

STAFF REPORT FOR CALENDAR ITEM NO.: 16
FOR THE MEETING OF: May 11, 2017

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize the Executive Director to execute a sublease with Alameda-Contra Costa Transit District (AC Transit) (Sublease) under which the TJPA would lease state-owned property under I-80 between Third, Second, Perry, and Stillman Streets (Premises) to AC Transit for approximately 25 years for a Bus Storage Facility (Facility) for use by AC Transit and other bus systems to store commuter buses between weekday peak periods. The TJPA will execute an Airspace Lease for the Premises with the California State Department of Transportation (Caltrans) and will build the Facility. AC Transit will take possession and start paying rent to Caltrans following construction of the Facility. On March 9, 2017, the TJPA Board of Director approved the Airspace Lease with Caltrans. On April 12, 2017, the AC Transit Board of Directors authorized their General Manager to execute the Sublease with the TJPA for use of the Facility, and AC Transit has executed the Sublease.

EXPLANATION:

On September 10, 2008, the TJPA and AC Transit entered into the Transbay Transit Center Program Lease and Use Agreement for the Temporary Terminal and the Transit Center (Agreement). The Agreement defines the new Transit Center as generally including “ramps, trackways, tunnels, bus storage facilities, and other improvements.” The Agreement contemplates the Bus Deck Level of the new Transit Center as AC Transit’s sole exclusive use space. The Agreement does not specifically address the terms and conditions for AC Transit’s unique use of the Bus Storage Facility.

Accordingly, and given the unique circumstances of the Premises where the Facility would be built (on State-owned land that must be leased from Caltrans), the TJPA and AC Transit staffs recommend that the TJPA lease the Premises from Caltrans for 25 years (Airspace Lease) and sublease the Premises to AC Transit for about 25-years and payment of monthly rent to Caltrans. For clarity and to avoid confusion as to the terms of AC Transit’s use of the Facility, the Sublease would supersede the Agreement solely with respect to the Facility.

The Sublease would pass through to AC Transit most of the TJPA’s material obligations under the TJPA’s Airspace Lease with Caltrans. The key terms of the Sublease are as follows:

1. The term of the Sublease is approximately 25 years, commencing 30 days after the TJPA completes construction of the Facility and AC Transit takes possession of the Facility. (Prior to the commencement of AC Transit’s Sublease, the TJPA will lease the Premises from Caltrans to allow the TJPA to construct the Bus Storage Facility on AC Transit’s behalf).
2. The monthly rent for the Premises will start at \$24,160 at the time TJPA takes possession of the Premises under the Airspace Lease, and will increase annually by 3%. The rent is

the fair market rent established by Caltrans, less an 85% discount authorized by the California Transportation Commission. Once AC Transit takes possession of the Premises, AC Transit will pay rent directly to Caltrans.

3. Under the Airspace Lease, Caltrans approves the sublease of the Premises to AC Transit as long as AC Transit pays to Caltrans the monthly rent required by the Airspace Lease. Caltrans will be entitled to any rent received by AC Transit from any subtenant in excess of the monthly rent payable under the Airspace Lease/Sublease. The TJPA will pay the monthly rent while the TJPA is constructing the Bus Storage Facility for AC Transit.
4. AC Transit accepts the Premises as-is, with all faults.
5. AC Transit generally will defend and indemnify the State and the TJPA from claims or damages arising from the conditions of the Premises, as well as from certain provisions of services by the TJPA, and from AC Transit's operations and use of the Premises.
6. The TJPA must obtain a Caltrans encroachment permit before starting construction of the Facility. The TJPA's plans for construction of the Facility must be approved by Caltrans, the State Fire Marshal, and the Federal Highway Administration before Caltrans will issue an encroachment permit.
7. The TJPA must start construction of the Facility within 180 days after the Airspace Lease is executed. If the construction of the Facility proves economically infeasible, the TJPA may terminate the Airspace Lease and the Sublease.
8. AC Transit is responsible for bus operations at the Bus Storage Facility and providing all services to the Facility. In particular, AC Transit will be responsible for water, gas, heat, light, power, telephone, data, television, cable, sewage, air conditioning and ventilating, and scavenger for the Premises, at AC Transit's cost. AC Transit may request, however, that the TJPA provide certain services (such as maintenance, repairs, landscaping, and security guards) to the Facility at the same rates the TJPA pays for similar services at the Transit Center. If the parties reach agreement, AC Transit will pay directly the TJPA's vendors providing these services.
9. AC Transit shall provide liability insurance of \$5 million and name the TJPA and Caltrans as additional insureds.
10. Caltrans may retake possession of the Premises on 180 days' notice if needed for an approved and funded highway transportation project.
11. AC Transit shall permit buses from other transit systems to pass through the Facility to access the Bus Ramp to the Transit Center and Bay Bridge.

Under the Airspace Lease, TJPA may construct the Facility and other improvements on the Premises with the consent of Caltrans and concurrence of FHWA, and subject to certain terms and conditions. The Airspace Lease at Section 6.9 protects the TJPA by allowing the TJPA to

terminate the Airspace Lease if Caltrans's conditions imposed on the Bus Storage Facility construction make the project economically infeasible. TJPA requested that AC Transit expressly acknowledge TJPA's right under this Section 6.9 to not proceed with construction and to terminate the Airspace Lease and Sublease if the terms and conditions imposed by the State make the project economically infeasible; AC Transit declined. There is little risk to either the TJPA or AC Transit, however, because the TJPA does not expect Caltrans to impose any conditions that would make construction of the Facility infeasible, the TJPA has awarded the construction contract, and the TJPA is poised to proceed.

At the request of AC Transit, and as noted above, the TJPA will be responsible for the monthly rental cost of the Premises during construction of the Facility. During the time of construction, the monthly rent will be paid from the Program Reserve. The total rent obligation is expected to total approximately \$440,000 (about \$24,160 monthly rent for 18 month construction duration); AC Transit will commence paying rent to Caltrans when the construction of the Bus Storage Facility is complete and AC Transit takes possession of the Facility. AC Transit will also be financially responsible, under the Sublease, for operations and maintenance of the Facility.

RECOMMENDATION:

Staff recommends that the Board of Directors authorize the Executive Director to execute the Sublease with AC Transit.

ATTACHMENTS:

1. Resolution
2. AC Transit Staff Report, Caltrans Airspace Lease, and Bus Storage Facility Sublease
3. AC Transit Financial Commitment Letter

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, The TJPA is developing the Transbay Transit Center Program (Transbay Program) and, as part of the Transbay Program, the TJPA will design and build for AC Transit a Bus Storage Facility (Facility) on property owned by the State of California Department of Transportation (Caltrans) at Second, Stillman, Third and Perry Streets in the City and County of San Francisco, State of California; and

WHEREAS, AC Transit provides bus services between Alameda and Contra Costa counties and the City and County of San Francisco under the authority of Public Utilities Codes sections 25801 et seq.; and

WHEREAS, AC Transit will operate and maintain the Facility for, among other things, the promotion, accommodation, and development of regional and intercity bus and commuter transportation and commerce; and

WHEREAS, On October 20, 2016, the California Transportation Commission approved a request to authorize execution of a long-term lease between Caltrans and the TJPA (Airspace Lease) for the premises where the Facility will be located, and on January 19, 2017, the California Transportation Commission approved terms and conditions of the Airspace Lease. The California Transportation Commission authorized a lease rate that is discounted 85 percent of Caltrans's fair market lease rate. On March 9, 2017, the TJPA Board of Director approved the Airspace Lease; and

WHEREAS, Under the Airspace Lease, Caltrans approves a sublease of the Facility to AC Transit as long as AC Transit pays to Caltrans the monthly rent required by the Airspace Lease; and

WHEREAS, The TJPA and AC Transit have negotiated the terms and conditions of a sublease of the Premises (Sublease) that passes through to AC Transit most of the TJPA's material obligations under the TJPA's Airspace Lease with Caltrans; and

WHEREAS, On April 12, 2017, the AC Transit Board of Directors authorized their General Manager to execute the Sublease with the TJPA; and

WHEREAS, The TJPA has full power and authority to sublease the Facility to AC Transit; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the Executive Director to execute a Sublease with AC Transit, in substantially the form attached, for a monthly rent starting at \$24,160 per month, which is a discount of 85% of Caltrans's fair market lease rate, escalated by three percent annually, and for a term of approximately 25 years, for AC Transit to use for parking and staging for public mass transit vehicles operating through the Transbay Transit Center, including administrative offices, bus driver rest area, various site improvements and incidental automobile parking.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of May 11, 2017.

Secretary, Transbay Joint Powers Authority



Report No:
Meeting Date:

17-079
April 12, 2017

Alameda-Contra Costa Transit District

STAFF REPORT

TO: AC Transit Board of Directors
FROM: Michael A. Hursh, General Manager
SUBJECT: Bus Storage Facility Sub-lease

ACTION ITEM

RECOMMENDED ACTION(S):

Consider authorizing the General Manager to enter into a sub-lease with the Transbay Joint Powers Authority (TJPA) for use of the Bus Storage Facility (BSF).

BACKGROUND/RATIONALE:

The BSF land is approximately half a mile away from the Transbay Transit Center (TTC), underneath the west approach of the Bay Bridge, and the design includes a direct connection to the TTC via a dedicated bus ramp.

The BSF will provide a variety of functions and amenities to support the Transbay Transit Center operations. These include:

- Parking spaces for 49 buses - reducing mid-day deadheads to and from the Transit Center.
- Staging space for the buses deadheading from the East Bay and arriving early for the on-time departure of the afternoon trips.
- Supervisor storage and Gillie room, supervisor parking, an operator Gillie room, and maintenance equipment storage. These facilities are not available on the main bus deck.
- Surface street access will be available from 3rd Street, allowing other transit operators access for their operations on the bus deck, notably SF MUNI's line 25, which will use it to deadhead to and from their yard. In addition, this allows for emergency services access into the Transbay Transit Center bus deck from the street level.

Caltrans owns the land programmed for the BSF, which is located underneath the West Approach of the Bay Bridge. It currently subleases the property to a private parking lot contractor. Per a 2003 cooperative agreement between Caltrans and the TJPA, those two agencies will execute the lease to operate the BSF, with the intention that AC Transit executes a sub-lease with the TJPA. This arrangement was due to the TJPA's commitment to the BSF construction - a \$21 million project to partially excavate the existing parking lot allowing for taller buses, and construct a link ramp to the Transbay Transit Center bus ramp. Phase 1 of the Transbay Transit Center program includes this construction. Once constructed, AC Transit will sublease the BSF property from the TJPA per the Caltrans lease terms. This Caltrans lease and the District's sublease went for approval on March 9th TJPA Board meeting.

Caltrans' initial lease proposal for the BSF included a 20% discount from the fair market value. This would have meant a net operating cost of \$1.15 million annually for the District. This financially unsustainable proposal led the District to garner support from regional and state authorities, and ultimately securing a final decision from the California Transportation Commission (CTC). On October 19, 2016, the CTC met and agreed in principle to an 85% discount of the fair market value to lease the Bus Storage site. The CTC confirmed the final lease terms at its January 19, 2017 meeting in Sacramento. Attachment 1 is the TJPA/Caltrans lease, which includes a 3% fixed annual increase over a 25-year term, and attachment 2 is the draft sub-lease between the District and the TJPA reflecting the same lease terms. These terms allow the District to operate a financially sustainable facility for 25 years.

