



**CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR**

**LICENSE NO. 15762
NON-EXCLUSIVE LICENSE TO USE PROPERTY**

BY AND BETWEEN

**THE CITY AND COUNTY OF SAN FRANCISCO
ACTING BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION**

AND

**PACIFIC GAS AND ELECTRIC COMPANY
A SUBSIDIARY OF PG&E CORPORATION**

**MONIQUE MOYER
EXECUTIVE DIRECTOR**

SAN FRANCISCO PORT COMMISSION

**LESLIE KATZ, PRESIDENT
WILLIE ADAMS, VICE-PRESIDENT
KIMBERLY BRANDON, COMMISSIONER,
MEL MURPHY, COMMISSIONER
DOREEN WOO HO, COMMISSIONER**

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EXHIBITS

- EXHIBIT A APPROXIMATE LICENSE AREA**
- EXHIBIT B MEMORANDUM RE: EFFECTIVE AND EXPIRATION DATES**
- EXHIBIT C NET PRESENT VALUE CALCULATION OF LICENSE FEE**
- EXHIBIT D FORM OF LETTER OF CREDIT**
- EXHIBIT E LOCAL BUSINESS PARTICIPATION**

- SCHEDULE 1 HAZARDOUS MATERIALS DISCLOSURE**
- SCHEDULE 2 FEMA DISCLOSURE NOTICE**

NON-EXCLUSIVE LICENSE TO USE PORT PROPERTY NO. 15762

THIS NON-EXCLUSIVE LICENSE TO USE PORT PROPERTY (this "**License**") is dated as of June 10, 2014, for reference purposes only, by and between the **CITY AND COUNTY OF SAN FRANCISCO** ("**City**"), a municipal corporation acting by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), and **PACIFIC GAS AND ELECTRIC COMPANY** ("**PG&E**" or "**Licensee**"), a California corporation which is a subsidiary of PG&E Corporation. City and Licensee will sometimes hereinafter be referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. Licensee intends to install, operate and maintain a new, single circuit, 230 kV transmission line between PG&E's Embarcadero Substation and its Potrero Switchyard and to install new 230 kV gas-insulated switchgear ("GIS") and related equipment at its Potrero Switchyard (the "**ZA-1 Line**") to increase reliability of electric service to downtown San Francisco and provide operational flexibility (the "**Project**").

B. The Project will involve both transmission line work and substation work. Three major elements of the Project are (i) the construction of an approximately 3.5-mile, 230 kV submarine and underground cable route (for three cables) between PG&E's Embarcadero and Potrero Substations, (ii) termination of the new cables into a 230 kV bus (to be upgraded as part of a separate reliability project that is currently underway by PG&E) at the Embarcadero Substation, and (iii) construction of a new 230 kV switchyard on a portion of the former power plant site currently owned by NRG Energy, Inc. adjacent to the existing Potrero Switchyard, termination of the new cable at such site, and the interconnection of the new 230 kV and existing 115 kV switchyards via two new 230/115 kV transformers. The approximate License Area under this License is depicted in *Exhibit A*.

C. The submarine cable route would run in an underground configuration about 0.2 miles long and parallel to, but not within, the Trans Bay Cable ("**TBC**") alignment, as it exits the Potrero Switchyard and enters the San Francisco Bay (the "**Bay**"). It would then continue in the Bay along the general TBC alignment and several hundred feet to the west of the TBC alignment, and then return to land about 0.4 miles from the Embarcadero Substation, where it would be installed in an underground configuration terminating at the Embarcadero Substation. Installation of the duct banks in the near shore areas will be accomplished through horizontal directional drilling, a method which allows for trenchless construction across an area by drilling a hole well below the depth of a conventional line and pulling the line through the predrilled borehole. The installation of the cable in the Bay will be accomplished using a hydroplow, which is a water jet that consists of a long blade mounted to either a sled- or tire-mounted submerged vehicle. The total distance of the ZA-1 Line is approximately 3.5 miles.

D. Port has jurisdiction over the portion of the Bay and certain onshore real property through which a portion of the ZA-1 Line will be located.

E. In connection with the Project, the City has negotiated for the option to purchase PG&E-owned land at Illinois and 22nd Streets, commonly known as the Hoedown Yard, as further described in that certain Option Agreement between City and PG&E (the "**Option Agreement**").

F. Plan Bay Area, the Bay Area's first combined Sustainable Communities Strategy as required under Senate Bill 375 (SB 375), focuses a significant amount of regional growth in its transit served cities, with almost 15% of that growth projected for San Francisco. The Central Waterfront area, south of Mission Bay and east of the I-280 freeway is a significant Priority Development Area where the City plans to accommodate this projected growth. A significant portion of this growth is planned for current and former industrial lands in the immediate vicinity of the existing PG&E Potrero Switchyard. As a condition to and as additional consideration for this License, upon Port's notice, PG&E will either enclose a substantial portion of the existing

115 kV portion of the Potrero Switchyard within a building or construct a screen around a significant portion of the perimeter of the existing 115 kV portion of the Potrero Switchyard (either, a "Screen"), in accordance with the terms described more specifically in Section 16 of this License.

G. On September 10, 2013, pursuant to Resolution No. 13-34, the Port Commission endorsed the term sheet (the "Term Sheet") for this License and the Option Agreement and authorized the Executive Director to forward the Term Sheet to the Board of Supervisors for its endorsement. On March 5, 2014, pursuant to Resolution No. 54-14, the Board of Supervisors endorsed the Term Sheet.

H. The Parties have conducted due diligence with respect to property ownership in the Project areas and intend that this License and the consideration provided therefor will fully address all real property rights from the Port that are necessary or convenient for the planned construction, operation, maintenance, repair, and eventual removal from service of the Project. Licensee has submitted or will submit to City applications for Regulatory Approvals, including for the issuance of a Port encroachment permit(s); DPW encroachment permit(s) and building permit from the City's Department of Building Inspection.

I. On January 16, 2014, the California Public Utilities Commission ("CPUC"), as lead agency, certified the Mitigated Negative Declaration ("MND") and issued a Certificate of Public Convenience and Necessity for the Project by Decision No. 14-01-07 .

J. Pursuant to Port Commission Resolution No. 14-43 adopted on June 10, 2014, the Port Commission adopted CEQA findings and authorized the Port Executive Director to execute this License under the terms and conditions provided herein, subject to approval by the Board of Supervisors, which was granted by the Board of Supervisors in Resolution No. [XX] , in Board File No. [XX] on [XX, 20XX]).

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, PORT AND LICENSEE HEREBY AGREE AS FOLLOWS:

1. GRANT OF LICENSE.

1.1. License Area. Port hereby grants to Licensee a non-exclusive license to enter upon and use that certain real property either owned by or that is under the jurisdiction of the Port as generally described on *Exhibit A* attached hereto (the "License Area") for the purposes described herein. The License Area will be comprised of approximately 508,992 square feet of submerged, underground and above-ground land as follows:

(a) Submerged land: 33 feet (11 foot width for each of three (3) cables) x 2.5 miles (13,200 ft.) = 435,600 sq. ft. This parcel will be divided into two zones: the inner "Submarine Portion Exclusive Zone," which will be 6 feet wide (1 foot width on either side of the centerline of each cable) x 13,200 ft. = 79,200 sq. ft.; and the outer "Submarine Portion Compatible Use Zone," which will be 27 feet wide (4.5 foot width extending beyond the Submarine Portion Exclusive Zone on each side of each cable) x 13,200 ft. = 356,400 sq. ft.;

(b) Onshore/offshore transition areas to be installed by horizontal directional drilling: 33 feet (11 foot width for each of three (3) cables x 0.3 miles (1,584 sq. ft.) = 52,272 sq. ft. (the "HDD Area"); and

(c) Above ground area along 23rd St: 20 feet x 0.2 miles (1,056 sq. ft.) = 21,120 sq. ft. ("23rd Street Portion").

All square footages are approximate and the Parties acknowledge that this License allows for slight movement of the ZA-1 Line in accordance with its design and construction. *Exhibit A* shows the planned approximate location of the Port License Area. No later than one hundred twenty (120) days from completion of construction of the ZA-1 Line Equipment, Licensee shall provide Port with a revised *Exhibit A* and legal description of the actual License Area, including

an accurate description of the depth of the ZA-1 Line Equipment, which will be incorporated into this License by mutual technical amendment by Licensee and Port staff without further discretionary approvals. Subsequent changes to the location of the ZA-1 Line Equipment within the License Area subareas listed in (a), (b) or (c) may also be incorporated by mutual technical amendment(s) by Licensee and Port staff substituting a revised legal description; provided however that a subsequent change by Licensee to the location, size, nature, use or dimension of any of the License Area subareas listed in (a), (b) or (c) (for example, a change resulting in a conversion of a compatible use to an exclusive use) is subject to Port Commission's approval in its sole discretion and may be subject to additional City and other Regulatory Approvals.

All Exhibits and Schedules attached hereto are hereby incorporated by reference into this License and shall be construed as a single instrument and referred to herein as this "**License.**"

1.2. **Transbay Cable LLC License.** Licensee shall not use or encroach upon the License Area defined in Port License No. 14325 between Port and Transbay Cable LLC dated November 22, 2010 for reference purposes as amended by the First Amendment dated February 14, 2013 for reference purposes.

1.3. **Licensee's Consultants and Contractors.** Licensee shall require compliance with the applicable terms of this License in any agreement with its Agents for work on the Project and Licensee's Agents shall not need separate permission from Port to perform Permitted Activities on behalf of Licensee. All work performed in the License Area by Licensee, its Agents and Invitees and all property and equipment placed therein in furtherance of the permission granted herein is presumed to be with the express authorization of Licensee. Upon Port's request, Licensee will timely provide a list of its Agents that will enter Port property in connection with this License.

1.4. **America's Cup.** Licensee acknowledges that the Golden Gate Yacht Club has certain rights that may result in the 35th America's Cup being held in San Francisco. The 35th America's Cup could result in activities and impacts on the San Francisco waterfront, all of which are subject to review under CEQA. The potential activities and impacts include the America's Cup match, pre-match races, other regattas, possible future defense(s) of the America's Cup, related events and potential long-term development uses (collectively the "**Event**"). The Event, if held, will be, or may be, on property, including land and water, in the immediate vicinity of the License Area. Licensee is aware that the Event as proposed will include construction projects, dredging, racing in the Bay, and public and private events. The activities associated with the Event, if held, are expected to create certain impacts, some of which may result in some inconvenience to or disturbance of Licensee.

Impacts of the Event may include, but are not limited to, increased pedestrian, vessel, vehicle and truck traffic, traffic delays and re-routing of street traffic, loss of street and public parking, temporary re-routing or interruption of land and water transit, dust, dirt, land- and water-based construction, dredging, and other noise and visual obstructions. Licensee hereby waives any and all Claims against Port, City and their Agents arising out of impacts, inconvenience or disturbance as a result of the Event.

1.5. **Encroachment Area.** The terms and conditions of this License shall also apply to Licensee's (including, its Agents' and Invitees') use or occupancy of space outside the License Area and Accessory Use areas under Section 12 for purposes of constructing, operating, maintaining or removing the Project 2 (the "**Encroachment Area**") as if such areas were originally included in the License Area, and Licensee shall additionally Indemnify the Indemnified Parties from and against any and all loss or liability resulting from delay by Licensee in so surrendering the Encroachment Area including, without limitation, any loss or liability resulting from any Claims against Port made by any tenant, licensee or prospective tenant or licensee founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Encroachment Area to any such person, together with, in each case, actual attorneys' fees and costs.

2. CONDITION OF PROPERTY.

2.1. **AS IS Condition.** Licensee acknowledges that Port has made no representations or warranties concerning the License Area shown in the approximate location in *Exhibit A* or any amended location or any other areas which Licensee has permission to use during construction pursuant to Section 12.2 of this License, including without limitation, the environmental or seismological condition thereof. Licensee acknowledges its receipt of *Schedule 1* regarding the presence of certain Hazardous Materials and the FEMA disclosure notice attached as *Schedule 2* and Licensee accepts these areas "AS IS", "WITH ALL FAULTS." Licensee shall maintain the License Area and any other areas used in connection with this License so they will not be unsafe, unsightly or unsanitary as a result of the Permitted Activities. Licensee represents and warrants to Port that Licensee has investigated and inspected, either independently or through agents of Licensee's own choosing, the condition of each of these areas and their suitability for Licensee's business and intended use. Licensee acknowledges and agrees that neither Port nor any of its Agents have made, and Port hereby disclaims, any representations or warranties, express or implied, concerning the seismological, physical or environmental condition of these areas, the present or future suitability of these areas for Licensee's business, or any other matter whatsoever relating to these areas, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

2.2. **Accessibility.** Licensee is hereby advised that the License Area has not been inspected by a Certified Access Specialist ("CASp") for accessibility issues. Further, Licensee is hereby advised that the License Area may not currently meet all applicable construction-related accessibility standards. Licensee understands and agrees that it may be subject to legal and financial liabilities if the License Area does not comply with applicable federal and state disability access Laws and that it is Licensee's obligation, at no cost to Port, to cause the License Area and Licensee's use thereof to be conducted in compliance with the ADA and any other federal or state disability access Laws.

3. TAXES AND ASSESSMENTS.

Licensee agrees to pay to the proper authority any and all taxes, assessments and similar charges on the License Area in effect at the time this License is entered into, or which become effective thereafter, including all taxes levied or assessed upon the possession, use, or occupancy, as distinguished from the ownership to the License Area. Licensee, on behalf of itself and any permitted successors and assigns, recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee, and any permitted successor or assign may be subject to the payment of such taxes. Licensee, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or extend this License may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Licensee shall report any assignment or other transfer of any interest in this License or any renewal or extension hereof to the County Assessor within 60 days after such assignment transaction or renewal or extension. Licensee further agrees to provide such other information as may be requested by the City or Port to enable the City or Port to comply with any reporting requirements under applicable law with respect to possessory interest.

4. USE OF THE LICENSE AREA.

4.1. **Permitted Activities.** Subject to obtaining all required Regulatory Approvals and compliance with the terms and conditions of this License, Licensee may: (a) use the License Area and Port-jurisdictional areas adjacent to and in the immediate vicinity of the License Area (as further described in Section 12.2) for the sole purpose of constructing, operating and maintaining, at Licensee's sole expense and risk, the Project, together with all necessary transmission line, fiber optic lines, ductwork, conduit, anchoring foundations and related equipment for use in connection therewith (collectively, the "**ZA-1 Line Equipment**"), including

but not limited to the right to excavate, repair, reconstruct, replace within the License Area, and remove such ZA-1 Line Equipment, for the purpose of transmission, transportation and/or distribution of electric energy and communications between Licensee's Embarcadero Substation and Potrero Substation in San Francisco; and (b) license with third parties, including any Affiliate of PG&E, for the unused capacity of the ZA-1 Line as further described in Section 22 of this License (collectively, the "**Permitted Activities**"). Port, in its sole discretion, must approve any amendments or alterations to the Permitted Activities to be performed by Licensee pursuant to this License in writing prior to performance of such work or activity.

The ZA-1 Line Equipment will be more particularly described in the plans and specifications submitted to Port with the Port permit application, as approved by Port, which upon Port's approval shall be incorporated by reference herein, and made a part hereof. Such plans and shall include the following:

(i) Licensee shall make commercially-reasonable and technically feasible efforts to locate the ZA-1 Line Equipment located within the HDD Areas as near to the bedrock surface as possible, and give Port, in its proprietary capacity, an opportunity to review and approve, to the extent consistent with CPUC Project Approval and other CPUC requirements, final work plans for the ZA-1 Line Equipment located within the HDD Areas, which proprietary approvals shall be limited to confirming that such plans are consistent with the requirements of this License.

(ii) Licensee shall use commercially reasonable efforts to install all ZA-1 Line Equipment within the Submarine Portion Exclusive Zone so that it lies between six (6) and ten feet (10') below the Bay floor as feasible. Licensee shall provide documentation of its consultation with the USACE regarding the potential for impact on federal navigation/shipping channels or other dredging routinely performed by or on behalf of USACE due to the location of the ZA-1 Line Equipment.

(iii) In the water area between Piers 30-32 and Pier 28, Licensee shall construct the ZA-1 Line Equipment so that it lies at least forty-five feet (45') below mean low low water for the entire length of the piers.

4.2. **Non-Interference.** Licensee acknowledges and agrees that Licensee's exercise of the rights herein granted shall not impede or unreasonably interfere with the use of the License Area by Port and its tenants, licensees, invitees, and guests without the prior written consent of Port, provided however that Port acknowledges the restrictions on its approvals and activities set forth in Section 11(b) of this License. Licensee shall notify and keep Port, Port tenants and private property owners informed of its activities under this License in accordance with the public notice requirements of the CPUC's Final MND and Initial Study prepared for the Project and certified by the CPUC on January 16, 2014, which document, as it may be modified or amended in the future by the CPUC, is fully incorporated herein.

4.3. **Prohibited Uses.** Licensee shall use the License Area solely for the Permitted Activities and for no other purpose. Any other use in the License Area, including but not limited to waste, nuisance or unreasonable annoyance to Port, its other licensees, tenants, or the owners or occupants of adjacent properties, interference with Port's use of its property except for the restrictions set forth in Section 11(b) of this License, obstruction of traffic (including, but not limited to, vehicular and pedestrian traffic) is prohibited (each, a "**Prohibited Use**"). In addition, the use, other than a Permitted Activity, of the ZA-1 Line Equipment including the fiber optic cable by any party other than Licensee for commercial purposes without Port's prior written consent pursuant to Section 22.4, is a Prohibited Use.

In the event Port determines after inspection of the License Area that a Prohibited Use is occurring on the License Area, then Licensee shall immediately cease the Prohibited Use and shall pay to Port, as an additional charge, an amount equaling Three Hundred Dollars (\$300.00), subject to increases set forth below, upon delivery of written notice to Licensee to cease the

Prohibited Use ("**Notice to Cease Prohibited Use**"). In the event Port determines in subsequent inspection(s) of the License Area that Licensee has not ceased the Prohibited Use, then Licensee shall pay to Port, as an additional charge, an amount equaling Four Hundred Dollars (\$400.00), subject to increases set forth below, for each additional Notice to Cease Prohibited Use delivered to Licensee. The Parties agree that the charges associated with each inspection of the License Area and delivery of the Notice to Cease Prohibited Use, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the License Area. Licensee's failure to comply with the applicable Notice to Cease Prohibited Use and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this License, at law or in equity. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Notice to Cease Prohibited Use.

Each charge set forth in this Section and in Sections 9.7 (Additional Charges), and 12.6 (Prohibited Construction Charge) shall be increased by one hundred dollars (\$100.00) on every tenth (10th) Anniversary Date after the Effective Date. By signing this License, each Party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

5. EFFECTIVE DATE.

This License shall become effective on the first date (the "**Effective Date**") that all of the following conditions are satisfied:

- (a) the Port Commission authorizes execution of this License by the Port Executive Director.
- (b) the Board of Supervisors, authorizes execution of this License;
- (c) The Parties fully execute this License;
- (d) The Security Deposit, Environmental Oversight Deposit and the Environmental Assurances Deposit have been delivered to Port;
- (e) The first installment of the Initial Term License Fee has been delivered to Port;
- (f) The CPUC has issued an Initial Notice to Proceed; and
- (g) Promptly following the actual Effective Date, Port and Licensee shall execute a Memorandum substantially in the form attached hereto as **Exhibit B**, confirming the actual Effective and Expiration Dates, but either Party's failure to do so shall not affect the commencement or expiration of the Term.

6. TERM OF LICENSE.

This License shall be for a term ("**Term**") commencing on the Effective Date and expiring on the day that is forty (40) years from and after the Effective Date (the "**Expiration Date**"). Licensee shall have one (1) option to renew the Term, as further described in Section 7 below. The License shall be irrevocable during the Term unless terminated, in whole or in part, in accordance with either of the following: (a) provided all the terms and conditions of Section 8 below are satisfied by Licensee, Licensee delivers written notice to Port of its relinquishment and termination of any or all of the rights granted hereunder; or (b) upon an Event of Default as described in Section 24 below.

7. EXTENSION OPTION.

7.1. **Option to Extend Term.** Port grants to Licensee one (1) option (an "**Extension Option**") for twenty-six (26) years to extend the Term as to the entire License Area only commencing upon the date after the Expiration Date upon the following terms and conditions ("**Extension Term**"). Licensee may exercise the Extension Option by providing written notice of

its intent to Port no later than thirty (30) months prior to the Expiration Date. Licensee shall provide an additional written notice to Port no earlier than three hundred and sixty (360) days and no later than two hundred and seventy (270) days prior to the Expiration Date that states that each Party must select an appraiser to determine the Prevailing Market Rate for the Extension Term as set forth in Section 9.5 no later than one hundred and eighty (180) days prior to the Expiration Date. If any Event of Default by Licensee is outstanding hereunder either at the time of Licensee's exercise of the Extension Option or at any time prior to the first day of the Extension Term (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then Port may elect by notice to Licensee to reject Licensee's exercise of the Extension Option, whereupon the Extension Option shall be null and void.

7.2. License Fee and Other Terms. If Licensee elects to exercise the Extension Option, then the license for the Extension Term shall cover the entire License Area and shall be upon all of the terms, covenants and conditions of this License, except that: (i) the Expiration Date shall mean the last day of the Extension Term, (ii) the Term shall include the Extension Term, and (iii) the License Fee hereunder shall be, at Licensee's option, either a one-time lump sum payment to Port due and payable as of the first day of the Extension Term, or an annual payment payable in advance, on or prior to each Anniversary Date of the commencement of the Extension Term (the "**Extension Term License Fee**"), as further described in Section 9.4.

7.3. Further Extensions. No later than two and one-half years prior to the final expiration of this License, upon advance written notice by Licensee to the Port's Executive Director, the Parties will enter into good faith negotiations to renew this License or enter into a new agreement upon mutually satisfactory terms and conditions, to the extent permitted by law and subject to all necessary approvals and Port's obligation as trustee of the public trust. If any Event of Default by Licensee is outstanding hereunder either at the time of Licensee's delivery of written notice as described in this Section 7.3 (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then Port may elect by notice to Licensee not to enter into negotiations for a further license.

