



**REQUEST FOR PROPOSALS FOR
SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT FOR
MARKET-RATE RENTAL HOUSING, TREASURE ISLAND
RFP #002**

CONTACT: Peter Summerville

Background

The Treasure Island Development Authority (the "Authority") is seeking an organization experienced in residential housing property management to lease and manage the market-rate residential housing stock on Treasure and Yerba Buena Islands ("TI/YBI") and to interact with the Authority, the Treasure Island Homeless Development Initiative ("TIHDI"), the United States Navy ("Navy"), Treasure Island Community Development LLC ("TICD", the master developer) and various City and County of San Francisco ("City") departments with roles and responsibilities on TI/YBI. The original term of the proposed agreement (the "Agreement") will be four (4) years, with two (2) permitted extensions of three (3) years for each extension. The Agreement, and any extensions, are subject and subordinate to the Master Lease for residential housing between the Authority and the Navy. Extensions shall also be subject to satisfactory performance by selected Contractor during the original term. The selected contractor must be available to start work on July 1, 2014. The Agreement calls for the selected contractor to be paid a set management fee, together with a participation of profits in an amount that will be determined by the bidding process and possible negotiation.

Schedule*

RFP Issued	March 7, 2014
Deadline for RFP questions and inquiries	March 26, 2014 (12 p.m. PT)
Pre-Proposal Conference	March 27, 2014 (10 a.m. PT)
Answers to RFP questions posted online	April 2, 2014
Deadline for proposals	April 18, 2014 (12 p.m. PT)
Contract award intent notification	May 2, 2014
Contract begins	July 1, 2014

***Each date subject to change. Check website for latest schedule.**

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RFP Attachments:

- A. Acknowledgement of RFP Terms and Conditions
- B. CCSF Contract Monitoring Division Local Business Enterprise Forms
- C. CCSF Administrative Requirements
- D. Draft Sublease and Management Agreement for Market-Rate Rental Housing on Treasure and Yerba Buena Islands
- E. TIHDI Workforce Hiring Plan
- F. Transition Housing Rules and Regulations

1. Introduction

General terms used in this RFP

The "Proposer" refers to any entity submitting a response to this Request for Proposals (this "RFP"). The "Contractor" refers to the Proposer selected under this RFP for negotiations to enter into the Agreement. The "Agreement" refers to the subleasing and management agreement entered into by the Authority and the Contractor.

1. Statement of Need and Intent

The Authority seeks proposals from qualified property management companies with demonstrated experience in the leasing, operation and management of multi-unit market-rate rental residential properties, and working with public agencies. The Authority is seeking Proposers to manage the market-rate rental housing leasing and property management operations on TI/YBI. The Contractor will be expected to enter into the Agreement in substantially the form presented in this RFP, as may be revised during negotiations. The Agreement calls for the Contractor to be paid a Management Fee equal to the greater of: (a) three percent (3%) of Gross Revenues, up to a maximum of Four Hundred Thousand Dollars (\$400,000) per year, which maximum will be adjusted for inflation, or (b) Sixty Dollars (\$60) per Rentable Unit per month not to exceed (\$333,000) per year. The Agreement also provides for the Contractor to participate in percentage-based disbursement of profits derived by the leasing of market-rate units.

The original term of the proposed Agreement is four (4) years. The Contractor may extend the term twice, each for an additional three (3) years, but subject to any earlier termination of the Master Lease with the United States Navy for the residential housing buildings on Treasure and Yerba Buena Islands (the "Housing Master Lease"). The Master Lease is currently on a month to month holdover, although Navy leases at TI/YBI have been renewed annually for the past 15 years by mutual agreement of the Navy and the Authority. The Authority and the Navy anticipate entering into a new master lease for the market rate housing property sometime during the Fall of 2014. The Agreement and referenced Term extensions are contingent on continued extension of the Housing Master Lease (or the new housing master lease).

The market-rate housing portfolio is currently comprised of 578 units dispersed throughout Treasure Island and Yerba Buena Island, with 498 units on Treasure Island and 80 units on Yerba Buena Island. There are approximately 1,100 residents living in the market-rate residential units as of March, 2014. Housing units may be added or subtracted from the housing portfolio during the course of the Agreement subject to the terms and conditions of the Navy Master Lease and the discretion of the Authority, as discussed below. The Contractor should maintain a high level of customer service, community engagement and act as a good neighbor to the larger Island community throughout the development process.

In June 2011, the Authority and the City approved a proposed development project with TICD, the master developer, that contemplates the redevelopment of the TI/YBI with up to 8,000 residential units (including 2,000 below market rate units), 300-acres of public open spaces, and approximately \$700 Million in infrastructure improvements. This development project is anticipated to begin as soon as property is transferred from the Navy to the Authority (expected in late 2014) and will likely continue for 15 years or more.

The Contractor shall be required to work with the Authority on management and implementation of pre-development and development-related programs impacting the TI/YBI market-rate residents and the housing portfolio, including the relocation of tenants resulting from remediation and development activities. Due to certain pre-development and remediation activities anticipated over the next few years, the Authority expects that the size of the housing portfolio will shrink, although the total number of units cannot be predicted with certainty at this time. The Contractor may be required to evict certain post-DDA tenants (i.e., those tenants that first leased units on or after July 14, 2011, the date that the development project was finally approved) if replacement units are not available for those tenants. Accordingly, new leasing activity is currently suspended so as to maintain vacant units to accommodate anticipated relocations. Relocations will be performed by the Contractor, with assistance from the Authority and its relocation consultants, in accordance with the Transition Housing Rules and Regulations (the "THRRs") adopted by the Authority's Board and the City's Board of Supervisors.

All of the units under the Agreement are anticipated to be razed as part of the development project and residents will be required to relocate. It is anticipated that the residences on YBI will need to be vacated in 2015, but it is not expected that the residences on YBI will need to be vacated for development until 2022 or later. Tenants who were in residence prior to July 14, 2011, when the Authority and Board of Supervisors adopted the Disposition and Development Agreement for the Island ("Pre-DDA Residents") will be provided with certain benefits and housing opportunities in the future development through the Transition Housing Rules and Regulations (the "THRRs") that were adopted in conjunction with the DDA. Post-DDA tenants (i.e., those tenants that leased units on or after July 14, 2011) are on month-to-month agreements, and the Contractor may be required to terminate lease agreements of post-DDA households when they are required to relocate for development or to facilitate Navy environmental remediation actions if replacement units are not available for those tenants.

The Contractor is expected to comply with certain workforce hiring goals, including the Treasure Island Homeless Development Initiative ("TIHDI") Workforce Hiring Plan set forth in Attachment E of this RFP, which requires job and job-training opportunities for low-income and formerly homeless individuals. The Contractor is also expected to comply with, and require its Subcontractors to comply with, with all applicable labor and prevailing wage requirements.

1.2 Background

The Authority is a non-profit public benefit corporation created by the City and County of San Francisco to act as the Local Reuse Authority dedicated to the conversion and economic development of TI/YBI, and is the Tidelands Trust trustee for the portions of TI/YBI that is subject to the Tidelands Trust. Under a Cooperative Agreement and multiple Master Leases with the Navy, the Authority performs and administers vital municipal services for the residential and daytime population during the interim reuse of the property. The Authority derives a majority of its annual revenue from the re-use and subleasing of buildings and grounds on TI/YBI, including the former Navy housing.

The services required under the proposed Agreement are currently performed by the John Stewart Company (heretofore referred to as "Incumbent") under a sublease, marketing and management agreement. Under this existing agreement, the Incumbent is responsible for, among other things, maintaining and repairing the housing portfolio; preparing units for occupancy between vacancies; performing tenant relocations and assisting in the relocation process; hiring third party contractors, as needed; managing the subtenant application, screening, subleasing and contract compliance processes; working with tenant community groups to enhance the overall TI/YBI community experience; regularly appearing before the Authority Board to report on housing matters; managing, tracking, and regular reporting of rental revenue, revenue disbursement, and operating costs incurred.

1.2.1 Management Fee and Disbursement of Rental Revenue

The Contractor will collect monthly rental revenue derived from the housing portfolio and manage disbursement of these monthly revenues between itself and the Authority according to a formula proscribed in the Agreement. Under the terms of the Agreement, the Authority will receive a monthly fixed Base Rent revenue as well monthly percentage of any profit, which will be shared with the Contractor. The Contractor will receive a set monthly management fee and a profit participation, as set forth in the Contract. The amount of profit participation will be part of each Proposer's submittal (if different than what is currently set forth in the draft Agreement) and subject to potential negotiation with the successful bidder. Selection of a Proposer does not guarantee that the Authority will accept the percentage fee as proposed, and the Authority may elect to negotiate the percentage fee.

The Agreement stipulates the process for disbursement of monthly rental revenue. The Authority first receives its monthly share of the annual Base Rent amount. Base Rent to be paid to the Authority for the first year of the Agreement shall be Five Hundred Thousand Dollars (\$500,000), with future annual CPI adjustments. The Contractor then receives its set monthly management fee, as described above. Following such payments, the Contractor will then pay all monthly operating expenses. Any revenues remaining following all such payments is the profit that will be divided between the Authority and the Contractor. Under the existing agreement with the Incumbent, the Authority receives 95% of the profit and the Incumbent receives 5% of the profit.

For the Fiscal Year 13-14 to-date under this profit sharing formula, the Incumbent has disbursed to Authority payments totaling \$988,532 and to itself payments totaling \$52,028 as of February, 2014.

1.2.2 Provision of Municipal Services to and Around the Portfolio

The Authority, through the SF Public Utilities Commission ("SFPUC"), provides gas, electricity, water and sewer services to TI/YBI. The Contractor will pay to SFPUC, as operating expenses, all amounts due as a result of use of these utility services within the property. The Authority is responsible for the maintenance and repair of streets, sidewalks, common areas and street lighting surrounding and adjacent to the property. The Contractor will be responsible for continuing refuse and recycling collection services through the Authority's approved refuse hauler, Recology Golden Gate.

1.2.3 Community and Current Residents

The TI/YBI community is comprised of approximately 1,800 total residents of varying socio-economic backgrounds, including formerly homeless families residing in supportive housing and renters living in market-rate housing. A daytime population of employees and staff of various on-Island housing property managers, commercial tenants and community-serving organizations are also present. A U.S. Department of Labor Job Corps Campus with approximately 600 students is also located on Treasure Island.

The Incumbent and the Authority are currently engaged in a selection process for the relocation of tenants that reside in the following buildings in connection with the Navy's remediation activities: Buildings 1325, 1133, 1205 and 1237 (encompassing 34 rental units). The selection process is being undertaken concurrently with certain tenants that must be moved from YBI in connection with the start of the development project. Originally, the first moves were anticipated to occur by April 15, 2014, but this has now been delayed to a date uncertain. The YBI moves are anticipated to occur sometime in the late fall of 2014.

The Contractor will be required to fulfill its duties under the Agreement in a manner that minimizes any adverse impacts on the existing residents, to the extent possible.

1.2.4 Pre-Development Activities and Current Leasing Environment

The Authority and the Incumbent are currently relocating tenants in accordance with the THRRs.

Under the THRRs, the San Francisco Board of Supervisors created a transition program designed to allow existing pre-DDA residents to remain on TI/YBI during the development process. The THRRs also provide certain moving benefits to these tenants and the possibility of occupying a newly constructed unit that is built as part of the development. The Authority is responsible for fulfilling the terms of the THRRs. But the Authority will work with the Contractor on required relocations and, due to the need to provide comparable replacement units, the Authority is currently not re-leasing units upon tenant move-out. In short, new leasing activities have ceased and are not expected to resume in the near future.

As noted above, the Authority anticipates loss of units from the Portfolio in 2014 and 2015 due to ongoing Navy environmental remediation activities. As a result, the Authority projects a decrease in rental revenue over the next several years due to both the loss of revenue-generating units, as well as the current freeze on leasing activities necessary to accommodate transitioning households under the THRRs.

The Contractor will be required to assist the Authority with its responsibilities in (1) THRR implementation and in coordination, (2) the Navy's remediation work within the housing areas, and (3) TICD's work in the housing areas, and shall be expected to perform such work in a manner that does not delay the progress of these programs and that does not unduly inconvenience existing residents.

2. Scope of Work

The Scope of Work is to be used as a general guide and is not intended to be a complete list of all work that a Contractor may be required to perform as the property manager under the Agreement:

1. Operate, maintain, and manage the Treasure Island Market-Rate Housing Portfolio ("Portfolio") on a day-to-day basis in a clean, safe, attractive and sanitary condition and assure that the Portfolio remains in good order and repair for safe and sanitary residential housing.
2. Perform scheduled, unanticipated and emergency maintenance and repairs to the Portfolio necessary to avoid the suspension of necessary services to the Portfolio and to assure safe and sanitary conditions for Residential Tenants at all times, and perform maintenance and repair on Treasure Island and Yerba Buena Island outside the Portfolio as requested by Director of Island Operations (the "Director") and as agreed-upon by Authority and Contractor.

For any and all maintenance and repair work performed on or to the Portfolio, Contractor shall be responsible for the supervision and monitoring of any and all of subcontractors used to execute any of Contractor's obligations under the Agreement. For work performed outside the Portfolio, Contractor shall be entitled to a negotiated management fee of the direct cost of the work to cover administrative expenses and insurance, paid in the same manner that the Management Fee is paid under Section 8.6 of this Agreement. Contractor shall be responsible for assuring all subcontractors are appropriately licensed and insured as well as responsible for monitoring compliance with all applicable labor and prevailing wage requirements.

3. Manage the Residential Tenant application, screening, and subleasing process for the Portfolio, if and when activated by the Authority. Contractor shall be responsible for monitoring, enforcing and assuring lease compliance for all terms and conditions of the Rental Agreements. Contractor shall maintain and staff an on-island office tasked with fulfilling the Contractor's day to day responsibilities under the Agreement, including but not limited to activities relating to applicant

screening, rent collection, parking management and lease compliance monitoring.

Contractor shall establish a work order process allowing for a Residential Tenant to report, and for Contractor to promptly resolve, necessary in-unit maintenance and repairs. Contractor shall establish a process to receive, and use reasonable efforts to resolve, complaints, disputes or disagreements by and between the Contractor and one or more residential tenants, including establishment of a grievance procedure.

4. Prepare an annual budget including operational expenses, staffing expenses, and the management fee and the timing of payments. As noted above, the Agreement contemplates deductions from monthly revenues to pay both operating expenses and Contractor's management fee.

Contractor shall be required to formulate, maintain and track an annual operating budget, consistent with Generally Acceptable Accounting Practices (GAAP) and subject to the Director's review and approval (not to be unreasonably withheld). Contractor shall provide monthly revenue and expense reports to the Authority in a form approved by the Director. The Contractor's annual operating budget, including its market-rate rental revenue forecasts and expense projections, shall be included in the Authority's annual budget and shall be subject to review or audit at any time by the Authority or Authority's designee.

5. Work in regular close coordination with the Authority, the City, the Navy and other on-Island property managers, service providers and community organizations. Contractor shall be expected to support Authority and City initiatives and to support the delivery of municipal services to the Portfolio. Contractor shall work in close coordination with City departments including but not limited to the Police Department, Fire Department and the Public Utilities Commission.
6. Contractor shall assist the Authority and the City as-needed in the implementation of the THRRs, the Site 12 remediation program, the Treasure Island Temporary Emergency Housing Plan and the City's Emergency Response Plan and Emergency Support Functions.

3. Proposal Submission Requirements

3.1 Time and Place for Submission of Proposals

Proposals and all related materials must be received by **12 PM PST on Friday, April 18, 2014**. Proposals shall be either delivered in person or mailed to:

Treasure Island Development Authority
RFP# 002 (Sublease and Property Management Agreement)
Attn: Peter Summerville
One Avenue of Palms, Suite 241
San Francisco, CA 94130

Proposers shall submit one (1) original and five (5) printed copies of the Proposal (including all required CMD forms), and one (1) CD-ROM with electronic files of all Proposal materials submitted including all required CMD forms) in an envelope clearly marked **“RFP# 002 (Market-Rate Housing)”** to the above location. Proposals that are submitted by fax or by email only may be deemed nonresponsive to this RFP and rejected.

Postmarks will not be considered in judging the timeliness of submissions. Note that Proposers hand-delivering proposals to Treasure Island Development Authority may be required to open and make packages accessible for examination by security staff.

3.2 Proposal Package

The following items must be included in your proposal and packaged in a box or envelope clearly marked **RFP# 002 (Market-Rate Housing)**.

Complete, but concise, proposals are recommended for ease of review by the Evaluation Team. Proposals should provide a straightforward, concise description of the Proposer's capabilities to satisfy the requirements of this RFP. Marketing and sales type information should be excluded. All parts, pages, figures, and tables should be numbered and clearly labeled.

- A. **One Original printed Proposal (with original signatures) labeled as “Original”, five printed copies of Proposal labeled as “Copy”, and [one CD-ROM containing electronic file versions of the Proposal].**

Proposers must submit the following information, in the order specified below:

1. Introduction and Executive Summary (up to 3 pages)

Submit a letter of introduction and executive summary of the proposal. The letter must be signed by a person authorized by your firm to obligate your firm to perform the commitments contained in the Proposal. Submission of the letter will constitute a representation by your firm that your firm is willing and able to perform the work as set forth in the Proposal.

2. Organizational Capacity and Organizational Experience (up to 15 pages)

Provide the following information:

- a. A general description of the Proposer and the agency mission; and

- b. The Proposer's key staff for this project and their applicable experience; and
- c. A detailed description of the Proposer's relevant experience, primarily relating to residential property management; and
- d. A detailed description of the Proposer's experience with projects and transactions similar in size and scope, including number of years performed, and contact information from the entity that engaged Proposer on one or more similar projects; and
- e. A description of the Proposer's experience with public agencies and with any job training programs;
- f. A description of the Proposer's experience with tenant relocations and evictions, if any; and
- g. A description of the Proposer's experience in complying with public contracting requirements, such as Local-disadvantaged Business Enterprise (LBE) programs and prevailing wages; and
- h. A description of the Proposer's experience with third party environmental remediation issues, as they relate to ongoing leasing and operations issues; and
- i. Any additional information that Proposer believes is relevant to its qualifications to perform the work under the Agreement.

3. Financial Proposal (Up to 10 pages)

Provide the following information:

- a. A proposed formula for profit sharing under the Agreement. [Note, the existing contract with Incumbent provides 95% of profits to the Authority and 5% of profits to the Incumbent.]
- b. A projected budget for leasing, management and operation (including a capital account and reserve account) of the Portfolio for the period from July 1, 2014 to June 30, 2015; and
- c. A statement of Proposer's net worth and financial capacity to perform the work, including, if to the extent available, appropriate backup documentation such as an audited financial statement or signed tax returns (bottom line information only) for up to the past 2 years; and
- d. A description of the Proposer's bonding experience and capacity.

4. Experience with Community Involvement and Collaboration (up to 5 pages)

Provide the following information:

- a. A description of Proposer's prior experience serving a large and diverse community; and
- b. A description of Proposer's prior experience working with non-profit agencies; and
- c. A description of Proposer's prior experience working with City, State and Federal agencies, particularly in the areas of public safety, utility transmission, and environmental health and safety; and
- d. A description of Proposer's knowledge of the Treasure Island community, and the proposed development project at Treasure Island.

5. Commitment to Proposal (up to 5 pages)

Provide the following information:

- a. Attach a letter from Proposer's CEO or other official committing Proposer to the Proposal and confirming Proposer's intent to enter into the Agreement, if selected; and
- b. If Proposer cannot agree to any of the terms of the draft Agreement, or requires material changes to the draft Agreement, include a summary of the required changes; and
- c. Confirm Proposer's willingness to begin work under the Agreement on July 1, 2014, or if additional start up time is required to assume full operations, please so indicate.

6. Completed Required Forms

- a. *RFP Attachment A - Acknowledgement of RFP Terms and Conditions*
- b. *RFP Attachment B - Contract Monitoring Division Local Business Enterprise Forms:*
 - 1) CMD Contract Participation Form 2A, and
 - 2) CMD "Good Faith Outreach" Requirements Form 2B, and
 - 3) CMD Non-Discrimination Affidavit, Form 3, and
 - 4) CMD Joint Venture Form 4 (if applicable), and
 - 5) CMD Employment Form 5.
- c. *RFP Attachment C - Acknowledgment of City's Administrative Requirements.*

4. Evaluation Criteria

This section describes the Authority's guidelines for analyzing and evaluating the Proposals. It is the Authority's intent to select the Proposer for contract negotiations that will provide the best overall service package to the Authority inclusive of experience and financial considerations. A Proposer selected for contract negotiations is not guaranteed a contract. This RFP does not in any way limit the Authority's right to solicit contracts for similar or identical services, or to procure the services through some other method.

4.1 Evaluation Team

The Authority will create an Evaluation Team, comprised of Authority and City staff, and possibly other Island stakeholder agency representatives, to evaluate the Proposals and make a recommendation of the highest ranked Proposer to the Director. Following receipt of the Proposals, the Evaluation Team may, but is not required, to hold interviews with up to the top 3 Proposers. The Director will consider the recommendation of the Evaluation Team and choose the Proposer with whom to commence negotiations for the Agreement.

4.2 Proposal Evaluation Criteria (100 points)

Each Proposal will be evaluated in accordance with the criteria generally described above, and as more particularly described below.

1. **Organizational Capacity, Organizational Experience and Project Approach (40 points)**
 - a. Proposer's experience and expertise relating to property management; and
 - b. Quality and experience of Proposer's key staff; and
 - c. Proposer's experience with projects and transactions of this scope; and
 - c. Proposer's experience with job training programs, tenant relocations and evictions; and
 - d. Proposer's experience in complying with public contracting requirements, such as LBE, DBE programs, etc.; and
 - e. Proposer's experience with third party environmental remediation issues, as they relate to ongoing leasing and operations; and
 - f. Any related experience or qualifications.

2. Financial Proposal (20 points)

- a. Proposer's proposed formula for profit sharing under the Agreement (if different than the draft Agreement); and
- b. Proposer's projected budget for the first year of operations; and
- c. Proposer's fiscal capacity and bonding experience and capacity.

3. Experience with Community Involvement and Collaboration (30 points)

- a. Proposer's experience serving a large and diverse community; and
- b. Proposer's experience working with non-profit agencies; and
- c. Proposer's experience working with City, State and Federal agencies; and
- d. Proposer's knowledge of the Treasure/Yerba Buena Islands community and the proposed development project.

4. Commitment to Proposal (10 points)

- a. Organizational ability to commence operations by July 1, 2014 and otherwise satisfy the requirements of this RFP; and
- b. Any material changes to the proposed form of Agreement, if any; and
- c. Completeness and organization of Proposal and all required submittals.

4.3 Contractor Selection Processes

Selection Interviews

The Evaluation Team may, but is not required to, hold interviews with up to the three highest scoring Proposers. Interviews, if held, will consist of standard questions asked of interviewees and specific questions regarding individual Proposals. If held, the interviews will be worth twenty (20) points. Points awarded for interviews will be separate from the points awarded during the evaluation process, but will be added to the previous scores before a recommendation is made to the Director. If applicable, the Proposer's lead staff members that will be assigned to the project should be present for the interview.

Other Terms and Conditions

The Director will consider the recommendation of the Evaluation Team and choose the Proposer with whom to commence contract negotiations. It is anticipated that the Agreement will be substantially in the form attached hereto as Attachment D, with modifications as needed to make the Agreement consistent with the selected Proposal.

If a satisfactory contract cannot be negotiated in a reasonable time with the selected Proposer, then the Director, in her sole discretion, may terminate negotiations and begin contract negotiations with another Proposer or select a property manager through some other process. The Authority reserves the right at any time before Proposals are due to modify or terminate this RFP.

The selection of any Proposer for contract negotiations shall not imply acceptance by the Authority of all terms of the Proposal, which may be subject to further negotiation. Any final contract must be finally approved by the Treasure Island Development Authority Board of Directors and the City's Board of Supervisors, each in their sole and absolute discretion. Selection for negotiations, and completion of contract negotiations by staff and the proposer, is no guarantee that the Authority Board will approve a contract.

5. Protest Procedures

5.1 Protest of Non-Responsiveness Determination

The Evaluation Team will first review Proposals to determine if they are complete and responsive. If it is determined that a Proposal is not complete or responsive to this RFP, the Director may notify the Proposer of this fact. Within five (5) working days of the Authority's issuance of a notice of non-responsiveness, any Proposer that has submitted a proposal and believes that the Director has incorrectly determined that its Proposal is non-responsive may submit a written notice of protest by mail or e-mail (fax is not acceptable). Such notice of protest must be received by the Authority on or before the fifth (5th) working day following the Authority's issuance of the notice of non-responsiveness. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Proposer. In addition, the protestor must specify facts and evidence sufficient for the Authority to determine the validity of the protest.

5.2 Protest of Contract Award

Within five (5) working days of the Authority's issuance of a notice of intent to award a contract under this RFP, any Proposer that has submitted a responsive proposal and believes that the Authority has incorrectly selected another Proposer for award may submit a written notice of protest by mail or e-mail (fax is not acceptable). Such notice of protest must be received by the Authority on or before the fifth (5th) working day after the Authority's issuance of the notice of intent to award a contract.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the Authority to determine the validity of the protest.

5.3 Delivery of Protests

All protests of this RFP and the RFP process must be submitted on or before the date Proposals are due. All protests of nonresponsiveness must be five (5) working days of the Authority's issuance of a notice of non-responsiveness. And all protests of the contract award must be made no later than the day before the date that the Authority Board first considers the Agreement for approval at a duly noticed public hearing. If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date the Authority received the protest. Protests or notice of protests made orally (e.g., by telephone) or by fax will not be considered. Protests must be delivered to:

**Treasure Island Development Authority
RFP# 002 (Sublease and Property Management Agreement)
Attn: Peter Summerville
One Avenue of Palms, Suite 241
San Francisco, CA 94130
Email: Peter.Summerville@sfgov.org**

6. Additional Terms

A. Errors and Omissions in RFP

Proposers are responsible for reviewing all portions of this RFP. Proposers are to promptly notify the Authority, in writing, if the Proposer discovers any ambiguity, discrepancy, omission, or other error in the RFP. Any such notification should be directed to the Authority promptly after discovery, but in no event later than five working days prior to the date for receipt of Proposals. Modifications and clarifications will be made by addenda as provided below.

B. Inquiries Regarding RFP

Inquiries regarding the RFP and all notifications of intent to request written modification or clarification of the RFP must be directed to:

**Treasure Island Development Authority
RFP# 002 (Sublease and Property Management Agreement)
Attn: Peter Summerville
One Avenue of Palms, Suite 241
Treasure Island
San Francisco, CA 94130
Email: Peter.Summerville@sfgov.org**

C. Change Notices

The Authority may modify the RFP, before the proposal due date, by issuing Change Notices, which will be posted on the website. The Proposer shall be responsible for

ensuring that its proposal reflects any and all Change Notices issued by the Authority regardless of when the Proposal is submitted. Therefore, the Authority recommends that the Proposer consult the website frequently, including shortly before the proposal due date, to determine if the Proposer has reviewed all Change Notices.

D. Revision of Proposal

A Proposer may revise a proposal on the Proposer's own initiative at any time before the deadline for submission of Proposals. The Proposer must submit the revised Proposal in the same manner as the original. A revised Proposal must be received on or before the proposal due date. In no case will a statement of intent to submit a revised Proposal, or commencement of a revision process, extend the proposal due date for any Proposer. At any time during the evaluation process, the Authority may require a Proposer to provide oral or written clarification of its Proposal. The Authority reserves the right to make an award without further clarifications of Proposals received.

E. Proposer's Obligations under the Campaign Reform Ordinance

Proposers must comply with Section 1.126 of the S.F. Campaign and Governmental Conduct Code, which states:

No person who contracts with the City and County of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations and the later of either (1) the termination of negotiations for such contract, or (2) three months have elapsed from the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

If a Proposer is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the Proposer is prohibited from making contributions to:

- The officer's re-election campaign
- A candidate for that officer's office
- A committee controlled by the officer or candidate.

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a contractor approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (1) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (2) a city officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Proposal, and requests to be placed on a mailing list do not constitute negotiations.

Violation of Section 1.126 may result in the following criminal, civil, or administrative penalties:

1. Criminal. Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
2. Civil. Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
3. Administrative. Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

For further information, Proposers should contact the San Francisco Ethics Commission at (415) 581-2300.

F. Sunshine Ordinance

In accordance with S.F. Administrative Code Section 67.24(e), contractors' bids, responses to RFPs and all other records of communications between the Authority and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

G. Public Access to Meetings and Records

If a Proposer is a non-profit entity that receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the S.F. Administrative Code, the Proposer must comply with Chapter 12L. The Proposer must include in its proposal (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to Proposer's meetings and records, and (2) a summary of all complaints concerning the Proposer's compliance with Chapter 12L that were filed with the City in the last two years and deemed by the City to be substantiated. The summary shall also describe the disposition of each complaint. If no such complaints were filed, the Proposer shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in Proposer's Chapter 12L submissions shall be grounds for rejection of the proposal and/or termination of any subsequent Agreement reached on the basis of the proposal.

H. Reservations of Rights by the Authority

The issuance of this RFP does not constitute an agreement by the Authority that any contract will actually be entered into by the Authority. The Authority expressly reserves the right at any time to:

1. Waive or correct any defect or informality in any response, Proposal, or RFP procedure;

2. Reject any or all Proposals;
3. Reissue a Request for Proposals;
4. Prior to submission deadline for Proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the Proposals;
5. Procure any materials, equipment or services specified in this RFP by any other means; or
6. Determine that no contract will be pursued.

I. No Waiver

No waiver by the Authority of any provision of this RFP shall be implied from any failure by the Authority to recognize or take action on account of any failure by a Proposer to observe any provision of this RFP.

J. Local Business Enterprise Goals and Outreach

The requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance") shall apply to this RFP.

1. LBE Subconsultant Participation Goals

Subject to the requirements of the TIHDI Agreement, the LBE subconsulting goal for this project is 25 % of the total value of the goods and/or services to be procured. For purposes of the foregoing, all contracts to TIHDI member organizations shall be counted toward satisfaction of the LBE goal. For informational purposes only, the availability of Minority Business Enterprises ("MBE"), Woman Business Enterprises ("WBE") and Other Business Enterprises ("OBE") to perform sub work on this project is as follows:

- a.) 11.2% Minority Business Enterprises ("MBE"); and
- b.) 5.0% Woman Business Enterprises; and
- c.) 8.8% Other Business Enterprises ("OBE")

Each firm responding to this solicitation shall confirm that it will use good-faith outreach to select LBE subcontractors as set forth in S.F. Administrative Code §§ 14B.8 and 14B.9. In addition to demonstrating that it will achieve the level of subconsulting participation required by the contract, a proposer shall also undertake and document in its submittal the good faith efforts required by Chapter 14B.8(C)&(D) and CMD Attachment 2, Requirements for Architecture, Engineering and Professional Services Contracts (See CMD Attachment 2, Form 2B.)

[Proposals which fail to comply with the material requirements of S.F. Administrative Code §§ 14B.8 and 14B.9, CMD Attachment 2 and this RFP may be deemed non-responsive.] Subconsulting goals can only be met with CMD-certified LBEs located in

San Francisco and TIHDI member organizations. Note: If a proposer demonstrates in its proposal that it exceeds the established LBE subconsulting participation goal by 35% (i.e. 33.75% for this project) or more, such proposer is not required to conduct good faith outreach efforts or to submit evidence of good faith efforts. **[I'm not familiar with the forms. Are we asking Proposers to submit lists of proposed subcontractors?]**

The selected firm for the Agreement will be required to use the CMD Utilization Tracking System.

2. LBE Participation

The City strongly encourages proposals from qualified LBEs. Pursuant to Chapter 14B, the following rating discount will be in effect for the award of this project for any proposers who are certified by CMD as a LBE, or joint ventures where the joint venture partners are in the same discipline and have the specific levels of participation as identified below. Certification applications may be obtained by calling CMD at (415) 252-2500. The rating discount applies at each phase of the selection process. The application of the rating discount is as follows:

- (a) A 10% ratings bonus to an LBE; or a joint venture between or among small and/or micro LBEs; or
- (b) A 5% ratings bonus to a joint venture with small and/or micro LBE participation that equals or exceeds 35%, but is under 40%; or
- (c) A 7.5% ratings bonus to a joint venture with small and/or micro LBE participation that equals or exceeds 40%; or
- (d) A 10% ratings bonus to a certified non-profit entity;
- (e) A 2% rating bonus will be applied to an SBA-LBE, except that the 2% discount shall not be applied at any stage if it would adversely affect a Small LBE or Micro-LBE bidder.

If applying for a rating discount as a joint venture: The LBE must be an active partner in the joint venture and perform work, manage the job and take financial risks in proportion to the required level of participation stated in the proposal, and must be responsible for a clearly defined portion of the work to be performed and share in the ownership, control, management responsibilities, risks, and profits of the joint venture. The portion of the LBE joint venture's work shall be set forth in detail separately from the work to be performed by the non-LBE joint venture partner. The LBE joint venture's portion of the contract must be assigned a commercially useful function.

3. CMD Forms to be Submitted with Proposal

a. All proposals submitted must include the following Contract Monitoring Division (CMD) Forms contained in the CMD Attachment 2: 1) CMD Contract Participation Form 2A, 2) CMD "Good Faith Outreach" Requirements Form 2B, 3) CMD Non-Discrimination Affidavit, Form 3, 4) CMD Joint Venture Form 4 (if applicable), and 5) CMD Employment Form 5. If these forms are not returned with the proposal, the proposal may be determined to be non-responsive.

b. Please submit CD with proposals and CMD Forms. The forms should be placed in a separate, sealed envelope labeled CMD Forms.

If you have any questions concerning the CMD Forms, you may call Romulus Asenloo, the Contract Monitoring Division Contract Compliance Officer at (415) 581-2310.

K. Standard Contract Provisions

The successful Proposer will be required to enter into a contract substantially in the form of the Sublease and Management Agreement attached hereto as Attachment D.

L. Conflicts of Interest

The successful Proposer will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest, including Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful Proposer will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

REQUEST FOR PROPOSALS FOR
SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT
FOR MARKET-RATE RENTAL HOUSING, TREASURE ISLAND

Attachment A

Acknowledgement of RFP Terms and Conditions

RFP ATTACHMENT A: ACKNOWLEDGEMENT OF RFP TERMS AND CONDITIONS

HOW TO RESPOND TO THIS ATTACHMENT

By submitting a Proposal, the Proposer, on behalf of itself and its Partners/Subconsultants acknowledges and agrees that:

1. **PROPOSER AUTHORIZATION:** The signatories are authorized by the Proposer to make representations for the Proposer and to obligate the Proposer to perform the commitments contained in its Proposal.
2. **PROPOSER SELECTION:** Based on Proposals received to this Request for Proposals (RFP), it is the intent of the Treasure Island Development Authority (the "Authority") to select the highest scoring and most responsive Proposer for contract negotiations. This RFP does not in any way limit the City's right to solicit contracts for similar or identical services if, in the City's sole and absolute discretion, it determines Proposals received are inadequate to satisfy its needs.
3. **CONTRACT NEGOTIATIONS:** The City will select the highest scoring Proposer(s) with whom the Authority staff will commence contract negotiations. If a satisfactory contract cannot be negotiated in a reasonable time with the selected Proposer, then the Authority, in its sole discretion, may terminate negotiations and begin contract negotiations with next highest scoring Proposer. The selection of any Proposer for contract negotiation shall not imply acceptance by the City of all terms of the Proposal, which may be subject to further negotiation and approvals before the City may be legally bound thereby.
4. **NO GUARANTEE OF WORK OR COMPENSATION:** There is no guarantee of a minimal amount of work or compensation for any of the Proposers selected for contract negotiations.
5. **COMPLIANCE WITH LAWS AND REGULATIONS:** It must comply with all applicable State, Federal, and local laws. In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the items offered on this Proposal prior to their delivery, it shall be the responsibility of the successful Proposer to notify the City at once, indicating in their letter the specific regulation which required such alterations. The City reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
6. **STAFFING:** The key individuals listed and identified in the Proposal will be performing the work and will not be substituted with other personnel or reassigned to another project by the Proposer/Contractor without the City's prior approval or request. The City, in its sole discretion, shall have the right to review and approve all staff assigned to provide services throughout the duration of the contracts negotiated under this RFP. Such approval by the City will not be unreasonably withheld. If selected for interviews, the Proposer's key individuals, including partner/subconsultant representatives, will be required to meet with the City prior to selection for contract negotiations.
7. **LEAD ROLE:** The selected Proposer(s) will be expected to take the lead role in project management and staff coordination. Proposals should factor this assumption into pricing.
8. **LBE SUBCONSULTING GOAL:**
The requirements of the Local Business Enterprise (LBE) and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance") shall apply to this RFP. The City's Human Rights Commission (HRC) Local Business Enterprise subconsulting goal for this project is waived.
9. **CITY'S APPROVAL RIGHTS OVER SUBCONSULTANTS AND SUBCONSULTANT PAYMENTS:** The City has approval rights over the use of all subconsultants. Proposers must identify all subconsultants in their Proposal and these subconsultants must conform to all City policies regarding subconsultants. Furthermore, each Proposer understands, acknowledges, and agrees that if it subcontracts with a third party for services, the Proposer accepts responsibility for full and prompt payment to the third party. Any dispute between the Proposer and the third party, including any payment dispute, will be promptly remedied by the Proposer. Failure to promptly remedy or to make prompt

RFP ATTACHMENT A: ACKNOWLEDGEMENT OF RFP TERMS AND CONDITIONS

payment to a third party (subconsultant) may result in the withholding of funds from the Proposer by the City.

