

File No. 091286

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date December 7, 2009

Board of Supervisors Meeting Date _____

Cmte Board

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OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Second Amendment to Ground Lease</u> |
| * <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>First Amendment to Ground Lease</u> |
| * <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Ground Lease</u> |
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Completed by: Alisa Somera Date December 4, 2009

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file and the online version.



1 [Approval of Second Amendment to the Redevelopment Agency's Ground Lease within
2 Mission Bay North and South Redevelopment Plans.]

3
4 **Resolution approving the Second Amendment to the San Francisco Redevelopment**
5 **Agency's Ground Lease to add certain additional real property within the Mission Bay**
6 **South Redevelopment Plan Area to the leased premises and to clarify certain**
7 **maintenance obligations.**

8
9 WHEREAS, California Statutes of 1968, Chapter 1333 ("the Burton Act") and San
10 Francisco Charter Section 4.114 empower the San Francisco Port Commission (the "Port
11 Commission") with the power and duty to use, conduct, operate, maintain, manage, regulate
12 and control the lands within Port Commission jurisdiction; and

13 WHEREAS, On October 26, 1998, the City and County of San Francisco (the "City"),
14 acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay
15 North Redevelopment Project ("Mission Bay North") by Ordinance No. 327-98, and on
16 November 2, 1998, the City, acting through its Board of Supervisors, approved a
17 Redevelopment Plan for the Mission Bay South Redevelopment Project ("Mission Bay South")
18 by Ordinance No. 335-98 (collectively, the "Redevelopment Plans", and individually, the
19 "Mission Bay North Redevelopment Plan" or "Mission Bay South Redevelopment Plan"),
20 which Redevelopment Plans were adopted in accordance with the procedures set forth in the
21 Community Redevelopment Law of California (California Health and Safety Code Sections
22 33000 et seq.); and,

23 WHEREAS, to implement the improvement of open space, parks, and plazas as
24 contemplated by the Redevelopment Plans, the City, the Port Commission and the
25 Redevelopment Agency of the City and County of San Francisco (the "Agency") entered into a

1 number of agreements, including a Ground Lease, dated for reference purposes only as of
2 November 16, 2001 and amended by a First Amendment to Agency Ground Lease, dated
3 June 29, 2006 (as so amended, the "Ground Lease"), under which the City and the City acting
4 by and through the Port Commission leased certain open space, parks and plazas in the
5 Mission Bay North Plan Area and the Mission Bay South Plan Area to the Agency; and

6 WHEREAS, On July 19, 1999, the City, the Port Commission, and Catellus
7 Development Corporation entered into an interim lease for portions of the open space (the
8 "Developer Master Lease"); and

9 WHEREAS, The Ground Lease is designed to become effective over the various
10 increments of open space, parks and plazas comprising the Ground Lease premises in
11 phases, following the date that City receives notice that the tenant under the Developer
12 Master Lease elects to terminate the Developer Master Lease with respect to such increment
13 (an "Agency Lease Notice") and on the respective dates that the City, the Port Commission
14 and the Agency initial and date written legal descriptions of the affected increments of the
15 premises and attach such descriptions to the Ground Lease as part of Exhibit B (the "Exhibit B
16 Attachment Process"); and

17 WHEREAS, An area in Mission Bay South referred to in Exhibit A to the Ground Lease
18 as "P21" is under the jurisdiction of the Port Commission, and

19 WHEREAS, In a letter dated April 23, 2002, Catellus provided an Agency Lease Notice
20 in accordance with Section 3.2.1 of the Developer Master Lease, electing to terminate the
21 Developer Master Lease over "P21", as described in such Agency Lease Notice; and,

22 WHEREAS, as contemplated by the Mission Bay South Redevelopment Plan and
23 related documents, a portion of such "P21" area has been improved with a boat trailer parking
24 lot (the "Parking Lot") which is used in connection with a nearby boat launch which is under
25 the Port's jurisdiction; and

1 WHEREAS, For the reasons set forth in the proposed Second Amendment to Ground
2 Lease, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 091286
3 (the "Second Amendment to Ground Lease"), the City, the Port Commission and the Agency
4 have determined that the Parking Lot should remain under the direct control of the Port
5 Commission and not be leased to the Agency under the Ground Lease then subleased or
6 sublicensed back to the Port Commission, and that, consequently, for the purposes of the
7 Ground Lease Park P21 should be comprised of only those portions of "P21" which will be
8 controlled and maintained by the Agency, which areas are depicted as "Park P21- Area 1"
9 and "Park P21 – Area 2" on Exhibit B-4-1 attached to the Second Amendment to Ground
10 Lease, and

11 WHEREAS, On or about May 2008, the Port, the Agency and the City's Department of
12 Public Works reached agreement on the allocation of certain maintenance responsibilities with
13 respect to portions of the premises under the Ground Lease and certain adjacent land and
14 improvements (including sidewalks, seawalls, riprap and trees), as more particularly detailed
15 in the Second Amendment to Ground Lease; and

16 WHEREAS, the City, the Port Commission and the Agency have determined that the
17 Ground Lease can be amended more effectively for certain parcels, such as the parcel known
18 as Park P21, by means of traditional amendments to the Ground Lease adding descriptions of
19 the affected portions of the premises rather than by the Exhibit B Attachment Process, and all
20 parties presently desire to amend the Ground Lease to allow for such process; and

21 WHEREAS, In a letter dated September 9, 2009, a copy of which is on file with the
22 Clerk of the Board of Supervisors in File No. 091286 and which letter is incorporated herein
23 by reference as though fully set forth herein, the Executive Director of the Port Commission
24 determined that the Second Amendment to Ground Lease is consistent with the State Public
25 Trust and recommended execution of the Second Amendment to Ground Lease.

1 WHEREAS, The Ground Lease contemplates that the Ground Lease will become
2 effective as to Park P21 following City's receipt of an Agency Lease Notice with respect to
3 such space, which Agency Lease Notice has been received ; and

4 WHEREAS, The Second Amendment to Ground Lease is necessary in order for the
5 Port Commission to effectively operate and maintain the Parking Lot and for the Agency to
6 effectively operate and maintain the facilities with the limits of Mission Bay Park P21, as
7 defined in the Second Amendment to Ground Lease and in order to document the respective
8 maintenance obligations of the Port, the Agency and the City's Department of Public Works;
9 now, therefore, be it

10 RESOLVED, That the Board of Supervisors approves the Second Amendment to
11 Ground Lease; and, be it

12 FURTHER RESOLVED, That, notwithstanding the fact that the Parking Lot will not be
13 added to the Ground Lease, the Parking Lot shall be considered open space under the
14 Mission Bay South Redevelopment Plan; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
16 Director of the Port ("Executive Director") and the City's Director of Property ("Director") to
17 execute the Second Amendment to Ground Lease, in a form approved by the City Attorney,
18 including all exhibits and in substantially the form of the Second Amendment to Ground Lease
19 on file with the Clerk of the Board of Supervisors in File No. 091286 ; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
21 Director and Director, in consultation with the City Attorney, to enter into any additions,
22 amendments or other modifications to the Ground Lease (including, without limitation,
23 preparation and attachment of, or changes to, any and all of the exhibits and ancillary
24 agreements) that the Executive Director and Director jointly determine, in consultation with the
25 City Attorney, are in the best interests of the City, do not materially increase the obligations or

1 liabilities of the City, are consistent with the Mission Bay South Redevelopment Plan, the
2 Ground Lease and other documents entered into by the City in connection therewith and are
3 necessary or advisable to effectuate the proposed transaction authorized by this Resolution.

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**SECOND AMENDMENT TO
GROUND LEASE**

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

AND

REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

Mission Bay

**SECOND AMENDMENT TO
AGENCY GROUND LEASE**

(Adding Park P21 and Amending Maintenance Obligations)

THIS SECOND AMENDMENT TO AGENCY GROUND LEASE ("Amendment"), dated for reference purposes only as of _____, 2009, by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation ("City"), and with respect to those portions of the subject premises located within the jurisdiction of the San Francisco Port Commission (the "Port"), the City acting by and through the Port, as landlord, and the **REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO**, a public body corporate and politic of the State of California (together with any successor public agency designated by or pursuant to law, the "Agency"), as tenant, is made with reference to the following facts:

RECITALS

A. The City and the Agency entered into that certain Agency Ground Lease, dated as of November 16, 2001 (the "Original Ground Lease"), as amended by that certain First Amendment to Ground Lease, dated as of June 29, 2006 (the "First Amendment"), pursuant to which the City agreed to lease to the Agency and the Agency agreed to lease from the City certain premises (the "Premises") referred to as the Open Space Development Parcels (as defined in the Original Ground Lease) on terms and conditions set forth therein. The Original Ground Lease, as amended by the First Amendment, is referred to herein as the "Ground Lease." Capitalized terms not otherwise defined herein shall have the meanings given in the Ground Lease.

B. The Ground Lease is one of several agreements implementing the improvement of open space, parks, and plazas as contemplated by the Redevelopment Plan for the Mission Bay North Redevelopment Project ("Mission Bay North"), approved by the City on October 26, 1998, by Ordinance No. 327-98, and the Redevelopment Plan for the Mission Bay South Redevelopment Project ("Mission Bay South"), approved by the City on November 2, 1998, by Ordinance No. 335-98 (each a "Redevelopment Plan" and collectively, the "Redevelopment Plans").

C. The Recitals to the Ground Lease describe certain of the other agreements implementing the improvement of open space, parks, and plazas as contemplated by the Redevelopment Plans, including the agreements defined therein as the "Catellus Lease", the "North OPA, and the "South OPA". Pursuant to the Catellus Lease, the City leases portions of the Premises and other lands to Catellus and its permitted transferees (collectively "Owner"). Among other matters, the Catellus Lease requires Owner to perform certain improvements to portions of the Premises on a phased basis, and provides that at such time as the Owner is prepared to construct public open space, parks or plazas on a portion of the Premises, the Owner will surrender the applicable portion of the Premises to the City, the Catellus Lease will be terminated with respect to such portion of the Premises, and Owner will be granted a permit to enter and perform the required work. The North OPA and the South OPA, among other matters,

set forth phasing principles that govern Owner's obligations to construct infrastructure, including open space, parks, and plazas.

D. The Ground Lease is designed to become effective over increments of the Premises in phases, as the Catellus Lease is terminated from time to time with respect to such increments. The Ground Lease anticipates that the term of the Ground Lease will commence with respect to each phase of the Premises on the date that the City and the Agency initial and date a written legal description of the affected portion of the Premises and attach such description to the Ground Lease as part of Exhibit B to the Ground Lease (the "Exhibit B Attachment Process"). However, the City and the Agency have determined that the Ground Lease can be administered more effectively for certain parcels, such as P21 as covered by this Amendment, by adding descriptions of the affected portions of the Premises by means of amendments to the Ground Lease, and both parties presently desire to amend the Ground Lease to provide for such process. In addition, this Amendment is necessary as it clarifies certain maintenance obligations. However, the City and Agency may continue to use the Exhibit B Attachment Process for those parcels not requiring an amendment to add specific terms to the Ground Lease prior to including such parcels in Exhibit B to the Ground Lease.

E. The term of the Ground Lease has commenced with respect to those portions of the Premises known as the P1 Park (a legal description of which was attached to the Original Ground Lease) and Parks NP1, NP2 and P17 (legal descriptions of which were added to Exhibit B of the Ground Lease pursuant to the terms of the First Amendment). The City and the Agency have since determined that, notwithstanding the legal descriptions of Parks P1, NP1 and NP2 attached to the Ground Lease, the allocation of maintenance, repair and indemnity obligations between the City and the Agency would be simpler and would be easier to administer if, with respect to the portions of the Premises and adjacent City property on which rip rap has been installed, the boundaries of the parks would conform more closely to the lines marked by the rip rap. City is presently preparing exhibits reflecting the revised boundaries for Agency's review and approval. Upon approval of the revised exhibits, City and Agency anticipate amending the Ground Lease to substitute the revised exhibits for Exhibit B-1 (describing that portion of the Premises known as Park P1) and Exhibit B-2 (describing that portion of the Premises known as NP1 and NP2).

F. Owner has met the conditions in the South OPA for the development of the area in Mission Bay South referred to as Park "P21" in the South OPA and certain other documents (the "Proposed Park P21"). For the reasons described below, the City and the Agency desire to add only a portion of Proposed Park P21 to the Premises under the Ground Lease.

G. A portion of Proposed Park P21 has been improved with a boat trailer parking lot (the "Parking Lot") to be used in connection with a nearby boat launch which is under the Port's jurisdiction. Section 10.1 of the Ground Lease, regarding Maintenance and Repair Obligations, provides that the Agency shall maintain the Premises and all improvements in good condition and repair, subject to the terms and conditions set forth in Section 10.1 of the Ground Lease, however pursuant to San Francisco Bay Conservation and Development Commission Permit No. 7-96 (issued on January 22, 1997, as amended through February 11, 2004), and Section B.1.i. of the Mission Bay South Infrastructure Plan, the Port is obligated to maintain the Parking Lot. Because the Parking Lot was constructed by the Port and will be maintained by the Port,

rather than the Agency, the City and the Agency have determined that the Parking Lot on Proposed Park P21 should not be leased to the Agency under the Ground Lease, and that, for the purposes of the Ground Lease, "Park P21" will be comprised of only those portions of the Proposed Park P21 which will be maintained by the Agency. The areas comprising Park P21 for the purposes of the Ground Lease are depicted as "Park P21- Area 1" and "Park P21 – Area 2" on Exhibit B-4-1 attached to this Amendment, and to be attached to the Ground Lease as provided herein. Notwithstanding the fact that the Parking Lot will not be added to the Ground Lease, the Parking Lot shall be considered open space under the Mission Bay South Redevelopment Plan.

H. On or about May 2008, the Port, the Agency and the City's Department of Public Works ("DPW") reached agreement on the allocation of certain maintenance responsibilities with respect to portions of the Premises and adjacent land and improvements, as follows: (i) the Port agrees to maintain the seawall for Park P21 and the rip rap, if any, on Parks P1, P2, P3, P8, NP1-NP5, P21 and P22 in the same condition as on the respective effective dates of the Ground Lease for such parcels for the term of the Ground Lease for each such parcel; and (ii) the City, acting through DPW, agrees to maintain the sidewalk on or adjacent to the Parking Lot that is adjacent to the public street (including the trees or other plantings on such sidewalk); (iii) notwithstanding DPW's maintenance obligations included in Section (ii) above, the Agency agrees to maintain the sidewalks and trees on sidewalks on or adjacent to parks P15-22, as shown on Exhibit A, during the term of the Ground Lease for each such parcel. Section 10.1 of the Ground Lease, regarding Maintenance and Repair Obligations, must be revised to document certain aspects of this allocation of responsibility. Neither the Ground Lease, nor any other existing agreement between or among the parties, requires the Port to provide funding for or management or maintenance services for the neighborhood linking pedestrian bridge that may be constructed over the Mission Creek; Port staff and the Port Commission may exercise their discretion to not issue a building permit and lease/license or other project approvals for the pedestrian bridge until such time as the Agency or City secures a funding source outside of the Port to manage and maintain the bridge.

I. Furthermore, the City and the Agency agree that the proposed additional park area to the east of the right of way of Terry A. Francois Boulevard (outside of the boundaries of Park P22) to top of bank, as shown on Exhibit A, will ultimately be maintained with funds from the Mission Bay South CFD Maintenance District, consistent with the Infrastructure Plan. The City and the Agency believe that the maintenance obligations for this park area outside the boundaries of Park P22 may be most easily administered by adding such park to the Premises under the Ground Lease. However, because the Port and the Agency have not reached final agreement about the required enhancements and improvements to be made to such park, the Ground Lease is not presently being amended to provide for the future inclusion of such park area in the leased Premises.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Agency hereby agree to amend the Ground Lease as follows:

1. Manner of Adding Premises to Ground Lease. Notwithstanding the provisions of Sections 2, 2.1 and 2.2 of the Ground Lease to the contrary, the parties agree that in addition to

the mechanism provided in the Ground Lease, portions of the Premises may be added to the Ground Lease from time to time by attaching legal descriptions of such portions of the Premises to the Ground Lease by means of lease amendment.

2. Acknowledgement Regarding Boat Trailer Parking Lot and Revised Park P21 Area. The City and the Agency acknowledge Park P21, as added to the Premises pursuant to Section 3 of this Amendment, does not include the entire area in Mission Bay South referred to as Park "P21" in the South OPA and certain other Plan Documents, but excludes the area improved with the boat trailer parking lot, driveways, and the sidewalk adjacent to the public street right of way.

3. Addition of Descriptions of Park P21. Exhibit B of the Ground Lease is hereby amended to add and incorporate the legal description shown on Exhibit B-4 attached to this Amendment, which sets forth the legal description and plat depictions of Park P21 in Mission Bay South.

4. Modification of Maintenance and Repair Obligations. The Ground Lease is hereby amended to add and incorporate Exhibit B-4, which is attached to this Amendment as Exhibit B, and to amend and restate Section 10.1 of the Ground Lease as follows:

"10.1 Maintenance and Repair Obligations.

a. Generally. Upon completion of construction of the Improvements on the applicable portions of the Premises and acceptance by City pursuant to the Plan Documents (the "Agency's Maintenance Commencement Date"), Agency shall maintain, at no cost or expense to City, in good order, repair and condition, the applicable portions of the Premises and all improvements thereon, consistent with the requirements of the applicable Mission Bay North or South Financing Plans, except where Owner fails to pay the special taxes levied in the maintenance Community Facilities Districts (collectively, "Maintenance CFDs" and individually, a "Maintenance CFD") to be formed pursuant to the applicable Mission Bay North or South Financing Plans despite the Agency's diligent efforts to collect the same.

b. Sidewalks. The Agency acknowledges that the Agency's maintenance and repair obligations under Section 10.a. above include the obligation to maintain sidewalks on or adjacent to the Premises in accordance with the provisions of San Francisco Public Works Code Section 706, or any successor ordinance concerning sidewalk maintenance, provided that the initial installation of sidewalks, curbs and related improvements shall be made by Owner in accordance with the Plan Documents.

c. Seawall and Rip Rap Maintenance. Notwithstanding the foregoing provisions of this Section 10.1 to the contrary, City agrees that the Port shall maintain any seawalls and the rip rap located on Parks P1, P2, P3, P8, NP1-NP5, P21 and P22 in the same condition as on the Agency's Maintenance Commencement Date, commencing on such date and continuing for the term of the Ground Lease for each such parcel.

d. Special Provisions Regarding Maintenance of Parking Lot and

Park P21. The Port, at the Port's cost, shall maintain and repair the boat trailer parking lot shown on sheet B-4-1 of Exhibit B-4 of this Ground Lease, (the "Parking Lot"), the Parking Lot entrance(s), and any curbs around the Parking Lot. The City, acting through the City's Department of Public Works, at the City's cost, shall maintain and repair the sidewalk, curb and related improvements (including trees and plantings) adjacent to public street that is adjacent to the Parking Lot. Except as provided in Section 10.c. and the foregoing provisions of this Section 10.d., the Agency shall maintain and repair Park P21 and all improvements thereon, including, without limitation, any ground or plantings between the pathway and the rip rap, and any walkway or sidewalk on Park P21.

e. Acknowledgement Regarding Description of Premises. The parties acknowledge that the respective areas that the Port and the Agency are required to maintain hereunder do not precisely correspond to boundaries of the Premises shown on Exhibit B to this Ground Lease.

5. Recitals. The Recitals to this Amendment are true and correct.

6. Ground Lease in Full Force and Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Ground Lease shall remain unchanged and in full force and effect.

[No further text this page.]

IN WITNESS WHEREOF, city and Agency execute this Amendment at San Francisco, California, as of the date set forth above.

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By _____
GAVIN NEWSOM
Mayor

AGENCY:

REDEVELOPMENT AGENCY
OF THE CITY AND COUNTY OF
SAN FRANCISCO, a public body,
corporate and politic

By _____
AMY LEE
Deputy Executive Director
Finance and Administration

By _____
AMY L. BROWN
Director of Property

APPROVED AS TO FORM FOR CITY:

DENNIS J. HERRERA,
City Attorney

APPROVED AS TO FORM FOR AGENCY:

By _____
Deputy City Attorney

By _____
JAMES B. MORALES
Agency General Counsel

SAN FRANCISCO PORT COMMISSION

By: _____
MONIQUE MOYER
Executive Director

APPROVED AS TO FORM FOR PORT:

DENNIS J. HERRERA,
City Attorney

By _____

Deputy City Attorney

CONSENT

The undersigned, on behalf of Owner, in executing this Amendment for the sole purpose of approving the form of this Lease, as contemplated by the CLTA, the PLTA, and the Master Lease; provided, however, that nothing continued herein shall be deemed to impose any additional obligations or liabilities upon Owner under the Amendment other than as is already set forth in the Plan Documents and the Land Transfer Agreements, hereby consents to the foregoing Amendment.

FOCIL-MB, LLC, a Delaware limited liability
company

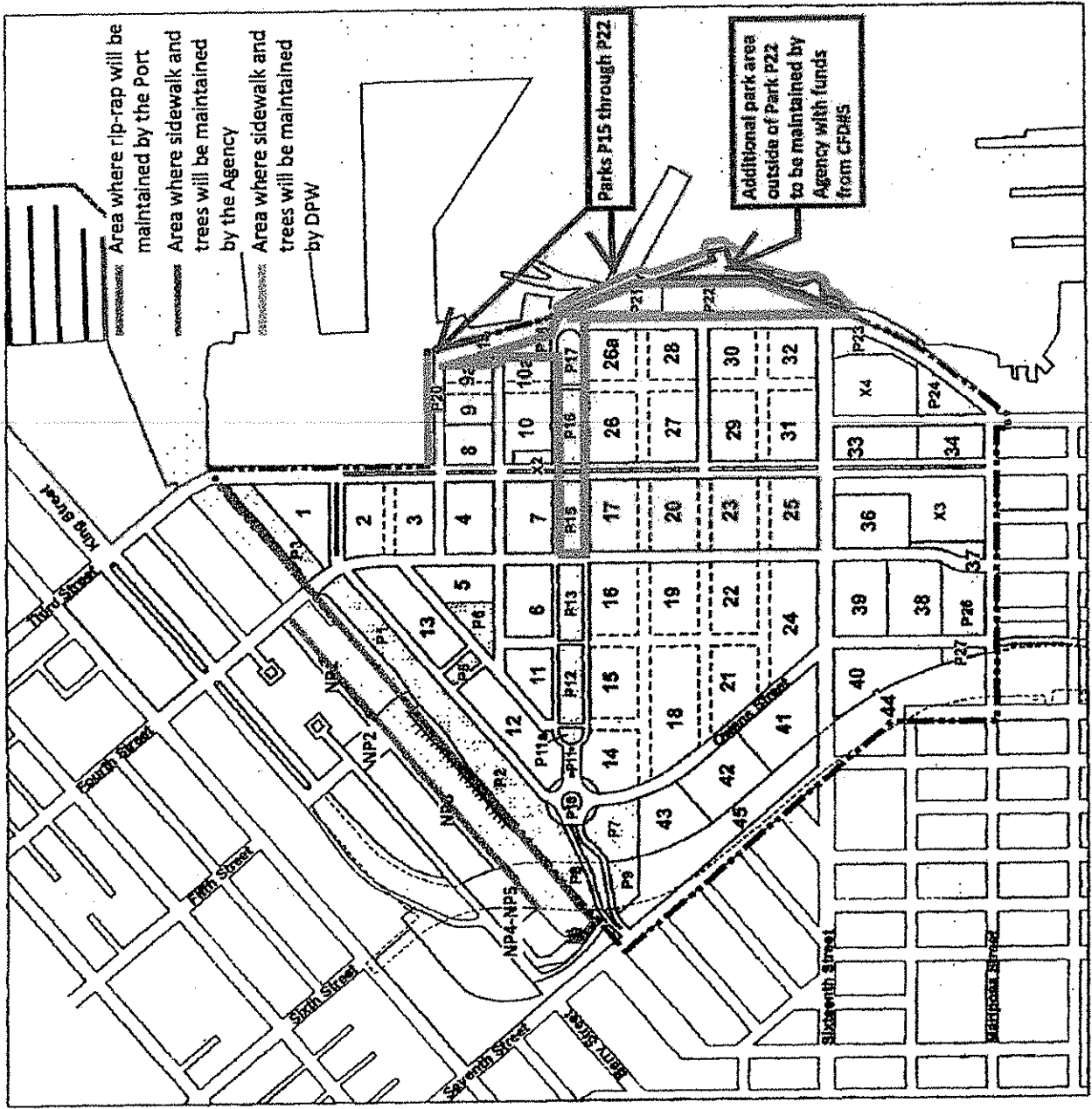
By: Farallon Capital Management, L.L.C.,
its Manager

By: _____
Name: _____
Its: _____

EXHIBIT A
(Attached)
Park Locations and Maintenance Responsibilities

Exhibit A - Park Locations and Maintenance Responsibilities

Second Amendment to Ground Lease



Area where rip-rap will be maintained by the Port

Area where sidewalk and trees will be maintained by the Agency

Area where sidewalk and trees will be maintained by DPW

Parks P15 through P22

Additional park area outside of Park P22 to be maintained by Agency with funds from CFBAS

EXHIBIT B

(Attached)

Description and Depiction of Park P21
(Exhibit B-4 to Ground Lease)

EXHIBIT B-4

DESCRIPTION OF PROPERTY MISSION BAY PARK P21

Being all that certain real property situate in the City and County of San Francisco, State of California, being further described as a portion of Trust Parcel 5 as described in that certain Patent to the City and County of San Francisco recorded on July 19, 1999 in Reel H429, Image 518, Official Records of the City and County of San Francisco, and being more particularly described as follows:

AREA 1:

COMMENCING at the Northwest corner of Lot 14 as shown on that certain Parcel Map filed for record in Book 44 of Parcel Maps, at Pages 151 through 155, inclusive, City and County of San Francisco Records; thence along Easterly Right-of-Way line of Terry Francois Boulevard for the following two (2) courses and distances:

1. North 03°10'56" West a distance of 663.15 feet; and
2. North 17°50'32" West a distance of 62.91 feet to a point of curvature on the Easterly line of said Trust Parcel 5;

Thence along said Easterly line of Trust Parcel 5 for the following two (2) arcs, courses and distances:

1. from a radial line which bears South 72°09'28" West, 37.12 feet along the arc of a non-tangent 236.29 foot radius curve to the left through a central angle of 09°00'04"; and
2. South 26°50'36" East a distance of 101.34 to the True Point of Beginning;

Thence from said **TRUE POINT OF BEGINNING**, leaving said Easterly line of Trust Parcel 5, South 63°09'24" West a distance of 4.00 feet to the Easterly corner of an access ramp as shown on those certain Improvement Plans for Mission Bay Park 21 prepared by RBF consulting, dated May 17, 2002; thence along said access ramp for the following three (3) courses and distances:

1. South 18°09'24" West a distance of 8.49 feet;
2. South 63°09'24" West a distance of 4.00 feet; and
3. North 60°32'00" West a distance of 7.21 feet to a point of curvature;

Thence along the Portland Cement Concrete (P.C.C.) curb as shown on said Improvement Plans for the following two (2) arcs, courses and distances:

1. from a radial line which bears North 20°58'36" West, 10.05 feet along the arc of a non-tangent 10.00 foot radius curve to the left through a central angle of 57°35'21"; and
2. South 19°40'04" East a distance of 54.93 feet to an access ramp as shown on said Improvement Plans;

Thence along said access ramp for the following three (3) courses and distances:

1. South 79°40'04" East a distance of 10.00 feet;
2. South 03°41'57" East a distance of 10.00 feet; and
3. South 80°18'55" West a distance of 6.00 feet to a point on said P.C.C. curb;

Thence along said P.C.C. curb for the following three (3) courses and distances:

1. South 25°25'16" East a distance of 36.55 feet;
2. South 31°13'45" East a distance of 43.19 feet;
3. South 35°30'56" East a distance of 51.35 feet to an access ramp as shown on said Improvement Plans;

Thence along said access ramp for the following three (3) courses and distances:

1. South 86°21'59" East a distance of 8.05 feet;
2. South 32°31'29" East a distance of 3.50 feet; and
3. South 21°19'02" West a distance of 8.05 feet to a point on said P.C.C. curb;

Thence along said P.C.C. curb for the following two (2) arcs, courses and distances:

1. South 32°31'29" East a distance of 40.46 feet to a point of curvature;
2. from a radial line which bears North 63°47'22" East, 14.90 feet along the arc of a non-tangent 15.00 foot radius curve to the left through a central angle of 56°54'45";

Thence along said access ramp for the following three (3) courses and distances:

1. North 17°36'28" East a distance of 5.13 feet;
2. North 63°09'24" East a distance of 4.00 feet;
3. South 61°51'54" East a distance of 7.55 feet;

Thence along said P.C.C. curb North 63°09'24" East a distance of 1.40 feet to the Easterly line of said Trust Parcel 5; thence along said Easterly line of Trust Parcel 5, North 26°50'36" West a distance of 270.45 feet to the True Point of Beginning.

