

RECORDING REQUESTED BY, AND
WHEN RECORDED RETURN TO:

San Francisco Public Works
Bureau of Street Use and Mapping
Office of the City and County Surveyor
1155 Market Street, 3rd Floor
San Francisco, CA 94103

Assessor's Block ("A.B.") (Space above this line reserved for Recorder's use only)

AB:

**FIRST AMENDMENT TO PUBLIC IMPROVEMENT AGREEMENT
(YERBA BUENA ISLAND)**

This FIRST AMENDMENT TO PUBLIC IMPROVEMENT AGREEMENT (YERBA BUENA ISLAND) ("**First Amendment**") dated for reference purposes only as of May __, 2020, is entered into by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation of the State of California ("**City**"), the TREASURE ISLAND DEVELOPMENT AUTHORITY, a California non-profit public benefit corporation, ("**TIDA**") and TREASURE ISLAND COMMUNITY DEVELOPMENT, LLC, a California limited liability company, its successors and assigns ("**Subdivider**").

RECITALS

A. On December 9, 2016, the Director conditionally approved Tentative Map No. 9228 pursuant to Public Works Order No. 186,703. Public Works Order No. 186,703 included the Director's Conditions of Approval for the Tentative Map.

B. The Board of Supervisors approved Final Map No. 9228 pursuant to Motion No. M18-046 on April 10, 2018 and authorized the Director to enter into the Public Improvement (Yerba Buena Island), dated for reference purposes as of March 29, 2018, and recorded as Document No. 2018-K602991 of Official Records ("**Original Agreement**").

C. The Original Agreement describes Subdivider's obligations to complete public improvements to serve the development on Yerba Buena Island on or before April 19, 2020, subject to extension. Pursuant to the Original Agreement, Subdivider provided security to City to secure its obligations to complete YBI Required Infrastructure, as defined in the Original Agreement.

D. YBI Phase 1 Investors, LLC, submitted an application for a tentative map to merge and resubdivide portions of lots created by Final Map No. 9228 and Final

Transfer Map No. 8674, recorded December 7, 2015, in Book FF of Survey Maps at pages 177-192 of Official Records, which tentative map was assigned number 9856 (“**Tentative Map No. 9856**”), on November 17, 2018. The Director approved Tentative Map No. 9856 on January 15, 2019, pursuant to Public Works Order No. 200495.

E. Subdivider seeks approval of a phased final map for a portion of the Tentative Map No. 9856 area, which phased final map is entitled “Final Map No. 9856” (“**Map No. 9856**”). Portions of the YBI Required Infrastructure are within Map No. 9856.

F. TIDA intends to offer the areas designated Exhibits I and L (“**Signal Road**”) as listed on Table A on Sheet 4 and shown on Sheet 8 of Map No. 9856 to the City for acceptance as a dedicated public right-of-way. Although it is the intent of the Parties for the City to designate Signal Road as open public right-of-way upon its completion, TIDA will maintain the roadway unless and until the City accepts Signal Road for maintenance and liability. In addition, Subdivider will complete YBI Required Infrastructure within, and adjacent to, the proposed right-of-way and dedicate those improvements for acceptance by City.

G. Under the Project’s Infrastructure Plan (Exhibit FF to the DDA) as originally approved, Signal Road was not identified as a future public right-of-way. In addition, TIDA, City and Subdivider determined that the Infrastructure Plan should be amended to reconcile provisions of that plan with current designs for the area shown as Macalla Road (Lot B) on Final Map No. 9228. As a result, TIDA and Subdivider initiated procedures to amend the Infrastructure Plan to reflect these changes. TIDA determined that the amendments were non-material in a letter dated May 4, 2020, and the Mayor concurred with that determination by countersignature dated May 12, 2020. TIDA approved the Infrastructure Plan amendments on May 29, 2020. In addition to the foregoing, Subdivider requested exceptions from the Subdivision Regulations to facilitate the dedication of Signal Road and associated YBI Required Infrastructure. The Director approved the requested exceptions on May __, 2020 pursuant to Public Works Order No. _____.