At the November 16, 2016 AC Transit Board meeting, the Board approved AC Transit's financial commitment to operate the Bus Storage Facility and to assume responsibility for its operations, maintenance, and lease costs. The District provided a financial commitment letter to the TJPA, which stated AC Transit's full commitment to sub-lease the BSF from the TJPA with the following terms:

1. AC Transit will initiate rent payments once Bus Storage Facility operations commence.
2. An 85% discount of the Fair Market Value (FMV).
 - o Caltrans stated FMV at \$135,550 per month (subsequently amended to \$161,055)
 - o 15% of FMV = \$20,332.50 per month (subsequently amended to \$24,160)
3. A 25-year lease term with an escalation rate of a maximum 3 percent tied to the Consumer Price Index, and no reevaluation over the lease term.
4. Once Caltrans and the TJPA execute the lease, AC Transit will codify the rent payments in a sub-lease amendment to the TJPA 2008 Lease and Use Agreement (subsequently amended to a separate sub-lease).

Attachment 2 is the draft sub-lease between the TJPA and the District, agreeing to the same terms within the Caltrans/TJPA lease.

The TJPA awarded a \$21.6 million construction contract to Ghilotti Construction Company at their March 9th Board meeting, and they anticipate a completion date of July 2018. This will lead to a five-month delta between the opening of the TTC and the BSF, which may cause some initial operational challenges for the afternoon staging requirements.

Currently, supervisors use up to 25 staging spaces for buses coming over early from the East Bay to pull out at their scheduled time at the Temporary Terminal. The TTC has no dedicated staging space and so while the TTC has more bays than the Temporary Terminal, supervisors will have to use the 10 additional bays for staging. There will be some space on the bus ramps for staging in this interim period; however, it may not be as much as is available in the Temporary Terminal and buses may have to circulate around the bus deck until their scheduled departure. Depending on the opening date, these operational challenges will be in place for a shorter or longer period. Despite these constraints for staging, staff still believes the TTC provides overall better operating conditions than the current Temporary Terminal as a result of the dedicated ramp on and off the Bay Bridge and additional maneuverability on the Bus Deck.

The Lease and Use Agreement with the TJPA specifies that AC Transit will take possession of the Bus Deck only once construction is complete, including adjacent parking and staging areas. Given the delay of the BSF construction, it will be up to the District to determine when the building is acceptable for operating conditions.

BUDGETARY/FISCAL IMPACT:

Per Attachment 3, the CTC direction of the BSF lease terms will allow the District to operate the BSF between a cost-neutral to minimal savings (\$15,000 annually) basis for the next 25 years.

ADVANTAGES/DISADVANTAGES:

The BSF has clear operational advantages to the District as outlined in this report, along with environmental benefits associated with reduced deadhead miles. The financial obligations of the BSF carry with it a limited financial risk. There will always be cost savings with the midday storage through savings associated with the 49 midday deadheads. The guaranteed sustainable lease rate for 25 years leaves only a staffing variable, which is entirely under the District's control.

The disadvantage to pursuing construction of the BSF in Phase 1 of the project is the additional staffing and operational logistics of the 49 parking stalls. Staff is finalizing the concept of operations for the BSF, but anticipates the amount of staffing will result in cost neutral facility operations.

ALTERNATIVES ANALYSIS:

If the Board decides not to authorize the sublease, the operations would continue as today with no midday storage; however, there are no other options for the additional amenities and afternoon peak staging the BSF provides near the Transbay Transit Center. The lack of such a proximal, custom-built facility will hinder Transbay operations.

PRIOR RELEVANT BOARD ACTION/POLICIES:

Staff Report No. 17-039: Quarterly Report on the Transbay Transit Center Project

ATTACHMENTS:

- 1: Bus Storage Facility Lease between TJPA and Caltrans
- 2: Draft Bus Storage Facility Sub-lease between TJPA and AC Transit
- 3: Bus Storage Facility Financial Analysis

Approved by: Ramakrishna Pochiraju, Interim Executive Director of Planning and Engineering

Reviewed by: Denise Standridge, General Counsel
Claudia Allen, Chief Financial Officer
Lois Rawlings, Real Estate Manager
Robert del Rosario, Director of Service Development and Planning

Prepared by: Linda Morris, Senior Transportation Planner

(Lease Area No. 04-SF-BT-04)
(Account No. 04-A70001-04-24)

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
AIRSPACE LEASE

THIS LEASE, dated May 15, 2017 ("Execution Date") is by and between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "Landlord," and the TRANSBAY JOINT POWERS AUTHORITY, hereinafter called "Tenant."

WITNESSETH

For and in consideration of the rental and of the covenants and agreements hereinafter set forth to be kept and performed by the Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises herein described for the term, at the rental and subject to and upon all of the terms, covenants and agreements hereinafter set forth.

ARTICLE 1. SUMMARY OF LEASE PROVISIONS

Landlord: California Department of Transportation

Tenant: Transbay Joint Powers Authority

Premises: 04-SF-BT-04 located in the City and County of San Francisco, State of California, and more particularly described in Article 2.

Lease Term: 25 Years, commencing on the "Commencement Date", which shall be the earlier of: (1) the date of the issuance of the Caltrans Encroachment Permit permitting commencement of construction for the bus storage facility; or (2) the date that Tenant takes possession of the Premises thereby requiring Landlord's existing public parking tenant to vacate the Premises. (Article 3).

Monthly Rent: \$ 24,160 (119,300 sf x \$1.35 per month x 85% discount) subject to annual escalation

Security Deposit: \$ 0.00 (Article 18)

Use: Parking and staging facility for public mass transit vehicles operating through the Transbay Transit Center, including administrative offices, bus driver rest area, and incidental automobile parking associated with same (Article 5)

Comprehensive General Liability Insurance: \$5,000,000. (Article 10)

Insurance provider: Special District Risk Management Authority.

Policy number: LCA-SDRMA-201617.

Business Automobile Liability Insurance: \$1,000,000. (Article 10)

Insurance provider: Special District Risk Management Authority.

Policy number: LCA-SDRMA-201617.

Workers' Compensation Insurance: \$1,000,000. (Article 10)

Insurance provider: Special District Risk Management Authority.

Policy number: WCP-SDRMA-201617.

Addresses for Notices: (Article 19)

To Landlord:

Department of Transportation
Right of Way Airspace Development MS 11
US Mail: PO Box 23440, Oakland, CA 94623-0440
Street Address: 111 Grand Avenue, 13th floor Oakland, CA 94612-3771

To Tenant: Transbay Joint Powers Authority
201 Mission Street, Suite 2100
San Francisco, California 94105
Email: MZabaneh@TransbayCenter.org Phone: 415-597-4620

References in this Article 1 to the other Articles are for convenience and designate other Articles where references to the particular item contained in the Summary of Lease Provisions appear. Each reference in this Lease to the Summary of Lease Provisions contained in this Article 1 shall be construed to incorporate all of the terms provided under the Summary of Lease Provisions. In the event of any conflict between the Summary of Lease Provisions and the balance of the Lease, the latter shall control.

ARTICLE 2. PREMISES

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, for the term, at the rent, and upon the covenants and conditions hereinafter set forth, that certain premises with an approximate area of 119,300sf known generally as Freeway Lease Area No. 04-SF-BT-04, situated under the Bay Bridge West Approach SF-80 elevated freeway structure between 2nd and 3rd Streets in the City and County of San Francisco ("Premises"), said land or interest therein being shown on the map marked "Exhibit A," attached hereto and by this reference made a part hereof.

EXCEPTING THEREFROM all those portions of the above-described Premises occupied by the supports and foundations of the existing structure.

ALSO EXCEPTING THEREFROM all that portion of the Premises above a horizontal plane 5 feet below the underside of the superstructure of the existing structure, which plane extends to a line 10 feet, measured horizontally, beyond the outermost protrusion of the superstructure of the structure.

California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements. Tenant is hereby advised that the Premises have NOT been inspected by a CASp.

ARTICLE 3. TERM

The Lease shall be effective on the Execution Date. The term of this Lease shall be for 25 Years, commencing on the Commencement Date, which shall be the earlier of: (1) the date of the issuance of the Caltrans Encroachment Permit permitting commencement of construction for the bus storage facility; or (2) the date that Tenant takes possession of the Premises thereby requiring Landlord's existing public parking tenant to vacate the Premises.

ARTICLE 4. RENT

4.1 Monthly Rent

Tenant shall pay to Landlord as Monthly Rent, without deduction, setoff, prior notice, or demand, the sum of \$24,160, representing 119,300 square feet of net rentable area, as shown on Exhibit A, multiplied by \$0.2025/sf per month ("Monthly Rental Rate"). The Monthly Rental Rate represents the fair market rental rate of \$1.35/sf per month established pursuant to a written appraisal approved by Landlord ("Fair Market Rental Rate or FMRR"), less an 85% discount, as authorized by the California Transportation Commission at its October 20, 2016 meeting.

Monthly rent for the first month or portion of it shall be paid on the Term Commencement Date, and shall be due thereafter on the first day of each subsequent month. Monthly Rent for any partial month shall be prorated at the rate of 1/30th of the Monthly Rent per day. All rent checks shall have printed on their face the following tenancy reference number 04-A70001-04-24 and shall be paid to Landlord at the following address: State of California, Department of Transportation, Attention: Cashier, P. O. Box 168019, Sacramento, CA 95816-8019.

4.2 Annual Rent Adjustment

Beginning one year following the Commencement Date as defined in Article 3, Term, and continuing thereafter on each anniversary thereof ("Anniversary Date"), Monthly Rent provided for in Section 4.1 shall be adjusted by a fixed escalation rate of three percent (3%) rounded up or down to the closest \$5. Landlord shall not be required to provide any further notice to Tenant regarding annual rent adjustments during the Lease term. Table 4.2.1 provides Tenant's Monthly Rent obligation for the 25 year term.

Table 4.2.1

Lease Year	Monthly Rent	Lease Year	Monthly Rent
Year 1	\$24,160.00	Year 14	\$35,475.00
Year 2	\$24,885.00	Year 15	\$36,540.00
Year 3	\$25,630.00	Year 16	\$37,635.00
Year 4	\$26,400.00	Year 17	\$38,765.00
Year 5	\$27,190.00	Year 18	\$39,930.00
Year 6	\$28,005.00	Year 19	\$41,125.00
Year 7	\$28,845.00	Year 20	\$42,360.00
Year 8	\$29,710.00	Year 21	\$43,630.00
Year 9	\$30,600.00	Year 22	\$44,940.00
Year 10	\$31,520.00	Year 23	\$46,290.00
Year 11	\$32,465.00	Year 24	\$47,680.00
Year 12	\$33,440.00	Year 25	\$49,110.00
Year 13	\$34,445.00		

4.3 Landlord's Compensation upon Sublease of Tenant's Leasehold

(a) In the event that Tenant voluntarily subleases any of Tenant's rights in the Premises, Tenant shall pay to Landlord compensation in connection with the transaction in an amount equal to 100 percent (100%) of any and all consideration, whether in present payments or in future payments, which Tenant

receives from a subtenant in excess of the amount of Monthly Rent Tenant is obligated to pay to Landlord under this Lease.

(b) Payment by Tenant of the amount of compensation required under this Section 4.3 is a condition to Landlord's giving its consent to any sublease under Article 16, and Landlord may withhold its consent to any such sublease until this compensation has been paid. In addition, before Landlord gives its consent to any such transaction, Tenant shall deliver to the subtenant a written summary of all sums due and owing to Landlord under this section and shall deliver to Landlord a written acknowledgement by the subtenant that said person affirms that the sums are due and owing to Landlord and that said person accepts responsibility for ensuring that such sums are paid directly to Landlord.

4.4 Reevaluation on Change in Use

Landlord expressly reserves the right to establish a new Monthly Rent as a condition to Landlord's approval of any use of the Premises not specifically permitted by Section 5.1 and as a condition to any amendment to or changes in the uses permitted by that section.

