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ECONOMIC DEVELOPMENT CONVEYANCE

MEMORANDUM OF AGREEMENT

BETWEEN

THE UNITED STATES OF AMERICA

AND

THE TREASURE ISLAND DEVELOPMENT AUTHORITY

FOR THE CONVEYANCE OF

THE NAVAL STATION TREASURE ISLAND

1
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3 **MEMORANDUM OF AGREEMENT**
4 **BETWEEN**
5 **THE UNITED STATES OF AMERICA**
6 **AND**
7 **THE TREASURE ISLAND DEVELOPMENT AUTHORITY**
8 **FOR THE CONVEYANCE OF**
9 **THE NAVAL STATION TREASURE ISLAND**

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**ECONOMIC DEVELOPMENT CONVEYANCE
MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE TREASURE ISLAND DEVELOPMENT AUTHORITY
FOR THE CONVEYANCE OF
THE NAVAL STATION TREASURE ISLAND**

This Agreement (hereinafter referred to as the "Agreement") is entered into this 2nd day of July, 2014 (the "Effective Date"), between the UNITED STATES OF AMERICA, acting by and through the Department of the Navy (the "Navy"), and the TREASURE ISLAND DEVELOPMENT AUTHORITY (the "Authority"), recognized as the Local Redevelopment Authority by the Office of Economic Adjustment on behalf of the Secretary of Defense with regard to the disposition and conveyance of portions of Naval Station Treasure Island, San Francisco, California. The Navy and the Authority are each sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS:

1. In 1993, the Defense Base Closure and Realignment Commission recommended the closure of Naval Station Treasure Island ("Treasure Island") located within the City and County of San Francisco, California (the "City") and consisting of approximately one thousand one hundred and eighty-seven (1,187) acres of real property, together with the buildings, improvements and related and other personal property located thereon and all rights, easements and appurtenances thereto.

2. (a) Pursuant to the power and authority provided by § 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, 10 U.S.C. § 2687 note, as amended, and the implementing regulations of the Department of Defense (32 C.F.R. Part 174), the Secretary of the Navy is authorized to convey surplus property at a closing installation to the Local Redevelopment Authority for economic development purposes. By its "EDC Application and Business Plan for Naval Station Treasure Island" dated June 19, 2000, as amended on July 1, 2003, and amended and restated in its entirety on July 23, 2007, and as further amended by its application dated June 30, 2010, as further amended on August 16, 2011, the Authority applied for an Economic Development Conveyance ("EDC") of approximately one thousand one hundred and eight (1,108) acres of Treasure Island ("EDC Application Property") together with existing Navy owned off-site utilities serving Treasure Island (the "EDC Application"), to be used and redeveloped in accordance with the "Draft Reuse Plan for Naval Station Treasure Island" ("Reuse Plan") as endorsed by the City Planning Commission and the City's Board of Supervisors in July 1996 and approved by the United States Department of Housing and Urban Development on November 26, 1996.

1 (b) Following refinements to the Reuse Plan land uses, attached hereto as
2 Exhibit Z-1, and the execution of the Development Plan and Term Sheet for the Redevelopment
3 of Former Naval Station Treasure Island endorsed by the Authority's Board of Directors in
4 October 2006 and the City's Board of Supervisors in December 2006, as updated by the Update
5 to Development Plan and Term Sheet for the Redevelopment of Former Naval Station Treasure
6 Island endorsed by the Authority's Board of Directors on April 7, 2010 and the City's Board of
7 Supervisors on May 18, 2010, the Authority entered into a Disposition and Development
8 Agreement ("**DDA**") with the Developer on June 28, 2011. Attached to the DDA is an updated
9 land use plan which provides for a new development program consisting of up to 8,000
10 residential units, approximately 500 hotel rooms, and commercial space of approximately
11 511,000 square feet, among other things ("**DDA Land Use Plan**"), which is attached hereto as
12 Exhibit Z-2 and is reflected in the Authority's final EDC Application.

13
14 (c) The Navy approved the Authority's EDC Application on October 7, 2011,
15 attached hereto as Exhibit AA.

16
17 (d) The consideration for conveyance of the Navy Property, as set forth
18 herein, has been structured to achieve an amount at least equal to the fair market value of the
19 Navy Property.

20
21 3. In accordance with the provisions of the Community Environmental Response
22 Facilitation Act, the Navy prepared Environmental Baseline Surveys ("**EBSs**") for Treasure
23 Island, copies of which have been provided to the Authority. Subsequently, the Navy prepared a
24 Supplemental Environmental Baseline Survey ("**SEBS**") inclusive of the EDC Application
25 Property dated July 8, 2005, a copy of which has been provided to the Authority. The Navy
26 prepared Finding of Suitability to Transfer ("**FOST**") documents dated February 15, 2006,
27 March 22, 2006, and January 3, 2012, copies of which have been provided to the Authority.

28
29 4. For purposes of this Agreement, the Parties shall treat the Navy Real Property as
30 two (2) separate parcels (that may be further subdivided into sub-parcels). Said parcels are
31 identified as the "**FOST Parcel**", substantially as described on Exhibit B-2, and the
32 "**Remainder Parcel**" substantially as described on Exhibit B-3 (collectively, the "**Parcels**", and
33 each a "**Parcel**").

34
35 5. In accordance with the provisions of the National Environmental Policy Act
36 ("**NEPA**") of 1969, as amended, the Navy prepared an Environmental Impact Statement ("**EIS**")
37 for the disposal and reuse of Treasure Island. A Record of Decision ("**NEPA ROD**") regarding
38 the disposal and reuse of Treasure Island was issued on the 26th day of October, 2005 and is
39 attached to this Agreement as Exhibit G.

40
41 6. In accordance with the provisions of the California Environmental Quality Act
42 ("**CEQA**"), as amended, the Authority and the City, as co-lead agencies, have prepared a
43 project-level Environmental Impact Report ("**EIR**") for the DDA Land Use Plan and related
44 documents and actions. The Authority certified the EIR as complete and the Planning
45 Commission certified the EIR as complete on April 21, 2011 (collectively, the "**Certification**").
46 The Certification resolutions are attached hereto as Exhibit P.

1
2 7. In accordance with the provisions of the National Historic Preservation Act, the
3 Navy determined that the disposal of Treasure Island, as hereinafter defined, will have an effect
4 upon those portions of Treasure Island that are listed in the National Register of Historic Places.
5 A Memorandum of Agreement between the Department of the Navy and the California State
6 Historic Preservation Officer ("SHPO") was executed on the 28th day of May, 2003 (attached
7 hereto as Exhibit Q-1), and, together with the Memorandum of Agreement between the
8 California Department of Transportation and SHPO, dated the 19th day of May, 2011 (attached
9 hereto as Exhibit Q-2), takes into account the effect of the undertaking on historic properties in
10 accordance with the National Historic Preservation Act and implementing regulations.
11

12 8. In accordance with the provisions of that certain Base Caretaker Cooperative
13 Agreement first dated March 12, 1997 and as further modified ("**Caretaker Agreement**") and
14 those certain Master Leases by and between the Authority and the Navy described on Exhibit
15 LL, the Authority has maintained the physical condition of Treasure Island, including certain
16 infrastructure as set forth in the Caretaker Agreement. The physical condition of the Treasure
17 Island is subject to reasonable wear and may have been altered by the Authority under the terms
18 of the Caretaker Agreement and the Master Leases, and/or the Navy where remedial activities
19 have been required.
20

21 AGREEMENTS

22
23 **NOW, THEREFORE**, in consideration of the foregoing and the respective
24 representations, agreements, covenants and conditions herein contained, and other good and
25 valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Navy
26 and the Authority agree as follows:
27

28 **ARTICLE 1** 29 **DEFINITIONS**

30
31 1.1 The definitions are attached hereto as Exhibit A and are hereby incorporated by
32 reference as if fully set forth herein.
33

34 **ARTICLE 2** 35 **ECONOMIC DEVELOPMENT CONVEYANCE**

36
37 2.1 Pursuant to § 2905(b)(4) of the Defense Base Closure and Realignment Act of
38 1990 (10 U.S.C. § 2687 note), as amended, and 32 C.F.R. Part 174, the Navy agrees to transfer
39 and convey all of the Navy's right, title, and interest in the Navy Property to the Authority under
40 a fair market value economic development conveyance, and the Authority agrees to acquire such
41 Navy Property in consideration of the covenants, conditions and restrictions contained herein and
42 other good and valuable consideration, subject to the terms, conditions and general provisions set
43 forth in this Agreement.
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ARTICLE 3
CONVEYANCE SCHEDULE AND TRANSFERS

3.1 Property to be Conveyed. The Navy shall convey to the Authority, and the Authority shall accept from the Navy, subject to the terms, covenants and conditions hereinafter set forth, all of the Navy's right, title, and interest in the following property:

3.1.1 The real property consisting of the EDC Application Property located within the bounds of the former Naval Station Treasure Island, as more particularly described and delineated in Exhibit B-2 and Exhibit B-3, attached hereto, less any real property appropriated permanently by the Federal Highway Administration, which shall include, but not be limited to, any right, title or interest the Navy may have in the following (collectively referred to herein as the "Navy Real Property"), except as otherwise provided for in this Agreement:

3.1.1.1 All buildings, facilities, roadways and other infrastructure including the storm drainage systems and the utility system infrastructure, and any other improvements thereon (including all replacements and additions thereto between the date of this Agreement and the date of conveyance of all the Navy Real Property to the Authority).

3.1.1.2 The Easements, licenses, rights of way, or other similar instruments as described in Article 7.

3.1.1.3 The hereditaments and tenements in and/or to the Navy Real Property and reversions, remainders, issues, profits, privileges and other rights belonging or related thereto, including any reversionary interest to real property appropriated permanently or otherwise by the Federal Highway Administration.

3.1.1.4 All rights to minerals, gas, oil, water and similar rights.

3.1.2 The Utility Infrastructure consisting of all utilities and related support infrastructure located on and off the Navy Real Property that serve the Navy Real Property such as electrical, water, sewer, gas, storm drainage and telecommunications lines (including all replacements and additions thereto between the date of this Agreement and the date of conveyance of all the Navy Real Property to the Authority), as more particularly described on Exhibit H-2 attached hereto.

3.1.3 The Navy Personal Property consisting of the Navy's right, title, and interest in all personal property located on or used in connection with the ownership, use, or operation of the specific portion of the Navy Real Property to be transferred to the Authority at each Closing, substantially in the form of and pursuant to the terms and conditions of the Bill of Sale as more particularly described in Exhibit H-1, attached hereto, except for items identified in Article 13 relating to the Navy Office. The Navy shall retain responsibility for all excluded personal property under the cognizance of the Navy Office.

1 3.2 Sequence of Conveyances. The Navy shall convey the Navy Real Property by
2 Quitclaim Deed to the Authority, and the Authority shall accept, in Multiple Conveyances in
3 accordance with the Conveyance Schedule attached hereto as Exhibit R, such portion of the
4 Navy Real Property for which the Closing Conditions set forth in Section 3.7 have been satisfied
5 or waived, subject to the following requirements:
6

7 3.2.1 The Navy Real Property shall be conveyed and accepted within sixty (60)
8 days after the Closing Conditions have been satisfied for the portion of the Navy Real Property
9 subject to the applicable conveyance.
10

11 3.2.2 RESERVED
12

13 3.2.3 The Parties agree to meet at such times as requested by a Party, but no less
14 than annually, to discuss the status of the Conveyance Schedule. Prior to each such meeting, the
15 Authority shall deliver to the Navy a general phasing schedule that describes the anticipated
16 schedule of development on the Navy Real Property for the next twenty-four (24) months.
17 During such meeting, the Parties may mutually agree, in each Party's sole and absolute discretion,
18 to amend the Conveyance Schedule, including the Navy Real Property to be conveyed as part of
19 the Initial Closing or any subsequent Closing.
20

21 3.3 Conveyance Process.
22

23 3.3.1 FOST Parcel. On the Initial Closing, the Navy shall convey to the
24 Authority, and the Authority shall accept, a parcel that is substantially similar to the portion of the
25 Navy Real Property that is more particularly described and delineated as the FOST Parcel on
26 Exhibit B-2, attached hereto (the parcel to be conveyed, hereinafter referred to as the "**FOST**
27 **Parcel**"), as further modified as necessary to remove any real property that may be deemed
28 radiologically impacted and therefore require further investigation as set forth in the Final
29 Historical Radiological Assessment – Supplemental Technical Memorandum anticipated to be
30 completed by the Navy in July 2014, in accordance with the process provided herein, so long as
31 the Authority has approved any differences between the boundaries of the FOST Parcel and the
32 parcel or parcels delineated in Exhibit B-2 and the Closing Conditions for the transfer of the
33 FOST Parcel have been satisfied.
34

35 3.3.2 Remainder Parcel. Upon satisfaction of the Closing Conditions for the
36 transfer of the Remainder Parcel or applicable portions thereof, the Navy shall convey to the
37 Authority, and the Authority shall accept, the portions of the Navy Real Property that are more
38 particularly described and delineated as the Remainder Parcel on Exhibit B-3, attached hereto, as
39 further modified as necessary to reflect the conclusions of the Final Historical Radiological
40 Assessment – Supplemental Technical Memorandum, or portions of such Remainder Parcel, in
41 accordance with the process otherwise provided herein so long as the Authority has approved any
42 differences between the boundaries of the Navy Real Property to be conveyed as part of a
43 subsequent Closing and the parcel or parcels listed in Exhibit R. The Remainder Parcel shall
44 include any portion of the FOST Parcel not conveyed at the Initial Closing.
45

46 3.3.3 RESERVED

1
2 3.4 FOST Conveyances.
3

4 3.4.1 The Navy shall convey the Navy Real Property to the Authority by
5 Quitclaim Deed(s) with all required CERCLA warranties and covenants after a FOST is executed
6 with respect to the applicable portion of the Navy Real Property. Unless otherwise mutually
7 agreed by the Parties, the Navy shall provide to the Authority for review and comment copies of
8 all draft FOSTs, any amendments to any existing FOSTs, and the contents of any proposed land
9 use covenants as they become available, provided, however, that the Navy shall not execute any
10 final FOST or execute or record any land use covenants related to the Navy Real Property for at
11 least forty-five (45) days after the applicable draft FOST or land use covenant is provided to the
12 Authority. The Navy shall promptly provide updates or revisions of such draft FOSTs or land use
13 covenants to the Authority as soon as any updates are available to the Navy. Unless otherwise
14 mutually agreed by the Parties, the revised draft final FOST or land use covenant, as the case may
15 be, must be provided to the Authority at least fifteen (15) days prior to the Navy's execution or
16 recordation of the applicable final FOST or land use covenant.
17

18 3.4.2 The FOST(s) shall summarize how applicable requirements and
19 notifications related to hazardous substances, petroleum products and other regulated materials
20 have been satisfied. The FOST(s) may prescribe land use restrictions or covenants.

21 3.5 Title to Property.
22

23 3.5.1 Conveyance by Quitclaim Deed. At the Initial Closing, the Navy shall
24 convey to the Authority all of its right, title and interest in and to the FOST Parcel by duly
25 executed and acknowledged Quitclaim Deed substantially in the form attached hereto as Exhibit
26 D. At each subsequent Closing, the Navy shall convey to the Authority all of its right, title and
27 interest in and to the applicable portion of the Remainder Parcel by duly executed and
28 acknowledged Quitclaim Deed substantially in the form of Exhibit D.
29

30 3.5.2 Condition of Title.
31

32 3.5.2.1 Attached hereto as Exhibit T is a preliminary title
33 report that identifies the liens, exceptions to title and encumbrances recorded against
34 the Navy Real Property as of the Effective Date of this Agreement. Any title
35 insurance that may be desired by the Authority shall be procured at its sole cost and
36 expense. The Navy shall cooperate with the Authority or its authorized agent and
37 shall permit examination and inspection of any documents relating to the title of the
38 Navy Real Property as it may have available. While, except as set forth in Section
39 3.5.2.2, the Navy is not obligated to clear any of the title exceptions listed on Exhibit
40 U, the Navy agrees to assist the Authority, as appropriate, to have the title exceptions
41 listed on Exhibit U attached hereto, and any subsequently discovered title exceptions
42 that appear to be in error or are of concern to the Authority, removed, released or
43 insured over.
44

45 3.5.2.2 From the Effective Date of this Agreement through
46 the Initial Closing and any subsequent Closings, the Navy shall not permit, agree to

1 sell, encumber or grant any interest in the Navy Real Property or any part thereof in
2 any form or manner whatsoever, or otherwise perform or permit any act that will
3 diminish or otherwise affect the Authority's interest under this Agreement or to the
4 Navy Real Property, or which will prevent the Navy's full performance of its
5 obligations hereunder, without the written consent of the Authority, except
6 environmental restrictions or land use covenants consistent with Section 3.4 as may
7 be designated in any CERCLA Record of Decision, an approved Corrective Action
8 Plan or a FOST.
9

10 3.6 Non-Assignable and Unperfected Easements, Contracts and Permits. Attached
11 hereto as Exhibit I-5 is a list of the easements, leases, licenses, encroachment permits, contracts,
12 permits and other agreements that are necessary for the operation, maintenance or improvement
13 of the Navy Real Property and are either not assignable (the "**Non-Assignable Easements,**
14 **Contracts and Permits**") or not validly held by the Navy (the "**Unperfected Easements,**
15 **Contracts and Permits**"). The Navy shall cooperate with the Authority or its authorized agent
16 and shall permit examination and inspection of any documents relating to the Non-Assignable
17 Easements, Contracts and Permits and Unperfected Easements, Contracts and Permits as it may
18 have available. Navy agrees to assist the Authority, as appropriate, to obtain the consents or
19 replacement agreements necessary to transfer the Navy's rights under the Non-Assignable
20 Easements, Contracts and Permits and to assist the Authority as appropriate to obtain the
21 easements, leases, licenses or encroachment permits necessary for perfecting and assigning the
22 Unperfected Easements, Contracts and Permits.
23

24 3.7 Closing Conditions. The Authority shall be obligated to accept title to any portion
25 of the Navy Real Property tendered to the Authority within sixty (60) days after such portion of
26 the Navy Real Property is tendered if, at the time of the tender, all of the following conditions are
27 satisfied, or waived by the Authority in its sole discretion (together the "**Closing Conditions**"):
28

29 3.7.1 With respect to the Initial Closing for the FOST Parcel:

30
31 3.7.1.1 One or more FOST(s) have been executed covering
32 the entirety of the FOST Parcel, and such FOST(s) have been concurred in by DTSC
33 in writing, and the substance of any environmental restrictions or land use covenants
34 whether contained in such FOST(s) or executed or recorded separately affecting all or
35 any portion of the FOST Parcel does not prohibit the timely implementation of the
36 Reuse Plan land uses. With respect to the FOST dated March 22, 2006, the DTSC
37 letter dated May 22, 2006 satisfies the requirement for concurrence by DTSC, unless
38 such FOST is further amended. With respect to the FOST dated January 3, 2012, the
39 DTSC letter dated February 24, 2012 satisfies the requirement for concurrence by
40 DTSC, unless such FOST is further amended.
41

42 3.7.1.2 Building 233 located on the Building 233
43 Development Parcel described on Exhibit B-6 has been demolished and (i) the CDPH
44 and DTSC have approved a Final Status Survey Work Plan for Building 233
45 sufficient to enable CDPH to issue a Free Release Letter, (ii) the CDPH and DTSC
46 have approved the completed Final Status Survey Report submitted by the Navy, and

1 (iii) written assurance has been received from the appropriate Regulatory Authority or
2 Authorities that no land use restrictions or covenants will be imposed on the Building
3 233 Development Parcel that would prohibit timely development consistent with the
4 DDA Land Use Plan.
5

6 3.7.1.3 A Record of Decision has been issued for Site 21
7 described on Exhibit B-3 and any land use restriction or covenants would allow for
8 residential use on all habitable floors of a building to be constructed on Site 21.
9

10 3.7.1.4 An Explanation of Significant Differences has been
11 issued by the Navy and approved by DTSC for Site 33. The remedial action for Site
12 33 and any resulting land use restrictions or covenants would allow residential use on
13 all habitable floors of a building to be constructed on Site 33, and a Remedial Action
14 Completion Report ("**RACR**") has been approved by DTSC for Site 33. If Site 33 is
15 identified by the Navy and the State of California as impacted by radiological
16 contamination prior to the Initial Closing, and as a result the Navy must undertake
17 additional actions related to radiological contamination, such additional action shall be
18 completed and the Navy shall have obtained written assurance from the State of
19 California that the environmental condition of such sites complies with all applicable
20 laws and would not preclude the timely development of Site 33 in accordance with the
21 DDA Land Use Plan.
22

23 3.7.1.5 The Navy and the Authority are not in material
24 default of any of their material obligations hereunder related to the transfer of the
25 FOST Parcel pursuant to this Agreement, unless waived by the Party not in material
26 default.
27

28 3.7.1.6 The form and content of the Quitclaim Deed
29 transferring the FOST Parcel is consistent with Section 3.5 and the applicable FOST,
30 and the Navy and the Authority have agreed on the forms of the Assignment of
31 Easements, Contracts, Licenses and Permits described in Section 7.1, the Access
32 Easements and Utility Easements described in Section 7.3, and the Utilities
33 Agreement described in Article 9.
34

35 3.7.1.7 The Navy has delivered into escrow the Navy
36 Closing Documents described in Section 8.2 below.
37

38 3.7.1.8 All third party consents for the assignment or the
39 replacement of any Non-Assignable Easements, Contracts and Permits related to the
40 provision of electricity to Treasure Island and all easements, leases, licenses and/or
41 encroachment permits necessary to perfect and assign the Unperfected Easements,
42 Contracts and Permits related to the provision of electricity to Treasure Island have
43 been obtained. The Non-Assignable and Unperfected Easements, Contracts and
44 Permits related to the provision of electricity to Treasure Island are shown in Exhibit
45 I-7.
46

1 3.7.1.9 At the Initial Closing: (i) the physical condition of
2 the FOST Parcel shall be substantially the same as on the Effective Date of this
3 Agreement, excepting reasonable wear and tear, activities under the Caretaker
4 Agreement, master leases, and Navy's remedial activities, (ii) there shall be no
5 litigation or administrative agency or other governmental proceeding pending, that
6 materially and adversely affects the proposed redevelopment of the FOST Parcel, (iii)
7 the environmental condition (including without limitation the presence, nature, extent
8 and concentration of Hazardous Substances thereon) of any portions of the FOST
9 Parcel covered by a FOST issued by the Navy shall not be materially worse than the
10 known environmental condition on the Effective Date of this Agreement, (iv) if any
11 portion of the FOST Parcel was identified by the Navy and the State of California as
12 impacted by radiological contamination, the Navy shall have obtained written
13 assurance from the State of California that the environmental condition of such sites
14 complies with all applicable laws and will not be subject to regulation after transfer
15 under the California Radiation Control Law (i.e., such site shall have a license
16 exemption or release for unrestricted use with respect to radiological issues) or such
17 portion shall be removed from the FOST Parcel and included in the Remainder
18 Parcel, (v) no Regulatory Authority shall have required additional screening,
19 investigation, remediation or restrictions related to radiological contamination (other
20 than employee health and safety plan screening to be conducted by a contractor prior
21 to or during construction) beyond those set forth in the FOST issued for any portions
22 of the FOST Parcel; and (vi) to the extent that a Record of Decision or FOST exists
23 for a particular portion of the FOST Parcel on the Effective Date of this Agreement,
24 such Record of Decision or FOST shall not have been modified or changed (or
25 required to be modified or changed) unless mutually agreed upon (including changing
26 through an Explanation of Significant Differences, except for the final Explanation of
27 Significant Differences for IR Site 31 dated May 2011), and no additional conditions
28 or restrictions not identified in the existing Record of Decision or FOST shall have
29 been added after the Effective Date of this Agreement and prior to the Initial Closing.
30

31 3.7.1.10 The FOST Parcel is not subject to any liens,
32 exceptions and encumbrances other than the following: (i) the lien of real property
33 taxes not yet due and payable, (ii) the exceptions to title described in the preliminary
34 title report attached hereto as Exhibit T, (iii) exceptions to title approved by the
35 Authority in accordance with Section 3.5.2 of this Agreement, (iv) environmental
36 restrictions or land use covenants consistent with Section 3.4 that the Navy may
37 record against the Navy Real Property in accordance with Section 3.5.2, and (v) non-
38 material liens, exceptions or encumbrances that do not impair the value of the Navy
39 Real Property or the ability to develop the Project.
40

41 3.7.1.11 All Regulatory Authority approvals have been
42 obtained for the FOST Parcel relating to the investigation and environmental response
43 for underground and above-ground petroleum storage tanks, and any releases of
44 petroleum, petroleum derivatives, petroleum fractions, or any chemicals, compounds
45 or products that result from their degradation in accordance with Article 18.
46

1 3.7.2 With respect to any subsequent Closing for a portion of the Remainder
2 Parcel:

3
4 3.7.2.1 A FOST has been executed for such portion of the
5 Remainder Parcel, and such FOST(s) have been concurred in by DTSC in writing,
6 and the substance of any environmental restrictions or land use covenants whether
7 contained in such FOST(s) or recorded separately against the applicable portion of the
8 Remainder Parcel does not prohibit the timely implementation of the Reuse Plan land
9 uses.

10
11 3.7.2.2 The Navy and the Authority are not in material
12 default of any of their material obligations hereunder related to the transfer of such
13 portion of the Remainder Parcel pursuant to this Agreement, unless waived by the
14 Party not in material default.

15
16 3.7.2.3 The form and content of the Quitclaim Deed
17 transferring such portion of the Remainder Parcel is consistent with Section 3.5 and
18 the applicable FOST, and the Navy and the Authority have agreed on the form of
19 Access Easements and Utility Easements described in Section 7.3 with respect to
20 such portion of the Remainder Parcel.

21
22 3.7.2.4 The Navy has delivered into escrow the Navy
23 Closing Documents described in Section 8.2 below.

24
25 3.7.2.5 At the applicable Closing: (i) the physical condition
26 of such portion of the Remainder Parcel shall be substantially the same on the
27 applicable Closing date as on the Effective Date of this Agreement, reasonable wear
28 and tear, activities under the Caretaker Agreement, master leases and Navy's
29 remedial activities excepted, (ii) there shall be no litigation or administrative agency
30 or other governmental proceeding pending, that materially and adversely affects the
31 proposed redevelopment of such portion of the Remainder Parcel, (iii) no Regulatory
32 Authority shall have required the need for additional screening, investigation,
33 remediation or restrictions beyond those set forth in the FOST issued for such portion
34 of the Remainder Parcel, (iv) if any portion of the Remainder Parcel was identified by
35 the Navy and the State of California as impacted by radiological contamination, the
36 Navy shall have obtained written assurance from the State of California that the
37 environmental condition of such sites complies with all applicable laws and will not
38 be subject to regulation after transfer under the California Radiation Control Law
39 (i.e., such site shall have a license exemption or release for unrestricted use with
40 respect to radiological issues), and (v) no Regulatory Authority shall have required
41 additional screening, investigation, remediation or restrictions related to radiological
42 contamination (other than employee health and safety plan screening to be conducted
43 by a contractor prior to or during construction) beyond those set forth in the FOST
44 issued for such portion of the Remainder Parcel.
45

1 3.7.2.6 The Navy has not permitted, agreed to sell, sold,
2 encumbered, or granted any interest in such portion of the Remainder Parcel in
3 violation of Section 3.5.2.2.
4

5 3.7.2.7 All Regulatory Authority approvals have been
6 obtained for the Remainder Parcel relating to the investigation and environmental
7 response for underground and above-ground petroleum storage tanks, and any
8 releases of petroleum, petroleum derivatives, petroleum fractions, or any chemicals,
9 compounds or products that result from their degradation in accordance with Article
10 18.
11

12 3.7.2.8 For a conveyance that contains all or portions of the
13 Site 12 Development Parcel, Parcel 21, Parcel 30, Parcel 30N, Parcel 30S, Parcel 31,
14 the Building 3 Parcel, the Building 233 Parcel, the UC1 and UC2 utility corridors, or
15 Parcel 24A, each as described on Exhibit B-7 attached hereto, the applicable
16 performance benchmarks set forth in Sections 4.2.2 and 4.2.3 below have been
17 satisfied or waived by the Authority as to each Parcel before conveyance of that
18 Parcel.
19

20 3.8 Failure to Satisfy Closing Conditions.
21

22 3.8.1 If any Closing Conditions described in Section 3.7.1 relating to the Initial
23 Closing are not satisfied prior to or on the date that the Navy is required to convey the FOST
24 Parcel to the Authority in accordance with the Conveyance Schedule, as may be amended by the
25 Parties, then the Authority shall have the right in its sole and absolute discretion to (i) waive in
26 writing the Closing Condition in question as to all or any portion of the FOST Parcel and
27 proceed with Closing, or (ii) extend the Closing for the FOST Parcel for a reasonable period of
28 time up to four (4) years as specified by the Authority to allow all of the Closing Conditions
29 applicable to the FOST Parcel to be satisfied and, if applicable, to complete early transfer or
30 Lease in Furtherance of Conveyance ("LIFOC") negotiations with the Navy in accordance with
31 Section 3.11 or Section 3.12 below.
32

33 3.8.2 If any Closing Conditions described in Section 3.7.2 relating to a
34 subsequent Closing for any portion of the Remainder Parcel are not satisfied prior to or on the
35 date that the Navy is required to convey such portion of the Remainder Parcel to the Authority in
36 accordance with the Conveyance Schedule, as may be amended by the Parties, then the Authority
37 shall have the right in its sole and absolute discretion to (i) waive in writing the Closing
38 Condition in question and proceed with Closing, or (ii) extend the Closing for such portion of the
39 Remainder Parcel for a reasonable period of time up to four (4) years (except as otherwise
40 provided for in Section 4.2.4 and/or Section 4.2.5) as specified by the Authority to allow all of
41 the Closing Conditions applicable to such portion of the Remainder Parcel to be satisfied and, if
42 applicable, to complete early transfer or LIFOC negotiations with the Navy in accordance with
43 Section 3.11 or Section 3.12 below.
44

45 3.8.3 If a dispute arises between the Parties regarding whether a Closing
46 Condition has been satisfied, either Party may invoke the dispute resolution procedure described

1 in Article 27. The failure by the Navy to satisfy a Closing Condition, by itself, shall not be
2 deemed a Navy default or breach under this Agreement, and the sole remedy for failure to satisfy
3 a Closing Condition is set out in Section 3.8.1, Section 3.8.2, and Section 3.8.4.
4

5 3.8.4 If any Closing Conditions described in Section 3.7.1 and/or 3.7.2 are not
6 satisfied within four (4) years after the date the Navy was required to convey the applicable
7 Parcel to the Authority in accordance with the Conveyance Schedule, as may be amended by the
8 Parties (except as otherwise provided for in Section 4.2.4 and/or Section 4.2.5), and such failure
9 to satisfy a Closing Condition is not caused by a Navy breach of an obligation under this
10 Agreement, then the Authority shall have sixty (60) days from receipt of a written notice from
11 the Navy to elect to waive in writing the Closing Condition in question and proceed with
12 Closing. If after sixty (60) days the Authority has not chosen to waive in writing the Closing
13 Condition then, this Agreement shall terminate as to the affected Parcel(s). If this Agreement
14 terminates as to the affected Parcel(s), the Navy shall have the right to transfer or convey such
15 Parcel(s) according to applicable law and in accordance with Section 3.8.6 and 3.8.7, provided,
16 however if this Agreement terminates as to all of the Navy Real Property prior to the Initial
17 Closing, then the Navy shall have the right to transfer or convey such Parcel(s) according to
18 applicable law and without complying with Section 3.8.6 or Section 3.8.7.
19

20 3.8.5 If the Authority does not accept a Parcel for which the Closing Conditions
21 have been satisfied or waived within sixty (60) days after the Navy's tender of the Parcel, subject
22 to Excusable Delay, then the Authority shall be in default and the Navy shall have the right, in its
23 sole discretion, and as its sole and exclusive remedy, to transfer or convey the Parcel in
24 accordance with applicable law.
25

26 3.8.6 The Navy agrees that concurrent with the transfer or conveyance of the
27 FOST Parcel, or any portion thereof, to a third party in accordance with Section 3.8.4 the Navy
28 shall notify the third party of the restrictions under the DDA Land Use Plan as such DDA Land
29 Use Plan may be modified by the Authority to address the failure to satisfy the Closing
30 Condition that gave rise to the Navy transfer or conveyance of such FOST Parcel, or portion
31 thereof, if any, and concurrent with any transfer or conveyance of the Remainder Parcel, or a
32 portion thereof, to a third party in accordance with Section 3.8.4 the Navy shall notify the third
33 party of the restrictions under the DDA Land Use Plan as such version of the DDA Land Use
34 Plan may be modified by the Authority to address the failure to satisfy the Closing Condition that
35 gave rise to the Navy transfer or conveyance of such Remainder Parcel, or portion thereof, if
36 any.
37

38 3.8.7 The Navy shall not transfer or convey all or any portion of the Navy Real
39 Property in accordance with Section 3.8.4 to a state or federal agency, or any other entity that
40 would be exempt from complying with land use restrictions, including restrictions arising under
41 the DDA Land Use Plan, the City's Planning Code, the City's General Plan or the City's Zoning
42 Map (an "Exempt Transferee"), without first granting the Authority the option (the "Authority
43 Option") to lease the portion of the Navy Real Property that the Navy proposes to transfer or
44 convey to the Exempt Transferee (the "Option Property"). At least sixty (60) days prior to
45 initiating the process for transfer or conveyance of all or any portion of the Option Property to an
46 Exempt Transferee, the Navy shall notify the Authority in writing (the "Option Notice") of (i)

1 the description of the Option Property subject to the Option Notice, and (ii) the proposed method
2 of transfer or conveyance, and (iii) if known, the identity of the proposed Exempt Transferee and
3 the Exempt Transferee's proposed use of the Option Property. The Authority shall have forty-
4 five (45) days after receipt of the Option Notice to exercise the Authority Option by delivering a
5 written exercise notice to the Navy. If the Authority exercises the Authority Option, the Parties
6 shall promptly execute a lease. The form of lease will be a LIFO or master lease similar to the
7 existing master leases and will include the following provisions: the Authority will not pay rent
8 and the term will expire on the earlier of fifty (50) years after lease commencement or such time
9 as the Navy satisfies the applicable Closing Condition allowing for conveyance of the Option
10 Property to the Authority.

11
12 3.9 Quitclaim Deeds. The Navy shall convey all of its right, title, and interest in and
13 to the Navy Real Property to the Authority, and the Authority agrees to accept conveyance of the
14 Navy Real Property "as is" and "where is" by good and sufficient Quitclaim Deeds in
15 accordance with this Agreement, by separate conveyance and Closing. Acceptance of the Navy
16 Real Property by the Authority shall be by execution of the Authority's acceptance statement on
17 the Quitclaim Deeds. The Navy shall prepare plats and legal descriptions of areas that are
18 subject to environmental restrictions and covenants at its own expense and provide such plats
19 and legal descriptions to the Authority for review. The Authority shall prepare draft plats and
20 legal descriptions of the metes and bounds of the outer boundary of the Naval Station Treasure
21 Island and the Parcels of Navy Real Property at its own expense and provide such plats and legal
22 descriptions to the Navy for review. The Parties shall work cooperatively to ensure that plats
23 and legal descriptions are correct and agreed to by each Party. The Authority shall be
24 responsible for recording Quitclaim Deeds at its own expense. The Parties shall cooperate in
25 executing and delivering corrective deeds necessary to convey omitted land intended to be
26 included in the Navy Real Property and to correct any erroneous description of the Navy Real
27 Property.

28
29 3.10 Sub-parcels. Sub-parcelization of any Parcel may be considered and a sub-parcel
30 may be conveyed as mutually agreed to by the Parties.

31
32 3.11 Early Transfer Negotiations. At any time, the Parties may enter into early transfer
33 negotiations for the conveyance of any Parcel or agreed upon sub-parcel with a covenant deferral
34 pursuant to Section 120(h)(3)(c) of CERCLA and the terms of a mutually acceptable Early
35 Transfer Cooperative Agreement that has been approved by the Navy, the Authority's Board of
36 Directors and, if required, the City's Board of Supervisors and Mayor, each in their sole and
37 absolute discretion.

38
39 3.12 Lease in Furtherance of Conveyance. At any time, the Parties may enter into
40 negotiations for a LIFO for any portion of the Navy Real Property on terms mutually
41 acceptable to the Parties, subject to approval by (1) the Authority's Board of Directors and, if
42 required, the City's Board of Supervisors and Mayor, and (2) the Secretary of the Navy or his/her
43 designee as appropriate, each in their sole and absolute discretion. The Navy and the Authority
44 will enter into a LIFO, easement or other instrument acceptable to the Authority that allows for
45 the construction of roads, utilities and other infrastructure on the properties.
46

1 interest paid by Authority to Navy from the Initial Closing through the date of the third-party sale
2 calculated on the amount of consideration received by the Navy from the sale or transfer of the
3 applicable Parcel. If at the time of the third party sale, one or more Installment Payments remain
4 due, the Installment Payments shall continue until the Navy has been paid an amount equal to the
5 Initial Consideration less the amount of the third party sale. If the conveyance to a third party
6 occurs after Authority has already paid the Navy Installment Payments in an amount that equals
7 more than the Initial Consideration less amounts received by the Navy from the third party sale,
8 then no further Installment Payments shall be due, and Authority shall be entitled to credit the
9 amount of the Authority's overpayment against future payments of Additional Consideration that
10 may become due under Section 4.3 hereof. Without limiting the foregoing, if this Agreement
11 terminates as to any Parcel in accordance with Section 3.8.4 hereof, then such termination shall
12 also be treated as a Redesign Trigger Event under Section 4.2.8 hereof.

13
14 4.2.2 Performance Benchmarks For Site 12. The provisions of this Section 4.2.2
15 apply only to the developable area of Site 12 (the "**Site 12 Development Parcel**") as that site is
16 shown on Exhibit B-5 attached hereto. The Navy shall comply with the following performance
17 benchmarks for the Site 12 Development Parcel (each, a "**Site 12 Performance Benchmark**") on
18 or before the dates for those benchmarks set forth in the Conveyance Schedule:

19
20 4.2.2.1 The issuance of a Record of Decision for the Site 12
21 Development Parcel (the "**Site 12 ROD**") that would not preclude the timely development of the
22 Site 12 Development Parcel in accordance with the DDA Land Use Plan for multi-family
23 residential use at the densities contemplated by the Project.

24
25 4.2.2.2 The Navy's satisfaction of all Closing Conditions for transfer
26 of the Site 12 Development Parcel to the Authority in accordance with the Conveyance Schedule
27 and delivery of all Navy Closing Documents in accordance with Section 8.2.

28
29 4.2.3 Other Performance Benchmarks. The provisions of this Section 4.2.3 apply
30 only to Parcel 21, Parcel 30, Parcel 30N, Parcel 30S, Parcel 31, Parcel 24A, the Building 3 Parcel,
31 the Building 233 Parcel, and the UC1 and UC2 utility corridors, as those parcels are shown on
32 Exhibit B-7 attached hereto. The Navy shall comply with the following Performance Benchmark
33 for each parcel, individually and separately. If (i) the Navy and the State of California determine
34 that Parcel 21, Parcel 30, Parcel 30N, Parcel 30S, Parcel 31, Parcel 24A, the Building 3 Parcel, or
35 the UC1 or UC2 utility corridors, as applicable, is impacted by radiological contamination prior to
36 transfer of such parcel to the Authority, and (ii) such determination results in the Navy having to
37 take additional actions to address radiological contamination, the Navy shall satisfy all Closing
38 Conditions for the transfer of Parcel 21, Parcel 30, Parcel 30N, Parcel 30S, Parcel 31, Parcel 24A,
39 the Building 3 Parcel, the Building 233 Parcel, or the UC1 or UC2 utility corridors, as applicable,
40 to the Authority in accordance with the Conveyance Schedule and deliver all Navy Closing
41 Documents in accordance with Section 8.2 (the "**Parcel 21 Performance Benchmark**", the
42 "**Parcel 30 Performance Benchmark**", the "**Parcel 30N Performance Benchmark**", the
43 "**Parcel 30S Performance Benchmark**", the "**Parcel 31 Performance Benchmark**", the
44 "**Parcel 24A Performance Benchmark**", the "**Building 3 Performance Benchmark**", the
45 "**Building 233 Performance Benchmark**", the "**UC1 Utility Corridor Performance**
46 "**Benchmark**", and the "**UC2 Utility Corridor Performance Benchmark**", as applicable).

1
2 4.2.4 Tolling for Failure to Meet Site 12 Performance Benchmarks. If the Navy
3 fails to meet a Site 12 Performance Benchmark within the time provided, including by reason of
4 an Excusable Delay, then the Authority's obligation to pay any future Installment Payment on the
5 Anniversary Date of the Initial Closing will be tolled for the same number of days occurring
6 between the applicable Site 12 Performance Benchmark date and the date on which the applicable
7 Site 12 Performance Benchmark is satisfied. If such tolling occurs, the due date for all future
8 Installment Payments shall become the Anniversary Date of the Initial Closing adjusted for the
9 period of tolling. For example, if the Site 12 Performance Benchmark in Section 4.2.2 relating to
10 the Site 12 ROD must be satisfied by October 31, 2016, the next subsequent Installment Payment
11 was due on January 1, 2017, and such Performance Benchmark was satisfied on April 1, 2017 (a
12 delay of 152 days), then the next Installment Payment would be due on June 2, 2017 (i.e. 152
13 days from the original Anniversary Date of January 1, 2017), and all future Installment Payments
14 would be due on June 2 of subsequent years in the Initial Consideration Term unless further
15 tolled.

16
17 4.2.5 Tolling for Failure to Meet Other Performance Benchmarks. If the Navy
18 fails to meet a Parcel 21 Performance Benchmark, a Parcel 30 Performance Benchmark, a Parcel
19 30N Performance Benchmark, a Parcel 30S Performance Benchmark, a Parcel 31 Performance
20 Benchmark, a Parcel 24A Performance Benchmark, a UC1 Utility Corridor Performance
21 Benchmark, a UC1 Utility Corridor Performance Benchmark, a Building 3 Performance
22 Benchmark, and/or a Building 233 Performance Benchmark established in Section 4.2.3 within
23 the time provided, including by reason of an Excusable Delay, which Performance Benchmarks
24 shall apply individually and separately to each such parcel, then the Authority's obligation to pay
25 any future Installment Payment on the Anniversary Date of the Initial Closing will be tolled for
26 the same number of days occurring between the applicable Performance Benchmark date and the
27 date on which the applicable Performance Benchmark is satisfied. For example, if a Performance
28 Benchmark must be satisfied by November 30, 2015, the next subsequent Installment Payment
29 was due on January 1, 2016, and such Performance Benchmark was satisfied on April 1, 2016 (a
30 delay of 123 days), then the next Installment Payment would be due on May 3, 2016 (i.e. 123
31 days from the original Anniversary Date of January 1, 2016), and all future Installment Payments
32 would be due on May 3 of subsequent years in the Initial Consideration Term unless further
33 tolled.

34
35 4.2.6 Tolling for More than Two Years. If tolling under Section 4.2.4 or Section
36 4.2.5 continues for a period of more than two (2) years, the Parties shall meet and confer in good
37 faith to determine whether or not it is reasonably foreseeable that the Navy will be able to meet
38 the applicable Performance Benchmark within a reasonable period of time.

39
40 4.2.7 Extension of Tolling Period. If the Parties determine that the reasons for
41 the delay can be overcome through the good faith and diligent efforts of the Navy, and will likely
42 result in the satisfaction of the applicable Performance Benchmark, then the Parties may by
43 mutual agreement extend the applicable two (2) year tolling period to account for the delay. If the
44 Parties do not reach agreement within sixty (60) days after the first meet and confer (subject to
45 extension by mutual agreement of the Parties), then the procedures of Section 4.2.8 and 4.2.9
46 shall apply.

1
2 4.2.8 Redesign Trigger Events. If (i) the Navy fails to meet the applicable
3 Performance Benchmark within the applicable two year period and the Parties do not mutually
4 agree to extend such period pursuant to Section 4.2.7, or (ii) this Agreement terminates as to any
5 Parcel in accordance with Section 3.8.4 hereof (for any reason other than failure to satisfy the
6 Closing Conditions in Section 3.7.1.8 or Section 3.7.1.10 (other than by reason of Navy's breach
7 of its covenants in Section 3.5.2.2), which Parcel or portion thereof is located within the
8 development footprint (as that area is shown on the DDA Land Use Plan) (each of the foregoing
9 events, a "**Redesign Trigger Event**"), the Authority shall have the right to re-entitle, redesign
10 and rebuild portions of the Project (the "**Redesign Plan**"). The scope of the Redesign Plan shall
11 be to the extent reasonably necessary, as determined by the Authority, to recapture the lost value
12 to the Project resulting from the Redesign Trigger Event. The primary goal of any Redesign Plan
13 shall be to recover an equivalent amount of development value attributable to the applicable
14 parcel based on the level of development permitted by the Project and Developer's financial
15 projections, or if the parcel is an open space parcel, based upon the lost value to the Project
16 resulting from the redesign of the affected open space. The Redesign Plan shall address the
17 rebuilding of already constructed Horizontal Improvements to the extent necessary to
18 accommodate the redesign, and shall identify the incremental level of additional Horizontal
19 Improvements, if any, required as a result of the redesign.
20

21 4.2.9 Work Program and Budget. No later than one hundred eighty (180) days
22 after a Redesign Trigger Event (as such date may be extended in the reasonable discretion of the
23 Navy), the Authority shall submit to the Navy a work program and budget (the "**Work Program**"
24 and the "**Redesign Budget**") for the Redesign Plan. The Work Program shall set forth the
25 anticipated work program and schedule necessary to prepare, entitle and implement the Redesign
26 Plan. The Redesign Budget shall estimate the anticipated costs necessary to prepare, entitle and
27 implement the Redesign Plan (the "**Redesign Costs**"). Redesign Costs shall include, without
28 limitation, all Soft Costs related to the Redesign Plan, including without limitation, costs
29 associated with any subsequent environmental review that is required pursuant to CEQA, and
30 Hard Costs related to the rebuilding, replacing, relocating or incremental cost of additional
31 Horizontal Infrastructure as necessary to accommodate the Redesign Plan. The Navy shall have
32 ninety (90) days to review the Work Program and Redesign Budget and shall be deemed to have
33 approved the Work Program and Redesign Budget unless it delivers a written objection notice
34 within such ninety (90) day period including reasonably detailed grounds for any material
35 objections thereto. The sole grounds for the Navy's objection rights shall be that the proposed
36 Redesign Costs exceed the scope for such costs permitted under Section 4.2.8 hereof. Failure of
37 the Navy to deliver a written objection notice within such ninety (90) day period shall be deemed
38 approval of the Redesign Costs.
39

40 4.2.10 Credit for Redesign Costs. Starting on the date that is thirty (30) days after
41 submittal of the Work Program and Redesign Budget (or in the event of a Navy objection related
42 to the Work Program and Redesign Budget under Section 4.2.9 that results in approved Redesign
43 Costs, upon the resolution of such dispute) (the "**Credit Commencement Date**"), the period of
44 tolling under Section 4.2.4 or Section 4.2.5, as applicable, shall be discontinued, but Authority
45 shall have the right to a credit against all subsequent payments of Initial Consideration or
46 Additional Consideration up to the total amount of either (i) the Redesign Costs set forth in the

1 Redesign Budget, or (ii) the Redesign Costs actually incurred by Developer and Authority if such
2 amount exceeds the Redesign Costs set forth in the Redesign Budget. The Navy is not
3 responsible for Redesign Costs that exceed the Initial and Additional Consideration. Any such
4 credit shall also be subject to the accounting and reconciliation procedures of Section 4.3.6 and
5 4.3.7.2.

6
7 4.2.11 Security for Initial Consideration.

8
9 4.2.11.1 RESERVED

10
11 4.2.11.2 Initial Consideration. The Authority shall sign and deliver
12 to the Navy through escrow at the Initial Closing a Promissory Note in the principal amount of
13 the Initial Consideration. The Promissory Note for the Initial Consideration shall bear interest
14 and be payable in installments as more particularly described in Section 4.2.1 above. The
15 Promissory Note for the Initial Consideration shall be secured by (i) an Assignment of Rents
16 encumbering the rents, issues and profits payable under all interim subleases for the Navy Real
17 Property including, but not limited to, that certain Sublease, Development, Marketing and
18 Property Management Agreement between the Authority and the John Stewart Company dated
19 March 17, 1999, as amended from time to time, and any successor interim subleases or leases
20 relating to the Navy Real Property whether executed prior to or after a conveyance hereunder,
21 and (ii) to the extent the rents, issues and profits assigned under the Assignment of Rents are not
22 sufficient to cover the unpaid principal and interest due under the Promissory Note for the Initial
23 Consideration, a Subordinate Pledge of Net Available Tax Increment Revenues generated from
24 the Navy Real Property prior to or after a conveyance hereunder. The Subordinate Pledge shall
25 be subordinate to the pledge of Net Available Tax Increment Revenues to the holders of any
26 bonded indebtedness and to the Developer under the DDA; provided, however, that the DDA
27 shall provide that all such Net Available Tax Increment Revenues to be paid directly to
28 Developer in reimbursement for the expenditure of Qualified Project Costs (as defined in the
29 Financing Plan attached as Exhibit EE to the DDA) shall be withheld from Developer by the City
30 and held for the account of the Navy upon the occurrence of and for the duration of any default
31 of a payment of Initial Consideration hereunder. Provided, further, that the Parties recognize that
32 the Authority's Assignment of Rents hereunder is subordinate to the senior security interest the
33 Authority provided to the San Francisco County Transportation Authority under the
34 Memorandum of Agreement for Project Management and Oversight, Engineering and
35 Environmental Services for the Yerba Buena Ramps dated July 1, 2008, as amended. The
36 Authority agrees that the senior security interest provided to the San Francisco County
37 Transportation Authority and secured by Assignment of Rents, as described above, shall not
38 exceed Eighteen Million Eight Hundred Thirty Thousand Dollars (\$18,830,000), plus accrued
39 interest. Any additional obligation of funds by the Authority to the San Francisco County
40 Transportation Authority in excess of Eighteen Million Eight Hundred Thirty Thousand Dollars
41 (\$18,830,000), plus accrued interest, shall be covered by other forms of security that do not
42 result in a subordinate position for the Navy. "**Net Available Tax Increment Revenues**" means
43 tax increment revenues allocated by the City to any Infrastructure Financing District established
44 for all or any portion of the Navy Real Property and received by the City. The forms of the
45 Promissory Note for the Initial Consideration, Assignment of Rents, and the Subordinate Pledge
46 are attached to this Agreement as Exhibit HH, Exhibit II, and Exhibit JJ. All rents, issues and

1 profits payable to Developer under any agreement subject to the Assignment of Rents shall be
2 immediately paid and payable directly to the Authority on account of the Navy, or directly to the
3 Navy, as provided by the terms of the Assignment of Rents, commencing on, and for the
4 duration of, any default in the payment of Initial Consideration hereunder.
5

6 4.3 Additional Consideration. 7

8 4.3.1 Amount of Additional Consideration. The Authority shall pay the Navy
9 additional consideration consisting of (1) 100% of Net Cash Flow generated by the Project in
10 excess of a Developer 18% IRR until the Navy has received Fifty Million Dollars (\$50,000,000)
11 (the "**First Tier Participation**"), as more fully described below; and (2) 35% of Net Cash Flow
12 generated by the Project in excess of a Developer 22.5% IRR (the "**Second Tier Participation**"),
13 as more fully described below. The First Tier Participation and Second Tier Participation are
14 collectively referred to herein as the "**Additional Consideration.**" Payments of Additional
15 Consideration may be made directly by the Developer on behalf of the Authority to the Navy.
16

17 4.3.2 Payment of First Tier Participation. Within forty-five (45) days after the
18 expiration of the eighth full calendar Quarter occurring after the Initial Closing and forty-five (45)
19 days after the expiration of each subsequent Quarter during the Term hereof, the Authority shall
20 require the Developer to submit a reasonably detailed statement to the Authority and the Navy
21 (the "**IRR Statement**") accompanied by an Accounting consistent with Section 4.3.6 hereof
22 showing (i) the cumulative IRR achieved for each of the eight (8) immediately prior Quarters for
23 any IRR Statement provided during the Initial Consideration Term, and (ii) the cumulative IRR
24 achieved for each of the six (6) prior Quarters for any IRR Statement provided after expiration of
25 the Initial Consideration Term (the eight or six Quarter Period, as applicable, the "**Reporting**
26 **Period**"). The IRR Statement shall also calculate the average IRR over the Reporting Period,
27 calculated by adding the IRR of each Quarter in the Reporting Period and dividing the total by the
28 number of Quarters in the Reporting Period. If the IRR Statement shows that Developer has
29 achieved an average IRR of more than 18.00% over the Reporting Period, then the Authority shall
30 within forty-five (45) days after the expiration of the eighth full calendar Quarter occurring after
31 the Initial Closing and forty-five (45) days after the expiration of each subsequent Quarter during
32 the Term hereof, pay the Navy an amount that would reduce the cumulative IRR to 18.00% as of
33 the end of the Reporting Period (each, a "**First Tier Payment**") provided that the total First Tier
34 Payments made to the Navy shall not exceed Fifty Million Dollars (\$50,000,000). First Tier
35 Payments shall be made until the total of all First Tier Payments equals Fifty Million Dollars
36 (\$50,000,000). All payments of First Tier Participation shall be due and payable in accordance
37 with Section 4.3.6 hereof.
38

39 4.3.3 Payment of Second Tier Participation. The Authority shall continue to
40 submit the IRR Statement and Accounting through the Termination Date. If an IRR Statement
41 shows that Developer has achieved, after reducing Net Cash Flow by the amount of any First Tier
42 Payments, an average IRR of more than 22.5% within any Reporting Period, then the Authority
43 shall within forty-five (45) days after the expiration of the eighth full calendar Quarter occurring
44 after the Initial Closing and forty-five (45) days after the expiration of each subsequent Quarter
45 during the Term hereof, pay the Navy 35% of the total amount of Net Cash Flow that would
46 reduce the cumulative IRR to 22.5% as of the end of the Reporting Period (per the calculation

1 methodology in the Exhibit DD) (a "**Second Tier Payment**"). Second Tier Payments shall be
2 made until the Termination Date. All payments of a Second Tier Payment shall be due and
3 payable in accordance with Section 4.3.6 hereof.
4

5 4.3.4 Late Payments and Default. Any failure to pay Initial Consideration and
6 associated interest or Additional Consideration within ten (10) days after the payment due date
7 shall be considered late ("**Late Payment**"). Any Late Payment will incur a late payment penalty
8 equal to two and one-half percent (2.5%) of the payment due. Failure to make any required
9 payment under this Agreement in full within thirty (30) calendar days shall constitute a default
10 under this Agreement. Any Late Payment constituting a default hereunder shall accrue interest at
11 the Default Interest Rate from the due date and the Default Interest Rate shall remain in effect on
12 the Late Payment amount until paid. Any late payment penalty and default interest shall not be
13 allowed as a Development Cost. Without limiting any other remedies that the Navy may have at
14 law or equity, if the Authority is in default of this Agreement, the Navy may delay conveyances
15 of additional Parcels without the tolling provisions of Section 4.2.4 and 4.2.5 until the Authority
16 has cured the default.
17

18 4.3.5 RESERVED
19

20 4.3.6 Accounting.
21

22 4.3.6.1 Accounting. The Authority shall cause the
23 Developer to maintain accurate books and records specific to the Project setting forth
24 all components used for determining the Additional Consideration, including, without
25 limitation, each component of Net Cash Flow, and to determine the amount of
26 Redesign Costs and credits against Initial and Additional Consideration. The
27 Authority shall ensure that each IRR Statement submitted by Developer as required
28 by Sections 4.3.2 and 4.3.3 is accompanied by a complete accounting and
29 computations setting forth the basis of each Additional Consideration to be paid,
30 including the Gross Revenues and Development Costs for the relevant determination
31 period, together with a narrative description of the methodology employed to
32 calculate each Additional Consideration Payment to be due for the relevant period
33 (the "**Accounting**"). The Accounting shall be in conformance with generally
34 accepted accounting principles consistently applied ("**GAAP**") where applicable, or
35 with respect to the IRR Statement, in conformance with appropriate industry
36 standards. An annual Accounting shall be provided to the Navy in accordance with
37 Section 5.9.1 hereof. After receipt of the initial Accounting, the Navy shall either
38 approve the Accounting in writing or provide written notice providing reasonable
39 detail of its objections to or queries of the Accounting within ninety (90) days of
40 receipt thereof, provided that the Navy's failure to respond within such ninety (90)
41 day period shall be deemed consent. The Navy shall either approve each subsequent
42 Accounting in writing or provide written notice providing reasonable detail of its
43 objections to or queries of the Accounting within forty-five (45) days of receipt
44 thereof, provided that the Navy's failure to respond within such forty-five (45) day
45 period shall be deemed consent. If the Navy objects to the Accounting, it may
46 determine to exercise its audit rights pursuant to Section 4.3.8.

1
2 4.3.6.2 Marina Property Accounting. The Authority shall
3 determine on a quarterly basis all gross revenues and related expenses associated with
4 the Marina Property, and shall prepare a reasonably detailed statement showing all
5 net revenues received by Authority from the Marina Property. The Authority shall
6 provide a copy of such Marina Property statement to the Navy along with each
7 Accounting in a timely manner.
8

9 4.3.7 Reconciliation.

10
11 4.3.7.1 Reconciliation of Final IRR. The Authority shall,
12 within one hundred and eighty (180) days after the Termination Date, submit a Final
13 IRR Statement and Accounting to the Navy, showing the Developer's IRR for the
14 entire term of the Project (the "Final IRR") and all payments of Additional
15 Consideration made to the Navy hereunder. The Final IRR Statement and
16 Accounting shall be performed and certified by an independent Certified Public
17 Accountant in accordance with appropriate industry standards. If the Final IRR
18 Statement and Accounting discloses that the Final IRR exceeded 18% but payments
19 to the Navy of First Tier Participation were less than \$50 million, the Authority shall
20 pay to the Navy the amount necessary to reduce the Final IRR to 18%, so long as the
21 total of all First Tier Participation payments do not exceed \$50 million. If the Final
22 IRR Statement and Accounting discloses that the Final IRR exceeded 22.5%, but
23 payments to Navy of Second Tier Participation hereunder totaled less than 35% of
24 Net Cash Flow for the Project above a 22.5% Final IRR, then Authority shall cause to
25 be paid to Navy the amount of Net Cash Flow necessary to raise the total of Second
26 Tier Participation payments to equal 35% of all Net Cash Flow above a 22.5% Final
27 IRR.
28

29 4.3.7.2 Reconciliation of Redesign Costs. Within one
30 hundred eighty (180) days after completion of all planning, entitlement, design and
31 rebuilding work required under the Redesign Plan, as evidenced by City acceptance
32 of all public improvements and final building inspection sign-off for all
33 improvements as identified in the Work Program, Authority shall provide Navy with
34 a statement that includes an accounting of all Redesign Costs actually incurred by
35 Developer and Authority, and a statement of the amount of credit against Initial
36 Consideration actually taken by Authority. The accounting shall be performed and
37 certified by an independent Certified Public Accountant in accordance with GAAP.
38 To the extent that the amount of the credits taken against Initial Consideration
39 exceeds the actual Redesign Costs shown on the statement, Authority shall promptly
40 cause the Navy to be paid the difference. If the amount of the credit against Initial
41 Consideration is less than the actual Redesign Costs as shown on the Statement, then
42 Authority shall be permitted to continue to credit Initial Consideration and Additional
43 Consideration until the entire actual Plan Redesign Costs are recovered. The Navy is
44 not responsible for Redesign Costs that exceed the Initial and Additional
45 Consideration.
46

1 application as described in the DDA that contains the applicable Critical Commercial Lot,
2 showing reasonable detail of projected revenues, expenses, subsidies and/or target returns
3 associated with the Critical Commercial Lots, acknowledging that to the extent that the Critical
4 Commercial Lots require subsidy for development, the Critical Commercial Lots Payment may be
5 \$0.00. Developer will provide this information to an independent appraiser and shall request a
6 letter report confirming the appropriateness of Developer's assumptions and conclusions related
7 to the Critical Commercial Lots. No potential or actual investor or lender shall be prohibited by an
8 exclusivity agreement between the Developer and other investors or lenders from participating in
9 any financing of any Commercial Lot or any other commercial product type developed by parties
10 other than Developer.

