

1 [Memorandum of Understanding between the Treasure Island Development Authority and the
2 San Francisco Public Utilities Commission for Payment of Unpaid Utilities.]

3 **Resolution approving and authorizing the execution of a Memorandum of**
4 **Understanding between the Treasure Island Development Authority and the San**
5 **Francisco Public Utilities Commission for Payment of Unpaid Utility Amounts.**

6
7 WHEREAS, Former Naval Station Treasure Island is a military base located on
8 Treasure Island and Yerba Buena Island (together, the "Base"), which is currently owned by
9 the United States of America, acting by and through the Department of the Navy (the "Navy");
10 and,

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

14 WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97,
15 authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit
16 corporation known as the Treasure Island Development Authority (the "Authority") to act as a
17 single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and
18 conversion of the Base for the public interest, convenience, welfare and common benefit of
19 the inhabitants of the City and County of San Francisco; and,

20 WHEREAS, In March 12, 1997, the City and County of San Francisco (the "City") and
21 the Navy executed the Base Caretaker Cooperative Agreement, which has been amended
22 from time to time (the "Cooperative Agreement"), for the management and operation of the
23 Base; and,

24 WHEREAS, In November 1998, the San Francisco Board of Supervisors adopted
25 Resolution No. 938-98 authorizing the Authority to enter into the Cooperative Agreement with

1 the Navy and to assume responsibility for certain caretaker duties at the Base including the
2 operation, maintenance and repair of the Navy's utility systems that service Treasure Island
3 and Yerba Buena Island; and,

4 WHEREAS, The Cooperative Agreement includes various Functional Annexes that
5 describe in detail the caretaker duties for which the Authority is responsible under the
6 Cooperative Agreement, among which Functional Annex 6 - Utilities Services describes the
7 operation and maintenance of the utility systems and the delivery of utilities to the occupants
8 and users of the Base; and,

9 WHEREAS, In accord with the terms of the Cooperative Agreement, the San Francisco
10 Public Utilities Commission ("SFPUC") has performed the Authority's responsibilities under
11 Functional Annex 6 – Utilities Services, including, without limitation, the operation and
12 maintenance of the utility systems and the delivery of utilities services to the Base; and,

13 WHEREAS, Since Fiscal Year 1997/98, the Authority has made payments to the
14 SFPUC in exchange for certain services, including street lighting and irrigation water services,
15 and as of June 30, 2005, Authority payments to SFPUC for utilities services provided during
16 such period totaled \$1,648,280; and,

17 WHEREAS, In 2005, the SFPUC claimed that the Authority had an outstanding
18 obligation to the SFPUC for unpaid utility services, including street lighting and water for
19 landscape irrigation, for Fiscal Years 1997/98 through 2005/06; and,

20 WHEREAS, On December 12, 2005, The San Francisco Controller's Office conducted
21 an audit of the Authority (Controller's Audit No. 05045) and established the outstanding
22 amount of the Authority's unpaid obligation to the SFPUC at approximately \$2,100,000 (the
23 "Unpaid Utility Amount"), and the Unpaid Utility Amount was confirmed in a report produced
24 by the Financial and Accounting Services Team ("FAST") of the Office of the Controller on
25 March 29, 2006; and,

1 WHEREAS, After meeting and conferring, SFPUC staff and Project Staff have agreed
2 that between the date of the Controller's Audit and June 30, 2008, the outstanding amount of
3 the Authority's obligation to the SFPUC for the Unpaid Utility Amount has been reduced to
4 \$2,028,391 (the "Outstanding Balance"); and,

5 WHEREAS, SFPUC staff and Authority staff have negotiated the terms of a
6 Memorandum of Understanding (the "Agreement") for the Authority to pay the Outstanding
7 Balance over the next eleven years in installments of Two Hundred Thousand Dollars
8 (\$200,000) per year, in Years 1 through 10, and Twenty Eight Thousand Three Hundred and
9 Ninety One Dollars (\$28,391) in Year 11, subject to the Controller's certification of available
10 funds; and,

11 WHEREAS, A copy of the Agreement is on file with the Clerk of the Board of
12 Supervisors in File No. 090451; and,

13 WHEREAS, The SFPUC approved the Agreement at a duly noticed meeting on
14 January 13, 2009 by adopting Resolution No. 09-0007; and,

15 WHEREAS, The Authority Board of Directors approved the Agreement at a duly
16 noticed meeting on January 14, 2009; and,

17 WHEREAS, The Authority's Bylaws require the Board of Supervisors' approval of
18 agreements with a term in excess of ten years or anticipated revenues of One Million Dollars
19 (\$1,000,000) or more;

20 WHEREAS, SFPUC agreements with a term in excess of ten years require the Board
21 of Supervisors' approval pursuant to Charter Section 9.118; now, therefore, be it

22 RESOLVED, That the Board of Supervisors hereby approves the terms of the
23 Agreement and authorizes the Authority's Director of Island Operations and the SFPUC's
24 General Manager to execute the Agreement.

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RECOMMENDED:

Mirian Saez, Director of Island Operations
Treasure Island Development Authority