing Plan.

"**Housing Fund**" means a fund created by Authority for holding the Housing Amounts and applying such Housing Amounts on Housing Costs.

"**Housing Percentage**" means, for each IFD, 17.5%.

"**Housing Plan**" is defined in the DDA.

"**IFD**" means (i) an infrastructure financing district formed over all or any part of the Project Site that is established under the IFD Act to finance Qualified Project Costs, or (ii) if authorized under the IFD Act, a Project Area within an infrastructure financing district formed over all or any part of the Project Site, which Project Area has been designated under the IFD Act to finance Qualified Project Costs.

"**IFD Act**" means the Infrastructure Financing District Act (Government Code § 53395 et seq.), as amended from time to time.

"**IFD Debt**" means any bonded indebtedness that an IFD or other Governmental Entity incurs to finance Qualified Project Costs that is secured by a pledge of Net Available Increment, but not including CFD Bonds.

"**IFD Debt Project Account**" means the funds or accounts, however denominated, held by the Fiscal Agent under an Indenture containing the net proceeds of IFD Debt to be used to finance Qualified Project Costs.

"**IFD Proceeds**" means, in any Fiscal Year, for an IFD, the cumulative amount of (i) the proceeds of IFD Debt for such IFD and (ii) the Net Available Increment generated in such Fiscal Year that are not used to (A) pay debt service on any IFD Debt for such IFD and (B) repay the City for any Conditional City Increment used to pay IFD Debt for such IFD in the manner set forth in Section 3.5(d) and to the extent set forth in Section 3.3(e).

"**IFP**" means an infrastructure financing plan required for each IFD under the IFD Act.

"**Improvement Area**" means an improvement area within a community facilities district designated pursuant to section 53350 of the CFD Act.

"**Improvements**" is defined in the DDA.

"**Inclusionary Units**" is defined in the Housing Plan.

"**Increment**" means, within an IFD, the tax increment revenues generated from the property within such IFD from and after the base year established for such IFD.

"**Indenture**" means one or more indentures, trust agreements, fiscal agent agreements, financing agreements, or other documents containing the terms of any indebtedness that is secured by a pledge of and to be paid from Net Available Increment or Project Special Taxes.

"**Index**" is defined in the DDA.

"**Infrastructure**" is defined in the DDA.

"**Infrastructure Plan**" is defined in the DDA.

"**Initial Closing**" means the date on which the first conveyance of the FOST Parcel by Quitclaim Deed from the Navy to Authority occurs in accordance with Article 3 of the Conveyance Agreement.

"**Initial Consideration Term**" means a term of ten (10) years (as such term may be extended pursuant to Section 4.2.2 of the Conveyance Agreement).

"**Initial Major Phase**" is defined in the DDA.

"**Initial Major Phase Application**" is defined in the DDA.

"**Initial Navy Consideration**" means the initial consideration to the Navy for acquisition of the Project Site, including the principal amount of $55 million and all interest payable to the Navy on the unpaid principal amount.

"**Installment Payment**" is defined in the Conveyance Agreement.

"**Interagency Cooperation Agreement**" means that certain Interagency Cooperation Agreement, by and between the City and Authority, as amended from time to time.

"**Interest Rate**" is defined in the Conveyance Agreement.

"**Interim Lease Revenues**" means all cash, notes, or other monetary consideration of any kind paid to the Authority under the Interim Leases.

"**Interim Leases**" means leases under which Authority is the lessor encumbering land in the Project Site during the time such land is leased to or owned by Authority.

"**IRR**" means the internal rate of return, annualized, calculated on the Project's Net Cash Flow by the Excel 2007 "IRR" function using quarterly Net Cash Flows. The Project's Net Cash Flow shall be adjusted to show all costs incurred in the quarter paid and all revenues in the quarter received, provided that Pre-Development Costs are applied as of the Initial Closing. An example of the IRR calculation is attached to the Conveyance Agreement as Exhibit DD.

"**IRR Statement**" is defined in Section 1.3(b).

"**Island Wide Costs**" shall mean the Qualified Project Costs that benefit the Project Site as a whole; for illustration purposes, the categories of Qualified Project Costs that the parties anticipate will constitute Island Wide Costs (further due diligence is required before it will be possible to precisely define Qualified Project Costs; the parties have agreed in Section 3.8(e) to define the categories of Qualified Project Costs that constitute Island Wide Costs) are listed in Attachment B hereto.

"**Liquidated Pre-Agreement Costs**" is defined in Section 3.8(c)(ii).

"**Lot**" is defined in the DDA.

"**Maintenance Account Balance**" is defined in Section 2.7(e).

"**Maintenance Budget**" is defined in Section 2.7(b).

"**Maintenance Commencement Date**" means the date that the first park owned by the Authority is completed and open to the public.

"**Maintenance Default**" is defined in Section 2.7(f).

"**Maintenance Period**" means, in each year, the one-year period commencing July 1 and ending on June 30.

"**Major Phase**" is defined in the DDA.

"**Major Phase Approval**" is defined in the DDA.

"**Marina Revenues**" is defined in the DDA.

"**Market Rate Lots**" is defined in the Conveyance Agreement.

"**Market Rate Unit**" is defined in the Housing Plan.

"**Material Breach**" is defined in the DDA.

"**Maximum Annual Developer Contribution**" is defined in Section 2.7(d).

"**Maximum Project Special Tax Rate**" is defined in Section 2.3(g).

"**Minimum Affordable Percentage**" is defined in the Housing Plan.

"**Navy**" is defined in the DDA.

"**Navy Payment Escrow**" means an escrow created by Authority to hold Interim Lease Revenues to be used solely to pay Installment Payments (principal plus interest at the Interest Rate).

"**Navy Promissory Note**" is described in Section 4.2.6 of the Conveyance Agreement.

"**Net Available Increment**" means, for each IFD, $0.567 of every dollar of Increment (which amount will come from Increment that would have otherwise been allocated to City). Net Available Increment does not include Conditional City Increment.

"**Net Cash Flow**" means Gross Revenues received by Developer from the Project less Development Costs paid by Developer.

"**Net CFD Proceeds**" means the proceeds of CFD Bonds that are available or used to pay for Qualified Project Costs directly or by reimbursements to Developer and, when authorized pursuant to Section 2.6, to pay for the costs of Additional Community Facilities.

"**Net Interim Lease Revenues**" is defined in Section 6.1(a)(iv).

"**Net Sale Proceeds**" means the proceeds from the sale of Unconveyed Property by Authority or the compensation paid to Authority with respect to the sale of such Unconveyed Property, less the costs of the Authority associated with the marketing and sale of such Unconveyed Property.

"**Non-Developer Property**" means, collectively, the property in the Project Site (i) that was never acquired by Developer from Authority or (ii) that was reacquired by Authority through reverter.

"**Official Records**" is defined in the DDA.

"**Ongoing Maintenance Account**" means a separate account created by Authority and maintained by Authority to hold all Remainder Taxes transferred from the Remainder Taxes Holding Account pursuant to Section 2.7 to be used for financing Ongoing Park Maintenance during the applicable Maintenance Period.

"**Ongoing Park Maintenance**" means the costs of operating and maintaining Improvements constructed pursuant to the Parks and Open Space Plan within the Project Site, including installing landscaping, all personnel or third-party maintenance costs, costs of maintaining irrigation systems and other equipment directly related to maintenance, maintenance or replacement as needed of landscape areas, water

features, bathrooms, trash receptacles, park benches, planting containers, picnic tables, and other equipment or fixtures installed in areas to be maintained, insurance costs, and any other related overhead costs, along with Authority personnel, administrative, and overhead costs related to maintenance or to contracting for and managing third-party maintenance.

"**Other Developer**" is defined in Section 1.4(a)(i).

"**Other Taxing Agencies**" means governmental taxing agencies or other entities that receive Increment and are authorized by the IFD Act or such other law to allocate or subordinate increment to an IFD.

"**Parks and Open Space Plan**" is defined in the DDA.

"**Payment Request**" is defined in the Acquisition and Reimbursement Agreement.

"**Permissible Financing Cost**" is defined in the Conveyance Agreement.

"**Person**" is defined in the DDA.

"**Pre-Development Costs**" is defined in the Conveyance Agreement.

"**Principal Payment Date**" means, (i) if CFD Bonds have not yet been issued for a CFD, September 1 of each year, and (ii) if CFD Bonds have been issued for a CFD, the calendar date on which principal or sinking fund payments on such CFD Bonds are, in any year, payable (for example, if the principal amount of CFD Bonds are payable on September 1, the Principal Payment Date shall be September 1, regardless of whether principal payments are actually due in any particular year).

"**Project**" is defined in the DDA.

"**Project Account**" is defined in Section 1.1(c)(i).

"**Project Area**" means a separately designated project area within the boundaries of an IFD, as permitted by the IFD Act.

"**Project Costs**" means, without duplication: (a) Development Costs; (b) Initial Navy Consideration; (c) Pre-Development Costs; and (d) any other amounts specifically identified in the DDA as a Project Cost.

"**Project Grants**" means State and federal funding.

"**Project Site**" is defined in the DDA.

"**Project Special Taxes**" means special taxes authorized to be levied in a CFD under the CFD Act, including all delinquent Project Special Taxes collected at any time by payment or through foreclosure proceeds.

"**Promissory Note**" is defined in the Conveyance Agreement.

"**Public Financing**" means, individually or collectively as the context requires, CFD Bonds, IFD Debt, and Alternative Financing.

"**Public Property**" is defined in the DDA.

"**Public Trust Parcels**" is defined in the DDA.

"**Qualified**" when used in reference to Project Costs, Pre-Development Costs, and other capital public facility costs, means: (a) with respect to a CFD, the Project Costs, the Pre-Development Costs (excluding any return on such Pre-Development Costs), and other authorized capital public facility costs, each to the extent authorized to be financed under the CFD Act, Tax Laws (if applicable), and this Financing Plan; (b) with respect to financing from Net Available Increment or IFD Debt, the Project Costs and the Pre-Development Costs (excluding any return on such Pre-Development Costs), each to the extent authorized to be financed under the IFD Act, Tax Laws (if applicable), and this Financing Plan; (c) with respect to an Alternative Financing, the Project Costs and the Pre-Development Costs (excluding any return on such Pre-Development Costs), each to the extent authorized to be financed under the laws governing the Alternative Financing, Tax Laws (if applicable), and this Financing Plan; (d) with respect to Project Grants, the Project Costs, the Pre-Development Costs (excluding any return on such Pre-Development Costs), and other authorized capital public facility costs, each to the extent authorized to be financed under the terms of the Project Grant and this Financing Plan; and (e) with respect to Net Interim Lease Revenues, the Project Costs not including any Pre-Development Costs.

"**Quarter**" means a three-month period commencing on the first day of the Initial Closing and continuing until the Termination Date of the Conveyance Agreement.

"**Reassessment**" is defined in Section 3.7(a)(i).

"**Records**" is defined in Section 1.6(b).

"**Redesign Costs**" means the anticipated costs necessary to prepare, entitle and implement the Redesign Plan.

"**Redesign Plan**" means an Authority plan to re-entitle, redesign and rebuild portions of the Project.

"**Reference Date**" is defined in the DDA.

"**Remainder Taxes**" means, in each year, as of the day following the Principal Payment Date for a CFD, all Project Special Taxes collected prior to such date in such CFD in excess of the total of: (a) debt service on the outstanding CFD Bonds for the applicable CFD due in the current calendar year, if any; (b) priority and any other reasonable administrative costs for the applicable CFD payable in that Fiscal Year; and (c) amounts levied to replenish the applicable reserve fund as of the Principal Payment Date, including amounts reserved for reasonable anticipated delinquencies, if any.

"**Remainder Taxes Holding Account**" is a separate single account created by Authority to hold and apply all transfers of Remainder Taxes pursuant to Section 2.7.

"**Remainder Taxes Project Account**" is a separate account created by City for each CFD and maintained by City to hold all Remainder Taxes for the corresponding CFD to be used for financing Ongoing Park Maintenance, Qualified Project Costs, or Additional Community Facilities in the manner set forth in this Financing Plan.

"**Reporting Period**" is defined in Section 1.3(b).

"**Required Improvements**" is defined in the DDA.

"**RMA**" means the rate and method of apportionment of Project Special Taxes for a CFD, adopted in accordance with applicable law.

"**Schedule of Performance**" is defined in the DDA.

"**Second Tier Participation**" means the consideration paid to the Navy of Net Cash Flow generated by the Project in excess of a Developer 22.5% IRR, as described in Section 1.3.

"**Second Tier Payment**" is defined in Section 1.3(c)(iii).

"**Second Tranche**" means, calculated separately for each CFD, one or more series of CFD Bonds issued after the CFD Conversion Date and secured by the levy of Project Special Taxes in such CFD to be used by City to finance Additional Community Facilities or for any other purpose authorized by the CFD Act.

"**Selected Default**" means an Event of Default under sections 16.2.1(a) and 16.2.3(d) of the DDA.

"**Soft Costs**" is defined in the Conveyance Agreement.

"**Special Tax Requirement**" is defined in Section 2.3(i).

"**State**" is defined in the DDA.

"**Statement of Indebtedness**" means the report an IFD may file for each Fiscal Year to properly evidence the indebtedness of such IFD, whether or not required by the IFD Act.

