

**STAFF REPORT FOR CALENDAR ITEM NO.: 9
FOR THE MEETING OF: May 8, 2014**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Approve an amendment to the \$171,000,000 TIFIA loan from the U.S. Department of Transportation that will finance a portion of the costs of the construction of Phase 1 of the Transbay Transit Center Program.

SUMMARY:

In January 2010, the Transbay Joint Powers Authority (“TJPA”) closed on a loan in a principal amount up to \$171,000,000 for project costs and additional amounts for capitalized interest from the United States Department of Transportation, acting by and through the Federal Highway Administrator (the “TIFIA Lender”) under the Transportation Infrastructure Finance and Innovation Act of 1998, §§ 1501 et seq. of Public Law 105-178 (as amended by the Public Law 105-206 and Public Law 109-59) (the “TIFIA Loan”), to finance a portion of the costs of Phase 1 of the Transbay Transit Center Program as described below (“Phase 1”). The loan proceeds will be available when conditions precedent to draw are met, anticipated to be in FY 2016.

The TJPA intends to repay the TIFIA Loan with tax increment revenues generated by certain State-owned parcels conveyed to TJPA in the Transbay Redevelopment Area and contributions from Alameda-Contra Costa Transit District (“AC Transit”) related to use of the new Transit Center. The current schedule calls for loan repayment to begin two years after Substantial Completion of Phase 1 of the Transit Center.

TJPA and the TIFIA Lender have negotiated the attached amendment to the TIFIA Loan (the “TIFIA Amendment”) to enable the TJPA to secure short-term financing to meet contract certification and cash flow needs in FY 2015, prior to when TJPA expects to be able to draw on the TIFIA Loan. The key provisions of the amendment include:

- permitting TJPA to issue short-term indebtedness, and certain other indebtedness on parity with and/or subordinate to the TIFIA Loan, secured by (a) the proceeds of the TIFIA Loan once the conditions to draw are met, and/or (b) the same tax increment revenues and AC Transit contributions pledged for the TIFIA Loan, as long as a defined additional debt test is met,
- altering the flow of funds such that any such additional indebtedness described above can be repaid on parity with or subordinate to the TIFIA Loan, as the case may be,
- removing the requirement that all surplus revenues be used to prepay the TIFIA Loan, but instead be available for project construction, and
- clarifying that one of the draw conditions relating to TJPA’s having sufficient resources to complete Phase 1 will be satisfied by the availability of Mello-Roos special tax-backed financing provided through the formation of a Community Facilities District.

EXPLANATION:

The TJPA’s Phase 1 funding plan (the “Phase 1 Funding Plan”) identifies revenue sources such as grants, land sales proceeds, lease income from acquired property, and other onetime revenue generation opportunities. The Phase 1 Funding Plan also identifies long-term revenue sources, such as tax increment funds generated by certain formerly State-owned parcels in the Transbay Redevelopment Area, and commitments from transit operators using the new Transit Center.

The bulk of the revenue from the long-term funding sources is anticipated to arrive after the TJPA completes construction of the new Transit Center (that is, after the TJPA incurs the costs of construction). Thus, the Phase 1 Funding Plan includes a construction period loan to bridge that gap. The TIFIA Lender approved a construction period loan for Phase 1 in the principal amount of up to \$171 million.

The following table summarizes the current Phase 1 Funding Plan. A Transbay financial working group formed by the San Francisco Mayor’s Office has recommended use of Mello-Roos bond proceeds to fund Downtown Extension-related expenditures (i.e., the portion of the train box not funded by the Federal Railroad Administration) in an amount sufficient to fill the Phase 1 funding gap identified in July 2013. This use of Mello-Roos bond proceeds is in addition to the \$28.5 million in Transit Center District Plan impact fees that are slated for construction of the Transit Center Rooftop Park.

Source	Amount (in millions, YOE \$s)
San Francisco Prop K	\$139.0
San Mateo Sales Tax	\$4.5
AC Transit Capital Contribution	\$39.0
Miscellaneous Local	\$7.0
Regional Measure 1	\$54.4
Regional Measure 2	\$143.0
AB 1171	\$150.0
RTIP	\$10.2
Land Sales	\$482.0
FTA and FRA Grants	\$465.1
One Bay Area Grant	\$6.0
Transit Center District Plan (Mello-Roos & Impact Fees)	\$228.5
<i>TIFIA Loan (repaid with tax increment revenue and PFCs)</i>	<i>\$171.0</i>
Total Phase 1 Funding Plan	\$1,899.4*

**differences in totals due to rounding*

In December 2009 the TJPA Board approved the TIFIA Loan, and the loan closed in January 2010. In summary, the terms of the TIFIA Loan are currently as follows:

- The TIFIA Loan would provide up to \$171 million in principal to fund Phase 1.
- The interest rate was set upon the execution and delivery of the loan at 4.57%. Interest will be capitalized on the TIFIA Loan for two years after substantial completion of Phase 1.
- The term of the TIFIA loan will extend not later than 35 years after substantial project completion. The final TIFIA Loan payment was estimated to be no later than February 1, 2049.
- The TJPA would repay the TIFIA Loan primarily with net tax increment revenues and passenger facility charges (PFCs) (“Pledged Revenues”). The net tax increment revenues are generated by the formerly State-owned parcels in the Redevelopment Area, and the PFCs (or other form of contributions) are related to AC Transit’s use of the new Transit Center. The net tax increment funds have been pledged to the Transbay Program through the January 31, 2008 Tax Increment Allocation and Sales Proceeds Pledge Agreement between the City and County of San Francisco, the San Francisco Redevelopment Agency, and the TJPA. PFCs have been pledged to the Transbay Program through the September 10, 2008 Lease and Use Agreement between AC Transit and the TJPA for the Temporary Terminal and new Transit Center.
- The net tax increment revenues and PFCs will be deposited when received by TJPA directly with U.S. Bank National Association, as Collateral Agent (the “Collateral Agent”), under a Collateral Agency and Account Agreement (the “Collateral Agency Agreement”), by and among the TJPA, the TIFIA Lender and the Collateral Agent, for purposes of securing the TJPA’s obligations under the TIFIA Loan.

Disbursement of the TIFIA Loan is subject to several conditions which are summarized as follows:

- Evidence that land sales of formerly State-owned Parcels have closed with gross sales proceeds aggregating not less than \$429 million or an allocation of alternative funding acceptable to the TIFIA Lender.
- Evidence that arranged financing has been secured for the development of all formerly State-owned Parcels that have been sold.
- Updated land sales revenue forecasts, tax increment projections, financing schedules, and project cash flows.
- Evidence that the Project is “fully funded,” meaning that there are committed sources of funding available.
- Assignment of an investment grade rating to the TIFIA loan by a Nationally Recognized Rating Agency within 30 days of the requisition for disbursement.

At the time of loan execution, the train box had not yet been incorporated into Phase 1. Thus a different construction and land sales schedule was envisioned and the first draw was planned to be in FY 2013. TJPA now anticipates meeting the disbursement conditions and requesting the first disbursement in early FY 2016.

Under the schedule for trade package awards, to maintain the planned construction schedule and open the Transit Center for operations in late 2017, TJPA requires a source of funds in late 2014. TJPA originally requested that the TIFIA Loan be amended to revise the disbursement requirements described above, to allow for interim draws on the loan in smaller amounts based on actual land sales, proportional to the \$429 million required in land sales. This request was not possible due to USDOT and TIFIA policies. Instead, TIFIA agreed to amend the loan agreement such that TJPA could pursue interim short-term financing to meet the late 2014 financing need.

In March 2014, TJPA released a Request for Proposals (“RFP”) for an interim bridge financing. Nine proposals were received in April, from various banks and investment banking firms. Six proposers were shortlisted and interviewed; following interviews, three teams were further shortlisted. Ultimately a selection committee with representatives from TJPA, TJPA’s financial consultant, TJPA’s bond counsel, and the City & County of San Francisco Office of Public Finance, ranked a proposal from Goldman Sachs for a direct loan as the highest. Negotiations with Goldman Sachs have commenced and staff is working to bring a loan agreement to the TJPA Board for approval in late summer or early fall.