8. TERMINATION RIGHT.

At any time during the Term, Licensee shall have the option to terminate this License ("**Termination Option**") upon satisfaction of all the following terms and conditions:

(a) Licensee shall provide Port written notice ("**Termination Notice**") of its election to terminate no less than eighteen (18) months prior to the proposed termination date ("**Termination Date**");

(b) If the Termination Date is during the Initial Term, irrespective of how much time is remaining in the Initial Term, Port will retain all of the Initial Term License Fee and Licensee will have no right to reimbursement or credit of any portion of the pre-paid Initial Term License Fee;

(c) If the Termination Date is during the Extension Term, and:

(i) Licensee paid a one time lump sum payment of the Extension Term License Fee, irrespective of how much time is remaining in the Extension Term, Port will retain all the Extension Term License Fee and Licensee will have no right to reimbursement or credit of any portion of the pre-paid Extension Term License Fee; or

(ii) Licensee elected to pay the Extension Term License Fee annually, in conjunction with the delivery of the Termination Notice, Licensee shall deliver a non-refundable termination payment equal to the Extension Term License Fee payable for the one (1) year following the Termination Date. If any Termination Notice is revoked by Licensee during the Extension Term and Licensee elected to pay the Extension Term License Fee

annually, the termination payment will be applied to the next annual payment of the Extension Term License Fee that is due and payable to Port.

(iii) Licensee shall pay all amounts due under Section 9.4(d) if the Termination Date is during the period in which the Extension Term License Fee is being determined by the Parties under Section 9.4(d).

(d) If any Event of Default by Licensee is outstanding hereunder either at the time of Licensee's delivery of the Termination Notice or at any time prior to the Termination Date (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then Port may elect by notice to Licensee to reject Licensee's exercise of the Termination Option, whereupon the Termination Option shall be null and void.

9. FEES.

9.1. **General.** All sums payable by Licensee to Port hereunder shall be paid in cash or by good check to Port and delivered to Port's address specified in Section 27, or such other place as Port may designate in writing.

9.2. *License Fee During the Initial Term.*

(a) Licensee shall pay Port a lump sum of Fifteen Million Two Hundred Seventy Five Thousand Two Hundred Five Dollars and 35 cents (\$15,275,205.35) as shown in **Exhibit C** which was calculated as of the Effective Date in the manner set forth in this Section ("**Initial Term License Fee**"). The Initial Term License Fee shall be paid in two (2) equal installments (1) the first to be paid no later than the Effective Date (payment of \$7,637,602.68); and (2) the second to be paid on or before the later of (a) the CPUC's issuance of a Full Notice to Proceed and (b) January 1, 2015 (payment of \$7,637,602.67).

(b) The Parties agree and acknowledge that the calculation of the Initial Term License Fee was based on approximate square footages, assumed values, construction periods and other agreed-upon factors that are an overall approximation which Port and Licensee agree is reasonable for use in determining the Initial Term License Fee. Port and Licensee further agree and acknowledge that the Initial Term License Fee amount as indicated above was properly calculated for the License Area as defined in Section 1.1 and is due and payable by Licensee and neither the fee nor any other economic term shall be subject to revision whether or not the factors used to calculate the fee are more or less.

9.3. **Method of Calculation.** The Initial Term License Fee reflects a seventy-five percent (75%) abatement for the ZA-1 Line Equipment construction period from and after the Effective Date until and including the date immediately prior to the 2nd anniversary of the Effective Date. The Initial Term License Fee was calculated to be an amount equal to the present value as of the Effective Date, discounted at six and a half percent (6.5%), of the following hypothetical stream of payments (each rounded to the nearest \$0.01) :

(i) An annual payment made on the Effective Date and each Anniversary Date, in an amount equal to \$217,008.00 (based \$2.74/sq. ft.) for the Submarine Portion, Exclusive Zone ("**Submarine Portion Exclusive Zone Basic Annual Pay Rate**"). For informational purposes only, the Submarine Portion Exclusive Zone Basic Annual Pay Rate assumes \$68.50/sq. ft. upland industrial sale value x 50% for submerged land x 8% capitalization rate to develop an annual rent rate. The Submarine Portion Exclusive Zone Basic Annual Pay Rate was deemed to have (a) increased by three percent (3%) for each full year between February 5, 2013 and the Effective Date; and (b) decreased by 75% for each of the first two (2) years following the Effective Date; PLUS

(ii) An annual payment made on the Effective Date and each Anniversary Date, in an amount equal to \$488,268.00 (based on \$1.37/sq. ft.) for the Submarine Portion, Compatible Use Zone ("**Submarine Portion Compatible Use Zone Basic Annual Pay Rate**").

For informational purposes only, Submarine Portion Compatible Use Zone Basic Annual Pay Rate assumes \$68.50/sq. ft. upland industrial sale value x 25% for submerged land x 8% capitalization rate to develop an annual rent rate. The Submarine Portion Compatible Use Zone Basic Annual Pay Rate was deemed to have (a) increased by three percent (3%) for each full year between February 5, 2013 and the Effective Date; and (b) decreased by 75% for each of the first two (2) years following the Effective Date; PLUS

(iii) An annual payment made on the Effective Date and each Anniversary Date, in an amount equal to \$2,316.00 (based on \$0.031562/sq. ft.) for the HDD Area and 23rd Street Portion ("**HDD Area/23rd Street Portion Basic Annual Pay Rate**"). For informational purposes, the HDD/23rd Street Portion Basic Annual Pay Rate is based on an aggregate 73,392 sq. ft. and an annual rate equal to the Hunters Point – Potrero License rate. The HDD Area/23rd Street Portion Basic Annual Pay Rate was deemed to have (a) increased by three percent (3%) for each full year between February 5, 2013 and the Effective Date; and (b) decreased by 75% for each of the first two (2) years following the Effective Date.

9.4. *Extension Term License Fee.*

(a) The Extension Term License Fee will be payable to Port on an annual basis or will be a one-time, lump sum payment of the license fee for the Extension Term (in each case, the "**Extension Term License Fee**") payable on the commencement date of the Extension Term (the "**Extension Term Commencement Date**").

(b) Licensee Election. Within thirty (30) days after the final determination of Prevailing Market Rate, Licensee shall notify Port in writing of Licensee's election to pay the Extension Term License Fee in one lump sum payment or on an annual basis.

(i) If Licensee elects to pay the Extension Term License Fee in one lump sum, then such amount will equal the then present value as of the Extension Term Commencement Date, discounted at 6.5%.

(ii) If Licensee elects to pay the Extension Term License Fee on an annual basis, then Licensee shall pay the annual Extension Term License Fee in advance on or before the first day of each Anniversary Date during the Extension Term. Throughout the Extension Term, the Extension Term License Fee shall be adjusted on each Anniversary Date to equal one hundred three percent (103%) of the License Fee in effect immediately prior to such applicable Anniversary Date. The annual Extension Term License Fee shall be paid without prior demand and without any deduction, setoff or counterclaim whatsoever.

(c) The Extension Term License Fee shall be the sum of the following hypothetical stream of payments:

(i) An annual payment made (a) on the Extension Term Commencement Date, in an amount ("**Submarine Portion Exclusive Zone Extension Term Basic Annual Pay Rate**") equal to the higher of (1) 103% of the amount equal to the portion of the Initial License Fee attributable to the Submarine Portion Exclusive Zone for the 40th year of the Term, or (2) the Prevailing Market Rate of the Submarine Portion Exclusive Zone license area; PLUS

(ii) An annual payment made (a) on the Extension Term Commencement Date, in an amount ("**Submarine Portion Compatible Use Zone Extension Term Basic Annual Pay Rate**") equal to the higher of (1) 103% of the amount equal to the portion of the Initial License Fee attributable to the Submarine Portion Compatible Use Zone for the 40th year of the Term, or (2) the Prevailing Market Rate of the Submarine Portion Compatible Use Zone license area; PLUS

(iii) An annual payment made (a) on the Extension Term Commencement Date, in an amount ("**HDD/23rd Street Portion Extension Term Basic Annual Pay Rate**") equal to the higher of (1) 103% of the amount equal to the portion of the Initial License

Fee attributable to the HDD Area and 23rd Street Portion for the 40th year of the Term, or (2) the Prevailing Market Rate of the HDD Area and 23rd Street Portion license area.

(d) If, for any reason, the Prevailing Market Rate is not finally determined by the commencement date of the Extension Term, then, Licensee shall pay, in advance on a monthly basis prior to the first day of the month, an amount equal to one hundred ten percent (110%) of the License Fee applicable to the fortieth (40th) year of the Initial Term as set forth in *Exhibit C* until such time as the Prevailing Market Rate is finally determined and Licensee has elected either to pay the Extension Term License Fee in one lump sum payment or on an annual basis, at which time Port shall refund any excess amount to Licensee or Licensee shall pay any shortage to Port, as the case may be. No such delay in the determination of Prevailing Market Rate shall be deemed to constitute a waiver by either Party of the adjustment of Prevailing Market Rate as provided in this Section 9.

For purposes of clarity, the Extension Term will commence as described above regardless of whether the Prevailing Market Rate has been finally determined by the commencement date of the Extension Term and the Holding Over provisions of this License set forth in Section 30 will not apply.

9.5. *Establishing the Prevailing Market Rate for the Extension Term .*

(a) Definition and Selection of Appraisers. “**Prevailing Market Rate**” means the fair market value of the upland industrial land in the proximate vicinity of the License Area as established by an appraiser using the same methodology used to establish the Initial Term License Fee as described in Sections 9.2 and 9.3. No later than one hundred and eighty (180) days prior to the Expiration Date, each Party shall appoint one (1) appraiser. Each such appraiser shall be competent, licensed, qualified by training and experience in the City and County of San Francisco, and shall be a member in good standing of the Appraisal Institute and designated as a MAI, or, if the Appraisal Institute no longer exists, shall hold the senior professional designation awarded by the most prominent organization of appraisal professionals then awarding such professional designations. Without limiting the foregoing, each appraiser shall have at least ten (10) years' experience valuing industrial land in the City and County of San Francisco. Upon selecting its appraiser, each Party shall promptly notify the other Party in writing of the name of the appraiser selected. Each such appraiser may have a prior working relationship with either or both of the Parties, provided that such working relationship shall be disclosed to both Parties. The Parties shall cause each appraiser to make an independent determination of his or her determination of the Prevailing Market Rate and to complete, sign and submit his or her written appraisal setting forth his or her determination of the Prevailing Market Rate (rounded to the nearest \$0.01) to the Parties no later than sixty (60) days after their appointment. Neither of the appraisers shall have access to the appraisal of the other (except for the sharing of objective information contained in such appraisals) until both of the appraisals are submitted.

(i) If the higher appraised rate is one hundred ten percent (110%) or less of the lower appraised rate, then the final Prevailing Market Rate shall be the average of such two (2) rate figures (rounded to the nearest \$0.01).

(ii) If the higher appraised rate is more than one hundred ten percent (110%) of the lower appraised rate, then the Parties shall cause the first two appraisers to agree upon and appoint an independent third appraiser from the City's list of approved appraisers from the San Francisco Department of Real Estate within thirty (30) days after both of the first two (2) appraisals have been submitted to the Parties and shall inform the Parties of their appointment at or before the end of such thirty (30) day appointment period.

(b) Dispute; Third Appraiser. The third appraiser shall have the minimum qualifications as required of an appraiser pursuant to Section 9.5(a) above, and shall also have experience acting as a third appraiser of disputes involving industrial real estate. Each Party shall have the opportunity to question the proposed third appraiser, in writing only, as to his or

her qualifications, experience, past working relationships with the Parties, and any other matters relevant to the appraisal set forth in this License. Either Party may, by written notice to the other Party and the two appraisers, raise a good faith objection to the selection of the third appraiser based on his or her failure to meet the requirements of this Section. In such event, if the two (2) appraisers determine that the objection was made in good faith, the Parties shall cause the two (2) appraisers to promptly select another third appraiser, subject again to the same process for the raising of objections. If neither Party raises a good faith objection to the appointment of the third appraiser within ten (10) days after notice of his or her appointment is given, each such Party shall be deemed to have waived any issues or questions relating to the qualifications or independence of the third appraiser or any other matter relating to the selection of the third appraiser under this License. If for any reason the two appraisers do not appoint such third appraiser within such fifteen (15) day period (or within a reasonable period thereafter not to exceed fifteen (15) days in the event a good faith objection is made as provided above), then either Party may apply to the Writs and Receivers Department of the Superior Court of the State of California in and for the County of San Francisco for appointment of a third appraiser meeting the foregoing qualifications. If the Court denies or otherwise refuses to act upon such application within thirty (30) days from the date on which the Party first applies to the Court for appointment of the third appraiser, either Party may apply to the American Arbitration Association, or any similar provider of professional commercial arbitration services, for appointment in accordance with the rules and procedures of such organization of an independent third appraiser meeting the foregoing qualifications.

The Parties shall cause the third appraiser to make an independent determination of the Prevailing Market Rate using the same methodology described in Section 9.5(a). The third appraiser may consider all prior appraisals as well as any other relevant written evidence which the third appraiser may request of either or both of the appraisers appointed by the Parties. The Parties shall cause the initial two (2) appraisers appointed by the Parties to submit any evidence to such third appraiser only at the request of the third appraiser and to deliver a complete and accurate copy to the other Party and the appraiser such Party selected, at the same time it submits the same to the third appraiser. Neither Party, nor, by prohibition by the Parties, the appraisers they appoint, shall conduct any ex parte communications with the third appraiser regarding the subject matter of the appraisal. The third appraiser shall complete, sign and submit his or her written appraisal setting forth his or her determination of the Prevailing Market Rate (rounded to the nearest \$0.01) to the Parties no later than sixty (60) days from his or her appointment and, within fifteen (15) days from the submittal, shall determine the final Prevailing Market Rate as follows:

(i) If the difference between the rate determined by the third appraiser and the rate determined by the appraiser appointed by Port is ten percent (10%) or less than the higher of the rate determined by the third appraiser and the appraiser appointed by Port, then the Prevailing Market Rate will be the average of those two values.

(ii) If the difference between the rate determined by the third appraiser and the rate determined by the appraiser appointed by Licensee is ten percent (10%) or less than the higher of the rate determined by the third appraiser and the appraiser appointed by Licensee, then the Prevailing Market Rate will be the average of those two values.

(iii) If neither of the conditions in subsections (i) or (ii) is met or if both of the conditions in subsections (i) and (ii) are met, then the third appraiser's value will be deemed to be the final Prevailing Market Rate.

(c) General.

(i) Each appraiser can utilize the services of special experts, including experts to determine such things as property condition, market rates, leasing commissions, renovation costs and similar matters. The Parties shall cause each appraiser to produce his or her determination in writing, supported by the reasons for the determination.

(ii) If any appraiser has questions regarding the instructions in this Section 9.5(a) or the interpretation of the License, such appraiser will use his or her own professional judgment and shall make clear all assumptions upon which his or her professional conclusions are based, including any supplemental instructions or interpretative guidance received from the Party appointing such appraiser. There shall not be any arbitration or adjudication of the instructions to the appraisers contained in this Section 9.5.

(iii) Each Party shall bear the fees, costs and expenses of the appraiser it selects under Section 9.5(a) and of any experts and consultants used by that appraiser. The fees, costs and expenses of the third appraiser under Section 9.5(b) shall be shared equally by Port and Licensee. Each Party waives any claims against the appraisers appointed by the other Party, and against the third appraiser, for negligence, malpractice or similar claims in the performance of the appraisals or arbitration contemplated by this Section 9.5.

(iv) Except as provided in California Code of Civil Procedure Section 1286.2 (as the same may be amended from time to time), the determination of the Prevailing Market Rate by the original appraisers or, in the case of a dispute, by the third appraiser, shall be conclusive, final and binding on the Parties. The Parties agree that none of the appraisers shall have any power to modify any of the provisions of this License and must base her or his decision on the definitions, standards, assumptions, instructions and other provisions contained in this License and will so advise the appraisers. Subject to the provisions of this 9.5, the Parties will cooperate to provide all appropriate information to the appraisers.

9.6. **Additional Charges.** Without limiting Port's other rights and remedies set forth in this License, at law or in equity, in the event Licensee fails to submit to the appropriate Party, on a timely basis, the items identified in Sections 10.2(b) (Environmental Oversight Deposit); 18.3(a) (Licensee's Environmental Condition Notification Requirements); 18.4 (Storm Water Pollution Prevention); and 36.1 (Non-Discrimination), or to provide evidence of the required insurance coverage described in Section 23, then upon written notice from Port of such failure, Licensee shall pay, as an additional charge, an amount equaling Three Hundred Dollars (\$300.00), as increased subject to Section 4.3. In the event Licensee fails to provide the necessary document within the time period set forth in the initial notice and Port delivers to Licensee additional written notice requesting such document, then Licensee shall pay to Port, as an additional charge, an amount equaling Three Hundred Fifty Dollars (\$350.00), as increased subject to Section 4.3 for each additional written notice Port delivers to Licensee requesting such document. The Parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Licensee's failure to provide the documents identified in this Section and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this License, at law or in equity. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Notice to Cease Prohibited Construction. By signing this License, each Party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

9.7. **Late Charges.** Licensee acknowledges that late payment by Licensee to Port of Fees or other sums due under this License will cause Port increased costs not contemplated by this License, the exact amount of which will be extremely difficult to ascertain. Accordingly, if Licensee fails to pay Fees on the date due, such failure shall be subject to a Late Charge at Port's discretion. Licensee shall also pay any costs including attorneys' fees incurred by Port by reason of Licensee's failure to timely pay Fees. The Parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the cost that Port will incur by reason of any late payment. Such charges may be assessed without notice and cure periods and regardless of whether such late payment results in an Event of Default. Payment of the amounts under this Section shall not excuse or cure any default by Licensee.

9.8. **Default Interest.** Any Fees, if not paid within five (5) days following the due date and any other payment due under this License not paid by the applicable due date, shall bear interest from the due date until paid at the Interest Rate. However, interest shall not be payable on Late Charges incurred by Licensee nor on other amounts to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Licensee.

9.9. **Returned Checks.** If any check for a payment for any License obligation is returned without payment for any reason, Licensee shall pay, as an additional charge, an amount equal to Fifty Dollars (\$50.00) (as such amount may be adjusted from time to time by the Port Commission) and the outstanding payment shall be subject to a Late Charge as well as interest at the Interest Rate.

10. SECURITY.

10.1. **Security Deposit.**

(a) **Amounts.** On or prior to the Effective Date, Licensee shall pay to Port a security deposit, in cash, or provide a Letter of Credit which complies with the terms set forth in Section 10.3, in an amount equal to $1/6^{\text{th}}$ of the License Fee that would be due in the last (40th) year of the Initial Term as shown in *Exhibit C, which equals* Three Hundred Eighty Four Thousand Six Hundred Ninety Eight dollars and Eighty-six cents (\$384,698.86) ("**Security Deposit**"), as security for the faithful performance by Licensee of all terms, covenants and conditions of this License. No later than the commencement date of the Extension Term, if any, Licensee shall provide a Security Deposit equal to one-sixth ($1/6^{\text{th}}$) of the Extension Term License Fee that would be due in the last (26th) year of the Extension Term.

(b) **Use of Security Deposit; Conditions.** Licensee agrees that Port may (but shall not be required to) apply the Security Deposit in whole or in part to: (a) pay any sum due to Port under this License; (b) compensate Port for any expense incurred or damage caused by Licensee, its Agents or Invitees; (c) cure any default by Licensee; or (d) cure, or attempt to cure, any failure of Licensee to perform any other covenant, term or condition contained herein. Licensee shall immediately upon demand pay Port a sum equal to the portion of the Security Deposit expended or applied by Port. Port's obligations with respect to any cash portion of the Security Deposit are those of a debtor and not a trustee, and Port may commingle the Security Deposit or use it in connection with its business. Licensee shall not be entitled to any interest on the Security Deposit. Nothing contained in this Section 10 shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

Licensee hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute, it being expressly agreed that Port may apply all or any portion of the Security Deposit in payment of any and all sums reasonably necessary to compensate Port for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Licensee or any Agent or Invitee of Licensee, and that following a default by Licensee, all or any portion of the Security Deposit may be retained by Port following a termination of this License and applied to future damages, including damages for future Fees, pending determination of the same.

(c) **Return of Security Deposit.** At Licensee's written request, upon Licensee's payment of the second installment of the Initial Term License Fee as required by Section 9.2(a) and provided that there are no pending Claims, Environmental Notices, Events of Default existing (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default) at the time of Licensee's delivery of the written request, or other outstanding matters for which Port could apply the Security Deposit, Port shall either return the balance of any cash portion of the Security Deposit to Licensee or notify

Licensee that it may withdraw or revoke its Letter of Credit with respect to the portion of the Letter of Credit securing the obligation under Section 10.1(a) for the Initial Term.

If Licensee elects to make a one-time lump sum payment of the Extension Term License Fee on the first day of the Extension Term, then, upon Licensee's payment and at Licensee's written request, Port shall waive the Security Deposit for the Extension Term.

If Port retains a Security Deposit under Section 10.1(a), provided that there are no pending Claims, Environmental Notices, Events of Default existing (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default) at the time of Licensee's delivery of the written request, or other outstanding matters for which Port could apply the Security Deposit, and Licensee delivers the License Area to Port on the Expiration Date of the Initial Term or the Extension Term or any earlier termination date in compliance with the terms and conditions of Sections 18.2 and 14 below, Port shall, within one hundred eighty (180) days after Port takes full and complete possession of the License Area either return the balance of any cash portion of the Security Deposit to Licensee or notify Licensee that it may withdraw or revoke its Letter of Credit with respect to the portion of the Letter of Credit securing the obligation under this Section 10.1.

10.2. *Environmental Oversight Deposit.*

(a) On or prior to the Effective Date, Licensee shall deliver to Port, in addition to the first installment of the Initial Term Fee and the Security Deposit, an environmental oversight deposit ("**Environmental Oversight Deposit**") in cash, in an amount equaling Ten Thousand Dollars (\$10,000.00), as security for the recovery of Port's costs and expenses related to the increased inspection, monitoring, enforcement and administration of this License; provided, however, that the Environmental Oversight Deposit shall not be deemed an advance rent deposit or an advance payment of any other kind, or a measure of Port's damages upon an Event of Default.

(b) On the fifth (5th) Anniversary Date and on every fifth (5th) Anniversary Date thereafter, Licensee must increase its Environmental Oversight Deposit by fifteen percent (15%).

