

AMENDED IN COMMITTEE
3/20/2019

FILE NO. 181225

RESOLUTION NO.

1 [Lease Agreement - Treasure Island Enterprises - Treasure Island Marina - \$90,000 Initial
2 Annual Base Rent]

3 **Resolution approving a lease agreement between the Treasure Island Development**
4 **Authority and Treasure Island Enterprises, LLC, a California limited liability company**
5 **for the development and management of Treasure Island Marina for a term of 66 years**
6 **following Board approval for an initial annual base rent of \$90,000 with rent increases**
7 **adjusted annually by the Consumer Price Index, as defined herein; making findings**
8 **under the California Environmental Quality Act, adopting a Mitigation Monitoring and**
9 **Reporting Program for the marina project, and confirming the Planning Department's**
10 **determination that no additional environmental impacts that were not previously**
11 **identified, would occur as a result of the proposed lease.**

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13 WHEREAS, Naval Station Treasure Island is a former military base located on
14 Treasure Island and Yerba Buena Island (together, the "Base"); and,

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

18 WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97,
19 authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit
20 corporation known as the Treasure Island Development Authority (the "Authority") to act as a
21 single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and
22 conversion of the Base for the public interest, convenience, welfare and common benefit of
23 the inhabitants of the City and County of San Francisco; and
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1 WHEREAS, Under the Treasure Island Conversion Act of 1997 (the "Act"), which
2 amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to
3 Chapter 1333 of the Statutes of 1968, the California Legislature (i) designated the Authority as
4 a redevelopment agency under California redevelopment law with authority over the Base
5 upon approval of the City's Board of Supervisors, and (ii) with respect to those portions of the
6 Base which are subject to the Tidelands Trust, vested in the Authority the authority to
7 administer the public trust for commerce, navigation and fisheries as to such property; and

8 WHEREAS, On February 6, 1998, the Board of Supervisors adopted Resolution No.
9 43-98 approving the designation of the Authority as a redevelopment agency for Treasure
10 Island and Yerba Buena Island; and

11 WHEREAS, On January 24, 2012, the Board of Supervisors rescinded designation of
12 the Authority as the redevelopment agency for Treasure Island under California Community
13 Redevelopment Law in Resolution No. 11-12; although such rescission does not affect
14 Authority's status as the Local Reuse Authority for Treasure Island or the Tidelands Trust
15 trustee for the portions of Treasure Island subject to the Tidelands Trust, or any other powers
16 or authority of the Authority; and

17 WHEREAS, The Authority, together with the San Francisco Planning Department, are
18 the Lead Agencies responsible for the implementation of the California Environmental Quality
19 Act ("CEQA") for this area and have undertaken a planning and environmental review process
20 for the development and expansion of the Treasure Island Marina (the "Project") and provided
21 for appropriate public hearings before the respective Commissions; and

22 WHEREAS, On June 22, 1999, the Authority Board of Directors approved the
23 Exclusive Negotiating Agreement ("ENA") with Treasure Island Enterprises, LLC, a California
24 limited liability company ("TIE"), pursuant to which the parties agreed, among other things, to
25 negotiate in good faith with each other to enter into a lease disposition and development

1 agreement and ground lease and any necessary transaction documents for the Project, as
2 well as a sublease for the interim operation of the Treasure Island Marina; and

3 WHEREAS, On August 23, 2003, the Planning Department and Authority released for
4 public review and comment the Draft Environmental Impact Report for the Transfer and
5 Reuse of Naval Station Treasure Island (Planning Department File No. 94.448E), which
6 includes both a program-level analysis of the transfer of the portions of the former base from
7 the United States Navy to the City and County of San Francisco and a project-level analysis
8 for the marina development; and

9 WHEREAS, The Planning Commission and the Authority Board of Directors held a joint
10 public hearing on October 2, 2003, on the Draft Environmental Impact Report and received
11 written public comments until October 21, 2003, for a total of 60 days of public review; and,

12 WHEREAS, The Planning Department and Authority prepared a Final Environmental
13 Impact Report ("2006 FEIR") for the Transfer and Reuse of Naval Station Treasure Island
14 consisting of the Draft Environmental Impact Report, the comments received during the
15 review period, any additional information that became available after the publication of the
16 Draft Environmental Impact Report, and the Comments and Responses, all as required by
17 law, a copy of which is on file with the Planning Department under Case No. 94.448E, which
18 is incorporated into this motion by this reference; and

19 WHEREAS, On May 5, 2005, the Planning Commission, by Motion No. 17020, and the
20 Authority Board of Directors, by Resolution No. 05-017-5105, as co-lead agencies, certified
21 the 2006 FEIR and made certain environmental findings under CEQA; and

22 WHEREAS, On July 12, 2010, the Planning Department and Authority released for
23 public review and comment the Draft Environmental Impact Report for the Treasure
24 Island/Yerba Buena Island Project (Planning Department Case No. 2007.0903E), which
25 analyzed the impacts of the proposed master development, including an analysis of the new