The attached amendment to the TIFIA Loan is essential to negotiating and closing a transaction with Goldman Sachs, as under the current TIFIA Loan such a financing arrangement would not be permissible. The Loan Amendment changes several terms in the loan agreement, notably:

- the definition of Permitted Debt to allow for the contemplated short-term financing and other parity and/or subordinated debt that meets certain requirements,
- the order of priority for use of the Pledged Revenues, to allow for repayment of such parity and/or subordinated debt, and to allow for surplus revenues to be used towards project costs,
- the language in the disbursement conditions section to recognize the Community Facilities District (“CFD”) that is to be formed as a funding mechanism identified in the Transit Center District Plan and accept the formation of the CFD and its corresponding authorization to issue bonds as representative of full project funding, even before the bonds themselves are sold,
- recognizes the inclusion of construction of the Train Box as part of Phase 1 and the updated Phase 1 budget approved by the TJPA Board in July 2013, and

- extends the date for the final TIFIA Loan payment to February 1, 2052, although it is estimated that the final payment would be made February 1, 2050.

Because the flow of funds for the Pledged Revenues is being amended, the Collateral Agency Agreement also requires amendment to create additional funds and accounts for parity and subordinate debt and to further describe the amounts to be deposited in order of priority to each of the funds and accounts.

RECOMMENDATION:

Staff recommends that the Board of Directors approve the TIFIA Loan Amendment and the Amendment to the Collateral Agency Agreement to reflect the revised flow of funds identified in the TIFIA Loan Amendment, and authorize the Executive Director to execute both for the purposes of amending the TIFIA Loan to finance a portion of the costs of Phase 1.

ENCLOSURES:

Resolution
Amendment to TIFIA Loan
Amendment to Collateral Agency and Account Agreement

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, The City and County of San Francisco (the “City”), the Alameda-Contra Costa Transit District (“AC Transit”) and the Peninsula Corridor Joint Powers Board-Caltrain have heretofore executed a Joint Powers Agreement, dated as of April 4, 2001 (the “Joint Powers Agreement”), which Joint Powers Agreement creates and establishes the Transbay Joint Powers Authority (the “TJPA”); and

WHEREAS, The Joint Powers Agreement charges the TJPA with development, design, construction, operation, management, and maintenance of the Transbay Transit Center Program (the “Transbay Program”), which includes: (1) the design and construction of a temporary terminal and then the permanent Transbay Transit Center, including bus ramps and bus storage facility (“Phase 1”); (2) the extension of Caltrain commuter rail service from its current San Francisco terminus at Fourth and Townsend Streets to a new underground terminus beneath the Transbay Transit Center (“Phase 2”); and (3) activities related to implementation of the Redevelopment Plan for the Transbay Redevelopment Project Area; and

WHEREAS, In January 2010, the TJPA closed on a loan in a principal amount up to \$171,000,000 for project costs and additional amounts for capitalized interest from the United States Department of Transportation (“USDOT”), acting by and through the Federal Highway Administrator (the TIFIA Lender”) under the Transportation Infrastructure Finance and Innovation Act of 1998, §§ 1501 et seq. of Public Law 105-178 (as amended by the Public Law 105-206 and Public Law 109-59) (the “TIFIA Loan”), to finance a portion of the costs of Phase 1; and

WHEREAS, The TJPA intends to repay the TIFIA Loan primarily with tax increment revenues generated by certain formerly State-owned parcels in the Transbay Redevelopment Area and payments received from AC Transit related to AC Transit’s use of the new Transit Center; and

WHEREAS, The TIFIA Loan was executed pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (the “Act”), constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, and pursuant to the TIFIA Loan Agreement, by and between the TIFIA Lender and the TJPA; and

WHEREAS, In accordance with the Act, following published notice, a public hearing regarding the proposed financing was conducted by the City on November 24, 2009, and, following such hearing, the City made certain findings under the Act and approved the financing on November 24, 2009; and

WHEREAS, The TJPA Board duly considered the proposed financing and determined there were significant public benefits to the financing and approved such financing on December 10, 2009; and

WHEREAS, The TIFIA Loan was executed on January 25, 2010, and dated as of January 1, 2010, with certain disbursement conditions to be met prior to drawing upon the loan; and

WHEREAS, TJPA requested an amendment to the TIFIA Loan that would allow for an earlier draw on the TIFIA Loan; however, such an amendment was not possible under USDOT and TIFIA Lender policies; and

WHEREAS, TJPA and the TIFIA Lender were able to negotiate an amendment to the TIFIA Loan that allows, among other things, TJPA to secure interim short-term bridge financing that will allow Phase 1 to move forward on schedule prior to meeting the disbursement conditions of the TIFIA Loan; now, therefore be it

RESOLVED, That the foregoing recitals are true and correct and the TJPA hereby so finds and determines; and be it

FURTHER RESOLVED, That the Board approves the amendment to the TIFIA Loan Amendment, in substantially the form on file with the Secretary, together with any additions thereto or changes therein deemed necessary or advisable by the Executive Director, whose execution thereof shall be conclusive evidence of approval of any such additions and changes. The Executive Director is hereby authorized and directed to execute, and, if necessary or advisable, the Board Secretary is hereby authorized and directed to attest the final form of the Amendment to the TIFIA Loan Agreement for and in the name and on behalf of the TJPA; and be it

FURTHER RESOLVED, That the Board hereby approves the Amendment to the Collateral Agency and Account Agreement, by and among the TJPA, the TIFIA Lender and U.S. Bank National Association, as collateral agent, in substantially the form on file with the Secretary, together with any additions thereto or changes therein deemed necessary or advisable by the Executive Director, whose execution thereof shall be conclusive evidence of approval of any such additions and changes. The Executive Director is hereby authorized and directed to execute, and, if necessary or advisable, the Board Secretary is hereby authorized and directed to attest the final form of the Amendment to the Collateral Agency and Account Agreement for and in the name and on behalf of the TJPA; and be it

FURTHER RESOLVED, That the Executive Director and her designees and/or the Board Secretary are hereby authorized and directed to take such other actions as may be necessary or desirable to effectuate the provisions of the Amendment to the TIFIA Loan Agreement and the Amendment to the Collateral Agency and Account Agreement.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of May 8, 2014.

Secretary, Transbay Joint Powers Authority

**UNITED STATES
DEPARTMENT OF TRANSPORTATION**

**FIRST AMENDMENT TO
TIFIA LOAN AGREEMENT**

FOR UP TO \$171,000,000

With

TRANSBAY JOINT POWERS AUTHORITY

For the

TRANSBAY TRANSIT CENTER PROJECT

(TIFIA 2008-CA-01007A)

DATED AS OF MAY __, 2014

FIRST AMENDMENT TO TIFIA LOAN AGREEMENT

THIS FIRST AMENDMENT TO TIFIA LOAN AGREEMENT, dated as of May [___], 2014 (this "First Amendment"), amending and supplementing the TIFIA LOAN AGREEMENT, dated as of January 1, 2010 (the "Original Loan Agreement" and, as amended and supplemented by this First Amendment, the "Agreement"), by and between TRANSBAY JOINT POWERS AUTHORITY, a joint powers authority created pursuant to agreement among the City and County of San Francisco, the Alameda-Contra Costa Transit District and the Peninsula Corridor Joint Powers Board (Caltrain), and under California Government Code Section 6500 et seq., with an address of 201 Mission Street, Suite 2100, San Francisco, California 94105 (the "Borrower"), and the UNITED STATES DEPARTMENT OF TRANSPORTATION ("USDOT"), an agency of the United States of America, acting by and through the Federal Highway Administrator, with an address of 1200 New Jersey Avenue, S.E., Washington, D.C. 20590 (the "TIFIA Lender"), is made by and between the Borrower and the TIFIA Lender.

RECITALS:

WHEREAS, the Congress of the United States of America has found that a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States and, in furtherance thereof, has enacted the Transportation Infrastructure Finance and Innovation Act of 1998 ("TIFIA"), §1501 *et seq.* of Public Law 105-178 (as amended by the Public Law 105-26, Public Law 109-59 and Public Law 112-141) (the "Act"), codified as 23 U.S.C. §601 *et seq.*;

WHEREAS, Section 603 of the Act authorizes the TIFIA Lender to enter into agreements with one or more obligors to make secured loans;

WHEREAS, the TIFIA Lender previously entered into the Original Loan Agreement to provide a secured loan to the Borrower pursuant to the Act, in a principal amount up to \$171,000,000 (excluding capitalized interest) for the purpose of funding certain Eligible Project Costs of the Transbay Transit Center Project ("TIFIA Loan"); and

WHEREAS, the Borrower and the TIFIA Lender have agreed to amend certain terms of the Original Loan Agreement as provided herein, to address certain changes to the Project and the Project Budget, each as defined herein, and to address certain other requests of the Borrower, all in connection with the TIFIA Loan.

NOW, THEREFORE, the premises being as stated above, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged to be adequate, it is hereby mutually agreed by and between the Borrower and the TIFIA Lender as follows:

ARTICLE I

AUTHORITY; DEFINITIONS

Section 1.1 Authority for First Amendment. This First Amendment amends and supplements the Original Loan Agreement and is entered into in accordance with Section 29 of the Original Loan Agreement.

