

DDA EXHIBIT C6



**CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR**

**MEMORANDUM OF UNDERSTANDING
(PIER 70 SUD FINANCING DISTRICTS)**

BY AND AMONG

**THE CONTROLLER OF THE CITY AND COUNTY OF SAN FRANCISCO,
THE TREASURER AND TAX COLLECTOR OF THE CITY AND COUNTY OF SAN
FRANCISCO,
THE ASSESSOR-RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO**

AND

THE SAN FRANCISCO PORT COMMISSION

BEN ROSENFELD, CONTROLLER

JOSE CISNEROS, TREASURER AND TAX COLLECTOR

MONIQUE MOYER, PORT EXECUTIVE DIRECTOR

SAN FRANCISCO PORT COMMISSION

**WILLIE ADAMS, PRESIDENT
KIMBERLY BRANDON, VICE PRESIDENT
LESLIE KATZ, COMMISSIONER
DOREEN WOO HO, COMMISSIONER**

_____, 2017

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MEMORANDUM OF UNDERSTANDING
(Pier 70 SUD Financing Districts)

This **MEMORANDUM OF UNDERSTANDING** (Pier 70 SUD Financing District) (this **"MOU"**) is among the San Francisco Controller (the **"Controller"**), the San Francisco Assessor-Recorder (the **"Assessor"**), the San Francisco Treasurer and Tax Collector (the **"Treasurer-Tax Collector"**), and the San Francisco Port Commission (the **"Port"**). This MOU relates to the allocation and administration of property tax increment and special taxes from property under Port jurisdiction. The Port Commission approved this MOU by Resolution No. _____ on _____. The Board of Supervisors approved this MOU (the **"Board of Supervisors"**) by Resolution No. _____, adopted on _____ and executed by the Mayor on _____ (the **"Board MOU Resolution"**).

Unless otherwise stated in this MOU, capitalized terms used in this MOU but not defined in this MOU have the meaning given those terms in the "Appendix to Transaction Documents for the Pier 70 Mixed-Use Project," attached hereto as Exhibit E.

RECITALS

A. The IFD Law authorizes the Board to form one or more infrastructure financing districts within its jurisdictional boundaries and to use Tax Increment generated within the district to finance certain authorized improvements.

B. The IRFD Law authorizes the Board to form one or more infrastructure and revitalization financing districts within its jurisdictional boundaries and to use Tax Increment generated within the district to finance certain authorized improvements, including affordable housing.

C. On February 23, 2016, the Board adopted Ordinance No. 27-16, which the Mayor signed on March 11, 2016 (the **"Port IFD Ordinance"**), by which it established a waterfront district under Section 53395.8 of the IFD Law over all waterfront property under Port jurisdiction, named *City and County of San Francisco Infrastructure Financing District No. 2 (Port of San Francisco)* (the **"Port IFD"**), and designated project areas and sub-project areas within the Port IFD, including Project Area G (Pier 70) (**"Project Area G"**). In the Port IFD Ordinance, the Board also approved an Infrastructure Financing Plan for the Port IFD (the **"Port IFD IFP"**).

D. Project Area G consists of approximately 73 acres of uplands, filled lands, and submerged lands known as Pier 70, which is listed in the National Register as the Union Iron Works Historic District. Pier 70 is shown in a map attached to the Port IFD IFP.

E. On ____, 20__, the Board adopted Ordinance No. _____, which the Mayor signed on ____ 20__ (the **"Sub-Project Area Ordinance"**), establishing Sub-Project Area G-2 (Pier 70 - 28 Acre Site), Sub-Project Area G-3 (Pier 70 - 28 Acre Site) and Sub-Project Area G-4 (Pier 70 - 28 Acre Site) within Project Area G (the **"Sub-Project Areas"**) and approving a related infrastructure financing plan as Appendix G-2 to the Port IFD IFP (**"Appendix G-2"**). The Board also established the Pier 70 Mixed-Use Special Use District (**"SUD"**) over approximately ____ acres covering most of the southern end of Pier 70 and approximately 3 acres bisected by a public right-of-way in the southwest portion of the SUD owned by Pacific Gas and Electric Company,

commonly known as the “**Hoedown Yard.**” The SUD also covers approximately 28 acres in the southeast corner of Pier 70, which is commonly known as the “**28-Acre Site,**” and an approximately 3-acre parcel in the northwest corner of the SUD sometimes known as “**Parcel K.**” The Hoedown Yard and Parcel K are collectively referred to as the “**Illinois Street Parcels.**”

F. Collectively, the Sub-Project Areas are composed of the 28-Acre Site and the northern part of Parcel K (“**Parcel K North**”). FC Pier 70, LLC, a Delaware limited liability company (“**Master Developer**”), has obtained concurrent approvals for commercial and residential development for the Project.