H. This First Amendment modifies the Original Agreement to account for the dedication of Signal Road as a public right-of-way and the dedication of associated YBI Required Infrastructure. Further, this First Amendment addresses Subdivider’s obligation to complete additional infrastructure on YBI to service the subdivision, including YBI Required Infrastructure and privately-owned infrastructure within the Map No. 9856 subdivision.

I. Subdivider has not completed the YBI Required Infrastructure associated with Final Map No. 9228 pursuant to the Original Agreement or the YBI Required Infrastructure associated with Map No. 9856. With respect to the former, Subdivider has commenced work on the improvements including remedial grading and geotechnical work, installation of stormdrain and sanitary sewer, construction of a pump station and

water tanks and other work and is making diligent progress toward completion as of the date of this First Amendment.

J. Condition F.1 of the conditions of approval associated with Tentative Map No. 9856 (“**2019 Conditions of Approval**”) provides for an amendment to the Original Agreement to address additional YBI Required Infrastructure beyond that contemplated by the Original Agreement.

K. The Original Agreement states that the intention of the City and TIDA is to execute the Utility Operating Agreement pertaining to the Temporary Force Main within 120 days of the effective date of the Original Agreement. The Utility Operating Agreement was not executed subsequent to the Original Agreement. The City and TIDA no longer intend to execute the Utility Operating Agreement, and the Parties acknowledge that the Utility Operating Agreement is not required to satisfy any condition of approval.

L. In order to permit approval and recordation of Map No. 9856, to facilitate the Signal Road dedication, to address the 2019 Conditions of Approval, to extend the time for Subdivider’s completion of the YBI Required Infrastructure associated with Final Map No. 9228 pursuant to the Original Agreement, and to reflect the anticipated completion of the Utility Operating Agreement, the City, TIDA and Subdivider desire to enter into this First Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and the covenants, terms, conditions and restrictions contained herein, the City, TIDA and Subdivider hereby amend the Original Agreement as hereinafter set forth:

1. Amended Sections and Exhibits.
 - a. Exhibit A-9 - Plans and Specifications. Attachment 1 attached hereto shall be incorporated as new “Exhibit A-9” of the Original Agreement. For avoidance of doubt, the definitions of “Plans and Specifications” and “YBI Required Infrastructure,” per Recital E of the Original Agreement, are by this incorporation revised to include the facilities shown on Exhibit A-9.
 - b. Exhibit B - Estimated Costs. Exhibit B to the Original Agreement is hereby replaced in its entirety by Attachment 2 attached hereto. For avoidance of doubt, the definition of “Estimated Costs” per Recital E of the Original Agreement, is by this incorporation revised to include the facilities shown on Exhibit A-9.

- c. Recital E. Recital E of the Original Agreement is hereby deleted and replaced with the following:

