

**PUBLIC UTILITIES COMMISSION**

City and County of San Francisco

RESOLUTION NO. 11-0068

WHEREAS, 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"); and

WHEREAS, 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 responsible for the conversion of NSTI under the federal disposition process; and

WHEREAS, The Treasure Island Development Authority (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, 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; and

WHEREAS, 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; and

WHEREAS, After completion of a competitive master developer selection process, the Authority entered into the Exclusive Negotiating Agreement with the Treasure Island Community Development LLC (Developer), dated as of June 1, 2003; and

WHEREAS, Effective August 15, 2006, the State of California, acting through its Department of Transportation (CalTrans), the Authority, and the SFPUC entered into a Cooperative Utility Agreement, authorizing Caltrans to replace an existing submarine power cable that served Treasure Island that interfered with the San Francisco-Oakland Bay Bridge East Span Seismic Safety project. The Authority agreed to reimburse Caltrans for the additional cost of constructing two submarine power cables, and pursuant to that agreement, Caltrans did construct two higher capacity 25 KV rated armored submarine cables, transferring ownership of one cable to the Navy, and the other to the Authority. The SFPUC and the Authority entered into a Memorandum of Agreement (MOA), dated July 7, 2006, as amended by the First Amendment, dated January 8, 2007, with SFPUC agreeing to provide the collateral and security for the Authority's reimbursement obligation to CalTrans, payable in four installments, and executed a Pledge and Security Agreement with CalTrans and the Authority. The MOA provided that if SFPUC paid the Authority's obligation to CalTrans, the Authority would reimburse the SFPUC for that amount, plus interest at the rate of the SFPUC's cost of funds, from proceeds from the first public financing for future development at Treasure Island or another mutually agreed upon funding source. On behalf of the Authority, the SFPUC has made an initial payment of \$2,599,340 to CalTrans in January 2007 and two installment payments in 2009 and 2010 totaling \$1,419,359.50, with two remaining installment payments of

\$709,679.75 each due on October 1, 2011 and October 1, 2012, for a total Authority reimbursement obligation to CalTrans of \$5,438,059. As consideration for the MOA, the Authority granted SFPUC an Option whereby the Authority will quitclaim to SFPUC its right, title and interest in the Authority's cable within 60 days following receipt of notice from SFPUC, issued at any time after CalTrans has transferred the cable to the Authority. If the SFPUC exercise the Option, the Authority obligation to repay the SFPUC will be determined according to the MOA. The SFPUC has not yet exercised the Option for the transfer of the cable; and

WHEREAS, 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, 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; and

WHEREAS, 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; and

WHEREAS, 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 mechanism provided under the Infrastructure Financing District Act (California Government Code Section 53395 et seq.), as amended from time to time; and

WHEREAS, The Authority and Developer intend to enter into a Disposition and Development Agreement (DDA), subject to Board of Supervisors approval, 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 consistent with the City's General Plan and the eight Priority Planning Policies; and

WHEREAS, The DDA describes the Project, and describes those elements of the Project that Developer is permitted, and in some cases, obligated to construct. The DDA contemplates that certain proposed improvements will be developed by parties other than Developer; and

WHEREAS, The Authority has determined that by entering into the DDA: (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; and

WHEREAS, The Planning Commission and the Authority, as joint lead agencies, prepared a Draft Environmental Impact Report for the Project (the "DEIR") in Planning Department File No. 2007.0903E, published on July 12, 2010. The comment period ended on September 10, 2010, and the Comments and Responses document was published on March 10, 2011. In a joint meeting on April 21, 2011, the Planning Commission and the Authority, certified the Final EIR, consisting of the Draft EIR and the Comments and Responses document (FEIR), and by Motion (1) found that the contents of the EIR and the procedures through which the EIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative

Code ("Chapter 31"), (2) found that the EIR reflects the independent judgment and analysis of the City and the Authority, and is adequate, accurate, and objective and that the Comments and Responses document contains no significant revisions to the Draft EIR, and (3) certified the completion of the EIR in compliance with CEQA, the CEQA Guidelines and Chapter 31, a copy of which Motion is on file with the Planning Department; and

WHEREAS, The EIR files available from the Planning Department have been made available to this Commission and the public, and this Commission has reviewed and considered the information in the EIR and the proposed CEQA Findings, including a statement of overriding considerations, and the proposed mitigation, monitoring and reporting program (MMRP), attached to this Resolution as Attachments A and B, respectively, in furtherance of the actions contemplated by this Resolution; and

WHEREAS, The Planning Commission determined by Motion that the Project, and the various actions being taken by the City and the Authority to approve and implement the Project, are consistent with the General Plan and with the Eight Priority Policies of City Planning Code Section 101.1, and made findings in connection therewith (the "General Plan Consistency Determination"), a copy of which is on file with the Planning Department and is incorporated into this Resolution by reference; and