Area 1 contains 7,711 square feet of land, more or less.

AREA 2:

COMMENCING at the Northwest corner of Lot 14 as shown on that certain Parcel Map filed for record in Book 44 of Parcel Maps, at Pages 151 through 155, inclusive, City and County of San Francisco Records; thence along Easterly Right-of-Way line of Terry Francois Boulevard, North 03°10'56" West a distance of 48.02 feet to the Southwest corner of the Pier 52/54 Paring Lot; thence along the South Line of said Pier 52/54 Paring Lot, North 86°49'04" East a distance of

157.60 feet to the True Point of Beginning; thence from said **TRUE POINT OF BEGINNING**, leaving said South Line of the Pier 52/54 Paring Lot along a Portland Cement Concrete (P.C.C.) curb as shown on those certain Improvement Plans for Mission Bay Park 21 prepared by RBF consulting, dated May 17, 2002, North 02°19'42" West a distance of 228.39 feet to an access ramp as shown on said Improvement Plans; thence along said access ramp for the following three (3) courses and distances:

1. North 83°24'21" East a distance of 7.16 feet;
2. North 27°05'45" East a distance of 4.00 feet; and
3. North 17°54'15" West a distance of 8.49 feet;

thence North 67°11'36" East a distance of 2.22 feet to a point on the Easterly line of said trust Parcel 5; thence along the prolongation of aforementioned line, North 67°11'36" East a distance of 3.00 feet to the back of the seawall as shown on said Improvement Plans; thence along the back of said seawall for the following five (5) courses and distances:

1. South 15°10'04" East a distance of 29.05 feet to a point on said Easterly line of Park P21;
2. Entering said Trust Parcel 5, South 15°10'04" East a distance of 70.73 feet to a point on said Easterly line Trust Parcel 5;
3. Leaving said Trust Parcel 5, South 15°10'04" East a distance of 25.17 feet;
4. South 02°09'54" East a distance of 50.49 feet to a point on said Easterly line of Trust Parcel 5;
5. Leaving said Easterly line of Trust Parcel 5, South 20°49'22" East a distance of 72.93 feet to the intersection of said seawall with prolongation of the South Line of said Pier 52/54 Paring Lot;

Thence along said Prolongation of the South Line of Pier 52/54 Paring Lot, South 86°49'04" West a distance of 23.14 feet to the Southeast corner of said Pier 52/54 Paring Lot; thence along the South Line of said Pier 52/54 Paring Lot, South 86°49'04" West a distance of 39.35 feet to the True Point of Beginning.

Area 2 contains 8,549 square feet of land, more or less.

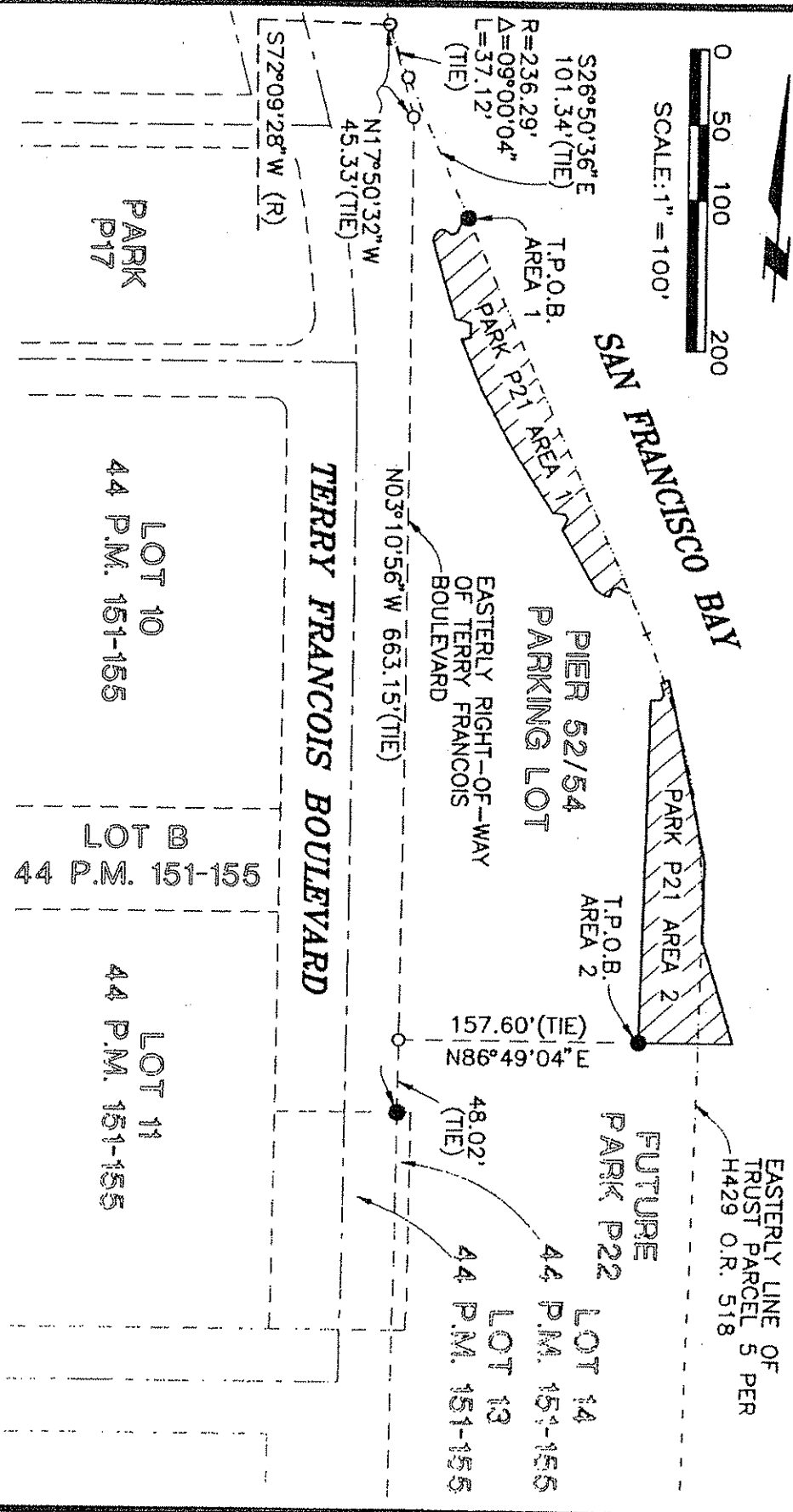
See Exhibit B-4-1, plat to accompany description, attached hereto and made a part of this description.

The Basis of Bearing for this description is the same as the basis of bearing shown on that certain Parcel Map filed for record in Book 44 of Parcel Maps, at Pages 151 through 155, inclusive, City and County of San Francisco Records.

LEGEND:
 P.O.C. POINT OF COMMENCEMENT
 T.P.O.B. TRUE POINT OF BEGINNING



0 50 100 200
 SCALE: 1" = 100'



DATE: 7/16/08
 BY: PJ

EXHIBIT "B-4-1"
 PLAT TO ACCOMPANY
 DESCRIPTION

MISSION BAY PARK P21
 CITY AND COUNTY OF SAN FRANCISCO
 STATE OF CALIFORNIA

SHEET 1
 OF
3 SHEET

LINE TABLE

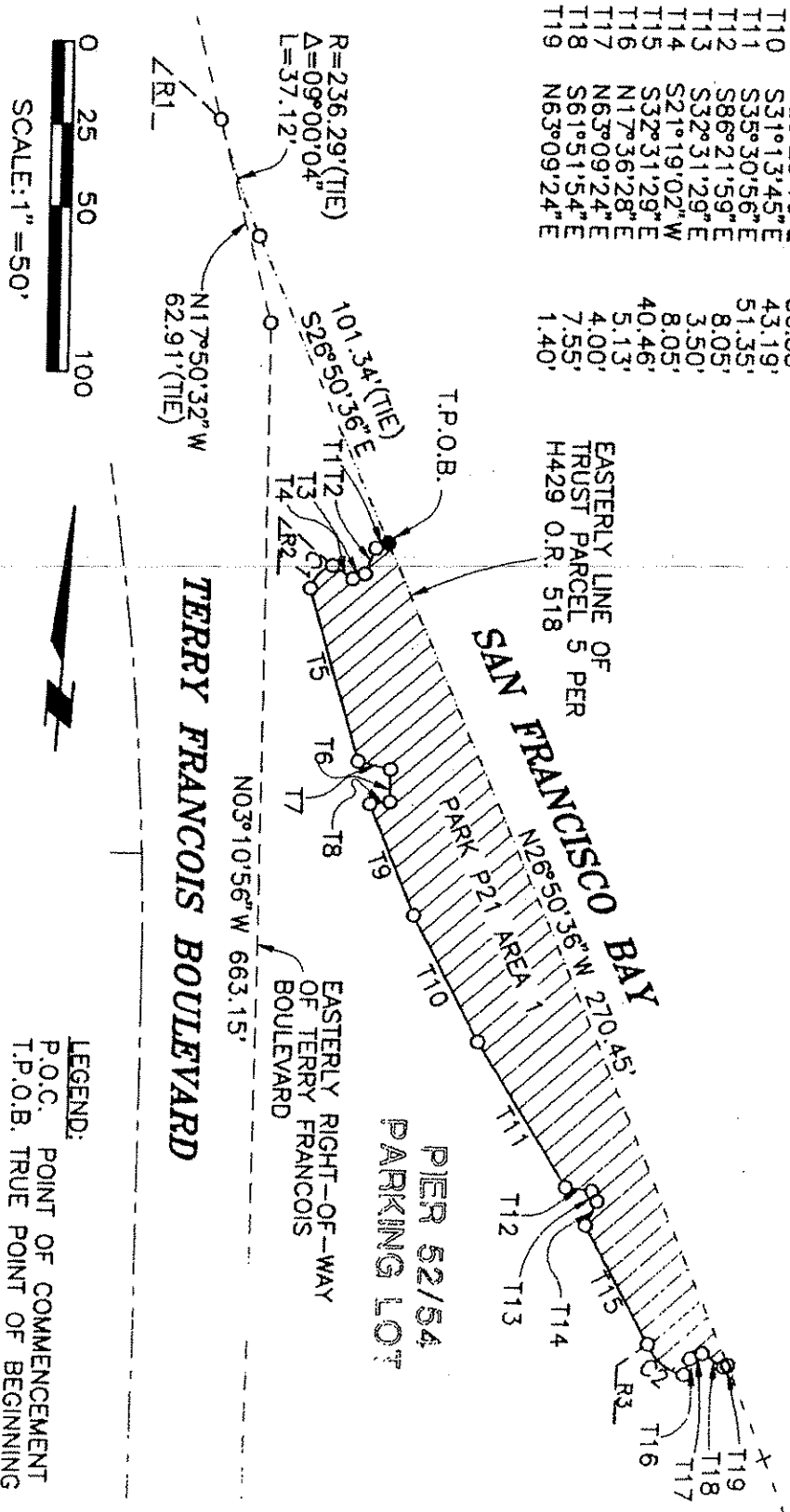
T1	S63°09'24"W	4.00'
T2	S18°09'24"W	8.49'
T3	S63°09'24"W	4.00'
T4	N60°32'00"W	7.21'
T5	S19°40'04"E	54.93'
T6	S79°40'04"E	10.00'
T7	S03°41'57"E	10.00'
T8	S80°18'55"W	6.00'
T9	S25°25'16"E	36.55'
T10	S31°13'45"E	43.19'
T11	S35°30'56"E	51.35'
T12	S86°21'59"E	8.05'
T13	S32°31'29"E	3.50'
T14	S21°19'02"W	8.05'
T15	S32°31'29"E	40.46'
T16	N17°36'28"E	5.13'
T17	N63°09'24"E	4.00'
T18	S61°51'54"E	7.55'
T19	N63°09'24"E	1.40'

CURVE TABLE

C1	R=10'	Δ=57°35'21"	L=10.05'
C2	R=15'	Δ=56°54'45"	L=14.90'

R1	S72°09'28"W	R=236.29'
R2	N20°58'36"W	R=10'
R3	S63°47'22"W	R=15'

RADIAL BEARING TABLE



LEGEND:
 P.O.C. POINT OF COMMENCEMENT
 T.P.O.B. TRUE POINT OF BEGINNING

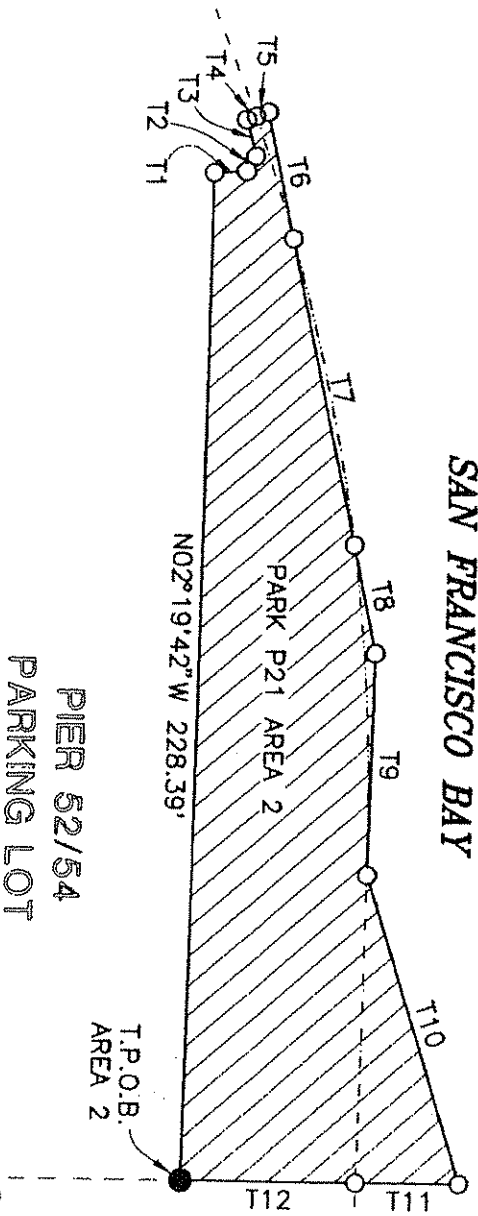
DATE: 7/16/08
 BY: PJ

EXHIBIT "B-4-1"
 PLAT TO ACCOMPANY
 DESCRIPTION

MISSION BAY PARK P21
 CITY AND COUNTY OF SAN FRANCISCO
 STATE OF CALIFORNIA

SHEET 2
 OF 3 SHEETS

SAN FRANCISCO BAY



LEGEND:
 P.O.C. POINT OF COMMENCEMENT
 T.P.O.B. TRUE POINT OF BEGINNING

LINE TABLE

T1	N83°24'21"E	7.16'
T2	N27°05'45"E	4.00'
T3	N17°54'15"W	8.49'
T4	N67°11'36"E	2.22'
T5	N67°11'36"E	3.00'
T6	S15°10'04"E	29.05'
T7	S15°10'04"E	70.73'
T8	S15°10'04"E	25.17'
T9	S02°09'54"E	50.49'
T10	S20°49'22"E	72.93'
T11	S86°49'04"W	23.14'
T12	S86°49'04"W	39.35'



TERRY FRANCOIS BOULEVARD

EASTERLY RIGHT-OF-WAY OF TERRY FRANCOIS BOULEVARD

EASTERLY LINE OF TRUST PARCEL 5 PER H429 O.R. 518

FUTURE PARK P22

SOUTH LINE OF PIER 52/54 PARKING LOT

LOT 14
 44 P.M. 451-155

P.O.C.
 48.02'(TIE)
 N03°10'56"W

DATE: 7/16/08
 BY: PJ

EXHIBIT "B-4-1"
 PLAT TO ACCOMPANY
 DESCRIPTION

MISSION BAY PARK P21
 CITY AND COUNTY OF SAN FRANCISCO
 STATE OF CALIFORNIA

SHEET 3
 OF 3 SHEETS

.....

**FIRST AMENDMENT TO
GROUND LEASE**

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

AND

REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

Mission Bay

**FIRST AMENDMENT TO
AGENCY GROUND LEASE**

THIS FIRST AMENDMENT TO AGENCY GROUND LEASE ("Amendment"), dated for reference purposes only as of June 22, 2006, by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, and with respect to all property subject to this Lease located within the jurisdiction of the Port Commission included within the definition of "Premises", as hereinafter set forth, the City acting by and through the San Francisco Port Commission, ("City") and the **REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO**, a public body corporate and politic of the State of California (together with any successor public agency designated by or pursuant to law, the "Agency"), is made with reference to the following facts:

RECITALS

- A. The City and the Agency entered into that certain Agency Ground Lease (the "Ground Lease") dated for reference purposes only as of November 16, 2001, to implement the improvement of open space, parks, or plazas as contemplated by the Land Transfer Agreements and the Plan Documents, including the North OPA and the South OPA, each as defined hereinbelow.
- B. On October 26, 1998, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay North Redevelopment Project ("Mission Bay North") by Ordinance No. 327-98, and on November 2, 1998, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay South Redevelopment Project ("Mission Bay South") by Ordinance No. 335-98 (collectively, the "Redevelopment Plans", and individually, the "Mission Bay North Redevelopment Plan" or "Mission Bay South Redevelopment Plan". The Redevelopment Plans were adopted in accordance with the procedures set forth in the Community Redevelopment Law of California (Sections 33000 et seq. of the Health and Safety Code).
- C. In connection with the implementation of the Redevelopment Plans, the Agency and Catellus Development Corporation ("Catellus") entered into the Mission Bay North Owner Participation Agreement (the "North OPA") and the Mission Bay South Owner Participation Agreement (the "South OPA"). The North OPA and the South OPA each set forth phasing principles that govern Catellus' and its permitted Transferees' (collectively "Owner") obligations under the North OPA and the South OPA to construct Infrastructure related to its development of the North Plan Area and the South Plan Area, including, without limitation, public open space, parks and plazas. The capitalized terms used herein shall have the meanings set forth in the North OPA or South OPA, as applicable (and as the context may require) unless otherwise defined herein.
- D. Also in connection with the implementation of the Redevelopment Plans, the City and Owner entered into (1) the Amended and Restated Mission Bay City Land Transfer Agreement

("CLTA"), (2) the Amended and Restated Agreement Concerning the Public Trust ("ACPT"), which included as a party the State of California, and (3) the Amended and Restated Mission Bay Port Land Transfer Agreement ("PLTA"). The CLTA, the PLTA, and the ACPT are collectively referred to as the "Land Transfer Agreements." In 1998, most of the lands in the North Plan Area and the South Plan Area (except the Campus Site area) were owned by either the City or Owner.

E. Pursuant to the CLTA and the PLTA, the City and Owner (i) exchanged certain lands as set forth in and in accordance with the terms and conditions of the CLTA and PLTA, and (ii) entered into a master lease (the "Master Lease"), under which the City leased back to Owner some of the lands the City received from Owner in the exchange together with certain other lands owned by the City. All of the lands subject to the Catellus Lease are in either the North Plan Area or the South Plan Area.

F. The Master Lease is structured to, among other things, require Owner to maintain control and responsibility over portions of the Premises (as that term is defined below) until (and shall terminate as to the applicable portions of the Premises at) either (i) such time as the Owner is prepared to construct public open space, parks or plazas thereon in accordance with the North OPA, or South OPA in the applicable portion of the Premises or (ii) such time as City, acting as the trust administrator of the Public Trust, elects to terminate applicable portions of the premises under the Master Lease in accordance with the terms thereof in order to convert the use of the applicable portions of the premises under the Master Lease to a permitted use under the Public Trust. The Ground Lease is designed to become effective over those portions of the Premises which are intended for uses as public open space, parks or plaza for which the Master Lease has been terminated, upon such termination of the Master Lease. As used herein, the term "Plan Documents" means the Redevelopment Plans, the North OPA, the South OPA, the Design for Development for Mission Bay North and Mission Bay South, the Mission Bay Subdivision ordinance and regulations adopted thereunder.

G. Catellus has entered into a restructuring transaction involving the Mission Bay project. On November 22, 2004, Catellus Land and Development Corporation, Catellus Operating Limited Partnership, Catellus Residential Group, Inc., Catellus Finance Company, LLC, and Mission Bay S26(a), LLC, each a seller and a subsidiary of Catellus, as sellers, entered into a Purchase Agreement with FOCIL Holdings, LLC and certain of its affiliated entities, as buyers, under which Catellus and its subsidiaries have sold a significant portion of Catellus' remaining urban and residential development assets in Mission Bay to FOCIL-MB, LLC ("FOCIL"). In connection with the Purchase Agreement referred to above, FOCIL and certain of its affiliated entities also entered into a Development Agreement with Catellus Urban Construction, Inc. and Catellus Commercial Development Corporation, each a subsidiary of Catellus, under which the FOCIL entities have engaged the Catellus subsidiaries to act as development manager for the transferred assets. In addition, Catellus Finance Company, LLC, a subsidiary of Catellus, entered into a loan agreement with a FOCIL entity, and CF Capital, LLC, a subsidiary of Catellus, entered into a separate loan agreement with other FOCIL entities, in each case to fund a portion of the purchase price for the transferred assets. The sale of the assets and the other transactions, contemplated by these agreements, closed on November 22, 2004. An Assignment, Assumption and Release document dated November 22, 2004 was recorded in the

San Francisco Official Records on December 1, 2004 as Document No. 2004-H859891-00.

G. Owner has met the conditions of Owner in the North OPA for the development of Parks NP1 and NP2 in Mission Bay North and in the South OPA for the development of Park P17 in Mission Bay South, to obligate the Agency to enter into an amendment to the Ground Lease.

H. Pursuant to the Plan Documents, the Land Transfer Agreements, and the Master Lease, the City and Agency wish to amend the Ground Lease to add the legal descriptions of Parks NP1 and NP2 in Mission Bay North and Park P17 in Mission Bay South to the Premises and attach such descriptions to the Ground Lease as part of Exhibit B

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Agency hereby agree to amend the Ground Lease as follows:

1. Exhibit B of the Ground Lease is hereby amended to add and incorporate the legal descriptions shown on Exhibit B-2 and Exhibit B-3 attached to this Amendment. Exhibit B-2 sets forth the legal descriptions to parks NP1 and NP2 in Mission Bay North, and Exhibit B-3 sets forth the legal description to park P17 in Mission Bay South.

2. Section 28 of the Ground Lease is hereby amended in its entirety to read as follows:

28. Notices. Except as otherwise expressly provided in this Lease or by Law, any and all notices or communications required or permitted by this Lease or by Law to be served on, given to or delivered to either party by the other party shall be in writing and shall be given by one of the following methods: (a) delivering the notice in person, (b) sending the notice by United States Mail, first class, postage prepaid, or sending the notice by overnight courier or mail, with postage prepaid, to the mailing address set forth below. Copies of all such notices or communications sent by either City or the Agency pursuant to this Lease to the other party shall also be sent concurrently to Owner. Subject to the restrictions set forth below and only for the convenience of the parties, copies of notices also may be given by telefacsimile to the fax number set forth below. Either party may change such party's mailing address or telefacsimile number at any time by giving written notice of such change to the other party in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Lease shall be deemed to be duly served, given, delivered, made or communicated on the date personal delivery actually occurs or, if mailed, on the date of deposit in the United States Mail. A person or party may not give official or binding notice by telefacsimile. Service of process at Agency's address set forth below or other address, notice of which is given in accordance with the terms of this Section 28, shall be valid and binding upon such party.

Address for City:

Acting by
And through
Its Board of
Supervisors:

Director of Property
City of San Francisco
25 Van Ness Avenue, Suite 401
San Francisco, CA 94102
FAX NO: (415) 552-9216
Telephone No: (415) 554-9880

Copy to:

City Attorney's Office
City of San Francisco
1 Dr. Carlton B. Goodlett Jr. Place, Room 234
San Francisco, CA 94102-4682
Attention: Finance/Real Estate Transaction Team
FAX NO: (415) 554-4755

Acting by
And through
Its Port:

Director of Real Estate
City of San Francisco
Pier 1
San Francisco, CA 94111
FAX NO: (415) 274-0578
Telephone No: (415) 274-0400

Copy to:

City Attorney's Office
Port of San Francisco
Pier 1
San Francisco, CA 94111
Attention: Robert Bryan
Deputy City Attorney
FAX NO: (415) 274-0494
Telephone No: (415) 274-0485

Address for Agency:

San Francisco Redevelopment Agency
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
FAX NO: (415) 749-2525
Telephone No: (415) 749-2400
Executive Director

Copy to:

Agency General Counsel's Office
San Francisco Redevelopment Agency
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
FAX NO: (415) 749-2590
Telephone No: (415) 749-2454

Address for Owner:

FOCIL-MB, LLC, a Delaware limited liability company
c/o Farallon Capital Management, L.L.C.
One Maritime Plaza, Suite 1325
San Francisco, CA 94111
Atten: Seth Hamalian
Richard Fried

Copy to:

Coblentz, Patch, Duffy & Bass, LLP
One Ferry Building, Suite 200
San Francisco, CA 94111
Atten: Joshua R. Steinhauer

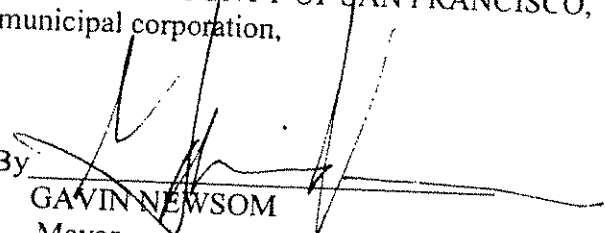
And to:

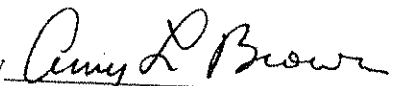
ProLogis
255 Channel Street
San Francisco, CA 94107
Atten: William Kennedy, First Vice President

3. Except as expressly modified by this Amendment, all of the terms and conditions of the Ground Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, CITY and Agency execute this Amendment at San Francisco, California, as of the date set forth above.


CITY:
CITY AND COUNTY OF SAN FRANCISCO,
municipal corporation,

By 
GAVIN NEWSOM
Mayor

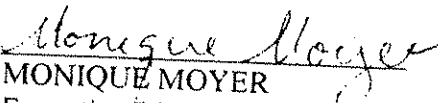
By 
Amy L. Brown
Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA,
City Attorney

By 
Deputy City Attorney
for the CITY

SAN FRANCISCO PORT COMMISSION

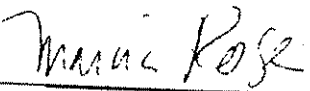
By 
MONIQUE MOYER
Executive Director

APPROVED AS TO FORM:

DENNIS J. HERRERA,
City Attorney

By 
Deputy City Attorney
for the PORT

AGENCY:
Redevelopment Agency
of the City and County of
San Francisco

By 
MARCIA ROSEN
Executive Director

APPROVED AS TO FORM:

JAMES B. MORALES,
General Counsel

By 
Deputy General Counsel

CONSENT

The undersigned, on behalf of Owner, in executing this Amendment for the sole purpose of approving the form of this Lease, as contemplated by the CLTA, the PLTA, and the Master Lease; provided, however, that nothing continued herein shall be deemed to impose any additional obligations or liabilities upon Owner under the Amendment other than as is already set forth in the Plan Documents and the Land Transfer Agreements, hereby consents to the foregoing Amendment.

