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RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

Treasure Island Development Authority
c/o Office of Economic and Workforce Development
City Hall, Room 448
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attention: Treasure Island Project Director

Treasure Island/Yerba Buena Island
APN: [_____]

*Space Above Reserved for Recorder's Use*

# FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

between

THE CITY AND COUNTY OF SAN FRANCISCO

and

TREASURE ISLAND COMMUNITY DEVELOPMENT, LLC

RELATIVE TO TREASURE ISLAND/YERBA BUENA ISLAND

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

This FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this "**First Amendment**") is made as of _____, 2024 (the "**Effective Date**") by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "**City**"), and TREASURE ISLAND COMMUNITY DEVELOPMENT, LLC, a California limited liability company ("**Developer**"), pursuant to the authority of Section 65864 *et seq*. of the California Government Code and Chapter 56 of the Administrative Code.

R E C I T A L S

A. The City and Developer entered into that certain Development Agreement, dated for reference purposes only as of June 28, 2011 and recorded in the Official Records of the City and County of San Francisco (the "**Official Records**") on August 10, 2011 as Document No. 2011-J235240 (the "**Development Agreement**"). All initially capitalized terms used but not defined in this First Amendment shall have the meaning given to such terms in the Development Agreement. The Development Agreement relates to certain property, as shown in the attached Exhibit A and more particularly described in the attached Exhibit B (the "**Project Site**").

B. On June 7, 2011, the Board of Supervisors by Resolution 241-11 approved that certain Disposition and Development Agreement (Treasure Island/Yerba Buena Island) between the Parties (as amended, the "**Original DDA**"). The Parties subsequently entered into the Original DDA, dated for reference purposes only as of June 28, 2011 (the "**Original Reference Date**"). The Original DDA was subsequently amended by that certain First Amendment to Disposition and Development Agreement (Treasure Island/Yerba Buena Island) dated as of October 23, 2015 and recorded in the Official Records on November 5, 2015 as document No. 2015-K153304, and by that certain Second Amendment to Disposition and Development Agreement (Treasure Island/Yerba Buena Island) dated as of January 18, 2018 and recorded in the Official Records on January 22, 2018 as document No. 2018-K569072.

C. Since the Original Reference Date, the Project has faced a series of challenges, including at least six years of permitting and construction delays arising from, among other things, CEQA litigation, significant construction cost increases, a global pandemic, a rapid rise in interest rates, and a softening of the San Francisco residential condominium and rental markets. Despite these challenges, Developer has proceeded to substantially complete Infrastructure and Stormwater Management Controls within Sub-Phase 1 (on Yerba Buena Island), and Sub-Phase 2 (on Treasure Island) to support the construction of up to approximately 2,000 residential units, of which 974 have either been completed or are currently under construction, and of which 315 are below market rate. Developer has also obtained approval of Sub-Phase 3 on Treasure Island and has initiated preliminary construction activities (demolition and geotechnical) in this Sub-Phase. However, in light of these delays and challenging market conditions, Developer now faces potential delays in its ability to finance and build the necessary Infrastructure and Stormwater Management Controls for the next sub-phase of development on Treasure Island, which is intended to support up to 1,500 residential units, including 250 affordable housing units and a 240 bed behavioral health project, all of which are needed for the City to achieve its housing production goals established under its Housing Element 2022 Update of the General Plan and the Mayor's Housing for All implementation strategy.

D. In light of these significant Project challenges, the Authority and Developer, together with the City, have negotiated a financial package that will allow Developer and Vertical Developers to continue with horizontal and vertical development, contribute to the City's housing production goals and provide the Authority with the remainder of the Major Phase 1 public improvements in a timely manner. This First Amendment addresses a subset of those challenges by, among other things, amending the Financing Plan to reflect the City's and Developer's commitment to the Project.

E. The Parties now wish to execute and record this First Amendment to set forth certain modifications to the Development Agreement to reflect the City's and Developer's commitment to the Project.

A G R E E M E N T S

NOW, THEREFORE, in consideration of the foregoing Recitals, the covenants and agreements set forth in this First Amendment and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Developer and City hereby agree as follows:

**1. EXHIBITS**

Exhibit C (Project Approvals) is hereby deleted in its entirety and amended and restated by Exhibit C attached hereto.

Exhibit D (Financing Plan) is hereby deleted in its entirety and amended and restated by Exhibit D attached hereto.

**2. NOTICE ADDRESSES**

The Parties hereby include a statement of the current addresses of the Parties for purposes of notices delivered in accordance with Section 11.9 of the Development Agreement:

To the City:

Office of Economic and Workforce Development
City Hall, Room 448
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Treasure Island Project Director

with a copy to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Real Estate/Finance

To Developer:

Treasure Island Community Development, LLC
c/o Lennar
2000 FivePoint, 3rd Floor
Irvine, California 92618
Attn: Sandy Goldberg; Laura Mask

with a copy to:

Wilson Meany
4 Embarcadero Center, Suite 3330
San Francisco, California 94111
Attn: Chris Meany; Controller

with a copy to:

Gibson, Dunn & Crutcher LLP
One Embarcadero Center, Suite 2600
San Francisco, California 94111-3715
Attn: Neil H. Sekhri

**3. NO OTHER MODIFICATIONS**

Except as expressly provided in this First Amendment, the terms and provisions of the Development Agreement are unmodified.

**4. COUNTERPARTS**

This First Amendment may be signed in counterparts, each of which shall be an original and all of which together shall constitute one instrument.

[Signatures on following page.]

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment as of the Effective Date.

**CITY**:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Rich Hillis
Director of Planning

Approved as to form:

DAVID CHIU,
City Attorney

By: _____
Heidi Gewertz
Deputy City Attorney

Approved on _____, 202_

Board of Supervisors Ordinance No. _____

[Signatures continue on following page.]

**DEVELOPER**:

TREASURE ISLAND COMMUNITY DEVELOPMENT, LLC,
a California limited liability company

[INSERT TICD SIGNATURE BLOCK]

Consented to by:

TREASURE ISLAND SERIES 1, LLC,
a Delaware limited liability company

By: _____
Name: [_____]
Its: [_____]

TREASURE ISLAND SERIES 2, LLC,
a Delaware limited liability company

By: _____
Name: [_____]
Its: [_____]

TREASURE ISLAND SERIES 3, LLC,
a Delaware limited liability company

By: _____
Name: [_____]
Its: [_____]

## NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)SS
COUNTY OF _____)

On_____

before me, _____, a Notary Public, personally appeared

_____

_____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

## NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)SS
COUNTY OF _____)

On_____

before me, _____, a Notary Public, personally appeared

_____

_____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

**Exhibit A**

**Project Site**

[Attached]

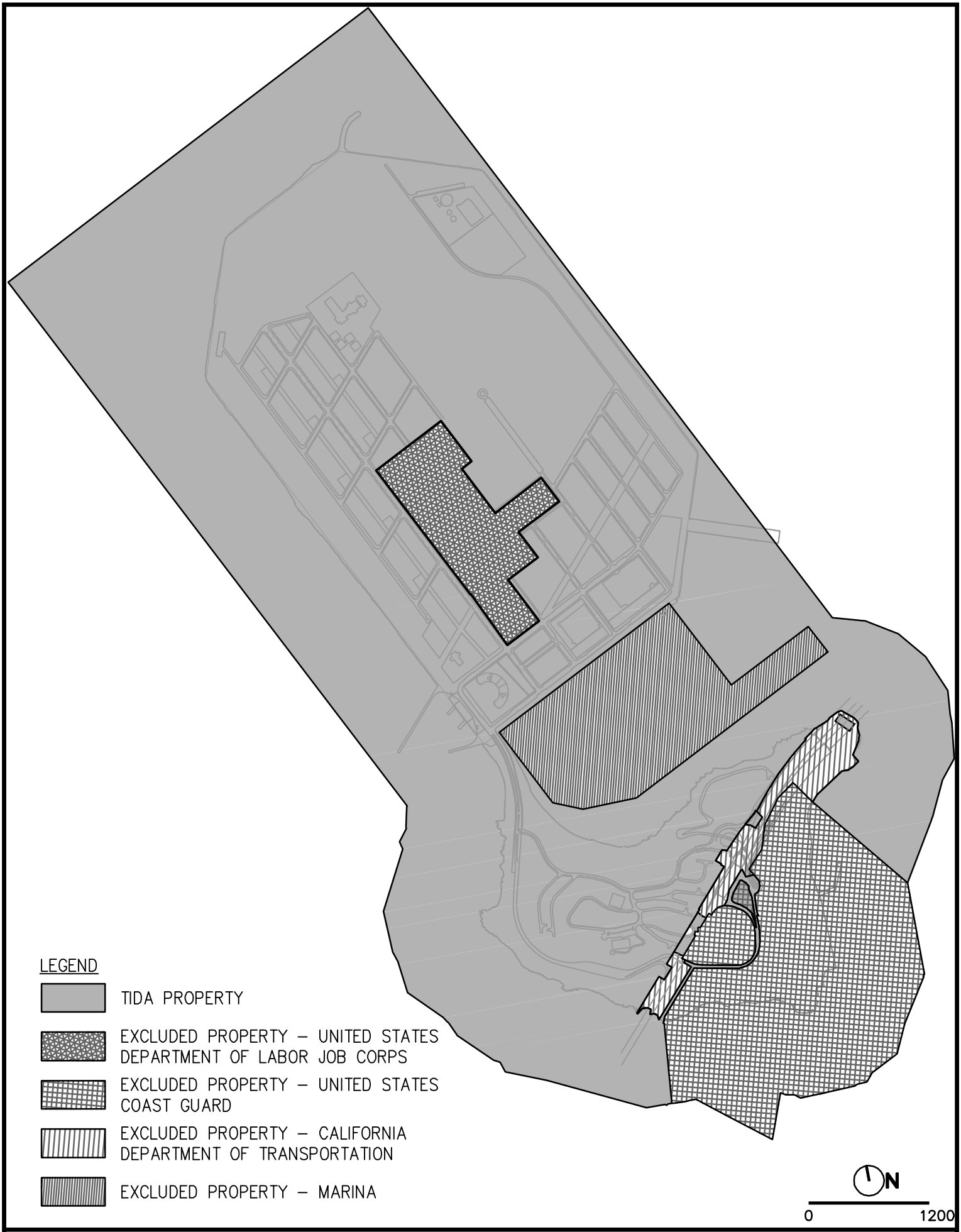


**EXHIBIT A: PROJECT SITE / EXCLUDED PROPERTIES**

**Exhibit B**

**Legal Description of Project Site**

[Attached]

Pacific Land Surveys
June 27, 2011
PLS Job No. 20110101-01

**Exhibit "B"**

**LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

All those lands comprised of portions of the lands commonly known as Treasure Island and Yerba Buena Island lying within the City and County of San Francisco, State of California described as follows:

That portion of the lands described in that certain Presidential Reservation of Goat Island (now Yerba Buena Island), dated November 6, 1850, lying northwesterly of Parcel 57935-1 as described in that certain Quitclaim Deed, recorded October 26, 2000, as Document Number 2000G855531, in the office of the Recorder of the said City and County of San Francisco (hereinafter referred to as Doc. 2000G855531);

Together with all of the underlying fee to Parcel 57935-5 as described in said Quitclaim Deed (Doc. 2000G855531) and all of the underlying fee to Parcel 57935-6 as described in said Quitclaim Deed (Doc. 2000G855531),

Also together with that portion of the tide and submerged lands in San Francisco Bay, relinquished to the United States of America by that certain act of the Legislature of the State of California by Statutes of the State of California of 1897, Chapter 81 (hereinafter referred to as Stat. 1897, Ch. 81);

Also together with all of the Tidelands and Submerged Lands in San Francisco Bay known as Treasure Island as described in that certain Final Judgment of Condemnation, filed April 3, 1944, in the District Court of the United States in and for the Northern District of California, Southern Division, Case Number 22164-G (hereinafter referred to as Case 22164-G),

Also together with all of that portion of the lands described in that certain Presidential Reservation of Goat Island (now Yerba Buena Island), dated November 6, 1850, lying southeasterly of Parcel 57935-1 as described in that certain Quitclaim Deed, recorded October 26, 2000, as Document Number 2000G855531, in the office of the Recorder of the said City and County of San Francisco (hereinafter referred to as Doc. 2000G855531); excepting therefrom those lands shown as the Lands of the United States Coast Guard on that certain Record of Survey, entitled "Record of Survey #5923" recorded in Book DD of Maps at Pages 24-28 on April 28, 2010;

Also excepting therefrom, that portion of the said Tidelands and Submerged Lands in San Francisco Bay known as Treasure Island (Case 22164-G), commonly referred to as the Job Corps

Center, Treasure Island, which was transferred to the United States Department of Labor by that certain document entitled "Transfer and Acceptance of Military Real Property", Dated March 3, 1998;

Also excepting therefrom, portions of: the Tidelands and Submerged Lands in San Francisco Bay known as Treasure Island as described in that certain Final Judgment of Condemnation, filed April 3, 1944, in the District Court of the United States in and for the Northern District of California, Southern Division, Case Number 22164-G (hereinafter referred to as Case 22164-G), and the tide and submerged lands in San Francisco Bay, relinquished to the United States of America by that certain act of the Legislature of the State of California by Statutes of the State of California of 1897, Chapter 81 (hereinafter referred to as Stat. 1897, Ch. 81); being more particularly described as follows: commencing at the southwest corner of the lands described above in Case Number 22164-G, said point being marked by a brass disk labeled “Goat”, thence northerly along the westerly line of said lands North 26 degrees 51’ 06” West 601.09 feet; thence leaving said line, North 63 degrees 08’47” East 1173.50 feet to the True Point of beginning of this exception; thence along the following eight courses: North 26 degrees 51’ 13” West 878.38 feet; North 63 degrees 08’ 47” East 2121.50 feet; South 26 degrees 51’ 13” East 1024.20 feet; North 63 degrees 08’ 47” East 961.00 feet; South 26 degrees 51’ 13” East 320.20 feet; South 63 degrees 08’ 47” West 2391.50 feet; thence South 88 degrees 38’ 47” West 543.80 feet; thence North 67 degrees 39’ 13” West 306.35 feet to the True Point of Beginning of this exception.

Also excepting therefrom, that portion of the said Tide and Submerged Lands in San Francisco Bay, relinquished to the United States of America (Stat. 1897, Ch. 81), within the "Army Reservation, Occupied by U.S. Light House Service under Permit from Secretary of War dated May 27, 1872" as shown and described upon that certain map entitled "Plat of Army and Navy reservations on Yerba Buena (Goat) Island, San Francisco Bay, California";

And further excepting therefrom, that portion of the Tide and Submerged Lands in San Francisco Bay, relinquished to the United States of America (Stat. 1897, Ch. 81) which were transferred to the United States Coast Guard by that certain document entitled "Transfer and Acceptance of Military Real Property", Dated November 26, 2002.

As portions of said land are shown on those certain Records of Survey filed for record: July 15, 2003 in Book M of maps at pages 85 through 95, inclusive, and as shown on the map entitled "Map and Metes and Bounds Description of United States Military and Naval Reservations, Yerba Buena (Goat) Island, California" including land ceded by the State of California by Act of Legislature of the State of California, approved March 9,1897 (Stat. Cal., 1897, p. 74) filed April 12, 1934 in Book N of Map at Page 14; and on April 28, 2010, in Book DD of Maps at Pages 24-28, entitled “Record of Survey #5923”; recorded in the Office of the Recorder of the City and County of San Francisco.

# Exhibit C

## Project Approvals

- Certification of Environmental Impact Report, State Clearinghouse No. 2008012105 (Planning Commission Motion No. 18325; TIDA Resolution No. 11-14-04/21)

- Development Agreement (Board of Supervisors Ordinance No. 95-11; San Francisco Municipal Transportation Agency Resolution No. 11-0059: San Francisco Public Utilities Commission Resolution No. Resolution No. 11-0068)

- Disposition and Development Agreement (TIDA Resolution No. 11-18-04/21; Board of Supervisors Ordinance No. 241-11)

- Design for Development (D4D) (Planning Commission Motion No. 18330)

- Interagency Cooperation Agreement (ICA) (TIDA Resolution No. 11-24-04/27; SFMTA Resolution No. 11-0059; SFPUC Resolution No. 11-0068)

- Amendments to the San Francisco General Plan, amending the Commerce and Industry Element, Community Facilities Element, Housing Element, Recreation and Open Space Element, Transportation Element, Urban Design Element, and Land Use Index, maps and figures in various elements, and by adopting and adding the Treasure Island/Yerba Buena Island Area Plan (Board of Supervisors Ordinance No. 97-11)

- Amendments to the San Francisco Planning Code by amending Sections 102.5 and 201 to include the Treasure Island/Yerba Buena Island districts; amending Section 105 relating to height and bulk limits for Treasure Island/Yerba Buena Island; adding Section 249.52 to establish the Treasure Island/Yerba Buena Island Special Use District (which incorporates by reference the Design for Development); adding Section 263.26 to establish the Treasure Island/Yerba Buena Island Height and Bulk District; and amending the bulk limits table associated with Section 270 to refer to the Treasure Island/Yerba Buena Island Height and Bulk District (Board of Supervisors Ordinance No. 98-11)

- Amendment to the Zoning Map of the City and County of San Francisco by adding new Sectional Map ZN14 to show the zoning designations of Treasure Island/Yerba Buena Island; adding new Sectional Map HT14 to establish the Height and Bulk District for Treasure Island/Yerba Buena Island; adding new Sectional Map SU14 to establish the Treasure Island/Yerba Buena Island Special Use District (Board of Supervisors Ordinance No. 96-11)

- Adopting CEQA Findings and a Mitigation Monitoring and Reporting Program (TIDA Resolution No. 11-15-04/21; Board of Resolution No. 246-11; Planning Commission Motion No. 18326; San Francisco Municipal Transportation Agency Resolution No. 11-0059: San Francisco Public Utilities Commission Resolution No. Resolution No. 11-0068)

- Adopting the Subdivision Code of the City and County of San Francisco for Treasure Island and Yerba Buena Islands (Board of Supervisors Ordinance No. 99-11)

- Amended and Restated Disposition and Development Agreement (TIDA Resolution No. [_____]; Board of Supervisors Resolution No. [_____])

- First Amendment to Development Agreement (Board of Supervisors Ordinance No. [_____])

- Amendments to the San Francisco Planning Code to revise the Treasure Island / Yerba Buena Island Special Use District (SUD), to update the Treasure Island Bulk and Massing figure, to make the process for amendments to the Design for Development document more flexible, and to provide for additional circumstances that may authorize Minor Modifications to the standards in the SUD and Design for Development; revising the Zoning Map to change height districts in Treasure Island, to provide for five additional feet in certain areas, and to remove the "Special Height District" designation from two easements adjacent to Buildings 2 and 3 (Board of Supervisors Ordinance No. [_____])

# Exhibit D

## Financing Plan

[Attached]

107121005.7

**Exhibit D**

**AMENDED AND RESTATED FINANCING PLAN**

**(TREASURE ISLAND/YERBA BUENA ISLAND)**

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Exhibit D

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Attachment A. Form of Acquisition and Reimbursement Agreement

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**AMENDED AND RESTATED FINANCING PLAN**
**(TREASURE ISLAND/YERBA BUENA ISLAND)**

This AMENDED AND RESTATED FINANCING PLAN (Treasure Island/Yerba Buena Island) (the "**Financing Plan**") implements and is part of both the DDA and the City DA. As used in this Financing Plan, capitalized terms used herein have the definitions given to them in Section 7.2.

## 1. OVERVIEW

### 1.1 Project Purposes; Project Accounts

(a) Funding Goals. Developer and Authority are entering into the DDA, and Developer and City are entering into the City DA, both of which include this Financing Plan as an exhibit, with the following financial goals for the Project (collectively, the "**Funding Goals**"):

(i) Ensure that the proposed Project is economically and fiscally feasible.

(ii) Ensure timely delivery of Infrastructure and Stormwater Management Controls to support the City's delivery of housing, generally, and Affordable Housing Units, in particular.

