

**Treasure Island Development Authority
City and County of San Francisco**

Resolution (i) making CEQA Findings and adopting a Mitigation Monitoring and Reporting Program (MMRP) for the marina project and confirming the San Francisco Planning Department’s determination that no additional environmental impacts that were not previously identified would occur as a result of the proposed lease; and (ii) approving a sixty six (66) year lease for the development and management of Treasure Island Marina between the Treasure Island Development Authority and Treasure Island Enterprises, LLC, a California limited liability company.

SUMMARY OF PROPOSED ACTION

This item seeks approval and authorization of the execution of a sixty six (66) year lease between the Treasure Island Development Authority and Treasure Island Enterprises, LLC, a California limited liability company, for the development and management of the Treasure Island Marina (the “Lease”).

BACKGROUND

On June 22, 1999, the Treasure Island Development Authority (the “Authority”) Board of Directors approved an Exclusive Negotiating Agreement (the "Marina ENA") with Treasure Island Enterprises, LLC, a California limited liability company ("TIE”), pursuant to which the parties agreed, among other things, to negotiate in good faith with each other for a disposition and development agreement and ground lease, and any other necessary transaction documents (collectively the “Transaction Documents”), for the proposed development and operation of the Treasure Island Marina (the “Marina”). The Marina ENA has been amended eight times over the years.

TIE has operated the current 110-slip Marina since 2000 under an Interim Sublease with the Authority, and is a tenant in good standing. Marina staff provides regular logistical support to TIDA’s monitoring of the Clipper Cove Special Use Area. TIE participates in many Island-wide activities including participation in the One Treasure Island Job Broker Program, collaboration with the Treasure Island Sailing Center, and making the Marina available to a variety of water and boating activities through partnerships with the TI Yacht Club and other Bay Area recreational boating clubs and marinas.

As joint lead agencies pursuant to CEQA and the State CEQA Guidelines, 14 California Code of Regulations Sections 15000 et. seq., the Authority and the San Francisco Planning Department (“Planning Department”) prepared two separate Environmental Impact Reports analyzing the proposed transfer of Treasure Island and Yerba Buena Island from the United States Navy (“U.S. Navy”) to the City and County of San Francisco (“City”): (1) the 2006 Environmental Impact Report (EIR), which includes a program-level analysis of the transfer of the former base from the U.S. Navy to the City, and a project-level analysis of the expansion of the Marina, and (2) the

2011 EIR, which analyzes the master development of Treasure Island, and landside services and improvements for the expanded Marina.

The original Marina plan, developed in 1998-2000 under the terms of the ENA, was for a 400-slip marina with an approximate waterside facility length of 2,013 feet (running east/west) on Clipper Cove. On May 5, 2005, the Planning Commission, by Motion No. 17020, and the Authority Board of Directors, by Resolution 05-017-5105, as co-lead agencies, certified the Final Environmental Impact Report for the Transfer and Reuse of Naval Station Treasure Island (the "2006 FEIR") and made certain environmental findings under CEQA. The 2006 FEIR project description includes a Marina with a slip count of 400 and a waterside length of approximately 1,723 lineal feet on Clipper Cove.

On April 21, 2011, the Planning Commission by Motion No. 18325, and the Authority Board of Directors, by Resolution No. 11-14-04/21, as co-lead agencies, certified the completion of the Final Environmental Impact Report ("2011 FEIR") for the Treasure Island/Yerba Buena Island Project and unanimously approved a series of entitlement and transactional documents, including certain environmental findings under CEQA and a Mitigation Monitoring and Reporting Program ("MMRP"). The 2011 FEIR project description includes a Marina with a slip count of 400 and a waterside length of approximately 1,681 lineal feet on Clipper Cove.

On June 7, 2011, in Motion No. M11-0092, the Board of Supervisors unanimously affirmed certification of the 2011 FEIR, and on that same date, the Board of Supervisors, in Resolution No. 246-11, adopted CEQA findings and the MMRP, and made certain environmental findings under CEQA.

Subsequent to the certification of the 2006 FEIR and the 2011 FEIR, TIE proposed several updates to the project due to: (1) evolution and modernization of marina design, (2) United States Navy and California regulatory requirements relating to the cleanup work that was performed by the Navy at the Treasure Island Marina, and (3) conformance with the Division of Boating and Waterways (DBW) Guidelines for Marina Berthing Facilities that receive state funding; and fulfilling accommodations requested by the Treasure Island Sailing Center ("TISC") and organizations not formally affiliated with TISC between 2015 and 2017 on behalf of the Sailing Center's youth sailing program.