4.5 Reevaluation on Transfer

Landlord expressly reserves the right to establish a new Monthly Rent as a condition to Landlord's specific approval of any transfer, or assignment of this Lease or any subletting of all or any portion of the Premises; provided, however, that Tenant shall have the right from time to time, upon notice to, but without the consent of Landlord, to transfer this Lease or use and occupancy of all or any of the Premises to any person or entity that directly or indirectly controls, is controlled by or is under common control with Tenant for any or all of the uses permitted under this Lease without any such new Monthly Rent and without obtaining Landlord's consent. In particular, Tenant shall have the right to sublet the Premises to the Alameda Contra-Costa Transit District (AC Transit) under the terms and conditions provided in Section 16.2 without any change in the Monthly Rent and without otherwise obtaining Landlord's consent.

ARTICLE 5. USE

5.1 Specified Use

The Premises shall be used and occupied by Tenant only and exclusively for the purpose of operating a parking and staging facility for public mass transit vehicles routing through the Transbay Transit Center, including administrative offices, bus driver rest area, and incidental automobile parking associated with same, and for no other purpose whatsoever without obtaining prior written consent of Landlord and the concurrence of the Federal Highway Administration. Landlord expressly reserves the right to establish a new Monthly Rent as a condition to Landlord's approval of any use of the leased Premises not specifically permitted by this section.

5.2 Condition of Premises

Tenant hereby accepts the Premises in the **AS-IS** condition existing as of the date of the execution hereof, subject to all applicable zoning, municipal, county, state and federal laws, ordinances and regulations governing and regulating the use of the Premises, and accepts this Lease subject thereto and to all matters disclosed thereby and by any exhibits attached hereto. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the

condition of the Premises or the suitability thereof for the conduct of Tenant's business, nor has Landlord agreed to undertake any modification, alteration or improvement to the Premises except as provided in this Lease.

Except as may be otherwise expressly provided in this Lease, the taking of possession of the Premises by Tenant shall in itself constitute acknowledgement that the Premises are in good and tenable condition, and Tenant agrees to accept the Premises in its presently existing condition "as is", and that the Landlord shall not be obligated to make any improvements or modifications thereto except to the extent that may otherwise be expressly provided in this Lease.

Tenant represents and acknowledges that it has made a sufficient investigation of the conditions of the Premises existing immediately prior to the execution of this Lease (including investigation of the surface, subsurface and groundwater for contamination and hazardous materials) and is satisfied that the Premises will safely support the type of improvements, if any, to be constructed and maintained by Tenant upon the Premises, that the Premises is otherwise fully fit physically and lawfully for the uses required and permitted by this Lease and that Tenant accepts all risks associated therewith.

Tenant acknowledges that (1) Landlord has informed Tenant prior to the commencement of the term of this Lease that the Landlord does not know nor has reasonable cause to believe that any release of any hazardous material has come to be located on or beneath the Premises; (2) prior to the commencement of the term of this Lease, the Landlord has made available to Tenant, for review and inspection, records in the possession or control of the Landlord which might reflect the potential existence of hazardous materials on or beneath the Premises; (3) Landlord has provided Tenant access to the Premises for a reasonable time and upon reasonable terms and conditions for purposes of providing to Tenant the opportunity to investigate, sample and analyze the soil and groundwater on the Premises for the presence of hazardous materials; (4) by signing this Lease Tenant represents to Landlord that, except as otherwise may be stated on "Exhibit C" attached hereto and by this reference incorporated herein, Tenant does not know nor has reasonable cause to believe that any release of hazardous material has come to be located on or beneath the Premises; and (5) with respect to any hazardous material which Tenant knows or has reasonable cause to believe has come or will come to be located on or beneath the Premises, Tenant has listed the hazardous material on attached "Exhibit C" and agrees promptly to commence and complete the removal of or other appropriate remedial action regarding the hazardous material at no cost or expense to Landlord and in full compliance with all applicable laws, regulations, permits, approvals and authorizations. The phrase "hazardous material," as used herein, has the same meaning as that phrase has in Section 5.7 of this Lease.

Tenant agrees that, except as otherwise expressly provided in this Lease, Tenant is solely responsible without any cost or expense to the Landlord to take all actions necessary, off as well as on the Premises to improve and continuously use the Premises as required by this Lease and in compliance with all applicable laws and regulations.

5.3 Compliance with Law

Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirements of duly constituted public authorities now in force or which may hereafter be in force, or with the requirements of the State Fire Marshal or other similar body now or hereafter constituted, relating to or affecting the condition, use or occupancy of the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether

Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant. Tenant shall not allow the Premises to be used for any unlawful purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer to be committed any waste in or upon the Premises.

5.4 [omitted]

5.5 Petroleum Products

Tenant shall not install facilities for, nor operate on the Premises, a gasoline or petroleum supply station. Tenant shall not permit on the Premises any vehicles used or designed for the transportation or storage of gasoline or petroleum products. Tenant shall also not permit on the Premises any bulk storage of gasoline or petroleum products.

5.6 Explosives and Flammable Materials

The Premises shall not be used for the manufacture of flammable materials or explosives, or for any storage of flammable materials, explosives or other materials or other purposes deemed by Landlord to be a potential fire or other hazard to the transportation facility. The operation and maintenance of the Premises shall be subject to regulations of Landlord so as to protect against fire or other hazard impairing the use, safety and appearance of the transportation facility. The occupancy and use of the Premises shall not be such as will permit hazardous or unreasonably objectionable smoke, fumes, vapors or odors to rise above the surface of the traveled way of the transportation facility.

5.7 Hazardous Materials

Tenant shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations, including, but not limited to, the Federal Water Pollution Control Act (33 U.S.C. section 1251, et seq.), Resource Conservation and Recovery Act (42 U.S.C. section 6901, et seq.), Safe Drinking Water Act (42 U.S.C. section 300f, et seq.), Toxic Substances Control Act (15 U.S.C. section 2601, et seq.), Clean Air Act (42 U.S.C. section 7401, et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601, et seq.), Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code section 25249.5, et seq.), other applicable provisions of the California Health and Safety Code (section 25100, et seq., and section 39000, et seq.), California Water Code (section 13000, et seq.), and other comparable state laws, regulations and local ordinances relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances" under any such laws, ordinances or regulations (collectively "Hazardous Materials Laws"). As used in the provisions of this Lease, "hazardous materials" include any "hazardous substance" as that term is defined in section 25316 of the California Health and Safety Code and any other material or substance listed or regulated by any Hazardous Materials Law or posing a hazard to health or the environment. Except as otherwise expressly permitted in this Lease, Tenant shall not use, create, store or allow any hazardous materials on the Premises. Fuel stored in a motor vehicle for the exclusive use in such vehicle is excepted.

In no case shall Tenant cause or allow the deposit or disposal of any hazardous materials on the Premises. Landlord, or its agents or contractors, shall at all times have the right to go upon and inspect the Premises and the operations thereon to assure compliance with the requirements herein stated. This inspection may include taking samples of substances and materials present for testing, and/or the testing of soils or underground tanks on the Premises.

In the event Tenant breaches any of the provisions of this Section, this Lease may be terminated immediately by Landlord and be of no further force or effect. It is the intent of the parties hereto that Tenant shall be responsible for and bear the entire cost of removal and disposal of hazardous materials introduced to the Premises during Tenant's period of use and possession as owner, operator or Tenant of the Premises. Tenant shall also be responsible for any clean-up and decontamination on or off the Premises necessitated by the introduction of such hazardous materials on the Premises. Tenant shall not be responsible for or bear the cost of removal or disposal of hazardous materials introduced to the Premises by any party other than Tenant during any period prior to commencement of Tenant's period of use and possession of the Premises as owner, operator or Tenant.

Tenant shall further hold Landlord, and its officers and employees, harmless from all responsibility, liability and claim for damages resulting from the presence or use of hazardous materials on the Premises during Tenant's period of use and possession of the Premises.

5.8 Signs

Not more than four (4) advertising signs of a size not greater than thirty (30) square feet of surface area may be erected on the Premises. The wording on these signs shall be limited to Tenant's name or trade name, the words "Parking," or "Auto Parking," a statement of rates, and a directional arrow. The location of all these signs shall be subject to Landlord's prior approval. None of these signs shall be attached to or painted on any bridge structure or building without the express written consent of Landlord. All of these signs shall also comply with all applicable requirements of local governmental entities, including governmental approval and payment of any fees.

Except as set forth in the previous paragraph of this Section, Tenant shall not construct, erect, maintain or permit any sign, banner or flag upon the Premises without the prior written approval of Landlord. Tenant shall not place, construct or maintain upon the Premises any advertising media that include moving or rotating parts, searchlights, flashing lights, loudspeakers, phonographs or other similar visual or audio media. The term "sign" means any card, cloth, paper, metal, painted or wooden sign of any character placed for any purpose on or to the ground or any tree, wall, bush, rock, fence, building, structure, trailer or thing. Landlord may remove any unapproved sign, banner or flag existing on the Premises, and Tenant shall be liable to and shall reimburse Landlord for the cost of such removal plus interest as provided in Section 19.11 from the date of completion of such removal.

5.9 Landlord's Rules and Regulations

Tenant shall faithfully observe and comply with the rules and regulations that Landlord shall from time to time promulgate for the protection of the transportation facility and the safety of the traveling public. Landlord reserves the right from time to time to make reasonable modifications to said rules and regulations. The additions and modifications to those rules and regulations shall be binding upon Tenant upon delivery of a copy of them to Tenant.

5.10 Wrecked Vehicles

Tenant shall not park or store wrecked or inoperable vehicles of any kind on the Premises. Tenant may from time to time require interim storage of disabled buses until they can be reasonably towed/removed from the Premises, but in no event shall such storage for transport back to Tenant's maintenance facilities be for periods longer than 48 hours.

5.11 Vending

Tenant shall be allowed to install vending machines inside its administrative offices for the sole purpose of providing food and beverages to bus drivers and other employees of Tenant using the facilities. No other third party vending of any kind or character shall be conducted, permitted or allowed upon the Premises without the prior express written consent of Landlord.

5.12 Water Pollution Control

Tenant shall comply with all applicable State and Federal water pollution control requirements regarding storm water and non-storm water discharges from the tenant's leasehold area and will be responsible for all applicable permits including but not limited to the National Pollutant Discharge Elimination System (NPDES) General Permit and Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activities (Excluding Construction), the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, and the Caltrans Municipal Separate Storm Sewer System NPDES Permit, and permits and ordinances issued to and promulgated by municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water and non-storm water to sewer systems, storm drain systems, or any watercourses under the jurisdiction of the above agencies. Copies of the current storm water related NPDES permits are available on the State Water Resources Control Board's website at http://www.swrcb.ca.gov/water_issues/programs/stormwater/.

Tenant understands the discharge of non-storm water into the storm sewer system is prohibited unless specifically authorized by one of the permits or ordinances listed above. In order to prevent the discharge of non-storm water into the storm sewer system, vehicle or equipment washing, fueling, maintenance and repair on the Premises is prohibited.

In order to prevent the discharge of pollutants to storm water resulting from contact with hazardous material, the storage or stockpile of hazardous material on Premises is strictly prohibited.

Tenant shall implement and maintain the Best Management Practices (BMPs) shown in the attached Stormwater Pollution Prevention Fact Sheet(s) for: Parking and Storage marked "Exhibit B." Tenant shall identify any other potential sources of storm water and non-storm water pollution resulting from Tenant's activities on the Premises, which are not addressed by the BMPs, contained in the attached Fact Sheet(s), and shall implement additional BMPs to prevent pollution from those sources. Additional BMPs may be obtained from 2 other manuals:

(1) Right of Way Property Management and Airspace Storm Water Guidance Manual available for review online at: www.dot.ca.gov/hq/row/rwstormwater, and

(2) Construction Site Best Management Practices Manual, available for review online at: www.dot.ca.gov/hq/construc/stormwater/manuals.htm.

In the event of conflict between the attached fact sheet(s), the above-referenced manuals, and this Lease, this Lease shall control.