(iii) Fund the proposed Project's capital costs and on-going operation and maintenance costs relating to the development and long-term operation of the Project Site (including community facilities, open space maintenance and transportation) from revenues generated by the Project that would not exist but for the Project, including land sales, lease revenues, project-generated public financing revenues, and other tax and General Fund revenues created by the Project – in a manner that does not negatively impact the City's General Fund revenues over the life of the Project, except as otherwise set forth herein.

(iv) Ensure that the provision of the community benefits and facilities described in the DDA and City DA are a priority of the Project.

(v) Provide a mechanism for Authority and Navy participation in Net Cash Flow from the development of the Project in the event Developer achieves a return in excess of agreed upon rates of return, and as consistent with the terms of the Conveyance Agreement.

(vi) Incorporate the legal restrictions on the allowable uses of Gross Revenues arising under (i) the Conveyance Agreement and (ii) State law applicable to the Public Trust Parcels.

(vii) Provide mechanisms and Funding Sources that will allow Developer to maximize Developer's IRR.

(viii) Maximize Funding Sources available to finance Qualified Project Costs, by, among other things, to the extent reasonably feasible and consistent with this Financing Plan, using tax-exempt debt.

(ix) Minimize the costs to Developer (such as costs of credit enhancement) associated with the Funding Sources to the extent reasonably feasible and to use debt requiring credit enhancement only with Developer's written consent.

(x) Provide financing of the Housing Costs in the manner set forth in Section 3.6 and Section 3.7(c).

(xi) Implement sound and prudent public fiscal policies that protect the City's General Fund, Authority's general funds, and the City's and Authority's respective financial standings and fiduciary obligations, while operating within the constraints of this Financing Plan and, as applicable, the IFD Act, the CFD Act, the CFD Goals, and Tax Laws.

(b) Purpose of Financing Plan. The purpose of this Financing Plan is to establish the contractual framework for mutual cooperation between Authority, City, and Developer in achieving the Funding Goals necessary to implement the Project. Accordingly, Authority and City shall take all actions reasonably necessary, and Developer shall cooperate reasonably with the efforts of:

(i) City to form requested CFDs, adopt RMAs, and levy Project Special Taxes within CFDs and incur CFD Bonds to pay as applicable Qualified Project Costs, Ongoing Park Maintenance, and, when authorized pursuant to Section 2.8, Additional Community Facilities.

(ii) City to form requested IFDs and to approve IFPs for each IFD that provide for the issuance of IFD Debt that is consistent with the Funding Goals to pay Qualified Project Costs.

(iii) City to allocate and approve IFPs that provide for the application of Net Available Increment to pay Qualified Project Costs as provided in this Financing Plan, and to allocate Conditional City Increment to pay debt service on IFD Debt as provided in this Financing Plan.

(iv) City to take steps required to provide Alternative Financing to the Project as provided in this Financing Plan.

(v) City and Authority to finance Ongoing Park Maintenance in the manner described in this Financing Plan.

(c) Project Accounts.

(i) Developer shall, and shall require all Transferees to, establish and maintain one or more accounts (each, a "**Project Account**") with

the San Francisco branches of financial institutions Approved by Authority to which all Gross Revenues shall be deposited. Financial institutions holding Project Accounts may be changed from time to time with Approval of Authority and Developer.

(ii) Developer shall, and shall require all Transferees: (A) not to commingle funds held in a Project Account with funds not related to the Project, including Affiliate accounts; and (B) to retain and make statements and all other records related to Project Accounts available for Authority's review and audit in accordance with Section 1.6.

(d) Security Interest in Project Accounts. Provided (A) Developer has completed all Developer Construction Obligations and (B) Authority has received an IRR Statement showing that Developer has achieved a cumulative IRR of more than 22.5% at the end of the last Quarter of the Reporting Period covered by such IRR Statement, Developer and Authority shall cooperate reasonably with one another to provide Authority and the Navy with security for Developer's obligation to make payments in accordance with Section 1.3. Security will be in the form of perfected security interests in the Project Accounts superior to any other security interests, evidenced by a UCC-1 financing statement and a control agreement with each financial institution holding a Project Account, or by other arrangements Approved by both Developer and Authority.

1.2 Funding Sources for Project Costs

(a) Funding Sources. Sources of public funding that will be used to pay or reimburse Developer for Qualified Project Costs include, but are not limited to: (A) Public Financing; (B) proceeds of Project Grants that Authority procures to the extent applied to Project Costs under Section 4.3; (C) Project Special Taxes and Remainder Taxes; (D) Net Available Increment and other Increment allocated to Qualified Project Costs pursuant to Section 3.7(c); and (E) Net Interim Lease Revenues described in Section 6.1(a)(iv). The sources identified in clauses (A)-(E) are collectively referred to in this Financing Plan as "**Funding Sources**."

(b) Limited Public Obligation. Other than as set forth in this Financing Plan, including with respect to Alternative Financing, Developer acknowledges that in no event may the City's General Fund or any of Authority's general funds be obligated to finance the Qualified Project Costs without City's or Authority's express written consent, as applicable.

(c) Developer Sources.

(i) Developer Contributions for Project Costs. Developer's sources for Project Costs include: (A) Developer equity; (B) Gross Revenues; (C) Developer construction and development financing; and (D) proceeds of Project Grants that Developer procures.

(ii) Developer Construction Obligations. Developer acknowledges that the Developer Construction Obligations will not be affected if Project Costs exceed the actual Funding Sources.

1.3 Distribution of Net Cash Flow

(a) Implementation of Conveyance Agreement.

(i) Under the Conveyance Agreement, Authority and the Navy agreed that the Net Cash Flow from the Project will be shared by the Navy after certain thresholds are met. Authority shall also share in the Net Cash Flow after certain thresholds are met. This Section 1.3 implements (i) the provisions of the Conveyance Agreement and (ii) Authority and Developer's agreement with respect to the sharing of Net Cash Flow between them.

(ii) To the extent Authority has not paid the Initial Navy Consideration with Net Interim Lease Revenues pursuant to Section 6.1(a)(ii) or as otherwise provided in this Financing Plan, Developer will pay to Authority or Navy (on behalf of Authority) the Initial Navy Consideration in the manner described in Section 4.2 of the Conveyance Agreement and any related late payment penalties caused by Developer's failure to make timely payments to Navy, on behalf of Authority, as such penalties are imposed pursuant to Section 4.3.4 of the Conveyance Agreement.

(b) Calculation of IRR. Within forty-five (45) days after the expiration of the eighth full calendar Quarter occurring after the Initial Closing and forty-five (45) days after the expiration of each subsequent Quarter during the Term of the Conveyance Agreement with respect to the Navy, and until the Cash Flow Distribution Termination Date with respect to Authority, Developer shall submit a reasonably detailed statement to Authority and the Navy (the "**IRR Statement**") accompanied by an Accounting consistent with the Conveyance Agreement showing (i) for any IRR Statement provided during the Initial Consideration Term, the cumulative IRR achieved as of the end of each of the eight (8) immediately prior Quarters, and (ii) for any IRR Statement provided after expiration of the Initial Consideration Term, the cumulative IRR achieved as of the end of each of the six (6) prior Quarters (the eight or six Quarter Period, as applicable, the "**Reporting Period**"). The IRR Statement shall also calculate the average IRR over the Reporting Period, calculated by adding the cumulative IRR shown for each Quarter in the Reporting Period and dividing the total by the number of Quarters in the Reporting Period.

(c) Share of Net Cash Flow.

(i) Until the IRR Statement shows that Developer has achieved an average IRR of more than 18.00% over the Reporting Period, all Net Cash Flow shall be distributed to Developer.

(ii) If the IRR Statement shows that Developer has achieved an average IRR of more than 18.00% over the applicable Reporting Period, then

Developer, on behalf of Authority, shall within forty-five (45) days after the end of the last Quarter of the applicable Reporting Period until the earlier of (A) such time as the aggregate amount of First Tier Payments equals Fifty Million Dollars ($50,000,000) ("**First Tier Compensation**") and (B) the Termination Date, pay the Navy an amount that would reduce the cumulative IRR as of the end of the Reporting Period to 18.00% (each, a "**First Tier Payment**"). Developer shall pay to Navy on behalf of Authority any related late payment penalties caused by Developer's failure to make timely payments to Navy, on behalf of Authority, as such penalties are imposed pursuant to Section 4.3.4 of the Conveyance Agreement.

(iii) If an IRR Statement shows that Developer has achieved, after reducing Net Cash Flow by the amount of any First Tier Payments, an average IRR of more than 22.5% within the applicable Reporting Period, then Developer, on behalf of Authority, shall within forty-five (45) days after the end of the last Quarter of the applicable Reporting Period, for the periods specified below, pay (A) during the Term, to the Navy 35% of the total amount of Net Cash Flow that would reduce the cumulative Developer's IRR to 22.5% as of the end of the Reporting Period (per the calculation methodology provided for in Exhibit DD to the Conveyance Agreement) (each, a "**Second Tier Payment**") and (B) to Authority, (i) during the Term, 10% of the total amount of Net Cash Flow and (ii) after the Term and continuing until the Cash Flow Distribution Termination Date, 45% of the total amount of Net Cash Flow, in each case that would reduce the cumulative IRR to 22.5% as of the end of the Reporting Period (per the calculation methodology provided for in Exhibit DD to the Conveyance Agreement) (an "**Authority Second Tier Payment**"). Developer shall pay to Navy, on behalf of Authority, any related late payment penalties caused by Developer's failure to make timely payments to Navy, on behalf of Authority, as such penalties are imposed pursuant to Section 4.3.4 of the Conveyance Agreement.

(iv) If an IRR Statement shows that Developer has achieved, after reducing Net Cash Flow by the amount of any First Tier Payments, Second Tier Payments, and Authority Second Tier Payments, an average IRR of more than 25.0% within the applicable Reporting Period, then Developer shall within forty-five (45) days after the end of the last Quarter of the applicable Reporting Period until the Cash Flow Distribution Termination Date, pay Authority an additional 5% of the total amount of Net Cash Flow that would reduce the cumulative Developer's IRR to 25.0% as of the end of the Reporting Period (per the calculation methodology provided for in Exhibit DD to the Conveyance Agreement) (each, an "**Authority Third Tier Payment**"), such that the share of Net Cash Flow above the IRR threshold of 25% to the Navy, Authority, and Developer are 35%, 15%, and 50%, respectively, during the Term, and 0%, 50%, and 50%, respectively, after the Term.

(v) Exhibit DD to the Conveyance Agreement provides a demonstration of the IRR calculation and the sharing of Net Cash Flow.

(d) Accounting. Developer shall maintain accurate books and records specific to the Project setting forth all components used for determining the Additional Consideration and the Authority Consideration, including, without limitation, each component of Net Cash Flow, and to determine the amount of Redesign Costs and credits against Initial Navy Consideration and Additional Consideration. Each IRR Statement submitted by Developer shall be accompanied by a complete Accounting. The Accounting shall be in conformance with GAAP where applicable, or with respect to the IRR Statement, in conformance with appropriate industry standards.

(e) Reconciliation of Final Conveyance Agreement IRR.

(i) Developer shall, within one hundred and eighty (180) days after the Termination Date, submit a final Accounting to Authority and the Navy, showing Developer's cumulative IRR for the entire term of the Project through the Termination Date (the "**Final Conveyance Agreement IRR**") and all payments of Additional Consideration made to the Navy on behalf of Authority hereunder during the period specified in Section 1.3(c) and all payments of Authority Consideration made to Authority hereunder during the same period (the "**Final Conveyance Agreement IRR Statement**"). The Final Conveyance Agreement IRR Statement and Accounting shall be performed and certified by an independent CPA in accordance with appropriate industry standards.

(ii) If the Final Conveyance Agreement IRR Statement and Accounting discloses that the Final Conveyance Agreement IRR exceeded 18% but the First Tier Payments to the Navy were less than the amount required by Section 1.3(c)(ii), Developer shall pay to the Navy on behalf of Authority the amount of Net Cash Flow necessary to reduce the Final Conveyance Agreement IRR to 18%, so long as the total of all First Tier Payments does not exceed the maximum amount required by Section 1.3(c)(ii).

(iii) If the Final Conveyance Agreement IRR Statement and Accounting discloses that the Final Conveyance Agreement IRR exceeded 22.5%, but the Second Tier Payments totaled less than 35% of Net Cash Flow for the Project during the Term above a 22.5% Final Conveyance Agreement IRR, then Developer shall cause to be paid to Navy on behalf of Authority the amount of Net Cash Flow necessary to raise the total of Second Tier Payments to equal 35% of all Net Cash Flow during the Term above a 22.5% Final Conveyance Agreement IRR.

(iv) If the Final Conveyance Agreement IRR Statement and Accounting discloses that the Final Conveyance Agreement IRR exceeded 22.5%, but Authority Second Tier Payments during the Term totaled less than 10% of Net Cash Flow for the Project during the Term above a 22.5% Final Conveyance Agreement IRR, then Developer shall cause to be paid to Authority the amount of Net Cash Flow necessary to raise the total of Authority Second Tier Payments during the Term to equal 10% of all Net Cash Flow during the Term above a 22.5% Final Conveyance Agreement IRR.

(v) If the Final Conveyance Agreement IRR Statement and Accounting discloses that the Final Conveyance Agreement IRR exceeded 25.0%, but Authority Third Tier Payments during the Term totaled less than 5% of Net Cash Flow for the Project during the Term above a 25.0% Final Conveyance Agreement IRR, then Developer shall cause to be paid to Authority the amount of Net Cash Flow necessary to raise the total of Authority Third Tier Payments during the Term to equal 5% of all Net Cash Flow during the Term above a 25.0% Final Conveyance Agreement IRR.

(f) Reconciliation of Final IRR.

(i) Developer shall, within one hundred and eighty (180) days after the Cash Flow Distribution Termination Date, submit a final Accounting to Authority, showing Developer's cumulative IRR for the entire term of the Project through the Cash Flow Distribution Termination Date (the "**Final IRR**") and all payments of Authority Consideration made to Authority hereunder (the "**Final IRR Statement**"). The Final IRR Statement and Accounting shall be performed and certified by an independent CPA in accordance with appropriate industry standards.

(ii) If the Final IRR Statement and Accounting discloses that the Final IRR exceeded 22.5%, but during the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date, Authority Second Tier Payments hereunder totaled less than 45% of Net Cash Flow for the Project above a 22.5% Final IRR during the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date, then Developer shall cause to be paid to Authority the amount of Net Cash Flow necessary to raise the total of Authority Second Tier Payments to equal 45% of all Net Cash Flow above a 22.5% Final IRR for the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date.

(iii) If the Final IRR Statement and Accounting discloses that the Final IRR exceeded 25.0%, but Authority Third Tier Payments hereunder totaled less than 5% of Net Cash Flow for the Project above a 25.0% Final IRR during the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date, then Developer shall cause to be paid to Authority the amount of Net Cash Flow necessary to raise the total of Authority Third Tier Payments to equal 5% of all Net Cash Flow above a 25.0% Final IRR during the period beginning one day after the Term and continuing until the Cash Flow Distribution Termination Date.

(g) Reconciliation of Redesign Costs. Within one hundred eighty (180) days after completion of all planning, entitlement, design and rebuilding work required under the Redesign Plan, as evidenced by City acceptance of all public improvements and final building inspection sign-off for all improvements as identified in the Work Program, Developer shall provide Authority and the Navy with a statement that includes an Accounting of all Redesign Costs actually incurred by Developer and

Authority and a statement of the amount to be credited against Initial Consideration in accordance with Section 4.3.6.2 of the Conveyance Agreement. The Accounting shall be performed and certified by an independent CPA in accordance with GAAP.

(h) Submission of IRR Statements. Developer shall continue to submit the IRR Statement and Accounting (A) to the Navy and Authority until the Termination Date, and (B) to Authority only following the Termination Date until the Cash Flow Distribution Termination Date.

(i) Compliance with Conveyance Agreement. Developer shall provide Authority with all information and shall cooperate with Authority to the extent necessary for Authority to comply with its reporting and audit obligations under the Conveyance Agreement.

(j) Audit. Authority shall be entitled from time to time to audit Developer's books, records, and accounts pertaining to the Net Cash Flow and all components thereof, the payment of Additional Consideration, the calculation and payment relating to the Authority Second Tier Payments and Authority Third Tier Payments, the calculation, payments and credits relating to the Redesign Costs, and shall be entitled to allow the Navy to undertake an audit to the extent described in Section 4.3.7 of the Conveyance Agreement. Such audit shall be conducted during normal business hours upon ten (10) business days' notice at the principal place of business of Developer and other places where records are kept. Authority shall provide Developer with copies of any audit performed. If it shall be determined as a result of such audit that there has been a deficiency in the payment of any Additional Consideration, Authority Second Tier Payments and Authority Third Tier Payments, Developer shall immediately pay any such deficiency with interest at the Default Interest Rate. In addition, if it shall be determined as a result of such audit that an Accounting has understated the Net Cash Flow for the applicable period by more than five percent (5%), Developer shall be required to pay, in addition to interest as aforesaid, all of Authority's costs and expenses and all of the Navy's costs and expenses connected with the audit or review of Developer's accounts and records for the Project. All such payments shall be paid within thirty (30) days of receipt of written notice to Authority of such underpayment and such audit costs shall not be allowed as a Development Cost. The issue of whether Net Cash Flow is understated or overstated by five percent (5%) or more may be arbitrated according to the procedures in section 15 of the DDA, but the arbitration must be conducted by arbitrators who have at least ten (10) years' experience in arbitrating disputes involving complex financial accounting.

(k) Excess Land Appreciation Structure Profits. To the extent it is commercially reasonable to do so and consistent with market practices for each product type at the time, all sales agreements, leases or subleases, as applicable, between a Vertical Developer and Developer will require Vertical Developer to pay Developer a percentage of any net profits above a mutually agreed-upon forecasted rate arising from the Excess Land Appreciation Structure. The net profits from the Excess Land Appreciation Structure actually received by Developer shall constitute Gross Revenues.

1.4 Reimbursements of Additional Consideration

(a) Additional Consideration in Event of Termination. In the event that Authority terminates all or any portion of the DDA before the issuance of the last Certificate of Completion for the Project for any reason, Authority shall do the following:

(i) require that any other developer that agrees to develop the property in the Project Site (the "**Other Developer**") make payments of Net Cash Flow to Authority in the same manner as set forth in Section 1.3;

(ii) in calculating the amount of the First Tier Payments and Second Tier Payments to be paid to the Navy, Authority shall calculate such amounts based on the cumulative IRR for the Project Site as a whole, and not on the cumulative IRR of any particular developer's project;

(iii) to ensure that Authority has sufficient funds, however, to pay the Navy its First Tier Compensation, the First Tier Payments shall be calculated separately for Developer and each Other Developer, and any First Tier Payments payable under the separate calculations shall be paid to Authority by Developer and each Other Developer, as applicable, and held as a deposit to be used to pay the Navy its First Tier Compensation (calculated based on the Project Site as a whole) as and when due, with any excess remaining on deposit with the Authority pending the payment of the full amount of the First Tier Compensation to the Navy;

(iv) if, following the payment of the First Tier Compensation to the Navy, the amount Authority collected from Developer and each Other Developer is greater than the amount of the First Tier Compensation actually paid to the Navy, then Developer and each Other Developer shall be reimbursed such excess amounts pro rata (based upon the cumulative amount Developer and each Other Developer paid in First Tier Payments);

(v) to ensure that Authority has sufficient funds to pay the Navy its Second Tier Participation, the Second Tier Payments shall be calculated separately for Developer and each Other Developer, and any Second Tier Payments payable under the separate calculations shall be paid to Authority by Developer and each Other Developer, as applicable, and held as a deposit, to be used to pay the Navy its Second Tier Participation (calculated based on the Project Site as a whole) as and when due, with any excess remaining on deposit with the Authority pending the calculation of the Final Conveyance Agreement IRR for the Project Site as a whole; and

(vi) if, following the determination of the Final Conveyance Agreement IRR for the Project Site as a whole, the amount Authority has on deposit from Developer and each Other Developer from Second Tier Payments is greater than the amount of Second Tier Participation actually paid to the Navy, then Developer and each Other Developer shall be reimbursed such excess

amounts pro rata (based upon the cumulative amount Developer and each Other Developer paid in Second Tier Payments over the Term).