"**Stormwater Management Controls**" is defined in the DDA, but is applicable in this Financing Plan only to the extent such facilities will be dedicated to the City.

"**Subordinated Pledge**" is defined in Section 3.4(a).

"**Subordination Request**" means a set of documents that include (i) a written request to Other Taxing Agencies to subordinate the receipt of such Other Taxing Agencies' tax revenues to the payment of debt service on any IFD Debt secured by Net Available Increment, and (ii) calculations, explanations, and other substantial evidence showing that the tax revenues expected from the property in the IFD are expected to be available to pay both the debt service on the IFD Debt and the payments to the Other Taxing Agencies.

"**Sub-Phase**" is defined in the DDA.

"**Sub-Phase Approval**" is defined in the DDA.

"**Subsequent Owner Property**" means any Undeveloped Property within a CFD owned by a Person other than Developer.

"**Tax Laws**" means the Internal Revenue Code of 1986; as amended, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under said Internal Revenue Code.

"**Taxable Parcel**" means an assessor's parcel of real property or other assessor's parcel of property (e.g., a condominium parcel) within a CFD that is not an Exempt Parcel.

"**Taxable Residential Unit**" means: (a) Market Rate Units; and (b) Inclusionary Units.

"**Term**" is defined in the Conveyance Agreement.

"**Termination Date**" is defined in the Conveyance Agreement.

"**Termination Notice**" means a written notice from the Authority providing notice that the DDA has been terminated with respect to Developer for a portion of the Project Site.

"**Termination Proceeds**" is defined in Section 3.8(c)(ii).

"**Total Installment Payments**" means the total amount of the Installment

Payments payable under the Conveyance Agreement (principal plus interest at the Interest Rate).

"**Total Tax Obligation**" means, with respect to a Taxable Residential Unit at the time of calculation, the sum of: (a) the ad valorem taxes actually levied or projected to be levied if the Taxable Residential Unit were developed at the time of calculation; (b) the Assigned Project Special Tax Rates levied or projected to be levied if the Taxable Residential Unit were developed at the time of calculation; (c) all installments of special assessments if the Taxable Residential Unit were developed at the time of calculation; and (d) all other special taxes (based on assigned special tax rates) or assessments secured by a lien on the Taxable Residential Unit levied or projected to be levied if the Taxable Residential Unit were developed at the time of calculation.

"**Transferee**" is defined in the DDA.

"**2% Limitation**" is defined in Section 2.3(e).

"**Unconveyed Property**" is defined in Section 6.3(a).

"**Underwriter**" is defined in Section 4.4(b)(v).

"**Underwriter Force Majeure**" is defined in Section 4.4(b)(v).

"**Undeveloped Property**" means, in any Fiscal Year, Taxable Parcels in a CFD that are not Developed Property.

"**Vertical Builder**" is defined in the Conveyance Agreement.

"**Vertical Developer**" is defined in the DDA.

"**Work Program**" a work program for a Redesign Plan submitted by Authority to the Navy.

Attachment A

Form of Acquisition and Reimbursement Agreement

[ATTACHED]

ACQUISITION AND REIMBURSEMENT AGREEMENT
(TREASURE ISLAND/YERBA BUENA ISLAND)

by and among

CITY AND COUNTY OF SAN FRANCISCO,
a public body, corporate and politic, of the State of California,

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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ACQUISITION AND REIMBURSEMENT AGREEMENT
(TREASURE ISLAND/YERBA BUENA ISLAND)

This ACQUISITION AND REIMBURSEMENT AGREEMENT (including any Supplement, this "**Agreement**"), dated for reference purposes only as of _____, is by and among City, Authority, and Developer. As used in this Agreement, capitalized terms used herein have the meanings given to them in Article 9. Capitalized terms used but not otherwise defined in this Agreement have the definitions given to them in the DDA.

RECITALS

A. Financing Plan; Interagency Cooperation Agreement. The Authority and Developer have entered into the DDA, and City and Developer have entered into the City DA, both of which includes the Financing Plan as attachments thereto, to establish the contractual framework for mutual cooperation in achieving the Funding Goals necessary to implement the Project. With Developer's consent, the City and the Authority have entered into the Interagency Cooperation Agreement, under which, among other things, the Authority delegates to the City, and the City accepts, lead responsibility for certain actions necessary for the development of the Project.

B. Purpose of this Agreement. This Agreement describes the procedures by which, at Developer's request, the City will: (1) inspect and accept Infrastructure, Stormwater Management Controls, and other Improvements that Developer constructs under the DDA and the City DA; (2) subject to Section 4.4(a), pay Developer for Actual Costs of the Acquisition Facilities and Components from available Funding Sources; and (3) pay Developer for Authorized Payments from available Funding Sources.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer, City, and Authority hereby agree as follows:

ARTICLE 1
FUNDING

1.1 Use of Funding Sources. This Agreement: (a) implements and is subject to all limitations of the DDA, the City DA, and the Financing Plan; (b) will become effective on the later to occur of: (i) the date the DDA and City DA become effective; or (ii) the full execution and delivery of this Agreement (the "**Effective Date**"); and (c) describes the procedures by which, at Developer's request, the City will use available Funding Sources to make payments to Developer for the Actual Costs (or such lesser amount required by Section 4.4(a)) of the Acquisition Facilities and Components and for Authorized Payments, each as contemplated in the Financing Plan. To the extent set forth in an Assignment and Assumption Agreement, Developer will mean a Transferee.

1.2 Supplements to Exhibit A. The Parties intend Exhibit A to be a complete list of all items eligible and intended to be financed by Funding Sources under the Financing Plan. Exhibit A sets forth: (a) reasonably detailed descriptions of all of the Acquisition

Facilities; and (b) all Authorized Payments. At any time, Developer may submit proposed Supplements to Exhibit A for review in accordance with Section 1.4 that describe in reasonable detail any proposed revisions or additions to the Acquisition Facilities or Authorized Payments.

1.3 Supplements to Exhibit B. The Parties intend Exhibit B to be a refinement of Exhibit A as the Parties obtain more information about the Acquisition Facilities and Authorized Payments, and the Actual Costs that are to be reimbursed under this Agreement. At any time, Developer may submit proposed Supplements to Exhibit B for review in accordance with Section 1.4 that: (a) describe and provide detail on any portion of the Acquisition Facilities set forth on Exhibit A, including the identification and detail of any Components thereof; (b) provide estimates of the Actual Costs of any portion of the Acquisition Facilities set forth on Exhibit A, including of any Components thereof; (c) update the amounts of any Authorized Payments; and (d) otherwise update or modify any other information in Exhibit B. The Parties agree that the City will not be obligated to pay Developer for the Actual Costs (or such lesser amount required by Section 4.4(a)) of an Acquisition Facility or a Component or for an Authorized Payment under this Agreement unless such Acquisition Facility or Component and its estimated Actual Cost or Authorized Payment is set forth on Exhibit B.

1.4 Review and Approval of Supplements. Under the Interagency Cooperation Agreement, the Department of Public Works will be the lead City agency to facilitate coordinated review of Project Applications and will assist the City as provided under this Agreement. Except as specifically provided otherwise in this Agreement or the Interagency Cooperation Agreement: (a) the Department of Public Works will be the lead City agency responsible for review of Developer's estimated Actual Costs and of any changes to its estimates of Actual Costs of Acquisition Facilities and Components contained in any Supplements submitted under this Agreement, and the Authority will be the lead agency responsible for review and approval of Supplements relating to Authorized Payments under this Agreement (as applicable, the "**Reviewing Party**"), subject to the following:

(a) Upon Developer's written request, the Reviewing Party will meet with representatives of Developer to establish acceptable contents of any Supplements to Exhibit A or Exhibit B. The Reviewing Party will have thirty (30) days after receipt of a proposed Supplement submitted with Developer's written request for review and approval to accept or object in writing to all or any portion of the proposed Supplement. Developer may resubmit any proposed Supplement to which the Reviewing Party has timely objected, and the Reviewing Party will have thirty (30) days to review any resubmitted proposed Supplement. The term "**Supplement Review Period**" as used later in this Agreement will mean the applicable period specified above in this Section 1.4(a). If the Reviewing Party fails to notify Developer that a Supplement is disapproved within the Supplement Review Period, then the Supplement will be Deemed Approved.

(b) The Reviewing Party will only be required to review a proposed Supplement after it is complete and contains all of the information set forth in Section 1.2 or Section 1.3, as applicable, and any supporting materials reasonably requested in writing by the Reviewing Party in connection with the proposed Supplement. The Supplement Review Period will be tolled: (i) as to a Supplement for which the Reviewing Party has requested additional information or materials, until such requested information or materials have been provided to the

Reviewing Party; and (ii) as to any additional Supplement proposed by Developer during any Supplement Review Period, until any previously-submitted Supplement has been reviewed and approved, timely objected to or Deemed Approved, unless the Parties agree to a different order of priority for the Reviewing Party's review. Within the Supplement Review Period, as it may be tolled under this Section 1.4(b), the Reviewing Party will send a notice of Approval or disapproval to Developer. Any notice of disapproval must state with specificity the Reviewing Party's grounds for disapproval, which must be made in good faith and will be limited to the following:

(i) For disapproval of a proposed Supplement to Exhibit A: (A) a proposed Acquisition Facility or Authorized Payment is not contemplated to be financed by the DDA or City DA; or (B) a proposed Acquisition Facility or Authorized Payment may not be financed under the Governing Acts, the DDA, or the City DA.

(ii) For disapproval of a proposed Supplement to Exhibit B: (A) the specified Acquisition Facilities or Authorized Payments are not listed on Exhibit A; (B) specified Components are not components of the Acquisition Facilities listed on Exhibit A; or (C) for an Acquisition Facility with an estimated Actual Cost of one million dollars ($1,000,000) or less, a proposed Component is not a complete, functional portion of an Acquisition Facility.

(c) Any proposed Supplement Approved or Deemed Approved in accordance with this Section 1.4 will be made a part of Exhibit A or Exhibit B, as applicable, without further approval of the City or the Authority.

1.5 Funding Sources.

(a) The City will not be obligated to pay all or any part of the Actual Cost of an Acquisition Facility or Component, or all or any part of any Authorized Payment, under this Agreement except from Funding Sources. The City will have no liability to pay all or any part of the Actual Cost of an Acquisition Facility or Component, or all or any part of any Authorized Payment, if the Acquisition Facility, Component, or Authorized Payment is determined to be ineligible to be financed under the Governing Acts, even if the City or the Department of Public Works did not object to the Exhibit or Supplement listing it on the grounds of ineligibility.

(b) Developer acknowledges that if the City and Developer agree to issue escrow bonds as part of a Public Financing and funds are deposited in an escrow fund, escrowed amounts will become Funding Sources: (i) only after release from the escrow fund and satisfaction of all escrow requirements; and (ii) in the amounts specified in the applicable Indenture. The City agrees to take all reasonable actions necessary to cause the release of funds from an escrow fund after all conditions for their release have been satisfied.

(c) The City makes no warranty, express or implied, that Funding Sources will be sufficient to pay for all of the Acquisition Facilities, Components, and Authorized Payments.

1.6 Deposits of Funding Sources.

(a) The proceeds of any Public Financing will be deposited, held, invested, reinvested, and disbursed as provided in the respective Indenture, all in a manner consistent with the Financing Plan and this Agreement. The portion of the proceeds of each Public Financing that is used to fund reserves for debt service, to capitalize interest on the Public Financing, and to pay costs of issuance and administration will not constitute Funding Sources.

(b) Pursuant to the Financing Plan, under certain circumstances, a portion of Remainder Taxes generated from a CFD may be deposited and held in, and invested, reinvested, and disbursed from the applicable Remainder Taxes Project Account. Developer acknowledges that without the consent of the City, any Remainder Taxes for a CFD deposited in the CFD's Remainder Taxes Project Account will not be available to pay the Actual Costs of Acquisition Facilities or Components or Authorized Payments under this Agreement after the CFD Conversion Date for such CFD.

(c) All Net Available Increment will be held by the City in one or more accounts created by the City and disbursed as set forth in the Financing Plan.

(d) Developer agrees that the City alone will direct the investment of Funding Sources in accordance with the City's investment policy and all applicable laws and the applicable Indenture. The City will have no responsibility to Developer with respect to any investment of Funding Sources before their use under this Agreement, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment so long as the investments were made in accordance with all applicable laws and the applicable Indenture, even if a loss diminishes the amount of available Funding Sources.

1.7 Payment of Certain Costs.

(a) Subject to any limitations imposed by the Financing Plan, the City and Authority agree that the City shall reimburse Developer for the Authorized Payments constituting Qualified Pre-Development Costs from the first available Funding Sources until paid in full.

(b) The City and Developer agree that certain professional and consulting costs that Developer incurs in connection with the issuance of Public Financings will be financed with proceeds of the Public Financing to the extent permitted by the applicable Governing Act.

ARTICLE 2
CONSTRUCTION OF ACQUISITION FACILITIES

2.1 Plans. Developer will prepare and obtain approval by each applicable Governmental Entity of all Plans for the Acquisition Facilities in accordance with, and at the times necessary to comply with the provisions of, the DDA and the City DA.