G. On ____, 20__, the Board adopted Ordinance No. _____, which the Mayor signed on ____, 20__ (the “**IRFD Ordinance**”), establishing City and County of San Francisco Infrastructure and Revitalization Financing District No. 2 (Hoedown Yard) (the “**IRFD**”) and approving a related infrastructure financing plan (the “**IRFD IFP**”) covering the Hoedown Yard.

H. Among other Project approvals, the Port and the Board approved a Disposition and Development Agreement, dated as of _____ (the “**DDA**”), between Master Developer and the City acting by and through the Port, by Port Resolution No. _____ and Board Resolution No. _____, which the Mayor signed on ____, 20__. Under the DDA, Master Developer is responsible for payment of the Entitlement Costs and construction and installation of the Horizontal Improvements serving the 28-Acre Site. Under the DDA, the Port covenanted to use Project Payment Sources to satisfy the Project Payment Obligation, including to pay or reimburse the Developer for Entitlement Costs (including Developer Return) and construction costs related to the Horizontal Improvements (including a Developer Return), pay the Historic Building Feasibility Gap, and provide funds for the Noonan Replacement Space, community arts and other community facilities, and the Arts Building Funding. The DDA includes a Financing Plan that describes the Port’s and Master Developer’s rights and obligations with respect to financing the Horizontal Improvements and other public improvements for the Project. The Financing Plan also describes the funding source for Ongoing Maintenance Costs of the Maintained Facilities and Shoreline Protection Facilities. A copy of the Financing Plan is attached to this MOU as Exhibit A.

I. In Appendix G-2, the Board authorized the Port IFD to use Allocated Tax Increment generated in the Sub-Project Areas and to issue, pay and secure debt for the purposes and subject to the limitations described in Appendix G-2. The Allocated Tax Increment consists of City Share of Tax Increment and ERAF Tax Increment. “**City Share of Tax Increment**” means 64.59% of the Tax Increment generated in the Sub-Project Areas. “**ERAF Tax Increment**” means the 25.33% county Education Revenue Augmentation Fund portion of the Tax Increment generated in the Sub-Project Areas.

J. Under the DDA, the Port and Master Developer agreed that 91.11% of Allocated Tax Increment (“**Project Tax Increment**”) will be used to pay for Horizontal Improvements at the 28-Acre Site, and the remaining 8.89% of the Allocated Tax Increment (the “**Port Tax Increment**”) will be allocated to the Port to finance improvements to Pier 70 inside and outside of the 28-Acre Site, including Shoreline Protection Facilities and other costs described in the Financing Plan. A copy of the Port IFD IFP with Appendix G-2 is attached to this MOU as Exhibit B.

K. In the IRFD IFP, the Board authorized the IRFD to use Allocated Housing Tax Increment generated in the IRFD and allocated by the City in the IRFD IFP and to issue, pay and secure debt for the purposes and subject to the limitations described in the IRFD IFP. Under the DDA, the Port and Master Developer agreed that Allocated Housing Tax Increment will be used to pay for affordable housing on the 28-Acre Site and Parcel K South. A copy of the IRFD IFP is attached to this MOU as Exhibit C.

L. The CFD Law authorizes the Board to form one or more CFDs within its jurisdictional boundaries and to levy and collect special taxes to finance public facilities and public services. The Board approved amendments of the San Francisco Special Tax Financing Law to authorize certain uses of special taxes required by the Financing Plan under Ordinance No. _____, adopted on ____ and signed by the Mayor on _____.

M. In the Financing Plan, the Board agreed to establish and levy Special Taxes in the following CFDs in accordance with the RMAs in furtherance of the Financing Plan:

(i) A “**Pier 70 Leased Property CFD**” that will, after annexation of some or all of the Future Annexation Area, include all Option Parcels in the 28-Acre Site that the Port will convey by Parcel Lease for development as Market-Rate Rental Projects and Taxable Commercial Projects. The Pier 70 Leased Property CFD will finance public facilities and public services as described in greater detail in the Financing Plan.

(ii) A “**Pier 70 Condo CFD**” that will, after annexation of some or all of the Future Annexation Area, include Parcel K North and all Residential Condo Projects in the 28-Acre Site. The Pier 70 Condo CFD will finance public facilities and public services as described in greater detail in the Financing Plan.

(iii) A “**Hoedown Yard CFD**” that will include the Hoedown Parcel. The Hoedown Yard CFD will finance public facilities and public services as described in greater detail in the Financing Plan.

N. Each of the CFDs will be established by the Board pursuant to CFD Formation Proceedings.

O. Under the DDA, the Port will ground lease or sell development parcels at fair market value to vertical developers, who may be affiliates of Master Developer or third-party builders, for construction of new buildings and rehabilitation of historic buildings for reuse. Consequently, Special Taxes will be levied on, and Tax Increment will consist of revenues from property taxes levied on, development parcels owned in fee simple and leasehold interests in parcels owned by the Port.