1.5 Consultants

(a) Authority Consultants. City and Authority, following consultation with Developer, will select any consultants necessary to implement their respective portions of this Financing Plan, including the formation of any IFD and CFD and the issuance of any Public Financing. To the extent that similar consultants are retained customarily by local agencies in California that engage in public financing similar or of similar complexity to the Public Financing, the consultants may include special tax consultants, tax increment fiscal consultants, appraisers, property insurance providers, financial advisors, bond underwriters, absorption consultants, bond counsel, bond trustees, escrow agents, and escrow verification agents. City's and Authority's reasonable out-of-pocket costs that are not contingent upon the issuance of a Public Financing will be advanced by Developer pursuant to a deposit agreement to be entered into among City, Authority, and Developer, and Developer shall be entitled to reimbursement of such advances from the proceeds of the Public Financing if authorized by the applicable CFD Act, the IFD Act, Tax Laws, and other governing law. To the extent not advanced by Developer, City's and Authority's reasonable out-of-pocket costs that are customarily paid by local agencies in the State for Public Financing consultants will be reimbursed from the proceeds of a Public Financing to the extent permitted under the CFD Act, the IFD Act, applicable Tax Laws, and other governing law.

(b) Developer Consultants. Developer may engage its own consultants to advise it on matters related to this Financing Plan or any Public Financing, and its reasonable out-of-pocket costs will be reimbursed from the proceeds of a Public Financing to the extent permitted under the CFD Act, the IFD Act, applicable Tax Laws, and other governing law. To the extent Developer is not reimbursed from the proceeds of a Public Financing, such costs will be Soft Costs.

1.6 Recordkeeping

(a) Annual Reports.

(i) Commencing as of the date that Developer obtains the Major Phase Approval for the Initial Major Phase and ending on the later of (A) the date on which Developer has received the final Certificate of Completion for all of the Infrastructure and Stormwater Management Controls and (B) the earlier of (i) the date on which Developer has been reimbursed for all Qualified Project Costs and (ii) the date on which there are no further Gross Revenues available to reimburse Developer for Qualified Project Costs, Developer shall prepare and deliver to Authority an annual financial report on the Project no later than four (4) months following the end of each Developer Fiscal Year for which a report is due (each, an "**Annual Report**"). If Developer obtains a Major Phase Approval less than six (6) months before the end of a Developer Fiscal Year, Developer may include reporting for that Major Phase in the Annual Report for the next

Developer Fiscal Year. If any Annual Report shows any material discrepancy, then Developer must correct the discrepancy in its Records, and Developer and the Authority agree to meet and confer on the best method for correcting any overpayment or underpayment by the end of the next quarter in the Developer Fiscal Year.

(ii) Annual Reports must include the following information, reported separately for each Major Phase for which a Major Phase Approval has been obtained and in the aggregate for the Project as a whole: (A) updated estimates of and actual Project Costs, Qualified Project Costs, and Gross Revenues; (B) if applicable, variances from the prior Annual Report; (C) a statement reflecting the application of any Net Cash Flow that Developer has received during the prior Developer Fiscal Year; (D) a statement of Qualified Project Costs reimbursed from Funding Sources; (E) a statement of Qualified Project Costs previously incurred but not yet reimbursed from the Funding Sources; (F) new development expected to occur or that is occurring, the assessed value of which is expected to be included on the secured real property tax roll for the next Fiscal Year; and (G) any sales of Lots under article 17 of the DDA that are expected to occur and the assessed value of which is expected to be included on the secured real property tax roll for the next Fiscal Year.

(iii) Developer's Annual Report must cover the entire Project, even if Developer has Transferred part or all of its interest in a Major Phase or Sub-Phase to a Transferee.

(iv) Developer's obligation to provide Annual Reports will terminate as to any portion of the Project as to which the DDA is terminated after Developer has provided to Authority the Annual Report covering the Developer Fiscal Year during which the termination took effect.

(b) Developer Books and Records. Developer shall maintain books and records of all: (i) Gross Revenues; (ii) application of Funding Sources to Qualified Project Costs; and (iii) Project Costs, organized by Major Phases, in accordance with generally accepted accounting principles consistently applied, or in another auditable form Approved by Authority (the "**Records**"). Developer shall maintain Records for each Major Phase in the City or at another location Approved by Authority for at least four (4) years after the applicable Major Phase closing date. After reasonable notice, Developer shall make the Records available to Authority at reasonable times.

(c) Authority Records. Authority shall provide copies of its audited financial statements relating to the Project Site to Developer as soon as practicable following their public filing or release.

(d) City Records. City shall provide copies of its audited financial statements relating to the Project Site to Developer as soon as practicable following its public filing or release.

(e) Accounting. Developer, City, and Authority will separately track the use of all Funding Sources and any revenues generated from the Project as a whole and from the Public Trust Parcels in order to ensure that they are used only for purposes consistent with this Financing Plan and applicable law.

1.7 Authority's Unreimbursed Costs. If: (a) Developer commits a Material Breach under the DDA; (b) Authority obtains a final judgment for the payment of any related amount under article 15 of the DDA; and (c) Authority makes demand for payment of the amount of the final judgment on any Adequate Security, but does not receive payment within thirty (30) days after Authority's written demand, then Authority may, to the extent permitted under applicable law, recover from any available proceeds of a Public Financing the amount of the final judgment, plus Authority's costs of collection and interest at the rate of ten percent (10%) per annum of the amount of the final judgment, calculated from the date the payment was due until paid in full, compounded annually.

## 2. COMMUNITY FACILITIES DISTRICT FINANCING

2.1 Formation of CFDs

(a) Formation. City shall establish all CFDs from time to time as Developer acquires Sub-Phases under the DDA. All CFDs will be formed and administered to achieve the Funding Goals and in accordance with the CFD Act and the CFD Goals. Developer acknowledges that the CFD Goals will prevail over any inconsistent terms in this Financing Plan, unless the Board of Supervisors in its sole discretion Approves a waiver of the CFD Goals. Any CFD may include separate Improvement Areas and tax zones. In addition, Developer and City may agree to identify property for future annexation and additional public capital facilities for the Project to be financed under the CFD Act in the CFD formation documents.

(b) Taxable Parcels. Developer and City intend that Project Special Taxes will be levied against all Taxable Parcels for the purposes described in this Financing Plan and agree that all Exempt Parcels will be exempt from Project Special Taxes.

(c) Petition.

(i) At any time, and from time to time, after Authority acquires all or part of the Project Site from the Navy, Developer may petition City under the CFD Act from time to time to establish one or more CFDs within the Sub-Phase. In its petition, Developer may include proposed specifications for the CFD, including Assigned Project Special Tax Rates, Project Special Tax rates, CFD boundaries and any proposed Improvement Areas and tax zones within the CFD (which may include one or more Sub-Phases or Major Phases), the identity of any property to be annexed into the CFD at a later date, the total tax burden that will result from the imposition of the Project Special Taxes (subject to the 2% Limitation for Taxable Residential Units), and other provisions. Developer's proposed specifications will be based on Developer's development plans, market

analysis, and required preferences, but in all cases will be subject to this Financing Plan, the Funding Goals, and the CFD Goals.

(ii) Following City's receipt of a petition, Developer and City will meet with City's Public Financing consultants to determine reasonable and appropriate terms of the proposed CFD that are consistent with Developer's petition and the Funding Goals.

(d) Authorized Uses. Each CFD shall be authorized to finance all of the Qualified Project Costs, Additional Community Facilities, and Ongoing Park Maintenance, irrespective of the geographic location of the improvements financed or maintained.

(e) Joint Community Facilities Agreements. Under the CFD Act, City may be required to enter into a joint community facilities agreement with another Governmental Entity that will own or operate any of the Infrastructure and Stormwater Management Controls. Authority and the City have agreed that the Interagency Cooperation Agreement, which will be executed in connection with the DDA, is a joint community facilities agreement under the CFD Act for all of the Infrastructure and Stormwater Management Controls to be financed by CFDs and owned or operated by the Authority. City and Developer agree that they will take all steps necessary to procure the authorization and execution of any other required joint community facilities agreement with a Governmental Entity other than Authority before the issuance of any CFD Bonds that will finance Infrastructure and Stormwater Management Controls that will be owned or operated by such Governmental Entity other than Authority.

(f) Notice of Special Tax Lien. Project Special Taxes will be secured by recordation in the Official Records of continuing liens against all Taxable Parcels in the applicable CFD.

2.2 Scope of CFD-Financed Costs

(a) Authorized Costs. A CFD may finance only Qualified Project Costs, Additional Community Facilities, and Ongoing Park Maintenance that: (a) are financeable under the CFD Act; and (b) qualify under Tax Laws, if CFD Bonds are issued and if CFD Bonds are issued as tax-exempt bonds.

2.3 Parameters of CFD Formation

(a) Cooperation. Developer and City agree to cooperate reasonably in developing an RMA for each CFD that is consistent with this Financing Plan and, to the extent consistent with this Financing Plan, Developer's petition. Developer and City will each use good-faith reasonable efforts at all times to furnish timely to the other, or to obtain and then furnish to the other, any information necessary to develop an RMA, such as legal boundaries of the property to be included and Developer's plans for the types, sizes, numbers, and timing for construction of Buildings, within the applicable CFD. Each CFD will be subject to its own RMA and authorized bonded indebtedness limit.

(b) RMA Consultants and Approval. The RMA for any CFD will be: (i) developed by City's special tax consultant, in consultation with Developer and City's staff and other consultants; (ii) consistent with Developer's petition to the extent consistent with this Financing Plan; and (iii) subject to Approval of the Board of Supervisors in the resolution of formation. Project Special Taxes on any Taxable Parcel must not exceed any applicable maximum rate specified in the CFD Goals and this Financing Plan, unless otherwise Approved by the Board of Supervisors and Developer.

(c) Priority Administrative Costs. In the formation process for each CFD, City and Developer will agree on the amount of annual CFD administrative costs that will have first priority for payment by Project Special Tax based on: (i) actual administration costs of other community facilities districts of the City; (ii) the CFD's complexity and size; and (iii) cumulative administration costs for all anticipated CFDs for the Project. The contracts for consultants administering the CFDs and the calculation of any City staff time deemed administration expenses will be determined in accordance with article 19 of the DDA.

(d) Assigned Project Special Tax Rates for Developed Property. Each RMA will specify Project Special Tax rates for Developed Property within the CFD (each an "**Assigned Project Special Tax Rate**"). The Assigned Project Special Tax Rates for Developed Property may vary based on sizes, densities, types of Buildings to be constructed, and other relevant factors when the CFD is formed. Each RMA will establish Assigned Project Special Tax Rates assuming that any First Tranche CFD Bonds issued will have a debt service coverage-ratio of one hundred ten percent (110%), unless City and Developer Approve a higher ratio to market the First Tranche CFD Bonds effectively.

(e) Total Tax Obligation. The Assigned Project Special Tax Rates will be set so that the Total Tax Obligation on any Taxable Residential Unit within a CFD will not exceed two percent (2%) of the projected sales price of that Taxable Residential Unit calculated at the time of the resolution of intention to form the CFD (the "**2% Limitation**"). If an RMA is modified to increase the Project Special Tax rates, the Assigned Project Special Tax Rates will be modified so that the Total Tax Obligation on any Taxable Residential Unit within a CFD does not exceed the 2% Limitation when the proposed modification goes into effect. The 2% Limitation will not apply to non-residential property in a CFD.

(f) Classification of Assessor's Parcels. Each RMA will provide for the taxation of Developed Property and Undeveloped Property. Each RMA will identify all Exempt Parcels, which will be exempt from payment of Project Special Taxes.

(g) Backup and Maximum Project Special Tax Rates. Each RMA will provide for: (i) backup Project Special Tax rates that will be applied to each Taxable Parcel in a tract map, Improvement Area, tax zone, condominium plan, or other identifiable area on Developed Property (each a "**Backup Project Special Tax Rate**"); and (ii) maximum Project Special Tax rates on Developed Property and Undeveloped Property (each a "**Maximum Project Special Tax Rate**"). The Maximum Project

Special Tax Rate for a Taxable Parcel of Developed Property will be the greater of the applicable Assigned Project Special Tax Rate or the applicable Backup Project Special Tax Rate. Developer and City will structure the Backup Project Special Tax Rates and Maximum Project Special Tax Rates for a CFD to be consistent with the funding goals established for the CFD, considering Developer's development plans and preferences for structuring the Project Special Tax rates within the applicable CFD, and this Financing Plan.

(h) Escalation of Special Tax Rates. At Developer's request, each RMA will provide for annual increases in the Project Special Tax rates so long as the total projected taxes levied for a CFD do not exceed any maximum specified in the CFD Act.

(i) Priority for Annual Levy of Special Taxes. Each RMA will provide for the levy of Project Special Taxes to fund debt service (not including capitalized interest), administrative costs, and Qualified Project Costs and, when authorized pursuant to Section 2.8, Additional Community Facilities to be financed by the CFD each year of its term (collectively, the "**Special Tax Requirement**") according to the priorities set in the Indenture, until the Special Tax Requirement is fully satisfied. Each RMA must reflect the priorities set forth below:

(i) First, Project Special Taxes will be levied on each Taxable Parcel of Developed Property at the applicable Assigned Project Special Tax Rate, regardless of whether City has issued CFD Bonds or the debt service requirements for any existing CFD Bonds, before applying any capitalized interest.

(ii) Second, to the extent the funds to be collected under clause (i) will not be sufficient to satisfy the Special Tax Requirement in full after application of any capitalized interest, Project Special Taxes will be levied proportionately on each Taxable Parcel of Subsequent Owner Property, up to one hundred percent (100%) of the applicable Maximum Project Special Tax Rate.

(iii) Third, to the extent the funds to be collected under clauses (i) and (ii) will not be sufficient to satisfy the Special Tax Requirement in full after application of any capitalized interest, Project Special Taxes will be levied proportionately on each Taxable Parcel of Undeveloped Property that is not Subsequent Owner Property, up to one hundred percent (100%) of the applicable Maximum Project Special Tax Rate.

(iv) Fourth, to the extent the funds to be collected under clauses (i), (ii), and (iii) will not be sufficient to satisfy the Special Tax Requirement in full after application of any capitalized interest, additional Project Special Taxes will be levied proportionately on each Taxable Parcel of Developed Property, so long as the total levy on Developed Property under clauses (i) and (iv) does not exceed the applicable Maximum Project Special Tax Rate.

(j) Use of Remainder Taxes.

(i) Developer and City contemplate that, within each CFD, Qualified Project Costs and Ongoing Park Maintenance will be paid from Remainder Taxes both before and after the issuance of CFD Bonds for such CFD and after the final maturity of any CFD Bonds for such CFD. Accordingly, each RMA will provide that Remainder Taxes may be used to finance Ongoing Park Maintenance and Qualified Project Costs. For each CFD, annually, on the day following each Principal Payment Date for such CFD, all Remainder Taxes for such CFD will be deposited in the applicable Remainder Taxes Project Account.

(ii) With respect to all CFDs:

(A) Before the Maintenance Commencement Date, for each CFD, annually, on or before October 1 of each year, Remainder Taxes for each CFD shall be deposited in the Remainder Taxes Project Account for such CFD and applied, in the following order of priority, (1) for the period specified in the definition of Stage 2 Contribution, to fund all or any portion of the Stage 2 Contribution annually, and (2) from time to time at Developer's request, to finance Qualified Project Costs.

(B) After the Maintenance Commencement Date, for all CFDs, annually, on or before October 1 of each year, Remainder Taxes for all CFDs shall be transferred to Authority and held in the Remainder Taxes Holding Account and applied as set forth in Section 2.7.

(iii) Any amounts transferred to City pursuant to Section 2.7(c)(i)(B), shall be deposited to the Remainder Taxes Project Accounts pro rata (based on the ratio of Maximum Project Special Tax Rates) and shall be applied as follows:

(A) Prior to the CFD Conversion Date, amounts on deposit in the Remainder Taxes Project Accounts shall be applied, in the following order of priority, (1) for the period specified in the definition of Stage 2 Contribution, to fund all or any portion of the Stage 2 Contribution annually, and (2) from time to time at Developer's request, to finance Qualified Project Costs.

(B) After the CFD Conversion Date, amounts on deposit in the Remainder Taxes Project Accounts shall be applied, in the City's discretion, (1) to pay debt service on and replenish debt service reserve funds for Alternative Financings, including funding all or any portion of the Stage 2 Contribution annually, and (2) to finance Additional Community Facilities or for any other use authorized by the CFD Act.

(k) No Pledge for Debt Service. Remainder Taxes deposited in the Remainder Taxes Project Accounts or transferred to Authority for deposit in the Remainder Taxes Holding Account or the Ongoing Maintenance Account, will not be

deemed or construed to be pledged for payment of debt service on any CFD Bonds, and neither Developer nor any other Person will have the right to demand or require that Authority, City, or Fiscal Agent, as applicable, use funds in the Remainder Taxes Project Accounts, the Remainder Taxes Holding Account, or the Ongoing Maintenance Account to pay debt service on CFD Bonds.

(l) Prepayment. The RMA will include provisions allowing a property owner within the CFD that is not in default of its obligation to pay Project Special Taxes to prepay Project Special Taxes in full or in part based on a formula that will require payment of the property owner's anticipated total Project Special Tax obligation; provided, however, that prepayment shall not be allowed if it impacts the financing of Ongoing Park Maintenance without the written consent of the Authority. Prepaid Project Special Taxes will be placed in a segregated account in accordance with the applicable Indenture. The RMA and the Indenture will specify the use of prepaid Project Special Taxes.

(m) Amendment to RMA. Each RMA must be consistent with this Financing Plan. Nothing in this Financing Plan will prevent an amendment of any RMA for a CFD under its terms or under Change Proceedings.

(n) Reducing Project Special Tax Rates Before Issuance of First Tranche CFD Bonds. An RMA may contain a provision that allows Developer to request that the Total Tax Obligation be recalculated and Project Special Tax rates be reduced before any First Tranche CFD Bonds are issued so that the Total Tax Obligation does not exceed two percent (2%) of the actual or projected sales prices of Taxable Residential Units at the time of recalculation. Subject to the CFD Act, but only if expressly permitted and defined in the RMA, after consultation with Developer regarding its request, City shall reduce Project Special Tax rates in a CFD administratively without the vote of the qualified CFD electors before First Tranche CFD Bonds for such CFD are issued notwithstanding Sections 2.3(j), 2.7, or 2.6(a). If expressly permitted and defined in the RMA, a reduction in one taxing category does not have to be proportionate to the reduction in any other taxing category (i.e., disproportionate reductions may be expressly allowed in the RMA). If the Maximum Project Special Tax Rate is permanently reduced, City will record timely an appropriate instrument in the Official Records.

2.4 Issuance of CFD Bonds

(a) Issuance. Subject to Approval of the Board of Supervisors and Sections 4.4 and 4.5, City, on behalf of the CFD, intends to issue CFD Bonds for purposes of this Financing Plan. Developer may submit written requests that City issue First Tranche CFD Bonds, specifying requested issuance dates, amounts, and main financing terms. Following Developer's request, Developer and City will meet with City's public financing consultants to determine reasonable and appropriate issuance dates, amounts, and main financing terms that are consistent with the Funding Goals.

(b) Payment Dates. So that Remainder Taxes may be calculated on the same date for all CFDs and CFD Bonds, each issue of CFD Bonds shall have interest payment dates of March 1 and September 1, with principal due on September 1.

(c) Value-to-Lien Ratio. The appraised or assessed value-to-lien ratio required for each First Tranche CFD Bond issue will be three to one (3:1), unless otherwise required by the CFD Act or the mutual agreement of Developer and City.

(d) Coverage Ratio. To preserve the ability to finance Ongoing Park Maintenance, an issue of First Tranche CFD Bonds will not have a debt service coverage-ratio of less than one hundred ten percent (110%), unless otherwise agreed to by City. Each issue of First Tranche CFD Bonds will be structured with a debt service coverage-ratio that maximizes the proceeds of First Tranche CFD Bonds but is consistent with sound municipal financing practices to the City's reasonable satisfaction, based on calculations, explanations, and other substantial evidence provided by Developer.