(c) If a notice of violation or other regulatory order from a Regulatory Agency with jurisdiction over the License Area and/or Licensee's activities and operations alleging that Licensee caused or contributed to a violation of an Environmental Law within the License Area (in each case, an "**Environmental Notice**") is delivered to Licensee and such notice of violation cannot be cured, or such regulatory order cannot be complied with within fourteen (14) calendar days after delivery of such Environmental Notice and Licensee is not actively working to cure such notice of violation or comply with such regulatory order, Port may use, apply, or retain the Environmental Oversight Deposit in whole or in part to reimburse Port for administrative costs and expenses incurred by Port while inspecting and monitoring the conditions of the License Area and enforcing and administering Licensee's obligations under this License (including, but not limited to staff time corresponding with and responding to regulatory agencies and collection and laboratory analysis of environmental samples).

(d) If an Environmental Notice is delivered to Licensee and such notice of violation is cured, or regulatory order is complied with, within fourteen (14) calendar days after delivery of such Environmental Notice, Port may use and apply from the Environmental Oversight Deposit an amount equaling Five Hundred Dollars (\$500.00), as increased subject to Section 10.2(b) above, for each Environmental Notice delivered to Licensee to reimburse Port for its administrative cost and expense. The Parties agree that the foregoing charge relating to each Environmental Notice delivered to Licensee represents a fair and reasonable estimate of the administrative cost and expense Port will incur by reason of Port staff time devoted to its response and action to each Environmental Notice. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Environmental Notice.

(e) Licensee shall immediately upon demand pay Port a sum equal to the portion of the Environmental Oversight Deposit expended or applied by Port. If Licensee shall fail to replenish the amount used or applied by Port from the Environmental Oversight Deposit within three (3) business days after demand by Port, such failure shall constitute an Event of Default.

(f) Provided that there are no outstanding Environmental Notices and Licensee delivers the License Area to Port on the Expiration Date of the Initial Term or the Extension Term or any earlier termination date in compliance with the terms and conditions of Sections 18.2 and 14 below, Port shall return the balance of the Environmental Oversight Deposit, if any, to Licensee within one hundred eighty (180) days after Port takes full and complete possession of the License Area. Port's obligations with respect to the Environmental Oversight Deposit are those of a debtor and not a trustee, and Port may commingle the Environmental Oversight Deposit or use it in connection with its business. Licensee shall not be entitled to any interest on the Environmental Oversight Deposit. Nothing contained in this Section shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

10.3. *Environmental Assurances Deposit.*

(a) No later than the Effective Date, Licensee shall deliver to Port an environmental assurances deposit in an amount equaling Six Million Dollars (\$6,000,000), of which: (i) Five Million Dollars (\$5,000,000.00) shall be used to satisfy Claims against the City or Port due to any requirement of a Regulatory Agency for Investigation or Remediation of any Hazardous Materials arising directly and solely from Licensee's or its Agents' discovery of pre-existing contamination during the course of the Project where such Claim arises merely from the discovery of pre-existing contamination not caused or permitted by Licensee and which shall serve to limit Licensee's liability to Port with respect to such Claims; and (ii) One Million Dollars (\$1,000,000.00) shall serve as collateral for the full and faithful performance by Licensee of its obligations with respect to Hazardous Materials (collectively, "**Environmental Obligations**"). In no event shall the limitation of Licensee's liability as described in (i) above otherwise limit Licensee's Indemnification obligations. Port may require an increase in the Environmental Assurances Deposit amount to cover any additionally authorized improvements, alterations or purposes and any modification of the Permitted Uses. At Licensee's option, the Environmental Assurances Deposit may be provided by an irrevocable, stand-by and unconditional letter of credit (the "**Letter of Credit**") in substantially the same form attached hereto as *Exhibit D*. Neither cash, nor the Letter of Credit or any Letter of Credit Proceeds (as defined below) shall be deemed an advance deposit or payment of any other kind, or a measure of Port's damages upon an Event of Default.

(b) Port may (but shall not be required to) draw upon the cash or Letter of Credit in such amount as is necessary, and may use the proceeds therefrom (the "**Letter of Credit Proceeds**") or any portion thereof for the purposes described above in Section 10.3(a), it being understood that any use of the Letter of Credit Proceeds shall not constitute a bar or defense to any of Port's remedies set forth in Section 24.2 below. As to the amounts specified in Section 10.3(a)(ii) above, in the event and upon written notice from Port to Licensee specifying the amount of the Letter of Credit Proceeds so utilized by Port and the particular purpose for which such amount was applied, Licensee shall immediately deliver to Port an amendment to the Letter of Credit or a replacement Letter of Credit so that the Letter of Credit is again in the face amount equal to the Letter of Credit amount. Licensee's failure to deliver such an amendment or replacement Letter of Credit to Port within ten (10) business days of Port's notice shall constitute an immediate Event of Default hereunder.

In the event Port transfers its interest in this License, Port shall transfer the cash balance of the Environmental Assurances Deposit, if any, to Port's successor-in-interest on the effective date of such transfer and Licensee may revoke any outstanding Letter of Credit to Port; provided, that Licensee shall, if it elects to provide the Environmental Assurances Deposit to Port's

successor-in-interest by Letter of Credit rather than cash, provide a replacement Letter of Credit meeting the requirements of this Section 10.3 and in substantially the same form attached hereto as *Exhibit D* to Port's successor-in-interest within ten (10) business days of Port's notice to Licensee of said transfer.

(c) The Letter of Credit shall be in a form acceptable to Port and otherwise containing the terms required herein, issued by a money-center bank (a bank which accepts deposits, maintains accounts, and whose deposits are insured by the FDIC) and otherwise reasonably satisfactory to Port (the "**Bank**"). The Letter of Credit shall (i) be at sight and irrevocable; (ii) be subject to the terms of this Section 10.3 and maintained in effect, whether through replacement, renewal or extension, for the entire period from the Effective Date through one hundred eighty (180) days following the expiration of the Term (including an Extension Term, if applicable) ("**LC Expiration Date**"), and to the extent the Letter of Credit delivered to Port does not extend by its terms until the LC Expiration Date, Licensee shall deliver a new Letter of Credit or certificate of renewal or extension to Port at least sixty (60) days prior to the expiration of the Letter of Credit, without any action whatsoever on the part of Port; (iii) provide that Port may make partial and multiple draws thereunder, up to the face amount thereof, and the Bank will pay to Port the amount of such draw upon receipt by the Bank of a sight draft signed by Port, and accompanied by a written certification from Port to the Bank stating either that: (A) funds are due and owing to the Port under Section 10 of this License, or (B) Port has received notice from the Bank at least sixty (60) days prior to the then current expiry date of the Letter of Credit that the Letter of Credit will not be renewed by the Bank and Licensee has not otherwise furnished Port with a replacement Letter of Credit as hereinafter provided. In the event that the Bank (y) notifies Port that the Letter of Credit will not be renewed for at least one (1) year beyond the then applicable expiration date (or, in the case of the last year of the Term, until the LC Expiration Date), and (z) Licensee shall not have otherwise delivered to Port, at least sixty (60) days prior to the relevant annual expiration date, a replacement Letter of Credit in the amount required hereunder and otherwise meeting the requirements set forth above, then Port shall be entitled to draw on the Letter of Credit as provided above, and shall hold the proceeds of such draw as Letter of Credit Proceeds pursuant to Section 10.3(b) above.

(d) Port's obligations with respect to the Letter of Credit Proceeds are those of a debtor and not a trustee, and Port may commingle the Letter of Credit Proceeds or use it in connection with its business. Licensee shall not be entitled to any interest on the Letter of Credit Proceeds. Except as explicitly provided in Section 10.3(a)(i), nothing contained in this Section 10.3 shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this License or provided by law or equity.

(e) Licensee hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute, it being expressly agreed that, except as explicitly provided in Section 10.3(a)(i), Port may apply all or any portion of the Letter of Credit Proceeds in payment of any and all sums reasonably necessary to compensate Port for any other loss or damage, foreseeable or unforeseeable for the purposes described above in Section 10.3(a), and, all or any portion of the Letter of Credit Proceeds may be retained by Port following a termination of the License and applied to future damages arising directly or indirectly out of Licensee's failure to perform or abide by such terms. Licensee agrees not to interfere in any way with payment to Port of the Letter of Credit Proceeds, either prior to or following a draw by Port of any portion of the Letter of Credit, regardless of whether any dispute exists between Licensee and Port as to Port's right to draw from the Letter of Credit. No condition or term of this License shall be deemed to render the Letter of Credit conditional to justify the issuer of the Letter of Credit in failing to honor a drawing upon such Letter of Credit in a timely manner.

(f) Licensee hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute which provides the return of a security deposit within thirty (30) days from the date the landlord receives possession of the premises, it being expressly agreed that the Letter of Credit shall expire on the LC Expiration Date (which date is

beyond such thirty (30) day period) and that Port shall have until the LC Expiration Date to return to Licensee, the Letter of Credit Proceeds, if any.

(g) From and after expiration of the twelve (12) month period following delivery to the San Francisco Bay Regional Water Quality Control Board of Cal/EPA ("RWQCB") of all documents, summaries, reports and findings required to be submitted to the RWQCB concerning the Project in a form acceptable to the RWQCB, provided that the RWQCB has not initiated any inquiry or action regarding pre-existing contamination or other Claims of the type described in Section 10.3(a)(i), Licensee shall have the right to reduce the Environmental Assurances Deposit to One Million Dollars (\$1,000,000.00) for the remainder of the Term. If Licensee has provided a Letter of Credit as an Environmental Assurances Deposit, Licensee shall deliver to Port an amendment to the Letter of Credit or a replacement Letter of Credit ") in substantially the same form attached hereto as *Exhibit D* reflecting the reduced Letter of Credit amount for Port's approval as to form.

(h) Provided that there are no pending Claims, Environmental Notices, Events of Default existing (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default) at the time of Licensee's delivery of the written request, or other outstanding matters for which Port could apply the Environmental Assurances Deposit, and Licensee delivers the License Area to Port on the Expiration Date of the Initial Term or the Extension Term or any earlier termination date in compliance with the terms and conditions of Sections 18.2 and 14 below, Port shall, within one hundred eighty (180) days after Port takes full and complete possession of the License Area either return any cash portion of the Environmental Assurances Deposit, to Licensee or notify Licensee that it may withdraw or revoke its Letter of Credit with respect to the portion of the Letter of Credit securing the obligation under this Section 10.3. Port's obligations with respect to any cash portion of the Environmental Assurances Deposit are those of a debtor and not a trustee, and Port may commingle or use it in connection with its business. Licensee shall not be entitled to any interest on the Environmental Assurances Deposit.

11. SUBJECT TO OTHER USES.

Licensee acknowledges and agrees that this License herein granted is for Licensee's non-exclusive use and that Port shall have the right to use or permit the use by others of the License Area for any use that does not unreasonably interfere with the rights granted to Licensee herein, provided that,

(a) Notwithstanding the generality of the foregoing, Licensee acknowledges its obligations in Section 4.2.

(b) Port shall obtain Licensee's prior written consent, which consent shall be at Licensee's reasonable discretion, and which shall not be unreasonably withheld, conditioned or delayed if Port wishes to undertake or allow the following:

(i) issue a license, lease or other permission for any uses that would penetrate the Bay mud surface in the Submarine Portion Exclusive Zone, and/or that, in Licensee's opinion based upon accepted engineering practices, could reasonably be expected to jeopardize the integrity or reliability of the ZA-1 Line Equipment in the Submarine Portion Exclusive Zone.

(ii) In the License Area, issue a license, lease or other permission to allow a lateral crossing through the License Area. In all submarine portions, if lateral crossings are allowed, Port shall require that such crossings be no closer than five (5) vertical feet from the ZA-1 Line Equipment, that the equipment crossing the ZA-1 Line Equipment be equipped with thermal and mechanical protection, and that the license, lease or other permission for the crossing equipment ensure that Licensee's ability to access, maintain, replace, and raise the ZA-1 Equipment is not unreasonably impeded.

(iii) In the Compatible Use Zone of the submarine portion, issue a license, lease or other permission to allow installation of any other underground or submarine electric lines.

(iv) With respect to any HDD Area:

(1) allow piles to be installed to the bedrock in the area north and east of Pier 30 to support maintenance and facilitate use and development of Piers 30/32; provided that to the extent that Licensee provides such consent, Licensee and Port will cooperate in good faith to identify installation specifications to adequately protect the ZA-1 Equipment;

(2) license, lease or otherwise permit in writing construction of solder piles, piers, pilings, foundations, or other permanent improvements in any other HDD Area;

(v) Dredging:

(1) enter into any written agreements permitting any dredging in the submarine portions of the License Area

(2) In the area north and east of Piers 30-32, Port may be permitted to dredge up to a depth of forty feet (40') below mean low low water if Port reasonably determines dredging to such depth is required to support or advance maritime operations and use within Port jurisdiction, provided that in no event shall Port dredge within five (5) vertical feet of the ZA-1 Line Equipment.

(vi) Port will cooperate with Licensee to have the License Area designated as a no anchoring area by the US Coast Guard.

(c) In the case of (b)(i) – (v) of this Section 11, Port shall provide sufficient documentation, including engineering drawings to enable Licensee to review any such proposed activities. Licensee shall consent or deny consent within ninety (90) days of a Port request presented to Licensee with sufficient documentation under Section 11(b). Licensee's failure to respond within the 90-day period, after at least two (2) written requests from Port highlighting the issue and 90-day deadline and reasonable further efforts by the Port to communicate the issue to PG&E through established channels of communication between the Parties, shall be deemed an approval of Port's request. If Licensee denies the request, the denial must be accompanied by an explanation of the technical rationale for the denial in sufficient detail to allow Port to submit a redesign of the requested project such that Licensee would consent.

(d) If Licensee denies consent, Port may seek CPUC approval to allow the activity or to allow the proposed facilities to be co-located in the License Area, which approval would supersede Licensee's denial.

(e) Licensee shall take all necessary measures within its control to ensure that the License Area is depicted on all official navigation maps as a "no anchoring" area.

12. CONSTRUCTION.

12.1. ***No Construction Without Required Regulatory Approvals.*** Licensee shall not commence Construction Activities, until all required Regulatory Approvals have been obtained and any fees associated with such Regulatory Approvals have been paid.

12.2. ***Use of Other Port Property for Construction.*** For purposes of construction, maintenance, repair, and replacement of the Project and subject to Regulatory Approvals, Licensee will have the temporary right to use areas owned and controlled by Port adjacent to and in the immediate vicinity of the License Area (each such use, an "Accessory Use") subject to the following conditions:

(a) For all construction activities during the Construction Period, no later than thirty (30) days prior to commencement, Licensee must submit a description of the planned

Accessory Use (including any temporary installations), a map of the area Licensee proposes to use, copies of Regulatory Approvals necessary/obtained for the Accessory Use (excluding any by Port) and start and end dates for Accessory Use of each area.

(b) For any other Accessory Use that will exceed thirty (30) days, Licensee must seek Port's written approval no later than thirty (30) days prior to the proposed start date of each such use by submittal of a description of the planned Accessory Use (including any temporary installations), a map of the area Licensee proposes to use, copies of Regulatory Approvals necessary/obtained for the Accessory Use (excluding any by Port) and start and end dates for Accessory Use of each area. Port, as a condition of approval, may impose additional insurance requirements and may require the payment of a market rate license fee where Port land is being used for construction laydown or similar activities.

Each Accessory Use (subject to Port approval if required above) shall be deemed a Permitted Activity hereunder and each area used for an Accessory Use shall be deemed to be part of the License Area under this License and shall be incorporated into this License without further action by the Parties. The license provided by this Section 12.2 shall be on all the terms and conditions of this License and any non-compliance shall constitute an Event of Default of this License. Each Accessory Use shall expire without notice or other action by Port on the later of the end date described in Licensee's submittal or the expiration of the Regulatory Approval issued by Port.

12.3. *Investigations; Sampling Activity*

(a) Unless specifically required by Laws or a Regulatory Agency, Licensee shall not generate any investigation-derived waste and shall perform geotechnical sampling only and not environmental sampling.

(b) Licensee shall provide Port with copies of all boring logs, sample or laboratory test results promptly upon receipt and copies of any reports prepared by Licensee documenting the results of the work conducted by Licensee pursuant to this License.

(c) Licensee must refill, compact and replace surface covering for onshore all trenches, holes or pits using the same or better quality material to the level of the original surface penetrated. Any onshore trenches, holes or pits having a diameter dimension that could create a safety hazard for persons must be adequately safeguarded and secured upon completion of each day's work.

12.4. *Documents; Records.* At least thirty (30) days prior to commencement of any Construction Activity within the northern HDD Area, the southern HDD area, or the 23rd Street Portion, separately and respectively, or by such date as required by Port permit, Licensee shall provide Port with copies of the following documents and any other documents reasonably requested by Port including those required by Port permits:

(a) A set of final engineering drawings for the northern HDD Area, the southern HDD area, and the 23rd Street Portion, respectively, as issued for construction showing all details such as coordinates for both exit and entry pits, proposed alignment bearing minimum bend radius, structural details for foundation and support for the near shore facilities, and other related information certified by a California registered civil/structural engineer.

(b) As to each of the northern HDD Area and the southern HDD Area, respectively, a copy of a geotechnical report certified by a California registered geotechnical engineer including any geotechnical recommendations and confirmation of the adequacy of the proposed HDD program at the intended depth based on the existing subsurface conditions, and the geotechnical recommendations for the supporting structures for the near shore facilities.

(c) As to each of the northern HDD Area and the southern HDD Area, respectively, a copy of the HDD contractor's work execution plan, including manufacturers specifications for the specific boring machine that will be used, its tolerance limits, MSDS for

the drilling mud and its additives, and health and safety plan. The plan must also include any abandonment contingency plans in case the boring operations are forced to be suspended and a partially completed bore hole be abandoned.

(d) A copy of the latest construction schedule timeline chart.

(e) A project-specific hazardous spill contingency plan, with specific designation of the onsite person who will have the responsibility of implementing the plan. The spill plan must include potential minor and major scenarios, preventive measures, equipment available onsite, spill notification protocol and procedures, etc. The plan must provide that the primary marine work vessel shall carry on board a minimum of 400 feet of sorbent boom, five bales of sorbent pads at least 18" x 18" square and a small powered boat for rapid deployment to contain and clean up any small spill or sheen on the water surface. The plan must also provide for the provision of additional spill containment and clean up resources in the event of an accident that exceeds the rapid clean up capability of the onsite work force. In the event of an oil spill during construction that impacts State or Port waters, in addition to U.S. Coast Guard, notification shall also be provided as soon as possible to the State Office of Emergency Services at (800) 852-7550, State Lands Commission response number at (562) 590-5201 and Port's response number at (415) 274-0276 (as those numbers may be updated per the plan).

(f) A critical operations and curtailment plan for marine work vessels operating in the License Area. The plan must define the limiting conditions of sea state, wind, or any other weather conditions that exceed the safe operation of the vessels and equipment or divers in the water, that hinder potential spill cleanup or in any way pose a threat to personnel or the safety of the environment. The plan must also identify the onsite person with authority to determine critical conditions and suspend the work operations when needed.

12.5. *Project Requirements.*

(a) Licensee shall maintain a logbook on all marine work vessels utilized during operations conducted under this License to keep track of all debris created by objects of any kind that fall into the water. The logbook should include the type of debris, date, time and location to facilitate identification and location of debris for recovery and site clearance verification.

(b) At least two (2) weeks prior to commencement of any Construction Activity in the Bay, Licensee shall file an advisory of pending construction operations with the local U.S. Coast Guard District Office for publication in the Local Notice to Mariners. Licensee shall provide Port a copy of the Notice to Mariners.

(c) Within one hundred twenty (120) days of completion of the ZA-1 Line Licensee shall deliver to Port:

(i) Two complete sets of "as-built" plans certified by a California registered Civil Engineer, showing the final plan and profiles of the ZA-1 Line Equipment in the License Area, and all field changes or other modifications to the plans as originally approved for construction; and

(ii) A post construction written report confirming completion in accordance with the approved plans, describing any field changes with the justification, any accidents or spills affecting the waterway and corrective measures taken, and any other extraordinary conditions that occurred during the course of the Project.

12.6. *Prohibited Construction Charge.* In the event Port determines after inspection of the License Area that Licensee has commenced Construction Activities prior to obtaining all the required permits and Regulatory Approvals and payment of the applicable fees, then Licensee shall immediately cease the Prohibited Construction and shall pay to Port, as an additional charge, an amount equaling Three Hundred Dollars (\$300.00), as increased subject to Section 4.3, upon delivery of written notice to Licensee to cease the prohibited construction ("**Notice to Cease Prohibited Construction**"). In the event Port determines in subsequent inspection(s) of the

License Area that Licensee has not ceased the prohibited construction, then Licensee shall pay to Port, as an additional charge, an amount equaling Four Hundred Dollars (\$400.00), as increased subject to Section 4.3, for each additional Notice to Cease Prohibited Construction delivered to Licensee. The Parties agree that the charges associated with each inspection of the License Area and delivery of the Notice to Cease Prohibited Construction, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the License Area and Licensee's failure to comply with the applicable Notice to Cease Prohibited Construction and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this License, at law or in equity.

Licensee's failure to comply with the applicable Notice to Cease Prohibited Construction and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this License, at law or in equity. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Notice to Cease Prohibited Construction. By signing this License, each Party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

13. REPAIR AND MAINTENANCE.

Licensee, at its sole cost and expense, (a) shall repair and maintain the ZA-1 Line Equipment and the License Area as necessary to prevent threats to health, safety or the environment and may make other repairs all in compliance with all applicable Laws; and (b) in the event that Licensee shall make any excavation on any onshore portions of the License Area, Licensee shall restore said portion of the (including any surrounding area damaged or affected by such excavation) as nearly as reasonably practicable to its condition prior to such excavation, including without limiting the generality of the foregoing, pavement, sidewalks, lawns and shrubs and as may be required by Regulatory Approvals. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the License Area or to any improvements or alterations now or hereafter located thereon. Licensee acknowledges and agrees that, except in the case of an emergency, Licensee shall provide advance written notice, obtain all Regulatory Approvals (along with full payment of all fees and charges associated with obtaining the same), and coordinate with Port prior to performing any repair or maintenance of the ZA-1 Line Equipment permitted under this License.