2.2 Obligation to Construct Acquisition Facilities. Developer's obligation to construct the Acquisition Facilities is governed by the DDA and the City DA. This Agreement does not create an obligation to construct any Acquisition Facility or Component. This Article 2 applies only to those Acquisition Facilities and Components for which Developer seeks the payment of the Actual Costs under this Agreement.

2.3 Relationship to Public Works Contracting Requirements.

(a) This Agreement provides for the acquisition of the Acquisition Facilities and payment for Components from time to time from Funding Sources. The Parties acknowledge and agree that the Acquisition Facilities and Components are of local, and not state-wide, concern, and that the provisions of the California Public Contract Code do not apply to the construction of the Acquisition Facilities and Components. However, Developer agrees to award all contracts for construction of the Acquisition Facilities and Components in a manner consistent with the DDA and the City DA, including as required under the City Policies.

(b) From time to time at the request of the City, representatives of Developer must meet and confer with the City and Department of Public Works staff, consultants, and contractors regarding matters arising under this Agreement with respect to the Acquisition Facilities and any Components, compliance with City bidding requirements, and the progress in constructing and acquiring the same, and as to any other matter related to the Acquisition Facilities or this Agreement. The City and Department of Public Works staff will have the right: (i) to attend (and at the request of Developer will attend) meetings between Developer and its contractors relating to the Acquisition Facilities and Components; and (ii) to meet and confer with individual contractors and Developer if deemed advisable by the City to resolve disputes or ensure the proper completion of the Acquisition Facilities and Components.

2.4 Independent Contractor.

(a) In performing under this Agreement, Developer is an independent contractor and not the agent or employee of the City, the Authority, any CFD, or any IFD. Except as otherwise provided in this Agreement, none of the City, the Authority, any CFD, or any IFD will be responsible for making any payments to any contractor, subcontractor, agent, consultant, employee, or supplier of Developer.

(b) The City has determined that it would obtain no advantage by directly undertaking the construction of the Acquisition Facilities, and that the DDA and City DA require that the Acquisition Facilities be constructed by Developer as if they had been

constructed under the direction and supervision, or under the authority, of the City, the Authority, and any Governmental Entity that will own or operate the Acquisition Facilities.

ARTICLE 3
ACQUISITION AND PAYMENT OF ACQUISITION FACILITIES

3.1 Inspection.

(a) This Article 3 applies only to those Acquisition Facilities and Components for which Developer seeks the payment of Actual Costs under this Agreement. Components may only be financed to the extent allowed under the applicable Governing Act.

(b) Except as set forth in Section 3.3, the City will not be obligated to pay the Actual Costs (or such lesser amount required by Section 4.4(a)) of Acquisition Facilities or Components under this Agreement to Developer until the applicable Acquisition Facility or Component has been inspected as required by the Interagency Cooperation Agreement and found by the Director of Public Works to be completed substantially in conformance with the Plans and otherwise consistent with the DDA and any Applicable City Regulations and ready for its intended use.

(c) For Acquisition Facilities and Components to be acquired by the City or the Authority, the Director of Public Works will arrange for the inspection to commence within five (5) days following receipt of Developer's written request to inspect Acquisition Facilities or Components that Developer believes in good faith are ready for inspection (the "**Inspection Request**"). The inspection of the Acquisition Facilities and Components to be acquired by the City or the Authority will be governed by the procedures developed by the City and Authority that are consistent with the Applicable City Regulations and are Approved by Developer. The inspection will be conducted with due diligence and in a reasonable time given the scope of the inspection but not to exceed twenty-one (21) days. Within five (5) days following the completion of the inspection, the Director of Public Works shall notify Developer of the results of the inspection by providing a written notice that the Acquisition Facility or Component has been Approved as inspected or by providing a punch list of items to be corrected.

3.2 Agreement to Sell and Purchase Acquisition Facilities. Developer agrees to sell Acquisition Facilities and Components to the City, the Authority, or other Governmental Entity(ies), and the City agrees to use Funding Sources to pay the Actual Cost of the Acquisition Facilities and Components to Developer, subject to this Agreement (including, but not limited to, Section 4.4(a)) and the Financing Plan.

3.3 Component Financing.

(a) Section 53313.51 of the CFD Act authorizes the purchase of a Component of an Acquisition Facility with an estimated cost of up to one million dollars ($1,000,000), but only if the Component is capable of serviceable use as determined by the City, Authority, or other Governmental Entity, as applicable. Subject to the availability of Funding Sources, the City agrees to pay to Developer the Actual Costs (or such lesser amount required by Section 4.4(a)) of such Components under this Section 3.3(a) before: (i) completion of the

Acquisition Facility of which the Component is a part (unless it is the final Component of an Acquisition Facility); or (ii) the transfer to the City, the Authority, or other Governmental Entity of title to the Acquisition Facility and the property underlying applicable Component. A reasonably detailed description and estimated Actual Cost of each Component to be financed under this Section 3.3(a) must be listed on Exhibit B through an Approved or Deemed Approved Supplement.

(b) If the estimated cost of an Acquisition Facility exceeds one million dollars ($1,000,000), section 53313.51 of the CFD Act authorizes the purchase of Components whether or not the Components are capable of serviceable use. Subject to the availability of Funding Sources, the City agrees to pay to Developer the Actual Costs (or such lesser amount required by Section 4.4(a)) of such Components under this Section 3.3(b) before: (i) completion of the Acquisition Facility of which the Component is a part (unless it is the final Component of an Acquisition Facility); or (ii) the transfer to the City, the Authority, or other Governmental Entity of title to the Acquisition Facility and the property underlying the Component. A reasonably detailed description and estimated Actual Cost of each Component to be financed under this Section 3.3(b) must be listed on Exhibit B through an Approved or Deemed Approved Supplement.

(c) Developer acknowledges that the City, the Authority, or other Governmental Entity, as applicable, will not be obligated to accept an Acquisition Facility of which a Component is a part until the entire Acquisition Facility has been constructed and determined to be Complete as required under the DDA and the City DA. The City acknowledges that a Component does not have to be accepted by the City, the Authority, or other Governmental Entity as a condition precedent to the payment of the Actual Costs (or such lesser amount required by Section 4.4(a)) of the Component.

(d) The procedures for payment of the Actual Cost of a Component described in this Section 3.3 will be governed by Article 4.

3.4 Defective or Nonconforming Work. If the Director of Public Works finds any of the work done or materials furnished for an Acquisition Facility or Component to be defective or not in conformance with the applicable Plans and the Applicable City Regulations and such finding is made: (a) prior to payment of the Actual Costs (or such lesser amount required by Section 4.4(a)) of such Acquisition Facility or Component, the City may withhold the applicable payment until such defect or nonconformance is corrected to the satisfaction of the Director of Public Works; or (b) after payment of the Actual Costs (or such lesser amount required by Section 4.4(a)) of such Acquisition Facility or Component, then the DDA and City DA will govern cure rights and obligations.

3.5 Conveyance of Land, Title. The transfer of, maintenance of, and right of entry with respect to all land on, in, or over which any of the Acquisition Facilities will be located will be governed by the DDA, the City DA, the Applicable City Regulations, and, as applicable, any Permit to Enter or other access agreement for the land, and the Interagency Cooperation Agreement.

ARTICLE 4
PAYMENT REQUESTS FOR ACQUISITION FACILITIES AND COMPONENTS

4.1 Payment Requests.

(a) To initiate the process for payment of the Actual Cost of an Acquisition Facility or Component, Developer must deliver to the Director of Public Works a Payment Request in the form of Exhibit C that contains all relevant information, including the identity of all Funding Sources that are eligible to be used to pay it (the "**Identified Funding Sources**"), together with all required attachments and exhibits, all in an organized manner. Required attachments include:

(i) a copy of the Director of Public Works' notice that the Acquisition Facility or Component has been inspected and Approved for payment or, if applicable, written evidence that the applicable Governmental Entity has found the Acquisition Facility or Component acceptable; and

(ii) Proof of Payment evidencing that the Actual Costs were previously incurred and, if applicable, paid, for the Acquisition Facility or Component, except for any Actual Costs to be paid directly to a Third Party at Developer's request.

(b) Any Payment Request for a Component must be supported by the following documentation:

(i) a statement specifying each contractor, subcontractor, materialman, and other Person with whom Developer or its contractor has entered into contracts with respect to any Component included in the Payment Request and, for each of them: (A) the amount of each such contract; and (B) the amount of the requested Actual Cost attributable to each specific contractor, subcontractor, materialman, and other Person; and

(ii) duly executed unconditional or conditional lien releases and waivers (in the applicable form provided in Calif. Civil Code § 3262) from all contractors, subcontractors, materialmen, consultants, and other Persons retained by Developer in connection with the Component, under which each such Person unconditionally or conditionally waives all lien and stop notice rights with respect to the pending payment.

(c) A Payment Request for a Completed Acquisition Facility will be complete only after Developer has submitted all of the following documents, to the extent applicable:

(i) if the real property on which the Acquisition Facility is located is not owned by the City, the Authority, or other Governmental Entity at the time of the request, a copy of the recorded document(s) conveying Acceptable Title to the real property to the City, the Authority, or other Governmental Entity, as applicable;

(ii) a copy of the determination of completeness issued by the Director of Public Works under Section 3.1(c) for the Acquisition Facility or, if applicable, similar evidence that the Governmental Entity has found the Acquisition Facility to be Complete;

(iii) an executed assignment of any warranties and guaranties for the Acquisition Facility, in a form acceptable to the City, the Authority, or other Governmental Entity, as applicable; and

(iv) as-built drawings and an executed assignment of the Plans, to the extent reasonably obtainable.

(d) Developer will specify the "**Developer Allocation**" that is included in the calculation of the Actual Cost in Exhibit C-2 to each Payment Request under this Article 4, showing how Developer has allocated the following costs paid or incurred by Developer (as applicable):

(i) costs that apply to more than one Acquisition Facility or Component (e.g., Soft Costs), as allocated between the Acquisition Facilities or Components;

(ii) costs that apply to both Acquisition Facilities or Components and other improvements (e.g., grading), as allocated between the Acquisition Facilities or Components and the other improvements; and

(iii) amounts paid to the City and the Authority that apply to more than one Acquisition Facility or Component (e.g., inspection fees, Authority Costs, plan review fees, etc.), as allocated between the Acquisition Facilities or Components.

4.2 Processing Payment Requests for Acquisition Facilities and Components.

(a) Within ten (10) days after receipt of any Payment Request, the Director of Public Works will review the Payment Request to: (i) determine that it is complete; or (ii) determine that the Payment Request is incomplete and to request additional information and documentation reasonably necessary for the Director to complete the review. If the Director fails to notify Developer within the 10-day review period that a Payment Request is incomplete, the Payment Request will be deemed complete. Developer agrees to cooperate with the Director of Public Works in conducting each such review and to provide the Director of Public Works with such additional information and documentation as is reasonably necessary for the Director of Public Works to conclude each such review.

(b) Within thirty (30) days after the date a Payment Request is determined or deemed to be complete under Section 4.2(a), the Director of Public Works will review the Payment Request to confirm that all conditions in Article 3 and Section 4.1 have been satisfied, to the extent applicable, and provide notice to Developer either that: (i) the Payment Request is Approved (which will be confirmed by counter-signing the Payment Request); or (ii) the Payment Request is disapproved in whole or in part, specifying in the notice the portion of the Payment Request that is disapproved and the reason(s) for disapproval. If the Payment Request is disapproved in part, the Director of Public Works will forward the Payment Request to the City for partial payment under Section 4.3, together with a copy of the Director's notice of disapproval to Developer. Developer may resubmit any Payment Request disapproved in whole or in part with additional supporting documentation, and the Director of Public Works will review it within the amount of time that is reasonable in light of the materiality of the reasons for the disapproval, not to exceed fourteen (14) days. If the Director of Public Works fails to notify

Developer within the review period that a Payment Request is Approved or disapproved, then the Payment Request will be Deemed Approved.

(c) The period within which the Director of Public Works must review a Payment Request under Section 4.2(a) or Section 4.2(b) will be tolled: (i) as to any Payment Request, until Developer has provided any additional information or documentation that the Director of Public Works has requested under Section 4.2(a) or Section 4.2(b); and (ii) as to any additional Payment Request submitted by Developer during the review period under Section 4.2(a) or Section 4.2(b), until all previously-submitted Payment Requests have been reviewed and approved, disapproved or Deemed Approved, unless the Parties agree to a different order of priority for review by the Director of Public Works.

(d) The process for review of the Payment Requests is subject to Article 6.

4.3 Payment.

(a) Within five (5) days after Approving a Payment Request or after the Deemed Approval of a Payment Request, the Director of Public Works will forward the counter-signed Approved Payment Request to the City. If the Director of Public Works has not forwarded a counter-signed Approved Payment Request within that period, Developer will have the right to deliver the unsigned Payment Request, together with proof of its delivery to the Director of Public Works, directly to the City, with a copy to the Director of Public Works.

(b) The Developer Allocations will be presumed to be reasonable and will be accepted for all purposes of this Agreement unless the City notifies Developer of the City's good-faith objection to the Developer Allocation shown in the Payment Request within five (5) days after the City receives the counter-signed Payment Request from the Director of Public Works or unsigned Payment Request and proof of delivery from Developer. If the City has timely objected to the Developer Allocation, then the City and Developer will promptly meet and confer in an attempt to agree on how to allocate such costs on a reasonable basis (the "**Agreed-Upon Allocation**").