Section 1.2 Definitions. All capitalized terms used herein and not defined herein shall have the meanings ascribed to such terms in the Original Loan Agreement, as amended and supplemented by this First Amendment.

Section 1.3 Construction of Certain Terms. All references in the Original Loan Agreement to “this Agreement”, or words of similar import and the terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any other similar terms as used in the Original Loan Agreement shall be deemed to refer to the Original Loan Agreement, as amended and supplemented by this First Amendment.

ARTICLE II

AMENDMENTS

Section 2.1 Amendments to Definitions.

(a) The definitions of “Agency,” “Amortization Commencement Date,” “Base Case Financial Model,” “Borrower’s Consultant,” “Capital Repairs,” “Collateral Agency Agreement,” “Debt Service Reserve Required Balance,” “Final Maturity Date,” “Nationally Recognized Rating Agency,” “Permitted Debt,” “Permitted Investments,” “Phase 2,” “Project,” “Project Budget,” “Substantial Completion Date” and “TIF Pledge Agreement” contained in Section 1 of the Original Loan Agreement are hereby deleted in their entirety and the following definitions are substituted therefor:

“Agency” means the City and County of San Francisco Office of Community Investment and Infrastructure serving as the successor agency to the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic of the State.

“Amortization Commencement Date” means the earlier of (i) the first principal Payment Date that is 24 months after the completion of Phase 2 of the Transbay Transit Center Program or (ii) February 1, 2025.

“Base Case Financial Model” means a financial model prepared by the Borrower based upon assumptions and methodology provided by the Borrower and acceptable to the TIFIA Lender that includes (a) a detailed budget for the Project, including a schedule of total Project Costs and Eligible Project Costs, (b) annual sources and uses of funds to design and construct the Project, (c) construction

schedule acceptable to the TIFIA Lender for the Project, and (d) projected annual cash flow through the final maturity of the TIFIA Loan including (1) projected annual Net Tax Increment Revenues from each of the State-owned Parcels, (2) projected Annual Capital Contributions, (3) projected annual investment earnings on the Collateral, (4) projected semi-annual TIFIA Debt Service, (5) projected annual deposits of Net Tax Increment Revenues for Capital Repairs, and (6) projected other uses of Pledged Revenues, including to pay fees and expenses of the TIFIA Lender and the Collateral Agent and additional borrowings secured by such Pledged Revenues. Such Base Case Financial Model shall be provided to the TIFIA Lender as a fully functional Microsoft Excel – based financial model, as it may be updated pursuant to this Agreement.

“Borrower’s Consultant” means The Concord Group, Seifel Consulting, Sperry Capital, URS Corporation and such other consultants that are approved in writing by the TIFIA Lender.

“Capital Repairs” means all reasonably necessary periodic major overhaul and repair (excluding any maintenance and repair of a routine or ordinary course nature) of the Project that is eligible to be funded with Net Tax Increment Revenues in compliance with the restrictions contained in the Redevelopment Plan.

“Collateral Agency Agreement” means the Collateral Agency and Account Agreement, dated as of January 1, 2010, as amended and supplemented as of November 15, 2013, and as further amended and supplemented as of May [_____], 2014, by and among the Borrower, the TIFIA Lender and U.S. Bank National Association, as successor to Deutsche Bank National Trust Company, as Collateral Agent, as hereinafter further amended and supplemented.

“Debt Service Reserve Required Balance” means, as of the date of the First Amendment, prior to the end of the Capitalized Interest Period, the projected maximum annual TIFIA Debt Service based on the most recent Financial Model delivered to the TIFIA Lender. Such Debt Service Reserve Required Balance amount shall be subject to adjustment as of the end of the Capitalized Interest Period pursuant to the determination of the final Outstanding TIFIA Loan Balance pursuant to Section 9 (b) and shall equal the maximum annual TIFIA Debt Service.

“Final Maturity Date” means the earlier of (i) February 1, 2052 and (ii) the last Payment Date occurring no later than 35 years after the Substantial Completion Date.

“Nationally Recognized Rating Agency” means Standard & Poor’s Rating Group, Moody’s Investors Service, Inc., Fitch Ratings or any other nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission.

“Permitted Debt” means:

- (a) the TIFIA Loan;
- (b) Parity Permitted Debt or Subordinate Permitted Debt for Project Costs or Phase 2 costs that, at the time of issuance, either (i) satisfies the Additional Debt Test or (ii) is consented to in writing by the TIFIA Lender;
- (c) obligations to be refinanced with proceeds of the TIFIA Loan, provided that the proceeds of such refinanced obligation were used to finance Eligible Project Costs;
- (d) reimbursement obligations in respect of letters of credit, and other financial obligations, arising under the Principal Project Contracts or any other agreement executed by the Borrower in connection with the Project that are payable as Project Costs, Eligible Project Costs, or Operations and Maintenance Expenses or that do not in the aggregate have face amounts exceeding \$5,000,000 (inflated annually by CPI);
- (e) trade accounts payable (other than for borrowed money) so long as such trade accounts payable are payable not later than 90 days after the respective goods are delivered or the respective services are rendered; and
- (f) other indebtedness not described in clauses (a) through (e) of this definition of “Permitted Debt” that is consented to in writing by the TIFIA Lender.

“Permitted Investments” means (with respect to the investment of the proceeds of the TIFIA Loan or any revenue or reserve accounts established and maintained pursuant to the Collateral Agency Agreement):

- (a) Government Obligations;
- (b) certificates of deposit where the certificates are collaterally secured by securities of the type described in item (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but this collateral is not required to the extent the certificates of deposit are insured by an agency of the Government;
- (c) repurchase agreements when collateralized by securities of the type described in item (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the repurchase agreement so collateralized, including interest;
- (d) money market funds that invest solely in obligations of the United States, its agencies and instrumentalities, and having a rating by S&P of AAAM-G or AAA-m or if rated by Moody’s having a rating of Aaa;

- (e) collateralized investment agreements, forward purchase agreements or other contractual agreements with corporations, financial institutions or national associations within the United States, provided that the senior long term debt of such corporations, institutions or associations is rated in one of the two (2) highest rating categories for comparable types of obligations by any National Recognized Rating Agency; and
- (f) any other investment which may from time to time be expressly approved in writing by the TIFIA Lender.

“**Phase 2**” means the extension of the Caltrain commuter rail service approximately 1.95 miles north from the vicinity of its current San Francisco terminus at Fourth and Townsend Streets to a new underground terminal beneath the Transbay Transit Center and the underground construction at such terminal of rail tracks and rail platforms for use by the Caltrain commuter rail service and the proposed high-speed rail service.

“**Project**” means the design and construction of a temporary terminal, the design of the below-grade rail facilities of the Transbay Transit Center and the construction of the Train Box (core and shell of below-grade rail facilities), and the design and construction of the Transbay Transit Center’s bus facilities, bus ramps to the Bay Bridge, and bus storage facilities to be located underneath Interstate 80. The Project is Phase 1 of the Transbay Transit Center Program. The Project will serve bus passengers from Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo and Sonoma counties. Greyhound passengers from around the country will also be served by the Project.

“**Project Budget**” means the budget for the Project in the aggregate amount of \$1,899,400,000.00 attached to this First Amendment as **Schedule 1** showing all Project Costs, and a summary of all Eligible Project Costs and the estimated sources and uses of funds for the Project, as the same may be amended from time to time with the approval of the TIFIA Lender.

“**Substantial Completion Date**” means the earlier of (i) December 31, 2017 or such later date approved by the TIFIA Lender, and (ii) the date on which Substantial Completion occurs.

“**TIF Pledge Agreement**” means the Transbay Redevelopment Project Tax Increment Allocation and Sales Proceeds Pledge Agreement, dated as of January 31, 2008, by and among the City, the Agency and the Borrower, as it may be amended and supplemented from time to time.”

(b) With respect to the defined term “**FTA Compliance Agreement**” contained in the Original Loan Agreement, from the Effective Date of this Amendment, all references to the FTA Compliance Agreement by and between the Borrower and the USDOT, acting by and through the FTA and executed on January 25, 2010, a copy of which was attached as Exhibit E to the Original Loan Agreement, shall mean the Fiscal Year 2014 FTA Master Grant Agreement,

FTA G-20, dated October 1, 2013, as may be modified and superseded as provided therein, a copy of which the Borrower acknowledges receipt of.

