

## **SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

**RE: AMB Pier One LLC, DBA Prologis; Payment of Delinquent Special Taxes Improvement Area No. 1 (Pier 1) of City and County of San Francisco Special Tax District No. 2009-1 (San Francisco Sustainable Financing)**

1. This Settlement Agreement and Release of Claims (“Settlement Agreement”) is entered into by and between AMB Pier One LLC, dba Prologis, on behalf of itself, its subsidiaries, successors and assigns, and each of them, if any (hereinafter referred to individually and collectively as “TAXPAYER”), and the City and County of San Francisco, together with its elective and/or appointive boards, agents, servants, employees, consultants, departments, commissioners, and officers (hereinafter referred to individually and collectively as “CITY”), hereinafter each referred to as a “Party” and collectively as the “Parties,” for the purpose of resolving the CITY’S demand for payment in accordance with applicable law of the special taxes levied in Improvement Area No. 1 (Pier 1) of City and County of San Francisco Special Tax District No. 2009-1 (San Francisco Sustainable Financing) (“Special Tax District”) pursuant to the invoice attached hereto as Exhibit A (“PAYMENT DEMAND”).

2. FOR GOOD AND VALUABLE CONSIDERATION, in the amount of \$68,895.72 (sixty-eight thousand eight hundred ninety-five dollars and seventy-two cents) to be paid by TAXPAYER to CITY in cash concurrently with CITY’S execution and delivery of this Settlement Agreement (“SETTLEMENT AMOUNT”), the sufficiency of which is hereby admitted and acknowledged, CITY hereby agrees to fully and forever release and discharge, upon receipt of the SETTLEMENT AMOUNT, the TAXPAYER from any and all claims, actions, causes of action, liabilities, damages, demands, attorneys’ fees, expenses, and costs (including without limitation court costs) of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, which have existed or may have existed, or which do exist, or which hereafter shall or may exist, and which are alleged or set forth or attempted to be included in the PAYMENT DEMAND, or any associated penalties, interest, or fees (collectively, the “CITY’S CLAIMS”).

The SETTLEMENT AMOUNT represents (i) the amount set forth in the PAYMENT DEMAND, (ii) a delinquency penalty equal to 10% of the amount set forth in the PAYMENT DEMAND, (iii) compounded interest on the amount set forth in the PAYMENT DEMAND calculated using the monthly interest rate earned by the CITY Treasurer’s Pool beginning on December 10, 2013 and continuing through August 14, 2024 and (iv) costs incurred by the CITY relating to the collection of the delinquent special taxes.

3. CITY hereby acknowledges and agrees that this Settlement Agreement shall be final and conclusive with respect to the CITY’S CLAIMS, and fully and forever releases and discharges TAXPAYER from the CITY’S CLAIMS.

4. CITY represents and warrants that it has not assigned or transferred, or agreed to assign or transfer, or attempted to assign or transfer, to any third party or entity (including without limitation any insurer) any interest in any of the CITY’S CLAIMS. CITY agrees to defend, indemnify, and hold harmless TAXPAYER against any loss, expense, or liability, including without limitation reasonable attorneys’ fees, arising from any breach of the foregoing.

5. TAXPAYER represents and warrants that either (a) there are no liens in existence which may attach to the SETTLEMENT AMOUNT, or (b) to the extent there are any such liens, TAXPAYER will pay and retire all such liens. TAXPAYER agrees to defend, indemnify, and

hold harmless CITY against any and all claims by any person or entity purporting to hold any lien, interest, or other claim involving TAXPAYER and arising in connection with the payment of the SETTLEMENT AMOUNT to CITY.

6. TAXPAYER acknowledges that the proposed settlement is contingent upon the written recommendation of the Controller of the CITY against which the PAYMENT DEMAND was ordered, with the written approval of the City Attorney or the Controller and the approval of the Board of Supervisors by resolution. This Settlement Agreement shall not be effective or binding as against either Party unless and until all such recommendations and approvals as are set forth in the preceding sentence have been obtained.