11
12 5.2.2 Transfer by Developer of Developed Critical Commercial Lots. Developer
13 or the Developer joint venture entity developing the Critical Commercial Lots may, in its sole
14 discretion, subsequently transfer (as that term is defined in the DDA) any of the developed
15 Critical Commercial Lots (the "**Developed Critical Commercial Lots**") to a third party,
16 provided, however, that any and all revenues received by Developer or the Developer joint
17 venture entity arising from or associated with the transfer of the Developed Critical Commercial
18 Lots shall be treated as Gross Revenues hereunder. Transfer of the Developed Critical
19 Commercial Lots shall be by sale, or by sub-ground lease or assignment of ground lease,
20 provided, however, with respect to the first transfer of a ground lease by Developer, the transferee
21 shall be required to pay a transfer payment based upon the fair market value for the right to
22 occupy the applicable Developed Critical Commercial Lot on the terms and conditions of the
23 ground lease. A joint venture entity in which Developer holds an ownership interest may
24 purchase the Developed Critical Commercial Lot and in such case, the transfer price shall be
25 determined in accordance with the Appraisal Process described in Section 5.4 hereof. If
26 Developer or a Developer joint venture entity elects to transfer the Developed Critical
27 Commercial Lot to a third-party entity (such parcel, a "**Non-Developer Critical Commercial**
28 **Lot**"), the transfer price shall be determined by Auction pursuant to the Auction process
29 applicable to Commercial Lots, as set forth in Section 5.2.4 below.

30
31 5.2.3 Sale or Ground Lease of Non-Critical Commercial Lots. At such time as
32 deemed appropriate by the Authority and Developer pursuant to the terms of the DDA, the
33 Authority shall convey to Developer the Non-Critical Commercial Lots. Upon such conveyance,
34 Developer shall be required to offer by Auction the Non-Critical Commercial Lots for sale or sub-
35 ground lease or assignment of ground lease (as applicable).

36
37 5.2.4 Auction Process for Commercial Lots. The Auction for a Non-Critical
38 Commercial Lot shall set a minimum bid price based on the pro-forma prepared by the Developer
39 at the approval of each applicable Sub-Phase application (as confirmed by an appraiser letter
40 described in Section 5.2.1). The minimum bid price shall be set for the Auction for a Non-
41 Developer Critical Commercial Lot no sooner than three months prior to the applicable Auction.
42 The pool of qualified bidders in the Auction of any Non-Critical Commercial Lots or any Non-
43 Developer Critical Commercial Lots shall be determined by the Authority and Developer prior to
44 the applicable Auction based on the Auction Bidder Selection Guidelines applicable to
45 Commercial Lots (attached hereto as Exhibit S-2). The pool of qualified bidders in the Auction of
46 any Non-Critical Commercial Lot or any Non-Developer Critical Commercial Lot and the

1 minimum bid price for the Auction of Non-Developer Critical Commercial Lots shall be provided
2 to the Navy at least 10 days prior to the applicable Auction. If no qualified bids are received for
3 the Non-Critical Commercial Lots, Developer and/or its affiliates will have the option to purchase
4 such Commercial Lot(s) based upon an appraisal in accordance with Section 5.4 hereof. If
5 Developer does not exercise the option to purchase unsold Non-Critical Commercial Lot(s), the
6 Authority and Developer shall mutually agree upon a new minimum bid price to be used in a new
7 Auction, which may take the form of adjustment to the pro forma minimum bid price or an
8 appraisal. In such case, the Authority shall cause Developer to re-bid the Non-Critical
9 Commercial Lot at such time deemed appropriate by the Authority and Developer pursuant to the
10 terms of the DDA. If no minimum bids from qualified bidders are received for the Non-
11 Developer Critical Commercial Lots that are acceptable to Developer, Developer shall reserve the
12 right to withdraw the Non-Developer Critical Commercial Lot from sale and re-bid the Non-
13 Developer Critical Commercial Lot at such future time deemed appropriate in accordance with
14 the terms of the DDA.

15
16 **5.3 Sale of Market Rate Lots.** Lots identified on the DDA Land Use Plan as
17 appropriate for the development of residential units that are sold or leased at predominantly
18 market rates (the "**Market Rate Units**") shall be referred to in this Agreement as the "Market
19 Rate Lots." Developer may purchase Market Rate Lots for up to sixty percent (60%) of the
20 Market Rate Units (the "**Developer Lots**"), at a purchase price established by the Appraisal
21 Process described in Section 5.4. Market Rate Lots for approximately twenty percent (20%) of
22 the Market Rate Units shall be available for purchase (at a purchase price established by the
23 Appraisal Process set forth in Section 5.4) by joint ventures in which the Developer or its
24 affiliates have no more than a fifty percent (50%) ownership interest and under which a non-
25 affiliated joint venture partner exercises management control as the "managing partner" (or
26 member, as the case may be) of the joint venture entity (collectively, the "**JV Lots**"). In order to
27 ensure that the Developer Lots and JV Lots are sold at fair market value, Market Rate Lots for
28 approximately twenty percent (20%) of the Market Rate Units will be offered for sale via
29 Auction (collectively, the "**Residential Auction Lots**") in accordance with Section 5.5. No
30 potential or actual investor or lender shall be prohibited by an exclusivity agreement between the
31 Developer and other investors or lenders from participating in any financing of any Market Rate
32 Lot or any other residential product type developed by parties other than Developer.

33
34 **5.3.1 Developer Lots.** Unless otherwise agreed upon by the Parties in their
35 reasonable discretion, no more than one-third of the Developer Lots (which also equals 20% of
36 the Market Rate Lots) can be sold directly to Developer, and the balance of the Developer Lots
37 may be sold to an entity or entities comprised of some or all of the same partners as Developer,
38 but having a materially different capital structure than Developer, in accordance with the
39 Appraisal Process. Concurrent with the sale of any Developer Lot to an entity or entities
40 comprised of some or all of the same partners as Developer, but having a materially different
41 capital structure than Developer, a duly authorized officer of Developer shall provide the
42 Authority and Navy with a certified statement that the prospective purchaser has a materially
43 different capital structure than Developer. For purposes hereof, an entity having a "materially
44 different capital structure" means an entity comprised of some or all of the same partners as
45 Developer but one in which there has been a cumulative change of at least 25% in the capital
46 positions of all the partners, and at least one of the partners has changed its capital position by at

1 least 15%. Before the close of each Sub-Phase within each Major Phase, the Developer will
2 provide to the Authority and Navy a list of equity investors for that Sub-Phase. During the
3 implementation of any Sub-Phase, Developer will provide to the Authority and Navy
4 immediately prior to the sale of any parcels to an affiliate of Developer or the equity investors of
5 that Major Phase, a notice of such affiliate sale which notice shall describe why the sale is
6 permitted under the terms of this Agreement. Prior to the close of any sale directly to Developer,
7 the Authority shall cause Developer to provide to the Navy a letter from a real estate broker or
8 licensed real estate professional familiar with the Bay Area market who is not an affiliate of the
9 Developer and has no equity investment in the Developer in such Sub-Phase, finding that
10 acquisition and development of the Market Rate Lot by the Developer is appropriate in the
11 context of then-existing market conditions. The basis of such findings could include, but is not
12 limited to, establishing a new product type, initiating or establishing the development of a new
13 phase in the Project, responding to changes in market conditions, or other similar market-based
14 factors. Any disputes arising out of this Section 5.3.1 shall be referred to the arbitration process
15 for other disputes set forth in Section 27.3.3 hereof.
16

17 5.4 Appraisal Process. The process described in this Section 5.4 (the "**Appraisal**
18 **Process**") shall apply to the Developer Lots, the JV Lots and those Developed Critical
19 Commercial Lots and Non-Critical Commercial Lots for which an appraisal is required under
20 Sections 4.3.5.1, 5.2.2 or 5.2.4. The Authority and Developer shall confer and select an
21 appraiser from the Qualified Appraiser Pool for each such Developed Critical Commercial Lot,
22 Developer Lot, Non-Critical Commercial Lot or JV Lot to be appraised. An appraisal used for
23 the purpose of determining the parcel sale price (or ground lease rent, if applicable) shall be
24 updated if a sales contract (or ground lease) for such parcel has not been executed within one (1)
25 year from the date of the appraisal.
26

27 5.4.1 Qualified Appraiser Pool. Appraisals of any Developed Critical
28 Commercial Lots required to be appraised by Section 5.2.2, the Developer Lots, Non-Critical
29 Commercial Lots required to be appraised under Section 5.2.4 and JV Lots shall be conducted
30 by a qualified appraiser, which for purposes of this Agreement and the DDA shall be defined
31 as an appraiser (i) licensed in the State of California as a Certified General Appraiser and
32 holding the MAI designation from the Appraisal Institute, (ii) practicing or working for at least
33 ten (10) years in either a national firm, or regional firm based in California, (iii) who is not an
34 affiliate of the Developer and has no equity investment in the Developer or the Project
35 investors, (iv) who has particular experience with coastal California real property transactions
36 involving the Product Type that is the subject of the appraisal, and (v) who has no conflict of
37 interest as evidenced by contractual relationships with Developer either existing or in the
38 immediately prior 24 months, unless a conflict waiver is obtained from the Navy. The Parties
39 have agreed upon a list of pre-qualified appraisers, which list is attached hereto as Exhibit Y
40 (the "**Qualified Appraiser Pool**"). From time to time, either Party may propose in writing to
41 add or subtract additional persons meeting the above qualifications. If the Parties disagree on a
42 proposed addition or subtraction, then the Parties shall follow the dispute resolution procedure
43 set forth in Section 27.3.2.
44

45 5.4.2 Appraisal Instructions. The selected appraiser shall appraise the
46 applicable Developer Lot, JV Lot, Non-Critical Commercial Lot (to the extent subject to

1 appraisal under Section 5.2.4) or Developed Critical Commercial Lot (to the extent subject to
2 appraisal by Section 5.2.2) utilizing either the Residential Lots Appraisal Instructions attached
3 hereto as Exhibit X-1 or the Commercial Lots Appraisal Instructions attached hereto as Exhibit
4 X-3, as applicable, as the Parties hereto may agree to amend from time to time which agreement
5 shall not be unreasonably withheld, conditioned or delayed. If an Excess Land Appreciation
6 Structure is established in a Major Phase by Product Type, such structure will be deemed to
7 apply to all Market Rate Lots in the applicable Major Phase, and the appraisal instructions shall
8 incorporate such terms. If an Excess Land Appreciation Structure established for a Major Phase
9 is later revised in connection with a Sub-Phase, in accordance with Section 5.6 hereof, then such
10 structure will be deemed to apply to all Market Rate Lots in the applicable Sub-Phase, and the
11 appraisal instructions shall incorporate such terms. If material changes are proposed to appraisal
12 instructions, including assumptions, special assumptions, limiting conditions, hypothetical
13 conditions, and other special instructions, the requesting Party shall propose such amendment in
14 writing, and, if the Parties disagree, they shall follow the dispute resolution procedure set forth in
15 Section 27.3.2.

16
17 5.4.3 Notification of Appraisal. The Authority shall provide to the Navy
18 documentation of appraiser selection and appraisal instructions prior to the commencement of the
19 appraisal and shall provide a copy of the complete appraisals promptly following completion of
20 all appraisals.

21
22 5.5 Auction Process for Residential Auction Lots. The Authority and Developer in
23 connection with the approval of each Major Phase application, as described below in Section 5.6,
24 shall jointly determine the pool of qualified bidders for each Auction of an Auction Lot based on
25 the Auction Bidder Selection Guidelines for Residential Auction Lots (attached hereto as Exhibit
26 S-1), as agreed upon by the Parties. In the event no qualified third party bids are received at or
27 above the minimum bid price (as described in Section 5.6.3) for the Residential Auction Lots,
28 Developer and/or its affiliates will have the option to purchase such Auction Lot(s) at the
29 minimum bid price and any Residential Auction Lots so acquired by Developer shall not be
30 deemed to apply against the percentage limits otherwise applicable to the Developer Lots or the
31 JV Lots. If Developer does not exercise the option to purchase unsold Auction Lot(s), the
32 Authority and Developer shall mutually agree upon a new minimum bid price to be used in a
33 new Auction (the "**Re-Setting of the Minimum Bid Price**"). The Re-Setting of the Minimum
34 Bid Price may take the form of adjustment to the pro forma minimum bid price or an appraisal.
35 All costs associated with the Auction shall be treated as Development Costs.

36
37 5.5.1 Timing of Residential Auction Lots Selection. The Residential Auction
38 Lots will be selected by mutual agreement by the Authority and the Developer prior to
39 approval of each Major Phase application.

40
41 5.5.2 Residential Auction Lots as Benchmarks. The Auction Lot sales prices, as
42 deemed appropriate by the appraisers, and other relevant market data shall be used as
43 comparables in the appraisal process for the Developer Lots and the JV Lots. The mix of
44 Product Types of the Market Rate Lots subject to Auction shall roughly mirror that of the
45 Market Rate Lots to be allocated and sold in that Major Phase, with a goal of selecting at least
46 one representative parcel for each Market Rate Lot Product Type offered in that Major Phase.

1 For the purposes of this Agreement and the DDA, "**Product Types**" are defined as a
2 residential building with a typical unit count and building typology that allows general
3 assumptions of construction costs. Examples of such Product Types are townhomes; low rise
4 (up to 70' in height); mid rise (above 70' and up to 125' in height) and towers (above 125' in
5 height).
6

7 5.5.3 Guidelines for Residential Auction Lots Selection. The distribution and
8 selection of the Residential Auction Lots shall be based on a principle of nondiscrimination.
9 The selected Residential Auction Lots shall be generally representative of the average
10 advantages and disadvantages of the Market Rate Lots to be developed in that Major Phase.
11 Factors to be considered in such selection include, but are not limited to, parcel size, views,
12 proximity to parks, proximity to the transit center, proximity to the Job Corps site, proximity to
13 the Bay Bridge, proximity to the retail core and exposure to wind (collectively, the
14 "**Guidelines for Residential Auction Lot Selection**"), attached hereto as Exhibit FF.
15

16 5.6 Major Phase Decisions. Prior to approval of each Major Phase or Sub-Phase
17 application, as applicable, the decisions in this Section 5.6 (collectively, the "**Major Phase**
18 **Decisions**") shall be agreed upon by the Authority and the Developer and notice thereof shall be
19 provided to the Navy as more fully described in Section 5.7 below. The foregoing
20 notwithstanding, pursuant to the DDA, the Developer or the Authority may, at its election,
21 request amendments of, or modification of, Major Phase Decisions in connection with each Sub-
22 Phase within the Major Phase and during the course of each Sub-Phase. If the Authority and
23 Developer agree upon such amendments or modifications to the Major Phase Decision(s), notice
24 of such amendment or modification shall be provided to the Navy in accordance with Section 5.7
25 below and the Navy shall have the right to object to such amendment or modification in
26 accordance with Section 5.7 hereof.
27

28 5.6.1 Prior to approval of each Major Phase, the proposed location of
29 Residential Auction Lots within that Major Phase as shown on a revised land plan for that
30 Major Phase showing the distribution of various Product Types.
31

32 5.6.2 Prior to approval of each Major Phase, the qualifications of Residential
33 Auction Lot bidders by Product Type for that Major Phase based on the applicable Auction
34 Bidder Selection Guidelines.
35

36 5.6.3 Prior to approval of each applicable Sub-Phase, minimum bid prices for
37 the Residential Auction Lots and the Non-Critical Commercial Lots located within that Sub-
38 Phase, which shall be based on the pro forma, as updated prior to approval of the application
39 for such Sub-Phase, as well as any Re-Setting of the Minimum Bid Price, as described above.
40

41 5.6.4 Prior to approval of each Major Phase (and each Sub-Phase if updated by
42 Developer at such time), the Excess Land Appreciation Structure for that Phase for each
43 Product Type in such Phase. For purposes of this Agreement and the DDA the "Excess Land
44 Appreciation Structure" is defined as the structure, procedures and metrics of the then-
45 prevailing, industry standard market based participation in price appreciation greater than
46 forecast at the time of such pad sale (if any) for horizontal development land sellers.

1
2 5.7 Navy Objection Rights to Major Phase Decisions.
3

4 5.7.1 Notice. The Authority shall send a notice to the Navy in writing providing
5 the details of the Major Phase Decisions (the "**Major Phase Decision Notice**"). The Navy shall
6 have the right to reasonably object to any of the Major Phase Decisions (or any component part
7 thereof) if the Navy believes any of the following is true with respect to the Major Phase Decision
8 at issue: (i) the mix of Product Types for the Residential Auction Lots were not sufficient to
9 achieve adequate benchmarking for that Major Phase; or (ii) the Guidelines for Residential
10 Auction Lot Selection were not followed; or (iii) the Excess Land Appreciation Structure is not
11 commensurate with industry practice, market based participations for that Product Type in such
12 Major Phase, or Sub-Phase as applicable; or (iv) the Auction Bidder Selection Guidelines were
13 not followed.
14

15 5.7.2 Right to Object. The Navy shall have ten (10) business days from certified
16 receipt of the Major Phase Decision Notice to object in writing, which grounds may include
17 failure to provide adequate information necessary for the Navy's review, and any such objection
18 shall state with specificity the item or items to which the Navy objects or the items of additional
19 information reasonably requested by Navy. Failure to so object in writing within such ten (10)
20 business day period shall be deemed consent. The Authority shall have five (5) business days to
21 respond to the objection or to seek to confer, as more fully set forth in Section 27.2. If the
22 Authority responds and the Parties do not reach agreement with one another after such response,
23 either Party can request to confer (as set forth in Section 27.2.1). If a conference is requested, the
24 Parties shall confer and attempt to resolve the outstanding objections within five (5) business days
25 of the conference request. Failure to reach agreement at such meeting shall be referred to the
26 expedited dispute resolution process set forth more fully in Section 27.3.2.
27

28 5.8 Audit Rights and Reporting. The Authority agrees to submit to the Navy annual
29 audited financial statements specific to this Project within thirty (30) calendar days of
30 completion of the annual audited financial statements, which completion shall in no case be later
31 than ninety (90) calendar days after the end of the year being audited. The Navy shall have
32 commercially reasonable access to the Developer's auditors if the Navy needs clarifications
33 relating to the financial statements. Authority shall provide Navy with annual statements of its
34 records maintained pursuant to Section 5.13.2 hereof, certified by Authority's chief financial
35 officer or equivalent.
36

37 5.9 DDA Audit Rights and Reporting. The Authority agrees to provide the Navy with
38 copies of the DDA Reports and any audits promptly upon their receipt by the Authority and
39 further agrees to cause the DDA to provide the following audit rights and reporting requirements
40 for the benefit of the Authority and the Navy, provided, however, that the Navy shall treat such
41 information as confidential to the fullest extent permitted under all laws, rules and regulations
42 applicable to the Navy related to public disclosure of information as long as such confidentiality
43 does not in any way limit the Navy's remedies hereunder:
44

45 5.9.1 Following the Initial Major Phase Approval, the Authority shall cause the
46 Developer to provide to the Navy, no later than four (4) months following the end of each

1 Developer Fiscal Year, an annual Accounting for the preceding Developer Fiscal Year consistent
2 with the requirements of Section 4.3.6.1, including reports of Gross Revenues and Development
3 Costs, including Net Cash Flow, specified by Major Phases and including a cumulative project
4 level summary of IRR, executed by the Developer's Chief Financial Officer, certified by the
5 Developer and reviewed by an independent accounting firm. As set forth in Section 1.6(a)(i) of
6 the Financing Plan attached to the DDA, if the Developer obtains a Major Phase Approval less
7 than six (6) months before the end of the Developer Fiscal Year, the reporting may commence for
8 that Major Phase following the close of the following Developer Fiscal Year.

9
10 5.9.2 A summary pro forma (including the financial model of any vertical
11 development that requires a subsidy) will be attached to the DDA as an exhibit and the budget
12 will be updated by the Developer prior to the approval of each Major Phase or Sub-Phase
13 application and submitted to the Authority and the Navy for its review.

14
15 5.9.3 In conjunction with the annual Accounting, the Developer shall submit to
16 the Authority and the Navy an updated pro forma budget in both a printed and electronic form.
17 The electronic form of the pro forma must be in Microsoft Excel 2007 or its successor format.

18
19 5.9.4 The DDA shall provide the Authority and the Navy the right, but not the
20 obligation, to audit the books and accounts of the Developer no more frequently than once per
21 twelve (12) month period, unless such audit reveals a discrepancy in the calculation of Gross
22 Revenues and/or Development Costs or the Developer is otherwise in material default of its
23 financial obligations under the DDA. The Authority, or the Navy, as the case may be, shall bear
24 all costs of such audit unless the results of the audit demonstrate more than a five percent (5%)
25 discrepancy between the results of the audit and the annual financial statements provided by the
26 Developer. Payment by the Authority of audit costs shall not be allowed as a Development Cost
27 if there is a discrepancy of more than five percent (5%). All such reports and audits are subject to
28 the Authority's obligation to treat such information as confidential to the full extent permitted by
29 law. The Navy shall treat such information as confidential to the fullest extent permitted under all
30 laws, rules and regulations applicable to the Navy related to public disclosure of information as
31 long as such confidentiality does not in any way limit the Navy's remedies hereunder.

32
33 5.10 DDA Timelines. The Authority shall provide a Schedule of Performance
34 establishing commercially reasonable timelines for completion of each Major Phase, subject to
35 industry standard force majeure provisions, including regulatory, economic and litigation force
36 majeure.

37
38 5.11 Limit on Soft Costs for Purposes of Calculating Consideration. Except for a
39 reasonable limit on Developer management and overhead fees as further provided herein,
40 Developer Soft Costs will not be capped, but will be subject to a "reasonableness" standard,
41 certain approval rights by the Authority, and subject to audit by the Authority. The Authority
42 agrees that "reasonable" Developer's Soft Costs shall be defined as "incurred in a manner that is
43 consistent with an efficient, well-managed project of comparable scope, duration and complexity
44 and is commensurate with market-based charges by third party providers for similar projects."
45 Whether or not the Developer utilizes unrelated third-party contractors for development,
46 construction and property management services, such management fees and costs will not exceed

1 market-based charges by third-party providers for similar projects, taking into account the level
2 of project management, auditing and reporting requirements. The Developer may provide such
3 management services internally, or through a combination of internal management services and
4 third-party management contractors not owned or controlled by Developer. For purposes of
5 determining Soft Costs for any particular scope of work, a construction management fee may be
6 included not to exceed the lesser of four percent (4%) of Hard Costs or actual construction
7 management fees actually incurred for such scope; a property management fee may be included
8 not to exceed the lesser of two and one-half percent (2.5%) of lease revenues or actual property
9 management fees actually incurred for such scope; and a development/project management fee
10 not to exceed the lesser of three percent (3%) of Hard Costs or actual development/project
11 management fees actually incurred for such scope. If the actual and reasonable costs incurred by
12 Developer exceed the above limits, Developer, on behalf of the Authority may submit a request
13 to the Navy to approve the increase of any applicable fee to an amount equal to the actual cost.
14 Such requests shall be made in writing with appropriate supporting documentation. Failure of
15 the Navy to respond in writing to any such request within thirty (30) days shall be deemed
16 consent. Navy's consent shall not be unreasonably withheld or delayed, and Navy shall make its
17 determination within thirty (30) days of Developer's request. If Navy requests additional
18 information as may be reasonably required to make its determination within ten (10) days of
19 Developer's request, then Navy shall make its determination denying or granting the request
20 within thirty (30) days after receipt of such additional information. The Navy shall only deny its
21 consent if it reasonably determines, as evidenced by its written determination provided to
22 Developer and the Authority, that the cost limit exceedance is inconsistent with current market
23 standards as applied to the scope and nature of the Project and the fee limit request is
24 unreasonable under the circumstances. Any such exceedance objected to by the Navy in
25 accordance with this Section shall not be included as Development Cost.

26
27 5.12 Limit on City Fees and Exactions. The Authority shall limit City fees and
28 exactions to those fees and exactions as set forth in the DDA, at the rate or amounts in effect as
29 of the date of the DDA for a period of time specified in the DDA. The agreed upon development
30 fees and exactions for the Project will be fixed for a specified period of time (through a
31 Development Agreement or other legally enforceable mechanism) and the application of new
32 fees and exactions and changes in City regulations will be limited over the life of the
33 Development Agreement. To the extent legally permissible, the DDA and Development
34 Agreement shall include certain limits on the authority of the City and the Authority to impose
35 new or amend City laws and regulations that would have a material adverse effect on the
36 horizontal or vertical development by the Developer or Vertical Builders or the rights and
37 obligations of the Developer or any Vertical Builder under the DDA, Vertical DDA,
38 Development Agreement or other applicable transactional documents. Any City fees and
39 exactions in violation of these limitations will not qualify as Development Costs.

40
41 5.13 Reinvestment of Real Estate Proceeds. Any proceeds from a sale, lease, or
42 equivalent use of the Navy Real Property (i.e., any mechanism that serves to accomplish the
43 same purposes of a sale or lease such as licenses, permits, concession agreements, etc.) received
44 by the Authority for the Navy Real Property during the first seven (7) years after the date of the
45 last transfer of property to the Authority, must be used to pay the Navy the Initial Consideration
46 and the Additional Consideration as set forth herein, or to support long-term job creation and the

1 economic redevelopment of, or related to, the Navy Real Property. Tax revenues shall not be
2 construed to be proceeds from a sale, lease, or equivalent use of the Navy Real Property.
3

4 5.13.1 Examples of Allowable Uses of Proceeds. Allowable uses of proceeds
5 pursuant to Section 5.13 include payment for, or offsetting the costs of public investment, for the
6 following purposes:
7

8 5.13.1.1 Land acquisition;
9

10 5.13.1.2 Road construction;
11

12 5.13.1.3 Transportation management facilities;
13

14 5.13.1.4 Storm and sanitary sewer construction;
15

16 5.13.1.5 Police and fire protection facilities and other public
17 facilities;
18

19 5.13.1.6 Utility construction;
20

21 5.13.1.7 Building rehabilitation;
22

23 5.13.1.8 Historic property preservation;
24

25 5.13.1.9 Pollution prevention equipment or facilities;
26

27 5.13.1.10 Demolition;
28

29 5.13.1.11 Disposal of hazardous materials generated by demolition;
30

31 5.13.1.12 Landscaping, grading, and other site or public
32 improvements; and
33

34 5.13.1.13 Planning for or the marketing of the redevelopment and
35 reuse of the Navy Real Property.
36

37 Other activities on the Navy Real Property that are related to those listed above
38 (including, for example, new construction related to job creation and economic redevelopment,
39 construction of affordable housing, environmental remediation of the Navy Real Property,
40 environmental insurance, any other capital improvements required to support the economic
41 redevelopment of the Navy Real Property, management and leasing of the Navy Real Property
42 needed to market its redevelopment and reuse and implementation, oversight and regulation of
43 redevelopment of the Navy Real Property via any contracts with public or private entities) would
44 also be considered an appropriate, allowable use of such proceeds.
45

1
2 7.3 Access and Utility Easements or Other Similar Instruments. At each Closing, the
3 Navy shall grant to the Authority or reserve to itself easements, licenses, rights of way, or other
4 similar instruments, as applicable, and at locations mutually and reasonably agreeable to the
5 Parties and adjusted from time to time.
6

7 7.3.1 Access Easements.
8

9 7.3.1.1 The Navy shall grant to the Authority non-exclusive
10 easements, licenses, rights of way, or other similar instruments for ingress and egress
11 on, over and across existing roads on Navy owned Parcels for pedestrian, vehicular
12 and other access as required to connect the Authority owned Parcels to each other and
13 to connect the Authority owned Parcels to publicly accessible roads adjacent to the
14 Navy owned Parcels (the "**Authority Access Easements**"). At the Initial Closing,
15 the Authority Access Easements related to the FOST Parcel shall be granted for the
16 area reasonably necessary to provide the Authority reasonable access to its property.
17 The Authority Access Easements will be provided in an easement agreement or, to
18 the extent mutually agreed by the Parties, in the applicable Quitclaim Deeds or as a
19 license, right of way, or other similar instrument. The Parties shall negotiate in good
20 faith subsequent Authority Access Easements related to other Parcels prior to the
21 subsequent Closing of each such Parcel.
22

23 7.3.1.2 The Navy may reserve to itself, its successors and
24 assigns non-exclusive easements or other similar instruments for ingress and egress
25 on, over and across existing roads on Parcels to be conveyed to the Authority for
26 pedestrian, vehicular and other access as required to connect the Navy owned Parcels
27 to each other, to connect the Navy owned Parcels to publicly accessible roads
28 adjacent to the Parcel to be conveyed to the Authority ("**Navy Reserved Access**
29 **Easement**"). The Navy may reserve non-exclusive easements or other similar
30 instruments for access to third parties that own portions of the former Naval Station
31 Treasure Island, which were previously disposed of and conveyed by the Navy, for
32 ingress and egress on, over and across existing roads on Parcels to be conveyed to the
33 Authority for pedestrian, vehicular and other access as required to connect third party
34 owned parcels of real property to public roads adjacent to the Parcel to be conveyed
35 to the Authority ("**Third Party Access Easement**"). The Navy Reserved Access
36 Easement and Third Party Access Easement are collectively referred to as the "**Navy**
37 **Access Easements.**"
38

39 7.3.1.3 The Authority Access Easements and Navy Access
40 Easements shall include the following:
41

42 7.3.1.3.1 Each Party shall have the right, but not the
43 obligation, to access, repair and maintain such roads, at its own expense, and to the
44 extent that such access, repair or maintenance does not interfere with the development
45 or the environmental remediation of any of its own property.
46

1 abandon, reconfigure or replace existing utilities within such easement in such a manner that
2 would unreasonably interfere with the ability of the other Party to exercise its use of the utilities
3 except where the Party on whose property the Utility Easements exists provides the other Party
4 with suitable comparable alternative utility service and easements over other areas of the
5 Property. Where such redevelopment, closure, abandonment, reconfiguration or replacement is
6 necessary to conduct actions required by the redevelopment that results in such utility no longer
7 providing the intended service or otherwise ceasing to exist, the Utility Easement, as applicable,
8 shall be moved from time to time to include, in the following order of priority either (i) utilities
9 in other improved roads that may exist on the Owner Property, (ii) utilities in other unimproved
10 roads that may exist on the Owner Property, or (iii) utilities in other unimproved portions of the
11 Owner Property. The adjustment of the Utility Easements shall be completed by revising the
12 exhibits in the original Quitclaim Deeds or other applicable instruments with written approval by
13 the Navy or the Authority. The approval will not be unreasonably withheld.
14

15 7.4 Cost of Work on the Easements. The cost of any work and improvements on the
16 easements shall be borne entirely by the Party undertaking such work, except to the extent agreed
17 to in writing by the Parties. The cost of the preparation of surveys and legal descriptions of the
18 easements shall be borne by the requesting Party, except to the extent agreed to in writing by the
19 Parties.
20

21 **ARTICLE 8**

22 **CLOSING AND SETTLEMENT**

23

24 8.1 Opening of Escrow. On or before the Effective Date of this Agreement, the
25 Parties shall open escrow by depositing an executed copy of this Agreement with Title
26 Company. The Parties agree to jointly develop escrow instructions for the Initial Closing and
27 each subsequent Closing, if applicable. The Authority shall deposit the agreed upon escrow
28 instructions with the Title Company that shall serve as the instructions to the Title Company, as
29 the escrow holder, for each of the Closings contemplated hereby. The Navy and the Authority
30 agree to execute such additional escrow instructions as may be appropriate to enable the Title
31 Company to comply with the terms of this Agreement; provided, however, that in the event of
32 any conflict between the provisions of this Agreement and any supplementary escrow
33 instructions, the terms of this Agreement shall control.
34

35 8.2 Navy Deliveries. The Navy shall deliver to escrow at least five (5) days prior to
36 any Closing the following documents, as applicable ("**Navy Closing Documents**"), in a form
37 previously reviewed and approved by the Authority, and duly executed and authorized (and
38 acknowledged if necessary for recordation):
39

40 8.2.1 Quitclaim Deed(s) substantially in the form as set forth in Exhibit D
41 attached hereto.
42

43 8.2.2 Final FOST(s), as appropriate for such Parcel(s) to be conveyed at such
44 Closing that meet the conditions of Section 3.4, and copies of all Regulatory Authority approvals
45 obtained for the applicable Parcel relating to the investigation and environmental response for
46 underground and above-ground petroleum storage tanks, and any releases of petroleum,

1 petroleum derivatives, petroleum fractions, or any chemicals, compounds or products that result
2 from their degradation that meet the conditions of Article 18.

3
4 8.2.3 Bill of Sale for the Navy Personal Property conveyed to the Authority for
5 such Parcel(s), in substantially the form set forth in Exhibit H-1.

6
7 8.2.4 Bill of Sale for the Navy owned Utility Infrastructure located on such
8 Parcel(s) and for the Initial Closing, including off-site Utility Infrastructure, in substantially the
9 form set forth in Exhibit H-2.

10
11 8.2.5 Any Access Easement(s) required by the Authority relating to such
12 Parcel(s), in accordance with Section 7.3.1 of this Agreement.

13
14 8.2.6 Any Utility Easement(s) required by the Authority relating to such
15 Parcel(s), in accordance with Section 7.3.2 of this Agreement.

16
17 8.2.7 Any appropriate instruments assigning the Assignable Easements,
18 Contracts and Permits required by the Authority in accordance with Section 7.1 of this
19 Agreement.

20
21 8.2.8 Any appropriate instruments assigning or replacing the Non-Assignable
22 Easements, Contracts and Permits and perfecting the Unperfected Easements, Contracts and
23 Permits necessary for electricity to be provided to Treasure Island as required by Section 3.7.1.8
24 hereof that the Navy has obtained.

25
26 8.2.9 If applicable, any appropriate instruments assigning or replacing the Non-
27 Assignable Easements, Contracts and Permits and perfecting the Unperfected Easements,
28 Contracts and Permits that are not necessary for electricity to be provided to Treasure Island,
29 which the Navy has been able to obtain as described in Section 3.6 hereof.

30
31 8.2.10 Any LIFO, easements, or other instruments that may be required under
32 Section 3.12.

33
34 8.2.11 For the Initial Closing, a Utilities Agreement or subsequent amendments,
35 as the case may be, as set forth in Article 9, as applicable.

36
37 8.2.12 The Land Use Covenant, as applicable.

38
39 8.2.13 Such additional documents as may be required to close escrow, under this
40 Agreement or by California law.

41
42 8.2.14 Representation to the Authority, in substantially the form set forth in
43 Exhibit N-1, stating that as of the date of Closing, the Navy has the full capacity, right, power,
44 and authority to execute, deliver, and perform this Agreement pursuant hereto for the Closing
45 unless subsequently prohibited by law.

1 8.3 The Authority Deliveries. The Authority shall deliver to escrow at least five (5)
2 days prior to the Initial Closing and, to the extent applicable, any other Closings, the first
3 Installment Payment of the Initial Consideration payable in accordance with Section 4.2 and the
4 following documents in a form previously reviewed and approved by the Navy, and duly
5 executed and authorized (and acknowledged if necessary for recordation) (the "**Authority**
6 **Closing Documents**");

7
8 8.3.1 Acceptance of Quitclaim Deed(s) substantially as set forth in Exhibit D
9 attached hereto.

10
11 8.3.2 Any LIFO, easements, or other instruments that may be required under
12 Section 3.12.

13
14 8.3.3 For the Initial Closing, a Utilities Agreement, or subsequent amendments,
15 as the case may be, as set forth in Article 9, as applicable.

16
17 8.3.4 Any appropriate instruments assigning or replacing the Non-Assignable
18 Easements, Contracts and Permits and perfecting the Unperfected Easements, Contracts and
19 Permits necessary for electricity to be provided to Treasure Island as required by Section 3.7.1.8
20 hereof that the Authority has obtained.

21
22 8.3.5 If applicable, any appropriate instruments assigning or replacing the Non-
23 Assignable Easements, Contracts and Permits and perfecting the Unperfected Easements,
24 Contracts and Permits that are not necessary for electricity to be provided to Treasure Island as
25 required by Section 3.6 hereof.

26
27 8.3.6 Acceptance of any Access Easement(s) required by the Authority relating
28 to such Parcel(s) in accordance with Section 7.3.1 of this Agreement.

29
30 8.3.7 Acceptance of any Utility Easement(s) required by the Authority relating to
31 such Parcel(s) in accordance with Section 7.3.2 of this Agreement.

32
33 8.3.8 Acceptance of any Assignable Easements, Contracts and Permits, Non-
34 Assignable Easements, Contracts and Permits and the Unperfected Easements, Contracts and
35 Permits required by the Authority relating to such Parcel(s), in accordance with Section 7.1 of this
36 Agreement.

37
38 8.3.9 Such additional documents as may be required to close escrow, under this
39 Agreement or by California law.

40
41 8.3.10 Representation to the Navy, in substantially the form set forth in Exhibit N-
42 2, stating that as of the date of Closing, the Authority has the full capacity, right, power, and
43 authority to execute, deliver, and perform this Agreement pursuant hereto for the Closing unless
44 subsequently prohibited by law.

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ARTICLE 9
UTILITY INFRASTRUCTURE AND UTILITIES AGREEMENT

9.1 Utilities Agreement. Concurrently with this Agreement, the Parties are entering into a Utilities Agreement in the form attached hereto as Exhibit E relating to the phased transfer of the existing utility infrastructure on Treasure Island (the "**Utility Infrastructure**"). At the time of any transfer of real property from the Navy to the Authority under this Agreement, (i) the Caretaker Agreement shall not terminate with respect to the real property on Treasure Island retained by the United States (or to any existing utility lines or retained easements required to maintain service to such real property under the Caretaker Agreement) as a result of the transfer, and (ii) the Caretaker Agreement shall automatically terminate with respect to the real property that is transferred to the Authority.

9.2 Navy Role. So long as the Authority maintains an ownership interest in Treasure Island, or operates and maintains the utility infrastructure pursuant to the Caretaker Agreement and the Master Leases, the Navy will not be required under this Agreement to assume responsibility for the operation or maintenance of the Utility Infrastructure or expend funds for such purpose.

9.3 Authority Role. From the Effective Date of this Agreement until such time as the responsibility for providing a specific utility service is assumed by a public utility, the Authority will continue to operate and maintain the Utility Infrastructure under the Caretaker Agreement, as amended from time to time and for so long as it remain in effect, consistent with the Authority's past practice, subject to any required approvals and appropriations of (a) the Authority's Board of Directors and the City's Board of Supervisors and Mayor, and (b) the Secretary of the Navy or his/her designee as appropriate, each in their sole and absolute discretion. The Authority is not a public utility, and therefore shall procure utility services from a public utility as necessary to fulfill its obligations under this Agreement.

9.3.1 During the term of the Caretaker Agreement, the Authority staff shall seek appropriations and any required approvals to continue to operate and maintain the Utility Infrastructure consistent with the Authority's past practice and past annual expenditures before the Effective Date. The Parties understand that the Authority's past practice and past annual utility expenditures have been generally limited to the revenues received by the Authority from utility operations at Treasure Island and some portion of the revenues received from the property on Treasure Island (which are also used to fund all operations and maintenance at Treasure Island and not just utility operations and maintenance). If and to the extent that the Authority has obtained in the past, or obtains in the future, appropriations of funds for utilities operations and maintenance from additional sources such as the City's General Fund (above the revenues received from subleasing activities), any such appropriation will not create an obligation by the Authority to continue to seek such an appropriation in the future, and nothing in this Article 9 shall amend or limit the provisions set forth in Section 22.2.

9.3.2 The Authority shall expend all revenues received by the Authority from the delivery of utility services at Treasure Island on utility-related costs at Treasure Island. Upon receipt of appropriations for utilities maintenance, repairs and operations at Treasure Island, the

1 Authority shall expend all such appropriated funds for utility repairs, maintenance and operations
2 at Treasure Island. Subject to the availability of appropriations as set forth above, the Authority
3 shall use good faith efforts to continue to operate and maintain the utility systems at Treasure
4 Island during the normal course of development until such time as the responsibility for
5 providing a specific utility service is assumed by a public utility.
6

7 9.3.3 The United States Coast Guard (the "**Coast Guard**"), an agency of the
8 United States, operates federally owned land, buildings, and structures on Yerba Buena Island
9 (the "**Coast Guard Installation**") for the benefit of the public, including maritime search and
10 rescue and oil spill response. Other users of the Coast Guard Installation include other federal
11 agencies, agencies of the State of California, and San Francisco municipal agencies, including
12 the San Francisco Fire Department and San Francisco Police Department. Although the Coast
13 Guard Installation is separate from and not part of Naval Station Treasure Island, all users of the
14 Coast Guard Installation are entirely reliant on the existing utility infrastructure installed by the
15 Navy decades ago. The Coast Guard Installation is not subject to the authority provided by §
16 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, 10 U.S.C. § 2687 note, as
17 amended, and is not subject to closure or transfer to the Authority. Subject to the limitations set
18 forth above, the Authority shall consider public health and safety and the Coast Guard
19 Installation's role in the protection of the environment in the San Francisco Bay and the
20 operation of the Ports of San Francisco and Oakland in all decisions regarding the utility
21 infrastructure serving Treasure Island and Yerba Buena Island.
22

23 9.4 Utilities During Development. 24

25 9.4.1 The Parties agree that the proposed development of Treasure Island and
26 Yerba Buena Island with new utility infrastructure will benefit all residents and occupants of
27 Treasure Island and Yerba Buena Island, including the Coast Guard, and that the sooner that
28 such new utility infrastructure can be built, the better for all residents and occupants as such new
29 utility infrastructure will help to improve system reliability and performance.
30

31 9.4.2 It is the objective of the Parties that utility services to all occupants of
32 Treasure Island and Yerba Buena Island, including the Coast Guard, shall be available during the
33 normal course of development until such time as the responsibility for providing a specific utility
34 service is assumed by a public utility. Nevertheless, given the current state of the Utility
35 Infrastructure and the duration of the Treasure Island development period (and the limitation of
36 revenue sources), the Authority cannot guarantee the continued and uninterrupted availability of
37 utility services to Treasure Island. The failure of any Utility Infrastructure, by itself, shall not be
38 a default under this Agreement or give rise to any right or claim against the Authority.
39

40 9.4.3 The Authority and its successors may remove, alter, relocate, or abandon
41 any of the Utility Infrastructure, provided that replacement of that component of the Utility
42 Infrastructure is installed as part of the proposed work (if needed to continue to provide service
43 to the Coast Guard Installation), and there is no material interruption or decrease in service (other
44 than temporary interruptions consistent with infrastructure repair and replacement projects) to
45 the Coast Guard Installation as a result of such work. The Authority shall be responsible for
46 promptly repairing any utility line damaged by the Authority or its agents in connection with

1 work undertaken by it. The Authority shall keep the Navy and the Coast Guard reasonably
2 informed of development plans and schedules that may impact the Coast Guard's access to utility
3 service, and shall respond to requests for additional information.
4

5 9.5 Key Infrastructure. In connection with any transfer of land from the Navy to the
6 Authority, the Navy will (a) reserve non-exclusive easements (each individually an "Easement"
7 and collectively the "Easements") for the use, inspection, operation, maintenance, repair and
8 replacement of the Utility Infrastructure on, over, under, and across those portions of the
9 Property described in the following exhibits (each individually an "Easement Area" and
10 collectively the "Easement Areas"): (i) Exhibit MM-1 easement for water lines; (ii)
11 Exhibit MM-2 easement for electric lines; (iii) Exhibit MM-3 easement for natural gas lines; and
12 (iv) Exhibit MM-4 easement for wastewater lines, and (b) retain fee title to the appropriate
13 Utility Infrastructure located within the Easement Areas (the "Key Infrastructure"). The
14 Authority shall have the right to relocate the Key Infrastructure without the prior consent of the
15 Navy or the Coast Guard, so long as (a) the requirements set forth in Section 9.4.3 are satisfied,
16 and (b) the Coast Guard has been informed of the proposed relocation project at least sixty (60)
17 days before the relocation. Upon the completion of any such relocation, following the cut over
18 and functional operation of the new utility line, the Authority shall provide a legal description of
19 the new Easement Area and deliver to the Navy an easement, in recordable form, that grants
20 access to the relocated Key Infrastructure in the same manner as that reserved by the original
21 Easement, and the Navy shall deliver to the Authority or its successor a quitclaim deed or other
22 instrument, in recordable form, that terminates the original Easement.
23

24 9.5.1 In exercising any rights in the Easement Areas, the Navy and/or the Coast
25 Guard shall (i) provide at least sixty (60) days prior notice before performing any excavation,
26 repair or replacement of any utility infrastructure, except in the event of an emergency,
27 (ii) perform such work in accordance with applicable requirements taking into consideration
28 customary engineering standards and practices in San Francisco, and seek to minimize safety
29 hazards, property damage and disruption, (iii) use reasonable, good faith efforts to comply with
30 the reasonable traffic and utility coordination requirements of Grantee, (iv) comply with the
31 requirements of the Underground Service Alert regarding notification of excavation and marking
32 of subsurface facilities, (v) promptly repair any damage to property (including any utility
33 infrastructure) resulting from exercise of its easement rights, and (vi) comply with the utility
34 provider's standard terms and conditions if and when connecting to that utility provider's
35 equipment. Notwithstanding anything to the contrary above, in the event of an emergency, the
36 Coast Guard shall have the right to begin work immediately if it reasonably determines that the
37 Authority is not able or willing to perform the required repair work.
38

39 9.5.2 In connection with the use of the Easement Areas, the Navy and the Coast
40 Guard shall meet and confer with Authority, and the parties shall coordinate and cooperate in
41 good faith at all times to expeditiously resolve all matters and to avoid any potential conflicts in
42 use, and any disruption in the operations of Treasure Island and Yerba Buena Island to the
43 greatest extent possible. In the event of any dispute regarding the Easement Areas, the conflict
44 dispute resolution process described in Section 27.2.1 shall apply, provided the foregoing shall
45 not prevent the Coast Guard from making any emergency repairs as needed to restore service to
46 the Coast Guard Installation as set forth in Section 9.5.1. To the maximum extent provided by

1 law, the Authority, the Navy and the Coast Guard shall each remain responsible for all liabilities,
2 claims, demands, judgments, suits, litigation, or amounts payable attributable to their respective
3 uses or activities on or about the Property.
4

5 9.5.3 When the Authority has installed a new utility line that has been dedicated
6 to and accepted by a public utility, and utility service to the Coast Guard Installation can connect
7 to such new infrastructure in accordance with the public utility's standard terms and conditions
8 of service (such that the Easement Area is no longer needed), the applicable Easement will
9 automatically terminate, together with the Navy's rights in and to the Key Infrastructure located
10 within that Easement Area, except to the extent that the point of connection is located outside the
11 Coast Guard Installation, in which case the easement shall continue to run in perpetuity from the
12 Coast Guard Installation to the point of connection. At the request of the Authority or the
13 successor owner of the applicable property, the Navy shall confirm the termination of the
14 Easement and the transfer of the Key Infrastructure by executing and delivering a quitclaim
15 deed, bill of sale, or other instrument in a form reasonably acceptable to the Authority or its
16 successor.
17

18 **ARTICLE 10**
19 **TIME OF THE ESSENCE AND POSTPONEMENT**
20

21 10.1 Time is of the Essence. The Parties agree that a fundamental component of this
22 Agreement is the timely disposal of the Navy Real Property by the Navy, which will permit the
23 economic redevelopment of the Navy Real Property. Accordingly, the Parties agree that time is
24 of the essence in this Agreement.
25

26 10.2 Postponement. A party who is subject to Excusable Delay in the performance of
27 an obligation hereunder (including, without limitation, compliance with the Conveyance
28 Schedule), or in the satisfaction of a condition to the other Party's performance hereunder, shall
29 be entitled to a postponement of the time for performance of such obligation or satisfaction of
30 such condition during the period of enforced delay attributable to an event of Excusable Delay.
31

32 10.2.1 Notice of Excusable Delay. The Excusable Delay provisions of this
33 Section shall not apply unless (1) the Party seeking to rely upon such provisions shall have given
34 notice to the other Party as soon as reasonably possible, but in no event later than the earlier of (i)
35 thirty (30) days after obtaining knowledge of the beginning of an Excusable Delay or (ii) the
36 deadline for performance of the term, covenant or condition of this Agreement that is subject to
37 the Excusable Delay, of such delay and the cause or causes thereof, to the extent known, and (2)
38 the Party claiming the Excusable Delay must at all times be acting diligently and in good faith to
39 avoid foreseeable delays in performance, and to remove the cause of the delay or to develop a
40 reasonable alternative means of performance. Notwithstanding the foregoing, no later than thirty
41 (30) days after the execution of this Agreement, the Parties shall provide notice to the other of any
42 event of Excusable Delay that may exist as of the date of execution but may have arisen prior to
43 the execution hereof.
44

45 10.2.2 Extensions. Either Party may extend time for the other Party's
46 performance of any term, covenant or condition of this Agreement or permit the curing of any

1 default upon such terms and conditions as it determines appropriate; provided, however, that
2 any such extension or permissive curing of any particular default shall not operate to release
3 any of the other Party's obligations, nor constitute a waiver of the extending Party's rights with
4 respect to any other term, covenant or condition of this Agreement or any other breach of this
5 Agreement. The Parties may extend the time for performance by either or both Parties of any
6 term, covenant or condition of this Agreement by a written instrument signed by authorized
7 representatives of both Parties without the execution of an amendment to this Agreement.
8

9
10 **ARTICLE II**
11 **ENVIRONMENTAL REPORTS**

12 11.1 From and after the Effective Date, the Navy will make available to the Authority
13 all known Environmental Reports prepared by or for the Navy with respect to the Navy Real
14 Property that is subject to the Closing. The Authority and its agents, its successors, and its
15 transferees, at their own expense, shall have the right to inspect, review, and copy any or all of
16 the Environmental Reports within a reasonable timeframe of providing notice to the Navy.
17

18 11.2 The CERCLA administrative record component of the Environmental Reports
19 shall be indexed and an up-to-date copy of the index and the location of the records shall be
20 provided to the Authority prior to each Closing, at no cost to the Authority. The administrative
21 record shall be maintained by the Navy in the San Diego area or at another location at or
22 proximate to the Navy Real Property.
23

24 11.3 The CERCLA administrative record will be maintained by the Navy for a period
25 of ten (10) years following the date that the last Parcel is transferred to the Authority.
26

27 **ARTICLE 12**
28 **DELIVERY OF THE NAVY REAL PROPERTY DOCUMENTS**

29
30 12.1 From and after the Effective Date, the Navy will make available to the Authority
31 for inspection and copying those surveys, soils and geological reports, studies, assessments, test
32 results, well close-out reports, leases, licenses, easements, permits, contracts and other
33 documents relating to the physical or structural composition of the Navy Real Property including
34 plans and specifications for buildings and other improvements, drawings of underground utility
35 systems (including gas, sewer, water, electrical, and telephone), personal property (including
36 executed and completed motor vehicle transfer of ownership forms) and any and all other
37 documents of material significance to the ownership, use, management or operation of the Navy
38 Real Property ("**Navy Real Property Documents**") which are physically located at the
39 following repositories: (1) Building 1, Treasure Island, and (2) Southwest Division of the Naval
40 Facilities Engineering Command, San Diego, California. The Navy shall permit access to the
41 Authority to the identified repositories and such other locations that may be subsequently
42 identified for inspection and copying of any Navy Real Property Documents available to the
43 Navy that are identified by the Authority related to the Navy Real Property. The Authority and
44 its transferees and agents, at their own expense, shall have the right to inspect, review, and copy
45 any or all of the Navy Real Property Documents with reasonable prior notice to the Navy.
46 Nothing herein shall require the Navy to release information, documents, or databases to the

1 Authority or other parties that would be contrary to the Freedom of Information Act, that are
2 privileged, or that would be in violation of federal law.
3

4 **ARTICLE 13**
5 **NAVY OFFICE**
6

7 13.1 Commencing on the date of the Initial Closing and continuing until the date that is
8 seven (7) years after the Initial Closing (unless terminated earlier by Navy), the Navy shall have
9 the right to occupy up to three thousand five hundred (3,500) square feet of office space and up
10 to two thousand (2,000) square feet of space for file storage, which file storage may be located
11 in non-contiguous or non-adjacent spaces, for the Navy caretaker site office (the "Navy Office")
12 and six reserved parking spaces. At the Initial Closing, the Navy Office will continue to be
13 located in Building 1, as more particularly shown on Exhibit K-1 attached hereto and to the
14 extent practicable, Navy shall be permitted to remain in its presently existing office space until
15 such space is required for implementation of the Project. The terms of occupancy for the Navy
16 Office are set forth in Exhibit K-2 attached hereto ("Navy Office Provisions"). Navy shall be
17 responsible for its cost of utilities serving the Navy Office, but the Navy Office Provisions shall
18 otherwise be rent free for the seven (7) year period. The Authority shall have the right, from
19 time to time during the Navy Office Provision term, to relocate the Navy Office to another
20 location within Building 1 or to one of the buildings known as the Great Whites as more
21 particularly shown on Exhibit K-3 attached hereto, or to any other adequate location on Treasure
22 Island or Yerba Buena Island, by giving Navy no less than six (6) months' prior written notice.
23 The relocation premises shall be substantially equivalent in size, general quality, and dimensions
24 to the then-existing premises but while the office space shall be contiguous, the relocated storage
25 space may be located in one or more non-contiguous spaces. The Authority shall bear all
26 reasonable costs incurred by the Authority to physically relocate Navy to any relocation space,
27 and shall be responsible for the cost of standard tenant improvements for the relocation
28 consistent in quality with the Navy's current space in Building 1. Reasonable costs and standard
29 tenant improvements, as those terms are used herein, shall include but not be limited to the cost
30 of a dedicated T1 transmission line at any relocation space and the cost of establishing Navy and
31 Marine Corp Intranet (NMCI) connectivity to the relocation space. The Navy Office Provisions
32 further outlines the requirements of the Authority and the Navy. Navy shall be entitled at any
33 time upon thirty (30) days prior written notice to terminate the Navy Office Provisions. At the
34 expiration of the initial seven (7) year occupancy period, the Navy may elect to terminate its
35 occupancy, or to renew its occupancy under the same terms as the Navy Office Provisions
36 provided that consideration for any renewal period will be at fair market rent, to be determined
37 by the Authority based on the highest and best use permitted for the occupied space, supported
38 by documented market examples at Treasure Island, if available. The Authority shall have the
39 right to assign its interest in Building 1, or the building to which the Navy is relocated, to
40 Developer or its successors or assigns, by leasehold or other instrument, so long as the Authority
41 retains rights under such leasehold or other instrument that will enable the Authority to satisfy its
42 obligations to provide the Navy Office and the six reserved parking spaces in accordance with
43 the terms of this Section and the Navy Office Provisions.
44

45 13.2 All personal property associated with the Navy Office shall be excluded from
46 transfer until such time as the Navy Office Provisions is terminated. Upon Navy Office

1 Provisions termination, the Navy upon its sole right shall determine excess personal property to
2 be made available to the Authority.