The Planning Department prepared a Case File Memorandum on July 5, 2017 (the "2017 Memorandum"), which evaluated the proposed revisions to the project at that time, which included a slip count of 313 and a waterside length of approximately 882 lineal feet on Clipper Cove. In the 2017 Memorandum, the Planning Department concluded that the proposed revisions to the project would result in no additional environmental impacts, that the severity of impacts already-identified in the 2006 EIR and the 2011 EIR would not increase, and that no additional environmental analysis would be required under CEQA.

As such, pursuant to California Public Resources Code Section 21166 and CEQA Guidelines Section 15162, the Planning Department concluded that a subsequent or supplemental environmental impact report is not required. The 2017 Memorandum states that:

“Based on review of the proposed revisions to the marina expansion project, the Environmental Review Officer has determined that the revised project is within the overall scope of the 2006 EIR (waterside), and the 2011 EIR (landside) projects, there have not been any substantial changes with respect to the circumstances under which development of Treasure Island, including the modified project, would be undertaken, nor has new information of substantial importance come to light that would alter the impact findings in or require major revisions to the 2006 and/or 2011 EIRs. As such, pursuant to the California Public Resources Code Section 21166, the conditions which would require the preparation of a subsequent or supplemental environmental impact report have not been met. No additional environmental impacts would occur as a result of project implementation and no additional environmental analysis would be required under CEQA.”

The Planning Department proposed, and TIE agreed to incorporate and comply with, a Mitigation Monitoring and Reporting Program (the “MMRP”).

Subsequent to the issuance of the 2017 Memorandum, the Board of Supervisors introduced Resolution 173-18, which prompted additional consultation between TIE and other stakeholders. Through these consultations, TIE further reduced the proposed footprint of the marina to 220 slips.

In adopting Resolution 173-18, the Board of Supervisors found “that the footprint of the new marina is consistent with the vision of marina development in the Reuse Plan for Treasure Island Naval Station approved by the Board of Supervisors and further (found) this footprint upholds the principle that marina redevelopment in Clipper Cove should not diminish the character of existing public recreation and public education on Clipper Cove, including most interim uses”.

Resolution 173-18 included several additional Further Resolved clauses, including:

1. Marina redevelopment should not harm the existing environmental resources of Clipper Cove, particularly the eelgrass beds in the Cove.
2. Marina redevelopment should not cause diminished water depth in other areas of the Cove, and TIDA should develop a plan to mitigate this risk.
3. Marina redevelopment should provide consideration for current tenants in small and medium berths.
4. Calling upon City agencies and regulatory bodies to ensure appropriate environmental review is completed for the project.
5. Calling for a financial analysis of the proposed financing, projected revenue, and projected expenses of the marina development.

Subsequent to the adoption of Resolution 173-18, the Authority and TIE renegotiated the Lease and again consulted with the Planning Department. The Planning Department determined that re-issuing an update to its 2017 Memorandum was unnecessary concluding that, due to the footprint of the updated proposal actually decreasing, there were no substantial changes to evaluate. The findings adopted in July are the same as initially prepared by the Planning

Department. Furthermore, the updated proposal demonstrates its intent to address the Further Resolved clauses of Resolution 173-18 as follows:

1. Mitigations to ensure protection of Clipper Cove's existing environmental resources are conditions of the EIR and will be further vetted in the project's Bay Conservation and Development Commission Permit application process.
2. While it is not anticipated that the Marina development project will cause diminished water depth in Clipper Cove, the Authority has engaged consultants to perform further bathymetry surveys and siltation analysis to further understand existing conditions.
3. Slip rental rates in the redeveloped Marina will be set at linear-feet market-rate. Accommodations will be made for existing slip holders' transition to the new Marina facility.
4. Further review of the reduced project footprint by the San Francisco Planning Department has led to Planning's conclusion that the decrease in project size does not equate to increased project impacts.
5. A revised project pro-forma has been received by the Authority, who has also contracted with a third-party firm to provide a commercial leasing valuation appraisal of the existing Clipper Cove site. The appraisal report, finalized October 30, 2018 assigns a Fair Market Rental Value of \$90,000 to the property.

On July 11, 2018, the Authority Board of Directors, having reviewed and considered the 2006 FEIR, 2011 FEIR and the 2017 Memorandum, approved Resolution 18-31-0711, (a) adopting the CEQA Findings, confirming the San Francisco Planning Department's determination that no additional environmental impacts would occur as a result of project implementation and no additional environmental analysis other than the 2017 Memorandum would be required, and (b) approving the Lease subject to the approval of the Board of Supervisors and all mitigation measures detailed in the MMRP considered relevant to the project.

AGREEMENT:

Resolution 17-36-10/30 also approved and authorized the execution of a sixty six (66) year lease agreement between the Authority and TIE for the development and management of the Treasure Island Marina, subject to the approval of the Board of Supervisors, and subject to all mitigation measures detailed in the MMRP relevant to the project.