14. SURRENDER; EQUIPMENT REMOVAL PLAN.

(a) Upon expiration or within twenty four (24) months of the earlier termination of this License, Licensee shall surrender the License Area clean, free of debris, waste, and Hazardous Materials, and free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this License and any other encumbrances created by Port. Licensee shall, subject to Section 14(c) below and applicable Laws, remove all portions of the ZA-1 Line Equipment and all material or structures within the License Area, including fills, in accordance with the methods and schedules of an Equipment Removal Plan developed and paid for by Licensee as that plan is approved by Port.

(b) Licensee shall submit a final Equipment Removal Plan to Port and to all Regulatory Agencies for Regulatory Approvals no less than eighteen (18) months prior to the expiration or earlier termination of this License. The plan must contain the following:

(i) A detailed description of the methods to be employed to remove ZA-1 Line Equipment and all other improvements listed in subsection (a) immediately above, including their ultimate disposition;

(ii) Supplemental environmental information that addresses any differences between the impacts described and analyzed in the MND and the planned removal operations, to enable Port to comply with applicable Laws;

(iii) A schedule for completion of the removal of the ZA-1 Line Equipment by ninety (90) days following the expiration or earlier termination of this License, unless that term is extended in writing by Port; and

(iv) Identification of the entities to be employed to execute the Equipment Removal Plan.

(c) Port may choose to direct Licensee in writing to leave all or part of the ZA-1 Line Equipment within the License Area in place at no cost to Port. Should that occur, Licensee shall deliver to Port such documentation as may be necessary to convey title to such remaining improvements to Port free and clear of any liens, mortgages, loans or other encumbrances. Port shall Indemnify Licensee as to any Claims arising from any improvements that Port has directed Licensee to leave in place and to which Port takes title.

(d) Should Licensee fail to remove the ZA-1 Line Equipment pursuant to the requirements of this Section, Licensee agrees it will be deemed abandoned and Port may elect to sell it and offset against the sales proceeds Port's storage, removal, and disposition costs without notice to Licensee. Licensee hereby waives the benefits of California Civil Code Section 1993, to the extent applicable.

(e) If Licensee fails to surrender the License Area as required by this Section, Licensee shall Indemnify Port from all damages resulting from Licensee's failure to surrender the License Area, including, but not limited to, any costs of Port to enforce this Section and Claims made by a succeeding licensee or tenant resulting from Licensee's failure to surrender the License Area as required together with, in each instance, reasonable attorneys' fees and costs.

(f) Licensee' obligation under this Section shall survive the expiration or earlier termination of this License.

15. REQUIRED REMOVAL OR RELOCATION OF THE ZA-1 LINE EQUIPMENT.

15.1. ***Required Removal or Relocation.*** Licensee agrees that it will remove or relocate without expense to Port or City any ZA-1 Line Equipment installed, used and maintained under this License, if and when such removal or relocation is made necessary by any lawful change of grade, alignment or width of any street or right of way, or by any work to be performed under the governmental authority of Port or the City and upon written notice of the same by Port or City. After receipt of a notice requesting relocation/removal of the ZA-1 Line Equipment, Licensee and the Port/City will use commercially reasonable and technically feasible efforts to facilitate the Port's/City's design and engineering of any Port or City project requiring such removal or relocation to minimize time and expense to both Parties. The Parties will negotiate in good faith to amend this License to the extent necessary to reflect the new License Area and any adjustment in fees shall be calculated pursuant to the methodology used to calculate Fees as described in Section 9.

In the event that: (a) applicable law prohibits the removal or relocation of the ZA-1 Line Equipment; or (b) the required relocation would render the ZA-1 Line Equipment permanently unusable and thereby defeat the purpose of this License or; (c) despite Licensee's good faith efforts, a Regulatory Agency having jurisdiction over the ZA-1 Line Equipment prohibits Licensee from removing or relocating the ZA-1 Line Equipment; or (d) the Port or City can reasonably redesign or reroute such work at significantly less cost than the cost to Licensee to relocate or remove the ZA-1 Line Equipment, Port and Licensee agree to negotiate in good faith to allow for the Port or City to proceed in an alternative manner acceptable to all Parties, as evidenced in writing signed by Licensee and Port or City, as applicable, conditioned on Licensee bearing all commercially reasonable incremental costs of the City/Port alternative (where incremental means the difference between the Port's/City original conflicting design and the Port's/City /Port's alternative design).

Licensee shall remove or relocate the ZA-1 Line Equipment, pursuant to an Equipment Removal Plan as described in Section 15, within thirty-six (36) months subject to Force Majeure and reasonable extensions by Port or City after notice has been given under this Section.

To the extent that all or any portion of the License Area is surrendered as a result of a removal or relocation of the ZA-1 Line Equipment as provided by this Section, Licensee shall comply with the provisions Section 14 (Surrender).

15.2. **Force Majeure Delay.** The dates and times by which Licensee must perform the obligations described in this Section 15 will be extended by Force Majeure. To obtain the benefit of an extension of time due to Force Majeure (in each instance, a “**Force Majeure Delay**”), Licensee must give Port and City written notice within sixty (60) days after the earlier of the Force Majeure event or Licensee's discovery of the Force Majeure event causing the delay to occur (“**Force Majeure Notice**”) of: (i) the cause of the delay; (ii) Licensee’s reasonable estimate of the length of the Force Majeure Delay. Unless the City or Port objects to Licensee’s estimate of the period of Force Majeure Delay within ten (10) days after timely receipt of a Force Majeure Notice, the Force Majeure Delay will be the period specified in the Force Majeure Notice. The Force Majeure Notice must display prominently on the envelope enclosing such notice and the first page of such notice a statement substantially the following form (including emphasis): **“FORCE MAJEURE DELAY NOTICE. IMMEDIATE ATTENTION REQUIRED. FAILURE TO RESPOND WITHIN TEN (10) BUSINESS DAYS WILL RESULT IN A FORCE MAJEURE DELAY AS DESCRIBED IN THIS NOTICE.”**

16. SCREENING OF POTRERO SWITCHYARD

16.1. **Screening.** Provided that Port issues Notice to Screen (as defined below), Licensee must construct a Screen in accordance with this Section as a condition to and as additional consideration for this License.

16.2. **Requirement for Screen.** Any time within ten (10) years after the Effective Date, Port may provide notice (“**Notice to Screen**”) to Licensee of Port's election to have Licensee (1) enclose a substantial portion of the Potrero Switchyard in a building, or (2) surround a significant portion of the Potrero Switchyard with a perimeter screen (either, a “**Preferred Screen Design**”). Promptly following the Notice to Screen, Licensee will (i) prepare the project description and conceptual design for the Preferred Screen Design including architectural and aesthetic qualities consistent with Licensee’s customary protocols for screening substation facilities in dense urban areas; and (ii) initiate environmental review if required by CEQA, apply for any required Regulatory Approvals to construct the Preferred Screen Design and file any pre-construction applications required for reimbursement through electricity rates.

16.3. **Screen Design, and Approvals.**

(a) Licensee will: (i) present to the Port's Waterfront Design Advisory Committee or similar successor body designated by Port (“**WDAC**”) its proposed design for the Screen, (ii) incorporate into its proposed design any WDAC's recommendations (which Licensee acknowledges may reflect the WDAC's and the Port's desire and intention to accommodate projected growth within the City's Central Waterfront area, south of Mission Bay and east of the I-280 freeway), to the extent such recommendations would not materially adversely impact the operation of the Potrero Switchyard (“**Revised Screen Design** ”), and (iii) obtain confirmation from WDAC that the Revised Screen Design has adequately addressed WDAC's prior recommendations.

(b) Following confirmation from WDAC that the Revised Screen Design has adequately addressed WDAC's recommendations, Licensee will use commercially reasonable efforts to: (i) obtain any necessary Regulatory Approvals to commence construction of the Revised Screen Design and (ii) obtain all other required approvals to commence construction of the Revised Screen Design.

(c) Subject to Force Majeure Delays on the terms and conditions described in Section 15.2, Licensee must complete construction of the approved Revised Screen Design no later than five (5) years after its receipt of the Notice to Screen.

16.4. **Redesign.** If Licensee fails to obtain necessary approvals (except for approval for reimbursement through electricity rates) despite its commercially reasonable efforts or upon receipt of a Force Majeure Notice relating to the Revised Screen Design, Port may require Licensee to redesign the Screen in a manner that would allow the Screen to be constructed. Such redesign will be subject to the terms and conditions of this Section 16.

17. COMPLIANCE WITH LAWS; PORT ACTING AS REAL PROPERTY OWNER.

17.1. **Compliance with Laws.** All activities performed on the License Area by Licensee its Agents shall be done in accordance with all then applicable Laws.

17.2. **Proprietary Capacity.** Licensee understands and agrees that Port is entering into this License in its capacity as a property owner with a proprietary interest. Except as specifically stated herein, Licensee further understand and agree that no approval by Port for purposes of this License shall be deemed to constitute any approval required by any federal, state, regional or City authority. Before beginning any work in the License Area, Licensee shall obtain any and all necessary permits and other Regulatory Approvals for conducting the Permitted Activities and shall maintain such approvals as necessary throughout the Term of this License. Promptly upon receipt of such approvals, Licensee shall deliver copies to Port. Port shall cooperate with Licensee, at no cost to Port, to the extent necessary to obtain applicable approvals. To the fullest extent permitted by Law, Licensee agree to indemnify and hold the Indemnified Parties harmless from and against any loss, expense, cost, damage, attorneys' fees, penalties, claims or liabilities which City or Port may incur as a result of Licensee's failure to obtain or comply with the terms and conditions of any Regulatory Approval. The indemnity obligation in this paragraph shall survive the expiration or termination of this License.

17.3. **Regulatory Approval.** Licensee understands that Licensee's activity on the License Area may require Regulatory Approval(s). Licensee shall be solely responsible for obtaining any such Regulatory Approval. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne solely and exclusively by Licensee. Licensee shall be solely responsible for complying with any and all conditions imposed by regulatory agencies as part of a Regulatory Approval; provided, however, Licensee shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit or other entitlement from any Regulatory Agency (other than Port), if Port is required to be a co-permittee under such permit, or if the conditions or restrictions it would impose on the project could affect use or occupancy of other areas controlled or owned by Port or would create obligations on the part of Port (whether on or off of the License Area), other than those expressly acknowledged in Section 11(b) of this License, to perform or observe, unless in each instance Port has previously approved such conditions in writing, in Port's sole and absolute discretion.

Any fines or penalties imposed as a result of the failure of Licensee to comply with the terms and conditions of any Regulatory Approval shall be promptly paid and discharged by Licensee, and Port shall have no liability, monetary or otherwise, for said fines and penalties.

Without limiting the terms and conditions of this Section, Licensee agrees and acknowledges that (i) Port has made no representation or warranty that any required Regulatory Approval can be obtained, (ii) although Port is an agency of the City, Port has no authority or influence over any governmental officials, departments, boards, commissions or agencies responsible for the issuance of such required Regulatory Approvals, (iii) Port is entering into this License in its capacity as a landowner with a proprietary interest in the License Area and not as a regulatory agency of the City with certain police powers, and (iv) Licensee is solely responsible for obtaining any and all required Regulatory Approvals in connection with the Permitted Activity on, in or around the License Area. Accordingly, Licensee understands that there is no

guarantee, nor a presumption, that any required Regulatory Approval(s) will be issued by the appropriate Regulatory Agency and Port's status as an agency of the City shall in no way limit the obligation of Licensee to obtain approvals from any Regulatory Agencies (including Port) which have jurisdiction over the License Area. Licensee hereby releases and discharges Port from any liability relating to the failure of any Regulatory Agency (including Port) from issuing any required Regulatory Approval.

18. HAZARDOUS MATERIALS.

18.1. ***Hazardous Materials.*** Licensee shall Handle all Hazardous Materials present on or introduced by Licensee, its Agents or Invitees on the License Area during the Term of this License in compliance with all Environmental Laws. Licensee shall protect its employees and the general public in accordance with all Environmental Laws. Port or its Agents may from time to time request, and Licensee shall be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in a manner which complies with all Environmental Laws.

18.2. ***Removal/Remedial Action of Hazardous Materials.*** Nothing in this Section 18.2 shall limit the parties' rights and obligations under Section 14 (Surrender/Equipment Removal Plan). Prior to the expiration or within twenty-four (24) months of the earlier termination of this License, Licensee, at its sole cost and expense, shall remove and/or Remediate any and all Hazardous Materials Released in, on, under or about the License Area by Licensee or its Agents or Invitees as a result of Licensee's use or the Permitted Activities during the Term of this License to the Port's reasonable satisfaction taking into consideration any requirement of a Regulatory Agency for such Investigation or Remediation provided that in no case shall the Port require removal or Remediation where a Regulatory Agency with jurisdiction over the removal or Remediation has determined that the Port's proposed removal or Remediation requirement would be unlawful or more detrimental to the environment than other no action alternatives. Nothing herein shall be construed to waive Licensee's rights to seek recovery or contribution from any third party responsible for such Hazardous Material. Notwithstanding the foregoing, Licensee shall not be obligated to remove any Hazardous Materials introduced on the License Area solely by the City, Port, or their respective Agents, except to the extent Licensee Exacerbates such Hazardous Materials conditions.

Prior to or within twelve (12) months following the expiration or earlier termination of this License, Port shall have the right but not the obligation to conduct an inspection and audit, at Licensee's cost, of the License Area for the sole purpose of confirming the adequate removal and/or Remediation of Hazardous Materials associated with a Release in, on, under, or about the License Area by Licensee or its Agents or Invitees as a result of Licensee's use or the Permitted Activities during the Term. Such inspection and audit shall not extend beyond the scope that is either reasonably necessary to make such confirmation or otherwise required by a Regulatory Agency. Port will seek Licensee's concurrence on the selection of any third party entity Port engages to conduct such inspection and audit, which Licensee shall not unreasonably withhold, condition or delay. Port's failure to conduct an audit or to detect conditions if any audit is conducted shall not be deemed to be a release of any liability for environmental conditions subsequently determined to be Licensee's responsibility under this License. If Licensee fails to comply with this provision, Port may perform the removal or remedial action at Licensee's sole cost and expense, and Licensee shall immediately reimburse Port therefor. All costs of storage, shipping and disposal of extracted soils and groundwater as a result of Licensee's use or Permitted Activities shall be the responsibility of Licensee including, without limitation, the costs of preparation and execution of shipping papers, including but not limited to manifests.

18.3. *Licensee's Environmental Condition Notification Requirements.*

(a) Licensee shall notify Port upon the issuance of any environmental permit, approval or license issued by a Regulatory Agency related to Licensee's activities on the License Area and shall provide Port with a copy of such documents as requested from Port from time to

time, and shall provide to Port any hazardous waste generator identification numbers related to the License Area issued by the U.S. Environmental Protection Agency or the California Environmental Protection Agency, to itself, its sublicensees or Agents.

(b) Section 4.1.2 of the CPUC's Mitigation Monitoring, Compliance, and Reporting Plan requires the CPUC's environmental field monitor to submit a weekly report to the CPUC's project manager documenting PG&E's compliance with the MND and conditions imposed by other Regulatory Agencies. Licensee shall forward a copy of the weekly report to Port when it receives the same from the CPUC's environmental consultant.

(c) Licensee shall immediately notify Port in writing of, and shall contemporaneously provide Port with a copy of:

(i) Any written notice of release of Hazardous Materials in or on the License Area that is provided by Licensee or any other user of the License Area to a governmental or Regulatory Agency including any City agency other than Port;

(ii) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that is received by Licensee or any other user of the License Area from any governmental or Regulatory Agency including any City agency other than Port;

(iii) Any inquiry, investigation, enforcement, cleanup, removal, or other action that is instituted or threatened by a governmental or Regulatory Agency, including any City agency other than Port, against Licensee or any other user of the License Area and that relates to the Release of Hazardous Material on or from the License Area;

(iv) Any claim that is instituted or threatened by any third Party against Licensee or any other user of the License Area and that relates to any Release of Hazardous Materials on or from the License Area; and

(v) Any notice of the termination, expiration or substantial amendment of any environmental operating permit or license needed by Licensee or any other user of the License Area related to Licensee's use of the License Area.

18.4. *Storm Water Pollution Prevention.*

(a) Licensee must comply with the applicable provisions of the Statewide General Permit for Discharge of Industrial Storm Water issued by the State Water Resources Control Board, including filing a Notice of Intent to be covered, developing and implementing a site-specific Storm Water Pollution Prevention Plan ("**SWPPP**"), and conducting storm water monitoring and reporting, if applicable. Licensee's SWPPP and a copy of a Notice of Intent for Licensee's License Area must be submitted to Port's Real Estate Division before beginning on-site operations, if applicable.

(b) In addition to requiring compliance with the permit requirements under Subsection (a), Licensee shall comply with the post-construction storm water control provisions of the Statewide General Permit for Discharge of Storm Water from Small Municipalities and the San Francisco Storm Water Design Guidelines, subject to review and permitting by the Port's Engineering Division if applicable..

18.5. *Disclosure of Hazardous Materials.* Licensee is hereby advised that Hazardous Materials may be present on the License Area, including elevated concentrations of petroleum hydrocarbons, polynuclear aromatic hydrocarbons, heavy metals, and other contaminants commonly found in public rights-of-way, fill and in Bay sediments as further described in the reports listed in *Schedule 1* attached hereto. By execution of this License, Licensee acknowledges that the notice set forth in this Section satisfies the requirements of California Health and Safety Code Section 25359.7 and related statutes. Licensee agrees to provide this information to its sublicensees, Agents, Contractors and Invitees in connection with their use of the License Area.

18.6. **Failure to Comply** . Failure to comply with this Section 18 shall constitute a material default under this License. In the event of such default, Port shall have all rights available under this License and at law or equity including, without limitation, the right to either:

(a) Terminate this License and collect damages Port incurs as a result of such default, including, without limitation, cleanup costs incurred by Port resulting from the cleanup of any Hazardous Materials present in or on the License Area, soil, or groundwater; or

(b) Continue this License and require Licensee to clean up such Hazardous Materials at Licensee's sole expense.

18.7. **Survival**. Licensee's obligations under this Section 18 shall survive the expiration or earlier termination of this License.

19. NO COSTS TO PORT.

Licensee shall bear all costs or expenses of any kind or nature in connection with the this License, including but not limited to, all costs of excavation, construction, operation, sampling, monitoring, testing, transporting and disposing of soil or groundwater and backfilling, and shall keep the License Area free and clear of any mechanics' liens or other claims of lien arising out of or in any way connected with the Permitted Activities.

20. REPAIR OF DAMAGE.

If any portion of the License Area, or any other property of Port or its Agents located on or about the License Area, is damaged by any of the Permitted Activities conducted by Licensee or its Agents, Licensee shall, at its own cost and expense, repair any and all such damage and restore said property to as nearly as reasonably practicable, the condition that existed prior to such damage. Such repair shall be done immediately if the damage creates an unsafe condition or, if the damage does not create an unsafe condition, within a reasonable period but not longer than the time frame specified in Section 24 below.

21. INDEMNIFICATION.

21.1. **General Indemnity**. Licensee agrees to indemnify, hold harmless and defend, the City and Port and their respective officers, agents and employees (collectively, the "**Indemnified Parties**"), without cost to the Indemnified Parties, from and against any and all claims, judgments, losses, costs, expenses, injuries, settlements, liens, damages, penalties, fines or liabilities including, without limitation, interest, engineering fees, consultant fees and reasonable attorneys' fees of whatever kind (collectively "**Claims**") arising in any manner out of (a) any injury to or death of any person or damage to or destruction of any property occurring in, on, under or about the License Area or any part thereof, including from any Accessory Use, whether to the person or property of Licensee or its Agents, or third persons, to the extent resulting from Licensees' use of the License Area under this License; (b) any failure by Licensee or its Agents to faithfully observe or perform any of the terms, covenants or conditions of this License; or (c) the use of the License Area or any activities conducted thereon under this License by Licensee or its Agents.

21.2. **Toxics Indemnity**. Subject to the explicit limitation on Licensee's liability under Section 10.3, Licensee agrees to indemnify, hold harmless and defend, without cost to the Indemnified Parties from any and against any Claims resulting from all or any of the following: (a) any Release of Hazardous Materials at the License Area caused by or allowed by Licensee or its Agents or invitees during the Term; (b) any requirement of a Regulatory Agency for Investigation or Remediation of any Release of Hazardous Materials at the License Area caused or allowed by Licensee or its Agents during the Term including any Claim arising solely from the discovery of pre-existing contamination discovered during the course of the Project even if such Claim does not involve a Release by Licensee or its Agents; (c) any Handling of any Hazardous Materials produced by Licensee during the performance of the Permitted Activities; or (d) any breach of or failure to perform or observe any term, covenant, or agreement in this

License to be performed or observed by Licensee, including, but not limited to any violation of any Environmental Law.

21.3. **General.** These indemnities shall apply regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on Port or City, except that these indemnities do not extend to any Claims caused solely by the gross negligence or willful or intentional misconduct of Port, its officers, agents or employees. The provisions of this section shall survive termination of this License with respect to any Claim arising out of Licensee's activities. In addition to Licensees' obligation to Indemnify Port and City, Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend Port and City from any claim that actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent. Licensees' obligation to defend shall arise at the time such claim is tendered to Licensee by Port and/or City and shall continue at all times thereafter.

22. ASSIGNMENT; USE BY OTHERS.

22.1. **Assignment; Port Consent Required.** This License is personal to Licensee and shall not be assigned, except with the written consent by Port, which shall not be unreasonably withheld; provided, however, that Licensee shall have the right, with notice delivered at least sixty (60) days prior to the assignment, to assign Licensee's interest in this License to an Affiliate of PG&E (a "Permitted Assignee") without the prior written consent of Port so long as the Permitted Assignee assumes all of Licensee's obligations under this License.