(c) The City must pay the Actual Costs (or such lesser amount required by Section 4.4(a)) to the extent of available Identified Funding Sources within fifteen (15) business days after the City's receipt of a counter-signed Approved Payment Request (or an unsigned Payment Request and proof of delivery). If the City objected to the Developer Allocation under Section 4.3(b), then the City may withhold payment of the Developer Allocation until the City and Developer agree on the Agreed-Upon Allocation, in which case the withheld allocations will be paid by the City to Developer within fifteen (15) business days thereafter. At the written request of Developer, the City will make payments under any Approved or Deemed Approved Payment Requests directly to a Third Party, such as a contractor or supplier of materials.

(d) The City and Developer acknowledge sections 4.4(c), 4.6(a), and 4.6(b) of the Financing Plan as they apply to the relative timing of acceptance of Acquisition

Facilities and Components and the payment of the Actual Costs (or such lesser amount required by Section 4.4(a)) of such Acquisition Facilities and Components.

4.4 Restrictions on Payments for Acquisition Facilities and Components. The following restrictions will apply to any payments made to Developer under Section 4.3:

(a) The total amount paid for any Acquisition Facility or Component must not exceed the lesser of the Actual Cost or value. Any Acquisition Facility or Component constructed in accordance with the Plans will be presumed to have a value equal to its Actual Cost unless either Developer or the City provides evidence that extraordinary costs have been incurred. Promptly following the notice, the City and Developer will meet and confer to review the Actual Costs and make a reasonable determination of value. The Parties acknowledge and agree that all payments to Developer for the Actual Costs are intended to be payments to Developer for monies already expended or for immediate payment by Developer (or directly by the City) to Third Parties. Costs will not constitute extraordinary costs unless the City can demonstrate that the costs are commercially unreasonable under the circumstances.

(b) The City will withhold final payment for any Completed Acquisition Facility (but not for any Component that is not the final Component of an Acquisition Facility) constructed in, on, or over land, until Acceptable Title to such land has been conveyed to the City, the Authority, or other Governmental Entity, if required under Section 4.1(c).

(c) The City may withhold final payment for any Completed Acquisition Facility (if it has no Components) or the final Component of any Completed Acquisition Facility until: (i) the Completed Acquisition Facility has been finally inspected as provided in Section 3.1; (ii) the Acceptance Date for the Acquisition Facility has occurred and the requirements of Section 4.1 have been satisfied to the extent applicable, or Developer has provided the Director of Public Works with evidence that the Governmental Entity has accepted dedication of and title to the Acquisition Facility; and (iii) general lien releases for the Acquisition Facility (conditioned solely upon payment from Funding Sources to be used to acquire such Acquisition Facility or final Component) have been submitted to the Director of Public Works.

(d) Nothing in this Agreement prohibits Developer from contesting in good faith the validity or amount of any mechanics' or materialman's lien or limits the remedies available to Developer with respect to such liens so long as any resulting delays do not subject the Acquisition Facilities or any Component to foreclosure, forfeiture, or sale. If Developer contests any such lien, Developer will only be required to post or cause the delivery of a bond in an amount equal to the amount in dispute with respect to any such contested lien, so long as such bond is drawn on an obligor and is otherwise in a form acceptable to the Director of Public Works. In addition, the City agrees that Developer will have the right to post or cause the appropriate contractor or subcontractor to post a bond with the City to indemnify the City and the City for any losses sustained by the City or the City because of any liens that may exist at the time of acceptance of such an Acquisition Facility, so long as such bond is drawn on an obligor and is otherwise in a form acceptable to the Director of Public Works.

(c) The City will be entitled to withhold from the amounts payable under each Payment Request a portion for retention as authorized by City policies and procedures that constitute Applicable City Regulations, but in any case not to exceed ten percent (10%) of the amount of the Actual Cost of an Acquisition Facility or Component. The City will be obligated to release any retention it withholds in accordance with applicable City policies and procedures.

ARTICLE 5
PAYMENT REQUESTS FOR AUTHORIZED PAYMENTS

5.1 Authorized Payments. In order to receive reimbursement of an Authorized Payment, Developer must deliver to the City a Payment Request in the form of Exhibit D that contains all required information and attachments, as applicable, such as: (a) Identified Funding Sources; (b) Proof of Payment; and (c) for interest-bearing Authorized Payments, a calculation showing the amounts accrued and the outstanding and unpaid balance after the application of any Funding Sources as of the date the Payment Request is submitted ("**Authorized Payment Calculation**").

5.2 Processing Payment Requests for Authorized Payments.

(a) Within ten (10) days after receipt of a Payment Request for an Authorized Payment, the Authority Director will review the Payment Request to confirm that it is complete and the calculations are accurate and notify Developer whether the Payment Request is complete and Approved (which will be confirmed by counter-signing the Payment Request), and, if not, specify the reason(s) for any disapproval. Developer agrees to cooperate with the Authority Director in conducting each such review and to provide the Authority Director with such additional information and documentation as is reasonably necessary for the Authority Director to conclude each such review. If the Payment Request is disapproved, Developer may resubmit it for approval, and the Authority Director will review it within the amount of time that is reasonable in light of the materiality of the reasons for disapproval, not to exceed ten (10) days. If the Authority Director fails to notify Developer that a Payment Request is Approved or disapproved within the review period, then the Payment Request will be Deemed Approved.

(b) The period within which the Authority Director must review a Payment Request under Section 5.2(a) will be tolled: (i) as to any Payment Request, until Developer has provided any additional information or documentation that the Authority Director has requested under Section 5.2(a); and (ii) as to any additional Payment Request submitted by Developer during the review period under Section 5.2(a), until all previously-submitted Payment Requests have been reviewed and approved, disapproved or Deemed Approved, unless the Parties agree to a different order of priority for review by the Authority Director.

(c) The process for review of the Payment Requests for Authorized Payments is subject to Article 6.

5.3 Payment.

(a) Within five (5) days after the Approval or Deemed Approval of a Payment Request, the Authority Director will forward the counter-signed Approved Payment

Request to the City Finance Deputy. If the Authority Director has not forwarded the counter-signed Approved Payment Request within five (5) days after Approving the Payment Request, or it is Deemed Approved pursuant to Section 5.2(a), Developer will have the right to forward the unsigned Payment Request, together with proof of its delivery to the Authority Director, directly to the City Finance Deputy, with a copy to the Authority Director. The City Finance Deputy must pay the Approved or Deemed Approved Payment Request from available Identified Funding Sources within fifteen (15) business days after receipt of a counter-signed Approved Payment Request (or an unsigned Payment Request and proof of delivery).

ARTICLE 6
PAYMENT REQUESTS GENERALLY; VESTING; COVENANTS

6.1 Application of Payment Requests.

(a) Each Payment Request will be numbered consecutively. Each Payment Request will be assigned the next available number when submitted to the Director of Public Works or the Authority Director, as applicable, pursuant to Section 4.2 or Section 5.2.

(b) Each Payment Request will identify the Major Phase and Sub-Phase in which the work is being conducted or to which the Authorized Payment is allocated and all the Identified Funding Sources that are eligible to be used to pay it.

(c) The City will satisfy a Payment Request only from the Identified Funding Sources.

(d) The City shall not satisfy a Payment Request out of Net Available Increment if application of Net Available Increment has been suspended in the manner described in section 3.8 and section 3.9 of the Financing Plan, and shall not satisfy a Payment Request out of any Funding Sources during the time under which the circumstances described in Section 4.4(c)(ii) of the Financing Plan are applicable.

(e) The City and Developer acknowledge that proceeds of Funding Sources may be applied to the payment of a Payment Request only to the extent that the costs of the Acquisition Facility, Component, or Authorized Payment are Qualified.

(f) Payment Requests may be paid: (i) in any number of installments as Identified Funding Sources become available; and (ii) irrespective of the length of time of such deferral of payment.

(g) Each Payment Request shall be consistent with section 3.6 of the Financing Plan.

6.2 Partial Payments; Vested Payment Requests. If Identified Funding Sources are not sufficient to pay the full amount of a Payment Request, then the City will pay the Payment Request to the extent of available Identified Funding Sources and notify Developer of the amount of the remaining portion. The right to the payment of the remaining portion of the Payment Request from the Identified Funding Sources will vest in the payee of such Payment Request (the "**Vested Payment Request**"). Promptly following the availability of Identified

Funding Sources, the City will, from time to time and in as many installments as necessary, pay any Vested Payment Request. The Vested Payment Request will be paid from such Identified Funding Sources to the payee of such Vested Payment Request in the order in which the Payment Request is numbered, with a Payment Request of a lower number to be satisfied before the Payment Request of a higher number, except during a suspension of the application of Net Available Increment in the manner described in section 3.8 and section 3.9 of the Financing Plan, and except during the time under which the circumstances described in Section 4.4(c)(ii) of the Financing Plan are applicable, which will prevail over this Agreement in determining priorities for payments from Funding Sources. Subject to suspension of the application of Net Available Increment in the manner described in sections 3.8 and 3.9 of the Financing Plan, and except during the time under which the circumstances described in Section 4.4(c)(ii) of the Financing Plan are applicable, outstanding and unpaid Vested Payment Requests will be paid from the Identified Funding Sources in their relative order of priority under this Section 6.2 before Identified Funding Sources may be used for any other purposes under this Agreement regardless of: (a) the identity of the owner of any property in the Project Site at the time of the payment of the Vested Payment Request; (b) whether the payee under the Vested Payment Request is, at the time of payment, a Party or a party to the DDA or City DA; and (c) whether the DDA or City DA has been terminated or assigned to or assumed by another Person. This Section 6.2 will survive termination of this Agreement, the DDA, and the City DA.

6.3 Deposit of Payment Requests. Except for payments made to Third Parties at Developer's request, all payments made under any Payment Request or Vested Payment Request will be deposited into one or more Project Accounts specified by Developer.

6.4 Alternative Financing. If an Alternative Financing is approved pursuant to the Financing Plan, then the Parties will work together in good faith if necessary to amend this Agreement to allow the proceeds of the Alternative Financing to be used to acquire Acquisition Facilities and Components and to pay Actual Costs and Authorized Payments.

6.5 Miscellaneous.

(a) Communications requesting additional information about and notices of Approval or disapproval of a Supplement or a Payment Request or the insufficiency of Identified Funding Sources to pay an Approved or Deemed Approved Payment Request in full may be made in any written form for which receipt may be confirmed, including facsimile, electronic mail, and certified first class mail, return receipt requested. Such communications will be effective upon receipt, or, if delivered after 5 p.m. or on a weekend or holiday, the next business day.

(b) All proposed Supplements and Payment Requests submitted to the City must be sent by certified first class mail - return receipt requested, personal delivery, or receipted overnight delivery. Payment Requests must be clearly marked: "Payment Request No. _____; Treasure Island/Yerba Buena Island; Attn: Executive Director" Delivery of a Supplement or Payment Request to the City will be effective on the actual date of delivery, or, if delivered after 5 p.m. or on a weekend or holiday, the next business day. Copies of Payment Requests must be delivered in the same manner as the original.

(c) Except as provided in this Agreement, the City agrees that it will not withhold payment on any undisputed portion of a Payment Request, and that the City will be entitled to withhold payment only on a disputed portion of a Payment Request.

(d) In connection with processing any request under this Agreement (including Payment Requests and Supplements), the City and the Director of Public Works agree that any additional information request by the City or the Director of Public Works to Developer must be submitted as soon as practicable following the submission of the original materials, but in any event prior to applicable deadlines required by this Agreement. The City and the Director of Public Works will use their respective good faith efforts to make each additional information request comprehensive and thorough to minimize the number of requests delivered, and Developer will use its good faith efforts to provide a thorough, organized, and complete response to each request. Developer is authorized to communicate directly with the City, the Director of Public Works, and their designees, agents, and contractors to facilitate any additional information request, to facilitate the prompt resolution of any technical issues, and to minimize the amount of time it takes to resolve outstanding issues.

ARTICLE 7
REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of Developer. Developer represents and warrants to and for the benefit of the City that:

(a) Developer is a limited liability company duly organized and validly existing under the laws of the State of California, is in compliance with the laws of such state, and has the power and authority to own its properties and assets and to carry on its business as now being conducted.

(b) Developer has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by Developer.

7.2 Representations and Warranties of the City. The City represents and warrants to and for the benefit of Developer that:

(a) The City is a duly formed corporate body under the Constitution and the laws of the State of California, is in compliance with the Constitution and the laws of the State of California, and has the power and authority to own its properties and assets and to carry on its business as now being conducted.

(b) The City has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the City.

7.3 Representations and Warranties of the Authority. The Authority represents and warrants to and for the benefit of Developer that:

(a) The Authority is a California non-profit public benefit corporation, is in compliance with the laws of the State of California, and has the power and authority to own its properties and assets and to carry on its business as now being conducted.

(b) The Authority has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the Authority.