(e) Term. Subject to Section 2.8, First Tranche CFD Bonds will have a term of not less than thirty (30) years and not more than forty (40) years unless Developer and City agree otherwise.

(f) Second Tranche CFD Bonds. After the CFD Conversion Date for a CFD, City has the right in its sole discretion to issue Second Tranche CFD Bonds in such CFD as set forth in this Financing Plan.

2.5 Use of Proceeds

(a) First Tranche CFD Bond Proceeds. Subject to Tax Laws, the CFD Act, and the CFD Goals, First Tranche CFD Bond proceeds will be used in the following order of priority: (i) to fund required reserves and pay costs of issuance; (ii) to fund capitalized interest amounts, if any; (iii) to pay Qualified Pre-Development Costs (which do not include any return on such Pre-Development Costs); and (iv) to pay outstanding Qualified Project Costs and, when authorized pursuant to Section 2.8(e), outstanding Additional Community Facilities. The remainder will be deposited into the CFD Bonds Project Account as designated in the Indenture and must be used only to pay for Qualified Project Costs and those Additional Community Facilities authorized pursuant to Section 2.8(c).

(b) Qualified Project Costs; Additional Community Facilities. By this Financing Plan, City covenants to use the proceeds of First Tranche CFD Bonds on deposit in CFD Bonds Project Accounts or as otherwise provided in the applicable Indenture and, subject to Sections 2.3(j) and 2.7, all Remainder Taxes on deposit in each Remainder Taxes Project Account to finance Qualified Project Costs and, when authorized pursuant to Section 2.8, Additional Community Facilities. In furtherance of this covenant, City shall levy Project Special Taxes in each Fiscal Year in strict accordance with the applicable RMA and this Financing Plan.

2.6 Miscellaneous CFD Provisions

(a) Change Proceedings. Subject to the limitations in this Financing Plan, including the Funding Goals, and so long as the proposed changes do not adversely affect the issuance or amount of Second Tranche CFD Bonds or the application, timing of receipt, or overall amount of Remainder Taxes to pay Ongoing Park Maintenance and Additional Community Facilities pursuant to Section 2.8, City will not reject unreasonably Developer's request to conduct Change Proceedings under the CFD Act to: (i) make any changes to an RMA, including amending the rates and method of apportionment of Project Special Taxes; (ii) increase or decrease the authorized bonded indebtedness limit within a CFD; (iii) annex property into a CFD; (iv) add additional public capital facilities for the Project; or (v) take other actions reasonably requested by Developer. For purposes of this Section 2.6(a), Developer acknowledges that any reduction in the Project Special Tax rates set forth in an RMA through Change Proceedings shall require the consent of City, which may be granted in its discretion. Except as set forth in the previous sentence, for purposes of this Section 2.6(a), City agrees that none of the following changes will be deemed to adversely affect the ability of City to issue Second Tranche CFD Bonds or apply the Remainder Taxes to Ongoing Park Maintenance or Additional Community Facilities pursuant to Section 2.8: (x) increasing the Project Special Tax rates in an RMA for any land use classification; (y) increasing the authorized bonded indebtedness limit; and (z) authorizing the financing of additional public capital facilities for the Project.

(b) Maintaining Levy of CFD Financing. Under section 3 of article XIII C of the California Constitution, voters may, under certain circumstances, vote to reduce or repeal the levy of special taxes in a community facilities district. However, the California Constitution does not allow the reduction or repeal to result in an impairment of contract. The purpose of this Section 2.6(b) is to give notice that: (i) both the DDA and the City DA (including, in both cases, this Financing Plan) is a contract between Developer and Authority (in the case of the DDA) and Developer and City (in case of the City DA); (ii) the financing of the Qualified Project Costs and the Additional Community Facilities through the application of CFD Bond proceeds (which are secured by Project Special Taxes) and Remainder Taxes (as described in Section 2.3(j) and Section 2.7) is an essential part of the consideration for the contracts; (iii) the financing of Ongoing Park Maintenance through the application of Remainder Taxes is an essential part of the consideration for the contracts; and (iv) any reduction in City's ability to levy and collect Project Special Taxes would materially impair those contracts. To further preserve the contracts discussed above, City agrees that: (y) until all First Tranche CFD Bonds have been repaid in full or defeased before maturity for any reason other than a refunding, it will not initiate or conduct proceedings under the CFD Act to reduce the Project Special Tax rates without Developer's written consent or if legally compelled to do so (e.g., by a final order of a court of competent jurisdiction); and (z) if the voters adopt an initiative ordinance under section 3 of article XIII C of the California Constitution that purports to reduce, repeal, or otherwise alter the Project Special Tax rates before all First Tranche CFD Bonds have been repaid in full or defeased before maturity for any reason other than a refunding, City will meet and confer with Developer to consider commencing and

pursuing reasonable legal action to preserve City's ability to comply with this Financing Plan.

(c) Covenant to Foreclose. City will covenant with CFD bondholders to foreclose the lien of delinquent Project Special Taxes consistent with the general practice for community facilities districts in California and otherwise as determined by City in consultation with its underwriter or financial advisor for the CFD indebtedness and other consultants, subject to applicable laws.

(d) Reserve Fund Earnings. The Indenture for each issue of First Tranche CFD Bonds will provide that earnings on any reserve fund that are not then needed to replenish the reserve fund to the reserve requirement will be transferred to: (i) the CFD Bonds Project Account for allowed uses until it is closed in accordance with the Indenture; then (ii) the debt service fund held by the Fiscal Agent under the Indenture.

(e) Authorization of Reimbursements. City will take all actions necessary to satisfy section 53314.9 of the Government Code or any similar statute subsequently enacted to use First Tranche CFD Bond proceeds and Remainder Taxes to reimburse Developer for: (i) CFD formation and First Tranche CFD Bond issuance deposits; and (ii) advance funding of Qualified Project Costs.

(f) Material Changes to the CFD Act. If material changes to the CFD Act after the Reference Date make CFD Bonds or Remainder Taxes unavailable or severely impair their use as a source for financing the Qualified Project Costs or Additional Community Facilities, City and Developer will negotiate in good faith as to a substitute public financing program equivalent in nature and function to CFDs.

(g) CFD Goals. Until the CFD Conversion Date for a CFD, the City shall not change or amend the CFD Goals as they apply to such CFD if such changes or amendments adversely impact the Project or are inconsistent with this Financing Plan unless such changes or amendments are required under the CFD Act or other controlling State or federal law or, with respect to such CFD, as otherwise Approved by Developer in its sole discretion.

(h) Private Placement of CFD Bonds. Subject to Board of Supervisors Approval and Section 4.4(b), upon Developer's written request, City shall issue CFD Bonds in a private placement to a small number of investors (which may include Developer and its Affiliates). In connection with any such private placement, City and the investors may agree upon terms regarding the security of such CFD Bonds other than as required by this Agreement, including, but not limited to, the 3:1 value-to-lien ratio of Section 2.4(c); provided, however, any CFD Bonds must have a debt service coverage-ratio of at least one hundred ten percent (110%) unless City consents to a lower amount. Subject to Board of Supervisors Approval and the CFD Goals, if the CFD Bonds are sold to Developer or its Affiliates, and if the CFD Bonds are not subject to transfer, credit enhancement may not be required.

(i) Levy for Ongoing Park Maintenance. For each CFD, prior to its CFD Conversion Date, Ongoing Park Maintenance shall be payable from Remainder Taxes and other sources identified in Section 2.7. For each CFD, after its CFD Conversion Date, Ongoing Park Maintenance may be payable from Project Special Taxes or Remainder Taxes. In both cases, Ongoing Park Maintenance may be funded irrespective of the issuance of CFD Bonds (First Tranche or Second Tranche) and irrespective of whether there are unreimbursed Qualified Project Costs or Additional Community Facilities. Accordingly, each RMA shall provide for the financing of Ongoing Park Maintenance for the duration of the CFD.

2.7 Ongoing Park Maintenance

(a) Maintenance Budget. Not later than April 1 of each year following the Maintenance Commencement Date, Authority shall prepare a preliminary budget of the Estimated Maintenance Costs for the immediately succeeding Maintenance Period. The Estimated Maintenance Costs shall be determined by (i) estimating the costs of the Ongoing Park Maintenance to be incurred during the immediately succeeding Maintenance Period and (ii) subtracting (A) any funds, revenues, and Project Grants that are received for maintenance purposes, (B) any funds on deposit in the Remainder Taxes Holding Account, and (C) any funds on deposit in the Ongoing Maintenance Account that are not committed to the payment of Ongoing Park Maintenance during the current Maintenance Period.

(b) Delivery of Maintenance Budget. Upon completion by Authority, the preliminary budget will promptly be delivered to Developer for review. Developer shall have fifteen (15) days to review and comment on the preliminary budget. Authority will duly evaluate and implement the reasonable suggestions made by Developer, and Authority shall distribute a final version of the budget to Developer (as finalized, the "**Maintenance Budget**"). The Maintenance Budget shall also be delivered to the City upon completion. The Maintenance Budget must be completed by no later than June 1 in any given year.

(c) Calculation of Developer Maintenance Payment. Authority shall annually calculate the Developer Maintenance Payment at the same time that the Maintenance Budget is completed.

(i) If, on the date of calculation, the amount on deposit in the Ongoing Maintenance Account that is not committed to the payment of Ongoing Park Maintenance during the current Maintenance Period plus the amount on deposit in the Remainder Taxes Holding Account equals or exceeds the Estimated Maintenance Costs set forth in the applicable Maintenance Budget, then Authority shall (A) transfer funds from the Remainder Taxes Holding Account to the Ongoing Maintenance Account in such amount as is necessary so that the amounts on deposit in the Ongoing Maintenance Account equals the Estimated Maintenance Costs, (B) transfer the remaining funds on deposit in the Remainder Taxes Holding Account to City for deposit in the Remainder Taxes Project

Accounts as set forth in Section 2.3(j)(iii), and (C) notify Developer that the Developer Maintenance Payment for such Maintenance Period shall be $0.

(ii) If, on the date of calculation, the amount of the Estimated Maintenance Costs set forth in the applicable Maintenance Budget exceeds the amount on deposit in the Ongoing Maintenance Account and the Remainder Taxes Holding Account, then Authority (A) shall transfer the entire balance of the Remainder Taxes Holding Account to the Ongoing Maintenance Account and (B) may request in writing that Developer make a Developer Maintenance Payment in an amount equal to the lesser of:

(1) the difference between the Estimated Maintenance Costs set forth in such Maintenance Budget and amounts on deposit in the Ongoing Maintenance Account and Remainder Taxes Holding Account on such date of calculation; and

(2) the Maximum Annual Developer Contribution.

(d) Maximum Annual Developer Contribution. On any date of calculation, the Developer Maintenance Payment shall not exceed the lesser of ("**Maximum Annual Developer Contribution**"):

(i) (A) for the first five years in which Maintenance Budgets are prepared following the Maintenance Commencement Date, the greater of (1) $1,500,000 or (2) $1,500,000 plus the portion of the Maximum Annual Developer Contribution for each previous year, if any, that was not paid to Authority; and (B) for each year after the first five years in which Maintenance Budgets are prepared following the Maintenance Commencement Date, the greater of (1) $3,000,000, or (2) $3,000,000 plus the portion of the Maximum Annual Developer Contribution for each previous year, if any, that was not paid to Authority; or

(ii) the Maintenance Account Balance.

(e) Maintenance Account Balance. On the Reference Date, Authority shall be credited with a non-cash balance (the "**Maintenance Account Balance**") of Fourteen Million Three Hundred Twenty Thousand Dollars ($14,320,000). Each Developer Maintenance Payment (whether through payments under Section 2.7(f) or through Conditional Maintenance Tax payments under Section 2.7(g)) shall reduce the Maintenance Account Balance by the corresponding amount. At the end of each Fiscal Year, commencing at the end of the Fiscal Year in which the Reference Date occurs, the Maintenance Account Balance shall be credited with interest based on the percentage increase in the Index over the prior twelve month period (except that the first interest credit shall be based on the period from the Reference Date to the end of the Fiscal Year in which the Reference Date occurs). Developer's obligation to pay any Developer

Maintenance Payment shall cease when the Maintenance Account Balance is reduced to $0. The Maintenance Account Balance shall not increase at any time after the account is first established, other than as a result of the accrual of interest earnings as set forth herein.

(f) Time of Payment. Developer shall make the Developer Maintenance Payment by the later of (i) June 30 in the year in which the written request is made by Authority or (ii) thirty (30) days following receipt of the written request from Authority. The failure to pay the Maintenance Payment by the later of such dates shall be deemed a "**Maintenance Default**."

(g) Security for Payment. To secure the payments required in this Section 2.7, the RMA for each CFD shall contain provisions for a Conditional Maintenance Tax. Each RMA shall provide that the Conditional Maintenance Tax shall be levied only as follows:

(i) The Conditional Maintenance Tax may only be levied on property that is (A) owned by Developer at the time of the levy and (B) not subject to a purchase and sale agreement for the sale to a third party that is scheduled to close within six (6) months after the date of the levy.

(ii) The Conditional Maintenance Tax may only be levied in the calendar year in which City receives written notice from Authority that a Maintenance Default has occurred.

(iii) The Conditional Maintenance Tax may only be levied once in a calendar year.

(iv) The Conditional Maintenance Tax may only be levied on a parcel of property authorized by clause (i) in the amount of such parcel's pro rata share (based on acreage of such parcel to all parcels authorized by clause (i)) of the amount of the Maintenance Default.

(v) The Conditional Maintenance Tax shall be hand billed by City to Developer, and Developer shall have thirty (30) days to pay the amount due.

(vi) The failure by Developer to pay the Conditional Maintenance Tax within the time established by clause (v) shall subject the property upon which it is levied to foreclosure by City. The Conditional Maintenance Tax shall have the same lien priority and penalties as the Project Special Taxes.

(vii) The Conditional Maintenance Tax shall terminate and shall no longer be levied when, following the Maintenance Commencement Date, the Maintenance Account Balance is $0.

(h) Payment of Remaining Balance. If upon Completion of the Northern Wilds, as identified in the Parks and Open Space Plan, a balance remains in the Maintenance Account Balance, Developer, upon Authority's written request, shall pay Authority an amount equal to the remaining balance of the Maintenance Account Balance. Authority shall restrict the use of such funds to a segregated parks and open space fund, conservancy, or other separate fund or entity with use restricted to operation and maintenance of the parks and open spaces in the Project Area.

2.8 CFD Limitations

(a) City and Developer agree that each CFD will be formed so that the proceeds of CFD Bonds and Remainder Taxes may be applied to accomplish the following goals in the manner set forth in this Financing Plan: (i) to finance Qualified Project Costs; (ii) to finance Additional Community Facilities; and (iii) to finance Ongoing Park Maintenance. To accomplish these goals, and subject to the limitations set forth in this Section 2.8, and in light of the 2% Limitation and the CFD Goals:

(i) each CFD will be authorized to finance the Qualified Project Costs, the Additional Community Facilities, and the Ongoing Park Maintenance;

(ii) for each CFD, the term for levying Project Special Taxes will be established at no less than 999 years from the first issuance of CFD Bonds in such CFD; and

(iii) for each CFD, the amount of authorized bonded indebtedness will be established to allow the issuance of the First Tranche CFD Bonds to finance Qualified Project Costs and the Second Tranche CFD Bonds to finance Additional Community Facilities.

(b) The CFD Conversion Date shall be calculated separately for each CFD.

(c) Until the CFD Conversion Date, in a CFD, CFD Bonds will be issued exclusively to finance Qualified Project Costs unless Developer, in its sole discretion, consents in writing to the issuance of CFD Bonds for such CFD to finance Additional Community Facilities. After the CFD Conversion Date in such CFD, City may issue CFD Bonds to finance Additional Community Facilities or for any other purpose authorized under the CFD Act.

(d) City and Developer agree that, within a CFD, City shall not be obligated to issue First Tranche CFD Bonds (including refunding bonds) with a final maturity of later than the date that is forty-two (42) years after the issuance of the first series of First Tranche CFD Bonds in such CFD without the Approval of Board of Supervisors in its sole discretion. Unless City and Developer agree otherwise, any CFD Bonds issued to refund First Tranche CFD Bonds shall comply with applicable provisions of the CFD Act pursuant to which refunding bonds will not result in a reduction of the total authorized amount of the bonded indebtedness of a CFD and, in any event, the final

maturity date of the refunding bonds shall not exceed the latest maturity date of the First Tranche CFD Bonds being refunded. The previous sentence shall not prevent the issuance of a series of First Tranche CFD Bonds for new money and refunding purposes, so long as the portion of the First Tranche CFD Bonds attributable to the refunding purpose meets the requirements of the previous sentence.

(e) The City intends to include open space improvements, transportation facilities, renewable energy and other sustainability projects, and other public infrastructure within the authorized list of Additional Community Facilities for each CFD, including, but not limited to, future improvements necessary to ensure that the shoreline, public facilities, and public access improvements will be protected should sea level rise at the perimeter of the Project Site as set forth in the Infrastructure Plan (the "**Future Sea Level Rise Improvements**"). If required to be constructed or installed pursuant to the appropriate regulating authorities, City agrees to finance the Future Sea Level Rise Improvements through the proceeds of the Second Tranche CFD Bonds and any Remainder Taxes that become available to City after the CFD Conversion Date pursuant to this Financing Plan, all in the manner required by the appropriate regulating authorities. However, notwithstanding the discretion vested in Developer with respect to the decision to fund Additional Community Facilities from CFD Bonds prior to the CFD Conversion Date for each CFD pursuant to Section 2.8(c), if, prior to the CFD Conversion Date for a CFD, sea levels in the waters at the perimeter of the Project Site rise by more than sixteen (16) inches from the levels in existence on the Reference Date, as defined in the Infrastructure Plan, Developer and City will finance Future Sea Level Rise Improvements from First Tranche CFD Bonds for the CFD.

(f) Pursuant to the definition contained in Section 7.2, the term "**CFD**" means an Improvement Area if one has been so designated. Accordingly, wherever the word "**CFD**" appears in this Section 2.8, it also means Improvement Area (with the result being that the CFD Conversion Date shall be calculated separately for each Improvement Area).

## 3. INFRASTRUCTURE FINANCING DISTRICT FINANCING

### 3.1 Formation of IFDs

(a) Formation. At any time, and from time to time, after Authority acquires all or part of the Project Site from the Navy, Developer may request in writing that City establish one or more IFDs under the IFD Act over all or any part of the property so acquired. For the avoidance of doubt, establishing an IFD includes annexing territory to an existing IFD. In its written request, Developer may include proposed specifications for the IFD, including IFD boundaries. Developer's proposed specifications will be based on Developer's development plans, market analysis, and required preferences, but in all cases will be subject to this Financing Plan, the Funding Goals, and compliance with the IFD Act. To ensure compliance with the replacement housing provisions of the IFD Act in the formation of an IFD, City shall consider any input provided by Authority as to the specifics of the IFD formation.

(b) Boundaries. As soon as reasonably practical after receipt of a written request from Developer, City will establish each IFD over all of the property identified in the written request. The IFD shall include separate Project Areas, as requested by Developer in writing.

(c) Authorized Facilities. Each IFD shall be authorized to finance all of the Qualified Project Costs, irrespective of the geographic location of the improvements financed.

(d) Cooperation. Developer and City shall cooperate reasonably in developing the IFP for each IFD that is consistent with this Financing Plan. Developer and City will each use good-faith reasonable efforts at all times to furnish timely to the other, or to obtain and then furnish to the other, any information necessary to develop the IFP for each IFD. Developer and City agree that, for an IFD for which a Statement of Indebtedness is required under the IFD Act or otherwise, (i) the IFP will include a declaration that the IFD's obligation to use Net Available Increment for the purposes specified in this Financing Plan constitutes an indebtedness of the IFD and (ii) the IFP will provide that the IFD will include the amount of such indebtedness in each applicable annual Statement of Indebtedness for the IFD.

3.2 Scope of IFD-Financed Costs

(a) Authorization. An IFD may finance only Qualified Project Costs that are financeable under the IFD Act.