P. In this MOU, “**Financing Documents**” means the DDA, including the Financing Plan, Port IFD IFP, Appendix G-2, IRFD IFP, RMAs and all ordinances and resolutions adopted by the Board in connection with the formation of the Sub-Project Areas, IRFD and CFDs.

Q. In this MOU, “**Debt**” means any bonds or other forms of indebtedness secured by Allocated Tax Increment, Allocated Housing Tax Increment or Special Taxes from the CFDs that are issued by the IFD, IRFD or City to implement the Financing

Documents. Debt may include an Advance of Loan Proceeds, Port Advances, and additional funding sources described in the Financing Plan to reimburse Master Developer or to pay directly for Horizontal Improvements.

R. In the Board MOU Resolution, the Board appointed the Port to act as the agent of the Port IFD, IRFD and CFDs in the administration of Tax Increment and Special Taxes after the taxes are allocated in accordance with the City's budget procedures and this MOU with the authority and responsibility to:

(i) direct the disbursement of Allocated Tax Increment, Allocated Housing Tax Increment, tax increment allocated to the IFD from Sub-Project Area G-1 (Pier 70 - Historic Core), Special Taxes and any Debt proceeds to implement the Financing Documents;

(ii) enter into one or more Acquisition Agreements with the Master Developer and other private parties that would establish the terms and conditions under which the Port and other City agencies would acquire Horizontal Improvements with Tax Increment, Special Taxes and any Debt proceeds;

(iii) enter into one or more pledge agreements for the benefit of the Leased Property CFD each, a "**Pledge Agreement**") pursuant to which the Port, as agent of the Port IFD with respect to the Sub-Project Areas, would pledge or agree to use Allocated Tax Increment to pay debt service on bonds issued by the City for and on behalf of the CFDs;

(iv) enter into one or more Pledge Agreements pursuant to which the Port, as agent of the IRFD, would pledge or agree to use Allocated Housing Increment from the IRFD to pay debt service on bonds issued to finance affordable housing; and

(v) incur and repay indebtedness in the form of Advances of Land Proceeds, Port Capital Advances and additional funding sources described in the Financing Plan.

S. After its appointment as agent of the CFDs, Sub-Project Areas and IRFD, the Port, acting on their behalf, will enter into an agreement with a financial institution (the "**Tax Administration Agreement**") appointing it as the Special Fund Trustee. The agreement will obligate the Trustee to hold Special Taxes, Allocated Tax Increment and Allocated Housing Tax Increment in separate special funds and to disburse the funds at the Port's direction to satisfy the Project Payment Obligation, Historic Feasibility Gap, the Noonan Replacement Space, community arts and other community facilities, the Arts Building Funding, Ongoing Maintenance Costs of the Maintained Facilities, and acquisition and construction of the Shoreline Protection Facilities and other public improvements, as permitted under the Financing Documents. A copy of the form of the Tax Administration Agreement is attached to this MOU as Exhibit D.

T. This MOU describes procedures to which the Controller, Assessor, Treasurer-Tax Collector and Port have agreed to implement the Financing Documents and enable the Port to satisfy the Project Payment Obligation, and to finance Shoreline Protection Facilities.

AGREEMENT

1. **Term.**

(a) Commencement. This MOU will be effective on the date it is fully executed.

(b) Expiration. The term of this MOU will end automatically on the date of the latest of the following to occur:

i. When all of the Allocated Tax Increment has been disbursed in accordance with IFD Law and Appendix G-2.

ii. When all of the Allocated Housing Tax Increment has been disbursed in accordance with the IRFD Law and the IRFD IFP.

iii. When all of the Special Taxes have been disbursed in accordance with the CFD Law, the Financing Plan and the RMAs.

iv. On the last date on which Special Taxes may be levied in the CFDs under the RMAs.

v. When all Debt has been defeased and the proceeds of such Debt has been expended.

(c) Early Termination. The Controller, Treasurer-Tax Collector, Assessor and Port each retains the right to terminate this MOU before its term expires under Section 1(b) by notice to the others as long as such termination would not adversely impact the ability of the Port to satisfy its obligations under the Financing Plan. The notice must be given at least [] before the desired early termination date stated in the notice. The noticed early termination date will be the effective date of the termination unless one or both of the other parties request additional time to take any actions made necessary by termination. The terminating party will be obligated to grant any request for additional time that is reasonable under the circumstances.

2. **Purpose; Cooperation.**

(a) Purpose. The Controller, Assessor, Treasurer-Tax Collector and Port agree that a purpose of this MOU is to implement the Financing Documents, which is in the best interests of the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws.