The parties have negotiated a 66-year Lease (the "Lease") for TIE to develop and manage the Marina, with a Premises consisting of 724 lineal feet by 718 lineal feet of dock area and approximately 220 proposed slips located in the common water areas known as Clipper Cove. This Lease provides TIE nonexclusive use and access to the adjacent common water areas of Clipper Cove and to the adjacent landside areas of Treasure Island.

The Lease includes standard disposition and development agreement provisions, including that if TIE has not started construction of the Initial Improvements by December 31, 2022 then the Authority has the right to terminate the Lease unless TIE fulfills all conditions and actually begins construction of the Initial Improvements within sixty (60) days of the Authority's notice. The Initial Improvements shall be completed no later than eight (8) years after construction begins, unless extended due to a force majeure event. The total project development cost is estimated to be \$19,457,677.

The Lease includes a Minimum Base Rent of \$7,500.00 per month or \$90,000 annually, to then be adjusted according to the Consumer Price Index ("CPI") each January 1 starting January 1, 2022. For calendar year 2022 and each year thereafter, TIE pays to the Authority the higher of: (a) the then current Minimum Base Rent; or (b) the Percentage Rent. Percentage Rent is determined based on a percentage of gross revenues (with different percentages for different sources of revenue), and will be paid in arrears at the end of each calendar year during the Term to the extent that it exceeds the Minimum Base Rent for that year.

Upon the completion of the Initial Improvements, TIE will receive a credit against Percentage Rent in excess of the Minimum Base Rent for the following: (a) \$200,000, which represents the sum of the request for proposal deposit, the transaction cost deposit and the extension cost deposit paid by TIE pursuant to the ENA; and (b) the actual costs of the dredging performed by TIE in connection with the Initial Improvements, up to a total maximum rent credit of \$5,995,000.00.

TIE will perform or cause the performance of all dredging in Clipper Cove necessary for the construction of the Initial Improvements and the ongoing operation of its business during the Lease term. The Authority will not be required to incur any dredging or other expenses in conjunction with the Lease or the marina development (other than as part of the rent credits).

TIE proposes to implement marina development in no more than three (3) phases, with multiple sub-phases consisting of construction of approximately 90-120 slips per phase, with each phase occurring over approximately 16 months. Upon completion of phase 1 and 2, the existing marina facilities are demolished to allow completion of third phase activities.

Existing Marina slip holders will continue to occupy the existing marina facilities and will have an opportunity to relocate into new slips created in Phases 1 and 2. Slip rental rates in the redeveloped Marina will be set at market-rate, based on comparable rents charged at other marinas within the greater San Francisco Bay Area. The slip mix of the new marina will be comprised of 40, 50, 60, 70 and 80+ foot slips with an average size of 53 feet, and smaller vessels will also be accommodated at the new marina.

The salient terms and conditions of the proposed Lease include the following:

1.) Premises: Approximately 724 lineal feet by 718 lineal feet of dock area and approximately 220 proposed slips located in the common water areas known as Clipper Cove.; license for nonexclusive use / access to the common water areas of Clipper Cove; and license for

nonexclusive use and access to the adjacent landside areas, Treasure Island, San Francisco, California.

2.) Effective Date: The date that the Lease is executed and delivered by the parties, following approval by the Authority’s Board of Directors and the City’s Board of Supervisors. From the Effective Date to the Lease Commencement Date, the Lease functions as a lease disposition and development agreement, and TIE uses good faith efforts to cause all conditions to be satisfied to obtain a Notice of Proceed with the Initial Improvements.

3.) Lease Commencement Date: The first day of the calendar month during which TIE receives the Notice to Proceed with the Initial Improvements.

4.) Lease Expiration Date: Sixty Six (66) years following the Lease Commencement Date, but in no event later than 2086.

5.) Lease Term: Sixty Six (66) years following the Lease Commencement Date. If TIE has not started construction of the Initial Improvements by December 31, 2022, then the Authority may terminate the Lease unless TIE fulfills all conditions needed to obtain the Notice to Proceed with the Initial Improvements and actually begins construction of the Initial Improvements within 60 days of Authority’s notice or such time as is extended by Authority. On the termination date, Authority has the right to terminate the existing Interim Sublease between TIE and the Authority. On the Lease Commencement Date, the Interim Sublease automatically terminates.

6.) Base Rent: Minimum Base Rent from the Effective Date is \$90,000 per year. TIE makes monthly payments of Minimum Base Rent, on or before the tenth (10th) day of each calendar month, initially in the amount of \$7,500.00. Minimum Base Rent is paid monthly throughout the Term.