ARTICLE 8
MISCELLANEOUS

8.1 Limited Liability of the City and the City. Except as otherwise provided in the DDA and the City DA, Developer agrees that any and all obligations of the City or the Authority arising out of or related to this Agreement are special and limited obligations of the City and the Authority, as applicable, and the City's and Authority's obligations to make any payments under this Agreement to implement the Financing Plan are restricted entirely to available Funding Sources as provided in the Financing Plan and from no other source. No member of the Board of Supervisors, the Authority Board, or City or Authority staff member or employee will incur any liability under this Agreement to Developer in their individual capacities by reason of their actions under this Agreement or execution of this Agreement. It is understood and agreed that no commissioners, members, officers, or employees of the City or the Authority (or of either of its successors or assigns) will be personally liable to Developer, nor will any officers, directors, shareholders, agents, or employees of Developer (or of its successors or assigns) be personally liable to the City or the Authority in the event of any default or breach of this Agreement by the City or Developer or for any amount that may become due to Developer or the City or the Authority, as the case may be, under this Agreement or for any obligations of the Parties under this Agreement.

8.2 Attorneys' Fees.

(a) Should any Party institute any action or proceeding in court or other dispute resolution mechanism permitted or required under this Agreement, 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 8.2 shall include attorneys' fees on any appeal.

(b) For purposes of this Agreement, reasonable fees of a Party's in-house attorneys shall be no more than 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 such attorneys services were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the applicable Party.

8.3 Notices. Except as provided in Sections 6.5(a) and (b), any notices to be provided under this Agreement must be delivered to the addresses and in the manner set forth in the DDA (if to the Authority or Developer) and the City DA (if to the City or Developer).

8.4 Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the successors and assigns of the Parties, as governed by the DDA and City DA. This Agreement may be assigned only in connection with an assignment of the DDA and City DA that is permitted in accordance with their terms.

8.5 Other Agreements. The obligations of Developer under this Agreement will be those of a Party and not as an owner of property in the Project Site. Nothing in this Agreement may be construed as affecting the City's or Developer's rights, or duties to perform their respective obligations under the DDA, the City DA, the Interagency Cooperation Agreement and other Development Requirements, and any Applicable Regulation. If this Agreement creates ambiguity in relation to or conflicts with any provision of the Financing Plan, the Financing Plan will prevail.

8.6 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, will not constitute a waiver of such Party's right to later insist upon and demand strict compliance by the other Party with the terms of this Agreement. Deemed Approval of a Supplement or Payment Request will not constitute a waiver of the right of the City or the Director of Public Works, as applicable, to obtain information and documents that would have been required for a proposed Supplement or Payment Request to be complete.

8.7 Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or will be construed to confer upon or to give to any person or entity other than the City, the Authority, and Developer any rights, remedies or claims under or by reason of this Agreement or any covenants, conditions, or stipulations of this Agreement; and all covenants, conditions, promises, and agreements in this Agreement contained by or on behalf of the City or Developer will be for the sole and exclusive benefit of the City, the Authority, and Developer, subject to Section 8.4.

8.8 Amendment. This Agreement may be amended from time to time by the written agreement of the City and Developer, including a Supplement, executed by the City and Developer or otherwise Approved or Deemed Approved under Section 1.4. The Parties agree that changes to the forms of the Payment Requests as needed to reflect an Alternative Financing, to reflect formation and issuance alternatives as discussed in section 4.2 of the Financing Plan, or to make other adjustments to clarify and expedite the payment process under this Agreement are ministerial in nature and do not require an amendment to this Agreement.

8.9 Counterparts. This Agreement may be executed and delivered in any number of counterparts (including by fax, pdf, or other electronic means), each of which will be deemed an original, but all of which will constitute one and the same instrument.

8.10 Interpretation of Agreement. Unless otherwise specified, whenever in this Agreement reference is made to any capitalized Article, Section, Exhibit, Attachment, Supplement or any defined term, the reference will mean the Article, Section, Exhibit, Attachment, Supplement or defined term in this Agreement. Any reference to an Article or a Section includes all subsections, clauses, and subparagraphs of that Article or Section. The use in this Agreement of the words "including", "such as", or words of similar import when following any general term, statement or matter will not be construed to limit the 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. In the event of a conflict between the Recitals and the remaining provisions of this Agreement, the remaining provisions will prevail.

ARTICLE 9
DEFINITIONS

9.1 Definitions.

"Acceptable Title" means title to real property or interest in real property free and clear of all liens, taxes, assessments, leases, easements, and encumbrances, whether or not recorded, except for: (a) those determined not to interfere materially with the intended use of such real property; (b) those required to satisfy the terms of the DDA or the City DA; and (c) if the lien is for any existing CFD, then the lien of the special taxes shall be a permitted exception to title so long as the real property, while owned by any Governmental Entity, is exempt from the special tax to be levied by the CFD.

"Acceptance Date" means the date that an action by the City or other Governmental Entity, as applicable, to accept dedication of or transfer of title to an Acquisition Facility becomes final.

"Acquisition Facilities" means the Infrastructure, Stormwater Management Controls, and other Improvements shown in Exhibit A, as such exhibit may be amended or supplemented from time to time in accordance with the provisions of this Agreement.

"Actual Cost" means Qualified Project Costs of an Acquisition Facility or Component (which includes any applicable Developer Allocation or Agreed-Upon Allocation).

"Agreed-Upon Allocation" is defined in Section 4.3(b).

"Agreement" is defined in the introductory paragraph.

"Alternative Financing" is defined in the Financing Plan.

"Applicable City Regulations" is defined in the DDA.

"Approve", "Approval" and **"Approved"** are defined in the DDA.

"Assignment and Assumption Agreement" is defined in the DDA.

"**Authority**" means the Treasure Island Development Authority, a California non-profit public benefit corporation.

"**Authority Board**" is defined in the DDA.

"**Authority Costs**" is defined in the DDA

"**Authority Director**" is defined in the DDA.

"**Authorization**" is defined in the DDA.

"**Authorized Payment Calculation**" is defined in Section 5.1.

"**Authorized Payments**" means: (a) the Qualified Project Costs shown in Exhibit A that are not for Acquisition Facilities or Components constructed by Developer; and (b) other amounts for which Developer is entitled to receive payment or reimbursement under the Financing Plan, such as Pre-Development Costs (not including any return on such Pre-Development Costs).

"**Board of Supervisors**" is defined in the DDA.

"**CFD**" is defined in the Financing Plan.

"**CFD Act**" is defined in the Financing Plan.

"**CFD Bonds**" is defined in the Financing Plan.

"**CFD Conversion Date**" is defined in the Financing Plan.

"**City**" means the City and County of San Francisco, a public body, corporate and politic, of the State of California.

"**City DA**" is defined in the Financing Plan.

"**City Finance Deputy**" means the _____ of the City or any Person acting as such through a proper delegation of City under City policy (or any successor officer designated by or under law).

"**Complete**" (or its variant "**Completion**") is defined in the DDA.

"**Component**" means a component or phase of an Acquisition Facility shown in Exhibit B, as amended from time to time by an Approved or Deemed Approved Supplement.

"**Construction Documents**" has the meaning described in the DRDAP.

"**DDA**" is defined in the Financing Plan.

"**Deemed Approved**" or "**Deemed Approval**" means a Supplement or Payment Request that will be treated as Approved in the form submitted for all purposes under this Agreement due to the expiration of any applicable review and approval periods provided in this Agreement.

"**Developer**" is defined in the DDA.

"**Developer Allocation**" is defined in Section 4.1(d).

"**Development Requirements**" is defined in the DDA.

"**Director of Public Works**" means the Director of Public Works of the City (or any successor officer designated by or under law) or the Director's authorized designee, acting in that capacity under this Agreement and the Interagency Cooperation Agreement.

"**DRDAP**" is defined in the DDA.

"**Effective Date**" is defined in Section 1.1.

"**Financing Plan**" is defined in the DDA.

"**Funding Goals**" is defined in the Financing Plan.

"**Funding Sources**" is defined in the Financing Plan, and is subject to the limitations on the use of those funds set forth in the Financing Plan.

"**Governing Acts**" means, as applicable, the CFD Act, the IFD Act, or the laws governing the issuance of CFD Bonds, IFD Debt, or Alternative Financing.

"**Governmental Entity**" is defined in the DDA.

"**Identified Funding Sources**" is defined in Section 4.1(a).

"**IFD**" is defined in the Financing Plan.

"**IFD Act**" is defined in the Financing Plan.

"**IFD Debt**" is defined in the Financing Plan.

"**Improvements**" is defined in the DDA.

"**Indenture**" is defined in the Financing Plan.

"**Infrastructure**" is defined in the DDA.

"**Inspection Request**" is defined in Section 3.1(c).

"**Interagency Cooperation Agreement**" is defined in the DDA.

"**Major Phase**" is defined in the DDA.

"**Net Available Increment**" is defined in the Financing Plan.

"**Party**" or "**Parties**" means, individually or collectively as the context requires, Developer and the City.

"**Payment Request**" means a document to be used by Developer in requesting payment for: (a) the Actual Costs an Acquisition Facility or Component, substantially in the form of Exhibit C; or (b) an Authorized Payment to Developer, substantially in the form of Exhibit D.

"**Permit to Enter**" is defined in the DDA.

"**Person**" is defined in the DDA.

"**Plans**" means the applicable Construction Documents and Authorizations for the Acquisition Facilities or any Components as Approved under the DDA, the City DA, Applicable City Regulations, or, if applicable, standards of the other Governmental Entity.

"**Pre-Development Costs**" is defined in the Financing Plan.

"**Project**" is defined in the DDA.

"**Project Accounts**" is defined in the Financing Plan.

"**Project Applications**" is defined in the Interagency Cooperation Agreement.

"**Project Costs**" is defined in the Financing Plan.

"**Project Site**" is defined in the DDA.

"**Proof of Payment**" means a cancelled check, a wire confirmation demonstrating delivery of a direct transfer of funds, an executed and acknowledged unconditional lien release, or other evidence Approved by the City demonstrating payment of the applicable Actual Cost.

"**Public Financing**" is defined in the Financing Plan.

"**Qualified**" is defined in the Financing Plan.

"**Remainder Taxes**" is defined in the Financing Plan.

"**Remainder Taxes Project Account**" is defined in the Financing Plan.

"**Reviewing Party**" is defined in Section 1.4.

"**Soft Costs**" is defined in the Financing Plan.

"**Stormwater Management Controls**" is defined in the DDA.

"**Sub-Phase**" is defined in the DDA.

"**Supplement**" means a written amendment to Exhibit A or Exhibit B.

"**Supplement Review Period**" is defined in Section 1.4(a).

"**Third Party**" means a Person that is not a Party.

"**Third Party Reimbursements**" means payments, if any, from Third Parties that are received by Developer as a reimbursement of Qualified Project Costs incurred with respect to the Acquisition Facilities, such as utility or other reimbursements.

"**Transferee**" is defined in the DDA.

"**Vested Payment Request**" is defined in Section 6.2.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City, Authority, and Developer have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

CITY:
CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
Name: _____
Title: _____

Approved as to form:

DENNIS J. HERRERA,
City Attorney

By:

_____
Name: _____
Deputy City Attorney

Approved on _____

AUTHORITY:

TREASURE ISLAND DEVELOPMENT AUTHORITY,
a California non-profit public benefit corporation
By:
Name: _____
Title: Executive Director
Authorized by City Resolution
No. _____ adopted_____.
Approved as to Form:

DENNIS J. HERRERA
City Attorney
By_____
Deputy City Attorney

DEVELOPER:

TREASURE ISLANDCOMMUNITY 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: Chris Meany
Title: Co-Managing Member

EXHIBIT A

Description of Acquisition Facilities and Authorized Payments to be Financed for the Project

[To be completed and attached before execution of Acquisition and Reimbursement Agreement]

EXHIBIT B

Description of Acquisition Facilities and Components, with Cost Estimates, and Authorized Payments and Components

[To be completed from time to time]

EXHIBIT C

Form of Payment Request – Acquisition Facilities and Components

PAYMENT REQUEST NO. _____
MADE ON BEHALF OF: _____("Developer")
MAJOR PHASE: _____ SUB-PHASE: _____

The undersigned hereby requests payment in the total amount of $_____ for the Acquisition Facilities or Components (as described in Exhibit B to that certain Acquisition and Reimbursement Agreement among the City and County of San Francisco, Treasure Island Development Authority, and Treasure Island Community Development, LLC, dated for reference purposes only as of _____), all as more fully described in Exhibit C-1. In connection with this Payment Request, the undersigned hereby represents and warrants to the Director of Public Works and the City as follows:

1. He (she) is a duly authorized officer of Developer, qualified to execute this Payment Request for payment on behalf of Developer and is knowledgeable as to the matters set forth in this Payment Request.

2. The Acquisition Facilities or Components for which payment is requested were constructed in accordance with the DDA and City DA, and have been inspected and Approved for payment as indicated in the attached notice from the Director of Public Works.

3. All costs of the Acquisition Facilities or Components for which payment is requested hereby are Actual Costs, and have not been inflated in any respect, as indicated in the attached Proof of Payment. The items for which payment is requested have not been the subject of any prior payment request submitted to the City.

4. The costs for which payment is requested are not the subject of dispute with any contractor, subcontractor, materialman, or other Person who supplied goods or labor, as evidenced by the attached conditional or unconditional lien releases.