(b) MOU as Complementary Instrument. The Controller, Assessor, Treasurer-Tax Collector and Port intend this MOU to complement, and not to conflict with, the Financing Documents, which will prevail over any conflicting provision in this MOU.

(c) Cooperation. The Controller, Assessor and Treasurer-Tax Collector agree to aid the Port, and the Controller, Assessor, Treasurer-Tax Collector and Port agree to cooperate with one another, to implement the Financing Documents expeditiously and to undertake and complete all actions or proceedings reasonably necessary or appropriate to ensure that the objectives of the Financing Documents are met during the term of this MOU.

(d) Validation. The City agrees to cooperate with the Port to file and prosecute to completion one or more validation actions associated with the formation of the Sub-Project Areas, IRFD and CFDs and the issuance of related Debt.

(e) Consistent with Applicable Law. The Controller, Assessor, Treasurer-Tax Collector and Port agree that nothing in this MOU is intended to obligate any party to take any action that is not consistent with applicable law.

3. Provisions Relating to the Port IFD, Sub-Project Areas and IRFD.

(a) Tax Roll. With respect to parcels in the Sub-Project Areas, IRFD and CFDs, the Assessor agrees to coordinate efforts with the Master Developer and the Port to (i) accept block/lot numbers and incorporate them on the next fiscal year's tax roll upon the earliest to occur of recordation of a condominium map, issuance of a building permit or issuance of a temporary certificate of occupancy and (ii) calculate the Baseline Assessed Value of each such parcel as soon as practicable thereafter.

(b) Levy and Collection of Tax Increment. With respect to parcels in the Sub-Project Areas and IRFD, the Controller agrees to levy and the Treasurer-Tax Collector agrees to collect Tax Increment as required under and in accordance with applicable law. The Treasurer-Tax Collector will charge the Port IFD and IRFD, as applicable, for any costs that the Treasurer-Tax Collector incurs in connection with issuance of bonds by the IFD or the IRFD and any investment of bond proceeds for which the Treasurer-Tax Collector is responsible, and reserves the right to seek reimbursement of additional costs incurred in the collection of property taxes in the Sub-Project Areas and IRFD that it will bill to the Port IFD or IRFD, as applicable. The Controller will deduct from the Tax Increment a cost recovery amount for its reasonable costs related to work performed for the Port IFD with respect to the Sub-Project Areas and the IRFD.

The City agrees that it will levy property taxes on possessory interests in property in the Sub-Project Areas on the secured roll.

(c) Allocation of Tax Increment. The Controller acknowledges that Government Code Section 53369.30 provides for the allocation and payment of Allocated Housing Tax Increment to IRFD as set forth in the IRFD IFP. As set forth in this MOU, and subject to limitations under IRFD Law and IRFD IFP, the Controller agrees to implement the Board MOU Resolution, to deposit Allocated Housing Tax Increment when received into a segregated fund and to budget and appropriate Allocated Housing Tax Increment to the IRFD in the manner allocated by the City for the purposes specified in the Financing Plan and the IRFD IFP. The Controller agrees to pay the Allocated Housing Tax Increment allocated in the IRFD to the IRFD with the next allocation following receipt of a report from the Treasurer-Tax Collector on the amount of gross Tax Increment collected from the IRFD.

The Controller acknowledges that Revenue & Taxation Code Section 96.1 provides that the apportionment of property tax revenues from the Sub-Project Areas will be subject to the allocation and payment of Allocated Tax Increment to the Port IFD as set forth in the Port IFD IFP. As set forth in this MOU, and subject to limitations under IFD Law and Port IFD IFP, the Controller agrees to implement the Board MOU Resolution, to deposit Allocated Tax Increment when received into a segregated fund and to budget and appropriate Allocated Tax Increment to the Port IFD in the manner allocated by the City for the purposes specified in the Financing Plan, Port IFD IFP and

Appendix G-2. The Controller agrees to pay the Allocated Tax Increment to the Port IFD with the next allocation following receipt of a report from the Treasurer-Tax Collector on the amount of gross Tax Increment collected from the Sub-Project Areas.

(d) Statement of Indebtedness for Sub-Project Areas. The Port, the Controller and the Treasurer-Tax Collector agree that the Port IFD's obligations to use the funds for the purposes specified in the IFP and Appendix G-2 is a financial obligation under the Port IFD Law that the Port, as agent of the Port IFD with respect to the Sub-Project Areas, will include in each Statement of Indebtedness. The Treasurer-Tax Collector and the Controller hereby agree that they will not dispute the amount of the debts shown on a Statement of Indebtedness prepared by the Port so long as the debts are consistent with the IFP and Appendix G-2. At the Controller's request, the Port, as agent of the Port IFD, will consult with the Controller in connection with the preparation of each Statement of Indebtedness.