10. **CITY RESOURCES:** The City will arrange for contractor's access to equipment and data as deemed appropriate by the City.

11. **ADMINISTRATIVE REQUIREMENTS:** see *Attachment B*
It must fulfill the City's administrative requirements for doing business with the City prior to contract award. Fulfillment is defined as completion, submission and approval by applicable City agencies of the forms and requirements referenced in Attachment III.

12. **THE CITY'S TERMS AND CONDITIONS:** see *Attachment B*.
It is willing and able to meet all of the City's terms and conditions as stated in the City's standard professional services agreement ("Agreement") template (see *Attachment B*). Proposers wishing to negotiate modification of other terms and conditions must attach a copy of the City's Agreement referring to the specific portion of the Agreement to be changed, and show proposed changes (deleted sections with a strikeover and added sections in boldface type). The City's selection of any Proposer who proposes changes to the City's Agreement terms shall not be deemed as acceptance of the Proposer's proposed changes.

13. **TERM OF COST AND WORK EFFORT ESTIMATE:** Submission of a Proposal signifies that the proposed services and prices are valid for two years from the City's notice of intent to award a contract from this RFP and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

The City may award contract(s), based on Proposals received without discussion. A Proposer's initial cost and work effort estimate should, therefore, be based on the most favorable terms available. The City reserves the right to accept other than the lowest price offer and reject all Proposals that are not responsive to this RFP.

14. **RELEASE OF LIABILITY:** The Proposer hereby releases all individuals, entities and firms from all claims and losses that may arise from said individuals, entities or firms providing information, comments, or conclusions to inquiries that the City and County of San Francisco may make regarding the qualifications of any individual or firm seeking to be selected as a consultant or subconsultant in connection with this RFP. This release is freely given and will be applicable whether or not the responses by said individuals, entities or firms are accurate or not, or made willfully or negligently.

15. **FINANCIAL RESPONSIBILITY FOR PROPOSAL COSTS:** The City accepts no financial responsibility for any costs incurred by a firm in responding to this RFP. Proposals will become the property of the City and may be used by the City in any way deemed appropriate.

16. **PROJECT TIMELINE:** Actual contract periods may vary, depending upon service and project needs. Any Proposer selected for a contract must be available to commence work no later than July 15, 2013. This RFP provides the City with the ability to exercise options allowing for a total contract period of 5 years. It will be the responsibility of any Proposer selected for contract negotiations to disclose, before negotiations commence, any limitations that may impact its ability to complete work in accordance with anticipated deliverables and timelines.

17. **OBJECTIONS TO RFP TERMS:** Should a Proposer object on any ground to any provision or legal requirement set forth in this RFP, the Proposer must, not more than ten (10) calendar days after the RFP is issued, provide written notice to the Authority setting forth with specificity the grounds for the objection. The failure of a Proposer to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

18. **EXCEPTIONS TO THIS RFP:** All information requested in this RFP must be supplied. Proposers may clearly identify any exceptions to the RFP in this section and must provide a written explanation to include the scope of the exceptions, the ramifications of the exceptions for the City, and the description of

RFP ATTACHMENT A: ACKNOWLEDGEMENT OF RFP TERMS AND CONDITIONS

the advantages or disadvantages to the City as a result of exceptions. The City, in its sole discretion, may reject any exceptions or specifications within the Proposal. Proposers may also provide supplemental information, if necessary, to assist the City in analyzing Proposals.

19. **ERRORS AND OMISSIONS IN RFP:** Proposers are responsible for reviewing all portions of this RFP. Proposers are to promptly notify the Authority, in writing, if the Proposer discovers any ambiguity, discrepancy, omission or other error in the RFP. Any such notification should be directed to the Authority promptly after discovery, but in no event later than five (5) working days prior to the date for receipt of Proposals. Modifications and clarifications will be made by addenda as provided below.

20. **INQUIRIES AND COMMUNICATIONS REGARDING RFP:** Inquiries regarding the RFP and all communications including notifications related to, exceptions or objections to, or of an intent to request written modification or clarification of, the RFP must be directed by mail or e-mail (fax is not acceptable) to:

Treasure Island Development Authority
RFP# 002 (Sublease and Property Management Agreement)
Attn: Peter Summerville
One Avenue of Palms, Suite 241
San Francisco, CA 94130
Email. Peter.Summerville@sfgov.org

21. **CHANGE NOTICES:** The Authority may modify the RFP, prior to the Proposal due date, by issuing written addenda. Addenda will be posted on the 'Contract Opportunities' section of the Authority website at: sftreasureisland.org. The Authority will make reasonable efforts to post notification of modifications in a timely manner. Notwithstanding this provision, the Proposer shall be responsible for ensuring that its Proposal reflects any and all addenda issued by the Authority prior to the Proposal due date regardless of when the Proposal is submitted. Therefore, the City recommends that the Proposer call the Authority or check the Authority website before submitting its Proposal to determine if the Proposer is aware of all addenda.

22. **REVISION OF PROPOSAL:** Proposer may revise a Proposal on the Proposer's own initiative at any time before the deadline for Proposals. The Proposer must submit the revised Proposal in the same manner as the original. A revised Proposal must be received on or before the Proposal due date.

23. **CONFLICTS OF INTEREST:** The successful Proposer will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest, including Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful Proposer will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

Individuals who will perform work for the City on behalf of the successful Proposer might be deemed consultants under state and local conflict of interest laws. If so, such individuals will be required to submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to the City within ten calendar days of the City notifying the successful Proposer that the City has selected the Proposer.

PROPOSERS ARE STRONGLY ADVISED TO CONSULT WITH THEIR LEGAL COUNSEL REGARDING THEIR ELIGIBILITY TO SUBMIT A PROPOSAL FOR THIS RFP OR SUBSEQUENT RFQS/RFPS.

24. **PROPOSER'S OBLIGATIONS UNDER THE CAMPAIGN REFORM ORDINANCE:** Proposers must comply with Section 1.126 of the S.F. Campaign and Governmental Conduct Code, which states:

No person who contracts with the City and County of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to

RFP ATTACHMENT A: ACKNOWLEDGEMENT OF RFP TERMS AND CONDITIONS

the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations and the later of either (1) the termination of negotiations for such contract, or (2) three months have elapsed from the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

If a Proposer is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the Proposer is prohibited from making contributions to:

- the officer's re-election campaign
- a candidate for that officer's office
- a committee controlled by the officer or candidate.

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a contractor approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (i) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (ii) a city officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Qualifications or Proposals, and requests to be placed on a mailing list do not constitute negotiations.

Violation of Section 1.126 may result in the following criminal, civil, or administrative penalties:

- a) Criminal. Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
- b) Civil. Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
- c) Administrative. Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

For further information, Proposers should contact the San Francisco Ethics Commission at (415) 581-2300.

25. SUNSHINE ORDINANCE: In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request. Proposer understands that any writing presented under this RFP may be subject to public disclosure.

RFP ATTACHMENT A: ACKNOWLEDGEMENT OF RFP TERMS AND CONDITIONS

26. **PUBLIC ACCESS TO MEETINGS AND RECORDS:** If a Proposer is a non-profit entity that receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the S.F. Administrative Code, the Proposer must comply with Chapter 12L. The Proposer must include in its Proposal (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to Proposer's meetings and records, and (2) a summary of all complaints concerning the Proposer's compliance with Chapter 12L that were filed with the City in the last two years and deemed by the City to be substantiated. The summary shall also describe the disposition of each complaint. If no such complaints were filed, the Proposers shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in Proposer's Chapter 12L submission shall be grounds for rejection of the Proposal and/or termination of any subsequent Agreement reached on the basis of the Proposal.

27. **RESERVATIONS OF RIGHTS BY THE CITY:** The issuance of this RFP does not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right at any time to:

- A. Waive or correct any defect or informality in any Proposal, response, or response procedure;
- B. Reject any or all Proposals;
- C. Reissue a Request for Qualifications or Request for Proposals;
- D. Prior to submission deadline for Proposals, modify all or any portion of the selection procedures, including deadlines for accepting Proposals, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the Proposals;
- E. Procure any materials, equipment or services specified in this RFP by any other means; or
- F. Determine that no project will be pursued.

28. **NO WAIVER:** No waiver by the City of any provision of this RFP shall be implied from any failure by the City to recognize or take action on account of any failure by a Proposer to observe any provision of this RFP. Failure by the Department to object to an error, omission or deviation in the Proposal in no way will modify the RFP or excuse the Proposer from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

29. **CONTRACT NEGOTIATIONS:** The City will select the most qualified and responsive Proposer with whom the Authority staff will commence contract negotiations. If a satisfactory contract cannot be negotiated in a reasonable time with the selected Proposer, then the Authority, in its sole discretion, may terminate negotiations and begin contract negotiations with the next highest scoring Proposers it deems qualified. The selection of any Proposer for contract negotiation shall not imply acceptance by the City of all terms of the proposal, which may be subject to further negotiation and approvals before the City may be legally bound thereby.

30. **CERTIFICATION:** Each Proposer hereby certifies that it has carefully examined this Request for Proposals and documents attached hereto for terms, conditions, specifications, covenants, requirements, services, etc. and the Proposer certifies that it understands the project types requested, that the Proposer has knowledge and expertise to provide the project types submitted for consideration, and that its Proposal is based upon the terms, conditions, specifications, services, and requirements of this RFP and attachments. By its signature on the Proposal to the RFP, the Proposer certifies that its Proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a Proposal for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud, so that all Proposals for the purchase will result from free, open and competitive proposing among all vendors, in compliance with the City's laws.

31. **ACCEPTANCE:** Submission of any Proposal indicates a Proposer's acceptance of the conditions contained in this RFP unless clearly and specifically noted otherwise in the Proposal. The City may discontinue its selection, contract negotiations, or contract award processes with any Proposer if it is determined that the Proposer has not accepted the RFP terms and conditions contained herein.

RFP ATTACHMENT A: ACKNOWLEDGEMENT OF RFP TERMS AND CONDITIONS

Each Proposer, as part of its Proposal, must submit this document signed by a representative(s) authorized by the Proposer to make representations for the Proposer and to obligate the Proposer to perform the commitments contained in its Proposal.

Acknowledged and Agreed:

Signature

Printed Name

Title

Firm Name

City, State

Phone Number

Date

Signature

Printed Name

Title

Firm Name

City, State

Phone Number

Date

**REQUEST FOR PROPOSALS FOR
SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT
FOR MARKET-RATE RENTAL HOUSING, TREASURE ISLAND**

Attachment B

CCSF Contract Monitoring Division Local Business Enterprise Forms

- 1) CMD Contract Participation Form 2A, and
- 2) CMD "Good Faith Outreach" Requirements Form 2B, and
- 3) CMD Non-Discrimination Affidavit, Form 3, and
- 4) CMD Joint Venture Form 4; and
- 5) CMD Employment Form 5.

CITY & COUNTY OF SAN FRANCISCO CONTRACT MONITORING DIVISION



CMD ATTACHMENT 2

For Contracts Advertised on or after July 1, 2013

Requirements for Architecture, Engineering, & Professional Services Contracts

FOR CONTRACTS \$50,000 AND OVER

PART I. GENERAL

1.01 SAN FRANCISCO ADMINISTRATIVE CODE CHAPTERS 12B AND 14B

- A. To be eligible for this contract award, prime proposers must agree to comply with the Local Business Enterprise ("LBE") requirements sanctioned by San Francisco Administrative Code Chapter 12B, Section 12B.4 and Chapter 14B, and its implementing Rules and Regulations. Chapters 12B and 14B are administered and monitored by the San Francisco Contract Monitoring Division ("CMD").
- B. Chapters 12B and 14B and their implementing Rules and Regulations are incorporated by reference herein as though fully set forth and provide that the failure of any proposer or consultant to comply in good faith with these requirements shall be deemed a material breach of contract. Copies of both Chapters 12B and 14B and their implementing Rules and Regulations are available on the CMD website at <http://www.sfgov.org/cmd>.
- C. Chapter 14B allows for a ten percent (10%) rating discount, referred to in this Attachment 2 as a "rating bonus," for CMD certified Small- or Micro LBE's. Subject to certain limitations and exceptions, CMD SBA-LBEs may be entitled to a two percent (2%) rating bonus. Joint Ventures with Small or Micro-LBE participation may be entitled to a five percent (5%), seven and a half percent (7.5%), or to 10 percent (10%) rating bonus. The Certification Application is available on the CMD website at <http://www.sfgov.org/cmd>.

IMPORTANT NOTICE:

For RFP's advertised on or after July 1, 2013, winning prime consultants and all participating subconsultants are required to use the LBE Utilization Tracking System (LBEUTS) to submit 14B prime and sub payment information, including progress payment invoices. The LBEUTS system replaces CMD Payment Forms 7 & 9. These forms are included herein for informational purposes only.

For assistance with CMD Attachment 2, please contact the following number(s):

CMD Main Office (415) 581-2310 or LBE Certification Unit (415) 581-2319

For compliance and assistance with the Equal Benefits Program, please contact the CMD Main Office.



1.02 SUBMISSION OF CMD FORMS

- A. **Unless otherwise authorized** by CMD, the proposer must submit the following CMD forms in a separate sealed envelope marked “CMD Forms” with the proposal. Failure to complete or submit any of the CMD Forms may cause the proposal to be deemed non-responsive and ineligible for contract award.

Proposers are responsible for reviewing the specific instructions and requirements on each CMD form.

1. **Form 2A: CMD Contract Participation Form:** Identify LBE subconsultants, vendors, and lower tier subconsultants that the proposal relies on to meet LBE subconsultant participation goal. Check the appropriate box under Rating Bonus.
2. **Form 2B: CMD “Good Faith Outreach” Requirements Form:** Document solicitation of LBE participation. This form must be submitted for every solicitation that includes LBE subconsultant participation. Proposer shall meet the specified LBE subcontractor participation goal and shall complete and submit Form 2B in accordance with Form 2B instructions.

In accordance with Section 14B.8(B) of the Administrative Code ("Code"), if a proposer does not demonstrate in its proposal that proposer exceeds the established LBE subcontracting participation goal by at least 35%, such proposer must demonstrate adequate good faith efforts to meet the LBE subconsulting goal. Such proposer must complete and submit Form 2B as required by Form 2B instructions and must submit all good faith documentation as specified in Form 2B with its proposal. Failure to meet the LBE subconsulting participation goal and demonstrate/document adequate good faith efforts shall cause the proposal to be determined non-responsive and rejected.

If a proposer demonstrates in its proposal that it exceeds the established LBE subconsulting participation goal by 35% or more, such proposer is not required to conduct good faith outreach efforts or to submit evidence of good faith efforts. Such proposer shall complete and submit Form 2B as required by Form 2B instructions. **NOTE: A SMALL OR MICRO-LBE PRIME PROPOSER MAY COUNT ITS OWN CONTRACT WORK TOWARD THE 35% GOOD FAITH EFFORTS EXCEPTION.**

- *Example:* The LBE subconsulting goal is 10%. Good faith efforts requirements will be waived if the Proposer:
 - 1) Meets the 10% LBE subconsulting goal;
 - AND**
 - 2) Has total LBE participation that equals or exceeds 13.5% of the total proposal amount. The 13.5% represents the 10% LBE subconsulting goal plus 35% of that 10% subconsulting goal.

LBE subconsulting goal set for project	10.0%
35% of the 10% LBE subconsulting goal	3.5%
Total LBE participation must equal or exceed:	13.5%

3. **Form 3: CMD Compliance Affidavit:** Must be signed by Proposer under penalty of perjury.
4. **Form 4: CMD Joint Venture Form:** Submit ONLY if the Proposer is requesting a rating bonus based on LBE participation in a joint venture partnership.
5. **Form 5: CMD Employment Form:** List the key personnel and responsibilities of the Proposer, Joint Venture partners, and Subconsultants.



1.03 CMD LBE UTILIZATION TRACKING SYSTEM AND CONTRACT PERFORMANCE FORMS:

A. LBE Utilization Tracking System (LBEUTS)

Information regarding the LBEUTS can be found at <http://www.sfgov.org/LBEUTS>

1. **FORM 7: CMD Progress Payment Form:** Winning prime proposer shall submit online using the LBEUTS with each payment request. Failure to upload this information with each payment request may delay progress payment processing. Upload copies of invoices from all subs.
 2. **FORM 9: CMD Payment Affidavit:** Submit online using the LBEUTS within ten (10) business days following receipt of each progress payment from the Contract Awarding Authority. Subconsultants are then required to acknowledge payment from Contractor online using the LBEUTS. Failure to submit required information may lead to withholding of progress payment, even if there is no subcontractor payments for the reporting period.
- B. **FORM 8: CMD Exit Report and Affidavit: Submit with final Form 7. A separate Form 8 must be completed for each LBE subconsultant.**
- C. **FORM 10: CMD Contract Modification Form:** This form shall be completed by the Prime Consultant when any (all) amendments, modifications, or supplemental change orders cumulatively increase the original contract amount by more than 20%, and then for all subsequent modifications.
1. D. Failure to submit all required information in the LBEUTS or any contract forms may result in sanctions under Chapter 14B, including but not limited to, withholding of progress and final payments

1.04 "GOOD FAITH OUTREACH" REQUIREMENTS

All proposers shall undertake adequate good faith outreach as set forth in Section 14B.8(D) of the Administrative Code to select subconsultants to meet the LBE subconsulting participation goal, unless a proposer qualifies for the good faith efforts exception set forth in Section 14B.8(B) for proposers that demonstrate in their proposals that they exceed the established LBE subconsulting participation goal by 35% or more. Please see example in Section 1.02A.2 above.

Under Section 14B.8(C) of the Code, proposals that do not meet the LBE subconsulting participation goal set will be rejected as non-responsive unless the CMD Director finds that the proposer diligently undertook adequate good faith efforts required by Chapter 14B and that the failure to meet the goal resulted from an excusable error.

A proposer must contact an LBE before listing that LBE as a subconsultant in the proposal. A proposal that fails to comply with this requirement will be rejected as non-responsive. Proposers are required to submit Form 2B and supporting documentation EVEN IF the LBE subconsulting goal has been met.

1.04 NON-COMPLIANCE AND SANCTIONS

A. Non-Compliance with Chapter 14B



1. A complaint of non-compliance concerning LBE participation initiated by any party after contract award will be processed in accordance with Chapter 14B and its implementing rules and regulations.
 - a. If the CMD Director determines that there is cause to believe that a consultant has failed to comply with any of the requirements of the Chapter 14B, CMD Rules and Regulations, or contract provisions pertaining to LBE participation, the CMD Director shall notify the contract awarding authority and attempt to resolve the non-compliance through conference and conciliation.
 - b. If the non-compliance is not resolved through conference and conciliation, the CMD Director shall conduct an investigation and, where the Director so finds, issue a written Finding of Non-Compliance.
 - c. The Director's finding shall indicate whether the consultant acted in good faith or whether noncompliance was based on bad faith noncompliance with the requirements of Chapter 14B, CMD Rules and Regulations, or contract provisions pertaining to LBE participation.
1. Where the Director finds that the consultant acted in good faith, after affording the consultant notice and an opportunity to be heard, the Director shall recommend that the contract awarding authority take appropriate action. Where the Director finds bad faith noncompliance, the Director shall impose sanctions for each violation of the ordinance, CMD rules and regulations, or contract provisions pertaining to LBE participation, which may include:
 - i) suspend a contract;
 - ii) withhold funds;
 - iii) assess penalties;
 - iv) debarment;
 - v) revoke CMD certification; or
 - vi) pursuant to 14B.7(H)(2), assess liquidated damages in an amount equal to the consultant's net profit on the contract, 10% of the total amount of the contract or \$1,000, whichever is greatest as determined by CMD.
2. The Director's determination of bad faith non-compliance is subject to appeal to the City Administrator pursuant to CMD Rules and Regulations.
3. An appeal by a consultant to the City Administrator shall not stay the Director's findings.
4. The CMD Director may require such reports, information and documentation from consultants, subconsultants, contract awarding authorities, and heads of departments, divisions, and offices of the City and County as are reasonably necessary to determine compliance with the requirements of Chapter 14B.

B. Procedure for the collection of penalties is as follows:

1. The CMD Director shall send a written notice to the Controller, the Mayor and to all contract awarding authorities or City and County department officials overseeing any contract with the consultant that a determination of bad faith non-compliance has been made and that all payments due the consultant shall be withheld.
2. The CMD Director shall transmit a report to the Controller and other applicable City departments to ensure that the liquidated damages are paid to the City.

PART II. RATING BONUS

2.01 APPLICATION



- A. **Eligibility for the LBE Rating bonus:** Certified Small or Micro-LBEs, including certified non-profit organizations, are eligible for an LBE rating bonus if the LBE is CMD certified in the type of work that is specified by the Contract Awarding Authority. Under certain circumstances, SBA LBE's are eligible for an LBE rating bonus. A proposer that has a certification application pending, that has been denied certification, that has had its certification revoked or that is in the process of appealing a CMD denial or revocation at the date and time the proposal is due is not an LBE and is not eligible to receive the rating bonus even if the firm is later certified or ultimately prevails in its appeal.
- B. **Application of the Rating bonus:** The following rating bonus shall apply at each stage of the selection process, i.e., qualifications, proposals, and interviews:
1. **Contracts with an Estimated Cost in Excess of \$10,000 and Less Than or Equal To 400,000.**
A 10% rating bonus will apply to any proposal submitted by a CMD certified Small or Micro-LBE. Proposals submitted by SBA-LBEs are not eligible for a rating bonus.
 2. **Contracts with an Estimated Cost in Excess of \$400,000 and Less Than or Equal To \$10,000,000.** A 10% rating bonus will apply to any proposal submitted by a CMD certified Small or Micro-LBE ...Pursuant to Section 14B.7(E), a 2% rating bonus will be applied to any proposal from an SBA-LBE, except that the 2% rating bonus shall not be applied at any stage if it would adversely affect a Small or Micro-LBE proposer or a JV with LBE participation.
 3. **Contracts with an Estimated Cost In Excess of \$10,000,000 and Less Than or Equal To \$20,000,000.** A 2% rating bonus will apply to any proposal submitted by an SBA-LBE..
 4. **The rating bonus for a Joint Venture (“JV”) with LBE participation that meets the requirements of Section 2.02 below is as follows for contracts with an estimated cost of in excess of \$10,000 and Less Than or Equal to \$10,000,000:**
 - a. 10% for each JV among Small and/or Micro LBE prime proposers.
 - b. 5% for each JV which includes at least 35% (but less than 40%) participation by Small and/or Micro-LBE prime proposers..
 - c. 7.5% for each JV that includes 40% or more in participation by Small and/or Micro-LBE prime proposers.
 - d. The rating bonus will be applied by adding 5%, 7.5%, or 10% (as applicable) to the score of each firm eligible for a bonus for purposes of determining the highest ranked firm. Pursuant to Chapter 14B.7(F), SBA-LBEs are not eligible for the rating bonus when joint venturing with a non LBE firm. However, if the SBA-LBE joint ventures with a Micro-LBE or a Small-LBE, the joint venture will be entitled to the joint venture rating bonus only to the extent of the Micro-LBE or Small-LBE participation described in Section 2.01B.4b. and c. above.
 5. A 10% rating bonus for CMD LBE certified non-profit agencies for contracts estimated in excess of \$10,000, but less than or equal to \$10,000,000.
- C. The Rating Bonus for Small or Micro-LBEs or JVs does not apply for contracts estimated by the Contract Awarding Authority to exceed \$10 million. The rating bonus for SBA-LBEs does not apply for contracts estimated by the Contract Awarding Authority to exceed \$20 million.

2.02 JOINT VENTURE/PRIME ASSOCIATION

- A. Each Small and/or Micro-LBE JV partner must be responsible for a clearly defined portion of the work to be performed. The rating bonus is applied only when the Small and/or Micro-LBE partner has sufficient skill, experience, and financial capacity to perform the portion of the work identified for the Small and/or Micro-LBE. This portion must be set forth in detail separately from the work to be performed by the non-LBE JV partner. The joint venture partners must be of the same discipline/each possess the license required by the RFP and the LBE partner(s) must be CMD LBE certified in that



area in order to be eligible for the rating bonus. The joint venture partners must be jointly responsible for the overall project management, control, and compliance with 14B requirements.

1. The Small and/or Micro-LBE JV partner's work must be assigned a commercially significant dollar value of the prime work and use its own employees and equipment.
 2. Each member of the joint venture must perform a "commercially useful function" as that term is defined by Section 14B.2 of the Ordinance. A Small and/or Micro-LBE JV partner that relies on the resources and personnel of a non-LBE firm will not be deemed to perform a "commercially useful function."
 3. The following actions are prohibited: i) the non-LBE JV partner performing work for the Small and/or Micro-LBE JV partner; ii) leasing of equipment or property by the Small and/or Micro-LBE JV partner from the non-LBE JV partner; and iii) the hiring of the non-LBE JV partner's employees by the Small and/or Micro-LBE JV partner.
 4. The Small and/or Micro-LBE JV partner must share in the ownership, control, management and administrative responsibilities, risks, and profit of the JV in direct proportion to its stated level of JV participation.
 5. The Small and/or Micro-LBE JV partner must perform work that is commensurate with its experience.
 6. A JV must submit an executed JV agreement and management plan detailing each JV partner's responsibilities and tasks.
 7. A JV must obtain a Federal ID number for that entity.
 8. A JV must obtain a tax registration certificate from the City Tax Collectors Office for that entity.
- B. A prime association or partnership is considered the same as a joint venture and must comply with all the JV requirements stated above.
- C. The proposal items to be performed by the Small and/or Micro-LBE JV partner must be identified separately and all work must be accounted for, including subconsulting work.
- D. The cost of the work to be performed by the Small and/or Micro-LBE JV partners is to be calculated as a percentage of the work to be performed by the joint venture partners. The joint venture should deduct the amount of work to be performed by subconsultants from its total contract amount. This percentage is used to determine whether or not the joint venture is eligible for a rating bonus.

EXAMPLE:

Step 1. Calculate total JV partner work:

Total Contract Work	=	100%
Percentage of Total Contract Work Performed by Subconsultants	-	40%
Percentage of Total Contract Work Performed by JV partners	=	60%

Step 2. Calculate Small and/or Micro-LBE JV partner work:

	A	B	C
Description of JV Partners' Scopes of Work	JV Partners' Work as a % of the total contract	% of Task by Non-LBE JV Partner	% of Task by Small and/or Micro-LBE JV Partner
TASK 1	5%	3%	2%
TASK 2	20%	11%	9%
TASK 3	25%	12.5%	12.5%



TASK 4	10%	6%	4%
TOTAL JV Partner %	60%	32.5%	27.5%

Step 3. Calculate Small and/or Micro-LBE JV partner work as a percentage of the total JV partner work for the rating bonus.

Total Small and/or Micro- LBE JV %	27.5%	÷	Total JV %	60%	=	45.8%
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The Small and/or Micro-LBE JV partner’s participation is 45.8%. The JV is therefore eligible for a 7.5% rating bonus.

PART III SUBCONSULTANT PARTICIPATION

3.01 SUBCONSULTANT PARTICIPATION GOAL

NOTE: FOR PURPOSES OF THE LBE SUBCONSULTING REQUIREMENTS, “LBE” REFERS TO SMALL AND MICRO-LBES ONLY, UNLESS THE RFP EXPRESSLY ALLOW FOR SBA-LBE SUBCONSULTANTS TO COUNT TOWARDS THE LBE PARTICIPATION GOAL.

- A. All proposers shall achieve the LBE subconsultant participation goal and undertake adequate good faith outreach as set forth in Section 14B.8(D) of the Ordinance to select subconsultants to meet the LBE subconsultant participation goal unless the proposer meets the good faith outreach exception in Section 14B.8.(B). See example in Section 1.02A.2. The LBE subconsultant participation goal can only be met with CMD certified Small and Micro-LBEs.

For a directory of certified LBEs, please go to:

<http://www.sfgov.org/cmd>

Proposals that do not meet the LBE subconsultant participation goal set under 14B.8(A) of the Ordinance will be rejected as non-responsive unless the CMD Director finds that the proposer diligently undertook good faith efforts required by the Ordinance and that the failure to meet the goal resulted from an excusable error.

- B. Proposers must identify on Form 2A the particular LBE subconsultants and lower tier subconsultants to be utilized in performing the contract, specifying for each the percentage of participation, the type of work to be performed and such information as the CMD reasonably shall require to determine the responsiveness of the proposal. For a proposer to receive credit toward the LBE subconsulting participation goal, a listed LBE subconsultant must be CMD certified in the scopes of work/trade(s) specified on Form 2A.

The proposer must contact LBE subconsultants prior to listing them. LBEs must be certified with CMD on the proposal due date to receive LBE subconsulting credit. Listing an LBE that is not certified at the date and time the proposal is due will result in the loss of credit for that LBE subconsultant and may result in a non-responsive proposal.

Additionally, subconsultants may be listed by more than one proposer.

- C. A subconsultant that has a certification application pending, that has been denied certification, that has had its certification revoked or that is in the process of appealing a CMD denial or revocation at the date and time the proposal is due is not an LBE and cannot be counted as an LBE for purposes of



achieving LBE subconsultant participation goal even if the firm is later certified or ultimately prevails in its appeal.

- D. CMD may require the successful proposer to submit performance reports on actual LBE participation at 30%, 50%, 70%, and 90% completion to the Contracting Awarding Authority and CMD.
- E. Determination and calculation of LBE subconsultant participation:
 - 1. The Small and/or Micro LBE subconsultant shall be listed to perform a specific task(s), which is described in the RFP or RFQ.
 - 2. If the Small and/or Micro-LBE subconsultant forms a joint venture with a non-LBE subconsultant, the Small and/or Micro-LBE subconsultant joint venture partner will be credited only for its portion of the work, as follows:

EXAMPLE:

If the total subcontract amount = \$ 1,000,000 of which
\$510,000 is the Small and/or Micro-LBE JV subcontract amount and \$490,000 is the non-LBE subcontract amount, then \$510,000 is credited toward the LBE subconsultant participation goal.

- 3. All work done by lower-tier Small and/or Micro-LBE subconsultants will be credited toward meeting the goal.

EXAMPLE:

If the total subcontract amount = \$1,000,000,
of which \$200,000 is the lower-tier Small and/or Micro-LBE subconsultant's portion,
then \$200,000 is credited toward the LBE subconsultant participation goal.

- 4. If a Proposer owns or controls more than one business that is CMD certified as a Small and/or Micro-LBE, the proposer will not receive credit if it lists its other firms to meet the LBE subconsultant participation goal when submitting as a prime. In determining ownership of a business, a business owned by proposer's spouse or domestic partner shall be deemed to be owned by the proposer.
- 5. It is the responsibility of the proposer to verify the subconsultant's LBE certification status.
- 6. A Small and/or Micro-LBE subconsultant must be certified in the type of work that the Proposer lists the firm for on CMD Form 2A.
- 7. The Small and/or Micro-LBE subconsultant must be utilized on the contract to perform a commercially useful function. No credit will be given for a LBE that serves as a pass-through.
- 8. A Small and/or Micro-LBE Prime proposer must meet the LBE subconsultant participation goal. A Small and/or Micro LBE Prime proposer may not count its participation towards meeting the LBE subconsultant participation goal.
- 9. A Small and/or Micro-LBE Prime proposer may count its participation towards meeting the good faith outreach exception set forth in 14B.8(B).



F. Substitution, removal, or contract modification of LBE:

No LBE subconsultant listed on Form 2A shall be substituted, removed from the contract or have its contract, purchase order or other form of agreement modified in any way without prior CMD approval. Additionally, no new subconsultants shall be added without prior CMD approval.



PART IV NON-DISCRIMINATION REQUIREMENTS

4.01 GENERAL

As a condition of contract award, Consultants and subconsultants shall comply with the nondiscrimination in employment provisions required by Chapter 12B of the Administrative Code.

4.02 NONDISCRIMINATION PROVISIONS

- A. Prior to the award of the contract, the consultant must agree that it does and will not, during the time of the contract or any contract amendment, discriminate in the provision of benefits between its employees with spouses and employees with domestic partners.
- B. The consultant and subconsultants on this contract will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or AIDS/HIV status, weight, height, or association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter. Discrimination on the basis of sex includes sexual harassment as defined in Section 16.9-25(b) of this Code. The Consultant, Contractor or Subconsultant/Subcontractor will take action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to the fact or perception of their race, color, creed, religion, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height, or AIDS/HIV status. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship.
- C. **Non-Compliance with Chapter 12B Prior to Contract Award**

The consultant and any subconsultants must be in compliance with the nondiscrimination provisions of Chapter 12B, on all existing City contracts prior to award of this contract.

Prior to the award of any City contract, the HRC has the authority to review the consultant's and subconsultant's prior performance to ensure compliance with the nondiscrimination provisions of Chapter 12B.

If the HRC determines that there is cause to believe that a consultant or subconsultant is not in compliance with the nondiscrimination provisions of Chapter 12B, the HRC shall notify the contract awarding authority and attempt to resolve the non-compliance through conciliation.

- 1. If the non-compliance cannot be resolved, the HRC shall submit to the consultant or subconsultant and the contract awarding authority a written Finding of Non-compliance.
- 2. The HRC shall give the consultant or subconsultant an opportunity to appeal the Finding.
- 3. The HRC may stay the award of any contract to a consultant where the consultant or any subconsultant is the subject of an investigation by written notice to the contract-awarding agency.

D. Complaints of Discrimination after Contract Award

- 1. A complaint of discrimination in employment initiated by any party after contract award shall be processed in accordance with the HRC Rules of Procedure, adopted pursuant to Chapter 12B of the San Francisco Administrative Code.
- 2. A finding of discrimination may result in imposition of appropriate sanctions, including:



- a. There may be deducted from the amount payable to the consultant or subconsultant under this contract a penalty of \$50 for each person for each calendar day the person was discriminated against in violation of the provisions of the contract.
- b. The contract may be canceled, terminated or suspended in part by the contract awarding authority.
- c. The consultant, subconsultant or vendor may be determined ineligible to perform work or supply products on any City contract for a period not to exceed two years.



FORM 2A: CMD CONTRACT PARTICIPATION FORM

Section 1: This form must be submitted with the proposal or the proposal may be deemed non-responsive and rejected. Prime Proposer, each Joint Venture Partner, Subconsultants, Vendors, and lower sub tiers must be listed on this form. Only CMD certified Small and/or Micro-LBEs can be used to meet the LBE subconsultant participation goal unless the RFP allows for SBA-LBE subconsultants to count towards the LBE participation goal. A Small and/or Micro- LBE Prime proposer/JV with LBE participation must meet the LBE subconsultant goal. A Small and/or Micro-LBE Prime proposer/JV with LBE participation may not count its participation towards meeting the LBE subconsultant participation goal. Be sure to check box for Rating Bonus. If more space is needed, attach additional copies of this form. This form is also completed and submitted for all contract modifications which exceed the original contract amount by more than 20%.

Contract:	RATING BONUS	
	<input type="checkbox"/> LBE 10%	<input type="checkbox"/> Joint Venture 7.5%
Firm:	<input type="checkbox"/> Joint Venture 5%	<input type="checkbox"/> Joint Venture 10% (LBEs ONLY)
Contact Person:	<input type="checkbox"/> No Rating Bonus Requested	
Address:	LBE Goal %	
City/ZIP		
Phone		

*Type: Identify if prime (P), JV partner (J), Subconsultant (S), or Vendor (V)

TYPE *	Firm	PORTION OF WORK (describe scope(s) of work)	% OF WORK	INDICATE LBE YES/NO	If an LBE, Identify MBE, WBE, or OBE **	% OF LBE SUBWORK
			%			%
			%			%
			%			%
			%			%
Total % of Work: 100%				Total LBE Subconsulting%		%

I declare, under penalty of perjury under the laws of the State of California, that I am utilizing the above Consultants for the portions of work and amounts as reflected in the Proposal for this Contract.