(b) Communitywide Significance. On the Reference Date, City found and determined that the Qualified Project Costs to be financed by the IFDs are of communitywide significance that provide significant benefits to an area larger than the area of the Project Site (which will be the cumulative boundaries of all IFDs). The Board of Supervisors may be required under the IFD Act to make additional specific findings with respect to financing Qualified Project Costs under the IFD Act. City shall assist in making such findings as and when requested by Developer, subject to applicable law.

3.3 Issuance of IFD Debt

(a) Issuance. Subject to Board of Supervisors Approval and Sections 4.4 and 4.5, City will cause the IFP for each IFD to provide for the issuance of IFD Debt for purposes of this Financing Plan following Developer's submission of a written request to issue IFD Debt. Developer may, at any time and from time to time in its discretion, submit written requests that an IFD issue IFD Debt, specifying requested issuance dates, amounts, and main financing terms. Following each Developer's request, Developer and City will meet with City's public financing consultants to determine reasonable and appropriate issuance dates, amounts, and main financing terms that are consistent with Developer's request and the Funding Goals. Each IFP will provide that an IFD may not issue IFD Debt without first receiving a written request from Developer.

(b) Coverage Ratio. Each issue of IFD Debt will be structured with a debt service coverage-ratio that maximizes the proceeds of IFD Debt but is consistent

with sound municipal financing practices and assures, to City's reasonable satisfaction, based on calculations, explanations, and other substantial evidence provided by Developer, that the IFD will have sufficient Net Available Increment to pay administrative expenses and is unlikely to need the Conditional City Increment to pay debt service on the IFD Debt.

(c) Term. Unless Developer and City agree otherwise, the IFP for each IFD will provide for IFD Debt that will have a term that maximizes the proceeds of IFD Debt but is consistent with sound municipal financing practices and any limitations on the amount of Net Available Increment.

(d) IFD Debt Proceeds. Subject to Tax Laws and the IFD Act, the proceeds of each IFD Debt will be used in the following order of priority: (i) to fund required reserves and pay costs of issuance; (ii) to pay Qualified Pre-Development Costs (which do not include any return on such Pre-Development Costs); and (iii) to pay outstanding Qualified Project Costs. The remainder will be deposited into the IFD Debt Project Account as designated in the Indenture and must be used only to pay for Qualified Project Costs.

(e) Conditional City Increment. Developer and City agree that, if permitted under existing law, City would have subordinated its right to receive its share of Increment other than Net Available Increment to the payment of debt service on IFD Debt. However, under existing law (including the IFD Act), the City cannot do so. Accordingly, City and Developer agree that, for each IFD, City will allocate in the IFP Conditional City Increment to such IFD for the limited purpose of paying debt service on IFD Debt in the event that Net Available Increment is insufficient for that purpose. For each IFD, the IFP will provide that, after first paying or setting aside amounts needed for debt service due during such Fiscal Year on IFD Debt for such IFD secured by or payable from Net Available Increment, such IFD shall repay the City out of Net Available Increment for any Conditional City Increment used to pay debt service on IFD Debt for such IFD as set forth in this Section 3.3(e) in an amount equal to the Conditional City Increment used to pay debt service on the IFD Debt plus interest through the date of repayment of the amount of Conditional City Increment used to pay debt service on the IFD Debt at the Default Interest Rate. For the avoidance of doubt, the Conditional City Increment shall not be available to fund any portion of the Stage 2 Contribution.

(f) Subordination. For each IFD, the IFP will provide that, at the request of Developer, the IFD will submit a Subordination Request to each of the Other Taxing Agencies at least ninety (90) days prior to the date proposed for delivery of a preliminary official statement for any IFD Debt. Developer acknowledges that, under existing law (including the IFD Act), the Subordination Request must be undertaken in connection with the formation of an IFD and would take the form of a conditional allocation of Increment by the Other Taxing Agencies.

3.4 Pledge of Net Available Increment

(a) Pledge of Net Available Increment. City agrees that each IFD, when formed, will irrevocably pledge the Net Available Increment to the financing of the Qualified Project Costs, to the repayment of any Conditional City Increment used to pay debt service on IFD Debt for such IFD in the manner set forth in Section 3.5(d) and to the extent set forth in Section 3.3(e), and to any IFD Debt issued for such IFD. City will take all actions necessary under the IFD Act and the policies of the County Assessor to ensure that Net Available Increment will be available for purposes of this Financing Plan, including providing in the IFP for each IFD for the filing of any required annual Statement of Indebtedness. Except for the subordinate pledge of Net Available Increment pursuant to the Navy Promissory Note (the "**Subordinate Pledge**"), City represents and warrants that there are no other pledges of Net Available Increment to any other projects or persons, and that neither the City nor the IFD will pledge, encumber, assign, allocate, or otherwise promise the Net Available Increment to any other projects or persons other than as set forth in this Financing Plan (with such covenant included in the IFP for each IFD). The City and the Developer agree that, as an Alternative Financing, the Certificates of Participation constitute a Public Financing and, consequently, the amendments to Section 3.5 of the Original Financing Plan set forth herein are consistent with Sections 3.01 and 3.02 of that certain Subordinate Pledge Agreement, dated as of May 29, 2015, executed by the City for the benefit of the United States of America.

3.5 Budget Procedures; Use of Net Available Increment

(a) Estimate of Net Available Increment. No later than April 1 of each year, City staff will meet and confer with Developer with respect to the projected amount of Net Available Increment for the next Fiscal Year for each Major Phase. City will provide Developer with good faith estimates, for the next Fiscal Year, of: (A) Net Available Increment (based, in part, upon information provided by Developer as to any new development and Transfers of property); (B) the amount of any debt service on IFD Debt secured by a pledge of or expected to be paid from Net Available Increment and the amount required to replenish debt service reserve funds for such Public Financings; (C) the amount required to repay the City for the use of Conditional City Increment; (D) the amount payable under the Subordinate Pledge; (E) the amount of the Stage 2 Contribution expected to be funded by Net Available Increment; and (F) the amount required to pay administrative expenses of the IFD. The April 1 date referred to in this Section 3.5(a) is based on the current budget process of the City. Developer and City will adjust the dates as appropriate if the City alters its budget process in the future.

(b) City Budget and IFD Budgets. Subject to the IFD Act and the Funding Goals, and based upon the information provided by Developer, City shall for each IFD:

(i) budget for the allocation of Net Available Increment described in this Financing Plan, and the expenditure of the expected Net Available Increment only to: (A) pay debt service due in the next Fiscal Year on

any applicable IFD Debt incurred or to be incurred to pay Qualified Project Costs and replenish debt service reserve funds for such IFD Debt; (B) repay the City for any Conditional City Increment used to pay debt service on IFD Debt for such IFD in the manner set forth in Section 3.5(d) and to the extent set forth in Section 3.3(e); (C) fund all or any portion of the Stage 2 Contribution as set forth in this Financing Plan, (D) pay any amount payable under the Subordinate Pledge; (E) pay IFD administrative expenses; and (F) finance Qualified Project Costs; and

(ii) allocate Net Available Increment as set forth in this Financing Plan, and cause the IFP to contain provisions for the IFD to apply any Net Available Increment it receives to the budgeted purposes, subject to the covenants of the applicable Indentures for IFD Debt and the Funding Goals.

(c) Purpose of Pledge. Developer and City shall cause the IFP for each IFD to require all Net Available Increment in each Fiscal Year to be used as provided in this Financing Plan, and City shall prepare its annual budget and cause the IFDs to prepare their annual budgets to reflect the required use of Net Available Increment under this Financing Plan. Qualified Project Costs that Developer incurs will be eligible for financing from the Funding Sources in each Fiscal Year until such Qualified Project Costs are financed in full.

(d) Use of Net Available Increment. For each IFD, the IFP will provide for the use of Net Available Increment to pay debt service and replenish any debt service reserve fund for indebtedness as defined therein, repay the City for any Conditional City Increment used to pay debt service on IFD Debt for such IFD as set forth in Section 3.3(e), pay administrative expenses of the IFD, and pay for Qualified Project Costs. In furtherance of the preceding sentence, the Developer and City agree that the Net Available Increment shall be used first, to pay or set aside amounts needed for debt service due on IFD Debt for such IFD secured by or payable from Net Available Increment during Fiscal Year and replenish related debt service reserve funds, second, to repay the City for any Conditional City Increment used to pay debt service on IFD Debt for such IFD, third, with respect to the 82.5% of Net Available Increment that is not dedicated to fund Housing Costs in the IFP, to fund all or any portion of the Stage 2 Contribution as set forth in this Financing Plan during the period specified in the definition of Stage 2 Contribution, fourth, to pay any amounts due to the Navy under the Subordinate Pledge, fifth, to pay for IFD administrative expenses, and sixth, to finance, or accumulate funds to finance, Developer's Qualified Project Costs pursuant to this Financing Plan. In addition, upon and as allocated in Developer's written request, Authority will use all or any part of Net Available Increment to refund or defease before maturity a Public Financing that financed Qualified Project Costs.

3.6 Housing Costs

(a) Housing Proceeds. For each IFD, City and Developer agree that the IFP will provide for a portion of the IFD Proceeds for such IFD in any Fiscal Year to be applied to finance the Housing Costs in the following manner:

(i) If, in the written opinion of bond counsel to the IFD, all Housing Costs are or become authorized to be financed by the IFD Law, then an amount calculated by multiplying the Net Available Increment in any Fiscal Year by the Housing Percentage shall be reserved and used by the IFD to pay for Housing Costs. Amounts reserved for Housing Costs may, at the written direction of Authority, (A) be transferred to Authority to be held in the Housing Fund and applied to pay Housing Costs, or (B) secure on a first lien basis the issuance of IFD Debt, the proceeds of which will be used to pay for Housing Costs; or

(ii) If, in the written opinion of bond counsel to the IFD, all Housing Costs are not authorized to be financed by the IFD Law, then, in paying any Payment Request authorized pursuant to the Acquisition and Reimbursement Agreement, City shall pay (A) to Authority on behalf of Developer from amounts that would otherwise be paid to Developer pursuant to the Payment Request for deposit in the Housing Fund an amount calculated by multiplying the amount being paid pursuant to the Payment Request by the Housing Percentage and (B) to Developer the balance of the amount being paid pursuant to the Payment Request. Amounts paid to Authority on behalf of Developer pursuant to this clause (ii) are not the proceeds of IFD Debt, but are funds that Developer is entitled to receive from the sale of Improvements pursuant to a Payment Request that Developer is agreeing to be applied on Housing Costs.

(b) Combination of Financing Housing Costs. If, in the written opinion of bond counsel to the IFD, a portion, but not the entirety, of the Housing Costs is or becomes authorized to be financed by the IFD Law, then Authority and Developer may provide for the financing of Housing Costs by some combination of subsections (a)(i) and (a)(ii) by providing written direction to each IFD as to the implementation and priority of clauses (a)(i) and (a)(ii) and the amount of the Housing Percentage to be applied to determine (A) the amount of Net Available Increment to be reserved for Housing Costs pursuant to clause (a)(i), and (B) the amounts payable from Payment Requests pursuant to clause (a)(ii).

3.7 Miscellaneous IFD Provisions

(a) Shortfall.[1] Developer agrees to the following measures to avoid shortfalls in projected Net Available Increment for the Project.

(i) If, after an IFD issues any IFD Debt under this Financing Plan that is secured by a pledge of Net Available Increment, Developer initiates a proceeding under the California Revenue & Taxation Code (a "**Reassessment**") to reassess the value of the parcels then owned by Developer within an IFD for which such IFD Debt was issued (the "**Encumbered Parcels**"), that results in a decrease in ad valorem property taxes levied on the Encumbered Parcels, Developer must pay to City in a Fiscal Year the amount equal to: (A) the amount of ad valorem property taxes that would have been levied on the Encumbered

[1] This provision is under discussion, and is subject to amendment or deletion.

Parcels in such Fiscal Year if the Reassessment had not occurred; less (B) the amount of ad valorem property taxes actually levied on the Encumbered Parcels in such Fiscal Year (the difference being the "**Additional Payments**"). The City shall allocate the Additional Payments received consistent with the IFP for such IFD.

(ii) Developer's obligation to make Additional Payments will begin in the Fiscal Year following the Reassessment and continue until the earlier of: (A) the date that the IFD Debt related to the Encumbered Parcels that is outstanding on the date of the Reassessment is repaid in full or defeased before maturity for any reason other than a refunding; or (B) the date that the amount of the Additional Payments is reduced to zero or less due to a subsequent reassessment of the Encumbered Parcels for any reason.

(iii) Developer and City intend for this Section 3.7(a) to apply to Public Financing payable or secured only by Net Available Increment, and not to any other Public Financing issued by Authority or the City. Developer's obligations under this Section 3.7(a) are not for the benefit of any CFD Bonds. Should the Tax Laws change, or the Internal Revenue Service or a court of competent jurisdiction issue a ruling that might cause any tax-exempt IFD Debt to be deemed taxable due to the requirements under clause (i) or (ii), City will release Developer from its obligations under this Section 3.7(a), and this Section 3.7(a) will be deemed severed from this Financing Plan under section 27.19 of the DDA.

(b) Reserve Fund Earnings. The Indenture for each issue of IFD Debt will provide that earnings on any reserve fund that are not then needed to replenish the reserve fund to the reserve requirement will be transferred to the debt service fund held by the Trustee under the Indenture.

(c) Material Changes to the IFD Act. In the event of any change to the IFD Act that occurs after the Reference Date, City, Authority, and Developer shall meet and confer and negotiate in good faith any appropriate changes to this Financing Plan, the DDA, the City DA, and any existing IFD. In the event of any change to the IFD Act that occurs after the Reference Date that results in Increment other than Net Available Increment becoming available for allocation to an IFD, City may allocate such additional Increment to an IFD and may provide in the IFP for such IFD that such additional Increment may be used by the IFD as follows: (i) first, to finance Housing Costs and increase the then-effective Minimum Affordable Percentage in the manner set forth in Articles 3 and 9 of the Housing Plan and to finance additional Qualified Project Costs that are required to receive additional increment as a result of the change in the IFD Act; and (ii) second, to pay Qualified Project Costs.

(d) If at any time during the term of this Agreement the City reasonably concludes that the provisions of this Article III as it relates to the allocation by the City of Net Available Increment or the IFP of an IFD would violate applicable provisions of State law, or if a court of applicable jurisdiction concludes that the

provisions of this Article III as it relates to the allocation by the City of Net Available Increment would or the IFP of any IFD does violate applicable provisions of State law, City and Developer shall meet and confer about available alternatives.

3.8 IFDs and Net Available Increment Upon Termination

(a) Notice of Termination. In the event that Authority terminates all or any portion of the DDA before the issuance of the last Certificate of Completion for the Project for any reason, Authority shall send City and each IFD a Termination Notice providing the details of the termination and whether or not the termination was due to a Selected Default.

(b) Formation of IFDs After Termination. Any IFD formed over any part of the Project Site for each Other Developer following receipt of a Termination Notice for a non-Selected Default shall authorize the financing of the Island Wide Costs of Developer so that such Island Wide Costs of Developer may be financed as set forth in this Section 3.8. The IFD formed over any part of the Project Site for each Other Developer following receipt of a Termination Notice for a Selected Default shall have no such obligation.

(c) Non-Selected Defaults. If the Termination Notice indicates that the termination was for any reason other than a Selected Default, then from and after the date that such Termination Notice is received by City and each IFD, the IFD shall distribute the IFD Proceeds as follows:

(i) The IFD Proceeds generated from the property in the Project Site that Developer has previously acquired from Authority (regardless of current ownership of such property) shall be reserved for, and paid upon request by, Developer to finance Developer's Island Wide Costs until all Island Wide Costs incurred by Developer are fully financed by IFD Proceeds.

(ii) Fifty percent (50%) of the IFD Proceeds generated from Non-Developer Property ("**Termination Proceeds**") shall be reserved for, and paid upon request by, Developer to finance Developer's Island Wide Costs until all Island Wide Costs incurred by Developer are financed by such Termination Proceeds; provided, that such Termination Proceeds may not be applied to pay Pre-Development Costs except for Pre-Development Costs incurred prior to the Reference Date ("**Liquidated Pre-Agreement Costs**") and then only in the amount not to exceed five percent (5%) of such Termination Proceeds. Developer and City shall agree in writing on the amount of the Liquidated Pre-Agreement Costs within ninety (90) days following the Reference Date, and the amount of Liquidated Pre-Agreement Costs shall not include any return on such costs. If City and Developer do not agree in writing on the amount of the Liquidated Pre-Agreement Costs within such 90-day time period, City and Developer shall work in good faith to agree in writing on the amount of the Liquidated Pre-Agreement Costs as soon as practical thereafter; provided, however, that City

shall have no obligation to initiate formation of an IFD until City and Developer have agreed in writing to the amount of the Liquidated Pre-Agreement Costs.

(iii) Upon the occurrence and during the continuance of a High IRR Period, Authority may provide a written notice to City and each IFD indicating that there is a High IRR Period. Notwithstanding anything in clause (ii), upon receipt of the written notice about the High IRR Period, the IFD will suspend distribution of IFD Proceeds to Developer pursuant to clause (ii). Immediately upon the conclusion of a High IRR Period, Authority shall provide a written notice to City and each IFD indicating that the High IRR Period has ended, and immediately upon receipt of such written notice, the suspension shall end and the IFD shall resume making payments to Developer of IFD Proceeds pursuant to clause (ii).

(iv) Once all of Island Wide Costs incurred by Developer are financed with IFD Proceeds, or during any period of suspension, IFD Proceeds generated from Non-Developer Property shall be distributed as agreed to by the IFDs and Authority.

(d) Selected Defaults. In the event the Termination Notice indicates that the termination was due to a Selected Default, then from and after the date that such Termination Notice is received by the IFD and the City, the IFD shall distribute the IFD Proceeds as follows:

(i) The IFD Proceeds generated from the property in the Project Site that Developer has previously acquired from Authority (regardless of current ownership of such property) shall be paid to Developer to finance Developer's Island Wide Costs until all Island Wide Costs incurred by Developer are financed by IFD Proceeds.

(ii) All of the IFD Proceeds generated from Non-Developer Property shall be paid to each Other Developer of such other property to use exclusively to pay its respective Island Wide Costs.

(e) Definition of Categories of Island Wide Costs. As a condition of Approval for the Initial Major Phase Application, Authority, City and Developer shall have agreed in writing upon the categories of Island Wide Costs.

3.9 Net Available Increment Under Certain Situations

(a) Application During Higher IRR Period. Upon the occurrence and during the continuance of a Higher IRR Period, Authority may provide a written notice to City and each IFD indicating that there is a Higher IRR Period. For each IFD, upon receipt of the written notice about the Higher IRR Period, the IFD shall suspend distribution of Net Available Increment remaining after payment of debt service due on IFD Debt and any other Public Financing. For each IFD, immediately upon the conclusion of a Higher IRR Period, Authority shall provide a written notice to City and the IFD indicating that the Higher IRR Period has ended, and immediately upon receipt

of such written notice, the suspension shall end and the IFD shall resume making payments to Developer of Net Available Increment in the manner set forth in this Financing Plan.

(b) Application in Event of Default. Upon the occurrence of and only for the duration of and to the extent of any default in Authority's payment of Initial Navy Consideration under the Conveyance Agreement which is caused by an Event of Default by Developer under the DDA, Authority may provide a written notice to City and the IFD indicating that an Event of Default has occurred, and the IFD shall suspend distribution of Net Available Increment remaining after payment of debt service due on IFD Debt and any other Public Financing until the Event of Default is cured. The IFD shall hold any Net Available Increment withheld from Developer for the account of the Navy until the Event of Default is cured. Immediately upon the curing of the Event of Default, Authority shall provide a written notice to City and the IFD indicating that the Event of Default has been cured, and immediately upon receipt of such written notice, the suspension shall end and the IFD shall resume making payments to Developer of Net Available Increment in the manner set forth in this Financing Plan.