22.2. **Request for Assignment.** Except in connection with an assignment to a Permitted Assignee, Licensee shall give Port at least one hundred twenty (120) days prior written notice of any desired assignment (herein "Notice of Request to Assign") and shall provide Port with the following information in writing: (a) the name, address, legal composition and ownership of the proposed assignee, (b) the current balance sheet and profit and loss statements (herein "**financial statements**") for the proposed assignee and for any other entity or person who is to be liable for Licensee's obligations under this License, such financial statements to be certified in writing to be true and correct and to be prepared in accordance with generally accepted accounting principles and to cover a period of three years prior to the proposed effective date of the assignment (or for such shorter period as the proposed assignee or other person may have been in existence), (c) a full description of the terms and conditions of the proposed assignment, including copies of any and all proposed assignment agreements or other documents and instruments concerning the proposed assignment, (d) a Pre-screening and Leasing Application, or other similar document, completed by the proposed assignee and delivered to Port, and (e) any other information, documentation or evidence as may be requested by Port, all in sufficient detail to enable Port to evaluate the proposed assignment and the prospective assignee. Licensee's Notice of Request to Assign shall not be deemed to have been served or given until such time as Licensee has provided Port with all information set forth hereinabove. Licensee shall immediately notify Port of any modifications to the proposed terms of the assignment.

If Port consents to the Assignment, Licensee must close the Assignment on the terms stated in the Notice of Request to Assign within one hundred twenty (120) days after Port notifies Licensee of Port's consent. If the assignment agreement does not close within the 120-day period, then Port's consent will expire, unless Licensee gives Port a new Notice of Request to Assign, in which case Port again will be entitled to exercise any of the options under this Section.

22.3. **Required Provisions in Every Assignment.** Each and every assignment agreement shall contain the following provisions:

(a) Each assignee shall assume all obligations of Licensee under this License and shall be jointly and severally liable with Licensee for payment of all Fees and performance of all terms, covenants and conditions to be performed by Licensee hereunder.

(b) A clause naming as additional insureds under all liability and other insurance policies "**THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, AGENTS EMPLOYEES AND REPRESENTATIVES**".

(c) Prior to the effective date of an assignment, assignee shall deliver to Port, a replacement letter of credit complying with the terms and conditions of Section 10.3 above.

22.4. **Use by Others.** With Port's prior written approval as described in this Section, Licensee may contract with third parties to allow use of the unused capacity of the ZA-1 Line (including the fiber optic cable) (each a "User Agreement") subject to any required Regulatory Approvals. Port will not unreasonably condition, withhold or delay its approval, provided that, the Parties agree that it will be reasonable for Port to withhold its approval if Port does not receive at least fifty percent (50%) of the gross revenues received by Licensee for allowing any unused capacity of the ZA-1 Line.

Licensee shall give Port at least ninety (90) days prior written notice of a proposed User Agreement and shall provide Port with the following information in writing: (a) the name, address, legal composition and ownership of the proposed user; (b) a list of any Regulatory Approvals required and obtained in connection with the proposal; (c) a description of the terms and conditions of the proposed use including the proposed financial compensation to Licensee and to Port; and (e) any other information, documentation or evidence as may be requested by Port, all in sufficient detail to enable Port to evaluate the proposal. If Port consents to the User Agreement, Licensee must close the User Agreement on the terms stated in the notice within ninety (90) days after Port notifies Licensee of Port's consent. If the User Agreement does not close within the 90-day period, then Port's consent will expire, unless Licensee gives Port a new notice, in which case Port again will be entitled to exercise any of the options under this Section.

Each User Agreement must provide that the user will be jointly and severally liable with Licensee for payment of all Fees and performance of all terms, covenants and conditions to be performed by Licensee hereunder with respect to the user's activities and a clause naming as additional insureds under all of user's liability and other insurance policies "**THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, AGENTS EMPLOYEES AND REPRESENTATIVES**".

22.5. **No Further Consent Implied.** A consent to one Assignment or User Agreement shall not be construed as a consent to a subsequent assignment or User Agreement. Except as set forth in Section 22.1 above, no interest in this License shall be assignable as to Licensee's interest by operation of Law without Port's written consent.

22.6. **Fees for Review.** Licensee shall reimburse Port for all costs, including without limitation, reasonable attorneys' fees, which are incurred by Port in connection with the review, investigation, processing, documentation and/or approval of any proposed assignment or User Agreement, including any assignment to a Permitted Assignee.

22.7. **No Release of Licensee.** The acceptance by Port of Fees or other payment from any other person shall not be deemed to be a waiver by Port of any provision of this License or to be a consent to any assignment, User Agreement or to be a release of Licensee from any obligation under this License. No assignment of this License or term of any User Agreement shall in any way diminish, impair or release any of the liabilities and obligations of Licensee, any guarantor or any other person liable for all or any portion of Licensee's obligations under this License.

22.8. **Failure to Comply.** Any Assignment or User Agreement that does not comply with this Section fully will constitute an incurable Event of Default and will be void as to Port and this License.

22.9. **Acknowledgement.** Licensee acknowledges and agrees that each of the rights of Port set forth in Section 22 is a reasonable limitation on Licensee's right to assign or sublet for purposes of California Civil Code Section 1951.4.

22.10. **Waiver of Liability.** The Indemnified Parties shall not be liable for any damage to the property of Licensee or its Agents, or for any bodily injury or death to any such Agent, resulting or arising from the condition of the License Area or its use by Licensee or for any cause arising at any time, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, with the exception of damage or injury caused by the gross negligence, willful or intentional misconduct of the Indemnified Parties. Under no circumstances shall any of the Indemnified Parties be liable under any circumstances for any consequential, incidental or punitive damages.

23. INSURANCE.

23.1. **Required Insurance.** Except as limited in Section 23.1(h), during the Term, Licensee shall maintain in full force and effect, at its own cost and expense at all times while Permitted Activities are being conducted, insurance in the amounts and coverages set forth below. Licensee shall have the right to self-insure with respect to any of the insurance requirements required of Licensee under this License. In the event that Licensee elects to self-insure, on or before the Effective Date and thirty (30) days in advance of each Anniversary Date or the date Licensee intends to begin self-insurance for any coverage, Licensee shall submit a certificate of self-insurance satisfactory to the Port signed by a duly authorized representative of Licensee, such certificate evidencing that Licensee's self-insurance program is in full force and effect and in compliance with and subject to all the terms, agreements, covenants, conditions and provisions of this License.

(a) Workers' Compensation, U.S. Longshore and Harborworker's Act Insurance and Jones Act Insurance as required by Law, with Employers' Liability limits not less than One Million Dollars (\$1,000,000.00) for each accident. In the event Licensee is self-insured for the insurance required pursuant to this Section 23.1(a), it shall furnish to Port a current Certificate of Permission to Self-Insure signed by the Department of Industrial Relations, Administration of Self-Insurance, Sacramento, California.

(b) Comprehensive General Liability Insurance with limits not less than Ten Million Dollars (\$10,000,000.00) for each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations, and Ten Million Dollars (\$10,000,000.00) General Annual Aggregate Limit (other than Products-Completed Operations). The Comprehensive General Liability Insurance provided shall cover any property damage or personal injury resulting from any drilling or excavation conducted as part of the Permitted Activities. However, this provision shall not apply to claims relating to investigation or remediation of any environmental conditions on the License Area.

(c) Comprehensive Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000.00) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned and Non-owned and hired auto coverage, as applicable.

(d) Contractor's Pollution Legal Liability Insurance with combined single limit of Two Million Dollars (\$2,000,000.00) each claim, Five Million Dollars (\$5,000,000.00) aggregate, and with coverage to include legal liability arising from the sudden and accidental release of pollutants, and no less than a one-year extended reporting period.

(e) Protection and Indemnity Insurance or other form of Watercraft Liability Insurance acceptable to Port, including collision liability with limits not less than Five Million Dollars (\$5,000,000) per each occurrence, including coverages for owned and non-owned watercraft.

(f) **Vessel Pollution Liability Insurance.** Licensee shall maintain, or require to be maintained, vessel pollution liability insurance coverage with limits not less than Five Million Dollars (\$5,000,000.00) per occurrence and Five Million Dollars (\$5,000,000.00) in the aggregate with a deductible not to exceed Fifty Thousand Dollars (\$50,000.00) or such lesser limits and deductible as are readily available in the insurance market at a commercially reasonable cost, which limits and deductible are subject to Port approval. The insurance should cover liability imposed under Federal Laws and the Laws of any state or subdivision thereof on the insured for any loss, damage, cost, liability or expense arising out of the sudden, accidental and unintentional discharge, spillage, leakage, emission or release of any substance of any kind into or upon the navigable waters of the United States or the adjoining shorelines.

(g) **Hull and Machinery Protection and Indemnity Insurance.** Licensee, at its sole cost and expense shall procure and maintain Hull and Machinery Protection and Indemnity Insurance in a form and with limits acceptable to the Port.

(h) **Construction Activities.** At all times during the Construction Period and any period during which Licensee performs maintenance, repair, removal or relocation of the ZA-1 Line Equipment within the License Area,

Licensee shall require its contractors to maintain (a) commercial general liability insurance with limits of not less than Three Million Dollars (\$3,000,000) combined single limit for bodily injury and property damage (including personal injury and death), and contractor's protective liability; and products and completed operations coverage in an amount not less than Five Hundred Thousand Dollars (\$500,000) per incident, One Million Dollars (\$1,000,000) in the aggregate; (b) comprehensive automobile liability insurance with a policy limit of not less than One Million Dollars (\$1,000,000) each accident for bodily injury and property damage, providing coverage at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, and insuring against all loss in connection with the ownership, maintenance and operation of automotive equipment that is owned, hired or non-owned; (c) worker's compensation with statutory limits and employer's liability insurance with limits of not less than One Hundred Thousand Dollars (\$100,000) per accident, Five Hundred Thousand Dollars (\$500,000) aggregate disease coverage and One Hundred Thousand Dollars (\$100,000) disease coverage per employee. If Licensee has engaged Agents to work on the Project other than Licensee's contractors, Licensee shall cause such Agents to carry insurance that is consistent with industry custom and practice for work of similar nature and scope.

(i) Licensee shall carry "All Risk Property Insurance," which includes coverage during construction, testing, and start-up for any and all materials, equipment and machinery intended for the Project while at the site, off-site and during transit to the site. .

(ii) Licensee shall require all providers of professional services, including architectural, design, engineering, geotechnical, and environmental professionals under contract with Licensee in connection with Permitted Activities within the License Area for any improvements or any alterations to maintain professional liability (errors or omissions) insurance, with limits not less than One Million Dollars (\$1,000,000.00) each claim and aggregate, with respect to all professional services provided to Licensee therefor.

23.2. **General Insurance Matters.** All liability insurance policies procured by Licensee for the specific purpose of meeting the requirements of this License and not otherwise met by Licensee's self-insurance program shall be endorsed to provide the following:

(a) That the **CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION AND THEIR RESPECTIVE DIRECTORS, OFFICERS, AGENTS, AND EMPLOYEES** are named as additional insureds; and

(b) That such policies are primary insurance to any other insurance available to the additional insureds with respect to any claims arising out of this License and that insurance applies separately to each insured against whom claim is made or suit is brought.

(c) That no cancellation, major change of coverage, or expiration shall become effective or occur until at least thirty (30) calendar days after Licensee or Licensees' Agent, as the case may be, delivers and Port receives advance written notice as provided in Section 25 below. Licensee, upon notification of receipt by Port of any such notice, shall forthwith file with Port a certified copy of the required new or renewal policy or certificate for such policy. If Licensee makes any application to Port for an extension of time to enter the License Area to perform the Permitted Activities, Licensee shall submit evidence that the policies will be in effect during the requested additional period of time.

(d) If at any time during the Term, Licensee or its Agents, as the case may be, fail to maintain the required insurance in full force and effect, all work under this License shall be discontinued immediately, and shall not resume until notice is received by Port that the required insurance has been renewed to full force and effect for a period satisfactory to Port. Failure to maintain the required insurance within ten (10) days after notice by Port shall sufficient cause for immediate termination of this License.

(e) All insurance policies required to be maintained by Licensee hereunder shall be issued by an insurance company or companies reasonably acceptable to Port with an AM Best rating of not less than A-VIII and authorized to do business in the State of California. Licensee's compliance with this Section shall in no way relieve or decrease Licensee's liability under this License. Approval of insurance by Port shall not relieve or decrease the liability of Licensee, or its Agents, hereunder.

(f) **Claims Made Policy.** Should any of the insurance that Licensee is required to hold under this License be provided under a claims-made form, Licensee shall maintain such coverage continuously throughout the Term and, without lapse, for three (3) years beyond the expiration of this License, to the effect that, should occurrences during the Term give rise to claims made after expiration of this License, such claims shall be covered by such claims-made policies.

(g) **Annual Aggregate Limit.** Should any of the insurance that Licensee is required to hold under this License 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.

(h) **Certificates.** Certificates of insurance or self-insurance, along with additional insured endorsements in form and with insurers satisfactory to Port, evidencing all coverage's above shall be furnished to Port by Licensee's broker through the use of EXIGIS or another internet service as directed by Port prior to the Effective Date of this License, with complete copies of policies to be furnished promptly upon Port's request.

(i) Not more often than every ten (10) years and upon not less than sixty (60) days prior written notice, Port may require Licensee to add coverage or increase the insurance limits set forth in Section 23.1 above if Port or the City's Risk Manager determines that additional coverage or higher limits are required by prudent commercial practices with respect to risks comparable to those associated with the use of the License Area.

23.3. **Waiver of Subrogation.** Port and Licensee release each other, and their respective authorized representatives, from any claims for damage to the License Area or personal property of either Port or Licensee in or on the License Area which are caused by or result from risks insured against or under any property insurance policies carried by the Parties and in force at the time of any such damage, to the extent such claims for damage are paid by such policies. Each Party shall cause each property insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the other Party in connection with any damage covered by any policy.

24. DEFAULT; REMEDIES.

24.1. **Default.** Except as otherwise provided for in this License, if Licensee fails to cure any violation of any term, covenant or condition of this License within forty-eight (48) hours after written notice of violation from Port, and is not actively pursuing such cure, such failure shall constitute an "Event of Default." If Port determines that there has been a violation of any term, covenant or condition of this License, Port shall provide Licensee ten (10) business days to remedy such default or, if it reasonably would require more than ten (10) business days to remedy such default, within a time reasonably necessary to remedy such default after Licensee's receipt of such written notice, provided Licensee has undertaken to cure such default within such ten (10) business day period and diligently pursues such efforts to cure to completion. Any such notice of violation shall specify the nature of the default. If the default has been remedied to the reasonable satisfaction of Port during this time, Port shall not terminate this License based upon such default. For purposes of this provision, written notice of violation shall be deemed sufficiently given if under Section 26.

24.2. **Remedies.** Upon an Event of Default by Licensee and following the applicable cure period set forth in Section 24.1 above, Port may, in its sole discretion, in addition to any other remedy Port may have at law or in equity, elect to terminate this License and Licensee's right to use the License Area. Upon any such termination, Licensee shall immediately vacate and discontinue its use of the License Area and surrender the License Area in accordance with Section 14 above and Port may take any and all action to enforce Licensee's obligations.

25. PORT'S ENTRY ON LICENSE AREA.

Port and its authorized Agents shall have the right to enter the License Area without notice at any time for the purpose of inspecting the License Area to determine whether the License Area is in good condition and whether Licensee is complying with its obligations under this License; and, except as provided in Section 11(b) of this License, to perform any necessary maintenance, repairs or restoration to the License Area. Port may enter the License Area at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means that Port may deem proper in such an emergency in order to obtain entry to the License Area. Entry to the License Area by any of these means, or otherwise, shall not under any circumstances be construed or deemed to be a breach of Licensee's rights under this License. Port shall not be liable in any manner, and Licensee hereby waives any Claims for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in Fees due hereunder, arising out of Port's entry onto the License Area for the purposes described in this Section, or entry by the public (as to those areas of the License Area that are public rights-of-way) onto the License Area.

26. NOTICES.

Any notice given under this License shall be in writing and given by delivering the notice in person, by commercial courier or by sending it by registered or certified mail, or Express Mail, return receipt requested, with postage prepaid, to the mailing address listed below or any other address notice of which is given. For the convenience of the Parties, copies of notices may also be given by facsimile at the numbers listed below.

Licensee: Pacific Gas and Electric Company
Attn: Land Rights Supervisor
Mail Code N10A, P.O. Box 770000
San Francisco, CA 94177
Telephone: (415) 973-7000
Facsimile: (415) 973-1522

Port: Port of San Francisco
Pier 1
San Francisco, California 94111
Attention: Director of Real Estate

Telephone: (415) 274-0400
Facsimile: (415) 274-0578

With a copy to: Port of San Francisco
Pier 1
San Francisco, California 94111
Attention: General Counsel

Telephone: (415) 274-0400
Facsimile: (415) 274-0494

Any mailing address may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this License 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.

27. RECORDATION.

Licensee may record this License (or a memorandum thereof approved by Port) in the Official Records of the City and County of San Francisco and provide Port with a copy.

28. EXCLUSIVE BENEFIT.

The provisions of this License are for the exclusive benefit of City and Port and its successors and assigns and Licensee and shall not be deemed to be for the benefit of or confer rights upon any other person except as provided herein. Nothing herein shall be deemed a dedication of any portion of the License Area to or for the benefit of the general public.

29. SIGNS.

Except for any signs that may be required by Laws relating to the construction and operation of the Project, Licensee shall not have the right to place, construct or maintain any sign, advertisement, awning, banner or other exterior decoration in the License Area without Port's prior written consent which consent may be granted or withheld in Port's sole discretion. Any sign that Licensee is permitted to place, construct or maintain on the License Area shall comply with all Laws relating thereto, and Licensee shall obtain all Regulatory Approvals required by Laws.

30. HOLDING OVER.

30.1. **With Consent.** Any holding over after the expiration of the Term with the prior written consent of Port shall not constitute a renewal hereof, but shall be deemed a month-to-month license and shall be upon each and every one of the terms, conditions and covenants of this License, except that the annual License Fee shall be equal to one hundred twenty percent (120%) of the annual License Fee payable in the year immediately preceding the expiration of this License prorated by calendar month. Either Party may cancel said month-to-month license upon thirty (30) days written notice to the other Party.

30.2. **Without Consent.** Any holding over after the expiration of the Term without the prior written consent of Port shall not constitute a renewal hereof, but shall be deemed a month-to-month license and upon each and every one of the terms, conditions and covenants of this License, except that the annual License Fee shall equal two hundred percent (200%) of the annual License Fee payable in the year immediately preceding the expiration of this License

prorated by calendar month. Either Party may cancel said month-to-month license upon thirty (30) days written notice to the other Party.

31. MISCELLANEOUS.

This License may be amended or modified only by a written amendment signed by each of the Parties hereto. No waiver by a Party of any of the provisions of this License shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. This License may be executed in one or more originals or counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. Time is of the essence as to each and every provision of this License. This License shall be construed and interpreted in accordance with the laws of the State of California and the City's Charter. This License contains all of the representations and the entire agreement between the Parties with respect to the subject matter of this License. Any prior correspondence, memoranda, agreements, warranties, or representations, whether written or oral, relating to such subject matter are superseded in total by this License. No prior drafts of this License or changes from those drafts to the executed version of this License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this License. This License has been negotiated at arm's length between persons sophisticated and knowledgeable in the matters addressed. In addition, each party has been represented by experienced and knowledgeable legal counsel, or has had the opportunity to consult with counsel. Accordingly, the provisions of this License must be construed as a whole according to their common meaning in order to achieve the intents and purposes of the Parties, without any presumption (including a presumption under California Civil Code § 1654) against the Party responsible for drafting any part of this License.

32. WAIVER OF CLAIMS.

Licensee hereby waives on behalf of itself and its heirs, successors, and assigns, any and all rights which it may have to file a claim or bring an action of any kind or character against the City, Port, or their respective officers, agents, or employees, for damage to property or personal injury, including death, which might arise out of the use of the License Area under this License, except to the extent that such damage or injury results from any claims caused by the gross negligence, willful or intentional misconduct of City or Port or their officers, agents, or employees.

33. ATTORNEYS FEES.

If any Party hereto brings an action or proceeding (including any cross complaint or counterclaim) against any other Party by reason of a default, or otherwise arising out of this License, the prevailing Party in such action or proceeding shall be entitled to recover from the other Party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "**Prevailing Party**" within the meaning of this section shall include, without limitation, a Party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other Party of its claim or defense. Attorneys' fees under this section shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal. For purposes of this License, reasonable fees of attorneys of Licensees' in-house Law Department and the City Attorney's Office shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by Licensee's in-house Law Department or the City Attorney's Office, respectively.

34. AUTHORITY.

If Licensee signs as a corporation or a partnership, each of the persons executing this License on behalf of such Licensee does hereby covenant and warrant that such Licensee is a duly authorized and existing entity, that such Licensee has and is qualified to do business in California, that such Licensee has full right and authority to execute this License and that each and all of the persons signing on behalf of such Licensee is authorized to do so. Upon Port's request, a Licensee shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties.

35. MINERAL RESERVATION.

The State of California (“**State**”), pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the License Area. In accordance with the provisions of such laws, Port and Licensee hereby acknowledge such rights including necessary ingress and egress rights and Licensee acknowledges that the exercise of such rights, if performed in a manner that would not cause the ZA-1 Line Equipment to become inoperable or result in conditions that do not comply with safety or reliability requirements that are standard in the industry, would not disturb or otherwise interfere with the rights provided by this License. Subject to applicable Laws, the Parties agree that the State may use the point that is shown as the “access point” on *Exhibit A-1* for ingress and egress. In no event shall Port be liable to Licensee for any Claims arising from such exploration or drilling, nor shall such exploration or drilling entitle Licensee to any abatement or diminution of the License Fees or otherwise relieve Licensee from any of its obligations under this License.

36. CITY REQUIREMENTS.

The San Francisco Municipal Codes (available at www.sfgov.org) and City and Port policies described or referenced in this License are incorporated by reference as though fully set forth in this License. The descriptions below are not comprehensive but are provided for notice purposes only; Licensee is charged with full knowledge of each such ordinance and policy and any related implementing regulations as they may be amended from time to time. Licensee understands and agrees that its failure to comply with any provision of this License relating to any such code provision shall be deemed a material breach of this License and may give rise to penalties under the applicable ordinance. Capitalized or highlighted terms used in this Section and not defined in this License shall have the meanings ascribed to them in the cited ordinance.

36.1. *Non Discrimination.*

(a) Covenant Not to Discriminate. In the performance of this License, Licensee 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 Chapters 12B or 12C of the Administrative Code or in retaliation for opposition to any practices forbidden under Chapters 12B or 12C of the San Francisco Administrative Code against any employee of Licensee, any City and County employee working with Licensee, any applicant for employment with Licensee, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Licensee in the City and County of San Francisco.