Owner/Authorized Representative (Signature): _____ **Date:** _____

Print Name and Title: _____

** MBE = Minority Business Enterprise, WBE = Women Business Enterprise, OBE = Other Business Enterprise. See CMD website: <http://sfgov.org/cmd> for each firm's status.



Section 2. Prime Proposer, Joint Venture Partners, Subconsultant, and Vendor Information

Provide information for each firm listed in Section 1 of this form. Firms which have previously worked on City contracts may already have a vendor number. Vendor numbers of LBE firms are located in the CMD LBE website at <http://sfgov.org/cmd>. Use additional sheets if necessary.

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____



FORM 2B: “GOOD FAITH OUTREACH” REQUIREMENTS FORM

This “Good Faith Outreach” form, along with the required supporting documentation must be completed and submitted per the instructions in this form EVEN IF the LBE subconsulting participation goal has been met (*Section 14B.8 of the San Francisco Administrative Code*). Proposers may obtain a list of certified LBEs from the CMD website: <http://www.sfgov.org/cmd>.

SECTION A

Under Section 14B.8(B) of the Administrative Code, the good faith outreach exception states that if a proposer demonstrates total LBE participation that exceeds by 35% the established LBE subconsultant participation goal for the project, the proposer is not required to conduct good faith outreach efforts or to submit evidence of good faith outreach efforts. Note that a Small or Micro-LBE prime proposer may count its own Contract Work toward the 35% good faith outreach exception. Please see example in CMD Attachment 2, Section 1.02A.2.

Does your proposal demonstrate that you have exceeded the established LBE subconsultant participation goal by 35% or more in accordance with Section 14B.8(B)? YES* NO

If the answer is yes, please check "YES", above, and complete Section C (if applicable) and Section D of this Form. If the answer is no, please check "NO", above, and complete Sections B and D of this Form, and submit all required supporting documentation in accordance with the instructions in Section B.

* Note: An answer of "YES", above, is subject to verification by CMD. If the CMD determines that proposer did not exceed the LBE subconsultant participation goal by at least 35% and proposer either failed to undertake adequate good faith outreach efforts or failed to submit supporting documentation with its proposal as required by Section B, items 2 and 4, below, then proposer’s proposal shall be declared non-responsive **AND INELIGIBLE FOR CONTRACT AWARD.**

NOTE: “LBE” REFERS TO SMALL AND MICRO-LBES ONLY, UNLESS THE RFP ALLOWS FOR SBA-LBE SUBCONSULTANTS TO COUNT TOWARDS THE LBE PARTICIPATION GOAL.

SECTION B

All proposers that do not qualify for the good faith outreach exception set forth in Section 14B.8(B) of the Administrative Code must complete this Section B and submit supporting documentation as required.

A proposer must achieve at least 80 points, as determined by CMD, to be deemed compliant with the “good faith outreach” requirements. A proposer who fails to achieve at least 80 points will be declared non-responsive, and the proposal will be rejected. Please check yes or no for each item listed below.

1. Did your firm attend the pre-proposal meeting scheduled by the City to inform all proposers of the LBE program requirements for this project? If the City does not hold a pre-proposal meeting, all proposers will receive 15 points.	<input type="checkbox"/> Yes (15 Points)	<input type="checkbox"/> No (0 Points)
2. Did your firm advertise, not less than 10 calendar days before the due date of the proposal, in one or more daily or weekly newspapers, trade association publications, LBE trade oriented publications, trade journals, or other media, such as: Small Business Exchange, or the Bid and Contracts Section of the Office of Contract Administration’s website (http://mission.sfgov.org/OCABidPublication/)? If so, <u>please enclose a copy of the advertisement.</u> <i>The advertisement must provide LBEs with adequate information about the project.</i> If the City gave public notice of the project less than 15 calendar days prior to the proposal due date, no advertisement is required, and all proposers will receive 10 points.	<input type="checkbox"/> Yes (10 points)	<input type="checkbox"/> No (0 Points)



<p>3. Did your firm identify and select work types (as categorized in CMD’s LBE Directory) to meet the LBE subconsultant participation goal? If so, please identify the work types below:</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> Yes (10 points)</p>	<p><input type="checkbox"/> No (0 Points)</p>
<p>4. Did your firm contact LBE firms (LBE firms include MBEs, WBEs and OBEs) for the identified work types (see #3 above), not less than 10 calendar days prior to the due date of the proposal? If so, <u>please include documentation (i.e. phone logs, emails, faxes, etc.) to verify that contacts were made.</u> The purpose of contacting LBE firms is to provide notice of interest in proposing for this project.</p> <p>A proposer who contacts those LBE firms certified in the identified work types, not less than 10 calendar days prior to due date of the proposal, will receive up to 45 points. If a proposer does not comply with paragraphs a. & b. below, one point will be deducted for each LBE firm within each identified work type that is not contacted.</p> <p>a. If there are less than 25 firms within an identified work type, a proposer should contact all of them.</p> <p>b. If there are 25 or more firms within an identified work type, a proposer should notify at least 25 firms within such identified work type.</p> <p>If a proposer does not contact any LBE firms, the proposer will receive no points. When contacting LBEs, you should provide adequate information about the project. If the City gave public notice of the project less than 15 calendar days prior to the proposal due date, the allocation of points above still applies, except that the proposer may contact those LBE firms certified in the identified work types less than 10 calendar days prior to the due date of the proposal.</p>	<p><input type="checkbox"/> Yes (Up to 45 points)</p>	<p><input type="checkbox"/> No (0 Points)</p>
<p>5. Did your firm follow-up and negotiate in good faith with interested LBEs? If so, <u>please include documentation (i.e. phone logs, emails, faxes, etc.) to verify that follow-up contacts were made.</u> If applicable, your follow-up contact with interested LBEs should provide information on the City’s bonding and financial assistance programs. For each interested LBE firm that the proposer does not follow-up with, a point will be deducted. A proposer who does not perform any follow-up contact with interested LBEs will receive no points. **Interested LBE** shall mean an LBE firm that expresses interest in being a subconsultant to the proposer.</p>	<p><input type="checkbox"/> Yes (Up to 20 points)</p>	<p><input type="checkbox"/> No (0 Points)</p>
<p>6. A proposer shall submit the following documentation with this form:</p> <p>(1) Copies of all written proposals submitted, including those from non-LBEs;</p> <p>(2) If oral proposals were received, a list of all such proposals, including those from non-LBEs. The work type and dollar amounts for each such proposal must be specified; and</p> <p>(3) A full and complete statement of the reasons for selection of the subconsultants for each work type. If the reason is based on relative qualifications, the statement must address the particular qualification at issue.</p>		



SECTION C

If a Small or Micro-LBE prime proposer checks "YES" in Section A, above, and is relying on self-performed Contract Work to meet the 35% good faith efforts outreach exception, such Small or Micro-LBE prime proposer must indicate the total value of Contract Work that proposer will perform with its own forces in the space below:

 % of work

SECTION D

Contract Name: _____

Contract No.: _____

Signature of Owner/Authorized Representative: _____

Owner/Authorized Representative (Print): _____

Name of Firm (Print): _____

Title and Position: _____

Address, City, ZIP: _____

E-mail: _____

Date: _____



FORM 3: CMD COMPLIANCE AFFIDAVIT

1. I will ensure that my firm complies fully with the provisions of Chapter 14B of the San Francisco Administrative Code and its implementing Rules and Regulations and attest to the truth and accuracy of all information provided regarding such compliance.
2. Upon request, I will provide the CMD with copies of contracts, subcontract agreements, certified payroll records and other documents requested so the HRC and CMD (as applicable) may investigate claims of discrimination or non-compliance with either Chapter 12B or Chapter 14B.
3. I acknowledge and agree that any monetary penalty assessed against my firm by the Director of the Contract Monitoring Division shall be payable to the City and County of San Francisco upon demand. I further acknowledge and agree that any monetary penalty assessed may be withheld from any monies due to my firm on any contract with the City and County of San Francisco.
4. I declare and swear under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct and accurately reflect my intentions.

Signature of Owner/Authorized Representative: _____

Owner/Authorized Representative (Print) _____

Name of Firm (Print) _____

Title and Position _____

Address, City, ZIP _____

Federal Employer Identification Number (FEIN): _____

Date: _____



FORM 4: CMD JOINT VENTURE FORM

This form must be submitted ONLY if the proposer is requesting a Joint Venture partnership with a Small and/or Micro-LBE firm for the rating bonus. The Joint Venture partners must submit a joint venture agreement and management plan with the proposal. All work must be accounted for including subconsulting work.

SECTION 1: GENERAL INFORMATION

1. Name of Contract or Project:

2. Name of all JV partners: (Check LBE if applicable)

	LBE <input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>

3. Attach a copy of Joint Venture Agreement and Management plans.

4. The management plan must include the following information:

- a. Describe in detail how decisions will be made for work distribution and compliance of Small and/or Micro-LBE Joint Venture participation.
- b. Provide each Joint Venture partner’s specific duties and responsibilities (include organizational chart)
- c. Identify the Location of Joint Venture Office.
- d. Provide in detail how decision will be made for work distribution to Small and /or Micro-LBE subconsultants and/or vendors.
- e. Submit copies of bank signature cards with authorized names, titles, and address/city of the bank (required after award of contract.)

5. Calculation of the Rating Bonus. See §2.02D of CMD Attachment 2 for an example.

If the joint venture partners are dividing the work according to a different formula than that described below, please contact CMD staff and describe the arrangement in detail prior to submittal of proposal.

Joint venture partners are encouraged to meet with CMD regarding their joint venture prior to submitting their proposal.

The rating bonus is awarded based on the Small and/or Micro-LBE JV partner tasks calculated as a percentage of the total JV partner tasks.

Step 1. Calculate total JV partner tasks.

Total Contract Tasks	=	100%
Percentage of Total Work to be Performed by Subconsultants	-	%
Percentage of JV partner tasks	=	%



Step 2. Calculate Small and/or Micro-LBE JV partner tasks:

	A	B	C
Description of JV partner Scopes of Work (Specific details of work)	JV Partners' Work as a % of the total project	% of Task by Non-LBE JV Partner	% of Task by Small and/or Micro-LBE JV Partner
	%	%	%
	%	%	%
	%	%	%
	%	%	%
	%	%	%
TOTAL JV %	%	%	%

Step 3. Calculate Small and/or Micro-LBE JV partner work as a percentage of the total JV partner work for the rating bonus.

Total Small and/or Micro-LBE JV Partner %		÷	Total JV %		=	%
---	--	---	------------	--	---	---

JOINT VENTURE PARTNERS MUST SIGN THIS FORM

Owner/Authorized Representative (Signature)	Owner/Authorized Representative (Signature)
Name and Title (Print)	Name and Title (Print)
Firm Name	Firm Name
Telephone Date	Telephone Date



FORM 7: CMD PROGRESS PAYMENT FORM

FOR REFERENCE ONLY. To be submitted electronically using the LBEUTS. FOR INFORMATION VISIT WWW.SFGOV.ORG/LBEUTS.

To be completed by Consultant and submitted to the Contract Awarding Authority and CMD with its monthly progress payment application (transmit to the following):

TRANSMITTAL

TO: Project Manager/Designee COPY TO: CMD Contract Compliance Officer
 Firm: _____ Date: _____

SECTION 1. Fill in all the blanks

Contract Number: _____ Contract Name: _____

Reporting Period From: _____ To: _____ Progress Payment No: _____

The information submitted on Sections 1 and 2 of this form must be cumulative for the entire contract as opposed to individual task orders. Additionally, the information submitted on Sections 1 and 2 of this form must be consistent. See next page for Section 2.

1. Original Contract Award Amount:	\$	_____
2. Amount of Amendments and Modifications to Date:	\$	_____
3. Total Contract to Date including Amendments and Modifications (Line 1 + Line 2):	\$	_____
4. Sub-total Amount Invoiced this submittal period: Professional Fees	\$	_____
5. Sub-total Amount Invoiced this submittal period: Reimbursable Expenses	\$	_____
6. Gross Amount Invoiced this submittal period (Line 4 + Line 5):	\$	_____
7. All Previous Gross Amounts Invoiced:	\$	_____
8. Total Gross Amounts of Progress Payments Invoiced to Date (Line 6 + Line 7):	\$	_____
9. Percent Completed (Line 8 ÷ Line 3):	%	_____

Consultant, including each joint venture partner, must sign this form.

 Owner/Authorized Representative (Signature)

 Name (Print)

 Title (Print)

 Firm Name

 Telephone

 Fax

 Date

 Owner/Authorized Representative (Signature)

 Name (Print)

 Title (Print)

 Firm Name

 Telephone

 Fax

 Date



SECTION 2. For column "A", list the Prime Consultant, each joint venture partner and ALL subconsultants and vendors including 2nd and 3rd tier subconsultants. Make copies if more space is needed. Prime Consultant must retain copies of all the prime and subconsultant invoices supporting the information tabulated for this progress payment. CMD reserves the right to request and review this information up to three (3) years following project completion and, upon request, Prime Consultant shall submit the requested information to CMD within 10 business days.

Notes: 1) ALL firms must be CONTINUOUSLY listed on column "A" regardless if a firm is not requesting payment and

2) Failure to submit all required information may lead to partial withholding of progress or final payment.

Identify LBE Goal of this contract: %

A	B	C	D	E	F	G	H
Name of Firm. List prime consultant, including each JV partner, and all subconsultants including lower tier LBEs. Indicate if the firm is an LBE.	Service Performed	Amount of Contract or Purchase Order at Time of Award	Amount of Modifications to Date	Total Amount of Contract or Purchase Order to Date +/- Modifications (C + D) or (C-D)	Amount Invoiced this Reporting Period	Amount Invoiced to Date, including Amount Invoiced this Reporting Period (F).	Percent Complete to Date (G÷E)
							%
							%
							%
							%
							%
							%
							%
LBE Sub-Totals							%
Professional Fees							
Reimbursable Expenses							%
CONTRACT TOTALS							%



FORM 9: CMD PAYMENT AFFIDAVIT

FOR REFERENCE ONLY. To be submitted electronically using the LBEUTS. FOR INFORMATION VISIT WWW.SFGOV.ORG/LBEUTS.

Consultant or Joint Venture partners must submit this form to the Contract Awarding Authority and CMD within ten (10) working days following receipt of each progress payment from the Contract Awarding Authority. This form must be submitted EVEN if there is no sub payment of this reporting period and until completion of the contract.

TO: Project Manager/Designee
 Firm: _____

COPY TO: CMD Contract Compliance Officer
 Date: _____

List the following information for each progress payment received from the Contract Awarding Authority. Use additional sheets to include complete payment information for all subconsultants and vendors (including lower tiers utilized on this Contract. Failure to submit all required information may lead to partial withholding of progress payment.

Contract Number: _____ Contract Name: _____

Contract Awarding Department: _____

Progress Payment No.: _____ Period Ending: _____

Amount Received: \$ _____ Date: _____ Warrant/Check No.: _____

Check box and sign below if there is no sub payment for this reporting period.

Subconsultant/Vendor Name	Business Address	Amount Paid	Payment Date	Check Number
		\$		
		\$		
		\$		
		\$		
		\$		
		\$		

I/We declare, under penalty of perjury under the laws of the State of California that the above information is complete, that the tabulated amounts paid to date are accurate and correct.

Prime consultant, including each joint venture partner, must sign this form (use additional sheets if necessary)

 Owner/Authorized Representative (Signature)

 Name (Print) Title

 Firm Name

 Telephone Date

 Owner/Authorized Representative (Signature)

 Name (Print) Title

 Firm Name

 Telephone Date



FORM 8: CMD EXIT REPORT AND AFFIDAVIT

Prime Consultant must complete and sign this form (Sections 1 and 4) for each LBE subconsultant (incl. lower tier LBEs). All LBEs must complete and sign Sections 2 and 3 of this form. These forms should be submitted to the Contract Awarding Authority with the final progress payment request.

TRANSMITTAL

TO: Project Manager/Designee COPY: CMD Contract Compliance Officer
 FROM (Consultant): _____ Date Transmitted: _____

SECTION 1. Please check this box if there are no LBE subconsultants for this contract:

Reporting Date: _____ Contract Name: _____
 Name of LBE: _____ Portion of Work (Trade): _____
 Original LBE Contract Amount: \$ _____
 Change Orders, Amendments, Modifications \$ _____
 Final LBE Contract Amount: \$ _____
 Amount of Progress Payments Paid to Date: \$ _____
 Amount Owning including all Change Orders, Amendments and Modifications \$ _____

Explanation by Consultant if the final contract amount for this LBE is less than the original contract amount:

SECTION 2. Please check one:

- I did NOT subcontract out ANY portion of our work to another subcontractor.
 I DID subcontract out our work to:

Name of Firm: _____ Amount Subcontracted: \$ _____
 Name of Firm: _____ Amount Subcontracted: \$ _____

SECTION 3.

To be signed by the LBE Subconsultant or vendor:

- I agree I disagree

Explanation by LBE if it is in disagreement with the above explanation, or with the information on this form. LBE must complete this section within 5 business days after it has received it from the Prime. It is the LBE's responsibility to address any discrepancies within 5 business days concerning the final amount owed. If the LBE fails to submit the form within 5 business days, the Prime will note this on the form and submit the form as is with the final progress payment:

Owner/Authorized Representative (Signature)

Name and Title (Print)

Firm Name

Telephone

Date



SECTION 4.

If this form is submitted without the LBE's signature, the Prime must enclose verification of delivery of this form to the subconsultant.

I declare, under penalty of perjury under the laws of the State of California, that the information contained in Section 1 of this form is complete, that the tabulated amounts paid to date are accurate and correct, and that the tabulated amounts owing will be paid within three (3) days after receipt of the City's final payment under the Contract.

Owner/Authorized Representative (Signature)

Name and Title (Print)

Firm Name

Telephone

Date



FORM 10: CMD CONTRACT MODIFICATION FORM

Consultant must submit this form with the required supporting documentation when processing amendments, modifications or change orders that cumulatively increase the original contract amount by more than 20%, and then for all subsequent amendments, modifications or change orders. This form must be completed prior to the approval of such amendments, modifications or change orders.

Name of Project/Contract Title: _____

Original Contract Amount: _____

Contract Amount as Modified to Date: _____

Amount of Current Modification Request: _____

REQUIRED ATTACHMENTS:

1. Revised Form 2A reflecting the new overall contract amounts for the prime consultant, joint venture partners, subconsultants, and vendors.
2. A list of all prior contract amendments, modifications, supplements and/or change orders leading up to this modification, including those leading up to the amendment which increased the original contract amount by more than 20%.
3. A spreadsheet showing each firm's participation for the overall contract, including each firm's participation to date and proposed participation under the modification.
4. A brief description of the work to be performed under this amendment, modification, or change order.

Owner/Authorized Representative (Signature)

Name (Print) Title

Firm Name

Telephone Date

Owner/Authorized Representative (Signature)

Name (Print) Title

Firm Name

Telephone Date

REQUEST FOR PROPOSALS FOR
SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT
FOR MARKET-RATE RENTAL HOUSING, TREASURE ISLAND

Attachment C

CCSF Administrative Requirements

CITY'S ADMINISTRATIVE REQUIREMENTS (LINKS TO FORMS)

- The City can only do business with Respondents that have fulfilled the City's requirements.
- The City may only evaluate and pre-qualify responses from Respondents that at the time of response submission have already fulfilled the administrative requirements for doing business with the City. Responses that fail to meet this requirement may be deemed non-responsive.
- Fulfillment of this requirement will be verified prior to presenting responses to the Evaluation Team. Fulfillment is defined as completion, submission to the Treasure Island Development Authority (the "Authority") and approval by applicable City agencies (Human Rights Commission, Treasurer/Tax Collector, Office of Contract Administration, Risk Management, etc.) of these forms.
- To help us help you, please send all of these forms directly to the Authority Contact below. We will inform you if your firm needs to complete documentation requirements directly with other City agencies.

HOW TO RESPOND TO THIS ATTACHMENT

NEW TO CITY BUSINESS?

If your firm has never done business with the City before, please review, complete and submit the forms referenced and linked here as soon as possible and in advance of your response submission to the Contact listed below.

NOT YOUR FIRST TIME DOING BUSINESS WITH THE CITY?

Even if your firm has done business with the City before, it is best to check on the status of your completion of the City's requirements with the Contact listed below to ensure your firm is not precluded from contract award based on outstanding administrative requirement issues. Please be sure that your firm has fulfilled all City requirements as defined in the third bullet point above.

CONTACT

Contact Peter Summerville, Treasure Island Development Authority at 415.274.0660 or at Peter.Summerville@sfgov.org for information and assistance on meeting these requirements.

CITY'S ADMINISTRATIVE REQUIREMENTS (LINKS TO FORMS)

FORMS AND REQUIREMENTS

http://www.sfgov.org/site/oca_page.asp?id=26550

- A. **Vendor Profile Application** – establishes basic vendor information
Vendor Profile Application Instructions
Commodity Codes for Reference in Filling Out Application
- B. **IRS Form W-9** – establishes federal and state tax status
<http://www.irs.gov/pub/irs-pdf/fw9.pdf>
- C. **Business Tax Declaration** – establishes San Francisco business tax status
http://www.sfgov.org/site/oca_page.asp?id=26550#P-25
Note that based on how this declaration is filled out, Respondents may be required to additionally register for a business tax certificate and pay business taxes. See instructions on the Declaration form.
- D. **HRC Form 12B-101 (Declaration: Nondiscrimination in Contracts and Benefits)** – establishes determination of how Respondent provides benefits to employees with spouses and to employees with domestic partners.
http://www.sfgov.org/site/sfhumanrights_index.asp?id=4584
Note that this form and documentation of benefits should be discussed directly with the Human Rights Commission, as the determining authority. Please contact the Human Rights Commission at 415-252-2500 for assistance.
- E. **Minimum Compensation Ordinance Declaration**
http://www.sfgov.org/site/uploadedfiles/olse/mco/MCO_DeclarationForm07-05.pdf

More information: http://www.sfgov.org/site/olse_index.asp?id=27459
- F. **Health Care Accountability Ordinance Declaration**
http://www.sfgov.org/site/uploadedfiles/olse/hcao/HCAO_DeclarationForm07-05.doc

More information: http://www.sfgov.org/site/olse_index.asp?id=27461
- G. **Insurance**
Fulfillment of the City's insurance requirements is **not required as part of your response.** However, fulfillment prior to contract award is required.

The City is self-insured, so at minimum per the City's standard insurance requirements, it will need to be added to a contractor's General Liability and Auto Liability policies as an additional insured. The City needs a formal endorsement showing that the primary insured's policies have been amended to specifically add "the City and County of San Francisco, its officers, agents and employees" as an additional insured. The General and Auto Liability policy number(s) should appear on the endorsement.

REQUEST FOR PROPOSALS FOR
SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT
FOR MARKET-RATE RENTAL HOUSING, TREASURE ISLAND

Attachment D

Draft Sublease and Property Management Agreement for Market-Rate Rental
Housing on Treasure and Yerba Buena Islands

SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT

Between

THE TREASURE ISLAND DEVELOPMENT AUTHORITY
as Sublandlord

and

as Subtenant and Manager

For up to 578 Housing Units at Former Naval Station Treasure Island
San Francisco, California

July 1, 2014

TREASURE ISLAND AGREEMENT

1. PREMISES
1.1. Premises
1.2. As is Condition of Premises.....
2. COMPLIANCE WITH MASTER LEASE
2.1. The Authority's Compliance with Master Lease
2.2. Subtenant's Compliance with Master Lease
2.3. Automatic Termination
2.4. Purchase of Premises by Authority
3. TERM
3.1. Terms of Agreement.....
3.2. Options
4. WORK TO BE COMPLETED BY SUBTENANT..
4.1. Scope of the Work
4.2. Cost of the Work
4.3. Election Not to Proceed with Renovations
4.4. Construction of Other Alterations
4.5. Ownership of Alterations
4.6. Subtenant's Personal Property
5. USE
5.1. Subtenant's Permitted Use
5.2. No Unlawful Uses, Nuisances or Waste
5.3. Signs
5.4. Zoning
5.5. Covenant of Quiet Enjoyment; Ingress and Egress
6. SUBTENANT'S MARKETING RESPONSIBILITIES
6.1. Marketing.....
7. SUBTENANT'S LEASING AND RELOCATION RESPONSIBILITIES
7.1. Leasing
7.2. Application Process and Screening.....
7.3. Rental Agreements
7.4. Rental Rates
7.5. Grievance Procedures
7.6. Relocation of Tenants
8. MANAGEMENT, MAINTENANCE AND REPAIR RESPONSIBILITIES
8.1. General Maintenance and Repair Obligations
8.2. Routine Maintenance and Repair
8.3. Unanticipated and Emergency Maintenance and Repairs
8.4. Security
8.5. Subtenant's Responsibility for Utility Facilities
8.6. Management Fee
8.7. Base Repair and Maintenance
9. EMPLOYEES AND INDEPENDENT CONTRACTORS
9.1. On-Site Office
9.2. Personnel.
10. AUTHORITY'S SERVICE OBLIGATIONS
10.1. Utilities
10.2. Street Services
10.3. Police and Fire
10.4. Other Portions of the Base Leased to the Authority
10.5. Force Majeure
11. ACCOUNTS
11.1. General Operating Account

11.2.	Security Deposit Account	
11.3.	Replacement Reserve Account	
11.4.	Criteria for Project Accounts	
12.	PAYMENT OF OPERATING EXPENSES	
12.1.	Payment Of Operating Expenses	
12.2.	Annual Operating Budget	
12.3.	Bids, Discounts, Rebates, and Commissions	
12 .4.	No Authority Liability	
13.	DISBURSEMENTS	
13.1.	Allocation of Gross Revenues	
14.	BOOKS, RECORDS AND REPORTS	
14.1.	Books and Records	
14.2.	Monthly Reports	
14.3.	Subtenant's Annual Audit..	
14.4.	Periodic Audits and Inspections of Records	
1 4.5.	Transfer of Records and Accounts	
15.	RENT	
15.1.	Base Rent	
15.2.	Adjustments in Base Rent	
15.3.	Percentage Rent	
15 .4.	In-Kind Rent	
15.5.	Method of Payment of Rent	
15.6.	Late Charge	
15.7.	Default Interest.	
15.8.	No Right to Repair and Deduct.....	
16.	TAXES, ASSESSMENTS AND OTHER EXPENSES	
16.1.	Taxes and Assessments, Licenses, Permit Fees and Liens	
16.2.	Evidence of Payment	
17.	LIENS AND ENCUMBRANCES	
17.1.	Mechanics Liens	
17.2.	Encumbrances by Subtenant	
18.	COMPLIANCE WITH LAWS	
18.1.	Compliance with Laws	
18.2.	Regulatory Approvals	
18.3.	Compliance with Authority's Risk Management Requirements	
19.	DAMAGE OR DESTRUCTION	
19.1.	Damage or Destruction to the Premises Covered by Required Insurance	
19.2.	Damage or Destruction to the Premises Not Covered by Required Insurance	
19.3.	Rental Abatement.....	
19.4.	Waiver	
20.	ASSIGNMENT AND SUBLETTING	
20.1.	Restriction on Assignment and Subletting	
21.	DEFAULT	
21.1.	Events Of Subtenant Default	
21.2.	Authority Default	
22.	REMEDIES	
22.1.	Authority' s Remedies for Subtenant's Defaults	
22.2.	Subtenant's Remedies for Authority Default..	
23.	RELEASE AND WAIVER OF CLAIMS	
23.1.	Release and Waiver of Claims	
23.2.	Covenant by the Authority Not to Sue	
24.	INDEMNIFICATION	
24.1.	Subtenant's Indemnity	
24.2.	Authority's Indemnity	

24.3. Master Landlord's Section 330 Environmental Indemnity

25. INSURANCE

 25 .1. Subtenant's Insurance

 25.2. General Requirements

 25.3. No Limitation on Indemnities

 25.4. Subtenant's Personal Property

 25.5. Waiver of Subrogation

26. ACCESS BY Authority

 26.1. Access to Premises by Authority

 26.2. Access to Premises by Master Landlord

27. SURRENDER

 27.1. Surrender of the Premises

28. HAZARDOUS MATERIALS

 28.1. No Hazardous Materials

 28.2. No Releases

 28.3. Subtenant's Environmental Indemnity

 28.4. No Hazardous Materials

 28.5. No Releases

 28.6. Authority's Environmental Indemnity

 28.7. Acknowledgment of Receipt offers and FOSL Reports

29. RELOCATION COSTS

30. CONVENIENCE STORE AND OTHER SERVICES

 30.1. Good Faith Efforts

31. TRANSPORTATION SERVICES

 31.1. Bus Service

 31.2. Public Transit Information

32. WORKFORCE HIRING GOALS

 32.1. Subtenant's Workforce Hiring Goals

 32.2. Workforce Hiring Goals

 32.3. Hiring Plan

 32.4. Reports

 32.5. Matters Subject to Enforcement Procedure

 32.6. Implementation of Enforcement Procedure

 32.7. Enforcement Procedure

 32.8. Relationship to Other Employment Agreements

33. GENERAL PROVISIONS

 33.1. Notices

 33.2. No Implied Waiver

 33.3. Amendments

 33.4. Due Authorization and Execution

 33.5. Joint and Several Obligations

 33.6. Interpretation of Agreement.

 33.7. Successors and Assigns

 33.8. Brokers

 33.9. Severability

 33.10. Governing Law

 33.11. Entire Agreement

 33.12. Attorneys Fees

 33.13. Time of Essence

 33.14. Cumulative Remedies

 33.15. Survival of Indemnities

 33.16. Relationship of Parties

 33.17. Non-Liability of Parties officials, employees

 33.18. Counterparts

34. SPECIAL PROVISIONS

34.1. Non-Discrimination in Contracts and Benefits Ordinance

34.2. MacBride Principles -Northern Ireland

34.3. Tropical Hardwood and Virgin Redwood Ban

34.4. Conflicts of Interest.....

34.5. Prohibition of Tobacco Advertising

34.6 Prohibition on Alcohol Advertising.....

34.7 Holding Over.....

34.8 Prevailing Wages.....

34.9 Pesticide Prohibition.....

34.10 Sunshine Ordinance.....

34.11 Drug Free Workplace.....

34.12 Requiring Health Benefits for Covered Employees.....

34.13 Notification of Limitations on Contributions.....

34.14 Preservative-Treated Wood containing Arsenic.....

34.15 Resource Efficient City Buildings and Pilot Projects.....

34.16 Food Service Waste Reduction.....

34.17 Estoppel Certificates.....

LIST OF EXHIBITS:

- EXHIBIT A -MASTER LEASE
- EXHIBIT B -DESCRIPTION OF PREMISES, MAP AND LIST OF RENTABLE UNITS
- EXHIBIT C -TRANSITION HOUSING RULES AND REGULATIONS
- EXHIBIT D-1 -COVER PAGE OF SEISMIC REPORT
- EXHIBIT D-2 -COVER PAGE OF STRUCTURAL REPORT
- EXHIBIT E -NOTICE OF COMMENCEMENT DATE
- EXHIBIT F -CAPITAL BUDGET AND 1ST YEAR OPERATING BUDGET
- EXHIBIT G - FORM OF RENTAL AGREEMENT
- EXHIBIT H -APPROVED RENTAL RATES
- EXHIBIT I -UTILITIES
- EXHIBIT J -MANAGEMENT PLAN
- EXHIBIT K -APPROVED HAZARDOUS MATERIALS

TREASURE ISLAND SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT

THIS SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT (the "**Agreement**"), dated July 1, 2014, is by and between the Treasure Island Development Authority, a California nonprofit public benefit corporation (the "**Authority**") and the _____, a _____ ("**Subtenant**"). From time to time, the Authority and Subtenant together shall be referred to herein as the "**Parties**".

This Agreement is made with reference to the following facts and circumstances:

A. Former Naval Station Treasure Island (the "**Base**" or "**Property**") was selected for closure and disposition by the Base Realignment and Closure Commission in 1993, acting under Public Law 101-510 and its subsequent amendments, and is currently owned by the United States of America, acting by and through the Department of Navy ("**Master Landlord**" or "**Navy**"). The United States Department of Defense designated the City and County of San Francisco ("**City**") as the Local Redevelopment Authority ("**LRA**") responsible for the conversion of the Base under the federal disposition process.

B. In 1997, the Base closed and the Authority was created by the City to replace the City as the LRA and to serve as a single entity responsible for the reuse and development of the Base.

C. Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "**Act**"), the California legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base, and (ii) with respect to those portions of the Base which are former tide or submerged lands, vested in the Authority the authority to administer the public trust for commerce, navigation and fisheries as to such property.

D. In 1998, the San Francisco Board of Supervisors ("**BOS**") approved the designation of the Authority as a redevelopment agency with powers over Treasure Island in Resolution No. 43-98, dated February 6, 1998. In 2012, by resolution No. 11-12, the BOS rescinded the designation of the Authority as a redevelopment agency under California Community Redevelopment Law, but such rescission did not affect the Authority's status as the LRA for Treasure Island or the tidelands trust trustee for the portions of Treasure Island subject to the tidelands trust, or any of the other powers or authority of the Authority. In 1999, the Navy and the Authority entered into a master lease dated March 17, 1999, with the associated estoppel certificate addressed to Subtenant (the "**Master Lease**"), as amended, [*note: the parties intend to amend the Master Lease to extend term*] a copy of which is attached hereto as Exhibit A. This Agreement shall be subject and subordinate to the Master Lease, as it may be amended from time to time.

E. The Authority began subleasing at market rates a portion of the former military housing now known as the Villages at Treasure Island through a lease with the John Stewart Company (the "**Original Villages Lease**"), and directly leasing space at the Base to a variety of commercial tenants. Upon the Effective Date of this Agreement, the Original Villages Lease will terminate.

F. There are approximately 1,000 units of housing on the Base, 904 on Treasure Island and 96 on Yerba Buena Island (the "**Base-Wide Housing Units**"). Approximately 578 of the Base-Wide Housing Units, as shown on Exhibits B (the "**Rentable Units**") are currently leased to residential sub-subtenants of Subtenant ("**residential tenants**"), and will be managed

and maintained under the terms and conditions of this Agreement in order to generate revenues for the operation and improvement of the Base.

G. Pursuant to the Federal Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the Treasure Island Homeless Development Initiative ("**TIHDI**") and the City negotiated a Base Closure Homeless Assistance Agreement, as amended (the "**TIHDI Agreement**") and a revenue sharing and consent agreement (the "**TIHDI Sharing Agreement**"), under which TIHDI has the right to lease certain residential units at the Base (the "**TIHDI Units**") to assist homeless and formerly homeless individuals and families and to share in the collection of certain revenues at the Base in furtherance of its mission. Copies of these agreements are held by the Authority and have been delivered to Subtenant. Subtenant will be required to work in concert with TIHDI, as set forth in this Agreement.

H. In 2003, after a competitive bid process, the Authority Board selected Treasure Island Community Development, LLC ("**TICD**") as the proposed master developer of the Base. In 2011, the Authority and TICD entered into a Disposition and Development Agreement ("**TICD DDA**") and other transaction documents relating to the reuse and development of the Base (the "**Project**"). During the term of this Agreement, TICD and the Authority intend to implement the Project. Part of that implementation will require the relocation of residential tenants in accordance with the Transition Housing Rules and Regulations, as amended (the "**THRRS**"), attached hereto as Exhibit C.

I. On _____, 2014, the Authority issued a Request for Proposals ("**RFP**"), soliciting interest from qualified entities to provide the services under this Agreement. Subtenant was selected, and following a duly noticed public hearing, this Agreement was approved by the Authority Board of Directors and subsequently by the City's Board of Supervisors. [*insert resolution number and date*]

NOW THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the Authority and Subtenant hereby agree as follows:

1. PREMISES

1.1. Premises. Subject to the terms, covenants and conditions of this Agreement, the Authority hereby subleases to Subtenant, and Subtenant hereby accepts from the Authority, the premises, as more particularly described in Exhibit B (the "**Premises**"), together with reasonable rights of ingress and egress to and from the Premises. The Navy has issued a Finding of Suitability to Lease ("**FOSL**") all of the Premises, and TIHDI has consented to Subtenant's use of any TIHDI Units that are a part of the Premises as set forth in the TIHDI Sharing Agreement.