Tenant shall provide Landlord with the Standard Industrial Classification (SIC) code applicable to Lessee's facilities and activities on the lease Premises. A list of SIC codes regulated under the General Industrial Permit SIC codes may be found at the State Water Resources Control Board website: http://www.waterboards.ca.gov/water_issues/programs/stormwater/gen_indus.shtml. Other SIC codes may be found at www.osha.gov/pls/imis/sicsearch.html.

Landlord, or its agents or contractors, shall at all times have the right to enter and inspect the Premises and the operations thereon to assure compliance with the applicable permits, and ordinances listed above. Inspection may include taking samples of substances and materials present for testing, and/or the testing of storm sewer systems or watercourses on the Premises.

ARTICLE 6. IMPROVEMENTS

6.1 No Improvements Without Prior Written Consent of Landlord

Tenant has provided to Landlord for review and approval design plans and specifications for the Transbay Transit Center Program Bus Storage Project Contract No. 16-XX-BSF-000. Landlord may consent to the proposed improvements upon issuance of an executed Encroachment Permit.

No additional improvements of any kind beyond the scope of work included and approved within Contract No. 16-XX-BSF-000 shall be placed in, on, or upon the Premises, and no alterations shall be made in, on, or upon the Premises without the prior written consent of Landlord and the concurrence of the Federal Highway Administration. Tenant may, at its sole expense, install and maintain any additional fencing and entrances that may be required by its use of the Premises, subject to the approval of the location by Landlord, the Federal Highway Administration and the City and County of San Francisco; provided that Tenant shall at its sole expense construct and maintain sidewalks and driveways at the locations where the additional entrances are installed. In the event Tenant violates any of the provisions of this Article, this Lease may be terminated immediately by Landlord and be of no further force or effect.

6.2 Encroachment Permit

Tenant, prior to construction or alteration of any improvements on or of the leased Premises, shall obtain an executed Encroachment Permit from Landlord.

Issuance by Landlord of an Encroachment Permit shall be contingent upon Tenant's providing, at Landlord's sole discretion, all or a combination of, the following, to the extent applicable:

(a) Final construction plans and detailed specifications. All such plans and specifications submitted by Tenant to Landlord shall be subject to the review and approval of Landlord, the State Fire Marshal and if on an interstate freeway the Federal Highway Administration.

(b) [omitted – public entities need not post a bond, but will provide copies of bonds posted by any contractor doing work on the Premises.

(c) Liability insurance as provided in Article 10.

(d) [omitted].

(e) [omitted].

(f) [omitted].

(g) [omitted].

(h) [omitted].

(i) Evidence of compliance with the applicable provisions of all federal, state and local environmental statutes, laws, regulations and ordinances.

Tenant agrees to diligently apply for and meet all requirements for issuance of the Encroachment Permit and Landlord agrees to not unreasonably withhold issuance of said Encroachment Permit. Tenant is obligated to deliver to Landlord the documents described in subdivisions (a) through (i) of this section regardless of whether an Encroachment Permit may have been issued inadvertently before these documents have been provided to Landlord.

6.3 Planning and Zoning

Tenant's use and proposed improvements shall be subject to all applicable zoning, municipal, county, state and federal laws, ordinances and regulations governing and regulating the use of the Premises.

6.4 Standard of Construction

Tenant agrees that any improvements or construction upon the Premises shall: (a) be consistent with all fire safety requirements including State Fire Marshall approval, (b) be subject to the approval of Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed, and (c) in every material respect comply with the laws, ordinances and regulations, federal, state, municipal or otherwise, that may govern construction of the same. Tenant shall not construct or place on the leased Premises any improvements which impair Landlord's ability to maintain, operate, use, repair or improve any part of the transportation facility situated on the leased Premises or on adjoining real property. Tenant shall save Landlord harmless of and from any loss or damage caused by reason of the construction of said improvements.

6.5 Soil Testing

At Tenant's sole cost and expense, Tenant shall secure soil compaction tests and other tests as necessary for construction of Tenant's improvements and for the support of the improvements on the underlying land or structures thereon. Tenant shall notify Landlord of the location of all test borings, which shall not interfere in any manner with the operation of the facility by Landlord. Tenant hereby agrees that Landlord is making no representation regarding existing soil compaction or structural capability of the land or any existing structure thereon. Responsibility for any loss or damage caused by inadequate soil compaction or other structural capacity for Tenant's proposed improvements shall be subject to the indemnification provisions of Section 10.1

6.6 Commencement of Construction

Tenant shall commence construction of the improvements described in Tenant's final construction plans and detailed specifications within 180 days after the Execution Date of this Lease. For the purposes of this Article, construction shall be deemed to have commenced upon the issuance by Landlord of an Encroachment Permit under Section 6.1 and 6.2. In the event construction is not commenced within the time set forth herein, this Lease may be terminated by Landlord and thereafter be of no further force and effect.

6.7 Completion of Construction and Occupancy of Improvements

Construction of the improvements shall be completed consistent with the approved construction plans within two years after the commencement of construction. Tenant shall not occupy or use any of the improvements until Tenant has received final building approval and a Certificate of Occupancy from the appropriate local agency and Landlord has issued to Tenant an executed Encroachment Permit Completion Notice. In the event Tenant violates any of the provisions of this section, this Lease may be terminated by Landlord and be of no further force and effect.

6.8 "As-Built" Plans

Within ninety (90) days after completion of construction of improvements or alterations, Tenant shall furnish Landlord, at Tenant's expense, one set of "As-Built" plans, according to a scale and size designated by Landlord, showing said improvements as constructed in detail, including the location of underground and aboveground utility lines.

6.9 Termination If Required Construction Proves Economically Infeasible

This Lease requires Tenant to submit plans for any proposed improvements and construction activities conducted on the Premises and to obtain an Encroachment Permit prior to beginning any construction related activities on the Premises. If Landlord's Encroachment Permits office reviews Tenant's plans, and thereafter requires Tenant to construct certain improvements or to employ certain construction methods as a condition of the Encroachment Permit, or if other circumstances arise related to construction or operation of the improvements, and such Landlord requirements or other circumstances related to construction or operation of the improvements prove economically infeasible to Tenant, Tenant shall have the option to elect not to proceed with the construction and to terminate this Lease.

ARTICLE 7. SURRENDER OF PREMISES AT EXPIRATION OR TERMINATION OF LEASE

At the expiration or earlier termination of this Lease, Tenant shall peaceably and quietly leave, surrender, and yield up to Landlord the Premises together with all appurtenances and fixtures in good order, condition and repair, reasonable wear and tear excepted.

ARTICLE 8. OWNERSHIP AND REMOVAL OF IMPROVEMENTS AND PERSONAL PROPERTY

8.1 Ownership of Improvements During Term

All improvements constructed on the Premises by Tenant as permitted or required by this Lease shall, during the term of this Lease, be and remain the property of Tenant; provided, however, that Tenant's rights and powers with respect to the improvements are subject to the terms and limitations of this Lease and Tenant's interest in such improvements shall terminate upon the expiration or earlier termination of this Lease. Following completion of construction, Tenant shall not remove any improvements from the Premises nor waste, destroy or modify any improvements on the Premises, except as specifically permitted by this Lease. At the expiration or termination of this Lease, all improvements constructed on the Premises by Tenant shall vest in Landlord. Tenant shall deliver said improvements to Landlord in good condition and repair, reasonable wear and tear excepted, without compensation to Tenant, any subtenant or third party, free and clear of all claims to or against them by

Tenant, any subtenant or third party, and Tenant shall defend and hold Landlord harmless from all liability arising from such claims or from the exercise by Landlord of its rights under this section. In the event said improvements are not delivered to Landlord in good condition and repair, reasonable wear and tear excepted, Landlord shall make the necessary maintenance and repairs and Tenant shall be liable to and shall reimburse Landlord for any such expenditures made, plus interest as provided in Section 22.11 from the date of completion of work. Landlord and Tenant covenant for themselves and all persons claiming under or through them that the improvements are real property.

8.2 Removal of Personal Property and Ownership at Termination

At the expiration or earlier termination of this Lease, Landlord may, at Landlord's sole election, require the removal from the Premises, at Tenant's sole cost and expense, of all personal property (other than fixtures), or of certain personal property (other than fixtures), as specified in the notice provided for below. A demand to take effect at the normal expiration of the term shall be effected by notice given at least thirty (30) days before the expiration date. A demand to take effect on any other termination of the term of this Lease shall be effectuated by notice given concurrently with notice of such termination or within ten (10) days after such termination. Tenant shall be liable to Landlord for costs incurred by Landlord in effecting the removal of personal property which Tenant has failed to remove after demand pursuant to this Section 8.2.

Tenant may remove any personal property from time to time within forty-five (45) days of the expiration of the term. Tenant shall repair all damage (structural or otherwise) caused by any such removal. Any personal property not removed by Tenant within forty-five (45) days following expiration of the term shall be deemed to be abandoned by Tenant and shall, without compensation to Tenant, become the Landlord's property, free and clear of all claims to or against them by Tenant or any other person.

8.3 Removal of Improvements at Termination

Upon the expiration or earlier termination of this Lease, Landlord may, upon written notice, require Tenant to remove, at the sole cost and expense of Tenant, and not later than three hundred sixty (360) days after the expiration or earlier termination of this Lease, all structures, buildings and improvements of any kind whatsoever placed or maintained on the Premises, whether below, on or above the ground by Tenant, including, but not limited to, foundations, structures, buildings, utility lines, switchboards, transformer vaults and all other service facilities constructed or installed upon the Premises; and Tenant shall, upon the expiration or earlier termination of this Lease, immediately restore, and quit and peacefully surrender possession of the Premises to Landlord in at least as good and usable condition, acceptable to Landlord, as the same was in at the time of first occupation thereof by Tenant or others, ordinary wear and tear excepted, and shall, in any event, leave the surface of the ground in a level, graded condition, with no excavations, holes, hollows, hills or humps. Should Tenant fail to so remove said structures, buildings and improvements and restore the Premises, Landlord may sell, remove or demolish the same, and in the event of said sale, removal or demolition, Tenant shall reimburse Landlord for any cost or expense thereof in excess of any consideration received by Landlord as a result of such sale, removal or demolition. Tenant's rent obligation shall continue during the period of time Tenant is restoring the Premises until the date Tenant surrenders possession of the Premises to Landlord in its fully restored condition.

8.4 Liens

Exemption of Landlord from Liability

(a) Tenant shall at all times indemnify and save Landlord harmless from all claims for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment or facilities within the Premises for work undertaken by Tenant or Tenant's agents, and from the cost of defending against such claims, including attorney fees.

(b) [omitted]

ARTICLE 9. MAINTENANCE AND REPAIRS

9.1 Tenant's Obligations

Tenant, at its own cost and expense, shall maintain the Premises, and keep it free of all grass, weeds, debris, and flammable materials of every description. Tenant shall ensure that the Premises is at all times in an orderly, clean, safe, and sanitary condition. Landlord requires a high standard of cleanliness, consistent with the location of the Premises as an adjunct of the California State Highway System.

Tenant hereby expressly waives the right to make repairs at the expense of Landlord and waives the benefit of the provisions of Sections 1941 and 1942 of the California Civil Code or any successor thereto.

Tenant shall take all steps necessary to protect effectively the fences, guardrails, and the piers and columns, if any, of all structures located on the Premises from damage incident to Tenant's use of the Premises and any improvements, all without expense to Landlord. Tenant shall, at its own cost and expense, repair in accordance with Landlord's standards any damage to any property owned by Landlord on the Premises, including, but not limited to, all fences, guardrails, piers and columns, caused by Tenant, subtenants, invitees or other third parties. At Tenant's request, Landlord will repair the damage to its property on the Premises, and Tenant agrees to reimburse Landlord promptly after demand for the amount Landlord has reasonably expended to complete the repair work.