FOCIL-MB, LLC, a Delaware limited liability company

By: Farallon Capital Management, L.L.C.,
its Manager

By: _____

Name:
Its:


Richard B. Fried
Managing Member

EXHIBIT "B-2"

(NP1 & NP2 PARKS)

EXHIBIT "B-2"
(NP1 & NP2 PARKS)

All that certain real property situated in the City and County of San Francisco, State of California, more particularly described as follows:

Being a portion of State Trust Parcel 1, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California. State Trust Parcel 1 being also shown on that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z, of Maps, at Pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

Park NP1

Beginning at the most southerly corner of Block 8708, Lot 4, as said Block and Lot are shown on that certain map entitled "FINAL MAP - Planned Development Mission Bay (N3-N3A)", recorded on March 15, 2001, in Book Z, of Maps, at Pages 175-178, in the Office of the Recorder of said City and County; thence, along the southeasterly line of said Lot 4, being also a boundary line of the above-said State Trust Parcel 1, North 46°18'07" East, 776.70 feet, to the southwesterly line of Fourth Street (82.50' wide), as shown on the above-said "Map of Mission Bay"; thence, along said southwesterly line, South 43°41'53" East, 60.00 feet, to the northwesterly line of Channel Street (200.00' wide), as shown on the above-said "Map of Mission Bay"; thence, along said northwesterly line, South 46°18'07" West, 776.70 feet, to the southeasterly prolongation of the southwesterly line of said Lot 4; thence, along said prolongation, North 43°41'53" West, 60.00 feet, to the **Point of Beginning**.

Containing 46,602 Sq. Ft., more or less.

Park NP2

Beginning at the most westerly corner of Block 8708, Lot 4, as said Block and Lot are shown on that certain map entitled "FINAL MAP - Planned Development Mission Bay (N3-N3A)", recorded on March 15, 2001, in Book Z, of Maps, at Pages 175-178, in the Office of the Recorder of the City and County of San Francisco, State of California; thence, along the southwesterly line of said Lot 4, South 43°41'53" East, 241.50 feet, to the northwesterly line of Channel Street (200.00' wide), as shown on the above-said "Map of Mission Bay"; thence, along said northwesterly line, South 46°18'07" West, 180.00 feet, to the southeasterly prolongation of the northeasterly line of Block 8707, Lot 5, as said Block and Lot are shown on that certain map entitled "FINAL MAP - Planned Development Mission Bay (N4A)", recorded on December 7, 2004, in Book AA, of Maps, at Pages 179-183; thence, along said prolongation, North 43°41'53" West, 241.50 feet, to northwesterly line of Street Vacation SV-28, as said Street was vacated by Ordinance 328-98, and recorded in

Book H429, Image 505, Official Records, in the Office of the Recorder of said City and County; thence, along said northwesterly line, North 46°18'07" East, 131.25 feet, to the northwesterly line of Street Vacation SV-26, as said Street was vacated by said Ordinance 328-98; thence, along said northwesterly line, North 46°18'07" East, 48.75 feet, to the **Point of Beginning**.

Containing 43,470 Sq. Ft., more or less.

Description approved by:



Bruce Storrs, L.S. 6914
My License Expires September 30, 2007
City and County Surveyor, San Francisco





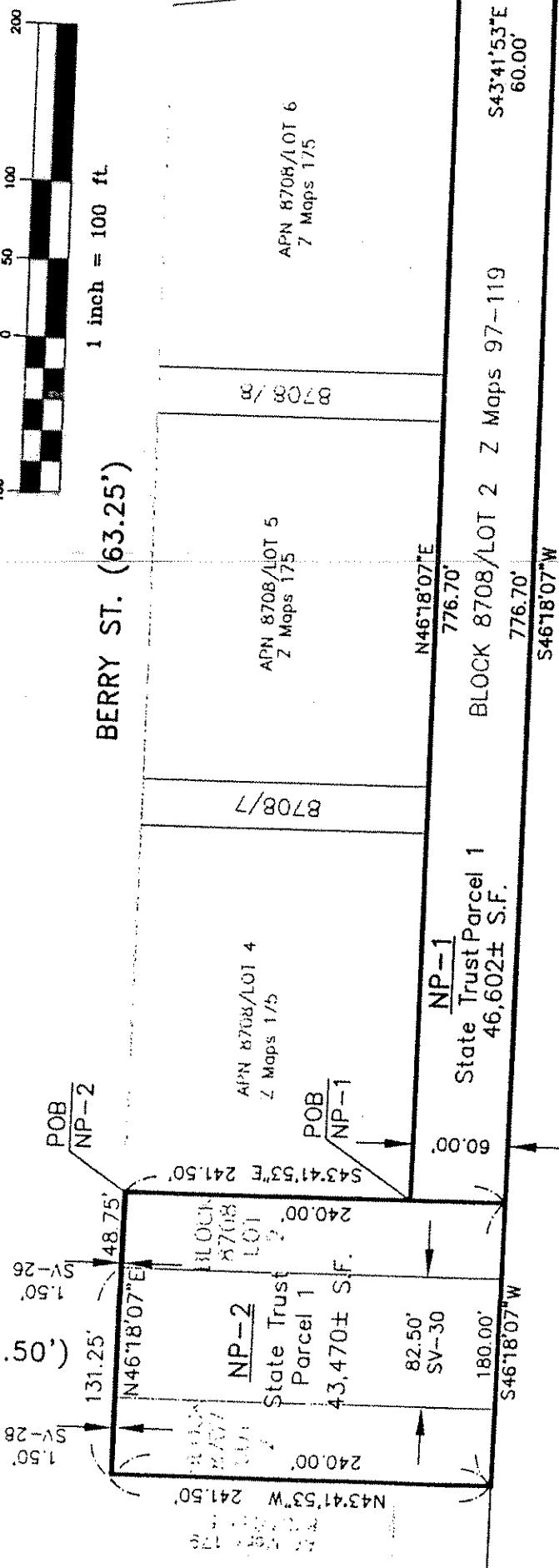
FOURTH STREET (82.50')

GRAPHIC SCALE



1 inch = 100 ft.

FIFTH STREET (82.50')

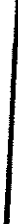





BERRY ST. (63.25')

BLOCK 8708/LOT 2 Z Maps 97-119

CHANNEL STREET (200.00')

LEGEND

-  Park Boundary
-  Lot Line
-  Point of Beginning
-  Street Vacation—H429 Image 505

MBTF

Mission Bay Task Force
30 Van Ness Ave.
Room 4200
San Francisco, Ca 94102

Mission Bay Project
San Francisco, California
Exhibit
Plat to Accompany
Legal Description

sheet 1
of
sheet 1

Date: 04/06/06

By: ttc

Exhibit "B-2.1"

Excepting therefrom the following reservations, the terms and uses of which are individually described as follows:

Combined Sewer Easement - The City and County of San Francisco reserves from the SFRA Ground Leased Parcel "B-2" a non-exclusive right to held by the City and County of San Francisco Public Utilities Commission and its permitted grantees, licensees, employees and contractors, in, upon, over and under that portion of the SFRA Ground Leased Parcel described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of an existing facilities and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of a combined sewer system.

Legal Description

All that real property situated in the City and County of San Francisco, State of California, described as follows:

Being a portion of State Trust Parcel 1, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California. State Trust Parcel 1 being also shown on that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z, of Maps, at Pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California

A strip of land 20 feet in width, lying 10 feet (measured at right angles) on each side of the centerline of the City and County of San Francisco Combined Box Sewer Facility and the 12-inch VCP Sewer, encased in concrete, as they now exists. Said easements are shown in their approximate location on the attached plat map "B-2.1" to be used for reference only.



FOURTH STREET (82.50')

00'09

APN 8705/LOT 7
Z Maps 175

APN 8705/LOT 6
Z Maps 175

BERRY ST. (63.25')

8708/8

APN 8708/LOT 6
Z Maps 175

APN 8708/LOT 5
Z Maps 175

776.70'

8708/7

APN 8708/LOT 4
Z Maps 175

State Trust Parcel 1
H429 Image 518

181.50'

BLOCK 8708/LOT 2 Z Maps 97 NP-1

776.70'

CHANNEL STREET

FIFTH STREET (82.50')

180.00'

7' X 9' SEWER ON PILES
12" VCP SEWER ENCASED IN CONCRETE

NP-2

241.50'

180.00'

Legend

Park Boundary

SV-30

Street Vacation-H429 Image 505

Lot Line

MBTF

Mission Bay Task Force
30 Van Ness Ave.
Room 4200
San Francisco, Ca 94102

Mission Bay Project
San Francisco, California
Exhibit "B-2.1"
Plot to Accompany
Legal Description

sheet 1
of
sheet 1

Date: 04/06/06

Scale: 1" = 100'

Prepared by: [illegible]
Date: [illegible]
Scale: [illegible]

Combined Sewer Electrical Easements - The City and County of San Francisco reserves from the SFRA Ground Leased Parcel "B-2" a non-exclusive right to held by the City and County of San Francisco Public Utilities Commission and its permitted grantees, licensees, employees and contractors, in, upon, over and under that portion of the SFRA Ground Leased Parcel described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of an existing facilities and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of a combined sewer electrical system.

Legal Description

All that real property situated in the City and County of San Francisco, State of California, described as follows:

Being a portion of State Trust Parcel 1, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California. State Trust Parcel 1 being also shown on that certain map entitled "Map of Mission Bay", recorded on July 19, 1999 in Book Z, of Maps, at Pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

Multiple areas, 15 feet in width, lying 7.5 feet (measured at right angles) on each side of the centerline of each electrical facility, each of which will be required for access and maintenance of combined sewer electrical facilities extending throughout the property at various locations for different distances and centered around said facilities as they exist, or may exist in the future, and as generally shown on the improvement plans prepared for Catellus Development Corporation (as Permittee) by Freyer & Laureta-Civil Engineers, entitled "Mission Creek Park, NP1-NP2 Bank Stabilization & Mitigation, Trail Plan", dated May 09, 2003, approved by the Director, San Francisco Department of Public Works, on August 04, 2003, permit number 03IE-580, and as may be further amended and approved from time to time by or on behalf of the Director. Said easements are shown in their approximate locations on the attached plat map "B-2.2" to be used for reference only.

FOURTH STREET (82.50')

00'09"



APN 8705/LOT 7
Z Maps 175

APN 8705/LOT 6
Z Maps 175

BERRY ST. (63.25')

APN 8708/LOT 6
Z Maps 175

8708/8

APN 8708/LOT 5
Z Maps 175

776.70'

8708/7

APN 8708/LOT 4
Z Maps 175

State Trust Parcel 1
H429 Image 518

181.50'

NP-2

NP-1

776.70'

BLOCK 8708/LOT 2 Z Maps 97

CHANNEL STREET

FIFTH STREET (82.50')

180.00'

180.00'

Sewer
Electrical

Legend

Park Boundary

SV-30

Street Vacation—H429 Image 505
Lot Line

MBTF

Mission Bay Task Force
30 Van Ness Ave.
Room 4200
San Francisco, Ca 94102

Mission Bay Project
San Francisco, California
Exhibit "B-2.2"
Plat to Accompany
Legal Description

sheet 1
of
sheet 1

ate: 04/06/06

flc

MUNI Duct Bank Easement - The City and County of San Francisco reserve from the SFRA Ground Leased Parcel "B-2" the non-exclusive right to be held by the City and County of San Francisco Metropolitan Transit Authority, MTA, and its permittees, grantees, licensees, employees, and contractors, in, upon, over and under that portion of the SFRA Ground Leased Parcel described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of future MUNI duct bank facilities and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of a light rail and bus transportation systems.

Legal Description

All that real property situated in the City and County of San Francisco, State of California, described as follows:

Being a portion of State Trust Parcel 1, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California. State Trust Parcel 1 being also shown on that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z, of Maps, at Pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

Two areas, each 15 feet in width, lying 7.50 feet (measured at right angles) on each side of the centerline of the MUNI Duct Bank Facility as it now exists, as generally shown on the improvement plans prepared by MTA, entitled "Third Street Light Rail Transit Mission Creek and Islais Creek Duct Banks" "contract MR #1148" and approved by the Director of Transportation, MTA, on April 5, 2001, and as may be further amended and approved from time to time by or on behalf of the Director. Said easements are shown in their approximate locations on the attached plat map B-2.3 to be used for reference only.

FOURTH STREET (82.50')

00'09



APN 8705/LOT 7
Z Maps 175

APN 8705/LOT 6
Z Maps 175

BERRY ST. (63.25')

MUNI UTILITY
DUCT BANKS
APN 8705/LOT 6
Z Maps 175

Muni duct bank
Easements

APN 8708/LOT 5
Z Maps 175

776.70'

8708/7

APN 8705/LOT 4
Z Maps 175

State Trust Parcel 1
H429 Image 518

Block 8705/LOT 2 Z Maps 97

NP-1

776.70'

CHANNEL STREET

FIFTH STREET (82.50')

180.00'

NP-2

180.00'

Legend

Park Boundary

SV-30

Street Vacation-H429 Image 505

Lot Line

Site: 04/06/06 MBTF

Mission Bay Task Force
30 Van Ness Ave.
Room 4200
San Francisco, Ca 94102

Mission Bay Project
San Francisco, California
Exhibit "B-2.3"
Plat to Accompany
Legal Description

sheet 1

of

sheet 1

APN 8705/LOT 7
Z Maps 175

241.50'

Storm Drain Easement - The City and County of San Francisco reserves from the SFRA Ground Leased Parcel "B-2" the non-exclusive right to be held by the City and County of San Francisco Public Utilities Commission and its permittees, grantees, licensees, employees, and contractors, in, upon, over and under that portion of the SFRA Ground Leased Parcel described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of future storm drain sewer facilities and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of storm drain sewer systems.

Legal Description

All that real property situated in the City and County of San Francisco, State of California, described as follows:

Being a portion of State Trust Parcel 1, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California. State Trust Parcel 1 being also shown on that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z, of Maps, at Pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

A strip of land 15 feet in width, lying 7.5 feet (measured at right angles) on each side of the centerline and 7.5 feet southerly of the storm drain facilities, which will be required for access and maintenance of City storm drain facility extending onto the property and centered around said facilities as it now exist, or may exist in the future, and as generally shown on the improvement plans prepared for Catellus Development Corporation (as Permittee) by Freyer & Laureta-Civil Engineers, entitled "Mission Creek Park, NP1-NP2 Bank Stabilization & Mitigation, Trail Plan", dated May 09, 2003, approved by the Director, San Francisco Department of Public Works, on August 04, 2003, permit number 03IE-580, and as may be further amended and approved from time to time by or on behalf of the Director. Said easement is shown in its approximate location on the attached plat map B-2.4 to be used for reference only.

FOURTH STREET (82.50')

.00:09



APN 8705/LOT 7
Z Maps 175

APN 8705/LOT 6
Z Maps 175

BERRY ST. (63.25')

APN 8708/LOT 6
Z Maps 175

8708/3

APN 8708/LOT 5
Z Maps 175

776.70'

8708/7

APN 8708/LOT 4
Z Maps 175

State Trust Parcel 1
H429 Image 518

APN 8708/LOT 2
Z Maps 97

776.70'

CHANNEL STREET

FIFTH STREET (82.50')

SV-28

SV-26

NP-2

180.00'

241.50'

APN 8704
Z Maps 175

Park Boundary

Street Vacation-H429 Image 505

Lot Line

Legend

SV-30

Date: 04/06/08

MBTF
Mission Bay Task Force
30 Van Ness Ave.
Room 4200
San Francisco, Ca 94102

Mission Bay Project
San Francisco, California
Exhibit "B-2.4"
Plat to Accompany
Legal Description

sheet 1
of
sheet 1

Water line Easement - The City and County of San Francisco reserve from the SFRA Ground Leased Parcel "B-2" the non-exclusive right to be held by the City and County of San Francisco Public Utilities Commission and its permittees, grantees, licensees, employees, and contractors, in, upon, over and under that portion of the SFRA Ground Leased Parcel described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of water lines, fire hydrants and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of water lines and fire hydrants.

Legal Description

All that certain real property situated in the City and County of San Francisco, State of California, more particularly described as follows:

Being a portion of State Trust Parcel 1, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California. State Trust Parcel 1 being also shown on that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z, of Maps, at Pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

Multiple areas, 15 feet in width, lying 7.50 feet (measured at right angles) on each side of the centerline of the water lines, each of which will be required for access and maintenance of City water line and fire hydrant facilities extending throughout the property at various locations for different distances and centered around said facilities as they exist or may exist in the future, and as generally shown on the improvement plans prepared for Catellus Development Corporation (as Permittee) by Freyer & Laureta-Civil Engineers, entitled "Mission Creek Park, NP1-NP2 Bank Stabilization & Mitigation, Trail Plan", dated May 09, 2003, approved by the Director, San Francisco Department of Public Works, on August 04, 2003, permit number 03IE-580, and as may be further amended and approved from time to time by or on behalf of the Director. Said easements are shown in their approximate locations on the attached plat map B-2.5 to be used for reference only.

FOURTH STREET (82.50')



APN 8705/LOT 7
Z Maps 175

APN 8705/LOT 6
Z Maps 175

BERRY ST. (63.25')

180.00'

NP-2

241.50'

APN 8708/LOT 4
Z Maps 175

State Trust Parcel 1
H429 Image 518

8708/7

APN 8708/LOT 5
Z Maps 175

8708/8

APN 8708/LOT 6
Z Maps 175

EX. 12" LPW

776.70'

.00'09

NEW FH LOCATION

NEW FH WITH SUCTION INLET (STA: 20+75 +/-)

RELOCATE EX. FH TO 1' OFFSET FROM EDGE OF NEW ESPLANADE

RELOCATE EX. FH TO 1' OFFSET FROM EDGE OF NEW ESPLANADE

RELOCATE EX. FH TO 1' OFFSET FROM EDGE OF NEW ESPLANADE

RELOCATE EX. FH TO 1' OFFSET FROM EDGE OF NEW ESPLANADE

NEW FH LOCATION BLOCK 8705/1.012 Z Maps 97

Park Boundary

Street Vacation-H429 Image 505
Lot Line

CHANNEL STREET

Legend

SV-30

MBTF

Mission Bay Task Force
30 Van Ness Ave.
Room 4200
San Francisco, Ca 94102

te: 04/06/08

titc

Mission Bay Project
San Francisco, California
Exhibit "B-2.5"
Plat to Accompany
Legal Description

Sheet 1
of
Sheet 1

Emergency Vehicle Access Easement - The City and County of San Francisco (the "City") reserve from the SFRA Ground Leased Parcel "B-2" the non-exclusive right over a minimum twenty foot (20') wide area within that portion of the SFRA Ground Leased Parcel described herein, to the extent necessary for emergency vehicular access, ingress and egress. The City further reserves third party beneficiary rights for enforcement of said Emergency Vehicle Access Easement.

Legal Description

All that certain real property situated in the City and County of San Francisco, State of California, more particularly described as follows:

Being a portion of State Trust Parcel 1, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California. State Trust Parcel 1 being also shown on that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z, of Maps, at Pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

A stripe of land, 20 feet in width within that portion of the SFRA Ground Leased Parcel described herein, to the extent necessary for emergency vehicular access, ingress and egress, and as generally shown on the improvement plans (drawing L3.0) prepared for Catellus Development Corporation (as Permittee) by Freyer & Laureta-Civil Engineers, entitled "Mission Creek Park, NP1-NP2 Bank Stabilization & Mitigation, Trail Plan", dated May 09, 2003, approved by the Director, San Francisco Department of Public Works, on August 04, 2003, permit number 03IE-580, and as may be further amended and approved from time to time by or on behalf of the Director.

As to each of the reservations set forth in this Exhibit B-2.1, City shall give the Agency written notice five (5) business days prior to any entrance by City or any of City's officers, agents, employees, contractors (including all sub-tier contractors), and consultants upon any of the easement areas for the purposes set forth herein; provided, however, in the event of an emergency, no prior notice shall be required but City shall provide notice retroactively within forty-eight (48) hours of any such entry. The written notice shall state (i) the purpose of such entry, (ii) the date, time and estimated duration of such entry, and (iii) a detailed description of the type of activities City will undertake during such entry. If, after receiving such written notice, the Agency determines that City's entrance upon any portion of the easement areas involves any excavation within such easement areas or otherwise will cause a significant disruption of the use of the Premises for the purposes intended by this Ground Lease, all as reasonably determined by the Agency, the Agency may require City to modify the timing of City's entry or to undertake other measures (including without limitation, the restoration or repair of any portion of the easement areas damaged by City's entry thereon) to ensure the safety of and the public's use of the Premises and to mitigate other adverse effects upon the easement areas and the Premises.

Description approved:

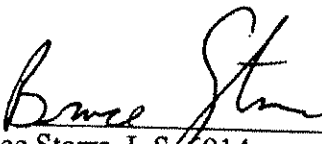
By: 
Bruce Storrs, L.S. 6914
My License Expires September 30, 2007
City and County Surveyor, San Francisco



EXHIBIT "B-3"

(P17 PARK)

EXHIBIT "B-3"
(P17 PARK)

All that certain real property situate in the City and County of San Francisco, State of California, more particularly described as follows:


Being a portion of State Trust Parcel 5 as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518 of Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California.

All street lines and Assessor's Blocks/Lots herein mentioned are in accordance with that certain map entitled "Final Map-Planned Development Mission Bay (9-9A and 10-10A)", recorded on May 31, 2005, in Book BB, of Maps, at pages 6-10, in the Office of the Recorder of the City and County of San Francisco, State of California.

Commencing at the southeasterly corner of Block 8720/Lot 17, as shown on said Final Map; thence, along the easterly extension of the southerly line of said Lot 17, North $86^{\circ}49'04''$ East, 98.32 feet; thence, South $03^{\circ}10'56''$ East, 35.25 feet, to the **TRUE POINT OF BEGINNING** of this description, said point also being the beginning of a non-tangent curve concaved to the west, from which the radius point of said non-tangent curve bears, South $73^{\circ}45'40''$ West, 940.33 feet; thence, along the arc of said non-tangent curve, southerly, 156.94 feet, through a central angle of $09^{\circ}33'46''$, to the being the beginning of a non-tangent curve concaved to the north, from which the radius point of said non-tangent curve bears, North $22^{\circ}42'17''$ West, 19.50 feet; thence, along the arc of said non-tangent curve, westerly, 7.33 feet, through a central angle of $21^{\circ}31'42''$; thence South $86^{\circ}49'04''$ West, 304.46 feet, to the being the beginning of a tangent curve concaved northeasterly, from which the radius point of said tangent curve bears, North $03^{\circ}10'56''$ West, 14.50 feet; thence, along the arc of said tangent curve, westerly and northerly, 22.78 feet, through a central angle of $90^{\circ}00'00''$; thence, North $03^{\circ}10'56''$ West, 101.25 feet, to the beginning of a tangent curve concaved southeasterly, from which the radius point of said tangent curve bears, North $86^{\circ}49'04''$ East, 14.50 feet; thence, along the arc of said tangent curve, northerly and easterly, 22.78 feet, through a central angle of $90^{\circ}00'00''$; thence, North $86^{\circ}49'04''$ East, 291.02 feet to the **TRUE POINT OF BEGINNING**.

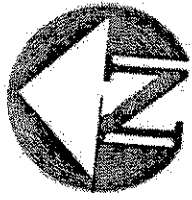
Containing 0.947 Acres, more or less.

Description approved by:


Bruce Storrs, L.S. 6914

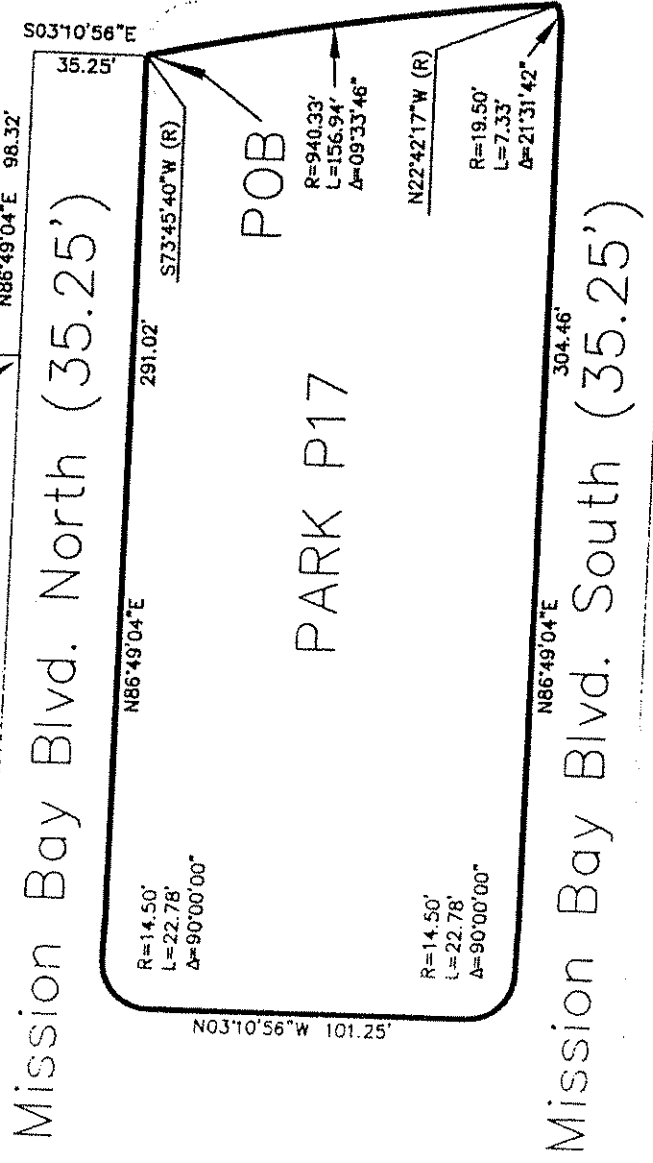
My License Expires September 30, 2007





SCALE: 1" = 60'

APN 8720/17 POC
(Block 9A)
Park P18



APN 8721/10
(Block 26a)

te: 04/12/06

MBTF
Mission Bay Task Force
30 Van Ness Ave.
Room 4200
San Francisco, Ca 94102

Mission Bay Project
San Francisco, California
Park P17
Exhibit to Accompany Legal Description

sheet 1
of
sheet 1

Exhibit "B-3.1"

Excepting therefrom the following reservations, the terms and uses of which are individually described as follows:

Legal Description

Storm Drain Easement - The City and County of San Francisco reserves from the SFRA Ground Leased Parcel "B-3" a temporary, non-exclusive right to be held by the City and County of San Francisco Public Utilities Commission and its permittees, grantees, licensees, employees, and contractors, in, upon, over and under that portion of the SFRA Ground Leased Parcel described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of future storm drain sewer facilities and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of storm drain sewer systems.

Legal Description

All that real property situated in the City and County of San Francisco, State of California, described as follows:

Being a portion of State Trust Parcel 5 as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518 of Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California.

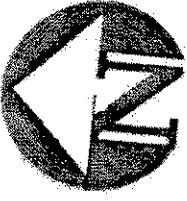
A strip of land, 15 feet in width, lying 7.5 feet (measured at right angles) on each side of the centerline of the existing storm drain facilities, which will be required for temporary access and maintenance of City storm drain facilities and centered around the storm drain facilities as it now exists or may exist in the future. Said easement is shown in its approximate location on the attached plat map B-3.1 to be used for reference only.

As to the reservation set forth in this Exhibit B-3.1, City shall give the Agency written notice five (5) business days prior to any entrance by City or any of City's officers, agents, employees, contractors (including all sub-tier contractors), and consultants upon any of the easement areas for the purposes set forth herein; provided, however, in the event of an emergency, no prior notice shall be required but City shall provide notice retroactively within forty-eight (48) hours of any such entry. The written notice shall State (i) the purpose of such entry, (ii) the date, time and estimated duration of such entry, and (iii) a detailed description of the type of activities City will undertake during such entry. If, after receiving such written notice, the Agency determines that City's entrance upon any portion of the easement areas involves any excavation within such easement areas or otherwise will cause a significant disruption of the use of the Premises for the purposes intended by this Ground Lease, all as reasonably determined by the Agency, the Agency may require City to modify the timing of City's entry or to undertake other measures (including without limitation, the restoration or repair of any portion of the easement areas damaged by City's entry thereon) to ensure the safety of and the public's use of the Premises and to mitigate other adverse effects upon the easement areas and the Premises.

The above Legal Description and Plat Map are approved.