(c) The following definitions are added to Section 1 of the Original Loan Agreement:

“Additional Debt Test” means, prior to the issuance of any Permitted Debt secured by a lien on Pledged Revenues on a parity with, or subordinate to, the lien securing the TIFIA Lender under the TIFIA Loan Agreement the Borrower shall have delivered to the TIFIA Lender:

(a) a certificate or report of a Borrower’s Consultant, in form and substance acceptable to the TIFIA Lender, showing, based upon reasonable assumptions acceptable to the TIFIA Lender, the projected Net Tax Increment Revenues for the then-current Borrower Fiscal Year and each subsequent Borrower Fiscal Year through the Final Maturity Date following the issuance of the additional Permitted Debt (the “Forecast”);

(b) a certificate of the Borrower, in form and substance acceptable to the TIFIA Lender, (i) demonstrating that projected Pledged Revenues, including the Net Tax Increment Revenues set forth in the Forecast referred to in clause (a) above, are at least equal to (A) 125% of (x) the projected TIFIA Debt Service for the then-current Borrower Fiscal Year and each subsequent Borrower Fiscal Year due on the TIFIA Loan through the Final Maturity Date plus (y) the scheduled debt service for the then-current Borrower Fiscal Year and each subsequent Borrower Fiscal Year due on the Parity Permitted Debt, including the Parity Permitted Debt secured by Pledged Revenues proposed to be issued; and (B) 110% of (x) the scheduled debt service for the then-current Borrower Fiscal Year and each subsequent Borrower Fiscal Year due on the Subordinate Permitted Debt secured by Pledged Revenues, including the Subordinate Permitted Debt secured by Pledged Revenues proposed to be issued plus (y) the scheduled debt service for the then-current Borrower Fiscal Year and each subsequent Borrower Fiscal Year on the TIFIA Loan and any Parity Permitted Debt through the Final Maturity Date; and (ii) certifying that (A) no debt of the Borrower shall be used for any purpose other than Project Costs or Phase 2 costs or, as applicable, refinancing of existing debt, the proceeds of which shall have been used in their entirety for Project Costs or Phase 2 costs; (B) the incurring of any such debt which will be outstanding at the time of the first disbursement hereunder does not result in a downgrade of the then-existing credit rating of the TIFIA Loan, and (C) no Event of Default has occurred and is continuing under the TIFIA Loan Agreement.

If the additional Permitted Debt secured by Pledged Revenues is being issued to refund, in whole or in part, other Permitted Debt secured by Pledged Revenues at the same lien level, then the Borrower shall not need to demonstrate compliance with the test set forth in (b) (i) above but rather needs only to demonstrate that the resulting debt service in each Borrower Fiscal Year is at least equal to or less than the debt service on the Permitted Debt secured by Pledged Revenues being refunded and certify to the matters described in (ii) (A) and (C) above.

“Concord Group Updated Report” means the Residential, Office Retail and Hotel Market Analysis Product Programming and Land Pricing for the State Owned

Parcels in the Transbay Redevelopment Area in San Francisco, California, dated July 2013, as the same may be updated from time to time.

“First Amendment” means this First Amendment to TIFIA Loan Agreement dated as of May __, 2014 by and between the Borrower and the TIFIA Lender.

“Forward Looking Debt Service Coverage Ratio” means the ratio of projected Pledged Revenues, including the Net Tax Increment Revenues set forth in a certificate or report of the Borrower’s Consultant, to (A) the aggregate scheduled debt service due on the TIFIA Loan and any Parity Permitted Debt during the succeeding 12 month period and each subsequent 12 month period through the final scheduled maturity of the TIFIA Loan is at least equal to 125%, and to (B) the aggregate scheduled debt service due during the succeeding 12 month period and each subsequent 12 month period through the Final Maturity Date on any Subordinated Permitted Debt, the TIFIA Loan and any Parity Permitted Debt is at least equal to 110%.

“Parity Permitted Debt” means Permitted Debt secured on parity with the TIFIA Loan and payable from Pledged Revenues.

“Seifel Updated Report” means the Tax Increment Projections State Owned Parcels Transbay Redevelopment Project Area, dated September 2013, prepared by Seifel Consulting, as the same may be updated from time to time.

“Sperry Capital” means Sperry Capital Inc. located in Sausalito, California.

“Sperry Capital Report” means the Microsoft Excel-based financial model providing a TIFIA Loan Analysis-Phase 1, dated as of August 2013, prepared by Sperry Capital, as the same may be updated from time to time.

“Subordinated Permitted Debt” means Permitted Debt secured subordinate to the TIFIA Loan and payable from Pledged Revenues.

“URS Updated Report” means the Transbay Transit Center Program Phase 1 Baseline Budget and Schedule to be prepared by URS Corporation, as the same may be updated from time to time.”

Section 2.2. Amendments to Section 4. Section 4 of the Original Loan Agreement is hereby amended by deleting such Section in its entirety and substituting therefor the following:

“Disbursement Conditions. (a) The TIFIA Loan proceeds shall be disbursed solely to pay directly for, or to reimburse the Borrower for its prior payment of, Eligible Project Costs incurred in connection with the Project. Each disbursement of the TIFIA Loan shall be made pursuant to a requisition and certification (a “Requisition”) in the form set forth in **Appendix One to Exhibit D** submitted by the Borrower to, and approved by, the TIFIA Lender, all in accordance with the procedures of Exhibit D and subject to the conditions set forth therein and the additional conditions set forth below in this Section 4. No

disbursements of TIFIA Loan proceeds shall be made on or after the date that is one year after the Substantial Completion Date.

(b) In addition to other conditions set forth herein, the initial TIFIA Loan disbursement shall be subject to the following conditions:

(i) the Borrower shall have provided evidence acceptable to the TIFIA Lender that (A) land sales of State-owned Parcels have closed with the amount of the gross sales proceeds aggregating not less than \$429 million or (B) an allocation of alternative committed funding for the Project acceptable to the TIFIA Lender, in either case, together with the amount of the gross proceeds of land sales of State-owned Parcels, aggregates not less than \$429 million;

(ii) the Borrower shall have provided evidence acceptable to the TIFIA Lender's reasonable satisfaction that arranged financing has been secured for the development of all State-owned Parcels that have been sold. Such evidence may include signed financing, equity contribution or grant agreements or other similar agreements or instruments, and shall be accompanied by certifications from the Borrower that all conditions precedent to effectiveness of each such agreement and transactions contemplated thereby have been satisfied;

(iii) the TIFIA Lender has received a Concord Group Updated Report in form and substance reasonably acceptable to the TIFIA Lender;

(iv) the TIFIA Lender has received an updated Base Case Financial Model (which includes a Seifel Updated Report and a Sperry Capital Report) and a URS Updated Report, each in form and substance reasonably acceptable to the TIFIA Lender; and

(v) the Borrower shall have provided evidence acceptable to the TIFIA Lender, within 30 days prior to the date of submission of the initial Requisition, of the assignment by a Nationally Recognized Rating Agency of an Investment Grade Rating to the TIFIA Loan.

Subject to the last paragraph of this Section 4, copies of each Requisition shall be delivered to the TIFIA Joint Program Office (HCFT-1), the Servicer, and the FTA Regional Office on or before the first day of each month for which a disbursement is requested, or the next succeeding Business Day if such first day is not a Business Day. If the TIFIA Lender shall expressly approve a Requisition or shall not expressly deny a Requisition, disbursements of funds shall be made on the 15th day of the month for which a disbursement has been requested, or on the next succeeding Business Day if such 15th day is not a Business Day. Express TIFIA Lender approval or denial shall be substantially in the form annexed hereto as **Appendix Three to Exhibit D**. In no event shall disbursements be made more than once each month. At the time of any disbursement, the sum of all prior disbursements of TIFIA Loan

proceeds and the disbursement then to be made shall not exceed the cumulative disbursements through the end of the then-current year set forth in the TIFIA Loan Disbursement Schedule, as the same may be amended from time to time.

The Borrower may amend the TIFIA Loan Disbursement Schedule by submitting to the TIFIA Lender and to the FTA Regional Office, no later than 30 days prior to the proposed effective date thereof, a revised TIFIA Loan Disbursement Schedule, together with a detailed explanation of the reasons for such revisions. Such revised TIFIA Loan Disbursement Schedule shall become effective upon the TIFIA Lender's approval thereof, which approval shall not be unreasonably withheld.