(c) Use of Net Available Increment During Suspension Periods. During any period that the application of Net Available Increment under this Financing Plan is suspended pursuant to Sections 3.8(c)(iii), 3.9(a), and 3.9(b), the IFD may, unless otherwise permitted by this Financing Plan, use such Net Available Increment on a pay-as-you-go basis only (i.e., such amounts may not be pledged to any indebtedness) to finance the following costs to the extent allowed by the IFD Act and so long as such uses do not adversely affect the tax-exemption of the interest on any IFD Debt:

(i) Installment Payments then due and unpaid; then

(ii) Future Installment Payments by a deposit to the Navy Payment Escrow until such time as the amount in the Navy Payment Escrow is sufficient to pay all remaining unpaid Installment Payments; then

(iii) Payment of any Financial Obligations that would have been the obligation of Developer; then

(iv) In any combination: (A) facilities benefitting the Project or the Project Site; or (B) payment of the Housing Costs (including any affordable housing subsidy).

## 4. ALTERNATIVE FINANCING AND PUBLIC FINANCING GENERALLY

### 4.1 Alternative Financing

(a) Request for Alternative Financing. Authority acknowledges and agrees that other methods of Public Financing for Qualified Project Costs may be viable, become available, or become necessary (due to a Change in Law or otherwise) that affects the Funding Sources: (i) before Developer's completion of the Infrastructure and Stormwater Management Controls; or (ii) before Developer's full reimbursement for

Project Costs. These other methods (collectively, "**Alternative Financing**") may include any municipal debt financing vehicle then available under applicable law, including tax-exempt bonds, taxable bonds, tax-credit bonds, certificates of participation, and federal or State loans incurred by Authority, the City, or a joint powers authority. As set forth in this Financing Plan, as it may be amended from time to time, such municipal debt financing vehicles may be secured by Net Available Increment or Project Special Taxes, special assessments or fees on Taxable Parcels of commercial property in the Project Site through a community taxing district formed by City ordinance, or lease revenues in the case of Certificates of Participation. Therefore, from time to time, so long as Developer's Project Costs have not been fully paid or reimbursed, Developer may submit a written request for Alternative Financing, describing:

(i) the Qualified Project Costs to be financed with the proceeds of the Alternative Financing;

(ii) if the Qualified Project Costs relate to construction, the Completion date or estimated Completion date for the related Infrastructure and Stormwater Management Controls;

(iii) if the Qualified Project Costs relate to construction, the then current construction schedule for any other improvements to be made by Developer; and

(iv) the Alternative Financing.

(b) Implementation. Following Developer's request for Alternative Financing, Developer and Authority will meet with the Controller's Office of Public Finance and appropriate Authority or City consultants as to the necessity, feasibility, amount, and timing of the proposed Alternative Financing. Neither the City nor Authority will be required to implement Alternative Financing that: (i) is not consistent with the Funding Goals or Section 1.2(b) or (ii) proposes to tax or assess Exempt Parcels.

(c) Financing.

(i) If an Alternative Financing contemplates the formation of a CFD and the pledge of Project Special Taxes, Developer may petition City, as applicable, to form one or more CFDs over the Project Site in the manner and subject to parameters and limitations that differ from CFDs formed pursuant to Section 2 so long as Developer agrees to such terms in writing. Any such Alternative Financing CFDs may overlap all or any of the CFDs formed pursuant to Section 2.

(ii) If an Alternative Financing contemplates the pledge of Net Available Increment, Developer and Authority may mutually agree to adjust the application of Net Available Increment to accomplish the Alternative Financing.

(d) Stage 2 Alternative Financing. The Parties acknowledge that as of the A&R Reference Date, it is the intent of the Parties that the City will provide

Alternative Financing to the Project in accordance with this Section 4.1(d). The Alternative Financing provided under this Section 4.1(d) is referred to, collectively or individually, as "**Stage 2 Alternative Financing**".

(i) The purpose of the Stage 2 Alternative Financing is to accelerate the development of the property shown on the map attached hereto as Schedule 4.1(d) ("**Stage 2**"). The property in Stage 2 is a portion of the property subject to Sub-Phase Application 3 dated March 21, 2019, and approved by the Authority on April 12, 2019. The Stage 2 Alternative Financing is intended to facilitate the continuation of development of Stage 2 without interruption and to facilitate the delivery of housing units, both affordable and market rate, in furtherance of critical policy goals of the City.

(ii) The Stage 2 Alternative Financing shall be used solely to finance reimbursement to the Developer for its expenditures on the Qualified Project Costs related to development within the boundaries of Stage 2, or as required to serve development within the boundaries of Stage 2, that are eligible to be financed by CFD Bonds or IFD Debt the interest on which is excluded from gross income for federal income tax purposes ("**Stage 2 Qualified Project Costs**"). Stage 2 Alternative Financing is not intended to finance Qualified Project Costs related to any portion of the property subject to Sub-Phase Application 3 other than Stage 2, or Qualified Project Costs related to any other future Project Sub-Phases, except as required to serve development within the boundaries of Stage 2. Unless otherwise authorized pursuant to this Article 4, the City's General Fund shall not be available to pay any Alternative Financing other than the Stage 2 Alternative Financing. The City, the Authority and the Developer have agreed that the Stage 2 Alternative Financing represents financial assistance for Stage 2 that will not be available for any other property within Sub-Phase Application 3 unrelated to Stage 2, or for any other future Project Sub-Phases.

(iii) The Stage 2 Alternative Financing is expected to be structured as ~~one or more~~ lease certificates of participation that will represent lease payments payable by the City from its General Fund revenues ("**Certificates of Participation**"), although the City reserves the discretion for the Stage 2 Alternative Financing to be structured as other public financing vehicles selected by the City that are not secured by a pledge of Project Special Taxes or Net Available Increment. Although the Certificates of Participation will represent lease payments that are appropriated from the City's General Fund, the City expects that, except for the Stage 2 Contribution, the lease payments will be paid from General Fund revenues derived from the Project that would not exist but for the Project.

(iv) The City and Developer anticipate that the Stage 2 Alternative Financing will generate a maximum of $115 million of net proceeds to reimburse the Developer for Stage 2 Qualified Project Costs. Unless the Board of Supervisors approves otherwise, the Stage 2 Alternative Financing will be executed and delivered in no less than three separate tranches of Certificates of

Participation, with no more than one tranche in a Fiscal Year. The City and the Developer currently anticipate that the Stage 2 Alternative Financing will be issued in three separate tranches of approximately $50 million, $50 million and $15 million; provided, however, the City reserves the right in its discretion to determine the timing, principal amount and number of tranches based on economic efficiency, the policies described in Section 1.1(a)(xi) and the Developer's ability to spend the financing proceeds on Stage 2 Qualified Project Costs within two years. The City will cause the first tranche of Certificates of Participation, and subsequent tranches, to be executed and delivered only after the ten-year City Capital Plan that is updated after the A&R Reference Date demonstrates capacity for, and incorporates, the Stage 2 Alternative Financing in the COP program. The City will structure the Certificates of Participation so that lease payments will not be appropriated from the City's General Fund in Fiscal Year 2024-25 or Fiscal Year 2025-26.

(v) Each tranche of the Stage 2 Alternative Financing shall be implemented through a separate legislative package submitted to, and subject to the approval of, the Board of Supervisors. Each legislative package will describe the following:

(A) the legal structure of the proposed Stage 2 Alternative Financing (e.g., Certificates of Participation);

(B) the maximum principal amount of the proposed Stage 2 Alternative Financing and the net proceeds expected to be generated to reimburse the Developer for Stage 2 Qualified Project Costs;

(C) the specific Stage 2 Qualified Project Costs that are expected to be financed by the proposed Stage 2 Alternative Financing and the expected timing of the Developer's expenditures on those Stage 2 Qualified Project Costs;

(D) the transaction's compliance with Section 10.62 of the City's Administrative Code; and

(E) the performance milestones to be met by the Developer before approval by the Board of Supervisors of a subsequent Stage 2 Alternative Financing.

Before any Stage 2 Contribution is made, the Board of Supervisors shall have approved the issuance of the first tranche of Certificates of Participation. The City shall not cause the initial Stage 2 Alternative Financing to be executed and delivered unless (y) the Board of Supervisors, as legislative body with respect to the CFD and as legislative body of the IFD, has approved the obligation to make the Stage 2 Contributions described in this Financing Plan (z) the City and the IFD, as applicable, have complied with applicable requirements of the Indentures for outstanding CFD Bonds and IFD Debt.

(vi) For the Stage 2 Alternative Financing(s) structured as Certificates of Participation, the Authority, the City and the Developer have agreed that the following Funding Sources shall be available (but not pledged) as described in this Financing Plan to fund the annual amount of the Stage 2 Contribution: (a) the Remainder Taxes in the manner described in Section 2.3(j); and (b) the 82.5% portion of Net Available Increment that is not dedicated in the IFP to pay for Housing Costs in the manner described in Section 3.5(d).

(vii) The City reserves the right to structure the prepayment provisions of the Stage 2 Alternative Financing in its sole discretion.

(viii) Developer hereby agrees that it shall not be entitled to, nor shall City or Authority pay, any Net CFD Proceeds, Project Special Taxes, IFD Proceeds or Net Available Increment to reimburse Developer for any Stage 2 Qualified Project Costs for which Developer was previously reimbursed from Stage 2 Alternative Financing proceeds.

(ix) At such time as all Qualified Project Costs incurred by Developer have been fully financed from Public Financing in accordance with this Financing Plan, the City may use any remaining Funding Sources that otherwise would have been committed toward Qualified Project Costs had there not been any Stage 2 Alternative Financing to pay for costs of public capital facilities that are eligible for financing under the Tax Laws (if applicable), CFD Act or IFD Act and otherwise would have been paid with General Fund or Authority revenues.

(x) The Parties agree that between the A&R Reference Date and the date on which the Developer has completed the improvements contemplated by the Street Improvement Permit for Stage 2 (the "**Stage 2 SIP Work**"), the Developer will spend all Gross Revenues from (i) land sales and (ii) Public Financing proceeds on Project Costs; provided, however, that the payment of interest, fees, or principal of debt being used to finance the Project is an eligible use of such revenues. For purposes of this subsection (x), "completed" shall mean satisfaction of any one of the following: (1) issuance of a notice of completion for the Stage 2 SIP Work by the Department of Public Works; (2) the date that is 60 days after Developer records a Notice of Completion pursuant to California Civil Code § 8190 covering the Stage 2 SIP Work without the filing of a mechanics lien, or if a lien if filed within such time, bonds have been provided to secure such liens in a form and amount required by law to cause any such lien to be removed from the applicable portion of the Project Site; (3) completion of at least 90% of the Stage 2 SIP Work (as evidenced by the inspections under the Acquisition and Reimbursement Agreement) with bonds posted for at least 150% of the remaining cost to complete the Stage 2 SIP Work; or (4) issuance of a Certificate of Completion by the Authority pursuant to Article 9 of the DDA for the Stage 2 SIP Work.

(xi) The City shall not increase the coverage ratio for, or reduce the sizing of an issue of, First Tranche CFD Bonds for the purpose of ensuring that there will be sufficient Remainder Taxes to fund all or any portion of the Stage 2 Contribution from Remainder Taxes. The City shall not increase the coverage ratio for, or reduce the sizing of an issue of, IFD Debt for the purpose of ensuring that there will be sufficient Net Available Increment to fund all or any portion of the Stage 2 Contribution from Net Available Increment. Instead, the City and the Developer agree that CFD Bonds and IFD Debt will be structured in accordance with Sections 2.4(d) and 3.3(b), respectively.

4.2 Formation and Issuance Alternatives

(a) Alternative Formation Entity. Developer and City may agree in writing that the Governmental Entity forming a CFD or an IFD may be other than City, so long as the formation of the CFD or IFD by the Governmental Entity is consistent with this Financing Plan and is allowed by the CFD Act or IFD Act, as applicable.

(b) Alternative Financing Mechanisms to Further Funding Goals. One of the Funding Goals of this Financing Plan is to maximize Funding Sources available to finance Qualified Project Costs. To achieve this Funding Goal, City and Developer acknowledge that it may be necessary or desirable to aggregate revenue sources from two or more IFDs or CFDs to support Public Financing through a financing mechanism other than the issuance of Public Financing by City or an IFD, including, but not limited to the issuance of revenue bonds or other indebtedness by another Governmental Entity (such as a local joint powers authority or a multiple-entity joint powers authority like CSCDA or ABAG) secured by CFD Bonds, IFD Debt, Project Special Taxes, and/or Net Available Increment. Developer and City will cooperate to evaluate and implement opportunities for such alternative financing mechanisms provided that such mechanisms further the Funding Goals and are consistent with this Financing Plan.

4.3 Grants

(a) Cooperation. Authority and Developer will work together to seek appropriate Project Grants for the Project.

(b) Authority Project Grants. Subject to the conditions in Project Grant documents and applicable law, Authority will use Project Grants it procures in the following order of priority: (i) first, to finance Project Costs that are not Qualified Project Costs under clauses (a), (b), (c), and (e) of the definition of "**Qualified**" (but in no circumstances would it be used to pay for a return on Pre-Development Costs); (ii) second, to finance the Qualified Project Costs incurred in connection with the Parks and Open Space Plan; (iii) third, to finance the costs of purchasing ferry boats for use on the Project Site; and (iv) fourth, to finance any other Qualified Project Costs. At the election of Authority, up to 50% of the Project Grant funds may be used for costs that benefit the Project (but that are not Project Costs).

(c) Developer Project Grants. Subject to the conditions in Project Grant documents and applicable law, Developer will use Project Grants it procures to finance Project Costs.

4.4 Provisions Applicable To All Public Financings

(a) Acquisition and Reimbursement Agreement. Developer and City will execute the Acquisition and Reimbursement Agreement (with only such changes as may be Approved by Developer and City in their respective sole discretion) before the earlier of: (i) the date the first Developer Construction Obligation is Commenced; or (ii) the date of the first Sub-Phase Approval. The Acquisition and Reimbursement Agreement describes the procedures by which: (x) Developer will seek reimbursement of Qualified Project Costs and Authorized Payments; (y) City and Authority will inspect and accept Infrastructure and Stormwater Management Controls and other Improvements that Developer is required to construct under the DDA and City DA; and (z) City will approve Developer's Payment Requests. City will reimburse Developer for Qualified Project Costs and Authorized Payments with any combination of Funding Sources then available for City's use, subject to any priority established in the Acquisition and Reimbursement Agreement. City will acquire the Infrastructure, Stormwater Management Controls, and other Improvements from Developer in accordance with, and subject to the limitations set forth in, the Acquisition and Reimbursement Agreement and applicable Supplements. Developer acknowledges that it must satisfy the conditions set forth in the Acquisition and Reimbursement Agreement as a condition to receiving reimbursement for any Authorized Payments or Qualified Project Costs.

(b) Financing Temporarily Excused. City and each IFD will be authorized to temporarily suspend the issuance of any Public Financing (and Authority will not be obligated to provide Project Grant proceeds if clause (i), (ii), or (iii) applies), and neither Authority nor the City will be obligated to issue any Alternative Financing, to finance Qualified Project Costs during the time in which:

(i) Developer is in default in the payment of any ad valorem tax or Project Special Taxes levied on any Taxable Parcel it then owns in the Project Site;

(ii) Developer is in Material Breach under the DDA;

(iii) Developer fails to cooperate reasonably with Authority or the City as necessary to implement Public Financing consistent with this Financing Plan;

(iv) in the judgment of Authority, City, or an IFD, as applicable, after consultation with Developer, and based upon the Funding Goals and advice of Authority or City staff and consultants, market conditions or conditions affecting the property in the Project Site (such as tax delinquencies, assessment appeals, damage or destruction of improvements, or litigation) make it fiscally imprudent or infeasible to incur the requested indebtedness at the time; or

(v) the First Tranche CFD Bond or IFD Debt underwriter (the "**Underwriter**") for any bond issue exercises any right to cancel its obligation to purchase the First Tranche CFD Bonds or IFD Debt during the occurrence and continuation of events specified in its bond purchase agreement ("**Underwriter Force Majeure**").

(c) Developer Financing Costs. Developer will not be entitled to reimbursements from any Public Financing for its financing costs (consisting of interest carry and lender fees) for any Infrastructure and Stormwater Management Controls construction financing:

(i) to the extent that the costs are commercially unreasonable as of the date that the payment obligation was incurred;

(ii) while Developer is in default in the payment of any ad valorem taxes or Project Special Taxes levied on any of the Taxable Parcels it then owns or while Developer is in Material Breach under the DDA; or

(iii) if the costs arise more than ninety (90) days after the later to occur of: (A) the date on which City has found the related Infrastructure and Stormwater Management Controls to be Complete under the Acquisition and Reimbursement Agreement; and (B) Developer has been reimbursed fully for the related Qualified Project Costs from Funding Sources.

(d) Continuing Disclosure. Developer must comply with all of its obligations under any continuing disclosure agreement it executes in connection with the offering and sale of any Public Financing. Developer acknowledges that a condition to the issuance of any Public Financing may be Developer's execution of a continuing disclosure agreement.

(e) Qualified Pre-Development Costs. To the extent required, (i) each CFD and IFD will be authorized at formation to finance the Qualified Pre-Development Costs and (ii) the payment of the Qualified Pre-Development Costs (which do not include any return on such Pre-Development Costs) will be budgeted in the same manner as Qualified Project Costs in Section 3.5.

4.5 Terms of the Public Financings

(a) Meet and Confer. City staff and consultants will meet and confer with Developer before the sale of any Public Financing to discuss the terms of any proposed debt issue, but City and each IFD, as applicable, will determine the final terms in their reasonable discretion in light of the Funding Goals and subject to this Financing Plan. City will not enter into any Indenture for any form of Public Financing that is not bonded indebtedness, if the indebtedness must be secured by or repaid with Net Available Increment or Project Special Taxes without Developer's express written consent, which may be granted or withheld based on all relevant factors, including the timing and availability of funds, credit enhancement requirements, applicable interest rate and other repayment terms, and other conditions to the proposed indebtedness.

(b) Credit Enhancement. Any Developer credit enhancements for Public Financing must be without recourse to the City's General Fund or Authority's general funds or other assets (other than Net Available Increment to the extent pledged to the payment of Public Financing obligations). Any financial institution issuing a credit enhancement must have a rating of at least "A" from Moody's Investor's Service Inc. or Standard & Poor's Rating Service, or the equivalent rating from any successor rating agency mutually acceptable to Developer and City, on the date of issuance and at any later credit renewal date. Developer must provide substitute credit enhancements for any credit enhancement that does not meet this rating standard on a credit renewal date. If the fees (and replenishment of any draw or other use of the collateral for the obligation it secures) for any Developer credit enhancements will be reimbursable from funds other than Developer funds, they may be reimbursed from Project Special Taxes or Net Available Increment, as applicable, on a basis subordinate to any debt service and other annual costs for any related outstanding Public Financing.

(c) Tax-Exempt or Taxable. Developer and City shall cooperate, and the IFD will cooperate with Developer, to maximize the tax-exempt treatment of any Public Financing, but Developer and City or an IFD, as applicable, may agree to issue taxable Public Financings.

(d) No Other Land-Secured Financings. Other than the CFDs and the IFDs, City shall not form any additional land-secured financing district or any district that pledges Increment over any portion of the property in the Project Site other than a City-wide district without Developer's Approval in its sole discretion.

4.6 Reimbursements for Qualified Project Costs

(a) Limited Reimbursement. Developer, City, and Authority acknowledge that:

(i) Developer is agreeing to pay for the Project Costs with the expectation that Developer will be reimbursed to the extent and in the manner set forth in this Financing Plan and the Acquisition and Reimbursement Agreement, subject to applicable laws and any financing instruments;

(ii) Developer may be required to begin paying Project Costs before Funding Sources to reimburse Developer are available;

(iii) Developer will be reimbursed for Qualified Project Costs and paid Authorized Payments in any number of installments as Funding Sources become available in accordance with this Financing Plan and the Acquisition and Reimbursement Agreement, with any unpaid balance deferred as long as necessary (subject to limitations on Funding Sources under applicable laws and financing instruments), until Funding Sources become available;

(iv) Developer's payment of Project Costs before the availability of Funding Sources to reimburse Qualified Project Costs is not a

dedication or gift, or a waiver of Developer's right to reimbursement for Qualified Project Costs under this Financing Plan; and

(v) Funding Sources may not be sufficient to pay all of Developer's Qualified Project Costs and Authorized Payments.