3
4 **ARTICLE 14**
5 **NAVY REPRESENTATIONS**
6

7 14.1 The Navy hereby represents to the Authority on and as of the Effective Date and
8 will represent as of the date of each Closing as follows:
9

10 14.1.1 Execution of Agreement. That the Navy has full capacity, right, power and
11 authority to execute, deliver and perform this Agreement and all documents to be executed by the
12 Navy pursuant hereto, and all required action and approvals therefore have been duly taken and
13 obtained for the execution of this Agreement. The Navy further represents to the Authority that
14 as of the date of Closing, the Navy shall have full capacity, right, power and authority to execute,
15 deliver and perform this Agreement and all documents to be executed by the Navy pursuant
16 hereto for the Closing unless subsequently prohibited by law. This Agreement and all documents
17 to be executed pursuant hereto by the Navy are and shall be binding upon and enforceable against
18 the Navy in accordance with their respective terms.
19

20 14.1.2 Complete Information. All known relevant Environmental Reports and
21 Navy Real Property Documents of material significance have been made available to the
22 Authority for inspection and copying.
23

24 **ARTICLE 15**
25 **AUTHORITY REPRESENTATIONS**
26

27 15.1 The Authority hereby represents to the Navy that on and as of the Effective Date,
28 the Authority has full capacity, right, power and authority to execute, deliver and perform this
29 Agreement and all documents to be executed by the Authority pursuant hereto, and all required
30 action and approvals therefore have been duly taken and obtained for the execution of this
31 Agreement. The Authority further represents to the Navy that as of each Closing, the Authority
32 shall have full capacity, right, power and authority to execute, deliver and perform this
33 Agreement and all documents to be executed by the Authority pursuant hereto, and all required
34 action and approvals will have been duly taken and obtained for the Closing. The individuals
35 signing this Agreement and all other documents executed or to be executed pursuant hereto on
36 behalf of the Authority shall be duly authorized to sign the same on the Authority's behalf and to
37 bind the Authority thereto. This Agreement and all documents to be executed pursuant hereto by
38 the Authority are and shall be binding upon and enforceable against the Authority in accordance
39 with their respective terms.
40

41 **ARTICLE 16**
42 **TITLE AND NAVY COVENANTS**
43

44 16.1 From the Effective Date to the Closing, the Navy shall not do, permit, or agree to
45 sell, encumber or grant any interest in the Navy Property or any part thereof in any form or
46 manner whatsoever or otherwise perform or permit any act which will diminish or otherwise

1 affect the Authority's interest under this Agreement or in or to the Navy Property or which will
2 prevent the Navy's full performance of its obligations hereunder, without the prior written
3 consent of the Authority except environmental restrictions or land use covenants consistent with
4 Section 3.4.2 as may be designated in the CERCLA Record of Decision, an approved Corrective
5 Action Plan or the FOST.
6

7 16.2 The Navy shall not remove or alter any Navy Personal Property or Utility
8 Infrastructure that is intended to be transferred by this Agreement to the Authority, without the
9 prior written consent of the Authority, except when such removals or alterations are in
10 association with the Navy's continuing obligations under CERCLA, 42 U.S.C. § 9601, et seq.
11

12 **ARTICLE 17**

13 **ENVIRONMENTAL PROVISIONS**

14

15 17.1 Navy Obligations Under 42 U.S.C. § 9620(h) of CERCLA. The Navy Real
16 Property shall be conveyed subject to the Navy's obligations with regard to Hazardous
17 Substances as set forth in CERCLA at 42 U.S.C. § 9620(h)(3).
18

19 17.2 CERCLA Access. The Quitclaim Deeds shall include a clause granting the
20 United States access rights to the Navy Real Property pursuant to Section 120(h)(3)(A)(iii) of
21 CERCLA at 42 U.S.C. § 9620(h)(3)(A)(iii) in any case in which remedial action or corrective
22 action is found to be necessary after the date of transfer.
23

24 17.3 Lead-Based Paint. The Quitclaim Deeds shall incorporate the Lead-Based Paint
25 (hereinafter referred to as "LBP") Disclosure and restrictions required by 40 CFR § 745.113, if
26 applicable, and other applicable authority. The Parties agree that the Authority, or its successors
27 or assigns, will seek approval of a procedure through the State of California whereby once the
28 LBP is removed from the Navy Real Property in compliance with Federal and State standards,
29 the LBP Disclosure and restrictions can be removed from the Quitclaim Deeds in accordance
30 with the approved procedure. The Navy agrees to cooperate with such procedure upon approval
31 by the State of California, and, if applicable, sign all amended Quitclaim Deeds as necessary.
32

33 17.4 Asbestos. The Quitclaim Deeds shall include any notifications or restrictions
34 concerning asbestos or asbestos-containing materials ("ACM") that have been found on the
35 Navy Real Property, as described in the Final 2009 Asbestos Reevaluation Report for Treasure
36 Island and Yerba Buena Island dated February 2011, if applicable. The Parties agree that the
37 Authority, or its successors or assigns, will seek approval of a procedure through the State of
38 California, whereby once the ACM is removed from the Navy Real Property in compliance with
39 Federal and State standards, the ACM notification and any other ACM reference can be removed
40 from the Quitclaim Deeds in accordance with the approved procedure. The Navy agrees to
41 cooperate with such procedure upon approval by the State of California, and, upon removal, if
42 applicable, sign all amended Quitclaim Deeds as necessary.
43

44 17.5 Radiological Contamination. If additional screening, investigation or remediation
45 related to radiological contamination (other than employee health and safety plan screening to be
46 conducted by a contractor prior to or during construction) is required by applicable law or

1 regulation for any portion of the real property previously conveyed by the Navy to the Authority,
2 the Navy will undertake such additional screening, investigation, and/or remediation pursuant to
3 such applicable laws and regulations. If any portion of Navy owned property not yet conveyed
4 to the Authority is identified as impacted by radiological contamination, and as a consequence
5 the Navy fails to convey such portion of the Navy Real Property by the applicable date set forth
6 in the Conveyance Schedule ("**Delayed Parcel**"), within ten (10) days of a written request from
7 the Authority, the Navy shall deliver to the Authority information describing (i) the current status
8 of the remediation of the Delayed Parcel, (ii) the estimated cost to complete the remediation of
9 the Delayed Parcel, and (iii) the estimated date when the Delayed Parcel can be conveyed to the
10 Authority in the condition required by this Agreement. Nothing in this Agreement transfers
11 responsibility for the screening, investigation, management, or remediation of any potential
12 radiological contamination caused by the Navy or its agents to the Authority, or any third party
13 claims relating thereto, and the Navy retains such responsibility in accordance with applicable
14 laws and regulations. If requested by the Authority, the Parties shall meet and explore the
15 potential for utilizing an agreement pursuant to 10 U.S.C. 2701(d) under which the Navy shall
16 have the option, but not the obligation, of allowing the amount of the Initial or Additional
17 Consideration then remaining payable to the Navy to fund the performance of environmental
18 remediation on the Delayed Parcel in accordance with the scope and cost agreed to by the Parties
19 in the agreement in lieu of direct payment of such consideration to the Navy.
20

21 **ARTICLE 18**

22 **PETROLEUM CORRECTIVE ACTION**

23

24 18.1 The Navy represents that as of the Effective Date, it has satisfied all requirements,
25 obligations and objectives included in the FFSRA and the current Petroleum Corrective Action
26 Plan as they relate to petroleum products, underground and above ground storage tanks and
27 related piping, petroleum derivatives, fractions and daughter products (collectively, "**Petroleum**
28 **Products**"), except for YF-3 and Site 6, which shall be governed by Sections 18.2 and 18.3
29 hereof.
30

31 18.2 The Navy shall satisfy all requirements, obligations and objectives included in the
32 FFSRA and the current Petroleum Corrective Action Plan as they relate to Petroleum Products
33 related to Site 6 prior to Closing for that parcel.
34

35 18.3 YF-3 may be conveyed prior to the completion of the petroleum corrective action
36 identified in the FFSRA and the current Petroleum Corrective Action Plan; provided, however,
37 that the Navy will continue to be the responsible party to complete the corrective action and
38 obtain regulatory closure for YF-3.
39

40 **ARTICLE 19**

41 **COVENANT AGAINST CONTINGENT FEES**

42

43 19.1 The Authority warrants that no person or agency has been employed or retained to
44 solicit or secure this Agreement upon an agreement or understanding for a commission,
45 percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established
46 commercial agencies maintained by the Authority for the purpose of securing the successful

1 purchase of the Navy Property by the Authority. "Bona fide established commercial agencies"
2 has been construed to include licensed real estate brokers engaged in the business generally. For
3 breach or violation of the warranty, Navy has the right to annul this Agreement without liability
4 or in its discretion to require the Authority to pay, in addition to the consideration, the full
5 amount of such commission, percentage, brokerage, or contingent fee.
6

7 **ARTICLE 20**
8 **NOTICES**
9

10 20.1 Notices shall be deemed sufficient under this Agreement if made in writing and
11 delivered personally (including by messenger) or sent by United States registered or certified
12 mail, return receipt requested, postage prepaid, or by courier, postage prepaid and addressed to
13 the Parties at their respective addresses set forth below (or to any new or substitute address
14 hereinafter specified, in a writing theretofore delivered in accordance with the notice procedure
15 set forth herein by the intended recipient of such notice), and the same shall be effective upon
16 receipt, if delivered personally or by messenger, or two (2) business days after deposit in the mail
17 if mailed:
18

19 If to the Authority: Treasure Island Development Authority
20 One Avenue of the Palms, Suite 241
21 Treasure Island
22 San Francisco, CA 94130
23 Attn: Treasure Island Project Director
24 Telephone: (415) 274-0662
25 Facsimile: (415) 274-0299
26 Email: bob.beck@sfgov.org
27

28 With a copy to: Office of the City Attorney
29 City and County of San Francisco
30 City Hall, Room 234
31 1 Dr. Carlton B. Goodlett Place
32 San Francisco, CA 94102
33 Attn: Real Estate Team Leader
34 Telephone: (415) 554-4735
35 Facsimile: (415) 554-4755
36 Email: charles.sullivan@sfgov.org
37

38 With a copy to: George R. Schlossberg, Esq.
39 Kutak Rock LLP
40 1101 Connecticut Avenue, N.W.
41 Suite 1000
42 Washington, DC 20036
43 Telephone: (202) 828-2418
44 Facsimile: (202) 828-2488
45 Email: george.schlossberg@kutakrock.com
46

1 If to the Navy: NAVFAC HQ Base Realignment and Closure
2 Program Management Office West
3 1455 Frazee Road
4 Suite 900
5 San Diego, California 92108-4310
6 Attn: Director
7 Telephone: (619) 532-0992
8 Facsimile: (619) 532-0983
9

10 With a copy to: NAVFAC HQ Base Realignment and Closure
11 Office of Counsel
12 1455 Frazee Road
13 Suite 900
14 San Diego, California 92108-4310
15

16 20.2 Either Party may direct in writing that any notices be sent to additional parties.
17 The provision of notice to additional parties shall not make such additional parties third party
18 beneficiaries of this Agreement.
19

20 **ARTICLE 21**
21 **PRIOR LIABILITIES**
22

23 21.1 To the extent provided by law, the Navy shall remain responsible for all
24 liabilities, claims, demands, judgments, suits, litigation, amounts payable (collectively, "**Pre-**
25 **Closing Obligations**") against the Navy attributable to the Navy's construction, installation,
26 placement, operation, maintenance, misuse, abandonment or failure to maintain the buildings and
27 equipment and land during the period prior to the conveyance of the Navy Real Property to the
28 Authority pursuant to this Agreement, and with regard to a separate lease, contract for caretaker
29 services, or other agreement, the Navy's responsibility and the Authority's responsibility for Pre-
30 Closing Obligations will be as set forth in those documents. Except as otherwise provided in the
31 Quitclaim Deeds, the Authority shall notify the Navy of the existence or occurrence of any such
32 Pre-Closing Obligations of which it has knowledge sufficiently in advance of the scheduled
33 Closing date to allow disposition thereof, if necessary, and shall cooperate with the Navy in the
34 disposition thereof prior to the scheduled Closing date.
35

36 **ARTICLE 22**
37 **AUTHORITY'S AVAILABILITY OF FUNDS**
38

39 22.1 Except for the Authority's recoupment obligations as set forth in Section 5.13.3
40 and the Authority's obligation to provide security for the payment of the Initial Consideration as
41 set forth in Section 4.2.11 of this Agreement, there shall be no obligation for the payment or
42 expenditure of money by the Authority under this Agreement unless there is a valid
43 appropriation from which the expenditure may be made and that unencumbered funds are
44 available from the appropriation for the expenditure.
45

1 environmental restrictions or land use covenants consistent with the Agreement as may be
2 designated in the CERCLA Record of Decision, an approved Corrective Action Plan or the
3 FOST.

4
5 **ARTICLE 26**
6 **FURTHER ASSURANCES**
7

8 26.1 The Parties acknowledge that it is their mutual intent to effectuate an orderly,
9 amicable, and expeditious transfer of the Navy Real Property from Navy to the Authority and
10 that, toward that end, (i) any or all ambiguities herein shall, to the extent practicable, be
11 construed in the way most liberally conducive to the aforesaid conveyance, (ii) neither Party
12 shall be considered the drafter of this Agreement or any of its provisions for the purposes of any
13 statute, case law, or rule of interpretation or construction, that would or might cause any
14 provision to be construed against the drafter of the Agreement, and (iii) the Parties agree to
15 execute, deliver and perform under the terms of such other documents as their respective legal
16 counsel may deem necessary or appropriate to effect the purposes of this Agreement.
17

18 **ARTICLE 27**
19 **DISPUTE RESOLUTION PROCEDURES**
20

21 27.1 Resolution of Certain Disputes. Any other provision of this Agreement
22 notwithstanding, (i) disputes identified in Section 27.3.2 shall be resolved by non-binding
23 arbitration in accordance with the expedited dispute resolution procedure set forth in Section
24 27.3.2, and (ii) such other disputes under this Agreement shall be resolved either by non-binding
25 arbitration in accordance with the non-binding arbitration procedures set forth in Section 27.3.3
26 if the Parties mutually agree, or barring such mutual agreement as to a particular other dispute, in
27 accordance with this Agreement and all applicable laws.
28

29 27.2 Good Faith Meet and Confer Requirement.
30

31 27.2.1 With respect to any dispute regarding a matter identified in Section 27.3.2,
32 the Parties shall make a good faith effort to resolve the dispute prior to non-binding arbitration.
33 Within five (5) business days after a request to confer regarding an identified matter,
34 representatives of the Parties who are vested with decision-making authority shall meet to resolve
35 the dispute. If the Parties are unable to resolve the dispute at the meeting, the matter shall
36 immediately be submitted to the expedited dispute resolution process set forth in Section 27.3.2.
37

38 27.2.2 With respect to any other dispute arising hereunder, the Parties shall make
39 a good faith effort to resolve the dispute in the most expeditious manner possible. Within five (5)
40 business days after receipt of the notice of dispute, representatives of the affected Parties shall
41 meet to resolve the dispute. If the Parties are unable to resolve the dispute in good faith within
42 ten (10) business days after receipt of the notice of dispute, the Parties shall either agree within
43 ten (10) business days after receipt of the notice of dispute to proceed with the non-binding
44 arbitration procedures set forth in Section 27.3.3, or barring such agreement, either Party may
45 proceed unilaterally as permitted by this Agreement or by law.
46

1 27.3 Dispute Resolution Procedures.

2
3 27.3.1 Arbiters. The non-binding arbitrator (“**Arbiter**”) will be selected by
4 mutual agreement of the parties to be determined no later than thirty (30) days prior to the Initial
5 Closing from a list of at least six (6) and up to ten (10) pre-approved Arbiters from the list
6 attached hereto as Exhibit GG (the “**Pre-Approved Arbiters List**”). The Arbiter will hear all
7 disputes under this Agreement unless the Arbiter is not available to meet the time schedule set
8 forth herein, in which case the Parties may agree to direct the dispute to another Arbiter on the
9 Pre-Approved Arbiters List. If none of the Arbiters listed is able or willing to serve, the parties
10 shall mutually agree on the selection of an Arbiter to serve for the purposes of this dispute. The
11 Arbiter appointed must meet the Arbiters’ Qualifications. The “**Arbiters’ Qualifications**” shall
12 be defined as at least ten (10) years experience in a real property professional capacity, such as a
13 real estate appraiser, broker, real estate economist, or attorney, in the Bay Area. The Parties shall
14 review the Pre-Approved Arbiters List on an annual basis, determine the continued availability
15 and willingness to serve of each Arbiter, and may at that time or from time to time, seek to add or
16 subtract arbiters from the Pre-Approved Arbiter List, by notice in writing to the other Party. Any
17 such notice will be accompanied by supporting documentation of the new proposed Arbiter’s
18 qualifications or with the reasons for seeking to remove an Arbiter from the Pre-Approved
19 Arbiters List, as applicable. The other Party shall have fifteen (15) business days to respond in
20 writing to such request, and failure to respond shall be deemed consent. If the other Party objects,
21 the Parties shall confer pursuant to Section 27.2.2 and thereafter such disputes (if still unresolved
22 after conferring) shall be referred to arbitration pursuant to Section 27.3.2. Notwithstanding the
23 foregoing, if based upon the annual review or at any time during the Term, the Parties become
24 aware that an Arbiter has become unavailable to serve in any prospective Arbitration or has
25 expressed an unwillingness to continue to serve, the Parties shall replace that Arbiter with a new
26 Arbiter mutually agreed-upon by the Parties.

27
28 27.3.2 Expedited Dispute Resolution Procedure. The Parties hereby agree that the
29 following disputes shall be subject to this expedited dispute resolution procedure: (i) Major Phase
30 Decisions (pursuant to Section 5.6 hereof); (ii) proposed amendments to appraisal instructions
31 (pursuant to Section 5.4 hereof); (iii) proposed additions or subtractions to the Qualified
32 Appraiser Pool (pursuant to Section 5.4.1 hereof); (iv) proposed additions or subtractions to the
33 Pre-Approved Arbiters List (pursuant to Section 27.3.1); (v) disputes related to Redesign Work
34 Program and Costs (pursuant to Section 4.2.9); or (vi) any matter the Authority in its reasonable
35 discretion believes has the potential to materially delay the Project.

36
37 27.3.2.1 The Party(ies) disputing any matter subject to this
38 expedited dispute resolution procedure shall, within five (5) business days after
39 submittal of the dispute to non-binding arbitration, submit a brief with all supporting
40 evidence to the Arbiter with copies to all Parties. Evidence may include, but is not
41 limited to, expert or consultant opinions, any form of graphic evidence, including
42 photos, maps or graphs and any other evidence the Parties may choose to submit in
43 their discretion to assist the Arbiter in resolving the dispute. In either case, any
44 interested Party may submit an additional brief within three (3) business days after
45 distribution of the initial brief. The Arbiter thereafter shall hold a telephonic hearing
46 and issue a decision in the matter promptly, but in any event within ten (10) business

1 days after the initiation of the non-binding arbitration, unless the Arbiter determines
2 that further briefing is necessary, in which case the additional brief(s) addressing only
3 those items or issues identified by the Arbiter shall be submitted to the Arbiter (with
4 copies to all Parties) within five (5) business days after the Arbiter's request, and
5 thereafter the Arbiter shall hold a telephonic hearing and issue a decision promptly
6 but in any event within two (2) business days after submission of such additional
7 briefs, and no later than seventeen (17) business days after the initiation of the non-
8 binding arbitration. Each Party will give due consideration to the Arbiter's decision
9 prior to pursuing further legal action, which decision to pursue further legal action
10 shall be made in each Party's sole and absolute discretion.
11

12 27.3.3 Non-Binding Arbitration Process for Other Disputes.

14 27.3.3.1 Election to Participate in Non-Binding Arbitration.

15 If the dispute is arising under this Agreement and is not otherwise subject to Section
16 27.3.2, and the Parties so agree in accordance with Section 27.2.2, the Parties shall
17 submit the dispute to non-binding arbitration by notifying the Arbiter (selected as
18 described in Section 27.3.1) of the dispute within ten (10) business days after
19 expiration of the good faith meet and confer provisions of Section 27.2. Thereafter,
20 within ten (10) business days, each Party to the dispute shall submit to the Arbiter and
21 serve on the other Party to the non-binding arbitration a short statement of the dispute
22 and a proposed discovery and hearing schedule.
23

24 27.3.3.2 Preliminary Hearing. Within twenty (20) business
25 days after notice of the election to participate in non-binding arbitration, the Arbiter
26 shall conduct, either telephonically or in-person, a preliminary hearing. At the
27 preliminary hearing the Arbiter shall decide discovery and briefing issues and set
28 dates, including a hearing date. In resolving discovery issues, the Arbiter shall
29 consider expediency, cost effectiveness, fairness, and the needs of the Parties for
30 adequate information with respect to the dispute.
31

32 27.3.3.3 Retention of Consultants. The Parties by mutual
33 agreement may retain consultants to assist the Arbiter in the course of Arbitration, if
34 requested by the Arbiter. In his or her request, the Arbiter shall provide to all Parties
35 to the dispute an explanation for the need for the consultant, the consultant's identity,
36 hourly rate, and the estimated costs of the service. All Parties to the dispute must
37 approve the retention of the consultant and, if retention of the consultant is approved,
38 Authority, or Developer on behalf of Authority, shall contract with, if necessary, and
39 pay the costs of the consultant, subject to the provisions regarding fees and costs set
40 forth in Section 27.3.5 below. The consultant's cost shall not exceed \$10,000 without
41 the prior written consent of the Parties to the dispute. All consultant costs paid by
42 Authority that are not credited against Initial or Additional Consideration in
43 accordance with Section 27.3.5 below shall be included as Development Costs in
44 calculating the Additional Consideration.
45

1 27.3.3.4 Commencement of Non-Binding Arbitration. The
2 non-binding arbitration hearing shall commence no later than sixty (60) days after the
3 initial preliminary hearing, unless the Parties to the dispute mutually agree to extend
4 the date or the Arbitrator extends the date.
5

6 27.3.3.5 Additional Procedural Requirements. The
7 procedural rules of the non-binding arbitration under Section 27.3.3 shall be
8 supplemented by any non-conflicting non-binding arbitration procedures of other
9 alternative dispute resolution providers as may be mutually agreed upon by the
10 Parties from time to time, applicable to commercial non-binding arbitration, and may
11 be modified by agreement of the Parties.
12

13 27.3.3.6 Decision of Arbitrator. The Arbitrator shall make a
14 written non-binding advisory decision, specifying the reasons for the decision, within
15 twenty (20) calendar days after the hearing. Each Party will give due consideration to
16 the Arbitrator's decision prior to pursuing further legal action, which decision to pursue
17 further legal action shall be made in each Party's sole and absolute discretion.
18

19 27.3.3.7 Time Period to Complete Non-Binding Arbitration.
20 The non-binding arbitration shall be completed within eighty (80) calendar days of
21 the preliminary hearing, unless the parties to the dispute mutually agree to extend the
22 date or the Arbitrator extends the date.
23

24 27.3.4 Additional Provisions Governing Non-binding Arbitration of Disputes.
25

26 27.3.4.1 Disputes Involving Arbitrability of Disputes. The
27 Arbitrator shall decide any dispute involving either the right to have a disputed matter
28 submitted to non-binding arbitration or whether the matter is properly the subject of
29 the expedited dispute resolution procedure pursuant to Section 27.3.2. The Parties to
30 such dispute shall provide notice of the dispute and submit in writing their respective
31 positions regarding the dispute to the Arbitrator. No such submission shall exceed ten
32 double spaced pages. The Arbitrator shall make his or her decision within five (5) days
33 of the last submission.
34

35 27.3.4.2 No Res Judicata or Collateral Estoppel Effect. Any
36 determination or finding of any non-binding arbitration conducted pursuant to this
37 Article shall not have any res judicata or collateral estoppel effect in any other non-
38 binding arbitration conducted pursuant to this Article, or in any other action
39 commenced by any person(s) or entity(ies) whomsoever in state or federal court,
40 whether or not Parties to this Agreement.
41

42 27.3.4.3 No Ex Parte Communications. No Party or anyone
43 acting on its behalf shall have any ex parte communication with the Arbitrator with
44 regard to any matters in issue. Communications concerning procedural matters such
45 as scheduling shall not be included in this prohibition.
46

1 replaces the Authority as the designated and federally approved Local Redevelopment Authority
2 under the Defense Base Closure and Realignment Act of 1990, as amended.
3

4 **ARTICLE 29**
5 **INTERPRETATION**
6

7 29.1 The headings and captions herein are inserted for convenient reference only and
8 the same shall not limit or construe the paragraphs or sections to which they apply or otherwise
9 affect the interpretation hereof.
10

11 29.2 The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar
12 terms shall refer to this Agreement, and the term "hereafter" shall mean after, and the term
13 "heretofore" shall mean before, the date of this Agreement.
14

15 29.3 Words of the masculine, feminine or neuter gender shall mean and include the
16 correlative words of other genders, and words importing the singular number shall mean and
17 include the plural number and vice versa.
18

19 29.4 Words importing persons shall include firms, associations, partnerships (including
20 limited partnerships), trusts, corporations and other legal entities, including public bodies, as well
21 as natural persons.
22

23 29.5 The terms "include," "including" and similar terms shall be construed as if
24 followed by the phrase "without being limited to."
25

26 29.6 This Agreement shall be governed by and construed in accordance with Federal
27 law and the laws of the State of California, provided, that in the event of a conflict between
28 Federal law and the laws of the State of California, the Federal law shall govern.
29

30 29.7 Whenever under the terms of this Agreement the time for performance of a
31 covenant or condition falls upon a Saturday, Sunday or holiday observed by the performing
32 party, such time for performance shall be extended to the next business day. Otherwise all
33 references herein to "days" shall mean calendar days.
34

35 29.8 If any term or provision of this Agreement or the application thereof to any person
36 or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this
37 Agreement, or the application of such term or provision to persons or circumstances other than
38 those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such
39 term and provision of this Agreement shall be valid and be enforced to the fullest extent
40 permitted by law.
41

42 29.9 Each and all of the recitals set forth at the beginning of this instrument, and any
43 exhibits referenced herein and attached hereto, are incorporated herein by this reference.
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ARTICLE 30
NON-DISCRIMINATION

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30.1 The Authority covenants for itself, its successors and assigns and every successor in interest to the Property hereby conveyed, or any part thereof, that the Authority and such successors and assigns shall not discriminate upon the basis of race, color, sex, religion, or national origin in the use, occupancy, sale or lease of the Navy Real Property, or in their employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit; nor shall it apply with respect to premises used primarily for religious purposes. The United States of America shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Navy Real Property hereby conveyed and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

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ARTICLE 31
AVAILABILITY OF FUNDS

31.1 The Navy's obligations under this Agreement are subject to the availability of funds appropriated for such purpose. Nothing in this Agreement shall be construed as or constitute a commitment or requirement that the Navy obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. Section 1341, or that Congress, at a later time, will appropriate funds sufficient to meet deficiencies.

ARTICLE 32
MODIFICATION; WAIVERS

32.1 This Agreement, together with all Exhibits hereto, contains the entire agreement and understanding of the parties in respect to the purchase and sale of the Navy Real Property, and may not be amended, modified or discharged nor may any of its terms be waived except by an instrument in writing signed by the Parties. A waiver by a Party of a specific provision shall not be deemed a waiver of any subsequent provision. The Parties hereto shall not be bound by any terms, conditions, statements, warranties or representations, oral or written, not contained herein.

ARTICLE 33
REMEDIES FOR NONPERFORMANCE

33.1 In the event a Party hereto fails to observe or perform any of its obligations under this Agreement or otherwise breaches this Agreement, after having been provided written notice and failing to cure the default within thirty (30) days after such notice, the other Party will be entitled to exercise any and all of the remedies for breach which are provided herein, as well as any other remedies to which the Party is entitled at law or in equity. Notwithstanding the foregoing, the Authority shall not be liable for monetary damages if it does not accept conveyance of the Navy Real Property in a timely manner. Notwithstanding the foregoing, the sole and exclusive remedies for failure to satisfy a Closing Condition as described in Section 3.7, shall be as set out in Section 3.8.1, 3.8.2, and 3.8.4. Notwithstanding the foregoing, the sole

1 remedy for failure by the Navy to meet a Performance Benchmark shall be set out in Sections
2 4.2.4 through 4.2.10, above.

3
4 **ARTICLE 34**
5 **FAILURE TO INSIST ON COMPLIANCE**
6

7 34.1 The failure of either Party to insist, in any one or more instances, upon strict
8 performance of any of the terms of this Agreement shall not be construed as a waiver or
9 relinquishment of such Party's right to future performance of this Agreement, but the obligations
10 of the other Party with respect to such future performance shall continue in full force and effect.
11 Whenever the terms of this Agreement call for one Party to approve an action or make a
12 determination before the other Party may undertake or perform such action, said approval or
13 determination shall not be unreasonably denied or delayed.

14
15 **ARTICLE 35**
16 **RISK OF LOSS**
17

18 35.1 From the Effective Date of this Agreement, the Party then owning a Parcel shall
19 bear all risks of loss and damage due to casualty that may be suffered by the Parcel(s), provided,
20 however, that the Navy shall not be liable for any loss, damage or repair to utilities, roads or
21 structures due to acts of God, enemy action, civil commotion, fire, flood, earthquake or other
22 casualty. Notwithstanding any such loss or damage, each and all of the provisions of this
23 Agreement shall remain unimpaired and in full force and effect.

24
25 **ARTICLE 36**
26 **COUNTERPARTS**
27

28 36.1 This Agreement may be executed in multiple counterparts and/or with the
29 signatures of the Parties set forth on different signature sheets and all such counterparts, when
30 taken together, shall be deemed one original.

31 **[SIGNATURE PAGE FOLLOWS]**
32
33

1 **IN WITNESS WHEREOF**, the Parties, intending to be legally bound hereby, have
2 caused their duly appointed representatives to execute this Agreement as of the Effective Date
3 set forth above.
4

5
6 WITNESS/ATTEST:

THE UNITED STATES OF AMERICA

7
8
9
10
11 By: Elizabeth A. Lason
12 Name: Elizabeth Lason
13 Title: Realty Specialist
14
15
16
17
18

By: Esther P. Ewell
 Esther P. Ewell
 Real Estate Contracting Officer

19 **TREASURE ISLAND DEVELOPMENT**
20 **AUTHORITY**, a California non-profit
21 public benefit corporation
22
23
24

25
26 By: Robert P. Beck
 Robert P. Beck
 Treasure Island Director
27
28
29
30
31

32 Approved as to form:
33 DENNIS J. HERRERA,
34 City Attorney
35 By: Charles Sullivan
36 Name: Charles Sullivan
37 Deputy City Attorney
38

39 Authorized by Authority
40 Resolution No. 14-18-05/14
41 Adopted May 14, 2014
42

43 Authorized by Board of Supervisors
44 Resolution No. 212-14
45 Adopted June 24, 2014

EXHIBITS

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EXHIBIT A

DEFINITIONS

“**Accounting**” has the meaning set forth in Section 4.3.6.1.

“**ACM**” has the meaning set forth in Section 17.4.

“**Additional Consideration**” has the meaning set forth in Section 4.3.1.

“**Agreement**” has the meaning set forth in the Preamble.

“**Anniversary Date**” means the first anniversary of the Initial Closing and each anniversary of such date thereafter; provided, however, that if any Anniversary Date falls on other than a business day, then the Anniversary Date for that year shall be the first business day after the Anniversary Date.

“**Annual**” means a calendar year beginning on the Initial Closing date and commencing on each successive Anniversary Date and continuing until the Termination Date hereof.

“**Appraisal Process**” has the meaning set forth in Section 5.4.

“**Arbiter**” has the meaning set forth in Section 27.3.1.

“**Arbiters’ Qualifications**” has the meaning set forth in Section 27.3.1.1.

“**Assignable Easements, Contracts and Permits**” has the meaning set forth in Section 7.3.3.

“**Assignment of Rents**” has the meaning set forth in Section 4.2.6.

“**Auction**” means any arm’s length transaction designed to maximize revenues from the sale of parcels to qualified bidders. Auction formats may include any industry standard marketing approach or typical auction formats as outcry, sealed bid, sealed bid convertible or online and may be left to the discretion of the auction broker to determine the most appropriate format given current market conditions. In no case shall an absolute auction, in which a parcel is sold to the highest bidder regardless of price, or a reserve auction, in which the seller reserves the right to accept or reject the highest bid, be utilized unless agreed upon in advance by all Parties. The Auction shall be managed by a qualified third party real estate broker unrelated to the Developer or Authority, in a manner consistent with industry practice for a non-distressed offering of quality real estate that provides at a minimum: (i) commercially standard due diligence information and access, including, without limitation, information regarding the site and entitlements; (ii) iterative rounds of bidding by qualified bidders; and (iii) commercially standard closing conditions and processes.

1 **“Authority”** means the Treasure Island Development Authority and its successors and
2 assigns.

3
4 **“Authority Access Easements”** has the meaning set forth in Section 7.3.1.1.

5
6 **“Authority Closing Documents”** has the meaning set forth in Section 8.3.

7
8 **“Authority Costs Payment”** means the Authority’s costs paid by Developer in
9 accordance with the terms of the DDA. Because the Authority will use Marina Revenues to fund
10 the Authority’s costs, Developer’s obligation under the DDA to pay for the Authority’s costs will
11 be reduced by Marina Revenues as more particularly described in the DDA.

12
13 **“Authority Option”** has the meaning set forth in Section 3.8.7.

14
15 **“Building 233 Performance Benchmark”** has the meaning set forth in Section 4.2.3.

16
17 **“Building 3 Performance Benchmark”** has the meaning set forth in Section 4.2.3.

18
19 **“Caretaker Agreement”** has the meaning set forth in the eighth Recital and is set forth
20 in Exhibit LL.

21
22 **“CDPH”** means the California Department of Public Health.

23
24 **“CEQA”** has the meaning set forth in the sixth Recital.

25
26 **“CERCLA”** means the Comprehensive Environmental Response, Compensation and
27 Liability Act, 42 U.S.C. § 9601, et seq.

28
29 **“Certification”** has the meaning set forth in the sixth Recital.

30
31 **“City”** has the meaning set forth in the first Recital.

32
33 **“Closing”** means the transactions by which the Navy Real Property, or a portion thereof,
34 is conveyed by Quitclaim Deed by the Navy to the Authority.

35
36 **“Closing Conditions”** has the meaning set forth in Section 3.7.

37
38 **“Coast Guard”** has the meaning set forth in Section 9.3.3.

39
40 **“Coast Guard Installation”** has the meaning set forth in Section 9.3.3.

41
42 **“Commercial Lot”** has the meaning set forth in Section 5.2.1.

43
44 **“Conveyance Schedule”** means the schedule for conveyance of the Navy Real Property
45 to the Authority that is set forth in Exhibit R.

1 **“Credit Commencement Date”** has the meaning set forth in Section 4.2.6

2
3 **“Critical Commercial Lot”** has the meaning set forth in Section 5.2.1.

4
5 **“Critical Commercial Lots Payment”** has the meaning set forth in Section 5.2.1.

6
7 **“DDA”** means the Disposition and Development Agreement entered into by and between
8 the Authority and the Developer, dated as of June 28, 2011.

9
10 **“DDA Land Use Plan”** means the Land Use Plan attached to the DDA and hereto as
11 Exhibit Z-2, as described in the second Recital.

12
13 **“DDA Reports”** means, collectively, the items set forth in Section 5.9, Section 5.13.2,
14 and Section 5.13.3.

15
16 **“Default Interest Rate”** means an interest rate of three hundred (300) basis points above
17 the Interest Rate.

18
19 **“Delayed Parcel”** has the meaning set forth in Section 17.5.

20
21 **“Developed Critical Commercial Lot”** has the meaning set forth in Section 5.2.2.

22
23 **“Developer”** means Treasure Island Community Development, LLC and its successors
24 and assigns, or other such entity that is the master developer, and expressly excludes the Marina
25 Developer.

26
27 **“Development Agreement”** means the Development Agreement entered into by and
28 between the Authority and the City, dated as of June 28, 2011.

29
30 **“Development Costs”** means all Hard Costs, Soft Costs, and Pre-Development Costs,
31 except to the extent specifically excluded under this Agreement and specifically excluding any
32 costs, fees or charges related to debt financing that are not also Permissible Financing Costs.

33
34 **“Developer Lots”** has the meaning set forth in Section 5.3.

35
36 **“DTSC”** means the California Department of Toxic Substances Control.

37
38 **“Easement Area”** has the meaning set forth in Section 9.5.

39
40 **“Easements”** means the interests in real property as set forth in Article 7 and in Section
41 9.5.

42
43 **“EBSs”** has the meaning set forth in the third Recital.

44
45 **“EDC”** has the meaning set forth in the second Recital.

46

1 **“EDC Application”** has the meaning set forth in the second Recital.

2
3 **“EDC Application Property”** has the meaning set forth in the second Recital.

4
5 **“Effective Date”** has the meaning set forth in the Preamble.

6
7 **“EIR”** has the meaning set forth in the sixth Recital.

8
9 **“EIS”** has the meaning set forth in the fifth Recital.

10
11 **“Entitlements”** means all land use approvals and entitlements, including all conditions
12 of approval and CEQA mitigation measures legally required by the Authority, City or any other
13 Regulatory Authority as a condition to the subdivision of the Navy Real Property and
14 development of the Navy Real Property in accordance with the DDA.

15
16 **“Environmental Reports”** means the documents included in the CERCLA
17 administrative record for Treasure Island and Environmental Baseline Surveys (EBSs), FOSTs,
18 FOSETs, and any agreements pursuant to 10 U.S.C. 2701(d), which documents include Toxic
19 Substances Control Act 15 U.S.C. § 2601 et seq. documents, radiological materials documents,
20 petroleum corrective action program documents, any lead-based paint and asbestos surveys
21 relating to the improvements on the Property and any regulatory order or consent agreement, and
22 any supporting documents specifically referenced therein.

23
24 **“Excess Land Appreciation Structure”** has the meaning set forth in Section 5.6.4.

25
26 **“Excusable Delay”** means a delay in a Party’s performance of its obligations hereunder
27 that is caused by (a) acts of God, enemy action, civil commotion, fire, flood, earthquake or other
28 casualty; (b) strikes or other labor disputes (to the extent not resulting from the labor practices of
29 the Party claiming the benefit of the Excusable Delay); (c) material shortages of or inability to
30 obtain labor or materials beyond the reasonable control of the Party claiming the benefit of
31 Excusable Delay (except to the extent caused by the negligent act or omission or willful
32 misconduct of the Party claiming the benefit of Excusable Delay); (d) unanticipated breakage or
33 accident to machinery, equipment or lines of pipe despite reasonably diligent maintenance; (e)
34 materially adverse weather conditions to the extent that such conditions could not be reasonably
35 predicted or anticipated; (f) a delay caused by federally-imposed increased security measures that
36 require upgrades in threat condition or combating terrorism on the Property; (g) Litigation
37 Excusable Delays; and (h) Regulatory Excusable Delays.

38
39 **“Exempt Transferee”** has the meaning set forth in Section 3.8.7.

40
41 **“FFSRA”** means Federal Facilities Site Remediation Agreement dated September 29,
42 1992, as may be amended, between the Navy and the State of California Department of Toxic
43 Substances Control (“DTSC”) and San Francisco Regional Water Quality Control Board
44 (“RWQCB”) setting forth the Navy’s obligations to investigate and remediate sites at the Navy
45 Real Property subject to the availability of funds and other provisions of the FFSRA. In

1 addition, the FFSRA establishes the terms and conditions for DTSC and RWQCB approved
2 changes to schedules and penalties for failure to meet environmental remediation schedules.

3
4 **“Final IRR”** has the meaning set forth in Section 4.3.7.1.

5
6 **“First Tier Participation”** has the meaning set forth in Section 4.3.1.

7
8 **“First Tier Payment”** has the meaning set forth in Section 4.3.2.

9
10 **“FOST”** means a written determination by the Navy that a Parcel may be transferred by
11 a Quitclaim Deed to the Authority in full compliance with 42 U.S.C. § 9620(h)(3)(A) or §
12 9620(h)(4) of CERCLA.

13
14 **“FOST Parcel”** has the meaning set forth in the fourth Recital.

15
16 **“GAAP”** has the meaning set forth in Section 4.3.6.

17
18 **“Government”** means the United States of America.

19
20 **“Government Real Property”** means the real property owned by the United States of
21 America which includes real property under the jurisdiction, custody or control of the United
22 States Coast Guard, the United States Department of Labor, and the Federal Highway
23 Administration, and specifically excludes the real property, easements, rights of access or other
24 interests under the jurisdiction, custody, or control of the Navy as specified in Section 3.1.1; and
25 (ii) real property owned by the State of California Department of Transportation.

26
27 **“Gross Revenues”** means, for any period, all cash revenues received by the Developer
28 from any source whatsoever, and whether collected through or outside of escrow in connection
29 with all or any part of the Project, in each case for such period, which shall include, the gross
30 proceeds of sale or transfer of the Lots or any portion thereof, rents or other payments paid to
31 Developer as the master landlord under any ground lease or as a property manager under an
32 interim management agreement with the Authority for existing facilities and open space;
33 proceeds from the first sale of ground leases or refinancing intended to capitalize ground value;
34 any damage recoveries, insurance payments or condemnation proceeds payable to the Developer
35 with respect to the Project to the extent not otherwise used for repair or reconstruction of the
36 Property, all revenues derived from agreements to which the Developer is a party pursuant to
37 which the Developer participates in the proceeds of the operation or sale of any portion of the
38 Property sold to a Vertical Builder, the proceeds of and proceeds from any assessment or special
39 tax districts formed for purposes of providing funds for costs associated with the Project, and
40 amounts paid to Developer from tax increment financing or other public financing, and grants
41 and tax credits to reimburse Developer for infrastructure or other qualifying costs. Gross
42 Revenues shall specifically exclude the proceeds of any capital contributed to the Developer by
43 its partners or members or the proceeds of any loan made to the Developer.

44
45 **“Guidelines for Residential Auction Lot Selection”** has the meaning set forth in
46 Section 5.5.3.

1
2 **“Hard Costs”** means Developer’s reasonable out-of-pocket costs actually incurred in
3 connection with the construction of the Horizontal Improvements (which include, without
4 limitation, construction of improvements by Developer on the Critical Commercial Lots to the
5 extent required under the DDA). Hard Costs include, without limitation, necessary permit fees,
6 bond premiums and similar fees and charges required for the construction of the Horizontal
7 Improvements.
8

9 **“Hazardous Substance”** means (A) any substance designated pursuant to section
10 1321(b)(2)(A) of title 33, (B) any element, compound, mixture, solution, or substance designated
11 pursuant to section 9602 of title 42, (C) any hazardous waste having the characteristics identified
12 under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. 6921] (but
13 not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C.
14 6901 et seq.] has been suspended by Act of Congress), (D) any toxic pollutant listed under
15 section 1317(a) of title 33, (E) any hazardous air pollutant listed under section 112 of the Clean
16 Air Act [42 U.S.C. 7412], and (F) any imminently hazardous chemical substance or mixture with
17 respect to which the Administrator of the Environmental Protection Agency has taken action
18 pursuant to section 2606 of title 15. The term does not include natural gas, natural gas liquids,
19 liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such
20 synthetic gas).
21

22 **“Horizontal Improvements”** means demolition, grading, geotechnical improvements,
23 environmental investigation, environmental characterization, regulatory agency coordination and
24 negotiation and environmental remediation for which Developer’s costs are not reimbursed
25 through an agreement pursuant to 10 U.S.C. 2701(d) or other Navy funds, infrastructure and
26 utilities, and all other improvements and related costs required to be performed or installed by
27 Developer pursuant to the terms of the DDA, including but not limited to, the preparation of land
28 for vertical development, public service and community improvements, transportation program
29 improvements and subsidies, stormwater management controls, facilities and equipment, open
30 space and parks improvements and maintenance, rehabilitation of historic buildings, affordable
31 housing program and transition housing improvements.
32

33 **“Infrastructure Financing District”** means an Infrastructure Financing District formed
34 in accordance with the Infrastructure Financing District Act (California Government Code
35 Section 53395 et seq.), as amended from time to time.
36

37 **“Initial Closing”** means the date on which the first conveyance of all or any of the FOST
38 Parcel by Quitclaim Deed from the Navy to the Authority occurs in accordance with Article 3
39 hereof.
40

41 **“Initial Consideration”** has the meaning set forth in Section 4.1.
42

43 **“Initial Consideration Term”** has the meaning set forth in Section 4.1.
44

45 **“Installment Payment”** has the meaning set forth in Section 4.2.1.
46

1 **"Interest Rate"** means an annual interest rate of 4.13%, which equals the interest rate
2 payable on ten year (10) Treasury Notes in effect as of the date that this Agreement is entered
3 into plus one hundred fifty basis points (150 bps), which Interest Rate will be locked for the
4 duration of this Agreement.
5

6 **"IRR"** means the internal rate of return, annualized, calculated on the Project's Net Cash
7 Flow by the Excel 2007 "IRR" function using quarterly Net Cash Flows. The Project's Net Cash
8 Flow shall be adjusted to show all costs incurred in the quarter paid and all revenues in the
9 quarter received, provided that Pre-Development Costs are applied as of the Initial Closing. An
10 example of the IRR calculation is attached hereto as Exhibit DD.
11

12 **"IRR Statement"** has the meaning set forth in Section 4.3.2.

13 **"JV Lots"** has the meaning set forth in Section 5.3.

14 **"Key Infrastructure"** has the meaning set forth in Section 9.5.

15 **"Land Use Covenant"** means that certain land use covenant(s) entitled "Covenant to
16 Restrict Use of Property; Environmental Restrictions" regarding environmental restrictions,
17 entered into by the Authority and the State of California Department of Toxic Substances
18 Control, that may be executed for a given Parcel.
19

20 **"Late Payment"** has the meaning set forth in Section 4.3.4.

21 **"LBP"** has the meaning set forth in Section 17.3.

22 **"LIFO"** has the meaning set forth in Section 3.8.1.

23 **"Litigation Excusable Delay"** means any action or proceeding before any court,
24 tribunal, or other judicial, adjudicative or legislative decision-making body, including any
25 administrative appeal, brought by plaintiffs unaffiliated with the Party claiming the benefit of
26 Excusable Delay which both (1) (x) seeks to challenge the validity of any action taken by the
27 Party claiming the benefit of Excusable Delay, including the Party's approval, execution, and
28 delivery of this Agreement and its performance hereunder, or the performance of any action
29 required or permitted to be performed by the Party hereunder, or (y) seeks to challenge the
30 failure of any Regulatory Authority to issue, the conditions of, or the validity of any other permit
31 required to conduct the Party's obligations under this Agreement, and (2) is reasonably likely to
32 prevent the Parties from timely performing its obligations under this Agreement. Performance
33 by a Party hereunder shall be deemed delayed or made impossible by virtue of Litigation
34 Excusable Delay during the pendency thereof, and until a judgment, order, or other decision
35 resolving such matter in favor of the Party whose performance is delayed has become final and
36 unappealable. The Parties shall each proceed with due diligence and shall cooperate with one
37 another to defend the action or proceeding or take other measures to resolve the dispute that is
38 the subject of such action or proceeding.
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1 **"Lots"** means a building site to be prepared by Developer and conveyed for
2 consideration to a third party or Developer affiliate pursuant to the terms of the DDA, including,
3 without limitation, the Commercial Lots.
4

5 **"Major Phase"** means each Major Phase of development identified in the phasing plan
6 attached to the DDA.
7

8 **"Major Phase Decision Notice"** has the meaning set forth in Section 5.7.1.
9

10 **"Major Phase Decisions"** has the meaning set forth in Section 5.6.
11

12 **"Marina Developer"** means Treasure Island Enterprises, LLC, its successors and
13 assigns, or such other entity that is the master tenant and developer of the Treasure Island
14 Marina.
15

16 **"Marina Project"** means the redevelopment and operation of the Treasure Island Marina
17 in accordance with a Lease Disposition and Development Agreement and a Ground Lease
18 between the Authority and the Marina Developer.
19

20 **"Marina Property"** means the property described in Exhibit F attached hereto which
21 will be used for the Marina Project.
22

23 **"Marina Revenues"** means minimum rent, percentage rent and any proceeds from
24 refinancings, sales or subleases for the Marina Project that are actually received by the Authority
25 under the terms of the Marina Ground Lease and/or the Marina Lease Disposition and
26 Development Agreement. Marina Revenues shall not include the amount of any rent credits that
27 the Marina Developer is entitled to receive under the terms of the Marina Ground Lease.
28

29 **"Market Rate Lots"** has the meaning set forth in Section 5.3.
30

31 **"Market Rate Units"** has the meaning set forth in Section 5.3.
32

33 **"Multiple Conveyances"** means a series of Partial Conveyances.
34

35 **"Navy"** has the meaning set forth in the Preamble.
36

37 **"Navy Access Easements"** has the meaning set forth in Section 7.3.1.2.
38

39 **"Navy Closing Documents"** has the meaning set forth in Section 8.2.
40

41 **"Navy Office"** has the meaning set forth in Section 13.1.
42

43 **"Navy Office Provisions"** has the meaning set forth in Section 13.1 and is attached as
44 Exhibit K-2.
45

46 **"Navy Personal Property"** has the meaning set forth in Section 3.1.3.

1
2 **“Navy Property”** means, collectively, the Navy Personal Property and the Navy Real
3 Property.
4

5 **“Navy Real Property”** has the meaning set forth in Section 3.1.1, and specifically
6 excludes the real property, easements, rights of access or other interests under the jurisdiction,
7 custody, and control of the United States Coast Guard, the United States Department of Labor,
8 the Federal Highway Administration, and the California Department of Transportation.
9

10 **“Navy Real Property Documents”** has the meaning set forth in Section 12.1.
11

12 **“Navy Reserved Access Easement”** has the meaning set forth in Section 7.3.1.2.
13

14 **“NEPA”** has the meaning set forth in the fifth Recital.
15

16 **“NEPA ROD”** has the meaning set forth in the fifth Recital.
17

18 **“Net Available Tax Increment Revenues”** has the meaning set forth in Section 4.2.7.2.
19

20 **“Net Cash Flow”** means Gross Revenues received by the Developer from the Project
21 less Development Costs paid by the Developer.
22

23 **“Non-Assignable Easements, Contracts and Permits”** has the meaning set forth in
24 Section 3.6.
25

26 **“Non-Critical Commercial Lot”** has the meaning set forth in Section 5.2.1.
27

28 **“Non-Developer Critical Commercial Lot”** has the meaning set forth in Section 5.2.2.
29

30 **“Open Space Acres”** means those portions of the Navy Real Property identified in the
31 DDA Land Use Plan as ‘Open Space’ or ‘Public Services, Civic, Institutional’, consisting of
32 approximately 300 acres.
33

34 **“Option Notice”** has the meaning set forth in Section 3.8.7.
35

36 **“Option Property”** has the meaning set forth in Section 3.8.7.
37

38 **“Owner Property”** has the meaning set forth in Section 7.3.1.3.3.
39

40 **“Parcel”** or **“Parcels”** has the meaning set forth in the fourth Recital.
41

42 **“Parcel 9.b”** means that property identified on Exhibit B-4 attached hereto.
43

44 **“Parcel 21 Performance Benchmark”** has the meaning set forth in Section 4.2.3.
45

46 **“Parcel 24A Performance Benchmark”** has the meaning set forth in Section 4.2.3.

1
2 **"Parcel 30 Performance Benchmark"** has the meaning set forth in Section 4.2.3.

3
4 **"Parcel 30N Performance Benchmark"** has the meaning set forth in Section 4.2.3.

5
6 **"Parcel 30S Performance Benchmark"** has the meaning set forth in Section 4.2.3.

7
8 **"Parcel 31 Performance Benchmark"** has the meaning set forth in Section 4.2.3.

9
10 **"Partial Conveyance"** means a conveyance by deed from the Navy to the Authority of
11 any number of Parcels comprising less than the entire Navy Real Property.

12
13 **"Party"** or **"Parties"** has the meaning set forth in the Preamble.

14
15 **"Permissible Financing Costs"** means debt service and required reserves for Mello-
16 Roos Bonds that are not withheld in such Mello-Roos Bonds issuances; and debt service and all
17 other related financing costs, including, without limitation, bond issuance costs and fees, legal
18 fees, and bond marketing costs, actually incurred and paid by Developer to pay for certain public
19 facilities to be constructed on the Property, including a fire/police station and public parking
20 garages, to the extent financed using public finance vehicles such as certificates of participation
21 or revenue bonds.

22
23 **"Pre-Approved Arbiters List"** has the meaning set forth in Section 27.3.1.

24
25 **"Pre-Closing Obligations"** has the meaning set forth in Section 21.1.

26
27 **"Pre-Development Costs"** means reasonable costs actually incurred and paid and
28 directly related to the development, Entitlement, acquisition and implementation of the Project
29 incurred by Developer between the execution of the Exclusive Negotiating Agreement between
30 Authority and Developer and the Initial Closing, including architectural, engineering,
31 environmental, consultant, community outreach, legal and other professional fees; real property
32 taxes and assessments; insurance expenses; title and survey, sales and marketing expenses;
33 project management costs, security and site maintenance; fees and charges for bonds and
34 permits; and City cost reimbursements. The following shall not constitute "Pre-Development
35 Costs": (1) Repayment of the principal, fees and interest of any loan or other expense that is not
36 also a Permissible Financing Cost; or (2) distributions, preferred return or other capital return to
37 the members of the Developer. Pre-Development Costs also include a compound return on all
38 such costs equal to 20% per annum. An example of the calculation of Pre-Development Costs
39 incurred prior to the Initial Closing is attached hereto as Exhibit KK.

40
41 **"Product Types"** has the meaning set forth in Section 5.5.2.

42
43 **"Project"** means the mixed use development more particularly described in the DDA,
44 and expressly excludes the Marina Project.

45
46 **"Property"** means, collectively, the Government Real Property and the Navy Property.

1
2 **“Qualified Appraiser Pool”** has the meaning set forth in Section 5.4.1.

3
4 **“Quarter”** means a three-month period commencing on the first day of the Initial
5 Closing and continuing until the Termination Date hereof.

6
7 **“Quitclaim Deed(s)”** means those certain recordable quitclaim deeds conveying the
8 Navy’s right, title, and interest to the Navy Real Property to the Authority, substantially in the
9 form attached hereto and made a part hereof as Exhibit D.

10
11 **“RACR”** has the meaning set forth in Section 3.7.1.4.

12
13 **“Redesign Budget”** has the meaning set forth in Section 4.2.5.

14
15 **“Redesign Costs”** has the meaning set forth in Section 4.2.5.

16
17 **“Redesign Plan”** has the meaning set forth in Section 4.2.4.

18
19 **“Redesign Trigger Event”** has the meaning set forth in Section 4.2.4.

20
21 **“Regulatory Authority”** means any governmental agency having regulatory jurisdiction
22 over the Property to issue any required authorization, approval or permit.

23
24 **“Regulatory Excusable Delay”** means delays by Regulatory Authorities in issuing
25 requisite approvals or consents beyond the reasonable control of the Party claiming the benefit of
26 Regulatory Excusable Delay, provided that the Party claiming the benefit of Regulatory
27 Excusable Delay is diligently proceeding to obtain all necessary approvals from Regulatory
28 Authorities. Without limiting the foregoing, Regulatory Excusable Delays shall not include
29 delays resulting from (i) the Party’s failure to timely respond to requests for information or (ii)
30 the Party’s failure to take actions or proceed in a manner requested by the Regulatory Authority
31 that is consistent with industry standard practices and Regulatory Authority requirements as
32 commonly applied for the intended land use for property within the jurisdiction of the applicable
33 Regulatory Authority.

34
35 **“Remainder Parcel”** has the meaning set forth in the fourth Recital.

36
37 **“Reporting Period”** has the meaning set forth in Section 4.3.2.

38
39 **“Re-Setting of the Minimum Bid Price”** has the meaning set forth in Section 5.5.

40
41 **“Residential Auction Lots”** has the meaning set forth in Section 5.3.

42
43 **“Reuse Plan”** has the meaning set forth in the second Recital.

44
45 **“SEBS”** has the meaning set forth in the third Recital.

1 **“Second Tier Participation”** has the meaning set forth in Section 4.3.1.

2
3 **“Second Tier Payment”** has the meaning set forth in Section 4.3.3.

4
5 **“Site 12 Development Parcel”** has the meaning set forth in Section 4.2.2.

6
7 **“Site 12 Performance Benchmark”** has the meaning set forth in Section 4.2.2.

8
9 **“Site 12 ROD”** has the meaning set forth in Section 4.2.2.1.

10
11 **“SHPO”** has the meaning set forth in the seventh Recital.

12
13 **“Soft Costs”** means Developer’s reasonable out-of-pocket costs actually incurred and
14 paid on or after the Initial Closing (except as otherwise provided below or in Section 5.13) and
15 attributable to the following: designing the Horizontal Improvements and improvements on the
16 Critical Commercial Lots; marketing and selling the Lots, including Auction costs; Entitlements;
17 architectural, engineering, consultants, community outreach, attorney and other professional
18 fees; real property taxes and assessments; Permissible Financing Costs; insurance expenses,
19 including environmental insurance; sales and marketing expenses; security and site maintenance;
20 customary closing costs incurred in connection with sales of the Lots; Authority Costs Payments;
21 costs and subsidies incurred pursuant to the DDA, including, without limitation: costs and
22 subsidies not otherwise included in Hard Costs related to implementation of the transportation
23 program, affordable housing and transition housing program, rehabilitation of the historic
24 buildings, development of the Critical Commercial Lots, development of the parks and open
25 space, and public art; any Initial Consideration, including interest payments on the Initial
26 Consideration, any First Tier Payment, any Second Tier Payment, and expenses incurred by
27 Developer related to management of existing facilities and open space under a management
28 agreement with the Authority. Without limiting the foregoing, the following shall not constitute
29 “Soft Costs”: (1) repayment of the principal and interest, fees or costs of any loan, investment or
30 financing other than Permissible Financing Costs; and (2) distributions, preferred return or other
31 capital return to the members of Developer; and (3) costs and fees related to compliance and
32 reporting to lenders other than those required for any financing allowed under Permissible
33 Financing Costs.

34
35 **“Subordinate Pledge”** has the meaning set forth in Section 4.2.6.

36
37 **“Sub-Phase”** means each Sub-Phase of development as identified in the phasing plan
38 attached as an exhibit to the DDA.

39
40 **“Term”** means the term of this Agreement, commencing on the Effective Date and
41 expiring on the Termination Date unless terminated earlier as otherwise provided for herein.

42
43 **“Termination Date”** means the date twenty five (25) years from the Initial Closing or as
44 adjusted by mutual agreement of all Parties based on the annually updated pro forma.

45
46 **“Third Party Access Easement”** has the meaning set forth in Section 7.3.1.2.

1
2 **“Title Company”** means such title insurance company as the Authority shall from time
3 to time designate.

4
5 **“Tolling Event”** has the meaning set forth in Section 4.2.3.

6
7 **“Treasure Island”** has the meaning set forth in the first Recital.

8
9 **“UC1 Utility Corridor Performance Benchmark”** has the meaning set forth in Section
10 4.2.3.

11
12 **“UC2 Utility Corridor Performance Benchmark”** has the meaning set forth in Section
13 4.2.3.

14
15 **“Unperfected Easements, Contracts and Permits”** has the meaning set forth in Section
16 3.6.

17
18 **“Utilities Agreement”** has the meaning set forth in Section 9.1.

19
20 **“Utility Easements”** has the meaning set forth in Section 7.3.2.

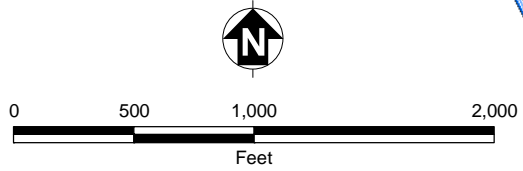
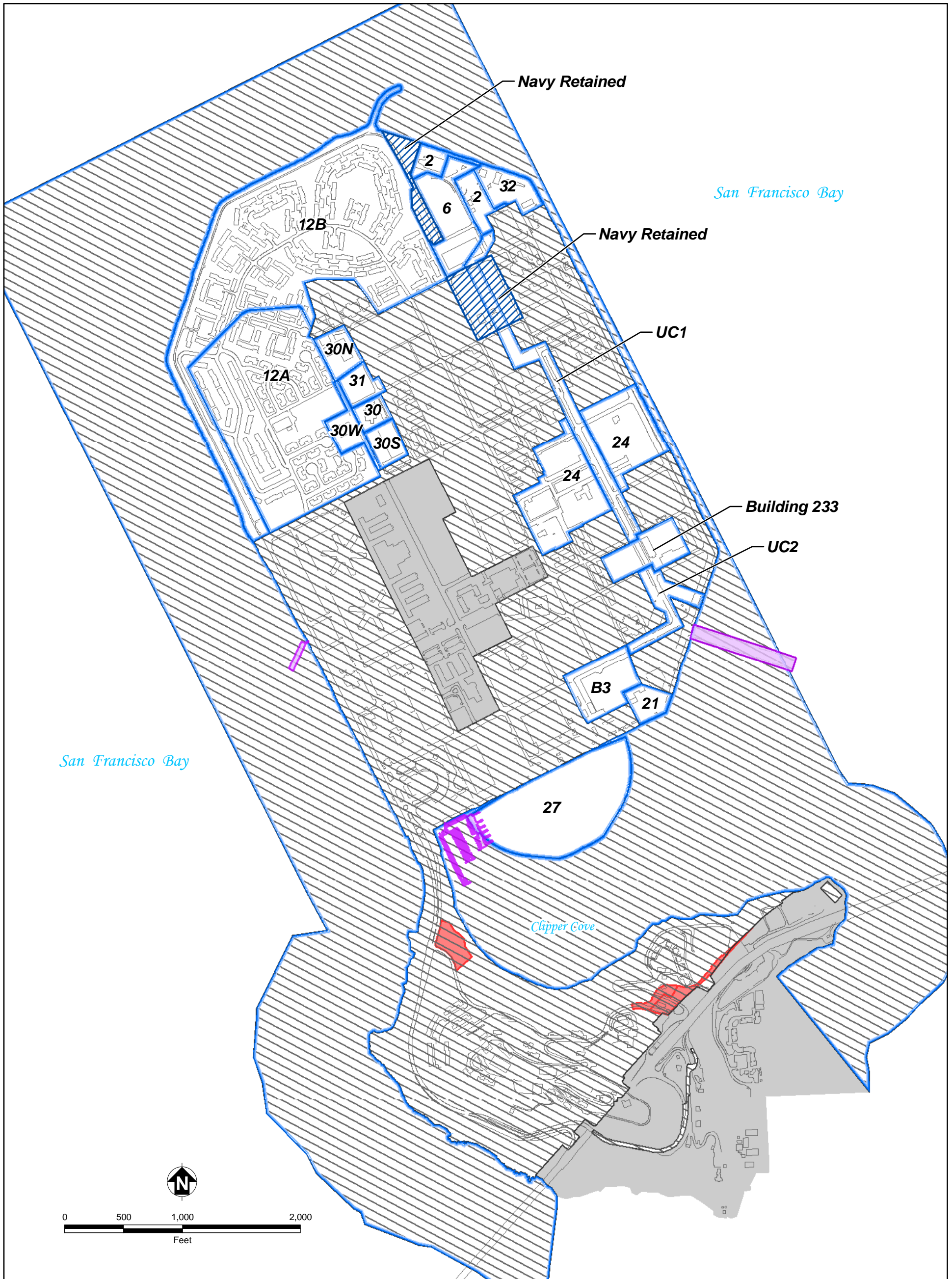
21
22 **“Utility Infrastructure”** means all utilities and related support infrastructure located on
23 and off the Navy Real Property that are assignable or transferable by the Navy such as electrical,
24 water, sewer, gas, and storm drainage lines to be transferred to the Authority under this
25 Agreement pursuant to the terms and conditions set forth in a Bill of Sale in the form attached
26 hereto and made a part hereof as Exhibit H-2 or the Quitclaim Deeds substantially in the form
27 attached hereto and made a part hereof as Exhibit D.