As a condition to each disbursement of the TIFIA Loan, the Borrower shall provide the TIFIA Lender with evidence acceptable to the TIFIA Lender that prior thereto, all committed sources of funds described in the Application to pay the capital costs of the Project have been fully and completely allocated to the Borrower by the provider thereof, or other funds in substitution thereof that are acceptable to the TIFIA Lender are available to the Borrower. Such fully and completed allocated funding may be evidenced by a written instrument from each funding source indicating the allocation is a legally binding obligation such as an ordinance, resolution, agreement or contract. To the extent funding sources have not been allocated or are insufficient to complete the Project, the TIFIA Lender will accept a contingent funding commitment from a third-party governmental or other public entity such as a written instrument from a governmental entity with sufficient taxing authority pledging to seek an annual appropriation to cover capital costs required to complete the Project, or an irrevocable letter of credit providing for construction funds in the absence of requisite funding sources. In addition, if a community facilities district ("CFD") is formed and the Borrower will receive special tax proceeds from such CFD, the TIFIA Lender will accept as a committed source of funding for the Project, proceeds of bonds to be issued under authorization of such CFD so long as the TIFIA Lender is provided (i) copies of the legislation establishing the CFD, including the ordinance ordering the levy of special taxes, the resolution authorizing the issuance and sale of special tax bonds, and the joint community facilities agreement between the agency forming the CFD and the Borrower, and (ii) an adopted resolution or resolutions authorizing the issuance and sale of special tax bonds by the board of the agency forming the CFD stating the principal amount of bonds authorized to be issued and the allocation of proceeds thereof in an aggregate principal amount sufficient to finance any funding gap.

Section 2.3. Amendments to Section 8. Subsections (e) and (f) to Section 8 of the Original Loan Agreement are hereby amended by deleting each such subsection in its entirety and substituting therefor the following:

“(e) The Collateral Agency Agreement provides that all Pledged Revenues shall be applied substantially in the following order of priority, as more fully described, and in accordance with the requirements specified, in Section 5 of the Collateral Agency Agreement:

- (i) the fees, administrative costs and other expenses of the Collateral Agent and the TIFIA Lender;

- (ii) the interest portion of TIFIA Debt Service and the interest portion of the Parity Permitted Debt;
 - (iii) the principal portion of TIFIA Debt Service and the principal portion of the Parity Permitted Debt;
 - (iv) the amounts necessary to replenish the amounts on deposit in the Debt Service Reserve Account to the Debt Service Reserve Required Balance and, on a prorata basis with any amount necessary to replenish amounts required to be on deposit in any debt service reserve fund for Parity Permitted Debt hereafter established;
 - (v) the principal and interest portion of the debt service for Subordinate Permitted Debt;
 - (vi) the amounts necessary to replenish amounts on deposit in the debt service reserve account, if any, for the Subordinate Permitted Debt (to the extent necessary to fund so that the balance therein equals the requirement therefor);
 - (vii) the amounts required to be deposited into the Capital Replacement Reserve Account (as defined in the Collateral Agency Agreement) (to the extent the amount on deposit therein is less than the requirement therefor);
 - (viii) the payment of any Permitted Debt not otherwise previously paid in the flow of funds above;
 - (ix) voluntary prepayments by the Borrower of the TIFIA Loan and any Parity Permitted Debt, on a pro rata basis; provided that at the time of such prepayment there is on deposit in the Reserve Account the Debt Service Reserve Required Balance, and there is on deposit in the Capital Replacement Reserve Account the amount required by the terms of the Collateral Agency Agreement;
 - (x) voluntary prepayments by the Borrower of Subordinate Permitted Debt; provided that at the time of such prepayment, there is on deposit in the Reserve Account the Debt Service Reserve Required Balance and there is on deposit in the Capital Replacement Reserve Account the amount required by the terms of the Collateral Agency Agreement;
 - (xi) deposits into the Surplus Revenue Account (as defined in the Collateral Agency Agreement).
- (f) (i) Prior to Substantial Completion, Annual Capital Contributions and investment earnings thereon, shall be applied prior to Net Tax Increment Revenues to make the payments required by (e)(i) through (x) above. Any Pledged Revenues not needed for such payments shall be deposited into the

Surplus Revenue Account. Funds in the Surplus Revenue Account shall be used to pay Project Costs.

(ii) From and after Substantial Completion, until the fifth anniversary of the date of final completion of Phase 2, Annual Capital Contributions and investment earnings thereon shall be applied prior to Net Tax Increment Revenues to make the payments required by (e)(i) through (x) above. Any Pledged Revenues not needed for such payments shall be deposited into the Surplus Revenue Account. Provided the Borrower has provided evidence acceptable to the TIFIA Lender that construction has commenced on Phase 2, Pledged Revenues deposited into the Surplus Revenue Account shall be applied to pay costs to complete the design and construction for Phase 2. In the event the Borrower has not delivered satisfactory evidence to the TIFIA Lender of the commencement of construction on Phase 2 prior to the second anniversary of Substantial Completion, then amounts deposited to the Surplus Fund shall be applied as follows: (A) 50% shall be applied to prepay the TIFIA Loan or, with consent of the TIFIA Lender, to make prepayments on Permitted Debt, and (B) 50% shall be distributed to the Borrower to be used for any lawful purpose, as otherwise permitted by this Agreement. At such time as the Borrower delivers evidence of the commencement of construction of Phase 2 to the TIFIA Lender the Borrower shall no longer be obligated to prepay the TIFIA Loan as provided in this subsection (ii).

(iii) From the fifth anniversary of the date of final completion of Phase 2, Net Tax Increment Revenues and investment earnings thereon shall be applied prior to Annual Capital Contributions to make the payments required by (e)(i) through (x) above. Any Pledged Revenues not needed for such payments shall be deposited into the Surplus Revenue Account. Net Tax Increment Revenues deposited into the Surplus Revenue Account shall be applied as follows: (A) 50% shall be applied to prepay the TIFIA Loan or, with consent of the TIFIA Lender, to make prepayments on Permitted Debt, and (B) 50% shall be distributed to the Borrower to be used for any lawful purpose, as otherwise permitted by this Agreement and any Annual Capital Contributions deposited into the Surplus Revenue Account shall be remitted to AC Transit.

(iv) Notwithstanding the foregoing, any prepayment of the Annual Capital Contributions prior to the completion of construction of the Transbay Transit Center shall be applied to pay Project Costs until Substantial Completion and thereafter to pay costs to complete the design and construction for Phase 2.”

Section 2.4. Amendments to Section 16. Subsections (a), (g) (m) and (n) of Section 16 of the Original Loan Agreement are hereby amended by deleting such subsections in their entirety and substituting therefor the following:

“(a) Permitted Indebtedness. Except for Permitted Debt, the Borrower shall not issue or incur indebtedness of any kind that is secured by Pledged Revenues. Prior to the incurrence of debt for Eligible Project Costs as described in Section

(b) of the definition of Permitted Debt, the Borrower shall provide the TIFIA Lender with satisfactory written evidence that the incurrence of any such indebtedness meets each of the elements of the Additional Debt Test. Any holder of Parity Permitted Debt or Subordinated Permitted Debt must join and agree to be bound by the terms of the Collateral Agency Agreement or enter into a form of intercreditor agreement with terms and provisions acceptable to the TIFIA Lender.

(g) Public Transportation Purposes. The Borrower shall lease the Transbay Transit Center solely for public transportation purposes except for the rooftop park and a certain amount of commercial space therein pursuant to the FTA's joint development policy, and regulations or circulars, if any, provided that all costs incurred in connection with such leasing exceptions have been excluded from Eligible Project Costs.

(m) Annual Rating. The Borrower shall, commencing in 2014, no later than 60 days after the beginning of each Borrower Fiscal Year over the term of the TIFIA Loan, at no cost to the TIFIA Lender, provide to the TIFIA Lender (i) a confirmation of the rating on the TIFIA Loan referenced in Section 13(e) of the Original Loan Agreement, or (ii) if such confirmation is not available, a private rating on the TIFIA Loan by a Nationally Recognized Rating Agency, in each case satisfactory to the TIFIA Lender.

(n) Debt Service Reserve Account. The Borrower shall maintain the Debt Service Reserve Account in an amount equal to the Debt Service Reserve Required Balance in accordance with the provisions of the Collateral Agency Agreement. On or prior to the Debt Service Payment Commencement Date, the Borrower shall cause to be on deposit in the Debt Service Reserve Account an amount equal to the Debt Service Reserve Required Balance. Amounts in the Debt Service Reserve Account shall be made available to ensure the timely payment of TIFIA Debt Service on the TIFIA Loan.”