(e) Disbursement of Taxes; Port Direction. The Controller agrees (i) to disburse Allocated Tax Increment to the Port IFD to the extent collected and allocated in Appendix G-2 during each fiscal year, (ii) to prepare and provide to the Port any information about property tax collection requested by the Port within 10 business days after December 10 and April 10 and (iii) provide updates of the information described in clause (ii) at reasonable intervals identified by the Port.

The Controller agrees (i) to disburse Allocated Housing Tax Increment to the IRFD to the extent collected and allocated in the IRFD IFP during each fiscal year, (ii) to prepare and provide to the Port any information about property tax collection requested by the Port within 10 business days after December 10 and April 10 and (iii) provide updates of the information described in clause (ii) at reasonable intervals identified by the Port.

(f) Cooperation. The Controller agrees to collaborate with the Port on any issuance of Debt secured by or payable from Allocated Tax Increment or Allocated Housing Tax Increment to implement the Financing Documents subject to IFD Law and IRFD Law.

(g) Port Appointment as Agent with Respect to the Port IFD; Duration.

In the Board MOU Resolution, the Board, acting as the legislative body for the IFD under IFD Law, appointed the Port as the agent of the Port IFD with respect to the Sub-Project Areas with the authority to: (1) disburse Allocated Tax Increment as provided in Appendix G-2; (2) subject to the Financing Plan, determine whether and in what amounts the Port IFD will issue Debt in collaboration with the Office of Public Finance; (3) execute and deliver a Pledge Agreement for Debt issued by the Board of Supervisors for and on behalf of the Facilities CFD; (4) if Debt is issued, direct the indenture trustee's disbursement of the Debt proceeds; and (5) prepare an annual Statement of Indebtedness on behalf of the Port IFD with respect to Sub-Project Areas that lists the following forms of indebtedness by October 1 of each fiscal year: (A) the financial obligation of the Port IFD with respect to Sub-Project Areas to apply Allocated Tax Increment in compliance with the Port IFD IFP and Appendix G-2 and (B) any other Debt authorized by Appendix G-2. In accordance with Charter section B7.320 and the Board MOU Resolution, the Controller's obligation under this MOU to disburse Allocated Tax Increment as set forth in Appendix G-2 will continue until the Board of Supervisors passes and the Mayor approves a resolution revoking the Port's agency and terminating

the Controller's authority to continue making disbursements as authorized by the IFP Ordinance, but in any event as long as any Debt payable from Allocated Tax Increment is outstanding or any obligations to Master Developer that are payable from Tax Increment have not been satisfied.

To the extent that the term of the Sub-Project Areas extends beyond revocation of the Port's agency, the Port's obligations as landowner will continue.

(h) Port Appointment as Agent with Respect to the IRFD; Duration.

In the Board MOU Resolution, the Board of Supervisors, acting as the legislative body for the IRFD under IRFD Law, appointed the Port as the agent of the IRFD with the authority to: (1) disburse Allocated Housing Tax Increment as provided in the IRFD IFP; (2) subject to the Financing Plan, determine whether and in what amounts the IRFD will issue Debt in collaboration with the Office of Public Finance; (3) execute and deliver a Pledge Agreement for Debt issued to finance affordable housing on the 28-Acre Site and Parcel K South; and (4) if Debt is issued, direct the indenture trustee's disbursement of the Debt proceeds.

In accordance with Charter section B7.320 and the Board MOU Resolution, the Controller's obligation under this MOU to disburse Allocated Housing Tax Increment as set forth in the IRFD IFP will continue until the Board of Supervisors passes and the Mayor approves a resolution revoking the Port's agency and terminating the Controller's authority to continue making disbursements as authorized by the IRFD Ordinance, but in any event as long as any Debt payable from Allocated Housing Tax Increment is outstanding.

(i) No Unilateral Changes Affecting IFD and IRFD. The City agrees to the following measures with respect to the Port IFD and the IRFD:

i. Except to the extent required under the Port IFD Law, the IRFD Law or other controlling state or federal law, City will not change the *Guidelines for the Establishment and Use of an Infrastructure Financing District with Project Areas on Land under the Jurisdiction of the San Francisco Port Commission* in any way that would adversely affect the Port's ability to meet its obligations under the Financing Plan. The City will not initiate any changes to the boundaries of the Port IFD, Project Area G, the Sub-Project Areas or the IRFD without consulting with the Port and providing the Port the opportunity to review and object to the proposed changes.

ii. Except at the request of the Port, City will not initiate any amendments to Appendix G-2 or the IRFD IFP that would adversely affect the timing or amount of Allocated Tax Increment or Allocated Housing Tax Increment or that would adversely affect the Port's ability to meet its obligations under the Financing Documents except at the joint request of the Port and Master Developer.

iii. The City agrees not to form any additional land-secured financing districts over any portion of the Sub-Project Areas, IRFD or CFDs except at the request of the Port and the Master Developer.

