

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 WHEREAS, On _____, 2011, the Planning Commission by Motion
23 No. _____ and the TIDA Board of Directors by Resolution No.
24 _____, as co-lead agencies, certified the completion of the Final Environmental
25 Impact Report for the Project, of which the Trust Exchange Agreement forms a part; and,

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

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

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

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

22 WHEREAS, Concurrently with this Resolution, the Board of Supervisors has adopted
23 Resolution No. _____, adopting findings under CEQA, including the adoption of a
24 mitigation monitoring and reporting program and a statement of overriding considerations in
25 connection with the development of the Project, which Resolution is on file with the Clerk of

1 the Board of Supervisors in File No. _____, and incorporated herein by reference;
2 and,

3 WHEREAS, The Exchange Agreement was presented to the CAB at duly noticed
4 public meetings on March 15, 2011 and _____, 2011, and on _____,
5 2011 the CAB voted to endorse the Exchange Agreement; and,

6 WHEREAS, The Exchange Agreement was presented to the TIDA Board of Directors
7 at duly noticed public meetings on March 22, 2011 and _____, 2011, and on
8 _____, 2011 the TIDA Board of Directors voted to approve the Exchange
9 Agreement; and,

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

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

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

19 FURTHER RESOLVED, That in order to effectuate the development of the Project, the
20 Board of Supervisors approves the Exchange Agreement, and authorizes TIDA's Director of
21 Redevelopment, or his or her designee ("Director"), to execute, deliver and perform the
22 Exchange Agreement substantially in the form in the Board of Supervisor's file; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the
24 Director, prior to execution of the Exchange Agreement, to make changes and take any and
25 all steps, including but not limited to, the attachment of exhibits and the making of corrections,

1 as the Director determines, in consultation with the City Attorney, are necessary or
2 appropriate to consummate the Exchange Agreement in accordance with this Resolution;
3 provided, however, that such changes and steps do not materially decrease the benefits to or
4 materially increase the obligations or liabilities of TIDA or the City, and are in compliance with
5 all applicable laws; and, be it

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

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

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

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