1.2. As Is Condition of Premises.

(a) Subtenant Investigation. Subtenant represents and warrants that Subtenant has conducted a thorough and diligent inspection and investigation, either independently or through Subtenant's agents, affiliates, subsidiaries, licensees, contractors, subcontractors, and each of the persons acting by, through or under each of them, and their respective, legal representatives, successors and assigns ("**Subtenant's Agents**") of the Premises and the suitability of the Premises for Subtenant's intended use. Subtenant has determined, based on its own investigation, that the Premises are suitable for its operations and intended uses. As part of its inspection of the Premises, Subtenant acknowledges that it has received, reviewed and understands of the Seismic Report and the Structural Report referenced in below and the Joint Inspection Report referenced in Section 6 of the Master Lease.

(b) As Is; Disclaimer of Representations. Without limiting any of the

Authority's obligations herein, Subtenant acknowledges and agrees that the Premises are being subleased and accepted in their "AS IS, WITH ALL FAULTS" condition, without representation or warranty of any kind and subject to all applicable laws, statutes, ordinances, resolutions, regulations, proclamations, orders or decrees of any municipal, county, state or federal government or other governmental or regulatory authority with jurisdiction over the Premises, or any portion thereof, including the use, occupancy, management, operation and possession of the Premises ("**Laws**"). Subtenant acknowledges and agrees that the Premises, as renovated, must comply with the Federal Government's FEMA-178 seismic life safety standard as the same exist as of the date hereof Subtenant acknowledges and agrees that, except as expressly provided herein, neither the Authority nor any of the Authority's agents, affiliates, subsidiaries, licensees, contractors, boards, commissions, departments, agencies and other subdivisions and each of the persons acting by, through or under each of them, and their respective heirs, legal representatives, successors and assigns ("**Authority's Agents**") have made, and, without limiting any of its obligations hereunder, the Authority hereby disclaims, any representations or warranties, express or implied, concerning (i) the physical, geological, seismological or environmental condition of the Premises, including, without limitation, the matters described in the Seismic Report or the Structural Report, (ii) the quality, nature or adequacy of any utilities serving the Premises, (iii) the safety of the Premises, whether for the use of Subtenant, Subtenant's Agents, or any clients, customers, vendors, invitees, guests, or licensees of Subtenant, including residential tenants ("**Subtenant's Invitees**"), or (iv) any other matter whatsoever relating to the Premises or their use, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

(c) Seismic Report and Structural Report. Subtenant expressly acknowledges for itself and Subtenant's Agents that it has received and read, and has had an adequate opportunity to review with expert consultants of its own choosing, the following: (i) that certain report dated August 1995, entitled "Treasure Island Reuse Plan: Physical Characteristics, Building and Infrastructure Conditions. "prepared for the Office of Military Base Conversion, Department of City Planning, and the Redevelopment Agency of the City and County of San Francisco (the "**Seismic Report**"), a copy of the cover page of which is attached hereto as Exhibit D-1; and (ii) that certain Treasure Island Study, Seismic Evaluation of the 1440 Series Housing prepared by SOH and Associates, dated May 20, 1996, a copy of the cover page of which is attached hereto as Exhibit D-2 (the "**Structural Report**").

2. COMPLIANCE WITH MASTER LEASE

2.1. The Authority's Compliance with Master Lease. The Authority shall not do or permit to be done anything or fail to perform any obligation that would constitute a violation or a breach of any of the terms, conditions or provisions of the Master Lease or which would cause the Master Lease to be terminated or forfeited by virtue of any rights of termination reserved by or vested in the Master Landlord. The Authority shall not amend or modify the Master Lease in any material respect without Subtenant's prior written consent.

2.2. Subtenant's Compliance with Master Lease. Subtenant shall not do anything, permit anything to be done by its Agents or Invitees or fail to perform any obligation that would constitute a violation or a breach of any of the terms, conditions or provisions of Sections 4, 6.3, 8.1, 9, 11, 12.2, 12.6, 13 (other than 13.9 and 13.12), or 18.1 through 18.1.5 of the Master Lease.

2.3. Automatic Termination. If the Master Lease terminates for any reason whatsoever, this Agreement shall automatically terminate and the Parties shall thereafter be relieved from all liabilities and obligations under this Agreement, except for liabilities and obligations which expressly survive termination of this Agreement and except as provided in Sections 21 and 22. As set forth in the Master Lease, the Navy has the right to remove some or all of the Premises, including Rental Units, from the Master Lease. Accordingly, for purposes of

this Section, the Master Lease shall be treated as terminated for the period, and with respect to the Rentable Units, that the Navy requires to be terminated or evacuated pursuant to Section 15 of the Master Lease.

2.4. Purchase of Premises by Authority. If the Authority acquires all, or any portion of, the Premises from the Master Landlord, this Agreement shall automatically become a direct lease of such portion of the Premises from the Authority to the Subtenant on the same terms and conditions as set forth herein. The Authority shall use good faith efforts to enforce, for the benefit of Subtenant, to the extent of Subtenant's interest in the Premises under this Agreement, all representations, warranties, indemnities and similar rights given by the Master Landlord to the Authority in connection with such acquisition.

3. TERM

3.1. Term of Agreement. The Premises are subleased for a term (the "**Term**") commencing on the date (the "**Commencement Date**") which is the latest of the dates on which (a) the Parties hereto and the Master Landlord have duly executed and delivered this Agreement, (b) the effective date of an Authority Board resolution approving this Agreement, in its sole discretion, and (c) the effective date of a City Board of Supervisors resolution approving this Agreement, in its sole discretion. The Term shall expire on the date (the "**Expiration Date**") that is four (4) years after the Commencement Date, unless sooner terminated or extended pursuant to the terms of this Agreement. The Authority shall deliver to Subtenant a notice substantially in the form of Exhibit E to confirm the actual Commencement Date and the Expiration Date, but the Authority's failure to do so shall not affect the commencement or expiration of the Term.

3.2. Extension Options. The Authority grants to Subtenant a two options to extend the Term as to the entire Premises only (each, an "**Extension Option**"), each for an additional three (3) years (each, an "**Extension Term**") commencing upon the Expiration Date (as extended by the first Extension Option, if applicable) upon the following terms and conditions. Subtenant may exercise an Extension Option at any time by written notice to the Authority delivered not later than one hundred eighty (180) days before the then-applicable Expiration Date. If an event of default by Subtenant is outstanding hereunder either at the time of Subtenant's exercise of an Extension Option or at any time before the first day of the Extension Term (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then the Authority may elect by notice to Subtenant to reject Subtenant's exercise of the Extension Option, whereupon the previously delivered exercise notice shall be null and void. If Subtenant elects to exercise an Extension Option, then the lease for the Extension Term shall cover the entire Premises and shall be upon all of the terms, covenants and conditions of this Agreement.

4. WORK TO BE COMPLETED BY SUBTENANT

4.1. Scope of the Work. The existing Rentable Units are shown in Exhibit B. The Authority shall have the right to add additional rentable units to the Premises at any time, and upon such addition, the Parties shall update Exhibit B to include the added units. Upon any such addition and upon any vacancy of a Rentable Unit, Subtenant shall promptly perform the standard work required to prepare the Rentable Unit for occupancy, and cause the Rentable Unit to be in a condition consistent with the other Rentable Units in the Premises (the "**Work**"). The standard work shall be generally approved by the Authority's Director of Island Operations (the "**Director**") from time to time, and shall be consistent with the Capital Budget (as defined in Section 4.2). Subtenant shall perform the Work in a good and workmanlike fashion and in accordance with applicable Laws. The Rentable Units shall at all times remain the property of the Authority during the Term and, as any improvements or renovations are completed, title to

such improvements and renovations shall automatically vest in the Authority and be leased to Subtenant under this Agreement.

4.2. Cost of the Work. The estimated cost of the Work during each calendar year of the Term shall be shown in a budget prepared by Subtenant and approved by the Director (the "**Capital Budget**"). The Capital Budget for the first year of the Term is attached hereto as Exhibit F. Subtenant and the Director shall meet and confer to review the Capital Budget and the anticipated monthly renovation costs from time to time, and Subtenant shall inform the Director if it determines that the Capital Budget or the standard renovation cost must be increased to perform any Work. Subtenant must first obtain the written approval of the Director before performing any renovation that exceeds the standard renovation amounts approved by the Director, and before performing any Work during a calendar year that exceeds the amount set forth in Capital Budget for that year. Subtenant shall notify Director promptly upon any determination that the total cost of the Work paid to date together with the cost of Work reasonably anticipated to be incurred for the remainder of the year will exceed the total Capital Budget for that year.

4.3. Election Not to Proceed with Renovations. If Subtenant cannot perform any Work with respect to some or all of the Rentable Units or Buildings because the cost of the Work exceeds funds available under the Capital Budget, then Subtenant shall provide the Authority with written notice of such fact, which notice shall identify the Work that will not be performed and the estimated cost of such Work. In no event will Subtenant be required to perform Work for which funds are not available in the Capital Budget.

4.4. Construction of Other Alterations. Other than the Work, Subtenant may not and shall not be obligated to, construct, install, make or permit to be made any alterations, installations or additions ("**Alterations**") in, to or about the Premises, without the Director's prior written consent in each instance. Notwithstanding the foregoing, Alterations do not include and no such consent shall be required for maintenance and repair activities that are (i) required or contemplated hereunder, (ii) do not affect any structural portions of the Premises and (iii) are within any cost limitations otherwise provided herein or in any Annual Operating Budget (as defined in Section 12.2). All Alterations shall be done in accordance with plans and specifications reasonably approved in advance by the Director in writing, by duly licensed and bonded contractors or mechanics approved by the Director, in a good and professional manner, in compliance with all applicable Laws (including the payment of prevailing wages), and subject to all other conditions that the Authority may reasonably impose. In no event shall the construction, installation or the making of any Alterations impair the use or operation of the Base, or any portion thereof, or the Authority's or Master Landlord's access thereto. Before the start of any Alterations, Subtenant shall procure all required permits and approvals and shall, upon request, promptly deliver copies of such documents to the Director. No material change from the plans and specifications approved by the Director may be made without the Director's prior consent. The Authority and the Authority's Agents shall have the right to inspect the work and construction at all times, provided such inspection and site visits shall not unreasonably disturb or interfere with the work or the residential tenants.

4.6. Ownership of Alterations. Except for Subtenant's Personal Property (as defined in Section 4.7), or as may be specifically provided to the contrary in this Agreement, all appurtenances, fixtures, improvements, equipment, additions, and other properly attached or affixed to or installed in the Premises at the Commencement Date or during the Term, including, without limitation, the Work and any other Alterations, shall be and remain the Authority's or the Master Landlord's property, as the case may be. Subtenant may not remove any such property at any time during or after the Term, unless replaced with property of at least comparable quality and utility, without the Director's prior written consent.

4.7. Subtenant's Personal Property. All furniture, furnishings and articles of movable personal property and equipment installed in the Premises by or for the account of Subtenant, that have not been paid for by the Authority through the use of Gross Revenues or otherwise, and that can be removed without structural or other material damage to the Premises (all of which are herein called "**Subtenant's Personal Property**") shall be and remain the property of Subtenant and may be removed by Subtenant subject to the provisions of Section 27. All property acquired with Gross Revenues, including any vehicles, will be transferred to the Authority upon the termination or expiration of this Agreement, and Subtenant agrees to provide a bill of sale or other evidence of the transfer of ownership upon request. The provisions of this Section shall survive the expiration or termination of this Agreement.

5. USE

5.1. Subtenant's Permitted Use. Subtenant shall use the Premises to operate, maintain, repair, and manage the Premises for residential housing in accordance with this Agreement, and for no other purposes.

5.2. No Unlawful Uses, Nuisances or Waste. Subtenant shall not use any portion of the Premises in any unlawful, illegal, offensive, noisy or hazardous manner (together, "**Nuisances and Hazards**") and shall use commercially reasonable efforts to prevent Subtenant's Invitees from committing any Nuisances and Hazards. Subtenant shall eliminate any Nuisances and Hazards relating to its activities and shall use commercially reasonable efforts to eliminate any Nuisances and Hazards related to the activities of Subtenant's Invitees.

5.3. Signs. Subtenant agrees that it will not erect or maintain, or knowingly permit to be erected or maintained, any signs, notices or graphics upon or about the Premises that are visible in or from any common areas of the Premises or from the exterior of the Rentable Units, without the Director's prior written consent.

5.4. Zoning. The Authority represents and warrants that, to the best of its knowledge, there currently exist no zoning or other Laws that would materially adversely affect Subtenant's use of the Premises as contemplated under this Agreement.

5.5. Covenant of Quiet Enjoyment; Ingress and Egress. Subject to the requirements of the Master Lease and the Navy's ongoing remediation, the Authority covenants and agrees that it shall not directly or indirectly interfere with or deprive Subtenant or Subtenant's Agents or Invitees of (i) their quiet enjoyment of the Premises for the uses permitted under this Agreement or (ii) reasonable ingress and egress to and from the Premises.

6. SUBTENANT'S MARKETING RESPONSIBILITIES

6.1. Marketing. Subtenant shall market the Rentable Units in accordance with industry custom and the Management Plan, and as otherwise directed by the Authority.

7. SUBTENANT'S LEASING AND RELOCATION RESPONSIBILITIES

7.1. Leasing. After Subtenant has completed the Work with respect to any given Rentable Units, Subtenant shall use commercially reasonable efforts to promptly enter into Rental Agreements (as defined in Section 7.3) with qualified residential tenants for such Rentable Units in accordance with the Marketing Plan. The Director may instruct Subtenant to keep Rentable Units vacant at any time so as to provide for available Rental Units to implement tenant relocations under the THRRs or to cooperate with the Navy's remediation program.

7.2. Application Process and Screening. Subtenant shall screen prospective residential tenants applications by applying customary credit and tenancy standards, all in accordance with the Marketing Plan. As set forth in Section 34.1, Subtenant shall not discriminate in the leasing of Rentable Units on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes. In addition, in the operation of the Project and the rental of any Rentable Units, the Subtenant shall not discriminate against prospective residential tenants using Section 8 certificates or vouchers or other tenant-based rental assistance, or other sources of income. Subject to the terms of Section 6.2, Subtenant shall also insure that Resident Tenant selection is carried out objectively and in accordance with industry standards.

7.3. Rental Agreements. Subtenant shall enter into rental agreements with all residential tenants in substantially the form of the rental agreement attached hereto as Exhibit G, as the same may be amended from time to time with the approval of the Director (the "**Rental Agreements**").

(a) All Rental Agreements shall be on a month-to-month tenancy, and subject to termination without cost or liability upon any termination of the Master Lease. All new rental agreements shall include a waiver of relocation rights and, where applicable, an acknowledgment of a tenant's post-DDA status per the THRRs. The Rental Agreements shall also include a waiver of any claims against Subtenant, the City and the Authority for any failure in the delivery of utility services.

(b) Subtenant shall be responsible for enforcing and shall take commercially reasonable actions to enforce the terms and conditions of all Rental Agreements, including, without limitation, (i) the collection of all such rents when due, (ii) the preparation and delivery to residential tenants of any appropriate late payment, default or other notices, (iii) the conducting of exit interviews and walk-throughs, and (iv) the prompt collection and timely disbursement of all security deposits. Without violating any privacy or other applicable Laws, Subtenant shall use commercially reasonable efforts to insure that all residential tenants comply with the terms and conditions of their respective Rental Agreements.

(c) Subject to Section 6.3, Subtenant shall receive complaints and use commercially reasonable efforts to resolve any complaints, disputes or disagreements by and between Subtenant and one or more residential tenants. Subtenant may retain counsel, collection agencies, and other such persons and firms as Subtenant shall deem appropriate (with the costs there of being included as an Operating Expense, subject to the overall Annual Operating Budget limitations) to enforce by legal action the rights and remedies of the Subtenant against any residential tenant in default in the performance of any of its obligations under a Rental Agreement, including, without limitation, taking action to terminate or evict any residential tenant where sufficient cause for such termination or eviction exists under the terms of such residential tenant's Rental Agreement.

7.4. Rental Rates. The rental rates for all Rentable Units have been set by the Authority at the rates described on the Rental Rate Schedule attached hereto as Exhibit H (the "**Approved Rates**"). The Approved Rates shall increase each year in amount determined by the Authority, with such permitted increases being assessed under the Rental Agreements. The rental rates may not be changed from the Approved Rates without the prior written consent of the Authority, except upon any vacancy, the Director and Subtenant may agree in writing to increase or decrease the rental rate of any Rentable Unit by no more than fifteen percent (15%) of the rental rate for such Rentable Unit provided for in the Approved Rates.

7.5. Grievance Procedures. Subtenant shall notify applicants of their eligibility status and advise any rejected or ineligible applicant of their right to appeal by providing them with a copy of the Grievance and Appeal Procedure that is a part of the Marketing Plan.

7.6 Relocation of Tenants. Subtenant shall perform all work, in cooperation with the Authority, required to relocate residential tenants in accordance with the THRRs. All such relocations shall be done in close coordination with the Authority, and all costs incurred by Subtenant in connection with such relocations shall be approved Operating Expenses.

8. MANAGEMENT, MAINTENANCE AND REPAIR RESPONSIBILITIES

8.1. General Maintenance and Repair Obligations. Except as specifically provided herein, and to the extent consistent with the spending limitations imposed by any Annual Operating Budget, Subtenant assumes full and sole responsibility for the condition, operation, repair, maintenance and management of the Premises and shall keep the Premises in a good condition and in a manner otherwise reasonably acceptable to the Authority. Subject to Section 8.3 and the spending limitations set forth in any Annual Operating Budget, Subtenant shall make all routine repairs and replacements, interior and exterior, foreseen and unforeseen, that are necessary to maintain the Premises at all times in a clean, safe, attractive and sanitary condition and in good order and repair for safe and sanitary residential housing. Notwithstanding anything to the contrary contained herein, (a) Subtenant shall have no responsibility for maintaining, repairing or in any way managing any streets, curbs, or sidewalks included within and around the Premises (other than any incidental cleaning of sidewalks needed as a result of Subtenant's responsibility for the adjacent grass areas), except as may be mutually agreed to between the Subtenant and the Authority, (b) Subtenant shall have no responsibility for maintaining, pruning or clearing any trees or brush subject to Fire Department mandated tree trimming and brush clearance on Yerba Buena Island, and (c) upon the request of the Authority, and subject to the prior approval of the Director and Subtenant following a determination of the cost, Subtenant shall perform maintenance and repair on Treasure Island and Yerba Buena Island inside or outside the Premises that would otherwise be the obligation of the Authority (the "**Added Work**"). For any Added Work performed by Subtenant, the Authority shall pay to Subtenant the actual cost incurred by Subtenant for the Added Work, together with a negotiated management fee, agreed to by the Parties in writing, to cover Subtenant's administrative expenses and insurance (which management fee will be paid in the same manner that the Management Fee is paid under Section 13.1(d)).

8.2. Routine Maintenance and Repair. Without limiting the generality, but subject to the limitations of Section 8.1 and to the extent consistent with spending limitations imposed by any Annual Operating Budget, Subtenant's maintenance and repair responsibilities shall include without limitation cleaning, painting, plumbing, carpentry, grounds care and such other routine maintenance and repairs as may be reasonably necessary to meet the maintenance standards described in Section 8.1. In performing these functions, Subtenant shall:

(a) Receive and investigate all requests for maintenance and repair from residential tenants and cause such routine repairs to be promptly and professionally completed when appropriate and warranted in accordance with the standards set forth in this Agreement.

(b) Annually develop and implement a preventive maintenance schedule taking into account the remaining anticipated life of the Rental Units. The preventive maintenance schedule shall be presented to the Authority for its reasonable approval together with each year's Annual Operating Budget.

(c) Contract with qualified independent contractors, paying prevailing wages, for the maintenance and repair of items that is not performed by regular maintenance employees. Subtenant shall consult with the Director on which work items may be performed by Subtenant's maintenance employees and which work items should be performed by third party contractors.

(d) Inform all residential tenants of the procedures to obtain maintenance and repair services during and after normal office hours, and in cases of an emergency.

(e) Maintain a log book containing reports of all service requests and maintenance repairs provided, copies of which shall be subject to periodic inspection by the Authority.

(f) Purchase all materials, equipment, tools, and appliances, supplies and services necessary to ensure proper maintenance and repair of the Premises.

(g) Maintain all landscaping, grounds and common areas for the Premises.

(h) Provide pest control services within the Premises as needed and use commercially reasonable efforts to keep the Premises reasonably free of pests at all times.

(i) Contract for rubbish collection with an entity permitted by the City or the Authority and use commercially reasonable efforts to (i) ensure that the Premises are reasonably free from rubbish, debris and refuse at all times, and (ii) encourage maximum waste diversion consistent with City policies.

8.3. Unanticipated and Emergency Maintenance and Repairs. Subtenant shall perform all repairs that are necessary to avoid the suspension of necessary services to the Premises (other than utility services described in Section 10.1), or as otherwise needed to comply with the general maintenance and repair obligations described above, even though such repairs that are not included in an Annual Operating Budget, but only to the extent the costs of such repairs can be paid (and are paid) from funds in the Replacement Reserve Account and Subtenant receives the Director's prior consent as described in Section 11.3. Notwithstanding the foregoing, except as provided in the next sentence, Subtenant shall make all repairs that are immediately necessary for the preservation or protection of the Premises or the safety of residential tenants or other persons in or on the Premises ("**Emergency Repairs**"), without the Authority's prior approval and without limitation as to cost and regardless of whether there are adequate funds available in the Replacement Reserve Account for such repairs; provided, however, that in each such instance Subtenant shall, before causing any such Emergency Repairs to be made, use commercially reasonable efforts to notify the Director of the emergency situation and obtain the Director's approval of such Emergency Repairs. Subtenant has no obligation to make or cause to be made any such repairs during the final year of the Term in excess of the greater of \$100,000 and the amount in the Replacement Reserve. Subtenant's reasonable costs of any such Emergency Repairs shall automatically be reimbursed from the Replacement Reserve Account, to the extent of the amounts therein, and any excess shall be deemed an approved Operating Expense under Section 12.1. If Subtenant must advance funds under the preceding sentences, then Authority shall reimburse Subtenant therefore if and to the extent there are sufficient Gross Revenues through the remaining Term to do so.

8.4. Security. Subject to the spending limitations contained in any Annual Operating Budget, Subtenant shall provide private, on-site, licensed, qualified security personnel to the Premises that are reasonably satisfactory to Authority as budgeted in each Annual Operating Budget. Without limiting the Authority's rights under this Agreement, the Authority agrees that it will not sue Subtenant for any action taken or failed to be taken by such security personnel, except to the extent caused by the negligence or willful misconduct of Subtenant.

8.5. Subtenant's Responsibility for Utility Facilities. Subtenant's responsibility for the repair and maintenance of water, electric, gas and sewer utility facilities relating to the Premises are limited to those as set forth in Section 2(a) of Exhibit I.

8.6. Management Fee. For performance of its management, maintenance and repair obligations under this Agreement, provided that no Subtenant Default has occurred and is continuing, Subtenant shall be entitled to receive from available Gross Revenues (in the order of priority described in Section 13, a management fee (the "**Management Fee**"), payable on the tenth (10th) day of each month, equal to the greater of: (a) three percent (3%) of Gross Revenues, up to a maximum of Four Hundred Thousand Dollars (\$400,000) per year, which maximum shall be revised annually on the anniversary of the Commencement Date to reflect increases in the Index described in Section 15.2, or (b) Sixty Dollars (\$60) per Rentable Unit per month (excluding Rentable Units that Authority asks Subtenant to not rent so as to provide space for anticipated relocations), up to a maximum of Three Hundred Thirty Three Thousand Dollars (\$333,000) per year.

8.7. Base Repair and Maintenance. The Authority covenants to use good faith efforts to enforce the repair, maintenance and similar provisions of its sublease with TIHDI and to maintain the exterior of all other residential units and associated grounds on the Base, which the Navy leases to the Authority but are not Premises hereunder, to generally the same level as Subtenant is required to repair and maintain the Premises.

9. EMPLOYEES AND INDEPENDENT CONTRACTORS

9.1. On-Site Office. In performing its obligations under this Agreement, Subtenant shall establish and maintain at all times during the Term a management office (and separate property maintenance, storage and service space) at the Premises responsible for overseeing all of Subtenant's management, maintenance, leasing, and other operational obligations under this Agreement. The management office shall be located in Suite 161 at Building One on Treasure Island, and the property maintenance, storage and service space shall be located at Building 264, and Subtenant shall pay rent for such spaces at the monthly rates set forth in the Authority's Subleasing Policy. The Authority shall have the right to relocate the management office, with not less than 30 days prior written notice, to alternative space in Building One that is reasonably comparable in size and quality, at no cost to Subtenant.

9.2. Personnel. In performing its obligations under this Agreement, Subtenant shall, consistent with the spending limitations contained in each Annual Budget, hire, employ and/or assign experienced, qualified residential real estate marketing, leasing, maintenance, repair, management and any other persons necessary or advisable for the proper operation of the Project, as determined by Subtenant in its reasonable discretion. Any such persons shall be employees or contractors of the Subtenant, and not the Authority or the City. Subtenant shall direct and supervise all employees, contractors or agents in the performance of their duties under this Agreement. Subtenant shall use due care in the selection of personnel it hires or employs to perform Subtenant's management responsibilities under this Agreement. The number of employees, their job descriptions and salaries, shall be determined by Subtenant in its sole discretion based on the provisions of the management plan attached as Exhibit J (the "**Management Plan**") and consistent with any spending limitations imposed by any Annual Operating Budget. All such personnel shall be hired, supervised, and discharged by Subtenant and Subtenant shall pay all wages and other benefits properly payable to any employees hired in connection with the Project, maintain adequate payroll records, remit to the proper authorities all required income and social security withholding taxes, unemployment insurance and workers compensation payments, and such other amounts with respect other wages or benefits of employees of Subtenant working on or with the Project as may be required by Laws or this Agreement.

10. AUTHORITY'S SERVICE OBLIGATIONS

10.1. Utilities.

(a) Standard Utilities and Services. The Authority shall use good faith efforts to provide or cause to be provided to the Premises the gas, electricity, water, and sewage services and facilities described in Exhibit I (the “**Standard Utilities and Services**”), consistent with the Authority’s obligations under the Caretaker Agreement with the Navy for so long as it remains in effect and subject to Subtenant’s obligations under Section 8.5. Subtenant acknowledges that the utility systems on the Base are old, and that continuous service cannot be guaranteed. As such, the Authority shall have no liability under this Agreement for the failure of any utility service. All amounts due and owing for the Standard Utilities and Services shall be paid by Subtenant from Gross Revenues as an approved Operating Expense at the rates set forth in Exhibit I, as the same may be updated from time to time by the Authority (the “**Utility Fees**”). For any increase in Utility Fees, the Authority shall determine whether such increase will be passed through to residential tenants in the form of an increase in rent or as a separate utility charge, or paid out of available funds in the Operating Budget.

(b) Other Services. The Authority shall use good faith efforts to provide standard telephone, trash, disposal and cable services to the Premises. Any Subtenant costs for such services will be deemed approved Operating Expenses.

(c) Correction. Upon the loss of any service under this Section 10.1, the Authority shall use good faith efforts to promptly commence action to restore such services within 60 hours of notice of such failure. But failure to provide any such service shall not be an Authority default under this Agreement. Any claims by residential tenants at the Premises relating to failures of utility services, if successful, will be paid as an approved Operating Expense.

10.2 Street Services. The Authority shall be responsible for street, sidewalk and street lighting maintenance and repair to all current and future sidewalks (other than any incidental cleaning of sidewalks needed as a result of Subtenant’s responsibility of the adjacent grass areas), curbs, streets and roads included within the Premises, including any required handicap accessibility, provided nothing in this Agreement shall obligate the Authority to comply with specific State or local codes or standards.

10.3 Police and Fire. The Authority shall provide to the Base a 24-hour security presence at an entry check point to the Premises on Treasure Island (whose actions shall be limited to those permitted by Law), and reasonable (taking into account the location and intended use of the Premises) police and fire services (the “**Public Protection Services**”). Subtenant agrees that it will not sue the Authority for any action taken or failed to be taken in connection with such Public Protection Services. The Authority shall be responsible for all maintaining, pruning and clearing of any trees or brush on Yerba Buena Island required by Fire Department mandated tree trimming and brush clearance rules.

10.4 Other Portion of the Base Lease to the Authority. The Authority or its subtenants (but not Subtenant) shall be solely responsible for and shall take reasonable actions to secure and make safe those portions of the Base not comprising the Premises which are leased to the Authority by the Master Landlord, and shall make reasonable efforts to mitigate any attractive nuisances thereon.

10.5 Force Majeure. The time for the Authority’s performance of its obligations under this Section 10 shall be extended by one day for each during which the Authority or its Agents are unable to perform such obligation due to any Force Majeure Event.

11. ACCOUNTS

11.1. General Operating Account. Subtenant shall credit to a separate general operating account (the "**General Operating Account**") all revenues from whatever source received from the operation of the Premises, including (i) all rent received from residential tenants, including late fees and interest charges, if any, (ii) the gross amounts of all deposits forfeited by residential tenants, (iii) all charges or collections made by Subtenant from residential tenants for the rendering of any service in connection with Premises, (iv) any and all ancillary or collateral fees collected from residential tenants or other third Parties related to Subtenant's use of the Premises (together, "**Gross Revenues**"), other than the security deposit payments to be deposited into the Security Deposit Account described in Section 11.2 .

11.2. Security Deposit Account. Subtenant shall deposit all security deposits collected in accordance with the Residential Agreements in a separate Security Deposit Account established for the benefit of the Authority, Subtenant and residential tenants. Funds deposited in the Security Deposit Account may only be disbursed to pay the costs permitted under the Rental Agreements, including any unpaid rent, damage, or unreasonable wear and tear caused by a residential tenant, or to reimburse the General Operating Account for payment of these costs, or to return to the residential tenant upon vacancy the portion of the security deposit to which it is entitled. In collecting, handling, and disbursing these funds, Subtenant shall comply with the requirements of applicable Law, including California Civil Code Section 1950.5 and Business and Professions Code Section 10145.

11.3. Replacement Reserve Account. Subtenant shall maintain a replacement reserve account (the "**Replacement Reserve Account**"). Subtenant shall deposit into the Replacement Reserve Account on a monthly basis from available Gross Revenues in the order of priority set forth in Section 13 an amount equal to \$20 per Rentable Unit up to a maximum contribution of One Thousand Dollars (\$1,000) per Rentable Unit or such alternative amount as determined by the Director from time to time following consultation with Subtenant. As funds are disbursed from the Replacement Reserve Account, Subtenant shall replenish the Replacement Reserve Account at the rate set forth above. Subtenant shall make disbursements from the Replacement Reserve Account to perform permitted repairs and maintenance to the Rentable Units and to perform any Emergency Repairs as set forth in this Agreement. Disbursements from the Replacement Reserve Account in excess of Twenty Five Thousand Dollars (\$25,000) per calendar quarter shall require the prior written approval of the Director, which approval shall not be unreasonably withheld or delayed. The process by which Subtenant shall request and Director shall approve or disapprove disbursements from the Replacement Reserve Account shall be consistent with the HUD guidelines for repairs and replacement. Upon the termination of this Agreement, all funds remaining in the Replacement Reserve Account shall be paid to the Authority.

11.4 Criteria for Project Accounts. The General Operating Account, the Replacement Reserve Account and the Security Deposit Account shall be held in federally insured accounts reasonably acceptable to the Director.

12. PAYMENT OF OPERATING EXPENSES

12.1. Payment of Operating Expenses. Subtenant shall pay all Operating Expenses for the Premises, including Base Rent, from available Gross Revenues, or, if Gross Revenues are not available, from its own funds, in the order of priority set forth in Section 13. To the extent included in an Annual Operating Budget approved by the Authority, "**Operating Expenses**" shall mean all direct, reasonable and customary operating and maintenance expenses incurred in

the operation, leasing, marketing and maintenance of the Premises as required hereunder, including (i) reasonable salaries or other compensation due and payable to employees or agents of Subtenant described in any Management Plan, (ii) expenses for the repair and maintenance of the Premises, including common areas and or common facilities included in the Premises, (iii) reasonable and customary fees and expenses of legal and accounting professionals incurred by Subtenant in connection with the operation and maintenance of the Premises, including any evictions and relocations of residential tenants, and (iv) any other costs included in an Annual Operating Budget approved by the Authority. Notwithstanding the foregoing, "Operating Expenses" shall also include the following expenses even if such expenses are not included in an Annual Operating Budget approved by the Authority: (a) expenses incurred by Subtenant or the Authority as a result of environmental contamination of the Premises that are not paid by the Navy under the Section 330 Indemnity (as defined in Section 24.3), except to the extent such expenses are caused by the negligence or willful misconduct of Subtenant or the Authority, or their Agents, respectively, (b) all common area maintenance charges assessed by the Authority Agreement (the "**CAM Charges**"), (c) the Utility Fees, (d) all Taxes due and owing under Section 16, (e) payroll and withholding taxes and social security payments due and payable in connection with employees described in any Management Plan, (f) the costs of the insurance required under Section 25, except with respect the insurance described in Sections 25. 1(c) and (e) which must be approved in the Annual Operating Budget be included, (g) the costs of complying with Laws and regulatory requirements as provided below, (h) the actual costs of the liabilities or costs described herein as approved Operating Expenses including those expenses so described in Sections 6.3, 8.3, 8.6, 10.1, 12.1, 14.3, 17.1, 18.1(a), 18.2, 22. 1(d), and 24.3, and (i) Base Rent, as reduced by any off-set permitted under this Agreement. Additionally, with respect to cost and expense items that are incurred less frequently than monthly (e.g., property taxes and insurance), each month's Operating Expenses and Budget shall include one-twelfth (1/12) of the annual amounts expected to be expended on such items and Operating Expenses shall be adjusted to reflect the amount actually paid at the end of each year, or when otherwise directed by the Director.

12.2. Annual Operating Budget. Subtenant shall prepare and submit an annual operating budget to the Authority for its approval by the first day of the eleventh full month of the Term or such other date as agreed to by the Director, and by the same date of each subsequent calendar year during the Term, covering the following 12-month period (upon approval, the "**Annual Operating Budget**"). The Annual Operating Budget shall set forth, on an annual and monthly basis, anticipated Gross Revenues, a detailed estimate of anticipated Operating Expenses, and a pro forma budget showing distributions in the order of priority shown in Section 13. The Annual Operating Budget for the first year and any partial initial month of this Agreement is attached hereto as Exhibit F. Each subsequent Annual Operating Budget shall be in substantially the same form as the Annual Operating Budget approved for the prior year. Subtenant shall not, without the Director's prior written consent (and when given shall be deemed an amendment to the Operating Budget), incur costs in any calendar month that exceed the Operating Expense budget for such month by more than five percent (5%) (treating amounts paid less frequently than monthly, as accruing evenly over the appropriate period), or for any year, that exceed the Operating Expense budget for such year by more than five percent (5%).

12.3. Bids, Discounts, Rebates, and Commissions. Subtenant shall use commercially reasonable efforts to obtain contracts, materials, supplies, and services on the most advantageous terms available to Subtenant and shall, whenever practicable, solicit three (3) bids for each major item or service required. Subtenant shall secure and credit to the General Operating Accounts all discounts, rebates, or commissions obtainable with respect to purchases, service contracts, and all other transactions related to this Agreement.

12.4 No Authority Liability. Under no circumstance shall the Authority be liable for the payment of any Operating Expenses.

13. DISBURSEMENTS

13.1. Allocation of Gross Revenues. Subtenant shall, by the twentieth (20th) day of each month, disburse Gross Revenues not previously disbursed (calculated as of the last day of the prior month and, to the extent amounts are not or cannot be disbursed until the calculations for such month have been made hereunder, but are disbursed after such calculation is made, such disbursement shall be treated as made at the end of such month), in the manner and in the following order of priority:

(a) Base Rent. Gross Revenues shall first be disbursed to pay the Authority all Base Rent due and owing as provided in Sections 15.1 and 15.2 or used to reimburse Subtenant for advances made to pay such Base Rent during the current month.

(b) Operating Expenses. Then, to the extent available, Gross Revenues shall be disbursed, from time to time, to pay all Operating Expenses or to reimburse Subtenant for advances made to pay Operating Expenses incurred during the current calendar month as provided in Section 12.

(c) Funding of Replacement Reserve Account. Then, to the extent available, remaining Gross Revenues in the amount required by Section 11.3 shall be deposited into the Replacement Reserve Account.