4. Provisions Relating to the CFDs.

(a) Cooperation. The City agrees to undertake proceedings for the formation of the CFDs under the CFD Law, to designate the Future Annexation Area, to annex the

Future Annexation Area into the CFDs from time to time in accordance with the Financing Plan, to issue bonds, to levy Special Taxes, and to foreclose on delinquent parcels in the manner, at the times, for the purposes, in the circumstances and subject to the limitations in the Financing Documents.

(b) Port as Agent of the CFDs. In the Board MOU Resolution, the Board of Supervisors, acting as the legislative body for the CFDs, approved this MOU and appointed the Port as the agent of the CFDs with the authority to: (1) disburse Special Taxes as provided in the Financing Documents; (2) in collaboration with the Office of Public Finance, determine whether and in what amounts the CFDs will issue bonds in accordance with the Financing Documents; (3) if bonds are issued, direct the indenture trustee's disbursement of the proceeds of such bonds in accordance with the Financing Documents; (4) repay Debt as described in the Financing Plan; and (5) on behalf of the CFDs file all reports required by applicable law. The Port's appointment will continue until revoked by a Board of Supervisors resolution. To the extent that the term of the CFDs extends beyond revocation of the Port's agency, the Port's obligations as landowner will continue.

(c) Tax Roll. The Assessor agrees to coordinate efforts with the Port and the Master Developer to accept block/lot numbers and incorporate them on the next fiscal year's tax roll upon the earliest to occur of recordation of a condominium map, issuance of a building permit or issuance of a temporary certificate of occupancy.

(d) Levy and Collection of Special Taxes. The CFDs (if the Special Taxes are collected on the unsecured property tax roll) or the Controller (if the Special Taxes are collected on the secured property tax roll), as applicable, will levy and the Treasurer-Tax Collector will collect Special Taxes. The Treasurer-Tax Collector will bill the CFDs for its reasonable costs of collecting the Special Taxes; it will also charge the CFDs for any costs that the Treasurer-Tax Collector incurs in connection with issuance of bonds by the CFDs and any investment of bond proceeds for which the Treasurer-Tax Collector is responsible.

The City agrees to levy Special Taxes on possessory interests in property in the CFDs on the secured roll.

(e) Disbursement of Taxes. As set forth in this MOU, and subject to limitations under CFD Law and the Financing Documents, the Controller agrees to implement the Board MOU Resolution and to allocate, budget, appropriate and disburse to the CFDs, Special Taxes collected on the annual secured property tax roll from the applicable CFD for the purposes specified in the Financing Documents.

(f) Delinquent Special Taxes. The Treasurer-Tax Collector agrees to prepare and provide to the Port (i) a list of current and delinquent parcels in the CFDs within 10 business days after April 10 and December 10 and (ii) the redemption tax roll for the CFDs by July 15 each year.

(g) Duration. In accordance with Charter section B7.320 and the Board MOU Resolution, the Controller's authority under this MOU to disburse funds will continue until the Board of Supervisors passes and the Mayor approves a resolution revoking the Port's agency and terminating the Controller's authority to continue making disbursements as authorized in this MOU, but in any event such authority will continue

as long as any bonds payable from Special Taxes are outstanding or any obligations to Master Developer that are payable from Special Taxes have not been satisfied.

(h) Debt. The City agrees to collaborate with the Port upon request to issue on behalf of the CFDs Debt secured by Special Taxes to implement the Financing Documents subject to CFD Law. The Port agrees to consult with the Office of Public Finance about timing, amounts, and other matters relating to such Debt.

(i) No Unilateral Changes Affecting CFDs. The City agrees to the following measures with respect to the CFDs:

i. Without the joint written consent of the Port and the Master Developer, the City will amend the San Francisco Special Tax Financing Law as it applies to the Project solely to the extent required by a City-wide vote.

ii. Without the joint written consent of the Port and the Master Developer, except to the extent required under the CFD Law or other controlling state or federal law, the City will not change the *Local Goals and Policies for Community Facilities Districts* as they apply to the Project.

iii. Without the joint written consent of the Port and the Master Developer, the City will not take any action to change the boundaries of the CFDs, including annexation of property, in violation of the Financing Plan.

iv. Without the joint written consent of the Port and the Master Developer, the City will not take any action to initiate proceedings to modify or repeal any provision of any RMA, the list of authorized facilities and services, the Special Tax rates, or the authorized bonded indebtedness or any other CFD provision.

v. The City will not take any action with respect to the annexation of the Future Annexation Area into the CFDs except as set forth in Section 4.9 of the Financing Plan.

vi. The City will not take any action to reduce the Special Taxes in violation of Section 4.4 of the Financing Plan.