Tenant shall be responsible for the care, maintenance, and any required pruning of trees, shrubs, or any other landscaping on the Premises. Tenant assumes the liability for any damage or injury caused by any falling branches or other such materials from any tree or shrub on the Premises whether the branches fall due to lack of maintenance or act of god or any other natural or unnatural causes. Tenant's liability insurance required within Article 10 shall cover any damage caused by any falling tree or shrub branches or other materials on the Premises, except as limited in Article 10; and, furthermore, per the same Article 10, Tenant covenants and agrees to indemnify and save harmless Landlord from all liability, loss, cost, and obligation on account of any injuries or losses caused by any falling branches or material from any tree or shrub on the Premises, except as limited in Article 10.

Tenant shall designate in writing to Landlord a representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness and general order.

9.2 Landlord's Rights

In the event Tenant fails to perform Tenant's obligations under this Article, Landlord shall give Tenant notice to do such acts as are reasonably required to so maintain the Premises. If within ninety (90) days after Landlord sends written notice to repair, Tenant fails to do the work and diligently proceed in good faith to prosecute it to completion, Landlord shall have the right, but not the obligation, to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant promptly after demand plus interest as provided in Section 19.11 from the date of completion of such work to date of payment. Landlord shall have no liability to Tenant for any damage, inconvenience or interference with the use of the Premises by Tenant as a result of performing any such work.

9.3 Retention of Existing Improvements

Landlord may at its option retain existing State improvements including fencing, lighting and irrigation facilities. If Landlord elects to retain any improvements, Tenant shall remove same and deliver same to Landlord's nearest maintenance station at no cost to Landlord.

ARTICLE 10. INSURANCE

10.1 Exemption of Landlord from Liability

This Lease is made upon the express condition that Landlord is to be free from all liability and claims for damages by reason of any injury to any person or persons, including Tenant, or property of any kind whatsoever and to whomsoever belonging, including Tenant, from any cause or causes resulting from the operation or use of the Premises by Tenant, its agents, customers or business invitees, excepting only that resulting from the gross negligence or willful misconduct of Landlord, its employees, agents or officers. Tenant hereby covenants and agrees to indemnify and save harmless Landlord from all liability, loss, cost and obligation on account of any such injuries or losses except for liability, injury, loss or damage caused by Landlord's active negligence or willful misconduct.

10.2 Commercial General Liability Insurance

Tenant shall at its own cost and expense procure and keep in force during the term of this Lease comprehensive bodily injury liability and property damage liability insurance adequate to protect Landlord, its officers, agents and employees, against any liability to the public resulting from injury or death of any person or damage to property in connection with the area, operation or condition of the Premises, including any and all liability of Landlord for damage to vehicles parked on the Premises. Such insurance shall be in an amount of not less than \$5,000,000 combined single limit for bodily injury and property damage. The limits of such insurance shall not limit the liability of Tenant. All insurance required hereunder shall be with companies to be approved by Landlord. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord may carry. Said policies shall name Landlord as an additional insured and shall insure against the contingent liabilities, if any, of Landlord and the officers, agents, and employees of Landlord and shall obligate the insurance carriers to notify Landlord, in writing, not less than thirty (30) days prior to the cancellation thereof, or any other change affecting the coverage of the policies. If said policies contain any exclusion concerning property in the care, custody or control of the insured, an endorsement shall be attached thereto stating that such exclusion shall not apply with regard to any liability of the State of California, its officers, agents, or employees. Tenant shall furnish to Landlord a Certificate of Insurance acceptable

to Landlord within not more than ten (10) days after execution thereof. Landlord shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of Landlord, the insurance provisions in this Lease do not provide adequate protection for Landlord and for members of the public using the Premises, Landlord may require Tenant to obtain insurance sufficient in coverage, form and amount to provide adequate protection. Landlord's requirements shall be reasonable but shall be designed to assure protection from and against the kind and extent of the risks which exist at the time a change in insurance is required. Landlord shall notify Tenant in writing of changes in the insurance requirements; and if Tenant does not deposit copies of acceptable insurance policies with Landlord incorporating such changes within sixty (60) days of receipt of such notice, this Lease may be terminated, at Landlord's option, without further notice to Tenant, and be of no further force and effect.

10.3 Business Automobile Liability Insurance

Tenant shall obtain and keep in effect at all times during the term of this Lease business automobile liability insurance in an amount not less than \$1,000,000 for each occurrence combined single limit for bodily injury and property damage, including coverage for owned, non-owned and hired automobiles, as applicable. Any deductible under such policy shall not exceed \$10,000 each occurrence.

10.4 [omitted]

10.5 Workers' Compensation Insurance

Tenant shall obtain and keep in effect at all times during the term of this Lease workers' compensation insurance, including employers' liability, in an amount not less than \$1,000,000 for each accident, covering all employees employed in or about the Premises to provide statutory benefits as required by the laws of the State of California. Said policy shall be endorsed to provide that the insurer waives all rights of subrogation against Landlord.

10.6 Failure to Procure and Maintain Insurance

If Tenant fails to procure or maintain the insurance required by this Article in full force and effect, this Lease may be terminated immediately by Landlord after providing ten (10) business days' written notice to Tenant to cure, and Tenant fails to do so. In addition, if Tenant fails to procure or maintain the insurance required by this Article, Tenant shall cease and desist from operating any business on the Premises and the improvements erected thereon and shall prevent members of the public from gaining access to the Premises during any period in which such insurance policies are not in full force and effect.

10.7 Waiver of Subrogation

Tenant hereby waives any and all rights of recovery against Landlord, or against the officers, employees, agents and representatives of Landlord, for loss of or damage to Tenant or its property or the property of others under its control to the extent that such loss or damage is insured against under any insurance policy in force at the time of such loss or damages. Tenant shall give notice to its insurance carrier or carriers that the foregoing waiver of subrogation is contained in the Lease.

10.8 Self-Insurance Coverage

Notwithstanding any other provision of this Agreement, the insurance required under Article 10 may include a self-insurance program, subject to Landlord's prior express written consent and approval. No such self-insurance program shall diminish the rights and privileges to which Landlord would otherwise have been entitled to under the terms of this Agreement had there been a third-party insurer.

Tenant's self insurance shall include such coverage as would have been covered by Commercial General Liability Insurance with respect to the Premises with limits of liability not less than Five Million Dollars (\$5,000,000) per occurrence with no aggregate limit. Tenant shall provide Landlord with a certificate of self-insurance specifying the extent of self-insurance coverage hereunder and containing a waiver of subrogation provision reasonably satisfactory to Landlord. Tenant shall notify Landlord in writing not less than thirty (30) days prior to the effective date of the termination of its self-insurance coverage and shall obtain the insurance coverage required by this Article effective on that termination date. Execution of this Lease shall be Tenant's acknowledgment that Tenant will be bound by all laws as if the Tenant were an insurer as defined under California Insurance Code Section 22 (7-1.12B(5)).

ARTICLE 11. PAYMENT OF TAXES

Tenant agrees to pay and discharge, or cause to be paid and discharged when due, before the same become delinquent, all taxes, assessments, impositions, levies and charges of every kind, nature and description, whether general or special, ordinary or extraordinary, which may at any time or from time to time during the term of this Lease, by or according to any law or governmental, legal, political, or other authority whatsoever, directly or indirectly, be taxed, levied, charged, assessed or imposed upon or against, or which shall be or may be or become a lien upon the Premises or any buildings, improvements or structures at any time located thereon, or any estate, right, title or interest of Tenant in and to the Premises, buildings, improvements or structures. Specifically, and without placing any limitation on Tenant's obligations under the immediately preceding sentence, Tenant shall pay when due, before delinquency, any and all possessory interest taxes, parking taxes, workers' compensation, taxes payable to the California Franchise Tax Board, personal property taxes on fixtures, equipment and facilities owned by Tenant, whether or not the same have become so fixed to the land as to comprise a part of the real estate.

Tenant understands that any possessory interest of Tenant created in the Premises by this Lease may be subject to property taxation and that Tenant may be liable for payment of any such tax levied on such interest. Any obligation of Tenant under this Article, including possessory interest tax that the city or county may impose upon Tenant's interest herein, shall not reduce any rent due Landlord hereunder and any such obligation shall become the liability of and be paid by Tenant. In the event Tenant defaults in the payment of any of the obligations set forth in this Article, this Lease may be terminated immediately by Landlord after providing ten (10) business days' written notice to Tenant to cure, and Tenant fails to do so.

ARTICLE 12. RIGHT OF ENTRY

12.1 Inspection, Maintenance, Construction and Operation of Freeway Structures

Landlord, through its agents or representatives, and other city, county, state and federal agencies, through their agents or representatives, shall have full right and authority to enter in and upon the Premises and any building or improvements situated thereon at any and all reasonable times during the term of this Lease for the purpose of inspecting the same without interference or hindrance by Tenant, its agents or representatives.

Landlord further reserves the right of entry for the purpose of inspecting the Premises, or the doing of any and all acts necessary or proper on said Premises in connection with the protection, maintenance, reconstruction, and operation of the freeway structures and its appurtenances; provided, further, that Landlord reserves the further right, at its discretion, to immediate possession of the same in case of any national or other emergency, or for the purpose of preventing sabotage, and for the protection of said freeway structures, in which event the term of this Lease shall be extended for a period equal to the emergency occupancy by Landlord, and during said period Tenant shall be relieved, to the degree of interference, from the performance of conditions or covenants specified herein. Landlord further reserves the right of entry by any authorized officer, engineer, employee, contractor or agent of the Landlord for the purpose of performing any maintenance activities upon the property which Tenant has failed to perform after the expiration of the applicable cure period specified in Article 9.

12.2 Future Transportation Projects

(a) Landlord's Right to Possession of Premises.

Tenant understands and acknowledges that Landlord may, during the Term of this Lease, construct an "Approved and Funded Transportation Project", which may require the temporary or permanent use of all or a portion of the Premises. An "Approved and Funded Transportation Project" is defined as a proposed transportation facility to be constructed by Landlord that has been environmentally cleared, has all necessary permits or approvals, where the funds necessary to construct the facility have been authorized and are available to Landlord (regardless of the source of the funds) and where Landlord after consideration of all of the available sites, has reasonably determined that the transportation facility requires the use of all or a portion of the Premises, and where construction of the transportation facility can reasonably be expected to be commenced within one hundred eighty (180) days following termination of this Lease as provided in this Article.

In the event Landlord determines that the Premises or any portion thereof will be affected by an "Approved and Funded Transportation Project", Landlord shall immediately notify Tenant of its intent to take possession of all or a portion of the Premises and shall provide Tenant with at least one hundred eighty (180) days written notice within which to vacate the required area. Landlord's notice to Tenant shall indicate the area of the Premises to be taken. If possession is to be a temporary use of all or part of the Premises, Landlord shall additionally state in such notice to Tenant Landlord's reasonable estimate of the period of time of such temporary use by Landlord. If possession is to be a permanent use of all or a portion of the Premises, Landlord shall additionally state in such notice the extent of the permanent use and shall have the right to modify the Lease to reflect the newly defined Premises, and if the entire Premises is affected, Landlord shall have the right to terminate the Lease. Upon the date Landlord is entitled to possession of the Premises, or portion thereof, Tenant shall peaceably surrender possession of the Premises, or portion thereof, and comply with the restriction as stated in the notice. The failure

of Tenant to vacate the required area of the Premises shall constitute a material default and breach of this Lease entitling Landlord to exercise its rights and remedies.

(b) Reduction of Monthly Rent if Lease Remains Effective

For the period during which Landlord has taken possession of the Premises under this section, and if this Lease remains effective, Tenant shall be entitled to receive a reduction in Monthly Rent for the term of Landlord's use of the area of the Premises used by Landlord. The rent will be reduced by the same percentage as the useable square footage reduction as required by State's project.