Section 16 of the Original Loan Agreement is further amended by adding the following new subsection (x) as follows:

“(x) Forward Looking Debt Service Coverage Ratio. The Borrowers agrees to deliver to the TIFIA Lender with each annual Financial Plan update, commencing with the first Financial Plan following Substantial Completion, a certificate evidencing compliance with the Forward Looking Debt Service Coverage Ratio. In the event the projected Pledged Revenues are less than the amount required to allow the Borrower to comply with the Forward Looking Debt Service Coverage Ratio, then Pledged Revenues deposited into the Surplus Revenue Account shall remain in such fund. If the Borrower fails to deliver a certificate to the TIFIA Lender evidencing compliance with the Forward Looking Debt Service Coverage Ratio, then on each Semi-Annual Payment Date, amounts on deposit in the Surplus Revenue Account shall be used to prepay the TIFIA Loan and Parity Permitted Debt, pro rata, until such time that the Borrower demonstrates compliance in the Financial Plan with the Forward Looking Debt Service Ratio. No voluntary prepayments on Subordinate Permitted Debt shall occur during any period the Borrower has failed to maintain the Forward Looking Debt Service Coverage Ratio.”

Section 2.5. Amendment to Section 19. Subsection (a)(iii) of Section 19 of the Original Loan Agreement is hereby amended by deleting such subsection in its entirety and substituting therefor the following:

“(iii) Development Default. If (A) the Borrower fails to reasonably prosecute the work relating to the Project or (B) the Borrower fails to complete the Project in accordance with the Construction Schedule, unless in each such case the Borrower demonstrates to the TIFIA Lender’s reasonable satisfaction that the Borrower is proceeding with the construction of the Project with due diligence toward reaching Substantial Completion by no later than December 31, 2017, then a development default (“Development Default”) shall be deemed to have occurred. If a Development Default shall occur, the TIFIA Lender may: (x) suspend the disbursement of TIFIA Loan proceeds under this Agreement; and (y) pursue such other remedies as provided in this Section 19, including application of the Default Rate. If so requested in connection with a Development Default, the Borrower shall immediately repay any unexpended TIFIA Loan proceeds previously disbursed to the Borrower and not otherwise irrevocably committed to be used as of such date of repayment.”

Section 2.6. Amendments to Section 21. (a) Subsections (d) and (e) of Section 21 of the Original Loan Agreement are hereby amended by deleting each such subsection in its entirety and substituting therefor the following:

“(d) The Borrower shall furnish to the TIFIA Lender, as soon as available, but no later than 180 days after the end of each Borrower Fiscal Year, a copy of the audited income statement and balance sheet of the Borrower as of the end of such fiscal year and the related audited statements of operations, changes in cash flow of the Borrower for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, certified without a “going concern” or like qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm of national standing selected by the Borrower, which is reasonably acceptable to the TIFIA Lender. All such financial statements with respect to the Borrower shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(e) The Borrower shall furnish to the TIFIA Lender, together with each delivery of annual audited-statements and balance sheets of the Borrower required to be delivered pursuant to Section 21(d), a certificate signed by the Borrower’s Authorized Representative stating whether or not, during the annual period covered by such financial statements, there occurred any Event of Default or event which, with notice or lapse of time or both, would become an Event of Default, and, if any such Event of Default or other event shall have occurred during such period, the nature of such Event of Default or other event and the actions that the Borrower has taken or intends to take in respect thereof.”

(b) Section 21 of the Original Loan Agreement is hereby amended by adding a new subsection (f) as follows:

“(f) Recovery Plan. In the event that any monthly construction progress report required under the Original Loan Agreement, or any monthly report issued pursuant to the FTA’s Project Management Oversight Regulations indicates a failure to maintain the Construction Schedule including a failure to meet the Substantial Completion Date or to maintain the Project Budget within a 5% variance, or both, then the Borrower agrees to proffer, within 30 days of any such report, a recovery plan for FTA’s review and acceptance.”

Section 2.7 Amendment to Section 36. Section 36 of the Original Loan Agreement is hereby amended by deleting the addressees and addresses therein in their entirety and substituting therefor the following:

“If to the
TIFIA
Lender:

TIFIA Joint Program Office (HITJ)
Federal Highway Administration
Room E64-301
1200 New Jersey Avenue, SE
Washington, DC 20590
Attention: Director, TIFIA Joint Program Office
Email: TIFIACredit@dot.gov

And through the Substantial Completion Date, also to:

United States Department of Transportation
Federal Transit Administration
Regional Office 9
201 Mission Street, Suite 1650
Attention: Administrator
Telephone: (415) 744-3133
Facsimile: (415) 744-2726

United States Department of Transportation
Federal Transit Administration
Regional Office 7
901 Locust St, Ste. 404
Kansas City, MO 64106
Attention: Paula L. Schwach, Esq.
Telephone: (816) 329-3935
Facsimile: (816) 329-3923

If to the
Borrower

Transbay Joint Powers Authority
201 Mission Street, Suite 2100
San Francisco, CA 94105
Attention: Executive Director

If to the
Collateral
Agent

Mr. Andrew Fung, Vice President
Corporate Trust Services
U.S. Bank National Association
One California Street, Suite 100
Mail Code-SR-CA-SECT
San Francisco, CA 94111
Telephone: (415) 677-3593
Facsimile: (415) 677-3769

Ms. Nancy Raabe, Vice President & Manager
Corporate Trust Services
US Bank National Association
One California Street, Suite 100
Mail Code-SR-CA-SECT
San Francisco, CA 94111
Telephone: (415) 677-3586
Facsimile: (415) 677-3769”

Section 2.8. Amendment to Schedule I. Schedule I is hereby amended by deleting such schedule in its entirety and substituting therefor the Schedule I attached to this First Amendment.

Section 2.9. Amendment to Schedule II. Schedule II is hereby amended by deleting such schedule in its entirety and substituting therefor the Schedule II attached to this First Amendment.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

SECTION 3.1 Representations and Warranties. The Borrower represents and warrants to the TIFIA Lender that, after giving effect to this First Amendment (a) the representations and warranties set forth in Section 14 of the Original Loan Agreement are true and correct on the

date hereof as if made on and as of the date hereof (except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct as of such earlier date), (b) the representations and warranties set forth in each of the other Security Documents are true and correct in all material respects on the date hereof as if made on and as of the date hereof (except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date), and (c) no Event of Default has occurred and is continuing or will occur as a result of the execution, delivery and performance by the Borrower of this First Amendment.

ARTICLE IV

MISCELLANEOUS

Section 4.1 Governing Law. This First Amendment shall be governed by the federal laws of the United States if and to the extent such federal laws are applicable and the internal laws of the State of California if and to the extent such federal laws are not applicable.

Section 4.2 Severability. In case any provision in or obligation under this First Amendment shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 4.3 Original Loan Agreement to Remain in Effect. Save and except as expressly amended and supplemented by this First Amendment, the Original Loan Agreement is hereby in all respects ratified and confirmed, and the terms, provisions and conditions thereof shall be, and remain, in full force and effect, and this First Amendment and all its terms, provisions and conditions shall be deemed to be part of the Original Loan Agreement.

Section 4.4 Successors and Assigns. This First Amendment shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Borrower without the prior written consent of the TIFIA Lender.

Section 4.5 Counterparts. This First Amendment and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

Section 4.6 Effectiveness. This First Amendment shall take effect upon its execution and delivery by each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be duly executed and delivered by their respective officers thereunto duly authorized as of May [____], 2014.

TRANSBAY JOINT POWERS AUTHORITY

By: _____
Name: Maria Ayerdi-Kaplan
Title: Executive Director

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and through the
Federal Highway Administrator

By: _____
Name: Gregory G. Nadeau
Title: Deputy Administrator

SCHEDULE I

Project Budget

See attached.

SCHEDULE II

Construction Schedule

See attached.

**AMENDMENT TO
COLLATERAL AGENCY AND ACCOUNT AGREEMENT**

By and Among

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent,

TRANSBAY JOINT POWERS AUTHORITY, as Borrower

and

**THE UNITED STATES DEPARTMENT OF TRANSPORTATION,
acting through the Federal Highway Administrator,
as the TIFIA Lender**

DATED AS OF MAY __, 2014

AMENDMENT TO COLLATERAL AGENCY AND ACCOUNT AGREEMENT

THIS AMENDMENT TO COLLATERAL AGENCY AND ACCOUNT AGREEMENT, dated as of May [___], 2014 (this "Amendment"), amending and supplementing the COLLATERAL AGENCY AND ACCOUNT AGREEMENT, dated as of January 1, 2010 (the "Original Collateral Agreement" and, as amended and supplemented by this Amendment, the "Agreement"), by and among U.S. BANK NATIONAL ASSOCIATION, a national banking association, as successor Collateral Agent (the "Collateral Agent"), TRANSBAY JOINT POWERS AUTHORITY, a joint powers authority created pursuant to agreement among the City and County of San Francisco, the Alameda-Contra Costa Transit District and the Peninsula Corridor Joint Powers Board (Caltrain), and under California Government Code Section 6500 et seq., with an address of 201 Mission Street, Suite 2100, San Francisco, California 94105 (the "Borrower"), and the UNITED STATES DEPARTMENT OF TRANSPORTATION ("USDOT"), an agency of the United States of America, acting by and through the Federal Highway Administrator, with an address of 1200 New Jersey Avenue, S.E., Washington, D.C. 20590 (the "TIFIA Lender"), is made by and among the Collateral Agent, the Borrower and the TIFIA Lender.