(j) Special Taxes Levied on Leasehold Interests. Under the CFD Law and the Financing Plan, Special Taxes will be levied on the leasehold interest in Port-owned parcels in the CFDs and will be payable by the lessee. The City and the Port agree that the Port's rights to terminate these leasehold interests in the event of default by the lessees may be limited in the lease documentation in order to preserve the rights of the City to collect the Special Taxes.

5. Provisions relating to Sub-Project Areas, IRFD and CFDs

(a) Acquisition Agreements. To the extent necessary, the Port is hereby authorized to enter into one or more Acquisition Agreements to establish the terms and conditions under which the Port and other City agencies would acquire Developer Improvements with Advances of Land Proceeds, Port Advances, Special Taxes, Tax Increment and proceeds of Debt.

(b) Unique Parcel Identifiers. The Port will use good faith efforts to confirm each year with the Assessor-Recorder that the parcels within the Sub-Project Areas, IRFD and CFDs are labeled with a unique identifier for the purpose of assisting the Controller with its duties under this MOU.

(c) Representatives. Each of the Treasurer-Tax Collector, Assessor and Controller agree to provide the Port with the name and contact information for the individual within its department to assist the Port with issues related to the Port IFD, Sub-Project Areas, IRFD and CFDs.

6. No General Fund Commitment; Limited Funding Sources.

(a) This MOU is not intended to and does not create any City commitment or obligation to satisfy any portion of Debt from the City's General Fund, nor may this MOU be construed in any manner that would violate the debt limitations under article XVI, section 18 of the State Constitution or under the City's Charter, including section 3.105 of the Charter.

(b) Unless otherwise agreed to by the City, Allocated Tax Increment from the Sub-Project Areas and Allocated Housing Tax Increment from the IRFD will be the only Tax Increment available to pay debt service on Debt and to satisfy the Port's payment obligations under the Financing Plan and the other purposes specified in the Port IFD IFP, Appendix G-2 and the IRFD IFP.

(c) Unless otherwise agreed to by the City, Special Taxes will be the only special taxes available to satisfy the Port's payment obligations under the Financing Plan and to satisfy the other purposes specified in the applicable CFD Formation Proceedings.

7. Notices.

(a) Manner of Notice. Any notice, request for consent, or response to a request for consent (any of these documents, a "notice") given under this MOU will be effective only if in writing and given by delivering the notice in person or by sending it first-class certified mail with return receipt requested or by overnight courier return receipt requested, with postage prepaid, to the addresses specified below.

(b) Addresses for Notice. Notices must be delivered to the following addresses, or at any other address designated by a party's notice as a new address for notices:

Address for Port: Port of San Francisco
Pier 1
San Francisco, CA 94111
Attn: Deputy Director of Finance
Telephone: (415) 274-0400
Re: SF/Port MOU
(Pier 70 - 28-Acre Site)

And to: Office of the City Attorney
Pier 1, Port of San Francisco
San Francisco, CA 94102
Attn: Port General Counsel
Telephone: (415) 274-0400
Re: SF/Port MOU
(Pier 70 - 28-Acre Site)

Address for Controller:

Office of the Controller
City and County of San Francisco
City Hall, Room 316
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Ben Rosenfield, Controller
Email: ben.rosenfield@sfgov.org
Telephone: 415-554-7500
Fax No.: 415-554-7466
Re: SF/Port MOU
(Pier 70 - 28-Acre Site)

Address for Treasurer-Tax Collector:

Office of the Treasurer and Tax Collector
City and County of San Francisco
City Hall, Room 140
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn:
Email:
Telephone: 415-554-_____
Fax No.: 415-554-_____
Re: SF/Port MOU
(Pier 70 - 28-Acre Site)

Address for Assessor:

Office of the Assessor-Recorder
City and County of San Francisco
City Hall, Room 190
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn:
Email:
Telephone: 415-554-_____
Fax No.: 415-554-_____
Re: SF/Port MOU
(Pier 70 - 28-Acre Site)

And to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place, Room 232
San Francisco, CA 94102
Attn: Real Estate/Finance
Re: SF/Port MOU
(Pier 70 - 28-Acre Site)

(c) Effective Date. Any notice under this MOU will be deemed to have been given two business days after the date it is mailed if sent by first-class certified mail, one business day after the date it is mailed if sent by overnight courier, or on the date

personal delivery is made or refused. Attempts to provide notice by email, telephone, or facsimile will not bind or be effective against any party.