By: Bruce Storrs
Bruce Storrs, L.S. 6914
My License Expires September 30, 2007
City and County Surveyor, San Francisco





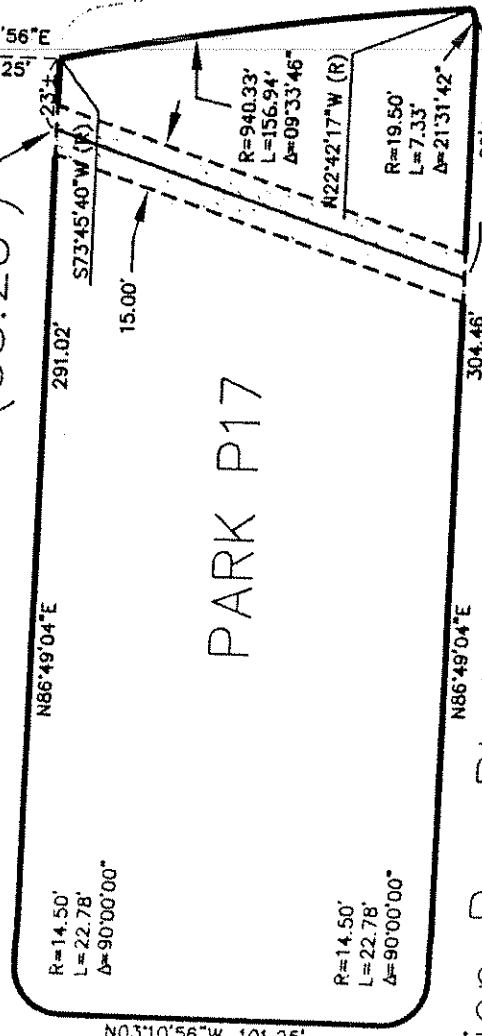
SCALE: 1" = 60'

APN 8720/17
(Block 9A)

Park P18

POC

Mission Bay Blvd. North (35.25') POB



Mission Bay Blvd. South (35.25')

TERRY A. FRANCIOS BLVD.

APN 8721/10
(Block 26a)

LEGEND

- Park Boundary
- Lot Line
- Point of Commencement
- Point of Beginning
- POC
- POB

te: 5/21/06

MBTF
Mission Bay Task Force
30 Van Ness Ave.
Room 4200
San Francisco, Ca 94102

Mission Bay Project
San Francisco, California
EXHIBIT "B-3.1"
Plat to Accompany Legal Description

sheet 1
of
sheet 1

GROUND LEASE

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

AND

REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

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AGENCY GROUND LEASE

THIS AGENCY GROUND LEASE ("Lease"), dated for reference purposes only as of November 16, 2001 by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, and with respect to all property subject to this Lease located within the jurisdiction of the Port Commission included within the definition of "Premises", as hereinafter set forth, the City acting by and through the San Francisco Port Commission, ("City") and the **REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO**, a public body corporate and politic of the State of California (together with any successor public agency designated by or pursuant to law, the "Agency"), is made with reference to the following facts:

RECITALS

A. On October 26, 1998, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay North Redevelopment Project ("Mission Bay North") by Ordinance No. 327-98, and on November 2, 1998, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay South Redevelopment Project ("Mission Bay South") by Ordinance No. 335-98 (collectively, the "Redevelopment Plans", and individually, the "Mission Bay North Redevelopment Plan" or "Mission Bay South Redevelopment Plan". The Redevelopment Plans were adopted in accordance with the procedures set forth in the Community Redevelopment Law of California (Sections 33000 et seq. of the Health and Safety Code).

B. The Redevelopment Plans for Mission Bay North and Mission Bay South provide for the redevelopment, rehabilitation and revitalization of the North Plan Area and the South Plan Area, respectively, as those terms are defined in the Mission Bay North Redevelopment Plan and the Mission Bay South Redevelopment Plan. The South Plan Area also includes an approximately forty-three (43) acre campus site (the "Campus Site") for the University of California, San Francisco.

C. In connection with the implementation of the Redevelopment Plans, the Agency and Catellus Development Corporation entered into the Mission Bay North Owner Participation Agreement (the "North OPA") and the Mission Bay South Owner Participation Agreement (the "South OPA"). The North OPA and the South OPA each set forth phasing principles that govern Catellus Development Corporation's and its permitted Transferee's under the North OPA and the South OPA (collectively "Owner") obligations to construct Infrastructure related to its development of the North Plan Area and the South Plan Area, including, without limitation, public open space, parks and plazas. The capitalized terms used herein shall have the meanings set forth in the North OPA or South OPA, as applicable (and as the context may require) unless otherwise defined herein.

D. Also in connection with the implementation of the Redevelopment Plans, the City and

Owner entered into (1) the Amended and Restated Mission Bay City Land Transfer Agreement ("CLTA"), (2) the Amended and Restated Agreement Concerning the Public Trust ("ACPT"), which included as a party the State of California, and (3) the Amended and Restated Mission Bay Port Land Transfer Agreement ("PLTA"). The CLTA, the PLTA, and the ACPT are collectively referred to as the "Land Transfer Agreements." Most of the lands in the North Plan Area and the South Plan Area (except the Campus Site area) are currently owned by either the City or Owner.

E. Pursuant to the CLTA and the PLTA, the City and Owner (i) exchanged certain lands as set forth in and in accordance with the terms and conditions of the CLTA and PLTA, and (ii) entered into a master lease (the "Catellus Lease"), under which the City leased back to Owner some of the lands the City received from Owner in the exchange together with certain other lands owned by the City. All of the lands subject to the Catellus Lease are in either the North Plan Area or the South Plan Area.

F. Under the North OPA and the South OPA, the Owner's construction of the Infrastructure (as defined below) described in the Infrastructure Plan (attached to the North OPA and the South OPA, respectively) for the North Plan Area and the South Plan Area (including the public open space, parks, and plazas to be constructed as part of the Improvements) will be in Major Phases, the development of which Major Phases shall be in such order as the Owner deems appropriate.

G. In accordance with the applicable Financing Plan, the Agency will be establishing community facilities districts (collectively, "CFDs", and individually, a "CFD") for the North Plan Area and the South Plan Area, respectively, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended. The CFDs for the North Plan Area and the South Plan Area will each issue bonds to permit the financing of Infrastructure (including the public open space, parks and plazas) under the applicable Infrastructure Plan before development in the North Plan Area or the South Plan Area (as the case may be) generates tax increment which may be applied for such purpose. Each of the Financing Plans also provides for the Agency to form CFDs for the purpose of collecting monies to pay for ongoing costs of operation, maintenance, and repair of Open Space Parcels in the North Plan Area and the South Plan Area. Tax increment from the applicable North Plan Area or the South Plan Area and/or the issuance of bonds secured by a pledge of such increment will then be used to make payments on indebtedness of each of the CFDs, refund or defease each of the CFDs' indebtedness, or pay or otherwise reimburse directly the costs of Infrastructure (including the public open space, parks and plazas), or a combination of the foregoing, all as further provided in the applicable Financing Plan for the North Plan Area or the South Plan Area.

H. The Catellus Lease is structured to, among other things, require Owner to maintain control and responsibility over portions of the Premises (as that term is defined below) until (and shall terminate as to the applicable portions of the Premises at) either (i) such time as the Owner is prepared to construct public open space, parks or plazas thereon in accordance with the North OPA, or South OPA in the applicable portion of the Premises or (ii) such time as City, acting as the trust administrator of the Public Trust, elects to terminate applicable portions of the premises under the Catellus Lease in accordance with the terms thereof in order to convert the

use of the applicable portions of the premises under the Catellus Lease to a permitted use under the Public Trust. This Lease shall become effective over the portion of the Premises which is intended for uses as public open space, parks or plaza for which the Catellus Lease has been terminated, upon such termination of the Catellus Lease.

I. Pursuant to the Catellus Lease, the CLTA and the PLTA, the City and the Agency are entering into this Lease to implement the improvement of open space, parks, or plazas as contemplated by the Land Transfer Agreements and the Plan Documents, including the North OPA and the South OPA.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Agency hereby agree to the following:

1. **Definitions** For purposes of this Lease, capitalized terms used herein shall have the meanings set forth in the North OPA and the South OPA unless otherwise defined hereinbelow:

1.1 "**ACPT**" shall have the meaning set forth in Recital D of this Lease.

1.2 "**Agency Leasehold Parcels**" has the meaning set forth in the PLTA and is depicted on Exhibit A, attached hereto and made a part hereof.

1.3 "**Agency Lease Notice**" means the Agency Lease Notice as specified in Section 2.1 hereof.

1.4 "**Agents**" means, when used with reference to either party hereto, the officers, directors, employees, agents and contractors of such party, and their respective heirs, legal representatives, successors and assigns.

1.5 "**Alterations**" means any alterations, installations or additions to any Improvements or to the Premises, exclusive of activities related to the customary maintenance, repair and replacement of Improvements or the Premises consistent with the applicable Infrastructure Plan and other related Plan Documents.

1.6 "**Arts Commission**" shall have the meaning set forth in Section 9(b) of this Lease.

1.7 "**Artwork**" means works of art, including sculpture, bas-relief, murals, mosaics, decorative water features, tapestries or other art works placed upon the Premises.

1.8 "**Base Rent**" means the Base Rent specified in Section 3.1 hereof.

1.9 "**Board**" means the Board of Supervisors of the City and County of San Francisco.

- 1.10 "Campus Site" means the Campus Site as specified in Recital B hereof.
- 1.11 "Catellus Lease" shall have the meaning set forth in Recital E of this Lease.
- 1.12 "CLTA" shall have the meaning set forth in Recital D of this Lease.
- 1.13 "CFD" shall have the meaning set forth in Recital G of this Lease.
- 1.14 "Commencement Date" means the date on which the Term of this Lease commences as specified in Section 4 hereof.
- 1.15 "Effective Date" means the Effective Date as specified in Section 2 hereof.
- 1.16 "Environmental Laws" means any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of courts ordinances, rules, codes, orders, decrees, directives, guidelines, plans, risk management plans, recorded property covenants and/or restrictions, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future relating to the environment or to any Hazardous Substances (including, without limitation, the Risk Management Plan for the Mission Bay Area as approved by the Regional Water Quality Control Board, all Environmental Covenants and Restrictions on Property, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 *et seq.*) ("CERCLA")), which are or become applicable to Agency or the Premises and/or the North Plan Area and South Plan Area.
- 1.17 "Expiration Date" means the Expiration Date specified in Section 4 hereof.
- 1.18 "Financing Plan" shall have the meaning set forth in Recital G of this Lease.
- 1.19 "Handle" or "Handling" means to use, generate, process, produce, package, treat, store, emit, discharge, transport or dispose.
- 1.20 "Hazardous Substance" shall mean Hazardous Substance as defined in the North OPA or the South OPA, as applicable.
- 1.21 "Improvements" means Improvements as defined in the North OPA or the South OPA, as applicable.
- 1.22 "Infrastructure" shall have the meaning defined in the North OPA or South OPA, as applicable.
- 1.23 "Infrastructure Plan" shall have the meaning set forth in Recital F of this Lease.
- 1.24 "Invitees" when used with respect to either party means the clients, customers, invitees, guests, members, licensees, assignees and subtenants of either party, including members of the general public using the Premises.

1.25 "Laws" means all laws, statutes, ordinances, resolutions, regulations, policies, judicial decisions, proclamations, orders or decrees of any municipal, county, state or federal government or the departments, courts, commissions, boards and officers thereof, or other governmental or regulatory authority with jurisdiction over the Premises or any portion thereof, including, without limitation, all Environmental Laws, and the Port and City Park Codes or any portion thereof, if applicable.

1.26 "Litigation Force Majeure" means any action or proceeding before any court, tribunal, arbitration panel, or other judicial, adjudicative or legislative decision-making body, including any administrative appeal, brought by a third party, (a) which seeks to challenge the validity of any action taken by City or Agency in connection with this Lease, including City or Agency's approval, execution, and delivery of this Lease and its performance hereunder, or of any resolution of, or other action by, the Redevelopment Agency Commission or City's Board of Supervisors, approving Agency's or City's or Port Commissions' execution and delivery of this Lease, the performance of any action required or permitted to be performed by Agency or City hereunder, or any findings upon which any of the foregoing are predicated, or (b) which asserts a claim to any ownership or possessory interest in the Premises adverse to that of City or Agency, or (c) which seeks to restrain, enjoin, condition, prohibit, delay, halt, hinder or prevent construction of the Improvements. Performance by a party hereunder shall be deemed delayed or made impossible by virtue of Litigation Force Majeure during the pendency thereof, and until a judgment, order, or other decision resolving such matter in favor of the party whose performance is delayed has become final and unappealable, provided that (x) the party proceeds with due diligence to defend such action or proceeding or take other appropriate measures to resolve any dispute that is the subject of such action or proceeding, and (y) the Litigation Force Majeure affects the Premises or portion thereof on which the obligation to perform is based. Under no circumstances shall the delay attributable to an event of Litigation Force Majeure extend beyond one (1) year, unless such event of Litigation Force Majeure arises primarily from (i) a procedural defect in Agency or City proceedings, (ii) Agency or City taking any action beyond its powers, (iii) Agency or City taking any action constituting an abuse of discretion, or (iv) after commencement of construction of the Improvements on the Premises.

1.27 "Maintenance CFD" shall have the meaning set forth in Section 10.1 of this Lease.

1.28 "Mission Bay North" shall have the meaning set forth in Recital A of this Lease.

1.29 "Mission Bay North Redevelopment Plan" shall have the meaning set forth in Recital A of this Lease.

1.30 "Mission Bay South" shall have the meaning set forth in Recital A of this Lease.

1.31 "Mission Bay South Redevelopment Plan" shall have the meaning set forth in Recital A of this Lease.

1.32 "North Arts MOU" shall have the meaning set forth in Section 9(b) of this Lease.

- 1.33 "North ICA" shall have the meaning set forth in Section 8 of this Lease.
- 1.34 "North OPA" means the North OPA as specified in Recital C hereof.
- 1.35 "North Plan Area" means the North Plan Area as specified in Recital B.
- 1.36 "Official Records" means the official records of the City.
- 1.37 "Open Space Development Parcels" means the Open Space Parcels within the North Plan Area, the South Plan Area, and the Bayfront Park, which are to be developed as open space, parks or plazas pursuant to the North OPA and the South OPA, including without limitation the Port Open Space Parcels (as defined in the PLTA) all of which are shown in Exhibit A, and which from time to time are made subject to this Lease in accordance with Section 2.1, all as shown on Exhibit B attached hereto and made a part hereof.
- 1.38 "Owner" means the Owner as specified in Recital C hereof and its successors and assigns pursuant to the North OPA or the South OPA, as applicable.
- 1.39 "Plan Documents" shall have the meaning given to it in Attachment 5 to the Redevelopment Plan for the North Plan Area and the South Plan Area, respectively.
- 1.40 "PLTA" shall have the meaning set forth in Recital D of this Lease.
- 1.41 "Permitted Use" means the Permitted Uses set forth in Section 7.1.
- 1.42 "Premises" means the Open Space Development Parcels set forth in Section 1.37 that have been made subject to this Lease in accordance with Section 2.1, as shown on or to be shown on Exhibit B.
- 1.43 "Public Trust" means either (i) the public trust for commerce, navigation and fisheries or (ii) the statutory trust imposed by the provisions of the California Statutes of 1968, Chapter 1333, as amended, whichever is applicable.
- 1.44 "Redevelopment Plans" shall have the meaning set forth in Recital A of this Lease
- 1.45 "Regulatory Approval" means any authorization, approval or a permit required by any governmental agency having jurisdiction over the Premises, including but not limited to the State Lands Commission and the San Francisco Bay Conservation and Development Commission ("BCDC").
- 1.46 "Release" when used with respect to a Hazardous Substance means any spilling, leaking, pumping, pouring emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of the Hazardous Substance into the environment.

1.47 "Rent" means the Base Rent and any other monetary sum due hereunder.

1.48 "RMP" means the "Risk Management Plan" or "RMP" approved by the Regional Water Quality Control Board for the San Francisco Bay Region in May, 1999, covering among other properties, the Premises.

1.49 "South Arts MOU" shall have the meaning set forth in Section 9(b) of this Lease.

1.50 "South ICA" shall have the meaning set forth in Section 8 of this Lease.

1.51 "South OPA" means the South OPA as specified in Recital C hereof.

1.52 "South Plan Area" means the South Plan Area as specified in Recital B hereof.

1.53 "Term" has the meaning set forth in Section 4 hereof.

2. Premises. For the Term and subject to the terms and conditions set forth herein, City hereby agrees to lease to Agency, and Agency hereby agrees to lease from City, the Premises. The City will deliver possession of the Premises in phases as set forth below. The initial phase of the Premises which is subject to this Lease is described in Exhibit B attached hereto. This Lease shall become effective as to each subsequent portion of the Premises described in each such phase on the date (the "Effective Date") that the City and the Agency initial and date a written legal description of the affected portion of the Premises and attach such description to this Lease as part of Exhibit B.

2.1 Provided that Owner has met the conditions of Owner in the North OPA or the South OPA, as applicable, to the Agency obligation to enter into this Lease, City and Agency shall initial and date a written legal description of each subsequent portion of the Premises and attach such description to this Lease as part of Exhibit B within the following time periods after City and Agency have each received a written notice from Owner (an "Agency Lease Notice") specifying the portions of the Open Space Development Parcels that Owner intends to develop as public open space, parks, or plazas in accordance with the Plan Documents:

a. With respect to any Agency Leasehold Parcels (as defined in the PLTA), within sixty (60) days following the receipt of an Agency Lease Notice for such Agency Leasehold Parcel, subject to Litigation Force Majeure;

b. With respect to any other portion of the Premises, within thirty (30) days following the receipt by City and Agency of an Agency Lease Notice for such portion of the Premises, subject to Litigation Force Majeure.

2.2 As to any Trust Land Termination Parcel (as defined in Section 3.3 of the Catellus Lease) terminated by City, acting as the trust administrator of the Public Trust, in order to convert the interim uses thereon to open space uses (all in accordance with the provisions for such termination by City under the Catellus Lease), City and Agency shall initial and date a

written legal description of the affected portion of such Trust Land Termination Parcel and attach such description to this Lease as part of Exhibit B concurrently with the effective date of any such termination. Any portion of the Premises added to this Lease pursuant to this Section 2.2 shall be developed in a manner consistent with the North OPA or the South OPA, as applicable.

2.3 The land described herein as the Premises may contain hazardous materials in soils and in the ground water under the property, and is subject to all of the terms, covenants and conditions described in and imposed by virtue of that certain Covenant and Environmental Restriction on Property ("Covenant and Restriction") made by (or to be made by) City for the benefit of (and in the form previously approved by) the California Regional Water Quality Control Board for the San Francisco Bay Region (the "RWQCB") in order to satisfy one or more conditions imposed by resolution of the RWQCB dated May 20, 1998, to the issuance of a Certificate of Completion under Section 25264 of the California Health and Safety Code. The Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the Premises described herein. This statement is not a declaration that a hazard exists.

3. Rent. Agency shall pay to City, in the manner herein described, the following Rent:

3.1 Base Rent. Base Rent shall be the sum of One Dollar (\$1.00) per year for the entire Premises without regard for the Effective Date as to any portions of the Premises for the Term hereof ("Base Rent"). Agency shall pay Base Rent in advance for the entire Term, in the amount of Forty-Five Dollars (\$45.00), on or before the Commencement Date.

3.2 Additional Charges. In addition to Base Rent, Agency shall pay or cause to be paid any and all real property taxes, possessory interest taxes and other costs, impositions and expenses related to the Premises as provided in Section 6 hereof, plus all other charges related to the Premises otherwise payable by Agency to City hereunder, including, without limitation, all charges for the repair or maintenance of utilities located within the Premises pursuant to Section 11.1 hereof (together, the "Additional Charges"). Together, Base Rent and Additional Charges shall hereinafter be referred to as the "Rent".

3.3 Manner of Payment. All payments due from Agency to City under this Lease shall be made to City without any abatement, deduction, set-off, prior notice or demand, except as otherwise expressly provided in this Lease, in lawful money of the United States of America at City's address set forth in Section 28 or to such other person or at such other place as City may from time to time designate by written notice to Agency.

4. Term. Irrespective of the Effective Date for any particular portion of the Premises, the term of this Lease ("Term") shall commence on November 16, 2001 ("Commencement Date"), and shall terminate on the date ("Expiration Date") which is the ~~later~~^{earlier} to occur of (i) the date that is forty five (45) years after the Commencement Date or (ii) as to those portions of the Premises within the North Plan Area, the expiration of the Redevelopment Plan for the North Plan Area, and as to those portions of the Premises within the South Plan Area, the expiration of the Redevelopment Plan for the South Plan Area, unless sooner terminated in accordance with the terms hereof.

5. Permit to Enter.

Concurrently with the Effective Date of this Lease for each portion of the Premises, Agency shall grant to Owner permits to enter such portions of the Premises, including the Bayfront Park, substantially in the form attached to the North OPA and/or the South OPA, as applicable, for the purposes of constructing the Improvements for the Open Space Parcels and related Infrastructure, as well as environmental testing and remediation.

6. Taxes and Assessments.

6.1 Payment of Taxes. During the Term of this Lease, Agency agrees to pay or cause to be paid, when due, to the proper authority any and all real property and personal taxes, general and special assessments, license fees, permit fees and all other governmental charges of any kind or nature whatsoever, including without limitation all penalties and interest thereon, levied or assessed on the Premises, on any personal property on the Premises, the leasehold or subleasehold estate or Agency's use of the Premises, whether in effect at the time this Lease is entered into or which become effective thereafter, and all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership, of the Premises. Agency shall not permit any such taxes, assessments or other charges to become a defaulted lien on the Premises or the Improvements thereon; provided, however, that in the event any such tax, assessment or similar charge is payable in installments, Agency may make, or cause to be made, payment in installments; and provided, further, that Agency may, through such proceeding as Agency considers necessary or appropriate, contest the legal validity or the amount of any tax, assessment or similar charge so long as such assessment or charge does not become a defaulted lien. In the event of any such contest, Agency shall indemnify and hold City, and its Agents harmless from and against all losses, damages, costs, or expenses, including attorneys' fees, resulting therefrom.

6.2 Possessory Interest Tax. Agency acknowledges and understands that a possessory interest subject to property taxation may be created by this Lease or any sublease or other agreement the Agency may enter into conferring a right to enter, occupy, and/or possess any portion of the Premises. The Agency further acknowledges that property taxes may be levied on such possessory interest and that any party who uses, occupies, or possesses any portion of the Premises may be subjected to the payment of such property taxes. Agency further acknowledges that Agency is familiar with San Francisco Administrative Code Sections 23.38 and 23.39, which require that City submit a report, which includes specified information relating to the creation, renewal, sublease, or assignment of any such possessory interest, to the County Assessor within 60 days after any such transaction. Agency agrees to provide to City the information required by Section 23.39 within thirty (30) days of a request in writing by City to do so. Agency shall cause the provisions of this Section 6.2 to be incorporated into all subleases, permits to enter, and other agreements concerning the use, occupancy, or possession of the Premises that Agency grants to Owner pursuant to Section 5 above.

7. Use of the Premises.

7.1 Permitted Use. The Premises shall be used and occupied only for public open space, public park and public plaza uses (and the construction thereof including, without limitation, the installation of public works of art)(collectively referred to as "Permitted Use"), which open space, parks and plazas shall be improved, maintained and operated consistent with the permissible uses and requirements of the North OPA, South OPA and the applicable Redevelopment Plan and Plan Documents, and the Public Trust use restrictions imposed by the Act (as defined in the PLTA). The Premises may not be used for any other purpose.

7.2 Prohibited Activities. Agency agrees that the following activities, by way of example only and without limitation, are inconsistent with this Lease and are strictly prohibited without the prior written consent of City: (a) any activity, or the maintaining of any object, which is not within the Permitted Use; (b) any activity, or the maintaining of any object, which will in any way increase the existing rate of, or affect or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents; (c) any activity or object which will cause damage to the Premises (ordinary wear and tear and typical uses associated with the Permitted Use excepted); (d) any activity which constitutes waste or nuisance to owners or occupants of adjacent properties; (e) any activity which will in any way injure, obstruct or interfere with the rights of owners or occupants of adjacent properties, including rights of ingress and egress; or (f) use of the Premises for sleeping or personal living quarters or overnight camping.

7.3 Premises Must Be Used. Agency shall use the Premises continuously during the Term for the Permitted Use specified in Section 7.1.

7.4 Park Code. Agency may, at its election, pursue all regulatory approvals necessary to extend the provisions of the Park Code of the City and County of San Francisco to the Premises, or portions thereof, provided however, that in no event shall such action (a) preclude or materially increase the cost of compliance with the Redevelopment Plans or the applicable Plan Documents; (b) without Owner's consent, do any of the following: (i) affect the rights or obligations of Owner under the applicable Plan Documents, (ii) alter the permitted use, (iii) decrease the height of any building, (iv) delay development, or (v) reduce the density or intensity of development contemplated under the applicable Plan Documents; or (c) otherwise take any action inconsistent with the North ICA or South ICA, as applicable. City shall cooperate in such action, as long as such cooperation does not result in substantial expense to City that is not otherwise reimbursed by Agency. Notwithstanding the foregoing, if the Port Commission has adopted a Port Park Code extending to portions of the Premises within the Port's jurisdiction (including, without limitation, Bayfront Park), then such portions of the Premises shall be subject to the Port's Park Code and not the City's Park Code..

7.5 (a) In the use and enjoyment of the Premises, Agency shall (i) comply with the RMP for the Premises and other property to the extent applicable to the Premises; (ii) obligate other entities with which it contracts for construction, property maintenance, or other activities which may disturb soil or groundwater to comply with the applicable provisions of the RMP; and (iii) not interfere with (and ensure that entities with which it contracts do not interfere with)

City's or its successors' or assigns' compliance with the RMP.

(b) In all agreements between the Agency and another entity providing for access to the Premises for the purpose of environmental mitigation, monitoring or remediation ("Environmental Response") by such entity, the Agency will provide the entity with a copy of the RMP prior to execution of such agreement and ensure that such agreements contain covenants by the entity that the entity will (i) comply with the RMP (to the extent the RMP applies to the entity's activities); and (ii) obligate any person or company with which that entity contracts for Environmental Response that may disturb soil or groundwater to comply with the applicable provisions of the RMP.

3. Compliance with Laws and Regulations. Agency, at no cost or expense to City, promptly shall comply with all Laws relating to or affecting the condition, use or occupancy of the Premises in effect either at the time of execution of this Lease or which may hereafter be in effect at any time during the Term, whether or not the same are now contemplated by the parties. Agency further understands and agrees that it is Agency's obligation, at no cost or expense to City, to cause the Premises and Agency's activities and operations conducted thereon, to be in compliance with the Americans with Disabilities Act, 42 USCS sections 12101, et seq.

Agency understands and agrees that City is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a regulatory agency of the City with certain police powers. City's legal status as a city shall in no way limit the obligation of Agency (or Owner) to obtain any required approvals from City departments, boards or commissions which have jurisdiction over the Premises, except as otherwise provided in the Mission Bay North Interagency Cooperation Agreement ("North ICA") and the Mission Bay South Interagency Cooperation Agreement ("South ICA") each between the City and Agency and dated November 16, 1998. By entering into this Lease, City is in no way modifying or limiting the obligation of Owner to improve the Premises or Agency to cause the Premises to be used and occupied in accordance with all Laws.

9. Regulatory Approvals. (a) Agency understands that Agency's operations on the Premises, changes in use, or Improvements or Alterations to the Premises may require a Regulatory Approval. Agency or Owner shall be solely responsible for obtaining any such Regulatory Approvals and complying with any conditions attached thereto, except as otherwise provided in the North ICA or South ICA, as applicable. Owner or Agency shall be solely responsible for complying with any and all conditions imposed by regulatory agencies as part of a Regulatory Approval, except as otherwise provided in the North ICA or South ICA, as applicable. Any fines or penalties imposed as a result of the failure of Owner or Agency to comply with the terms and conditions of any Regulatory Approval shall be paid and discharged by Agency, and City shall have no liability, monetary or otherwise, for said fines and penalties, except as otherwise provided in the North ICA or South ICA, as applicable.

Without limiting any other indemnification provisions of this Lease, Agency shall indemnify the City, including the Port, from and against any and all claims, demands, losses, liabilities, damages (including consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses,

(including, without limitation, reasonable attorneys' fees and costs and consultants' fees and costs and court costs) of whatever kind or nature, known or unknown, contingent or otherwise (collectively, "Losses") which may arise in connection with the Agency's failure to obtain or comply with the terms and conditions of any Regulatory Approval or with the appeal or contest of any conditions of any Regulatory Approval; provided, however, such indemnity shall exclude any Losses to the extent they arise out of (i) any failure of any conditions that either (A) are designated as the responsibility of the City under the Plan Documents or the Land Transfer Agreements or under the City approvals granted in connection with a Major Phase or Project or (B) the City has otherwise, in its sole discretion, agreed to accept the responsibility for such terms or conditions as provided in the North ICA or the South ICA, as applicable; or (ii) the negligence or willful misconduct of the City.