1 and upgraded landside and waterside facilities for the existing Treasure Island Sailing Center,
2 located adjacent the marina at Clipper Cove, to the east, and landside services and
3 improvements for the proposed expanded marina; and

4 WHEREAS, The Planning Commission and the Authority Board of Directors held a joint
5 public hearing on August 12, 2010, on the Draft Environmental Impact Report and received
6 written public comments until August 26, 2010, for a total of 45 days of public review; and

7 WHEREAS, The Planning Department and Authority prepared a Final Environmental
8 Impact Report ("2011 FEIR") for the Treasure Island/Yerba Buena Island Project consisting of
9 the Draft Environmental Impact Report, the comments received during the review period, any
10 additional information that became available after the publication of the Draft Environmental
11 Impact Report, and the Draft Summary of Comments and Responses, all as required by law,
12 a copy of which is on file with the Planning Department under Case No. 2007.0903E, which is
13 incorporated into this motion by this reference; and

14 WHEREAS, On April 21, 2011, the Planning Commission by Motion No. 18325, and
15 the Authority Board of Directors, by Resolution No. 11-14-04/21, as co-lead agencies, certified
16 the completion of the 2011 FEIR, and unanimously approved a series of entitlement and
17 transactional documents, including certain environmental findings under CEQA and a
18 Mitigation Monitoring and Reporting Program ("MMRP"); and

19 WHEREAS, On June 7, 2011, in Motion No. M11-0092, the Board of Supervisors
20 unanimously affirmed certification of the 2011 FEIR, and on that same date, the Board of
21 Supervisors, in Resolution No. 246-11, adopted CEQA findings and the MMRP, and made
22 certain environmental findings under CEQA; and

23 WHEREAS, Subsequent to the certification of the 2006 FEIR and the 2011 FEIR, TIE
24 proposed several updates to the Project due to: (1) the evolution and modernization of marina
25 design, (2) the United States Navy requirements involving the hazardous materials clean-up

1 efforts at Clipper Cove, and (3) conformance with the Division of Boating and Waterways
2 (DBW) Guidelines for Marina Berthing Facilities that receive state funding.; and

3 WHEREAS; The Planning Department prepared a Case File Memorandum on July 5,
4 2017 (the “2017 Memorandum”), which identified the proposed revisions to the Project and
5 concluded that the proposed revisions to the Project would result in no additional
6 environmental impacts, that the severity of impacts already-identified in the 2006 EIR and the
7 2011 EIR would not increase, and that no additional environmental analysis would be required
8 under CEQA; and

9 WHEREAS; Pursuant to California Public Resources Code, Section 21166 and CEQA
10 Guidelines, Section 15162, the Planning Department concluded that a subsequent or
11 supplemental environmental impact report is not required; and

12 WHEREAS, The Planning Department and Authority prepared proposed Findings, as
13 required by CEQA, regarding the alternatives, mitigation measures and significant
14 environmental impacts analyzed in the 2006 FEIR, 2011 FEIR, and overriding considerations
15 for approving the Project, attached as Attachment A-1, including a the MMRP, which was
16 made available to for Authority’s review and consideration (collectively, the “CEQA Findings”);
17 and

18 WHEREAS, Following further consultation, TIE reduced the proposed footprint of the
19 Marina to 724 lineal feet by 718 lineal feet of dock area and approximately 220 proposed
20 slips, and the Board of Supervisors adopted Resolution No. 173-18, finding that the footprint
21 of the new marina is consistent with the vision of marina development in the Reuse Plan for
22 Treasure Island Naval Station approved by the Board of Supervisors and further finding this
23 footprint upholds the principle that marina redevelopment in Clipper Cove should not diminish
24 the character of existing public recreation and public education on Clipper Cove, including
25 most interim uses; and

1 WHEREAS, On October 30, 2017, the Authority Board of Directors (“Authority Board”),
2 approved Resolution No. 17-30-10/30 adopting CEQA Findings, adopting the MMRP, and
3 confirming the San Francisco Planning Department’s determination that no additional
4 environmental impacts would occur as a result of project implementation and no additional
5 environmental analysis other than the Planning Department’s July 5, 2017, Case File
6 memorandum is required under CEQA; and

7 WHEREAS, Authority Board Resolution No. 17-36-10/30 also approved and authorized
8 the execution of a 66-year lease agreement between the Authority and TIE for the
9 development and management of the Treasure Island Marina, subject to the approval of the
10 Board of Supervisors, and subject to all mitigation measures detailed in the MMRP relevant to
11 the Project; and

12 WHEREAS, Authority staff and TIE have negotiated a 66-year lease, (the “Lease”),
13 whereby TIE would develop and manage the Treasure Island Marina consisting of
14 approximately 724 lineal feet by 718 lineal feet of dock area and approximately 220 proposed
15 slips in Clipper Cove, and the Authority will also provide nonexclusive use / access to the
16 common water areas of Clipper Cove and to the adjacent landside areas; and

17 WHEREAS, Under the Lease, TIE would construct a new Treasure Island Marina in
18 three phases, at an estimated project cost of \$19,457,677; existing Marina slip holders would
19 have an opportunity to relocate into the new slips that are created in the first two phases; and
20 slip rental rates in the redeveloped Marina will be set at market-rate based on comparable
21 rents charged at other marinas within the greater San Francisco Bay Area; and