(c) Tenant's Sole Rights; Tenant's Waiver.

Landlord's taking of possession of the Premises under this Section 12.2 does not constitute a taking or damaging entitling Tenant to compensation under any Condemnation provisions. The reduction in Monthly Rent as provided herein shall be Tenant's sole remedy against Landlord for Tenant's inability to possess or use part or all of the area of the Premises as a result of an "Approved and Funded Transportation Project." Tenant expressly agrees to hold Landlord harmless from any and all liability for, and expressly waives any right it may have to recover against Landlord, damages to the Premises, any improvements constructed on the Premises or improvements thereon, and damages to any other property, project or operations including any claim for loss of business goodwill or resulting from Tenant's inability to use or possess all or any portion of the Premises as a result of an "Approved and Funded Transportation Project". In addition, Tenant expressly recognizes that it is not entitled to receive benefits under the federal or state Uniform Relocation Assistance Act (United States Code, Section 7260, et seq.) as a result of Landlord's use or possession of any portion of the Premises an "Approved and Funded Transportation Project". Landlord agrees to instruct its authorized representatives to minimize the effect of any required construction on Tenant's use of the Premises, both in the construction phase and in the permanent effect on the Premises in connection with an "Approved and Funded Transportation Project". Landlord agrees that, if possible, it will minimize the effect of any required construction on Tenant's use of the Premises, both in the construction phase and in the permanent effect on the Premises in connection with an "Approved and Funded Transportation Project" and will restore the Premises and Tenant's improvements to their pre-exiting condition at no cost to Tenant in the event that Landlord requires the temporary use of all or a portion of the Premises.

12.3 Maintenance Work and Retrofitting of Freeway Structures

Tenant understands and agrees that Landlord may be required to perform maintenance or retrofit work on all or a part of the freeway structures that are situated on and above the Premises. Landlord shall have the right to impose such restrictions on Tenant's right to enter, occupy, and use the Premises and to maintain the existing improvements or construct improvements thereon as Landlord deems are necessary to enable it to complete construction of all freeway maintenance or structural retrofit work without interference from Tenant.

In the event Landlord determines that it needs to obtain possession of all or a portion of the Premises, or needs to place restrictions on Tenant's use of the Premises, Landlord shall, if possible, at least thirty (30) days prior to the effective date of the commencement of such possession or restrictions notify Tenant in writing describing the extent of the possession or restrictions and the effective date of their commencement. Upon the effective date of said notice, Tenant shall peaceably surrender possession of the Premises and comply with the restrictions as stated therein. The Monthly Rent stated in Section 4.1, as adjusted in Section 4.2, shall be reduced by an amount equal to the proportion which

the area of the portion of the Premises which Tenant is restricted from using or which has been surrendered to Landlord bears to the total area of the leased Premises. This reduction in rent shall be Tenant's sole remedy against Landlord for Tenant's inability to possess or use the entire area of the Premises. Tenant expressly agrees to hold Landlord harmless from any and all liability for, and expressly waives any right it may have to recover against Landlord, damages to the Premises, any improvements constructed on the Premises, and waives its right to use or possess any portion of the Premises or improvements thereon, and damages to any other property, project or operation caused by Landlord's possession, imposition of restrictions or Tenant's inability to use or possess all or any portion of the Premises. In addition, Tenant expressly recognizes that it is not entitled to receive benefits under the federal or state Uniform Relocation Assistance Acts (United States Code, title 42, Section 4601, et seq.; California Government Code, Section 7260, et seq.) as a result of Landlord's use or possession of any portion of the Premises.

Tenant shall conduct its operations on the Premises in such a manner so as not to interfere with Landlord's or its contractor's performance of any structural retrofit work done on or above the Premises. Tenant acknowledges that the performance of the structural retrofit work may cause damage to paving or other improvements constructed by Tenant on the Premises. Tenant expressly agrees to hold Landlord harmless from all such damage to its improvements, except that at the conclusion of the retrofit work, Landlord shall restore the Premises to their preexisting condition at no cost to Tenant.

12.4 Reinstitution of Lease.

If Landlord takes possession of all or a portion of the Premises in accordance with the preceding provisions of this Article 12, Landlord shall notify Tenant that Landlord has completed the use or work requiring such repossession within thirty days after Landlord completes such use or work, and if requested by Tenant in writing within ninety days thereafter, either (i) in the case of a partial repossession by Landlord, Tenant shall be entitled to lease the entire Premises (i.e., the initial Premises leased before Landlord's repossession) and pay the corresponding minimum monthly rent for the remainder of the Lease term and (ii) in the case of a total repossession by Landlord and termination of the Lease, Landlord shall enter into a new lease with Tenant with respect to the entire Premises with substantially the same terms and conditions as set forth in this Lease (except that the expiration date of the new lease shall be extended one day for each day between the date of Landlord's repossession and the commencement date of the new lease, which shall be Landlord's only obligation to Tenant in the case it repossesses all of the Premises).

ARTICLE 13. CONDEMNATION BY PUBLIC ENTITIES OTHER THAN LANDLORD

13.1 Definitions

(a) "Condemnation" means (1) the exercise of the power of eminent domain, whether by legal proceedings or otherwise, by a public entity having that power, that is, a condemnor, and (2) a voluntary sale or transfer to any condemnor, either under the threat of condemnation or while legal proceedings in condemnation are pending.

(b) "Award" means all compensation, sums, or anything of value awarded, paid or received upon a total or partial condemnation of the leased Premises.

(c) "Substantial taking" means a taking of a portion of the leased Premises by condemnation which, assuming a reasonable amount of reconstruction on the remainder, substantially impairs Tenant's ability to use the remainder for the purposes permitted under this Lease.

13.2 Termination of Lease as to Part Condemned

In the event the whole or any part of the Premises is taken by condemnation by a public entity, other than Landlord, in the lawful exercise of its power of eminent domain, this Lease shall cease as to the whole or the part condemned upon the date possession of the whole or that part is taken by the public entity.

13.3 Partial Taking

If a part of the leased Premises is taken by condemnation but there is no substantial taking of the Premises, Tenant shall continue to be bound by the terms, covenants, and conditions of this Lease. However, if the fair rental value of the remainder will be less than the rent required by this Lease, the Monthly Rent shall be reduced to an amount equal to the fair rental value as of the date possession of the part is taken by the public entity.

If the part taken by condemnation constitutes a substantial taking of the leased Premises, Tenant may elect to:

(a) Terminate this Lease and be absolved of obligations hereunder which have not accrued at the date possession is taken by the public entity; or

(b) Continue to occupy the remainder of the Premises and remain bound by the terms, covenants and conditions of this Lease. If Tenant elects to continue to occupy the remainder, and if the fair rental value of the remainder will be less than the rent required by this Lease, the Monthly Rent shall be reduced to the fair rental value as of the date possession of the part is taken by the public entity.

Tenant shall give notice in writing of its election to terminate this Lease hereunder within thirty (30) days of the date possession of the part is taken by the public entity. If Tenant fails to give Landlord its written notice of termination within the time specified, this Lease shall remain in full force and effect except that the Monthly Rental shall be reduced as provided in this section.

If it continues to occupy the remainder, Tenant, whether or not the award upon the taking by condemnation is sufficient for the purpose, shall, at its expense, within a reasonable period of time, commence and complete restoration of the remainder of the leased premises as nearly as possible to its value, condition and character immediately prior to such taking; provided, however, that in the case of a taking for temporary use, Tenant shall not be required to effect restoration until such taking is terminated. Tenant shall submit to Landlord its plans for the restoration of the remainder within ninety (90) days of the date possession of the part is taken by the public entity.

13.4 Adjustment of Rent

Should a portion of the Premises be condemned and the rent be reduced as provided above, the reduced rent shall continue to be subject to adjustment and reevaluation in accordance with Article 4.

13.5 Compensation

Landlord shall be entitled to receive and shall receive all compensation for the condemnation of all or any portion of the Premises by exercise of eminent domain except as hereinafter provided. Tenant shall be entitled to that portion of said compensation which represents the present worth as of the date possession is taken by the public entity of the remaining use under the Lease of all improvements constructed by Tenant on the leased Premises located within the part taken by the public entity. Tenant may also assert a claim for loss of business goodwill under the provisions of Section 1263.510 of the

California Code of Civil Procedure. Tenant shall assert no claim for loss of bonus value. For the purposes of this Article, "condemnation bonus value" means that value attributable to the fact that the rental rate Tenant is obligated to pay under this Lease is less than the fair market lease rate of the Premises as defined in Article 4 above.

If all or a portion of the leased Premises is condemned at a time when Tenant possesses an interest in real property located outside the leased Premises (hereinafter called "outside property"), Tenant may claim entitlement to an award of damages accruing to the outside property by reason of the severance therefrom of the condemned portion of the leased Premises as provided in the Eminent Domain Law (California Code of Civil Procedure Sections 1230.010 through 1273.050).

ARTICLE 14. UTILITIES

Tenant shall pay when due, and shall hold Landlord harmless from any liability for, all charges for water, gas, heat, light, power, telephone, sewage, air conditioning and ventilating, scavenger, janitorial and landscaping services and all other materials and utilities supplied to the Premises. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service furnished to the Premises, and no such failure or interruption shall entitle Tenant to terminate this Lease.

ARTICLE 15. DEFAULT

15.1 Default

The occurrence of any of the following shall constitute a material breach and default of this Lease by Tenant.

(a) Any failure by Tenant to pay rent or any other monetary sums required to be paid hereunder, where such failure continues for ten (10) days after written notice thereof has been given by Landlord to Tenant.

(b) The abandonment or vacation of the Premises by Tenant. Failure to occupy and operate the Premises for thirty (30) consecutive days following the mailing of written notice from Landlord to Tenant calling attention to the abandonment shall be deemed an abandonment or vacation.

(c) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets, where possession is not restored to Tenant within forty-five (45) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets, where such seizure is not discharged within thirty (30) days.

(d) The failure by Tenant to comply with any provision of any law, statute, zoning restriction, ordinance or governmental rule, regulation or requirement as set forth in Section 5.3 of this Lease.

(e) [omitted].

(f) The failure by Tenant to comply with the requirements regarding hazardous materials as set forth in Article 5 of this Lease.

(g) The construction by Tenant of any improvements on the Premises contrary to the provisions of Article 6 of this Lease.

(h) The failure by Tenant to pay any tax, assessment, imposition, levy or charge of any kind as set forth in Article 11 of this Lease.

(i) The failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such default is such that it cannot be reasonably cured within such thirty (30) day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

15.2 Landlord's Remedies

In the event of any material default or breach by Tenant, Landlord may at any time thereafter, without limiting Landlord in the exercise of any right of remedy at law or in equity which Landlord may have by reason of such default or breach, terminate Tenant's right to possession by any lawful means, in which case this Lease shall immediately terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the following:

(a) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

(b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus

(c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that is proved could be reasonably avoided; plus

(d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom; plus

(e) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable State law. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which Landlord in its sole discretion deems reasonable and necessary. As used in subparagraphs (a) and (b), above, the "worth at the time of award" is computed by including interest on the principal sum at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco from the date of default. As used in subparagraph (c), above, the "worth at the time of award" is computed by discounting such amount at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco at the time of award. The term "rent" as used in this Article shall be deemed to be and to mean rent to be paid pursuant to Article 4 and all other monetary sums required to be paid by Tenant pursuant to the terms of this Lease.