(b) Sublicenses and Other Contracts. Licensee shall include in all Sublicenses and other contracts relating to the License Area a nondiscrimination clause applicable to such Sublicensee or other contractor in substantially the form of Subsection (a) above. In addition, Licensee shall incorporate by reference in all Sublicenses and other contracts the provisions of Sections 12B.2 (a), 12B.2 (c)-(k) and 12C.3 of the Administrative Code and shall require all Sublicensees and other contractors to comply such provisions.

(c) **Non-Discrimination in Benefits.** Licensee does not as of the date of this License and will not during the Term, in any of its operations within the City and County of 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) **Condition to License.** As a condition to the effectiveness of this License, Licensee shall execute and deliver to Port prior to the Effective Date, the Nondiscrimination in Contracts and Benefits form approved by the HRC.

(e) **Penalties.** Licensee understands that pursuant to Section 12B.2(h) of the Administrative Code, a penalty of \$50.00 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this License may be assessed against Licensee and/or deducted from any payments due Licensee.

36.2. **MacBride Principles Northern Ireland.** Port and the City urge companies doing business in Northern Ireland to move towards resolving employment inequities and encourage such companies to abide by the MacBride Principles. Port and the City urge San Francisco companies to do business with corporations that abide by the MacBride Principles.

36.3. **Tropical Hardwood & Virgin Redwood.** Port and the City urge Licensee not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Licensee shall not provide any items to the construction of the Project, or otherwise in the performance of this License which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Licensee fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Licensee 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.

36.4. **Prohibition of Tobacco Sales and Advertising.** Licensee acknowledges and agrees that no sales or advertising of cigarettes or tobacco products is allowed on the License Area. This advertising 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 advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

36.5. **Prohibition of Alcoholic Beverages Advertising.** Licensee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the License Area. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

36.6. **First Source Hiring.** The City has adopted a First Source Hiring Program (San Francisco Administrative Code Sections 83.1 et seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions as those terms are defined by the ordinance. Licensee acknowledges receiving and reviewing the First Source Hiring Program materials and requirements.

Licensee agrees to comply with the ordinance through compliance with the following:

(a) No later than thirty (30) days after full execution of this License, Licensee shall notify the City and County of San Francisco's Workforce Development System, Department of Human Services of all projected Entry Level Positions and the approximate date such positions will be available, by using the Job Survey Form provided by the Port of San Francisco.

(b) Licensee shall follow all requirements of the San Francisco Workforce Development System, including without limitation, notification of vacancies throughout the Term and entering into a First Source Hiring Agreement, if applicable.

(c) Licensee shall interview qualified applicants and use good faith in hiring applicants. Licensee shall maintain good records of recruitment and hiring process, and shall permit Port or City to audit such records upon request.

Pursuant to the ordinance, Licensee may be subject to monetary penalties for failure to comply with the ordinance.

36.7. **Requiring Health Benefits for Covered Employees.** Unless exempt, Licensee 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 License 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 and not defined in this License shall have the meanings assigned to such terms in Chapter 12Q.

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

(b) Notwithstanding the above, if Licensee 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 36.7(a) above.

(c) If, within thirty (30) days after receiving written notice of a breach of this License for violating the HCAO, Licensee fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period Licensee fails to commence efforts to cure within such period, or thereafter fails diligently to 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.

(d) Any Sublicense or Contract regarding services to be performed on the License Area entered into by Licensee shall require the Sublicensee 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. Licensee shall notify the Purchasing Department when it enters into such a Sublicense or Contract and shall certify to the Purchasing Department that it has notified the Sublicensee or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Sublicensee or Contractor through written agreement with such Sublicensee or Contractor. Licensee shall be responsible for ensuring compliance with the HCAO for each

Sublicensee, Contractor and Subcontractor performing services on the License Area. If any Sublicensee, Contractor or Subcontractor fails to comply, the City may pursue the remedies set forth in Section 12Q.5 of the Administrative Code against Licensee based on the Sublicensee's, Contractor's, or Subcontractor's failure to comply, provided that the Contracting Department has first provided Licensee with notice and an opportunity to cure the violation.

(e) Licensee 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.

(f) Licensee 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.

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

(h) Upon request, Licensee shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Sublicensees, Contractors, and Subcontractors.

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

(j) 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.

36.8. ***Pesticide Prohibition.*** Licensee 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 property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Licensee to submit to Port an integrated pest management (IPM) plan that (A) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to the License Area during the Term of this License, (B) describes the steps Licensee 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 Licensee's primary IPM contact person with the City. In addition, Licensee shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

Through Port, Licensee may seek a determination from the City's Commission on the Environment that Licensee is exempt from complying with certain portions of the Pesticide Ordinance with respect to this License, as provided in Section 307 of the Pesticide Ordinance. Port shall reasonably cooperate with Licensee, at Licensee's sole cost and expense, if Licensee seeks in good faith an exemption under the Pesticide Ordinance.

36.9. ***Resource-Efficient Facilities and Green Building Requirements.*** Licensee acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 707 relating to resource-efficient City buildings and resource-efficient pilot

projects. Licensee hereby agrees that it shall comply with all applicable provisions of such code sections.

36.10. **Notification of Limitations on Contributions.** Through its execution of this License, Licensee 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 for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, 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 months after the date the contract is approved. Licensee 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. Licensee further acknowledges that the prohibition on contributions applies to each Licensee; each member of Licensee's board of directors, and Licensee's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Licensee; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Licensee. Additionally, Licensee acknowledges that Licensee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Licensee further agrees to provide to City the name of each person, entity or committee described above.

36.11. **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 Port 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 this section covers will be made available to the public upon request.

36.12. **Conflicts of Interest.** Through its execution of this License, Licensee 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 Section 87100 et seq. and Section 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 provisions, and agrees that if Licensee becomes aware of any such fact during the Term, Licensee shall immediately notify Port.

36.13. **Charter Provisions.** This License is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

36.14. **Drug-Free Workplace.** Licensee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C §§ 701 et seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City or Port premises.

36.15. **Preservative-Treated Wood Containing Arsenic.** Licensee may not purchase preservative-treated wood products containing arsenic in the performance of this License unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment 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, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Licensee may purchase preservative-treated wood

products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Licensee 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.

36.16. Food Service Waste Reduction Ordinance. Licensee 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. By entering into this License, Licensee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Licensee 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 City will incur based on the violation, established in light of the circumstances existing at the time this License was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Licensee's failure to comply with this provision.

36.17. Prevailing Wages and Working Conditions. Licensee agrees that any person performing labor in the construction of any alterations or improvements to the License Area, which Licensee provides under this License, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the 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. Licensee shall include in any contract for construction of such Alterations or Improvements 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. Licensee shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of such Alterations or Improvements to the License Area.

36.18. Public Transit Information. Licensee shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Licensee employed on the License Area, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the License Area and encouraging use of such facilities, all at Licensee's sole expense.

36.19. Local Business Enterprises and Local Hiring Practices. Licensee shall comply with its obligations as set forth in the Memorandum of Understanding between Pacific Gas and Electric Company ("PG&E") and the City and County of San Francisco, acting by and through the Mayor's Office of Economic and Workforce Development's CityBuild Program ("CityBuild") regarding community workforce and neighborhood benefits during the Project attached hereto as *Exhibit E*.

36.20. Southern Waterfront Community Benefits and Beautification Policy. In satisfaction of the Port's "Policy for Southern Waterfront Community Benefits and Beautification", Licensee has agreed to provide the following community benefits and beautification measures in consideration for the use of the License Area: Screening of the Potrero Switchyard as described in Section 16, construction of a sidewalk and related right of way improvements on 23rd Street adjacent to the Potrero Switchyard to be constructed as part of the Project; and the Community Outreach Program as described in Section 43.

37. SEVERABILITY.

Except as is otherwise specifically provided for in this License, invalidation of any provision of this License, or of its application to any person, by judgment or court order, shall

not affect any other provision of this License or its application to any other person or circumstance, and the remaining portions of this License shall continue in full force and effect, unless enforcement of this License as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this License.

38. ENTIRE AGREEMENT.

This License contains all of the representations and the entire agreement between the Parties with respect to the subject matter of this License. No prior drafts of this License or changes from those drafts to the executed version of this License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any Party or other person, and no court or other body should consider those drafts in interpreting this License.

39. SURVIVAL.

Termination or expiration of this License shall not affect the right of either Party to enforce any and all indemnities and representations and warranties given or made to the other Party under this License, the ability to collect any sums due, nor shall it affect any provision of this License that expressly states it shall survive termination or expiration hereof.

40. NON-LIABILITY OF CITY OFFICIALS, EMPLOYEES AND AGENTS.

No elective or appointive board, commission, member, officer, employee or other Agent of City and/or Port shall be personally liable to Licensee, its successors and assigns, in the event of any default or breach by City and/or Port or for any amount which may become due to Licensee, its successors and assigns, or for any obligation of City and/or Port under this License.

41. DOCUMENTS AND INFORMATION SHARING.

Licensee shall provide to Port and, upon request, to any other City department without charge, copies of all publicly-available documents required to be submitted to Regulatory Agencies in connection with the Project, including, copies of any studies, applications, reports, documents, memorandums, permit applications, permits, licenses, plans, drawings, applications of rate approvals, or other agreements (collectively, "**Studies**"). Studies may be provided electronically in the format in which they were received by Licensee or in PDF format. Upon request, which shall identify the document(s) or categories of document(s) subject to the request, Licensee shall also provide the requesting City Department with supporting documentation for any of the foregoing Studies that Licensee is not contractually prohibited from sharing with a third party relating to the Project, including but not limited to, any Studies relating to the San Francisco transmission grid and its substations and any Studies (including but not limited to, Studies regarding marine resources, Hazardous Materials, geotechnical conditions, and navigation/shipping channel locations) related to alternative routing of submarine cables. In addition, Licensee shall, without charge, meet with Port or other City agencies as designated by Port as reasonably required to assist Port or City agencies in reviewing the Studies, determining their potential applicability to other City or Port projects, and assessing the feasibility of, or, under commercially reasonable prices and terms, assisting in or undertaking the construction of projects to the extent authorized by the Board of Supervisors. Such meetings shall take place at Port's office or another location within the City, as designated by Port or another City agency.

For purposes of this Section, "**Licensee**" shall mean PG&E, an Affiliate of PG&E or any successor or assign.

42. COMPLIANCE WITH CEQA MITIGATION MEASURES.

Licensee shall fully carry out, implement and comply with all mitigation measures and reporting obligations identified and set forth in the MND and supporting Initial Study adopted by the CPUC, as that document may be amended or modified.

43. COMMUNITY OUTREACH PROGRAM.

PG&E has or will conduct outreach to various community groups and stakeholders in the vicinity of the Project, for educating the public with respect to the Project, and for informing the Board of Supervisors and other Regulatory Agencies about the Project ("**Community Outreach Program**"). The Community Outreach Program may be conducted in conjunction with one or more public workshops conducted by the CPUC related to the Project. Port may suggest reasonable revisions or changes to the proposed Community Outreach Program, if any, which Licensee shall consider in good faith. Licensee agrees and acknowledges that maintaining professional working relations with Port's constituents, the public and Regulatory Agencies are critical to implementing Port's management obligations.

44. SALES AND USE TAX.

City shall be entitled to receive applicable sales and use taxes ordinarily payable under Law. Licensee shall use its best commercially reasonable efforts to have the City and County of San Francisco realize sales and use taxes as to the Project in San Francisco, including all of its components.

45. APPROVAL OF BOARD OF SUPERVISORS.

Notwithstanding anything to the contrary contained in this License, Licensee acknowledges and agrees that no officer or employee of City has authority to commit City to this License unless and until City's Board of Supervisors shall have duly adopted a Resolution approving this License and authorizing the transactions contemplated hereby. Therefore, any obligations or liabilities of City hereunder are contingent upon adoption of such a Resolution, and this License shall be null and void if City's Mayor and the Board of supervisors do not approve this License, in their respective sole discretion. Approval of this License by any department, commission or agency of City shall not be deemed to imply that such Resolution will be enacted, nor will any such approval create any binding obligations on City.

46. MISCELLANEOUS PROVISIONS.

46.1. *Interpretation of License.*

(a) Whenever a section, article or paragraph is referenced, it refers to this License unless otherwise specifically provided. The captions preceding the articles and sections of this License and in the table of contents have been inserted for convenience of reference only and must be disregarded in the construction and interpretation of this License.

(b) ***Cumulative Remedies.*** All rights and remedies of either Party hereto set forth in this License shall be cumulative, except as may otherwise be provided herein.

(c) **Relationship of the Parties.** Port is not, and none of the provisions in this License shall be deemed to render Port, a partner in Licensee's business, or joint venturer or member in any joint enterprise with Licensee. Neither Party shall act as the agent of the other Party in any respect hereunder. This License is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

(d) **Additional Written Agreement Required.** Licensee expressly agrees and acknowledges that no officer, director, or employee of Port or City is authorized to offer or promise, nor is Port or the City required to honor, any offered or promised rent credit, concession, abatement, or any other form of monetary consideration (individually and collectively, "Concession") without a written agreement executed by either the Executive Director of Port or the Deputy Director of Real Estate authorizing such Concession and, if applicable, certification of the Concession from the City's Controller.

47. DEFINITIONS

For purposes of this License, the following terms have the meanings ascribed to them in this Section or elsewhere in this License as indicated:

“**23rd Street Portion**” is defined in Section 1.1(c).

“**Accessory Use**” is defined in Section 12.2.

"**ADA**" means the Americans with Disabilities Act, a federal law codified at 42 U.S.C. §§ 12101 et seq., including, but not limited to, Title III thereof, and all regulations and guidelines related thereto, together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented.

"**Affiliate of PG&E**" shall mean (A) an entity that controls, is controlled by or is under common control with, PG&E, or (B) an entity that acquires all or substantially all of the business and assets of PG&E or a division thereof or results from a merger with PG&E or such a division. A party shall be deemed to "**control**" another party for purposes of the aforesaid definition only if the first party owns more than fifty percent (50%) of the stock or other beneficial interests of the second party.

"**Agents**" when used with reference to either Party to this License or any other person, means the officers, directors, employees, agents, and contractors of the Party or other person, and their respective heirs, legal representatives, successors, and assigns. References in this License to a Party's acts or omissions will mean acts or omissions by that Party and its Agents and Invitees unless the context requires or specifically states otherwise.

"**Anniversary Date**" means the first and each subsequent anniversary of the Effective Date.

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

"**Claims**" is defined in Section 21.1. With respect to environmental Claims, the term includes any Environmental Regulatory Action or any Claim made or threatened by any third party against the Indemnified Parties, or the License Area, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence or Release of any Hazardous Materials, including, without limitation, losses based in common law and includes, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the License Area or any other Port property, the loss or restriction of the use or any amenity of the License Area or any other Port property, and attorneys' fees and consultants' fees and experts' fees and costs.

“**Community Outreach Program**” is defined in Section 43.

“**Construction Activities**” means any construction, installation, repair, reconstruction, excavation replacement or removal of the ZA-1 Line Equipment. Construction Activities shall not include site preparation and study activities in advance of issuance of a Notice to Proceed by the CPUC, to the extent that no Regulatory Approval is required for such preliminary work.

“**Construction Period**” means the two-year period starting on the Effective Date and ending two years thereafter.

“**CPUC**” is the California Public Utilities Commission.

“**days**” mean calendar days unless otherwise specified, provided that if the last day on which a Party must give notice, respond to a notice, or take any other action under this License occurs on a day that is not a business day, the date by which the act must be performed will be extended to the next business day.

"**Effective Date**" is defined in Section 5.

“**Embarcadero Substation**” means the PG&E Substation located at the corner of Folsom and Fremont Streets in San Francisco, CA.

"**Encroachment Area**" is defined in Section 21.3.

"**Environmental Laws**" means any Laws relating to Hazardous Material (including its Handling, Release, or Remediation) or to human health and safety, industrial hygiene, or environmental conditions in the environment, including structures, soil, air, bay water, and groundwater, and any environmental mitigation measure adopted under Environmental Law affecting any portion of the License Area.

"**Environmental Obligations**" is defined in Section 10.3.

"**Environmental Oversight Deposit**" is defined in Section 10.2(a).

"**Environmental Notice**" is defined in Section 10.2(c).

"**Environmental Regulatory Action**" when used with respect to Hazardous Materials means any inquiry, Investigation, enforcement, Remediation, agreement, order, consent decree, compromise, or other action that is threatened, instituted, filed, or completed by an Environmental Regulatory Agency in relation to a Release of Hazardous Materials, including both administrative and judicial proceedings.

"**Environmental Regulatory Agency**" means the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, any California Environmental Protection Agency board, department, or office, including the Department of Toxic Substances Control and the San Francisco Bay Regional Water Quality Control Board, Cal OSHA, the Bay Area Air Quality Management District, the San Francisco Department of Public Health, the San Francisco Fire Department, Port, or any other Regulatory Agency now or later authorized to regulate Hazardous Materials.

"**Environmental Regulatory Approval**" means any approval, license, registration, permit, or other authorization required or issued by any Environmental Regulatory Agency, including any hazardous waste generator identification numbers relating to operations on the License Area and any closure permit.

"**Event of Default**" is defined in Section 24.1.

"**Equipment Removal Plan**" is described in Section 14.

"**Exacerbate**" or "**Exacerbating**" when used with respect to Hazardous Materials means any act or omission that increases the quantity or concentration of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission. Exacerbate also includes the disturbance, removal or generation of Hazardous Materials in the course of Licensee's operations, Investigations, maintenance, repair, Improvements and Alterations under this License. "**Exacerbation**" has a correlating meaning.

"**Expiration Date**" is defined in Section 6.

"**Extension Option**" is defined in Section 7.1.

"**Extension Term**" is defined in Section 7.1.

"**Extension Term License Fee**" is defined in Section 7.2.

"**Fees**" means the Initial Term License Fee, the Extension Term License Fee and all other fees, charges and sums payable by Licensee under this License, including without limitation, any Late Charge and any interest assessed pursuant to Section 9.

"**Force majeure**" means a delay in Licensee's performance of its obligations under this License to the extent caused by (a) acts of nature, enemy action, civil commotion, fire, flood, earthquake or other casualty, (b) strikes or other labor disputes (to the extent not resulting from the labor practices of Licensee, (c) material shortages of or inability to obtain labor or materials

beyond the reasonable control of Licensee, (d) any action or proceeding before any judicial, adjudicative, or legislative decision-making body, including any administrative appeal, brought by plaintiffs unaffiliated with Licensee that challenges the validity of: (A) any action taken by a Regulatory Agency in connection with the obligation to be performed, or (B) the failure of a Regulatory Agency to impose conditions to a Regulatory Approval for the obligation to be performed or (C) the validity of any other Regulatory Approval required in connection with the obligation to be performed, and (e) delays by Regulatory Agencies in issuing requisite approvals or consents beyond the reasonable control of Licensee so long as Licensee is diligently proceeding to obtain the necessary Regulatory Approvals. Delays beyond Licensee's reasonable control exclude delays to the extent caused by the negligent act or omission or willful misconduct of Licensee.

"Force Majeure Delay" is defined in Section 15.2.

"Force Majeure Notice" is defined in Section 15.2.

"Full Notice to Proceed" means a Notice to Proceed without conditions or limitations issued by the CPUC for the Project pursuant to Section 4.1.1 of the CPUC's Mitigation Monitoring, Compliance, and Reporting Plan for the Project dated April 2014.

"HDD Area" is defined in Section 1.1(b).

"HDD Area/23rd Street Portion Basic Annual Pay Rate" is defined in Section 9.2(iii).

"HDD Area/23rd Street Portion Prevailing Market Rate" is defined in Section 9.3 (a)(i)(4).

"Handle" or **"Handling"** means to use, generate, process, manufacture, produce, package, treat, transport, store, emit, discharge, or dispose of a Hazardous Material.

"Hazardous Material" means any substance, waste, or material that is now or in the future designated by any Regulatory Agency to be capable of posing a present or potential risk of injury to human health or safety, the environment, or property. This definition includes anything designated or defined in any Environmental Law as hazardous, hazardous substance, hazardous waste, toxic, pollutant, or contaminant; any asbestos, whether or not part of the structure of any existing Improvements on the License Area, any Improvements to be constructed on the License Area by or on behalf of Licensee, or occurring in nature; and other naturally-occurring substances such as petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

"HRC" means the San Francisco Human Rights Commission.

"Initial Notice to Proceed" means the first Notice to Proceed issued by the CPUC for the Project pursuant to Section 4.1.1 of the CPUC's Mitigation Monitoring, Compliance, and Reporting Plan for the Project dated April 2014. The Initial Notice to Proceed may apply to only part of the Project, or it may be a Full Notice to Proceed. .

"Initial Term" means the Effective Date through the date that is forty (40) years from the Effective Date.

"Initial Term License Fee" is defined in Section 9.1.

"Indemnified Parties" is defined in Section 21.1.

"Indemnify" means to indemnify, protect, defend, and hold harmless forever.

"Indemnification" and **"Indemnity"** have correlating meanings.

"Interest Rate" means ten percent (10%) per year or, if a higher rate is legally permissible, the highest rate an individual is permitted to charge under Law.

"Investigate" or **"Investigation"** when used with reference to Hazardous Materials means any activity undertaken to determine and characterize the nature and extent of Hazardous Materials that have been, are being, or are threatened to be Released in, on, under or about the

License Area, any other Port property, or the environment, and includes, without limitation, preparation of site history reports, performing equipment and facility testing such as testing the integrity of secondary containment and above and underground tanks, and sampling and analysis of environmental conditions before, during, and after Remediation begins and continuing until the appropriate Environmental Regulatory Agency has issued a no further action letter, lifted a clean-up order, or taken similar action.

"**Invitees**" means Licensee's clients, customers, invitees, patrons, guests, members, licensees, permittees, concessionaires, assignees, Sublicensees, and any other person whose rights arise through them.

"**Late Charge**" means a fee of ten percent (10%) of the amount outstanding.