(d) Courtesy Copies. Until the Port has satisfied its payment obligation to the Master Developer under the DDA, the Controller, Treasurer-Tax Collector, Assessor and Port agree to provide courtesy copies to Master Developer of any notices that any of the Controller, Treasurer-Tax Collector, Assessor or Port gives to the other, at the same time and in the same manner as provided above, at the address listed on Master Developer's Consent. The failure by the Controller, Treasurer-Tax Collector, Assessor or Port to give Master Developer a copy of any notice given under this MOU will affect the validity or effective date of the notice.

8. Successors and Assigns; No Third-Party Beneficiary.

(a) This MOU binds the City's and the Port's respective successors and assigns.

(b) Except as provided in the following paragraph, this MOU is for the exclusive benefit of the City and the Port and not for the benefit of any other person and may not be deemed to have conferred any rights, express or implied, upon any other person.

The City and the Port agree that Master Developer is an intended third-party beneficiary of this MOU entitled to rely on and receive the benefits of this MOU to the extent the benefits relate to Master Developer's rights under the DDA. Master Developer may enforce any provision of this MOU against the City and the Port to the extent the provision relates to Master Developer's rights under the DDA, but neither the City nor the Port will be liable to Master Developer for damages under this MOU, except as otherwise provided under Section 5.6 of the DDA. Successors and assigns to which Master Developer validly transfers any of its interests or rights under the DDA will be third-party beneficiaries of this MOU to the extent of their interest, subject to all limitations of this MOU.

9. Amendments to MOU.

(a) This MOU may be amended or modified only by a written instrument executed by the Controller, Assessor, the Treasurer-Tax Collector and the Port. The Mayor, the Controller and the Treasurer-Tax Collector (or any successor City officer as designated by law) may consent on the City's behalf to any change that does not increase or decrease the pledge of Allocated Tax Increment, Allocated Housing Tax Increment or Special Taxes that is the subject of this MOU or otherwise materially increase the City's liabilities or obligations or materially decrease the availability of Allocated Tax Increment, Allocated Housing Tax Increment or Special Taxes for the purposes specified in this MOU. In accordance with Charter section B7.340, the Board of Supervisors must approve any other change by resolution approved by the Mayor.

(b) Master Developer. Master Developer's consent will be a requirement for any amendment that affects the availability of Project Payment Sources to meet the Project Payment Obligation under the DDA.

Executed and effective as of the last date set forth below.

CONTROLLER OF THE CITY AND COUNTY OF SAN FRANCISCO,

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation operating by and through the San Francisco Port Commission

By: _____
BEN ROSENFELD

By: _____
ELAINE FORBES
Executive Director

Date: _____

Date: _____

TREASURER AND TAX COLLECTOR OF THE CITY AND COUNTY OF SAN FRANCISCO,

ASSESSOR-RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO,

By: _____
JOSE CISNEROS

By: _____
CARMEN CHU

Date: _____

Date: _____

REVIEWED:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

CLERK OF THE BOARD,

By: _____
ANGELA CALVILLO

Date: _____

Authorized by:

Port Resolution No. ____
Board of Supervisors Resolution No. _____

MASTER DEVELOPER’S CONSENT

By signing below, [Name _____], on behalf of FC Pier 70, LLC (“**Master Developer**”):

- 1. consents to the Memorandum of Understanding (Pier 70 - SUD Financing Districts) among the Controller of the City and County of San Francisco, Treasurer and Tax Collector of the City and County of San Francisco, Assessor-Recorder of the City and County of San Francisco, and San Francisco Port Commission dated for reference purposes as of _____ (the “**MOU**”) to which this consent is attached;
- 2. acknowledges that Master Developer is an intended third-party beneficiary of the MOU entitled to enforce the MOU subject to all of its limitations, including the limitation on damages specified in **Section 8(b)**, and specifically agrees that the MOU validly applies to Master Developer and its successors and assigns; and
- 3. represents that Master Developer has authorized me to execute this consent on behalf of Master Developer and to bind Master Developer by this consent.

MASTER DEVELOPER:

**FC PIER 70, LLC,
A Delaware limited liability company**

By: _____

Name: _____

Title: _____

Date: _____

Address for courtesy copies of notices:

Exhibits:

- A: Financing Plan
- B: Port IFD IFP and Appendix G-2
- C: IRFD IFP
- D: Form of Tax Administration Agreement
- E. Appendix to Transaction Documents for the Pier 70 Mixed-Use Project

EXHIBIT A

Financing Plan

EXHIBIT B

Port IFD IFP and Appendix G-2

EXHIBIT C

IRFD IFP

EXHIBIT D

FORM OF TAX ADMINISTRATION AGREEMENT

EXHIBIT E

**APPENDIX TO TRANSACTION DOCUMENTS FOR
THE PIER 70 MIXED-USE PROJECT**