15.3 Late Charges

Tenant hereby acknowledges that late payment by Tenant to Landlord of rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any installment of rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within ten (10) days after such amount shall be due, a late charge equal to one and one-half percent (1.5%) of the payment due and unpaid plus \$100.00 shall be added to the payment, and the total sum shall become immediately due and payable to Landlord. An additional charge of one and one-half percent (1.5%) of such payment, excluding late charges, shall be added for each additional month that such payment remains unpaid. Landlord shall apply any monies received from Tenant first to any accrued delinquency charges and then to any other payments due under the Lease. The parties hereby agree that such late charges represent a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charges by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

15.4 Landlord's Right to Cure Tenant's Default

At any time after Tenant is in default or material breach of this Lease, Landlord may cure such default or breach at Tenant's cost. If Landlord at any time, by reason of such default or breach, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date shall bear interest as provided in Section 19.11 from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant. The sum, together with interest on it, shall be additional rent.

ARTICLE 16. ASSIGNMENTS, TRANSFERS, SUBLEASES AND ENCUMBRANCES

16.1 [omitted]

16.2 Voluntary Assignments and Subleases for Mass Transit Uses

Tenant shall not voluntarily assign or transfer all or any part of its interest in this Lease or in the Premises, or sublet all or any part of the Premises, or allow any other person or entity (except Tenant's authorized representatives) to occupy or use all or any part of the Premises without first obtaining Landlord's written consent and the concurrence of the Federal Highway Administration.

Notwithstanding the foregoing, Landlord acknowledges that Tenant intends to sublease the entire Premises to the Alameda-Contra Costa Transit District (AC Transit) for the same use as specified in Section 5.1. Landlord consents to the sublease subject to Tenant satisfying the following express conditions:

(a) Landlord receives compensation from Tenant upon the assignment, transfer, sale or sublease of any of Tenant's rights in the Premises per the provisions of Article 4.3.

(b) [omitted].

Except as expressly provided herein, Tenant's failure to obtain Landlord's required written approval prior to any assignment, transfer or sublease shall render such assignment, transfer or sublease void. Occupancy of the Premises by a prospective transferee, subtenant or assignee before approval of the transfer, sublease or assignment by Landlord shall constitute a breach of this Lease. Landlord's

consent to any assignment, transfer or sublease shall not constitute a waiver of any of the terms, covenants or conditions of this Lease. Such terms, covenants and conditions shall apply to each and every assignment, sublease and transfer of rights under this Lease and shall be severally binding upon each and every party thereto. Any document to transfer, sublet, or assign the Premises or any part thereof shall incorporate directly or by reference all the provisions of this Lease.

16.3 Voluntary Subleases for Non-Mass Transit Uses

Tenant shall not voluntarily sublease any part of its interest in this Lease or in the Premises, or allow any other person or entity (except Tenant's authorized representatives) to occupy or use all or any part of the Premises without first obtaining Landlord's written consent and the concurrence of the Federal Highway Administration.

Landlord may, with the approval of the California Transportation Commission, elect to consent to any such sublease if all of the following express conditions are satisfied:

(a) The proposed subtenant is the successful high bidder through a public auction with written auction rules to be pre-approved by Landlord.

(b) The prospective subtenant completes a Lease Application and meets all of the requirements for eligibility to lease from the State of California.

(c) Per the provisions of Section 4.3, all sublease compensation collected by Tenant from Subtenant shall be considered additional rent for Tenant's possession of the Premises that is the subject of this Lease, and such compensation shall be paid monthly in full to Landlord in addition to and together with the rent amount described in Article 4 herein.

(d) Tenant provides the negotiated sublease agreement to Landlord

(e) The California Transportation Commission votes to authorize Landlord to consent to the proposed sublease proposal.

Tenant's failure to obtain Landlord's required written approval (which also requires CTC approval) prior to any sublease shall render such sublease void. Occupancy of the Premises by a prospective subtenant before approval of the sublease by Landlord and the CTC shall constitute a breach of this Lease. Landlord's consent to any sublease shall not constitute a waiver of any of the terms, covenants or conditions of this Lease. Such terms, covenants and conditions shall apply to each and every sublease and transfer of rights under this Lease and shall be severally binding upon each and every party thereto. Any document to sublet the Premises or any part thereof shall incorporate directly or by reference all the provisions of this Lease.

16.4 Assignment of Rent from Subtenants

Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any subletting of all or a part of the Premises as permitted by this Lease, and Landlord, as assignee and attorney-in-fact for Tenant, or a receiver for Tenant appointed on Landlord's application, may collect such rent and apply it toward Tenant's obligations under this Lease; except that, until the occurrence of an act of default by Tenant, Tenant shall have the right to collect such rent.

16.5 Information to be Supplied to Landlord

Tenant shall supply Landlord with all information Landlord determines to be necessary on all persons or firms to which Tenant proposes to sublet any of its interest in the Premises, or which might

establish rights to enter, control, or otherwise encumber the Premises by reason of any agreement made by Tenant. In addition, with respect to any proposed sublease, Tenant shall provide Landlord with:

- (a) a copy of all documents relating thereto,
- (b) a statement of all terms and conditions of said transaction, including the consideration therefor, and
- (c) a copy of the financial statement of the prospective subtenant.
- (d) a copy of all documents showing compliance by the prospective subtenant with all of the bid eligibility requirements contained in the bid package.

16.6 Encumbrances

Tenant shall not encumber the Premises in any manner whatsoever.

ARTICLE 17. NONDISCRIMINATION

Tenant, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person, on the ground of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in the use of said facilities, (2) in connection with the construction of any improvements on said land and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors, (3) such discrimination shall not be practiced against the public in its access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed or operated on, over, or under the Premises, and (4) Tenant shall use the land in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21 (49 C.F.R., Part 21) and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the Landlord shall have the right to terminate this Lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

ARTICLE 18. SECURITY DEPOSIT

Concurrently with Tenant's execution of this Lease, Tenant shall deposit with Landlord the sum of \$ 0.00 as a Security Deposit. Said sum shall be held by Landlord as a Security Deposit for the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease to be kept and performed by Tenant during the term hereof. If Tenant defaults with respect to any provision of this Lease, including but not limited to the provisions relating to the payment of rent and any of the monetary sums due herewith, Landlord may use, apply or retain all or any part of this Security Deposit for the payment of any other amount which Landlord may spend by reason of Tenant's default or use it to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of said Deposit is so used or applied, Tenant shall within ten (10) days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount; Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep this Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant at the expiration of the Lease term and after Tenant has vacated the Premises.

ARTICLE 19. ADDITIONAL PROVISIONS

19.1 Quiet Enjoyment

Landlord covenants and agrees with Tenant that upon Tenant paying rent and other monetary sums due under the Lease and performing its covenants and conditions, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the term.

19.2 Captions, Attachments, Defined Terms

The captions of the Articles of this Lease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Lease. Exhibits attached hereto, and addenda and schedules initiated by the parties, are deemed by attachment to constitute part of this Lease and are incorporated herein. The words "Landlord" and "Tenant," as used herein, shall include the plural as well as the singular. Words used in neuter gender include the masculine and feminine and words in the masculine or feminine gender include the neuter. If there be more than one Landlord or Tenant, the obligations hereunder imposed upon Landlord or Tenant shall be joint and several. If the Tenants are husband and wife, the obligations shall extend individually to their sole and separate property as well as to their community property.

19.3 Entire Agreement

This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Landlord and Tenant relative to the Premises and this agreement and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. Landlord and Tenant agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents and representatives relative to the leasing of the Premises are merged in or revoked by this agreement.

19.4 Severability

If any terms or provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

19.5 Costs of Suit

If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of rent or possession of the Premises, the losing party shall pay the successful party a reasonable sum for attorney's fees which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Should Landlord, without fault on Landlord's part, be made a party to any litigation instituted by Tenant or by any third party against Tenant, or by or against any person holding under or using the Premises by license of Tenant, or for the foreclosure of any lien for labor or materials furnished to or for Tenant or any such other person or otherwise arising out of or resulting from any act or transaction of Tenant or of any such other person, Tenant shall save and hold Landlord harmless from any judgment rendered against Landlord or the Premises or any part thereof,

and all costs and expenses, including reasonable attorney's fees, incurred by Landlord in connection with such litigation.

19.6 Time, Joint and Several Liability

Time is of the essence of this Lease and each and every provision hereof, except as to the conditions relating to the delivery of possession of the Premises to Tenant. All the terms, covenants and conditions contained in this Lease to be performed by either party if such party shall consist of more than one person or organization, shall be deemed to be joint and several, and all rights and remedies of the parties shall be cumulative and non-exclusive of any other remedy at law or in equity.

19.7 Binding Effect; Choice of Law

The parties hereto agree that all the provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate section hereof; and all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Lease shall be governed by the laws of the State of California.

19.8 Waiver

No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed and any waiver or the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Acceptance by Landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any covenant, term or condition. Acceptance by Landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Landlord in writing.

19.9 Surrender of Premises

The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of the Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies.

19.10 Holding Over

If Tenant remains in possession of all or any part of the Premises after the expiration of the term hereof, with or without the express or implied consent of Landlord, such tenancy shall be from month to month only and not a renewal hereof or an extension for any further term, and in such case, rent and other monetary sums due hereunder shall be payable at the time specified in this Lease and such month-to-month tenancy shall be subject to every other term, covenant, condition and agreement contained herein, except that the Monthly Rental Rate set forth in Section 4.1 may be increased by Landlord effective the first month of the holdover period, or upon 30 days notice any time thereafter.

19.11 Interest on Past Due Obligations

Except as expressly herein provided, any amount due to Landlord not paid when due shall bear interest at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco from the due date. Payment of such interest together with the amount due shall excuse or cure any default by Tenant under this Lease.

19.12 Recording

Neither Landlord nor Tenant shall record this Lease.

19.13 Notices

All notices or demands of any kind required or desired to be given by Landlord or Tenant hereunder shall be in writing and shall be deemed delivered forty-eight (48) hours after depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the Landlord or Tenant respectively at the addresses set forth in Article 1.

19.14 No Reservation

Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease; it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

19.15 Corporate Authority


If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the Bylaws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Tenant is a corporation, Tenant shall, within thirty (30) days after execution of this Lease, deliver to Landlord a certified copy of resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Lease.

19.16 Force Majeure

If either Landlord or Tenant shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, governmental restrictions, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this Lease) or other cause without fault and beyond the control of the party obligated (except financial inability), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Nothing in this clause shall excuse Tenant from prompt payment of any taxes, insurance or any other charge required of Tenant, except as may be expressly provided in this Lease.

In Witness Whereof Landlord and Tenant have executed this Lease as of the dates set forth below and the Execution Date is as of the date first written above.