RECITALS:

WHEREAS, the Collateral Agent, the Borrower and the TIFIA Lender have agreed to amend certain terms of the Original Collateral Agreement as provided herein, to address certain changes made to the TIFIA Loan Agreement (as defined in the Original Collateral Agreement).

NOW, THEREFORE, the premises being as stated above, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged to be adequate, it is hereby mutually agreed by and among the Collateral Agent, the Borrower and the TIFIA Lender as follows:

ARTICLE I

AUTHORITY; DEFINITIONS

Section 1.1 Authority for Amendment. This Amendment amends and supplements the Original Collateral Agreement and is entered into in accordance with Section 32 of the Original Collateral Agreement.

Section 1.2 Definitions. All capitalized terms used herein and not defined herein shall have the meanings ascribed to such terms in the Original Collateral Agreement, as amended and supplemented by this Amendment.

Section 1.3 Construction of Certain Terms. All references in the Original Collateral Agreement to “this Agreement”, or words of similar import and the terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any other similar terms as used in the Original Collateral Agreement shall be deemed to refer to the Original Collateral Agreement, as amended and supplemented by this Amendment.

ARTICLE II

AMENDMENTS

Section 2.1 Amendments to Definitions.

(a) The definitions of “Agency,” “Amortization Commencement Date,” “Capital Repairs,” “Final Maturity Date,” “Nationally Recognized Rating Agency,” “Permitted Investments,” “Phase 2,” “Project,” “Substantial Completion Date” and “TIF Pledge Agreement” contained in Section 1 of the Original Collateral Agreement are hereby deleted in their entirety and the following definitions are substituted therefor:

“**Agency**” means the City and County of San Francisco Office of Community Investment and Infrastructure serving as the successor agency to the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic of the State.

“**Amortization Commencement Date**” means the earlier of (i) the first principal Payment Date that is 24 months after the completion of Phase 2 of the Transbay Transit Center Program or (ii) February 1, 2025.

“**Capital Repairs**” means all reasonably necessary periodic major overhaul and repair (excluding any maintenance and repair of a routine or ordinary course nature) of the Project that is eligible to be funded with Net Tax Increment Revenues in compliance with the restrictions contained in the Redevelopment Plan.

“**Final Maturity Date**” means the earlier of (i) February 1, 2052 and (ii) the last Payment Date occurring no later than 35 years after the Substantial Completion Date.

“Nationally Recognized Rating Agency” means Standard & Poor’s Rating Group, Moody’s Investors Service, Inc., Fitch Ratings or any other nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission.

“Permitted Investments” means (with respect to the investment of the proceeds of the TIFIA Loan or any revenue or reserve accounts established and maintained pursuant to the Collateral Agency Agreement):

- (a) Government Obligations;
- (b) certificates of deposit where the certificates are collaterally secured by securities of the type described in item (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but this collateral is not required to the extent the certificates of deposit are insured by an agency of the Government;
- (c) repurchase agreements when collateralized by securities of the type described in item (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the repurchase agreement so collateralized, including interest;
- (d) money market funds that invest solely in obligations of the United States, its agencies and instrumentalities, and having a rating by S&P of AAAM-G or AAA-m or if rated by Moody’s having a rating of Aaa;
- (e) collateralized investment agreements, forward purchase agreements or other contractual agreements with corporations, financial institutions or national associations within the United States, provided that the senior long term debt of such corporations, institutions or associations is rated in one of the two (2) highest rating categories for comparable types of obligations by any National Recognized Rating Agency; and
- (f) any other investment which may from time to time be expressly approved in writing by the TIFIA Lender.

“Phase 2” means the extension of the Caltrain commuter rail service approximately 1.95 miles north from the vicinity of its current San Francisco terminus at Fourth and Townsend Streets to a new underground terminal beneath the Transbay Transit Center and the underground construction at such terminal of rail tracks and rail platforms for use by the Caltrain commuter rail service and the proposed high-speed rail service.

“Project” means the design and construction of a temporary terminal, the design of the below-grade rail facilities of the Transbay Transit Center and the construction of the Train Box (core and shell of below-grade rail facilities), and the design and

construction of the Transbay Transit Center's bus facilities, bus ramps to the Bay Bridge, and bus storage facilities to be located underneath Interstate 80. The Project is Phase 1 of the Transbay Transit Center Program. The Project will serve bus passengers from Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo and Sonoma counties. Greyhound passengers from around the country will also be served by the Project.

“TIF Pledge Agreement” means the Transbay Redevelopment Project Tax Increment Allocation and Sales Proceeds Pledge Agreement, dated as of January 31, 2008, by and among the City, the Agency and the Borrower, as it may be amended and supplemented from time to time.”

(b) The following definitions are added to Section 1 of the Original Collateral Agreement:

“Amendment” means this Amendment to Collateral Agency and Account Agreement dated as of May __, 2014 by and among the Collateral Agent, the Borrower and the TIFIA Lender.

“Debt Service Payment Commencement Date” has the meaning set forth in the TIFIA Loan Agreement.

“Debt Service Reserve Required Balance” has the meaning set forth in the First Amendment to TIFIA Loan Agreement.

“First Amendment to TIFIA Loan Agreement” means the First Amendment to TIFIA Loan Agreement, dated as of May __, 2014, between the Borrower and the TIFIA Lender.

“Parity Permitted Debt” has the meaning set forth in the First Amendment to TIFIA Loan Agreement.

“Permitted Debt” has the meaning set forth in the First Amendment to TIFIA Loan Agreement.

“Subordinate Permitted Debt” has the meaning set forth in the First Amendment to TIFIA Loan Agreement.

“Substantial Completion Date” means the earlier of (i) December 31, 2017 or such later date approved by the TIFIA Lender, and (ii) the date on which Substantial Completion occurs.

“TIFIA Loan Agreement” means the TIFIA Loan Agreement, dated as of January 1, 2010, between the Borrower and the TIFIA Lender, as amended and supplemented, including as amended and supplemented by the First Amendment to TIFIA Loan Agreement.

Section 2.2. Amendments to Section 4. Section 4 of the Original Collateral Agreement is hereby amended by deleting such section in its entirety and substituting therefor the following:

“4. Establishment of Accounts. There are hereby established in the custody of the Collateral Agent the following accounts to be held and administered by the Collateral Agent for the benefit of the TIFIA Lender and the holders of other Permitted Debt in accordance with this Agreement:

- (i) the Net Tax Increment Revenues Account;
- (ii) the Annual Capital Contributions Account;
- (iii) the TIFIA Debt Service Account;
- (iv) the Parity Permitted Debt Service Account;
- (v) the Debt Service Reserve Account;
- (vi) the Parity Permitted Debt Service Reserve Account;
- (vii) the Subordinate Permitted Debt Service Account;
- (viii) the Subordinate Permitted Debt Service Reserve Account;
- (ix) the Capital Replacement Reserve Account;
- (x) the Additional Permitted Debt Account; and
- (xi) the Surplus Revenue Account.

The Collateral Agent is further directed to establish within the Parity Permitted Debt Service Account, the Parity Permitted Debt Service Reserve Account, the Subordinate Permitted Debt Service Account, the Subordinate Permitted Debt Service Reserve Account and the Additional Permitted Debt Account such subaccounts as may be requested by the Borrower for each series or subseries of Permitted Debt.”