Agency expressly acknowledges that any soil testing, excavation or boring shall comply with the RMP. City shall cooperate with Agency or Owner in filing for, processing and obtaining all Regulatory Approvals (other than City approvals), and to the extent required by any regulatory agency issuing a Regulatory Approval (other than City), it will join with Agency or Owner as co-applicant in filing, processing and obtaining all Regulatory Approvals required for the construction and operation of the Park, provided, however, that (i) any reasonable costs incurred by City thereby shall be reimbursed by Agency or Owner to City upon demand, and (ii) any conditions or restrictions of such Regulatory Approval shall be in form and substance acceptable to City in its reasonable discretion, unless the condition or restrictions are specifically contemplated as the responsibility of the City under the North ICA, South ICA, the Plan Documents or the City approvals of the entitlements for the North Plan Area or the South Plan Area. Nothing contained herein shall be deemed to limit or otherwise constrain City's discretion, powers and duties as a regulatory agency of the City with certain police powers except as may be limited by the North ICA, the South ICA, and the Redevelopment Plans.

(b) The Parties hereby acknowledge that pursuant to Section 5.103 of the City's Charter as well as that certain Mission Bay South Memorandum of Understanding (the "South Arts MOU") dated January 4, 1999 and that certain Mission Bay North Memorandum of Understanding (the "North Arts MOU") dated January 4, 1999 by and between the Arts Commission of the City and County of San Francisco (the "Arts Commission") and the Agency, the Arts Commission has design review authority over (i) certain structures (as defined in the North Arts MOU and the South Arts MOU) on land owned (or to be owned) by the City, which will be developed as public streets, public open spaces and community facilities and (ii) works of art to be placed on public open space and other City property. The Parties agree that in complying with all Laws pursuant to Section 8 above and in obtaining any Regulatory Approvals as set forth in this Section 9, the Agency shall comply or require Owner to comply with the procedures and requirements set forth in the North Arts MOU or the South Arts MOU, as applicable.

(c) The Parties further acknowledge that the North OPA and the South OPA each contain an attachment entitled "Design Review and Document Approval Procedure". The Agency agrees that it will comply or cause Owner to comply with the procedures set forth in the Design Review and Document Approval Procedure for the design and construction of any Improvements on the Premises.

10. Security, Maintenance and Repairs.

10.1 Maintenance and Repair Obligations. Upon completion of construction of the Improvements on the applicable portions of the Premises and acceptance by City pursuant to the Plan Documents, Agency shall maintain, at no cost or expense to City, in good order, repair and condition, the applicable portions of the Premises and all improvements thereon, consistent with the requirements of the applicable Mission Bay North or South Financing Plans, except where Owner fails to pay the special taxes levied in the maintenance Community Facilities Districts (collectively, "Maintenance CFDs," and individually, a "Maintenance CFD") to be formed pursuant to the applicable Mission Bay North or South Financing Plans despite the Agency's diligent efforts to collect the same.

10.2 City's Right to Inspect and Repair. (a) In the event that damage or deterioration to the Premises or any portion thereof which is Agency's obligation to maintain results in the same not meeting the standard of maintenance set forth in the applicable Mission Bay North or South Financing Plan, then Agency shall have the independent responsibility for, and shall promptly undertake, maintenance or repair of the Premises and complete the same with due diligence to the extent funds are available for such maintenance or repair under the Maintenance CFD or as otherwise provided in the Mission Bay North or South Financing Plan (including, without limitation, the provisions of any covenants, conditions and restrictions required thereunder). City may make periodic inspections of the Premises and may advise Agency when maintenance or repair of the Premises is required, but such right of inspection shall not relieve Agency of its independent responsibility to maintain such Premises and Improvements in accordance with the applicable Mission Bay North or South Financing Plan to the extent funds are available for such maintenance or repair under the Maintenance CFD or as otherwise provided in the Mission Bay North or South Financing Plan (including, without limitation, the provisions of any covenants, conditions and restrictions required thereunder).

(b) If the Agency fails to maintain the Premises in accordance with the standard of maintenance set forth in the applicable Mission Bay North or South Financing Plan, then City may deliver a written notice of default to the Agency regarding such default under this Lease. The notice of default shall state with reasonable specificity the nature of the alleged default, the provisions under which the default is claimed to arise, and the manner in which the failure of performance may be satisfactorily cured. Upon receipt of such notice of default, the Agency shall commence within a reasonable time not to exceed sixty (60) days to cure or remedy such default, and shall thereafter pursue such cure or remedy to completion.

i. Upon delivery of a notice of default, the City and the Agency, together with the Owner, shall promptly meet to discuss the default and the manner in which the Agency can cure or remedy the same so as to satisfy the City's concerns. The City, Agency and Owner shall continue meeting regularly, discussing, investigating and considering alternatives for a period of sixty (60) days from the delivery of the notice of default. If, at the end of the meet and confer period, the City no longer holds the view that the Agency is in default, the City shall issue a written acknowledgment of the Agency's cure or remedy of the matter which was the subject of the notice of default.

ii. If (A) action is not diligently taken or pursued, or the default shall not be cured or remedied within a reasonable time or (B) the Agency refuses to meet and discuss as described above, then in addition to any other remedy available to City, City may make such maintenance or repairs at Agency's expense and Agency shall immediately upon invoice reimburse City therefor to the extent funds are available for such maintenance or repair under the Maintenance CFD or as otherwise provided in the Mission Bay North or South Financing Plan (including, without limitation, the provisions of any covenants, conditions and restrictions required thereunder).

iii. The provisions of this Section 10.2(b) shall apply only in the event the Agency fails to maintain the Premises in accordance with the standard of maintenance set forth in the applicable Mission Bay North or South Financing Plan. Nothing in this Section 10.2(b) shall limit the rights or remedies of the City as set forth under this Lease.

10.3 Security. Agency will provide security for the Premises at such frequencies and to such standards, and consistent with funding available to it under the Maintenance CFD, as may be appropriate for the type of urban open space, plazas, and parks developed pursuant to the Plan Documents. Agency will use its best efforts to prevent loitering and unlawful activity in or on the Premises.

11. Utilities and Services.

11.1 Utilities. Agency shall make arrangements and shall pay all charges for all utilities to be furnished on, in or to the Premises or to be used by Agency, including, without limitation, gas, electrical, water, sewer and telecommunications services. Agency shall pay all charges for said utilities. Agency shall coordinate with the City's Department of Telecommunications and Information Services ("DTIS") regarding any and all telecommunications services to the Premises.

11.2 Services. Agency shall make arrangements and shall pay all charges for all services to be furnished on, in or to the Premises or to be used by Agency, including, without limitation, garbage and trash collection, landscape maintenance service and cleaning service, consistent with the Financing Plans.

12. Improvements and Alterations.

12.1 Construction Requirements. All Improvements to the Premises made by or on behalf of Agency or Owner shall be performed in a manner consistent with the North OPA or South OPA, as applicable, the North ICA or South ICA as applicable, and the applicable Financing Plan. In addition, after completion of the initial construction of the Improvements, Agency shall notify City and Owner in writing of any material Alterations, including Artwork, no later than thirty (30) days prior to commencement of construction or placement in the Premises of such Alterations and shall obtain City and Owner's prior written consent to the change, to the extent contemplated under Section 12.3.

12.2 Improvements Part of Realty. All Alterations or Improvements to the Premises made by or on behalf of Agency shall be owned by City and shall, at the end of the Term hereof, remain on the Premises without compensation to Agency, unless City first waives its right to the Alterations or Improvements in writing. Notwithstanding the foregoing, Agency shall be entitled to remove all personal property that can be removed without substantial injury to the Premises and all Artwork from the Premises at the termination of the Term hereof. Agency shall repair, at its own expense, in good workerlike fashion any damage occasioned by the removal of any such Artwork or personal property.

12.3 Alterations to Improvements. Following construction of the initial Improvements on any portion of the Premises contemplated by the North OPA, South OPA and North or South Redevelopment Plans, as applicable, nonmaterial Alterations (other than ordinary repair and maintenance) shall be made to the applicable portions of the Premises without (i) the written consent of City and, (ii) if the improvements would be inconsistent with the Redevelopment Requirements, would increase costs under the Maintenance CFD or would reduce the availability of Net Available Increment for Infrastructure pursuant to the Financing Plan, the prior written consent of Owner. If Agency constructs any material Alterations to the Premises without City's or Owner's prior written consent to the extent required pursuant to the preceding sentence, then, in addition to any other remedy available to City, City may require Agency to remove, at Agency's expense, any or all such Alterations and to repair, at Agency's expense and in good workerlike fashion, any damage occasioned thereby. Agency shall pay to City all special inspection fees as set forth in the San Francisco Building Code for inspection of work performed without required permits, or any replacement code consistent with North ICA or South ICA adopted for City use.

13. Suitability; Acceptance. Agency acknowledges that neither City nor City's Agents made any representations or warranties concerning the Premises, including without limitation, the environmental, geotechnical or seismological condition thereof. By taking possession of the Premises, Agency shall be deemed to have inspected the Premises and accepted the Premises in an "As-Is" condition and as being suitable for the Permitted Uses as specified herein. The Agency further acknowledges that the rights of the Agency hereunder are subject to the construction and operation of railroad facilities if needed by the City for freight operations serving Piers 48 and 50 and for continued freight access to Pier 80, all as described in Section I.C.6 of the Mission Bay South Infrastructure Plan. Agency shall cooperate with City to allow for the construction and operation of such rail facilities if required under the Mission Bay Infrastructure Plan.

14. **Liens.** Agency shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by Agency or its Agents. In the event that Agency shall not, within twenty (20) days following the imposition of any such lien, cause the same to be released of record, City shall have, in addition to all other remedies provided by this Lease or by Law, the right but not the obligation to cause the same to be released by such means as it shall deem proper, including without limitation, payment of the claim giving rise to such lien. All sums paid by City for such purpose and all reasonable expenses incurred by City in connection therewith shall be payable to City by Agency within thirty (30) days following written demand by City.

15. **Hazardous Substances.**

15.1 **Requirements for Handling.** During the construction of the initial Improvements, all Handling of Hazardous Substances shall be governed by all applicable Environmental Laws, the RMP and any applicable Permit to Enter. Following completion of the initial Improvements to the Premises, neither Agency, Owner nor their respective Agents or Invitees, shall Handle in, on or about the Premises any Hazardous Substance without the prior written consent of City, which consent shall not be unreasonably withheld so long as Agency demonstrates to City's reasonable satisfaction that such Hazardous Substance (i) is necessary to Agency's or Owner's improvement, operation or maintenance of the Premises or customarily used in connection with the Permitted Use, and (ii) will be Handled in a manner which strictly complies with all Environmental Laws, and (iii) will not materially increase the risk of fire or other casualty to the Premises. Notwithstanding the foregoing, without City's prior written consent, Agency and Owner may Handle on the Premises routine supplies and materials in such limited amounts as are customarily used for general park cleaning and maintenance purposes or any Hazardous Substances required to be used, in connection with the construction of the initial Improvements to the Premises consistent with the Plan Documents, so long as such Handling is (a) at all times in full compliance with all Environmental Laws and (b) pursuant to approvals obtained from all regulatory agencies having jurisdiction over such Handling of Hazardous Substances.

15.2 **Agency Responsibility.** Subject to the restrictions set forth in Section 15.1 hereof, Agency shall Handle all Hazardous Substances discovered on the Premises during the Term of this Lease or introduced on the Premises by Agency, its Agents or Invitees, in compliance with all Environmental Laws. Agency shall not be responsible for the safe Handling of Hazardous Substances introduced on the Premises during the Term of this Lease by City or its Agents. Agency shall protect its employees and the general public in accordance with all Environmental Laws. City may from time to time request, and Agency shall be obligated to provide, information reasonably adequate for City to determine that any and all Hazardous Substances are being Handled in a manner which complies with all Environmental Laws. City shall have the right to inspect the Premises for Hazardous Substances at reasonable times, pursuant to Section 23.1 hereof.

15.3 **Requirement to Remove.** Prior to termination of this Lease, Agency, at its sole cost and expense, shall remove any and all Hazardous Substances introduced in, on, under or about the Premises by Agency, its Agents or Invitees. Further, Agency, at its sole cost and expense, shall remove any Hazardous Substance discovered on the Premises during the Term of

this Lease which is required to be removed pursuant to the RMP or the applicable provisions of the EIRP, provided however, that Agency shall not be obligated to remove any Hazardous Substance introduced onto the Premises during the Term of this Lease by the City or its Agents. Prior to the termination of this Lease, City and Agency shall conduct a joint inspection of the Premises for the purpose of identifying Hazardous Substances existing on the Premises which Agency is required to remove.

16. Insurance

16.1 Required Insurance Coverage. Agency, at no cost to the City, shall maintain, or cause to be maintained, throughout the Term of this Lease, the following insurance:

(a) **General Liability Insurance.** Comprehensive or commercial general liability insurance, with limits not less than Five Million Dollars (\$5,000,000.00) each occurrence combined single limit for bodily injury and property damage, including coverages for contractual liability, independent contractors, broadform property damage, personal injury, products and completed operations, and fire damage and legal liability with limits not less than Two Hundred Fifty Thousand Dollars (\$250,000.00). The Agency reserves the right to satisfy the requirements of this Section 16.1(a) through self-insurance to the extent that Agency elects to use Agency employed staff to maintain the Premises. However, Agency shall require as a condition to any contract with a third party to provide maintenance services to the premises that the contractor will provide the insurance required by this section 16.1(a).

(b) **Workers Compensation Insurance.** Workers Compensation Insurance with employer's liability limit not less than One Million Dollars (\$1,000,000.00) for each accident, on employees eligible for each. In the event Agency is self-insured for the insurance required pursuant to this Section 16.1(b), it shall furnish to City a current Certificate of Permission to Self-Insure signed by the Department of Industrial Relations, Administration of Self-Insurance, Sacramento, California.

(c) **Required by Law.** Such other insurance as required by Law.

16.2 Claims-Made Policies. If any of the insurance required in Section 16.1 is provided under a claims-made form of policy, Agency shall maintain such coverage continuously throughout the Term and without lapse for a period of three years beyond the termination of this Lease, to the effect that should occurrences during the Term give rise to claims made after termination of this Lease, such claims shall be covered by such claims-made policies.

16.3 Annual Aggregate Limits. If any of the insurance required in Section 16.1 is provided under a form of coverage which includes an 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 double the occurrence limits specified herein.

16.4 Payment of Premiums. Agency shall pay or cause to be paid at no cost to City the premiums for maintaining all required insurance.

16.5 Waiver of Subrogation Rights. The parties release each other, and their respective authorized representatives, from any claims for damage to the Premises or to the fixtures, personal property, Improvements or Alterations of either City or Agency in or on the Premises which are caused by or result from risks insured against 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.

16.6 General Insurance Matters.

(a) All liability insurance policies required to be maintained by Agency hereunder shall contain a cross-liability clause, shall name as additional insureds "the City and County of San Francisco and the San Francisco Port Commission and their officers, directors, employees and agents," shall be primary to any other insurance available to the additional insureds with respect to claims arising under this Lease, and shall provide that such insurance applies separately to each insured against whom complaint is made or suit is brought except with respect to the limits of the company's liability.

(b) All insurance policies required to be maintained by Agency hereunder shall be issued by an insurance company or companies reasonably acceptable to City. Agency's compliance with this Section shall in no way relieve or decrease Agency's liability under this Lease. It is understood that the Agency may comply with the provisions of this Section 15.6(b) through its membership in the Bay Cities Joint Powers Insurance Authority or other program of self-insurance or reinsurance reasonably acceptable to City.

(c) All insurance policies required to be maintained by Agency hereunder shall provide for thirty (30) days prior written notice of cancellation or intended non-renewal or reduction in coverage to Agency and City. Such notice shall be given in accordance with the notice provisions of Section 28 of this Lease.

(d) Agency shall deliver to City certificates of insurance in a form satisfactory to City evidencing the coverages required herein, together with evidence of payment of premiums, on or before the Commencement Date, and upon renewal of each policy not less than thirty (30) days before expiration of the term of the policy. Agency shall, upon City's request, promptly furnish City with a complete copy of any insurance policy required hereunder.

(e) Not more often than every year and upon not less than sixty (60) days prior written notice, City may require Agency to increase the insurance limits set forth in Section 16.1 above if, in the reasonable judgment of the City's Risk Manager, it is the

general commercial practice in San Francisco or in other cities or counties around the country to carry insurance for facilities similar to the Premises in amounts substantially greater than those amounts carried by Agency with respect to risks comparable to those associated with the use of the Premises.

(f) Throughout the Term, should Agency's use of the Premises change to the extent that different insurable risks are created, City reserves the right to adjust the insurance requirement hereunder in accordance with any such changes in use.

17. Damage and Destruction.

17.1 Damage and Destruction. If the Premises are damaged by fire or other casualty, then to the extent that insurance proceeds are available for such purpose, Agency shall diligently repair the same and restore the Premises to its condition immediately prior to such casualty, and this Lease shall remain in full force and effect. In the event Agency determines that insurance proceeds are inadequate or unavailable to so repair the Premises to a similar level adequate for use as a public park, plaza or open space Agency shall immediately notify City in writing thereof ("Repair Notice"). On or before the earlier of fifteen (15) days after the date of the Repair Notice or thirty (30) days after the event of casualty, Agency and City shall meet and confer to allocate the responsibility of repair. In the event the parties are unable to agree upon their respective repair obligations within thirty (30) days of the first of such meetings, then either party may elect to terminate this Lease as to the damaged portion of the Premises by written notice specifying the date of such termination. In the event this Lease is terminated by either party in accordance with this Section 17.1, then any unapplied insurance proceeds paid for repair of such casualty shall be payable to City. From and after such termination the City shall not allow the Premises to be utilized for any purpose inconsistent with the applicable Redevelopment Plan or Plan Documents.

17.2 Waiver. City and Agency intend that the provisions of this Section govern fully in the event of any damage or destruction and accordingly, City and Agency each hereby waives the provisions of Section 1932, subdivision 2, and Section 1933, subdivision 4, of the Civil Code of California or under any similar Law now or hereafter in effect.

18. Eminent Domain.

18.1 General. If all or part of the Premises shall be taken by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, this Lease shall terminate as to any portion of the Premises so taken or conveyed on the date when title or the right to possession vests in the condemnor ("Date of Taking").

18.2 Partial Takings. If (a) a part of the Premises shall be taken by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, and (b) Agency is reasonably able to continue the operation of the public parks, plazas and/or open space on the Premises or applicable portions thereof, then this Lease shall remain in effect as to said portion of the Premises remaining.

18.3 Temporary Takings. Notwithstanding anything to the contrary contained in this Section, if a taking occurs with respect to all or any part of the Premises for a limited period of time, this Lease shall remain unaffected thereby and Agency shall continue to pay Rent and to perform all of the terms, conditions and covenants of this Lease to the extent reasonably possible in light of the portion of the Premise not so taken. Agency shall be entitled to receive that portion of any award representing compensation for the use or occupancy of the Premises during the Term up to the total Rent owing by Agency for the period of the taking, and City shall be entitled to receive the balance of any award.

18.4 Award; Waiver. City shall be entitled to any and all payment, income, rent, award, or any interest therein whatsoever which may be paid or made in connection with any taking or conveyance hereunder, and Agency shall have no claim against City or otherwise for the value of any unexpired term of this Lease. Notwithstanding the foregoing, Agency shall have the right to make a claim, and to receive any award specifically made to Agency, including, without limitation, any award made to Agency for the unamortized value of any Alterations or Improvements, its moving expenses and for loss or damage to Agency's trade fixtures, equipment and movable furniture. City and Agency intend that the provisions of this Section govern fully in the event of condemnation and accordingly, City and Agency each hereby waive any right to terminate this Lease in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar law now or hereafter in effect. In the event of a partial taking, Agency shall restore the Premises to a unified whole; except that the cost of restoring the Premises to a unified whole shall be payable (1) first, from any Agency award for the value of Improvements and Alterations, and, in the event the cost of restoring the Premises to a unified whole should exceed such amount, then, (2) second from any award made to City. Any excess costs not covered by such awards shall be the sole responsibility of Agency.

19. Indemnity and Exculpation.

19.1 Indemnity. Agency shall indemnify and hold City, and its Agents harmless from, and, if requested, shall defend them against any and all Losses (as defined in Section 9 above) arising directly or indirectly out of: (a) any injury to or death of any person, including employees of Agency, or damage to or destruction of any property occurring in, on or about the Premises, or any part thereof, from any cause whatsoever, or (b) any default by Agency in the observance or performance of any of the terms, covenants or conditions of this Lease, or the use, occupancy or condition of the Premises or the activities therein by Agency, its Agents, or Invitees' activities therein. This indemnity shall be enforceable regardless of the negligence of City, and regardless of whether liability without fault is imposed or sought to be imposed on City. This indemnity shall be enforceable except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on, or validly retroactive to, the date of this Lease. This indemnity includes all such loss, damage, injury, liability or claims as described above, loss predicated in whole or in part, upon active or passive negligence of City or its Agents. This indemnity shall exclude claims, liability, damage or loss resulting from the gross negligence or willful misconduct of City or its Agents which is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on, Agency, its Agents or Invitees.

In addition to Agency's obligation to indemnify City, Agency specifically acknowledges

and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent. Agency's obligation to defend shall arise at the time such claim is tendered to Agency by City and shall continue at all times thereafter.

The foregoing indemnity obligation of Agency shall include without limitation, indemnification from all loss and liability, including attorney's fees, court costs and all other litigation expenses. This indemnification by Agency shall begin from the first notice that any claim or demand is or may be made. The provisions of this section shall survive the termination of this Lease with respect to any damage, destruction, injury or death occurring prior to such termination.

19.2 Exculpation. Agency, as a material part of the consideration to be rendered to City, hereby waives any and all claims against City and its Agents, and agrees to hold City and its Agents harmless from any claims for damages to goods, wares, merchandise, or equipment and by persons in, upon or about said Premises for any cause arising at any time, including without limitation all claims arising from the joint or concurrent negligence of City or its Agents, but excluding any grossly negligent or intentionally harmful acts committed solely by City or its Agents.

19.3 Hazardous Substances Indemnification. Agency shall indemnify, protect, defend and hold harmless, City, its employees, officers, agents, from any Claims resulting from any Release or threatened Release of a Hazardous Substance to the extent that such Release or threatened Release is directly created or aggravated by the specific activities undertaken by Agency pursuant to this Lease or by any breach of or failure to duly perform or observe any term, covenant or agreement in this Lease to be performed or observed by the Agency including the covenants of Sections 7.5(a) and (b) above; provided, however, that Agency shall have no liability, nor any obligation to defend, hold harmless or indemnify any person for any such Claim resulting from (x) the discovery or disclosure or any pre-existing condition, (y) the movement of soil or groundwater or other activity undertaken by Agency, which concerns Hazardous Substances existing prior to Agency's entry upon the Premises so long as such movement or activity is consistent with the RMP, or (z) the negligence or willful or other actionable misconduct of City or its agents or invitees.

20. Assignment and Subletting; Third Party Beneficiary.

20.1 Agency Assignment and Subletting. Agency shall not make or permit any direct or indirect assignment, conveyance, alienation, sublease, or other transfer (collectively, "Transfer") of Agency's interest in this Lease or in the Premises, or any part thereof or interest therein without the prior written consent of City and Owner, given or withheld in their sole and absolute discretion. Any Transfer of this Lease without the prior written consent of City and Owner shall constitute an incurable breach by Agency and shall be void. Notwithstanding the foregoing, in no event may Agency Transfer all or any portion of its interest in the Premises if such Transfer would (a) preclude or materially increase the cost of compliance with the Redevelopment Plans or the applicable Plan Documents; (b) do any of the following: (i) affect the rights or obligations of Owner under the applicable Plan Documents, (ii) alter the permitted

use, (iii) decrease the height of any building, (iv) delay development, or (v) reduce the density or intensity of development contemplated under the applicable Plan Documents; or (c) otherwise take any action inconsistent with the North ICA or South ICA, as applicable.

20.2 City Assignment or Transfer. City may not assign or otherwise transfer the Premises or its rights under the this Lease without the consent of Agency and Owner, which consent shall not be unreasonably withheld, and any proposed assignment or transfer without such consent shall be void. Notwithstanding the foregoing, in no event may City assign or transfer all or any portion of its interest in the Premises or under this Lease, if such assignment or transfer would (a) preclude or materially increase the cost of compliance with the Redevelopment Plans or the applicable Plan Documents; (b) do any of the following: (i) affect the rights or obligations of Owner under the applicable Plan Documents, (ii) alter the permitted use, (iii) decrease the height of any building, (iv) delay development, or (v) reduce the density or intensity of development contemplated under the applicable Plan Documents; or (c) otherwise take any action inconsistent with the North ICA or South ICA, as applicable.

20.3 Owner Third Party Beneficiary. Owner is hereby made a third party beneficiary of this Lease, and shall be entitled to enforce the parties' obligations hereunder, subject to the notice and cure provisions contained under this Lease. Except for Owner, there are no other third party beneficiaries to this Lease. This Lease shall not be amended or terminated without the consent of Owner, which consent shall not be unreasonably withheld, so long as the amendment or termination would not: (a) preclude or materially increase the cost of compliance with the Redevelopment Plans or the applicable Plan Documents; (b) without Owner's consent, do any of the following: (i) affect the rights or obligations of Owner under the applicable Plan Documents, (ii) alter the permitted use, (iii) decrease the height of any building, (iv) delay development, or (v) reduce the density or intensity of development contemplated under the applicable Plan Documents; or (c) otherwise take any action inconsistent with the North ICA or South ICA, as applicable. Owner's remedies for any default under this Lease shall be limited to the right to seek specific performance or to cure any such default, and Owner shall have no right to seek or recover damages from either the City or Agency for any default under this Lease, other than recovering costs incurred in curing Agency or City defaults hereunder, plus costs of collection and attorney's fees. Owner's remedies for any default under this Lease shall be limited to the right to seek specific performance or to cure any such default, and Owner shall have no right to seek or recover damages from either the City or Agency for any default under this Lease, except solely for recovering costs incurred in curing Agency or City defaults hereunder, plus costs of collection to the extent provided in this Lease and attorneys' fees.

20.4 Exception to Prohibition on Transfers. Notwithstanding the foregoing, for purposes hereof, a prohibited "Transfer" shall not include a Transfer to any successor to Agency, including City, so long as any such transfer would not: (a) preclude or materially increase the cost of compliance with the Redevelopment Plans or the applicable Plan Documents; or (b) do any of the following: (i) affect the rights or obligations of Owner under the applicable Plan Documents, (ii) alter the permitted use, (iii) decrease the height of any building, (iv) delay development, (v) reduce the density or intensity of development contemplated under the applicable Plan Documents or (vi) otherwise take any action inconsistent with the North ICA or South ICA, as applicable.

20.5 Environmental Provisions in Future Leases. (a) Subject to the provisions of this Section 20, the Agency shall include the following statement in all future leases relating to all or any portion of the Premises:

“The land described herein may contain hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction (Covenant and Restriction) dated as of February 3, 2000, and recorded on March 21, 2000, in the Official Records of San Francisco County, California, as Document No. G748551-00, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.”

(b) Subject to the provisions of this Section 20, in all future subleases, the Agency will provide a copy of the RMP or its relevant provisions prior to execution of such sublease agreements and ensure that such sublease agreements contain covenants that each sublessee (i) will comply with the RMP (to the extent the RMP applies to the sublessee's activities); (ii) will obligate other entities with which the sublessee contracts for construction, property maintenance or other activities which may disturb soil or groundwater to comply with the applicable provisions of the RMP; and (iii) will refrain from interfering with City's or Agency's compliance with the RMP.