5. Developer is in compliance with the terms and provisions of the Acquisition and Reimbursement Agreement and no portion of the amount being requested to be paid was previously paid.

6. The Actual Cost of each Acquisition Facility or Component (a detailed calculation of which is shown in Exhibit C-2 for each such Acquisition Facility or Component), has been calculated in conformance with the terms of the Acquisition and Reimbursement Agreement.

7. To the knowledge of the undersigned, Developer is not delinquent in the payment of ad valorem real property taxes, possessory interest taxes or special taxes or special assessments levied on the regular County tax rolls against property owned by Developer in the Project Site.

8. The Payment Request must be paid solely from the following sources of Funding Sources:

Funding Sources from which Actual Costs may be Paid (check one or more boxes)	Identified Funding Sources
	CFD No. 1 Bonds
	Remainder Taxes for CFD No. 1
	CFD No. 2 Bonds
	Remainder Taxes for CFD No. 2
	IFD Debt for IFD No. 1
	Net Available Increment in IFD No. 1
	IFD Debt for IFD No. 2
	Net Available Increment in IFD No. 2
	Other Source (specify):
Total Actual Cost	

9. Payments under this Payment Request, when Approved or Deemed Approved, to be made as follows:

[ ] The amount of $ _____ to the Project Account(s) held by Developer at the following financial institution(s) by wire, according to the following instructions:

_____

_____

[ ] The following amount(s) the following Third Party(ies) at the following address(es):

_____

_____

_____

10. Other relevant information about Payment Request: _____

_____

_____

I hereby declare that the above representations and warranties and all information provided in this Payment Request, including attachments and exhibits, are true and correct to the best of my knowledge.

DEVELOPER:

[insert name of Developer]

By: _____
Authorized Representative
of Developer

Date: _____

Attachments:

[ ] Notice of Approval following inspection by Director of Public Works
[ ] Unconditional lien releases from the following: _____
_____
[ ] Conditional lien releases from the following: _____
_____
[ ] **For Completed Acquisition Facility**: Copy of recorded conveyance of land
[ ] **For Completed Acquisition Facility**: Copy of determination of completeness
[ ] **For Completed Acquisition Facility**: Original assignment of warranties and guaranties
[ ] **For Completed Acquisition Facility**: Original assignment of Plans
[ ] **For Completed Acquisition Facility**: Original assignment of reimbursements from Third Parties payable with respect to the Acquisition Agreement
[ ] **For Completed Acquisition Facility**: As-built drawings of the Acquisition Facility
[ ] Exhibit C-1
[ ] Exhibit C-2

DEEMED APPROVAL NOTICE

Under Section 4.2(b) of the Acquisition and Reimbursement Agreement,

if you fail to notify Developer that

this Payment Request is Approved or disapproved

within thirty (30) days after your receipt of this Payment Request,

it will be Deemed Approved.

Payment Request Approved on _____.

By: _____
Director of Public Works

EXHIBIT C-1

Acquisition Facilities and Components to Which Payment Request Applies

PAYMENT REQUEST NO. _____
MADE ON BEHALF OF: _____

MAJOR PHASE: _____
SUB-PHASE: _____

1. The Acquisition Facilities and Components for which payment is requested under this Payment Request are: _____
_____
_____
_____
_____

2. Contract information for each contractor, subcontractor, materialman, and other contract for which payment is requested under this Payment Request is shown below.

Name	Amt. of Contract	Amt. Requested	Amt. Previously Pd.
Total			

Attachments:
[ ] Approved Supplement(s) (*include proof of delivery if Deemed Approved)*
[ ] Proof of Payment for each amount and included in the Actual Costs

EXHIBIT C-2

Calculation of Actual Cost

PAYMENT REQUEST NO. _____
MADE ON BEHALF OF: _____

MAJOR PHASE: _____
SUB-PHASE: _____

1. Description (by reference to Exhibit B to the Acquisition and Reimbursement Agreement) of the Acquisition Facility or Component _____
2. Actual Cost (list here total of supporting invoices and/or other documentation supporting determination of Actual Cost, including any Developer Allocation): $ _____
3. Subtractions:
   A. Holdback for lien releases (see Section 4.4(c) of the Acquisition and Reimbursement Agreement): ($ _____)
   B. Retention (see Section 4.4(e) of the Acquisition and Reimbursement Agreement): ($ _____)
   C. Third Party Reimbursements: ($ _____)
4. Total disbursement requested (Amount listed in 2, less amounts, if any, listed in 3) $ _____

Attachments – Complete Acquisition Facilities Only:
[ ] Copies of Payment Requests for which release of retention is requested.

EXHIBIT D

Form of Payment Request – Authorized Payments

PAYMENT REQUEST NO. _____
MADE ON BEHALF OF: _____ ("Developer")
MAJOR PHASE: _____ SUB-PHASE: _____

The undersigned hereby requests payment in the total amount of $_____ for the reimbursement of Authorized Payments (as described in Exhibit B to that Acquisition and Reimbursement Agreement), to be paid solely from following Funding Sources:

Funding Sources from which Authorized Payments may be Paid (check one or more boxes)	Identified Funding Sources
	CFD No. 1 Bonds
	Remainder Taxes for CFD No. 1
	CFD No. 2 Bonds
	Remainder Taxes for CFD No. 2
	IFD Debt for IFD No. 1
	Net Available Increment in IFD No. 1
	IFD Debt for IFD No. 2
	Net Available Increment in IFD No. 2
Total Authorized Payment	

In connection with this Payment Request, the undersigned hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized officer of Developer, qualified to execute this Payment Request for payment on behalf of Developer and is knowledgeable as to the matters set forth in this Payment Request.

2. The items for which payment is requested have not been the subject of any prior payment request submitted to the City.

3. Developer is in compliance with the terms and provisions of the Acquisition and Reimbursement Agreement and no portion of the amount being requested to be paid was previously paid.

4. To the knowledge of the undersigned, Developer is not delinquent in the payment of ad valorem real property taxes, possessory interest taxes or

special taxes or special assessments levied on the regular County tax rolls against property owned by Developer in the Project Site.

I hereby declare that the above representations and warranties and all information provided in this Payment Request, including attachments and exhibits, are true and correct to the best of my knowledge.

DEVELOPER:

[insert name of Developer]

By: _____
Authorized Representative

Date: _____

Attachments:
[ ] Proof of Payment
[ ] Authorized Payment Calculation

DEEMED APPROVAL NOTICE

Under Section 5.2 of the Acquisition and Reimbursement Agreement,

if you fail to notify Developer that

this Payment Request is Approved or disapproved

within ten (10) days after your receipt of this Payment Request,

it will be Deemed Approved.

Payment Request Approved and counter-signed on _____ _____:

By: _____
Executive Director
Treasure Island Development Authority

Attachment B

Expected Categories of Island Wide Costs

[ATTACHED]

Financing Plan Attachment B
Expected Categories of Island-Wide Costs

Land Preparation

Environmental Remediation Work cost cap insurance
Island Perimeter Flood Protection Improvements

Infrastructure

Island Causeway (connecting YBI to TI)[1]
Viaduct Upgrade and Ramps Cost Contribution[2]
Offsite Utilities and Trunk Lines
Water Storage Tanks
On site Renewable Energy Generation
Firefighting Water Supply System
Central Utilities Plants
Interim Construction and Utilities that have island-wide benefits

Public Parks and Open Space; Landscaping

YBI HMP
YBI Hilltop Park
YBI Beach Park
Northern Wilds
Ballfields
Pier 1
Ferry Plaza Park
Cultural Park / Chapel
Urban Farm

Community Facilities[2]

School
Police & Fire
Day Care
Other community facilities

Transportation and Transit Systems[2]

Ferry Terminal Construction
Ferry Quay Construction
Ferry Boats Purchase
AC Transit Bus Purchase
Muni Bus Subsidy
Public On-Island Shuttle Purchase

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[1] Island Causeway costs are island-wide due to its value to all phases of TI
[2] Costs are island-wide, but may be ineligible for reimbursement from IFD Debt if Developer pays these costs through subsidy contributions rather than direct construction cost payment

Bike Lending Library
Congestion Pricing Equipment
Permanent Surface Parking Lots
Public Parking Meters
Public Parking Garages

Public Historic Building Rehab Costs

Building 2 (to the extent used as grocery store or other island-wide benefit)
Other historic structures (if structure used for public community-wide benefit)

Land Payments
Planning and Entitlement Costs[3]
Design and Engineering Costs[3]
Fees / Bonds / Permits[3]
Construction Management Costs[3]

[3] Share of costs considered island-wide will be pro-rated by calculating share of qualified island-wide costs to total qualified project costs (understanding that some island-wide costs may not also be qualified costs) and multiplying that ratio by the total costs incurred in any category marked for proration in this manner.

Exhibit FF

Infrastructure Plan

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

Exhibit GG

Parks and Open Space Plan

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

Exhibit HH

PERMIT TO ENTER

THE TREASURE ISLAND DEVELOPMENT AUTHORITY, a California non-profit, public benefit corporation ("**Authority**"), grants to **TREASURE ISLAND COMMUNITY DEVELOPMENT, LLC**, a California limited liability company ("**Permittee**"), a non-exclusive permit to enter upon certain Authority-owned or -leased real property (hereinafter referred to as the "**Permit Area**") located at _____ upon the terms, covenants and conditions hereinafter set forth in this Permit to Enter ("**Permit**").

1. **Permit Area**: The Permit Area is more particularly shown on Exhibit HH-1 hereto and made a part hereof. The Permit is non-exclusive and is subject to the rights of ingress and egress by the Authority and others, who are authorized to access portions of the Permit Area.

2. **Interim Use**: The Permittee shall use the Permit Area to _____[describe permitted activities] ("**Interim Use**"). No uses other than those specifically stated herein are authorized hereby.

3. **Time of Entry**: Entry may commence, once the Permit is fully executed, on _____, at 8:00 a.m. Entry shall terminate on _____, at 5:00 p.m., unless earlier terminated by the Authority under Section 11 hereof or earlier terminated by Permittee by cessation of activities/operations, or unless such time is extended by the Executive Director.

4. **Navy Consent**: If the Permit Area is owned by the United States of America, acting by and through the Department of the Navy ("Navy"), and leased or licensed by the Authority, then this Permit shall be subject to (i) the Navy's prior written consent and (ii) all of the applicable terms and conditions of the lease agreement or license between the Navy and the Authority.

5. **Indemnification:**

a. General Indemnification: Permittee shall defend, hold harmless and indemnify the Authority, the City and County of San Francisco (the "**City**") and/or their respective commissioners, members, officers, agents and employees of and from any and all claims, demands, losses, costs, expenses, obligations, damages, injuries, actions, causes of action and liabilities of every kind, nature and description directly or indirectly, arising out of or connected with this Permit and any of the Permittee's operations or activities related thereto, and excluding the willful misconduct or gross negligence of the person or entity seeking to be defended, indemnified or held harmless, and excluding any and all claims, demands, losses, costs, expenses, obligations, damages, injuries, action, causes of action or liabilities of any kind arising out of any Release (as defined in Section 6.f below) or threatened release of any Hazardous Substance (as defined in Section 6.d below), pollutant, or contaminant, or any condition of pollution, contamination, or nuisance which shall be governed exclusively by the

provisions of Section 6.c below. This section does not apply to contracts for construction design services provided by a design professional, as defined in California Civil Code Section 2782.8.

b. Indemnification By Design Professionals: This section applies to any design professional as defined in California Civil Code Section 2782.8 who is or will provide professional services as part of, collateral to, or affecting this Permit with the Permittee ("**Design Professional**"). Each Design Professional who will provide design services shall defend, hold harmless and indemnify the Authority, the City and their respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Design Professional. It is expressly agreed and understood that the duty of indemnification pursuant to this section is to be interpreted broadly to the greatest extent permitted by law, including but not limited to California Civil Code Section 2782.8.

c. No Mechanics' Liens: Permittee shall not permit any mechanics' or other liens to be levied against the Permit Area for any labor or material furnished to Permittee or claimed to have been furnished to Permittee or to Permittee's agents or contractors in connection with the Interim Use and Permittee shall hold the Authority free and harmless from any and all cost or expense connected with or arising from the Interim Use.