22 WHEREAS, Slip holders in the existing Treasure Island Marina will be given the
23 opportunity to occupy slips in the new Marina; and

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1 WHEREAS, If a slip holder’s vessel is smaller than the available slip, they will be
2 placed in the smallest available slip and charged a market rate based on the actual length of
3 their vessel rather than the size of the slip occupied; and

4 WHEREAS, Under the Lease, TIE will pay a minimum base rent of \$7,500.00 per
5 month or \$90,000 annually, with future Consumer Price Index adjustments, and an annual
6 percentage rent based upon gross receipts, if such amount is higher than the minimum base
7 rent under the formula set forth in the Lease; and

8 WHEREAS, The Board of Supervisors Resolution establishing the Authority, AB 699
9 and TIDA's Bylaws require that the Authority obtain Board of Supervisors approval of any
10 agreements having a term in excess of ten (10) years or anticipated revenues of \$1,000,000
11 or more; and

12 WHEREAS, On July 11, 2018, the Authority Board of Directors, having reviewed and
13 considered the 2006 FEIR, 2011 FEIR and the 2017 Memorandum, approved Resolution 18-
14 31-0711, adopting the CEQA Findings, confirming the San Francisco Planning Department’s
15 determination that no additional environmental impacts would occur as a result of project
16 implementation and no additional environmental analysis other than the 2017 Memorandum
17 would be required and approving the Lease subject to the approval of the Board of
18 Supervisors, and subject to all mitigation measures detailed in the MMRP considered relevant
19 to the Project; and

20 WHEREAS, In Resolution No. 173-18 approving the footprint of the marina, the Board
21 of Supervisors resolved that “Marina redevelopment in Clipper Cove should not cause
22 diminished water depth in other areas of the Cove” and that “TIDA should be responsible for
23 addressing siltation in these areas”; and,

24 WHEREAS, The Board of Supervisors also resolved in Resolution No. 172-18 that
25 TIDA should develop a plan to mitigate the risk of siltation in other areas of the Cove; and,

1 WHEREAS, Clipper Cove has not required maintenance dredging since it was acquired
2 by TIDA in the late 1990s; and

3 WHEREAS, The TIE shall perform or cause the performance of dredging in Clipper
4 Cove necessary for the use and ongoing operation of the Marina including the navigation
5 channel providing public access into Clipper Cove; and

6 WHEREAS, The Authority has indicated that it will perform bathymetric surveys of
7 areas outside of the Marina area every five years; and,

8 WHEREAS, The Authority will, when necessary, perform dredging necessary to
9 maintain depths required for the programs of the Treasure Island Sailing Center, as outlined in
10 File No. 181226; and,

11 WHEREAS, The Authority has indicated that it will, when necessary, perform dredging
12 outside of the Marina area to maintain current depths within six inches, as to not diminish the
13 character of existing public recreation and public education on Clipper Cove; and,

14 WHEREAS, The Authority has indicated that it will set aside funds from the Community
15 Facilities District to perform maintenance dredging in the Cove; and,

16 WHEREAS, Because the cumulative term of the Lease exceeds ten years and
17 anticipated revenues exceed \$1,000,000, the Authority is requesting that the Board of
18 Supervisors approve the Lease between the Authority and Treasure Island Enterprises; now,
19 therefore, be it

20 RESOLVED, That the Board of Supervisors has reviewed and considered the 2006
21 FEIR, 2011 FEIR and the 2017 Memorandum, and hereby adopts the CEQA Findings; and,
22 be it

23 FURTHER RESOLVED, That the Board of Supervisors confirms the Planning
24 Department's determination that no additional environmental impacts would occur as a result
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1 of the proposed Lease and no additional environmental analysis is required under CEQA at
2 this time; and, be it

3 FURTHER RESOLVED, That the Authority submit an annual written report to the
4 Board of Supervisors in June of each year on the status of the marina project financing,
5 construction of the improvements, leasing of boating slips, dredging costs, and operational
6 revenues and expenses; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors hereby approves and
8 authorizes the Treasure Island Director or his designee to execute and enter into the Lease
9 with Treasure Island Enterprises LLC, a California limited liability company, in substantially the
10 form filed with the Clerk of the Board of Supervisors in File No. 181225, and any additions,
11 amendments or other modifications to such Lease (including, without limitation, its exhibits)
12 that the Treasure Island Director or his designee determines, in consultation with the City
13 Attorney, are in the best interests of the Authority, that do not materially increase the
14 obligations or liabilities of the Authority or materially reduce the rights of the Authority, and are
15 necessary or advisable to effectuate the purpose and intent of this resolution; and, be it

16 FURTHER RESOLVED, That within thirty (30) days of the Lease Agreement being fully
17 executed by all parties the Treasure Island Development Authority shall provide copies of the
18 Lease Agreement to the Clerk of the Board for inclusion into the official file.

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RECOMMENDED:

Bob Beck, Director, Treasure Island Development Authority