21. Default by Agency.

21.1 Event of Default. The occurrence of any one or more of the following events shall constitute a default by Agency:

(a) Failure by Agency to pay when due any Rent within 30 days after notice has been given by City to Agency;

(b) Failure to perform any other provision of this Lease if the failure to perform is not cured within thirty (30) days after notice has been given by City to Agency. If the default cannot reasonably be cured within 30 days, Agency shall not be in default of this Lease if Agency commences to cure the default within such thirty (30) day period and diligently and in good faith continues to cure the default; and/or

Owner in its sole and absolute discretion and without any obligation to do so may cure any default of Agency hereunder. Notices given under this section shall demand that Agency perform the provisions of this Lease or pay the Rent that is in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this Lease unless City so elects in the notice. A copy of all notices given under this section shall be given to Owner concurrently with the notice to Agency.

21.2 City's Remedies. Upon default by Agency, City shall, in addition to any other remedies it may have at law or in equity, and without further notice or demand of any kind to Agency or to any other person, have the following remedies:

(a) Agency's Right to Possession Not Terminated. City may continue this Lease in full force and effect after Agency's breach, and so long as City does not terminate Agency's right to possession, City may enforce all of its rights and remedies under this Lease, including the right to collect Rent when due and City may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation an action for damages and/or proceedings to compel specific performance by Agency. No act by City allowed by this subsection shall terminate this Lease unless City notifies Agency that City elects to terminate this Lease. After Agency's default and for as long as City does not terminate Agency's right to possession of the Premises, if Agency obtains City's and Owner's consent, which may be withheld in their sole and absolute discretion, Agency shall have the right to assign or sublet its interest in this Lease, but Agency shall not be released from liability.

(b) Termination of Agency's Right to Possession. City may terminate Agency's right to possession of the Premises at any time. No act by City other than giving notice of termination to Agency shall terminate this Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on City's initiative to protect City's interest under this Lease shall not constitute a termination of Agency's right to possession.

(c) City's Right to Cure Agency's Default. City, at any time after Agency commits a default, may, at City's sole option, cure the default at Agency's cost. If City at any time, by reason of Agency's default, undertakes any act to cure or attempt to cure such default that requires the payment of any sums, or otherwise incurs any costs, damages, or liabilities, (including without limitation, attorneys' fees), all such sums, costs, damages or liabilities paid by City shall be due immediately from Agency to City at the time the sum is paid, and if paid by Agency at a later date shall bear interest at the lesser of ten percent (10%) or the maximum non-usurious rate City is permitted by Law to charge from the date such sum is paid by City until City is reimbursed by Agency.

The remedies set forth in this Section 21.2 are not exclusive; they are cumulative and in addition to any and all other rights or remedies of City now or later allowed by Law. Agency's obligations hereunder shall survive any termination of this Lease.

21.3 Damages. If City elects to terminate this Lease under Section 21.2(b), then in addition to any other damages City may be entitled to at law or in equity, City has the rights and remedies to recover from Agency any amounts necessary to compensate City for the detriment proximately caused by Agency's default, or which, in the ordinary course of events, would likely result, including, but not limited to, attorneys' fees and court costs, the costs of carrying the Premises such as repairs, maintenance, operation of Premises in accordance with Permitted Uses (including without limitation, costs of staff for such operation of the Premises), taxes and insurance premiums, utilities, security precautions and the reasonable costs and expenses incurred by City in (i) retaking possession of the Premises; (ii) cleaning and making repairs and alterations to the Premises, and (iii) removing, transporting and storing any of Agency's property left at the Premises (although City shall have no obligation so to do). Efforts by City to mitigate the damages caused by Agency's breach of the Lease do not waive City's rights to recover

damages upon termination.

21.4. Certain Transfers after Termination. Following any termination of this Lease and to the term of the Redevelopment Plans, the City covenants for the benefit of Owner that the City shall take no action with respect to the Premises (including placing jurisdiction over the Premises in any City department) which would (a) preclude or materially increase the cost of compliance with the Redevelopment Plans or applicable Plan Documents or (b) do any of the following: (i) affect the rights or obligations of Owner under the applicable Plan documents, (ii) alter the permitted use, (iii) decrease the height of any building, (iv) delay development, (v) reduce the density or intensity of the development contemplated under the applicable Plan Documents, or (vi) otherwise take any action inconsistent with the North ICA or South ICA, as applicable. The obligations of the City hereunder shall survive any termination of the Lease for the term of the Redevelopment Plans.

22. Litigation Expenses; Attorneys' Fees.

22.1 Litigation Expenses. If either party hereto brings an action or proceeding (including any cross-complaint or counterclaim) against the other party by reason of a default, or otherwise arising out of this Lease, 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 22 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.

22.2 Appeals. Attorneys' fees under this Section 22 shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal to a judgment arising from an action described in Section 22.1.

22.3 City Attorney/Agency General Counsel. For purposes of this Lease, reasonable fees of attorneys of the City's Office of the City Attorney and of the Agency General Counsel'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 the Office of the City Attorney.

23. City's Entry on Premises.

23.1 Entry for Inspection. City and its authorized Agents shall have the right to enter the Premises without notice at any time during normal business hours of generally recognized business days, provided that Agency or Agency's Agents are present on the Premises, for the purpose of inspecting the Premises to determine whether the Premises are in good condition and whether Agency is complying with its obligations under this Lease.

23.2 General Entry. In addition to its rights pursuant to Section 23.1, City and its

authorized Agents shall have the right to enter the Premises at all reasonable times for any reasonable purpose, including, but not limited to the following:

(a) To perform any services which City has the right or obligation to perform; and/or

(b) To serve, post, or keep posted any notices required or allowed under the provisions of this Lease.

23.3 No Liability. City shall not be liable in any manner, and Agency hereby waives any claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, (Rent paid at Commencement Date), arising out of City's entry onto the Premises as provided in this Section 23, except damage resulting solely from the gross negligence or willful misconduct of City or its authorized representatives.

23.4 Non-Disturbance. City shall use its best efforts to conduct its activities on the Premises as allowed in this Section 23 in a manner which, to the extent reasonably practicable, will cause the least possible inconvenience, annoyance or disturbance to Agency.

24. Surrender and Quitclaim.

24.1 Surrender. Upon termination of this Lease Agency shall surrender to City the Premises and all Improvements thereon in good condition (except for ordinary wear and tear occurring after the last necessary maintenance made by Agency), except for Artwork or personal property which Agency has the right to remove under the provisions of Section 12.2. Agency shall repair any damage to the Premises for which Agency is liable under this Lease.

City may elect to retain or dispose of any personal property which Agency does not remove from the Premises as allowed or required by this Lease by giving at least ten (10) days' prior written notice of such election to Agency. Agency waives all claims against City for any damage to Agency resulting from City's retention or disposition of any personal property or Artwork left on the Premises after the expiration of the Term hereof. Agency shall be liable to City for all costs incurred by City for storing, removing or disposing of any Artwork or Agency's personal property.

If Agency fails to surrender the Premises as required by this Section 24.1, Agency shall hold City harmless from all damages resulting from Agency's failure to surrender the Premises, including, but not limited to, claims made by a succeeding tenant resulting from Agency's failure to surrender the Premises. No act or conduct of City, shall constitute an acceptance of the surrender of the Premises by Agency before the expiration of the Term. Only a notice from City to Agency shall constitute acceptance of the surrender of the Premises and accomplish a termination of this Lease.

24.2 Quitclaim. Upon termination of this Lease, the Premises shall automatically, and without further act or conveyance on the part of Agency or City, become the property of City, free and clear of all liens (including without limitation, any liens created pursuant to the CFD)

and leasehold mortgages (which are expressly prohibited) and without payment therefor by City and shall be surrendered to City upon such date. Upon or at any time after the date of termination of this Lease, if requested by City, Agency shall promptly deliver to City, without charge, a quitclaim deed to the Premises and any other instrument reasonably requested by City to evidence or otherwise effect the termination of Agency's leasehold estate hereunder and to effect such transfer or vesting of title to the Premises or any Improvements or Alterations that City agrees are to remain part of the Premises pursuant to the provisions of Section 12.3 above.

25. Holding Over. Any holding over after the expiration of the Term with the consent of City shall be deemed a month-to-month tenancy and shall be upon each and every one of the terms, conditions and covenants of this Lease, except that, at City's election, the Rent shall be adjusted to the then current market rate as reasonably determined by City. Either party may cancel said month-to-month tenancy upon thirty (30) days' written notice to the other party.

26. Mineral Reservation. The State of California, 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 those portions of the Premises located within the jurisdiction of the Port. In accordance with the provisions of said Statutes, City and Agency shall and hereby do grant to the State of California the right to explore, drill for and extract said subsurface minerals, including oil and gas deposits, from the Mineral Reservation area located by the California Grid System as more particularly described as follows: [to be inserted] [only for leases within Port's jurisdiction].

27. City Requirements.

27.1 Non-Discrimination. Agency shall not, in the operation and use of the Premises, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC). The provisions of Chapters 12B.2 and 12C.2 of the San Francisco Administrative Code, relating to nondiscrimination by parties contracting with the City and County of San Francisco, are incorporated herein by this reference and made a part hereof as though fully set forth herein. Agency agrees to comply with the terms of the North OPA, South OPA, Redevelopment Plans, and Plan Documents.

27.2 Program in Diversity/Economic Development Program. The Parties hereby acknowledge that the Owner has agreed to comply with the Program in Diversity/Economic Development Program obligations and requirements, including without limitation, the First Source Hiring and Prevailing Wage requirements, as set forth in and attached to the North OPA and the South OPA, respectively. Agency hereby agrees to use reasonable efforts to enforce Owner's obligations under such programs.

27.3 MacBride Principles-Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride

Principles. Agency acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

27.4 Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 12I.3.b and 12I.4.b of the San Francisco Administrative Code, Agency shall not provide any items to the construction of Agency Improvements or the Alterations, or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Agency fails to comply in good faith with any of the provisions of Section 12I of the San Francisco Administrative Code, Agency shall be liable for liquidated damages for each violation in any amount equal to Agency's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

27.5 Pesticide Prohibition. Agency shall comply with the provisions of Section 39.9 of Chapter 39 of the San Francisco Administrative 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 Agency to submit to the Port of San Francisco as to those portions of the Premises designated in Exhibit B as "Port Property" and to the Department of Administrative Services, Real Estate Division of the City as to all other portions of the Premises an integrated pest management ("IPM") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that tenant may need to apply to the Premises during the terms of this Lease, (b) describes the steps Agency will take to meet the City's IPM Policy described in section 39.1 of the Pesticide Ordinance and (c) identifies, by name, title, address and telephone number, an individual to act as the Agency's primary IPM contact person with the City. In addition, Agency shall comply with the requirements of Sections 39.4(b) of the Pesticide Ordinance as of January 1, 2000.

27.6 First Source Hiring Ordinance. The City has adopted a First Source Hiring Ordinance (Board of Supervisors Ordinance No. 264-98) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry level positions. The Agency hereby acknowledges that Owner has committed to certain obligations in connection with first source hiring, referral and job training, all as set forth in Schedule 4 to Exhibit H of the North OPA and the South OPA. Agency hereby agrees to use reasonable efforts to enforce Owner's obligations regarding first source hiring, referral and job training under the North OPA and the South OPA.

27.7 Drug-Free Workplace. Agency acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises. Agency agrees that any violation of this prohibition by Agency, its Agents or assigns shall be deemed a material breach of this Lease.]

27.8 Prohibition of Tobacco Advertising. Agency acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City, including the Premises. This prohibition includes the placement of the

name of a company producing selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communication the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

27.9 Prevailing Wages. The Parties hereby acknowledge that the Owner has agreed to comply with the Program in Diversity/Economic Development Program obligations and requirements, including the requirement to pay prevailing wages, as set forth in and attached to the North OPA and the South OPA, respectively. Agency hereby agrees to use reasonable efforts to enforce Owner's obligations under such programs.

28. Notices. Except as otherwise expressly provided in this Lease or by Law, any and all notices or communications required or permitted by this Lease or by Law to be served on, given to or delivered to either party by the other party shall be in writing and shall be given by one of the following methods: (a) delivering the notice in person, (b) sending the notice by United States Mail, first class, postage prepaid, or sending the notice by overnight courier or mail, with postage prepaid, to the mailing address set forth below. Copies of all such notices or communications sent by either City or the Agency pursuant to this Lease to the other party shall also be sent concurrently to Owner. Subject to the restrictions set forth below and only for the convenience of the parties, copies of notices also may be given by telefacsimile to the fax number set forth below. Either party may change such party's mailing address or telefacsimile number at any time by giving written notice of such change to the other party in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Lease shall be deemed to be duly served, given, delivered, made or communicated on the date personal delivery actually occurs or, if mailed, on the date of deposit in the United States Mail. A person or party may not give official or binding notice by telefacsimile. Service of process at Agency's address set forth below or other address, notice of which is given in accordance with the terms of this Section 28, shall be valid and binding upon such party.

Address for City:

**Acting by
And through
Its Board of
Supervisors:**

**Director of Property
City of San Francisco
25 Van Ness Avenue, Suite 401
San Francisco, CA 94102
FAX NO: (415) 552-9216
Telephone No: (415) 554-9880**

Copy to:

**City Attorney's Office
City of San Francisco
1 Dr. Carlton B. Goodlett Jr. Place,
Room 234**

San Francisco, CA 94102-4682
Attention: Donnell W. Choy
Deputy City Attorney
FAX NO: (415) 554-4755
Telephone No: (415) 554-4736

Acting by
And through
Its Port:

Director of Real Estate
City of San Francisco
Pier 1
San Francisco, CA 94111
FAX NO: (415) 274-0578
Telephone No: (415) 274-0400

Copy to:

City Attorney's Office
Port of San Francisco
Pier 1
San Francisco, CA 94111
Attention: Neil Sekhri
Deputy City Attorney
FAX NO: (415) 274-0494
Telephone No: (415) 274-0484

Address for Agency:

San Francisco Redevelopment Agency
770 Golden Gate Avenue, 3rd Floor
San Francisco, CA 94102
FAX NO: (415) 749-2525
Telephone No: (415) 749-2400
Executive Director

Copy to:

Agency General Counsel's Office
San Francisco Redevelopment Agency
770 Golden Gate Avenue, 3rd Floor
San Francisco, CA 94102
FAX NO: (415) 749-2590
Telephone No: (415) 749-2454

Address for Owner:

Catellus Operating Limited Partnership
201 Mission Street
San Francisco, CA 94105

Atten: Asset Management

Copy to: Catellus Operating Limited Partnership
201 Mission Street
San Francisco, CA 94105
Atten: General Counsel

And to: Catellus Operating Limited Partnership
255 Chanel Street
San Francisco, CA 94107
Atten: Mission Bay Development Office

29 **Time is of the Essence.** Time is of the essence as to each and every provision of this Lease.

30. **Signs.** Except as permitted under the North OPA and the South OPA, respectively, and the Master Signage and Streetscape Plans, Agency shall not have the right to place, construct or maintain any sign, advertisement, awning, banner or other exterior decoration on the Premises without City's prior written consent.

31. **Miscellaneous Provisions.**

31.1 **California Law.** This Lease shall be construed and interpreted in accordance with the Laws of the State of California and City's Charter.

31.2 **Entire Agreement.** This Lease and its Exhibits contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Lease. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to such subject matter are superseded in total by this Lease. No prior drafts of this Lease or changes from those drafts to the executed version of this Lease 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 Lease.

31.3 **Amendments.** No amendment of this Lease or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto and approved in writing by Owner.

31.4 **Severability.** Except as is otherwise specifically provided for in this Lease, invalidation of any provision of this Lease, or of its application to any person, by judgment or court order, shall not affect any other provision of this Lease or its application to any other person or circumstance, and the remaining portions of this Lease shall continue in full force and effect, unless enforcement of this Lease as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this Lease.

31.5 **No Party Drafter; Captions.** The provisions of this Lease shall be construed as a whole according to their common meaning and not strictly for or against any party in order to achieve the objectives and purposes of the parties. Any caption preceding the text of any section,

paragraph or subsection or in the table of contents is included only for convenience of reference and shall be disregarded in the construction and interpretation of this Lease.

31.6 Singular, Plural, Gender. Whenever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, and vice versa.

31.7 Successors. The terms, covenants, agreements and conditions set forth in this Lease shall bind and inure to the benefit of City and Agency and, except as otherwise provided herein, their personal representatives and successors and assigns.

31.8 Counterparts. For convenience, the signatures of the parties to this Lease may be executed and acknowledged on separate pages which, when attached to this Lease, shall constitute this as one complete Lease. This Lease may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same Lease.

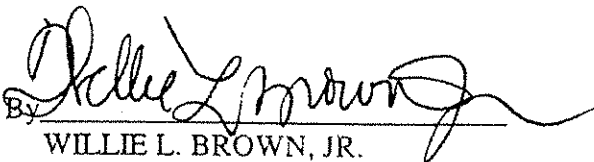
31.9 Waiver. No failure by City to insist upon the strict performance of any obligation of Agency under this Lease or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial Rent during the continuance of any such breach shall constitute a waiver of such breach or of City's rights to demand strict compliance with such term, covenant or condition. City's consent to or approval of any act by Agency requiring City's consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act by Agency. Any waiver by City of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Lease.

31.10 Further Assurances. The parties hereto agree to execute and acknowledge such other and further documents as may be necessary or reasonably required to carry out the mutual intent of the parties as expressed in this Lease.

IN WITNESS WHEREOF, CITY and Agency execute this Lease at San Francisco, California, as of the date set forth above.


CITY:

CITY AND COUNTY OF SAN FRANCISCO,
municipal corporation,

By 
WILLIE L. BROWN, JR.
Mayor

AGENCY:

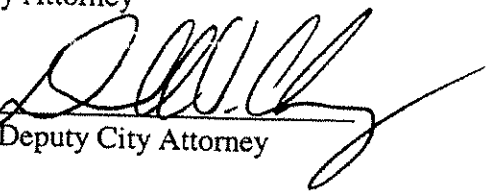
Redevelopment Agency a
of the City and County of
San Francisco

By  12/12/03
MARCIA ROSEN
Deputy Executive Director
By 15th Benham

By 
Acting Director of Property

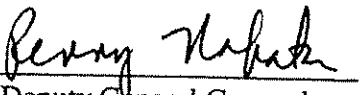
APPROVED AS TO FORM:

DENNIS J. HERRERA,
City Attorney

By 
Deputy City Attorney

APPROVED AS TO FORM:

JAMES B. MORALES,
General Counsel

By 
Deputy General Counsel

SAN FRANCISCO PORT COMMISSION

By: 
DOUGLAS F. WONG *Far Day Wong*
Executive Director

APPROVED AS TO FORM:

DENNIS J. HERRERA,
City Attorney

By: 
Deputy City Attorney

CONSENT

The undersigned, on behalf of Owner, in executing this Lease for the sole purpose of approving the form of this Lease, as contemplated by the CLTA, the PLTA, and the Catellus Lease; provided, however, that nothing continued herein shall be deemed to impose any obligations or liabilities upon Owner under the Lease, hereby consents to the foregoing Ground Lease.

CATELLUS OPERATING LIMITED PARTNERSHIP,
a Delaware limited partnership (as successor by merger
to Catellus Development Corporation)

By: Catellus Development Corporation,
a Delaware corporation (formerly known as Catellus SubCo, Inc.),
Its: Sole general partner,

By: Catellus Urban Development Corporation, a Delaware
corporation, its authorized agent

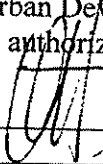
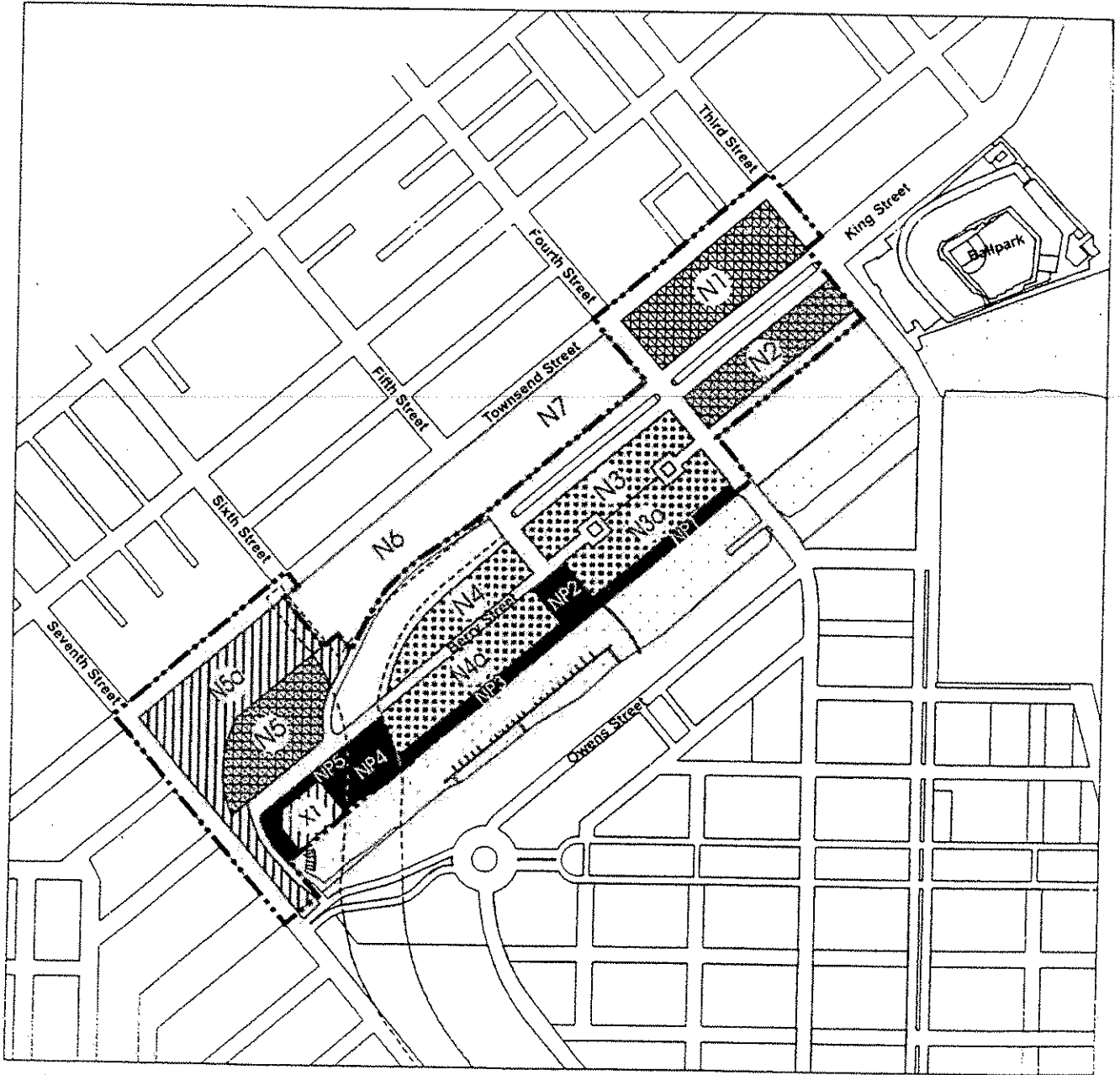
By: 
Name: ERIC HARRISON
Title: SP. VICE PRESIDENT

EXHIBIT "A"

Open Space Development Parcels



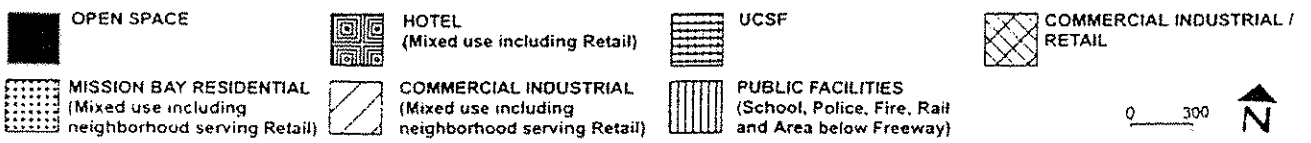
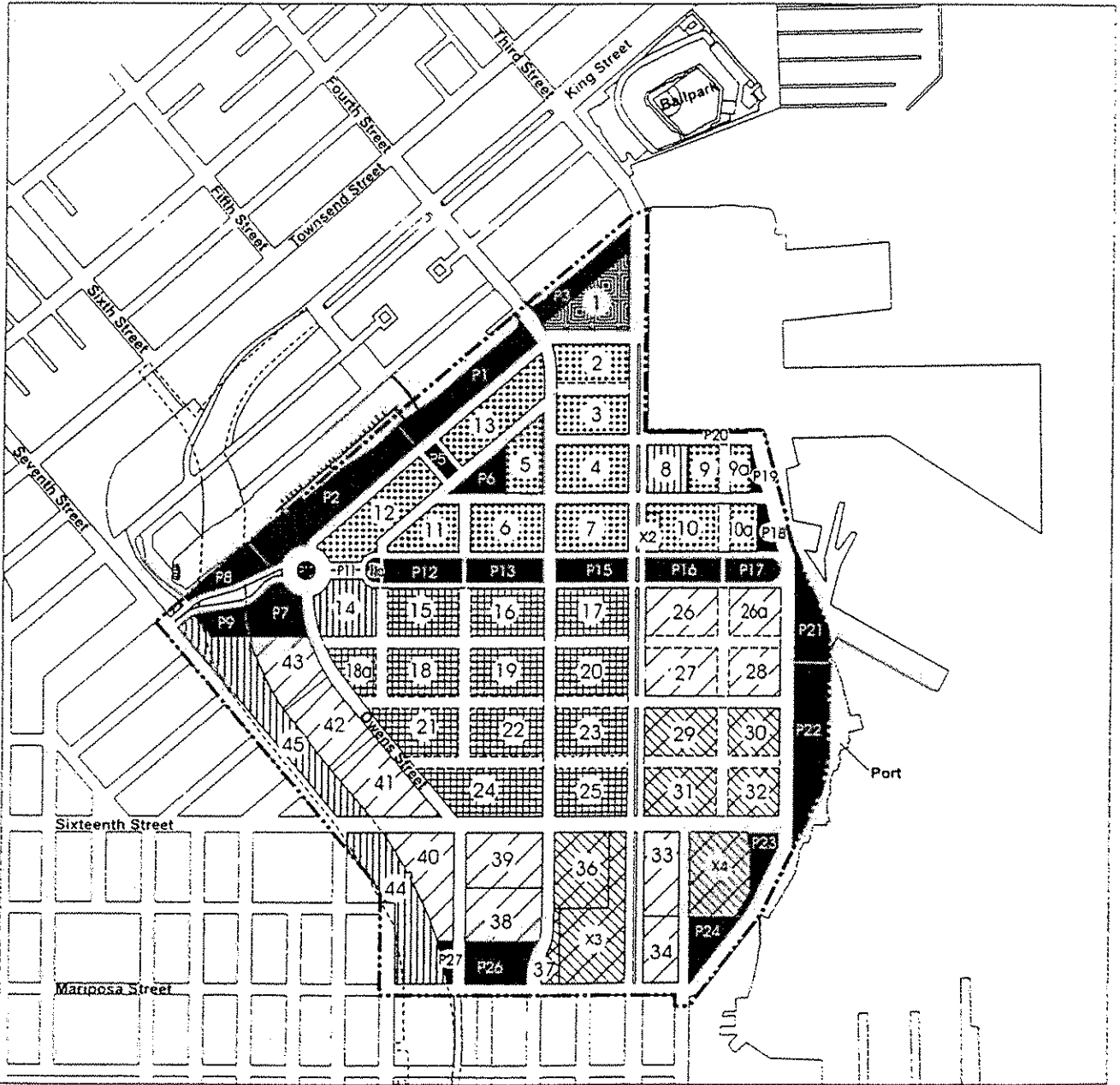
EXHIBIT A



MISSION BAY LAND USE PLAN - NORTH

EXHIBIT A

Page 2 of 2



MISSION BAY LAND USE PLAN - SOUTH

JOHNSON FAIN PARTNERS

SAN FRANCISCO, CALIFORNIA

CATELLUS DEVELOPMENT CORPORATION

EXHIBIT "B"

Premises

EXHIBIT "B-1"
(P1 PARK)

All that certain real property situate in the City and County of San Francisco, State of California, more particularly described as follows:

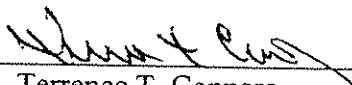
Being a portion of State Trust Parcel 2 and State Trust Parcel 7, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, of Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California.