28
29 **“Vertical Builder”** means the successor owner of a Lot pursuant to a transfer permitted
30 under the DDA who is building Vertical Improvements.

31
32 **“Vertical DDA”** means a disposition and development agreement entered into among the
33 Authority, Developer and a Vertical Builder in accordance with the DDA relating to the
34 construction of Vertical Improvements.

35
36 **“Vertical Improvements”** means buildings and structures that are not part of the
37 Horizontal Improvements constructed on Lots transferred to a Vertical Builder.

38
39 **“Work Program”** has the meaning set forth in Section 4.2.5.



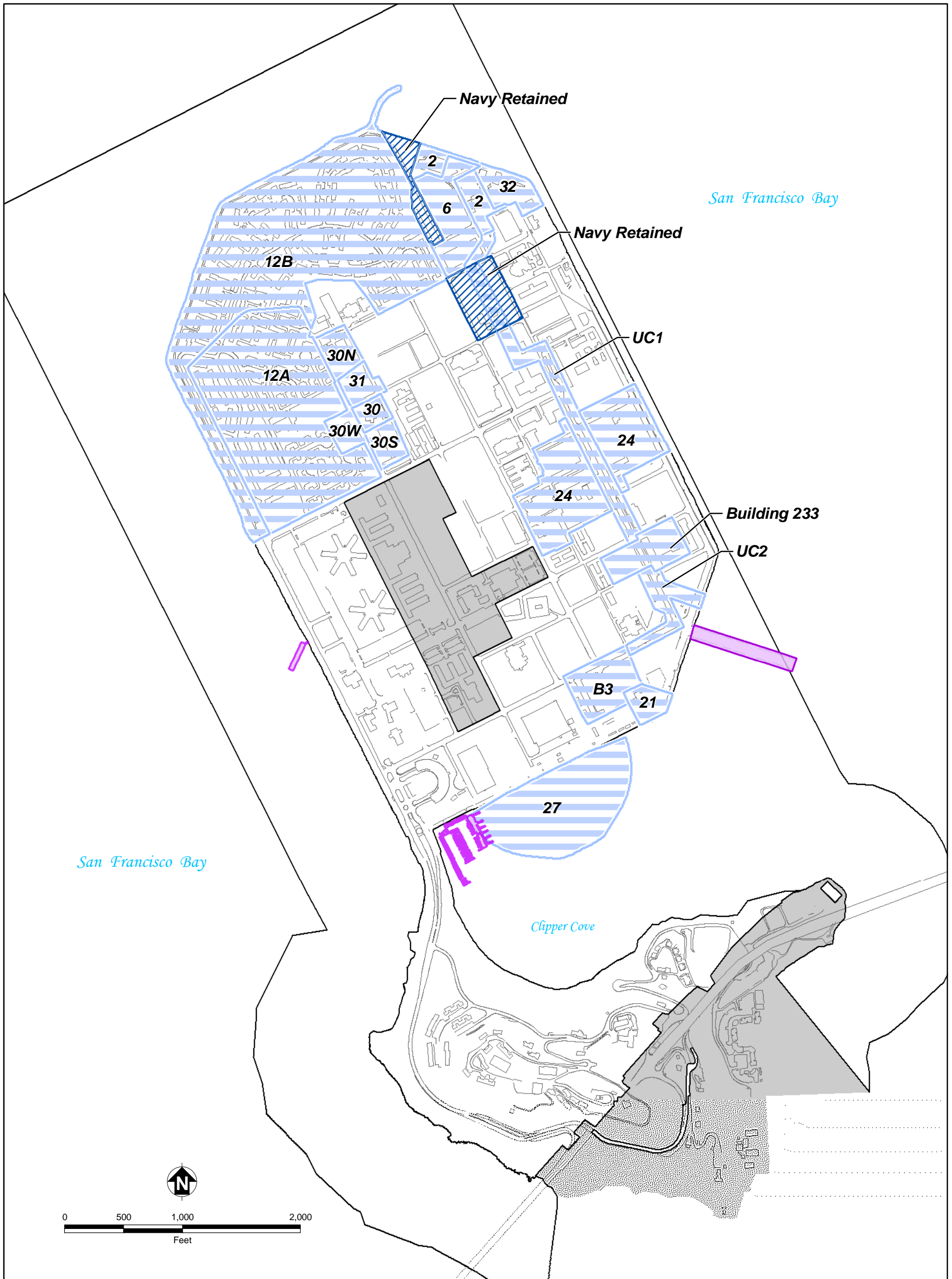
Transfer Parcels	
	FOST Parcel
	Remainder Parcel
	Navy Retained Property*
	Government Property
	Appurtenant Improvement (pier to be transferred with onshore parcel)
	Ramp Parcel
	Building
	Road Edge

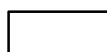




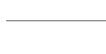

Note:
*To be transferred as part of the EDC upon completion of Navy's environmental remediation efforts.



Naval Station Treasure Island
Department of the Navy, BRAC PMO West, San Diego, CA

EXHIBIT B-2
FOST PARCEL MAP



- | | |
|--|--|
|  Transferred or Conveyed Property |  Appurtenant Improvement (pier to be transferred with onshore parcel) |
|  Remainder Parcel |  Building |
|  Navy Retained Property* |  Road Edge |
|  Government Property | |

Note:
 *To be transferred as part of the EDC upon completion of Navy's environmental remediation efforts.



Naval Station Treasure Island
 Department of the Navy, BRAC PMO West, San Diego, CA

**EXHIBIT B-3
 REMAINDER PARCEL MAP**

SITE 12
BOUNDARY

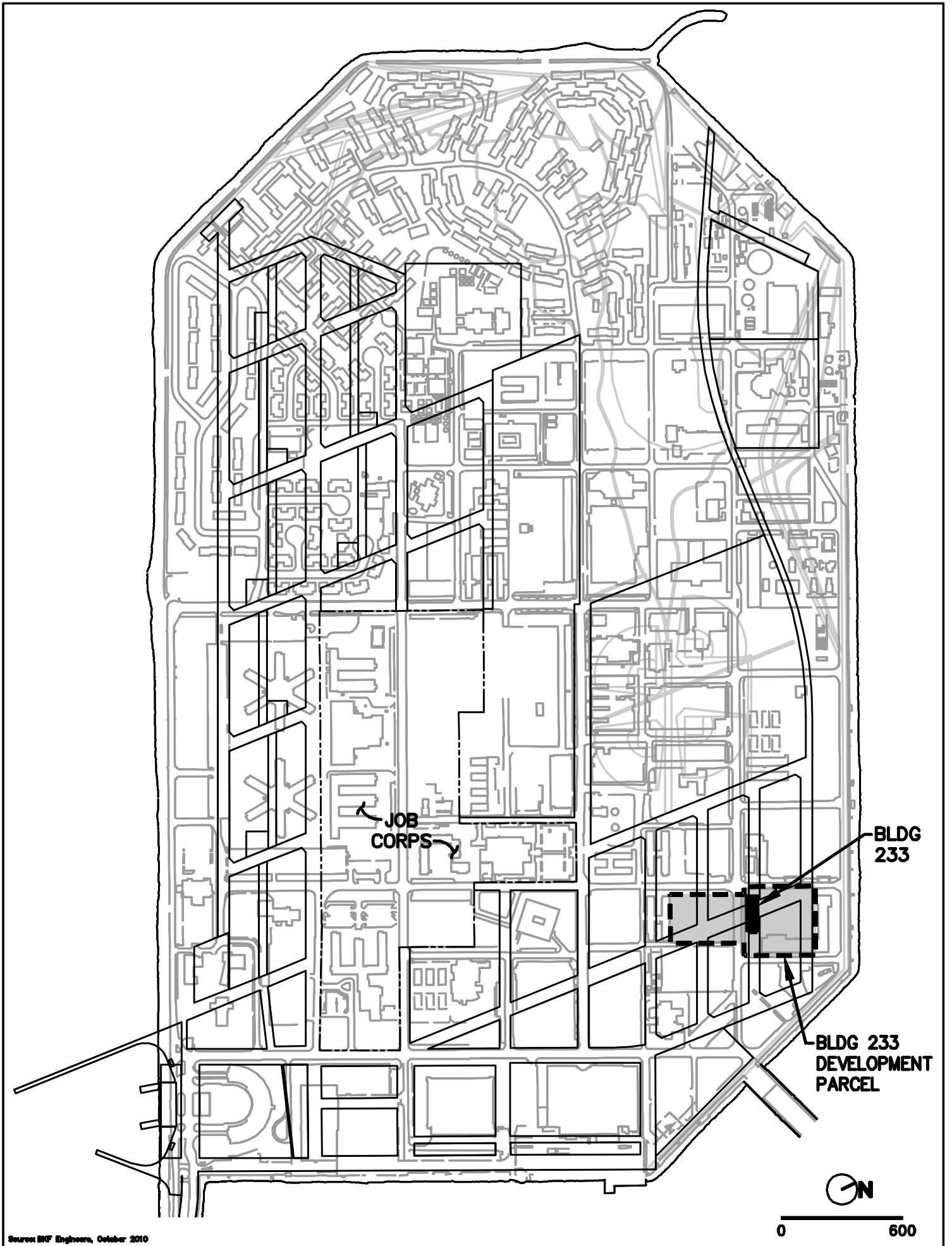
SITE 12A
DEVELOPMENT
PARCEL

SCHOOL

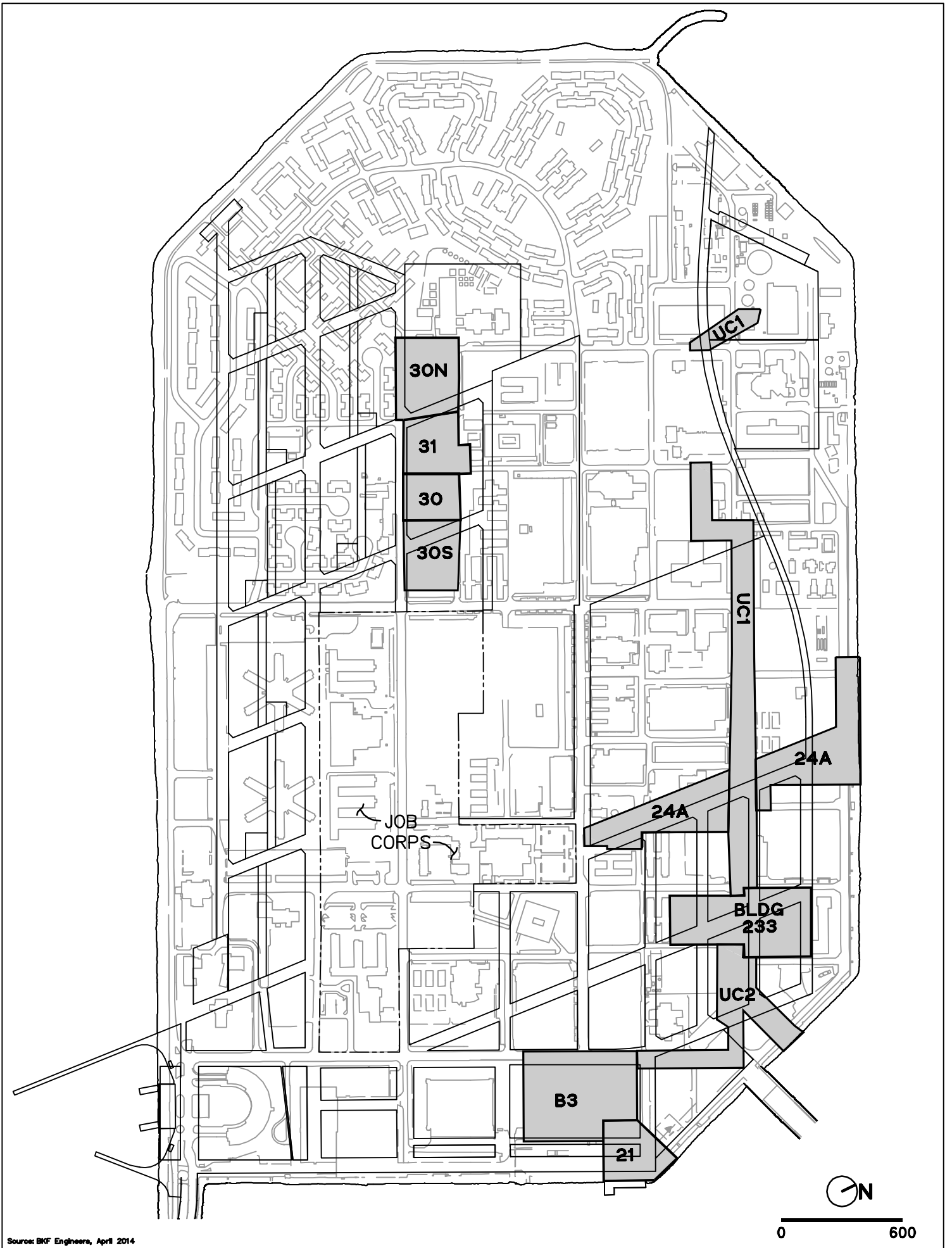
JOB
CORPS



0 600



Source: BKF Engineers, October 2010



Source: BKF Engineers, April 2014

RECORDING REQUESTED BY:

Department of the Navy
NAVFAC HQ
Base Realignment and Closure
Program Management Office West
1455 Frazee Road, Suite 900
San Diego, California 92108-4310
Attn: Real Estate Contracting Officer

WHEN RECORDED MAIL TO:

Treasure Island Development Authority
One Avenue of the Palms, Suite 241
Treasure Island
San Francisco, CA 94130
Attention: Treasure Island Project Director

Exempt from documentary transfer tax pursuant to California Revenue and Taxation Code §11922. Exempt from recording fees pursuant to California Government Code §27383. Governmental agency acquiring title.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

[Note: As set forth in Article 16.1 of the Economic Development Conveyance Memorandum of Agreement: Each Quitclaim Deed will include, if applicable, those environmental restrictions and covenants required by the: (1) CERCLA Record of Decision, (2) approved Corrective Action Plan, (3) FOST.]

QUITCLAIM DEED FOR PARCEL []
NAVAL STATION TREASURE ISLAND AND ENVIRONMENTAL
RESTRICTION PURSUANT TO CIVIL CODE SECTION 1471

THIS DEED, made this ____ day of _____, 20____, (“**Effective Date**”) by and between the **UNITED STATES OF AMERICA**, acting by and through the Department of the Navy, hereinafter called the **GRANTOR**, and the **TREASURE ISLAND DEVELOPMENT AUTHORITY**, a California non-profit public benefit corporation recognized as the Local Redevelopment Authority by the Office of Economic Adjustment, hereinafter called the **GRANTEE**.

WITNESSETH:

WHEREAS, pursuant to the power and authority provided by § 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, 10 U.S.C. § 2687 note, as amended, and the implementing regulations of the Department of Defense (32 C.F.R. Part 174), GRANTOR is authorized to convey surplus property at a closing installation to GRANTEE for economic development purposes; and

WHEREAS, the GRANTOR and the GRANTEE entered into that certain *Economic Development Conveyance Memorandum of Agreement Between the United States of America, acting by and through the Department of the Navy, and the Treasure Island Development*

TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [_____]

Page 2.

Authority for the Conveyance of the Naval Station Treasure Island on the _____ day of _____, 2014 (the “Agreement”); and

WHEREAS, pursuant to the Agreement, GRANTOR agreed to convey to GRANTEE portions of former Naval Station Treasure Island, said portions including Parcel ____ which consists of approximately _____ acres located in the City and County of San Francisco, State of California, all as more particularly described on Exhibit “A” attached hereto and made a part hereof (the “**Property**”); and

WHEREAS, GRANTOR has completed the remedial actions on the Property that are necessary to provide the covenants required by the Comprehensive Environmental Response, Compensation and Liability Act (“**CERCLA**”), 42 U.S.C. Section 9620(h)(3)(A)(ii)(I) [*confirm appropriate citation following FOST review*]; and

WHEREAS, GRANTOR has found and determined that the Property is suitable for transfer pursuant to the Finding of Suitability for Transfer dated _____ and the Finding of Suitability for Transfer dated _____ (collectively, the “**FOST**”), which contains notifications and restrictions regarding environmental conditions on the Property, which notifications and restrictions are fully set forth in this Deed; and

WHEREAS, the GRANTOR has entered into a Covenant to Restrict Use of Property – Environmental Restrictions for a Portion of the Property with the California Department of Toxic Substances and Control (“**DTSC**”) dated _____, 20____. [*Note: report name and date to be inserted*]

NOW THEREFORE, GRANTOR, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release and forever quitclaim to the GRANTEE, its successors and assigns, all of GRANTOR’s right, title and interest in and to the Property:

I. TOGETHER WITH all buildings and improvements located thereon, and all and singular rights, tenements, hereditaments, appurtenant easements and appurtenances belonging, or in any way appertaining thereto, including fixtures, structures, mineral rights, water rights, alleys, roads, streets, ways, strips, gores or railroad rights of way upon said Property, and any means of ingress and egress appurtenant thereto.

II. SUBJECT TO THE FOLLOWING NOTICES, COVENANTS, RESTRICTIONS, ACCESS RIGHTS AND CONDITIONS, which shall be binding upon and enforceable against the GRANTEE, its successors and assigns, in perpetuity:

A. GRANTEE agrees to accept conveyance of the Property subject to all covenants, conditions, restrictions, easements, rights-of-way, reservations, rights, agreements, and encumbrances of record.

TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [_____]

Page 3.

B. Except as otherwise provided herein, or as otherwise provided by law, the GRANTEE acknowledges that it has inspected, is aware of, and accepts the condition and state of repair of the Property, and that the Property is conveyed “as is” and “where is” without any representation, promise, agreement, or warranty on the part of the GRANTOR regarding such condition and state of repair, or regarding the making of any alterations, improvements, repairs or additions. Except for the environmental remediation which may be required to be undertaken by GRANTOR, the GRANTEE further acknowledges that the GRANTOR shall not be liable for any latent or patent defects in the Property, except to the extent required by applicable law.

C. One or more FOSTs has been completed for the Property and an Environmental Baseline Survey (“EBS”) report is referenced in the FOST. The FOST and EBS reference environmental conditions on the Property. GRANTEE acknowledges that it has received copies of the EBS and the FOST and that all documents referenced therein have been made available to GRANTEE for inspection and copying.

D. FLOOD PLAIN NOTIFICATION: *[Include if applicable:]* To the extent that any portion of the Property lies within a floodplain as defined in Section 6(c) of Executive Order No. 11988, Floodplain Management, dated May 24, 1977, construction, development and other uses of that portion of the Property could be restricted by the standards and criteria of the National Flood Insurance Program of the Federal Emergency Management Agency, or other applicable regulations.

E. NO HAZARD TO AIR NAVIGATION: GRANTEE and its successors and assigns shall comply with the provisions of Title 14, Code of Federal Regulations, part 77, entitled “Objects Affecting Navigable Airspace” in connection with any construction or alteration on the Property for which notice to the Administrator of the Federal Aviation Administration is required to be provided in accordance with those regulations.

F. *[Note: to be confirmed as correct CERCLA clause following FOST review]* **PROPERTY COVERED BY NOTICE, DESCRIPTION, ACCESS RIGHTS, AND COVENANTS MADE PURSUANT TO SECTION 120(h)(3)(A) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (42 U.S.C. § 9620(h)(3)(A)):** For the Property, the GRANTOR provides the following notice, description, and covenants and retains the following access rights:

1. Notices Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C § 9620(h)(3)(A)(i)(I) and (II)): Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C § 9620(h)(3)(A)(i)(I) and (II)), available information regarding the type, quantity, and location of hazardous substances and the time at which such substances were stored, released, or disposed

TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [_____]

Page 4.

of, as defined in section 120(h), is provided in Exhibit "B", attached hereto and made a part hereof.

2. Description of Remedial Action Taken, if any, Pursuant to Section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)): Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), a description of the remedial action taken, if any, on the Property is provided in Exhibit "B", attached hereto and made a part hereof.

3. Covenant Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)): Pursuant to section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)), the GRANTOR warrants that:

(a) all remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the Property has been taken before the date of this Deed, and

(b) any additional remedial action found to be necessary after the date of this Deed shall be conducted by the United States.

4. Access Rights Pursuant to Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C § 9620(h)(3)(A)(III)):

The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which a remedial action or corrective action is found to be necessary on the part of the United States, without regard to whether such remedial action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigations, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the GRANTEE and its successors and assigns and shall run with the land.

In exercising such easement and right of access, the United States shall provide the GRANTEE or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely

TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [_____]

Page 5.

curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the GRANTEE's and the GRANTEE's successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the GRANTEE, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

In exercising such easement and right of access, neither the GRANTEE nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer or employee of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: Provided, however, that nothing in this paragraph shall be considered as a waiver by the GRANTEE and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

G. *[Insert any environmental restrictions or land use covenants as may be designated in the CERCLA Record of Decision, an approved Corrective Action Plan or the FOST, and insert any additional notices.]*

H. TERMINATION. The GRANTEE and its successors and assigns may apply to GRANTOR for a termination of one or more of the environmental restrictions or covenants in the Deed concerning all or any portion of the Property. Copies of such application shall be provided to the Federal Facility Site Remediation Agreement (FFSRA) signatories. If the FFSRA signatories determine that the applicable environmental land use restriction or covenant is no longer necessary for the protection of human health and the environment, then documentation of that determination shall be provided to the GRANTOR in a form acceptable to GRANTOR. If GRANTOR concurs with that determination, then GRANTOR shall provide to the GRANTEE or its successors and assigns, a release of the applicable environmental restrictions or covenants in an appropriate form for recordation. No release of environmental restrictions or covenants shall extinguish or modify any covenants, assurance, or rights of access reserved or provided pursuant to CERCLA Section 120(h)(3) [42 U.S.C. § 9620(h)(3)] in any deed by which the GRANTOR conveys the Property.

I. LEAD-BASED PAINT (LBP). *[Where applicable]*

1. The Property may include improvements that are presumed to contain LBP because they are thought to have been constructed prior to 1978. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Pursuant to 40 CFR Section 745.113 and the FOST(s), the following notice is provided: "Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is

TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [____]

Page 6.

notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase. The GRANTEE will be responsible for managing all lead-based paint in compliance with all applicable federal, state and local laws and regulations.”

2. Due to the presence of lead-based paint on structures located on the Property, interim use of these structures as residential real property or child occupied facilities prior to any demolition or legally-required abatement of lead-based paint hazards is prohibited. The GRANTEE shall be responsible for managing all lead-based paint, including soil lead hazards resulting from release of lead to soil from lead-based paint on structures or GRANTEE's demolition activities, in compliance with the Residential Lead Based Paint Hazard Reduction Act of 1992, 42 U.S.C. Section 4852d (“**Title X**”) and all applicable federal, state and local laws and regulations. The GRANTEE shall conduct soil sampling and, if necessary, remediation after demolition and removal of demolition debris and prior to occupancy of any newly constructed dwelling units in a manner consistent with Title X and Department of Housing and Urban Development guidelines.

3. The GRANTEE hereby acknowledges the required disclosure of the presence of any known LBP and/or LBP hazards in target housing constructed prior to 1978 in accordance with Title X. The GRANTOR agrees that it has provided to GRANTEE, and GRANTEE acknowledges the receipt of, available records and reports pertaining to LBP and/or LBP hazards and receipt of the Environmental Protection Agency (EPA) approved pamphlet “Protect Your Family from Lead in Your Home” (EPA 747-K-94-001). Furthermore, the GRANTEE acknowledges that it has read and understood the EPA pamphlet.

4. The GRANTEE covenants and agrees that, in any improvements on the Property defined as target housing by Title X and constructed prior to 1978, LBP hazards will be disclosed to potential occupants in accordance with Title X before use of such improvements as a residential dwelling (as defined in Title X). Further, the GRANTEE covenants and agrees that LBP hazards in target housing will be abated to the extent required in accordance with Title X before use and occupancy as a residential dwelling, in accordance with applicable laws. “Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides, or is expected to reside, in such housing) or any zero-bedroom dwelling.

5. The GRANTEE covenants and agrees that in its use and occupancy of the Property, it will comply with Title X and all applicable Federal, State, and local laws

TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [____]

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relating to LBP. The GRANTEE acknowledges that the GRANTOR assumes no liability for damages for personal injury, illness, disability, or death to the GRANTEE, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with LBP on the Property, arising after the conveyance of the Property from the GRANTOR to the GRANTEE, whether the GRANTEE has properly warned, or failed to properly warn, the persons injured.

J. ASBESTOS CONTAINING MATERIALS. *[Where applicable]*

1. The GRANTEE is hereby informed and does acknowledge that asbestos or asbestos containing materials (“ACM”) have been found and are otherwise presumed to exist in buildings, structures, and steam lines on the Property. The location and condition of known ACM is documented in survey and remediation summary reports (Final 2009 Asbestos Reevaluation Report for Treasure Island and Yerba Buena Island dated February 2011). GRANTOR covenants that it has provided to the GRANTEE all documentation regarding the presence of any known ACM, and the GRANTEE acknowledges receipt of documentation disclosing the presence of any known ACM in the buildings, structures, and steam lines on the Property. The GRANTEE covenants that it will prohibit use or occupancy of buildings and structures that may be located on the Property or portions thereof containing known friable ACM prior to abatement of the friable ACM or demolition of the building or structure, as may be required by applicable law. The GRANTEE shall have the right to use all steam lines that may be located on the Property or portions thereof in accordance with applicable law.

2. The GRANTEE covenants and agrees that in its use and occupancy of the Property, including but not limited to demolition or handling of buildings or utilities containing ACM, it will be responsible for managing ACM and for complying with all applicable Federal, State and local laws relating to ACM. The GRANTEE acknowledges that the GRANTOR assumes no liability for costs of any kind or for damages for personal injury, illness, disability, or death to the GRANTEE, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or activity causing or leading to contact of any kind whatsoever with ACM in the improvements including, but not limited to, the utilities (both underground and above-ground) and structures on the Property, arising after the conveyance of the Property from the GRANTOR to the GRANTEE, whether the GRANTEE has properly warned, or failed to properly warn the persons injured.

K. NON-DISCRIMINATION. GRANTEE covenants not to discriminate upon the basis of race, color, religion, disability, sex, age or national origin in the use, occupancy, sale, or lease of the Property, or in its employment practices conducted thereon. This covenant shall not apply however, to the lease or rental of a room or rooms within a family dwelling unit, nor shall it apply with respect to religion if the Property is on premises used primarily for religious purposes. The GRANTOR shall be deemed a beneficiary of this covenant

TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [_____]

Page 8.

without regard to whether it remains the owner of any land or interest therein in the locality of the Property hereby conveyed and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

L. PESTICIDE NOTIFICATION. The GRANTEE is hereby notified that the Property may contain pesticide residue from pesticides that have been applied in the management of the Property. The GRANTOR knows of no use of any registered pesticide in a manner inconsistent with its labeling and believes that all applications were made in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. Section 136, et seq. It is the GRANTOR's position that it shall have no obligation under the covenants provided pursuant to Section 120(h)(3)(A)(ii) of CERCLA, 42 U.S.C. Sections 96720(h)(3)(A)(ii), for the remediation of any registered pesticides applied in a manner consistent with its labeling and in accordance with FIFRA. GRANTEE reserves the right to assert that GRANTOR may have continuing obligations under Section 120(h)(3)(A)(ii) of CERCLA for the remediation of registered pesticides.

M. PETROLEUM CONTAMINATION. *[Where applicable, insert specific references to petroleum contamination sites and restrictions on the Property]*

N. POLYCHLORINATED BIPHENYLS. *[Where applicable, insert specific references to PCB sites and restrictions on the Property]*

O. GROUNDWATER WELLS. *[Where applicable, insert specific references to groundwater wells and restrictions on the Property]*

P. FEDERAL BRIDGE USE. *[Where applicable]* This Deed is subject to the terms of the Offer Of Compromise between the State of California and the Attorney General of the United States of December 16, 1938, defining the scope of the privilege of free passage upon, over and across the San Francisco-Oakland Bay Bridge for military, naval, and civilian personnel originally established in paragraph five (5) of the Joint Permit executed by the Secretary of War, the Acting Secretary of the Navy, and the State of California on August 20, 1932.

Q. ARC OF VISIBILITY. *[Where applicable]* As provided in the Treasure Island and Yerba Buena Island Design for Development Section T4.9, buildings whose height does not exceed the applicable maximum height on the Maximum Height Plan subject to projections permitted under Standard T4.4.5, but do exceed the applicable height on the Heights Requiring Consultation Plan inclusive of any projections, are permitted but require consultation with TIDA and the U.S. Coast Guard to determine whether the building may interrupt direct contact between the U.S. Coast Guard's Vessel Traffic Service (VTS) and vessels in the San Francisco Bay shipping channels. In the event that the consultation determines that the building would interrupt the VTS's direct contact, the applicant must alter the building so it does not do so or make other arrangements to avoid doing so; such arrangements may include but are not

TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [____]

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limited to: upgrading the VTS equipment, locating VTS equipment on the roof of the building, or relocating VTS equipment to a new location.

III. RESERVING UNTO GRANTOR:

A. *[Insert any easements or other rights being reserved including for utilities and roads and any terms and conditions to those easements, and attach any necessary exhibits. Such reservations may benefit, but are not limited to, the U.S. Coast Guard property on Yerba Buena Island consistent with Article 9 of the EDC Agreement.]*

IV. GRANTING UNTO GRANTEE:

A. *[Insert any easements or other rights being granted over remaining Navy property for utilities and roads serving the conveyed property and any terms and conditions to those easements; attach any necessary exhibits. In some cases, it may be preferable to grant such rights under a separate instrument.]*

V. THE CONDITIONS, RESTRICTIONS, RESERVATIONS, AND COVENANTS set forth in this Deed, unless subsequently released, are a binding servitude on the Property; shall inure to the benefit of the GRANTOR and GRANTEE, their successors and assigns, and will be deemed to run with the land in perpetuity, pursuant to California Civil Code Section 1462 and 1471 and other applicable authority.

VI. LIST OF EXHIBITS: The following exhibits are attached hereto and made a part of this Deed:

- A. Exhibit "A" Legal Descriptions and Plats of the Property
- B. Exhibit "B" Notice Regarding Type, Quantity, Location and Time at which Hazardous Substances were Stored, Released or Disposed of on the Property, if any, and Table of Hazardous Substances Notification and Remedial Action Taken, if any
- C. Exhibit "C" Petroleum Contamination Site Legal Descriptions, if any
- D. Exhibit "D" Area Requiring Institutional Controls Legal Descriptions, if any

[SIGNATURE PAGE FOLLOWS]

TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [____]
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IN WITNESS WHEREOF, the GRANTOR has caused its name to be signed to these presents by an authorized Real Estate Contracting Officer on the day first above written.

UNITED STATES OF AMERICA,
acting by and through the Department of the Navy

BY: _____
Name:
Title: Real Estate Contracting Officer

ACCEPTANCE:

The GRANTEE hereby accepts this Quitclaim Deed and agrees to be bound by all the agreements, covenants, conditions, restrictions and reservations contained herein.

TREASURE ISLAND DEVELOPMENT AUTHORITY

BY: _____
Name:
Title:

Date: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

File No: (_____)

APN No:

STATE California)SS
COUNTY _____)

On _____ before _____, Notary Public, personally

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 that 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 _____

This area for official notarial seal.

**TREASURE ISLAND QUITCLAIM DEED FOR PARCEL [_____]
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CERTIFICATE OF ACCEPTANCE

Government Code Section 27281

This is to certify that the interest in real property conveyed by the Quitclaim Deed for the Parcel [_____] from the United States of America to the Treasure Island Development Authority, a California non-profit public benefit corporation, Grantee, is hereby accepted by the undersigned officer, its _____, on behalf of the _____, pursuant to the authority conferred by Resolution No. _____, adopted on _____, and the Grantee consents to the recordation thereof, by its duly authorized officer. The Grantee hereby agrees to be bound by all the agreements, covenants, conditions, restrictions and reservations contained herein.

IN WITNESS WHEREOF, I have hereunder set my hand this ____ day of _____, 20__.

Approved As To Form:
DENNIS J. HERRERA, City Attorney

By: _____
Name:
Deputy City Attorney

TREASURE ISLAND DEVELOPMENT AUTHORITY

By: _____
Name:
Title:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

File No: (_____)
APN No:

STATE California)SS
COUNTY _____)

On _____ before _____, Notary Public, personally

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 that 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 _____

This area for official notarial seal.

FORM OF UTILITIES AGREEMENT

1. Purpose

- 1.1. The purpose of this Utilities Agreement (“Agreement”) is to describe the transitions in utility ownership and operational roles and responsibilities that will occur as surplus property at the former Naval Station Treasure Island (“NSTI”) is conveyed by the Department of the Navy (“Navy”) to the Treasure Island Development Authority (“TIDA”) in accordance with the terms and conditions of the Economic Development Conveyance Memorandum of Agreement (“EDC MOA”).
- 1.2. This Agreement is part of and additive to the terms and provisions of the EDC MOA. Nothing in this Agreement is intended to supersede, limit, alter or conflict with the terms or provisions of the EDC MOA or the Base Caretaker Cooperative Agreement dated March 1997, as amended (“Caretaker Agreement”). This Agreement shall expire or terminate simultaneously upon the expiration or termination of the EDC MOA, expiration or termination of the Caretaker Agreement, or transfer of all the Existing Utility Infrastructure (as defined in paragraph 3.2) whichever occurs earliest.

2. Parties to the Agreement

- 2.1. Navy: The Navy owns portions of the NSTI, a former military base that consists of property on two islands connected by a causeway: (1) Treasure Island comprising approximately 409 acres of level filled land and (2) approximately 90 acres of Yerba Buena Island, a natural rock outcropping in San Francisco Bay, and (3) approximately 589 acres of submerged lands surrounding both Treasure and Yerba Buena Islands. NSTI was designated for closure and disposition in 1993 by the Base Realignment and Closure Commission acting under Public Law 101-510 and its subsequent amendments.
- 2.2. TIDA: TIDA is a nonprofit public benefit corporation established to act on behalf of the City and County of San Francisco as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of NSTI. The Department of Defense subsequently designated the City and County of San Francisco (“City”), and later TIDA, as the Local Reuse Authority responsible for the conversion of NSTI under the federal disposition process. TIDA assumed the caretaker responsibilities for the utility systems on NSTI in 1997 under the terms of the Caretaker Agreement.

3. Background

- 3.1. During the military operation of the NSTI, the Navy operated electric, natural gas, sanitary sewer, sewage treatment, potable water and storm water systems on Treasure Island and Yerba Buena Island.

- 3.2. Under the Caretaker Agreement, TIDA has served as the Caretaker for the Navy's utility infrastructure ("Existing Utility Infrastructure") since 1997. In accordance with the Caretaker Agreement, TIDA is responsible for the operation and maintenance of utilities, roads, and facilities, including compliance with environmental permits covering the wastewater, storm water, and drinking water systems. The Navy provided funding to the Caretaker during the first 3 years of the Caretaker Agreement to supplement the operational costs while the leasing program was developed. The Caretaker Agreement has been modified at least annually with the no cost extensions starting in 2002.
- 3.3. TIDA has provided utility services to residents and businesses located on NSTI. These residents and businesses are sub-lessees under master leases from the Navy to TIDA. TIDA has also provided utility services to Federal property holders Job Corps on Treasure Island and the United States Coast Guard on Yerba Buena Island.
- 3.4. Within property owned by the Navy, TIDA shall continue to serve as the Caretaker in accordance with the terms and conditions of the Caretaker Agreement as it may be amended from time to time so long as the Caretaker Agreement is in effect.
- 3.5. NSTI included two federal properties under the jurisdiction of the Job Corps and the United States Coast Guard which are not intended to be transferred to TIDA. TIDA shall provide utility service to these Federal properties consistent with the terms and conditions of the Caretaker Agreement as long as it remains in effect or until the applicable responsibility under the Caretaker Agreement is assumed by a utility provider(s).
- 3.6. Subject to all applicable requirements of the EDC MOA, the Caretaker Agreement, and the Utilities Agreement, TIDA shall, at its sole discretion, determine whether and how to provide utility services within property transferred to TIDA.

4. Property Ownership and Transfers

- 4.1. Pursuant to the EDC MOA, certain lands comprising the former NSTI are to be transferred in multiple phases by the Navy to TIDA. TIDA intends to further subdivide these lands and transfer certain portions of them to its master developer for the redevelopment of NSTI.

5. Utility Ownership

- 5.1. With the exception of certain Key Infrastructure described in section 9.5 of the EDC MOA, ownership of Existing Utility Infrastructure within property conveyed to TIDA by the Navy will be transferred with the property.
- 5.2. Except as set forth in Paragraph 6.1 through 6.3 and Section 8, the provisions of this Agreement will terminate for all Existing Utility Infrastructure transferred to

TIDA.

- 5.3. The provisions of this Agreement will terminate for any utility infrastructure dedicated to and accepted by a utility provider.

6. Damage to Utility Lines.

- 6.1. If TIDA or its agents, in connection with its redevelopment activities or otherwise, damage any utility infrastructure that is used or relied upon by the Federal Government, TIDA shall promptly repair any such damage at its sole cost. If the Government or its agents, in connection with remediation or other activities, damage any utility infrastructure that is used or relied upon by TIDA, the Government shall promptly repair any such damage at its sole cost.
- 6.2. In the event that it becomes necessary for either Party to relocate an existing utility due to development or remediation activities or for other purposes, the Party causing the relocation shall be responsible for the cost of the relocation, and there shall be no material interruption or decrease in service to the other Party (other than temporary interruptions consistent with infrastructure repair and replacement projects) as a result of such work.
- 6.3. Neither Party shall have the right to remove or modify any utility infrastructure that is needed to provide utility service to the other Party without replacing the infrastructure as needed to prevent interruptions in service or obtaining the prior written consent of the other Party.

7. Environmental Issues

- 7.1. The Parties' agreement as to environmental investigations, remediation, and related responsibilities and liabilities is set forth in the EDC MOA. Nothing in this Agreement shall invalidate or conflict with such provisions of the EDC MOA, which are incorporated herein by this reference. The provisions in this Section 7 supplement the requirements of the EDC MOA.
- 7.2. All excavations in Navy owned property, as required by TIDA to perform the utility responsibilities of this Agreement and the Caretaker Agreement, shall be permitted by the Navy subject to appropriate controls and requirements.
- 7.3. When issuing an excavation permit, the Navy shall indicate whether the site requires radiological screening before or during the course of excavation, the institutional controls applicable to excavation (if any), and other environmental information for the proposed excavation site. Any disposal of soil is the responsibility of the excavating party, including classification and appropriate disposal; provided, if radiological screening indicates the presence of radiological contamination, TIDA shall immediately inform the Navy and the Navy shall take appropriate actions to address any radiological contamination allowing TIDA to complete the permitted work.

- 7.4. If an emergency excavation is required in a radiologically controlled area, the excavation shall be coordinated with the Navy.
- 7.5. Where screening or disposal of materials is required in areas that are not radiologically controlled, the cost of screening, disposal and other controls shall be the responsibility of the excavator subject to the Navy's CERCLA obligations under the EDC MOA.

8. Permits and Regulatory Compliance

- 8.1. Subject to the requirements of the Caretaker Agreement, the owner of the utility infrastructure has the obligation to ensure compliance with all applicable environmental laws and regulations, including obtaining coverage under and complying with necessary operating permits as described below.
- 8.2. TIDA shall acquire new permits, as may be necessary, for any utility infrastructure transferred to TIDA by the Navy under the provisions of Section 5. The transfer of utility operating permits, if required, shall be subject to regulatory approval.
- 8.3. Should either Party become aware of a discharge or potential discharge of pollutants from utility infrastructure owned by either Party that has potential to cause or contribute to a violation of any operating permit (hereinafter "Discharge"), that Party shall promptly inform the other Party. The Parties shall provide timely notification to each other upon receipt of information related to any such Discharge, including any monitoring reports and correspondence with any regulatory agency with jurisdiction to enforce the operating permits.
 - 8.3.1. For utilities owned by TIDA, TIDA shall be responsible, at no cost to the Navy (subject to subsections 8.3.3 and 8.3.4), for all of the following: investigating any Discharge; reporting and responding to regulators as required by any operating permit; identifying the source of the pollutants; containing or otherwise controlling the pollutants; identifying and implementing appropriate cleanup or other control measures; generating information about the Discharge required by any regulatory agency; and paying any penalties or charges assessed by a regulatory agency (collectively, the "Response Actions").
 - 8.3.2. For utilities owned by the Navy, TIDA shall be responsible, at no cost to the Navy (subject to subsections 8.3.3 and 8.3.4) for the Response Actions under the Cooperative Agreement, so long as it remains in effect.
 - 8.3.3. Nothing in the above shall be construed to transfer to TIDA any Navy obligations or responsibilities under CERCLA or the Navy's remediation obligations as set forth in the EDC MOA.
 - 8.3.4. TIDA shall perform the Response Actions to regulatory closure subject to the following:

8.3.4.1. If in performing the Response Actions TIDA traces the origin of and responsibility for the Discharge to a current activity on NSTI or an activity that arose after the date of lease of the applicable property from the Navy to TIDA, or otherwise relates to an existing occupant or resident at NSTI other than the Navy, the Government or their agents, TIDA will continue to perform the Response Actions to regulatory closure but will seek recovery against the responsible party and otherwise take action against that party in accordance with applicable law.

8.3.4.2. If in performing the Response Actions TIDA traces the responsibility for the Discharge to the Navy, the Government or their agents, or to a contaminant that the Navy is responsible for remediating under CERCLA, then TIDA shall notify the Navy of such fact together with supporting information. Upon determination that the Navy, the Government or its agents is responsible for the Discharge, the Navy shall, at no cost to TIDA, assume responsibility for all further required Response Actions to obtain regulatory closure, subsequent to the time of TIDA's notification.

8.3.4.3. In the event of a dispute regarding the Navy's responsibility for a Discharge, either Party may invoke the dispute resolution procedures in Article 27 of the EDC MOA.

8.4. Wastewater Treatment Plant:

8.4.1. The Navy currently owns the Treasure Island Wastewater Treatment Plant (WWTP), the operation of which is permitted by RWQCB NPDES Permit No. CA0110116, which incorporates Permit Nos. R2-2011-0012 and R2-2007-0077; and BAAQMD Permit to Operate Air Emissions Sources for Plant # 479.

8.4.2. The Navy shall remain the permittee of the WWTP until the WWTP is conveyed in accordance with the terms of the EDC MOA or until December 31, 2020 whichever is earlier.

8.4.3. RWQCB NPDES Permit No. CA0110116 shall be transferred from the Navy to TIDA consistent with the procedures required by 40 C.F.R. § 122.61. Accordingly, the Parties must notify the RWQCB at least 90 days in advance of the transfer, and the notice must include a specific date for transfer of permit responsibility, coverage, and liability.

8.4.4. No later than 90 days before the transfer, the Parties shall also notify the Bay Area Air Quality Management District of the change in ownership of

the WWTP and complete, as necessary, a Facility Information Update form.

- 8.4.5. TIDA shall be responsible for permitting any new Waste Water Treatment Plant, when constructed, unless the permit is established by a utility provider.

8.5. Wastewater Collection System:

- 8.5.1. The Navy currently owns the entire wastewater collection system serving NSTI and has obtained coverage for it under the SWRCB Statewide Waste Discharge Requirements for Wastewater Collection Agencies, Order No. 2006-0003-DWQ (Waste Discharger Identification No. 2SSO10207) (SSS WDR) as part of the NPDES permit.
- 8.5.2. Subject to the provisions of Section 8.3 and the Caretaker Agreement, the owner of any sanitary sewer collection infrastructure shall be responsible for permitting and compliance of the infrastructure under the SSS WDR.
- 8.5.3. Coverage under the SSS WDR is not transferable except after written notice to the SWQCB, submitted at least 90 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new permittee containing a specific date for the transfer of permit responsibility and coverage between the existing permittee and the new permittee.
- 8.5.4. TIDA will establish a new permit under the SSS WDR for portions of the sanitary sewer collection system transferred to TIDA. No later than 90 days in advance of the first transfer of property from the Navy to TIDA, TIDA shall file a notice of intent (NOI) for coverage under the SSS WDR for the utility infrastructure to be transferred. No later than 90 days in advance of subsequent future transfers, the Parties will jointly submit updated maps to the SWRCB showing the infrastructure owned by the Parties respectively.
- 8.5.5. Subject to the Caretaker Agreement, the owner of any sanitary sewer collection infrastructure shall also be responsible for any discharge of waste to waters of the United States in violation of the Clean Water Act, 33 U.S.C. § 1311(a).

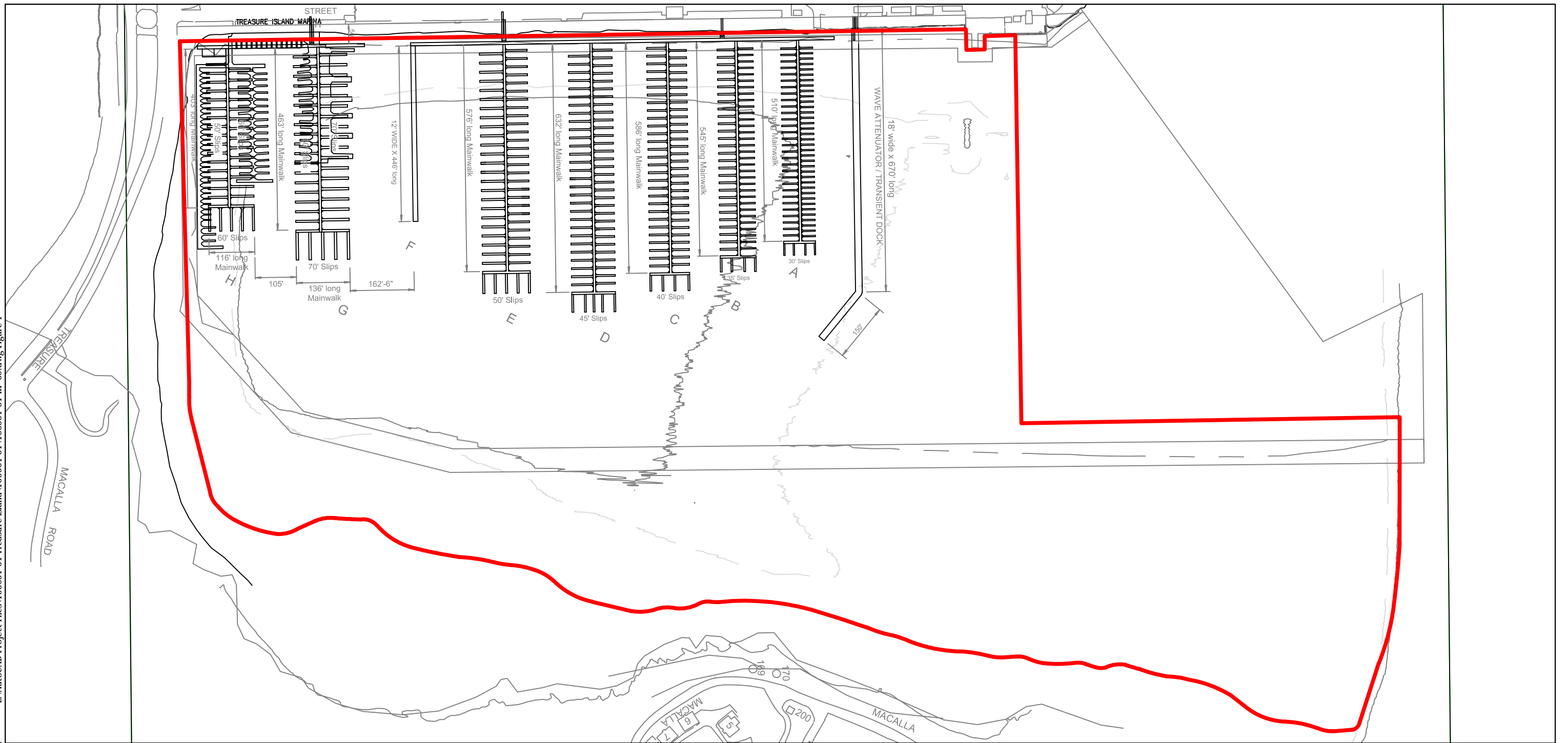
8.6. Storm Water Collection System:

- 8.6.1. The Navy currently owns the entire storm water collection system serving NSTI and has obtained coverage under the SWQCB General NPDES Permit for Discharges of Storm Water Associated with Industrial Activities, Excluding Construction Activities, No. CAS000001 (WDID No. 238S012140) (IGP).

- 8.6.2. Subject to the Caretaker Agreement and the provisions of Section 8.3, the owner of any storm water collection infrastructure shall be responsible for its permitting and compliance.
- 8.6.3. Notwithstanding the responsibilities established in 8.6.2, storm water collection infrastructure owned and separately permitted by the Parties may be interconnected and discharge through a single outfall. Wherever the Parties infrastructure is interconnected and storm water flows are combined, the Parties shall coordinate operations and permit compliance to ensure mutual compliance under their respective permits.
- 8.6.4. No later than 90 days in advance of the first transfer of property including stormwater infrastructure from the Navy to TIDA, TIDA shall contact the RWQCB to obtain coverage under the appropriate permit for discharges of stormwater from TIDA-owned stormwater infrastructure.
- 8.7. Potable Water Supply Distribution System:
- 8.7.1. The Navy currently owns the water distribution system serving NSTI beginning at the point of supply to the storage reservoirs and has obtained coverage under State of Calif. – Health and Welfare Agency, Water Supply Permit No. 02-04-96P-3810702.
- 8.7.2. Subject to the provisions of Caretaker Agreement, the owner of any potable water distribution infrastructure shall be responsible for its permitting and compliance.
- 8.7.3. Notwithstanding the responsibilities established in 8.7.2, the water distribution infrastructure owned and separately permitted by the Parties will be interconnected and compliance with permit requirements, particularly water quality requirements, will depend upon the operation and maintenance of both Parties’ infrastructure, and the Parties shall coordinate operations and permit compliance to ensure mutual compliance under their respective permits.
- 8.7.4. Key Infrastructure retained by the Navy contains major components of the water distribution system. These components will be upgraded by TIDA and its agents during Phase 1 of the development process. TIDA and its agents will dedicate these components of the potable water distribution system at the earliest opportunity.
- 8.7.5. No later than 180 days in advance of the Initial Closing, as defined in the EDC MOA, TIDA shall contact the California Department of Public Health to obtain a permit for the non-Navy owned portions of the water supply distribution system.

L:\AutoCAD Project Files\100661-01 Treasure Island\100661-01-RP-09.dwg Figure 1

Feb 06, 2012 3:04pm mpratschner



SOURCE: ESRI Basemap.
 HORIZONTAL DATUM: California State Plane, Zone 3, NAD83.
 VERTICAL DATUM: Mean Lower Low Water (MLLW).

LEGEND:



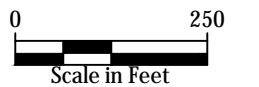
Boundary of Marina Area



Proposed Marina

Total Marina Area

3,589,949.04 Sq. Ft
 82.41 Acres



DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for the Disposal and Reuse of Naval Station Treasure Island,
California

AGENCY: Department of the Navy, DoD

ACTION: Notice of Record of Decision

SUMMARY: The Department of the Navy (DoN) pursuant to section 102(2) (c) of the National Environmental Policy Act (NEPA) of 1969, 42 United States Code (U.S.C.) Section 4332 (2) (c), and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 Code of Federal Regulations (CFR) parts 1500-1508, announces its decision to dispose of Naval Station Treasure Island (NSTI), which includes both Treasure Island and Yerba Buena Island. NSTI is located midway between the shores of the cities of San Francisco and Oakland. The disposal of NSTI will be accomplished in a manner that will allow the Treasure Island Development Authority (TIDA), the redevelopment authority established by the State of California and recognized by DOD, to reuse the property as set out in Alternative 1, described in the Final Environmental Impact Statement (FEIS) as the preferred alternative. The decision by DoN to dispose of the property in a manner that allows TIDA to reuse the property as described in the preferred alternative does not make the DoN responsible for any obligation or commitment, fiscal or other, made by TIDA to the State of California or to third parties. Obligations or commitments made by TIDA in the course of developing its redevelopment plan, or in obtaining approval of the redevelopment plan from the United States Department of Housing and Urban Development (HUD), remain the responsibility of TIDA.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick McCay, telephone (619) 532-0906; e-mail patrick.mccay@navy.mil or write to: Director, BRAC PMO West, ATTN: Mr. Patrick McCay, 1455 Frazee Road, Suite 900, San Diego, California 92108.

SUPPLEMENTAL INFORMATION: The 1993 Defense Base Realignment and Closure Commission (BRAC '93 Commission) recommended the closure of NSTI. President Clinton approved this recommendation and the 103rd Congress accepted it on September 27, 1993. NSTI closed on September 30, 1997, and DoN is in the process of disposing of the property to meet the requirements of the Defense Base Closure Realignment Act (DBCRA) of 1990 to reduce and realign United States military operations and enable productive reuse of this surplus federal property.

On July 11th, 1994, the majority of land and facilities at this installation were declared surplus to the needs of the federal government. State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of the installation were eligible for use of the property. The Base Closure Community Redevelopment and Homeless Assistance (BCCRAHA) Act of 1994 (Pub.L. 103-421) amends DBCRA of 1990, exempting base closure property from the McKinney Act and establishing a process that requires a balancing of homeless assistance needs with the need of the communities in the vicinity of the installation for economic redevelopment and other development. Representatives of the homeless submit notices of interest for the installations to the redevelopment authority. The definition of redevelopment authority (generally referred to as a local redevelopment authority or LRA) is found in Section 2910 of the amended DBCRA of 1990 (Pub.L. 101-510). Redevelopment authority means “any entity (including an entity established by State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan.” In 1997, California State Legislation created a special LRA for NSTI, transferring the LRA status from San Francisco, to TIDA. In March of 1998, DOD’s Office of Economic Adjustment recognized TIDA as the implementing LRA for NSTI. For the purposes of this Record of Decision, DoN will refer to TIDA as the LRA for NSTI.

Notices submitted to the LRA contain detailed information regarding the assistance program that the representative of the homeless proposes to carry out at the installation. The LRA, not the federal government, may address those notices of interest regarding needs either on or off base, and is responsible for screening to meet the needs of the homeless. Additionally, the BCCRAHA Act of 1994 requires that an LRA prepare a redevelopment plan for a closing installation that considers the expressed needs of the homeless, and that this plan be approved by HUD. Obligations or commitments made by TIDA in the course of developing its redevelopment plan, or in obtaining approval of the redevelopment plan from HUD, remain the responsibility of TIDA.

Before disposal of any real property, DoN must analyze the environmental effects of the disposal action. As required by DBCRA, DoN has treated the 1996 Draft Reuse Plan as part of the proposed federal action for the installation.

The City and County of San Francisco prepared an Environmental Impact Report (EIR) for the transfer and reuse of NSTI. The proposed action and alternatives were essentially identical to that of DoN's EIS. The EIR was recently certified in May 2005.

Master development plans for TIDA have continued to evolve since July 2002, as reflected in the preparation of initial studies, master development submittals and public workshops. The development plans do not show substantial changes to the overall proposed land use assumptions. The City and County of San Francisco will prepare a second EIR, specific to the proposed development, once the development plans have become sufficiently detailed.

ALTERNATIVES CONSIDERED: A screening process, based upon criteria set out in the Draft EIS, was conducted to identify a reasonable range of alternatives that would satisfy DoN's purpose and need regarding property disposal.

Alternative 1, the Preferred Alternative, reflects disposal of the property in the context of the redevelopment scenario described in the 1996 Draft Reuse Plan developed by the LRA. Alternative 1 features a post-disposal reuse of publicly oriented development (155 acres), open space and recreation (118 acres), institutional and community uses (40 acres), and residential development (137 acres) at full build out. This scenario represents the most intensive redevelopment scenario proposed in the FEIS.

Actual redevelopment by an entity would likely reflect this intensity, but may not reflect the specific conceptual construction types provided in the 1996 Draft Reuse Plan.

Alternative 2 presents less intensive post-disposal reuse than Alternative 1, but has similar land uses and development concepts. Alternative 2 was developed during the scoping process, including the recommendations of an advisory panel convened by the Urban Land Institute. Under this scenario, no new housing would be built at NSTI, and the existing housing would be reused initially (21 acres).

Alternative 3 represents a scenario where little new post-disposal development would occur and existing facilities would be used. No new housing units would be constructed.

The No Action alternative represents a scenario that maintains the status quo with DoN retaining ownership of NSTI. Those structures subject to an existing lease would continue to be leased until such lease expires or is terminated. Those structures not subject to an existing lease would be maintained in a caretaker status. No demolition or construction would occur, except as allowed by existing lease authorization. Approximately 50 persons would be assigned to perform caretaker activities. The No Action Alternative would have no significant impacts; therefore, it is the environmentally preferred alternative.

ENVIRONMENTAL IMPACTS: DoN analyzed the direct, indirect, and cumulative impacts of the disposal action on the environment. Potentially significant impacts associated with Alternative 1, the alternative selected in this Record of Decision, are summarized below.

Land Use/Zoning. The anticipated land use zone classifications required for redevelopment as illustrated in Alternative 1 (i.e., Public, Residential, Mixed Use) would be inconsistent with the existing City and County of San Francisco General Plan designation and zoning classification. The General Plan land use designation for NSTI is Military. Amendments to the General Plan, using the public process established by the State of California for such amendments, would be required before redevelopment could occur.

Subsequent to the Naval Appropriations Act of 1942 (Pub. L. 441) in which Congress appropriated funds for the acquisition of Treasure Island, the government pursued the condemnation process for the property now known as NSTI in the United States District Court of San Francisco. The declaration of taking was filed on April 17, 1942. The parties reached a joint settlement of the condemnation case on April 3, 1944. As compensation for the taking, the Government completed construction of \$10 million of permanent improvements at San Francisco Airport. Chapter 3 of the California Statutes of 1942 authorized the transfer of Treasure Island to the government including all tide and submerged lands and further stated that the transfer “shall be free and clear of all conditions and reservations respecting the title to or use of said lands...” The State made no provisions for the reservation of a tideland trust or public trust easement over tidelands or submerged land nor was there any reversion rights contained in the statute. Therefore, the DoN’s position is that the United States acquired full fee simple absolute title to all the property, including the tidelands and submerged lands, and that the property would not be subject to the public trust upon disposal by DoN. The State of California, however, considers all former and existing tide and submerged lands on Treasure Island to be subject to the public trust in the event of a transfer of the property from DoN.

The Treasure Island Conversion Act of 1997 (1997 Cal. Stat. 898, AB 699), granted TIDA the power to administer and control property at NSTI, identified by the State of California as land that will be subject to the public trust upon its release from federal ownership. Under the 1997 Act, existing buildings and structures located on public trust lands which are incapable of being devoted to trust purposes may be used for other purposes, consistent with the reuse plan, for their remaining useful life. If the trust were deemed to apply, this would not be expected to have a substantial effect on future land use patterns on NSTI.

Similarly, the Treasure Island Public Trust Exchange Act (2004 Cal. Stat. 543, SB 1873), authorized an exchange of public trust lands whereby certain trust lands on NSTI would be freed from the public trust in exchange for encumbering other lands on Yerba Buena Island that are not now public trust lands. The Act specifically approved an exchange resulting in the configuration of trust lands substantially similar to that depicted

on the diagram in Section 12 of the Act. If the trust were deemed to apply, such an exchange would not be expected to have a substantial effect on future NSTI land use patterns.