(d) Management Fee. Then, to the extent available and if a Subtenant Default has not occurred and is not continuing, remaining Gross Revenues shall be disbursed to pay Subtenant the Management Fee described in Section 8.6.

(f) Percentage Rent. Then, all Gross Revenues remaining after the payment of the expenses and the other fees and items described in Sections (a)-(d) above ("**Net Revenues**") shall be paid as follows: ninety-five percent (95%) shall be paid to the Authority as Percentage Rent, and the remaining five percent (5%) shall be retained by the Subtenant.

14. BOOKS, RECORDS AND REPORTS

14.1. Books and Records. Subtenant shall establish and maintain books, records and systems of account reflecting all business operations of Subtenant under this Agreement, including, but not limited to, resident and project files, general ledgers, invoices, canceled checks, payroll records, and contracts (the "**Books and Records**").

14.2. Monthly Reports. Promptly after the close of each month but no later than 20 days after such date, Subtenant shall deliver to the Authority a monthly report on a form acceptable to Authority. Such report shall be certified as true and correct in all material respects by Subtenant and shall include: (i) a statement of Gross Revenues for the preceding month, specifically and separately identifying the sources of such revenue, (ii) an itemized statement of actual Operating Expenses, (iii) a statement of Net Revenues, (iv) a list of all Residential Leases that have been entered into during the preceding calendar month, including the building number of each of the Rentable Units rented, the classifications of the residential tenants and the applicable rental rate, and (v) such other information as the Authority may reasonably require.

14.3. Subtenant's Annual Audit. Annually during the Term of this Agreement, within sixty (60) days of the end of the Authority's fiscal year, Subtenant shall arrange for an audit of the Books and Records by an independent certified public accountant approved by the Director. Subtenant shall pay all costs and expenses associated with the annual audit, the reasonable costs of which shall be deemed Operating Expenses. Such audit shall cover the previous 12-month

period. Subtenant acknowledges that a primary purpose of such audit shall be to enable Subtenant and the Authority to clearly and accurately determine the nature and amount of Gross Revenues, Operating Expenses and Net Revenues and to verify the amount of Percentage Rent due and payable to Authority and to otherwise determine the accuracy of the Books and Records. Subtenant shall deliver an original, signed copy of each such annual audit to the Director by the earlier of (a) thirty (30) days after the completion of such audit or (b) if possible using commercially reasonable efforts, 120 days after the end of the 12-month period covered by such audit.

14.4. Periodic Audits and Inspections of Records. After providing Subtenant with 48 hours prior written notice and only during regular business hours, and subject to any privacy or other limitations imposed by applicable Laws, the Authority, its representatives or an independent auditor may audit, examine and make excerpts, copies and transcripts from the Books and Records and all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. The Authority may perform such audit at any time and from time to time during the Term or for a period of five (5) years thereafter. If the Authority's audit shows that there is a deficiency in the payment of any Rent or other amounts to be credited to the Authority, the deficiency shall become immediately due and payable to the Authority. The costs of any periodic audit shall be paid by the Authority unless the audit shows that Subtenant understated Rent or other amounts due by more than five percent (5%) for the entire period being audited, in which case Subtenant shall pay all of the Authority's reasonable costs of the audit.

14.5 Transfer of Records and Accounts. Within five (5) working days after the termination or expiration of this Agreement, (i) all resident and project files, general ledgers, invoices, payroll records and contracts related to this Agreement, and all other Books and Records reasonably requested by the Authority, subject to any privacy or other limitation imposed by applicable Laws, shall be deemed to be the property of the Authority and shall be delivered to the Authority, and (ii) all cash, bank accounts, and trust accounts that are property of the Authority must be accounted for in writing and turned over to the Authority.

15. RENT

15.1. Base Rent. Throughout the Term, beginning on the Commencement Date, Subtenant shall pay to the Authority, base rent in the amount of Five Hundred Thousand Dollars (\$500,000) per year, subject to the adjustment set forth in Section 15.2 and offsets and adjustments as expressly provided in this Sublease (the "**Base Rent**"). Base Rent shall be payable in twelve (12) equal consecutive monthly payments on the first day of the Term (for any partial first-month and the first full month) and on or before the first business day of each month thereafter. Notwithstanding the foregoing, Subtenant shall have no obligation to pay the Authority Base Rent if and for so long as Master Landlord, the City or the Authority, after the receipt of written notice thereof and the expiration of the cure periods described in Section 21.2, materially hinders or prevents Subtenant from performing its obligations under this Agreement, except to the extent such hindrance or obstruction is caused by Subtenant.

15.2. Adjustments in Base Rent. On the first anniversary of the Commencement Date, and each anniversary thereafter (each, an "**Adjustment Date**"), the Base Rent payable hereunder shall be adjusted as follows (each adjustment a "**CPI Adjustment**"):

(a) The Consumer Price Index Urban Wage Earners and Clerical Workers (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose area published by the United States Department of Labor, Bureau of Labor Statistics ("**Index**") published most immediately preceding the Adjustment Date ("**Adjustment Index**"), shall be compared with the Index published most immediately preceding the prior Lease Year ("**Prior Index**").

(b) If the Adjustment Index has increased over the Prior Index, the Base Rent payable on and after the Adjustment Date shall be set by multiplying the then Base Rent by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Prior Index. In no event shall the monthly Base Rent on or after the Adjustment Date be less than the monthly Base Rent in effect immediately before the Adjustment Date.

(c) If the Index is changed so that the base year differs from that used as of the date most immediately preceding the Commencement Date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

15.3 Percentage Rent. In addition to Base Rent, Subtenant shall pay to the Authority as percentage rent the amounts set forth in Sections 13.1(f) (collectively, the "**Percentage Rent**", and together with Base Rent and other dues due under this Agreement, "**Rent**"). Percentage Rent shall be due and payable to the Authority from available Gross Revenues in arrears (based on the amount of Percentage Rent due for the immediately preceding month) on the twentieth (20th) day of each month.

15.4 In-Kind Rent. Upon the Director's request, Subtenant may also pay to the Authority "In-Kind Rent" in the form of the renovations of and improvements to the Premises, to the extent such renovations or improvements are not paid from Gross Revenues. Any In-Kind Rent shall be deemed paid by Subtenant when Subtenant performs the work to the Director's satisfaction and provides appropriate evidence of the cost of such work, consistent with pre-approved estimated amounts. Upon the Director's approval of the work and the cost amount, Subtenant shall receive a credit against Base Rent otherwise due and owing under this Agreement in the amount approved by the Director. All renovations and improvements made to the Premises as payment of In-Kind Rent shall immediately become the property of the Master Landlord, subject to the leasehold interest of the Authority, as set forth in the Master Lease, and shall also immediately, without further action on the part of either the Authority or the Subtenant, become part of the Premises.

15.5 Method of Payment of Rent. All Rent payable by Subtenant to the Authority shall be paid without prior demand and without any deduction, setoff or counterclaim whatsoever, except as specially provided in Section 15.8(a) and, except for In-Kind Rent, shall be paid in cash or by good cashier's or certified check to the Authority at the primary address for Authority specified in Section 33.1 or such other place as the Authority may designate in writing. If the Commencement Date occurs on a day other than the first day of a calendar month, or the Expiration Date occurs on a day other than the last day of a calendar month, then the Base Rent for such fractional month shall be prorated based on a thirty (30) day month.

15.6 Late Charge. If Subtenant fails to pay any Rent due and owing the Authority within ten (10) days after the due date, such unpaid amount will be subject to a late payment charge equal to five percent (5%) of the unpaid amount in each instance. The late payment charge has been agreed upon by the Authority and Subtenant, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that the Authority will incur as a result of any such failure by Subtenant, the actual costs thereof being extremely difficult to determine. The late payment charge constitutes liquidated damages to compensate the Authority for its damages resulting from such failure and Subtenant shall promptly pay such amount to the Authority together with the unpaid amount.

15.7. Default Interest. If Subtenant fails to pay any Rent due and owing the Authority within ten (10) days after the due date, such unpaid amount shall also bear interest from the due date until paid at the rate of nine percent (9%) per year (the "**Default Rate**"). However, interest shall not be payable on late charges nor on any amounts if and to the extent such payment would cause the total interest to be in excess of that which is lawful to charge. Payment of interest shall not excuse or cure any default by Subtenant.

15.8. No Right to Repair and Deduct. Except as specifically provided in Section 15.8(a), Subtenant expressly waives the benefit of any existing or future Law that would otherwise permit Subtenant to terminate this Agreement because of the Authority's failure to keep the Premises or any Parties thereof in good order, condition or repair. Without limiting the foregoing, Subtenant expressly waives the provisions of California Civil Code Sections 1932, 1941 and 1942 or any similar Laws with respect to any right of Subtenant to terminate this Agreement.

(a) Permitted Offsets against Base Rent. Notwithstanding the foregoing, Subtenant may offset the following sums against its obligation to pay Base Rent:

(i) Any increase in the amount of the CAM Charge payable by Subtenant after the Effective Date of this Agreement. The Parties hereby acknowledge and agree that for the purposes of this Sublease, the Parties will treat the rates used by the Authority to calculate the CAM Charge as \$___ per unit per month.

(ii) Except to the extent paid by Authority pursuant to Section 22.2(c), after the expiration of any applicable notice and cure periods (except in the event of an emergency as determined by Subtenant where prior notice by Subtenant is impractical), the reasonable costs of providing the services the Authority is obligated to provide under Sections 10.1, 10.2 or 10.3; provided, however, nothing herein shall imply any duty of Subtenant to do any act that the Authority is obligated to perform under any provision of this Agreement, and Subtenant's performance of such obligations of the Authority shall not constitute a waiver of any of Subtenant's rights or remedies under Section 22.2.

(iii) If Subtenant is required by any third Parties with jurisdiction to (x) reduce the rental rates payable by the residential tenants from those set forth in any Rental Rate Schedule approved by the Authority and Subtenant (other than as provided in Section 7.4) for non-economic reasons or (y) provide rent preferences other than those set forth in the Marketing Plan, then the economic effect of such reductions and preferences, if any, shall be borne by the Authority by reducing Base Rent by the amount of such economic effect.

(iv) All costs directly related to a material breach by the Authority of its obligations under Section 18.2(b).

16. TAXES, ASSESSMENTS AND OTHER EXPENSES

16.1. Taxes and Assessments, Licenses, Permit Fees and Liens.

(a) Payment Responsibility. During the Term, Subtenant shall pay any and all real and personal property taxes, including, but not limited to, possessory interest taxes, general and special assessments, exercises, licenses, permit fees and other charges and impositions of every description levied on or assessed against the Premises, any Alterations, Subtenant's Personal Property, or Subtenant's use of the Premises (collectively, "**Taxes**"). Subtenant shall make all such payments directly to the charging authority when due and payable and prior to delinquency. However, with respect to real property or possessory interest Taxes levied on or assessed against

the Premises for which the Authority receives the tax bill directly from the taxing authority, Subtenant shall reimburse the Authority for payment of such sums promptly upon written demand accompanied by (i) a copy of the relevant bill or tax statement and (ii) evidence of payment in full of such Taxes by the Authority. The amount of all such Taxes paid by the Subtenant shall automatically be deemed an approved Operating Expense.

(b) Taxability of Possessory Interest. Without limiting the foregoing, Subtenant recognizes and agrees that this Agreement may create a possessory interest subject to property taxation.

(c) No Tax Liens. Subtenant shall not allow or suffer a lien for any Taxes to be imposed upon the Premises or upon any equipment or other property of Subtenant located thereon and shall discharge the same prior to delinquency; provided however that Subtenant shall have the right to contest any such taxes so long as Subtenant posts with the taxing authority any bond or other security required thereby.

(d) Reporting Information. Subtenant agrees to provide such information as Authority may reasonably request to enable the Authority to comply with any possessory interest tax reporting requirements applicable to this Agreement.

16.2 Evidence of Payment. Subtenant shall, upon the Authority's request, furnish to the Authority official receipts or other evidence of the payment of Taxes.

17. LIENS AND ENCUMBRANCES

17.1. Mechanics Liens. Subtenant shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by or for Subtenant. If Subtenant does not, within twenty (20) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, the Authority shall have in addition to all other remedies provided herein and by law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by the Authority and all expenses it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable by Subtenant to the Authority upon demand. To the extent such expenses would otherwise constitute payment for the Work or Operating Expenses, such expenses (but not, for example, the Authority's attorneys' fees related to the release of any such mechanic's lien) shall be included as cost of the Work or Operating Expenses. The Authority shall have the right at all times to post and keep posted on the Premises any notices that the Authority reasonably deems proper for its protection and protection of the Premises from mechanics' and materialmen's liens.

17.2 Encumbrances by Subtenant. Subtenant shall not, without the prior written consent of the Authority, create any mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or encumbrance or assignment or pledge of an asset (an "**Encumbrance**") as security in any manner against the Premises or Authority's or Subtenant's interest under this Agreement. If the Authority consents to any such Encumbrance, it shall, in connection therewith, enter into an agreement with the holder of such Encumbrance that includes customary and reasonable subordination, non-disturbance and attornment provisions and customary and reasonable mortgagee protection provisions.

18. COMPLIANCE WITH LAWS

18.1. Compliance with Laws. In performing its obligations under this Agreement and in its use of the Premises, Subtenant shall at all times use and maintain the Premises in

compliance with all applicable Laws, including any applicable prevailing wage laws and disability access laws; provided, however, Subtenant is not responsible (a) for the streets, roads, sidewalks and curbs contained in and around the Premises complying with any law or (b) for any tree trimming or brush clearance within the Premises contained on Yerba Buena Island mandated by the Fire Department. Without limiting the Authority's obligations under this Agreement, or its responsibility for failure to satisfy those obligations, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall give Subtenant the right to seek redress against the Authority for failing to comply with Laws. Subtenant waives any rights now or hereafter conferred upon it by any existing or future Law to compel the Authority to make repairs or improvements to comply with any Law. Nothing herein is intended to limit the Authority's responsibility for the consequences of its failure to comply with Laws or its obligations under this Agreement.

(a) Approved Expense. The costs of Subtenant's compliance with Section 18.1 shall be deemed an approved Operating Expense (except as expressly provided to the contrary in this Agreement).

(b) No Special Laws. Other than compliance with the FEMA-178 seismic standard as required in this Agreement (which the Parties acknowledge and agree is different than the seismic safety Laws applied by the City in the City), the Authority shall not directly or indirectly require Subtenant to comply with any Laws not otherwise applicable to comparable projects in the City. If the City imposes any Laws on the Project not otherwise applicable to comparable projects in the City, the incremental costs of complying with such Laws shall be either an Operating Expense or an off-set against Base Rent.

(c) Streets and Trees. The Authority shall be responsible for (a) compliance with Laws regarding the maintenance and repair of streets, roads, sidewalks and curbs contained in and around the Premises and (b) maintaining, pruning and clearing of any trees and brush on Yerba Buena Island required by the Fire Department mandated tree trimming and brush clearance rules.

18.2. Regulatory Approvals.

(a) Responsible Party. Subtenant understands and agrees that Subtenant's use of the Premises and construction of the Work and any other Alterations may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. To the extent such approvals or permits are required, Subtenant shall be solely responsible for obtaining any and all such regulatory approvals. Subtenant shall not seek any regulatory approval not contemplated in this Agreement without first obtaining the written consent of Authority. Subtenant shall bear all costs (which costs shall be deemed approved Operating Expenses) associated with applying for, obtaining and maintaining any necessary or appropriate regulatory approval and, except as expressly set forth herein, shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties levied as a result of Subtenant's failure to comply with the terms and conditions of any regulatory approval shall be timely and promptly paid by Subtenant and shall be deemed Operating Expenses except to the extent such fines arise from Subtenant's negligence or willful misconduct. In any event, the Authority shall have no liability, monetary or otherwise, for any such fines or penalties.

(b) The Authority's Efforts. The Authority shall cooperate with Subtenant in Subtenant's efforts to obtain all required regulatory approvals and to expedite any required City approvals, including the issuance of all required certificates authorizing occupancy of Rentable Units. Notwithstanding the foregoing, Subtenant acknowledges and agrees that the Authority is entering into this Agreement in its capacity as a holder of leasehold and proprietary interests in

the Premises and not as a regulatory agency with police powers. Nothing in this Agreement shall limit in any way Subtenant's obligation to obtain any required approvals from City departments, boards or commissions having jurisdiction over the Premises. This Section does not modify or limit Subtenant's obligation to comply with Section 18.1.

18.3. Compliance with Authority's Risk Management Requirements. Subtenant shall not take any action, and shall use commercially reasonable efforts to prevent residents from doing anything, that would create any unusual fire risk in or around the Premises. Subtenant shall use commercially reasonable efforts to protect the Authority from any potential premises liability with respect to any Work or Alteration performed by or for Subtenant. Subtenant shall comply with any and all requirements of any policies of insurance for the Premises.

19. DAMAGE OR DESTRUCTION

19.1. Damage or Destruction to the Premises Covered by Required Insurance. In the case of damage to or destruction of all or any portion of the Premises or damage to, destruction of (or other limitation on the use of) the roads or the bridge providing ingress and egress to the Premises that materially adversely affects the intended use of such Premises ("**Damage**") that is covered by the insurance required under Section 25 (the "**Required Insurance**"), except as provided in the next sentence, this Agreement shall continue and Subtenant shall use the proceeds of any such Required Insurance to, with reasonable promptness and diligence, restore, repair, replace or rebuild those portions of the Premises so damaged (the "**Damaged Premises**") to comparable condition, quality and class as the Damaged Premises were in immediately before such casualty ("**Repair**"). Notwithstanding the foregoing, if (i) the Damage to the Premises or certain Rentable Units occurs during the last 2 years of the Term, (ii) certain of the Rentable Units have been Damaged to an extent such that such Rentable Units would need to be demolished and rebuilt, (iii) the Damage cannot reasonably be repaired within 12 months, or (iv) applicable Laws, such as the public trust for commerce, navigation and fisheries, prohibit the Repair, Subtenant may elect (by providing the Authority with written notice thereof within 30 days of the Damage) not to Repair such Damage, in which event this Agreement shall terminate with respect to such portion of the Damaged Premises or such Rentable Units and all applicable insurance proceeds shall be distributed as set forth in Section 19.1(a). In addition, the Authority may determine that any Damage shall not be Repaired for any reason, in which case the insurance proceeds shall also be distributed as set forth in Section 19.1(a).

(a) Insurance Distribution. If Subtenant is not required to Repair all or a portion of such Damaged Premises or the Authority determines not to authorize such Repair as set forth above, the proceeds of any Required Insurance allocable to such Damaged Premises shall be disbursed as follows: first, to Subtenant in an aggregate amount equal to any earned but undisbursed Management Fees and Marketing and Leasing Fees due to Subtenant, and then the remainder to the Authority.

19.2. Damage or Destruction to the Premises Not Covered by Required Insurance. In the case of Damage that is not covered by the Required Insurance, or to the extent that the costs to Repair the Damage would exceed the available insurance proceeds, Subtenant shall, to the extent funds are available in the Replacement Reserve Account, and subject to the Director's consent as provided in Section 11.3, use such funds to Repair any Damage. Notwithstanding the foregoing, nothing herein shall obligate Subtenant to expend any funds other than funds available in the Replacement Reserve Account or insurance proceeds to Repair Damage.

19.3. Rental Abatement. In the event of Damage, Subtenant's obligation to pay Base Rent to the Authority shall be proportionately reduced by an amount equal to the result obtained by multiplying the total amount of Base Rent then due and owing by a fraction, the denominator of which shall be the total number of Rentable Units and the numerator of which shall be the

number of Rentable Units affected by the Damage (the "**Abatement**"); provided, however, the proceeds of any rental interruption insurance shall be treated as Gross Revenues hereunder. The Abatement shall continue until Subtenant completes the Repair (or the Damage of Access to the Premises is otherwise repaired). If Subtenant is not required to repair such Damage under Section 19.1 or 19.2 and this Agreement terminates with respect to such portion of the Premises or such affected Rentable Units, the Abatement shall continue for the remainder of the Term.

19.4. Waiver. The Parties understand and agree that the foregoing provisions of this Section 19 are intended to govern fully the rights and obligations of the Parties in the event of damage or destruction to the Premises or Alterations, and the Authority and Subtenant each hereby waives and releases any right to terminate this Agreement in whole or in part under Sections 1932.2 and 1933.4 of the Civil Code of California or under any similar Laws now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

20. ASSIGNMENT AND SUBLETTING

20.1 Restriction on Assignment and Subletting. The services to be performed by the Subtenant under this Agreement are personal in character. Accordingly, except as provided in Section 17.2, Subtenant shall not assign this Agreement nor any duties or obligations hereunder, either voluntarily or by operation of law, or sublet any portion of the Premises (other than the Rental Agreements), unless the Authority first approves such assignment or subletting by written instrument, which approval may be given or withheld in the Authority's sole and absolute discretion. Any purported assignment or sublet in violation of these restrictions shall be void.

21. DEFAULT

21.1 Events of Subtenant Default. Any of the following shall constitute an event of default by Subtenant under this Agreement ("**Subtenant Defaults**"):

(a) Rent and Payment Responsibilities. Any failure to pay Rent, the CAM Charges, the Utilities Charges, Taxes, or any other sums due and payable by Subtenant, where such failure continues for a period often (10) days following receipt by Subtenant of written notice from the Authority.

(b) Covenants Conditions and Representations. Any failure of Subtenant to perform or comply with any other covenant, condition or representation of Subtenant made under this Agreement, provided that Subtenant shall have a period of thirty (30) days from the date of receipt by Subtenant of written notice from the Authority specifying such failure within which to cure such failure or, if such failure is not reasonably capable of cure within such 30-day period, Subtenant shall have a reasonable period to complete such cure if Subtenant takes action to cure such default within such period and thereafter diligently prosecutes the same to completion.

(c) Assignment; Insurance. Any attempt by Subtenant to assign any material rights or obligations under this Agreement without the Authority's consent as provided herein, or any failure by Subtenant to maintain any insurance required hereunder, which failure is not cured by Subtenant within seven (7) days of Subtenant's receipt of written notice of such failure.

(d) Bankruptcy. The appointment of a receiver to take possession of all or substantially all of the assets of Subtenant, or an assignment by Subtenant for the benefit of creditors, or any action taken or suffered by Subtenant under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted (provided that with respect to any receiver appointed or any involuntary proceeding commenced against Subtenant, a Subtenant Default shall not be deemed to have

occurred unless Subtenant has failed to have such receiver discharged or such proceeding dismissed within seventy-five (75) days.

21.2. Authority Default. Any failure of the Authority to perform or comply with any covenant, condition or representation of the Authority made under this Agreement shall be deemed a default by the Authority (an “**Authority Default**”), provided that the Authority shall have a period of thirty (30) days from the date of receipt of written notice from Subtenant of such failure within which to cure such Authority Default, or, if such Authority Default is not reasonably capable of cure within such 30-day period, the Authority shall have a reasonable period to complete such cure if the Authority takes action to cure such Authority Default within such period and thereafter diligently prosecutes the same to completion.

22. REMEDIES

22.1 Authority's Remedies for Subtenant's Defaults. Upon the occurrence and continuing of a Subtenant Default, the Authority shall have the following rights and remedies in addition to all other rights and remedies available to Authority at law or in equity:

(a) Terminate Agreement and Recover Damages. The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate Subtenant's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that Subtenant proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. The Authority's efforts to mitigate the damages caused by a Subtenant Default shall not waive any right that the Authority may have to recover unmitigated damages upon termination.

(b) Appointment of Receiver. The right, upon application by the Authority, to have a receiver appointed for Subtenant to take possession of the Premises and to apply any rentals collected from the Premises to the Rent owing by Subtenant hereunder and to exercise all other rights and remedies granted to Authority pursuant to this Agreement.

(c) Forfeiture. The right to cancel Subtenant's right to lease any portion of the Premises.

(d) Authority's Right to Cure Subtenant's Defaults. The Authority may (after the expiration of all applicable cure periods, except in the event of an emergency as reasonably determined by the Authority where prior notice by the Authority is impractical), remedy a Subtenant Default for Subtenant's account and at Subtenant's sole expense. Subtenant shall pay to the Authority, promptly upon demand, all sums reasonably expended by the Authority, or other reasonable costs, damages, expenses or liabilities incurred by the Authority, including reasonable attorneys' fees, in remedying or attempting to remedy such Subtenant Default. To the extent the sums reasonably expended by the Authority under this Section are for costs of the Work or for Operating Expenses (but not, for example, the Authority's reasonable attorney's fees), such amounts paid by Subtenant to the Authority shall be deemed approved costs of the Work or Operating Expenses, as applicable. Subtenant's obligations under this Section shall survive the expiration or termination of this Agreement. Nothing herein shall imply any duty of the Authority to do any act that Subtenant is obligated to perform under this Agreement, and the Authority's cure or attempted cure of a Subtenant Default shall not constitute a waiver of such Subtenant Default or any rights or remedies of the Authority on account of such Subtenant Default.

22.2 Subtenant's Remedies for Authority Default. Upon the occurrence and continuing of an Authority Default, Subtenant shall have the right to termination this agreement or sue for specific performance. In addition, Subtenant may remedy such Authority Default for Authority's account and at Authority's sole expense, but only to the extent of funds then available in the General Operating Account and the Replacement Reserve Account. In no event shall the Authority be responsible for any costs above the amount in such accounts on the date that the Authority Default is determined (i.e., the date that any applicable cure period has expired). Nothing herein shall imply any duty of the Subtenant to do any act that Authority is obligated to perform under this Agreement, and the Subtenant's cure or attempted cure of a default shall not constitute a waiver of such Authority Default or any rights or remedies of the Subtenant on account of such Authority Default. In no event shall the Authority be liable for any damages relating to an Authority Default.

23. RELEASE AND WAIVER OF CLAIMS

23.1 Release and Waiver of Claims. Subtenant, on behalf of itself and Subtenant's Agents, covenants and agrees that the Authority shall not be responsible for or liable to Subtenant for, and, to the fullest extent permitted by law, Subtenant hereby waives all rights against the Authority and releases it from any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs (collectively, "**Losses**"), whether direct or indirect, known or unknown, foreseen and unforeseen, arising from or related to (i) the suitability of the Premises for Subtenant's intended use or (ii) the physical or environmental condition of the Premises and any related Alterations or improvements, including, without limitation, any and all Losses arising from or related to an earthquake or subsidence.

(a) Subtenant covenants and agrees never to file, commence, prosecute or cause to be filed, commenced or prosecuted against the Authority any claim, action or proceeding based upon any Losses of any nature whatsoever encompassed by the waivers and releases set forth in this Section. In executing these waivers and releases, Subtenant has not relied upon any representation or statement other than as expressly set forth herein.

(b) Subtenant had made such investigation of the facts pertaining to these waivers and releases it deems necessary and assumes the risk of mistake with respect to such facts. These waivers and releases are intended to be final and binding on Subtenant regardless of any claims of mistake.

(c) Subtenant expressly acknowledges and agrees that the Rent payable hereunder does not take into account any potential liability of the Authority for liabilities encompassed by the waivers and releases set forth in this Section. The Authority would not be willing to enter into this Agreement in the absence of the waivers and releases in this Section, and Subtenant expressly assumes the risk with respect thereto.

(d) In connection with the foregoing releases, Subtenant acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Subtenant acknowledges that the releases contained herein include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims encompassed by the waivers and releases set forth in this Section. Subtenant realizes and acknowledges that it has agreed

upon this Agreement in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The waivers and releases contained herein shall survive any expiration or termination of this Agreement.

(e) Without limiting its rights under Section 27, Subtenant acknowledges that it will not be a displaced person at the time this Agreement is terminated or expires by its own terms, and, without limiting the foregoing, Subtenant fully releases, waives and discharges forever any and all claims against, and covenants not to sue, the Authority or its Agents for claims for relocation benefits or assistance from the Authority under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 et seq.).

23.2 Covenant by the Authority Not to Sue. The Authority shall not directly or indirectly bring an action or proceeding, whether in a court of law or otherwise, against Subtenant with regard to the environmental conditions existing at the Base except to the extent that such condition is caused by a violation of Law by Subtenant or by Subtenant introducing Hazardous Material (as defined herein) to the Base.

24. INDEMNIFICATION

24.1 Subtenant's Indemnity. Subtenant, on behalf of itself and Subtenant's Agents, shall indemnify, protect, reimburse, defend and hold harmless forever ("**Indemnify**" or "**Indemnity**" as the context requires) the Authority and the Authority's Agents from and against any and all Losses caused by acts or omissions of Subtenant or Subtenant's Agents or Invitees with respect to the Premises, or relating to the rehabilitation, use or occupancy of the Premises, including, without limitation, any accident, injury or death to any of Subtenant's Agent's or Invitees occurring on or about the Premises, except to the extent that (i) such Indemnity is void or otherwise unenforceable under any applicable Laws, (ii) such Losses are caused by the Authority, or (iii) such Losses are included within the Section 330 Indemnity.

The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and the Authority's costs of investigating any Loss. Subtenant specifically acknowledges and agrees that it is obligated to defend the Authority from any claim which falls within this Indemnity even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is properly tendered to Subtenant by the Authority. Subtenant's obligations under this Section shall survive the expiration or sooner termination of this Agreement.

24.2 Authority's Indemnity. Subject to the provisions of Section 22.2, the Authority, on behalf of itself and the Authority's Agents, shall Indemnify Subtenant and Subtenant's Agents from and against any and all Losses caused by acts or omissions of the Authority or the Authority's Agents except to the extent that (i) such Indemnity is void or otherwise unenforceable under any applicable Laws, (ii) such Losses are caused by the Subtenant or its Agents, or (iii) such Losses are included within the Section 330 Indemnity.

The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and Subtenant's costs of investigating any Loss. The Authority specifically acknowledges and agrees that it is obligated to defend Subtenant from any claim which falls within this Indemnity even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is properly tendered to the Authority by Subtenant. Subtenant's obligations under this Section shall survive the expiration or sooner termination of this Agreement.

24.3 Master Landlord's Section 330 Environmental Indemnity. The Parties hereby acknowledge and agree that pursuant to Section 330 of Public Law 102-484, as amended, Master Landlord shall hold harmless, defend and indemnify (the "**Section 330 Indemnity**") the Authority and Subtenant from and against any suit, claim, demand, action, liability, judgment, cost or fee, arising out of any claim for personal injury or property damage (including death, illness, loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance, pollutant, contaminant, petroleum product, or petroleum derivative from or on the Premises as a result of Department of Defense activities at the Base, as set forth in the Master Lease. If Subtenant or the Authority incurs costs or other expenses due to Master Landlord's failure to satisfy its obligations under the Section 330 Indemnity, such costs or expenses shall automatically be deemed an Operating Expense and any subsequent recovery from the Master Landlord as a result of such failure shall be a Gross Revenue.

25. **INSURANCE** *[update]*

25.1 Subtenant's Insurance. Subtenant shall procure and maintain throughout the Term for the mutual benefit of the Authority and Subtenant, and pay the cost thereof (as an approved Operating Expense, subject to the limits set forth in Section 12.1 and, if the limit is exceeded but not approved, such insurance need not be obtained by Subtenant), the following insurance:

(a) Professional Liability Insurance. Professional Liability insurance with limits not less than \$1,000,000 each claim and aggregate, including coverage for negligent acts, errors or omissions arising out of professional services performed under this Agreement for architectural, engineering and geotechnical services, with any deductible not to exceed \$25,000 each claim.

(b) Property Insurance. Property insurance on an ISO "special form" (excluding earthquake and flood) with any exposures for reconstruction (builders' risk), loss of rents up to 12 months included in the aggregate limit. The loss of rents coverage shall have a deductible of no more than \$5,000 per occurrence. The deductible will be no greater than \$50,000 per occurrence for property related losses only. Any vacancy clause will be waived or extended to no less than 180 days. The limit of coverage will be full replacement cost or a stop loss limit that covers at least 35% of the total insurable value of all covered Rentable Units.

(c) [Environmental Pollution Insurance. Environmental Impairment Liability Insurance, with limits not less than \$5,000,000 each occurrence, including coverage for pollution or contamination, with any deductible not to exceed \$50,000 each occurrence.]

(d) Commercial General Liability Insurance. Commercial General Liability Insurance shall be written on an occurrence and on a site-specific basis with coverage equal to or better than the ISO form CG-OOI. Primary limits shall be \$2,000,000 Combined Single Limit (CSL) per occurrence and \$5,000,000 aggregate. A deductible, per claim, of no greater than \$10,000 will be acceptable. Coverage should include within the policy limits: Personal Injury, Independent Contractors, Contractual liability, Products and Completed operations and a Severability of interests' clause. (Explosion, collapse and underground coverage shall not be excluded.) An excess policy increasing the total limit to \$10,000,000 will be required. Said excess policy may be an umbrella or a following form excess contract.

(e) Workers Compensation Insurance. Worker's compensation insurance with statutory limits as required by California law.

(f) Automobile Liability Insurance. Automobile liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles, if Subtenant uses or causes to be

used automobiles in connection with its use of the Premises. Such insurance shall provide coverage at least as broad as provided under ISO F01111 Number CA-00-01.

(g) Watercraft and Aircraft Insurance. Should Subtenant operate or cause to be operated any aircraft or watercraft in performance of its activities under this Agreement, insurance for such operations, in amount, form and with insurers reasonably satisfactory to the Authority, shall be obtained, paid for, and maintained by Subtenant throughout such operations.

(h) Employee Fidelity Bonds. Fidelity bond insurance coverage for on-site employees with a \$1,000,000 limit and \$1,000 deductible.

25.2. General Requirements. All insurance provided for under this Agreement shall be effected under valid enforceable policies issued by insurers of recognized responsibility and reasonably approved by the Authority.

(a) Should any of the required insurance be provided under a claims made form, Subtenant shall maintain such coverage continuously throughout the Term and, without lapse, for a period of one (1) year beyond the expiration or termination of this Agreement, to the effect that, should occurrences during the Term give rise to claims made during the one year period after expiration or termination of this Agreement, such claims shall be covered by such claims made policies.

(b) All insurance policies shall be endorsed to provide the following:

(i) The Authority and the City shall be named as an additional named insured and loss payee on liability and property coverages as its interest may appear, if necessary. Subtenant shall be first named insured.

(ii) Any other insurance carried by the Authority, which may be applicable, shall be deemed excess insurance and Subtenant's insurance shall be deemed primary for all purposes. Subtenant's policies shall also provide for severability of interest provisions.

(iii) Thirty-day written notice of cancellation, non-renewal or material change in coverage shall be given to the Authority. Ten-day notice will be acceptable for notice of non-payment.

(iv) Upon request, Subtenant shall deliver to the Authority certificates, binders, or other satisfactory evidence of the insurance coverages required under this Agreement.

(c) On or before the Commencement Date, Subtenant shall deliver to Authority certificates of insurance in form and with insurers satisfactory to Authority, evidencing the coverages required hereunder, and Subtenant shall provide Authority with certificates thereafter at least ten (10) days before the expiration dates of expiring policies. In the event Subtenant shall fail to procure such insurance, or deliver such certificates, Authority may, at its option, after providing five (5) days' prior written notice of the Authority's intention to do so, procure the same for the account of Subtenant and the cost thereof shall be paid to Authority within five (5) days after delivery to Subtenant of an invoice for such cost.

25.3. No Limitation on Indemnities. Subtenant's compliance with the provisions of this Section shall in no way relieve or decrease either the Authority's or Subtenant's indemnification obligations herein or any of the Authority's or Subtenant's other obligations or liabilities under this Agreement.

25.4. Subtenant's Personal Property. Subtenant shall be responsible, at its expense, for separately insuring Subtenant's Personal Property.

25.5. Waiver of Subrogation. Notwithstanding anything to the contrary contained herein, the Authority and Subtenant (each a "**Waiving Party**") each hereby waives any right of recovery against the other party for any loss or damage sustained by such other party with respect to the Premises, whether or not such loss is caused by the fault or negligence of such other party, to the extent such loss or damage is covered by insurance which is required to be purchased by the Waiving Party under this Agreement or is actually covered by insurance obtained by a Waiving Party. Each Waiving Party agrees to cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies relating to the Premises; provided, the failure to obtain any such endorsement shall not affect the above waiver.

26. ACCESS BY AUTHORITY

26.1. Access to Premises by Authority.

(a) General Access. Without unreasonably interfering with the use and quiet enjoyment of the Premises by residential tenants, the Authority reserves for itself and the Authority's Agents, the right to enter the Premises and any portion thereof at all reasonable times for any purpose.