All streets and street lines hereinafter mentioned are in accordance with that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z of Maps, at pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

BEGINNING at the intersection of the southeasterly line of Channel Street (200' wide) with the southwesterly line of Fourth Street (102.50' wide); thence, along said southwesterly line of Fourth Street, SOUTH 43°41'53" EAST, 93.67 feet, to a tangent curve concave southwesterly, having a radius of 440.00 feet; thence, southerly along said curve, through a central angle of 15°18'36", an arc length of 117.57 feet; thence, SOUTH 46°18'07" WEST, 142.57 feet; thence, SOUTH 43°41'25" WEST, 65.84 feet, to a line parallel with, and distant 65.00 feet northwesterly, measured at right angles, of that line called for in said State Trust Parcel 2, cited in the above said Patent, as course, NORTH 46°18'07" EAST, 750.68 feet; thence, along said parallel line, SOUTH 46°18'07" WEST, 583.49 feet, to a tangent curve concave northerly, having a radius of 59.50 feet, southwesterly and westerly, along said curve, through a central angle of 67°53'05", an arc length of 70.50 feet; thence, NORTH 65°48'48" WEST, 40.58 feet, to a tangent curve, concave southerly, having a radius of 85.50 feet; thence, westerly, along said curve, through a central angle of 32°49'49", an arc length of 48.99 feet, to the southwesterly line of former Fifth Street, as shown on the above said "Map of Mission Bay"; thence, along said southwesterly line, NORTH 43°41'53" WEST, 110.35 feet, to the said southeasterly line of Channel Street (200' wide); thence, along said southeasterly line, NORTH 46°18'07" EAST, 907.95 feet to the **POINT OF BEGINNING**.

Containing 187,735 sq. ft., more or less.

Prepared by:


Terrence T. Connors
LS 5099, expires 6/30/07



(82.50' WIDE)

FOURTH, STREET
(102.50' WIDE)



1" = 100'
POB

N43°41'55"W
93.67'

R=440.00'
L=117.57'
Δ=151°18'36"

N46°18'07"E
142.57'

Storm Drain Easement
per H570 OR 0352

CHANNEL STREET
(200' WIDE)

N 46°18'07"E 907.95'

H632
OR
0099
ACCESS/
UTILITY
EASEMENT

STATE TRUST PARCEL 2
CITY PROPERTY
(H429 OR 518)

583.49'

CHANNEL
(65' WIDE)

N46°18'07"E 750.68'

100.00'
STATE TRUST
PARCEL 7
PORT PROPERTY
H429 OR 518
STATE MINERAL RIGHTS
H429 OR 507

82.50' (FORMER FIFTH ST.)

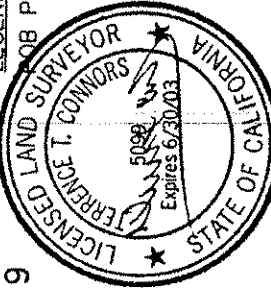
S43°41'53"E(R)

N46°18'07"E

65.00'

① N65°48'48"W 40.58'
R=59.50' C1= L=70.50'
R=85.50' C2= L=48.99'
Δ=67°53'05" Δ=32°49'49"

LEGEND



8711/1
Z M 97-119

e: 12/11/03

rwh

Mission Bay Project
San Francisco, California
EXHIBIT B-1, PLAT TO ACCOMPANY
LEGAL DESCRIPTION
PARK P-1

Sheet 1
of
sheet 1

Exhibit "B-1.1"

Excepting there from the following reservations, the terms and uses of which are individually described as follows:

Joint Trench Easement – The City and County of San Francisco reserves from the SFRA Ground Leased Parcel the non-exclusive right to be held by the City and County of San Francisco, in its corporate capacity, for the future benefit of the City and County of San Francisco, its permittees, grantees, licensees, employees, and contractors and various utility providers, including but not limited to, the City and County of San Francisco Bureau of Lighting, Heat & Power, Department of Telecommunications & Information Services and Public Utilities Commission; Pacific Gas & Electric; Pacific Bell; RCN; AT&T; etc., in, upon, and over that portion of the SFRA Ground Leased Parcel (Exhibit B-1.1) described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of utility facilities and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of gas pipelines, telegraphic, telecommunication and telephone lines, street lighting facilities, and facilities

Legal Description

All that certain real property situate in the City and County of San Francisco, State of California, more particularly described as follows:

Being a portion of State Trust Parcel 2, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, of Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California.

All streets and street lines hereinafter mentioned are in accordance with that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z of Maps, at pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

COMMENCING at the intersection of the southeasterly line of Channel Street (200' wide) with the southwesterly line of Fourth Street (102.50' wide); thence, along said southwesterly line of Fourth Street, SOUTH 43°41'53" EAST, 93.67 feet, to a tangent curve concave southwesterly, having a radius of 440.00 feet; thence, southerly, along said curve, through a central angle of 15°18'36", an arc length of 117.57 feet, to the **TRUE POINT OF BEGINNING**, said point being the beginning of a non-tangent line, and to which point a radial line bears, NORTH 61° 36' 43" EAST; thence, along said non-tangent line, being also the southeasterly line of this description, SOUTH 46°18'07" WEST, 142.57 feet; thence, continuing along said southeasterly line, SOUTH 43°41'25" WEST, 65.84 feet, to a line parallel with, and distant 65.00 feet northwesterly, measured at right angles, to the line cited in the above said Patent as course: NORTH 46°18'07"

EAST, 750.68 feet; thence, along said parallel line, SOUTH $46^{\circ}18'07''$ WEST, 683.99 feet, to the southwesterly line of former Fifth Street (82.50 feet wide), as said street is shown on the above said map (Z Maps 97-119); thence, along said southwesterly line of former Fifth Street, NORTH $43^{\circ}41'53''$ WEST, 11.50 feet, to a line parallel with and distant northwesterly 11.50 feet, measured at right angles to the southeasterly line of this description herein described; thence, along said parallel line the following courses and distances: NORTH $46^{\circ}18'07''$ EAST, 683.73 feet; NORTH $43^{\circ}41'25''$ EAST, 65.84 feet; and, NORTH $46^{\circ}18'07''$ EAST, 145.82 feet, to a point on the herein described tangent curve having a radius of 440.00 feet, and to which point a radial line bears NORTH $60^{\circ}03'54''$ EAST; thence southerly along said curve, through a central angle of $1^{\circ}32'49''$, an arc length of 11.88 feet, to the **POINT OF BEGINNING**.

Containing 10,280 Sq. Ft., more or less.

Pacific Gas & Electric Easement - The City and County of San Francisco reserves from the SFRA Ground Leased Parcel the non-exclusive right to be held by the City and County of San Francisco, in its corporate capacity, for the future benefit of Pacific Gas & Electric in, upon, and over that portion of the SFRA Ground Leased Parcel (Exhibit A) described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of utility facilities and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of gas pipelines, telecommunication and facilities for the transportation or distribution of electric energy.

All that real property situated in the City and County of San Francisco, State of California, described as follows:

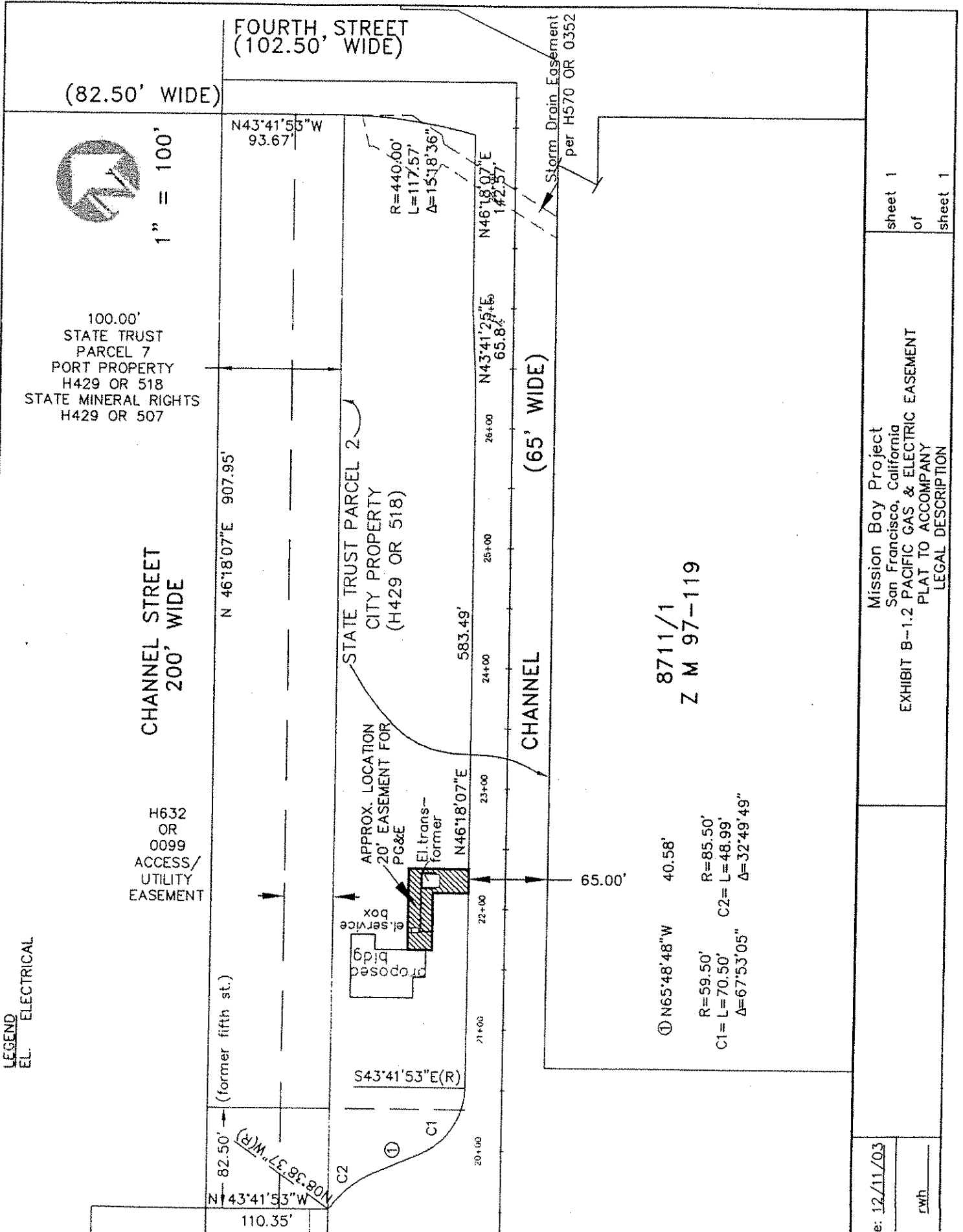
Being a portion of State Trust Parcel 2, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, of Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California.

Legal Description

All streets and street lines hereinafter mentioned are in accordance with that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z of Maps, at pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

An area, 20 feet in width (measured at right angles), centered around the future Pacific Gas & Electric facilities extending northerly from the northwesterly right-of-way line of future Channel to an electrical transformer, lighting and irrigation service panel pad and westerly from the electrical transformer, lighting and irrigation service pad to an electrical service panel near the concession building, as generally shown northwesterly of station 22+00 on the improvement plans prepared for Catellus Development Corporation (as Permittee) by RBF Consulting, entitled "Mission Creek Park, Block P1 - 100% Submittal" approved by the Director, San Francisco Department of Public Works, on January 18, 2002, and as may be further amended and approved from time to time by or on behalf of the Director. Said easement is shown in its approximate location on the attached plat map B-1.2 to be used for reference only.

LEGEND
EL. ELECTRICAL



e: 12/11/03	sheet 1
rwth	of
	sheet 1
Mission Bay Project San Francisco, California EXHIBIT B-1.2 PACIFIC GAS & ELECTRIC EASEMENT PLAT TO ACCOMPANY LEGAL DESCRIPTION	

Combined Sewer Easement - The City and County of San Francisco reserves from the SFRA Ground Leased Parcel a non-exclusive right to held by the City and County of San Francisco Public Utilities Commission and its permitted grantees, licensees, employees and contractors, in, upon, and over that portion of the SFRA Ground Leased Parcel (Exhibit A) described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of an existing facility and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of a combined sewer system.

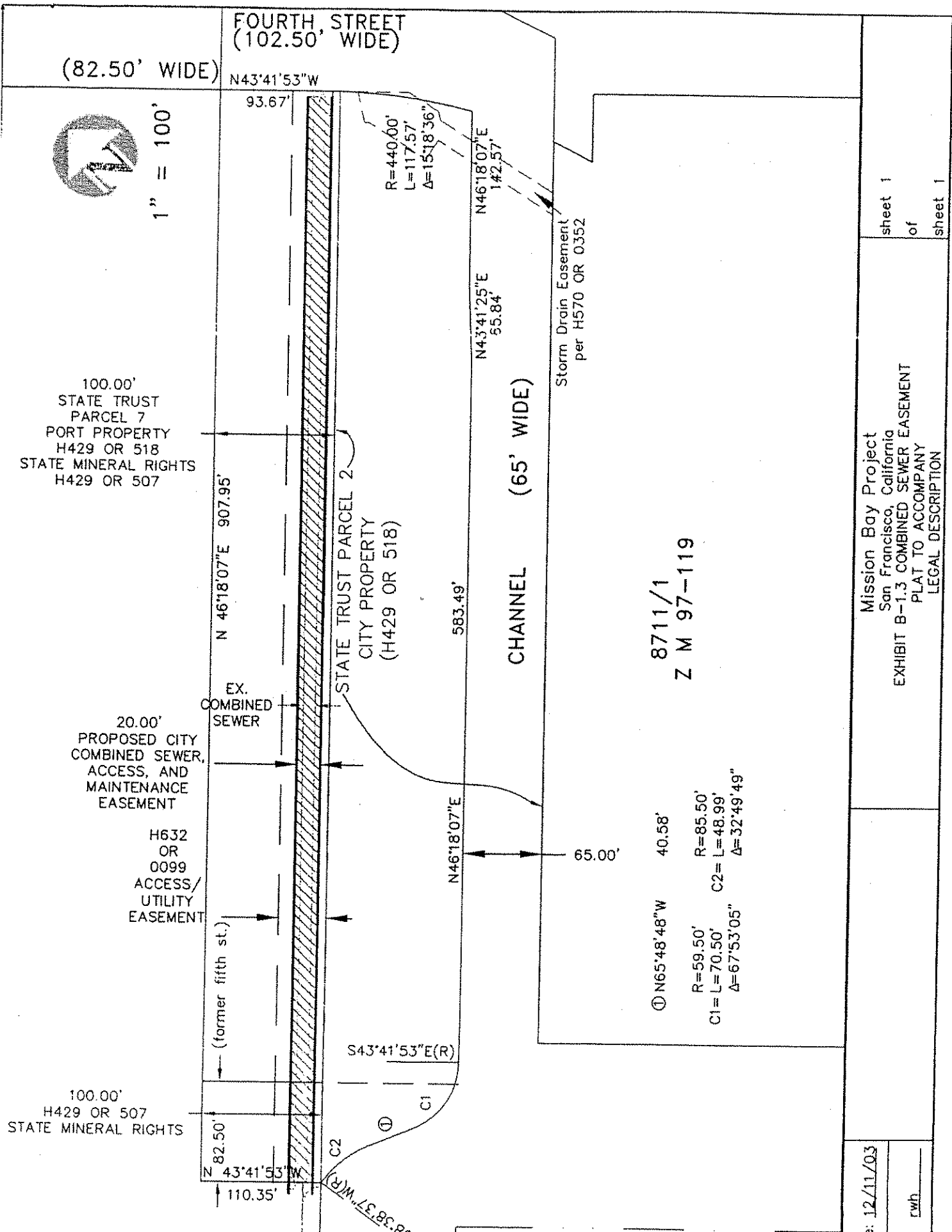
Legal Description

All that real property situated in the City and County of San Francisco, State of California, described as follows:

Being a portion of State Trust Parcel 7, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, of Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California.

All streets and street lines hereinafter mentioned are in accordance with that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z of Maps, at pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

A strip of land 20 feet in width, lying 10 feet (measured at right angles) on each side of the centerline of the City and County of San Francisco Combined Sewer Facility as it now exists. The sidelines of said easement shall be lengthened or shortened so as to extend from the from the southwesterly right-of-way line of Fourth Street (102.5 feet wide) to the southwesterly property line of the above described SFRA Lease Parcel (Exhibit A) and create a continuous easement throughout. Said easement is shown in its approximate location on the attached plat map B-1.3 to be used for reference only.



sheet 1	of	sheet 1
Mission Bay Project San Francisco, California EXHIBIT B-1.3 COMBINED SEWER EASEMENT PLAT TO ACCOMPANY LEGAL DESCRIPTION		
DATE: 12/11/03	EWH	

MUNI Duct Bank Easement - The City and County of San Francisco reserve from the SFRA Ground Leased Parcel the non-exclusive right to be held by the City and County of San Francisco Department of Transportation, MUNI, and its permittees, grantees, licensees, employees, and contractors, in, upon, and over that portion of the SFRA Ground Leased Parcel (Exhibit A) described herein, to the extent necessary for access, construction, operation, repair, removal and maintenance of future duct bank facilities and appurtenances such as pipes, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of a light rail and bus transportation system.

Legal Description

All that real property situated in the City and County of San Francisco, State of California, described as follows:

Being a portion of State Trust Parcel 2 and 7, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999 at Reel H429, Image 518, of Official Records, in the Office of the Recorder of the City and County of San Francisco, State of California.

All streets and street lines hereinafter mentioned are in accordance with that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z of Maps, at pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

Two areas, each 15 feet in width, lying 7.50 feet, measured at right angles, on each side of the centerline of the MUNI Duct Bank Facility as it now exists, as generally shown on the improvement plans prepared by MUNI, entitled "Third Street Light Rail Transit Mission Creek and Islais Creek Duct Banks" "contract MR #1148" and approved by the Director of Transportation, MUNI, on April 5, 2001, and as may be further amended and approved from time to time by or on behalf of the Director.

The sidelines of said easement shall be lengthened or shortened so as to extend from the southeasterly line of Channel Street (200 feet wide) southerly to the northwesterly right-of-way line of future Channel (65 feet wide) and create continuous easements throughout. Said easements are shown in their approximate locations on the attached plat map B-1.4 to be used for reference only.

Carmen's Parking Easement – The non-exclusive right to be held by the City and County of San Francisco, and the City acting by and through the San Francisco Port Commission in, upon, and over that portion of the SFRA Ground Leased Parcel (Exhibit A) described herein, to the extent necessary for access, cleaning, operation, policing, repair and maintenance of facilities, appurtenances, signs, and other fixtures for vehicular parking for the benefit of the adjacent tenant leased area now known as Carmen's Restaurant. Said easement is shown in their approximate locations on the attached plat map B-1.5 to be used for reference only.

Legal Description

All that certain real property situate in the City and County of San Francisco, State of California, more particularly described as follows:

Being a portion of State Trust Parcel 2 and State Trust Parcel 7, as described in that certain Patent from the State of California to the City of San Francisco, as Trustee, recorded on July 19, 1999, in Reel H429 Image 518, in the Office of the Recorder of the City and County of San Francisco, State of California.

All street and street lines hereinafter mentioned are in accordance with that certain map entitled "Map of Mission Bay", recorded on July 19, 1999, in Book Z of Maps, at pages 97-119, in the Office of the Recorder of the City and County of San Francisco, State of California.

Commencing at the intersection of the southeasterly line of Channel Street (200.00 feet wide) and the southwesterly line of Fourth Street (102.50 feet wide); thence, along said southwesterly line of Fourth Street; SOUTH 43°41'53" EAST, 76.30 feet, to the beginning of a non-tangent curve concave to the southeast, having a radius of 15.00 feet, to which a radial line bears, NORTH 52°53'32" WEST, said point being the **POINT OF BEGINNING** of this description; thence, southerly along said non-tangent curve, through a central angle of 83° 55'08", an arc length of 21.97 feet; thence, SOUTH 39°54'25" EAST, 40.96 feet, to the beginning of a non-tangent curve concave to the northeast, having a radius of 15.00 feet, to which a radial line bears, SOUTH 38°53'28" WEST; thence, easterly along said non-tangent curve, through a central angle of 72°21'49", an arc length of 18.94 feet, to a point on a non-tangent curve concave to the southwest, having a radius of 440.00 feet, to which point a radial line bears, NORTH 53° 04'57" EAST; thence, northwesterly along said non-tangent curve, through a central angle 6°46'50", an arc length of 52.07 feet; thence, NORTH 43°41'53" WEST, 17.37 feet to the **POINT OF BEGINNING**.

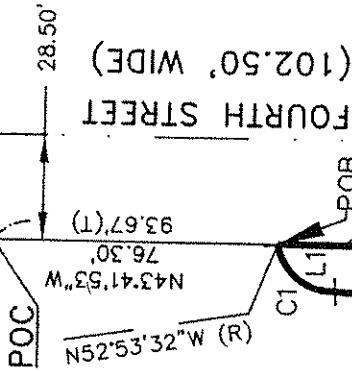
Containing 820 Sq. Feet., more or less.



1" = 50'

CHANNEL STREET
(200' wide)

FOURTH STREET
(102.50' WIDE)



100.00'
STATE TRUST
PARCEL 7

LEGEND

POC: POINT OF COMMENCEMENT
POB: POINT OF BEGINNING

R=15.00' N43°41'53\"W
L1= 17.37'

Δ=83°55'08\"

R=15.00'
L=18.94'

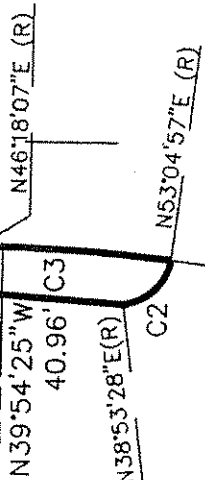
Δ=72°21'49\"

R=440.00'
L=52.07'

Δ=6°46'50\"

R=440.00'
L=65.50'
Δ=8°31'46\"

N61°36'43\"E (R)



STATE TRUST
PARCEL 2

8715/2
H712 OR 294

8715/3
H712 OR 294

FUTURE CHANNEL

8711/1
Z MAPS 97-119

te: 12/11/03

rwh

Mission Bay Project
San Francisco, California
EXHIBIT B-1.5 PARKING LOT
PLAT TO ACCOMPANY
LEGAL DESCRIPTION

sheet 1
of
sheet 1

As to each of the reservations set forth in this Exhibit B-1.1, City shall give the Agency written notice five (5) business days prior to any entrance by City or any of City's officers, agents, employees, contractors (including all sub-tier contractors), and consultants upon any of the easement areas for the purposes set forth herein; provided, however, in the event of an emergency, no prior notice shall be required but City shall provide notice retroactively within forty-eight (48) hours of any such entry. The written notice shall state (i) the purpose of such entry, (ii) the date, time and estimated duration of such entry, and (iii) a detailed description of the type of activities City will undertake during such entry. If, after receiving such written notice, the Agency determines that City's entrance upon any portion of the easement areas involves any excavation within such easement areas or otherwise will cause a significant disruption of the use of the Premises for the purposes intended by this Ground Lease, all as reasonably determined by the Agency, the Agency may require City to modify the timing of City's entry or to undertake other measures (including without limitation, the restoration or repair of any portion of the easement areas damaged by City's entry thereon) to ensure the safety of and the public's use of the Premises and to mitigate other adverse effects upon the easement areas and the Premises.

The above Legal Descriptions and Plat Maps were prepared by me or under my direction.

By: *Terrence T. Connors*
Terrence T. Connors
LS 5099, expires 6/30/07





Gavin Newsom, Mayor
Edward D. Reiskin, Director



Phone: (415) 554-6920
Fax: (415) 554-6944
TDD: (415) 554-6900
www.sfdpw.org

Department of Public Works
Office of the Director
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4645

October 19, 2009

**FINDINGS OF DEPARTMENT OF PUBLIC WORKS
ORDER NO. 178,379**

Re: Recommendation for approving the Second Amendment to the Redevelopment Agency Ground Lease in Mission Bay and formal acceptance of Park Parcel P21 Improvements within the Mission Bay South Redevelopment Plan, designation of a portion of State Trust Parcel 5 lying east of future Terry A. Francois Boulevard at future Mission Bay Boulevard South for public open space and park purposes and naming the park "Bayfront Park"; accepting the irrevocable offer for the acquisition facilities; designation of said facilities to public use and acceptance for maintenance responsibilities and liability purposes.