WHEREAS, Following certification of the FEIR, the Authority entered into a Disposition and Development Agreement (the "DDA") with Developer for the redevelopment of the Project Site (the "Project"). At full build-out, the Project is anticipated to include: up to 8,000 new residential units accommodating 18,000 to 19,000 people, a percentage of which will be offered at below-market rates, three hotels, a 400-slip marina, restaurants, retail and entertainment venues—plus nearly 300 acres of parks and open space. The development is clustered around a new intermodal transit and ferry terminal and is designed to prioritize walking, biking and public transit; and

WHEREAS, The Board of Supervisors is considering a series of actions and approvals in furtherance of the Project, including approving the ICA, DA and DDA, and the Commission action on this Resolution will be effective only if the Board of Supervisors adopts those Project approvals; and

WHEREAS, The City intends to undertake and complete proceedings and actions necessary to be carried out by the City under the provisions of the Project approvals and provide for the expenditure of monies in carrying out the Project and, specifically, the City wishes to enter into an Interagency Cooperation Agreement with the Authority, in the form on file with this Commission (the "Interagency Cooperation Agreement"), to provide for cooperation between the City and the Authority in administering the process for control and approval of subdivisions, the acceptance of infrastructure and other improvements constructed by the Developer, and all other applicable land use, development, construction, improvement, infrastructure, occupancy, service and use requirements and commitments and in establishing the policies and procedures relating to such approvals. The Developer and its successors under the DDA are third party beneficiaries of the Interagency Cooperation Agreement; and

WHEREAS, The Infrastructure Plan describes the construction and development of Infrastructure in the development area and site work needed to support the Project. The Infrastructure Plan defines Infrastructure improvements to be provided by the Developer for the Development Plan Area, as well as off-site and on-site work that may be provided to support development of the Development Plan Area by the San Francisco Public Utilities Commission (SFPUC) and

WHEREAS, The Development Agreement (DA) between the City and Treasure Island Community Development, LLC., (TICD) recognizes that, in exchange for defined public benefits, the Project will only be subject to certain defined ordinances, regulations, rules and policies governing the design, construction, fees and exactions, use or other aspects of the Project; and

WHEREAS, the Infrastructure Plan contemplates that the SFPUC will provide the new wastewater/recycled water treatment plant to treat the flows from the developed project and references a future SFPUC Memorandum of Understanding ("SFPUC MOU") that will include the provisions and terms upon which



the SFPUC will provide a new wastewater/recycled water treatment plant and be responsible for the financing, construction operation and maintenance; and

WHEREAS, The Authority and SFPUC will negotiate a separate utilities transfer memorandum of understanding that will provide for the SFPUC to continue its activities as a contract provider of utility services during the interim period between the conveyance of the Project Site to the Authority and the installation of new utility infrastructure; and

WHEREAS, The Infrastructure Plan also contemplates SFPUC construction of , or reimbursement of Caltrans for, the infrastructure relating to the emergency water supply for the Islands, the construction and operation of which are not considered part of the Project and are the subject of future negotiation; and

WHEREAS, Section 3.4(f)(iii)(2) provides that approving the DA and ICA will not affect the outcome of the future negotiations described above, and that the SFPUC retains full discretion to negotiate the elements of the wastewater project, interim operations agreements, and emergency water supply facilities agreements; and

WHEREAS, The Infrastructure Plan requires the Developer to design and construct the proposed potable water distribution system; the replacement of potable water storage tanks for storage and fire flow; the emergency water line from the new Bay Bridge to the water tanks on YBI; the wastewater collection system; the recycled water distribution system; the new stormwater collection system; new stormwater treatment systems to meet the stormwater management requirements of the SFPUC Stormwater Design Guidelines, including bioretention / infiltration planters, street planters, swales, sub-grade infiltration areas, permeable paving, rain gardens, and/or seasonal wetlands; and

WHEREAS, Following the completion and acceptance of the new or upgraded infrastructure, the SFPUC will operate and maintain water and recycled water distribution systems, and wastewater and stormwater collection and control systems, except those stormwater control elements necessary to meet stormwater control obligations applicable to private development parcels; and

WHEREAS, Section 3.7 of the ICA provides that the Authority shall, in consultation with the SFPUC, require the Developer to prepare an assessment of the feasibility of the SFPUC providing electric service to the Project Site consistent with San Francisco Administrative Code Chapter 99, and to prepare an assessment of the feasibility of the SFPUC providing gas service to the Project Site. Prior to the Authority's approval of the first Major Phase Application, the Authority shall have require the Developer to complete the feasibility studies in consultation with the SFPUC. The Developer shall pay for all costs of such update; and

WHEREAS, Commissioners raised concerns at the public meeting on May10, 2011, including questions concerning the City or TIDA's commitment to, and/or capacity for, financing the cost of future infrastructure improvements, particularly improvements that may be needed to protect infrastructure against sea-level rise or to pump and provide power to the stormwater system, and the Mayor's Office committed to continuing to work with SFPUC to address those concerns as the staff prepare final documents to be presented to the Board of Supervisors for Project approval; now, therefore, be it