E. Pursuant to the DDA, Subdivider is obligated to construct horizontal infrastructure and public improvements on the Street and Utilities Lots as well as public park and open space improvements on certain lots that are, and will continue to be, owned in fee by TIDA (“**Open Space Lots**”). The infrastructure and public improvements contemplated for the Property are described in the Treasure Island Infrastructure Plan (the “**Infrastructure Plan**”) attached to the DDA and as may be amended from time to time, and the Treasure Island and Yerba Buena Island Streetscape Master Plan approved by TIDA on February 10, 2015, as may be amended from time to time (the “**Streetscape Master Plan**”), and the Tentative and Final Maps. Such public improvements are more particularly described in those certain improvement plans identified in Exhibit A (as such plans are revised from time to time, the “**Plans and Specifications**”). The Plans and Specifications provide for the construction, installation and completion of the public improvements identified therein (the “**YBI Required Infrastructure**”). Specific portions of the YBI Related Infrastructure will upon completion be owned by TIDA (the “**TIDA Infrastructure**”) and others by the City (the “**City Infrastructure**”). The Plans and Specifications additionally provide for City Infrastructure and TIDA Infrastructure, including without limitation infrastructure located in the public right-of-way, that shall be owned by the City or TIDA and operated and maintained in perpetuity by the Subdivider, fronting property owner, or other private entity approved by the City (the “**Privately Maintained Public Infrastructure**”). The Plans and Specifications also provide for portions of the YBI Required Infrastructure to be owned, operated, and maintained by the Subdivider, fronting property owner, or other private entity approved by the City (“**Private Infrastructure**”). There also are public improvements that are temporary, shall be owned by the Subdivider, and shall be Subdivider’s responsibility for purposes of maintenance and operation (“**Temporary Facilities**”). These Temporary Facilities include a temporary force main (“**Temporary Force Main**”) and a temporary overhead electrical line (“**Temporary Overhead Line**”) on Treasure Island. The forms of infrastructure mentioned above collectively comprise the YBI Required Infrastructure and the estimated costs of completing the YBI Required Infrastructure are described in Exhibit B hereto (the “**Estimated Costs**”). Copies of the Plans and Specifications are on file with the San Francisco Department of Public Works (“**Public Works**”).

- d. Section 2(b) (Completion). Section 2(b) of the Original Agreement is hereby deleted and replaced with the following:

Subdivider shall complete: (i) the YBI Required Infrastructure described in Exhibits A1- through A-7 (Interim Grading for Water Tank, Street Improvement Permit, Sanitary Pump Station, Water Storage and Pump System, Interim 12kv Overhead Distribution to YBI, Interim Gas Distribution to YBI and Sanitary Sewer Pump Station, Gravity and Force Main on Treasure Island) by December 31, 2021; the YBI Required Infrastructure associated with the Hilltop Park (Lots E, F, H and I), a portion of Final Map No. 9228, as described in Exhibit A-8, by April 19, 2022; and (iii) the YBI Required Infrastructure associated with Map No. 9856 within two (2) years of the date of recordation of Map No. 9856. The time periods described in this Section 2(c) may be extended upon application by Subdivider and approval by the Director pursuant to Section 4(b) below, or may be extended by operation of Sections 10(c) through (f) below. In reviewing such application for an extension of time, the Director shall consider reasonable construction, access and storage requirements for each adjacent project and subsequent projects.

- e. Section 3(f) (Map No. 9856 Security). Section 3 of the Original Agreement is hereby amended to include the following as a new Section 3(f):
 - (i) As a condition of releasing Map No. 9856 for recording, Subdivider has provided the Director with the following: (i) a performance bond in the amount of Three Million Seven Hundred Sixty-Seven Thirteen Dollars (\$3,767,013) (100% of estimated “hard” cost of completion of the construction and installation of YBI Required Infrastructure required for Map No. 9856 as determined by the Director) to secure satisfactory performance of Subdivider’s obligations, and (ii) a payment bond in the amount of One Million Eight Hundred Eighty-Three Thousand Five Hundred Six Dollars and Fifty Cents (\$1,883,506.50) (50% of the estimated cost of completion of the YBI Required Infrastructure required for Map No. 9856 as determined by the Director) as guarantee of payment for the labor, materials, equipment and services required for said infrastructure. This Security is in addition to Security the City holds for YBI Required Infrastructure pursuant to the Original Agreement.
 - (ii) The Security described in this Section 3(f) for YBI Required Infrastructure required for Map No. 9856 shall be used for the purposes described in Section 3(d) and subject to the release provisions described in Sections 5(a), 5(b) and 5(c), and with respect to Private Infrastructure Section 6(e) shall apply.
- f. Section 6(e): Section 6(e) is hereby deleted and replaced with the following:

