

1 [Public Trust Exchange Agreement - Treasure Island/Yerba Buena Island]

2

3 **Resolution approving the Public Trust Exchange Agreement between the Treasure**  
4 **Island Development Authority and the California State Lands Commission in**  
5 **furtherance of the Treasure Island/Yerba Buena Island Project; adopting findings under**  
6 **the California Environmental Quality Act** that the ~~Public Trust Exchange Agreement is~~  
7 ~~consistent with the City's General Plan and the Eight Priority Policies of City Planning Code~~  
8 ~~Section 101.1.~~

9

10 WHEREAS, Former Naval Station Treasure Island (the "Base" or "Treasure Island") is  
11 a former military base consisting of approximately 550 acres on Treasure Island and Yerba  
12 Buena Island, and is currently owned by the United States of America, acting by and through  
13 the Department of the Navy (the "Navy"); and,

14 WHEREAS, The Base was selected for closure and disposition by the Base  
15 Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its  
16 subsequent amendments, and the Base ceased operations in 1997; and,

17 WHEREAS, Under the Treasure Island Conversion Act of 1997 (AB 699) (the  
18 "Conversion Act"), which amended Section 334392.5 of the California Health and Safety Code  
19 and added Section 2.1 to Chapter 1333 of the Statutes of 1968, the State Legislature  
20 (i) granted to the Board of Supervisors the authority to designate the Treasure Island  
21 Development Authority ("TIDA") as a redevelopment agency under the California Community  
22 Redevelopment Law (California Health & Safety Code § 33000 et seq.) with authority over the  
23 Base, and (ii) with respect to those portions of the Base that are subject to the public trust for  
24 commerce, navigation and fisheries (the "Public Trust"), vested in TIDA the authority to  
25 administer the Public Trust as to such property; and,

1           WHEREAS, The Board of Supervisors subsequently designated TIDA as the  
2 redevelopment agency for Treasure Island in 1998; and,

3           WHEREAS, In 1994, the Treasure Island/Yerba Buena Island Citizens Advisory Board  
4 ("CAB") was formed to (1) review reuse planning efforts for Treasure Island by the San  
5 Francisco Planning Department and the San Francisco Redevelopment Agency, and (2) make  
6 recommendations to the City's Planning Commission and Board of Supervisors; and,

7           WHEREAS, After completion of a competitive master developer selection process, in  
8 2003, TIDA and Treasure Island Community Development, LLC ("Developer") entered into an  
9 Exclusive Negotiating Agreement with respect to portions of Treasure Island and Yerba  
10 Buena Island to facilitate the planning for the reuse and development of the Base (the  
11 "Project"); and,

12           WHEREAS, In 2006, the Board of Supervisors by Resolution No. 699-06 endorsed a  
13 Term Sheet and Development Plan for the Project, and in May of 2010, the Board of  
14 Supervisors endorsed a package of legislation that included an update to the Term Sheet and  
15 Development Plan, terms of an Economic Development Conveyance Memorandum of  
16 Agreement for the conveyance of the site from the Navy to the City, and a Term Sheet  
17 between TIDA and the Treasure Island Homeless Development Initiative ("TIHDI"), in  
18 Resolution Nos. 242-10, 243-10 and 249-10, copies of which Resolutions are on file with the  
19 Clerk of the Board of Supervisors in File Nos. 061498, 100428, 100429 and 100432 and  
20 incorporated herein by reference; and,

21           WHEREAS, TIDA, the City and the CAB have been working for more than a decade to  
22 plan for the reuse and development of Treasure Island and, as a result of this community-  
23 based planning process, TIDA and Developer have negotiated a Disposition and  
24 Development Agreement and other transaction documents for the conveyance, management  
25 and development of portions of the Base described as the "Project Site" in the Disposition and

1 Development Agreement, a copy of which is on file with the Clerk of the Board of Supervisors  
2 in File No. 110291, and is incorporated herein by reference as though fully set forth herein;  
3 and,

