

1 [Fourth Amendment to John Stewart Company Sublease of Housing Units on Treasure Island]

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4 **Resolution approving and authorizing the Director of Island Operations for the**  
5 **Treasure Island Development Authority to execute a fourth amendment to the sublease**  
6 **with the John Stewart Company to increase utility rates.**

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

15 WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended  
16 Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter  
17 1333 of the Statutes of 1968 (the "Act"), the California legislature (i) designated the Authority  
18 as a redevelopment agency under California redevelopment law with authority over the Base  
19 upon approval of the City's Board of Supervisors, and, (ii) with respect to those portions of the  
20 Base which are subject to the Tidelands Trust, vested in the Authority the authority to  
21 administer the public trust for commerce, navigation and fisheries as to such property; and,

22 WHEREAS, On March 12, 1997, the Authority and the US Navy entered into the Base  
23 Caretaker Cooperative Agreement ("Cooperative Agreement") for the management and  
24 operation of the Base; and,

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1           WHEREAS, Utilities commodities purchasing, and utilities system operation and  
2 maintenance responsibilities have been delegated by the Authority to the San Francisco  
3 Public Utilities Commission (“SFPUC”); and,

4           WHEREAS, On March 17, 1999, The John Stewart Company ("JSCo") and the  
5 Authority entered into a Sublease, Development, Marketing and Property Management  
6 Agreement, as amended on August 15, 2000 by the First Amendment to Sublease,  
7 Development, Marketing and Property Management Agreement, on June 12, 2003 by the  
8 Second Amendment to Sublease, Development, Marketing and Property Management  
9 Agreement, and on March 22, 2006 by the Third Amendment to Sublease, Development,  
10 Marketing and Property Management Agreement (collectively, the "Sublease"), for the  
11 development, marketing and property management of up to 766 housing units at the Base;  
12 and,

13           WHEREAS, Pursuant to Paragraph 4. RATES, Exhibit L of the Sublease, residential  
14 utility rates for units managed by JSCo were established in 1999 at a flat rate of \$180 per  
15 rentable occupied unit per month and such fee would be increased by four percent (4%) each  
16 succeeding year; and,

17           WHEREAS, In accord with the formula for residential utility rates established in 1999,  
18 the current residential utility rate is \$236.87 per unit; and,

19           WHEREAS, As is the case with most utilities providers in California, the cost of  
20 commodities and maintenance have escalated substantially, and the revenues generated  
21 from rates charged to utilities consumers on the Base are insufficient to pay for the cost of  
22 commodities purchasing, operation and maintenance for such utilities systems; and,

23           WHEREAS, SFPUC staff had requested an increase of residential utility rates to  
24 \$286.50 per unit, such rate being sufficient to recover all SFPUC costs associated with  
25 providing utilities services to residential units on the Base; and,

1           WHEREAS, The Authority staff recommended that the residential utilities rates  
2 recommended by SFPUC not be accepted as the substantial increase requested by SFPUC  
3 staff would constitute a substantial burden on the budget and thereby impair the ability of the  
4 Authority to operate the Base; and,

5           WHEREAS, On August 8, 2006 at a properly noticed public meeting, the Authority's  
6 Board of Directors approved the form of, and authorized the Interim Executive Director of the  
7 Authority to enter into, a fourth amendment to the Sublease to establish a current flat utility fee  
8 for residential units of \$255 per rentable unit per month, which rate shall be increased by 4%  
9 on July 1 of each year following the fourth amendment; now therefore be it

10          RESOLVED, That the San Francisco Board of Supervisors hereby approves the fourth  
11 amendment to the Sublease to increase the current flat utility rate for residential units to \$255  
12 per rentable unit per month, which rate shall be increased by 4% on July 1 of each year  
13 following the fourth amendment; and,

14          FURTHER RESOLVED, That the San Francisco Board of Supervisors hereby  
15 authorizes the Director of Island Operations for the Authority to execute and enter into the  
16 fourth amendment to the Sublease in substantially the form filed with the Clerk of the Board in  
17 File No. \_\_\_\_\_, and any additions, amendments or other modifications to such  
18 amendment (including, without limitation, its exhibits) that the Director of Island Operations of  
19 the Authority or her designee determines, in consultation with the City Attorney, are in the best  
20 interests of the Authority and do not otherwise materially increase the obligations or liabilities  
21 of the Authority, and are necessary or advisable to effectuate the purpose and intent of this  
22 resolution.

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