6. **Hazardous Material Acknowledgement and Indemnification:**

a. Hazardous Material Acknowledgement: Permittee recognizes that, in entering upon the Permit Area and performing the Interim Use under this Permit, its employees, invitees, subpermittees and subcontractors may be working with, or be exposed to substances or conditions which are toxic or otherwise hazardous. Permittee acknowledges that the Authority is relying on the Permittee to identify and evaluate the potential risks involved and to take all appropriate precautions to avoid such risks to its employees, invitees, subpermittees and subcontractors. Permittee agrees that it is assuming full responsibility for ascertaining the existence of such risks, evaluating their significance, implementing appropriate safety precautions for its employees, invitees, subpermittees and subcontractors and making the decision on how (and whether) to enter upon the Permit Area and carry out the Interim Use, with due regard to such risks and appropriate safety precautions.

b. Proper Disposal of Hazardous Materials: Permittee assumes sole responsibility for managing, removing and properly disposing of any waste produced during or in connection with Permittee's entry and/or Interim Use of the Permit Area including, without limitation, preparing and executing any manifest or other documentation required for or associated with the removal, transportation and disposal of hazardous substances to the extent required in connection with the Permittee's activities hereunder.

c. Toxics Indemnification: Permittee shall defend, hold harmless and indemnify the Authority, the City and their respective commissioners, members, officers, agents and employees from and against any and all claims, demands, actions, causes of action or suits (actual or threatened), losses, costs, expenses, obligations, liabilities, or damages, including interest, penalties, engineering consultant and attorneys' fees of every kind, nature and

description, resulting from any release or threatened release of a hazardous substance, pollutant, or contaminant, or any condition of pollution, contamination, or nuisance in the vicinity of the Permit Area or in ground or surface waters associated with or in the vicinity of the Permit Area to the extent that such release or threatened release, or condition is directly created or aggravated by the Interim Use undertaken by Permittee pursuant to this Permit or by any breach of or failure to duly perform or observe any term, covenant or agreement in this Permit to be performed or observed by the Permittee, including but not limited to any violation of any Environmental Law (as defined in Section 6.e below); provided, however, that Permittee shall have no liability, nor any obligation to defend, hold harmless or indemnify any person for any claim, action, loss, cost, liability, expense or damage resulting from (i) the willful misconduct or gross negligence of the person or entity seeking to be defended, indemnified or held harmless, or (ii) the discovery or disclosure of any pre-existing condition on or in the vicinity of the Permit Area; and provided further that Permittee shall be held to a standard of care no higher than the standard of care applicable to environmental and geotechnical professionals in San Francisco.

d. Hazardous Substances: For purposes of this Permit, the term "**Hazardous Substance**" shall have the meaning set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U. S. C. Section 9601(14), and in addition shall include, without limitation, petroleum, (including crude oil or any fraction thereof), asbestos, asbestos-containing materials, polychlorinated biphenyls ("**PCBs**" or "**PCB**"), PCB-containing materials, all hazardous substances identified at California Health & Safety Code Sections 25316 and 25281(h), all chemicals listed pursuant to California Health & Safety Code Section 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under applicable state or local law.

e. Environmental Laws: For purposes of this Permit, the term "**Environmental Laws**" shall include but not be limited to all federal, state and local laws, regulations, ordinances, and judicial and administrative directives, orders and decrees dealing with or pertaining to solid or hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee and community right-to-know requirements, related to the Interim Use.

f. Release: For purposes of this Permit, the term "**Release**" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance or pollutant or contaminant).

g. Soils Investigation: If the Interim Use under Section 2 of this Permit includes any soils investigations, then Permittee warrants as follows:

(1) If any soils investigation permitted hereby involves the drilling of holes having a diameter dimension that could create a safety hazard for persons, said holes shall during any drilling operations be carefully safeguarded and shall upon the completion of said drilling operations be refilled (and compacted to the extent necessary) to the level of the original surface penetrated by the drilling.

(2) The Authority has no responsibility or liability of any kind or character with respect to any utilities that may be located in or on the Permit Area. Permittee has the sole responsibility to locate the same and to protect the same from damage. Permittee shall be solely responsible for any damage to utilities or damage resulting from any damaged utilities. Prior to the start of the Interim Use, the Permittee is advised to contact Underground Services Alert for assistance in locating existing utilities at (800) 642-2444. Any utility conduit or pipe encountered in excavations not identified by Underground Services Alert shall be brought to the attention of the Authority immediately.

(3) All soils test data and reports prepared based thereon, obtained from these activities shall be provided to the Authority upon request and the Authority may use said data for whatever purposes it deems appropriate, including making it available to others for use in connection with any development. Such data, reports and Authority use shall be without any charge to the Authority.

(4) Any hole drilled shall, if not refilled and compacted at the end of each day's operation, be carefully safeguarded and secured after the completion of each day's work, as shall the drilling work area and any equipment if left on the Permit Area.

7. **Insurance**: Permittee shall procure and maintain coverage for the duration of the Permit, including any extensions, insurance against claims for injuries to persons or damages to property which may arise from or in connection with performance of Interim Use by the Permittee, its agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the Permittee.

a. Required Coverages. Permittee shall procure and maintain throughout the Term of this Permit and pay the cost thereof the following insurance:

(i) If Permittee has employees, Worker's Compensation Insurance in statutory amounts, with Employers' Liability Coverage with limits of not less than $1,000,000 for each accident and occurrence; and

(ii) Comprehensive or Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverage for Contractual Liability, Host Liquor Liability, Personal Injury, Advertising Liability, Independent Contractors, Explosion, Collapse and Underground (XCU), Broad Form Property Damage, Products Liability, Completed Operations and Sudden and Accidental Pollution; and

(iii) Comprehensive or Business Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverage for owned, non-owned and hired automobiles, if applicable, which insurance shall be required if any automobiles or any other motor vehicles are operated in connection with Permittee's activity on, in and around the Permit Area; and

(iv) Such other insurance as required by law or as the City's Risk Manager may require.

b. Claims Made Policy. Should any of the required insurance be provided under a claims-made form, Permittee shall maintain such coverage continuously throughout the term of this Permit, and, without lapse, for two (2) years beyond the expiration of this Permit, to the effect that, should occurrences during the Term give rise to claims made after expiration of this Permit, such claims shall be covered by such claims-made policies.

c. Annual Aggregate Limit. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be not less than double the occurrence limits specified above.

d. Additional Insureds. Liability policies shall be endorsed to name as additional insureds the "Treasure Island Development Authority, City and County of San Francisco, United States of America, acting by and through the Department of the Navy, and their officers, directors, employees and agents" (Insurance Certificate with Endorsement for such additional insureds).

e. Payment of Premiums. Permittee shall pay all the premiums for maintaining all required insurance.

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

g. General Insurance Matters.

(1) All insurance policies shall be endorsed to provide thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to Authority..

(2) All insurance policies shall be endorsed to provide that such insurance is primary to any other insurance available to the additional insureds with respect to claims covered under the policy and that insurance applies separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

(3) Before commencement of activities under this Permit, certificates of insurance and brokers' endorsements, in form and with insurers acceptable to Authority, shall be furnished to Authority, along with complete copies of policies if requested by Authority.

(4) All insurance policies required to be maintained by Permittee hereunder shall be issued by an insurance company or companies reasonably acceptable to Authority with

an AM Best rating of not less than A-VIII and authorized to do business in the State of California.

h. No Limitation on Indemnities. Permittee's compliance with the provisions of this Section shall in no way relieve or decrease Permittee's indemnification obligations herein or any of Permittee's other obligations or liabilities under this Permit.

i. Lapse of Insurance. Notwithstanding anything to the contrary in this Permit, Authority may elect in Authority's sole and absolute discretion to terminate this Permit upon the lapse of any required insurance coverage by written notice to Permittee.

j. Permittee's Personal Property. Permittee shall be responsible, at its expense, for separately insuring Permittee's Personal Property.

k. Subpermittee: Permittee shall include all subpermittees as insureds under its policies or shall require each subpermittees to furnish separate insurance certificates and endorsements. All coverages for subpermittees shall be subject to all the requirements stated herein.

8. **"As Is", Maintenance, Restoration, Vacating**: The Permit Area is accepted **"AS IS"** and entry upon the Permit Area by Permittee is an acknowledgment by Permittee that all dangerous places and defects in said Permit Area are known to it and are to be made secure and kept in such secure condition by Permittee. Permittee shall maintain the Permit Area so that it will not be unsafe, unsightly or unsanitary. Upon termination of the Permit, Permittee shall vacate the Permit Area and remove any and all personal property located thereon and restore the Permit Area to its condition at the time of entry. The Authority shall have the right without notice to dispose of any property left by Permittee after it has vacated the Permit Area. Authority makes no representations or warranties, express or implied, with respect to the environmental condition of the Permit Area or the surrounding property (including without limitation all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), or compliance with any Environmental Laws, and gives no indemnification, express or implied, for any costs of liabilities arising out of or related to the presence, discharge, migration or Release or threatened Release of the Hazardous Substance in or from the Permit Area.

9. **Compliance With Laws**:

a. Compliance with all Laws: All activities and operations of the Permittee and/or its agents, contractors or employees or authorized entries under this Permit shall be in full compliance with all applicable laws and regulations of the federal, state and local governments, including but not limited to mitigation measures, if any, which are attached hereto and made a part hereof as if set forth in full.

b. Nondiscrimination: The Permittee herein covenants for himself or herself and for all persons claiming in or through him or her that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, gender identity, marital or domestic partner status, disability (including AIDS or HIV status), national origin or ancestry in the use, occupancy or enjoyment of the Permit Area.

10. **Security of Permit Area:** There is an existing fence with gates around the Permit Area: Yes ☐ No ☐

If "Yes" is checked above, Permittee shall maintain said fence in good condition and repair any damage caused by Permittee or as a result of the Interim Use. Permittee may relocate the fence as needed, provided that the fence is restored to its original condition upon termination of the permit. During the term of the permit, the Permittee shall keep the Permit Area secure at all times.

11. **Early Termination:** This Permit may be terminated by Authority for the violation by Permittee of any of its terms, covenants and conditions under this Permit and the failure by Permittee to cure such violation with 48 hours after written notice from Authority to do so, or 24 hours' notice if the total time of permitted entry under Section 3 is four (4) days or less. Written notice under this section shall be sufficient if such notice is posted at the Permit Area and sent by facsimile transmission to the Permittee's office at [_____].]

12. **Entry under Permittee Authority:** The Permit granted Permittee for the Interim Use as defined in Section 2 shall mean and include all subpermittees, agents and employees of the Permittee. In this regard, Permittee assumes all responsibility for the safety of all persons and property and any contents placed in the Permit Area pursuant to this Permit. All Interim Uses performed in the Permit Area and all persons entering the Permit Area and all property and equipment placed therein in furtherance of the permission granted herein is presumed to be with the express authorization of the Permittee.

13. **Governing Law:** This Permit shall be governed by and interpreted under the laws of the State of California.

14. **Attorneys' Fees:** In any action or proceeding arising out of this Permit, the prevailing party shall be entitled to reasonable attorneys' fees and costs. For purposes of this Permit, the reasonable fees of attorneys of either party shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the attorney's services for either party were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the San Francisco City Attorney's Office.

15. **Special Provisions:**

a. MacBride Principles - Northern Ireland. The City and County of San Francisco and the Authority urge companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of

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

b. Non-Discrimination.

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

(2) Subcontracts. Permittee shall include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of Section 28.1 above. In addition, Permittee shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Permittee's failure to comply with the obligations in this Section shall constitute a material breach of this Permit.

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

(4) 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 use of City property are incorporated in this Section by reference and made a part of this Permit as though fully set forth herein. Permittee shall comply fully with and be bound by all of the provisions that apply to this Permit under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Permittee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars ($50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Permit may be assessed against Permittee and/or deducted from any payments due Permittee.

c. Tropical Hardwoods and Virgin Redwood. The City and County of San Francisco and the Authority urge companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code. Permittee agrees that, except as permitted by the application of Sections 802(b) and 803(b), Permittee shall not use or incorporate any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product in the performance of this Permit.

d. No Tobacco Advertising. Permittee 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 Authority, including the property which is the subject of this Permit. 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. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

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

f. Food Service Waste Reduction. Permittee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided, and implementing guidelines and rules. This ordinance prohibits the use of polystyrene foam disposable food service ware and requires the use of compostable or recyclable food service ware by anyone serving food in San Francisco. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Permit as though fully set forth. This provision is a material term of this Permit. By entering into this Permit, Permittee agrees that if it breaches this provision, Authority will suffer actual damages that will be impractical or extremely difficult to determine; further, Permittee 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 Authority will incur based on the violation, established in light of the circumstances existing at the time this Permit was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by Authority because of Permittee's failure to comply with this provision.

g. Notification of Limitations on Contributions. Through its execution of this Permit, Permittee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City or a state agency on whose board an appointee of a City elective officer serves, for the

selling or leasing of any land or building to or from the City or a state agency on whose board an appointee of a City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six (6) months after the date the contract is approved. Permittee 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. Permittee further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Permittee's board of directors; Permittee's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Permittee; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Permittee. Additionally, Permittee acknowledges that Permittee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.

16. **Supplementary Provisions:**

a. Is additional insurance required? Yes ☐ No ☐

Additional Insurance: If "Yes" is checked above, Permittee shall obtain additional insurance consisting of insurance protecting against loss or damage to real and personal property caused by fire, water, theft, vandalism, malicious mischief or windstorm, and any other causes contained in standard policies of insurance. Permittee shall supply such insurance in an amount of not less than the replacement value of the buildings and improvements on the Permit Area, evidenced by a policy of insurance and/or certificate attached hereto in the form and on the terms specified above and with the Authority and the City as additional insured.

b. Is a fence and gate required? Yes ☐ No ☐

Fence and Gate: If "Yes" is checked above, the Permittee shall, at its expense, erect a fence (with gate) securing the Permit Area before entry on the Permit Area and shall maintain said fence and gate in good condition and repair during the time of entry as specified in Section 3. Said fence and gate erected by Permittee shall constitute the personal property of Permittee.

c. Is security personnel required? Yes ☐ No ☐

Security Personnel: If "Yes" is checked above, Permittee shall provide necessary security personnel at its own expense to prevent unauthorized entry into Permit Area during:

Daytime: Yes ☐ No ☐ Nighttime: Yes ☐ No ☐

d. Will subpermittees use the Permit Area? Yes ☐ No ☐

Subpermittees: If "Yes" is checked above, each subpermittee shall execute this Permit by which execution each such Subpermittee agrees to all of the terms, covenants and conditions hereof. However, subpermittees may be covered under Permittee's insurance in lieu of obtaining and maintaining separate insurance pursuant to Section 7.k. As additional subpermittees are identified for various aspects of the Interim Use hereunder, they shall execute this Permit, if still valid, or a new permit to enter, before entering the Permit Area or commencing operations therein.