(b) Emergency Access. In the event of any emergency, as reasonably determined by the Authority, the Authority may, at its sole option and without notice, enter the Premises and alter or remove any Alterations or Subtenant's Personal Property on or about the Premises so long as such alteration or removal is reasonably related to and necessary for remedying or properly responding to such emergency. The Authority shall have the right to use any and all means the Authority reasonably considers appropriate to gain access to any portion of the Premises in an emergency. In such case, to the maximum extent permitted by law, the Authority shall not be responsible for any damage or injury to any such property, nor for the replacement of any such property and any such emergency entry shall not be deemed to be a forcible or unlawful entry onto or a detainer of, the Premises, or an eviction, actual or constructive, of Subtenant from all or part of the Premises.

(c) No Liability. The Authority shall not be liable in any manner, and Subtenant hereby waives any claims, for any Losses arising out of the Authority's entry onto the Premises, except for damage resulting from the negligence or willful misconduct of the Authority or the Authority's Agents, to the extent not contributed to by the acts, omissions or negligence of Subtenant, Subtenant's Agents or Subtenant's Invitees.

26.2 Access to Premises by Master Landlord. Subtenant acknowledges and agrees that Master Landlord shall have all of the rights of access to the Premises described in the Master Lease.

27. SURRENDER

27.1. Surrender of the Premises. Upon the expiration or earlier termination of this Agreement, Subtenant shall peaceably quit and surrender to the Authority the Premises together with the Work and Alterations in as good order and condition, subject to normal wear and tear and the provisions of Section 19 regarding casualty and taking into account the occupancy of the Rentable Unit, when surrendered. Normal wear and tear shall not include any damage or deterioration that would have been prevented had Subtenant properly performed its obligations under this Agreement. The Premises shall be surrendered free and clear of all liens and encumbrances arising out of Subtenant's acts other than liens and encumbrances approved by the

Authority and rights of residential tenants in Rentable Units occupied at the end of the Term, if any. Immediately before the expiration or termination of this Agreement, Subtenant shall remove all of Subtenant's Personal Property as provided in this Agreement and repair any damage resulting from such removal. Subtenant's obligations under this Section shall survive the expiration or termination of this Agreement. Any items of Subtenant's Personal Property remaining in the Premises after the expiration or termination of this Agreement may, at the Authority's option, be deemed abandoned and disposed of in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Law. The Authority agrees to assume all Rental Agreements at the end of the Term, entered into by Subtenant in conformity with this Agreement. In no event is Subtenant required to evict a residential tenant who has executed a Rental Agreement in conformity with this Agreement at the end of the Term.

28. HAZARDOUS MATERIALS

28.1 No Hazardous Materials. Except as shown on Exhibit K or in a Work Plan or the Management Plan approved by the Authority, Subtenant covenants and agrees that Subtenant shall not, and shall take commercially reasonable efforts to ensure that Subtenant's Invitees do not, cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or transported to or from the Premises in violation of Environmental Laws (as defined herein) without the prior written approval of the Authority. The Authority may from time to time reasonably request Subtenant to provide adequate information for the Authority to determine whether any Hazardous Material permitted hereunder is being handled in compliance with all applicable federal, state or local Laws or policies relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises ("**Environmental Laws**"), and Subtenant shall promptly provide all such information reasonably requested. The Authority and the Authority's Agents shall have the right to inspect the Premises for Hazardous Material and compliance with the provisions hereof at all reasonable times upon reasonable advance oral or written notice to Subtenant (except in the event of an emergency). As used herein "**Hazardous Material**" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment, including, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (also commonly known as CERCLA), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code, any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code, and any asbestos and asbestos containing materials and petroleum, including crude oil or any fraction thereof, and natural gas or natural gas liquids.

28.2 No Releases. Subtenant shall not, and Subtenant shall use commercially reasonable efforts to ensure that Subtenant's Invitees do not, cause any spilling, leaking, pumping, pouring, emitting, discharging, injecting, escaping, leeching or dumping ("**Release**") of Hazardous Material in, on, under or about the Premises. Subtenant shall immediately notify the Authority if and when Subtenant has actual knowledge that there has been a Release of Hazardous Material in, on or about the Premises and shall afford the Authority a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

28.3 Subtenant's Environmental Indemnity. Without limiting Subtenant's general Indemnity contained in Section 24.1, if Subtenant fails to perform any of its obligations contained in Section 28.1 or 28.2, Subtenant shall Indemnify the Authority and the Authority's

Agents from and against any and all Losses arising under or related to such failure, including, without limitation Losses related to (i) enforcement, investigation, remediation or other governmental regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws, (ii) claims by any third party against the Authority or the Authority's Agents relating to damage, contribution, cost recovery compensation, loss or injury, (iii) investigation and remediation costs, fines, natural resource damages, the loss or restriction of the use or any amenity of the Premises or the Base and reasonable attorneys' fees and consultants' fees and costs, and (iv) all costs associated with the investigation and remediation of Hazardous Material and with the restoration of the Premises to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, and expressly excluding any Losses to the extent covered by the Section 330 Indemnity or caused by the Authority, its Agents or Invitees. All costs paid by Subtenant under this provision as a result of acts or omissions by Subtenant's Invitees shall be deemed an approved Operating Expense unless caused by Subtenant's gross negligence or willful misconduct.

28.4 No Hazardous Materials. The Authority covenants and agrees that the Authority and the Authority's Agents shall not, and shall take reasonable efforts to ensure that Authority's Invitees do not, cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or transported to or from the Premises in violation of Environmental Laws.

28.5 No Releases. The Authority and Authority's Agents shall not, and Authority shall use reasonable efforts to ensure that the Authority's Invitees do not, cause any Hazardous Material Release in, on, under or about the Premises. The Authority shall immediately notify the Subtenant if and when Authority has actual knowledge that there has been a Release of Hazardous Material on or about the Premises and shall afford the Subtenant a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

28.6 Authority's Environmental Indemnity. Without limiting the Authority's general Indemnity contained in Section 24.2, if the Authority fails to perform any of its obligations contained in Section 28.4 or 28.5, the Authority shall Indemnify the Subtenant and the Subtenant's Agents from and against any and all Losses arising under or related to such failure, including, without limitation Losses related to (i) enforcement, investigation, remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws, (ii) claims by any third party against the Subtenant or the Subtenant's Agents relating to damage, contribution, cost recovery compensation, loss or injury, (iii) investigation and remediation costs, fines, natural resource damages, the loss or restriction of the use or any amenity of the Premises and reasonable attorneys' fees and consultants' fees and costs, and (iv) all costs associated with the investigation and remediation of Hazardous Material and with the restoration of the Premises or the Base to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, and expressly excluding any Losses to the extent covered by the Section 330 Indemnity or caused by the Subtenant, its Agents or Invitees.

28.7 Acknowledgment of Receipt of EBS and FOSL Reports. Subtenant and the Authority, respectively, hereby acknowledge for itself and its respective Agents that, before the execution of this Agreement, it has received and reviewed the Environmental Baseline Survey and the FOSLs described in the Master Lease.

29. RELOCATION COSTS

Without limiting the Authority's Indemnity under Section 24.2, the Authority shall be responsible for and shall Indemnify Subtenant and its Agents for any and all relocation costs payable to residential tenants arising under federal and state relocation assistance laws, including, but not limited to, California Government Code Section 7260 et seq.

30. CONVENIENCE STORE AND OTHER SERVICES

30.1. Good Faith Efforts. The Authority shall use good faith efforts to work with TIHDI and Subtenant to maintain existing commercial services on the Base, including a child-care center, cafe, and convenience store.

31. TRANSPORTATION SERVICES

31.1 Bus Service. The Authority shall use good faith efforts to have the City maintain at least the current level of municipal transportation bus service to and from the Base.

31.2 Public Transit Information. Subtenant shall make good faith efforts to establish and maintain during the Term a program to encourage maximum use of mass or public transportation by Subtenant's Agents and Invitees, including residential tenants.

32. WORKFORCE HIRING GOALS *[to be updated]*

In performing its rights and responsibilities under this Agreement, Subtenant shall comply with the following workforce hiring goals for qualified homeless or otherwise economically disadvantaged persons and San Francisco residents.

32.1 Subtenant's Workforce Hiring Goals. Subtenant, in connection with the Work, shall use good faith efforts to meet the work force hiring goals set forth in Section 32.2 (the "**Workforce Goals**"). For purposes of this Section 32, Subtenant's good faith efforts ("**Good Faith Efforts**") shall mean the following:

- (a) Upon request, submitting a written plan describing how Subtenant intends to meet the Workforce Goals;
- (b) Listing jobs available on the Premises with the TIHDI Job Broker at least two weeks before advertising for applicants elsewhere to the extent practical, considering the nature of the job involved;
- (c) Considering for appropriate job openings all candidates who are qualified, screened and referred to it by the TIHDI Job Broker if referred before the opening being otherwise filled;
- (d) Communicating with TIHDI about job openings by facsimile at the same time such job opening is communicated to any other agency or broker and providing information about jobs and about outcomes of referrals within a reasonable time upon request by the TIHDI Job Broker;
- (e) Consulting with the TIHDI Job Broker once a month, as necessary, about how to meet Subtenant's Workforce Goals; and
- (f) Meeting and conferring with the TIHDI Job Broker monthly, if necessary, to discuss and attempt to resolve any problems with Subtenant meeting its Workforce Goals.

(g) Upon request, working with the City's First Source Hiring Administration on new job opportunities and otherwise complying with the City's First Source Hiring Program as set forth in Administrative Code Chapter 83.

32.2 Workforce Hiring Goals.

(a) Construction Workforce. Without obligation (other than as expressly set forth herein), Subtenant shall give consideration for hiring on all construction projects on the Premises to qualified homeless or otherwise economically disadvantaged persons, and to qualified residents of San Francisco whose annual income, at the time of hire, is at or below fifty percent (50%) of median income for the City as determined by HUD.

(b) Subcontracting. Without obligation, Subtenant will consider subcontracting certain tasks to be performed by Subtenant under this Agreement to TIHDI member organizations, particularly for grounds keeping, janitorial, recycling and deconstruction activities. Subcontracts with TIHDI organizations will be included for purposes of determining Subtenant's Good Faith Efforts to meet the Work Force Goals.

(c) Nonconstruction Workforce. Without obligation, except as provided in this Section 32, the Subtenant shall use Good Faith Efforts to hire for nonconstruction work, (i) twenty-five percent (25%) of its nonconstruction workforce from homeless or economically disadvantaged persons, at the time of hiring, and (ii) fifty percent (50%) from San Francisco residents.

32.3. Hiring Plan. Upon request, Subtenant shall submit a hiring plan to the Authority to describe how Subtenant intends to meet its Workforce Goals, which description should include community outreach and recruiting efforts, hiring procedures, a projected schedule for meeting the Workforce Goals, and alternative courses of action if it appears that the Workforce Goals will not be met.

32.4. Reports. Upon the Authority's request, Subtenant shall prepare reports regarding the composition of Subtenant's work force reasonably satisfactory to the Authority.

32.5. Matters Subject to Enforcement Procedure. In addition to the initial preparation of the Hiring Plan, all matters related to implementing the Hiring Plan and the Workforce Goals are subject to the Enforcement Procedure described in Section 32.7.

32.6. Implementation of Enforcement Procedure. The Enforcement Procedure, as provided in Section 32.7, shall be the exclusive procedure for resolving any dispute concerning the interpretation or implementation of the Hiring Plan or any alleged deficiency in Subtenant's Good Faith Efforts. The Enforcement Procedure shall be implemented by the City department responsible for administering the City's workforce programs (the "**Workforce Office**"), which shall have the powers described below unless otherwise provided by law.

(a) All subcontracts related to the Agreement ("**Subcontracts**") shall incorporate the provisions of this Section 32 and the Authority shall have the right to enforce said obligations, requirements and agreements against the Subtenant or its subcontractors. Subtenant shall require, by contract, that each subcontractor participate in Enforcement Procedure proceedings in which it may be identified, and that each subcontractor shall be bound by the outcome of such Enforcement Procedure according to the decision of the Workforce Office.

32.7 Enforcement Procedure.

(a) Initiation and Process. If the Authority reasonably determines that Subtenant has failed to use Good Faith Efforts to meet the Workforce Goals, or for any other matter subject to this Enforcement Procedure, the Authority shall send a written Notice of Noncompliance to Subtenant describing the basis for its determination and suggesting a means to cure any deficiencies. If Subtenant does not, in the reasonable discretion of the Authority, cure the deficiency within thirty (30) days, the matter shall be submitted to the following Enforcement Procedure.

(i) Before the filing and service of a request to the Workforce Office (a “**Request**”), the parties to any dispute shall meet and confer in an attempt to resolve the dispute.

(ii) The Authority, Subtenant or any subcontractor may commence resolution of any dispute covered by the Enforcement Procedure by filing a Request and sending a copy to each involved entity including the Authority. The Request shall be filed and served either by hand delivery or by registered or certified mail. The Request shall identify the entities involved in the dispute and state the exact nature of the dispute and the relief sought. If the complaining party seeks a temporary restraining order and/or a preliminary injunction, the Request shall so state in the caption of the Request.

(iii) Service on the Subtenant of the Request or any notice provided for by this Section 32 shall constitute service of the Request or notice on all subcontractors who are identified as being in alleged noncompliance in the Request. The Subtenant shall promptly serve the Request or notice, by hand delivery or registered or certified mail, on all such subcontractors.

(iv) The TIHDI Job Broker shall have the right to present testimony or documentary evidence at Enforcement Procedure proceedings.

(v) After the filing and the service of a Request, the parties shall negotiate in good faith for a period of 10 business days in an attempt to resolve the dispute; provided that the complaining party may proceed immediately to the Enforcement Procedure, without engaging in such a conference or negotiations, if the facts could reasonably be construed to support the issuance of a temporary restraining order or a preliminary injunction (“**Temporary Relief**”). The Workforce Office shall determine whether the facts reasonably support the issuance of Temporary Relief.

(vi) If the dispute is not settled within 10 business days, a hearing shall be held within 90 days of the date of the filing of the Request, unless otherwise agreed by the Parties or ordered by the Workforce Office upon a showing of good cause; provided, that if the complaining party seeks Temporary Relief, the hearing on the motion shall be heard not later than ten (10) following the Request. The Workforce Office shall set the date, time and place for the Enforcement Procedure hearings. In the Enforcement Procedure proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

(b) Workforce Office's Decision. The Workforce Office shall render a decision within 20 days of the date that the hearing; provided that where a temporary restraining order is sought, the Workforce Office shall render a decision not later than 24 hours after the hearing on the motion. The Workforce Office shall send the decision by certified or registered mail to the Authority, the Subtenant and the subcontractor, if any.

(i) The Workforce Office may enter a default award against any party who fails to appear at the hearing; provided said party received actual notice of the hearing. In a proceeding seeking a default award against a party other than the Subtenant, the Subtenant shall provide proof of service on the party as required by this Section. In order to obtain a default award, the

complaining party need not first seek or obtain an order to arbitrate the controversy under Code of Civil Procedure §1281.2.

(ii) Except as otherwise provided in this Section 32, the Workforce Office shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agreement, or to negotiate new agreements or provisions between the Parties.

(iii) The inquiry of the Workforce Office shall be restricted to the particular controversy that gave rise to the request for the Enforcement Procedure. A decision of the Workforce Office issued hereunder shall be final and binding upon the Authority, Subtenant, and subcontractors. The losing party shall pay the Workforce Office's fees and related costs of the Enforcement Procedure. Each party shall pay its own attorneys' fees provided that fees may be awarded to the prevailing party if the Workforce Office finds that the Request was frivolous or that the Enforcement Procedure action was otherwise instituted or litigated in bad faith.

(c) Remedies and Sanctions. Except as may otherwise be expressly provided herein, the Workforce Office 'may impose only the remedies and sanctions set forth below and only against a non-compliant party:

(i) Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the failure to make Good Faith Efforts, and/or to require Subtenant and/or its subcontractors to make such Good Faith Efforts, including, but not limited to, orders enjoining the Subtenant from recruiting, screening or hiring (through new hires, transfers or otherwise) any person for employment at the Premises pending resolution of the alleged deficiency.

(ii) Require the Subtenant or Subcontractors to refrain from entering into new contracts related to work related to the Agreement, or from granting extensions or other modifications to existing contracts related to the Agreement, other than those minor modifications or extensions necessary to enable completion of the work covered by the existing contract, with any non-compliant subcontractor until such subcontractor provides assurances satisfactory to the Authority and the Subtenant of future Good Faith Efforts to comply with the Workforce Goals.

(iii) Direct the Subtenant or subcontractor to cancel, terminate, suspend or cause to be canceled, terminated or suspended, any contract or lease or portions thereof for failure of the subcontractor to make Good Faith Efforts to comply with the Workforce Goals, provided, however that Subcontracts may be continued upon the condition that a program for future compliance is approved by the Authority.

(iv) If the Subtenant or subcontractor is found to be in willful breach of its obligations to make Good Faith Efforts to achieve the Workforce Goals, impose financial penalties not to exceed \$5,000 or 10 percent of the total monetary consideration contemplated by the contract at issue, whichever is less, for such breach on the party responsible for the willful breach; provided, however, no penalty shall be imposed pursuant to this paragraph for the first willful breach unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. The Subtenant or subcontractor may impose penalties for subsequent willful breaches whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

(v) Direct that the Subtenant or subcontractor produce and provide to the Authority any records, data or reports that are necessary to determine if a violation has occurred and/or to monitor the performance of the Subtenant or Subcontractor.

(vi) Issue such other relief deemed necessary to ensure that the Good Faith Efforts are made prospectively.

(d) Delays Due to Enforcement. If Subtenant does not timely perform its obligations under this Agreement with the Authority because of a Workforce Office's order against a party other than the Subtenant, or against the Subtenant so long as Subtenant has made reasonable efforts to comply with the Hiring Plan, such order shall be deemed a Force Majeure Event, and all times shall be extended as provided in this Agreement for Force Majeure Events; provided Subtenant makes good faith efforts to minimize any delays.

(e) Release. The Subtenant and its subcontractors hereby forever waive and release any and all claims against the Authority for Losses arising under or related to this Section 32.

(f) California Law Applies. California law, including the California Arbitration Act, Code of Civil Procedure §§1280 through 1294.2, shall govern all the Enforcement Proceedings.

32.8 Relationship to Other Employment Agreements. Nothing in this Agreement shall be interpreted to prohibit the continuation of existing workforce-training agreements or interfere with consent decrees, collective bargaining agreements or existing employment contracts. In the case of collective bargaining agreements, Subtenant will take primary responsibility for integrating the requirements of Subtenant's Workforce Goals with any such collective bargaining agreements. As necessary, Subtenant will attempt to negotiate equivalent first source hiring obligations with relevant unions.

32.9 Local Hire. Subtenant agrees to use good faith efforts to hire residents of the City and County of San Francisco at all levels of Subtenant's personnel needs and to contract with local businesses for Subtenant's purchase of supplies, materials, equipment or services.

33 GENERAL PROVISIONS

33.1 Notices. Except as otherwise expressly provided in this Agreement, any notice given hereunder shall be effective only in writing and given by delivering the notice in person, or by sending it first class mail or certified mail with a return receipt requested or reliable commercial overnight courier, with postage prepaid as follows:

Notice Address of Authority: Treasure Island Development Authority
One Avenue of Palms, Suite 241
San Francisco, CA
Attn: Director
Fax No.: 415-274-0299

with a copy to: Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attn: RE/Finance
Fax No.: (415) 554-4755

Notice Address of Subtenant:

With a Copy to:

Notice Address of Master Landlord: Commanding Officer (Code 624)
(Engineering Field Activity West (Bldg. 20812)
Naval Facilities Engineering Command
900 Commodore Drive
San Bruno, California 94066
Attn: Base Conversion Manager-NSTI

Any Party hereunder may designate a new address for notice hereunder by notice given to the other in accordance with the provisions of this Section at least five (5) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made if sent by overnight courier, or upon the date personal delivery is made. For convenience of the Parties, copies of notices may also be given by telefacsimile; however, neither party may give official or binding notice by facsimile. Subtenant shall promptly provide City with copies of any and all notices received regarding any alleged violation of laws or insurance requirements or any alleged unsafe condition or practice.

33.2 No Implied Waiver. No failure by the Authority to insist upon the strict performance of any obligation of Subtenant under this Agreement 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, no acceptance of full or partial Rent during the continuance of any such breach, and no acceptance of the keys to or possession of the Premises before the expiration of the Term by any Agent of the Authority, shall constitute a waiver of such breach or of the Authority's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this Agreement. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of the Authority given in any instance under the terms of this Agreement shall not relieve Subtenant of any obligation to secure the consent of the Authority in any other or future instance under this Agreement. The provisions of this Section 33.2 shall be mutual to the extent applicable.

33.3 Approvals and Consents. Unless otherwise expressly provided in this Agreement, whenever approval, consent or satisfaction is required of the Authority or Subtenant under this Agreement, it shall not be unreasonably withheld, conditioned or delayed. The reasons for any disapproval of consent hereunder shall be stated in reasonable detail in writing. Approval by a Party of any act or request by the other Party shall not be deemed to waive or render unnecessary approval to or of any similar or subsequent acts or requests. Whenever approval or consent of the Authority is required under this Agreement, such approval shall mean the approval of the Director. If the Director determines that action or approval is required by the Authority's Commission, the Director shall submit such matter to the Authority's Commission at the next regularly-scheduled meeting for which an agenda has not yet been finalized and for which the Authority can prepare and submit a staff report in keeping with the Authority's standard practices.

33.3 Amendments. The terms of this Agreement may not be changed, waived, or terminated except by a written instrument signed by the Parties.

33.4 Due Authorization and Execution. The person signing for the Authority represents and warrants that the Authority is a non-profit, public benefit corporation, and an instrumentality of the State of California and the City and County of San Francisco, and that he or she has the right and authority to execute this Agreement. If Subtenant signs as a corporation, a partnership, a limited liability company, or similar entity, Subtenant hereby covenants and warrants that Subtenant is a duly authorized and existing entity, that Subtenant has and is qualified to do business in California, that Subtenant has the full right and authority to enter into this Agreement, and that each and all of the persons signing on behalf of Subtenant are authorized to do so. Upon the Authority's request, Subtenant shall provide Authority with evidence reasonably satisfactory to the Authority confirming the foregoing representations and warranties. Without limiting the generality of the foregoing, Subtenant and the Authority each represents and warrants to the other that it has full power to make the waivers and releases, indemnities and the disclosure set forth herein, and that it has received independent legal advice from its attorney as to the advisability of entering into an Agreement containing those provisions and their legal effect.

33.5 Joint and Several Obligations. The word "Subtenant" as used herein shall include the plural as well as the singular. If there is more than one Subtenant or one entity that makes up Subtenant, the obligations and liabilities under this Agreement imposed on Subtenant shall be joint and several.

33.6 Interpretation of Agreement. The recitals and the captions preceding the articles and sections of this Agreement and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Agreement. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the party responsible for drafting. Provisions in this Agreement relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Agreement, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

33.7 Successors and Assigns. Subject to the provisions of Section 20, the terms, covenants and conditions contained in this Agreement shall bind and inure to the benefit of the Authority and Subtenant and, except as otherwise provided herein, their representatives and successors and assigns.

33.8 Brokers. Neither party has had any contact nor dealings regarding the leasing of the Premises or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the Agreement contemplated herein. If any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Losses incurred by the indemnified party in defending against the same. The provisions of this Section shall survive the expiration or termination of this Agreement.

33.9 Severability. If any provision of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by Law.

33.10 Governing Law. This Agreement shall be construed and enforced in accordance with the Laws of the State of California.

33.11 Entire Agreement. This Agreement, including the exhibits, contain the entire agreement between the Parties and supersede all prior or written or oral negotiations, discussions, understandings and agreements. The execution of this Agreement by the Authority shall be deemed to constitute approval of each exhibit hereto. The Parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial, administrative or other legal proceeding involving this Agreement. Subtenant and the Authority hereby acknowledge that neither the other nor the other's Agents have made any representations or warranties with respect to the Premises or this Agreement except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by either Subtenant or the Authority by implication or otherwise unless expressly set forth herein.

33.12 Attorneys' Fees. If either the Authority or Subtenant fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all reasonable costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including court costs and reasonable attorneys' fees. For purposes of this Agreement, reasonable fees of attorneys of the Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Authority.

33.13 Time of Essence. Time is of the essence with respect to all provisions of this Agreement in which a definite time for performance is specified.

33.14 Cumulative Remedies. All rights and remedies of either party hereto set forth in this Agreement shall be cumulative, except as may otherwise be provided herein.

33.15 Survival of Indemnities. Termination of this Agreement shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Agreement, nor shall it affect any provision of this Agreement that expressly states it shall survive termination hereof.

33.16 Relationship of Parties. The Authority is not, and none of the provisions in this Agreement shall be deemed to render the Authority, a partner in Subtenant's business, or joint venturer or member in any joint enterprise with Subtenant. This Agreement is not intended nor shall it be construed to create any third party beneficiary rights in any third party, including residential tenants and TIHDI, unless otherwise expressly provided.

33.17 Non-Liability of Parties' Officials and Employees. No elective or appointive board, commission, member, officer or employee of either of the Parties or their Agents shall be

personally liable in the event of any default, breach or for any amount which may become due, or for any obligation under this Agreement.

33.18 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

34. SPECIAL PROVISIONS

34.1. Non-Discrimination in Contracts and Benefits Ordinance.

(a) Covenant Not to Discriminate. In the performance of this Agreement, Subtenant agrees not to discriminate against any employee, any City employee working with Subtenant, or applicant for employment with Subtenant, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) Subleases and Other Subcontracts. Subtenant shall include in all subleases and other subcontracts (not including the Rental Agreements) relating to the Premises a non-discrimination clause applicable to such Subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Subtenant shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subtenants and other subcontractors to comply with such provisions. Subtenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) Non-Discrimination in Benefits. Subtenant does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) CMD Form. As a condition to this Agreement, Subtenant shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure approval of the form. Subtenant hereby represents that prior to execution of this Agreement, (i) Subtenant executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and (ii) CMD approved such form.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Subtenant shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Subtenant understands that pursuant to Section 12B.2(h) of the

San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Subtenant and/or deducted from any payments due Subtenant.

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

34.3 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 802(b) and 803(b) of the San Francisco Environment Code, Subtenant shall not provide any items to the Work or Alterations, or otherwise in the performance of this Agreement, which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. If Subtenant fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Tenant may be liable for liquidated damages as set forth in Chapter 8.

34.4 Conflicts of Interest. Through its execution of this Agreement, Subtenant acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if Subtenant becomes aware of any such fact during the term of this Agreement Subtenant shall immediately notify the City.

34.5 Prohibition of Tobacco Advertising. Subtenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of Authority, 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 communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

34.6 Prohibition on Alcohol Advertising. Subtenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises, except in areas that are operated as a restaurant, a concert or sports venue, or places where the sale, production or consumption of alcohol is permitted. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (a) communicate the health hazards of alcoholic beverages, (b) encourage people not to drink alcohol or to stop drinking alcohol, or (c) provide or publicize drug or alcohol treatment or rehabilitation services.

34.7 Holding Over. If Subtenant retains possession of any portion of the Premises after the expiration or the earlier termination of this Agreement, then unless the Authority expressly agrees to the holdover in writing, Subtenant shall pay the Authority, on a month-to-month basis Base Rent equal to one hundred and fifty percent (150%) of the latest Base Rent payable by Subtenant hereunder prior to such expiration, together with an amount estimated by the Authority for any additional charges payable under this Agreement, and shall otherwise be on the terms and conditions herein specified so far as applicable (except for those pertaining to the Term and any Extension Options). Any failure by Subtenant to surrender, discontinue using, or, if required by the Authority, any failure to remove any property or equipment following written demand for the same by the Authority, shall constitute continuing possession for purposes hereof. Subtenant acknowledges that the foregoing provisions shall not serve as permission for the Subtenant to hold over, nor serve to extend the term of this Agreement beyond the end on the term hereof. Any holding over without the Authority's consent shall constitute a default by Subtenant and entitle the Authority to exercise any or all of its remedies as provided herein, notwithstanding that the Authority may elect to accept one or more payments of Rent, and whether or not such amounts are at the holdover rate specified above or the rate in effect at the end of the Term of this Agreement. Any holding over after the expiration of the Term with the express consent of the Authority shall be construed to automatically extend the Term of this Agreement on a month-to-month basis at a Base Rent equal to the latest Base Rent payable by Subtenant hereunder prior to such expiration, together with an amount estimated by the Authority for any additional monthly charges payable under this Agreement, and shall otherwise be on the terms and conditions herein specified so far as applicable (except for those pertaining to the Term and any Extension Options). Subtenant's obligations under this Section shall survive the expiration or termination of this Agreement.

34.8 Prevailing Wages. Subtenant agrees that any person performing labor in the erection, construction, renovation, alteration, improvement, demolition, excavation, installation or repair (not including maintenance) of any building, structure, improvement, infrastructure, road, park, utility or similar facility on the Premises, provided by or through Subtenant under this Agreement, shall be paid not less than the highest prevailing rate of wages, and shall be subject to hours and days of labor requirements that are established under San Francisco Administrative Code Section 6.22(E) and 6.22(F). Subtenant shall require that all contracts and subcontracts for such work contain the requirements of San Francisco Administrative Code Sections 6.22(E), subsections (4) – (8), and 6.22(F), and shall reference the Authority's rights as set forth in this Section, including but not limited to the Authority's (and Subtenant's) right to withhold funds and impose penalties against any contractor or subcontractor that fails to pay prevailing wages as required in this Section. Subtenant shall also require any contractor to electronically submit, for itself and for all subcontractors, certified payroll reports and statements of compliance in the manner specified by the Authority for all persons performing labor as set forth above. Subtenant shall have all rights and remedies, including the right to withhold payments or assess penalties, against any contractor and subcontractor as set forth in Section 6.22(E) (8) for failure to pay prevailing wages as set forth in this Section. In addition, Sublandlord and Subtenant shall jointly collaborate on any such remedial action to ensure compliance with this Section, including the assessment of penalties and, when warranted, the termination of any contractor or subcontractor.

34.9 Pesticide Prohibition. Subtenant shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which (a) prohibit the use of certain pesticides on City or Authority property, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (c) require Subtenant to submit to the Authority an integrated pest management ("IPM") plan, if applicable, that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Subtenant may need to apply to the Premises during the terms of this Agreement, (ii) describes the steps Subtenant will take to meet the City's IPM Policy described in Section 300 of

the Pesticide Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Subtenant's primary IPM contact person. In addition, Subtenant shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing herein shall prevent Subtenant from seeking a determination from the Commission on the Environment that it is exempt from complying with certain portions of the Pesticide Ordinance .

34.10 Sunshine Ordinance. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between the Authority and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

34.11 Drug Free Workplace. Subtenant 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 and Authority premises. Subtenant agrees that any violation of this prohibition by Subtenant, its Agents or assigns shall be deemed a material breach of this Agreement.

34.12 Requiring Health Benefits for Covered Employees. Unless exempt, Subtenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the HCAO is available on the web at <http://www.sfgov.org/olse/hcao>. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee, Subtenant shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Subtenant chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if the Subtenant is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with subsection (a) above.

(c) Subtenant's failure to comply with the HCAO shall constitute a material breach of this Agreement. the Authority shall notify Subtenant if such a breach has occurred. If, within thirty (30) days after receiving the Authority's written notice of a breach of this Agreement for violating the HCAO, Subtenant fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Subtenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the Authority shall have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the Authority.

(d) Any Subcontract entered into by Subtenant shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Subtenant shall notify City's Purchasing Department when it enters into such a Subcontract and shall certify to the Purchasing

Department that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Subtenant shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the Authority may pursue the remedies set forth in this Section against Subtenant based on the Subcontractor's failure to comply, provided that the Authority has first provided Subtenant with notice and an opportunity to obtain a cure of the violation.

(e) Subtenant shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City or the Authority with regard to Subtenant's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Subtenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(g) Subtenant shall keep itself informed of the current requirements of the HCAO.

(h) Subtenant shall provide reports to the Authority in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(i) Subtenant shall provide the Authority with access to records pertaining to compliance with HCAO after receiving a written request from the Authority to do so and being provided at least five (5) business days to respond.

(j) the Authority may conduct random audits of Subtenant to ascertain its compliance with HCAO. Subtenant agrees to cooperate with the Authority when it conducts such audits.

34.13 Notification of Limitations on Contributions. Through its execution of this Agreement, Subtenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City or the Authority for the selling or leasing of any land or building to or from the City or the Authority whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Subtenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Subtenant further acknowledges that the prohibition on contributions applies to each Subtenant; each member of Subtenant's board of directors, and Subtenant's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Subtenant; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Subtenant. Additionally, Subtenant acknowledges that Subtenant must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Subtenant further agrees to provide to City the name of each person, entity or committee described above.

34.14 Preservative-Treated Wood Containing Arsenic. Subtenant may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Environment Code Chapter 13 is obtained from

the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Subtenant may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Subtenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

34.15 Resource Efficient City Buildings and Pilot Projects. Subtenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 707 relating to resource-efficient City buildings and resource-efficient pilot projects. Subtenant hereby agrees that it shall comply with all applicable provisions of such code sections.

34.16 Food Service Waste Reduction. Subtenant agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Sublease as though fully set forth. This provision is a material term of this Sublease. By entering into this Sublease, Subtenant agrees that if it breaches this provision, Sublandlord will suffer actual damages that will be impractical or extremely difficult to determine; further, Subtenant agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that Sublandlord will incur based on the violation, established in light of the circumstances existing at the time this Sublease was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by Sublandlord because of Subtenant's failure to comply with this provision.

34.17 Estoppel Certificates. At any time and from time to time, within ten (10) days after Sublandlord's request, Subtenant will execute, acknowledge and deliver to Sublandlord a statement certifying the following matters: (a) the Commencement Date and Expiration Date of this Sublease; (b) that this Sublease is unmodified and in full force and effect (or if there have been modifications, that this Sublease is in full force and effect as modified and the date and nature of such modifications); (c) the dates to which the Rent has been paid; (d) that there are no Events of Default under this Sublease (or if there are any Events of Default, the nature of such Event of Default); and (e) any other matters reasonably requested by Sublandlord. Sublandlord and Subtenant intend that any such statement delivered pursuant to this paragraph may be relied upon by any assignee of Sublandlord's interest in the Master Lease or this Sublease, any mortgagee or any purchaser or prospective purchaser of the building or land on which the Premises are located. Subtenant irrevocably appoints Sublandlord, as Subtenant's agent, to execute and deliver in the name of Sublandlord any such instrument if Subtenant fails to do so, which failure shall also be an Event of Default under this Sublease.

Authority and Subtenant have executed this Agreement as of the date first written above.

DATED:

SUBTENANT:

By: _____
Its: _____

AUTHORITY:

THE TREASURE ISLAND DEVELOPMENT, a
California nonprofit public benefit corporation

By _____
Its: _____

DRAFT

**REQUEST FOR PROPOSALS FOR
SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT
FOR MARKET-RATE RENTAL HOUSING, TREASURE ISLAND**

Attachment E

TIHDI Workforce Hiring Plan

As part of the workforce hiring goals for Treasure Island, the Treasure Island Development Authority's (TIDA) requires that Island commercial tenants are to make good faith efforts to fill appropriate available on-Island positions through the Treasure Island Homeless Development Initiative (TIHDI) TIHDI Job Broker Program (TJBP). All new non-supervisory positions created by on-Island commercial tenants and businesses should be opened to consideration of TJBP candidates, and San Francisco residents should account for a majority of all new hires by on-Island commercial tenants and businesses.

In order to help commercial tenants reach these goals, the TJBP provides free and immediate access to San Francisco's extensive non-profit employment & training programs and to a resource pool of individuals with varied skill levels and work experience backgrounds.

Through the TJBP, a job description and set of qualification requirements for the new or open position is distributed to the TJBP's network of employment service agencies on behalf of the commercial tenant. Appropriate candidates from these agencies are then referred to the commercial tenant for interviewing. All of the TJBP referrals are required to meet universal standards of job readiness.

To effectively implement the Good Faith provisions of the TJBP, commercial tenants are asked to provide TIHDI with a written plan, list available jobs with TIHDI prior to public advertisement, consider TJBP referrals, and establish an ongoing relationship with the TJBP.

Additionally, if a commercial tenant does not anticipate making any new hires, it can meet its requirements under the TJBP by contracting with one of the two on-Island social enterprise operations: Toolworks Janitorial Services and/or Rubicon Programs Landscaping. Contact the TIHDI Job Broker for these services and for further information on the TIHDI Job Broker System to discuss and develop your workforce hiring plan.