Subdivider shall not offer for dedication the Temporary Facilities and Private Infrastructure. This infrastructure shall be owned, operated and maintained by Subdivider, unless the City, at its sole discretion, decides to accept Temporary Facilities at a future date. The Private Infrastructure and Temporary Facilities are integral components of the YBI Required Infrastructure and are necessary components of a fully-functional utility system on YBI. Promptly upon Subdivider's request, the City shall inspect the Private Infrastructure and Temporary Facilities and the City shall issue a Certificate of Conformity for Private Infrastructure and Temporary Facilities that meet the standard for such set forth in Section 5 above. The Subdivider shall obtain a Certificate of Conformity for the Temporary Facilities and Private Infrastructure prior to City and/or TIDA Acceptance of the YBI Required Infrastructure (or portions or components thereof); provided, however, that the Director, in consultation with TIDA and any affected City department, may grant an exception to this requirement on a case by case basis. Notwithstanding any other provision of this Agreement, the Security associated with the Private Infrastructure, or any portion thereof, shall be fully released promptly after the issuance of a Certificate of Conformity, unless the City or TIDA has agreed to Accept such Private Infrastructure, in which case the provisions of Sections 5(c), 7 and 9 shall apply.

2. Miscellaneous Provisions.

a. Signal Road.

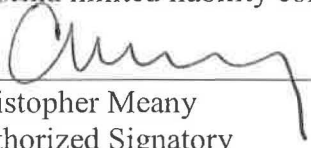
- i. Map No. 9856 includes an easement over Lot C for utility purposes and an easement (the "**Signal Road Easement**") over the areas designated Exhibits I and L (as listed on Table A on Sheet 4 of the Map) (all together, "**Access Easement Area**") from TIDA to City for public access and an offer of the Access Easement Area in dedication as a public right of way. The Signal Road Easement is also described in a separate instrument recorded concurrent with Map No. 9856, the terms of which provide that the City may, but is not obligated to, accept Signal Road as a public street for purposes of maintenance and liability. The terms of the Signal Road Easement provide that at all times after the City issues a Notice of Completion for the YBI Required Infrastructure within the Access Easement Area, TIDA, as the fee owner, shall maintain Signal Road unless and until the Board of Supervisors accepts Signal Road as a public street for purposes of maintenance and liability. During this period, pursuant to the Signal Road Easement, Signal Road will be subject to City jurisdiction, rules and regulations governing rights of way. In the event of any variance between the terms of this Agreement and the terms of the Signal Road Easement, the Signal Road Easement shall govern.

- ii. All YBI Required Infrastructure within Signal Road will be City Infrastructure. Subdivider's Offers of Dedication associated with Map No. 9856 shall reflect this.
- b. Private Roads. The YBI Required Infrastructure includes certain improvements within private streets on Map No. 9856 Lots 001 and 002, which private streets are not offered for dedication to the City on Map No. 9856. All such improvements within these private streets will be Private Infrastructure except for electric service facilities and the trench housing them, which shall be City Infrastructure. Subdivider's Offers of Dedication associated with Map No. 9856 shall reflect this.
- c. Continuing Effect. Except as otherwise expressly amended in Section 1 of this First Amendment, all of the terms and conditions of the Original Agreement remain in full force and effect.
- d. Definitions. Except as may be required to maintain the sense of a particular provision, references to "the Tentative Map" and "the Final Map" shall encompass Tentative Map No. 9856 and Final Map No. 9856, respectively, in addition to the definition given these terms in the Original Agreement.
- e. Incorporation. The First Amendment constitutes part of the Original Agreement and any reference to the Original Agreement shall be deemed to include a reference to the Original Agreement as amended by this First Amendment.
- f. Authority. The Director on behalf of City, and the Treasure Island Director, on behalf of TIDA, have determined that this First Amendment satisfies the criteria for approval of an amendment to the Original Agreement under Section 14(m) thereof.
- g. Other Definitions. All capitalized terms used but not defined herein shall have the meanings assigned thereto in the Original Agreement.
- h. Counterparts. This First Amendment may be executed in any number of counterparts, each of which shall be an original.
- i. Conflict between Original Agreement and First Amendment. In the event of any conflict between the provisions of this First Amendment and the Original Agreement, this First Amendment shall prevail.