Traffic. The proposed action would result in peak-hour traffic volumes on the San Francisco – Oakland Bay Bridge (SFOBB)/Interstate-80 Yerba Buena Island westbound on-ramp, on the west side of Yerba Buena Island, that would exceed the current ramp capacity of 330 vehicles per hour (vph). The projected demand would result in a queue ranging from 7 vehicles (during the AM peak hour) to 239 vehicles (during the weekend midday peak hour). This queue would constrain vehicular circulation on the island.

Alternative 1 would result in a substantial increase in traffic volumes on the eastbound off-ramp on the west side of Yerba Buena Island that would exceed the practical capacity of the off-ramp (500 vph), resulting in a maximum queue of 36 vehicles, or about 700 feet (219 meters) of the SFOBB.

Alternative 1 would result in substantial increases in traffic volumes during the weekend midday peak hour on the eastbound on-ramp on the east side of Yerba Buena Island. While the increased volumes would be accommodated by the upgrade of this ramp as part of the California Department of Transportation's (Caltrans) SFOBB East Span project, it may create a secondary impact of potential traffic delays on the SFOBB.

Under Alternative 1, increased traffic onto and off of the SFOBB during the AM peak period (6:30 to 9:30) and PM peak period (3:30 to 6:30) would cause westbound traffic on segments of the SFOBB to deteriorate from Level of Service (LOS) D to LOS F during the last hour of the AM peak period (8:30 to 9:30) and to deteriorate from LOS B to LOS E or LOS F during the first hour of the PM peak period (3:30) to 4:30). LOS designations are a qualitative description of a facility's performance, based on travel speeds, delays, and density (number of cars per unit of lane). The designation for a facility ranges from LOS A, representing free-flow conditions, to LOS F, representing severe traffic congestion.

Due to a lack of direct bus service between NSTI and the East Bay, bus patrons would have to travel to San Francisco using existing routes, transferring at the Transbay Terminal to another transit service to the East Bay, or to drive, which would add to the

vehicular demand and congestion at the Yerba Buena Island ramps. Approximately 4,290 weekday daily and 4,000 weekend daily bus transit patrons are estimated between NSTI and the East Bay.

Natural Resources. Significant impacts to mudflat habitat, including eelgrass beds, may occur as a result of increased pedestrian and boating activity around Clipper Cove. The enlarged marina would add approximately 200 new boat slips and 100 new tie-up buoys to the existing 100 slips and would quadruple boat traffic in Clipper Cove. This would increase the potential for mudflat habitat disturbance, especially during low tides when recreational boating traffic could erode nearshore sediments, which could directly affect invertebrate prey species in shallow water.

Increased pedestrian and boating activity around Clipper Cove could have a significant impact on shore and water birds by affecting mudflats and eelgrass beds where shorebirds forage. An increase in pedestrian activities from new residents or visitors could result in more people exploring the mudflats during low tide, disturbing avian species and sensitive habitat zones. In addition, the quadrupled boat traffic could erode nearshore sediment during low tide, affecting invertebrate and fish populations, resulting in a decrease of food sources for migratory birds, and decrease in foraging success.

Increased boat and pedestrian activity around Clipper Cove could have a significant impact on Essential Fish Habitat by degrading eelgrass vegetated areas and shallow water in the same manner that mudflat habitat could be impacted. These areas provide important fish spawning, rearing, and foraging habitat.

Public Safety. Significant impacts could occur in the form of damage to structures and infrastructure on Treasure Island due to liquefaction induced ground failure in the event of a major earthquake. Low-lying areas of Yerba Buena underlain by heterogeneous artificial fill are also potentially subject to liquefaction, lateral spreading, and differential settlement hazards.

The installation of residential development in low lying areas would result in net increased exposure of approximately 3,000 residents, 13,799 daily visitors, and property to both ponding and flooding hazards due to seepage or overtopping of the dike. While

nearby bodies of surface water will probably not be significantly impacted, the exposure to these types of hazards is potentially significant.

Hazardous Waste. Construction activities at NSTI associated with future development of the housing unit area, including demolition of existing structures, may interfere with remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

CERCLA REMEDIATION ACTIONS: The following measures have been developed to mitigate potentially significant impacts to remedial actions under the CERCLA program. DoN is in the process of implementing various remedial actions at NSTI pursuant to and in accordance with the requirements of CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan that will remove, manage, or isolate any potentially hazardous substances present on the property prior to conveyance. These remedial actions will ensure that human health and the environment will be protected based on the land use redevelopment scenario illustrated in the 1996 Draft Reuse Plan. If the CERCLA remedy for a particular site includes land use controls, the acquiring entity or entities will be required to comply with the land use controls during construction and/or operations to ensure continued protection of human health and the environment. Subsequent redevelopment of the existing housing area that would involve demolition of existing structures and the grading and reconfiguring of the soil would likely be subject to land use controls on the property. These may include compliance with a City-administered soil management plan that would require permits for soil and groundwater disturbance, subject to proper characterization and management. In addition, deeds conveying the affected property will contain a notice that areas of the property not subject to remediation efforts, such as areas beneath existing foundations, may require additional characterization and possible response actions, subject to appropriate regulatory oversight. Adherence to land use controls and regulatory requirements would mitigate potentially significant impacts to an acceptable level.

MITIGATION: As a result of the identification of a number of potentially significant impacts associated with Alternative 1, DoN has identified measures that can assist the

new property owner(s) in mitigating reuse impacts. As DoN cannot exercise control over the property once title has been transferred, DoN cannot be responsible for implementation of mitigation identified in the FEIS. The following mitigation measures have been identified for possible implementation by the entity (or entities) acquiring the property:

To achieve consistency between the selected reuse Alternative 1 and city policies, it will be necessary to amend the San Francisco General Plan to include land use designations consistent with the 1996 Draft Reuse Plan for Treasure Island and Yerba Buena Island, prior to approving land use actions.

SFOBB/Interstate-80 Yerba Buena Island on-ramps are substandard by current Caltrans standards; primarily in acceleration/deceleration lengths, ramp radii, and sight distances. Upgrading the on-ramps would increase ramp capacity and level of operation and decrease queuing impacts. However, upgrades to the on-ramps may be constrained by the geology of the site (elevation change and bedrock), and structural limitations due to the viaduct. Additional measures would include signage and notices to residents to encourage residents and visitors to use the second westbound on-ramp east of the Yerba Buena Island tunnel. Similarly, redirecting traffic during the weekend midday peak hour to the second on-ramp east of the Yerba Buena Island tunnel would reduce the queue at the first westbound on-ramp. Further measures include implementation of a Transportation Demand Management (TDM) program to further reduce traffic generation during peak hours, especially during the weekend. Implementation of additional or enhanced TDM measures include discounted ferry passes, flex-time, public relations campaigns, and giving employees working on Treasure Island or Yerba Buena Island preferential access to housing on NSTI. Such measures would encourage ferry use and encourage vehicle trips during the non-peak period, to reduce queues on both westbound on-ramps to tolerable levels. Additional measures include monitoring NSTI ramp traffic volumes to ensure that the transportation goals and objectives established by the 1996 Draft Reuse Plan are successfully implemented; monitoring NSTI bus transit demand on an annual basis (or at each phase of development) and ensuring that planned bus services are implemented to meet or exceed demand; implementing a similar monitoring program for ferry demand; restriping the portion of Treasure Island Road between the Main Gate

and the westbound on-ramp on the west side of the Yerba Buena Island tunnel from two lanes to accommodate three traffic lanes; and, using traffic control measures, such as signage, to encourage eastbound motorists to use the second Yerba Buena Island off-ramp (the off-ramp on the east side of Yerba Buena Island). Implementation of TDM and monitoring measures discussed above would help reduce traffic volumes on this off-ramp.

In order to improve traffic volumes during the weekend midday peak hour on the eastbound on-ramp on the east wide of Yerba Buena Island, Caltrans should consider the installation of a ramp metering device if the added traffic onto this on-ramp would cause significant traffic delay on the SFOBB mainline. The mainline includes the main lanes of a freeway as opposed to an off ramp or exit lane. A ramp metering device would restrict/govern the number of vehicles accessing the SFOBB for the benefit of maintaining free flow conditions on the SFOBB.

To alleviate increased traffic onto and off of the SFOBB during peak AM conditions, causing westbound traffic segments to deteriorate, traffic volumes should be monitored at each phase of development. If it is determined that traffic from NSTI is constraining the capacity of the SFOBB, either more aggressive TDM and transit improvements must be implemented or additional development should be delayed until such improvements are implemented.

Establishing direct transit service between NSTI and the East Bay would mitigate the lack of current direct service to a not significant level. Bus service would need to be at 10-minute headways (the interval between the trips of 2 successive vehicles) throughout the day during the weekday and at 15-minute headways throughout the day during the weekend. Additional measures include monitoring NSTI bus transit demand on an annual basis (or at each phase of development), ensuring planned services are implemented to meet or exceed demand, and implementing TDM measures to encourage bus transit. If monitoring indicates an imbalance between transit service and demand, the City and County of San Francisco could limit planned land use development on NSTI until required services are funded.

In response to comments from Bay Area Air Quality Management District (BAAQMD), DoN has identified additional potential mitigation measures not discussed

in the FEIS. DoN recommends that future redevelopment projects implement the measures set out in sections 4.3 and 4.4 of the *BAAQMD California Environmental Quality Act (CEQA) Guidelines: Assessing the Air Quality Impacts of Projects and Plans* (BAAQMD 1999). First, as indicated in section 4.3 of the CEQA Guidelines, incorporate Transit-Oriented Development in project design. This strategy is intended to reduce automobile usage associated with suburban land uses by integrating residential and commercial land uses with transportation routes and making communities more amenable to transit, bicycle, and pedestrian activities. Second, as indicated in section 4.4 of the BAAQMD CEQA Guidelines, measures identified in Tables 15, 16, and 17 to reduce vehicular emissions from commercial, institutional, industrial, and residential uses should be implemented in project-specific phases. Implementation of these transportation measures would ensure that the proposed actions would not contribute to significant cumulative air quality impacts within the region.

To minimize significant impacts to mudflat habitat and eelgrass beds, several measures are recommended for the entity acquiring the land and applying for regulatory permits that will be required to allow development in sensitive areas. Measures include minimizing disturbance to sensitive habitats during construction and preparing and implementing a plan to minimize disturbance of sensitive habitats due to recreational activity. The permittee for the development projects for Clipper Cove could be required to post signs along the shore adjacent to the mudflats and at the marina to inform pedestrians and recreational boaters that the mudflats are a protected sensitive area and trespassing is not permitted. Buoys could be placed in the bay to identify the restricted mudflat area. A “No Wake” zone could be established in Clipper Cove to minimize shoreline and mudflat erosion. A “No Wake” speed (not exceeding 5 miles per hour) is the speed at which a vessel does not produce a wake. Any impacts related to construction or fill would be addressed during the Army Corps of Engineers Section 404 permitting process.

Impacts on migratory birds from pedestrian and boating activities are closely associated with impacts on mudflat habitat and eelgrass beds. Impacts on migratory birds will be mitigated through compliance with all applicable laws, regulations, and regulatory permits. Additional mitigation may include posting signs along the shore adjacent to the

mudflats and at the marina, informing pedestrians and boaters that the mudflats are a protected and sensitive area. Placing buoys in the bay, identifying the mudflat area as restricted and establishing a “No Wake” zone in Clipper Cove could also reduce impacts.

Mitigation measures for increased boat and pedestrian activity on eelgrass areas, mudflats, and shallow water areas are the same as those proposed to mitigate impacts to mudflat areas.

A zone of “ improved ground ” would be created around the perimeter of the island to reduce lateral spreading. Interior island areas shall be similarly improved to reduce large differential settlement. All sensitive structures, such as buildings greater than three stories, buildings intended for public occupancy, structures supporting essential services, and buildings housing schools, medical, police, and fire facilities, shall be supported on pile systems or other specially designed foundations. Detailed geotechnical studies shall be completed in accordance with the City and County of San Francisco requirements for individual development sites.

Filling low-lying portions of the residential area to at least 9 feet (3 meters) National Geodetic Vertical Datum (NGVD) prior to development would mitigate the increased exposure of occupants, visitors, and property to ponding hazards due to seepage through the dike during some high tide events. In addition, other low-lying areas within 500 feet (152 meters) of the Treasure Island perimeter should be similarly filled before development is allowed.

A set back for development inboard of the perimeter dike, to allow room for periodic dike raising without substantially increasing bay fill, would reduce impacts caused by exposure of people and property to flooding hazards due to dike overtopping during storms. Other measures include raising the dike as necessary to account for site settlement or for changes in maximum tidal heights and rises in sea levels; inspecting the dike after each major storm to identify repair needs; and repairing the dike promptly as required.

RESPONSE TO COMMENTS RECEIVED REGARDING THE FINAL

ENVIRONMENTAL IMPACT STATEMENT: Below is a summary of substantive

public comments received in response to the release of the FEIS, as well as DoN responses to comments.

The Department of Toxic Substances Control (DTSC) commented that Installation Restoration (IR) Site 30 should be represented as an active site until the CERCLA process is complete. DoN agrees with this comment and will ensure that IR Site 30 is fully addressed under CERCLA, including the preparation of a Remedial Investigation and Feasibility Study to determine what, if any, action is necessary.

DTSC requested additional information regarding polychlorinated biphenyls (PCBs) and asked DoN to demonstrate that PCB's are not an issue. DoN addressed PCBs in section 4.13 of the FEIS. All PCB release sites have been identified at NSTI and surveys are being completed. All PCB sites requiring a response will be remediated under CERCLA prior to property conveyance. Additionally, DoN will comply with all applicable provisions of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2605) and other applicable laws and regulations designed to minimize the risks posed by PCBs.

DTSC commented that it intends to hold any future owners of the property liable for lead in soil around residential and non-residential property and asked that the FEIS be modified to reflect that intent. HUD regulations (Title X, 42 U.S.C. 4851) and the DoD/United States Environmental Protection Agency (USEPA) "LBP" Joint Interim Final Field Guide (1999) set out the standards and responsibilities regarding lead based paint. Inasmuch as those standards and responsibilities are fully discussed in the FEIS, modification of the FEIS is not necessary.

The BAAQMD commented that without mitigations, emissions from any of the three project alternatives would contribute to significant cumulative degradation of regional air quality. BAAQMD also commented that it was unable to determine how the project emissions presented in Table 4.6-1 were obtained. Table 4.6-1 of the FEIS was based on a mobile source emissions inventory generated by Radian International (1997) for DoN. The data was adjusted to consider variations in project alternative operational characteristics between 2001 and 2010.

The TDM program and other transportation mitigation measures recommended in the FEIS (and discussed above) would reduce vehicle trips and associated vehicle miles generated by the project and would increase the flow of future traffic within the project

region. Implementation of these transportation measures would reduce project emissions from the unmitigated levels presented in Table 4.6-1. In response to this comment from BAAQMD, DoN identified additional potential mitigation measures and included them in the preceding mitigation discussion.

One individual commented that the FEIS failed to address a “Maximum Homeless-Use ” Alternative. The individual cites the BCCRHA Act of 1994, which mandates that a redevelopment plan take into consideration a number of homeless issues, including the size and nature of the homeless population in the local communities, the availability of existing homeless services, and the suitability of the redevelopment plan for the use and needs of the homeless. Chapter 2.2.1 of the FEIS describes the Homeless Assistance planning process, including the opportunities for local communities to participate in the decision regarding disposal of military properties by requiring homeless providers to work through TIDA. As previously stated in the “Supplemental Information” section, the extent of the DoN’s role in meeting homeless assistance needs is limited by the review conducted by HUD. Representatives of the homeless submit notices outlining their needs and proposals to TIDA and not to the federal agency that owns the property. TIDA may address those needs either on or off base. TIDA, as the LRA, must prepare a redevelopment plan for the closing installation that considers the expressed needs of the homeless. DoN has a role if and only if HUD determines that the redevelopment plan submitted by TIDA does not meet regulatory criteria set forth at 24 CFR Part 586 and TIDA fails to revise the redevelopment plan in a manner that HUD determines meets those regulatory requirements.

On November 1, 1995, the Treasure Island Homeless Development Initiative (TIHDI) submitted a Notice of Interest to the LRA for surplus property including homeless housing, support services, employment, and economic development programs and services. On November 26, 1996, HUD approved the San Francisco Office of Military Base Conversion’s homeless assistance submission including its proposed agreements with TIDHI. TIDA was not established as the LRA until the 1998, at which time they inherited the approved plan. Currently, TIHDI operates one of the most intensive San Francisco homeless provider initiatives at Treasure Island. In addition to a day care center, TIHDI manages 190 units housing formerly homeless individuals. DoN

has met the requirements of both NEPA and BCCRHA Act in its analysis of homeless requirements through the consideration of the 1996 Draft Reuse Plan. Under the requirements of DBCRA of 1990, as amended, any entity responsible for developing NSTI or implementing the redevelopment plan would be bound by the homeless assistance requirements set forth in the BCCRHA Act.

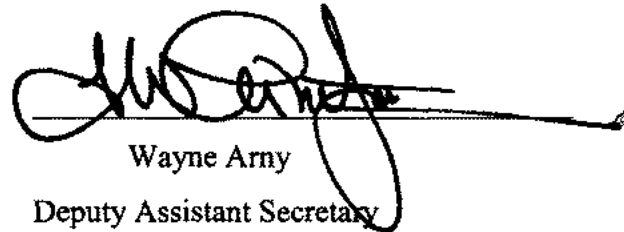
The San Francisco Municipal Railway Service Planning (MUNI) staff commented that it currently provides bus service between the NSTI and Transbay Terminal in San Francisco for residents and visitors to the island. They concur that bus service may need to increase to meet demand under the proposed redevelopment plan for NSTI. MUNI also comments that they cannot commit to any service expansion to the East Bay without a concurrent commitment of funding from an identified source. Determining funding for increased bus service is beyond the scope of this FEIS and should be addressed by the City and County of San Francisco in a subsequent CEQA analysis to ensure the effectiveness of the transportation mitigation measures associated with the proposed maximum build-out scenario. MUNI requested a breakdown of bus service demands in the FEIS analysis by mode, direction, and time of day. The FEIS provided estimates of MUNI bus demand based on three different levels of development for NSTI. These development scenarios were designed to evaluate a range of potential environmental impacts, from low to high. The actual development (both land uses and quantities of land uses) that will be approved by the City and County of San Francisco may ultimately differ from those analyzed in the FEIS. Consequently, MUNI demand and transit usage patterns could be different from those presented in the FEIS. The Reuse Plan assumes that ferry services will be a travel mode between San Francisco and NSTI, in addition to bus services. Bus passenger estimates were made for bus trips to and from NSTI, not within NSTI. MUNI bus demand should be analyzed in depth when the city and county approve specific development plans for NSTI, based on the approved land use. This would include both trips to and from NSTI as well as internal shuttle bus demand.

CONCLUSION: After considering the analysis contained in the FEIS, comments from federal, state, and local agencies, and comments from the public, I conclude that

Alternative 1 is the NEPA alternative that best meets DoN's purpose and need regarding disposal of the NSTI property while allowing TIDA to execute redevelopment that will provide the best opportunity for economic recovery from the closure of NSTI. While Alternative 1 presents the potential for significant impacts in several respects, especially traffic, reuse of the property in accordance with TIDA's reuse plan can be accomplished without significant harm to the environment through implementation of the mitigation measures by TIDA or subsequent developers.

Although the No Action alternative is the environmentally preferred alternative, it would not meet DoN's purpose and need regarding property disposal and would preclude the economic recovery intended by Congress when it enacted the DBCRA 1990. The No Action alternative would result in continued caretaker activities; therefore, socioeconomic gains in terms of new jobs and increased revenue in the region from disposal and subsequent reuse of NSTI would not be realized.

10/26/05
Date


Wayne Army
Deputy Assistant Secretary
(Installations and Facilities)

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**BILL OF SALE
PERSONAL PROPERTY FOR PARCEL _____
LOCATED AT TREASURE ISLAND**

This Bill of Sale is made this _____ day of _____, 20____ (“Effective Date”) by and between the **UNITED STATES OF AMERICA**, acting by and through the Department of the Navy (“Navy”), for the benefit of the **TREASURE ISLAND DEVELOPMENT AUTHORITY** (“Authority”), recognized as the local redevelopment authority with regard to the disposition and conveyance of portions of Naval Station Treasure Island, San Francisco, California. The Navy and the Authority are each sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

1. In 1993, the Defense Base Closure and Realignment Commission recommended the closure of Naval Station Treasure Island (“Treasure Island”), located within the City and County of San Francisco (“City”), which consists of approximately one thousand one hundred and eighty-seven (1,187) acres of real property, together with the buildings, improvements and related and other tangible personal property located thereon and all rights, easements and appurtenances thereto.

2. In accordance with the Defense Base Closure and Realignment Act of 1990, as amended (the “Act”), the authority of the Administrator of General Services under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. § 541 et seq.), with respect to the disposal of surplus real property at installations closing thereunder, was delegated to the Secretary of Defense and further delegated to the Secretary of the Navy.

3. Pursuant to the power and authority provided by § 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, 10 U.S.C. § 2687 note, as amended, and the implementing regulations of the Department of Defense (32 C.F.R. Part 174), the Secretary of the Navy is authorized to convey surplus property at a closing installation to the Local Redevelopment Authority for economic development purposes.

4. The Parties entered into the *Economic Development Conveyance Memorandum of Agreement between the United States of America, acting by and through the Department of the Navy, and the Treasure Island Development Authority for the Conveyance of the Naval Station Treasure Island*, dated _____, 2012. (“Agreement”).

5. Pursuant to Section 3.1.3 of the Agreement, the Navy agreed to transfer to the Authority by bill of sale at each Closing all the Navy Personal Property, as defined in the Agreement, consisting of the Navy’s right, title, and interest in all personal property at Treasure Island, except for those items identified in Article 13 of the Agreement.

TREASURE ISLAND BILL OF SALE FOR PERSONAL PROPERTY

1 **IN WITNESS WHEREOF**, the Parties, intending to be legally bound hereby, have caused their
2 duly appointed representatives to execute this Bill of Sale as of the Effective Date set forth
3 above.
4

5
6 WITNESS/ATTEST: **THE UNITED STATES OF AMERICA**

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10 By: _____ By: _____
11 Name: Name:
12 Title: Title:

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15 Date: _____
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23 APPROVED AS TO FORM: **TREASURE ISLAND DEVELOPMENT**
24 **AUTHORITY**

25 DENNIS J. HERRERA, City Attorney

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27
28 By: _____ By: _____
29 Name: Name:
30 Deputy City Attorney Title:

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33 Date: _____
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TREASURE ISLAND BILL OF SALE FOR PERSONAL PROPERTY

1 CERTIFICATE OF ACCEPTANCE

2

3 Government Code Section 27281

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7 This is to certify that the interest in personal property conveyed by the Bill of Sale for the
8 Personal Property from the United States of America to the Treasure Island Development
9 Authority, a California non-profit public benefit corporation, existing under the laws of the State
10 of California, Grantee, is hereby accepted by the undersigned officer, its _____,
11 on behalf of the _____, pursuant to the authority conferred by Resolution No.
12 _____, adopted on _____, and the Grantee consents to the recordation thereof,
13 by its duly authorized officer.

14

15 IN WITNESS WHEREOF, I have hereunder set my hand this _____ day of _____,
16 20____.

17

18

19 Approved As To Form:
20 DENNIS J. HERRERA, City Attorney

21

22

23 By: _____

24

Name:
Deputy City Attorney

25

26

27

28

TREASURE ISLAND DEVELOPMENT AUTHORITY

29

30

31

By: _____

32

Name:

33

Title:

34

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**BILL OF SALE
FOR UTILITY INFRASTRUCTURE
RELATED TO TREASURE ISLAND**

7 This Bill of Sale is made this _____ day of _____, 20____ (“Effective
8 Date”) by and between the **UNITED STATES OF AMERICA**, acting by and through the
9 Department of the Navy (“Navy”), for the benefit of the **TREASURE ISLAND**
10 **DEVELOPMENT AUTHORITY** (“Authority”), recognized as the local redevelopment
11 authority with regard to the disposition and conveyance of portions of Naval Station Treasure
12 Island, San Francisco, California. The Navy and the Authority are each sometimes referred to
13 herein individually as a “Party” and collectively as the “Parties.”
14

15
16

RECITALS

17 1. In 1993, the Defense Base Closure and Realignment Commission recommended
18 the closure of Naval Station Treasure Island (“Treasure Island”), located within the City and
19 County of San Francisco (“City”), which consists of approximately one thousand one hundred
20 and eighty-seven (1,187) acres of real property, together with the buildings, improvements and
21 related and other tangible personal property located thereon and all rights, easements and
22 appurtenances thereto.
23

24 2. Pursuant to the power and authority provided by § 2905(b)(4) of the Defense Base
25 Closure and Realignment Act of 1990, 10 U.S.C. § 2687 note, as amended, and the
26 implementing regulations of the Department of Defense (32 C.F.R. Part 174), the Secretary of
27 the Navy is authorized to convey surplus property at a closing installation to the Local
28 Redevelopment Authority for economic development purposes.
29

30 3. The Parties entered into the *Economic Development Conveyance Memorandum of*
31 *Agreement between the United States of America, acting by and through the Department of the*
32 *Navy, and the Treasure Island Development Authority for the Conveyance of the Naval Station*
33 *Treasure Island*, dated _____, 2012. (“Agreement”).
34

35 4. Pursuant to Section 3.1.2 of the Agreement, the Navy agreed to transfer to the
36 Authority by bill of sale the Utility Infrastructure consisting of all utilities and related support
37 infrastructure located on and off the Navy Real Property that serve the Navy Real Property such
38 as electrical, water, sewer, gas, storm drainage and telecommunications lines.
39

40
41

MUTUAL UNDERSTANDINGS

42 **NOW, THEREFORE**, in consideration of the foregoing recitals and other consideration
43 set forth herein, it is mutually agreed as follows:
44

45 1. **Transfer.** For good and valuable consideration, the receipt and sufficiency of
46 which is hereby acknowledged, the Navy hereby grants, releases, quitclaims and transfers to the

BILL OF SALE FOR UTILITY INFRASTRUCTURE

1 CERTIFICATE OF ACCEPTANCE

2

3 Government Code Section 27281

4

5

6

7 This is to certify that the interest in utility infrastructure conveyed by the Bill of Sale for the
8 Utility Infrastructure from the United States of America to the Treasure Island Development
9 Authority of the City and County of San Francisco, a California non-profit public benefit
10 corporation, existing under the laws of the State of California, Grantee, is hereby accepted by the
11 undersigned officer, its _____, on behalf of the _____,
12 pursuant to the authority conferred by Resolution No. _____, adopted on _____,
13 and the Grantee consents to the recordation thereof, by its duly authorized officer.

14

15 IN WITNESS WHEREOF, I have hereunder set my hand this _____ day of _____,
16 20__.

17

18

19 Approved As To Form:
20 DENNIS J. HERRERA, City Attorney

21

22

23 By: _____

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TREASURE ISLAND DEVELOPMENT AUTHORITY

By: _____

Name:

Title:

BILL OF SALE FOR UTILITY INFRASTRUCTURE

EXHIBIT A Utility Infrastructure

1
2
3
4 **Electric Utility Infrastructure:** Any building, structure, surface, subsurface or elevated pipe,
5 pole, line, service connection, conduit, feeder, wire, fixture, duct, manhole, handhole, cable,
6 equipment, transformer, switch, generator, facility, and any necessary devices now or hereafter
7 used or intended to be used for supplying, distributing or storing any Electric Utility Service
8

9 **Water Supply, Wastewater and Stormwater Infrastructure:** Any building, structure, facility,
10 pumphouse, pumping station, metering station, reducing station, lift station, containment vessel,
11 catch basin, reservoir, outfalls, vault, or similar improvement, pipes, lines, service connections,
12 conduits, tanks, feeders, wires, fixtures, ducts, manholes, handholes, hydrants, valves, cables,
13 equipment (including but not limited to process equipment), and any necessary devices now or
14 hereafter used or intended to be used for supplying, distributing, treating, storing, containing, or
15 conducting any Water, Wastewater or Stormwater Utility Service.
16

17 **Gas Supply and Steam Supply Infrastructure:** Any structure, facility, metering station,
18 meters, pressure regulators, valves, pipes, lines, service connections, conduits, tanks, fixtures,
19 manholes, handholes, equipment, and any necessary devices now or hereafter used or intended to
20 be used for the supplying, distributing, storing, containing or conducting any Gas Supply or
21 Steam Supply Utility Service.
22

23 **Telecommunications Infrastructure:** Any structure, facility, antennae structure, antenna,
24 subsurface or elevated pipes and lines, poles, service connections, relays, booster equipment,
25 conduits, feeders, wires, fixtures, ducts, manholes, handholes, cables, equipment, power supplies
26 and equipment, transmitters, broadcasting equipment, and any necessary devices now or
27 hereafter used or intended to be used for transmitting, broadcasting or delivering any
28 Telecommunications Service.
29

EXHIBIT I - 1 ASSIGNABLE EASEMENTS, CONTRACTS AND PERMITS

Section 7.1 – list of the assignable easements, leases, licenses and encroachment permits held by the Navy over, under, or through non-Navy owned property necessary for the operation, maintenance, or improvement of the Property and the assignable contracts, permits or other agreements relating to the Navy Property that the Authority has agreed to assume.

Item	Document title	Permitter	TIDA Doc#
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Electric

E1	NAVY CAPACITY RIGHTS IN THE PORT OF OAKLAND NAVY LINE under the POON Agreement (installation and allocation of special facilities between Substation C and Davis sub) between City of Oakland, Navy and PGE	Port of Oakland and PG&E	S 1
E3	Easement for Overhead Lines 1999 Quitclaim Deed from Navy to City of Oakland acting through its Board of Port Commissioners	Port of Oakland	S 2
E12-A	Bill of Sale for "First Cable"		S36

Water

W 3	Nonexclusive EBMUD easement for 12 inch water line (1984?)	EBMUD	N 13
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Caltrans Items

CT 1	2000 Quitclaim and reservation of easements for access and utilities between United States of America (through FHWA) and Caltrans	Caltrans	TR 16
CT 2	2004 Consent to Common Use Agreement (Quitclaim and Easement for Utilities) between United State of America (through the Navy) and Caltrans.	Caltrans	TR 17
CT 3	2004 Quitclaim and reservation of easements for access and utilities between United States of America (through FHWA) and Caltrans	Caltrans	TR 37

EXHIBIT I-5 : Non-Assignable and Unperfected Easements, Contracts and Permits

Section 3.6 – list of the easements, leases, licenses, encroachment permits, contracts, permits and other agreements that are necessary for the operation, maintenance or improvement of the Navy Real Property and are either not assignable (the “Non-Assignable Easements”) or not validly held by the Navy (the “Unperfected Easements”)

Item	Document title	Permitter	TIDA Doc#
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Electric

E2	Interconnection and service agreement between Port and CCSF - Davis Substation	Port of Oakland	EA 1
E4	Easement for Overhead Lines 2003 Quitclaim deed for No-Cost Economic Development Conveyance parcel from Army to OBRA	City of Oakland	S 3
E5	Easement for Overhead Lines 2007 Quitclaim deed for Former Oakland Army Base Bldg 762 Parcel from Army to Port of Oakland	Port of Oakland	S 4
E6	Additional Easement Areas Need on Caltrans Land Original easement described in E4 does not create the full 20-feet as described in the recorded document in two places.	Caltrans	
E7	Create Utility Pole Agreement between Navy and City of Oakland/Port of Oakland	City of Oakland / Port of Oakland	S 10
E8	New easement from Army for Overhead Lines. (2003 LIFO between Army and EBRPD has expired and Army still controls the land)	Army	

Water

W1	2007 agreement permitting conditional and revocable encroachment to public right of way from Oakland to USA	City of Oakland	S 6
W 2	1944 agreement/permit from Oakland to USA regarding right to install and maintain 14 inch water line in and along Halleck and Beach streets	City of Oakland	N 19
W 4	1944 Southern Pacific Railway Permit	Southern Pacific Railroad Company and Southern Pacific Company	N 21
W 6	Revocable 1945 permit from Caltrans	Caltrans	N13.4
W 7	1963 Supplemental agreement between Army and EBMUD. EMBUD notifying Army they took over all Railway Equipment & Realty Company holdings. 1945 Agreement with Railway Equipment & Realty Company Holdings 1953 Supplemental agreement with Railway Equipment & Realty Company Holdings	EBMUD	N 13.8 N 13.5 N 13.6
W 8	1961 Caltrans Encroachment Permit	Caltrans	N 13.7
W 9	1953 utilities encroachment permit from Caltrans to Navy for utility line relocation	Caltrans	N 23
W 10	1947 Caltrans Encroachment Permit	Caltrans	N 24
W 11	1944 permit to US for installation of water main on East Bay crossing of SFOBB	State of California	N 16
W13	Potable water system environmental permit - CA Dept of Health Services Permit No. 02-04-96P-3810702		

Sewer Note: The Navy is the permit holder or permittee for all Sewer permits.

S1	BAAQMD Permit Plant No. 479 - sanitary treatment plant	State of California	
S2	RWQCB Permit No. CA0110116 - sanitary treatment plant (Order R2-2010-0054)	State of California	
S3	RWQCB Permit No. CAS000001 (WDID No. 238I012140) - storm sewers	State of California	
S4	RWQCB Permit No. CA0038849 - sanitary treatment plant Mercury Discharge Permit	State of California	
S5	State and RWQCB Sanitary Collection System Permit. Orders 2006-0003-DWQ and WD-2008-0002-EXEC Facility Number 2SSO10207	State of California	

Communication Line Easements

C 1	1966 PT&T Easement	Navy	TR 11
C 2	1989 Pacific Bell Easement	Navy	TR 15
C 3	1993 AT&T Easement	Navy	TR 19
C 4	1967 PT&T Easement	Navy	TR 24
C 5	Oct 23, 1968 PT&T Easement	Navy	TR 26
C 6	1969 Western Union Easement	Navy	TR 29
C 7	1971 PT&T Easement	Navy	TR 30
C 8	1977 PT&T Easement	Navy	N 8
C 10	1979 Western Union Easement	Navy	N 12
C 11	1937 Postal Telegraph Permit	Navy	N 14
C 12	1886 Sunset T&T License	Navy	N 25
C13	Nov 13, 1968 PT&T Easement	Navy	TR 27

Additional Items

A 1	Missing Real Estate Summary Documents (item 31 from 3/6/90 update)		
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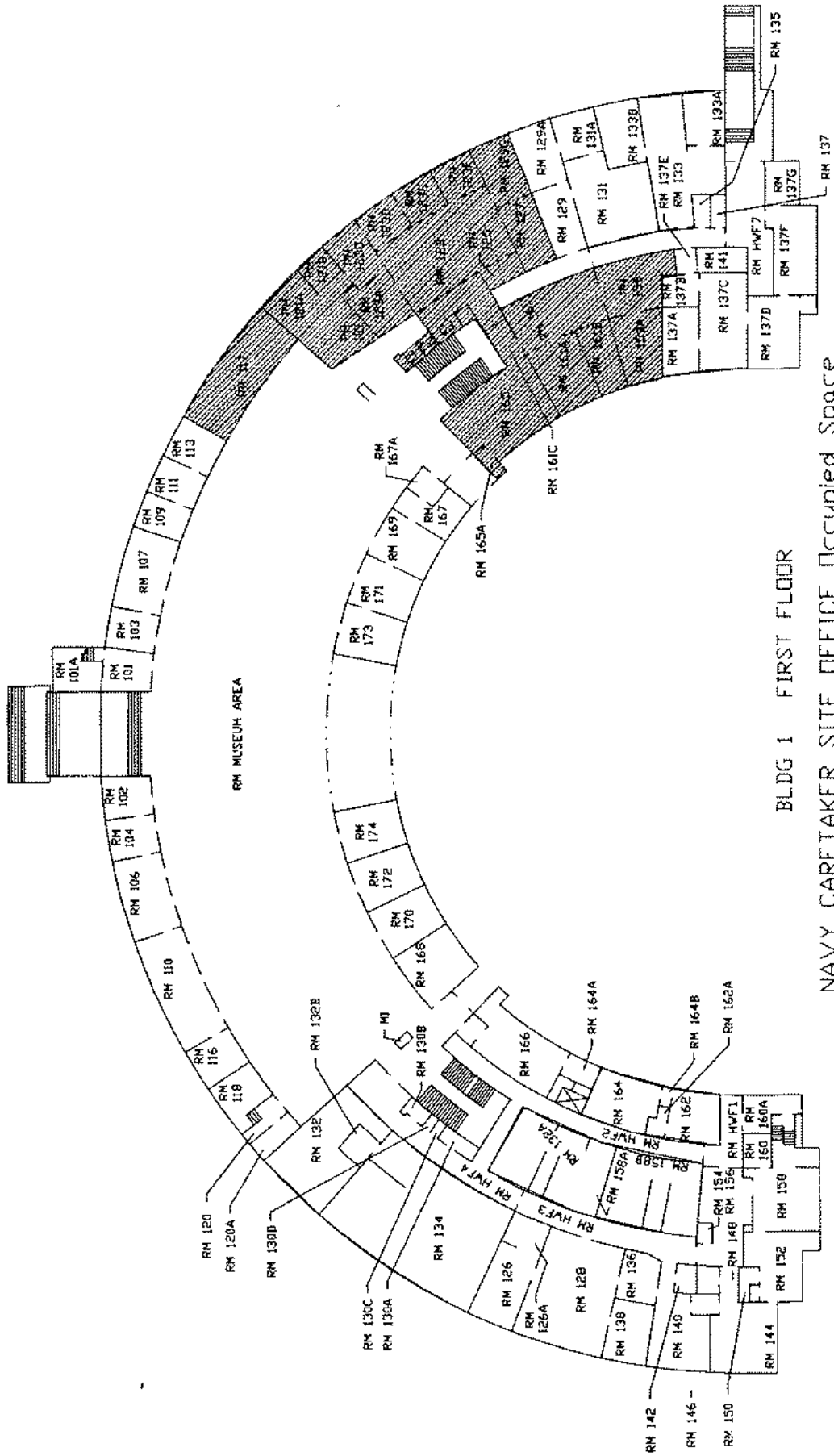
EXHIBIT I-7 : Non Assignable and Unperfected Easements, contracts and permits related to provision of Electricity

Section 3.7.1.8 List of Non-Assignable and Unperfected Easements, contracts and permits realated to the provision of electricity to Treasure Island

Item	Document title	Permitter	TIDA Doc#
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Electric

E2	Interconnection and service agreement between Port and CCSF - Davis Substation	Port of Oakland	EA 1
E4	Easement for Overhead Lines 2003 Quitclaim deed for No-Cost Economic Development Conveyance parcel from Army to OBRA	City of Oakland	S 3
E5	Easement for Overhead Lines 2007 Quitclaim deed for Former Oakland Army Base Bldg 762 Parcel from Army to Port of Oakland	Port of Oakland	S 4
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E8	New easement from Army for Overhead Lines. (2003 LIFOC between Army and EBRPD has expired and Army still controls the land)	Army	



BLDG 1 FIRST FLOOR

NAVY CARETAKER SITE OFFICE OCCUPIED SPACE

NAVY OFFICE PROVISIONS

THESE NAVY OFFICE PROVISIONS shall be effective on the Commencement Date described below and are by and between the Parties to the Economic Development Conveyance Memorandum of Agreement (“EDC MOA”) to which these Office Provisions are attached and made a part therein, specifically the TREASURE ISLAND DEVELOPMENT AUTHORITY, a California non-profit public benefit corporation, its successors and assigns (“TIDA”) and THE UNITED STATES OF AMERICA, acting by and through the Department of the Navy (“Navy”).

ARTICLE 1
DEFINITIONS

The terms used in these Office Provisions shall have the meaning set forth in Exhibit A (“Definitions”) to the EDC MOA and as set forth below.

The words “include”, “including” and “such as” shall each be construed as if followed by the phrase “without being limited to”. The words “herein”, “hereof”, “hereby”, “hereunder” and words of similar import shall be construed to refer to these Office Provisions as a whole and not to any particular article or subdivision thereof unless expressly so stated. Words and phrases used in the singular shall be deemed to include the plural and vice versa and nouns and pronouns used in any particular gender shall be deemed to include any other gender, as the sense of the context may permit.

“Building One” or “the Building” shall mean Building One located at One Avenue of the Palms, Treasure Island, San Francisco, CA 94130.

“Business Days” shall mean all days, excluding Saturdays, Sundays and all days observed by the state or federal government as legal holidays.

“Commencement Date” shall mean the date that TIDA acquires fee title to Building One from the Navy. Upon TIDA’s request, Navy shall execute a memorandum confirming the Commencement Date.

“Navy” shall mean the United States of America or any permitted assignee or other successor in interest (immediate or remote) of Navy herein named, when Navy herein named or such assignee or other successor in interest, as the case may be, is in possession of the demised premises as owner of the Navy’s estate and interest granted by these Office Provisions.

“Premises” shall mean space on the first and basement floors of Building One shown in Exhibit K-1 of the EDC MOA, comprising approximately 4,300 square feet of office space and 4,000 square feet of space for storage of files.

“Term” shall mean the period from (i) the Commencement Date through (ii) the Termination Date, unless terminated earlier by the Navy, or such earlier date that these Office Provisions may terminate in accordance with its terms.

“Termination Date” shall mean the day immediately preceding the 7 year anniversary of the Commencement Date, subject to adjustment in accordance with Article 12 hereof.

“Utilities” shall mean gas, electricity, heat, cooling, telephone, high speed internet, janitorial services, water, waste disposal, refuse collection and other utility-type services furnished to Navy or the Premises by TIDA, or otherwise billed to TIDA for use of the Premises and not directly billed to Tenant or the Premises, together with all related installation or connection charges or deposits.

“Utilities Charge” shall mean the estimated utility costs outlined below, subject to adjustment in accordance with Section 3(G and H).

Navy Utilities Use at Treasure Island						
						November 2013
Notes	Use	Consumption (monthly)	units	rate	Monthly cost	Annual cost
[1]	Electricity for CSO (Bldg 1)	9	MWH	\$ 142.75	\$ 1,284.75	\$ 15,417.00
[2]	Natural Gas for CSO (Bldg 1)	74	MCF	\$ 6.00	\$ 444.00	\$ 5,328.00
[3]	Water for CSO	6	KGAL	\$ 5.40	\$ 32.40	\$ 388.80
[4]	Sewer for CSO	6	KGAL	\$ 5.75	\$ 34.50	\$ 414.00
	TOTAL				\$ 1,795.65	\$ 21,747.80

Notes:

1. Bldg 1 = 10 W/sqft x 3,500 sqft, 12 hrs per day, 22 days per month = 9.24 MWH/month
2. 30 btu`s/sqft/hr x 3,500 sqft, 24 hrs per day, 365 days per year = 77 (1,020 btu = 1 cf)
3. 30 GPD/person, 22 days per month assuming average staff of 9 =5.940 KGAL
4. Equal to domestic water consumption by CSO

ARTICLE 2 **AGREEMENT**

These Office Provisions, in accordance with Article 13 of the EDC MOA, provides for the use by the Navy of space and facilities located at the former Naval Station Treasure Island (“NSTI”), located in San Francisco, California, to serve as the Navy caretaker site office for the Term set forth on page one of these Office Provisions. None of these Office Provisions shall be deemed to have been waived by TIDA or Navy unless such waiver is in a signed writing. These Office Provisions may not be modified or discharged, except in writing.

ARTICLE 3 **USE**

(A) Navy shall have the exclusive use of the Premises.

(B) The Navy shall have the right to 6 reserved parking spaces in close proximity to Building One. The Navy shall have access to restroom facilities and other common area spaces which are available to other Building One tenants.

(C) Navy shall have the right to use all streets, roads, parking areas, entrances, exits, corridors and stairways as necessary for ingress and egress to the Premises.

(D) Navy shall be responsible for operations, basic upkeep, and maintenance of the Premises, and its facilities and equipment contained therein.

(E) Navy may use the Premises only for executive and administrative offices and for no other purposes. Such uses include but are not limited to offices, meeting rooms, file storage, computer equipment, and telecommunications facilities. Navy shall keep the Premises clean and remove all rubbish from the Premises, at Navy's sole cost and expense. Navy shall have the right to access the property at any time, subject to TIDA's reasonable rules and regulations regarding security.

(F) The Premises shall not include any common areas of the Building or any rooms used by TIDA for mechanical, heating or air conditioning equipment or for storage by TIDA, and Navy shall not use or keep or store anything in any such rooms in the Building, but the Navy shall have access to common areas as set forth herein.

(G) Navy agrees to pay to TIDA, monthly or quarterly the Utilities Charge for the Premises. This Utilities Charge is based upon terms generally applied to other TIDA tenants or established based on uses and equipment within the Premises which have been reviewed and agreed upon by both parties.

(H) Upon prior written notice to the Navy, TIDA shall have the right, from time to time, to propose a change to the Utilities Charge when such proposed change is reasonable, justified, and not discriminatory and either: (i) a survey of Navy's Utilities usage, such survey to be prepared by a reputable, independent electrical consultant selected by TIDA and at TIDA's sole cost and expense, with the Navy having the right to have representation during the inspection and test, indicates that Navy's actual utility demands and consumption exceeds the Utilities Charge set forth above; or (ii) TIDA's cost for Utilities service increases based on the utility supplier's approved rate change. Any TIDA rate changes applied to the Navy will be applied to all TIDA tenants consistently. TIDA shall provide reasonable notice to the Navy and coordinate any requests for utility outages and interruptions with the Navy. While TIDA shall use reasonable diligence to provide a regular and uninterrupted supply of service and endeavor to keep the duration of any utility interruptions to a minimum and outside occupied periods whenever possible, TIDA shall not be in default hereunder or be liable for any damages, consequential or otherwise, directly or indirectly resulting from:

- (i) the installation, use or interruption of use of any equipment in connection with the furnishing of any of the foregoing services;
- (ii) the failure to furnish or delay in furnishing any such services;
- (iii) the limitation, curtailment, rationing of restrictions as implemented by the utility provider on use of water, electricity, gas or any other form of energy serving the Premises; or
- (iv) the interruption in services as a result of acts of God or any interruption in services which occurs as a result of the making of alterations, repairs or improvements to the Premises or the Building.

In the event that TIDA, at Navy's request, provides services to the Navy that are not otherwise provided for in these Office Provisions, Navy shall pay TIDA's reasonable charges for such services upon billing therefore.

(I) Navy represents that Navy's use of Utilities will be consistent with the normal usage of customers of a similar rate class or size.

(J) Navy shall not cause or permit any excessive noise, vibration or electrical interference, including without limitation music, or the playing of musical instruments, recordings, radios or television, or the installation or presence of machines or mechanical equipment which, in the reasonable judgment of TIDA, might unreasonably disturb other tenants of the Building.

(K) Navy shall not cause or permit any unusual or objectionable fumes, vapors or odors to emanate from the Premises which would annoy other tenants or create a public or private nuisance. Except as expressly provided under these Office Provisions, no cooking shall be done in the Premises, except that to the extent permitted by applicable legal requirements for pantries, the Premises may include microwave and convection ovens, coffee and tea-making machines and the like for the convenience of Navy's employees and visitors.

ARTICLE 4
PAYMENT

(A) Except as expressly provided in these Office Provisions, Navy's use of the Premises shall be at no cost to the Navy for a period of seven (7) years from the Commencement Date.

(B) Navy shall be responsible for its cost of all Utilities serving the Premises, subject to Sections 3(G) and 3(H). TIDA, at its expense, shall furnish, install, operate, and maintain all facilities required to furnish service hereunder in a manner consistent with TIDA's current property management practices.

ARTICLE 5
CONDITION OF PREMISES

Navy has inspected the Premises and accepts them "as is". Neither TIDA nor its agents have made any representations as to the condition of the Building or the Premises or to any other matter related to the Premises (except as herein expressly set forth). The taking of possession of the Premises shall be conclusive evidence that the Premises and the Building were in good and satisfactory condition at such time. TIDA has no obligation to prepare the Premises for Navy's occupancy.

ARTICLE 6
COMPLIANCE WITH LAW AND RULES

In the conduct of Navy's business and in Navy's use of the Premises and common areas, Navy must comply with all applicable laws and Building Rules and Regulations, except to the extent TIDA approves exceptions thereto, in its reasonable discretion, if necessary for Navy to

conduct its activities. TIDA reserves the right to prescribe the weight and position of all safes and mechanical equipment. Navy shall give prompt notice to TIDA of any notice Navy receives of the violation of any law or requirement of any public authority with respect to the Premises, or the use or occupation thereof. Navy, at its expense, shall procure and maintain any applicable governmental license or permit required for the proper and lawful conduct of the Navy's business in the Premises and post the same at the Premises or submit the same to TIDA for inspection from time to time upon demand, and Navy shall at all times comply with the terms and conditions of each such license and/or permit.

ARTICLE 7
DAMAGES

Navy shall take good care of all parts of the Premises, including equipment, fixtures, appurtenances, fittings and furnishings therein. Navy shall repair and maintain all parts of the Premises. Navy must not alter any part without TIDA's prior written consent, subject to the provisions of Article 29. Navy is liable for any damage caused by Navy or those on the Premises with Navy's permission to the extent provided in the Federal Tort Claims Act or other applicable laws. TIDA is responsible for documenting existing conditions.

ARTICLE 8
TIDA'S OBLIGATIONS

(A) Navy shall have the obligation to maintain and repair the Premises, and to perform any replacements necessary or advisable, during the Term. There shall be no liability on TIDA's part for inconvenience or injury arising from such repairs or improvements. TIDA has the right at any time to make changes to the exterior of the Building and interior of the Building outside of the Premises without incurring liability. TIDA maintains the right to impose controls on access to the Building by Navy's visitors as TIDA deems necessary for the Building's security without incurring liability. TIDA's controls will not impede normal Navy business.

(B) Notwithstanding the foregoing, the Navy shall not have any obligation to perform structural repairs to the Premises (meaning to columns, beams, exterior walls (excluding windows) or floor slabs) except those that shall be caused by Navy's acts, and TIDA shall perform any repairs necessary so the roof remains leak free during the Term, but shall not be obligated to perform any capital improvements to the roof.

(C) These Office Provisions and Navy's obligations hereunder shall in no way be affected or excused because TIDA is unable to fulfill any of TIDA's obligations if TIDA is prevented or delayed from so doing due to any cause beyond TIDA's reasonable control (e.g. strike or labor troubles, government preemption related to a national emergency, any order from a government agency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency).

(D) TIDA is responsible to ensure that operable utilities are available to the Premises for the Navy to connect to.

ARTICLE 9
TIDA'S RIGHTS

TIDA shall have the right to enter the Premises at reasonable hours and with reasonable advance notice to show to prospective tenants, investors, purchasers and mortgagees of the Building, and to inspect the Premises. Reasonable notice shall mean at least 24 hours except in the event of an emergency. TIDA shall have the right to perform construction work, improvements and repairs in and around the Building at all times as TIDA deems necessary in its sole and absolute discretion. TIDA shall have the right from time to time to make changes to the Building, provided that no such change shall prevent the ordinary manner of operation of Navy's business in the Premises in accordance with the terms of these Office Provisions.

ARTICLE 10
EXCULPATION

Neither TIDA, nor any parent, subsidiary or affiliate of TIDA, nor any of their employees, agents, officers, members, managers, directors, and shareholders, shall be liable for any damage or claim with respect to any injury to persons or any damage to, or loss or destruction of any property of Navy, Navy's employees or Navy's guests, arising under these Office Provisions, unless due to gross negligence or willful misconduct on TIDA's part.

ARTICLE 11
DEFAULT

Default by either party to these Office Provisions shall be subject to the terms and conditions set out in the EDC MOA.

ARTICLE 12
ADJUSTMENT OF TERMINATION DATE

(A) At the expiration of the initial seven (7) year occupancy period, Navy may elect to terminate its occupancy or to renew its occupancy at fair market rent, to be determined by TIDA based upon the highest and best use permitted for the occupied space, and based upon rental rates for similar space at Treasure Island, for a renewal term not to exceed five (5) years. Navy shall provide TIDA with written notice of its election to renew its occupancy not less than one hundred eighty (180) days prior to the Termination Date. Within sixty (60) days after TIDA's receipt of Navy's election to renew, TIDA shall provide Navy with written notice of the fair market rent for the Premises. Within sixty (60) days after Navy's receipt of the notice of fair market rent for the Premises, Navy shall notify TIDA of its acceptance of the fair market rent or its dispute of the fair market rent, as described Article 27 of the EDC MOA for disputes not otherwise subject to Section 27.3.2. If TIDA can show 3 comparable market rates on Treasure Island the dispute is resolved in TIDA's favor. If Navy accepts the fair market rent, the renewal shall be on all of the terms of these Provisions except as provided in this Article 12 with respect to the fair market rent and the renewal term, and Navy shall have no further rights to renew its occupancy. If Navy does not notify TIDA of its acceptance or dispute of the fair market rent within such sixty (60) day period, Navy's right to renew its occupancy shall terminate and be of

no further force and effect, and Navy shall surrender the Premises to TIDA on the Termination Date in accordance with these Office Provisions.

(B) Navy may terminate its occupancy at any time upon thirty (30) days written notice.

ARTICLE 13 **TERMINATION**

(A) The termination of Navy occupancy for any reason shall not affect any rights, obligations or liabilities which have accrued under these Office Provisions on or before the effective date of such termination. Upon termination, each party shall promptly pay to the other party all amounts then due and payable under these Office Provisions and Navy shall have no obligation to pay amounts under these Office Provisions accruing after the date of termination.

(B) Upon expiration or termination of these Office Provisions, and to the extent directed by TIDA, Navy shall restore the Premises to the same or as good condition as existed on the date of entry under these Office Provisions, reasonable wear and tear excepted. Navy, at its sole and complete discretion, shall determine the disposition of personal property upon expiration or termination of the Term.

(C) Upon the expiration or earlier termination of the Term, Navy may remove any of Navy's personal property (including furniture). All property remaining in the Premises after Navy's removal shall be deemed abandoned and shall become the property of TIDA. Any objects of personal property left outside of the Premises will be discarded, at Navy's expense. TIDA will not be liable for any damage to or loss of objects left outside of the premises.

(D) Navy may terminate a portion of the Premises at any time with thirty (30) days notice. All requirements in Article 13 apply to the area being vacated. The pertinent Attachments to these Office Provisions will be modified to show appropriate changes, such as the Utilities Charge, the Navy used space, etc. All changes will be agreed upon by TIDA and the Navy.

(E) If the last day of the Term falls on Sunday, these Office Provisions shall expire at noon on the preceding business day.

ARTICLE 14 **HOLDOVER**

Navy agrees that if possession of the Premises is not surrendered to TIDA on or prior to the date of termination of these Office Provisions, Navy shall pay to TIDA on account of use and occupancy of the Premises with respect to each month and each portion of any month during which Navy holds over in the Premises after the date of termination of these Office Provisions, the then fair market value of the Premises. Nothing in this Article 14 shall prevent TIDA from exercising any other rights at law or equity in the event of a holdover.

ARTICLE 15
[RESERVED]

ARTICLE 16
[RESERVED]

ARTICLE 17
GOVERNING LAWS

The laws of the State of California govern these Office Provisions.

ARTICLE 18
ASSIGNMENT

(A) Navy shall not, whether voluntarily, involuntarily, or by operation of law or otherwise (i) assign its rights or delegate its duties under these Office Provisions (whether by operation of law or otherwise), (ii) sublet or license, or permit the subletting or licensing of, the Premises or any part thereof, (iii) permit the Premises or any part thereof to be occupied or used for desk space, mailing privileges or otherwise, by any person other than Navy, (iv) mortgage, pledge, encumber in any manner by reason of any act or omission on the part of Navy or any of its affiliates or designees or otherwise hypothecate the Premises or any part thereof, or (v) assign or otherwise encumber any rents or other sums receivable by Navy under any sublease of all or any part of the Premises, without in each instance obtaining the prior written consent of TIDA, which may be given or withheld in TIDA's sole discretion.

(B) TIDA shall have the right to assign its interest in the Building, or to another building to which the Navy is relocated in accordance with Article 25 hereof, to Treasure Island Community Development, LLC or its successors or assigns, by leasehold or other instrument, so long as TIDA retains rights under the applicable leasehold or other instrument that will enable TIDA to satisfy its obligations to provide the Premises (or such relocation Premises as applicable) and the six reserved parking spaces in accordance with the terms of these Navy Office Provisions and Section 13.1 of the EDC MOA.

ARTICLE 19
NOTICES

Notice under these Office Provisions shall be delivered by hand or sent by recognized overnight courier service to the following addresses:

If to TIDA: Treasure Island Development Authority
One Avenue of the Palms, Suite 241
Treasure Island
San Francisco, CA 94130
Attn: Treasure Island Project Director

with a copy to: Office of the City Attorney
City and County of San Francisco
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Real Estate Team Leader

If to Navy: The United States of America
at the Premises.

with a copy to: Department of the Navy
NAVFAC HQ
Base Realignment and Closure
Program Management Office West
1455 Frazee Road, Suite 900
San Diego, CA 92108
Attn: Director

Notices shall be deemed effective, if delivered by hand, upon delivery and, if sent by courier service, one day after such notices are deposited with the courier service.

ARTICLE 20
SIGNAGE

(A) Navy shall have the right to install signage identifying Navy on the front door of the Premises, provided that the design and content of such signage shall be subject to TIDA's prior written consent, not to be unreasonably withheld.

(B) Navy acknowledges that TIDA may maintain listings in a Building directory or in the lobby of the Building of the names of Navy and other occupants of the Building, and if TIDA maintains such listings, TIDA shall, at Navy's request, name Navy on such listings. The listing of any name other than that of Navy, whether on signage on the front door of the Premises, in the Building directory, in the lobby, or otherwise, shall not operate to vest any right, title or interest in these Office Provisions or in the Premises (or any portion thereof) in someone other than Navy or to be deemed the consent of TIDA within the meaning of this Article 20.

ARTICLE 21
[RESERVED]

ARTICLE 22
ESTOPPEL CERTIFICATE

At any time, upon at least ten (10) days' prior notice by TIDA, Navy shall execute, acknowledge and deliver to TIDA, and/or to any other person, firm or corporation specified by TIDA, a statement certifying that these Office Provisions are unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating whether or not there exists any default by TIDA under these Office Provisions, and, if so, specifying each such default.

ARTICLE 23
CASUALTY

(A) If the Premises or any part thereof shall be damaged by fire or other casualty, Navy shall give immediate notice thereof to TIDA and these Office Provisions shall continue in full force and effect, except as hereinafter set forth.

(B) If all or a portion of the Building is damaged or rendered unusable by fire or other casualty, TIDA shall have the right to relocate the Premises in accordance with Article 25 hereof by written notice to Navy given within ninety (90) days after such fire or other casualty.

ARTICLE 24
SUCCESSORS

The covenants contained in these Office Provisions shall bind and inure to the benefit of Navy and Navy's respective heirs, distributees, executors, administrators, and successors.

ARTICLE 25
RELOCATION

In accordance with Article 13 of the EDC MOA, after the Initial Conveyance and when the Premises occupied by the Navy in Building One is required by TIDA for implementation of the development project, TIDA shall have the right to relocate the Premises to another location within Building One or to one of the buildings known as the Great Whites, or to any other adequate location on Treasure Island or Yerba Buena Island.

If TIDA determines that the Premises must be relocated, TIDA shall give Navy six (6) months prior notice and a written description of the relocation space. The relocation premises shall be in contiguous space and substantially equivalent to the then-existing Premises, including access to utilities and security, provided that the relocated storage space may be located in one or more non-contiguous spaces.