For further information on the TIHDI Job Broker Program, please contact:

Roxanne Balousek, TIHDI Job Broker
(415) 274-0311 ex. 304
rbalousek@tihdi.org

REQUEST FOR PROPOSALS FOR
SUBLEASE AND PROPERTY MANAGEMENT AGREEMENT
FOR MARKET-RATE RENTAL HOUSING, TREASURE ISLAND

Attachment F

TRANSITION HOUSING RULES AND REGULATIONS FOR THE VILLAGES AT TREASURE ISLAND

1st Modification-02/28/2013

TREASURE ISLAND DEVELOPMENT AUTHORITY

TRANSITION HOUSING RULES AND REGULATIONS

FOR THE VILLAGES AT TREASURE ISLAND

ADOPTED BY

TREASURE ISLAND DEVELOPMENT AUTHORITY

BOARD OF DIRECTORS

Resolution No.

[date]

TRANSITION HOUSING RULES AND REGULATIONS
FOR THE VILLAGES AT TREASURE ISLAND

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**TRANSITION HOUSING RULES AND REGULATIONS
FOR THE VILLAGES AT TREASURE ISLAND**

I. GENERAL

A. Background

These Transition Housing Rules and Regulations for The Villages at Treasure Island (“**Transition Housing Rules and Regulations**”) reflect the decision of the Treasure Island Development Authority Board of Directors (“**TIDA Board**”) to implement certain recommendations made by the Board of Supervisors of the City and County of San Francisco (“**City**”) in Resolution No. 699-06 (the “**Term Sheet Resolution**”). Definitions used in these Transition Housing Rules and Regulations are provided in **Appendix 4** for reference.

During World War II, Naval Station Treasure Island (“**NSTI**”) was used as a center for receiving, training, and dispatching service personnel.

After the war, NSTI was used primarily as a naval training and administrative center. In 1993, Congress and the President selected NSTI for closure and disposition by the Base Realignment and Closure Commission acting under Public Law 101-510, 10 U.S.C. § 2687 and its subsequent amendments (“**BRAC**”). The Department of Defense subsequently designated the City as the Local Reuse Authority responsible for the conversion of NSTI to civilian use under the federal disposition process.

The City opted to negotiate for the transfer of NSTI under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. Law 103-421) (the “**Base Redevelopment Act**”) amending BRAC, under which certain portions of NSTI would be set aside for homeless assistance programs in a manner that balances the economic development needs of the redevelopment process. A consortium of nonprofit organizations is providing a variety of services to the formerly homeless (currently, Catholic Charities, Community Housing Partnership, Rubicon Programs, Swords for Ploughshares, and Walden House), organized as the Treasure Island Homeless Development Initiative (“**TIHDI**”), to coordinate the homeless assistance programs to be provided under the Base Redevelopment Act.

In anticipation of base closure and following a public planning process, the Mayor, the Board of Supervisors, and the Planning Commission endorsed a Draft Base Reuse Plan for NSTI in 1996 outlining opportunities, constraints, policy goals, and recommendations for the redevelopment of NSTI. The City entered into an agreement with TIHDI in 1996 to develop and implement the homeless component under the Base Reuse Plan, which includes the right to temporary use of former military housing at NSTI and permanent housing through the base redevelopment process. The City formed Treasure Island Development Authority (“**TIDA**”) as a redevelopment agency under California redevelopment law and designated TIDA as the City’s

Local Reuse Authority for NSTI as authorized under the Treasure Island Conversion Act of 1997 (Assembly Bill No. 699, Stats. 1997, ch. 898).

TIDA initiated formal negotiations with the Navy in 1997, the same year the Navy formally closed base operations at NSTI. Also in 1997, the Navy contracted with the City (and subsequently, TIDA) to manage the property pending negotiations for its transfer and redevelopment. As part of managing NSTI on behalf of the Navy, TIDA began subleasing at market rates a portion of the former military housing now known as The Villages at Treasure Island (“**The Villages**”) through a master lease with The John Stewart Company, and directly leasing space to a variety of commercial tenants. The master leases, the Residential Leases for Villages units, and commercial leases are interim pending the Navy’s transfer of NSTI to TIDA for redevelopment and reuse.

TIDA selected Treasure Island Community Development, LLC (“**TICD**”) in 2003 for exclusive negotiations for the master redevelopment of NSTI. The Board of Supervisors adopted the Term Sheet Resolution in 2006, endorsing the Development Plan and Term Sheet for the Redevelopment of Naval Station Treasure Island (as updated and endorsed by the TIDA Board of Directors and the Board of Supervisors in 2010, the “**Development Plan**”), conditioned on completion of environmental review under the California Environmental Quality Act (“**CEQA**”), an extensive community review process, and endorsement by the Treasure Island/Yerba Buena Island Citizen’s Advisory Board and the TIDA Board. The Development Plan will serve as the basis for a Development and Disposition Agreement between TIDA and TICD (as amended, the “**DDA**”), which will govern their respective rights and obligations for the redevelopment of certain portions of NSTI if approved by the TIDA Board and the Board of Supervisors after completion of CEQA review. In the Term Sheet Resolution, the Board of Supervisors recommended that the TIDA Board create a transition program setting forth terms by which existing residents of NSTI could have the opportunity to rent at reduced rents or buy newly-constructed units on Treasure Island.

Consistent with Assembly Bill No. 699, the Development Plan specifies that all of the former military housing on the NSTI (except certain historic buildings) eventually will be demolished. As outlined in the Development Plan, TIDA and TICD intend to phase redevelopment so that new housing can be built on NSTI before demolishing most of the existing residential structures as follows.

- Redevelopment of Yerba Buena Island is planned as part of the first phase of the redevelopment project, requiring demolition of existing Yerba Buena Island housing to be among TICD’s first development activities. Transitioning Households on Yerba Buena Island affected by the early phases of redevelopment will be offered Existing Units on Treasure Island through Interim Moves.
- Demolition of the housing on Treasure Island is proposed to occur in the later phases of the redevelopment project. But some Transitioning Households may be asked to make Long-Term Moves in earlier phases as new housing becomes available for occupancy.

B. Purpose

These Transition Housing Rules and Regulations:

- are designed to ensure that eligible Villages Households who satisfy all qualifications of Transitioning Households under **Section II.A** (Determination of Household Eligibility for Transition Benefits) receive housing opportunities consistent with the Term Sheet Resolution;
- describe benefits below (“**Transition Benefits**”) that are available only to Transitioning Households;
- specify the eligibility criteria for Transitioning Households to receive Transition Benefits; and
- outline the procedures by which Transitioning Households will be offered Transition Benefits, including the opportunity to occupy new housing to be built on TI.

C. Limits of Applicability

The Transition Benefits under these Transition Rules and Regulations:

- apply only to Transitioning Households required to move to accommodate redevelopment of NSTI in accordance with the DDA;
- do not apply if TIDA must relocate Villages and TIHDI residents due to disaster or other event affecting living conditions on NSTI, except as specifically set forth herein; and
- do not apply to:
 - Villages Households that do not satisfy all qualifications of Transitioning Households under **Section II.A** (Determination of Household Eligibility for Transition Benefits); or
 - residents in housing managed by TIHDI member organizations, who will have the opportunity to move to new supportive housing that TIHDI will develop under the proposed Amended and Restated Base Closure Homeless Assistance Agreement; or
 - TIDA’s commercial tenants.

D. Overview and Program Framework

Two types of moves affecting Transitioning Households are anticipated as NSTI is redeveloped:

- **Interim Moves**, in which a Transitioning Household moves from one Existing Unit in The Villages to another Villages Existing Unit on Treasure Island following receipt of a Notice to Move. An example of this would be a move from an Existing Unit in an area proposed for redevelopment in an early phase to an Existing Unit on Treasure Island. *Most Transitioning Households will not be asked to make an Interim Move.*
- **Long-Term Moves**, in which a Transitioning Household moves from one of the Existing Units to a newly-constructed Dwelling on Treasure Island. All Transitioning Households (including those that previously made an Interim Move) will have the opportunity to make this move.

Key elements of these Transition Housing Rules and Regulations are:

- All Transitioning Households that receive a Notice to Move for either an Interim Move or a Long-Term Move will be eligible for Transition Benefits under these Transition Housing Rules and Regulations.
- NSTI residents who move off-Island before they receive a Notice to Move and an offer of Transition Benefits are not Transitioning Households and will not be eligible for Transition Benefits.
- All Transitioning Households will have the opportunity to remain on Treasure Island. No eligible Transitioning Household will be required to move before receiving an offer of Transition Benefits.
- Transitioning Households will have an opportunity to select one of the three Transition Benefit Options described in these Transition Housing Rules and Regulations:
 - the Transition Unit Option to move into rental housing on Treasure Island (See **Article V** (Description of Transition Unit Option));
 - the In-Lieu Payment Option for a lump sum payment upon moving off-Island (See **Article VI** (Description of In-Lieu Payment Option)); or
 - the Unit Purchase Assistance Option for down payment assistance in the purchase of a newly-constructed Dwelling on NSTI (See **Article VII** (Description of Unit Purchase Assistance Option)).

- Moving assistance will be provided to Transitioning Households that:
 - make Interim Moves to other Existing Units on Treasure Island; or
 - select the Transition Unit Option and make Long-Term Moves from their Existing Units to new Transition Units.
- A Premarketing Window to purchase newly-constructed Dwellings on NSTI will be available to:
 - all Transitioning Households in Existing Units before they have selected a Transition Benefit; and
 - Post-Transition Tenants that selected the In-Lieu Payment Option and received an In-Lieu Payment.
- Any resident of The Villages who moves onto NSTI after the DDA Effective Date will be a Post-DDA Tenant under these Transition Housing Rules and Regulations. Post-DDA Tenants who by definition do not qualify for an exception under **Section II.A.1** (Defined Terms for Determining Eligibility) are ineligible for Transition Benefits, but will be offered transition advisory services when required to move.

E. Effective Date

These Transition Housing Rules and Regulations will be effective on the date the DDA becomes effective (the “**DDA Effective Date**”), if the DDA is approved by the TIDA Board and the Board of Supervisors after completion of CEQA review.

II. ELIGIBILITY

A. Determination of Household Eligibility for Transition Benefits

The first step in determining whether a Villages Household is eligible for Transition Benefits is determining the status of the Household, based on the criteria below.

Only Transitioning Households are eligible for Transition Benefits. Transition Benefits are offered to each Transitioning Household as a Household and not to individual members of the Household.

1. Defined Terms for Determining Eligibility. TIDA will determine the members of a Transitioning Household based on the following definitions:

a. “**Existing Unit**” means a Dwelling located on NSTI that is occupied by a Transitioning Household as its primary Dwelling before receipt of a First Notice to Move or an Interim Notice to Move.

b. “**Good Standing**” means that TIDA does not have grounds for eviction as described in **Section XII.A** (Eviction).

c. “**Household**” means an individual, or two or more individuals, related or unrelated, who live together in an Existing Unit as their primary Dwelling, or one or more families occupying a single Existing Unit as their primary Dwelling, including: (i) all adult Household members who are named in the Residential Lease; (ii) minor children in the Household; and (iii) the spouse or registered domestic partner of a Household member. Under these Transition Housing Rules and Regulations, all occupants of a single Existing Unit constitute a single Household, and a Household may include both Post-DDA Tenants and members of a Transitioning Household.

d. “**Post-DDA Tenant**” means a resident who moves onto NSTI after the DDA Effective Date, except as follows: (i) a spouse or registered domestic partner of a member of a Transitioning Household; (ii) a minor child of a member of a Transitioning Household; and (iii) a live-in caregiver for a member of a Transitioning Household who has been approved by TIDA or its agent to reside in the Existing Unit. Persons in categories (i) and (ii) above will only be considered a member of a Transitioning Household if the Household notified TIDA in writing of the new Household member, and requested that the Person's name be added to the Residential Lease at the time that the Household member joined the Household, or, if that Person became a member of the Household after TIDA's most recent notice of annual change in base rent under the Residential Lease.

e. “**Residential Lease**” means the lease agreement, including any addenda, under which a Transitioning Household or a Post-DDA Tenant lawfully occupies an Existing Unit, or under which an employer provides employee housing for employees working on NSTI.

f. “**Transitioning Household**” means a Villages Household consisting of residents who: (i) lawfully occupied an Existing Unit in The Villages as its primary Dwelling on the DDA Effective Date as evidenced by each adult resident’s signature on the Residential Lease and each minor child identified as an occupant in the Residential Lease; (ii) continue to live in an Existing Unit until the Household receives a First Notice to Move for a Long-Term Move or accepts an In-Lieu Payment or Down Payment Assistance; and (iii) remain in Good Standing under its Residential Lease until the Household receives a First Notice to Move for a Long Term Move or accepts an In-Lieu Payment or Down Payment Assistance. A Transitioning Household specifically excludes the following: (A) any Person or Household in Unlawful Occupancy of the Existing Unit; (B) any Post-DDA Tenant in the Household; (C) any Person who occupies an Existing Unit under an arrangement with a business entity that has entered into a Residential Lease with TIDA; and (D) any Person who occupies the Existing Unit solely for the purpose of obtaining Transition Benefits.

g. “**Unlawful Occupancy**” means: (i) a Person or Household has been ordered to move by a valid court order; (ii) the Person’s or Household’s tenancy has been lawfully terminated, if the termination was not undertaken for the purpose of evading the obligations of these Transition Housing Rules and Regulations; or (iii) a Person is not listed on

the Residential Lease, except for a: (x) spouse or registered domestic partner of a member of a Transitioning Household; (y) minor child of a member of a Transitioning Household; or (z) live-in caregiver for a member of a Transitioning Household who has been approved by TIDA or TIDA's agent to reside in the unit, provided that Persons in categories (x) and (y) have met the requirements to be considered a Post-DDA Tenant.

h. **“Force Majeure Household”** means a Household that is not a Post DDA Household and is not in Unlawful Occupancy is required by TIDA or any other agency to move from an Existing Unit off of NSTI as a result of a natural disaster or other condition that makes the Existing Unit uninhabitable prior to the Household receiving a First Notice to Move.

2. TIDA Records of Eligibility. Based on information available to TIDA, including information provided by Villages Households during and in follow-up to interviews under **Section III.B** (Interview Households and Offer Advisory Services), TIDA will maintain records indicating which members of each Villages Household constitute an eligible Transitioning Household and which members are Post-DDA Tenants or otherwise not qualified for Transition Benefits.

B. Ineligible Residents

1. Post-DDA Tenants. Post-DDA Tenants are ineligible for Transition Benefits. A Post-DDA Tenant may be a resident in an Existing Unit in which other residents constitute a Transitioning Household. Post-DDA Tenants will be eligible only for transition advisory services under these Transition Housing Rules and Regulations.

2. Unlawful Occupancy. A resident in Unlawful Occupancy of an Existing Unit is ineligible for Transition Benefits or advisory services under these Transition Housing Rules and Regulations.

III. TRANSITION NOTICES AND PROCEDURES

A. First Notice to Move

1. Delivery of First Notice to Move. TIDA will deliver a First Notice to Move to each affected Household before the Household is required to move to facilitate the ongoing redevelopment of NSTI.

2. Time of Notice. The First Notice to Move will be delivered: (a) no less than 90 days before the date by which an Interim Move must occur; and (b) no less than 120 days before the date by which a Long-Term Move must occur.

3. Contents of Notice. The First Notice to Move will state:

- a. whether the move will be an Interim Move or a Long-Term Move;
- b. TIDA's intent to terminate the Residential Lease for the Existing Unit on a specified date, by which the Household will be required to move;

c. whether TIDA records: (i) list any or all of the members of the Household as an eligible Transitioning Household; or (ii) indicate that any members of the Household are Post-DDA Tenants or are otherwise ineligible for Transition Benefits;

d. if TIDA records indicate that any members of the Household are or may be a Transitioning Household: (i) additional information or verifications necessary to determine eligibility as a Transitioning Household; (ii) a general description of the Transition Benefits that a Transitioning Household may receive under these Transition Housing Rules and Regulations; (iii) additional steps a Transitioning Household must take to secure Transition Benefits, such as setting up an interview to provide TIDA with the information necessary to complete income certification requirements and determine the composition of the Transitioning Household; and (iv) the time-frame for setting up the informational interview to establish the Transitioning Household's housing needs and certify Household Income;

e. if TIDA records indicate that the entire Household (or any member of the Household) is not a Transitioning Household but is a Post-DDA Tenant, information regarding advisory services available to Post-DDA Tenants and on the Household's opportunity to present information demonstrating its eligibility as a Transitioning Household;

f. contact information for questions about the notice or process; and

g. that the notice and all future notices will be translated into a language understood by the Household if the Household notifies TIDA that the Household does not include an adult fluent in English.

B. Interview Household and Offer Advisory Services

1. Schedule Interview. After the First Notice to Move is delivered, TIDA will contact each Household to set up interviews. TIDA will provide sufficient advance notice and scheduling flexibility to enable each adult in the Household (except those in Unlawful Occupancy of the Existing Unit) to be interviewed, so that TIDA can obtain required information and provide advisory services described below.

2. Advisory Services for Transitioning Households:

a. The interviews will enable TIDA to: (i) describe and explain any applicable eligibility requirements for the specific Transition Benefits available to the Transitioning Household under these Transition Housing Rules and Regulations; (ii) advise and assist the Transitioning Household in evaluating its housing needs; (iii) identify any special needs for that Transitioning Household; (iv) assist each Transitioning Household to complete applications for Transition Benefits; and (v) ensure that no Transitioning Household will be required to move from an Existing Unit without an opportunity to relocate to a Transition Unit, except in the case of: (A) an Interim Move; (B) a major disaster as defined in § 102(2) of the federal Disaster Relief Act of 1974; (C) a state of emergency declared by the President of the United States or the Governor of the State of California; or (D) any other emergency that requires the Household to move immediately from the Existing Unit because continued occupancy of the

Existing Unit by the Household constitutes a substantial danger to the health or safety, or both, of the Household.

b. For Long-Term Moves only: (i) the Transitioning Household must begin the process of determining Household Income; and (ii) to qualify for an income-restricted Transition Unit under **Sections V.E.1, V.E.2, or V.E.3** (Calculation of Base Monthly Rental Cost), Household Income of the entire Transitioning Household must be certified, subject to third-party verification. For all Households, TIDA will use the then-current Tenant Income Certification Form published by the California Tax Credit Allocation Committee to determine Household Income. A copy of the current form is attached as **Appendix 1**.

c. If all adult members of a Transitioning Household do not consent to be interviewed or do not provide all of the required information requested during or within 30 days after the interview, TIDA will be entitled to rely solely on the limited information provided in response to the interview and contained in its records relating to the Household when making its determination about eligibility for Transition Benefits.

3. Advisory Services for Post-DDA Tenants. The interviews will enable TIDA to offer the following advisory services to Post-DDA Tenants: (a) assist in evaluating their housing needs and any special needs; (b) provide references to providers of special needs services and other housing in San Francisco; and (c) provide a Household with the opportunity to present information to TIDA to support a claim of eligibility for Transition Benefits.

C. Second Notice to Move

1. Time and Contents of Second Notice to Move. No less than 60 days before a Household is required to move, TIDA will deliver a Second Notice to Move. The Second Notice to Move will state:

a. TIDA's determination of whether the Household is an eligible Transitioning Household;

b. which members of the Household, if any, are Post-DDA Tenants, in Unlawful Occupancy, or otherwise ineligible for Transition Benefits;

c. the actual date by which the move must be complete (the "**Move Date**"); and

d. the options available to the Transitioning Household under these Transition Rules and Regulations.

D. Selection of a Transition Benefit

After receipt of the Second Notice to Move, each Transitioning Household will be required to make certain decisions about Transition Benefits.

1. Transition Benefit Options for Long-Term Moves. For Long-Term Moves, the Second Notice to Move will offer each Transitioning Household a choice of:

a. the Transition Unit Option to move into a Transition Unit in a specifically identified new building on TI, with the number of bedrooms, initial rent, and long-term rent protection as described in **Article V** (Description of Transition Unit Option);

b. the In-Lieu Payment Option to receive an In-Lieu Payment, calculated in accordance with **Article VI** (Description of In-Lieu Payment Option); or

c. the Unit Purchase Assistance Option to receive Down Payment Assistance calculated in accordance with **Article VII** (Description Unit Purchase Assistance Option), but only if new for-sale units are then available for purchase and the Transitioning Household can demonstrate that it can close escrow on the purchase of and move into a new Dwelling on NSTI before the Move Date.

2. Options for Interim Moves. For Interim Moves, the Second Notice to Move will offer each Transitioning Household a choice of the following options:

a. the right to occupy an Existing Unit on Treasure Island with the number of bedrooms and initial rent calculated in accordance with **Article IV** (Interim Moves); or

b. the option to receive an In-Lieu Payment in accordance with **Article VI** (In-Lieu Payment Option).

3. Written Notice to TIDA of Selection. For both Long-Term Moves and Interim Moves, the Transitioning Household's selection may be made by delivering written notice to TIDA, signed by each adult member of the Transitioning Household at any time up to 45 days before the Move Date.

4. Transitioning Household Entitled to Single Transition Benefit. Each Transitioning Household receiving a Long Term Move Notice is entitled to only one of the Transition Benefits described in **Article V** (Transition Unit Option), **Article VI** (In-Lieu Payment Option), and **Article VII** (Unit Purchase Assistance Option). As a condition to receipt of the selected Transition Benefit, each member of the Transitioning Household will be required to waive all other Transition Benefits under these Transition Housing Rules and Regulations.

E. Complete the Move

1. Eligibility for Moving Assistance. Moving assistance to cover the costs of moving the Household will be provided to every Transitioning Household that makes an Interim Move from an Existing Unit on NSTI to another Existing Unit on TI and/or a Long-Term Move from an Existing Unit on NSTI to a Transition Unit. Moving assistance is not provided to: (a) Transitioning Households that receive the In-Lieu Payment Option or Down Payment Assistance; (b) Post-DDA Tenants; (c) Persons in Unlawful Occupancy of their Existing Unit; or (d) other Persons ineligible for Transition Benefits.

2. Actual Costs. A Transitioning Household will be compensated for Actual Reasonable Moving Expenses incurred in moving the Household for an Interim Move to an Existing Unit or a Long-Term Move to a Transition Unit. Costs that may be included in a claim for Actual Reasonable Moving Expenses are listed in **Article VIII.B** (Moving Assistance).

3. Moving Allowance Alternative. A Transitioning Household that is eligible to be reimbursed for Actual Reasonable Moving Expenses may elect instead to receive a Moving Expense Allowance that will be determined according to a schedule established by TIDA, based on a moving expense allowance determined in accordance with established federal Highway Administration schedules maintained by the California Department of Transportation. The current schedule is shown in **Appendix 3**.

F. Early Transition Benefits

1. Limited Circumstances. Under certain circumstances, Transitioning Households may be eligible to receive certain Transition Benefits before receipt of a Notice to Move.

a. The In-Lieu Payment Option may be available earlier, if, and only if, TIDA provides written notice to Transitioning Households offering an early opportunity to receive an In-Lieu Payment, which may be conditioned on the Household moving out of its Existing Unit by a specified date (“**Notice of Early In-Lieu Payment Option**”).

b. The Unit Purchase Assistance Option is available at any time a Transitioning Household completes the purchase of a new Dwelling on NSTI, unless the Transitioning Household has previously lost its status as a Transitioning Household by accepting an In-Lieu Payment or moving into a Transition Unit.

IV. INTERIM MOVES

A. Required Interim Moves

Some Transitioning Households will be required to make an Interim Move from one Existing Unit to another Existing Unit on TI.

An Interim Move will be required for those Transitioning Households that reside in areas proposed for redevelopment in an early phase of development. Although not currently anticipated, Interim Moves also may be required in later phases of development. Transitioning Households required to make an Interim Move will receive a First Notice to Move not less than 90 days before the Move Date and a Second Notice to Move not less than 60 days before the Move Date.

B. Benefits for Interim Moves

Transitioning Households required to make an Interim Move may elect to move to an Existing Unit on TI under the following terms:

1. Size. The offered Dwelling will have at least the same number of bedrooms as the Existing Unit unless the Transitioning Household elects to move to a smaller unit. The Transitioning Household may be offered a Dwelling that has a greater number of bedrooms if the available Dwellings with the same number of bedrooms as the Existing Unit will result in a reduction in total square footage from the Existing Unit by 10% or more.

2. Rent. The initial monthly rent for Transitioning Households making an Interim Move to an Existing Unit on TI will be determined as set forth below. In each case, the initial monthly rent will be subject to annual increases calculated by the Rent Board Adjustment.

a. If the offered Dwelling has the same or a greater number of bedrooms as the Existing Unit, the initial monthly rent for the offered Dwelling will be the lesser of: (a) the rent the Transitioning Household is paying for its Existing Unit on the date of the First Notice to Move; or (b) the market rent that TIDA would otherwise charge for the offered Dwelling on the date of the First Notice to Move.

b. If Transitioning Household has elected to move to an offered Dwelling with fewer bedrooms than its Existing Unit, the initial monthly rent on the offered Dwelling will be the lesser of: (a) the monthly rent for the Existing Unit on the date of the First Notice to Move, reduced by 10% for each reduction in bedroom count, or (b) the market rent that TIDA would otherwise charge for the offered Dwelling on the date of the First Notice to Move. For example, if a Transitioning Household occupies an Existing Unit with four bedrooms on the DDA Effective Date, but elects in an Interim Move to move into an offered Dwelling with two bedrooms, the initial monthly rent under (a) would be 80% of the monthly rent on the Existing Unit on the date of the First Notice to Move.

3. Unit Selection. The Notice to Move for an Interim Move will provide information on the process for Transitioning Households electing to move to an Existing Unit on TI to select a Dwelling.

4. Status as Transitioning Household. The Transitioning Household will retain its status as a Transitioning Household following an Interim Move, and will continue to be eligible for Transition Benefits as long as the Household continues to meet the eligibility requirements stated in **Section II.A.1.d** (Determination of Household Eligibility for Transition Benefits).

C. Option to Elect In-Lieu Payment

Instead of making an Interim Move, Transitioning Households may elect the In-Lieu Payment Option in accordance with **Article VI** (Description of In-Lieu Payment Option).

V. DESCRIPTION OF TRANSITION UNIT OPTION

A. Transition Unit Option

1. Time of Option. The Transition Unit Option is available for Transitioning Households only after TIDA delivers a Notice to Move for a Long-Term Move.

2. Benefits. Transitioning Households will have the opportunity to rent a newly-constructed Transition Unit on Treasure Island. Transitioning Households that elect to move into the offered Transition Unit will be eligible for Actual Reasonable Moving Expenses or a Moving Expense Allowance.

3. Designated Unit. TIDA will designate at least one Transition Unit for each Transitioning Household selecting the Transition Unit Option.

4. Loss of Status. A Transition Unit will be offered to each Transitioning Household unless it has lost its status as a Transitioning Household by its prior receipt of Transition Benefits for a Long-Term Move or it no longer meets the eligibility requirements stated in **Section II.A** (Determination of Household Eligibility for Transition Benefits).

5. Leases for Income-Restricted Units. Leases for Households with Section 8 vouchers, Tax Credit Eligible Households and others occupying Transition Units assisted with state, federal, or local housing funds will be subject to applicable regulations and requirements of such funding programs.

6. Loss of Option. TIDA's obligation to provide a Transitioning Household selecting the Transition Unit Option with a Transition Unit will be deemed to be satisfied if the Transitioning Household is offered and refuses to accept the Transition Unit offered.

B. Standards Applicable to Transition Units

1. Size. Except as provided below, a Transition Unit offered to a Transitioning Household under the Transition Unit Option must contain the same number of bedrooms as in the Existing Unit. Exceptions include:

a. Program regulations of certain government housing programs (e.g. tenant-based Section 8) may limit the number of bedrooms that participating Transitioning Households can be offered.

b. In determining the size of a Transition Unit, Post-DDA Tenants, Persons in Unlawful Occupancy and other Persons ineligible for Transition Benefits are excluded as Persons in the Transitioning Household, but Post-DDA Tenants will be allowed to move into a Transitioning Household's Transition Unit.

c. If the Transitioning Household is smaller when it moves into the Transition Unit than it was when its eligibility was established, TIDA will offer a Transition Unit with one bedroom per Person remaining in the Transitioning Household up to a maximum of four bedrooms.

2. Decent, Safe and Sanitary. The Dwelling must be "**Decent, Safe and Sanitary**," which means it:

- a. conforms with all applicable provisions for existing structures that have been constructed under state or local building, plumbing, electrical, housing and occupancy codes, and similar ordinances or regulations;
- b. has a continuing and adequate supply of potable water;
- c. has a kitchen or an area set aside for kitchen use that: (i) contains a sink in good working condition connected to hot and cold water and to an adequate sewage system; and (ii) has utility service connections and adequate space for the installation of a stove and a refrigerator;
- d. has an adequate heating system in good working order that will maintain a minimum temperature of 70 degrees in all habitable rooms, and all rooms must be adequately ventilated;
- e. has a bathroom, well lit and ventilated and affording privacy to a person within it, containing a lavatory basin and a bathtub or stall shower, properly connected to an adequate supply of hot and cold running water, and a flush closet, all in good working order and properly connected to a sewage disposal system;
- f. has an adequate and safe wiring system for lighting and other electrical services;
- g. is structurally sound, weather tight, in good repair, and adequately maintained;
- h. has a safe unobstructed means of egress leading to safe open space at ground level that conforms to building and fire codes;
- i. has at least one room that has not less than 150 square feet of floor area, and other habitable rooms, except kitchens, that have an area of not less than 70 square feet;
- j. has sleeping room(s) that include at least 70 square feet of habitable floor space for the first occupant and 50 square feet of habitable floor space for each additional occupant; and
- k. is available to the Transitioning Household regardless of race, color, sex, marital status, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968 and any other applicable local, state, or federal nondiscrimination laws.

C. Required Information for Option

1. Relevant Household Information. Transitioning Households must provide all of the following information to receive the Transition Unit Option:

- a. Household Income;

b. Household composition and size, including: (i) the full names of all Household members and relationship of Household members to each other; (ii) age and number of any children and elderly members of the Household; (iii) whether any members of the Transitioning Household are disabled; (iv) whether any members of the Transitioning Household are Adult Students; and (v) special needs (social and public services, special schools, and other services, need for in-home care); and

2. Time to Provide Information. To the extent all required information is not provided at the interview, Transitioning Households wishing to obtain Transition Benefits will have 30 days after the interview to provide all required information to TIDA.

D. Calculation of Household Income

A Transitioning Household's annual Household Income will be determined using the current Tenant Income Certification Form (see **Appendix 1**).

Households will be required to verify Household Income with third-party documentation such as W-2 forms, pay check stubs, tax returns or other forms of verification. Monthly Household Income will be determined based on the most recent 12 month period preceding the First Notice to Move.

E. Calculation of Base Monthly Rental Cost

The Transitioning Household will be offered a Transition Unit at an initial rent not exceeding the Base Monthly Rental Cost as determined below:

1. Adjustments for Changes in Bedroom Count. If the size of the Transitioning Household changed after the Effective Date, and the Transition Unit contains fewer bedrooms than the Household's Existing Unit as provided in **Section V.B(1)(c)** (Standards Applicable to Transition Units), for purposes of determining the Base Monthly Rental Cost the monthly rent for the Existing Unit will "**Adjusted for Changes in Bedroom Count,**" according to the following calculation: (a) calculate the Existing Unit's monthly rent by adding any annual Rent Board Adjustments to the rent for the Existing Unit on the DDA Effective Date; (b) multiply (a) by the product of 10% times the reduction in bedroom count and (c) deduct the applicable Utility Adjustment. For example, if a Transitioning Household originally rented an Existing Unit with four bedrooms but due to changes in the Transitioning Household's size received a unit with two bedrooms, the monthly rent would be reduced by 20% and adjusted for the applicable Utility Allowance based on the new unit bedroom count.

2. Households Participating in Governmental Housing Programs

a. Tax Credit Eligible Households: Base Monthly Rental Cost for Tax Credit Eligible Households will be the lesser of: (i) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count (as defined below), if applicable, less Utility Adjustment; (ii) 30% of the Transitioning Household's Average Monthly Income; or (iii) the maximum allowable rent under applicable tax credit regulations less Utility Adjustment. Tax Credit Eligible Households will be offered a

Transition Unit in housing financed with low income housing tax credits and may be required to certify Household Income annually while occupying the rent-restricted unit.

b. Households with Section 8 Vouchers: Base Monthly Rental Cost for Households with Section 8 vouchers will be the fair market rent for a Dwelling for the Household size under Section 8 program regulations, less Utility Adjustments.

3. Low Income Household (defined in Calif. Health & Safety Code § 50079.5): Base Monthly Rental Cost for Low Income Households that do not include Adult Students will be the lesser of: (a) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count, if applicable, less Utility Adjustment; or (b) the maximum rent for a Low Income Household allowed by Health and Safety Code § 50053, less Utility Adjustment.

4. Moderate Income Household (defined in Calif. Health & Safety Code § 50079.5): Base Monthly Rental Cost for Moderate Income Households that do not include Adult Students will be the lesser of: (a) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count, if applicable, less Utility Adjustment; or (b) the maximum rent for a Moderate Income Household allowed by Health and Safety Code § 50053, less Utility Adjustment.

5. All Other Transitioning Households: Base Monthly Rental Costs for all other Households, consisting of: (i) Transitioning Households that are not Tax Credit Eligible Households, Households with Section 8 vouchers, Low Income Households, or Moderate Income Households; (ii) Transitioning Households that include an Adult Student; and (iii) Transitioning Households that do not provide the required Household information within 30 days after their interview under **Section III.B** (Interview Household and Offer Advisory Services) will be the lesser of: (a) the Existing Unit's monthly rent on the DDA Effective Date, plus annual Rent Board Adjustments, then Adjusted for Changes in the Bedroom Count, if applicable, less the Utility Adjustment; or (b) the market rent that would otherwise be charged for the Transition Unit.

F. Lease Terms for Transition Unit; Occupancy Verification

1. Lease Terms. The following will apply to each Transitioning Household accepting a Transition Unit, except for Tax Credit Eligible Households and Households with Section 8 vouchers (whose leases will comply with applicable federal regulations):

a. The Transitioning Household will enter into a lease containing the following key terms: (i) an initial period of 12 months, with automatic renewal on a month-to-month basis; (ii) a limitation on annual rent increases to the Rent Board Adjustment; (iii) a statement that the Transitioning Household may remain in the Transition Unit as long as the Household remains in Good Standing under its lease, and a description of the events that will cause the Household to be in default of its lease; and (iv) a prohibition against subleasing.

b. Each lease for a Transition Unit will require the Transitioning Household to: (i) identify each occupant of the Household by name; (ii) acknowledge that subleasing is not permitted and that subleasing will be a default under the lease; (iii) acknowledge that at least one member of the Transitioning Household must maintain the Transition Unit as his or her primary Dwelling; (iv) cooperate fully with any subsequent occupancy verification; and (v) comply with all other terms of the lease.

2. Right to Verify Occupancy by Transitioning Household. TIDA, or any subsequent owner or property management company for the Transition Unit, will have the right to verify occupancy of the Transition Unit at any time. If a Transitioning Household does not cooperate with an occupancy verification request or any member of the Household is discovered to have provided knowingly false responses: (a) the entire Transitioning Household will lose the right to continue to rent at the Base Monthly Rental Cost; (b) rent will be increased to the then-current market rate; and (c) future rent increases will not be limited to the Rent Board Adjustment. In addition, TIDA, or any subsequent owner or property management company for the Transition Unit will have the right to charge and collect the additional rent it would have charged, had the rents not been reduced under these Transition Rules and Regulations.

3. Termination of Lease for Transition Unit. If the Transition Unit is no longer occupied by any members of the Transitioning Household, the Transitioning Household's lease for the Transition Unit will terminate.

VI. DESCRIPTION OF IN-LIEU PAYMENT OPTION

A. In-Lieu Payment Option

1. Time. A Transitioning Household may elect to receive an In-Lieu Payment in response to a written offer from TIDA. TIDA currently anticipates offering the In-Lieu Payment Option at the following times:

a. when TIDA delivers a Notice to Move for an Interim Move to a Transitioning Household;

b. when TIDA delivers a Notice of Early In-Lieu Payment Option, currently anticipated to occur during a specified period between TIDA's approvals of Major Phase 2 and Major Phase 4; and

c. when TIDA delivers a Notice to Move for a Long-Term Move to a Transitioning Household.