RESOLVED, That in order to effectuate the development of the Project, this Commission hereby adopts the CEQA Findings, including the Statement of Overriding Considerations, attached to this Resolution as Attachment A and adopts the Mitigation Monitoring and Reporting Program, attached to this Resolution as Attachment B, both of which are incorporated into this Resolution by this reference, and approves the Interagency Cooperation Agreement substantially in the form on file with this Commission, subject to the approval of the City's Board of Supervisors, and recommends approval of the Interagency Cooperation Agreement to the Board of Supervisors; and be it

FURTHER RESOLVED, That subject to the approval of the Interagency Cooperation Agreement by the City's Board of Supervisors, this Commission authorizes the SFPUC General Manager to execute the SFPUC Consent to the Interagency Cooperation Agreement on behalf of this Commission, in substantially the form

presented to this Commission as modified by the amendments to the ICA, and subject to the amendment to Section 2.8 (e) of the Financing Plan, which is an exhibit to the DA, to read as follows:

### **2.8 CFD Limitations**

(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. In addition, Additional Community Facilities to be authorized within each CFD shall include, but are 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 the Developer has in funding Additional Community Facilities from CFD Bonds prior to the CFD Conversion Date in subsection 2.8(c), for each CFD, if, prior to the CFD Conversion Date, sea levels in the waters surrounding the Project Area rise by more than sixteen (16) inches from the levels in existence on the Reference Date, as defined in the Infrastructure Plan, the City and Developer agree to finance the Future Sea Level Rise Improvements from First Tranche CFD Bonds of such CFD; and be it

FURTHER RESOLVED, That provided the SFPUC retains full discretion to negotiate the elements of the wastewater/recycled project, interim operations agreements, and emergency water supply facilities agreements, this Commission consents to the following:

1. The ICA as it relates to matters under SFPUC jurisdiction, including the SFPUC-Related Infrastructure, the Stormwater Management Controls, and the SFPUC-Related Mitigation Measures;
2. The acceptance, operation and maintenance of SFPUC-Related Infrastructure, subject to appropriation and subject to Developer satisfying the SFPUC requirements for construction, warranties and guarantees, operations and maintenance manuals, testing, and training that are consistent with the Applicable City Regulations and applicable State and federal law, and meeting the SFPUC-Related Mitigation Measures; and
3. The delegation to the SFPUC General Manager or his or her designee any future Approvals of the SFPUC under this ICA, including Approvals of Authority Applications, subject to applicable law including the City's Charter; and be it

FURTHER RESOLVED, That this Commission authorizes the Mayor, the City Administrator and the Director of Public Works (or any successor City officer designated by law) to enter into and approve any additions, amendments or other modifications to the Interagency Cooperation Agreement (including, without limitation, any exhibits) that they determine, in consultation with the City Attorney and any affected City agencies, are in the best interests of the City, provided that any such additions, amendments or modifications do not materially increase the costs or liabilities of the City and are necessary or advisable to effectuate the implementation of the Development Plans, the Plan Documents (as defined in the Redevelopment Plans) and this Resolution and legislation by the Board of Supervisors, subject to the terms of Section 8.4 of the Interagency Cooperation Agreement with respect to any amendment that affects the SFPUC Infrastructure or the SFPUC-Related Mitigation Measures; and be it

FURTHER RESOLVED, That Adoption of the Development Agreement between the City and TICD recognizes that, in exchange for defined public benefits, the Project will only be subject to certain defined ordinances, regulations, rules and policies governing the design, construction, fees and exactions, use or other aspects of the Project and that it will not impose any new fees and exactions other than those agreed-upon in the

**Agreement:** Treasure Island  
**Commission Meeting Date:** May 10, 2011

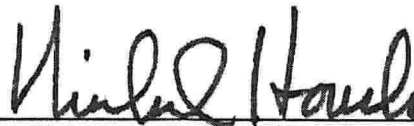
DA, will not impose changes in law that would adversely affect the project, and will not materially limit or control the availability of public utilities, services or facilities or any privileges or right to public utilities, services, facilities or Infrastructure for the Project, including but not limited to water rights, water connection, sewage capacity rights, and sewer connections, subject to applicable law; and be it

FURTHER RESOLVED, That this Commission authorizes the SFPUC General Manager, in conjunction with the Mayor, the City Administrator, the Director of Public Works and other officers, agents and employees of the City, but subject to appropriation, to take any and all steps (including, but not limited to, the execution and delivery of any and all agreements, notices, consents and other instruments or documents) as they or any of them deem necessary or appropriate, in consultation with the City Attorney, in order to consummate and perform its obligations under the Interagency Cooperation Agreement in accordance with this Resolution and legislation by the Board of Supervisors, or otherwise to effectuate the purpose and intent of this Resolution and such legislation; and be it

FURTHER RESOLVED, That the approval under this Resolution shall take effect upon the effective date of the Board of Supervisors' legislation approving the Interagency Cooperation Agreement.

*I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of*

May 10, 2011



Secretary, Public Utilities Commission