(b) Acquisition of Infrastructure and Stormwater Management Controls. Developer, City, and Authority acknowledge that:

(i) Developer may be constructing Infrastructure and Stormwater Management Controls before Funding Sources that will be used to acquire it are available;

(ii) The Department of Public Works will inspect Infrastructure and Stormwater Management Controls and other Improvements and process Payment Requests even if Funding Sources for the amount of pending Payment Requests are not then sufficient to satisfy them in full;

(iii) Infrastructure and Stormwater Management Controls may be conveyed to and accepted by the City, Authority, or other Governmental Entity before the applicable Payment Requests are paid in full;

(iv) If the City, Authority, or other Governmental Entity accepts Infrastructure and Stormwater Management Controls before the applicable Payment Requests are paid in full, the unpaid balance will be paid when sufficient Funding Sources become available, and the Acquisition and Reimbursement Agreement will provide that the applicable Payment Requests for Infrastructure and Stormwater Management Controls accepted by the City, Authority, or other Governmental Entity may be paid: (A) in any number of installments as Funding Sources become available; and (B) irrespective of the length of time payment is deferred; and

(v) Developer's conveyance or dedication of Infrastructure and Stormwater Management Controls to the City, Authority, or other Governmental Entity before the availability of Funding Sources to acquire the Infrastructure and Stormwater Management Controls is not a dedication or gift, or a waiver of Developer's right to payment of Qualified Project Costs under this Financing Plan.

## 5. INTENTIONALLY OMITTED

## 6. MISCELLANEOUS PROVISIONS

6.1 Interim Lease Revenues

(a) Distribution of Interim Lease Revenues. Interim Lease Revenues shall be collected by Authority, and distributed according to the following priorities:

(i) Through each Fiscal Year, Authority will use the Interim Lease Revenues to pay Authority Costs that the Authority has incurred and that have not been previously reimbursed; then

(ii) On June 30 of each Fiscal Year, Authority will apply any remaining Interim Lease Revenues to any Installment Payment then due and unpaid unless otherwise waived, tolled or agreed by the Navy; then

(iii) On June 30 of each Fiscal Year, Authority will apply any remaining Interim Lease Revenues to the Navy Payment Escrow until such time as the amount in the Navy Payment Escrow is sufficient to pay all remaining unpaid Installment Payments unless otherwise waived, tolled or agreed by the Navy; then

(iv) On June 30 of each Fiscal Year, Authority will either (i) transfer to Developer any remaining Interim Lease Revenues (the "**Net Interim Lease Revenues**"), if authorized; provided, however, that Developer shall only use the Net Interim Lease Revenues for Qualified Project Costs, or (ii) expend the Net Interim Lease Revenues on Qualified Project Costs at the direction of Developer. In either case, Developer will treat such Net Interim Lease Revenues as Gross Revenues.

(b) Material Default. Subject to the previous paragraph, all distributions of Net Interim Lease Revenues to Developer under Section 6.1(a)(iv) shall be withheld for the benefit of the Authority upon the occurrence of and for the duration of any Material Default under the DDA and may be applied by the Authority to any of its payment obligations with respect to the Project, including, but not limited to, payment of Initial Navy Consideration and Additional Consideration, construction of Infrastructure and Stormwater Management Controls if the security provided by Developer is not sufficient for that purpose, payment of the affordable housing subsidy, payment of Authority Costs, and any other Financial Obligations that otherwise would have been the obligation of Developer.

6.2 Marina Revenues

(a) Use of Marina Revenues. Marina Revenues shall be used by Authority to pay Authority Costs.

(b) Interim Lease Revenues. To the extent that any Marina Revenues are considered Interim Lease Revenues, those Marina Revenues shall be used to pay Authority Costs under Section 6.1(a)(i).

6.3 Key Money

(a) Sale of Project Site Property. In the event that (i) Authority terminates all or any portion of the DDA before the issuance of the last Certificate of Completion for the Project for any reason other than a Selected Default and (ii) Authority sells all or any part of the Project Site included in the termination that Authority did not

otherwise convey to Developer (the "**Unconveyed Property**") or enters into an agreement with respect to the Unconveyed Property for which compensation is paid to Authority, then, through the escrow for the sale of such Unconveyed Property or upon receipt of any other compensation relating to such Unconveyed Property, Authority shall pay to Developer the Net Sale Proceeds associated with such Unconveyed Property until the Deficit is paid in full.

(b) Deficit. For purposes of this Section 6.3, the term "**Deficit**" shall mean the amount calculated pursuant to the following formula so long as such amount is greater than $0:

(Installment Payments actually paid by Developer)

minus

(Acreage Percentage Acquired x Total Installment Payments)

6.4 Inconsistencies with the CFD and the IFD. The Reference Date of the original Financing Plan that has been amended and restated as set forth herein (the "**Original Financing Plan**") occurred prior to the formation of the CFD and the IFD. Since such Reference Date, the Board of Supervisors undertook proceedings for the CFD, including various annexations into the CFD (collectively, the "**CFD Proceedings**") and proceedings for the IFD, including adopting and approving the IFP and conducting post-formation change proceedings (collectively, the "**IFD Proceedings**"). Except as set forth in this paragraph, the Original Financing Plan has not been amended to describe the CFD or the IFD as formed. In the event of any inconsistency between the terms of this Financing Plan and the CFD Proceedings or the IFD Proceedings, the CFD Proceedings or the IFD Proceedings, as applicable, shall govern. Moreover, the City and the Developer agree that the amendments to the Original Financing Plan contained in this Agreement are consistent with and authorized by the IFP. As used herein, phrases such as "the IFP will provide" or "cause the IFP to contain" when referencing the changes made by this Agreement are not intended to require, and do not require, the amendment to the IFP, but rather indicate that the provisions of this Agreement are consistent with the IFP.

## 7. INTERPRETATION; DEFINITIONS

7.1 Interpretation of Agreement

(a) DDA and City DA. This Financing Plan is a part of the DDA and the City DA and is subject to all of its general terms, including the rules of interpretation.

(b) Inconsistent Provisions. Developer, City, and Authority intend for this Financing Plan to prevail over any inconsistent provisions relating to the financing structure for the Project and their respective financing-related obligations in any other document related to the Project.

7.2 Defined Terms

(a) Definitions. The following terms have the meanings given to them below or are defined where indicated.

"**A&R Reference Date**" is defined in the DDA.

"**Accounting**" means a complete accounting and computations setting forth the basis of each Additional Consideration to be paid, including the Gross Revenues and Development Costs for the relevant determination period, together with a narrative description of the methodology employed to calculate each Additional Consideration payment to be due for the relevant period.

"**Acquisition and Reimbursement Agreement**" means the agreement between Developer and City governing the terms of City's acquisition of Infrastructure and Stormwater Management Controls and reimbursement of Qualified Project Costs, in the form attached to this Financing Plan as Attachment A, as the same may be modified or amended from time to time.

"**Acreage Percentage Acquired**" means the percentage calculated by dividing (i) the cumulative total amount of acreage of the Market Rate Lots acquired by Developer from Authority by (ii) the cumulative total amount of acreage of Market Rate Lots programmed on lands conveyed by the Navy to Authority.

"**Additional Community Facilities**" means any public facilities that are contemplated to be financed by City with Second Tranche CFD Bonds and Remainder Taxes under applicable law and in the manner set forth in this Financing Plan, and shall include but not be limited to the Future Sea Level Rise Improvements.

"**Additional Consideration**" means the First Tier Payments and the Second Tier Payments.

"**Additional Payments**" is defined in Section 3.7(a)(i).

"**Adequate Security**" is defined in the DDA.

"**Affiliate**" is defined in the DDA.

"**Affordable Housing Unit**" is defined in the Housing Plan.

"**Alternative Financing**" is defined in Section 4.1(a).

"**Annual Report**" is defined in Section 1.6(a).

"**Approval**" and any variation thereof (such as "**Approved**" or "**Approve**") is defined in the DDA.

"**Assigned Project Special Tax Rate**" is defined in Section 2.3(d).

"**Authority**" means the Treasure Island Development Authority.

"**Authority Board**" is defined in the DDA.

"**Authority Consideration**" means, collectively, the Authority Second Tier Payments and the Authority Third Tier Payments.

"**Authority Cost Payment**" is defined in the Conveyance Agreement.

"**Authority Costs**" is defined in the DDA.

"**Authority Second Tier Payment**" is defined in Section 1.3(c)(iii).

"**Authority Third Tier Payment**" is defined in Section 1.3(c)(iv).

"**Authorized Payments**" is defined in the Acquisition and Reimbursement Agreement.

"**Backup Project Special Tax Rate**" is defined in Section 2.3(g).

"**Board of Supervisors**" is defined in the DDA.

"**Building**" means any structure to be constructed within a CFD, including structures that contain Taxable Residential Units, commercial, industrial, science and technology, research and development, and office uses.

"**Cash Flow Distribution Termination Date**" means the date on which there are no longer any Gross Revenues generated by the Project.

"**Certificate of Completion**" is defined in the DDA.

"**Certificates of Participation**" is defined in Section 4.1(d).

"**CFD**" means (i) a community facilities district formed over all or any part of the Project Site that is established under the CFD Act to finance Qualified Project Costs and Additional Community Facilities, or (ii) if designated, an Improvement Area within a community facilities district formed over all or any part of the Project Site, which Improvement Area has been designated under the CFD Act to finance Qualified Project Costs and Additional Community Facilities.

"**CFD Act**" means the Mello-Roos Community Facilities Act of 1982 (Government Code § 53311 et seq.), as amended from time to time.

"**CFD Bonds**" means one or more series of bonds (including refunding bonds) secured by the levy of Project Special Taxes in a CFD, including First Tranche CFD Bonds and Second Tranche CFD Bonds.

"**CFD Bonds Project Account**" means the funds or accounts, however denominated, held by the Fiscal Agent under an Indenture containing the Net CFD Proceeds to be used to finance Qualified Project Costs and, when authorized pursuant to Section 2.8, Additional Community Facilities.

"**CFD Conversion Date**" means, calculated separately for each CFD, the earliest to occur of (i) the date that all Qualified Project Costs have been paid or reimbursed to Developer

for the Project as a whole, or (ii) the date that is forty-two (42) years after the issuance of the first series of First Tranche CFD Bonds in such CFD.

"**CFD Goals**" means, subject to Section 2.6(g), City's Local Goals and Policies for Mello-Roos Community Facilities Districts, approved by Resolution No. 387-09, adopted on October 6, 2009, and as thereafter amended from time to time.

"**CFD Proceedings**" is defined in Section 6.4.

"**Change In Law**" means legislation enacted by the Congress of the United States or by the legislature of the State, or the enactment of a regulation or statute by any Governmental Entity (other than City or Authority or any related entities) with jurisdiction over City or Authority.

"**Change Proceedings**" means proceedings under section 53332 of the CFD Act initiated by Developer's petition.

"**City**" means the City and County of San Francisco.

"**City DA**" means the Development Agreement by and between City and Developer relative to Naval Station Treasure Island.

"**City's General Fund**" means the City's general operating fund, into which taxes are deposited, excluding dedicated revenue sources for certain municipal services, capital projects, and debt service.

"**Commence**" is defined in the DDA.

"**Complete**" (or its variant "**Completion**") is defined in the DDA.

"**Conditional City Increment**" means, for each IFD, the amount allocated by the City on a conditional basis to such IFD for the purposes described in Section 3.3(e), which shall be equal to $0.08 of every dollar of Increment (which amount will come from Increment that would have otherwise been allocated to City).

"**Conditional Maintenance Tax**" shall mean a special tax that may be levied under an RMA only upon the occurrence of a Maintenance Default and only in the manner and in the amount set forth in Section 2.7(f).

"**Conveyance Agreement**" is defined in the DDA.

"**CPA**" means an independent certified public accounting firm Approved by Authority and Developer.

"**DDA**" means that certain Amended and Restated Disposition and Development Agreement (Treasure Island/Yerba Buena Island) to which this Financing Plan is attached.

"**Default Interest Rate**" means an interest rate of three hundred (300) basis points above the Interest Rate.

"**Deficit**" is defined in Section 6.3(b).

"**Department of Public Works**" is defined in the DDA.

"**Developed Property**" means, in any Fiscal Year, an assessor's parcel of Taxable Property included in a recorded final subdivision map before January 1 of the preceding Fiscal Year, and for which a building permit has been issued before June 30 of the preceding Fiscal Year.

"**Developer**" is defined in the DDA.

"**Developer Construction Obligations**" means, to the extent required under the DDA in connection with the Project, Developer's obligation to construct or cause the construction of the Project in accordance with the Schedule of Performance, including: (a) the Infrastructure and Stormwater Management Controls; (b) Improvements pursuant to the Parks and Open Space Plan; and (c) Required Improvements.

"**Developer Fiscal Year**" means the fiscal year period for Developer, which currently commences on December 1 of any year and ends on the following November 30.

"**Developer Maintenance Payment**" means the payment made by Developer to pay for Ongoing Park Maintenance, subject to the limitations set forth in Section 2.7(d).

"**Development Costs**" means all Hard Costs, Soft Costs, and Pre-Development Costs, except to the extent specifically excluded under the Conveyance Agreement and specifically excluding any costs, fees or charges related to debt financing that are not also Permissible Financing Costs.

"**Encumbered Parcels**" is defined in Section 3.7(a)(i).

"**Entitlement**" is defined in the Conveyance Agreement.

"**Estimated Maintenance Cost**" means the estimated costs of the Ongoing Park Maintenance for a Maintenance Period, as determined pursuant to Section 2.7(a).

"**Event of Default**" is defined in the DDA.

"**Excess Land Appreciation Structure**" is defined in the Conveyance Agreement.

"**Exempt Parcel**" means the Public Property. Exempt Parcel does not include an assessor's parcel that, immediately prior to the acquisition by City, Authority, or other Governmental Entity, was a Taxable Parcel that Authority, City, or any other Governmental Entity acquires by gift, devise, negotiated transaction, or foreclosure (including by way of credit bidding), or an assessor's parcel that, immediately prior to the acquisition by Authority, was a Taxable Parcel that Authority acquires under its right of reverter under the DDA.

"**Final Conveyance Agreement IRR**" is defined in Section 1.3(e)(i).

"**Final Conveyance Agreement IRR Statement**" is defined in Section 1.3(e)(i).

"**Final IRR**" is defined in Section 1.3(f).

"**Final IRR Statement**" is defined in Section 1.3(f).

"**Financial Obligations**" is defined in the DDA.

"**Financing Plan**" means this Financing Plan.

"**First Tier Compensation**" is defined in Section 1.3(c)(ii).

"**First Tier Payment**" is defined in Section 1.3(c)(ii).

"**First Tranche**" means, calculated separately for each CFD, one or more series of CFD Bonds (including refunding bonds) issued prior to the applicable CFD Conversion Date and secured by the levy of Project Special Taxes in such CFD, the proceeds of which City is obligated under this Financing Plan to use to finance Qualified Project Costs.

"**Fiscal Agent**" means the fiscal agent or trustee under an Indenture.

"**Fiscal Year**" means the period commencing on July 1 of any year and ending on the following June 30.

"**FOST Parcel**" is defined in the Conveyance Agreement.

"**Funding Goals**" is defined in Section 1.1(a).

"**Funding Sources**" is defined in Section 1.2(a).

"**Future Sea Level Rise Improvements**" is defined in Section 2.8(e).

"**GAAP**" means generally accepted accounting principles.

"**Governmental Entity**" is defined in the DDA.

"**Gross Revenues**" means, for any period, all cash revenues received by Developer from any source whatsoever, and whether collected through or outside of escrow in connection with all or any part of the Project, in each case for such period, which shall include, the gross proceeds of sale or transfer of the Lots or any portion thereof, rents or other payments paid to Developer as the master landlord under any ground lease or as a property manager under an interim management agreement with Authority for existing facilities and open space, including any of Authority's revenues assigned to Developer pursuant to the DDA (which assignment may exclude revenues of Authority that are used to pay for Authority's costs and expenses that are not included in Authority Cost Payment pursuant to the DDA); proceeds from the first sale of ground leases or refinancing intended to capitalize ground value; any damage recoveries, insurance payments or condemnation proceeds payable to Developer with respect to the Project to the

extent not otherwise used for repair or reconstruction of the Property, all revenues derived from agreements to which Developer is a party pursuant to which Developer participates in the proceeds of the operation or sale of any portion of the Property sold to a Vertical Builder, amounts paid to Developer from the proceeds of any assessment or special tax districts formed for purposes of providing funds for costs associated with the Project, and amounts paid to Developer from tax increment financing or other public financing, and grants and tax credits to reimburse Developer for Infrastructure and Stormwater Management Controls or other qualifying costs. Gross Revenues shall specifically exclude the proceeds of any capital contributed to Developer by its partners or members or the proceeds of any loan made to Developer. Gross Revenues includes Net Interim Lease Revenues to the extent provided in Section 6.1(a)(iii).

"**Hard Costs**" is defined in the Conveyance Agreement.

"**High IRR Period**" means the time period (i) commencing on the date that an IRR Statement shows that Developer has achieved a cumulative IRR in excess of 15% as of the end of the final Quarter of the applicable Reporting Period considering all First Tier Payments, Second Tier Payments, and Authority Second Tier Payments and (ii) ending on the date that a subsequent IRR Statement shows that Developer's cumulative IRR as of the end of the final Quarter of the applicable Reporting Period, considering all First Tier Payments, Second Tier Payments, and Authority Second Tier Payments, is 15% or below.

"**Higher IRR Period**" means the time period (i) commencing on the date that an IRR Statement shows that Developer has achieved a cumulative IRR in excess of 25% as of the end of the final Quarter of the applicable Reporting Period considering all First Tier Payments, Second Tier Payments, and Authority Second Tier Payments and (ii) ending on the date that a subsequent IRR Statement shows that Developer's cumulative IRR as of the end of the final Quarter of the applicable Reporting Period, considering all First Tier Payments, Second Tier Payments, and Authority Second Tier Payments, is 25% or below.

"**Housing Amounts**" means the amounts transferred to Authority for purposes of paying the Housing Costs under Section 3.6.

"**Housing Costs**" means the costs incurred by Authority to increase, improve, and preserve the City's supply of housing for persons and families of very low-, low-, or moderate-income pursuant to the Housing Plan.

"**Housing Fund**" means a fund created by Authority for holding the Housing Amounts and applying such Housing Amounts on Housing Costs.

"**Housing Percentage**" means, for each IFD, 17.5%.

"**Housing Plan**" is defined in the DDA.

"**IFD**" means (i) an infrastructure financing district formed over all or any part of the Project Site that is established under the IFD Act to finance Qualified Project Costs, or (ii) if authorized under the IFD Act, a Project Area within an infrastructure financing district formed

over all or any part of the Project Site, which Project Area has been designated under the IFD Act to finance Qualified Project Costs.

"**IFD Act**" means the Infrastructure and Revitalization Financing District Act (Government Code § 53369 et seq.), as amended from time to time.

"**IFD Debt**" means any bonded indebtedness that an IFD or other Governmental Entity incurs to finance Qualified Project Costs that is secured by a pledge of Net Available Increment, but not including CFD Bonds.

"**IFD Debt Project Account**" means the funds or accounts, however denominated, held by the Fiscal Agent under an Indenture containing the net proceeds of IFD Debt to be used to finance Qualified Project Costs.

"**IFD Proceedings**" is defined in Section 6.4.

"**IFD Proceeds**" means, in any Fiscal Year, for an IFD, the cumulative amount of (i) the proceeds of IFD Debt for such IFD and (ii) the Net Available Increment generated in such Fiscal Year that are not used to (A) pay debt service on and replenish debt service reserve funds for any IFD Debt for such IFD, (B) repay the City for any Conditional City Increment used to pay IFD Debt for such IFD in the manner set forth in Section 3.5(d) and to the extent set forth in Section 3.3(e), (C) except to the extent IFD Proceeds are used for the purposes provided in Section 3.6, fund the Stage 2 Contribution as set forth in this Financing Plan, (D) pay amounts due under the Subordinate Pledge; and (E) pay administrative expenses of the IFD.

"**IFP**" means an infrastructure financing plan required for each IFD under the IFD Act.