4 WHEREAS, The Project may include (1) up to approximately 8,000 new residential  
5 units, at least 25 percent of which (2,000 units) will be made affordable to a broad range of  
6 very-low to moderate income households, including 435 units to be developed by TIHDI's  
7 member organizations, (2) adaptive reuse of approximately 311,000 square feet of historic  
8 structures, (3) up to approximately 140,000 square feet of new retail uses and 100,000 square  
9 feet of commercial office space, (4) approximately 300 acres of parks and open space, (5)  
10 new and/or upgraded public facilities, including a joint police/fire station, a school, facilities for  
11 the Treasure Island Sailing Center and other community facilities, (6) a 400-500 room hotel,  
12 (7) landside improvements for a new 400 slip marina, and (8) transportation infrastructure,  
13 including a ferry/quay intermodal transit center; and,

14 WHEREAS, To implement the Project, TIDA and Developer have negotiated, among  
15 other agreements, a public trust exchange agreement (the "Exchange Agreement") between  
16 TIDA and the California State Lands Commission ("State Lands"), a copy of which is on file  
17 with the Clerk of the Board under File No. 110340, and is incorporated herein by reference;  
18 and,

19 WHEREAS, The extent to which the Public Trust covers lands on Treasure Island is  
20 subject to dispute, and the State and the federal government disagree as to the effect of the  
21 Navy's 1944 condemnation of Treasure Island on the existence of the Public Trust on those  
22 lands; and,

23 WHEREAS, The existing configuration of trust and non-trust lands on Treasure Island  
24 and Yerba Buena Island is such that the purposes of the Public Trust cannot be fully realized,  
25 and the Project cannot be developed due to this uncertainty; and,

1           WHEREAS, To remedy this situation, the Treasure Island Public Trust Exchange Act,  
2 Chapter 543, Statutes of 2004, as amended by Chapter 660, Statutes of 2007 and Chapter  
3 208, Statutes of 2009 (“Exchange Act”), authorizes a land exchange to resolve this  
4 uncertainty in a manner that furthers the purposes of the Public Trust and to provide a more  
5 useful configuration of trust lands by placing the Public Trust along the entire shoreline of  
6 Treasure Island and on other lands, on both Treasure Island and Yerba Buena Island, of high  
7 value to the Public Trust, while removing the Public Trust from lands in the interior of Treasure  
8 Island that are cut off from the water, thereby removing impediments to their reuse and  
9 development; and,

10           WHEREAS, The Exchange Agreement implements this exchange through a series of  
11 phased conveyances, by which State Lands will take title to the lands from TIDA and convey  
12 them back to TIDA either subject to or free of the Public Trust; and,

13           WHEREAS, The exchange does not include the Job Corps parcel on Treasure Island,  
14 but the Exchange Agreement provides that it may be included in the future if it is transferred  
15 out of federal ownership; and,

16           WHEREAS, Following these conveyances, TIDA would hold the Public Trust lands as  
17 trustee, subject to the terms and conditions of the legislative grant in the Conversion Act, the  
18 Exchange Act and applicable law; and,

19           WHEREAS, The Exchange Agreement contains provisions to ensure that public access is  
20 provided to Public Trust lands and that views of the Bay from certain Public Trust lands on  
21 Yerba Buena Island are protected; and,

22           WHEREAS, On April 21\_\_\_\_\_, 2011, the Planning Commission by Motion  
23 No. 18325\_\_\_\_\_ and the TIDA Board of Directors by Resolution No. 11-14-  
24 04/21\_\_\_\_\_, as co-lead agencies, certified the completion of the Final

1 Environmental Impact Report for the Project, of which the Trust Exchange Agreement forms a  
2 part; and,

3 WHEREAS, On \_\_\_\_\_, 2011, the TIDA Board of Directors, by Resolution  
4 No. \_\_\_\_\_, adopted environmental findings pursuant to the California  
5 Environmental Quality Act ("CEQA") with respect to approval of the Project, including a  
6 mitigation monitoring and reporting program and a statement of overriding considerations;  
7 and,

8 WHEREAS, On \_\_\_\_\_, 2011, the Planning Commission, by Motion No.  
9 \_\_\_\_\_, adopted environmental findings pursuant to CEQA with respect to  
10 approval of the Project, including a mitigation monitoring and reporting program and a  
11 statement of overriding considerations; and,