2. Calculation of Payment. The amount of the In-Lieu Payment will be calculated using the schedule for Relocation Payments for No Fault Evictions published and updated annually by the San Francisco Rent Board (as of the date of the calculation, the "**Rent Board Schedule**"). The 2010 In-Lieu Payment Schedule, based on the 2010 Rent Board Schedule, adjusted for up to four adults, is attached as **Appendix 2**. The Transitioning Household's In-Lieu Payment will be the product of the payment per adult tenant in the Rent

Board Schedule times the number of adults in the Transitioning Household, up to a maximum of four, plus any of the following applicable adjustments:

a. if the Transitioning Household includes elderly or disabled Persons, the product of the payment per elderly or disabled Person under the Rent Board Schedule times the number of elderly or disabled persons in the Transitioning Household; and

b. if the Transitioning Household includes any minor children, an additional lump sum equal to the payment for minors under the Rent Board Schedule.

c. In determining the number of adults in a Transitioning Household, Post-DDA Tenants and, Persons in Unlawful Occupancy and other Persons ineligible for Transition Benefits are excluded as Persons in the Transitioning Household.

3. Effect of Election. Transitioning Households that elect to receive the In-Lieu Payment:

a. will no longer be eligible for the Transition Unit Option or the Unit Purchase Assistance Option

b. will not receive moving assistance;

c. will be required to vacate their Existing Units by the date specified in the Notice to Move or Notice of Early In-Lieu Payment Option to receive the In-Lieu Payment; and

d. upon written request to TIDA, will be placed on the Premarketing Notice List if not already listed.

VII. DESCRIPTION OF UNIT PURCHASE ASSISTANCE OPTION

Transitioning Households that elect to receive the Unit Purchase Assistance Option will be entitled to Down Payment Assistance.

A. Down Payment Assistance

1. Amount of Payment. A Transitioning Household electing the Unit Purchase Assistance Option will receive “**Down Payment Assistance**” described in this Section. The amount of Down Payment Assistance will be equal to the amount the Transitioning Household would have received had it chosen an In-Lieu Payment, based on the Rent Board Schedule and the number of eligible members in the Transitioning Household, up to four Persons, when the Household enters into the purchase contract for the new Dwelling on NSTI.

2. Conditions to Payment. A Transitioning Household electing to purchase a new Dwelling on NSTI will receive Down Payment Assistance only if: (a) the Household meets all applicable eligibility criteria to purchase the new Dwelling; (b) its purchase offer for the new

Dwelling is accepted; and (c) the purchase closes escrow. No Household is guaranteed that its offer to purchase a new Dwelling on NSTI will be accepted, and the purchased Dwelling need not be similar in size, bedroom count, and amenities to the Existing Unit previously occupied by the Household.

3. Escrow and Closing. Down Payment Assistance will be paid at closing into escrow. TIDA will verify the Transitioning Household's eligibility for and amount of the Down Payment Assistance to lenders and sellers of Dwellings during escrow upon request. If escrow does not close, the escrow officer will be instructed to return any Down Payment Assistance funds on deposit to TIDA.

4. Termination of Status. A Transitioning Household that elects to receive the Down Payment Assistance and closes its purchase on a new for-sale Dwelling on NSTI:

- a. will no longer be eligible for the Transition Unit Option or the In-Lieu Payment Option
- b. will not receive moving assistance;
- c. will be required to vacate its Existing Unit by the date specified in the Notice to Move; and
- d. will be removed from the Premarketing Notice List.

VIII. ADDITIONAL ASSISTANCE

A. Premarketing Assistance

1. Definitions. The following definitions will apply to the Assistance described in this **Section VIII.A** (Premarketing Assistance):

a. "**Post-Transition Household**" means a Transitioning Household that previously received an In-Lieu Payment.

b. "**Post-Transition Tenant**" means a Person who was a member of a Transitioning Household that previously received an In-Lieu Payment.

c. "**Premarketing Notice List**" means that email contact list that TIDA will maintain to provide notice of a Premarketing Window.

d. "**Premarketing Window**" means a specific and limited time period of no less than 30 days before the Dwellings in each new for-sale housing development on NSTI are offered for sale to the general public.

e. "**Sunset Date**" means the date that is seven years after the date that a Transitioning Household or a Post-Transition Tenant is placed on the Premarketing Notice List.

2. Early Notice. Transitioning Households, Post-Transition Households, and Post-Transition Tenants on the Premarketing Notice List will have the opportunity to make purchase offers on Dwellings in each new for-sale housing development on NSTI during the Premarketing Window.

a. If the purchase offer of a Transitioning Household that is not a Post-Transition Household is accepted: (i) the Transitioning Household also may select the Unit Purchase Assistance Option to receive Down Payment Assistance under **Section VII.A** (Down Payment Assistance); and (ii) TIDA will remove the Transitioning Household from the Premarketing Notice List after close of escrow. Post-Transition Households are not eligible for Down Payment Assistance.

b. If the purchase offer of a Post-Transition Tenant or Post Transition Household is accepted and escrow closes, TIDA will: (i) remove the Post-Transition Tenant or Post Transition Household from the Premarketing Notice List; and (ii) have no further obligation to the Post-Transition Tenant or Post Transition Household under these Transition Housing Rules and Regulations. Post-Transition Tenants are not eligible for Down Payment Assistance.

c. A Transitioning Household whose purchase offer is not accepted may stay on the Premarketing Notice List for subsequent notices of Premarketing Windows until the earliest of: (i) the date escrow closes on a subsequent purchase offer; (ii) the date the Transitioning Household moves into a Transition Unit; or (iii) the Sunset Date.

d. Post-Transition Households and Post-Transition Tenants whose purchase offers are not accepted may stay on the Premarketing Notice List for subsequent notices of Premarketing Windows until the earlier of: (i) the date escrow closes on a subsequent purchase offer; or (ii) the Sunset Date.

3. Notice List.

a. Each Transitioning Household and Post-Transition Household must: (i) provide TIDA with the names of Household members, the designated Household contact's name, and an email address for notices; and (ii) notify TIDA of any changes to Household information to remain on the Premarketing Notice List.

b. Each Post-Transition Tenant must: (i) provide TIDA with an email address for notices; and (ii) notify TIDA of any changes in the email notice address to remain on the Premarketing Notice List.

c. TIDA will have no obligation to: (i) verify that email notices that are sent are actually delivered; or (ii) update contact information of Transitioning Households, Post-Transition Households, or Post-Transition Tenants that do not notify TIDA that their email addresses have changed. TIDA will remove Transitioning Households, Post-Transition Households, and Post-Transition Tenants from the Premarketing Notice List on their respective Sunset Dates if they are then still on the list.

4. Required Acknowledgement. Before TIDA is obligated to add contact information to the Premarketing Notice List, each member of a Transitioning Household, Post Transition Household and Post-Transition Tenants will be required to sign an acknowledgment that neither TIDA nor any for-sale housing developer will be responsible for: (a) ensuring that the contact email address provided is current; (b) any inadvertent omission from the Premarketing Notice List, as long as the housing opportunity is marketed generally in the San Francisco area; or (c) guaranteeing that a Transitioning Household or a Post-Transition Tenant will qualify to purchase a new Dwelling.

5. Developer Notice Requirements. For-sale housing developers will be required to provide TIDA with advance notice of the Premarketing Window for each new for-sale housing development on NSTI, stating: (a) the start and end dates of the Premarketing Window; (ii) for each available Dwelling, the unit address, number of bedrooms, and initial offered price; (iii) the date(s) on which interested Transitioning Households, Post-Transition Households, and Post-Transition Tenants may tour the available Dwellings; and (iv) contact information for an authorized representative of the housing developer who can answer questions about the available Dwelling(s). TIDA will send email notices to all Transitioning Households, Post-Transition Households, and Post-Transition Tenants on the Premarketing Notice List before the Premarketing Window begins.

6. No Preferential Treatment. Transitioning Households, Post-Transition Households, and Post-Transition Tenants on the Premarketing Notice List will be offered the same purchase terms for the for-sale units as those offered to the general public.

a. Inclusionary units will be offered at a specified below-market-rate price to Transitioning Households, Post-Transition Households, and Post-Transition Tenants that meet all qualifying income and occupancy criteria for that Dwelling.

b. The purchase price of all other for-sale Dwellings will be the market-rate price.

c. Transitioning Households, Post-Transition Households, and Post-Transition Tenants will be required to qualify to purchase any Dwellings offered for sale during the Premarketing Window in the same manner as other members of the general public.

d. The Premarketing Window does not guarantee that a Transitioning Household, Post-Transition Household, or Post-Transition Tenant will qualify for the purchase or that its purchase offer will be accepted.

B. Moving Assistance

1. Covered Moving Expenses. All Transitioning Households that make Interim Moves and that select the Transition Unit Option for a Long-Term Move will receive either Actual Reasonable Moving Expenses or a Moving Expense Allowance. Actual Reasonable Moving Expenses will include:

a. transportation of persons and property upon NSTI;

- b. packing, crating, unpacking, and uncrating Personal Property;
- c. insurance covering Personal Property while in transit;
- d. connection charges imposed by public utilities for starting utility service;
- e. the reasonable replacement value of Personal Property lost, stolen, or damaged (unless caused by the Transitioning Household or its agent) in the process of moving, where insurance covering such loss, theft, or damage is not reasonably available; and
- f. the removal of barriers to the disabled and installations in and modifications to a disabled Person's new Dwelling as needed to accommodate special needs.

2. Allowance Alternative. A Transitioning Household electing a self-move for an Interim Move or a Long-Term Move into a Transition Unit will be paid according to the Moving Allowance Schedule in **Appendix 3** promptly after filing a claim form provided by TIDA and vacating the Existing Unit, unless the Household seeks and is granted an advance payment to avoid hardship.

3. Advance Payment to Avoid Hardship. A Transitioning Household may be paid for anticipated moving expenses in advance of the actual move. TIDA will make an advance payment whenever the Household files a claim form provided by TIDA supported by documents and other evidence that later payment would result in financial hardship. Particular consideration will be given to the financial limitations and difficulties experienced by low and moderate income residents.

4. Moving Expense Claims. A claim for payment of Actual Reasonable Moving Expenses must be supported by a bill or other evidence of expenses incurred.

a. Each claim greater than \$1,000 for the moving costs incurred by a Transitioning Household hiring a moving company must be supported by at least 2 competitive bids. If TIDA determines that compliance with the bid requirement is impractical, or if the claimant obtains estimates of less \$1,000, a claim may be supported by estimates instead. TIDA may make payment directly to the moving company.

b. A Transitioning Household's Actual Reasonable Moving Expenses will be exempt from regulation by the State Public Utilities Commission. TIDA may effect the moves by directly soliciting competitive bids from qualified bidders for performance of the work. Bids submitted in response to such solicitations will be exempt from regulation by the State Public Utilities Commission.

C. Assistance to Force Majeure Households.

In the event a Force Majeure Household is required by TIDA or any other agency to move from an Existing Unit off of NSTI as a result of a natural disaster or other condition that makes the Existing Unit uninhabitable prior to the Household receiving a First Notice to Move ("Force

Majeure Household"), the Force Majeure Household shall remain eligible for all Transition Benefits it would otherwise have been eligible for upon receipt of a First Notice to Move. The Force Majeure Household will not be eligible for Transition Benefits until such time as the First Notice to Move would have been given for the Existing Unit as determined by the implementation of the Development Plan for the area of NSTI where the Existing Unit was located. Any In-Lieu Payment Option or Down Payment Assistance will be reduced by any amounts paid to the Force Majeure Household by TIDA or any other public agency at the time the Force Majeure Household moved out of the Existing Unit, including any payments for moving expenses or replacement housing payments.

IX. IMPLEMENTATION OF TRANSITION HOUSING RULES AND REGULATIONS

A. Administration

1. Information Program. TIDA will maintain an information program using meetings, newsletters, and other mechanisms, including local media, to keep Villages residents informed on a continuing basis about: (a) TIDA's transition housing program and other information about the redevelopment process; (b) the timing and scope of any anticipated Interim Moves; (c) the timing and scope of anticipated Long-Term Moves, (c) procedures for implementing and making claims under these Transition Rules and Regulations; and (d) other information relevant to these Transition Rules and Regulations.

2. Nondiscrimination. TIDA will administer these Transition Housing Rules and Regulations in a manner that will not result in different or separate treatment on account of race, color, religion, national origin, sex, sexual orientation, marital status, familial status, or any basis protected by local, state, or federal nondiscrimination laws.

3. Site Office. TIDA may establish a site office that is accessible to all Households to provide advisory assistance described in **Section III.B** (Interview Households and Offer Advisory Services). If TIDA establishes a site office, it will be staffed with trained and experienced personnel, who may be third-party housing specialists.

4. Amendments. These Transition Rules and Regulations may be amended by TIDA from time to time by a resolution of the TIDA Board adopting an amendment at a duly noticed public meeting.

B. Household Records

1. Contents. TIDA will maintain records for each Household containing information obtained during interviews, documents submitted by residents, and existing files of its property manager. The records will contain a description of the pertinent characteristics of the Persons in the Household, the assistance determined to be necessary, and the Household's decisions on Transition Benefits. Members of a Transitioning Household will have the right to inspect their own Transitioning Household records to the extent and in the manner provided by law.

2. Confidentiality. Household income information is confidential and will only be used for its intended purpose. Confidential information will not be disclosed to third parties outside of the Household unless all members of the Household provide their written consent to disclosure or a valid court order requires disclosure.

3. Publication of Aggregate Resident Data. TIDA will have the right to publish aggregate data about the resident population on NSTI, including information that is segmented according to aggregate Villages resident data and aggregate TIHDI resident data.

X. CLAIM AND PAYMENT PROCEDURES; TERMINATION OF TRANSITION HOUSING ASSISTANCE

A. Filing Claims; Tax Forms

1. Written Claims Required. TIDA will provide claim forms for payment under these Transition Rules and Regulations. All claims for In-Lieu Payments and Down Payment Assistance must be submitted to TIDA with the Household's notice of election of that specific Transition Benefit. All claims for moving expense payments must be submitted to TIDA within six months after the date on which the claimant makes an Interim Move or moves into a Transition Unit.

2. Tax Forms. TIDA: (a) makes no representations about the tax treatment of any payments or benefits of monetary value any Person receives under these Transition Housing Rules and Regulations; (b) will require all Persons who receive an In-Lieu Payment, Down Payment Assistance, moving assistance, or any other payment under these Transition Housing Rules and Regulations to provide TIDA with valid Social Security numbers for all recipients; and (c) will file W-9 forms for all payments and benefits of monetary value made or provided to any Person under these Transition Housing Rules and Regulations.

B. Treatment of Dependents

1. Allocation of Transition Benefits. The following will apply to any Person who derives 51% or more of his or her income from one or more Persons within the same Transitioning Household in an Existing Unit (the "**Supporting Household**") or otherwise meets his or her living expenses primarily through the monetary support of the Supporting Household (a "**Dependent**").

a. A Dependent who lives with the Transitioning Household will not be entitled to any Transition Benefit except as a part of the Household, and will be counted as a member of the Transitioning Household for determining Household size.

b. If the Dependent's primary Dwelling, as determined by voter registration, driver's license, or other forms of verification, is different from that of the Supporting Household when the Supporting Household selects and receives a Transition Benefit, the Dependent will not be counted as part of the Transitioning Household when determining: (i) the size of a Transition Unit; (ii) the amount of an In-Lieu Payment; or (iii) the amount of Down Payment Assistance.

2. Documentation of Dependent Status. Any Transitioning Household claiming a Dependent must provide third-party documentation that it is a Supporting Household. TIDA will have the right to require that the Supporting Household and Dependent, if applicable, provide copies of tax returns filed for tax years preceding the claim.

C. Adjustments for Multiple Claims; Nontransferability

1. Multiple Claimants. The amount of an In-Lieu Payment, Down Payment Assistance, or Moving Expense Allowance will be determined based on the total number of eligible members in the Transitioning Household. All adult members of a Household must sign the claim form and any other required documents as a condition to TIDA's obligation to pay Transition Benefits and moving assistance.

2. Multiple Claims. A single claim form for each payment claim by a Transitioning Household is preferred, but not required. Unless otherwise specified in a claim form, TIDA will issue separate checks to each adult in the Transitioning Household in equal shares, adjusted for Dependents and elderly or disabled members of the Household. If two or more eligible Persons in a single Transitioning Household submit more than one claim for any payment under these Transition Rules and Regulations, which in the aggregate exceed the payment limits to be made to the entire Transitioning Household, TIDA will pay each eligible claimant an equal share of the payment, up to the aggregate amount of the payment limits. As provided in **Section VII.A** (Down Payment Assistance), Transitioning Households that choose Down Payment Assistance will not receive direct payment; TIDA will deposit the entire amount of any Down Payment Assistance directly into escrow.

3. Nontransferability. The right to Transition Benefits and other assistance under these Transition Housing Rules and Regulations is personal to each member of a Transitioning Household and is not a property right. Therefore, a Transitioning Household's member's right to Transition Benefits and other assistance cannot be transferred by contract, inheritance, or any other means.

D. Termination of TIDA's Obligations

1. Termination of Right to Transition Benefits. TIDA's obligation to provide Transition Benefits to a Transitioning Household under these Transition Housing Rules and Regulations will terminate under the following circumstances:

a. The Transitioning Household moves off NSTI before receiving a Long-Term Notice to Move or a Notice of Early In-Lieu Payment Option.

b. The Transitioning Household moves to a Transition Unit and receives all moving assistance to which it is entitled.

c. The Transitioning Household moves off-NSTI after receiving a Notice to Move or a Notice of Early In-Lieu Payment Option and receives an In-Lieu Payment.

d. The Transitioning Household moves from an Existing Unit to a new for-sale Dwelling on NSTI and receives Down Payment Assistance.

e. The Transitioning Household refuses reasonable offers of assistance, payments, and a Transition Unit after receiving a Notice to Move.

f. TIDA determines a Household is not or has ceased to be a Transitioning Household or is otherwise not entitled to Transition Benefits.

2. Acknowledgement of Change in Status upon Receipt of Benefits. Each member of a Transitioning Household that receives Transition Benefits will be required to acknowledge in writing that he or she has received or is about to receive the Transition Benefits, and, upon receipt, the Household will cease to be a Transitioning Household entitled to any Transition Benefits, other assistance, and advisory services under these Transition Housing Rules and Regulations.

3. Records as Evidence. TIDA will be entitled to rely on and use its written offers of Transition Benefits to a Transitioning Household that refuses them, and all other information in the Transitioning Household's records, as evidence in any grievance proceeding or lawsuit.

4. Notice of Status. Except for a change in status after the Transitioning Household receives a Transition Benefit, TIDA will provide written notice of any determination that a Household is not or has ceased to be a Transitioning Household or is otherwise not entitled to Transition Benefits, delivered to the Transitioning Household's last known address.

5. Termination of Other Assistance. TIDA's obligations to provide moving assistance and to provide notices of Premarketing Windows will terminate as provided in **Article VIII** (Other Assistance).

XI. GRIEVANCE PROCEDURES

A. Administrative Remedies

1. Right to Appeal and Be Represented by Counsel. Any member of a Household, and any Household, that disagrees with a TIDA determination regarding eligibility for Transition Benefits, the proposed amount of payment, or the adequacy of the Transition Unit to which the Transitioning Household was referred may appeal the determination, but the Person or Household (individually, or as a Household, the "**Grievant**") must exhaust the prescribed administrative remedies before seeking judicial review. The Grievant will be entitled to be represented by an attorney at his or her, or the Household's, own expense at all stages of review under these Transition Housing Rules and Regulations.

2. Executive Director Review. The first step in administrative remedies available to a Grievant is the right to an appeal to the Executive Director of TIDA, as follows:

a. The Grievant must make a written request for review by the Executive Director no later than 12 months after the Grievant receives either a Long Term Notice to Move or an Interim Notice to Move. The Grievant's written request must state the basis for the claim and the relief sought.

b. The Grievant will be entitled to meet with the Executive Director and to present additional evidence and information that the Grievant has not presented previously through the interview process.

c. The Executive Director will make a determination based on the information the Grievant has provided to TIDA through the interview processes as well as any additional information presented by the Grievant.

d. The Executive Director must make a final determination in writing, stating the reasons for the determination within six weeks after conferring with the Grievant.

3. Hearing Before Relocation Appeals Board. If the Grievant is not satisfied with the Executive Director's determination, the second step in the administrative remedies available to a Grievant is an appeal to the Treasure Island Relocation Appeals Board (the "**RAB**"), which will be determined according to the procedures below.

a. No later than 30 days after the TIDA Executive Director delivers his or her written determination under **Section XI.A.2** (Executive Director Review) to the Grievant, the Grievant must submit a written appeal to the RAB, with a copy to TIDA, stating the basis for his or her claim and the relief sought by the Grievant. If the Grievant wishes to submit information in addition to that previously provided to TIDA, the additional information must be submitted with the written appeal, and TIDA will have 30 days to provide a response to any new material.

b. The RAB will review and reconsider the Grievant's claim in light of: (i) all material upon which the Executive Director based his or her original determination, including these Transition Housing Rules and Regulations; (ii) the Grievant's written request for an appeal; (iii) any additional written or relevant documentary material submitted by the Grievant; (iv) any material submitted by TIDA in response to new information submitted by the Grievant with the appeal; and (v) any further information that the RAB, in its discretion, obtains by request to ensure fair and full review of the claim.

c. The RAB may choose to hold a hearing, and must hold a hearing if requested by the Grievant. All RAB hearings will be public meetings subject to state and local public meeting laws. The RAB's review will be limited to whether the Grievant is entitled to the claimed relief under these Transition Housing Rules and Regulations. Its determination must be based on the information presented during the appeal and these Transition Rules and Regulations. All members of the RAB shall be required to disclose in a public meeting any communications and contacts such member has had with the Grievant outside of the hearing. The RAB will not be authorized to make any monetary award (including attorneys' fees and costs of appeal) other than a payment authorized under these Transition Rules and Regulations.

d. The RAB must issue a written determination to the Grievant and TIDA no later than six weeks from receipt of the last material submitted by any party or the date of the hearing, whichever is later, stating: (i) the RAB's decision; (ii) the basis upon which the decision rests, including any pertinent explanation or rationale; and (iii) a statement that the Grievant may appeal the decision in accordance with the procedure set forth below.

e. The RAB may reject an appeal for untimeliness by a written statement to the Grievant.

4. Administrative Law Judge Review. The final step in administrative remedies available to a Grievant is an appeal to an administrative law judge ("ALJ") on the Rent Board staff who is assigned to hear appeals under these Transition Rules and Regulations, as follows:

a. No later than 30 days after the RAB delivers its written determination under **Section XI.A.3** (Hearing Before Relocation Appeals Board) to the Grievant, the Grievant must submit a written appeal to the ALJ, and deliver a copy of the appeal to TIDA at the same time, stating the basis for the claim and the relief sought.

b. TIDA will have 15 days after a signed appeal is filed with the ALJ to provide the ALJ with copies of information related to the Grievant's case, including all additional evidence or information submitted by the Grievant to the RAB and TIDA's records related to the Grievant.

c. The assigned ALJ may attempt to resolve the dispute without a hearing, but is not required to do so.

d. The ALJ will conduct a hearing unless the dispute has been resolved before the hearing date.

e. The ALJ must make a final determination in writing, stating the reasons for the determination, and deliver the determination to the Grievant, with a copy to TIDA at the same time. The ALJ determination must include a statement that the Grievant has exhausted administrative remedies under these Transition Rules and Regulations.

5. Right to Judicial Review. The Grievant may seek judicial review after the administrative remedies described above have been exhausted.

XII. PROPERTY MANAGEMENT PRACTICES

A. Eviction

1. Grounds for Eviction. In addition to all other grounds under the Residential Leases and California law, TIDA may initiate eviction proceedings to remove a Household from its Existing Unit:

a. after the date specified in a Notice to Move for an Interim Move or for a Long-Term Move has passed, and: (i) the Household is a Transitioning Household that has

refused TIDA's offers of a Transition Benefit, including the right to relocate to a Transition Unit; or (ii) the Household is a Transitioning Household that has not vacated its Existing Unit after selecting and receiving a Transition Benefit; or (iii) the Household is a Post-DDA Household and has failed to vacate the Existing Unit after receipt of a Notice of Move.

b. after TIDA issues a notice to move due to: (i) a major disaster as defined in § 102(2) of the federal Disaster Relief Act of 1974; (ii) a state of emergency declared by the President of the United States or the Governor of the State of California; or (iii) any other emergency, or other condition, as determined by a Federal, State or Local governmental entity or department with jurisdiction over the premises, that requires the Household to move immediately from the Existing Unit because continued occupancy of the Existing Unit by the Household constitutes a substantial, or potential, danger to the health or safety, or both, of the Household, or the Existing Unit has become uninhabitable.

B. Post-DDA Tenants

1. Notice of Status. Before prospective Post-DDA Tenants move into any Existing Unit, TIDA will inform them:

a. that the Existing Unit will be available only for an interim period pending redevelopment of NSTI;

b. of the projected date that the Existing Unit is expected to be vacated and demolished for development, if known;

c. that, along with all other Villages residents, all Post-DDA Tenants will receive periodic notices from TIDA with updates about the progress of the project;

d. that TIDA will provide 90 days' notice of the date by which they must vacate their Existing Unit; and

e. that no Post-DDA Tenant is eligible for Transition Benefits under these Transition Rules and Regulations or relocation benefits under applicable relocation laws.

2. Advisory Services. Post-DDA Tenants are not eligible for Transition Benefits under these Transition Housing Rules and Regulations, unless an exception under **Section II.A.1** (Defined Terms for Determining Eligibility) applies, but are eligible for advisory services under **Section III.B** (Interview Households and Offer Advisory Services).

XIII. INTERPRETATION

A. Rules of Interpretation and Severability

1. The captions preceding the articles and sections of these Transition Housing Rules and Regulations and in the table of contents have been inserted for convenience of reference only and must be disregarded in interpreting these Transition Housing Rules and Regulations. Wherever reference is made to any provision, term, or matter in these Transition

Housing Rules and Regulations, the term “in these Transition Housing Rules and Regulations “ or “hereof” or words of similar import, the reference will be deemed to refer to any reasonably related provisions of these Transition Housing Rules and Regulations in the context of the reference, unless the reference refers solely to a specific numbered or lettered section, subdivision, or paragraph of these Transition Housing Rules and Regulations.

2. References to all laws, including specific statutes, relating to the rights and obligations of any person or entity mean the laws in effect on the effective date of these Transition Housing Rules and Regulations and as they are amended, replaced, supplemented, clarified, or superseded at any time while any obligations under these Transition Housing Rules and Regulations are outstanding, whether or not foreseen or contemplated.

3. The terms “include,” “included,” “including,” and “such as” or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase “without limitation” or “but not limited to.”

4. Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of “waive” applies to “waiver,” “waived,” “waiving”).

5. The provisions of these Transition Housing Rules and Regulations are severable, and if any provision or its application to any person or circumstances is held invalid by a final order or judgment of a court with valid jurisdiction over the matter, the invalid provision will not affect the other provisions or the application of those Transition Housing Rules and Regulations that can be given effect without the invalid provision or application.

APPENDIX 1

Sample of Tenant Income Certification Form
(as published by the California Tax Credit Allocation Committee)

APPENDIX 2

2011 In-Lieu Payment Schedule Based on the 2010 San Francisco Rent Board Relocation Payments for No Fault Evictions (Adjusted for maximum of four adults)

Date of Second Notice to Move	In-Lieu Payment Amount Due Per Tenant	Maximum In-Lieu Payment Amount Due Per Unit (Maximum of 4 Adults)	PLUS Additional Amount Due for Each Elderly (60 years or older) or Disabled Tenant or Household with Minor Child(ren)
3/01/11 – 2/29/12	\$5,101.00	\$20,404.00	\$3,401.00

APPENDIX 3

Sample Moving Expense Allowance Schedule
(as published by the California Department of Transportation)

Fixed Moving Schedule CALIFORNIA (Effective 2008)	
Occupant Owns Furniture:	
1 room	\$625
2 rooms	\$800
3 rooms	\$1,000
4 rooms	\$1,175
5 rooms	\$1,425
6 rooms	\$1,650
7 rooms	\$1,900
8 rooms	\$2,150
Each additional room	\$225
Occupant does NOT Own Furniture:	
1 room	\$400
Each additional room	\$65

APPENDIX 4

Definitions

The following terms used in these Transition Rules and Regulations are defined as follows:

“**Actual Reasonable Moving Expenses**” is defined in **Section VIII.E** (Moving Assistance).

“**Adjusted for Changes in Bedroom Count**” is defined in **Section V.E.1** (Adjustment for Changes in Bedroom Count).

“**adult**” means a Person 18 years old or older.

“**Adult Student**” means an adult who, during the previous 12 months, was enrolled in two or more courses concurrently at an accredited educational institution, unless the Person is: (1) receiving assistance under Title IV of the Social Security Act; (2) enrolled in a job-training program; or (3) in a Transitioning Household composed entirely of full-time Adult Students who are single parents and are not listed as Dependents on someone else’s tax return or who are married and file a joint return.

“**ALJ**” is defined in **Section XI.A.4** (Administrative Law Judge Review).

“**Average Monthly Income**” when used in determining Base Monthly Rental Cost, means the Transitioning Household’s Household Income divided by 12.

“**Base Monthly Rental Cost**” means the amount that a Transitioning Household will pay as its initial rent for a Transition Unit, calculated as explained in **Section V.E** (Calculation of Base Monthly Rental Cost).

“**Base Redevelopment Act**” is defined in **Section I.A** (Background).

“**BRAC**” is defined in **Section I.A** (Background).

“**CEQA**” is defined in **Section I.A** (Background).

“**City**” means the City and County of San Francisco, a municipal corporation organized and existing under the laws of the State of California, or, as the context requires, the area within the City’s jurisdictional boundaries.

“**DDA**” is defined in **Section I.A** (Background).

“**DDA Effective Date**” is defined in **Section I.E** (Effective Date).

“**Decent, Safe, and Sanitary Housing**” means a Dwelling that meets the minimum requirements specified in **Section V.B** (Standards Applicable to Transition Units).

“**Dependent**” is defined in **Section X.B.1** (Treatment of Dependents).

“**Development Plan**” is defined in **Section I.A** (Background).

“**Down Payment Assistance**” means the Transition Benefit offered as part of the Unit Purchase Assistance Option, described in **Section VII.A** (Down Payment Assistance).

“**Dwelling**” means the primary Dwelling of a Household, including a single-family residence, a single-family residence in a two-family building, multi-family or multi-purpose building, or any other residence that either is considered to be real property under state law or cannot be moved without substantial damage or unreasonable cost.

“**elderly**” means a Person who is 60 years of age or older.

“**Existing Unit**” is defined in **Section II.A.1** (Defined Terms for Determining Eligibility).

“**First Notice to Move**” means a written notice to a Household, as described in **Section III.A** (First Notice to Move).

“**Good Standing**” is defined in **Section II.A.1** (Defined Terms for Determining Eligibility).

“**Grievant**” is defined in **Section XI.A** (Right to Appeal and Be Represented by Counsel).

“**Household**” is defined in **Section II.A.1** (Determination of Household Eligibility for Transition Benefits).

“**Household Income**” means the total annual income of a Household including the total annual income of all adults, determined according to the then-current Tenant Income Certification Form published by the Tax Credit Allocation Committee.

“**Households with Section 8 Vouchers**” means Transitioning Households that meet all of the criteria for occupying a Dwelling under Section 8 regulations and has been allocated a Section 8 Voucher..

“**HUD**” means the United States Department of Housing and Urban Development or any successor federal agency.

“**In-Lieu Payment**” means the Transition Benefit offered to Transitioning Households in the In-Lieu Payment Option, described in **Section VI.A** (In-Lieu Payment Option).

“**In-Lieu Payment Option**” means the Transition Benefit offered to Transitioning Households described in **Article VI** (Description of In-Lieu Payment Option).

“**Interim Move**” is defined in **Section I.D** (Overview and Program Framework).

“**Long-Term Move**” is defined in **Section I.D** (Overview and Program Framework).

“**Low Income Household**” means a Transitioning Household: (1) whose income does not exceed the qualifying limits for lower income Households as determined in accordance with Health and Safety Code Section 50079.5; and (2) that does not contain any Adult Students.

“**minor**” means a member of a Household who is under 18 years of age, excluding foster children, the head of Household, and a spouse of a member of the Household.

“**Moderate Income Household**” means a Household: (1) whose income exceeds the maximum income limitations for a Low Income Household, but does not exceed 120% of area median income as determined in accordance with Health and Safety Code Section 50093; and (2) that does not contain any Adult Students.

“**Move Date**” is defined in **Section III.C.1** (Second Notice to Move).

“**Moving Expense Allowance**” is defined in **Section III.E** (Complete the Move).

“**Notice of Early In-Lieu Payment Option**” is defined in **Section III.F** (Early Transition Benefits).

“**Notice to Move**” means a First Notice to Move or a Second Notice to Move, as appropriate in the context.

“**NSTI**” is defined in **Section I.A** (Background).

“**Person**” means an individual.

“**Personal Property**” means tangible property that is situated on real property vacated or to be vacated by a Transitioning Household and that is considered personal property under the state law, including fixtures, equipment, and other property that may be characterized as real property under state or local law, but that the tenant may lawfully and at his or her election may move.

“**Post-DDA Tenant**” is defined in **Section II.A1** (Determination of Household Eligibility for Transition Benefits).

“**Post-Transition Household**” is defined in **Section VIII.A** (Premarketing Assistance).

“**Post-Transition Tenant**” is defined in **Section VIII.A** (Premarketing Assistance).

“**Premarketing Notice List**” is defined in **Section VIII.A** (Premarketing Assistance).

“**Premarketing Window**” is defined in **Section VIII.A** (Premarketing Assistance).

“**RAB**” is defined in **Section XI.A.3** (Hearing before Relocation Appeals Board).

“**Rent Board Adjustment**” means the annual rent increases allowed by the San Francisco Residential Rent Stabilization and Arbitration Board under Chapter 37 of the Administrative Code.

“**Rent Board Schedule**” is defined in **Section VI.A.2** (Calculation of Payment).

“**Residential Lease**” is defined in **Section II.A.1** (Defined Terms for Determining Eligibility).

“**Second Notice to Move**” means a written notice to a Household, as described in **Section III.C** (Second Notice to Move).

“**Section 8**” means Section 8 of the United States Housing Act of 1937.

“**Sunset Date**” is defined in **Section VIII.A** (Premarketing Assistance).

“**Supporting Household**” is defined in **Section X.B.1** (Treatment of Dependents).

“**Tax Credit Eligible Household**” means a Transitioning Household that meets all of the criteria for occupying a Dwelling subject to a low income housing tax credit regulatory agreement, including maximum income limitations (generally not exceeding 60% of area median income).

“**Tenant**” means a Person who rents or is otherwise in lawful possession of a Dwelling, including a sleeping room, that is owned by another Person.

“**Term Sheet Resolution**” is defined in **Section I.A** (Background).

“**The Villages**” is defined in **Section I.A** (Background).

“**TICD**” is defined in **Section I.A** (Background).

“**TIDA**” is defined in **Section I.A** (Background).

“**TIDA Board**” is defined in **Section I.A** (Background).

“**TIHDI**” is defined in **Section I.A** (Background).

“**Transition Benefits**” is defined in **Section I.B** (Purpose).

“**Transition Housing Rules and Regulations**” is defined in **Section I.A** (Background).

“**Transition Unit**” is a newly-constructed Dwelling on Treasure Island that meets the standards of **Section V.B** (Standards Applicable to Transition Units).

“**Transition Unit Option**” means the benefit offered to Transitioning Households described in **Article V** (Description of Transition Unit Option).

“Transitioning Household” is defined in **Section II.A.** (Determination of Household Eligibility for Transition Benefits).

“Unit Purchase Assistance Option” means the Transition Benefit offered to Transitioning Households, described in **Article VII** (Description of Unit Purchase Assistance Option).

“Unlawful Occupancy” is defined in **Section II.A.1** (Determination of Household Eligibility for Transition Benefits).

“Utility Adjustment” means the amount by which rent for a Transition Unit will be adjusted downward to reflect any utilities that are not included in the rent of the Transition Unit, if the same utilities were included in the rent of the Existing Unit. The downward rent adjustment will be calculated according to the Utility Allowance Schedule.

“Utility Allowance Schedule” means the schedule published by the San Francisco Housing Authority to determine allowances for tenant-furnished utilities for Dwelling Units in the City. If the San Francisco Housing Authority publishes a Utility Allowance Schedule that includes allowances for energy efficient appliances or Dwelling Units, the energy efficient schedule will be used for the Utility Adjustment. For these Transition Housing Rules and Regulations, only allowances specifically allocated to electricity, natural gas, trash, water, and sewer, if applicable, will be considered.