TIDA shall bear any reasonable costs incurred by TIDA to physically relocate Navy to any relocation space, and shall be responsible for the cost of standard tenant improvements for the relocation consistent in quality with the current Premises. Reasonable costs and standard

tenant improvements, as those terms are used herein, shall include but not be limited to the cost of providing access to all utilities at the relocation space including to a dedicated T1 transmission line and the cost of establishing Navy Marine Corps Intranet (NMCI) connectivity to the T1 transmission line consistent in scope and quality with the current Premises. The Navy requires controlled access to the NMCI server and associated equipment. Specifically TIDA is also responsible for safely packing, moving and unpacking all furniture, computers, computer equipment, files, Navy property, and Navy personnel property, except as designated by the Navy. TIDA is responsible to ensure access to all utilities, internet, phone, and communication services to the relocation space as required for Navy use consistent in scope and quality with the current Premises. The new location will have adequate natural lighting and reasonable security to ensure the protection and safety of Navy personnel and property. TIDA shall perform all coordination with SHPO, if necessary, for any alterations required at the Great Whites to facilitate Navy relocation. The Navy is not in default of these Office Provisions if the relocation space is not suitable for functional Navy use after the 6 months' notice, including connectivity to NMCI.

ARTICLE 26
[RESERVED]

ARTICLE 27
[RESERVED]

ARTICLE 28
HAZARDOUS SUBSTANCES

(A) Navy agrees not to generate, store, manufacture, refine, transport, treat, dispose of, or otherwise permit to be present on or about the Premises any Hazardous Substances. "Hazardous Substances" shall be defined as any "hazardous chemical" or "hazardous substance" or similar term as defined in any applicable federal, state or local law, rule or regulation dealing with environmental protection, except as may be permitted by all applicable laws and regulations for ordinary office chemicals and supplies generally used and available for unrestricted public consumption. It is understood that the provisions in this paragraph shall be applicable notwithstanding the fact that any substance shall not be deemed a Hazardous Substance at the time of execution of these Office Provisions but shall thereafter be deemed to be a Hazardous Substance.

ARTICLE 29
ALTERATIONS

(A) Navy shall make no changes in or to the Premises without TIDA's prior written consent, not to be unreasonably withheld, provided that Navy shall be permitted to make non-structural, minor, decorative changes in or to the Premises without TIDA's consent. Subject to TIDA's prior written consent, and to the provisions of this Article 29, Navy, at Navy's sole cost and expense, may make alterations, installations, additions or improvements which are non-structural and which do not affect utility services or plumbing and electrical lines ("Tenant's Changes") in or to the interior of the Premises by using contractors of mechanics first approved in each instance by TIDA. Navy shall, before making any Tenant's Changes, obtain all applicable permits, approvals and certificates required by any governmental or quasi-

governmental bodies and (upon completion) certificates of final approval thereof, and shall deliver promptly duplicates of all such permits, approvals and certificates to TIDA, and Navy will cause Navy's contractors and sub-contractors to carry, such worker's compensation, commercial general liability, personal and property damage insurance as may be required in accordance with Section 28.3 of the Federal Acquisition Regulations. In no event shall TIDA consent to, and Navy shall not request, work that would: (i) require changes to structural components of the Building or the exterior design of the Building; (ii) require any material modification to the Building's mechanical, plumbing and electrical installations or installations outside the Premises; (iii) adversely affect the proper functioning of any of the mechanical, sanitary or other service systems of the Building; or (iv) not comply with all applicable laws, rules, regulations and requirements of any governmental agency having jurisdiction over the construction of the Building and/or the Premises.

ARTICLE 30
ENTIRE AGREEMENT

These Office Provisions contain the entire agreement between the parties and all prior negotiations are merged herein. These Office Provisions may not be orally changed, modified or discharged, in whole or in part, unless such agreement is set forth in a written instrument executed by the party against whom enforcement of the change, modification or discharge is sought.

ARTICLE 31
ENFORCEABILITY

If any term, covenant, provision or condition of these Office Provisions, or the application thereof to any person or circumstances, shall be held invalid, illegal or unenforceable in any respect, the remainder of these Office Provisions, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of these Office Provisions shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE 32
QUIET ENJOYMENT

TIDA covenants and agrees with Navy that upon Navy paying the additional rent payable hereunder and observing and performing all of the terms, covenants, and conditions on Navy's part to be observed and performed hereunder, Navy may peaceably and quietly enjoy the Premises subject, nevertheless, to the terms and conditions of these Office Provision and to matters of record.

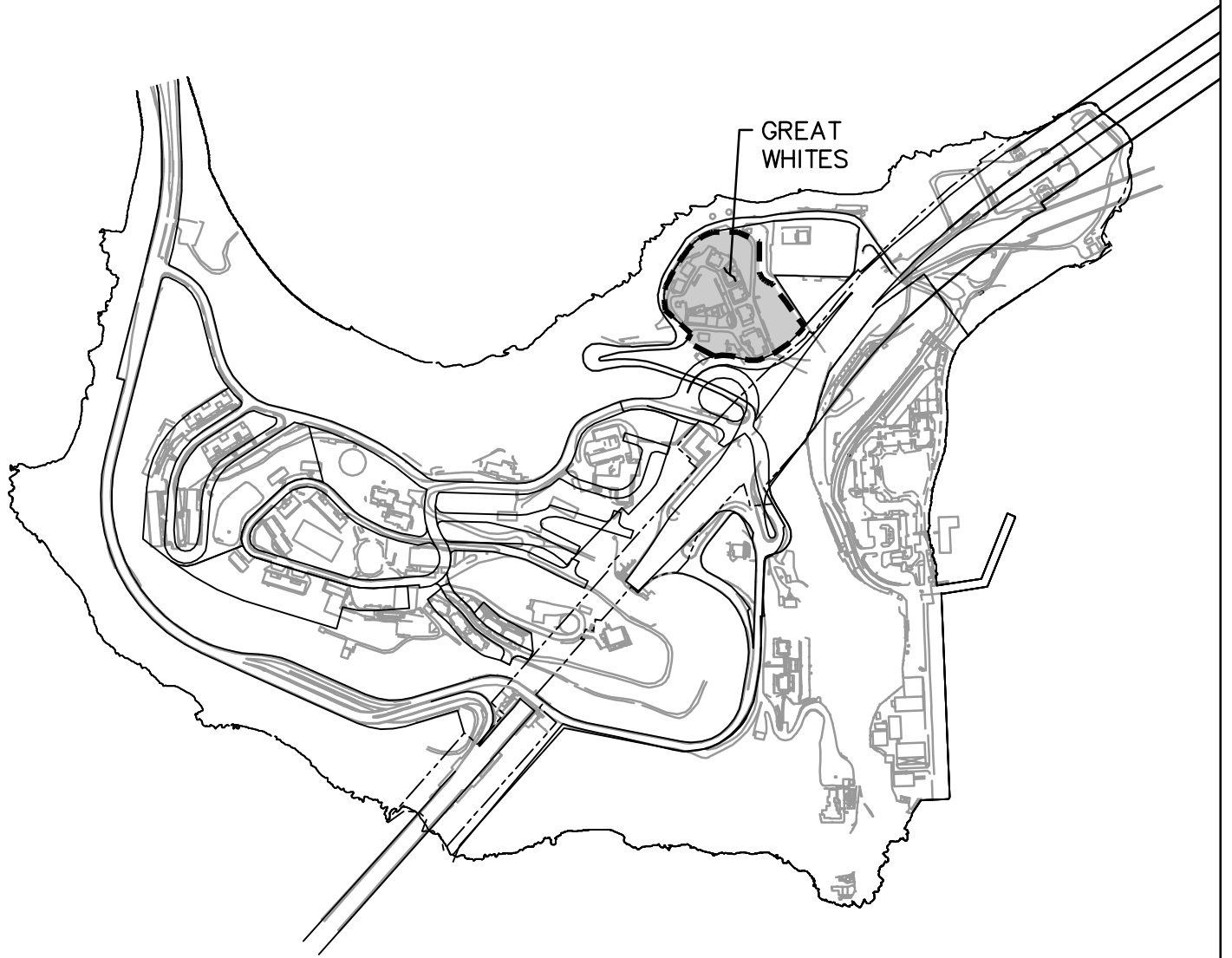
ARTICLE 33
AVAILABILITY OF FUNDS

The Navy's obligations under this Office Provision are subject to the availability of funds appropriated for such purpose. Nothing in these Office Provisions shall be construed as or constitute a commitment or requirement that the Navy obligate or pay funds in contravention of

the Anti-Deficiency Act, 31 U.S.C. Section 1341, or that Congress, at a later time, will appropriate funds sufficient to meet deficiencies.

ARTICLE 34
NON-APPROPRIATION OF FUNDS

There shall be no obligation for the payment or expenditure of money by TIDA under these Office Provisions unless there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation for the expenditure.



GREAT WHITES



0 600

RECORDING REQUESTED BY:

And when recorded, mail this deed and, unless otherwise shown below, mail tax statements to:

Treasure Island Development Authority
City and County of San Francisco
City Hall, Room 448
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Treasure Island Project Director

RECORDER STAMP

SHORT FORM NOTICE
OF
AGREEMENT

THIS SHORT FORM NOTICE OF AGREEMENT is entered into this _____ day of _____ 20__ (“Effective Date”), between the **UNITED STATES OF AMERICA**, acting by and through the Department of the Navy (the “Navy”), and the **TREASURE ISLAND DEVELOPMENT AUTHORITY**, a California non-profit public benefit corporation (“Authority”), recognized as the local redevelopment authority by the Office of Economic Adjustment on behalf of the Secretary of Defense with respect to the disposition and conveyance of portions of Naval Station Treasure Island, San Francisco, California. The Navy and the Authority are each sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS:

WHEREAS:

1. In 1993, the Defense Base Closure and Realignment Commission recommended the closure of Naval Station Treasure Island (“Treasure Island”), located within the City and County of San Francisco (“City”), which consists of approximately one thousand one hundred and eighty-seven (1,187) acres of real property, together with the buildings, improvements and related and other tangible personal property located thereon and all rights, easements and appurtenances thereto.

2. In accordance with the Defense Base Closure and Realignment Act of 1990, as amended (the “Act”), the authority of the Administrator of General Services under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. § 541 et seq.), with respect to the disposal of surplus real property at installations closing thereunder, was delegated to the Secretary of Defense and further delegated to the Secretary of the Navy.

3. Pursuant to the power and authority provided by §2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, 10 U.S.C. § 2687 note, as amended, and the implementing regulations of the Department of Defense (32 C.F.R. Part 174), the Secretary of the Navy is authorized to convey surplus property at a closing installation to the Local Redevelopment Authority for economic development purposes.

4. In accordance with the Act and the terms set forth in the *Economic Development Conveyance Memorandum of Agreement Between the United States of America, acting by and through the Department of the Navy, and the Treasure Island Development Authority for the Conveyance of the Naval Station Treasure Island*, dated _____, 2012 (“Agreement”), the Navy agreed to convey and the Authority agreed to acquire portions of Treasure Island, as more particularly described in Exhibit A attached hereto and made a part hereof;

5. The Parties agree to this Short Form Notice, which is to be recorded in order that third parties may have notice of the existence of the Agreement and the rights of the Authority under the Agreement.

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing premises and the respective representations, warranties, agreements, covenants and conditions herein contained, the execution and delivery of the Agreement by the Parties, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby state and agree as follows:

1. The Parties have executed and delivered the Agreement. Copies of the Agreement are being held by both Parties at their respective addresses.

2. The conveyance of the Property from the Navy to the Authority will be on the terms and conditions set forth in the Agreement.

3. All of the terms, conditions, definitions, provisions and covenants of the Agreement are incorporated in this Short Form Notice by reference as though written out at length herein and the Agreement and this Short Form Notice shall be deemed to constitute a single instrument or document. The rights and obligations of the Parties shall be construed solely by reference to the provisions of the Agreement and in the event of any conflict between the provisions of the Agreement and those of this Short Form Notice, the provisions of the Agreement shall control.

4. From the Effective Date of the Agreement through the Initial Closing and any subsequent Closings, and except for environmental restrictions or land use covenants consistent with the Agreement as may be designated in the CERCLA Record of Decision, an approved Corrective Action Plan, or the FOST, the Navy shall not permit, agree to sell, encumber or grant any interest in the Navy Real Property or any part thereof in any form or manner whatsoever, or otherwise perform or permit any act that will diminish or otherwise affect the Authority’s interest

under the Agreement or to the Navy Real Property, or which will prevent the Navy's full performance of its obligations under the Agreement, without the written consent of the Authority.

5. This Short Form Notice shall inure to the sole benefit of and be binding upon the Parties and their respective successors and assigns.

6. This Short Form Notice may be executed in multiple counterparts and/or with the signatures of the Parties set forth on different signature sheets and all such counterparts, when taken together, shall be deemed one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties, intending to be legally bound hereby, have caused their duly appointed representatives to execute this Short Form Notice of Agreement as of the Effective Date set forth above.

WITNESS/ATTEST:

THE UNITED STATES OF AMERICA

By: _____
Name:
Title:

By: _____
Name:
Title:

Approved as to Form:

DENNIS J. HERRERA, City Attorney

**TREASURE ISLAND DEVELOPMENT
AUTHORITY**

By: _____
Name:
Deputy City Attorney

By: _____
Name:
Title:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

File No: ()

APN No:

STATE OF California)SS

COUNTY OF _____)

On _____ before me, _____, 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 that 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 _____

This area for official notarial seal.

[Insert Date]

Treasure Island Development Authority
City and County of San Francisco
City Hall, Room 448
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear _____:

I have reviewed the *Economic Development Conveyance Memorandum of Agreement Between the United States of America, acting by and through the Department of the Navy, and the Treasure Island Development Authority for the Conveyance of the Naval Station Treasure Island*, dated _____, 2012 (the "Agreement").

To the best of the Government's information, knowledge and belief, I certify that all of the representations of the Government set forth in the Agreement are true and correct as of the ___ day of _____, 20___, the date of Closing.

Sincerely,

[Insert Name]
Real Estate Contracting Officer
Base Realignment & Closure Office

[Insert Date]

Mr. John Hill
Base Realignment and Closure
Program Management Office West
1455 Frazee Road
Suite 900
San Diego, California 92108-4310

Dear Mr. Hill:

I have reviewed the *Economic Development Conveyance Memorandum of Agreement Between the United States of America, acting by and through the Department of the Navy, and the Treasure Island Development Authority for the Conveyance of the Naval Station Treasure Island*, dated _____, 2012 (the "Agreement").

To the best of the Treasure Island Development Authority's information, knowledge and belief, I certify that all of the representations of the Treasure Island Development Authority set forth in the Agreement are true and correct as of the __ day of _____, 20__, the date of Closing.

Sincerely,

[Name]

[Title]

Treasure Island Development Authority

EXHIBIT P

CERTIFICATION RESOLUTIONS



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No 18325
ENVIRONMENTAL IMPACT REPORT CERTIFICATION

Hearing Date: April 21, 2011
Case No.: 2007.0903E
Project Address: Treasure Island and Yerba Buena Island
Zoning: P (Public)
40-X Height and Bulk District
Block/Lot: 1939/001 and 002
Project Sponsors: Treasure Island Development Authority
Rich Hillis, Director of Development
City Hall, Room 448
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94111
and
Treasure Island Community Development, LLC
Alexandra Galovich
Wilson Meany Sullivan
Four Embarcadero Center, Suite 3300
San Francisco, CA 94102
Staff Contact: Rick Cooper – (415) 575-9027
Rick.cooper@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED TREASURE ISLAND/YERBA BUENA ISLAND PROJECT.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2007.0903E (hereinafter "Project"), based upon the following findings:

- I. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on January 26, 2008.
 - B. On July 12, 2010, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of

the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

- C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on July 12, 2010.
 - D. On July 12, 2010, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
 - E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 12, 2010.
2. The Commission held a duly advertised public hearing on said DEIR on August 12, 2010, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on September 10, 2010.
 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 59-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on March 10, 2011, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
 4. A Final Environmental Impact Report has been prepared by the Department, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
 5. Following publication of the Environmental Impact Report, the Project's structure and financing were changed from a Redevelopment Plan and financing mechanism to an Area Plan to be included within the San Francisco General Plan and partial financing through an Infrastructure Financing District. These changes in turn result in the amount of affordable housing units to be reduced from approximately 2,400 units to 2,000 units. A memorandum describing these changes and other minor Project changes since publication of the EIR has been prepared and distributed by the Department which describes and evaluates these changes and presents minor amendments to the text of the EIR to reflect the changes. The memorandum demonstrates and concludes that the revisions to the Project would not substantially change the analysis and conclusions of the EIR. No new significant impacts or substantial increase in the severity of already identified significant impacts, no new mitigation measures, and no new alternatives result from these changes. Thus recirculation of the EIR for public review and comment is not required.

6. Project Environmental Impact Report files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, and are part of the record before the Commission.
7. On April 21, 2011, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Report was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
8. The Planning Commission hereby does find that the Final Environmental Impact Report concerning File No. 2007.0903E reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA and the CEQA Guidelines.
9. The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the project described in the Environmental Impact Report:
 - A. Will result in the following significant and unavoidable project-specific environmental impacts:
 - 1) Alteration of scenic vistas of San Francisco and San Francisco Bay from public vantage points along the eastern shoreline of San Francisco, Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east span.
 - 2) Impairment of the significance of an historical resource by demolition of the Damage Control Trainer.
 - 3) Construction impacts on the transportation and circulation network, including increased delay and congestion on the Bay Bridge near the ramps during the peak periods, and disruption to transit, pedestrian, bicycle, and vehicular traffic on the Islands due to roadway closures.
 - 4) Significant contribution to existing LOS E operating conditions during the weekday PM peak hour and during the Saturday peak hour at the eastbound off-ramp on the west side of Yerba Buena Island.
 - 5) Under conditions without the TI/YBI Ramps Project, traffic impacts at the two westbound on-ramps.
 - 6) Under conditions with the Ramps Project, traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.

- 7) Queuing at the Bay Bridge toll plaza during the weekday AM peak hour, with and without the TI/YBI Ramps Project.
- 8) Queuing on San Francisco streets approaching Bay Bridge during the weekday PM peak hour with and without the TI/YBI Ramps Project.
- 9) Traffic impact at the following nine intersections:
 - Intersection of First/Market;
 - Intersection of First/Mission;
 - Intersection of First/Folsom;
 - Intersection of First/Harrison/I-80 Eastbound On-Ramp;
 - Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp; and
 - Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp
 - Intersection of Folsom/Essex;
 - Intersection of Bryant/Sterling; and
 - Intersection of Second/Folsom.
- 10) Exceedance of the available transit capacity of Muni's 108-Treasure Island bus line serving the Islands during the AM, PM and Saturday peak hours.
- 11) AC Transit operations on Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge without the Ramps Project.
- 12) AC Transit operations on Treasure Island Road and Hillcrest Road between Treasure Island and the eastbound on-ramp to the Bay Bridge with the Ramps Project.
- 13) Traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following three bus lines:
 - Muni 27-Bryant;
 - Muni 30X-Marina Express; and
 - Muni 47-Van Ness bus line.
- 14) Exceedance of the capacity utilization standard on Muni's 108-Treasure Island bus line serving the Islands from a shift from auto to transit modes, resulting from parking

shortfall on the Islands and leading to an increase in transit travel demand during the peak hours.

- 15) Construction noise levels above existing ambient conditions.
 - 16) Exposure of persons and structures to excessive ground-borne vibration or ground-borne noise levels during construction from on-shore pile "impact activities," such as pile driving and deep dynamic compaction, and vibro-compaction.
 - 17) Increase in ambient noise levels in the project vicinity above existing ambient noise levels from project-related traffic and ferry noise.
 - 18) Violation of air quality standards.
 - 19) Exposure of sensitive receptors to substantial levels of toxic air contaminants.
 - 20) Exposure of sensitive receptors to substantial levels of PM2.5.
 - 21) Violation of air quality standards during project operations.
 - 22) Exposure of sensitive receptors to substantial pollutant concentrations.
 - 23) Potential conflict with adopted plans related to air quality.
 - 24) Temporary wind hazard impacts during phased construction.
 - 25) Potential exposure of publicly accessible locations within the Project Site to wind hazards
 - 26) Potential adverse impacts on movement of rafting waterfowl from ferry operations.
- B. Will contribute considerably to the following cumulative environmental impacts:
- 1) Potential cumulative construction-related traffic impacts in the project vicinity.
 - 2) Cumulative traffic impacts at the eastbound off-ramp on the west side of Yerba Buena Island.
 - 3) Under conditions without the Ramps Project, cumulative traffic impacts at the two westbound on-ramps.
 - 4) Under conditions with the Ramps Project, cumulative traffic impacts during the AM and PM peak hours at the ramp meter at the westbound on-ramp on the east side of Yerba Buena Island.
 - 5) Cumulative queuing impacts at the Bay Bridge toll plaza during the AM and PM peak hours.

6) Cumulative queuing impacts on San Francisco streets approaching the Bay Bridge during the weekday AM and PM and Saturday peak hours.

7) Traffic impact at the following nine intersections:

- Intersection of First/Market;
- Intersection of First/Mission;
- Intersection of First/Folsom;
- Intersection of First/Harrison/I-80 Eastbound On-Ramp;
- Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp;
- Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp
- Intersection of Folsom/Essex;
- Intersection of Bryant/Sterling; and
- Intersection of Second/Folsom.

8) Cumulative traffic congestion in downtown San Francisco, which would increase travel time and would impact operations of the following four bus lines:

- Muni 27-Bryant bus line;
- Muni 30X-Marina Express bus line;
- Muni 47-Van Ness bus line; and
- Muni 10-Townsend bus line.

9) Cumulative construction noise impacts from other cumulative development in the area, including the Clipper Cove Marina and the Yerba Buena Island Ramps Improvement Project, which could have construction activities that occur simultaneously with those of the Project.

10) Increases in traffic from the project in combination with other development would result in cumulative traffic noise impacts.

11) Cumulative air quality impacts.

11) The Project, when combined with other cumulative projects, could result in exposure of publicly accessible locations within the Project Site to wind hazards.

12) Potential cumulative impacts on rafting waterfowl.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of April 21, 2011.

A handwritten signature in black ink, appearing to read 'Linda Avery', with the word 'FOR' written below it. The signature is stylized and includes a horizontal line extending to the right.

Linda Avery
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Miguel
NOES: Commissioners Olague, Moore, Sugaya
ABSENT: None
ADOPTED: April 21, 2011

1 [Environmental Impact Report Certification]

2 **Resolution certifying a final Environmental Impact Report for the Treasure**
3 **Island/Yerba Buena Island Project.**

4 WHEREAS, The City and County of San Francisco, acting through the Planning
5 Department and Treasure Island Development Authority staff (hereinafter "Department and
6 Authority Staff") fulfilled all procedural requirements of the California Environmental Quality
7 Act (Cal. Pub. Res. Code Sections 21000 *et seq.*, hereinafter "CEQA"), the State CEQA
8 Guidelines (Cal. Admin. Code Title 14, Sections 15000 *et seq.*, (hereinafter "CEQA
9 Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter
10 31") in regard to the Final Environmental Impact Report identified as Planning Department
11 Case No. 2007.0903E (hereinafter "FEIR") for the proposed Treasure Island/Yerba Buena
12 Island Project ("Project"); and,

13 WHEREAS, The Department and Authority Staff determined that an Environmental
14 Impact Report (hereinafter "EIR") was required and provided public notice of that
15 determination by publication in a newspaper of general circulation on January 26, 2008; and,

16 WHEREAS, On July 12, 2010, the Department and Authority Staff published the Draft
17 Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper
18 of general circulation of the availability of the DEIR for public review and comment and of the
19 date and time of the Planning Commission public hearing on the DEIR; this notice was mailed
20 to the Department's list of persons requesting such notice; and,

21 WHEREAS, Notices of availability of the DEIR and of the date and time of the public
22 hearing were posted near the project site by Department and Authority Staff on July 12, 2010;
23 and,

24 WHEREAS, On July 12, 2010, copies of the DEIR were mailed or otherwise delivered
25 to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent

1 property owners, and to government agencies, the latter both directly and through the State
2 Clearinghouse; and,

3 WHEREAS, The Notice of Completion was filed with the State Secretary of Resources
4 via the State Clearinghouse on July 12, 2010; and,

5 WHEREAS, The Treasure Island Development Authority Board of Directors
6 (hereinafter "Authority Board") and Planning Commission held a duly advertised joint public
7 hearing on said DEIR on August 12, 2010, at which time opportunity for public comment was
8 given, and public comment was received on the DEIR. The period for acceptance of written
9 comments ended on September 10, 2010; and,

10 WHEREAS, The Department and Authority Staff prepared responses to comments on
11 environmental issues received at the public hearing and in writing during the 59-day public
12 review period for the DEIR, prepared revisions to the text of the DEIR in response to
13 comments received or based on additional information that became available during the public
14 review period, and corrected errors in the DEIR. This material was presented in a Comments
15 and Responses document, published on March 10, 2011, distributed to the Authority Board
16 and all parties who commented on the DEIR, and made available to others upon request at
17 the Department; and,

18 WHEREAS, A Final Environmental Impact Report has been prepared by the
19 Department and Authority Staff, consisting of the Draft Environmental Impact Report, any
20 consultations and comments received during the review process, any additional information
21 that became available, and the Comments and Responses document all as required by law
22 ("FEIR"); and,

23 WHEREAS, Following publication of the Environmental Impact Report, the Project's
24 structure and financing were changed from a Redevelopment Plan and financing mechanism
25 to an Area Plan to be included within the San Francisco General Plan and partial financing

1 through an Infrastructure Financing District. These changes in turn result in the amount of
2 affordable housing units to be reduced from approximately 2,400 units to 2,000 units. The
3 Department and Authority Staff prepared a memorandum describing these changes and other
4 minor Project changes since publication of the FEIR. The memorandum evaluates these
5 changes and presents minor amendments to the text of the EIR to reflect the changes. The
6 memorandum demonstrates and concludes that the revisions to the Project would not
7 substantially change the analysis and conclusions of the EIR. No new significant impacts or
8 substantial increase in the severity of already identified significant impacts, no new mitigation
9 measures, and no new alternatives result from these changes. Thus, recirculation of the EIR
10 for public review and comment is not required; and,

11 WHEREAS, The FIER and its related files have been made available for review by the
12 Authority Board, the Commission, and the public. These files are available for public review at
13 the Department at 1650 Mission Street, and are part of the record before the Authority Board;
14 and,

15 WHEREAS, On April 21, 2011, the Authority Board at a joint hearing with the Planning
16 Commission reviewed and considered the FEIR; and,

17 WHEREAS, The Authority Board hereby does find that the Project described in the
18 Environmental Impact Report:

- 19 • Will result in the following significant and unavoidable project-specific
20 environmental impacts:
 - 21 ○ Alteration of scenic vistas of San Francisco and San Francisco Bay from
22 public vantage points along the eastern shoreline of San Francisco,
23 Telegraph Hill, the East Bay shoreline, and from the Bay Bridge east
24 span.

- 1 o Impairment of the significance of an historical resource by demolition of
2 the Damage Control Trainer.
- 3 o Construction impacts on the transportation and circulation network,
4 including increased delay and congestion on the Bay Bridge near the
5 ramps during the peak periods, and disruption to transit, pedestrian,
6 bicycle, and vehicular traffic on the Islands due to roadway closures.
- 7 o Significant contribution to existing LOS E operating conditions during the
8 weekday PM peak hour and during the Saturday peak hour at the
9 eastbound off-ramp on the west side of Yerba Buena Island.
- 10 o Under conditions without the TI/YBI Ramps Project, traffic impacts at the
11 two westbound on-ramps.
- 12 o Under conditions with the Ramps Project, traffic impacts during the AM
13 and PM peak hours at the ramp meter at the westbound on-ramp on the
14 east side of Yerba Buena Island.
- 15 o Queuing at the Bay Bridge toll plaza during the weekday AM peak hour,
16 with and without the TI/YBI Ramps Project.
- 17 o Queuing on San Francisco streets approaching Bay Bridge during the
18 weekday PM peak hour with and without the TI/YBI Ramps Project.
- 19 o Traffic impact at the following nine intersections:
 - 20 ▪ Intersection of First/Market;
 - 21 ▪ Intersection of First/Mission;
 - 22 ▪ Intersection of First/Folsom;
 - 23 ▪ Intersection of First/Harrison/I-80 Eastbound On-Ramp;
 - 24 ▪ Intersection of Bryant/Fifth/I-80 Eastbound On-Ramp; and
 - 25 ▪ Intersection of Fifth/Harrison/I-80 Westbound Off-Ramp

- 1 ▪ Intersection of Folsom/Essex;
- 2 ▪ Intersection of Bryant/Sterling; and
- 3 ▪ Intersection of Second/Folsom.
- 4 ○ Exceedance of the available transit capacity of Muni's 108-Treasure
- 5 Island bus line serving the Islands during the AM, PM and Saturday peak
- 6 hours.
- 7 ○ AC Transit operations on Hillcrest Road between Treasure Island and the
- 8 eastbound on-ramp to the Bay Bridge without the Ramps Project.
- 9 ○ AC Transit operations on Treasure Island Road and Hillcrest Road
- 10 between Treasure Island and the eastbound on-ramp to the Bay Bridge
- 11 with the Ramps Project.
- 12 ○ Traffic congestion in downtown San Francisco, which would increase
- 13 travel time and would impact operations of the following three bus lines:
- 14 ▪ Muni 27-Bryant;
- 15 ▪ Muni 30X-Marina Express; and
- 16 ▪ Muni 47-Van Ness bus line.
- 17 ○ Exceedance of the capacity utilization standard on Muni's 108-Treasure
- 18 Island bus line serving the Islands from a shift from auto to transit modes,
- 19 resulting from parking shortfall on the Islands and leading to an increase
- 20 in transit travel demand during the peak hours.
- 21 ○ Construction noise levels above existing ambient conditions.
- 22 ○ Exposure of persons and structures to excessive ground-borne vibration
- 23 or ground-borne noise levels during construction from on-shore pile
- 24 "impact activities," such as pile driving and deep dynamic compaction,
- 25 and vibro-compaction.

- 1 o Increase in ambient noise levels in the project vicinity above existing
- 2 ambient noise levels from project-related traffic and ferry noise.
- 3 o Violation of air quality standards.
- 4 o Exposure of sensitive receptors to substantial levels of toxic air
- 5 contaminants.
- 6 o Exposure of sensitive receptors to substantial levels of PM2.5.
- 7 o Violation of air quality standards during project operations.
- 8 o Exposure of sensitive receptors to substantial pollutant concentrations.
- 9 o Potential conflict with adopted plans related to air quality.
- 10 o Temporary wind hazard impacts during phased construction.
- 11 o Potential exposure of publicly accessible locations within the Project Site
- 12 to wind hazards
- 13 o Potential adverse impacts on movement of rafting waterfowl from ferry
- 14 operations; now, therefore be it

15 RESOLVED, The Authority Board hereby does find that the contents of the FEIR and
16 the procedures through which the FEIR was prepared, publicized, and reviewed comply with
17 the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco
18 Administrative Code; and, be it

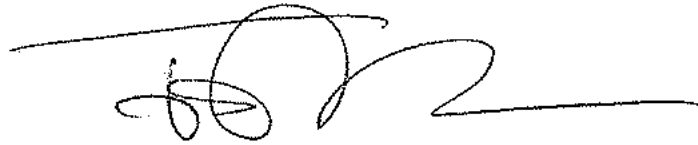
19 FURTHER RESOLVED, The Authority Board hereby does find that the FEIR (Planning
20 Department File No. 2007.0903E) reflects the independent judgment and analysis of the
21 Authority Board, is adequate, accurate and objective, and that the Comments and Responses
22 document contains no significant revisions to the DEIR; and, be it

23 FURTHER RESOLVED, The Authority Board hereby does CERTIFY THE
24 COMPLETION of said FEIR in compliance with CEQA, the CEQA Guidelines, and Chapter
25 31.

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CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on April 21, 2011.



Jean-Paul Samaha, Secretary

1 [Affirming Certification of the Final Environmental Impact Report - Treasure Island/Yerba
2 Buena Island Project]

3
4 **Motion affirming the Planning Commission's Certification of the Final Environmental**
5 **Impact Report for the Treasure Island/Yerba Buena Island Project.**

6
7 WHEREAS, The proposed project ("Project") would include: (a) up to 8,000 new
8 residential units, at least 25 percent of which will be made affordable to a broad range of very-
9 low to moderate income households, including 435 units to be developed by the Treasure
10 Island Homeless Development Initiative's member organizations, (b) the adaptive reuse of
11 approximately 311,000 square feet of historic structures, (c) up to approximately 140,000
12 square feet of new retail uses and 100,000 square feet of commercial office space, (d)
13 approximately 300 acres of parks and open space, (e) new and or upgraded public facilities,
14 including a joint police/fire station, a school, facilities for the Treasure Island Sailing Center
15 and other community facilities, (f) a 400-500 room hotel, (g) the investment of approximately
16 \$155 million in transportation infrastructure, (h) the creation of thousands of construction job
17 opportunities and thousands of permanent jobs, all as more particularly described in the
18 Treasure Island/Yerba Buena Island Development and Disposition Agreement ("DDA"), and (i)
19 various related approval actions. A copy of the DDA is on file with the Clerk of the Board of
20 Supervisors in File No. 110291 and is incorporated herein by reference; and,

21 WHEREAS, The Planning Department ("Department") determined that an
22 environmental impact report was required for the Project on January 26, 2008, and provided
23 public notice by publication in a newspaper of general circulation on January 26, 2008, and
24 held two scoping meetings on February 11, 2008 at the Port of San Francisco and on
25 February 13, 2008 on Treasure Island; and,

1 WHEREAS, On July 12, 2010, the Department and the Treasure Island Development
2 Authority ("TIDA"), acting as co-lead agencies, published the Draft Environmental Impact
3 Report ("DEIR") for the Project (Planning Department File No. 2007.0903E); and,

4 WHEREAS, On August 12, 2010, the Planning Commission and TIDA held a duly
5 advertised joint public hearing on the DEIR at which time opportunity for public comment was
6 provided on the DEIR, and written comments were received through September 10, 2010;
7 and,

8 WHEREAS, The Department and TIDA prepared responses to comments received at
9 the public hearing on the DEIR and submitted in writing to the Department and TIDA,
10 prepared revisions to the text of the DEIR, and published a Summary of Comments and
11 Responses on March 10, 2011; and,

12 WHEREAS, A Final Environmental Impact Report ("FEIR") for the Project was
13 prepared by the Department and TIDA, consisting of the DEIR, any consultations and
14 comments received during the review process, any additional information that became
15 available, the Summary of Comments and Responses, and a supplemental memorandum on
16 additional changes, all as required by law; and,

17 WHEREAS, On April 21, 2011, the Planning Commission reviewed and considered the
18 FEIR and, by Motion No. 18325, found that the contents of said report and the procedures
19 through which the FEIR was prepared, publicized and reviewed complied with the provisions
20 of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and
21 Chapter 31 of the San Francisco Administrative Code. A copy of said Planning Commission
22 Motion is on file with the Clerk of the Board of Supervisors in File No. 110618 and is
23 incorporated herein by reference; and,

24 WHEREAS, By Motion No. 18325, the Commission found the FEIR to be adequate,
25 accurate and objective, reflected the independent judgment and analysis of the Department

1 and the Commission, and that the Summary of Comments and Responses contained no
2 significant revisions to the DEIR. The Commission also adopted findings relating to significant
3 impacts associated with the Project and certified the completion of the FEIR in compliance
4 with CEQA and the State CEQA Guidelines; and,

5 WHEREAS, In a single appeal letter to the Clerk of the Board of Supervisors dated
6 May 11, 2011, Saul Bloom on behalf of Arc Ecology, Michael Lynes on behalf of the Golden
7 Gate Audubon Society, Kate Looby on behalf of the Sierra Club-San Francisco Bay Chapter,
8 Brent Plater on behalf of Wild Equity Institute, Ken Masters, and Aaron Peskin filed an appeal
9 of the FEIR to the Board of Supervisors, which the Clerk of the Board of Supervisors received
10 on or around May 11, 2011; and,

11 WHEREAS, On June 7, 2011, this Board held a duly noticed public hearing to consider
12 the appeal of the FEIR certification filed by Appellant; and,

13 WHEREAS, This Board has reviewed and considered the FEIR, the appeal letter, the
14 responses to concerns document that the Planning Department prepared, and the other
15 written records before the Board of Supervisors, and heard testimony and received public
16 comment regarding the adequacy of the FEIR; and,

17 WHEREAS, The FEIR files and all correspondence and other documents have been
18 made available for review by this Board and the public. These files are available for public
19 review by appointment at the Planning Department offices at 1650 Mission Street, and are
20 part of the record before this Board by reference in this Motion; now, therefore, be it

21 MOVED, That this Board of Supervisors hereby affirms the decision of the Planning
22 Commission in its Motion No. 18325 to certify the FEIR and finds the FEIR to be complete,
23 adequate and objective and reflecting the independent judgment of the City and in compliance
24 with CEQA and the State CEQA Guidelines.



City and County of San Francisco
Tails
Motion: M11-92

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 110619

Date Passed: June 07, 2011

Motion affirming the Planning Commission's Certification of the Final Environmental Impact Report for the Treasure Island/Yerba Buena Island Project.

June 07, 2011 Board of Supervisors - APPROVED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 110619

I hereby certify that the foregoing Motion was APPROVED on 6/7/2011 by the Board of Supervisors of the City and County of San Francisco.

A handwritten signature in black ink, appearing to read 'Angela Calvillo for'.

Angela Calvillo
Clerk of the Board



SAN FRANCISCO PLANNING DEPARTMENT

270731
**ENDORSED
FILED**
San Francisco County Clerk

Notice of Determination

JUN 16, 2011

on St.

Approval Date: June 15, 2011
EIR Certification Date: April 21, 2011
State Clearinghouse No.: 2008012105
Case No.: 2007.0903E
Project Title: Treasure Island/Yerba Buena Island Redevelopment Plan
 EIR
Project Location: Treasure Island and Yerba Buena Island in San Francisco
 Bay
APN(s): Assessor's Block 1939, Lots 001 and 002
Lead Agency: San Francisco Planning Department
 Treasure Island Development Authority
Staff Contact: Rick Cooper – (415) 575-9027
Project Sponsor: Treasure Island Community Development, LLC
 Treasure Island Development Authority
Sponsor Contact: Alexandra Galovich (TICD) (415) 905-5367
 Michael Tymoff (TIDA) (415) 554-5313

by: **MARIBEL JALDON**
Deputy County Clerk

ico,
2479

J378

Fax:
415.558.6409

Planning
Information:
415.558.6377

To: County Clerk, City and County of San Francisco State of California
 City Hall Room 168 Office of Planning and Research
 1 Dr. Carlton B. Goodlett Place PO Box 3044
 San Francisco, CA 94102 Sacramento, CA 95812-3044

Pursuant to the California Environmental Quality Act (CEQA), the Guidelines of the Secretary for Resources, and San Francisco requirements, this Notice of Determination is transmitted to you for filing. At the end of the posting period, please return this Notice to the Staff Contact with a notation of the period it was posted.

Attached fee:

X \$50 filing fee AND X \$2,839.25 [EIR CDFG Fee]

PROJECT DESCRIPTION: The Treasure Island Development Authority (TIDA), a City and County of San Francisco agency, and Treasure Island Community Development, LLC (TICD), a private entity, are proposing to redevelop the portions of Naval Station Treasure Island still owned by the Navy on Treasure Island and Yerba Buena Island, once they are transferred to TIDA. A project-level EIR has been prepared to evaluate a new Area Plan in the *San Francisco General Plan*, a Special Use District added to the Planning Code that incorporates by reference a *Design for Development*, a Special Height and Bulk District added to the Planning Code, amendments to the Zoning Maps to add new zoning and height districts, and development activities to be carried out by TICD pursuant to a Development Agreement between the City and County of San Francisco and TICD, Disposition and Development Agreement between TIDA and

TICD, and related conveyance agreements governing redevelopment of the Islands. The Proposed Project includes development on Treasure Island and Yerba Buena Island with up to 8,000 residential units; up to 140,000 square feet (sq. ft.) of new commercial and retail space; up to 100,000 sq. ft. of new office space; adaptive reuse of three historic buildings on Treasure Island with up to 311,000 sq. ft. of commercial, retail, and/or flex space; 500 hotel rooms; rehabilitation of the historic buildings on Yerba Buena Island; new and/or upgraded public and community facilities; new and/or upgraded public utilities; about 300 acres of parks and public open space including shoreline access and cultural uses such as a museum; a Habitat Management Plan for portions of Yerba Buena Island; new and upgraded streets and public ways; bicycle, transit, and pedestrian facilities; landside and waterside facilities for the Treasure Island Sailing Center; landside services for an expanded marina; and a new Ferry Terminal and intermodal Transit Hub. Construction would include geotechnical stabilization of the portions of Treasure Island where buildings and roads are proposed, raising the elevation of portions of the ground surface on Treasure Island to provide long-term protection against flooding, including an allowances for estimated future potential sea level rise, and strengthening the perimeter berm around Treasure Island. Construction and buildout of the proposed Development Plan would be phased and are anticipated to occur over an approximately 20-year period.

DETERMINATION:

The City and County of San Francisco took the following approval actions for the Treasure Island/Yerba Buena Island Project:

Planning Commission actions taken on April 21, 2011 (copies of these documents may be examined at 1650 Mission Street, Suite 400):

Motion No. 18325 Certifying the Final Environmental Impact Report for the Treasure Island/Yerba Buena Island Project;

Motion No. 18326, Adopting CEQA Findings including a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program for the Treasure Island/Yerba Buena Island Project;

Motion No. 18327, Adopting General Plan amendments, including amendments to the Commerce & Industry Element, Community Facilities Element, Housing Element, Recreation & Open Space Element, Transportation Element, Urban Design Element, Land Use Index, and other minor map amendments, and adopting the Treasure Island/Yerba Buena Island Area Plan;

Motion No. 18328, Adopting Findings of Consistency with the San Francisco General Plan and Section 101.1 of the City Planning Code;

Resolution No. 18329, Recommending Planning Code amendments to Sections 102.5 and 201 to include the Treasure Island/Yerba Buena Island Special Use District, and to Section 105 relating to height and bulk limits for Treasure Island and Yerba Buena Island, adding Section 249.52 establishing the Treasure Island/Yerba Buena Island Special Use District, adding Section 263.26 establishing the Treasure Island/Yerba Buena Island Height and Bulk District, and amending Table 270 to recognize the Treasure Island/Yerba Buena Island Height and Bulk District;

Motion No. 18330, Adopting the Treasure Island/Yerba Buena Island Project Design for Development document;

Resolution No. 18331, Recommending amendment of the Zoning Maps to add new sectional map ZN14 to show the zoning designations of Treasure Island and Yerba Buena Island, add new sectional map HT14 to establish the Height and Bulk District for Treasure Island and Yerba Buena Island, and add new sectional map SU14 to establish the Treasure Island/Yerba Buena Island Special Use District;

Motion No. 18332, Adopting Allocation Findings for the prioritization of 100,000 square feet of office space for the Treasure Island/Yerba Buena Island Project; and

Resolution No. 18333, Recommending approval of a Development Agreement between the City and County of San Francisco and Treasure Island Community Development LLC.

Treasure Island Development Authority Board actions taken April 21, 2011 and April 27, 2011 (copies of these documents may be examined at One Avenue of Palms, Second Floor on Treasure Island):

Resolution No. 11-15-04/21, Certifying the Final Environmental Impact Report for the Treasure Island/Yerba Buena Island Project;

Resolution No. 11-15-04/21, Adopting CEQA Findings including a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program in connection with the adoption of the Treasure Island/Yerba Buena Island Project and related actions necessary to implement such plans;

Resolution No. 11-16-04/21, Approving the Transition Housing Rules and Regulations for the Villages at Treasure Island for the Treasure Island/Yerba Buena Island Project;

Resolution No. 11-17-04/21, Approving the Yerba Buena Island Habitat Management Plan, the Treasure Island Community Facilities Plan, the Treasure Island/Yerba Buena Island Sustainability Plan and the Treasure Island Transportation Implementation Plan for the Treasure Island/Yerba Buena Island Project;

Resolution No. 11-18-04/21, Approving a Disposition and Development Agreement between the Treasure Island Development Authority and Treasure Island Community Development, LLC, for certain real property located on Treasure Island and Yerba Buena Island;

Resolution No. 11-19-04/21, Approving the Economic Development Conveyance Memorandum of Agreement for the conveyance of former Naval Station Treasure Island to the Treasure Island Development Authority;

Resolution No. 11-20-04/21, Approving the Public Trust Exchange Agreement between the Treasure Island Development Authority and the California State Lands Commission in furtherance of the Treasure Island/Yerba Buena Island Project;

Resolution 11-21-04/21, Approving the Amended and Restated Base Closure Homeless Assistance Agreement with the Treasure Island Homeless Development Initiative;

Resolution No. 11-22-04/21, Approving the Treasure Island/Yerba Buena Island Design for Development document for the Treasure Island/Yerba Buena Island Project; and

Resolution No. 11-24-04/27, Approving the Interagency Cooperation Agreement for the Treasure Island/Yerba Buena Island Project.

San Francisco Municipal Transportation Agency actions taken on May 3, 2011 (copies of these documents may be examined at One South Van Ness Avenue, 7th floor):

Resolution No. 11-059, adopting CEQA Findings including a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program, consenting to the Interagency Cooperation Agreement with the Treasure Island Development Authority, and approving the Development Agreement with the Treasure Island Community Development, LLC.

San Francisco Public Utilities Commission actions taken on May 10, 2011 (copies of these documents may be examined at 1155 Market Street, 11th floor):

Resolution No. 11-0068, adopting CEQA Findings including a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program, and authorizing the General Manager to execute, on behalf of the SFPUC, the Interagency Cooperation Agreement.

Board of Supervisors actions taken June 7, 2011 and June 14, 2011 (copies of these documents may be examined at Room 244 City Hall, 1 Dr. Carlton B. Goodlett Place):

(Board File No. 110619) Motion No. M11-95 affirming the certification by the Planning Commission of the Final Environmental Impact Report for the Treasure Island/Yerba Buena Island Project;

(Board File No. 110328) Resolution adopting CEQA Findings including a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program in connection with the development of Treasure Island/Yerba Buena Island as envisioned in the Development Agreement;

(Board File No. 110226) Ordinance approving a Development Agreement between the City and County of San Francisco and Treasure Island Community Development, LLC.; making findings under the California Environmental Quality Act, findings of conformity with the City's General Plan and with the eight priority policies of Planning Code Section 101.1; and findings relating to formation of infrastructure financing districts;

(Board File No. 110228) Ordinance amending the San Francisco General Plan by 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 File No. 110229) Ordinance amending 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, adding Section 263.26 to establish the Treasure Island/Yerba Buena Island Height and Bulk District, amending Planning Code Section 270 to refer to the Treasure Island/Yerba Buena Island Height and Bulk District; and adopting findings, including environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the priority policies of Planning Code Section 101.1;

(Board File No. 110227) Ordinance amending the Zoning Map by adding new sectional map ZN14 to show the zoning designations of Treasure Island and Yerba Buena Island, adding new sectional map HT14 to establish the Height and Bulk District for Treasure Island and Yerba Buena Island, and adding new sectional map SU14 to establish the Treasure Island/Yerba Buena Island Special Use District;

(Board File No. 110230) Ordinance amendment the San Francisco Subdivision Code to add Division 4 pertaining to the subdivision process applicable to development within the Treasure Island/Yerba Buena Island Project Site, including the establishment of a procedure for reviewing and filing vesting tentative transfer maps;

(Board File No. 110517) Resolution approving the Treasure Island Transportation Implementation Plan;

(Board File No. 110291) Resolution approving a Disposition and Development Agreement between the Treasure Island Development Authority and Treasure Island Community Development, LLC, for certain real property located on Treasure Island/Yerba Buena Island, and approving an Interagency Cooperation Agreement between the City and the Treasure Island Development Authority;

(Board File No. 110290) Resolution approving the Economic Development Conveyance Memorandum of Agreement for the transfer of former Naval Station Treasure Island from the United States Government to the Treasure Island Development Authority;

(Board File No. 110289) Resolution approving the Amended and Restated Base Closure Homeless Assistance Agreement with the Treasure Island Homeless Development Initiative; and

(Board File No. 110340) Resolution approving the Public Trust Exchange Agreement between the Treasure Island Development Authority and the California State Lands Commission in furtherance of the Treasure Island/Yerba Buena Island Project.

1. An Environmental Impact Report has been prepared and certified pursuant to the provisions of CEQA. It is available to the public and may be examined at the Planning Department at the above address, in File No. 2007.0903E.
2. A determination has been made that the project in its approved form will have a significant effect on the environment and findings were made pursuant to Section 15091 and a statement of overriding considerations was adopted.
3. Mitigation measures were made a condition of project approval and a Mitigation Monitoring and Reporting Program was adopted.

Notice of Determination
June 15, 2011

CASE NO. 2007.0903E
Treasure Island/Yerba Buena Island Project

John Rahaim
Planning Director



By Bill Wycko
Environmental Review Officer

cc: Alex Galovich, TICD, Wilson Meany Sullivan
Stephen Proud, TICD, Lennar Communities
Neil Sekhri, Gibson, Dunn & Crutcher
Mary Murphy, Gibson, Dunn & Crutcher
Sue Hestor
Mary Miles
Nancy Shanahan



State of California—The Resources Agency
 DEPARTMENT OF FISH AND GAME
2011 ENVIRONMENTAL FILING FEE CASH RECEIPT

RECEIPT #
270731

STATE CLEARING HOUSE # (if applicable)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

LEAD AGENCY S.F. PLANNING DEPARTMENT	DATE 6/16/2011
COUNTY/STATE AGENCY OF FILING SAN FRANCISCO	DOCUMENT NUMBER 389752/389753

PROJECT TITLE
 TREASURE ISLAND/YERBA BUENA ISLAND REDEVELOPMENT PLAN

PROJECT APPLICANT NAME
 RICK COOPER

PHONE NUMBER
 (415) 5759027

PROJECT APPLICANT ADDRESS 1650 MISSION ST., STE. 400	CITY SF	STATE CA	ZIP CODE 94103
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PROJECT APPLICANT (Check appropriate box):

Local Public Agency School District Other Special District State Agency Private Entity

CHECK APPLICABLE FEES:

<input type="checkbox"/> Environmental Impact Report (EIR)	\$2,839.25	\$ 2839.25
<input type="checkbox"/> Negative Declaration (ND)(MND)	\$2,044.00	\$
<input type="checkbox"/> Application Fee Water Diversion (State Water Resources Control Board Only)	\$850.00	\$
<input type="checkbox"/> Projects Subject to Certified Regulatory Programs (CRP)	\$965.50	\$
<input checked="" type="checkbox"/> County Administrative Fee	\$50.00	\$ 50.00
<input type="checkbox"/> Project that is exempt from fees		
<input type="checkbox"/> Notice of Exemption		
<input type="checkbox"/> DFG No. Effect Determination (Form Attached)		
<input type="checkbox"/> Other _____		\$ _____

PAYMENT METHOD:

Cash Credit Check Other _____

TOTAL RECEIVED \$ 2889.25

SIGNATURE X	Printed Name: MARIBEL JALDON	TITLE Deputy County Clerk
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Memorandum of Agreement
Between
The Department of the Navy
And
The California State Historic Preservation Officer
For the Layaway, Caretaker Maintenance, Interim Leasing, Sale, Transfer,
and Disposal of Historic Properties on the Former
Naval Station Treasure Island, San Francisco, California

WHEREAS, the Department of the Navy (DoN) has been directed to close, lease and dispose of its property at the former Naval Station Treasure Island (NSTI) pursuant to the Defense Base Closure and Realignment Act of 1990 (undertaking), has determined that the undertaking will affect properties located on the former NSTI that are listed on, have been determined eligible for, or may be potentially eligible for listing on the National Register of Historic Places (historic properties), has consulted the California State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act, as amended (16.U.S.C. 470f) (NHPA)), has notified the Advisory Council on Historic Preservation (Council) of the effect finding pursuant to 36 CFR Section 800.6(a)(1), and has received notification that the Council declines to participate in the consultation (See Attachment 1); and

WHEREAS, NSTI is located within the limits of the City and County of San Francisco (City), a Certified Local Government under Section 101(c) of the NHPA, and Article 10 of the San Francisco Planning Code specifically addresses *Preservation of Historical Architectural and Aesthetic Landmarks*; and

WHEREAS, the Treasure Island Development Authority (TIDA), a non-profit, public benefit corporation established by the City, is recognized by the Department of Defense as the Local Redevelopment Authority for NSTI, and

WHEREAS, upon disposal of the historic properties from the DoN to a non-Federal entity, any Federal jurisdiction ceases and the jurisdiction of the historic properties reverts exclusively to the City;

WHEREAS, the DoN has informed consulting parties and members of the public about the undertaking and involved such parties and the public in the consultation process using agency procedures for public involvement under the National Environmental Policy Act;

1 **NOW THEREFORE**, the DoN and the SHPO agree that the layaway, caretaker
2 maintenance, interim leasing, sale, transfer, and disposal of historic properties
3 (hereinafter, "leasing and disposal) at NSTI shall be implemented in accordance with the
4 following stipulations in order to take into account the effect of the undertaking on
5 historic properties, and that these stipulations shall govern leasing and disposal at NSTI
6 until this Memorandum of Agreement (hereinafter, "MOA") is terminated.
7
8

9 **STIPULATIONS**

10
11 The DoN will ensure that the following measures are carried out:
12
13

14 **I. NATIONAL REGISTER NOMINATIONS**

- 15
16 A. The DoN will nominate the following historic properties, depicted in
17 Attachment 3, to the National Register in accordance with Section
18 110(a)(2) of the National Historic Preservation Act (16 U.S.C. 470h2):
19
20 1. The Senior Officers Quarters Historic District (Yerba Buena
21 Island): as follows:
22 (a) Quarters 1 through 7
23 (b) Building 83
24 (c) Building 205, and
25 (d) Building 230
26 2. Quarters 10 (Yerba Buena Island) Officers Quarters
27 3 Building 267 (Yerba Buena Island) Garage to Building 10
28 4. Building 262 (Yerba Buena Island) The Torpedo Building
29 5. Building 1 (Treasure Island), Administration Building, Golden
30 Gate Exposition
31 6. Building 2 (Treasure Island), Hall of Transportation, Golden Gate
32 Exposition
33 7. Building 3 (including Building 111) (Treasure Island), Palace of
34 Fine and Decorative Arts and Annex, Golden Gate Exposition
35
36 B. The DoN will submit the above nominations to the Keeper of the National
37 Register in accordance with 36 CFR § 60.9 prior to disposal.
38

39 **II. ARCHAEOLOGY**

- 40
41 A. The DoN completed an inventory of the archeological resources located
42 on the former NSTI. The potential Archeological Sensitive Zones were
43 identified in the *Archeological Resource Inventory and Assessment of*
44 *Naval Station Treasure Island Disposal and Reuse Project, San Francisco*
45 *County, California, June 1997* and are depicted in Attachment 4.
46

1 B. Prior to the DoN's disposal of NSTI, the DoN will submit a Research
2 Design/Discovery Plan to the SHPO, that clearly delineates specific
3 procedures to be taken, under various scenarios. The Navy will seek
4 SHPO concurrence prior to conducting field work. The Research Design/
5 Discovery Plan will outline the procedures to be followed, the decision-
6 making process and consultation process with SHPO and other appropriate
7 parties. As will be discussed in the Research Design/Discovery Plan, the
8 Navy will conduct additional archaeological survey and / or archaeo-
9 logical testing and mitigation within identified Archaeological Sensitive
10 Zones 1 – 4 that may be required and which may include:

- 11 1. Accurate delineation of sensitive areas and known archaeological
12 sites on DoN property, including those contiguous portions that
13 may occur on adjacent property.
- 14 2. Testing of known sensitive areas and archaeological sites to
15 determine the significance of potential buried archaeological
16 deposits.
- 17 3. Survey of submerged sensitive areas by qualified maritime
18 archaeologists to determine the presence of potentially significant
19 submerged resources.
- 20 4. Consultation with the SHPO to determine significance of any
21 buried or submerged resources discovered during the testing and
22 delineation of sensitive areas.
- 23 5. Development of treatment plans and implementation of mitigation
24 measures in consultation with the SHPO for archaeological sites
25 discovered through testing that are determined significant.
- 26 6. Consultation with the Bay Miwok prior to any ground disturbing
27 archaeological testing or mitigation activities in areas believed to
28 contain archaeological deposits that may be significant to the Bay
29 Miwok. The Navy will make every attempt to contact the Bay
30 Miwok, including correspondence, phone calls, e-mails, etc., and
31 will assume no interest on the part of the Bay Miwok if no formal
32 correspondence is received within 30 days.

33 C. Non-Applicability

- 34 1. The Federal Highway Administration obtained fee title to a portion
35 of NSTI from the DoN and subsequently conveyed that property
36 by deed dated October 26, 2000, to the California Department of
37 Transportation (CALTRANS) for purposes of the San Francisco
38

1 Bay Bridge Seismic Retrofit. As a result of these actions, this
2 MOA does not apply to the historic properties which are located
3 within the former NSTI and which are now owned by CALTRANS
4 (see Attachment 2). Such properties include:

5
6 a. Potential archaeological sites and sensitive zones at Yerba
7 Buena Island that are documented in the *Archeological*
8 *Resource Inventory and Assessment of Naval Station*
9 *Treasure Island Disposal and Reuse Project, San*
10 *Francisco County, California, June 1997*, including the
11 following:

- 12 1. A portion of Archeological site CA-SFr-4/H in
- 13 Zone 1; and
- 14 2. A portion of an Historic/Prehistoric archaeological
- 15 deposit in Zone 2;
- 16 3. A portion of Zone 3, (which may include
- 17 undocumented submerged resources); and
- 18 4. A portion of the Twentieth Century Landfill in Zone
- 19 4.
- 20
- 21

22 **III. HISTORIC ARTIFACTS AND RECORDS**

- 23
- 24 A. DoN-owned historic artifacts and records that were included in the
- 25 Treasure Island Naval and Marine Corps Museum will remain the
- 26 responsibility of the Director of the Naval Historical Center, Washington
- 27 Navy Yard, District of Columbia.
- 28
- 29 B. The DoN has coordinated the disposal of Naval Station Treasure Island
- 30 photographs with the National Archives Pacific-Sierra Region, San Bruno,
- 31 and will transfer them to the National Archives from the DoN's
- 32 Caretaker Site Office upon completion of preservation measures.
- 33
- 34 C. The DoN has turned over to the City Department of Public Works plans,
- 35 building drawings and construction photographs that were in the
- 36 possession of the Naval Station Treasure Island Staff Civil Engineer's
- 37 Office.
- 38
- 39 D. Financial and administrative records were transferred to Naval Station San
- 40 Diego and Naval Base San Diego, respectively, because these facilities
- 41 assumed operation responsibilities for NSTI at closure.
- 42

43 **IV. RECORDATION**

- 44
- 45 A. DoN shall ensure that the non-archaeological historic properties listed in
- 46 Stipulation I.A. of this MOA, with the exception of Building 1 (Treasure

1 Island) and Building 262 (Yerba Buena Island), are recorded prior to
2 disposal from Federal ownership.

3
4 1. Buildings 1 and 262 are called out in the City's *Naval Station*
5 *Treasure Island Reuse Plan* (June 1996) as being priorities for
6 preservation.

7
8 B. The DoN shall contact the Pacific-Great Basin System Support Office,
9 National Park Service (NPS), Oakland, California to determine what level
10 and kind of recordation is recommended by NPS for such historic
11 properties.

12
13 C. The DoN shall provide copies of the final documentation prepared
14 pursuant to paragraph A. of this stipulation to the SHPO, the City, and the
15 San Francisco International Airport Bureau of Exhibitions, Museums, and
16 Cultural Exchange.

17
18 **V. LICENSING AND LEASING OF HISTORIC PROPERTIES**

19
20 A. In order to maintain and protect historic properties covered by this
21 agreement, the DoN may enter into licenses and leases for the use of DoN
22 real property at NSTI prior to disposal in accordance with Section 5 of the
23 *Base Reuse Implementation Manual* (Attachment 5).