12 WHEREAS, The Planning Commission determined that the Project, and the various  
13 actions being taken by the City and the TIDA Board of Directors to approve and implement the  
14 Project, are consistent with the General Plan and with the Eight Priority Policies of City  
15 Planning Code Section 101.1, and made findings in connection therewith (the "General Plan  
16 Consistency Determination"), a copy of which is on file with the Clerk of the Board of  
17 Supervisors in File No. \_\_\_\_\_, and is incorporated into this Resolution by  
18 reference; and,

19 WHEREAS, The Board of Supervisors has reviewed and considered the information  
20 contained in the General Plan Consistency Determination, and concurrently with this  
21 Resolution is adopting said findings as its own, and said findings are on file with the Clerk of  
22 the Board of Supervisors in File No. \_\_\_\_\_, and incorporated into this Resolution  
23 by reference; and,

24 WHEREAS, Concurrently with this Resolution, the Board of Supervisors has adopted  
25 Resolution No. \_\_\_\_\_, adopting findings under the California Environmental Quality

1 ~~Act~~CEQA, including the adoption of a mitigation monitoring and reporting program and a  
2 statement of overriding considerations in connection with the development of the Project,  
3 which Resolution is on file with the Clerk of the Board of Supervisors in File No. 110328, and  
4 incorporated herein by reference; and,

5 WHEREAS, The Exchange Agreement was presented to the CAB at a duly noticed  
6 public meetings on March 15, 2011 and \_\_\_\_\_, 2011, and on April  
7 19 \_\_\_\_\_, 2011 the CAB voted to recommend~~endorse~~ the Exchange Agreement;  
8 and,

9 WHEREAS, The Exchange Agreement was presented to the TIDA Board of Directors  
10 at a duly noticed public meetings on March 22, 2011 and \_\_\_\_\_, 2011, and on  
11 April 21 \_\_\_\_\_, 2011 the TIDA Board of Directors voted to approve the Exchange  
12 Agreement; and,

13 WHEREAS, TIDA's organizational documents require TIDA to obtain approval from the  
14 Board of Supervisors prior to entering into contracts with a term of more than 10 years or \$1  
15 million or more in anticipated revenue; and,

16 WHEREAS, The Exchange Agreement is anticipated to have a term in excess of 10  
17 years; now, therefore, be it

18 RESOLVED, ~~That the Board of Supervisors finds that the Exchange Agreement is~~  
19 ~~consistent with the General Plan and with the Eight Priority Policies of City Planning Code~~  
20 ~~Section 101.1 for the reasons set forth in the General Plan Consistency Determination; and,~~  
21 ~~be it~~

22 ~~FURTHER RESOLVED,~~ That in order to effectuate the development of the Project, the  
23 Board of Supervisors approves the Exchange Agreement, and authorizes the Treasure Island  
24 Project Director~~TIDA's Director of Redevelopment~~, or his or her designee ("Director"), to  
25

1 execute, deliver and perform the Exchange Agreement substantially in the form in the Board  
2 of Supervisor's file; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the  
4 Director, prior to execution of the Exchange Agreement, to make changes and take any and  
5 all steps, including but not limited to, the attachment of exhibits and the making of corrections,  
6 as the Director determines, in consultation with the City Attorney, are necessary or  
7 appropriate to consummate the Exchange Agreement in accordance with this Resolution;  
8 provided, however, that such changes and steps do not materially decrease the benefits to or  
9 materially increase the obligations or liabilities of TIDA or the City, and are in compliance with  
10 all applicable laws; and, be it

11 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City and  
12 TIDA with respect to the Exchange Agreement are hereby approved, confirmed and ratified;  
13 and, be it

14 FURTHER RESOLVED, That the Board of Supervisors authorizes and urges all  
15 officers, employees, and agents of TIDA and the City to take any and all steps as they deem  
16 necessary or appropriate, to the extent permitted by applicable law, in order to consummate  
17 the Exchange Agreement in accordance with this Resolution, including execution of  
18 subsequent documents and conveyance of real property to, and the acceptance of real  
19 property from, State Lands, or to otherwise effectuate the purpose and intent of this  
20 Resolution and TIDA's performance under the Exchange Agreement; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director to enter  
22 into any amendments or modifications to the Exchange Agreement that the Director  
23 determines, in consultation with the City Attorney, are in the best interest of TIDA and the City,  
24 do not materially decrease the benefits to or materially increase the obligations or liabilities of  
25 TIDA and the City, and are in compliance with all applicable laws.