"**Improvement Area**" means an improvement area within a community facilities district designated pursuant to section 53350 of the CFD Act.

"**Improvements**" is defined in the DDA.

"**Inclusionary Units**" is defined in the Housing Plan.

"**Increment**" means, within an IFD, the tax increment revenues generated from the property within such IFD from and after the base year established for such IFD.

"**Indenture**" means one or more indentures, trust agreements, fiscal agent agreements, financing agreements, or other documents containing the terms of any indebtedness that is secured by a pledge of and to be paid from Net Available Increment or Project Special Taxes.

"**Index**" is defined in the DDA.

"**Infrastructure**" is defined in the DDA.

"**Infrastructure Plan**" is defined in the DDA.

"**Initial Closing**" means the date on which the first conveyance of the FOST Parcel by Quitclaim Deed from the Navy to Authority occurs in accordance with Article 3 of the Conveyance Agreement.

"**Initial Consideration Term**" means a term of ten (10) years (as such term may be extended pursuant to Section 4.2.2 of the Conveyance Agreement).

"**Initial Major Phase**" is defined in the DDA.

"**Initial Major Phase Application**" is defined in the DDA.

"**Initial Navy Consideration**" means the initial consideration to the Navy for acquisition of the Project Site, including the principal amount of $55 million and all interest payable to the Navy on the unpaid principal amount.

"**Installment Payment**" is defined in the Conveyance Agreement.

"**Interagency Cooperation Agreement**" means that certain Interagency Cooperation Agreement, by and between the City and Authority, as amended from time to time.

"**Interest Rate**" is defined in the Conveyance Agreement.

"**Interim Lease Revenues"** means all cash, notes, or other monetary consideration of any kind paid to the Authority under the Interim Leases.

"**Interim Leases"** means leases under which Authority is the lessor encumbering land in the Project Site during the time such land is leased to or owned by Authority.

"**IRR**" means the internal rate of return, annualized, calculated on the Project's Net Cash Flow by the Excel 2007 "IRR" function using quarterly Net Cash Flows. The Project's Net Cash Flow shall be adjusted to show all costs incurred in the quarter paid and all revenues in the quarter received, provided that Pre-Development Costs are applied as of the Initial Closing. An example of the IRR calculation is attached to the Conveyance Agreement as Exhibit DD.

"**IRR Statement**" is defined in Section 1.3(b).

"**Island Wide Costs**" shall mean the Qualified Project Costs that benefit the Project Site as a whole; for illustration purposes, the categories of Qualified Project Costs that the parties anticipate will constitute Island Wide Costs (further due diligence is required before it will be possible to precisely define Qualified Project Costs; the parties have agreed in Section 3.8(e) to define the categories of Qualified Project Costs that constitute Island Wide Costs) are listed in Attachment B hereto.

"**Liquidated Pre-Agreement Costs**" is defined in Section 3.8(c)(ii).

"**Lot**" is defined in the DDA.

"**Maintenance Account Balance**" is defined in Section 2.7(e).

"**Maintenance Budget**" is defined in Section 2.7(b).

"**Maintenance Commencement Date**" means the date that the first park owned by the Authority is completed and open to the public.

"**Maintenance Default**" is defined in Section 2.7(f).

"**Maintenance Period**" means, in each year, the one-year period commencing July 1 and ending on June 30.

"**Major Phase**" is defined in the DDA.

"**Major Phase Approval**" is defined in the DDA.

"**Marina Revenues**" is defined in the DDA.

"**Market Rate Lots**" is defined in the Conveyance Agreement.

"**Market Rate Unit**" is defined in the Housing Plan.

"**Material Breach**" is defined in the DDA.

"**Maximum Annual Developer Contribution**" is defined in Section 2.7(d).

"**Maximum Annual Stage 2 Lease Payment**" means, as of the date of calculation, the sum of (i) the maximum annual lease payments evidenced by the Certificates of Participation after the execution and delivery of the final tranche of the Certificates of Participation that are due in a Fiscal Year and (ii) the estimated annual fees related to the Certificates of Participation that are due in a Fiscal Year and appropriated by the City from the General Fund along with annual lease payments related to the Certificates of Participation, including, but not limited to, the costs of insuring the leased asset and trustee fees.

"**Maximum Project Special Tax Rate**" is defined in Section 2.3(g).

"**Minimum Affordable Percentage**" is defined in the Housing Plan.

"**Navy**" is defined in the DDA.

"**Navy Payment Escrow**" means an escrow created by Authority to hold Interim Lease Revenues to be used solely to pay Installment Payments (principal plus interest at the Interest Rate).

"**Navy Promissory Note**" is described in Section 4.2.6 of the Conveyance Agreement.

"**Net Available Increment**" means, for each IFD, $0.567 of every dollar of Increment (which amount will come from Increment that would have otherwise been allocated to City). Net Available Increment does not include Conditional City Increment.

"**Net Cash Flow**" means Gross Revenues received by Developer from the Project less Development Costs paid by Developer.

"**Net CFD Proceeds**" means the proceeds of CFD Bonds that are available or used to pay for Qualified Project Costs directly or by reimbursements to Developer and, when authorized pursuant to Section 2.8, to pay for the costs of Additional Community Facilities.

"**Net Interim Lease Revenues**" is defined in Section 6.1(a)(iv).

"**Net Sale Proceeds**" means the proceeds from the sale of Unconveyed Property by Authority or the compensation paid to Authority with respect to the sale of such Unconveyed Property, less the costs of the Authority associated with the marketing and sale of such Unconveyed Property.

"**Non-Developer Property**" means, collectively, the property in the Project Site (i) that was never acquired by Developer from Authority or (ii) that was reacquired by Authority through reverter.

"**Official Records**" is defined in the DDA.

"**Ongoing Maintenance Account**" means a separate account created by Authority and maintained by Authority to hold all Remainder Taxes transferred from the Remainder Taxes Holding Account pursuant to Section 2.7 to be used for financing Ongoing Park Maintenance during the applicable Maintenance Period.

"**Ongoing Park Maintenance**" means the costs of operating and maintaining Improvements constructed pursuant to the Parks and Open Space Plan within the Project Site, including installing landscaping, all personnel or third-party maintenance costs, costs of maintaining irrigation systems and other equipment directly related to maintenance, maintenance or replacement as needed of landscape areas, water features, bathrooms, trash receptacles, park benches, planting containers, picnic tables, and other equipment or fixtures installed in areas to be maintained, insurance costs, and any other related overhead costs, along with Authority personnel, administrative, and overhead costs related to maintenance or to contracting for and managing third-party maintenance.

"**Original Financing Plan**" is defined in Section 6.4.

"**Other Developer**" is defined in Section 1.4(a)(i).

"**Other Taxing Agencies**" means governmental taxing agencies or other entities that receive Increment and are authorized by the IFD Act or such other law to allocate or subordinate increment to an IFD.

"**Parks and Open Space Plan**" is defined in the DDA.

"**Payment Request**" is defined in the Acquisition and Reimbursement Agreement.

"**Permissible Financing Cost**" is defined in the Conveyance Agreement.

"**Person**" is defined in the DDA.

"**Pre-Development Costs**" is defined in the Conveyance Agreement.

"**Principal Payment Date**" means, (i) if CFD Bonds have not yet been issued for a CFD, September 1 of each year, and (ii) if CFD Bonds have been issued for a CFD, the calendar date on which principal or sinking fund payments on such CFD Bonds are, in any year, payable (for example, if the principal amount of CFD Bonds are payable on September 1, the Principal Payment Date shall be September 1, regardless of whether principal payments are actually due in any particular year).

"**Project**" is defined in the DDA.

"**Project Account**" is defined in Section 1.1(c)(i).

"**Project Area**" means a separately designated project area within the boundaries of an IFD, as permitted by the IFD Act.

"**Project Costs**" means, without duplication: (a) Development Costs; (b) Initial Navy Consideration; (c) Pre-Development Costs; and (d) any other amounts specifically identified in the DDA as a Project Cost.

"**Project Grants**" means State and federal funding.

"**Project Site**" is defined in the DDA.

"**Project Special Taxes**" means special taxes authorized to be levied in a CFD under the CFD Act, including all delinquent Project Special Taxes collected at any time by payment or through foreclosure proceeds.

"**Promissory Note**" is defined in the Conveyance Agreement.

"**Public Financing**" means, individually or collectively as the context requires, CFD Bonds, IFD Debt, and Alternative Financing.

"**Public Property**" is defined in the DDA.

"**Public Trust Parcels**" is defined in the DDA.

"**Qualified**" when used in reference to Project Costs, Pre-Development Costs, and other capital public facility costs, means: (a) with respect to a CFD, the Project Costs, the Pre-Development Costs (excluding any return on such Pre-Development Costs), and other authorized capital public facility costs, each to the extent authorized to be financed under the CFD Act, Tax Laws (if applicable), and this Financing Plan; (b) with respect to financing from Net Available Increment or IFD Debt, the Project Costs and the Pre-Development Costs (excluding any return on such Pre-Development Costs), each to the extent authorized to be financed under the IFD Act, Tax Laws (if applicable), and this Financing Plan; (c) with respect to an Alternative Financing, the Project Costs and the Pre-Development Costs (excluding any return on such Pre-

Development Costs), each to the extent authorized to be financed under the laws governing the Alternative Financing, Tax Laws (if applicable), and this Financing Plan; (d) with respect to Project Grants, the Project Costs, the Pre-Development Costs (excluding any return on such Pre-Development Costs), and other authorized capital public facility costs, each to the extent authorized to be financed under the terms of the Project Grant and this Financing Plan; and (e) with respect to Net Interim Lease Revenues, the Project Costs not including any Pre-Development Costs.

"**Quarter"** means a three-month period commencing on the first day of the Initial Closing and continuing until the Termination Date of the Conveyance Agreement.

"**Reassessment**" is defined in Section 3.7(a)(i).

"**Records**" is defined in Section 1.6(b).

"**Redesign Costs**" means the anticipated costs necessary to prepare, entitle and implement the Redesign Plan.

"**Redesign Plan**" means an Authority plan to re-entitle, redesign and rebuild portions of the Project.

"**Reference Date**" means the "Original Reference Date" as defined in the DDA.

"**Remainder Taxes**" means, in each year, as of the day following the Principal Payment Date for a CFD, all Project Special Taxes collected prior to such date in such CFD in excess of the total of: (a) debt service on the outstanding CFD Bonds for the applicable CFD due in the current calendar year, if any; (b) priority and any other reasonable administrative costs for the applicable CFD payable in that Fiscal Year; and (c) amounts levied to replenish the applicable reserve fund as of the Principal Payment Date, including amounts reserved for reasonable anticipated delinquencies, if any.

"**Remainder Taxes Holding Account**" is a separate single account created by Authority to hold and apply all transfers of Remainder Taxes pursuant to Section 2.7.

"**Remainder Taxes Project Account**" is a separate account created by City for each CFD and maintained by City to hold all Remainder Taxes for the corresponding CFD to be used for financing Ongoing Park Maintenance, Qualified Project Costs, or Additional Community Facilities in the manner set forth in this Financing Plan.

"**Reporting Period**" is defined in Section 1.3(b).

"**Required Improvements**" is defined in the DDA.

"**RMA**" means the rate and method of apportionment of Project Special Taxes for a CFD, adopted in accordance with applicable law.

"**Schedule of Performance**" is defined in the DDA.

"**Second Tier Participation**" means the consideration paid to the Navy of Net Cash Flow generated by the Project in excess of a Developer 22.5% IRR, as described in Section 1.3.

"**Second Tier Payment**" is defined in Section 1.3(c)(iii).

"**Second Tranche**" means, calculated separately for each CFD, one or more series of CFD Bonds issued after the CFD Conversion Date and secured by the levy of Project Special Taxes in such CFD to be used by City to finance Additional Community Facilities or for any other purpose authorized by the CFD Act.

"**Selected Default**" means an Event of Default under sections 16.2.1(a) and 16.2.3(d) of the DDA.

**"Soft Costs"** is defined in the Conveyance Agreement.

"**Special Tax Requirement**" is defined in Section 2.3(i).

"**Stage 2**" is defined in Section 4.1(d).

"**Stage 2 Alternative Financing**" is defined in Section 4.1(d).

"**Stage 2 Qualified Project Costs**" is defined in Section 4.1(d).

"**Stage 2 Contribution**" means, beginning in the first Fiscal Year in which in the initial tranche of Certificates of Participation is executed and delivered and continuing through the Fiscal Year in which the Stage 2 Contribution Termination Date occurs, an annual amount equal to $550,000 that is payable from a combination of Remainder Taxes and Net Available Increment as set forth in this Financing Plan. The City will use the Stage 2 Contribution, in its discretion, either (i) to pay lease payments related to the Certificates of Participation, or (ii) with respect to any portion of the Stage 2 Contribution funded from Net Available Increment, to pay debt service on IFD Debt or (iii) with respect to any portion of the Stage 2 Contribution funded from Remainder Special Taxes, to pay debt service on CFD Bonds.

**"Stage 2 Contribution Termination Date"** means the earlier of (i) the final maturity date of the Certificates of Participation and (ii) the date on which the aggregate Stage 2 Contributions are equal to the Maximum Annual Stage 2 Lease Payment.

"**State**" is defined in the DDA.

"**Statement of Indebtedness**" means the report an IFD may file for each Fiscal Year to properly evidence the indebtedness of such IFD, whether or not required by the IFD Act.

"**Stormwater Management Controls**" is defined in the DDA, but is applicable in this Financing Plan only to the extent such facilities will be dedicated to the City.

"**Subordinated Pledge**" is defined in Section 3.4(a).

"**Subordination Request**" means a set of documents that include (i) a written request to Other Taxing Agencies to subordinate the receipt of such Other Taxing Agencies' tax revenues to the payment of debt service on any IFD Debt secured by Net Available Increment, and (ii) calculations, explanations, and other substantial evidence showing that the tax revenues expected from the property in the IFD are expected to be available to pay both the debt service on the IFD Debt and the payments to the Other Taxing Agencies.

"**Sub-Phase**" is defined in the DDA.

"**Sub-Phase Approval**" is defined in the DDA.

"**Subsequent Owner Property**" means any Undeveloped Property within a CFD owned by a Person other than Developer.

"**Tax Laws**" means the Internal Revenue Code of 1986, as amended, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under said Internal Revenue Code.

"**Taxable Parcel**" means an assessor's parcel of real property or other assessor's parcel of property (e.g., a condominium parcel) within a CFD that is not an Exempt Parcel.

"**Taxable Residential Unit**" means: (a) Market Rate Units; and (b) Inclusionary Units.

"**Term**" is defined in the Conveyance Agreement.

"**Termination Date**" is defined in the Conveyance Agreement.

"**Termination Notice**" means a written notice from the Authority providing notice that the DDA has been terminated with respect to Developer for a portion of the Project Site.

"**Termination Proceeds**" is defined in Section 3.8(c)(ii).

"**Total Installment Payments**" means the total amount of the Installment Payments payable under the Conveyance Agreement (principal plus interest at the Interest Rate).

"**Total Tax Obligation**" means, with respect to a Taxable Residential Unit at the time of calculation, the sum of: (a) the ad valorem taxes actually levied or projected to be levied if the Taxable Residential Unit were developed at the time of calculation; (b) the Assigned Project Special Tax Rates levied or projected to be levied if the Taxable Residential Unit were developed at the time of calculation; (c) all installments of special assessments if the Taxable Residential Unit were developed at the time of calculation; and (d) all other special taxes (based on assigned special tax rates) or assessments secured by a lien on the Taxable Residential Unit levied or projected to be levied if the Taxable Residential Unit were developed at the time of calculation.

"**Transferee**" is defined in the DDA.

"**2% Limitation**" is defined in Section 2.3(e).

"**Unconveyed Property**" is defined in Section 6.3(a).

"**Underwriter**" is defined in Section 4.4(b)(v).

"**Underwriter Force Majeure**" is defined in Section 4.4(b)(v).

"**Undeveloped Property**" means, in any Fiscal Year, Taxable Parcels in a CFD that are not Developed Property.

"**Vertical Builder**" is defined in the Conveyance Agreement.

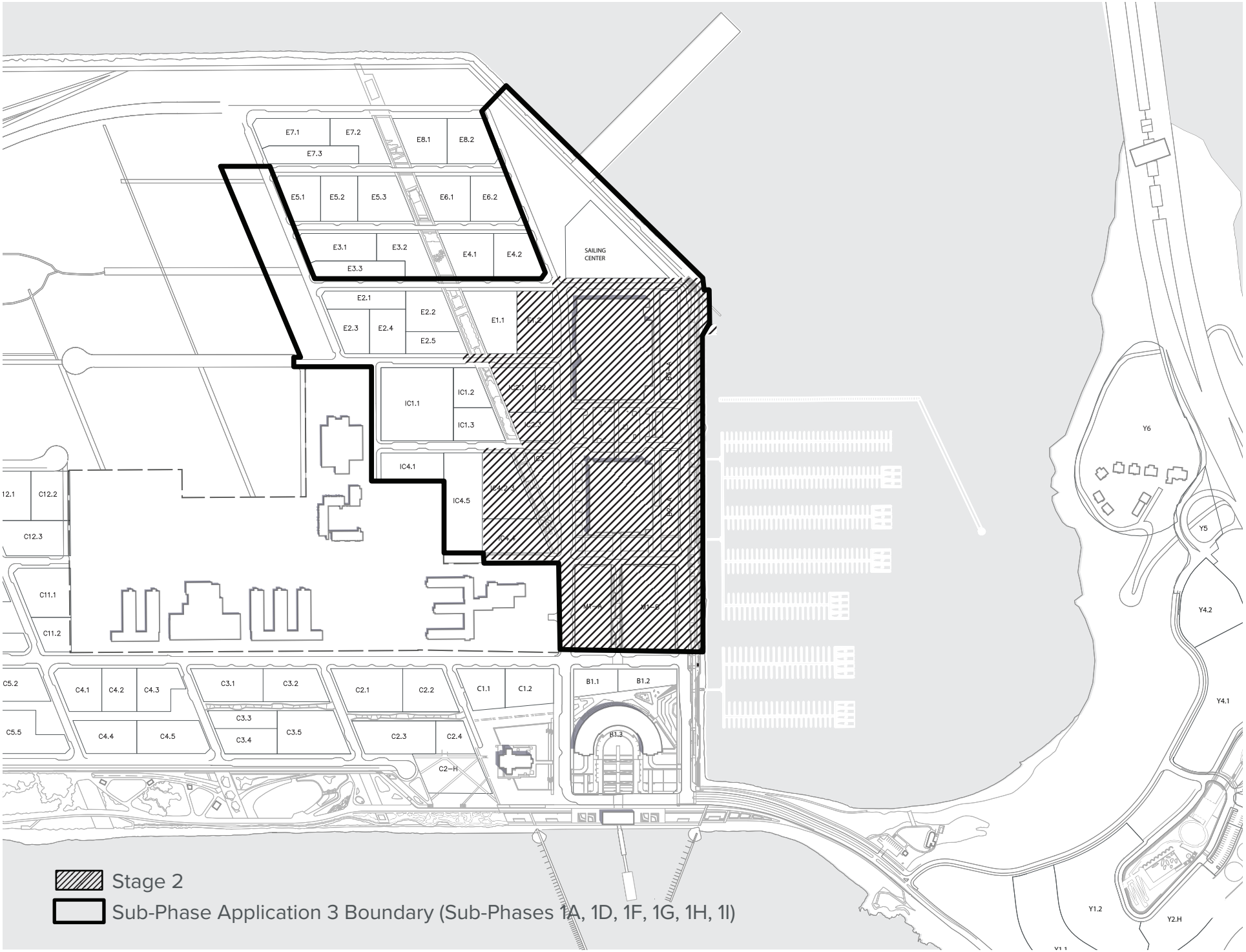
"**Vertical Developer**" is defined in the DDA.

"**Work Program**" a work program for a Redesign Plan submitted by Authority to the Navy.

**Schedule 4.1(d)**

**Map of Stage 2**

[ ATTACHED ]




SCHEDULE 4.1(d)

**Attachment A**

**Form of Acquisition and Reimbursement Agreement**

[TO COME]

# Attachment B

## Expected Categories of Island Wide Costs

[TO COME]

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