Section 2.3. Amendments to Section 5. Subsections (a) through (c)(iii) of Section 5 of the Original Collateral Agreement is hereby amended by deleting such subsections in their entirety and substituting therefor the following:

- (a) Upon receipt, the Collateral Agent shall immediately deposit (i) all Net Tax Increment Revenues into the Net Tax Increment Revenues Account, together with any investment earnings thereon and (ii) all Annual Capital Contributions into the Annual Capital Contributions, together with any investment earnings thereon.
- (b) The Collateral Agent shall make the following withdrawals, transfers and payments from the Accounts in the amounts, at the times and for the purposes specified below and in the following order or priority (it being agreed that no

amount shall be withdrawn on any date pursuant to any clause below until amounts sufficient as of that date for all purposes specified under the prior clauses shall have been withdrawn or set aside):

First, on each date on which the following shall be payable, the fees, administrative costs and other expenses of the Collateral Agent and the TIFIA Lender which the Collateral Agent shall pay to the appropriate party;

Second, on each Semi-Annual Payment Date, (i) to the TIFIA Debt Service Account the interest portion of TIFIA Debt Service which the Collateral Agent shall immediately pay to the TIFIA Lender, and (ii) to the Parity Permitted Debt Service Account (including the subaccounts, if any, established therein as directed by the Borrower) the interest portion of Parity Permitted Debt which the Collateral Agent shall immediately pay to the holders of the Parity Permitted Debt; provided, that in the event the available moneys are insufficient therefor, the Collateral Agent shall deposit pro rata amounts into the TIFIA Debt Service Account and the Parity Permitted Debt Service Account;

Third, on each Semi-Annual Payment Date, (i) to the TIFIA Debt Service Account the principal portion of TIFIA Debt Service which the Collateral Agent shall immediately pay to the TIFIA Lender, and (ii) to the Parity Permitted Debt Service Account (including the subaccounts, if any, established therein as directed by the Borrower) the principal portion of Parity Permitted Debt which the Collateral Agent shall immediately pay to the holders of the Parity Permitted Debt; provided, that in the event the available moneys are insufficient therefor, the Collateral Agent shall deposit pro rata amounts into the TIFIA Debt Service Account and the Parity Permitted Debt Service Account;

Fourth, prior to the Debt Service Payment Commencement Date, (i) the Borrower may request that the Collateral Agent deposit into the Debt Service Reserve Account such amounts as the Borrower may from time to time request; provided that, as of the Debt Service Payment Commencement Date, the amount on deposit in the Debt Service Reserve Account must be not less than the Debt Service Reserve Required Balance, and (ii) the Borrower may request that the Collateral Agent deposit into the Parity Permitted Debt Service Reserve Account (including any subaccounts therein) an amount necessary so that the balance therein is equal to the debt service reserve fund requirement established for such Parity Permitted Debt;

Fifth, on and after the Debt Service Payment Commencement Date, on each Semi-Annual Payment Date (i) to the Debt Service Reserve Account and to (ii) to the Parity Permitted Debt Service Reserve Account (including any subaccounts therein) an amount necessary so that the balance therein is equal to the Debt Service Reserve Required Balance and the debt service reserve fund requirement established for such Parity Permitted Debt, respectively; provided, that in the event the available moneys are insufficient therefor, the Collateral Agent shall deposit pro rata amounts into the Debt Service Reserve Account and the Parity Permitted Debt Service Reserve Account;

Sixth, on each Semi-Annual Payment Date, to the Subordinate Permitted Debt Service Account (including the subaccounts, if any, established therein as directed by the Borrower) the interest portion of Subordinate Permitted Debt which the Collateral Agent shall immediately pay to the holders of the Subordinate Permitted Debt;

Seventh, on each Semi-Annual Payment Date, to the Subordinate Permitted Debt Service Account (including the subaccounts, if any, established therein as directed by the Borrower) the principal portion of Subordinate Permitted Debt which the Collateral Agent shall immediately pay to the holders of the Subordinate Permitted Debt;

Eighth, on each Semi-Annual Payment Date to the Subordinate Permitted Debt Service Reserve Account (including any subaccounts therein) an amount necessary so that the balance therein is equal to the debt service reserve fund requirement established for such Subordinate Permitted Debt;

Ninth, on each Semi-Annual Payment Date, to the Capital Replacement Reserve Account, an amount necessary to that the balance therein equals the amount for Capital Repairs set forth in the then current Financial Plan, less the aggregate amount previously disbursed for such Capital Repairs;

Tenth, on each Semi-Annual Payment Date, to the Additional Permitted Debt Account such amounts as may be directed by the Borrower to pay debt service on Permitted Debt that is not either Parity Permitted Debt or Subordinate Permitted Debt;

Eleventh, on any date at the direction of the Borrower, any voluntary prepayments by the Borrower of the TIFIA Loan which the Collateral Agent shall immediately pay to the TIFIA Lender, and of any Parity Permitted Debt which the Collateral Agent shall immediately pay to the holders of the Parity Permitted Debt, on a pro rata basis; provided that at the time of such voluntary prepayment there is on deposit in the Debt Service Reserve Account the Debt Service Reserve Required Balance and in the Parity Permitted Debt Service Reserve Account the required debt service reserve fund amounts, and there is on deposit in the Capital Replacement Reserve Account the amount required by the terms of the Collateral Agency Agreement;

Twelfth, on any date at the direction of the Borrower, any voluntary prepayments by the Borrower of Subordinate Permitted Debt; provided that at the time of such voluntary prepayment there is on deposit in the Debt Service Reserve Account the Debt Service Reserve Required Balance and in the Parity Permitted Debt Service Reserve Account the required debt service reserve fund amounts, and there is on deposit in the Capital Replacement Reserve Account the amount required by the terms of the Collateral Agency Agreement; and

Thirteenth, on each Semi-Annual Payment Date, to the Surplus Revenue Account, the amount of any remainder in the Net Tax Increment Revenues Account and the Annual Capital Contributions Account, to be disbursed in accordance with (c) below.

(c) (i) Prior to Substantial Completion, Annual Capital Contributions and investment earnings thereon, shall be applied prior to Net Tax Increment

Revenues to make the payments required by (a) First through Twelfth above. Any Pledged Revenues not needed for such payments shall be deposited into the Surplus Revenue Account. Funds in the Surplus Revenue Account shall be used to pay Project Costs.

(ii) From and after Substantial Completion, until the fifth anniversary of the date of final completion of Phase 2, Annual Capital Contributions and investment earnings thereon shall be applied prior to Net Tax Increment Revenues to make the payments required by (a) First through Twelfth above. Any Pledged Revenues not needed for such payments shall be deposited into the Surplus Revenue Account. Provided the Borrower has provided evidence acceptable to the TIFIA Lender that construction has commenced on Phase 2, Pledged Revenues deposited into the Surplus Revenue Account shall be applied to pay costs to complete the design and construction for Phase 2. In the event the Borrower has not delivered satisfactory evidence to the TIFIA Lender of the commencement of construction on Phase 2 prior to the second anniversary of Substantial Completion, then amounts deposited to the Surplus Fund shall be applied as follows: (A) 50% shall be applied to prepay the TIFIA Loan or, with consent of the TIFIA Lender, to make prepayments on Permitted Debt, and (B) 50% shall be distributed to the Borrower to be used for any lawful purpose, as otherwise permitted by the TIFIA Loan Agreement. At such time as the Borrower delivers evidence of the commencement of construction of Phase 2 to the TIFIA Lender the Borrower shall no longer be obligated to prepay the TIFIA Loan as provided in this subsection (ii).

(iii) From the fifth anniversary of the date of final completion of Phase 2, Net Tax Increment Revenues and investment earnings thereon shall be applied prior to Annual Capital Contributions to make the payments required by (a) First through Twelfth above. Any Pledged Revenues not needed for such payments shall be deposited into the Surplus Revenue Account. Net Tax Increment Revenues deposited into the Surplus Revenue Account shall be applied as follows: (A) 50% shall be applied to prepay the TIFIA Loan or, with consent of the TIFIA Lender, to make prepayments on Permitted Debt, and (B) 50% shall be distributed to the Borrower to be used for any lawful purpose, as otherwise permitted by the TIFIA Loan Agreement and any Annual Capital Contributions deposited into the Surplus Revenue Account shall be remitted to AC Transit.”

ARTICLE III

MISCELLANEOUS

Section 3.1 Governing Law. This Amendment shall be construed in accordance with the laws of the State of California.

Section 3.2 Severability. In case any provision in or obligation under this Amendment shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 3.3 Original Collateral Agreement to Remain in Effect. Save and except as expressly amended and supplemented by this Amendment, the Original Collateral Agreement is hereby in all respects ratified and confirmed, and the terms, provisions and conditions thereof shall be, and remain, in full force and effect, and this Amendment and all its terms, provisions and conditions shall be deemed to be part of the Original Collateral Agreement.

Section 3.4 Successors and Assigns. This Amendment shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Borrower without the prior written consent of the TIFIA Lender.

Section 3.5 Counterparts. This Amendment and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

Section 3.6 Effectiveness. This Amendment shall take effect upon its execution and delivery by each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective officers thereunto duly authorized as of May [____], 2014.

U.S. BANK NATIONAL ASSOCIATION

By: _____
Name:
Title:

TRANSBAY JOINT POWERS AUTHORITY

By: _____
Name: Maria Ayerdi-Kaplan
Title: Executive Director

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and through the
Federal Highway Administrator

By: _____
Name: Gregory G. Nadeau
Title: Deputy Administrator