IN WITNESS WHEREOF, the parties hereto have duly executed this instrument in triplicate as of the _____ day of _____, 20__.

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

By: _____
Name: _____
Title: _____

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

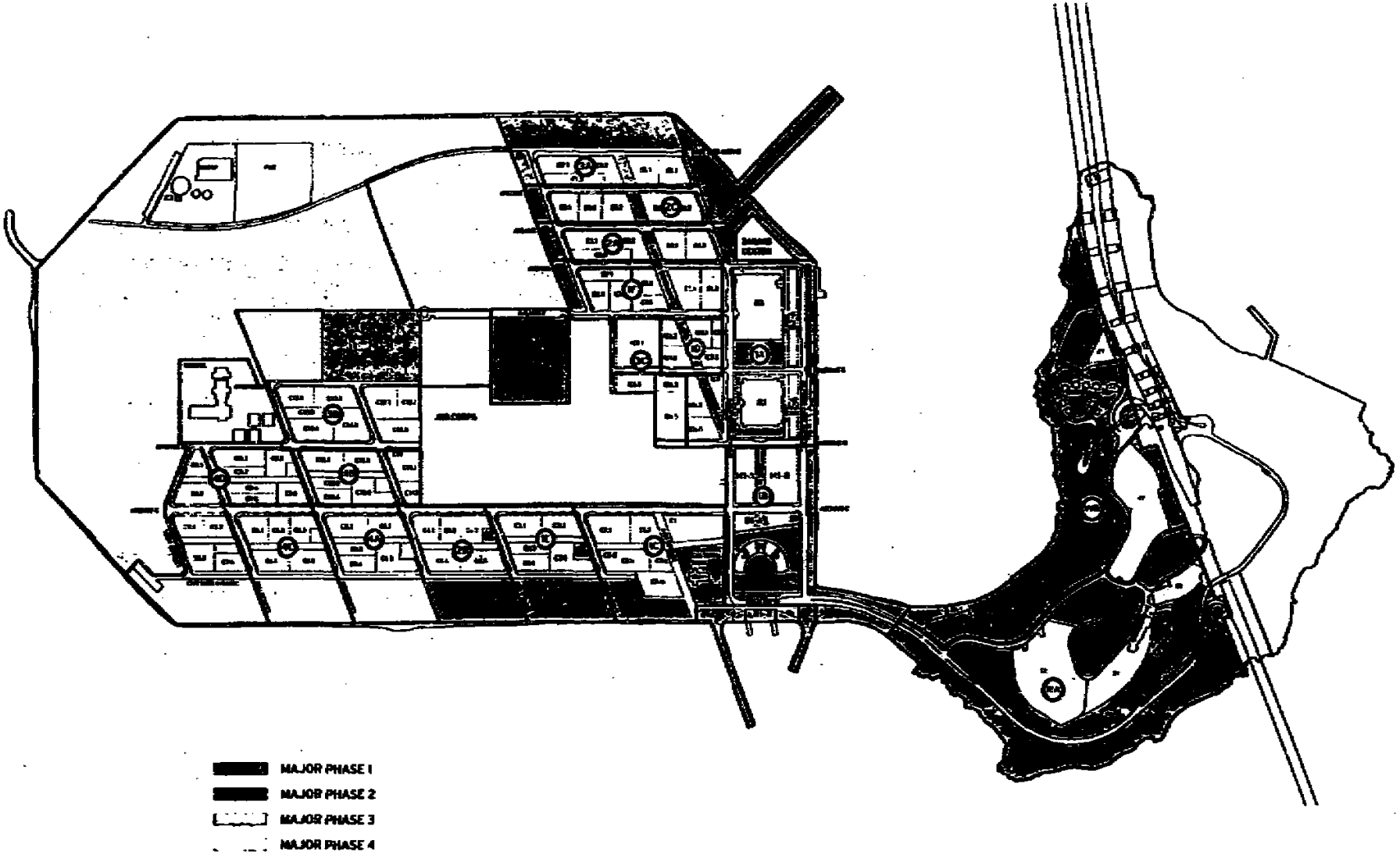
By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:
DENNIS J. HERRERA,
City Attorney

By: _____
Name: _____
Title: Deputy City Attorney

Exhibit HH-1

[To Be Inserted – Map of Permit Area]



TREASURE AND YERBA BUENA ISLANDS

EXHIBIT II, PHASING PLAN

JUNE 28, 2011

EXHIBIT JJ
SCHEDULE OF PERFORMANCE

6/28/2011

Major Phase	Sub-Phase	Block	Parks & Open Space [1]	Application Outside Date [2]	Commencement Outside Date [2]	Completion Outside Date [2]
1				2012	2014	2015
	1-Y-A	1Y-2Y-3Y		2012	2014	2016
			YBI Hilltop Park 1		2017	2018
			YBI Hilltop Park 2		2020	2021
			YBI Open Space / HMP 1		2017	2018
	1-A	B2-B3		2012	2014	2016
			Eastside Commons 1		2017	2018
			Clipper Cove Promenade 2		2017	2018
	1-B	B1-M1		2013	2015	2017
			Building 1 Plaza		2018	2019
			Marina Plaza		2018	2019
			Clipper Cove Promenade 1		2018	2019
	1-C	C1-C2		2014	2016	2018
			Cityside Waterfront Park 1		2019	2020
			Cultural Park		2019	2020
	1-D	IC1-IC4		2015	2017	2019
			Eastside Commons 2		2020	2021
	1-E	C3		2016	2018	2020
			Cityside Waterfront Park 2		2021	2022
	1-F	E1-E2		2017	2019	2021
			Urban Farm 1		2023	2024
			Eastside Park 1		2022	2023
			Eastside Commons 3		2022	2023
	1-Y-B	4Y		2018	2020	2022
			YBI Beach Park		2023	2024
			YBI Open Space / HMP 2		2023	2025
2				2018	2020	2027
	2-A	E3-E4		2018	2020	2022
			Sailing Center Pad		2022	2022
			Eastside Park 2		2023	2024
			Eastside Commons 4		2023	2024
			Eastern Shoreline Park 1		2023	2024
			Clipper Cove Promenade 3		2023	2024
	2-B	C4		2019	2021	2023
			Cityside Waterfront Park 3		2024	2026
	2-C	E5-E6		2020	2022	2024
			Eastside Park 3		2026	2026
			Eastside Commons 5		2025	2026
			Eastern Shoreline Park 2		2025	2026
			Pier 1		2026	2027
3				2021	2023	2030
	3-A	E7-E8		2021	2023	2025
			Eastside Park 4		2026	2027
			Eastside Commons 6		2026	2027
			Eastern Shoreline Park 3		2026	2027
	3-B	C12-C13		2022	2024	2026
			Urban Farm 2		2028	2029
	3-C	IC1-IC4		2023	2025	2030
4				2024	2026	2034
	4-A	C5		2024	2026	2028
			Cityside Waterfront Park 4		2029	2030
			Sports Park		2030	2031
	4-B	C10-C11		2025	2027	2029
			Urban Farm 3		2031	2032
	4-C	C6		2026	2028	2030
			Cityside Waterfront Park 5		2031	2032
			Urban Farm 4		2032	2033
	4-D	C7-C8-C9		2027	2029	2031
			Cityside Waterfront Park 6		2032	2033
			Northern Shoreline Park / The Wilds / Environmental Center Pad		2033	2034

SCHEDULE OF PERFORMANCE

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Community Facility	Obligation	Building Permit / Trigger [1]	Application Outside Date [2]	Commencement Outside Date [2]	Completion Outside Date [2]
		A	B	C	D
Waterfront Plaza / Ferry Terminal Phase 1	Facility	100 du	+6mo	+12mo	+36mo
Retail - Interim Grocery Store (5,000 sf)	Facility	1,000 du	+6mo	+12mo	+36mo
Police / Fire Station	Facility	2,500 du	+6mo	+12mo	+24mo
Retail - Final Grocery Store (15,000sf)	Facility	5,000 du	+6mo	+12mo	+24mo
Ferry Terminal Phase 2	Facility	As mutually agreed by WETA, Developer, and TIDA, after engaging in a meet and confer process described in the MOU between TIDA and WETA.			
WWTP / Recycled Water Plant / PUC 4-6 acres	Developable Pad	See PUC / TIDA WWTP MOA for timing of pad delivery.			
Sailing Center Pad	Developable Pad	Developer shall use commercially reasonable efforts to provide the Sailing Center Pad earlier if the Authority requests it and if the Treasure Island Sailing Center provides reasonable evidence that it will be ready to proceed with construction of the Sailing Center building at that earlier date.			
Environmental Center Pad	Developable Pad	Developer shall deliver the Environmental Center Pad commensurate with improvements for The Northern Shoreline Park and The Wilds			
Pier 1 / Eastern Shoreline Park 2	Improvements	Construction of these improvements may be deferred if the area is still needed for barging operations related to importing material for the site. In no case will the Completion Outside Date for these improvements be later than the Completion Outside Date of the last Sub-Phase.			
Buses for East Bay Service	Rolling Stock	Nine (9) Buses for East Bay Bus Service. First five (5) buses at inception of service, remaining four busses no earlier than the occupancy of the 5,000th residential unit.			
On -Island Shuttle Buses	Rolling Stock	Four (4) Shuttle Buses. Up to two (2) buses will be provided when the service initially begins, but no earlier than the occupancy of the three thousandth (3000th) unit, subject to the meet and confer process described in Exhibit N, Transportation Plan Obligations. The remaining two (2) buses will be provided as needed based on service schedules.			
Bicycle Lending Library	Rolling Stock	Purchase of bicycles and equipment to establish the bicycle lending library up to a maximum expediture of $110,000. Must be completed no later that the occupancy of the 1,000 residential unit.			

Financial Obligation	Obligation	Mechanism
Open Space Annual O&M Subsidy	$14.3 MM (NPV)	Max $1.5mil first 5 yrs, $3 mil per yr from Yr 6, subject to need per annual operating budget. See Financing Plan for amounts and schedule.
Transportation Annual Operating Subsidy	$30 MM (NPV)	Max $4 mil per year, subject to need per annual operating budget. See DDA for amounts and schedule.
Additional Transportation Subsity	$5 MM max	Five annual consecutive installments (max $1 mil per year) after the first certificate of occupancy (whether temp or final) has been issued for the 4,000th dwelling unit on the Project Site, payable within 90 days after request of SFCTA if transit report shows residential transit mode share is 50% or less.
Transportation Capital Contributions	$1.8 MM (NPV)	Used to purchase up to six (6) busses. Per-bus subsidy: the lesser of 20% of the cost of a Muni bus, or $300,000.
Community Center Space(s) Subsidy	$8.5 MM (NPV)	Space or subsidy determination made at Major Phase Approval. Max $2.375 mil each Major Phase - subject to approved budget and program description.
Childcare Facility Subsidy	$2.6M (NPV)	Space or funding no later than the first approved Sub-Phase within Major Phase Three or 18 months before the existing facility is no longer operational due to development activity, whichever comes first.
Affordable Housing Subsidy	$98 MM max; $73.5 MM baseline	$17,500 per market rate unit at each lot sale. Trueups at 50% of TI land acreage make-up to 2,100 units and at 4,200 units land sales, credit for any payment made at 2,100 unit true-up. See Housing Plan for amounts and schedule.
School Improvement Payment	$5 MM (NPV)	Payment due at the start of refurbishment work on the school grounds for purposes of opening a K-8 school. See DDA for amounts and schedule.
Ramps / Viaduct SFCTA SoR Cost Reimbursement	$10 MM (NPV)	Annual schedule of payments. See TIDA / SFCTA MOA 3rd Amendment for amounts and schedule.
Import Fill	$1 MM	Payment due upon removal from stockpile at rate of $3.50 per CY or for any remaining in stockpile after 12/31/2015 in 3 equal annual installments. See TIDA / D.A. McCosker Agreement.

[1] Horizontal obligations only, no vertical improvement or rehabilitation except as defined in Open Space Plan

[2] All dates are subject to navy's environmental remediation efforts provided in the Navy MOA and land transfers from Navy and TIDA

SCHEDULE OF PERFORMANCE

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[3] Community Facility obligation is triggered by number of total building permits issued for residential dwelling units (shown in table above)
[4] Timeframes are additive: Completion Outside Date = Date of Trigger (A) + (B) + (C) + (D)

Attachment 1

Form of Public Trust Exchange Agreement

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.

Attachment 2

Form of Navy Economic Development Conveyance Memorandum Agreement

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.