WHEREAS, California Statutes of 1968, Chapter 1333 ("the Burton Act") and San Francisco Charter Section 4.114 empower the San Francisco Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port Commission jurisdiction; and

WHEREAS, On October 26, 1998, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay North Redevelopment Project ("Mission Bay North") by Ordinance No. 327-98, and on November 2, 1998, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay South Redevelopment Project ("Mission Bay South") by Ordinance No. 335-98 (collectively, the "Redevelopment Plans", and individually, the "Mission Bay North Redevelopment Plan" or "Mission Bay South Redevelopment Plan". The Redevelopment Plans were adopted in accordance with the procedures set forth in the Community Redevelopment Law of California (Sections 33000 et seq. of the Health and Safety Code); and,

WHEREAS, On November 2, 1998, the Board of Supervisors adopted the Mission Bay South Redevelopment Plan ("Mission Bay Plan") by its Ordinance No. 335-98; and,

WHEREAS, On November 16, 1998, the Redevelopment Agency of the City and County of San Francisco (the "Redevelopment Agency") and Catellus Development Corporation ("Catellus") entered into the Mission Bay South Owner Participation Agreement (the "South OPA"); and,

WHEREAS, On November 16, 1998, the City and County of San Francisco (the "City") and the Redevelopment Agency entered into the Mission Bay South Interagency Cooperation Agreement; and,

WHEREAS, On July 19, 1999, the City, acting by and through the San Francisco Port Commission (the "Port"), and Catellus entered into a Master Lease for portions of the public trust properties (the "Master Lease"); and,

WHEREAS, On July 19, 1999, the City and Catellus entered into the Amended and Restated Mission Bay City Land Transfer Agreement (the "Land Transfer Agreement"); and,

WHEREAS, On July 19, 1999, the State of California quitclaimed to the City certain properties as public trust of which Park P21 is a portion; and,

WHEREAS, On January 4, 2001, the City, Redevelopment Agency and Catellus entered into the Mission Bay South Infrastructure Plan Memorandum of Modifications (No. 2); and,

WHEREAS, On June 1, 2001, the Redevelopment Agency and Catellus entered into the Mission Bay South Acquisition Agreement; and,

WHEREAS, The City, and with respect to that portion of the subject premises under Port jurisdiction, the Port, as landlord, and the Redevelopment Agency, as tenant, entered into that certain Agency Ground Lease (the "Ground Lease") dated for reference purposes only as of November 16, 2001, to implement the improvement of open space, parks, or plazas as contemplated by the Land Transfer Agreement and the Plan Documents, including the South OPA, and a First Amendment to Agency Ground Lease was executed on June 29, 2006; and,

WHEREAS, In a letter dated April 23, 2002, Catellus provided an Agency Lease Notice in accordance with Section 3.2.1 of the Master Lease, electing to terminate the Master Lease over certain portions of the Master Lease premises, sometimes known as Park P21, as described in said notice, and providing notice that Catellus was prepared to commence construction of improvements on the Park P21 premises (the "Park P21 Agency Lease Notice"); and,

WHEREAS, On June 4, 2002, the City Department of Public Works issued Street Improvement Permit No. 02IE-267 to construct certain open space improvements for the "Mission Bay Block P21 Landscape Improvements" (the "Park Improvements"); and,

WHEREAS, On December 1, 2003, Catellus merged into Catellus Operating Limited Partnership, a Delaware limited partnership ("COLP"), and on December 31, 2003 COLP, as successor by merger to Catellus contributed most of its interests in Mission Bay to Catellus Land and Development Corporation ("CLDC") a Delaware Corporation, thereby making CLDC a wholly owned subsidiary of COLP following the merger, including all rights and obligations under the Project Permit and the Permit to Enter related to the Project; and,

WHEREAS, On November 22, 2004, Catellus Operating Limited Partnership, a Delaware limited partnership, and Catellus Land and Development Corporation a Delaware Corporation granted all of its property in the grant deed, and assigned all rights and obligations under the OPA as stated in the Assumption Agreement, to FOCIL – MB, LLC, a Delaware limited liability company ("FOCIL"); and,

WHEREAS On March 22, 2006, FOCIL and the Redevelopment Agency entered into that certain Agreement (Temporary Use Agreement), providing the Agency the right to use the Park Improvements after substantial completion thereof, pending final completion and acceptance of the Park Improvements by the City; and,

WHEREAS On July 11, 2006, the Director of Public Works issued a notice that the Park Improvements are substantially complete pursuant to the Improvement Permit #02IE-267 and are ready for its intended use; and,

WHEREAS, In a letter (attached as Exhibit B) dated July 31, 2006, the City Planning Department determined that the acceptance of the Park Improvements and other actions specified herein are consistent with the General Plan consistency findings of Case No. 2006.0879R, the eight priority policies of Planning Code Section 101.1 and the contemplated actions do not trigger the need for subsequent environmental review pursuant the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.); and,

WHEREAS, In a letter (attached as Exhibit A) dated January 17, 2007, the Redevelopment Agency determined the acceptance of the Park Improvements and other actions specified herein are "consistent with the Mission Bay South Redevelopment Plan and Plan Documents and recommends Board of Supervisors accept the Park Improvements on behalf of the City"; and,

WHEREAS, On June 28, 2006, the Redevelopment Agency signed and accepted the FOCIL Conditional Assignment of Warranties and Guaranties with regard to the Park Improvements; and,

WHEREAS, the Warranties and Guaranties with regards to the Park Improvements are valid for a period of one (1) year and are now expired; and,

WHEREAS, On or about May 2008, the Port, the Agency and the Department of Public Works reached agreement on the allocation of certain maintenance responsibilities with respect to portions of the premises under the Ground Lease and certain adjacent land and improvements (including sidewalks, seawalls, riprap and trees) and memorialized that agreement in a proposed Second Amendment to Ground Lease; and,

WHEREAS, As contemplated by the Mission Bay South Redevelopment Plan and related documents, a portion of Park P21 has been improved with a boat trailer parking lot which is used in connection with a nearby boat launch under the Port's jurisdiction; and

WHEREAS, For the reasons stated in the proposed Second Amendment to Ground Lease, the Port and the Agency determined that the boat trailer parking lot should remain under the direct control of the Port, rather than be leased to the Agency under the Ground Lease, then subleased or sublicensed back to the Port, and that, consequently, for the purposes of the Ground Lease "Park P21" should be comprised of only those portions of the parcel which will be controlled and maintained by the Agency, which areas are depicted as "Park P21 – Area 1" and "Park P21- Area 2 on Exhibit B-4-1 attached to the proposed Second Amendment to Ground Lease; and,

WHEREAS, both the Master Lease and the Ground Lease contemplate that Park 21 will be added to the Ground Lease following delivery of the Park P21 Agency Lease Notice; and,

WHEREAS, In a letter dated September 9, 2009, the Port determined the Park Improvements are "acceptable and consistent with the Public Trust" and recommends Board of Supervisors approve the Second Amendment to the Agency Ground Lease and accept the Mission Bay P21 Park Improvements on behalf of the Port; and,

WHEREAS, On November 3, 2009, FOCIL irrevocably offered to the City the improvements constructed in accordance with the Park Improvement plans and any authorized revisions or contract change orders thereto and together with said offer an assignment of all guaranties and warranties related to the construction of all the improvements; and,

WHEREAS, The Director of Department of Public Works hereby certifies the following:

- 1) The Park name should be designated as "Bayfront Park";
- 2) The Park use is consistent with the Port's Public Trust

- a) The Port currently holds title to the proposed public open space for the Project as State Trust property subject to Port's jurisdiction and free and clear of the Master Lease but subject to the Agency Ground Lease.
 - b) The use of the Port property as public open space is permitted under the terms of the State Trust for the reasons set forth in the Port recital; and
- 3) The City has issued the Completeness Determination.
- a) All applicable inspections have been performed, test result have been obtained, permit conditions and mitigation measures have been complied with, punch list items have been resolved, Street Improvement Permit terms related to the Park P21 Project have been or will be met and improvement plan as-built drawings have been received.
 - b) I hereby certify to the Board of Supervisors that by my letter on July 11, 2006. I have determined that the Project is ready for its intended use and has been completed substantially in conformity with the Plans and Specifications for "Mission Bay Block P21 Landscape Improvements" approved by or on behalf of the DPW Director, June 4, 2002 and any authorized revision thereto, and that the Project has been constructed in accordance with all City codes, regulations, standards and the Mission Bay Plan and Plan Documents governing this Project with the noted exceptions.

NOW THEREFORE BE IT ORDERED THAT,

With respect to facilities acceptance:

I hereby recommend the Board of Supervisors accept the Project Acquisition Facilities, as referenced in the Acquisition Agreement dated June 1, 2001, and as further described in the FOCIL Irrevocable Offer of Improvements for the Project dated November 3, 2009.

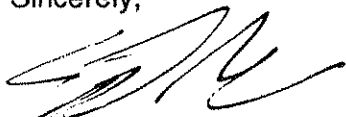
The acceptance is for the Project only and for maintenance and liability purposes pursuant to Section 1806 of the California Streets and Highways Code and San Francisco Administration Code Section 1.52 et seq. The acceptance is subject to i) the maintenance obligation of the Redevelopment Agency and Port as set forth the Second Amendment to Ground and ii) limited to only the Project area.

With respect to public open space as park use:

I hereby recommend the Board of Supervisors designate that portion of State Trust Parcel 5 as shown on Exhibit "A-1" of the FOCIL Offer of Improvements for public open space and park purposes.

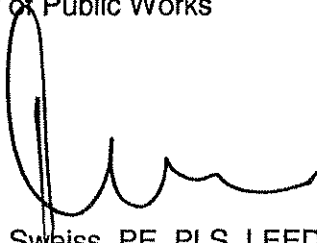
I further recommend the Board of Supervisors designate the name of the new park as "Bayfront Park".

Sincerely,



Edward D. Reiskin
Director of Public Works

And



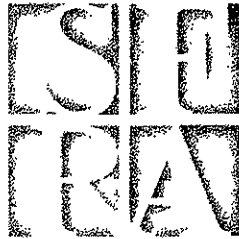
Fuad S. Sweiss, PE, PLS, LEED AP
City Engineer and Deputy Director of Engineering

CC: Kelley Kahn, Sr. Project Manager, SFRA
Grace Kwak, Project Manager, MBTF
John Malamut, City Attorney's Office
Anita Wood, City Attorney's Office
Monique Moyer, Executive Director, Port of San Francisco
Barbara Moy, BSM
Amy L. Brown, Director of Property
Phillip Owen, Mission Bay Development Group
Joshua R. Steinhauer, Esq. Coblenz, Patch, Duffy & Bass
MBTF File

San Francisco
Redevelopment Agency

One South Van Ness Avenue
San Francisco, CA 94103

415.749.2400



2007 JAN 22 AM 11:06

GAVIN NEWSOM, Mayor

Richard H. Peterson, Jr., President
London Breed, Vice President
Francee Covington
Leroy King
Ramon E. Romero
Darshan Singh
Benny Y. Yee

Marcia Rosen, Executive Director

126-0207-014
January 17, 2007

Mr. Ashur Yoseph
Lead Project Manager
Infrastructure Development and Acquisition Task Force
30 Van Ness Avenue, Room 4200
San Francisco, CA 94102

Re: Mission Bay Acceptance of Facilities – Bayfront Park/P21 Improvements

Dear Mr. Yoseph:

The San Francisco Redevelopment Agency has reviewed your letter of December 20, 2006 regarding the P21 Bayfront Park improvements and their consistency with the Mission Bay South Plan and Plan documents.

The Agency has reviewed the documents and other materials related to the acceptance of the P21 improvements and other related actions specified thereto. We find them consistent with the Mission Bay South Plan and Plan documents and recommend that the Board of Supervisors accept the facilities on behalf of the Port of San Francisco.

Sincerely,

Kelley Kahn
Assistant Project Manager

cc: Amy Neches
Grace Kwak, MBTF
Brad Benson, Port of San Francisco



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER
(415) 558-6378

DIRECTOR'S OFFICE
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4TH FLOOR
FAX: 558-6426

ZONING ADMINISTRATOR
PHONE: 558-6350

5TH FLOOR
FAX: 558-6409

PLANNING INFORMATION
PHONE: 558-6377

MAJOR ENVIRONMENTAL
FAX: 558-5991

COMMISSION CALENDAR
INFO: 558-6422

INTERNET WEB SITE
WWW.SFGOV.ORG/PLANNING

July 31, 2006

Mr. Ashur J. Yoseph, Project Manager
Mission Bay Task Force
30 Van Ness Avenue, Suite 4200
San Francisco, CA 94102

Re: **Planning Case No. 2006.0879R**
Acceptance of the Mission Bay South Bayfront Park P21 Improvements
(AB Nos. 8721, Lot 003 and 8722, Lots 005 and 006)

RECEIVED
PUBLIC WORKS
2006 AUG -2 AM 11:16

Dear Mr. Yoseph,

The Department received your July 11, 2006 letter informing us that FOCIL-Mission Bay LLC has completed construction of the project referenced above and requests that the Department find acceptance of the improvements consistent with the General Plan pursuant to Section 4.105 of the San Francisco Charter and Section 2A.53 of the San Francisco Administrative Code. The General Plan consistency determination is required prior to the Board of Supervisors acceptance of public improvements at Mission Bay South Bayfront Park P21, which functions as a boat launch. The improvements consist of a portion of the Bay Trail, landscaped areas east and west of said trail and streetscape improvements (sidewalk and street trees) along the eastern side of Terry Francois Boulevard. Plans for the improvements are available for review at the Department Office.

By Resolution No. 14699 adopted on September 17, 1998, the Planning Commission found that the Mission Bay North and Mission Bay South Redevelopment Plans, dated September 4, 1998, were consistent with the San Francisco General Plan. The project referenced above was proposed as part of the Mission Bay South Redevelopment Plan. The Department reviewed and approved the plans proposed for Bayfront Park P21 on January 18, 2002. The Department determined that the plans were consistent with the concepts described in the Mission Bay South Redevelopment Plan in CPC Res. No. 14699 (Planning Case No. 1996.0771R). The project is **in conformity** with the General Plan as described in a Case Report included as **Attachment 1**.

Environmental Review

On September 17, 1998, the Planning Commission and the Redevelopment Agency Commission reviewed the Final Subsequent Environmental Impact Report ("FSEIR") for the Mission Bay North and South Redevelopment Plans, which included improvements to Bayfront Park P21. By Motion No. 14696, the Planning Commission certified the FSEIR and found that the FSEIR complied with the provisions of the California Environmental Quality Act ("CEQA") and the CEQA guidelines and Chapter 31 of the San Francisco Administrative Code. City acceptance of the parks and the improvements was considered in the FSEIR and no further Environmental Review is required.

Mr. Ashur J. Yoseph, Project Manager
Planning Case No. 2006.0879R

A Case Report listing relevant General Plan Objectives and Policies is attached. The project has also been reviewed for consistency with the Eight Priority Policies of Planning Code Section 101.1 and the findings are included in *Attachment 2*.

Should you have any questions, please contact Pedro Francisco Arce at 558-5986.

Sincerely,



Dean L. Macris
Director of Planning

Att.: 1. General Plan Findings Case Report
2. Planning Code Section 101.1 Findings

cc: P. Arce, PD

CASE REPORT - GENERAL PLAN POLICIES

The project is consistent with the following General Plan Objectives and Policies (as summarized from Planning Case No. 1996.0771R (CPC Res. No. 14699) adopted September 17, 1998. There are no substantial changes to the project design, as implemented.

Note: General Plan Objectives and Policies in **Bold font**; General Plan text is in regular font. Staff comments are in *italic text*.

URBAN DESIGN ELEMENT

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION. (Page I.5.3)

FUNDAMENTAL PRINCIPLES FOR CITY PATTERN (Pages 1.5.4 to I.5.8)

3. Clearly visible open spaces act as orientation points, and convey information about the presence of recreation space to motorists and pedestrians.
6. Landscaped pathways can visually and functionally link larger open spaces to neighborhoods.
14. Highly visible open space presents a refreshing contrast to extensive urban development.

The project establishes a public park which accommodates a boat launch, a portion of the Bay Trail, landscaped areas east and west of said trail and streetscape improvements.

CONSERVATION

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

FUNDAMENTAL PRINCIPLES FOR CONSERVATION (I.5.19)

4. Natural areas and features such as sand dunes, cliffs, hills and beaches--particularly where a relatively undisturbed natural ecology exists--are irreplaceable and of special public value and benefit within an intensely developed city.
17. Blocking, construction or other impairment of pleasing street views of the Bay or Ocean, distant hills, or other parts of the city can destroy an important characteristic of the unique setting and quality of the city.

POLICY 2.1

Preserve in their natural state the few remaining areas that have not been developed by man.

POLICY 2.2

Limit improvements in other open spaces having an established sense of nature to those that are necessary, and unlikely to detract from the primary values of the open space.

POLICY 2.3

Avoid encroachments on San Francisco Bay that would be inconsistent with the Bay Plan or the needs of the city's residents.

The project preserves, improves and enhances the shoreline, stabilizes the shore bank and establishes a pedestrian trail along the shoreline, so that the natural feature can be enjoyed by the public.

NEIGHBORHOOD ENVIRONMENT

OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY

FUNDAMENTAL PRINCIPLES FOR NEIGHBORHOOD ENVIRONMENT (I.5.40)

These fundamental principles and their illustrations reflect the needs and characteristics with which this Plan is concerned, and describe measurable and critical urban design relationships in the neighborhood environment.

3. The use of appropriate plant material, and careful consideration of environmental factors in the design of landscaping and open space, contribute to a neighborhood's identity and improve its environmental quality.
4. Open space and landscaping can give neighborhoods an identity, a visual focus and a center for activity.
6. Wide, generous sidewalk areas provide opportunities for outdoor recreation and pedestrian amenities.
9. Open, unlandscaped parking areas are dull and unattractive, and generally have a deleterious effect upon their surroundings.
14. Separation of pedestrian and vehicle movement eliminates conflicts and contributes to pedestrian comfort.
23. Attractive and well-maintained public buildings, streets and parks can stimulate private improvements.
29. Waterfront development that maximizes the interface between land and water increases the opportunities for public access to the water's edge.
30. Open space along the water provides opportunities for maximum public use of the waterfront.

Bayfront Park P21 would contribute to the establishment of neighborhood identity provides open areas for outdoor recreation activities and pedestrians amenities increase the opportunities for public use of the shoreline and would connect with additional public open spaces along the Bay shoreline.

Opportunity for Recreation (I.5.49)

POLICY 4.8

Provide convenient access to a variety of recreation opportunities.

Visual Amenity

POLICY 4.12

Install, promote and maintain landscaping in public and private areas.

The project which includes a boat launch and a portion of the Bay Trail would provide access to a variety of recreation opportunities.

RECREATION AND OPEN SPACE ELEMENT

CITYWIDE SYSTEM

OBJECTIVE 2

DEVELOP AND MAINTAIN A DIVERSIFIED AND BALANCED CITYWIDE SYSTEM OF HIGH QUALITY PUBLIC OPEN SPACE.

POLICY 2.1

Provide an adequate total quantity and equitable distribution of public open spaces throughout the City.

POLICY 2.6

Make open spaces accessible to people with special needs.

POLICY 2.7

Acquire additional open space for public use.

Map 4. Citywide Recreation & Open Space

The Project is consistent with Map 4.

POLICY 2.8

Develop a recreational trail system that links city parks and public open space, ridge lines and hilltops, the Bay and ocean, and neighborhoods, and ties into the regional hiking trail system.

SHORELINE (I.3.25)

OBJECTIVE 3

PROVIDE CONTINUOUS PUBLIC OPEN SPACE ALONG THE SHORELINE UNLESS PUBLIC ACCESS CLEARLY CONFLICTS WITH MARITIME USES OR OTHER USES REQUIRING A WATERFRONT LOCATION.

POLICY 3.1

Assure that new development adjacent to the shoreline capitalizes on its unique waterfront location, considers shoreline land use provisions, improves visual and physical access to the water, and conforms with urban design policies.

Open Space

All new non-maritime developments, on property abutting the shoreline, should provide and maintain on their sites ground level open space, well situated for public access and designed for maximum physical and visual contact with the water.

Urban Design

In urban design terms, new developments should make maximum use of their shoreline locations and complement the shoreline as San Francisco's most important natural resource. More specifically, new developments should:

- Maximize direct physical access to the water;
- Preserve and enhance the natural shoreline, where it exists.

POLICY 3.2

Maintain and improve the quality of existing shoreline open space.

POLICY 3.3

Create the Bay and Coastal Trails around the perimeter of the City which links open space along the shoreline and provides for maximum waterfront access.

POLICY 3.5

Provide new public open spaces along the shoreline.

EASTERN SHORELINE

Mission Bay

A plan for Mission Bay area is being prepared. Provision for public access to the shoreline and adequate parks and public open space to meet the needs of residents, workers and visitors will be important considerations in the planning process. The following policies from the 1973 Recreation and Open Space Element apply to the area. They will be revised, as appropriate, as part of the planning of Mission Bay:

Mission Rock Boat Ramp

- Repair and improve the public boat ramp and allow ancillary boat launching facilities (e.g. hoist, dry boat storage). Stabilize the shoreline as required. Provide informational signing to encourage maximum recreational use of the existing area. Regrade and landscape the areas to promote increased public use and enjoyment. Permit ancillary commercial services (e.g. food sales, bait and supplies) to enhance the use of the boat ramp. As opportunities arise, enlarge the area along the shoreline for public access. Provide adequate parking designed for vehicles and boat trailers inland of Terry Francois Boulevard.

City acceptance of Bayfront Park P21 which complements the shoreline as San Francisco's most important natural resource, is consistent with Map 4, and the referenced policies calling for public access

to open space and specific considerations for Mission Bay, with special emphasis in the improvement of the a boat launching facilities.

NEIGHBORHOODS

OBJECTIVE 4

PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

POLICY 4.2

Maximize joint use of other properties and facilities.

Bayfront Park P21 constitutes the northern part of a larger Park with would provide wide opportunities for recreation. Some portions of the Park are within the Port of San Francisco.

TRANSPORTATION ELEMENT

OBJECTIVE 8

MAINTAIN AND ENHANCE REGIONAL PEDESTRIAN AND HIKING ACCESS TO THE COAST, THE BAY AND RIDGE TRAILS.

POLICY 8.1

Ensure that the Coast Trail, the Bay Trail and the Ridge Trail remain uninterrupted and unobstructed where they pass through San Francisco.

The project would increase pedestrian access to the shoreline along the Bay, and would implement plans to establish and improve a portion of the Bay Trail.

PEDESTRIAN

OBJECTIVE 23

IMPROVE THE CITY'S PEDESTRIAN CIRCULATION SYSTEM TO PROVIDE FOR EFFICIENT, PLEASANT, AND SAFE MOVEMENT.

POLICY 23.1

Provide sufficient pedestrian movement space with a minimum of pedestrian congestion in accordance with a pedestrian street classification system.

POLICY 23.9

Implement the provisions of the Americans with Disabilities Act and the city's curb ramp program to improve pedestrian access for all people.

OBJECTIVE 25

DEVELOP A CITYWIDE PEDESTRIAN NETWORK.

Map 11. Citywide Pedestrian Network

The project is consistent with Map 11 and the referenced policies calling for maintenance and enhancement of regional pedestrian access to the Bay and the improvement of pedestrian access to provide efficient, pleasant and safe movement.

In balance, the project is in conformity with the General Plan, as stated in Planning Commission Resolution No. 14699.

Planning Code Section 101.1 Eight Priority Policies (Prop. M Findings)

(1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The project would not affect neighborhood-serving retail uses or future opportunities for resident employment.

(2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The project is located in an area formerly devoted to warehouses, and it would improve the overall character of Mission Bay.

(3) That the City's supply of affordable housing be preserved and enhanced.

The project would not affect the supply of affordable housing.

(4) That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking.

The project would not impede Muni transit service or overburden the neighborhood streets or parking since it actually provides off-street parking for users of the boat launch facilities.

(5) That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The project would not negatively affect industrial or service sectors.

(6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The project has been designed and constructed considering the site conditions and according to the Building Code Standards, which include seismic safety provisions.

(7) That landmarks and historic buildings be preserved.

No landmarks or historic buildings would be affected by the Project.

(8) That our parks and open space and their access to sunlight and vistas be protected from development.

The project is limited to the acceptance of improvements to Bayfront Park P21, which consists of boat launch facilities, a portion of the Bay Trail, landscaped areas east and west of said trail and streetscape improvements (sidewalk and street trees) along the eastern side of Terry Francois Boulevard. In the future the Park will be completed with the construction of additional recreational facilities in Parcel P22. The project is consistent with plans contained in the Mission Bay South Redevelopment Plan and conforms to the standards and design guidelines of the Mission Bay South Design for Development.

W:\GEN_PLAN\REFERRAL\2006.0879R Mission Bay Park P21 letter of acceptance.doc



2009 SEP 14 PM 1:12

September 9, 2009

Ms. Grace Kwak, Project Manager
Infrastructure Development and Acquisitions Task Force
30 Van Ness, Room 4200
San Francisco, CA 94102

**Re: Mission Bay Bayfront Park P-21 Improvements
Acceptance of Facilities and Amended Agency Ground Lease**

Dear Ms. Kwak:

This letter is in response to your letter dated September 3, 2009, regarding the Bayfront Park P-21 Improvements and Second Amendment to the Agency Ground Lease, and finding for acceptability and consistency with the State Trust.

After review of the State Trust documents and related materials concerning the acceptance of the Park P-21 Improvements and Second Amendment to the Agency Ground Lease, the Port finds these acceptable and consistent with the State Trust and recommends that the Board of Supervisors accept the facilities on behalf of the Port and authorize the execution of the Second Amendment to the Agency Ground Lease.

Sincerely,

Monique Moyer
Executive Director

cc: Mark Lozovoy
Rona Sandler
Anita Wood
John Malamut

[Not for Recording]
City and County of San Francisco
Director of Property
25 Van Ness Avenue
Suite 401
San Francisco, CA 94102

**OFFER OF PARK IMPROVEMENTS
(Park P21 Project)**

FOCIL-MB, LLC, a Delaware limited liability company ("Focil"), being the owner of the herein described improvements, does hereby irrevocably offer to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and its successors and assigns, all of the park improvements constructed or installed by or on behalf of Focil pursuant to Street Improvement Permit No. #02IE-267 (Mission Bay) dated June 4, 2002 for said improvements, as more specifically described in the Mission Bay Block 21 Landscape Improvement Plans dated April 30, 2003, generally referred to as the Park P21 Project.

The improvements and the property where the improvements are located, in, on and around a portion of Park P21 in the City and County of San Francisco, State of California are generally shown on the site plans attached as Exhibit A-1 hereto, constituting Port of San Francisco fee property.


It is understood and agreed that: (i) upon acceptance of this offer of public improvements the City shall own and be responsible for maintenance of the offered public improvements, and (ii) the City and its successors or assigns shall incur no liability or obligation whatsoever hereunder with respect to such offer of public improvements, and, except as may be provided by separate instrument, shall not assume any responsibility for the offered improvements, unless and until such offer has been accepted by appropriate action of the Board of Supervisors.

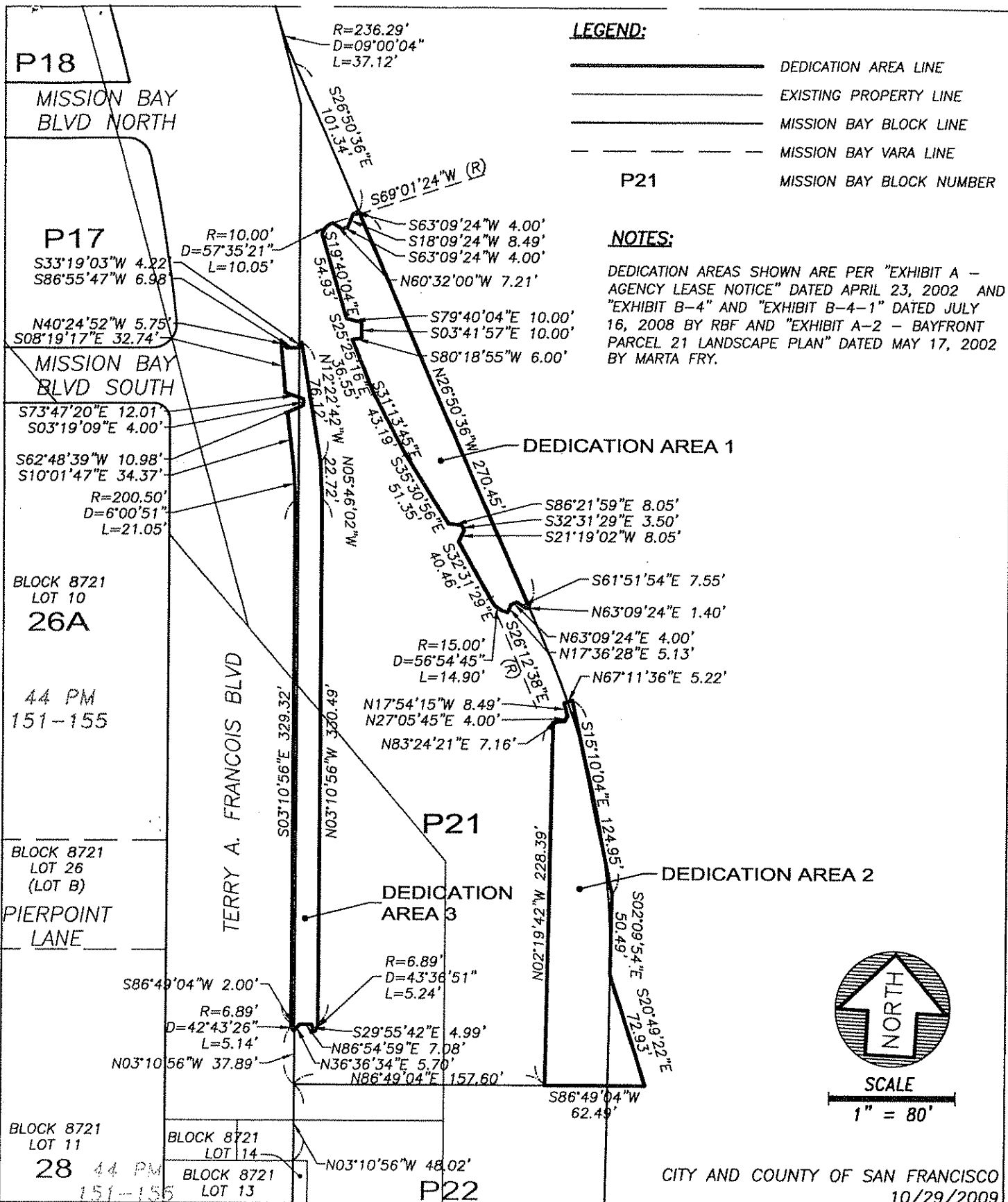
The provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, assigns and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 3 day of NOVEMBER, 2009.

FOCIL-MB, LLC,
a Delaware limited liability company

By: Farallon Capital Management, L.L.C.,
a Delaware limited liability company,
Its Manager

By: 
Name: **Stephen L. Millham**
Managing Member
Title: _____

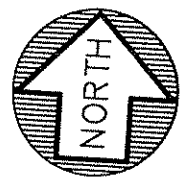


LEGEND:

- DEDICATION AREA LINE
- EXISTING PROPERTY LINE
- MISSION BAY BLOCK LINE
- MISSION BAY VARA LINE
- P21** MISSION BAY BLOCK NUMBER

NOTES:

DEDICATION AREAS SHOWN ARE PER "EXHIBIT A - AGENCY LEASE NOTICE" DATED APRIL 23, 2002 AND "EXHIBIT B-4" AND "EXHIBIT B-4-1" DATED JULY 16, 2008 BY RBF AND "EXHIBIT A-2 - BAYFRONT PARCEL 21 LANDSCAPE PLAN" DATED MAY 17, 2002 BY MARTA FRY.



SCALE
1" = 80'

CITY AND COUNTY OF SAN FRANCISCO
10/29/2009

F&L Freyer & Laureta, Inc.
civil engineers • surveyors • construction managers
144 North San Mateo Drive • San Mateo, CA 94401
(650)344-9901 • Fax (650)344-9920 • www.freyerlaureta.com

EXHIBIT A-1
MISSION BAY BLOCK P21
DEDICATION AREAS