7.) Rent Adjustments: Starting January 1, 2022 and each January 1 thereafter, Minimum Base Rent will increase by percentage increases in CPI, but not by less than 2% or more than 4%.

8.) Percentage Rent: For calendar year 2022 and each year thereafter, TIE pays to The Authority the higher of: (a) the then current Minimum Base Rent; or (b) the Percentage Rent. Percentage Rent is based on the following percentages of Gross Income:

Gross Income Source	Yr. 1 - 3	Yr. 4 - 5	Yr. 6+
Slip Rent/Dry Storage live aboard fees	5.0%	10%	15%
<u>Food Service, if any</u>	<u>3.5%</u>	<u>3.5%</u>	<u>3.5%</u>

*Other Revenues: guest fees,
merchandise sold, kayak,
bicycle or other recreational
rental fees, launch fees and
all other non-defined revenues

from lawful Uses. 5.0% 5.0% 5.0%

Percentage Rent is paid if it is higher than the Minimum Base Rent in arrears at the end of each calendar year during the Term, and for the last year, at the time of expiration or termination.

9.) Rent Credit: TIE receives a Rent Credit for prior payments made to the Authority and certain costs relating to the Initial Improvements including related dredging expenses. In no event will the Rent Credits exceed \$5,995,000.00.

10.) Dredging: TIE will perform or cause the performance of all dredging in Clipper Cove necessary for the construction of the Initial Improvements and the operation of its business. The Authority is not required to incur any dredging or other expenses in conjunction with the Lease or the marina development other than as part of the Rent Credits. Any additional future dredging (after the initial dredging for which TIE is given a rent credit) and other costs relating to the Lease or TIE's operations are TIE's sole responsibility without any credit, deduction, or offset.

11.) Permitted Use: An approximately 220-slip marina, open for rental to the general public, and related uses approved by the Authority. The Authority approves the following uses:

- (a) rental of boat slips to the public, ("Boat Slip Renters") for monthly boaters; up to twenty two (22) live-aboard boaters or ten percent (10%) of total boat slips constructed may be live-aboard boaters, whichever is less in conformance with the Bay Conservation and Development Commission regulations and Regulatory Approvals but subject to the prior approval of the TIDA Director following the adoption of guidelines for such use, which approval shall not be unreasonably withheld, conditioned or delayed;
- (b) short term mooring for water taxi service and recreational boats, boat storage, boat and other light water craft launching, buoy and mooring rentals, boat fuel sales, and transient boat moorage;
- (c) rental of dock lockers or other facilities to Boat Slip Renters only for boat owner's storage of personal boating paraphernalia;
- (d) boat launching and retrieving services for Boat Slip Renters and the general public;
- (e) minor marine services, defined as the sale and installation of small boat parts and components, and minor boat services and labor, inclusive of minor boat repairs, maintenance, cleaning, renovation, and similar minor services, to Boat Slip Renters only. Neither TIE nor any subtenant or licensee will operate a boat repair business at the Premises without the Authority's prior written consent;
- (f) day use rental of small craft boats and kayaks;
- (g) telecommunication and cable services for the marina;

- (h) food, catering, beverage and alcoholic beverage services;
- (i) guest boater and transient boater short-term use moorage with accessibility for the general public

TIE will charge market rates for slip fees, berth fees, dry stack storage fees and other moorage fees and services and goods sold from the Premises that are comparable to the market rates charged by other area marina operators in the San Francisco Bay Area.

TICD Property. Subject to TIE reaching an agreement with Treasure Island Community Development LLC (“TICD”), approved by the Authority, for TIE’s use of TICD space adjacent to the Premises, TIE may use such space for: (a) parking only for Boat Slip Renters, marina customers and guests; and (b) marina gathering spaces (including boat club), offices for marina management, restrooms and public convenience facilities, and (c) food and beverage services, including vending machines

12.) Security Deposit: \$15,000.00, as increased on each Adjustment Date to two times (2x) the then-applicable monthly Minimum Base Rent.

Pursuant to the Board of Supervisors Resolution establishing the Authority, AB 699 and TIDA's Bylaws, Board of Supervisors approval is required of any contract or agreement entered into by the Authority with a term longer than ten years or revenues in excess of One Million Dollars. Because the term of the proposed Lease will exceed ten years, the Authority requests approval of the Lease from the Board of Supervisors.

RECOMMENDATION

Confirm the San Francisco Planning Department’s determination that no additional environmental impacts that were not previously identified would occur as a result of the proposed lease; and approve the proposed Lease between the Treasure Island Development Authority and Treasure Island Enterprises, LLC, a California limited liability company, for the development and management of Treasure Island Marina.

Robert P. Beck, Treasure Island Director