7. Each of TAXPAYER and CITY certifies that it has read Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Each of TAXPAYER and CITY hereby waives application of Section 1542 of the Civil Code. Each of TAXPAYER and CITY understands and acknowledges that, as a consequence of this waiver of Section 1542, even if TAXPAYER or CITY should eventually suffer additional or further loss, damages, or injury arising out of or in any way related to any issues raised in the SETTLEMENT AMOUNT or any related penalties, interest, and fees, TAXPAYER or CITY, as applicable, will not be permitted to make any further claims against TAXPAYER or CITY to recover for such loss, damages, or injury. Each of TAXPAYER and CITY acknowledges that it intends these consequences even as to amounts related to any issues raised in the PAYMENT DEMAND that may exist as of the date of this Settlement Agreement but which TAXPAYER or CITY does not know exist, and which, if known, would materially affect TAXPAYER'S or CITY'S decision to execute this Settlement Agreement, regardless of whether TAXPAYER'S or CITY'S lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

8. Each of TAXPAYER and CITY acknowledges that this Settlement Agreement contains and constitutes the entire agreement between TAXPAYER and CITY with respect to the CITY'S CLAIMS. The terms of this Settlement Agreement are contractual and not a mere recital. Each Party acknowledges that the other Party has made no representations, express or implied, to induce such Party to enter into this Settlement Agreement, other than as expressly set forth herein.

9. Each of TAXPAYER and CITY acknowledges that, in executing this Settlement Agreement, it is acting on its own independent judgment informed by its legal counsel. Each of TAXPAYER and CITY acknowledges having read this Settlement Agreement and having been advised by its attorney as to its meaning and effect. Each of TAXPAYER and CITY acknowledges and warrants that its execution of this Settlement Agreement is free and voluntary.

10. No aspect of this Settlement Agreement or the settlement which led to it is intended to be, nor at any time shall be construed, deemed, or treated in any respect as an admission by TAXPAYER or CITY of liability for any purpose. It is expressly understood by TAXPAYER and CITY that this Settlement Agreement is executed as a settlement of the PAYMENT DEMAND and the CITY'S CLAIMS, respectively. It is expressly understood and agreed by the Parties that in executing this Settlement Agreement neither Party has made any

admissions or concessions regarding the merits of its positions, or the merits of the other Party's positions, regarding the PAYMENT DEMAND or the CITY's CLAIMS, as applicable.

11. Each of TAXPAYER and CITY understands and acknowledges that both TAXPAYER and CITY shall bear their own legal expenses and costs incurred in connection with prosecuting or defending against any of the PAYMENT DEMAND or CITY's CLAIMS.

12. If any of the provisions of this Settlement Agreement or the application thereof is held to be invalid, its invalidity shall not affect any other provision or application of this Settlement Agreement to the extent that such other provision or application can be given effect without the invalid provision or application, and to this end, the provisions of this Settlement Agreement are declared and understood to be severable; provided, however, that should a court of competent jurisdiction hold that TAXPAYER was not obligated to pay CITY upon any of the PAYMENT DEMAND, and should TAXPAYER bring or join in such a suit, then CITY shall immediately remit to TAXPAYER the SETTLEMENT AMOUNT, plus interest accruing thereon at the City's Treasure annual pooled funds rate, compounded monthly, from the date of payment thereof. The foregoing requirement to remit the SETTLEMENT AMOUNT or any interest shall not be enforceable as against CITY if TAXPAYER shall, prior to TAXPAYER bringing or joining in such a suit, have brought any claim, whether or not through any judicial or administrative proceeding, with respect to the PAYMENT DEMAND.

13. Neither this Settlement Agreement nor any provision of this Settlement Agreement can be modified or waived in any way, except by agreement in writing signed by each of the Parties hereto, consenting to such modification or waiver.

14. This Settlement Agreement and the settlement which led to it have been fully negotiated with the assistance of counsel and should not be construed more strictly against one Party than another.

15. Each Party represents that the individual signing this Settlement Agreement on its behalf is authorized to sign this Settlement Agreement on behalf of the Party for which such individual signs.

16. This Settlement Agreement shall be governed and construed in accordance with the laws of the State of California.

17. This Settlement Agreement may be signed in counterparts, and each signed counterpart shall be deemed an original document, but all of which together shall constitute one and the same instrument.

AMB PIER ONE, LLC

Dated: \_\_\_\_\_

\_\_\_\_\_  
MARC SANCES  
SENIOR VICE PRESIDENT,  
REAL ESTATE TAX

Print Name: \_\_\_\_\_

Print Position: \_\_\_\_\_

CITY AND COUNTY OF SAN FRANCISCO

Dated: \_\_\_\_\_