"**Law**" means any present or future law, statute, ordinance, code, resolution, rule, regulation, judicial decision, requirement, proclamation, order, decree, policy (including the Waterfront Land Use Plan), and Regulatory Approval of any Regulatory Agency with jurisdiction over any portion of the License Area including Regulatory Approvals issued to Port which require Licensee's compliance, and any and all recorded and legally valid covenants, conditions, and restrictions affecting any portion of the License Area, whether in effect when this License is executed or at any later time and whether or not within the present contemplation of the Parties.

"**Letter of Credit**" is defined in Section 10.3.

"**Letter of Credit Proceeds**" is defined in Section 10.3.

"**License Area**" means the area described in *Exhibit A* (as amended)..

"**Notice to Cease Prohibited Construction**" is defined in Section 12.5.

"**Notice to Cease Prohibited Use**" is defined in Section 4.3.

"**Notice to Screen**" is defined in Section 16.2.

"**Permitted Activity**" is defined in Section 4.1.

"**Potrero Substation**" means the PG&E 230 KV Substation within the Potrero Switchyard to be constructed as part of the Project..

"**Potrero Switchyard**" means the entirety of the existing PG&E 115 KV substation located adjacent to and east of Illinois street between 22nd and 23rd Streets and the expansion of that facility through the addition of the Potrero Substation.

"**Preferred Screen Design**" is defined in Section 16.2.

"**Prevailing Party**" is defined in Section 33.

"**Prohibited Use**" is defined in Section 4.3.

"**Project**" is defined in Recital A.

"**Regulatory Agency**" means the municipal, county, regional, state, or federal government and their bureaus, agencies, departments, divisions, courts, commissions, boards, officers, or other officials, potentially including the Federal Energy Regulatory Commission ("**FERC**"), the Bay Conservation and Development Commission, any Environmental Regulatory Agency, the City and County of San Francisco (in its regulatory capacity), Port (in its regulatory capacity), Port's Chief Harbor Engineer, the Dredged Material Management Office, the State Lands Commission, the US Army Corps of Engineers, the National Marine Fisheries Service, the California Department of Fish and Wildlife, the United States Department of Labor, the California Department of Transportation, now or later having jurisdiction over Port property, Licensee, and the Project.

"Regulatory Approval" means any authorization, approval, license, registration, or permit required or issued by any Regulatory Agency.

"Release" when used with respect to Hazardous Materials means any actual or imminent spilling, introduction, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the License Area other Port property, or the environment and includes Exacerbation of a pre-existing condition.

"Remediate" or **"Remediation"** when used with respect to Hazardous Materials means to clean up, abate, contain, treat, stabilize, monitor, remediate, remedy, remove, or otherwise control Hazardous Materials, or to restore the affected area to the standard required by the applicable Environmental Regulatory Agency in accordance with applicable Environmental Laws and any additional Port requirements. **"Remediation"** also includes the creation of a remedial work plan to be approved by the appropriate Environmental Regulatory Agency when required.

"Revised Screen Design" is defined in Section 16.3(a).

"Screen" is defined in Recital F.

"Security Deposit" is defined in Section 10.1.

"Studies" is defined in Section 41.

"Submarine Portion Compatible Use Zone" is defined in Section 1.1(a).

"Submarine Portion Compatible Use Zone Basic Rate" is defined in Section 9.2(ii).

"Submarine Portion Exclusive Zone" is defined in Section 1.1(a).

"Submarine Portion Exclusive Zone Basic Annual Pay Rate" is defined in Section 9.3(i).

"SWPPP" is defined in Section 18.4(a).

"Term" is defined in Section 6.

"Termination Date" is defined in Section 8(a).

"Termination Option" is defined in Section 8.

"Termination Notice" is defined in Section 8(a).

"User Agreement" is defined in Section 22.4.

"US Army Corps of Engineers" or **"USACE"** is the US Army Corps of Engineers.

"WDAC" is defined in Section 16.3 (a).

"ZA-1 Line" is defined in Recital A.

"ZA-1 Line Equipment" is defined in Section 4.1.

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IN WITNESS WHEREOF, the undersigned have executed this License as of dates indicated below.

San Francisco Port Commission: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation operating by and the through the
SAN FRANCISCO PORT COMMISSION

By:

Monique A. Moyer
Executive Director

Date Executed: _____

Licensee: PACIFIC GAS & ELECTRIC COMPANY, a California
corporation

By: _____

Name: _____

Title: _____

Date Executed: _____

By: _____

Name: _____

Title: _____

Date Executed: _____

**APPROVED AS TO FORM:
DENNIS J. HERRERA
CITY ATTORNEY**

By: _____

Rona H. Sander
Deputy City Attorney

Drafted By: Brad Benson, Special Projects Manager _____
(initial)

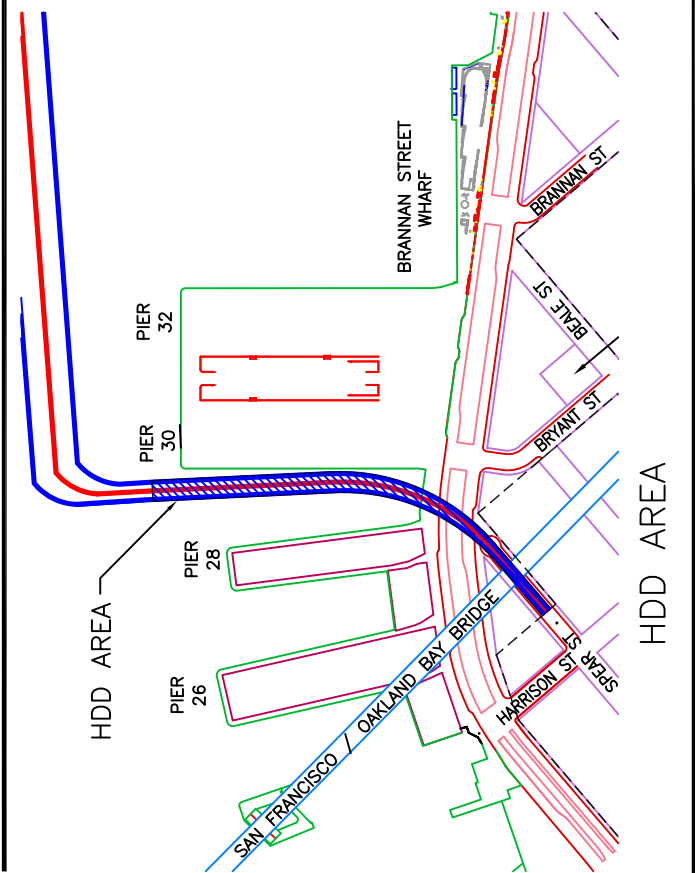
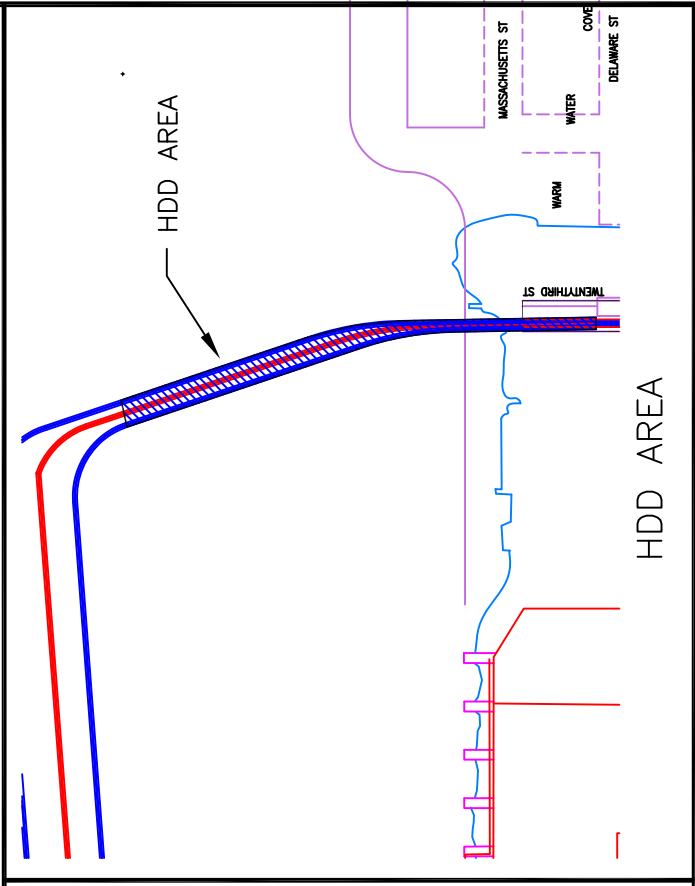
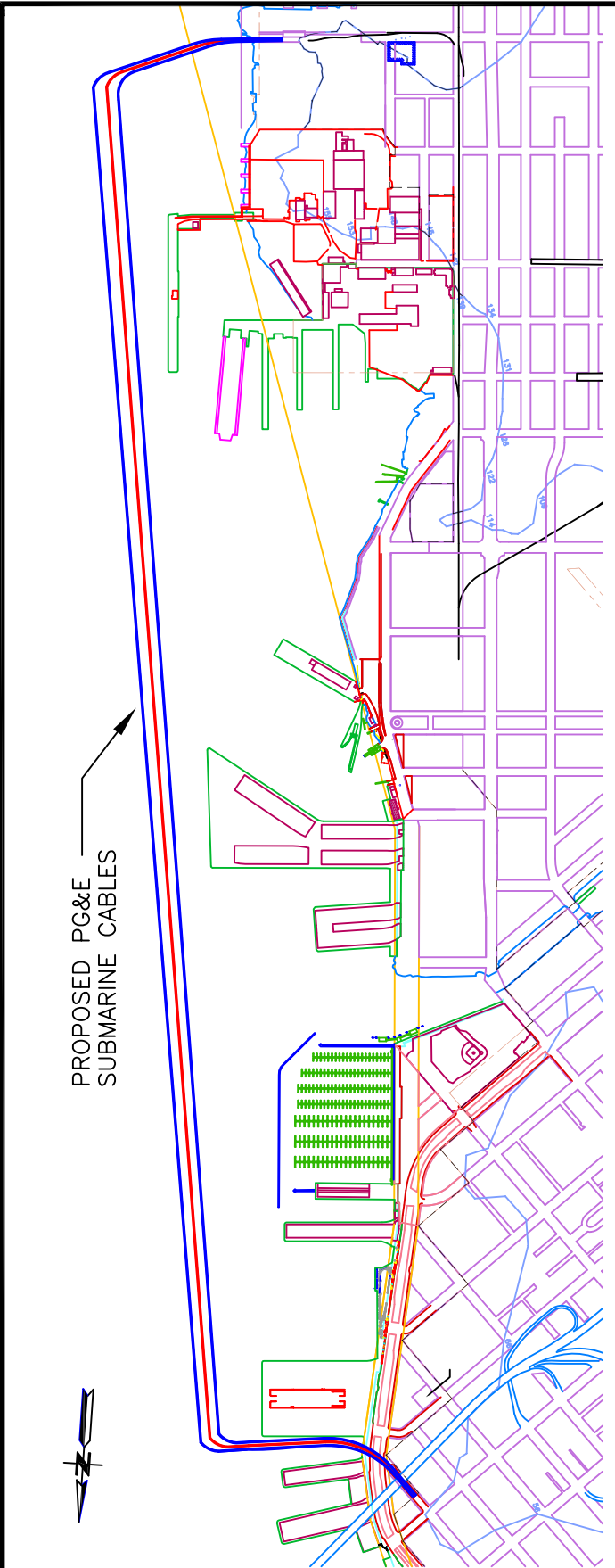


EXHIBIT A

INITIALS: PORT: _____ LICENSEE: _____ DATE: _____

| | | | | |
|-----------------------------|--|---|--|---------------------------------|
| LICENSE NO. 15762 |  SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING | LICENSEE PACIFIC GAS & ELECTRIC CO. | DRAWN BY: ECC CHECKED BY: B. BENSON PLACE CODE NO. | DATE: JUN 4 2014 SCALE: NONE |
| | | | SHEET NO. 2 OF 2 SHEETS | |

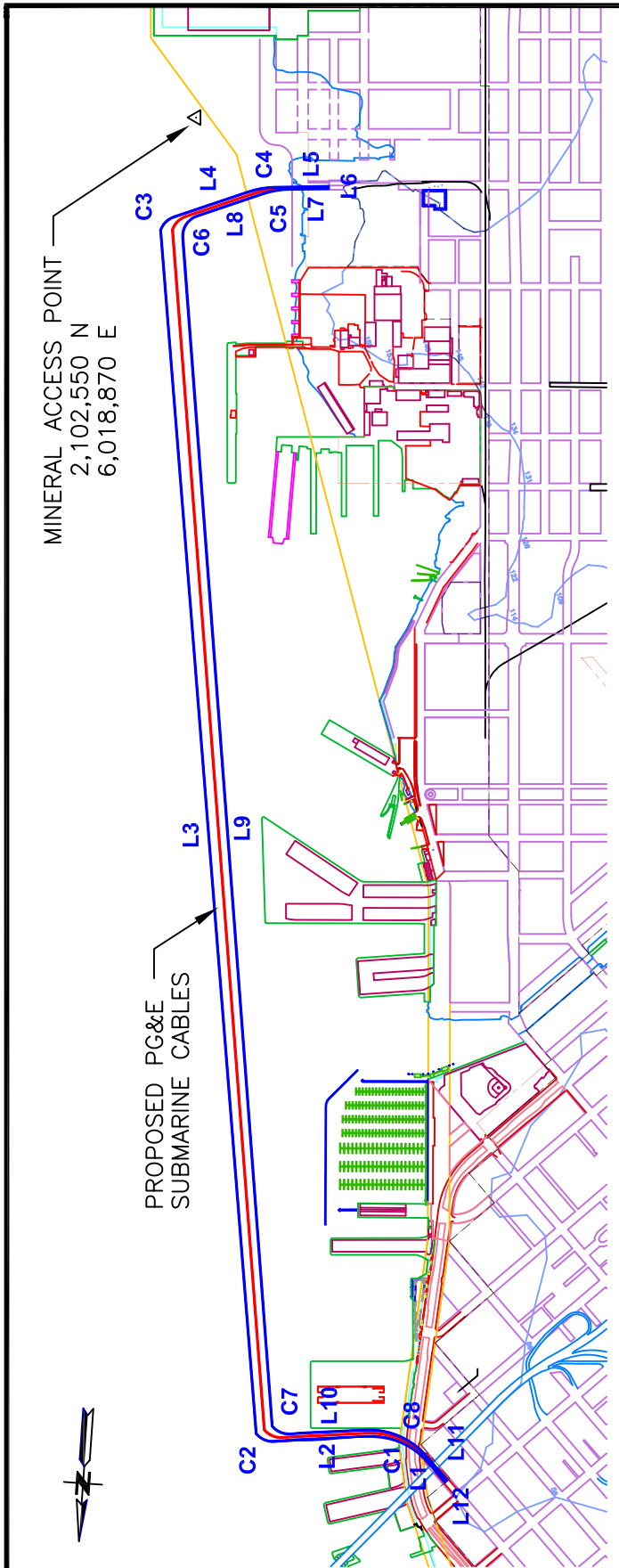
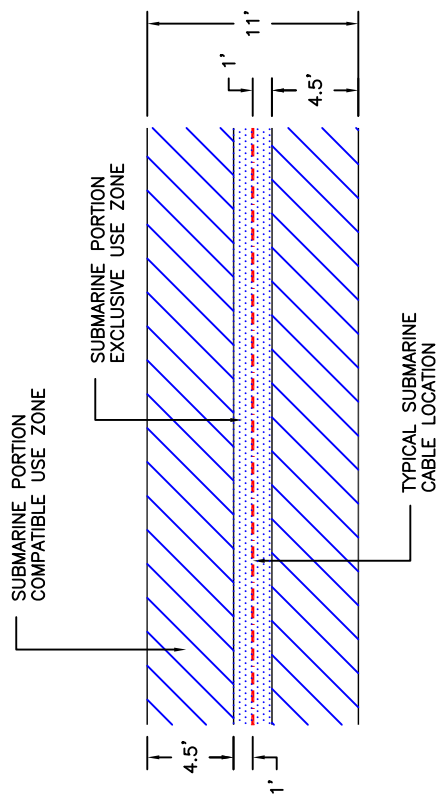


EXHIBIT A-1

INITIALS: PORT: _____ LICENSEE: _____ DATE: _____



TYPICAL SUBMERGED LAND USE ZONES FOR THREE CABLES

| PARCEL BOUNDARIES | | COURSE NO. | | DISTANCE | | BEARING | |
|-------------------|------------|-----------------|------|-----------------|-----------------|---------|--|
| L 1 | 241.06 | S 43° 47' 51" E | C 5 | R = 800.00 | Lc = 246.21 | | |
| C 1 | R = 700.00 | Lc = 636.99 | L 8 | Δ = 17° 38' 01" | T = 124.08 | | |
| L 2 | 891.48 | N 83° 49' 07" E | C 6 | R = 196.64 | Lc = 259.67 | | |
| C 2 | R = 196.35 | Lc = 167.18 | L 9 | Δ = 75° 39' 44" | T = 152.70 | | |
| L 3 | 11,223.46 | S 7° 43' 13" E | C 7 | R = 199.76 | Lc = 165.96 | | |
| C 3 | R = 198.66 | Lc = 186.13 | L 10 | Δ = 47° 35' 59" | c = 161.23 | | |
| L 4 | 722.86 | S 68° 10' 48" W | C 8 | R = 700.00 | Lc = 637.01 | | |
| C 4 | R = 800.00 | Lc = 245.74 | L 11 | Δ = 52° 08' 24" | T = 342.47 | | |
| L 5 | 507.09 | S 85° 46' 37" W | L 12 | 287.47 | N 43° 47' 43" W | | |
| L 6 | 20.22 | N 4° 13' 37" W | | 25.21 | N 46° 18' 10" E | | |
| L 7 | 371.20 | N 85° 48' 40" E | | | | | |

LICENSE NO. 15762

SAN FRANCISCO PORT COMMISSION
 PORT OF SAN FRANCISCO
 DEPARTMENT OF ENGINEERING

LICENSEE

PACIFIC GAS & ELECTRIC CO.

DRAWN BY: ECC
 CHECKED BY: B. BENSON
 PLACE CODE NO.

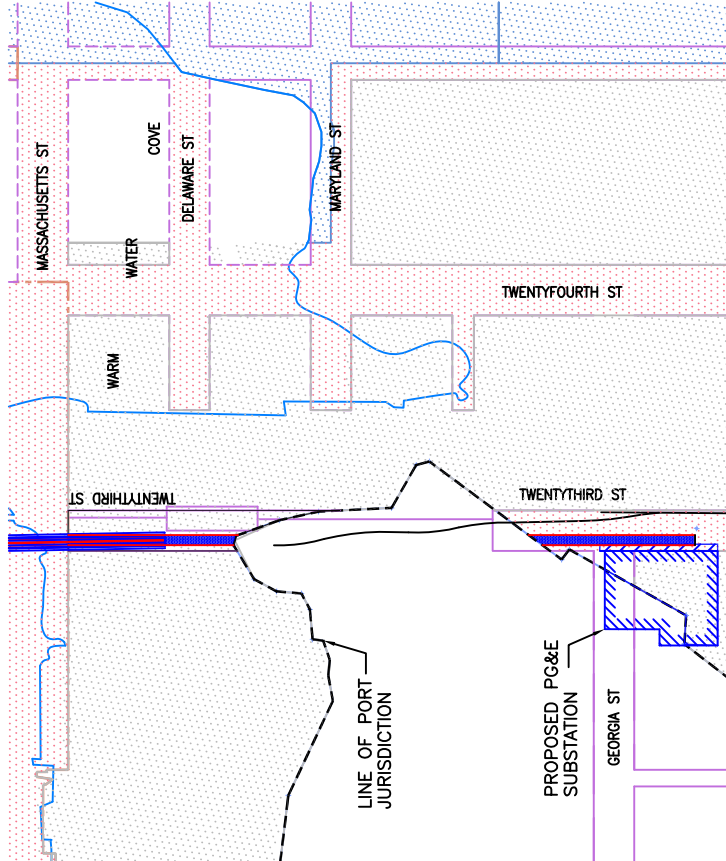
DATE: JUN 4, 2014
 SCALE: NONE
 SHEET NO. 1

OF 2 SHEETS

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EXHIBIT A-2



UNDERGROUND AREA
ALONG 23rd STREET

SUBMERGED LAND = 435,600 Sq Ft

A. SUBMARINE PORTION EXCLUSIVE ZONE
= 79,200 Sq Ft

B. SUBMARINE PORTION COMPATIBLE ZONE
= 356,400 Sq Ft

ONSHORE/OFFSHORE TRANSITION AREAS
= 52,272 Sq Ft

UNDERGROUND AREA (23rd STREET PORTION)
= 21,120 Sq Ft

INITIALS: PORT: _____ LICENSEE: _____ DATE: _____

| | | | | | | |
|------------------------------|--|--|---|--|--|--|
| LICENSEE NO. 15762 |  SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING | | LICENSEE PACIFIC GAS & ELECTRIC CO. | | DRAWN BY: ECC CHECKED BY: B. BENSON PLACE CODE NO. | DATE: JUN 4 2014 SCALE: NONE |
| | | | | | SHEET NO. 2 OF 2 SHEETS | <small>G:\06 PROPERTY FILES\Lease Maps\PG&E MineralReservation.dwg</small> |

EXHIBIT B

MEMORANDUM RE: EFFECTIVE AND EXPIRATION DATES

LANDLORD: **CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, OPERATING BY AND THROUGH THE SAN FRANCISCO PORT COMMISSION**

LICENSEE:

LICENSE NUMBER:

LICENSE DATE:

THE EFFECTIVE DATE OF THE LICENSE IS HEREBY ESTABLISHED AS _____, 20____ AND THE EXPIRATION DATE AS _____, 20____.