24
25 1. The DoN shall require all licensees/lessees to submit written plans
26 for any proposed work on historic properties for DoN review and
27 approval. Work may not proceed until the licensee/lessee has
28 received written approval from the DoN, which shall not be
29 granted unless the proposed work conforms to the Secretary of the
30 Interior's *Standards for Rehabilitation and Guidelines for*
31 *Rehabilitating Historic Buildings (Rehabilitation Standards)*.

32
33 a. DoN review of plans submitted for proposed work on
34 historic properties shall be conducted by persons who shall,
35 at a minimum, meet the Secretary of the Interior's
36 Professional Qualification Standards (Qualification
37 Standards) in the appropriate disciplines (Attachment 6).

38
39 2. No further consultation with the SHPO shall be required hereunder
40 unless the DoN determines that the proposed work does not and
41 cannot be modified to conform to the *Rehabilitation Standards*.

42
43 a. If the DoN determines that the proposed work does not and
44 cannot be modified to conform to the *Rehabilitation*
45 *Standards*, the DoN may either reject the proposed work or
46 consult pursuant to 36 CFR Part 800.

- 1
2 3. Further consultation with the SHPO will not be required for
3 painting previously painted interior and exterior surfaces in non-
4 traditional colors for temporary uses, provided that the lessee has
5 posted an adequate bond to insure that the property will be restored
6 when the temporary use is complete.
7
8 4. Lease Agreements prevent lessees from undertaking any activity
9 that may affect an identified historic or archaeological property,
10 without the approval of the DoN. The DoN shall provide a list of
11 traditional and non-traditional colors to lessees planning to paint
12 historic properties covered by this MOA and only those colors may
13 be used to paint the subject properties. The DoN shall retain the
14 option that, prior to conveyance, lessee shall be required to restore
15 historic properties to their original color scheme. The DoN will
16 prepare a Technical Memorandum Report (TMR) identifying the
17 "original conditions". The TMR will be submitted for review and
18 approval by the SHPO prior to the commencement of any such
19 restoration efforts.
20
21 5. The DoN shall retain the right to inspect leased historic properties
22 at least annually to ensure that the *Rehabilitation Standards* are
23 followed and shall take appropriate remedial action to assure
24 compliance where deviations are observed.
25

26 **VI. LONG TERM PRESERVATION PLANNING**

- 27
28 A. Upon conveyance of NSTI from the DoN, all historic properties conveyed
29 as set forth herein shall fall within the jurisdiction of the City, a Certified
30 Local Government under Section 101(c) of the NHPA. As such, all
31 historic properties conveyed as set forth herein shall be subject to the City
32 of San Francisco Planning Code, Article 10, Preservation of Historical,
33 Architectural, and Aesthetic Landmarks (Attachment 7).
34
35 B. Upon conveyance of NSTI from the Navy to the TIDA or other designated
36 property recipient, and in the event of a discovery in an Archeological
37 Sensitive Zone, the City may designate a lot or site as a landmark site
38 pursuant to Section 1004 of San Francisco Planning Code, Article 10,
39 Preservation of Historical Architectural, and Aesthetic Landmarks
40 (Attachment 7).
41

42 **VII. PERSONNEL QUALIFICATIONS STANDARDS**

- 43
44 A. The DoN shall ensure that all historic preservation work pursuant to this
45 MOA, including but not limited to the planning and physical rehabilitation
46 of historic properties is carried out by or under the direct supervision of a

1 person or persons meeting, at a minimum, the Qualification Standards in
2 the appropriate disciplines.
3
4
5

6 **VIII. DOCUMENT REVIEW AND COMMENT**
7

- 8 A. The SHPO shall be afforded forty-five (45) days after receipt to comment
9 on any documentation submitted by the Navy as a result of consultation
10 efforts or as a result of implementation of this MOA. Should the SHPO
11 decline to participate or fail to respond within forty-five (45) days to a
12 written request for comments, the DoN may assume the SHPO's
13 concurrence in the DoN's proposed action.
14

15 **IX. REPORTING**
16

- 17 A. Until the terms of this MOA have been fulfilled and /or the MOA has been
18 terminated, the DoN shall provide a written annual status report to all
19 other parties.
20
21 1. The annual report shall be submitted by December 15th of each
22 year and, at a minimum, shall address the following topics:
23
24 a. Status of the nomination of the Senior Officers Quarters
25 Historic District (Yerba Buena Island) and those other
26 buildings being nominated by DoN.
27
28 b. Discussion of problems or unanticipated issues related to
29 management of historic properties during the previous year,
30 including proposals for resolution of such problems and
31 issues.
32

33 **X. DISCOVERIES**
34

- 35 A. Buried cultural materials may be present on the leased properties. If such
36 materials are encountered by the City at NSTI prior to conveyance, the
37 City shall immediately notify the DoN.
38
39 1. The City shall stop work immediately and notify the DoN so that
40 the DoN can initiate consultation with the SHPO. The City shall
41 not proceed with any work without the approval of the DoN.
42
43 2. If the newly discovered property has not previously been included
44 in, or determined eligible for inclusion in, the National Register,
45 the DoN may assume that the property is eligible for purposes of
46 this MOA. Otherwise, the DoN may also proceed through the

1 process outlined in 36 CFR 800.4 for the identification of historic
2 properties.

- 3
- 4 3. The DoN will notify the SHPO at the earliest possible time and
5 consult to develop actions that will take into account any effects of
6 the undertaking on any property assumed, or determined pursuant
7 to 36 CFR 800.4, to be National Register eligible.
- 8
- 9 4. The DoN will notify the SHPO of any time constraints, and the
10 DoN and the SHPO will mutually agree upon time frames for this
11 consultation.
- 12
- 13 5. The DoN will provide the SHPO with written recommendations
14 that take the effects of the undertaking into account.
- 15
- 16 a. If the SHPO does not object to the DoN's
17 recommendations within the agreed upon time frame, the
18 DoN will modify the scope of work as necessary to
19 implement its recommendations. The DoN may then
20 authorize the action to proceed.
- 21

22 **XI. RESOLUTION OF OBJECTIONS**

- 23
- 24 A. Should any party object to the manner in which the terms of this MOA are
25 implemented, to any action carried out or proposed with respect to
26 implementation of the MOA, or to any documentation prepared in
27 accordance with and subject to its terms, the DoN shall immediately
28 consult with all other parties for no more than thirty (30) days to resolve
29 the objection. If the objection is resolved through such consultation, the
30 action subject to dispute may proceed in accordance with the terms of that
31 resolution. If, after initiating such consultation, the DoN determines that
32 the objection cannot be resolved through consultation, the DoN shall
33 forward all documentation relevant to the objection to the Council,
34 including the DoN's proposed response to the objection, with the
35 expectation that the Council will respond within thirty (30) days after
36 receipt of such documentation:
- 37
- 38 1. Advise the DoN that the Council concurs in the DoN's proposed
39 response to the objection, whereupon the DoN will respond to the
40 objection accordingly; or
- 41
- 42 2. Provide the DoN with recommendations, which the DoN will take
43 into account in reaching a final decision regarding its response to
44 the objection; or
- 45

- 1 3. Notify the DoN that the objection will be referred for comment
2 pursuant to 36 CFR 800.7(a)(4), and proceed to refer the objection
3 and comment. The DoN shall take the resulting comment into
4 account in accordance with 36 CFR 800.7(c)(4) and Section 110
5 (1) of the NHPA.
6
 - 7 4. Should the Council not exercise one of the above options within 30
8 days after receipt of all pertinent documentation, the DoN may
9 assume the Council's concurrence in its proposed response to the
10 objection.
11
 - 12 5. The DoN shall take into account any Council recommendation or
13 comment provided in accordance with this stipulation with
14 reference only to the subject of the objection. The DoN's
15 responsibility to carry out all actions under this agreement that are
16 not the subjects of the objection will remain unchanged.
17
- 18 B. At any time during implementation of this MOA, should an objection
19 pertaining to such implementation be raised by a member of the public,
20 the DoN shall notify in writing the other parties and take the objection into
21 account. The DoN shall consult with the objector and, if requested by the
22 objector, consult with any or all of the other parties to this MOA with
23 respect to the objection. The time frame for such consultation shall be
24 reasonably determined by the DoN. The DoN will render a decision
25 regarding the objection and notify all parties hereunder of its decision in
26 writing within a reasonable period of time following closure of this
27 consultation period. In reaching its decision, the DoN will take all
28 comments from the parties into consideration. The DoN's decision
29 regarding resolution of the objection will be final.
30
- 31 C. The DoN shall provide the SHPO and the Council, when Council
32 comments have been issued hereunder, and any parties that have objected
33 pursuant to paragraph B., above, with a copy of any final written decision
34 regarding any objection.
35
- 36 D. The DoN may authorize any action subject to objection under this
37 stipulation to proceed after the objection has been resolved in accordance
38 with the terms of this stipulation.
39

40 **XII. AMENDMENTS TO THE MOA**

- 41
- 42 A. If any party believes that this MOA should be amended, that party may at
43 any time propose amendments, whereupon the parties will consult to
44 consider the amendment pursuant to 36 CFR § 800.6(c)(7) and §
45 800.6(c)(8).
46

1 B. This MOA may be amended only upon the written concurrence of the
2 signatory parties and the invited signatory party.
3
4

5 **XIII. TERMINATION**
6

7 A. This MOA may be terminated only by either signatory party or by the
8 invited signatory party. If this MOA is not amended as provided for in
9 Stipulation XII., or if any of these parties proposes termination of this
10 MOA for other reasons, the party proposing termination shall in writing
11 notify all other parties, explain the reasons for proposing termination, and
12 consult with the parties for no more than 30 days to seek alternatives to
13 termination.
14

- 15 1. Should such consultation fail, the signatory party or the invited
16 signatory party proposing termination may terminate this MOA by
17 promptly notifying all other parties in writing.
18
- 19 2. Termination hereunder shall render this MOA without further force
20 or effect. Should this MOA be terminated before all historic
21 properties covered by this MOA have been conveyed out of federal
22 ownership or before the DoN, in consultation with all other parties
23 has determined that all of its terms have been fulfilled, then
24 beginning with the date of termination the DoN shall do the
25 following:
26
 - 27 a. Promptly consult with all other parties to this MOA to
28 develop a new agreement pursuant to 36 CFR Part 800.
29
 - 30 b. Ensure that until a new agreement is executed for the
31 undertaking, that the DoN will not take or sanction any
32 action or make an irreversible commitment that would
33 result in an adverse effect or foreclose alternatives that
34 could avoid or mitigate the adverse effect on historic
35 properties until the consulting process has been completed.
36

37 **XIV. DURATION OF THE MOA**
38

39 A. Unless it is terminated pursuant to Stipulation XIII above, this MOA shall
40 remain in effect until all stipulations have been fulfilled as determined by
41 the DoN in consultation with all the other parties, or until such time as the
42 historic properties covered by this MOA are no longer under federal
43 ownership, whichever occurs first. Upon a determination by the DoN that
44 either of these conditions has been met, this MOA will terminate and have
45 no further force or effect. The DoN will promptly provide the other parties
46 to this MOA with written notice of its determination and of termination of
47 this MOA.

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5 **XV. ANTI-DEFICIENCY ACT**
6

7 A. All requirements set forth in this MOA requiring the expenditure of DoN
8 funds are expressly subject to the availability of appropriations and the
9 requirements of the Anti-Deficiency Act (31 U.S.C. Section 1341).
10

11 1. No obligation undertaken by the DoN under the terms of this MOA
12 shall require or be interpreted to require a commitment to expend
13 funds not appropriated for a particular purpose.
14

15 B. If the DoN cannot perform any obligation set forth in this MOA because
16 of the unavailability of funds, the DoN and the SHPO intend that the
17 remainder of the MOA be executed.
18

19 1. Any obligation under the MOA, which cannot be performed
20 because of the unavailability of funds, must be renegotiated
21 between the DoN and the SHPO.
22

23 **EXECUTION OF THIS MEMORANDUM OF AGREEMENT** by the DoN and
24 SHPO, its transmittal by the DoN to the Council in accordance with 36 CFR
25 800.6(b)(1)(iv) and subsequent implementation of its terms, shall be evidence pursuant to
26 36 CFR 800.6(c), that this Memorandum of Agreement is an agreement with the Council
27 for purposes of Section 110(1) of the NHPA, and shall further evidence that the DoN has
28 afforded the Council an opportunity to comment on the "leasing and disposal" of NSTI
29 and its effects on historic properties, that the DoN has taken into account the effects of
30 the undertaking on historic properties, and that the DoN has satisfied its responsibilities
31 under Section 106 of the National Historic Preservation Act and its implementing
32 regulations codified at 36 CFR Part 800.

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SIGNATORY PARTIES:

UNITED STATES DEPARTMENT OF THE NAVY,

BY: *D.S. Bianchi* Date: 2 June 03
D.S. BIANCHI
Captain, CEC, USN Commanding Officer,
Engineering Field Activity West

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

BY: *Stephen D. Knoch* Date: 2 June 03
DR. KNOX MELLON
State Historic Preservation Officer

INVITED SIGNATORY PARTY:

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

BY: _____ Date: _____
City of San Francisco

CONCURRING PARTIES:

BAY MIWOK BAND

BY: _____ Date: _____
KATHERINE EROLINDA PEREZ
Bay Miwok Band

CALIFORNIA PRESERVATION FOUNDATION

BY: _____ Date: _____
California Preservation Foundation

1 **SAN FRANCISCO ARCHITECTURAL HERITAGE**

2

3 **BY:** _____ **Date:** _____

4

5 San Francisco Architectural Heritage

6

MEMORANDUM OF AGREEMENT
Between the California Department of Transportation and
the California State Historic Preservation Officer
Regarding the Yerba Buena Island I-80 Ramps Improvement Project
San Francisco (04-SF-80, PM 7.6-8.1)

WHEREAS, the Federal Highway Administration (FHWA) has assigned and the California Department of Transportation (Caltrans) has assumed FHWA responsibility for environmental review, consultation, and coordination under the provisions of the *Memorandum of Understanding between the Federal Highway Administration and the California Department of Transportation Concerning the State of California's Participation in the Surface Transportation Project Delivery Pilot Program*, which became effective on July 1, 2007 and applies to this project; and

WHEREAS, Caltrans has determined that the Yerba Buena Island I-80 Ramps Improvement Project in San Francisco (Undertaking) will have an adverse effect on the Senior Officers' Quarters Historic District and Quarters 10 (which includes Building 267), properties listed on the National Register of Historic Places (National Register), and may have an effect on archaeological site CA-SFR-04/H, a property which has been determined eligible for listing on the National Register; and

WHEREAS, implementation and enforcement of the measures set forth in Stipulation II.F. of this Memorandum of Agreement (MOA) will satisfactorily avoid potential adverse effects to archaeological site CA-SFR-04/H; and

WHEREAS, Caltrans has consulted with the California State Historic Preservation Officer (SHPO) pursuant to Stipulations X.C and XI of the January 2004 *Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it pertains to the Administration of the Federal-Aid Highway Program in California* (PA), and where the PA so directs, in accordance with 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (16 USC Section 470f) as amended, regarding the Undertaking's effects on historic properties, and has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect finding pursuant to 36 CFR § 800.6(a)(1); and

WHEREAS, Caltrans has thoroughly considered alternatives to the Undertaking, has determined that the statutory and regulatory constraints on the design of the Undertaking preclude the possibility of avoiding adverse effects to historic properties during the Undertaking's implementation, and has further determined that it will resolve adverse effects of the Undertaking on the subject historic properties through the execution and implementation of this MOA; and

WHEREAS, Caltrans District 4, the San Francisco County Transportation Authority (SFCTA), the United States Navy, the United States Coast Guard, and the Treasure Island Development Authority (TIDA) have participated in the consultation and have been invited to concur in this MOA;

WHEREAS, the United States Navy is the current owner of the subject historic properties and the Undertaking will be implemented in accordance with this MOA after the conveyance of the subject historic properties to the TIDA.

NOW, THEREFORE, Caltrans and the SHPO agree that, upon Caltrans' decision to proceed with the Undertaking, Caltrans shall ensure that the Undertaking is implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties, and further agrees that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

Caltrans shall ensure that the following stipulations are implemented:

STIPULATIONS

I. Area of Potential Effect

The APE for this Undertaking is depicted in the Supplemental Historic Property Survey Report for the *Yerba Buena Island Ramps Improvement Project*, Map 3 (Map 3 is included as Attachment A of this MOA). The APE included the maximum existing and proposed right-of-way, project construction easements (temporary and permanent), and all properties subject to direct or indirect project effects. Attachment A set forth hereunder may be amended through consultation among the MOA parties without amending the MOA proper.

II. Treatment of Historic Properties

A. Prior to the start of any work that could adversely affect any characteristics that qualify Quarters 1 (the Nimitz House), Quarters 10, and Building 267 as historic properties, SFCTA will prepare Historic Structure Reports (HSRs) for Quarters 1 (the Nimitz House) within the Officers' Quarters Historic District, Quarters 10, and Building 267. The scope of the HSRs will be developed in consultation with Caltrans, the Navy, and TIDA, and will follow the general guidelines for such reports as described in the California Office of Historic Preservation publication, "Historic Structure Report Format." Caltrans shall ensure that the documentation is completed and accepted before the historic properties are altered and/or moved. Copies of the HSRs will be provided to all of the signatory and concurring parties to this MOA.

B. Historic Landscape Report and Landscaping Plan

1. Historic Landscape Report

SFCTA will prepare a Historic Landscape Report (HLR) for the Officers' Quarters Historic District, to aid in planning for future use and landscaping of the properties within the District. The scope of the HLR will be developed in consultation with Caltrans, the Navy, and TIDA, and will be informed by the general guidelines for the Historic American Landscape Survey, as described in the National Park Service

publication, "HALS Guidelines." Copies of the HLR will be provided to all of the signatory and concurring parties to this MOA.

2. SFCTA will prepare and implement a landscaping plan for the Officers' Quarters Historic District, to address areas where the existing landscaping will be disturbed by the Undertaking and for visual screening of the new ramp structures from properties within the District. SFCTA and Caltrans shall consult to ensure that this stipulation does not duplicate effort or conflict with Stipulation V.C of the *Memorandum of Agreement among the Federal Highway Administration, the United States Coast Guard, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation for the San Francisco Oakland Bay Bridge East Span Seismic Safety Project in San Francisco and Alameda Counties, California*. Prior to implementation, the landscaping plan will be transmitted for review and comment to all of the signatory and concurring parties to this MOA.

C. Relocation of Quarters 10 and Building 267

SFCTA will relocate Quarters 10 and Building 267 to a new location on Yerba Buena Island. SFCTA will ensure that the buildings are moved in accordance with the approaches recommended in the National Park Service's *Moving Historic Buildings* (John Obed Curtis, 1979), and by a professional building mover who has the experience and capability to move historic buildings properly. The SHPO will be afforded an opportunity to review and approve the proposed relocation site. The relocation will include the construction of new foundations, utility connections, and all other work necessary to prepare the buildings for future use.

Upon completion of the relocation work, Caltrans will re-evaluate the property and determine, in consultation with the SHPO, whether the property continues to meet National Register criteria or should be proposed for removal from the National Register.

D. Interpretive Signs

SFCTA will install interpretive signs, incorporating narrative and images relating to the historic Navy buildings on Yerba Buena Island, in consultation with Caltrans. Caltrans shall submit the content and location(s) of the interpretive signs to the SHPO for review and comment. The review period shall be 30 days upon receipt. If the SHPO has not commented by the end of the 30-day review period, SFCTA may proceed.

E. Protection of Historic Buildings and Repair of Inadvertent Damage

1. Protection

SFCTA, in consultation with Caltrans, the Navy, and TIDA, will develop and implement measures to protect the buildings of the Senior Officers' Quarters Historic District and Quarters 10 (including Building 267) from damage resulting from the Undertaking. Such measures may include, but are not limited to, vibration monitoring during pile driving in proximity to historic properties.

2. Repair of Inadvertent Damage

Caltrans will ensure that any damage to historic properties resulting from the Undertaking, and any damage resulting from the relocation of Quarters 10 and Building 267, will be repaired in accordance with the Secretary of the Interior's *Standards for Rehabilitation*. The HSRs and HLR described in Stipulations II.A and II.B will include photographic and other documentation of the properties prior to the start of construction and will establish the baseline condition for assessing damage. Prior to implementation of any repairs, Caltrans and SFCTA will provide plans for repairs to the SHPO for review and comment to ensure conformance with the Secretary of the Interior's *Standards for Rehabilitation*. The review period shall be 30 days upon receipt. If the SHPO has not commented by the end of the 30-day review period, SFCTA may proceed

F. Protection of Archaeological Site CA-SFR-04/H

Caltrans shall ensure that the potentially adverse effect of the Undertaking on archaeological site CA-SFR-04/H is avoided by establishing an Environmentally Sensitive Area (ESA) around the boundary of the site. The ESA will be established and maintained in accordance with the ESA Action Plan for this Undertaking. The ESA shall be thoroughly described on the final construction plans for the Undertaking. No construction activity or related ground disturbance will take place within the ESA. The ESA Action plan that details the implementation of this stipulation is appended to this MOA as Attachment B.

III. Administrative Provisions

A. Definitions.

The definitions provided at 36 CFR § 800.16 are applicable throughout this MOA.

B. Professional Qualifications and Standards.

Caltrans will ensure that only individuals meeting the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-39) in the relevant field of study carry out or review the appropriateness and quality of the actions and products required by Stipulations II.A, II.B, and II.D of this MOA.

C. Discoveries and Unanticipated Effects.

If Caltrans determines after the construction of the Undertaking has commenced, that the Undertaking will affect a previously unidentified property that may be eligible for listing on the National Register, or affect a known historic property in an unanticipated manner, Caltrans will address the discovery or unanticipated effect in accordance with 36 CFR § 800.13(b)(3). Caltrans at its discretion may hereunder assume any discovered property to be eligible for listing on the National Register in accordance with 36 CFR § 800.13(c).

D. Resolving Objections.

1. Should any party to this MOA object at any time in writing to the manner in which the terms of this MOA are implemented, to any action carried out or proposed with

respect to implementation of this MOA, or to any document prepared in accordance with and subject to the terms of this MOA, Caltrans shall immediately notify the other parties of the objection, request their comments on the objection within 15 days following receipt of Caltrans' notification, and proceed to consult with the objecting party for no more than 30 days to resolve the objection. Caltrans will honor the request of the other parties to participate in the consultation and will take any comments provided by those parties into account.

2. If the objection is resolved during the 30-day consultation period, Caltrans may proceed with the disputed action in accordance with the terms of such resolution.
3. If at the end of the 30-day consultation period, Caltrans determines that the objection cannot be resolved through such consultation, then Caltrans shall forward all documentation relevant to the objection to the ACHP, including Caltrans' proposed response to the objection, with the expectation that the ACHP will, within 30 days after receipt of such documentation:
 - a. Advise Caltrans that the ACHP concurs in Caltrans' proposed response to the objection, whereupon Caltrans will respond to the objection accordingly. The objection shall thereby be resolved; or
 - b. Provide Caltrans with recommendations, which Caltrans will take into account in reaching a final decision regarding its response to the objection. The objection shall thereby be resolved; or
 - c. Notify Caltrans that the objection will be referred for comment pursuant to 36 CFR § 800.7(c) and proceed to refer the objection for comment. Caltrans shall take the resulting comments into account in accordance with 36 CFR § 800.7(c)(4) and Section 110(1) of the National Historic Preservation Act. The objection shall thereby be resolved.
4. Should the ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, Caltrans may assume the ACHP's concurrence in its proposed response to the objection and proceed to implement that response. The objection shall thereby be resolved.
5. Caltrans shall take into account any of the ACHP's recommendations or comments provided in accordance with this stipulation with reference only to the subject of the objection. Caltrans' responsibility to carry out all other actions under this MOA that are not the subject of the objection shall remain unchanged.
6. At any time during the implementation of the Stipulations in this MOA, should a member of the public raise an objection in writing pertaining to such implementation to any signatory party to this MOA, that signatory party shall immediately notify Caltrans. Caltrans shall immediately notify the other signatory parties in writing of the objection. Any signatory party may choose to comment in writing on the objection to Caltrans. Caltrans shall establish a reasonable time frame for this comment period. Caltrans shall consider the objection, and in reaching its decision, Caltrans will take all comments from the other signatory parties into account. Within 15 days following the closure of the comment period,

Caltrans will render a decision regarding the objection and respond to the objecting party. Caltrans will promptly notify the other signatory parties of its decision in writing, including a copy of the response to the objecting party. Caltrans' decision regarding resolution of the objection will be final. Following issuance of its final decision, Caltrans may authorize the action subject to dispute hereunder to proceed in accordance with the terms of that decision.

7. Caltrans shall provide all parties to this MOA, and the ACHP, if the ACHP has commented, and any parties that have objected pursuant to subsection D.6 of this Stipulation, with a copy of its final written decision regarding any objection addressed pursuant to this Stipulation.
8. Caltrans may authorize any action subject to objection under this Stipulation to proceed after the objection has been resolved in accordance with the terms of this Stipulation.

E. Amendments

Any signatory party to this MOA may propose that this MOA be amended, whereupon all signatory parties shall consult to consider such amendment. The amendment will be effective on the date that a copy signed by all of the original signatories is filed with the SHPO. If the signatories cannot agree to appropriate terms to amend this MOA, any signatory may terminate the MOA in accordance with Stipulation III.F, below.

F. Termination

1. If this MOA is not amended as provided for in section E of this Stipulation, or if any signatory party proposes termination of this MOA for other reasons, the signatory party proposing termination shall notify the other parties to this MOA in writing, explain the reasons for proposing termination, and consult with the other parties for at least 30 days to seek alternative to termination. Such consultation shall not be required if Caltrans proposes termination because the Undertaking no longer meets the definition set forth in 36 CFR § 800.16(y).
2. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with that agreement.
3. Should such consultation fail to result in an agreement on an alternative to termination, the signatory party proposing termination may terminate this MOA by promptly notifying the other parties in writing. Termination hereunder shall render this MOA without further force or effect.
4. If this MOA is terminated hereunder, and if Caltrans determines that the Undertaking will nonetheless proceed, then Caltrans shall comply with the requirements of 36 CFR 800.3-800.6.

G. Duration

1. Unless terminated pursuant to section F of this stipulation, or unless it is superseded by an amended MOA, this MOA will be in effect following execution by the

signatory parties until Caltrans, in consultation with the other signatory parties, determines that all of its stipulations have been satisfactorily fulfilled.

2. The terms of this MOA shall be satisfactorily fulfilled within ten years following the date of execution by the signatory parties. If Caltrans determines that this requirement cannot be met, the parties to this MOA will consult to reconsider its terms. Reconsideration may include continuation of the MOA as originally executed, amendment of the MOA, or termination. In the event of termination, Caltrans will comply with subsection F.4 of this stipulation, if it determines that the Undertaking will proceed notwithstanding termination of this MOA.
3. If the Undertaking has not been implemented within ten years following the execution of this MOA, this MOA shall automatically terminate and have no further force or effect. In such event, Caltrans shall notify the other signatory parties in writing and, if it chooses to continue with the Undertaking, shall reinitiate review of the Undertaking in accordance with 36 CFR Part 800.

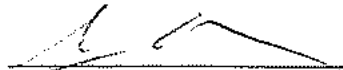
H. Effective Date

This MOA will take effect on the date that it is executed by Caltrans and the SHPO.

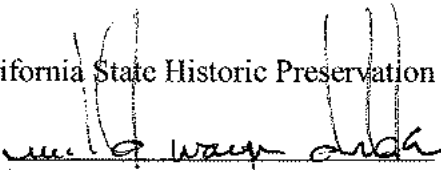
EXECUTION of this MOA by Caltrans and the SHPO, its filing with the ACHP in accordance with 36 CFR § 800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36 CFR § 800.6(c), that Caltrans has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties, and that Caltrans has taken into account the effects of the Undertaking on historic properties.

SIGNATORY PARTIES

California Department of Transportation

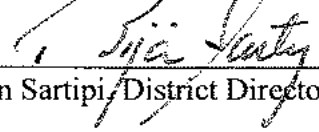
By:  Date: 4-11-2011
Jay Norvell, Chief
Division of Environmental Analysis

California State Historic Preservation Officer

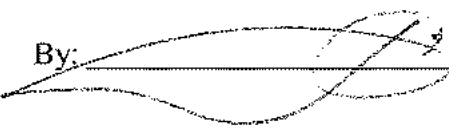
By:  Date: 14 APR 2011
Milford Wayne Donaldson
State Historic Preservation Officer

CONCURRING PARTIES

California Department of Transportation, District 4

By:  Date: 4-20-11
Bijan Sartipi, District Director, District 4, Oakland

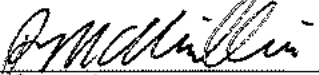
San Francisco County Transportation Authority

By:  Date: 7/27/11
Jane Kim's Moscovitch, Executive Director SFCTA

United States Navy

By: Laura Duchnak Date: 5/19/11
Laura Duchnak, Director Navy BRAC PMO West

United States Coast Guard

By:  Date: 5/12/11
P.M. McMillin, CAPT, USCG,
COMMANDING OFFICER, CEEO

Treasure Island Development Authority

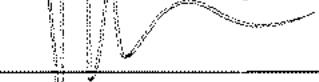
By:  Date: 4/22/11
DIRECTOR OF REDEVELOPMENT
Rich Hillis

EXHIBIT R -- PROPERTY CONVEYANCE SCHEDULE

Parcel ID	Conveyance Date (Navy Tenders Property to TIDA)	60 Day TIDA Acceptance Period Ends
FOST Parcel (Initial Closing)	10/30/2014	12/29/2014
Parcel 33	10/30/2014	12/29/2014
Bldg 3 Parcel *	1/31/2016	3/31/2016
Parcel 27 (Clipper Cove)	1/31/2016	3/31/2016
Parcel 21 *	1/31/2016	3/31/2016
UC-1 & UC-2 *	1/31/2016	3/31/2016
Parcel 31 *	1/31/2016	3/31/2016
Parcel 30 *	1/31/2016	3/31/2016
Parcel 30 North & South *	1/31/2016	3/31/2016
Parcel 30 W	1/31/2016	3/31/2016
Parcel 32	1/31/2016	3/31/2016
Bldg 233 Parcel *	1/31/2016	3/31/2016
Parcel 6	12/31/2016	3/1/2017
Parcel 24 B	1/30/2018	3/31/2018
Parcel 24 Development Parcel (24 A) *	1/30/2018	3/31/2018
Parcel 2 **	12/31/2020	3/1/2021
Site 12 Development Parcel (12 A) ***	12/31/2021	3/1/2022
Site 12 B	12/31/2021	3/1/2022
Navy Retained	12/31/2021	3/1/2022

* A Performance Benchmark established in Article 4 Section 4.2.3

** The Navy shall not tender Parcel 2 to TIDA earlier than 12/31/2020 so long as the Utilities Agreement (Exhibit E) has not expired or been terminated and remains in full effect.

*** A Performance Benchmark established in Article 4 Section 4.2.2
1) ROD Performance Benchmark (12/31/2018)

**AUCTION BIDDER SELECTION GUIDELINES FOR
RESIDENTIAL LOTS**

Non-Affiliation Requirement

- Bidder is not an Affiliate of Developer
 - Affiliate of Developer means an entity that directly or indirectly controls, is controlled by, or is under common control with, the Developer or its partners or members
- Bidder does not have any financial arrangements with Developer in submitting its bid

Financial Requirements

-Bidder is able to demonstrate the financial ability to perform the obligations it is assuming in association with the development of the auction lot. For purposes of this section, this includes evidence of access to adequate equity and debt capital along with commitment letters from those financing sources, and the ability to post the required security associated with the development of the auction lot.

- Provision of a commitment letter to fund a 10% refundable deposit within 10 business days of being selected the auction winner

Experience Requirements

-The managing principal of the bidder has at least five (5) years of experience in developing the type of residential product to be developed on the auction lot the bidder is seeking to purchase.

-The principals of the bidder have collectively completed at least three (3) development projects containing at least 75% of the number of units proposed for the auction lot.

Entity in Good Standing Requirements

-Documentation evidencing that the bidder and its constituent members, if any, have been duly formed, made all filings and are in good standing in the State of California and in the state of their respective incorporation. If the bidder is a joint venture, then the bidder shall provide evidence demonstrating the existence of a duly executed contractual relationship between the applicable parties.

-Bidder has not defaulted on its obligations on another lot or project within the Treasure Island or Yerba Buena Island development area.

No Unfair Advantage Requirement

- Bidder has not received an unfair advantage by receiving any bid information that is different from or in advance of such information being made available to other interested bidders

**AUCTION BIDDER SELECTION GUIDELINES FOR
COMMERCIAL LOTS**

Non-Affiliation Requirement

- Bidder is not an Affiliate of Developer
 - Affiliate of Developer means an entity that directly or indirectly controls, is controlled by, or is under common control with, the Developer or its partners or members
- Bidder does not have any financial arrangements with Developer in submitting its bid

Financial Requirements

-Bidder is able to demonstrate the financial ability to perform the obligations it is assuming in association with the development of the auction lot. For purposes of this section, this includes evidence of access to adequate equity and debt capital along with commitment letters from those financing sources, and the ability to post the required security associated with the development of the auction lot.

- Provision of a commitment letter to fund a 10% refundable deposit within 10 business days of being selected the auction winner

Experience Requirements

-The managing principal of the bidder has at least five (5) years of experience in developing the type of commercial product to be developed on the auction lot the bidder is seeking to purchase.

-The principals of the bidder have collectively completed at least three (3) development projects containing at least 75% of the commercial square footage proposed for the auction lot.

Entity in Good Standing Requirements

-Documentation evidencing that the bidder and its constituent members, if any, have been duly formed, made all filings and are in good standing in the State of California and in the state of their respective incorporation. If the bidder is a joint venture, then the bidder shall provide evidence demonstrating the existence of a duly executed contractual relationship between the applicable parties.

-Bidder has not defaulted on its obligations on another lot or project within the Treasure Island or Yerba Buena Island development area.

No Unfair Advantage Requirement

- Bidder has not received an unfair advantage by receiving any bid information that is different from or in advance of such information being made available to other interested bidders



First American Title

First American Title Company

**6683 Owens Drive
Pleasanton, CA 94588**

This report has been amended/updated to reflect the following matters:

- No changes made to the report other than the Effective Date
- Property address has been revised
- Vesting has been revised
- Legal Description has been revised
- Taxes have been updated
- Original item number(s) have been removed
- New item number(s) 47a have been added
- Original item number(s) have been revised
- Other:

UPDATED



First American Title

First American Title Company

**6683 Owens Drive
Pleasanton, CA 94588**

Escrow Officer: Diane Burton
Phone: (925)738-4050
Fax No.: (866)648-7806
E-Mail: dburton@firstam.com

Title Officer: Jim Benson
Phone: (925)225-2643
Fax No.: (866)493-5440
E-Mail: jbenson@firstam.com

E-Mail Loan Documents to: Please contact the Escrow Officer for email address for sending loan documents.

Property: Treasure Island and Yerba Buena Island
San Francisco, California

PRELIMINARY REPORT

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Exhibit A attached. *The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.* Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of November 27, 2013 at 7:30 A.M.

The form of Policy of title insurance contemplated by this report is:

ALTA Extended Loan Policy - 2006

ALTA Extended Owner Policy - 2006

A specific request should be made if another form or additional coverage is desired.

Title to said estate or interest at the date hereof is vested in:

United States of America and the State of California, as their interests may appear as to tide and submerged lands and United States of America as to the remainder

The estate or interest in the land hereinafter described or referred to covered by this Report is:

A fee as to Parcel(s) ONE, ONE-A AND ONE-B, an easement as to Parcel(s) TWO, THREE, FOUR, S2, S3, S4 and N13.

The Land referred to herein is described as follows:

(See attached Legal Description)

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

**THE FOLLOWING TITLE EXCEPTIONS AFFECT PARCELS ONE,
ONE-A, ONE-B, TWO, THREE AND FOUR:**

1. Intentionally Deleted
2. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
- 2a. The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for Community Facilities District No. 90-1 of the San Francisco Unified School District, as disclosed by Notice of Special Tax Lien recorded July 5, 1990 as Instrument No. E573343 of Official Records.
3. Rights and Easements for Commerce, Navigation and Fishery.
Affects: tide and submerged lands
4. Any adverse claim based upon the assertion that some portion of said land is tide or submerged lands, or has been created by artificial means or has accreted to such portion so created.

5. Intentionally Deleted
6. Intentionally Deleted
7. Intentionally Deleted
8. Intentionally Deleted
9. Intentionally Deleted
10. The terms, conditions, reservations and provisions (including easement provisions) of the Act of the Legislature of March 9, 1897 (1897 Cal. Stat. ch. 81, page 74) entitled "An Act relinquishing to the United States of America the title of this State to certain land" and the effect of any failure to comply therewith.

(Affects tide and submerged land for a distance of 300 yards beyond the low water mark)
11. Intentionally Deleted
12. The terms, conditions, reservations and provisions (including easement provisions) of the Act of the Legislature of October 12, 1997 (1997 Cal. Stat. ch. 898, page 6444) and as same may be amended and the effect of any failure to comply therewith.
13. Intentionally Deleted
14. Intentionally Deleted
15. Intentionally Deleted
16. The Terms, Provisions and Easement(s) contained in the document entitled "Agreement between United States of America and State of California relating to the San Francisco-Oakland Bay Bridge Crossing", executed by and between United States of America, acting by and through the Department of the Navy and State of California, acting by and through the Department of Public Works, recorded February 14, 1963 as Book A542, Page 874, Instrument No. L67470 of Official Records.
17. An easement for a communication cable line and incidental purposes, recorded January 7, 1966 as Book B6, Page 29 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: portions of Parcels One, One-A and Three on Yerba Buena Island
18. An easement for underground conduits and cables and incidental purposes, recorded June 8, 1967 as Book B150, Page 161 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: A portion of Parcel One-B
19. Intentionally Deleted

20. An easement for a communication cable line and incidental purposes, recorded October 23, 1968 as Book B283, Page 351 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: portions of Parcels One-B, Three and Four
21. An easement for telephone facilities and incidental purposes, recorded November 13, 1968 as Instrument No. R25940, Book B288, Page 949 of Official Records.
In Favor of: Pacific Telephone and Telegraph Company
Affects: a portion of Parcel One-B
22. The terms, provisions and easements contained in the document entitled Agreement for Bridge and Highway Purposes, executed by and between Department of Public Works, Division of Highways, Division of Toll Crossings and the California Toll Bridge Authority of the State of California and the San Francisco Port Authority and , recorded February 27, 1969, in Book B315, Page 786 as Instrument No. R45666 of Official Records.
23. An easement for a communication cable line and incidental purposes, recorded June 24, 1969 as Book B347, Page 264 of Official Records.
In Favor of: The Western Union Telegraph Company
Affects: southwestern portions of Parcel One on Yerba Buena Island and a portion of Parcel Three
24. An easement for a communication cable line and incidental purposes, recorded December 14, 1971 as Book B586, Page 946 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: a southwestern portion of Parcel One on Yerba Buena Island and a portion of Parcel Three
25. An easement for communication cable and related facilities and incidental purposes, recorded April 19, 1977 as Instrument No. Z096273, Book C350, Page 552 of Official Records.
In Favor of: Pacific Telephone and Telegraph Company
Affects: a western portion of Yerba Buena Island
26. An easement for communication lines and appurtenant structures and incidental purposes, recorded November 9, 1979 as Instrument No. C46224, Book C894, Page 692 of Official Records.
In Favor of: Western Union Telegraph Company, A New York Corporation
Affects: a western portion of Parcel One on Yerba Buena Island and a portion of Parcel Three
27. An easement for an underground conduit structure and incidental purposes, recorded May 31, 1989 as Instrument No. E374419, Book E881, Page 1426 of Official Records.
In Favor of: Pacific Bell
Affects: a portion of Parcel One-B and a portion of Parcel Three
28. Intentionally Deleted

29. An easement for an underground conduit structure for a submarine cable and incidental purposes, recorded May 3, 1993 as Instrument No. F347788, Reel F870, Image 718 of Official Records.

In Favor of: American Telephone and Telegraph Company
Affects: a portion of Treasure Island

Assignment of right of way, upon the terms, covenants and conditions thereof, for the purposes state herein and incidental purposes created in that certain instrument

Assignee: Nextlink California, LLC
Recorded: August 3, 2000, Reel H693, Page 337, Official Records
Series: 2000-809079

30. The terms and provisions contained in the document entitled "Retraction of Legislative Jurisdiction" recorded August 14, 1997 as Instrument No. 1997-G199972, Reel G946, Page 529 of Official Records.

NOTE: This title exception will be deleted upon the recording of a deed divesting the United States of America of its interest in the land.

31. An unrecorded lease, executed by The United States of America, acting by and through the Department of the Navy as lessor and Treasure Island Development Authority, a non-profit public benefit corporation as lessee, as disclosed by a Memorandum of Lease recorded April 14, 1999 as Instrument No. 99-G550349-00, Reel H363, Image 312 of Official Records.

(Affects a portion of Treasure Island and a portion of Yerba Buena Island)

32. An unrecorded Sublease, executed by Treasure Island Development Authority, a non-profit public benefit corporation as Sublessor and The John Stewart Company, a California corporation as Sublessee, as disclosed by a Memorandum of Sublease recorded April 14, 1999 as Instrument No. 99-G550350, Reel H363, Image 313 of Official Records.

(Affects a portion of Treasure Island and a portion of Yerba Buena Island)

33. Intentionally Deleted

34. Notices, covenants, conditions, reservations in fee, easements (including, but not limited to, Temporary Construction Easements), relinquishment of abutters rights and access rights to freeway and other matters (including a notice of the existence of hazardous waste within the parcels subject to the quitclaim deed referenced below) as set forth in that certain instrument Entitled: Quitclaim Deed

Executed by and between: United States of America, acting by and through the Department of Transportation, Federal Highway Administration and State of California, acting by and through the Department of Transportation
Recorded: October 26, 2000 in Reel H751, Image 410, Official Records
Instrument No: 2000-G855531

35. Intentionally Deleted

36. The terms and provisions contained in the document entitled Consent to Common Use Agreement (Quitclaim and Easement for Utilities), executed by and between United States of America, acting by and through the Department of the Navy and the State of California, acting by

and through the Department of Transportation and , recorded November 10, 2004, in Reel I762, Image 888 as Instrument No. 2004-H849471 of Official Records.

Purpose: Operation, maintenance, repair, replacement, rehabilitation and inspection of, and access to utilities.

37. Notices, covenants, conditions, reservations in fee, easements (including, but not limited to, Temporary Construction Easements), relinquishment of abutters rights and access rights to freeway, restrictions and other matters (including a notice of the existence of hazardous waste within the parcels subject to the quitclaim deed referenced below) as set forth in that certain instrument
Entitled: Quitclaim Deed
Executed by: United States of America, acting by and through the Department of Transportation, Federal Highway Administration and State of California, acting by and through the Department of Transportation
Recorded: December 2, 2004 in Reel I775, Image 477, Official Records
Instrument No: 2004-H860853

38. Intentionally Deleted

39. The terms and provisions contained in the document entitled Disposition and Development Agreement, executed by and between Treasure Island Development Authority and Treasure Island Community Development, LLC and , recorded August 10, 2011, in Book K457, Page 142 as Instrument No. 2011-J235239 of Official Records.

Said document includes a notice of Federal Facility Site Remediation Agreement.

40. The terms and provisions contained in the document entitled Development Agreement, executed by and between City and County of San Francisco and Treasure Island Community Development, LLC and , recorded August 10, 2011, in Book K457, Page 143 as Instrument No. 2011-J235240 of Official Records.

41. Any facts, rights, interests or claims which would be disclosed by a correct ALTA/ACSM survey.

42. Intentionally Deleted

43. Intentionally Deleted

44. Rights of parties in possession.

45. Intentionally Deleted

46. Intentionally Deleted

47. Intentionally Deleted

- 47a. Easements for access, construction and incidental purposes, recorded November 27, 2013 as Instrument No. 2013-J798283 of Official Records.

In Favor of: Treasure Island Development Authority
Affects: Portions of the land

Terms and provisions contained in the above document.

**THE FOLLOWING TITLE EXCEPTIONS AFFECT PARCELS S2, S3, S4
AND N13:**

48. Intentionally Deleted
49. Rights and easements for commerce, navigation and fishery.

Said matter affects Parcel S2, S3 and S4.
50. THE TERMS AND CONDITIONS of Legislative Grant Statutes of 1911, Chapter 657, and Legislative Grant Statutes of 1931, Chapter 621.

Affects: Parcels S2, S3 and S4.
51. Any easements or lesser rights in favor of Pacific Gas and Electric Company or others, to use, operate, maintain or reconstruct an existing line of electric poles and wires as disclosed by the Indenture recorded April 23, 1941, Instrument No. OO-22157, Book 4017, Page 485 of Official Records.

Said matter affects those portions of Parcels S3 and S4 lying within 14th Street.
52. An easement for outfall sewer line and incidental purposes, recorded September 23, 1949 as Instrument No. AD-64847, Book 5894, Page 349 of Official Records.
In favor of: East Bay Municipal Utility District
Affects: A portion of Parcel S3

Terms and provisions contained in the above document.
53. An easement for rail, roadway and utility purposes, right of access and incidental purposes, recorded February 24, 1960 as Instrument No. AR21105, Reel 32, Image 660 and Instrument No. AR21106, Reel 32, Image 644 of Official Records.
In Favor of: The City of Oakland
Affects: Portions of Parcel S3
54. An unrecorded easement for gas pipeline and incidental purposes dated March 15, 1966, as disclosed by the Grant of Easement recorded December 26, 1989 as Instrument No. 89-345502 of Official Records.
In Favor of: Pacific Gas and Electric Company
Affects: Parcel N13
55. The terms and provisions contained in the document entitled Grant of Easement recorded March 7, 1984 as Instrument No. 84-043869 of Official Records.

Said matter affects Parcel N13.

56. An easement for electric overhead transmission pole line and incidental purposes, recorded March 25, 1993 as Instrument No. 93093885 of Official Records.
In Favor of: Pacific Gas & Electric Company
Affects: A portion of Parcel S2.
57. The terms, provisions and other matters contained in the document entitled Quitclaim Deed (including notices of the existence of hazardous waste within the parcels described in said document), recorded June 15, 1999 as Instrument No. 99222447 of Official Records.

Document re-recorded December 3, 2002 as Instrument No. 2002561013 of Official Records.

Said matters affect Parcel S2.
58. An easement for temporary construction and incidental purposes, recorded February 13, 2002 as Instrument No. 2002072862 of Official Records.
In Favor of: The State of California, Department of Transportation
Affects: A portion of Parcel S3

Terms, provisions and other matters contained in the above document (including a notice of the existence of hazardous waste within the parcels described in said document).
59. An easement for road purposes and incidental purposes, recorded February 13, 2002 as Instrument No. 2002072864 of Official Records.
In Favor of: The State of California
Affects: A portion of Parcel S3

Terms, provisions and other matters contained in the above document (including a notice of the existence of hazardous waste within the parcels described in said document).
60. The terms, provisions and other matters contained in the document entitled Quitclaim Deed for No-Cost Economic Development Conveyance Parcel (including a notice of the existence of hazardous waste within the parcels described in said document), recorded August 8, 2003 as Instrument No. 2003466370 of Official Records.

Said matter affects Parcel S3.
61. An unrecorded easement (DA-04-167-Eng-2830) for water pipeline and incidental purposes, dated June 15, 1964, as disclosed by the Quitclaim Deed recorded August 8, 2003 as Instrument No. 2003466370 of Official Records.
In Favor of: East Bay Municipal Utility District
Affects: A portion of Parcel S3

Terms and provisions contained in the above document.
62. An unrecorded easement (DACA05-2-70-01) for underground communication cable line and incidental purposes, dated January 8, 1970, as disclosed in the Quitclaim Deed recorded August 8, 2003 as Instrument No. 2003466370 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: A portion of Parcel S3

Terms and provisions contained in the above document.

63. An unrecorded easement (SFRE (S) 499) for underground communication cable line and incidental purposes, dated January 25, 1954, as amended by supplements dated June 29, 1965, May 19, 1966, May 29, 1968 and June 23, 1970, as disclosed by the quitclaim deed recorded August 8, 2003 as Instrument No. 2003466370 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: A portion of Parcel S3

Terms and provisions contained in the above document.

64. Intentionally Deleted
65. The terms, provisions and other matters contained in the document entitled Quitclaim Deed (including a notice of the existence of hazardous waste within the parcels described in said document), recorded June 29, 2007 as Instrument No. 2007243218 of Official Records.
Said matter affects Parcel S4.
66. Any facts, rights, interests or claims which would be disclosed by a correct ALTA/ACSM survey.
67. Intentionally Deleted
68. The requirement that the easements described in Parcels S2, S3, S4 and N13 be included the recorded deed to the proposed insured or that a sufficient assignment of those easements to the proposed insured be recorded.
69. The requirement that the United States Department of the Navy provide written confirmation that no off-record agreements have been executed that supersede the easement reservations described in Parcels S3 and S4 of this report (as contemplated in provisions of the documents containing the reservations).

INFORMATIONAL NOTES

Note: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

1. General and special taxes and assessments for the fiscal years 2013-2014 are currently exempt.
2. Consider City of San Francisco Transfer Tax:
 - \$100 to \$250,000 at \$2.50 per \$500 (\$5.00 per thousand)
 - \$250,00 to \$1,000,000 at \$3.40 per \$500 (\$6.80 per thousand)
 - \$1,000,000 to \$5,000,000 at \$3.75 per \$500 (\$7.50 per thousand)
 - \$5,000,000 to \$10,000,000 at \$10.00 per \$500 (\$20.00 per thousand)
 - \$10,000,000 or more at \$12.50 per \$500 (\$25.00 per thousand)

The map attached, if any, may or may not be a survey of the land depicted hereon. First American expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

LEGAL DESCRIPTION

Real property in the City and County of San Francisco, State of California, described as follows:

PARCEL ONE:

Treasure Island Development Authority Property:

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 as described and defined in and subject to the terms, conditions, reservations and provisions of the Treasure Island Public Trust Exchange Act as set forth in the Act of Legislature of approved October 13, 2007 (Chapter 898, Statutes of 1997) and as same may be further amended said lands being and more particularly 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),

And also 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), and 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 22 164-G),

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,

And 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.

Also excepting therefrom portions of the following properties within the said tide and submerged lands relinquished by Statue 1897, Chapter 81 which were transferred to the United Sates Coast Guard: a 1.0835 acre parcel transferred per form 1354 Transfer and Acceptance of Military Real Property dated April 17, 1998; a 2.71 acre parcel transferred by letter dated August 20, 1974 signed by Harold J. Hansen, accepted by J.B. Hayes, Rear Admiral, US Coast Guard; a 8.207 acre parcel transferred per form

1354, Transfer and Acceptance of Military Real Property dated June 14, 1967;

And also excepting therefrom that portion of said Tide and Submerged Lands relinquished by Statue 1897, Chapter 81, which is a part 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 City and County of San Francisco.

Also excepting therefrom, those portions conveyed to the Treasure Island Development Authority by the Deed recorded November 27, 2013 as Document No. 2013-J798283 in the Official Records of the City and County of San Francisco.

As portions of said land are shown on that certain Record of Survey filed for record July 15, 2003 in Book AA 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, in the Office of the Recorder of the City and County of San Francisco and as shown on the diagram "Treasure Island Public Trust Exchange Act" dated 01/12/2007.

PARCEL ONE-A

That portion 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 City and County of San Francisco, which is above elevation 270.00 feet (San Francisco-Oakland Bay Bridge 1933 Mean Lower Low Water Datum) and between the contour lines of the 270.00 foot elevation that cross said Parcel 57935-1, as those contour lines are depicted on Exhibit B of Document Number 2000G855531.

Excepting therefrom, those portions conveyed to the Treasure Island Development Authority by the Deed recorded November 27, 2013 as Document No. 2013-J798283 in the Official Records of the City and County of San Francisco.

PARCEL ONE-B

That portion of the lands described in that certain Presidential Reservation of Goat Island (now known as Yerba Buena Island), dated November 6, 1850, lying southerly 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 City and County of San Francisco, and shown cross-hatched on Exhibit A attached.

NOTE: THE ABOVE DESCRIPTIONS ARE BASED UPON INFORMATION SUBMITTED TO THIS COMPANY FOR THE PURPOSE OF THIS REPORT, AND ARE NOT BASED UPON A SURVEY. SAID DESCRIPTIONS DO NOT LOCATE THE LAND BY REFERENCE TO MONUMENTS OF RECORD AND ARE NOT SUFFICIENT FOR TITLE INSURANCE PURPOSES. LINES AND MONUMENTS THEREIN REFERRED TO MUST BE LOCATED BY A CORRECT SURVEY, CONSIDERATION BEING GIVEN TO DESCRIPTIONS OF ADJOINING LANDS NOT INTENDED TO BE INCLUDED WITHIN THE DEVELOPMENT AREA. ANY FINAL REPORT OR POLICY IS DEPENDENT UPON SUCH PROPER DESCRIPTIONS BEING FURNISHED AND WILL BE SUBJECT TO ANY MATTERS DISCLOSED BY THE TITLE SEARCH OF ANY ADDITIONAL LAND DISCLOSED BY SUCH DESCRIPTIONS.

PARCEL TWO:

Easements for roadway and utility purposes, as reserved in paragraphs 1(B) and 1(E) of the Quitclaim Deed recorded October 26, 2000 as Document No. 2000-G855531 in the office of the Recorder of the City

and County of San Francisco, over and across portions of Parcel 57935-1 as described in said Deed.

PARCEL THREE:

A non-exclusive easement, as granted in the Consent to Common Use Agreement (Quitclaim and Easement for Utilities) recorded November 10, 2004 as Document No. 2004-H849471 in the office of the Recorder of the City and County of San Francisco, for the operation, maintenance, repair, replacement, rehabilitation, inspection of, and access to electric, natural gas, water, sanitary sewer and storm sewer utilities located on portions of Parcel 57935-1 as said Parcel is described in the Quitclaim Deed recorded October 26, 2000 as Document Number 2000-G855531 in the office of the Recorder of the City and County of San Francisco,

PARCEL FOUR:

Non-exclusive easements for access and utility purposes, as reserved in the Quitclaim Deed recorded December 2, 2004 as Document No. 2004-H860853 in the office of the Recorder of the City and County of San Francisco, upon and within portions of Parcel 58759-1 as described in said Deed.

Real property in the City of Oakland , County of Alameda, State of California, described as follows:

PARCEL S2:

A non-exclusive easement for poles, electrical lines and appurtenant facilities and equipment located between Davis Substation and the boundary of the Oakland Army Base, together with the rights of ingress and egress to operate, inspect, maintain, repair, remove, and replace said electrical line and parts thereof, as reserved in the Quitclaim Deed from the United States of America, acting by and through the Department of the Navy, to the City of Oakland, acting by and through its Board of Port Commissioners, recorded June 15, 1999 as Instrument No. 99222447, and re-recorded December 3, 2002 as Instrument No. 2002561013, Alameda County Official Records.

PARCEL S3:

An easement to construct, operate, inspect, maintain , repair, remove and replace overhead and underground electric lines, poles, conduits, and appurtenant facilities and equipment, as reserved in the Quitclaim Deed from the United States of America, acting by and through the Secretary of the Army, to the Oakland Base Reuse Authority, recorded August 8, 2003 as Instrument No. 2003466370, Alameda County Official Records, over, under and within that certain area described and shown on Exhibit D attached to said Quitclaim Deed.

PARCEL S4:

An easement to construct, operate, inspect, maintain , repair, remove and replace overhead and underground electric lines, poles, conduits, and appurtenant facilities and equipment, as reserved in the Quitclaim Deed from the United States of America, acting by and through the Deputy Assistant Secretary of the Army, to the City of Oakland, a municipal corporation acting by and through its Board of Port Commissioners, recorded June 29, 2007 as Instrument No. 2007243218, Alameda County Official Records, over, under and within that certain area described and shown on Exhibit B attached to said Quitclaim Deed.

PARCEL N13:

A non-exclusive easement for the construction, reconstruction, maintenance, removal and use of a twelve inch diameter underground ductile iron water supply pipeline together with the necessary appurtenances thereto, as granted in the Grant of Easement from the East Bay Municipal Utility District to the United State of America, acting through the Department of the Navy, recorded March 7, 1984, Series No. 84-043869, Alameda County Official Records, within the boundaries of the real property described in Exhibit A attached to said Grant of Easement.

APN: 1939-001 (Treasure Island) (portion)
APN: 1939-002 (Yerba Buena Island) (portion)
and lands not currently assessed

NOTICE

Section 12413.1 of the California Insurance Code, effective January 1, 1990, requires that any title insurance company, underwritten title company, or controlled escrow company handling funds in an escrow or sub-escrow capacity, wait a specified number of days after depositing funds, before recording any documents in connection with the transaction or disbursing funds. This statute allows for funds deposited by wire transfer to be disbursed the same day as deposit. In the case of cashier's checks or certified checks, funds may be disbursed the next day after deposit. In order to avoid unnecessary delays of three to seven days, or more, please use wire transfer, cashier's checks, or certified checks whenever possible.

If you have any questions about the effect of this new law, please contact your local First American Office for more details.

EXHIBIT A
LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS (BY POLICY TYPE)

1. CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990
SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notice of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
(a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
(c) resulting in no loss or damage to the insured claimant;
(d) attaching or created subsequent to Date of Policy; or
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by their policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

2. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970
SCHEDULE OF EXCLUSIONS FROM COVERAGE

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions of area of the land, or the effect of any violation of any such law, ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant; (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder; (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy; or (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.

**3. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 2 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

**4. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970
WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE
SCHEDULE OF EXCLUSIONS FROM COVERAGE**

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions or area of the land, or the effect of any violation of any such law ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant, (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy or acquired the insured mortgage and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder, (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy (except to the extent insurance is afforded herein as to any statutory lien for labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy).
4. Unenforceability of the lien of the insured mortgage because of failure of the insured at Date of Policy or of any subsequent owner of the indebtedness to comply with applicable "doing business" laws of the state in which the land is situated.

**5. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association Lenders Policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy, the exclusions set forth in paragraph 4 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**6. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992
WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy;
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or the extent insurance is afforded herein as to assessments for street improvements under construction or completed at date of policy); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

7. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992 WITH REGIONAL EXCEPTIONS

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 6 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

8. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992 EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance

- resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
 3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
 4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**9. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 8 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**10. AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL
TITLE INSURANCE POLICY - 1987
EXCLUSIONS**

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:

* land use	* land division
* improvements on the land	* environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date. This exclusion does not limit the zoning coverage described in items 12 and 13 of Covered Title Risks.

2. The right to take the land by condemning it, unless:
 - * a notice of exercising the right appears in the public records on the Policy Date
 - * the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking.
3. Title Risks:
 - * that are created, allowed, or agreed to by you
 - * that are known to you, but not to us, on the Policy Date - unless they appeared in the public records
 - * that result in no loss to you
 - * that first affect your title after the Policy Date - this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
 - * to any land outside the area specifically described and referred to in Item 3 of Schedule A, or
 - * in streets, alleys, or waterways that touch your landThis exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

11. EAGLE PROTECTION OWNER'S POLICY

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 2008
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 2008**

Covered Risks 16 (Subdivision Law Violation). 18 (Building Permit). 19 (Zoning) and 21 (Encroachment of boundary walls or fences) are subject to Deductible Amounts and Maximum Dollar Limits of Liability

EXCLUSIONS

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
 - a. building
 - b. zoning
 - c. land use
 - d. improvements on the land
 - e. land division
 - f. environmental protectionThis Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
 - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.This Exclusion does not limit the coverage described in Covered Risk 11 or 21

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows: Covered Risk 16, 18, 19 and 21, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A. The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$10,000.00
Covered Risk 18: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 19: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 21: 1% of Policy Amount or \$2,500.00 (whichever is less)	\$5,000.00

12. THIRD GENERATION EAGLE LOAN POLICY AMERICAN LAND TITLE ASSOCIATION EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (1/01/08)

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions, or location of any improvement erected on the Land; (iii) the subdivision of land; or (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
(b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

- (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
 - (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing business laws of the state where the Land is situated.
 5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
 6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
 7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
 8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.

13. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 2006
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

14. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 2006
WITH REGIONAL EXCEPTIONS

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 13 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

15. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 2006
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.(b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

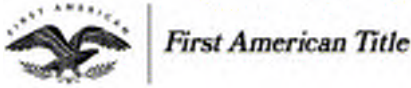
16. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 2006
WITH REGIONAL EXCEPTIONS

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 15 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.



Privacy Information

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet. In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site. There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive. FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

Fair Information Values

Fairness We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

Public Record We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

Use We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

Accuracy We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

Education We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

Security We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

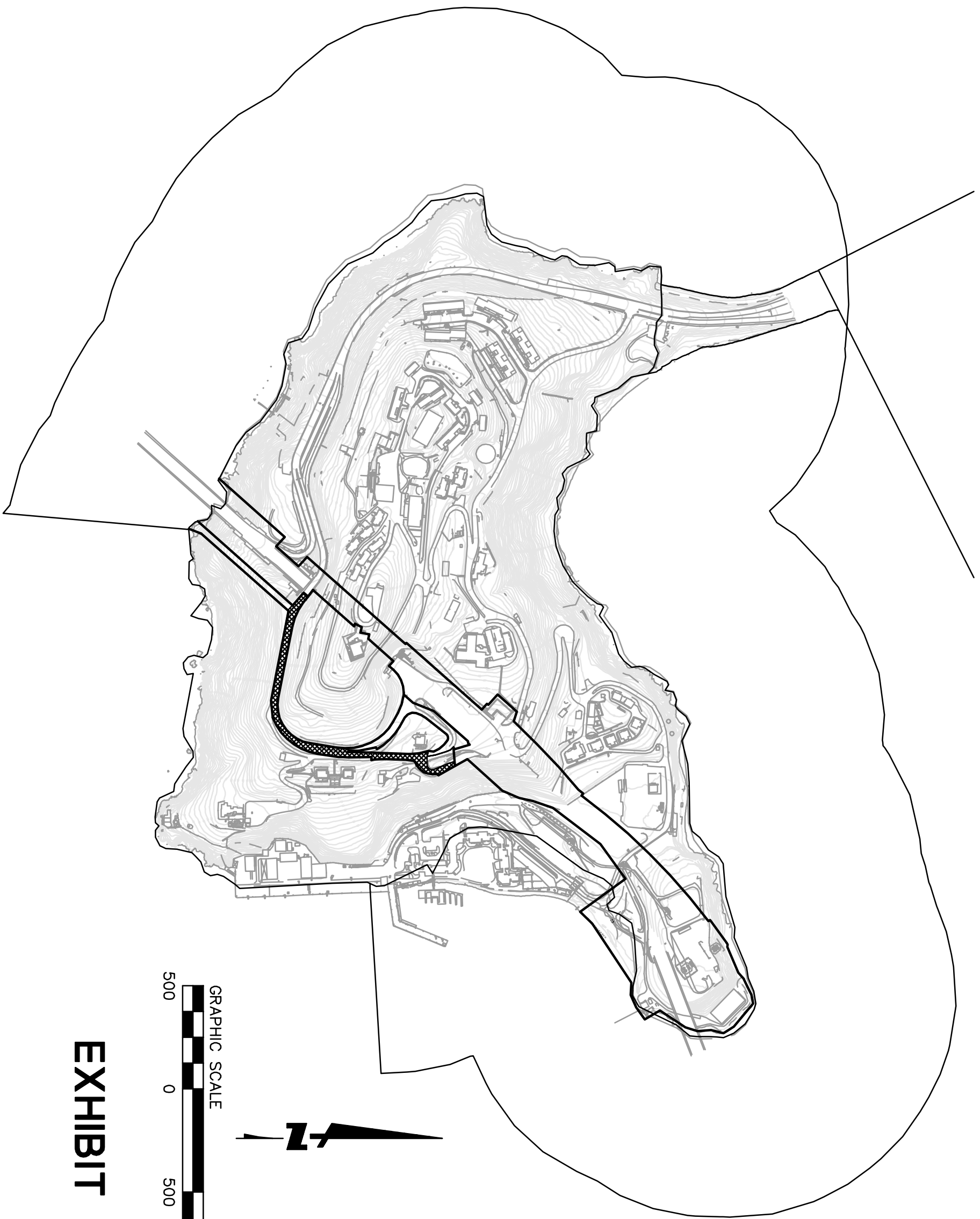


EXHIBIT A

Title Exceptions to be Removed, Released or Insured

Excerpted from Preliminary Title Report generated by First American Title Company dated as of December 13, 2011 at 7:30 A.M (Order No. 0131-618431ala), a copy of which is attached as Exhibit T to the Economic Development Conveyance Memorandum of Agreement.

17. An easement for a communication cable line and incidental purposes, recorded January 7, 1966 as Book B6, Page 29 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: portions of Parcels One, One-A and Three on Yerba Buena Island
18. An easement for underground conduits and cables and incidental purposes, recorded June 8, 1967 as book B150, Page 161 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: portions of Parcel One-B
20. An easement for a communication cable line and incidental purposes, recorded October 23, 1968 as Book B283, Page 351 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: portions of Parcels One-B, Three and Four
21. An easement for telephone facilities and incidental purposes, recorded November 13, 1968 as Instrument No. R25940, Book B288, Page 949 of Official Records.
In Favor of: Pacific Telephone and Telegraph Company
Affects: a portion of Parcel One-B
23. An easement for a communication cable line and incidental purposes, recorded June 24, 1969 as Book B347, Page 264 of Official Records.
In Favor of: The Western Union Telegraph Company
Affects: southwestern portions of Parcel One on Yerba Buena Island and a portion of Parcel Three
24. An easement for a communication cable line and incidental purposes, recorded December 14, 1971 as Book B586, Page 946 of Official Records.
In Favor of: The Pacific Telephone and Telegraph Company
Affects: a southwestern portion of Parcel One on Yerba Buena Island and a portion of Parcel Three

25. An easement for communication cable and related facilities and incidental purposes, recorded April 19, 1977 as Instrument No. Z096273, Book C350, Page 552 of Official Records.
In Favor of: Pacific Telephone and Telegraph Company
Affects: a western portion of Yerba Buena Island

26. An easement for communication lines and appurtenant structures and incidental purposes, recorded November 9, 1979 as Instrument No. C46224, Book C894, Page 692 of Official Records.
In Favor of: Western Union Telegraph Company, A New York Corporation
Affects: a western portion of Parcel One on Yerba Buena Island and a portion of Parcel Three

27. An easement for an underground conduit structure and incidental purposes, recorded May 31, 1989 as Instrument No. E374419, Book E881, Page 1426 of Official Records.
In Favor of: Pacific Bell
Affects: a portion of Parcel One-B and a portion of Parcel Three

29. An easement for an underground conduit structure for a submarine cable and incidental purposes, recorded May 3, 1993 as Instrument No. F347788, Reel F870, Image 718 of Official Records.
In Favor of: American Telephone and Telegraph Company
Affects: a portion of Treasure Island

Residential Lots
Appraisal Instructions
Former Naval Station Treasure Island
San Francisco, California

I. Introduction:

This scope of work is to appraise the market value of the fee simple interest of certain land parcels of the former Naval Station Treasure Island (NSTI) in accordance with the standards and guidelines of the Uniform Standards for Professional Appraisal Practice (USPAP).

The following appraisal instructions are intended to detail the scope, standards, process, and guidelines for the valuations of the property assigned to be appraised, (the "Subject Property"). The Subject Property will consist of residential lots referred to herein as Developer Lots. The appraisal instructions herein will represent the only guidance that shall be utilized in completing this valuation assignment. This appraisal will set the purchase price of the land parcels for the Developer. The appraisal will be reviewed by the Navy and the Developer.

II. Background Information:

The former NSTI is located on two islands located within one mile of the bay shores of the city of San Francisco and connected via the Bay Bridge to Oakland and the East Bay. NSTI is entirely within the jurisdictional boundaries of the City and County of San Francisco (the "Property"). NSTI covers all of Treasure Island, an artificial island, and most of Yerba Buena Island, a natural island.

Treasure Island was constructed in 1936 and 1937 for the initial purpose of hosting the Golden Gate International Exposition. After the exposition, the island was converted to a Navy base. During World War II, the island served as a center for receiving, training, and dispatching of service personnel. Since World War II, the Navy had used the island primarily as a training and administrative center. Yerba Buena Island is a natural island where the US Army established a post on the northeastern side adjacent to present day Clipper Cove in 1867. In the 1890's, the Army built a small torpedo station complex on the island; one building, the Torpedo Depot, remains. The US Army maintained a small base on the island until 1960. In 1898, the Navy also established a training station there, which after 1923 operated as a receiving station for servicemen returning from overseas.

In 1993, Congress and the President selected NSTI for closure and disposition by the Base Realignment and Closure Commission (BRAC). The Treasure Island Development Authority (TIDA) was designated as the Local Redevelopment Authority responsible for the redevelopment of NSTI.

In 1997, under the Treasure Island Conversion Act, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature and the City (i) designated TIDA as the redevelopment agency under California Redevelopment Law with authority over NSTI, and (ii), with respect to those portions of NSTI which under the Act are subject to the public trust for

commerce, navigation and fisheries (the "Tidelands Trust"), vested in TIDA the authority to administer the Tidelands Trust as to such property.

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III. Property Description:

Insert details and description of property to be appraised.

Details to include:

- Land identifier (parcel number, phase, etc.)
- Legal description
- Land area (size)
- Excess Land Appreciation Structure as defined by major phase by product type

Description to include:

- Entitled development plan (number of units, commercial space, parking, etc.)
- Environmental use restrictions
- Covenants, Conditions, and Restrictions
- Land parcel's relationship to major phase and island-wide development plan
- Neighborhood amenities and improvements, including views, recreational facilities, dining, shopping, parks, security, access to transportation and other community amenities.

IV. Services Required:

1. The appraisal will be a self-contained report based on a comprehensive study and analysis and setting forth, in detail, all data, analysis, and conclusions, as necessary and typical of a complete, self-contained appraisal report. The appraisal preparation, documentation, and reporting shall be in conformity with the standards of USPAP. The appraisal report shall consider the highest and best use subject to the use dictated by the Development Plan as amended by TIDA per the DDA. The appraisal report must contain the following sections:

Title Page - This should include (a) the name, street address and agency assigned tract, or parcel, number (if any), of the property appraised, (b) the name and address of the individual(s) making the report, (c) the effective date of the appraisal, and (d) the

appraiser's license number and license expiration date. The effective date for the appraisal will be the date of the appraisal report.

Letter of Transmittal - This should include the date of the letter; identification of the property and property rights appraised; a reference that the letter is accompanied by a self-contained appraisal report; a statement of the effective date of the appraisal; identification of any hypothetical conditions, extraordinary assumptions, limiting conditions, or legal instructions; the value estimate, or estimates; factors considered beyond the expertise of the appraiser or otherwise not incorporated; and the appraiser's signature.

Table of Contents - The major parts of the appraisal report and their subheadings should be listed. Items in the addenda of any report shall be listed individually in the table of contents.

Appraiser's Certification - The appraisal report shall include an appraiser's signed statement certifying that:

- The statements of facts contained in the report are true and correct;
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions, limiting conditions, and legal instructions, and are the personal, unbiased professional analysis, opinions, and conclusions of the appraiser;
- The appraiser has no present or prospective interest in the property appraised and no personal interest or bias with respect to the parties involved;
- The compensation received by the appraiser for the appraisal is not contingent on the analyses, opinions, or conclusions reached or reported;
- The appraisal was made and the appraisal report prepared in conformity with the Appraisal Foundation's *Uniform Standards for Professional Appraisal Practice*;
- The appraiser has made a personal inspection of the property appraised and that the property owner, or his/her designated representative, was given the opportunity to accompany the appraiser on the property inspection;
- No one provided significant professional assistance to the appraiser. (If professional assistance was provided the appraiser, the name of the individual(s) providing such assistance must be stated and their professional qualifications should be included in the addenda of the appraisal report. This requirement includes both professional appraisal assistance and providers of subsidiary assistance, e.g., planning and permitting consultants, engineers, cost estimators, marketing consultants.)

The appraiser's certification shall also include the appraiser's opinion of the market value of the property appraised as of the effective date of the appraisal.

Appraisers may also add to their certifications certain items that may be required by law, the USPAP, and the appraiser's professional organization(s). However, appraisers should avoid adding certifications that are not pertinent to the specific appraisal (e.g., that the report was prepared in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)) or that are beyond the scope of the appraisers' assignment. The appraiser's certification may alternately follow the appraiser's final estimate of value in the appraisal report.

Summary of Salient Facts and Conclusions - The appraiser shall report the major facts and conclusions that led to the final estimate(s) of value. This summary should include an identification of the property appraised; the highest and best use of the property; description of improvements (if any); indicated value of the property by each approach to value employed; the final estimate of value; and any hypothetical conditions, extraordinary assumptions, limiting conditions or instruction; and the effective date of the appraisal.

Photographs of Subject Property - Photographs are not required of existing improvements not deemed to be of highest and best use or historically significant and are likely to be demolished. Pictures shall show the front elevation of the major improvements, any unusual features, views of the abutting properties on either side and that property directly opposite, interior photographs of any unique features, and photographs of neighborhood amenities. When a large number of buildings are involved, including duplicates, one picture may be used for each type. Except for an overall view, photographs may be bound as pages facing the discussion or description of the photographs' content, or may be placed in the addenda of the report. Each photograph should be numbered, show the identification of the property and the date taken. In selecting photographs for inclusion in their reports, appraisers should bear in mind that some readers of the report may never have an opportunity to personally view the property. Therefore, they must rely on the photographs and the narrative description of the property provided by the appraiser to gain an adequate understanding of the physical characteristics of the property to judge the accuracy and reasonableness of the appraiser's analyses and value estimate(s).

Statement of Assumptions and Limiting Conditions - Any assumptions and limiting conditions that are necessary to the background of the appraisal shall be stated. Any client agency or special legal instructions provided the appraiser shall be referenced and a copy of such instructions shall be included in the addenda of the appraisal report. If the appraisal has been made subject to any encumbrances against the property, such as easements, these shall be stated. In this regard, it is unacceptable to state that the property has been appraised as if free and clear of all encumbrances, *except as stated in the body of the report*; the encumbrances *must* be identified in this section of the report. General assumptions and limiting conditions, such as typically contained in appraisal addenda, must be reviewed for pertinence to the assignment and allowability with respect to other provisions of the contract. General assumptions and limiting conditions that are not applicable and/or allowable shall be deleted, and all others shall be edited as necessary to be specifically applicable and appropriate. Also, assumptions and limiting conditions cannot be used by an appraiser to alter an appraisal contract, assignment letter, or the appraiser's scope of work. Unsupported hypothetical conditions, assumptions, or limiting conditions may result in disapproval of the appraisal report. The appraiser must also avoid assumptions and limiting conditions that are clearly the appraiser's own conclusions. While it may be appropriate for an appraiser to conclude and report that a probability exists that the property under appraisal could be rezoned, it is not appropriate for an appraiser to make an appraisal under the "assumption" that the property could be rezoned. The Development Plan, as amended by TIDA, establishes a precedent for land uses at the property. The adoption of an unapproved assumption, or hypothetical condition, that results in a valuation of other than the market value of the property appraised as of the effective date of the appraisal will, as a general rule, invalidate the appraisal.

Scope of the Appraisal - The appraiser shall describe the scope of investigation. The appraisal's scope should conform to its purpose and intended use. The intended use and purpose of the appraisal places specific demands on the scope of the investigation and analysis presented in the appraisal report. The appraisal report should clearly link the appraisal's scope with its purpose and intended use. The geographical area and time span searched for market data should be included, as should a description of the type of market data researched and the extent of market data confirmation. The appraiser should state the references and data sources relied upon in making the appraisal; if preferred, this information may be shown within the applicable approaches to value. The applicability of all standard approaches to value shall be discussed and the exclusion of any approach to value shall be explained. The appraiser has the burden of clearly explaining the implications of any hypothetical condition or extraordinary assumption adopted. The required explanation and discussion of the implications of such hypothetical condition or extraordinary assumption must be included in this section of the appraisal report.

Purpose of the Appraisal - This section shall include an explanation of the reason for the appraisal, and the definition of all value estimates required, and a description of the property rights appraised. The purpose of the appraisal will be to estimate the market value as of the date of the appraisal report.

This section should specifically identify the intended use and the intended user of the appraisal report. The intended user of the appraisal report will be the Contracting Party, and the intended use of the appraisal report will be to estimate the fair market value of the property as of the effective date of the appraisal report. Care should be taken to prepare the appraisal report in a manner that clearly meets the intended use of the report by the intended user. It is imperative that the appraiser utilize the correct definition of market value. For appraisals prepared under these Standards, appraisers shall use the following definition of market value:

Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

This definition must be placed in this section of the appraisal report. No other definition of market value for purposes of appraisals made under these Standards is acceptable, unless otherwise required by a specific and cited federal law or regulation. Contrary to USPAP Standards Rule 1-2(c), this definition of market value does not call for the estimate of value to be *linked* to a specific *exposure time* estimate, but merely that the property be exposed on the open market for a *reasonable* length of time, given the character of the property and its market. Therefore, the appraiser's estimate of market value shall not be *linked* to a specific exposure time when conducting appraisals for purposes of acquiring federal land under these Standards. It is recognized that some appraisers' client groups (e.g., relocation companies, mortgage lenders) may require appraisers to estimate a *marketing time* for the property under appraisal. However, such estimates are inappropriate for, and must not be included in, appraisal reports prepared for acquisition of federal land under these Standards. "The request to provide a

reasonable marketing time opinion exceeds the normal information required for the conduct of the appraisal process” and is, therefore, beyond the scope of the appraisal assignment under these Standards.

Summary of Appraisal Problems - This section gives the appraiser the opportunity to acquaint the reader of the appraisal report with the specific appraisal problems, if any, which have been encountered by the appraiser and that will be discussed in detail in the body of the appraisal report. Appraisers are encouraged to take advantage of it. The appraiser should briefly describe the principal problems presented in estimating the market value of the property under appraisal and describe the estate to be taken. If the parcels under appraisal include water rights, minerals, or suspected mineral values, fixture values, timber values, or other rights of potential value, the treatment of their contributory value should be discussed, including the methodology employed to avoid the forbidden *summation* or *cumulative* appraisal. If the valuation of the property required the use of any consulting reports, these should be attached as addenda along with other sources of data for the analysis, and the appraiser should describe such reports, the method of utilization thereof, and the weight or reliance placed thereon.

2. The appraisal shall be performed based on the highest and best use that must take into account the Subject Property subject to the use dictated by the Development Plan as amended by TIDA per the DDA, and be accompanied by any supporting data.

All other methodologies other than that specifically addressed within this Scope of Work shall, to the extent practical, be based on market-derived data and methodology as formulated in a typical fair-market value appraisal. The appraiser shall consider all local, state, and federal ordinances, regulations, land use restrictions, engineering controls, and local practices when making a determination of the highest and best use.

3. All approaches to value should be considered when valuing the property. If the appraiser determines that a typical approach should be omitted, it must explain the reasons to support the exclusion in the appraisal report.

4. The appraiser shall explain the reasoning applied to arrive at the final opinion of value and how the results of each approach to value were weighed in that opinion, and the reliability of each approach to value for solving the particular appraisal problem. The appraiser shall also state his or her final estimate of value of all of the property under appraisal as a single amount.

5. TIDA shall provide the appraiser a copy of all records and data pertaining to the property detailed in Section VIII.

V. General Requirements:

1. The appraiser will be provided with Points of Contact for TIDA to assist in completing the assignment. For questions regarding the appraisal, please contact:

Name
Agency
Physical Address
Phone number and email address

2. All adjustments for dissimilarities between the appraised property and comparable market data, including sales comparables and rental data, as well as all discount and capitalization

rates, etc., must be supported by market data. The narrative description of the adjustment process shall be sufficiently complete to indicate to the reader that the adjustments or rates were derived and applied in a reasonable and rational fashion consistent with market data. The actual adjustments shall be set forth in an adjustment grid(s) and discussed in sufficient detail to lead the reader to the appraiser's conclusions.

3. A detailed description/analysis, with photographs, of the property and improvements under appraisal is required which includes: a plot plan, improvement plans and specifications with dimensions, a description of any special features or copy of the "as-built" site survey; description and size and shape of site, topographical features, soil and subsoil conditions (if known), drainage and flood zone information, access and ingress/egress, utilities availability, site's relationship to neighboring properties, potential or existing nuisances and hazards, easements, encroachments and right-of-ways, and overall functional adequacy of the site.

4. In addition to above, the following information is required for existing improvements determined to be the highest and best use or historically significant and which would remain on site: estimated size of the improvements detailed in the most standard market acknowledged unit(s), a description of interior and exterior construction features and layout, available and required number of parking spaces, physical and chronological age, total economic life, remaining economic life, effective age, quality and condition, deferred maintenance, current use, and functional utility of the improvements.

5. Photographs of all comparable market data utilized in the report shall be provided within the appraisal. Maps displaying the location of all market data must also be included. These maps should be detailed enough to show specific site identification and location so that market data can be located during a field review of the appraisal.

6. Comparable market data shall be presented in individual write-up sheets. Rental Comparable data sheets shall include at a minimum: physical address, improvement description, lessor/lessee, date of lease(s) or most recent rental transaction(s), lease rates and terms including: type of lease (gross, modified gross, triple net), TI allowances, rental concessions, expense allocations, size of space leased, etc., and date and source of verification. Comparable sales data sheets must include, at a minimum: physical address or legal description, grantor/grantee, sales price & date, financing terms and conditions to include cash equivalency, zoning, size and shape of site, description of improvements, current use, development of capitalization rate (if sale comparable is income producing) and date and source of verification. The appraiser must physically inspect all principle comparable data used.

The documentation of each comparable sale shall include:

- Parties to the transaction
- Date of transaction
- Confirmation of the transaction with buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale, include names of person the sale was verified with and phone numbers.
- Buyer motivation
- Location
- Size
- Unit counts
- Property rights conveyed

- Consideration
- Financing terms
- Sale conditions, such as arm's length or distressed
- Improvements, include utilities available,
- Zoning
- Photographs

Cite pertinent facts such as date, size, buyer and seller, price, terms, location, and explain why each sale was not used. Properties on the market for sale, but not yet sold, may be included as comparables if the appraiser feels they are relevant to the analysis.

The appraiser shall adhere to USPAP direction pertaining to comparable sales requiring extraordinary verification and weighting considerations. These include sales to governmental agencies, sales to non-profit organizations, sales to environmental organizations, sales to parties desiring to exchange the land to the government, distressed sales, and other atypical or non-arm's length sales.

7. The appraiser must provide a line-item discussion reflecting the mathematical development of each income, expense, vacancy, infrastructure, cost-to-cure, or demolition item cited in the appraisal report. Property operating expenses must be supported by market data based on industry standards or supported by industry recognized income/expense manuals such as BOMA, IREM, etc.

8. If the appraiser chooses to use self-made or commercial appraisal software, such as ARGUS, DYNA, PROJECT, Microsoft Excel etc., he/she must provide all supporting printouts, spreadsheets, and electronic versions of the files, which support the Operating Statement or Discounted Cash Flow (DCF) Analyses provided within the appraisal.

VI. Special Considerations/Assumptions:

1. Tidelands Trust – use restriction applies to certain portions of land on YBI. Attached to this scope is an overview of Tidelands Trust.
2. Market Value – as of the effective date of the appraisal
3. Bay Bridge Completion Date – assume completion by 2013-2015 (including bridge demolition) - TBD.
4. Utilities – all required utilities will be available to support development.
5. Entitlements in place – all necessary entitlements will be in place as of the effective date. Assume the current status of development in the entitlements process.
6. Environmental Clean-up – areas affected by environmental contamination will be remediated to the proposed uses identified in the TIDA's July 1996 redevelopment plan, except in limited areas where otherwise agreed to with the regulatory agencies such as CERCLA Site 6. Use restrictions such as institutional controls may be imposed on certain portions of the property and these areas may require management of hazardous substances remaining in place in soil or groundwater during construction for development, or until concentrations have attenuated below unrestricted levels.
7. Geotechnical – assume stabilization and improvement of the Property for seismic purposes will be conducted.

VII. Appraiser Qualifications:

Appraisers shall be a State Certified General Real Property Appraiser in California where the subject property is located and be in good standing with the licensing authority where the credential was issued. Appraiser must also hold a current MAI membership designation from the Appraisal Institute. Additionally, appraiser must be practicing or working for at least 10 years in either a national firm, or a regional firm based in California and have particular experience with coastal California real property transactions involving the product type that is the subject of the appraisal. The appraiser must maintain independence from all Contracting Parties and not have any contractual relationships with Developers within the prior 24 months.

VIII. Information to be provided to the Appraiser:

1. TBD

IX. Timing & Process:

The following provides a projected schedule of key milestones. All days are completion dates from the date of award (number of days from previous task).

Contract Award Date – TBD

Kickoff Meeting with TIDA (+5 days) – TBD

Deliver Information to Appraiser (+3 days) – TBD

Property Inspection (+7 days) – TBD

Supplemental Information Request (if needed) – Anytime

Final Report (+30 days) – TBD

1. Pre-Work Conference: At the request of TIDA, the appraiser will be required to attend a pre-work conference for discussion and understanding of these instructions, including an update of the project schedule. TIDA shall extend an invitation to the Navy to attend the Pre-Work Conferences. The pre-work conference may be held in conjunction with the property examination.
2. The appraiser shall submit to the Contracting Party a complete, Self-Contained Appraisal Report along with three (3) signed copies and a live electronic copy of the appraisal report within the number of days (or date) specified within the fully executed contract for appraisal services.
4. The appraiser shall provide an electronic Portable Document Format (PDF) version of the signed appraisal report along with any maps, drawings, photos, graphs and all backup information to the Contracting Party.
6. Definition of Terms: Unless specifically defined herein or in USPAP, definitions of all terms are the same as those found in "The Dictionary of Real Estate Appraisal" (Appraisal Institute), current edition.
7. Testimony. Upon the request of the Department of Navy or United States Attorney or the Department of Justice, and the City of San Francisco, the appraiser shall, in any judicial proceedings, testify as to the value of any and all property included in the appraisal report as of the valuation date. Fees for these services shall be determined upon the Contracting Party's request for testimony.

X. Confidentiality:

The Contracting Party and the appraiser acknowledge and agree that in the course of performing the Work under this agreement, the Contracting Party may disclose Confidential Information, which has been approved and authorized by Contracting Party for release, to the appraiser.

The appraiser agrees not to disclose the Contracting Party Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that the appraiser may disclose the Contracting Party Confidential Information on a "need to know" basis to the appraiser's employees and Subcontractors. All such employees and Subcontractors of the appraiser shall have executed a confidentiality agreement with the Contracting Party requiring a promise of confidentiality concerning the Contracting Party Confidential Information.

Appraiser's valuations and supporting appraisal reports are confidential information as well and the appraiser shall strictly abide by the Confidentiality provisions of the Ethics Rule of USPAP, which provides as follows:

- An appraiser must protect the confidential nature of the appraiser-client relationship.
- An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.
- An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than:
 - 1) the client and persons specifically authorized by the client;
 - 2) federal, state enforcement agencies and such third parties as may be authorized by due process of law; and
 - 3) a duly authorized professional peer review committee.

Under exception #1 in the preceding paragraph, appraisers must obtain written authorization from the Contracting Party before disclosure. The passage of time in and of itself does not extinguish either the appraiser's responsibility for confidentiality or the appraiser/client relationship. The appraiser/client relationship is extinguished only upon written release from the Contracting Party. Even though the appraiser/client relationship may terminate, the appraiser remains subject to the confidentiality provisions of USPAP.

Commercial Lots
Appraisal Instructions
Former Naval Station Treasure Island
San Francisco, California

I. Introduction:

This scope of work is to appraise the market value of the fee simple interest or ground lease value of certain land parcels or buildings designated for commercial uses (collectively referred to as commercial properties) of the former Naval Station Treasure Island (NSTI) in accordance with the standards and guidelines of the Uniform Standards for Professional Appraisal Practice (USPAP).

The following appraisal instructions are intended to detail the scope, standards, process, and guidelines for the valuations of the property assigned to be appraised, (the "Subject Property"). The appraisal instructions herein will represent the only guidance that shall be utilized in completing this valuation assignment. This appraisal will set the purchase price or ground lease value of such commercial properties. The appraisal will be reviewed by the Navy and the Developer.

II. Background Information:

The former NSTI is located on two islands located within one mile of the bay shores of the city of San Francisco and connected via the Bay Bridge to Oakland and the East Bay. NSTI is entirely within the jurisdictional boundaries of the City and County of San Francisco (the "Property"). NSTI covers all of Treasure Island, an artificial island, and most of Yerba Buena Island, a natural island.

Treasure Island was constructed in 1936 and 1937 for the initial purpose of hosting the Golden Gate International Exposition. After the exposition, the island was converted to a Navy base. During World War II, the island served as a center for receiving, training, and dispatching of service personnel. Since World War II, the Navy had used the island primarily as a training and administrative center. Yerba Buena Island is a natural island where the US Army established a post on the northeastern side adjacent to present day Clipper Cove in 1867. In the 1890's, the Army built a small torpedo station complex on the island; one building, the Torpedo Depot, remains. The US Army maintained a small base on the island until 1960. In 1898, the Navy also established a training station there, which after 1923 operated as a receiving station for servicemen returning from overseas.

In 1993, Congress and the President selected NSTI for closure and disposition by the Base Realignment and Closure Commission (BRAC). The Treasure Island Development Authority (TIDA) was designated as the Local Redevelopment Authority responsible for the redevelopment of NSTI.

In 1997, under the Treasure Island Conversion Act, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature and the City (i) designated TIDA as the

redevelopment agency under California Redevelopment Law with authority over NSTI, and (ii), with respect to those portions of NSTI which under the Act are subject to the public trust for commerce, navigation and fisheries (the "Tidelands Trust"), vested in TIDA the authority to administer the Tidelands Trust as to such property.

Under Senate Bill 1873, which the Governor signed into law on September 15, 2004, the California State Legislature authorized a Tidelands Trust Exchange for the Project. Because under that act the Tidelands Trust generally does not apply to most of Yerba Buena Island, in exchange, the Trust would be lifted from the portions of Treasure Island that are planned for residential and other nonpermitted Trust uses and imposed on portions of Yerba Buena Island that currently are not subject to the Tidelands Trust.

In July 2007, TIDA submitted an Economic Development Conveyance (EDC) application based on a development plan approved by the San Francisco Board of Supervisors in December 2006 (the "Development Plan"). In June 2011, TIDA and a private developer executed a Disposition and Development Agreement ("DDA") governing the redevelopment of NSTI. In _____, 2012, the United States of America executed an Economic Development Conveyance Memorandum of Agreement (EDC MOA) with TIDA regarding conditions of transfer of NSTI to TIDA. In accordance with the EDC MOA, TIDA is required to conduct appraisals of certain commercial properties.

III. Property Description:

Insert details and description of property to be appraised.

Details to include:

- Land identifier (parcel number, phase, etc.)
- Legal description
- Land area (size)
- Building areas
- Excess Land Appreciation Structure as defined by major phase by product type

Description to include:

- Entitled development plan (number of units, commercial space, parking, etc.)
- Environmental use restrictions
- Covenants, Conditions, and Restrictions
- Commercial property's relationship to major phase and island-wide development plan
- Neighborhood amenities and improvements, including views, recreational facilities, dining, shopping, parks, security, access to transportation and other community amenities.

IV. Services Required:

1. The appraisal will be a self-contained report based on a comprehensive study and analysis and setting forth, in detail, all data, analysis, and conclusions, as necessary and typical of a complete, self-contained appraisal report. The appraisal preparation, documentation, and reporting shall be in conformity with the standards of USPAP. The appraisal report shall consider the highest and best use as vacant for both unimproved and improved sites and highest and best use as improved for improved sites subject to the use dictated by the

Development Plan as amended by TIDA per the DDA. The appraisal report must contain the following sections:

Title Page - This should include (a) the name, street address and agency assigned tract, or parcel, number (if any), of the property appraised, (b) the name and address of the individual(s) making the report, (c) the effective date of the appraisal, and (d) the appraiser's license number and license expiration date. The effective date for the appraisal will be the date of the appraisal report.

Letter of Transmittal - This should include the date of the letter; identification of the property and property rights appraised; a reference that the letter is accompanied by a self-contained appraisal report; a statement of the effective date of the appraisal; identification of any hypothetical conditions, extraordinary assumptions, limiting conditions, or legal instructions; the value estimate, or estimates; factors considered beyond the expertise of the appraiser or otherwise not incorporated; and the appraiser's signature.

Table of Contents - The major parts of the appraisal report and their subheadings should be listed. Items in the addenda of any report shall be listed individually in the table of contents.

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- The statements of facts contained in the report are true and correct;
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions, limiting conditions, and legal instructions, and are the personal, unbiased professional analysis, opinions, and conclusions of the appraiser;
- The appraiser has no present or prospective interest in the property appraised and no personal interest or bias with respect to the parties involved;
- The compensation received by the appraiser for the appraisal is not contingent on the analyses, opinions, or conclusions reached or reported;
- The appraisal was made and the appraisal report prepared in conformity with the Appraisal Foundation's *Uniform Standards for Professional Appraisal Practice*;
- The appraiser has made a personal inspection of the property appraised and that the property owner, or his/her designated representative, was given the opportunity to accompany the appraiser on the property inspection;
- No one provided significant professional assistance to the appraiser. (If professional assistance was provided the appraiser, the name of the individual(s) providing such assistance must be stated and their professional qualifications should be included in the addenda of the appraisal report. This requirement includes both professional appraisal assistance and providers of subsidiary assistance, e.g., planning and permitting consultants, engineers, cost estimators, marketing consultants.)

The appraiser's certification shall also include the appraiser's opinion of the market value of the property appraised as of the effective date of the appraisal.

Appraisers may also add to their certifications certain items that may be required by law, the USPAP, and the appraiser's professional organization(s). However, appraisers should avoid adding certifications that are not pertinent to the specific appraisal (e.g.,

that the report was prepared in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)) or that are beyond the scope of the appraisers' assignment. The appraiser's certification may alternately follow the appraiser's final estimate of value in the appraisal report.

Summary of Salient Facts and Conclusions - The appraiser shall report the major facts and conclusions that led to the final estimate(s) of value. This summary should include an identification of the property appraised; the highest and best use of the property; description of improvements (if any); indicated value of the property by each approach to value employed; the final estimate of value; and any hypothetical conditions, extraordinary assumptions, limiting conditions or instruction; and the effective date of the appraisal.

Photographs of Subject Property - Photographs are not required of existing improvements not deemed to be of highest and best use or historically significant and are likely to be demolished. Pictures shall show the front elevation of the major improvements, any unusual features, views of the abutting properties on either side and that property directly opposite, interior photographs of any unique features, and photographs of neighborhood amenities. When a large number of buildings are involved, including duplicates, one picture may be used for each type. Except for an overall view, photographs may be bound as pages facing the discussion or description of the photographs' content, or may be placed in the addenda of the report. Each photograph should be numbered, show the identification of the property and the date taken. In selecting photographs for inclusion in their reports, appraisers should bear in mind that some readers of the report may never have an opportunity to personally view the property. Therefore, they must rely on the photographs and the narrative description of the property provided by the appraiser to gain an adequate understanding of the physical characteristics of the property to judge the accuracy and reasonableness of the appraiser's analyses and value estimate(s).

Statement of Assumptions and Limiting Conditions - Any assumptions and limiting conditions that are necessary to the background of the appraisal shall be stated. Any client agency or special legal instructions provided the appraiser shall be referenced and a copy of such instructions shall be included in the addenda of the appraisal report. If the appraisal has been made subject to any encumbrances against the property, such as easements, these shall be stated. In this regard, it is unacceptable to state that the property has been appraised as if free and clear of all encumbrances, *except as stated in the body of the report*; the encumbrances *must* be identified in this section of the report. General assumptions and limiting conditions, such as typically contained in appraisal addenda, must be reviewed for pertinence to the assignment and allowability with respect to other provisions of the contract. General assumptions and limiting conditions that are not applicable and/or allowable shall be deleted, and all others shall be edited as necessary to be specifically applicable and appropriate. Also, assumptions and limiting conditions cannot be used by an appraiser to alter an appraisal contract, assignment letter, or the appraiser's scope of work. Unsupported hypothetical conditions, assumptions, or limiting conditions may result in disapproval of the appraisal report. The appraiser must also avoid assumptions and limiting conditions that are clearly the appraiser's own conclusions. While it may be appropriate for an appraiser to conclude and report that a probability exists that the property under appraisal could be rezoned, it is not appropriate for an appraiser to make an appraisal under the "assumption" that the property could be rezoned. The Development Plan, as amended

by TIDA, establishes a precedent for land uses at the property. The adoption of an unapproved assumption, or hypothetical condition, that results in a valuation of other than the market value of the property appraised as of the effective date of the appraisal will, as a general rule, invalidate the appraisal.

Scope of the Appraisal - The appraiser shall describe the scope of investigation. The appraisal's scope should conform to its purpose and intended use. The intended use and purpose of the appraisal places specific demands on the scope of the investigation and analysis presented in the appraisal report. The appraisal report should clearly link the appraisal's scope with its purpose and intended use. The geographical area and time span searched for market data should be included, as should a description of the type of market data researched and the extent of market data confirmation. The appraiser should state the references and data sources relied upon in making the appraisal; if preferred, this information may be shown within the applicable approaches to value. The applicability of all standard approaches to value shall be discussed and the exclusion of any approach to value shall be explained. The appraiser has the burden of clearly explaining the implications of any hypothetical condition or extraordinary assumption adopted. The required explanation and discussion of the implications of such hypothetical condition or extraordinary assumption must be included in this section of the appraisal report.

Purpose of the Appraisal - This section shall include an explanation of the reason for the appraisal, and the definition of all value estimates required, and a description of the property rights appraised. The purpose of the appraisal will be to estimate the market value as of the date of the appraisal report.

This section should specifically identify the intended use and the intended user of the appraisal report. The intended user of the appraisal report will be the Contracting Party, and the intended use of the appraisal report will be to estimate the fair market value of the property as of the effective date of the appraisal report. Care should be taken to prepare the appraisal report in a manner that clearly meets the intended use of the report by the intended user. It is imperative that the appraiser utilize the correct definition of market value. For appraisals prepared under these Standards, appraisers shall use the following definition of market value:

Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold, or its leasehold interests transferred, on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

This definition must be placed in this section of the appraisal report. No other definition of market value for purposes of appraisals made under these Standards is acceptable, unless otherwise required by a specific and cited federal law or regulation. Contrary to USPAP Standards Rule 1-2(c), this definition of market value does not call for the estimate of value to be *linked* to a specific *exposure time* estimate, but merely that the property be exposed on the open market for a *reasonable* length of time, given the character of the property and its market. Therefore, the appraiser's estimate of market

value shall not be *linked* to a specific exposure time when conducting appraisals for purposes of acquiring federal land under these Standards. It is recognized that some appraisers' client groups (e.g., relocation companies, mortgage lenders) may require appraisers to estimate a *marketing time* for the property under appraisal. However, such estimates are inappropriate for, and must not be included in, appraisal reports prepared for acquisition of federal land under these Standards. "The request to provide a reasonable marketing time opinion exceeds the normal information required for the conduct of the appraisal process" and is, therefore, beyond the scope of the appraisal assignment under these Standards.

Summary of Appraisal Problems - This section gives the appraiser the opportunity to acquaint the reader of the appraisal report with the specific appraisal problems, if any, which have been encountered by the appraiser and that will be discussed in detail in the body of the appraisal report. Appraisers are encouraged to take advantage of it. The appraiser should briefly describe the principal problems presented in estimating the market value of the property under appraisal and describe the estate to be taken. If the parcels under appraisal include water rights, minerals, or suspected mineral values, fixture values, timber values, or other rights of potential value, the treatment of their contributory value should be discussed, including the methodology employed to avoid the forbidden *summation* or *cumulative* appraisal. If the valuation of the property required the use of any consulting reports, these should be attached as addenda along with other sources of data for the analysis, and the appraiser should describe such reports, the method of utilization thereof, and the weight or reliance placed thereon.

2. The appraisal shall be performed based on the highest and best use that must take into account the Subject Property subject to the use dictated by the Development Plan as amended by TIDA per the DDA, and be accompanied by any supporting data.

All other methodologies other than that specifically addressed within this Scope of Work shall, to the extent practical, be based on market-derived data and methodology as formulated in a typical fair-market value appraisal. The appraiser shall consider all local, state, and federal ordinances, regulations, land use restrictions, engineering controls, and local practices when making a determination of the highest and best use.

3. All approaches to value should be considered when valuing the property. If the appraiser determines that a typical approach should be omitted, it must explain the reasons to support the exclusion in the appraisal report.

4. The appraiser shall explain the reasoning applied to arrive at the final opinion of value and how the results of each approach to value were weighed in that opinion, and the reliability of each approach to value for solving the particular appraisal problem. The appraiser shall also state his or her final estimate of value of all of the property under appraisal as a single amount.

5. TIDA shall provide the appraiser a copy of all records and data pertaining to the property detailed in Section VIII.

V. General Requirements:

1. The appraiser will be provided with Points of Contact for TIDA to assist in completing the assignment. For questions regarding the appraisal, please contact:

Name
Agency
Physical Address
Phone number and email address

2. All adjustments for dissimilarities between the appraised property and comparable market data, including sales comparables and rental data, as well as all discount and capitalization rates, etc., must be supported by market data. The narrative description of the adjustment process shall be sufficiently complete to indicate to the reader that the adjustments or rates were derived and applied in a reasonable and rational fashion consistent with market data. The actual adjustments shall be set forth in an adjustment grid(s) and discussed in sufficient detail to lead the reader to the appraiser's conclusions.

3. A detailed description/analysis, with photographs, of the property and improvements under appraisal is required which includes: a plot plan, improvement plans and specifications with dimensions, a description of any special features or copy of the "as-built" site survey; description and size and shape of site, topographical features, soil and subsoil conditions (if known), drainage and flood zone information, access and ingress/egress, utilities availability, site's relationship to neighboring properties, potential or existing nuisances and hazards, easements, encroachments and right-of-ways, and overall functional adequacy of the site.

4. In addition to above, the following information is required for existing improvements determined to be the highest and best use or historically significant and which would remain on site: estimated size of the improvements detailed in the most standard market acknowledged unit(s), a description of interior and exterior construction features and layout, available and required number of parking spaces, physical and chronological age, total economic life, remaining economic life, effective age, quality and condition, deferred maintenance, current use, and functional utility of the improvements.

5. Photographs of all comparable market data utilized in the report shall be provided within the appraisal. Maps displaying the location of all market data must also be included. These maps should be detailed enough to show specific site identification and location so that market data can be located during a field review of the appraisal.

6. Comparable market data shall be presented in individual write-up sheets. Rental Comparable data sheets shall include at a minimum: physical address, improvement description, lessor/lessee, date of lease(s) or most recent rental transaction(s), lease rates and terms including: type of lease (gross, modified gross, triple net), TI allowances, rental concessions, expense allocations, size of space leased, etc., and date and source of verification. Comparable sales data sheets must include, at a minimum: physical address or legal description, grantor/grantee, sales price & date, financing terms and conditions to include cash equivalency, zoning, size and shape of site, description of improvements, current use, development of capitalization rate (if sale comparable is income producing) and date and source of verification. The appraiser must physically inspect all principle comparable data used.

The documentation of each comparable sale shall include:

- Parties to the transaction
- Date of transaction

- Confirmation of the transaction with buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale, include names of person the sale was verified with and phone numbers.
- Buyer motivation
- Location
- Size
- Unit counts
- Property rights conveyed
- Consideration
- Financing terms
- Sale conditions, such as arm's length or distressed
- Improvements, include utilities available,
- Zoning
- Photographs

Cite pertinent facts such as date, size, buyer and seller, price, terms, location, and explain why each sale was not used. Properties on the market for sale, but not yet sold, may be included as comparables if the appraiser feels they are relevant to the analysis.

The appraiser shall adhere to USPAP direction pertaining to comparable sales requiring extraordinary verification and weighting considerations. These include sales to governmental agencies, sales to non-profit organizations, sales to environmental organizations, sales to parties desiring to exchange the land to the government, distressed sales, and other atypical or non-arm's length sales.

7. The appraiser must provide a line-item discussion reflecting the mathematical development of each income, expense, vacancy, infrastructure, cost-to-cure, or demolition item cited in the appraisal report. Property operating expenses must be supported by market data based on industry standards or supported by industry recognized income/expense manuals such as BOMA, IREM, etc.

8. If the appraiser chooses to use self-made or commercial appraisal software, such as ARGUS, DYNA, PROJECT, Microsoft Excel etc., he/she must provide all supporting printouts, spreadsheets, and electronic versions of the files, which support the Operating Statement or Discounted Cash Flow (DCF) Analyses provided within the appraisal.

VI. Special Considerations/Assumptions:

1. Tidelands Trust – use restriction applies to certain portions of land on YBI. Attached to this scope is an overview of Tidelands Trust.
2. Market Value – as of the effective date of the appraisal
3. Bay Bridge Completion Date – assume completion by 2013-2015 (including bridge demolition) - TBD.
4. Utilities – all required utilities will be available to support development.
5. Entitlements in place – all necessary entitlements will be in place as of the effective date. Assume the current status of development in the entitlements process.
6. Environmental Clean-up – areas affected by environmental contamination will be remediated to the proposed uses identified in the TIDA's July 1996 redevelopment plan, except in limited areas where otherwise agreed to with the regulatory agencies such as CERCLA Site 6. Use restrictions such as institutional controls may be imposed on

certain portions of the property and these areas may require management of hazardous substances remaining in place in soil or groundwater during construction for development, or until concentrations have attenuated below unrestricted levels.

7. Geotechnical – assume stabilization and improvement of the Property for seismic purposes will be conducted.

VII. Appraiser Qualifications:

Appraisers shall be a State Certified General Real Property Appraiser in California where the subject property is located and be in good standing with the licensing authority where the credential was issued. Appraiser must also hold a current MAI membership designation from the Appraisal Institute. Additionally, appraiser must be practicing or working for at least 10 years in either a national firm, or a regional firm based in California and have particular experience with coastal California real property transactions involving the product type that is the subject of the appraisal. The appraiser must maintain independence from all Contracting Parties and not have any contractual relationships with Developers within the prior 24 months.

VIII. Information to be provided to the Appraiser:

1. TBD

IX. Timing & Process:

The following provides a projected schedule of key milestones. All days are completion dates from the date of award (number of days from previous task).

Contract Award Date – TBD

Kickoff Meeting with TIDA (+5 days) – TBD

Deliver Information to Appraiser (+3 days) – TBD

Property Inspection (+7 days) – TBD

Supplemental Information Request (if needed) – Anytime

Final Report (+30 days) – TBD

1. Pre-Work Conference: At the request of TIDA, the appraiser will be required to attend a pre-work conference for discussion and understanding of these instructions, including an update of the project schedule. TIDA shall extend an invitation to the Navy to attend the pre-work conferences. The pre-work conference may be held in conjunction with the property examination.

2. The appraiser shall submit to the Contracting Party a complete, Self-Contained Appraisal Report along with three (3) signed copies and a live electronic copy of the appraisal report within the number of days (or date) specified within the fully executed contract for appraisal services.

4. The appraiser shall provide an electronic Portable Document Format (PDF) version of the signed appraisal report along with any maps, drawings, photos, graphs and all backup information to the Contracting Party.

6. Definition of Terms: Unless specifically defined herein or in USPAP, definitions of all terms are the same as those found in "The Dictionary of Real Estate Appraisal" (Appraisal Institute), current edition.

7. Testimony. Upon the request of the Department of Navy or United States Attorney or the Department of Justice, and the City of San Francisco, the appraiser shall, in any judicial proceedings, testify as to the value of any and all property included in the appraisal report as of the valuation date. Fees for these services shall be determined upon the Contracting Party's request for testimony.

X. Confidentiality:

The Contracting Party and the appraiser acknowledge and agree that in the course of performing the Work under this agreement, the Contracting Party may disclose Confidential Information, which has been approved and authorized by Contracting Party for release, to the appraiser.

The appraiser agrees not to disclose the Contracting Party Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that the appraiser may disclose the Contracting Party Confidential Information on a "need to know" basis to the appraiser's employees and Subcontractors. All such employees and Subcontractors of the appraiser shall have executed a confidentiality agreement with the Contracting Party requiring a promise of confidentiality concerning the Contracting Party Confidential Information.

Appraiser's valuations and supporting appraisal reports are confidential information as well and the appraiser shall strictly abide by the Confidentiality provisions of the Ethics Rule of USPAP, which provides as follows:

- An appraiser must protect the confidential nature of the appraiser-client relationship.
- An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.
- An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than:
 - 1) the client and persons specifically authorized by the client;
 - 2) federal, state enforcement agencies and such third parties as may be authorized by due process of law; and
 - 3) a duly authorized professional peer review committee.

Under exception #1 in the preceding paragraph, appraisers must obtain written authorization from the Contracting Party before disclosure. The passage of time in and of itself does not extinguish either the appraiser's responsibility for confidentiality or the appraiser/client relationship. The appraiser/client relationship is extinguished only upon written release from the Contracting Party. Even though the appraiser/client relationship may terminate, the appraiser remains subject to the confidentiality provisions of USPAP.

QUALIFIED APPRAISER POOL

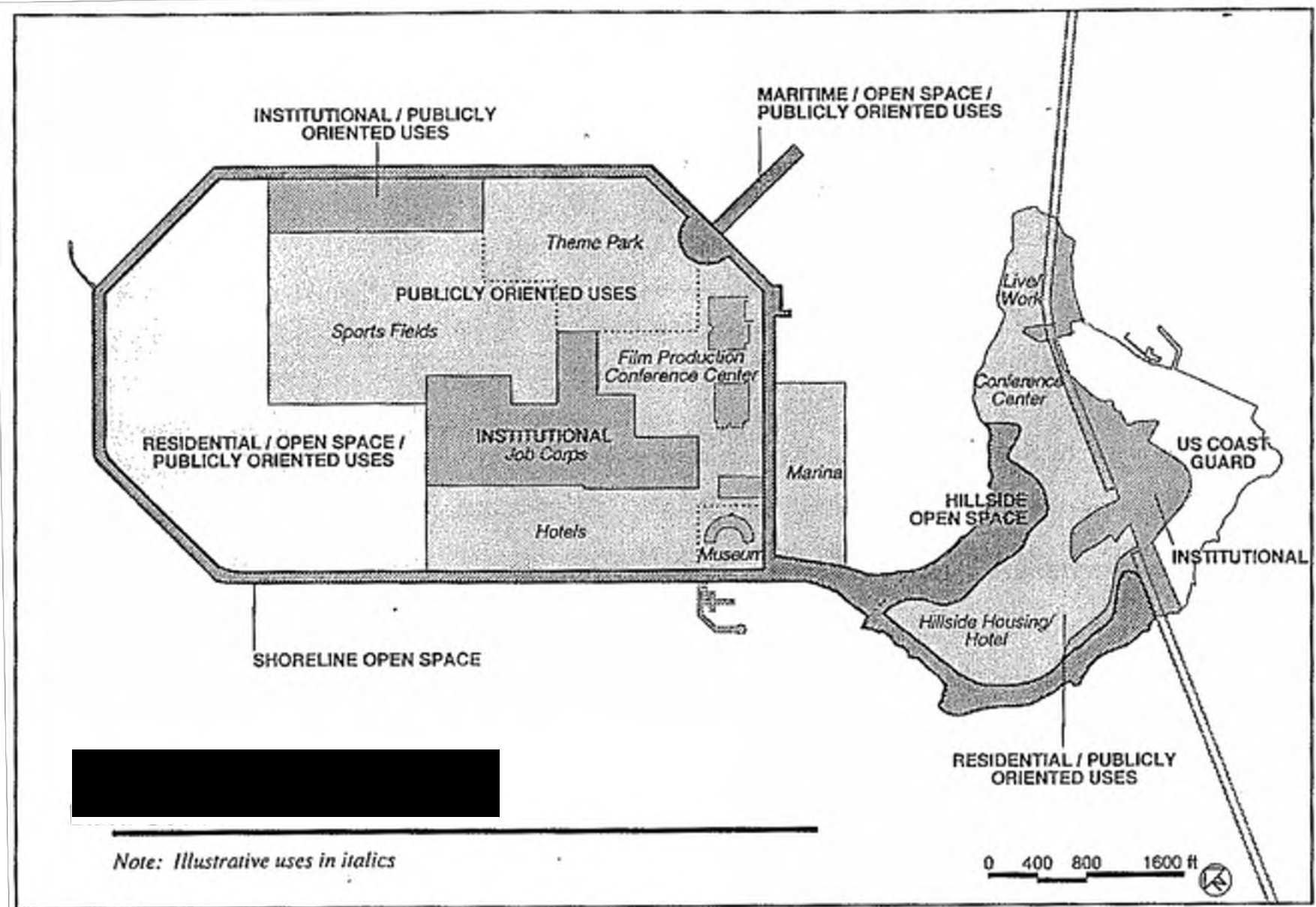
- 1. Carnegie-Blum (Ron Blum)**
595 Market Street, Suite 2230
San Francisco CA 94015
415.777.2666 x 109 (phone)
415.977.0555 (fax)

- 2. Cushman + Wakefield (James Myers)**
Cushman & Wakefield Western, Inc.
601 S. Figueroa Street
47th Floor
Los Angeles , CA 90017
213.955.6493 (phone)
213.627.4044 (fax)

- 3. Integra Realty Resources (Brady Barbier)**
101 Montgomery Street, Suite 1800
San Francisco, CA 94104
415.248.5000 (phone)
415.982.0426 (fax)

- 4. Martorana-Bohegian (Dave Bohegian)**
400 Montgomery Street, Suite 930
San Francisco CA 94104
415.982.4733 (phone)
415.982.0426 (fax)

- 5. Cushman + Wakefield (Brian J. Curry CRE, MAI, SRA, FRICS)**
4435 Eastgate Mall, Suite 200
San Diego, CA 92121
858.334.4051 (phone)
858.334.6861 (fax)



INSTITUTIONAL / PUBLICLY ORIENTED USES

MARITIME / OPEN SPACE / PUBLICLY ORIENTED USES

PUBLICLY ORIENTED USES

Theme Park

Sports Fields

Film Production Conference Center

INSTITUTIONAL
Job Corps

Marina

Hotels

Museum

Live/Work

Conference Center

US COAST GUARD

HILLSIDE OPEN SPACE

INSTITUTIONAL

Hillside Housing Hotel

RESIDENTIAL / OPEN SPACE / PUBLICLY ORIENTED USES

SHORELINE OPEN SPACE

RESIDENTIAL / PUBLICLY ORIENTED USES

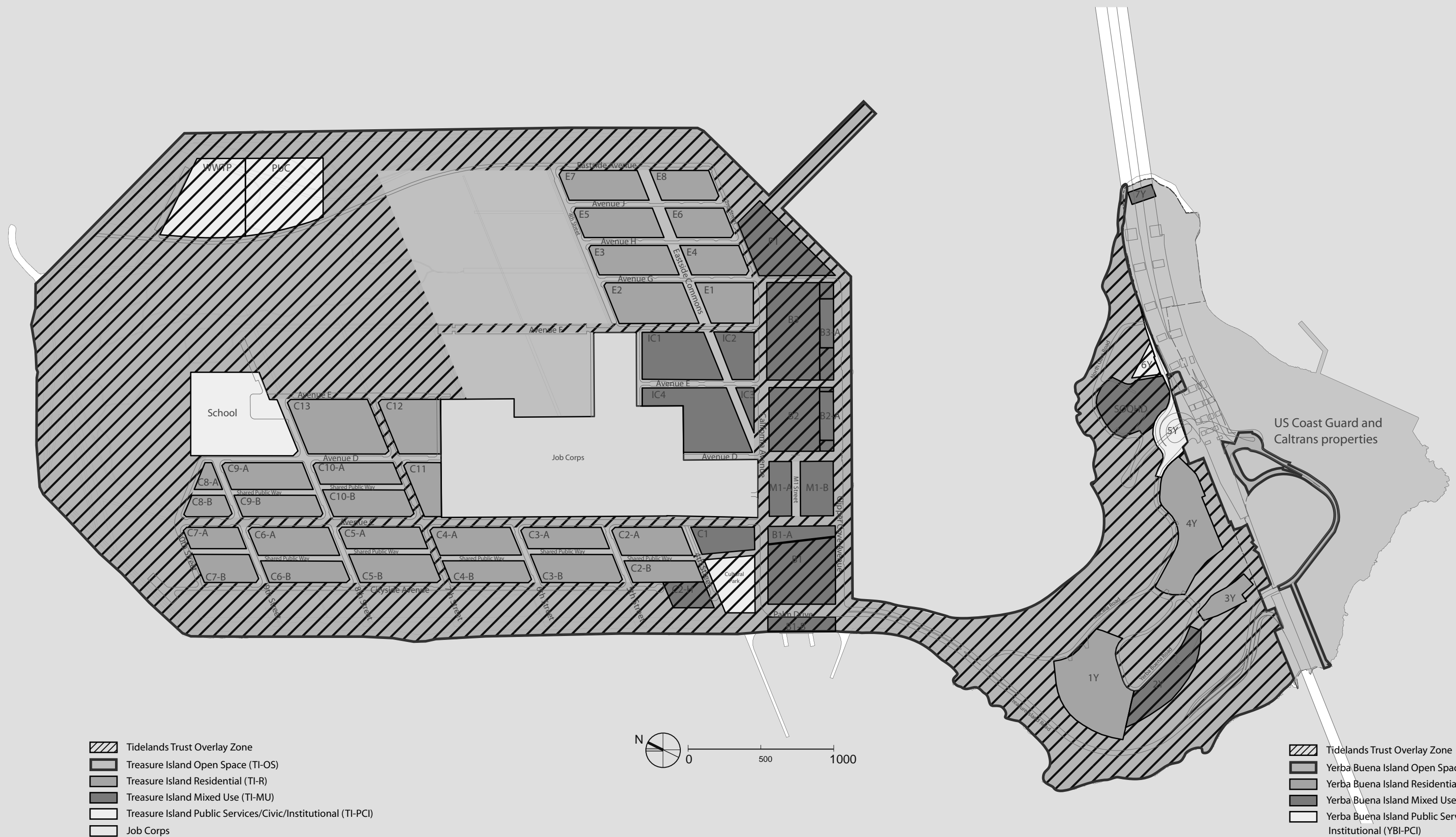








Note: Illustrative uses in italics

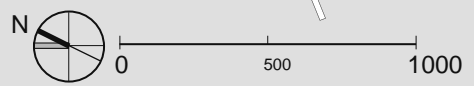
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






Exhibit Z-2: DDA Land Use Plan



-  Tideland Trust Overlay Zone
-  Treasure Island Open Space (TI-OS)
-  Treasure Island Residential (TI-R)
-  Treasure Island Mixed Use (TI-MU)
-  Treasure Island Public Services/Civic/Institutional (TI-PCI)
-  Job Corps



-  Tideland Trust Overlay Zone
-  Yerba Buena Island Open Space (YBI-OS)
-  Yerba Buena Island Residential (YBI-R)
-  Yerba Buena Island Mixed Use (YBI-MU)
-  Yerba Buena Island Public Services/Civic/Institutional (YBI-PCI)