[Signatures on next page.]

SUBDIVIDER

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

By: 

Christopher Meany
Authorized Signatory

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California)
County of San Francisco)
On June 5, 2020 before me, Renee Adams, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Christopher Meany
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.



Signature Renee Adams
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document First Amendment to Public
Title or Type of Document: Improvement Agreement Document Date: _____
Number of Pages: 11 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)
Signer's Name: Christopher Meany
 Corporate Officer — Title(s): Authorized Signatory
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____

Signer Is Representing: Treasure Island Community Development, LLC

Signer Is Representing: _____

CITY AND COUNTY OF SAN FRANCISCO


By: Alaric Degrafinried
Its: Acting Director of Public Works

APPROVED AS TO FORM:

DENNIS J. HERRERA
CITY ATTORNEY

John D. Malamut
Deputy City Attorney

TREASURE ISLAND DEVELOPMENT AUTHORITY



By: Robert P. Beck
Its: Treasure Island Director

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

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California)

County of San Francisco)

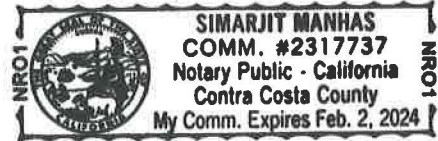
On 06/08/2020 before me, Simarjit Manhas, Notary Public
(here insert name and title of the officer)

personally appeared Robert P. Beck

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

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

WITNESS my hand and official seal.



Signature *Simarjit Manhas*

(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of First Amendment to Public Improvement Agreement, containing 11 pages, and dated _____.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) _____
Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information	
Method of Signer Identification	
Proved to me on the basis of satisfactory evidence: <input type="checkbox"/> form(s) of identification <input type="checkbox"/> credible witness(es)	
Notarial event is detailed in notary journal on: Page # _____ Entry # _____	
Notary contact: _____	
Other	
<input type="checkbox"/> Additional Signer(s)	<input type="checkbox"/> Signer(s) Thumbprint(s)
<input type="checkbox"/> _____	

Attachment 1

(Exhibit A-9)

Map No. 9856 Improvements

Plan Set Describing Improvements	Date of Plan Set
201 Macalla Road Site Permit Application	August 10, 2018
Parcel 3Y Building Permit Application Plans	May 3, 2019
Parcel 4Y Building Permit Application Plans	May 3, 2019
Forest Road Building Permit Application Plans	March 3, 2020
Yerba Buena Island Stage 1 Street Improvement Permit - Instructional Bulletin No. 7 - Signal Road	March 27, 2020
Yerba Buena Island Stage 1 Street Improvement Permit - Instructional Bulletin No. 8 - Macalla Road	February 7, 2020

Attachment 2

(Exhibit B)

ESTIMATED COSTS

Exhibit (A-1 through A-9)	Description of Improvements	Estimated Costs
Exhibit A-1	Interim Grading for Water Tank	\$155,000
Exhibit A-2	Street Improvement Plans	\$16,700,000
Exhibit A-3	Sanitary Pump Station Plans	\$2,002,000
Exhibit A-4	Water Storage and Pump System	\$13,440,000
Exhibit A-5	Interim 12kv Overhead Distribution to YBI – Off Site Improvements	\$1,105,000
Exhibit A-6	Interim Gas Distribution to YBI – Off Site Improvements	\$875,000
Exhibit A-7	Sanitary Sewer Pump Station, Gravity and Force Main on Treasure Island	\$9,237,075
Exhibit A-8	Hilltop Park	\$6,530,000
Exhibit A-9	Map No. 9856 Improvements	\$3,767,013

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