PORT: **CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, OPERATING BY AND THROUGH THE SAN FRANCISCO PORT COMMISSION**

BY: _____
SUSAN REYNOLDS
DEPUTY DIRECTOR, REAL ESTATE

DATE SIGNED: _____

PG&E: **PACIFIC GAS AND ELECTRIC COMPANY, a California corporation**

By: _____
Name: _____
Title: _____
Date Signed: _____

EXHIBIT C

NET PRESENT VALUE CALCULATION OF LICENSE FEE

ASSUMES COMMENCEMENT DATE BETWEEN FEB 5, 2014 AND FEB 4, 2015

| | |
|--------------------------|---------|
| Annual Escalation Rate | 3.00% |
| Land Capitalization Rate | 8.00% |
| Discount Rate | 6.50% |
| Exclusive Use Zone | 79,200 |
| Compatible Use Zone | 356,400 |
| HDD Zone | 52,272 |
| 23rd Street Zone | 21,120 |

NPV of Payments \$15,275,205.35

| Year | Exclusive Rate | Exclusive Zone Payment | Compatible Use Rate | Compatible Zone Pmt | HDD/23rd St Rate | HDD/23rd St Pmt | Total Pmt |
|------|----------------|------------------------|---------------------|---------------------|------------------|-----------------|----------------|
| 1 | \$2.82 | \$223,518.24 | \$1.41 | \$502,916.04 | \$0.03 | \$2,385.89 | \$182,205.04 |
| 2 | \$2.91 | \$230,223.79 | \$1.45 | \$518,003.52 | \$0.03 | \$2,457.47 | \$187,671.19 |
| 3 | \$2.99 | \$237,130.50 | \$1.50 | \$533,543.63 | \$0.03 | \$2,531.19 | \$773,205.32 |
| 4 | \$3.08 | \$244,244.42 | \$1.54 | \$549,549.94 | \$0.04 | \$2,607.13 | \$796,401.48 |
| 5 | \$3.18 | \$251,571.75 | \$1.59 | \$566,036.43 | \$0.04 | \$2,685.34 | \$820,293.52 |
| 6 | \$3.27 | \$259,118.90 | \$1.64 | \$583,017.53 | \$0.04 | \$2,765.90 | \$844,902.33 |
| 7 | \$3.37 | \$266,892.47 | \$1.68 | \$600,508.05 | \$0.04 | \$2,848.88 | \$870,249.40 |
| 8 | \$3.47 | \$274,899.24 | \$1.74 | \$618,523.29 | \$0.04 | \$2,934.34 | \$896,356.88 |
| 9 | \$3.58 | \$283,146.22 | \$1.79 | \$637,078.99 | \$0.04 | \$3,022.37 | \$923,247.59 |
| 10 | \$3.68 | \$291,640.61 | \$1.84 | \$656,191.36 | \$0.04 | \$3,113.05 | \$950,945.01 |
| 11 | \$3.79 | \$300,389.82 | \$1.90 | \$675,877.10 | \$0.04 | \$3,206.44 | \$979,473.36 |
| 12 | \$3.91 | \$309,401.52 | \$1.95 | \$696,153.42 | \$0.04 | \$3,302.63 | \$1,008,857.57 |
| 13 | \$4.02 | \$318,683.56 | \$2.01 | \$717,038.02 | \$0.05 | \$3,401.71 | \$1,039,123.29 |
| 14 | \$4.14 | \$328,244.07 | \$2.07 | \$738,549.16 | \$0.05 | \$3,503.76 | \$1,070,296.99 |
| 15 | \$4.27 | \$338,091.39 | \$2.13 | \$760,705.63 | \$0.05 | \$3,608.87 | \$1,102,405.90 |
| 16 | \$4.40 | \$348,234.13 | \$2.20 | \$783,526.80 | \$0.05 | \$3,717.14 | \$1,135,478.08 |
| 17 | \$4.53 | \$358,681.16 | \$2.26 | \$807,032.61 | \$0.05 | \$3,828.65 | \$1,169,542.42 |
| 18 | \$4.66 | \$369,441.59 | \$2.33 | \$831,243.59 | \$0.05 | \$3,943.51 | \$1,204,628.69 |
| 19 | \$4.80 | \$380,524.84 | \$2.40 | \$856,180.89 | \$0.06 | \$4,061.82 | \$1,240,767.55 |
| 20 | \$4.95 | \$391,940.59 | \$2.47 | \$881,866.32 | \$0.06 | \$4,183.67 | \$1,277,990.58 |
| 21 | \$5.10 | \$403,698.80 | \$2.55 | \$908,322.31 | \$0.06 | \$4,309.18 | \$1,316,330.30 |
| 22 | \$5.25 | \$415,809.77 | \$2.63 | \$935,571.98 | \$0.06 | \$4,438.46 | \$1,355,820.21 |
| 23 | \$5.41 | \$428,284.06 | \$2.70 | \$963,639.14 | \$0.06 | \$4,571.61 | \$1,396,494.81 |
| 24 | \$5.57 | \$441,132.58 | \$2.78 | \$992,548.31 | \$0.06 | \$4,708.76 | \$1,438,389.66 |
| 25 | \$5.74 | \$454,366.56 | \$2.87 | \$1,022,324.76 | \$0.07 | \$4,850.02 | \$1,481,541.35 |
| 26 | \$5.91 | \$467,997.56 | \$2.95 | \$1,052,994.51 | \$0.07 | \$4,995.52 | \$1,525,987.59 |
| 27 | \$6.09 | \$482,037.48 | \$3.04 | \$1,084,584.34 | \$0.07 | \$5,145.39 | \$1,571,767.21 |
| 28 | \$6.27 | \$496,498.61 | \$3.13 | \$1,117,121.87 | \$0.07 | \$5,299.75 | \$1,618,920.23 |
| 29 | \$6.46 | \$511,393.57 | \$3.23 | \$1,150,635.53 | \$0.07 | \$5,458.74 | \$1,667,487.84 |
| 30 | \$6.65 | \$526,735.37 | \$3.33 | \$1,185,154.59 | \$0.08 | \$5,622.51 | \$1,717,512.47 |

| | | | | | | | |
|----|--------|--------------|--------|----------------|--------|------------|----------------|
| 31 | \$6.85 | \$542,537.44 | \$3.43 | \$1,220,709.23 | \$0.08 | \$5,791.18 | \$1,769,037.85 |
| 32 | \$7.06 | \$558,813.56 | \$3.53 | \$1,257,330.51 | \$0.08 | \$5,964.92 | \$1,822,108.98 |
| 33 | \$7.27 | \$575,577.97 | \$3.63 | \$1,295,050.42 | \$0.08 | \$6,143.86 | \$1,876,772.25 |
| 34 | \$7.49 | \$592,845.30 | \$3.74 | \$1,333,901.93 | \$0.09 | \$6,328.18 | \$1,933,075.42 |
| 35 | \$7.71 | \$610,630.66 | \$3.85 | \$1,373,918.99 | \$0.09 | \$6,518.03 | \$1,991,067.68 |
| 36 | \$7.94 | \$628,949.58 | \$3.97 | \$1,415,136.56 | \$0.09 | \$6,713.57 | \$2,050,799.71 |
| 37 | \$8.18 | \$647,818.07 | \$4.09 | \$1,457,590.66 | \$0.09 | \$6,914.97 | \$2,112,323.70 |
| 38 | \$8.42 | \$667,252.61 | \$4.21 | \$1,501,318.38 | \$0.10 | \$7,122.42 | \$2,175,693.42 |
| 39 | \$8.68 | \$687,270.19 | \$4.34 | \$1,546,357.93 | \$0.10 | \$7,336.10 | \$2,240,964.22 |
| 40 | \$8.94 | \$707,888.30 | \$4.47 | \$1,592,748.67 | \$0.10 | \$7,556.18 | \$2,308,193.14 |

EXHIBIT D
FORM OF LETTER OF CREDIT

[NAME OF FINANCIAL INSTITUTION]

ISSUANCE DATE: _____

IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

EXPIRY DATE: _____

ISSUING BANK:
CITIBANK N.A.
C/O ITS SERVICE CITICORP NORTH AMERICA, INC.
3800 CITIBANK CENTER, BUILDING B, 3RD FLOOR
TAMPA, FL 33610
ATTN: U.S. STANDBY DEPT

BENEFICIARY:
CITY AND COUNTY OF SAN FRANCISCO, OPERATING BY AND THROUGH
THE SAN FRANCISCO PORT COMMISSION
PIER 1
SAN FRANCISCO, CA 94111

APPLICANT: _____

LADIES/GENTLEMEN:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN YOUR FAVOR FOR THE ACCOUNT OF THE ABOVE REFERENCED APPLICANT IN THE AMOUNT OF _____ U.S. DOLLARS (\$ _____) AVAILABLE FOR PAYMENT AT SIGHT BY YOUR DRAFT DRAWN ON US WHEN ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

1. THE ORIGINAL OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT.
2. BENEFICIARY'S DATED STATEMENT PURPORTEDLY SIGNED BY AN AUTHORIZED SIGNATORY OR AGENT OF BENEFICIARY READING: "THIS DRAW IN THE AMOUNT OF _____ U.S. DOLLARS (\$ _____) UNDER YOUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____ REPRESENTS FUNDS DUE AND OWING TO US PURSUANT TO THE TERMS OF SECTION 10 OF THAT CERTAIN LICENSE BY AND BETWEEN CITY AND COUNTY OF SAN FRANCISCO, OPERATING BY AND THROUGH THE SAN FRANCISCO PORT COMMISSION, AS OWNER, AND _____, AS LICENSEE, AND/OR ANY AMENDMENT TO THE LICENSE BETWEEN SUCH PARTIES."

ALTERNATIVELY, IN LIEU OF PRESENTING AN ORIGINAL OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT, DRAWINGS MAY BE PRESENTED BY TELEFACSIMILE ("FAX") TO FAX NUMBER 813-604-7187 AND SUCH PRESENTATIONS BY FAX ARE ACCEPTABLE WITHOUT FURTHER NEED OF

DOCUMENTATION, INCLUDING DELIVERY OF THE ORIGINAL OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT, IT BEING UNDERSTOOD THAT EACH DRAWING SO SUBMITTED IS TO BE THE SOLE OPERATIVE INSTRUMENT OF DRAWING, PROVIDED THAT SUCH FAX PRESENTATION IS RECEIVED ON OR BEFORE THE EXPIRY DATE ON THIS INSTRUMENT IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT.

IT IS A CONDITION OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT THAT IT WILL BE CONSIDERED AUTOMATICALLY EXTENDED FOR A ONE YEAR PERIOD UPON THE EXPIRY DATE SET FORTH ABOVE AND UPON EACH ANNIVERSARY OF SUCH DATE, UNLESS AT LEAST 60 DAYS PRIOR TO SUCH EXPIRY DATE OR APPLICABLE ANNIVERSARY THEREOF, WE NOTIFY YOU IN WRITING, BY CERTIFIED MAIL (RETURN RECEIPT REQUESTED) OR BY RECOGNIZED OVERNIGHT COURIER SERVICE, THAT WE ELECT NOT TO SO EXTEND THIS IRREVOCABLE STANDBY LETTER OF CREDIT. A COPY OF ANY SUCH NOTICE SHALL ALSO BE SENT, IN THE SAME MANNER, TO: PORT OF SAN FRANCISCO, PIER 1, SAN FRANCISCO, CA 94111, ATTENTION: GENERAL COUNSEL. HOWEVER, NON-RECEIPT OF OUR NOTICE OF NON-RENEWAL BY GENERAL COUNSEL DOES NOT INVALIDATE OUR NOTICE.

IN ADDITION TO THE FOREGOING, WE UNDERSTAND AND AGREE THAT YOU SHALL BE ENTITLED TO DRAW UPON THIS IRREVOCABLE STANDBY LETTER OF CREDIT IN ACCORDANCE WITH 1 AND 2 ABOVE IN THE EVENT THAT: 1) WE ELECT NOT TO RENEW THIS IRREVOCABLE STANDBY LETTER OF CREDIT AND 2) YOU PROVIDE US WITH A DATED STATEMENT PURPORTEDLY SIGNED BY AN AUTHORIZED SIGNATORY OR AGENT OF BENEFICIARY STATING THAT THE "APPLICANT HAS FAILED TO PROVIDE BENEFICIARY WITH AN ACCEPTABLE SUBSTITUTE IRREVOCABLE STANDBY LETTER OF CREDIT IN ACCORDANCE WITH THE TERMS OF THE ABOVE REFERENCED LICENSE". WE FURTHER ACKNOWLEDGE AND AGREE THAT: (A) UPON RECEIPT OF THE DOCUMENTATION REQUIRED HEREIN, WE WILL HONOR YOUR DRAWS AGAINST THIS IRREVOCABLE STANDBY LETTER OF CREDIT WITHOUT INQUIRY INTO THE ACCURACY OF BENEFICIARY'S SIGNED STATEMENT AND REGARDLESS OF WHETHER APPLICANT DISPUTES THE CONTENT OF SUCH STATEMENT; AND (B) THIS IRREVOCABLE STANDBY LETTER OF CREDIT SHALL PERMIT PARTIAL DRAWS AND, IN THE EVENT YOU ELECT TO DRAW UPON LESS THAN THE FULL STATED AMOUNT HEREOF, THE STATED AMOUNT OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT SHALL BE AUTOMATICALLY REDUCED BY THE AMOUNT OF SUCH PARTIAL DRAW.;

THIS IRREVOCABLE STANDBY LETTER OF CREDIT IS NOT TRANSFERRABLE.

THIS IRREVOCABLE STANDBY LETTER OF CREDIT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.

THIS IRREVOCABLE STANDBY LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION) ICC PUBLICATION NO. 600.

WE HEREBY ENGAGE WITH YOU TO HONOR DRAFTS AND DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT.

ALL WRITTEN COMMUNICATIONS TO US WITH RESPECT TO THIS IRREVOCABLE STANDBY LETTER OF CREDIT MUST BE ADDRESSED TO OUR OFFICE LOCATED AT CITIBANK N.A., C/O ITS SERVICE CITICORP NORTH AMERICA, INC., 3800 CITIBANK CENTER, BUILDING B, 3RD FLOOR, TAMPA, FL 33610, ATTN: U.S. STANDBY DEPT., PHONE NO. 866-945-6284

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, INDIVIDUALS, ENTITIES, AND VESSELS. CITIGROUP ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

VERY TRULY YOURS,

[NAME]

[TITLE]

EXHIBIT E

LOCAL BUSINESS PARTICIPATION

Memorandum of Understanding (“MOU”) between Pacific Gas and Electric Company (“PG&E”) and the City and County of San Francisco (the “City”), acting by and through the Mayor’s Office of Economic and Workforce Development’s CityBuild Program (“CityBuild”), (collectively “Parties”) regarding community workforce and neighborhood benefits during the Embarcadero to Potrero 230kV transmission project (the “Project”).

WHEREAS, PG&E’s proposed Embarcadero-Potrero 230kV transmission lines will provide additional reliability to San Francisco’s electrical system and operational flexibility as well as opportunities for construction and support jobs throughout the duration of the project; and

WHEREAS, the City has a “CityBuild Program” which has as its purpose the creation of employment opportunities for qualified, economically disadvantaged individuals; and

WHEREAS, Local hiring policies provide opportunities for San Francisco workers that promote partnerships between business and the community; and

WHEREAS, a portion of the project is located in the southeast portion of San Francisco, an area that has traditionally included many economically disadvantaged individuals; and

WHEREAS, PG&E wishes to voluntarily work with the City’s CityBuild Program and PG&E’s construction contractors (“Contractors”) to staff the Project with qualified workers from Citybuild to the extent feasible; and

WHEREAS, PG&E commits to engage in operational practices during the project that limit impacts on nearby residents and businesses and to communicate with the community in a manner consistent with best practices established by PG&E during similarly impactful projects in the southeastern sector of San Francisco, including but not limited to a project website, newsletter, toll-free telephone number as well as community meetings and individual meetings; and

WHEREAS, the Project will lead to direct investments in the community including the screening of the existing Potrero switchyard and improvements including beautification, enhanced maintenance and greening of the surrounding areas; and

WHEREAS, PG&E and CityBuild wish to memorialize their agreement.

Therefore, PG&E and the City agree as follows:

A. PG&E hereby notifies CityBuild that PG&E’s agreements with its contractors for the Project includes the following provisions:

- i. Contractors will use their best efforts to utilize individuals from the CityBuild program.
- ii. Contractors will use good faith efforts to meet a local hiring goal of 30% or more for project laborer positions. “Local hiring” is defines as persons residing within the City and County of San Francisco.

B. PG&E agrees as follows:

- i. PG&E will work with Contractors to identify required certifications and training for employment of workers and assist in providing required training as necessary.

C. CityBuild will work with Contractors as follows:

- i. CityBuild will identify key staff as liaison to the Project.
- ii. CityBuild will act as a referral agency to provide referrals of qualified economically disadvantaged individuals for employment on the Project.
- iii. CityBuild will provide workforce reports to PG&E every other week or as requested.

SCHEDULE 1

HAZARDOUS MATERIALS DISCLOSURE

Environmental Reports and Documents Regarding Hazardous Materials

PG&E

Embarcadero-Potrero 230 kV Transmission Cable Project

December 2013

Pier 28

Hazardous Materials Inspection Report; Pier 28, Van Brunt Associates, June 17, 2011.

Pier 26 and 28 Bulkhead - Limited Asbestos and Lead Survey, North Tower environmental, April 30, 2010.

Pier 26 and 28 Bulkhead; Limited asbestos and lead survey; NTE project no.: NT-3278, North Tower environmental, April 30, 2010.

Proposal and Contract for Asbestos Removal, Pier 28, 2nd Floor upper north office area and lower entry room area, Bluewater Environmental Services, 5/16/2007.

Summary Report: Asbestos and Lead Content Roof Surveys for Piers 15, 17, 19, 26, 26-Annex, 28 and 45C, SCA Environmental, Inc., December 1999.

Twenty-Third Street

Phase II Soil and Groundwater Site Investigation Report for HWC-Mitigated Site – Western Portion of Harrigan Weidenmuller Company Property At 435, 525, and 555 Twenty-Third Street, San Francisco, California, URS, September 2006.

SF Bay

Distribution of Mercury in Surface Sediments in San Francisco Estuary, Open File Map, U.S. Geological Survey, 1971.

Environmental Site Assessment, Alternatives A, B-3, and C -- Bayside Discharge Alternatives, Baseline Environmental Consulting, 3/5/93.

Master Sampling and Analysis Plan, Maintenance Dredging Program, Harding Lawson Associates, April 27, 2000.

Regional Dredged Material Rehandling Facility Feasibility Study, Task 1 Report, Laurel Marcus & Associates, 3/30/99.

San Francisco Port Commission, Maintenance Dredging Testing Results, San Francisco Port Commission, 2/2/90.

San Francisco Port Commission, Maintenance Dredging Testing Results, San Francisco Port Commission, 7/14/88.

Sediment Quality and Biological Effects in San Francisco Bay, Bay Protection and Toxic Cleanup Program, Final Technical Report, California Regional Water Quality Control Board, 8/31/98.

Zone of Siting Feasibility Analysis, Draft Final Report, Ogden Beeman & Associates, Inc., June 7, 1991.

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SCHEDULE 2

FEMA Disclosure Notice

The Federal Emergency Management Agency ("**FEMA**") is revising Flood Insurance Rate Maps ("**FIRMs**") for San Francisco Bay Area communities. As part of this effort, FEMA plans to prepare a FIRM for the City and County of San Francisco for the first time. That process may have significant impacts for developing new structures and reconstructing or repairing existing structures on San Francisco's waterfront.

FIRMs identify areas that are subject to inundation during a flood having a 1% chance of occurrence in a given year (also known as a "base flood" or "100-year flood"). FEMA refers to an area that is at risk from a flood of this magnitude as a special flood hazard area ("**SFHA**").

On September 21, 2007, FEMA issued a preliminary FIRM of San Francisco tentatively identifying SFHAs along City's shoreline in and along the San Francisco Bay consisting of "A zones" (areas subject to inundation by tidal surge) and "V zones" (areas subject to the additional hazards that accompany wave action). These zones generally affect City property under the jurisdiction of the Port of San Francisco and other areas of the San Francisco waterfront, including parts of Mission Bay, Hunters Point Shipyard, Candlestick Point, Treasure and Yerba Buena Islands, and an area adjacent to Islais Creek.

FEMA prepares the FIRMs to support the National Flood Insurance Program ("**NFIP**"), a federal program that enables property owners, businesses, and residents in participating communities to purchase flood insurance backed by the federal government. The San Francisco Board of Supervisors has adopted a floodplain management ordinance governing new construction and substantial improvements in flood prone areas of San Francisco and authorizing the City's participation in NFIP (as amended, the "Floodplain Ordinance"). The Floodplain Ordinance imposes requirements on any new construction or substantial improvement of structures in city-designated flood zones that are intended to minimize or eliminate flood hazard risks. NFIP regulations allow a local jurisdiction to issue variances to its floodplain management ordinance under certain narrow circumstances, without jeopardizing the local jurisdiction's eligibility in the NFIP. However, the particular projects that are granted variances by the local jurisdiction may be deemed ineligible for federally-backed flood insurance by FEMA.

FEMA is performing detailed coastal engineering analyses and mapping of the San Francisco Bay shoreline in accordance with FEMA's February 2005 Pacific guidelines for new coastal studies. The San Francisco Bay Area Coastal Study includes both regional hydrodynamic and wave modeling of the San Francisco Bay, as well as detailed onshore coastal analysis used to estimate wave runup and overtopping, as well as overland wave propagation. These onshore analyses will form the basis for potential revisions to the Base Flood Elevations (BFEs) and Special Flood Hazard Areas (SFHAs) within the coastal areas. The new coastal study will revise and update the flood and wave data based on current conditions within the coastal Flood Insurance Study reports and Flood Insurance Rate Maps for each of the nine counties. For San Francisco, the preliminary FIRMs will replace the preliminary FIRMs issued in 2007. FEMA expects to issue preliminary FIRMs for San Francisco in early 2014, with an intended effective date in mid-2015.

The federal legislation and regulations implementing the NFIP are located at 42 U.S.C. §§ 4001 et seq.; 44 C.F.R. Parts 59-78, §§ 59.1-78.14. FEMA also publishes "Answers to Questions About the NFIP" and FEMA Publication 186 entitled "Mandatory Purchase of Flood Insurance Guidelines." Additional information on this matter can be found on the City's and FEMA's websites at the following links: <http://www.fema.gov/plan/prevent/fhm/index.shtm>; [http://www.r9map.org/Docs/Oct13-SanFranCo-FEMA_Factsheet_rev%20\(2\).pdf](http://www.r9map.org/Docs/Oct13-SanFranCo-FEMA_Factsheet_rev%20(2).pdf); <http://www.fema.gov/business/nfip/index.shtm>; and <http://www.sfgov.org>.