LANDLORD: STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Dated: 5/1/2017 By: 
LINDA EMADZADEH,
District Office Chief
R/W Local Programs, Utilities, and Airspace

TENANT: TRANSBAY JOINT POWERS AUTHORITY


Dated: 4/29/2017 By: 
MARK ZABANEH
Executive Director

EXHIBIT A

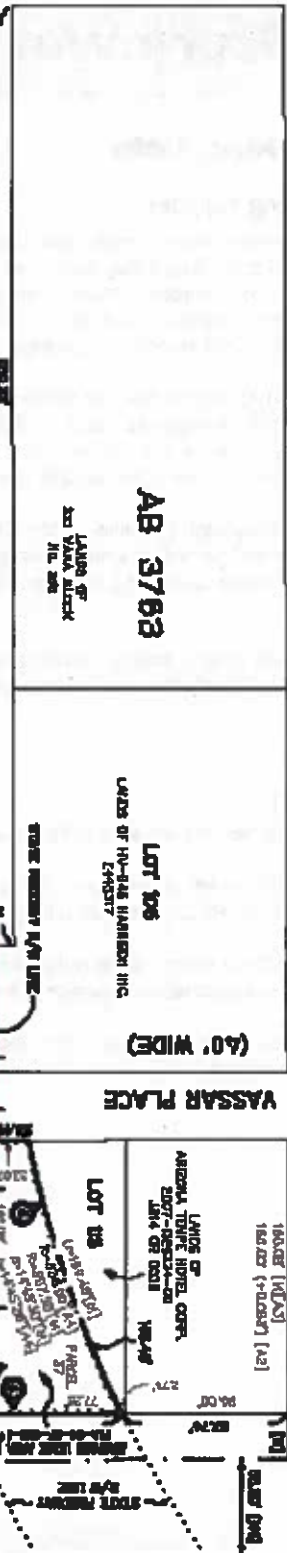
SF-BT-04
Between 2nd and 3rd Streets and Perry and Stillman Streets



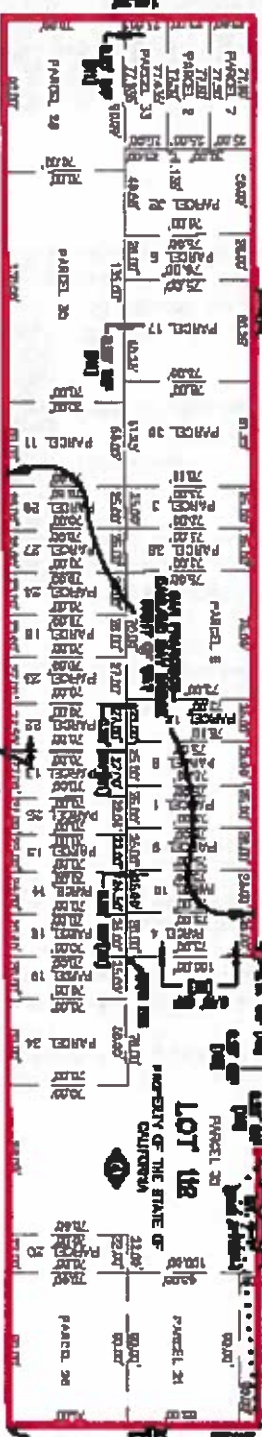
Premises western limit extends to the east side of the freeway columns depicted by red line (as delineated on the ground by the existing fence).

From 2nd St. looking south by Stillman St.

HARRISON STREET (82.50' WIDE)



THIRD STREET (82.50' WIDE)

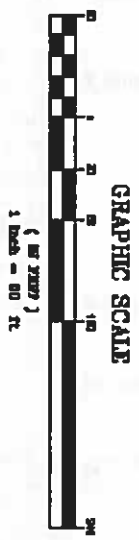


STILLMAN STREET (80' WIDE)

SECOND STREET (82.50' WIDE)



Gross Area.....120,941 SF
 Area of Columns.....1,841 SF
 Net Area.....119,100 SF



Stormwater Pollution Prevention

Parking Lots

Leaking Vehicles

Clean parking lots on a regular basis to prevent accumulated wastes and pollutants from being discharged into storm drain systems during rainy conditions. When cleaning heavy oily deposits, use absorbent materials on oily spots prior to sweeping or washing. Dispose of used absorbents appropriately.

Allow sheet runoff to flow into biofilters (vegetated strip and swale) and/or infiltration devices. Utilize sand filters or oleophilic collectors for oily waste in low concentrations. Clean out oil/water/sand separators regularly, especially after heavy storms.

Have designated personnel conduct inspections of the parking facilities and storm drain systems associated with them on a regular basis. Inspect cleaning equipment/sweepers for leaks on a regular basis.

Have spill cleanup materials readily available and in a known location. Cleanup spills immediately and use dry methods if possible. Properly dispose of spill cleanup material.



Trash

- Post "No Littering" signs and enforce anti-litter laws.
- Provide trash receptacles in parking lots to discourage litter. Clean out and cover trash receptacles frequently to prevent spillage. Regularly inspect, repair, and/or replace trash receptacles.
- Routinely sweep, shovel and dispose of litter in the trash. Remove litter and debris from drainage grates, trash racks and ditch lines to reduce discharge to the storm water drainage systems and watercourses.
- Provide regular training to field employees and/or contractors regarding cleaning of paved areas and proper operation of equipment.



Stormwater Pollution Prevention

Vehicle or Equipment Storage

Oil Leaks

Place drip pans under leaking vehicles. Drain all vehicles in long-term storage. Clean storage facilities on a regular basis to prevent accumulated wastes and pollutants from being discharged into conveyance systems during rainy conditions. When cleaning heavy oily deposits, use absorbent materials on oily spots prior to sweeping or washing. Dispose of used absorbents appropriately.

Use dry cleaning methods as much as possible. When wet cleaning methods are necessary, storm drains should be blocked and the wash water should be collected and pumped to the sanitary sewer or discharged to a pervious surface. After cleaning, remove blocks from storm drains. Wash water should not be allowed to enter the storm drains. Do not discharge wash water to the sanitary sewer before contacting the local sewer authority.

Train employees on proper spill containment and cleanup. Have spill cleanup materials readily available and in a known location. Cleanup spills immediately using dry methods if possible. Properly dispose of spill cleanup material. Designate personnel to conduct inspections of the facility and stormwater conveyance systems associated with them. Inspect cleaning equipment/sweepers for leaks on a regular basis.



Allow sheet runoff to flow into biofilters (vegetated strip and swale) and/or infiltration devices. Utilize sand filters or oleophilic collectors for oily waste in low concentrations. Clean out oil/water/sand separators regularly, especially after heavy storms.

Caked Dirt on Tires

- Conduct regular cleaning. Sweeping or vacuuming the storage facility is encouraged over wet cleaning methods. Sweep all storage lots at least once before the onset of the wet season. Establish frequency of sweeping based on usage and field observations of sediment accumulation.



- Washing or rinsing of equipment shall be performed in designated areas and the resulting runoff shall not be discharged to the storm drain system.
- Train employees on appropriate Best Management Practices, storm water discharge prohibitions, and wastewater discharge requirements.



BUS STORAGE FACILITY SUBLEASE

The TRANSBAY JOINT POWERS AUTHORITY (“Landlord”) and ALAMEDA-CONTRA COSTA TRANSIT DISTRICT (“Tenant”) enter into this Bus Storage Facility Sublease (“Sublease”) effective May __, 2017 (“Execution Date”). Landlord and Tenant are each a “party” and collectively “the parties.”

RECITALS

- A. Landlord is developing the Transbay Transit Center Program (“Transbay Program”).
- B. Tenant provides bus services between Alameda and Contra Costa counties and the City and County of San Francisco under Public Utilities Code sections 25801 et seq.
- C. Landlord and Tenant entered into the Lease and Use Agreement dated September 10, 2008, for Tenant’s use of the Temporary Transbay Terminal and the new Transbay Transit Center (“Transit Center”) and related structures, including bus storage facilities (“Lease and Use Agreement”).
- D. As part of the Transbay Program, Landlord will design and build a bus ramp dedicated to vehicles accessing the Transit Center from the San Francisco-Oakland Bay Bridge (“Bus Ramp”) and will design and build for Tenant a parking and staging facility for Tenant’s public mass transit vehicles operating through the Transit Center, including administrative offices, bus driver rest area, and incidental automobile parking at Second, Stillman, Third and Perry Streets in San Francisco (“Bus Storage Facility”) in accordance with design plans and specifications for the Transbay Transit Center Program Bus Storage Project Contract No. 17-05-BSF-000 (“Bus Storage Facility Contract”).
- E. On _____, 2017, Landlord and the State of California, acting by and through its Department of Transportation (“State”), entered into an Airspace Lease (“Airspace Lease”) under which the State agreed to lease the premises for the Bus Storage Facility, Caltrans Lease Area No. 04-SF-BT-04 (“Premises”) to Landlord for 25 years.
- F. Landlord and Tenant intend to enter into this Sublease to supersede and replace the provisions of the Lease and Use Agreement applicable to the Premises, the construction of the Bus Storage Facility, and Tenant’s operation and maintenance of the Bus Storage Facility, with the sole exception of Section 4.2F of the Lease and Use Agreement.
- G. Under this Sublease, Tenant will operate and maintain the Bus Storage Facility for, among other things, the promotion, accommodation, and development of regional and intercity bus and commuter transportation and commerce.
- H. Landlord must recover from tenant Landlord’s costs to lease the Premises from the State under the Airspace Lease.
- I. Landlord has the full power and authority to sublease the Bus Storage Facility to Tenant under Sections 4.5 and 16.2 of the Airspace Lease.
- J. Tenant has the full power and authority to lease property related to its transit operations and has full power and authority to enter this Sublease.

K. Landlord and Tenant agree that in consideration of the rental and of the covenants and agreements hereinafter set forth to be kept and performed by the Tenant, Landlord hereby Subleases to Tenant and Tenant hereby Subleases from Landlord the Premises for the Term as defined below, at the rental and subject to and upon all of the terms, covenants, and agreements hereinafter set forth.

ARTICLE 1. SUMMARY OF SUBLEASE PROVISIONS

Landlord: Transbay Joint Powers Authority

Tenant: Alameda-Contra Costa Transit District

Premises: Caltrans Sublease Area No. 04-SF-BT-04 (Caltrans Account No. 04-A70001-04-24) located in the City and County of San Francisco, State of California, more particularly described in Article 2.

Sublease Term: Approximately 25 Years, commencing on the date Tenant takes possession of the Bus Storage Facility from Landlord (Section 3.1) and ending 25 years after the "Airspace Lease Commencement Date" (Article 3 of Airspace Lease), which shall be the earlier of: (1) the date of the issuance of the Caltrans Encroachment Permit permitting Landlord's commencement of construction of the Bus Storage Facility; or (2) the date that Landlord takes possession of the Premises from the State thereby requiring the State's existing public parking tenant to vacate the Premises (Article 3 of Sublease).

Monthly Rent: \$ 24,160 (119,300 sf x \$1.35 per month x 85% discount) subject to Landlord's payment of rent until the Sublease Commencement Date, and subject to an annual escalation (Article 4)

Security Deposit: \$ 0.00 (Article 18)

Use: Parking and staging facility constructed by the TJPA on the Premises in accordance with the Bus Storage Facility Contract for Tenant's public mass transit vehicles operating through the Transit Center, including administrative offices, bus driver rest area, and incidental automobile parking associated with same (Article 5) ("Bus Storage Facility")

Comprehensive General Liability Insurance: \$5,000,000. (Article 10)

Insurance provider: _____.

Policy number: _____.

Business Automobile Liability Insurance: \$1,000,000. (Article 10)

Insurance provider: _____.

Policy number: _____.

Workers' Compensation Insurance: \$1,000,000. (Article 10)

Insurance provider: _____.

Policy number: _____.

Addresses for Notices: (Article 19)

To Landlord:

Transbay Joint Powers Authority
201 Mission Street, Suite 2100

San Francisco, CA 94105
c/o Executive Director
Email: MZabaneh@TransbayCenter.org Phone: 415-597-4620

To Tenant:

Alameda-Contra Costa Transit District
1600 Franklin Street
Oakland, CA 94612
c/o General Manager
Email: Mhursh@actransit.org Phone: 510-891-4777

References in this Article 1 to the other Articles are for convenience and designate other Articles where references to the particular item contained in the Summary of Sublease Provisions appear. Each reference in this Sublease to the Summary of Sublease Provisions contained in this Article 1 shall be construed to incorporate all of the terms provided under the Summary of Sublease Provisions. In the event of any conflict between the Summary of Sublease Provisions and the balance of the Sublease, the latter shall control.

ARTICLE 2. PREMISES AND BUS STORAGE FACILITY

2.1 Premises

Landlord hereby Subleases to Tenant, and Tenant hereby Subleases from Landlord, for the term, at the rent, and upon the covenants and conditions hereinafter set forth, that certain premises with an approximate area of 119,300 sf known generally as Freeway Sublease Area No. 04-SF-BT-04, situated under the Bay Bridge West Approach SF-80 elevated freeway structure ("Freeway Structure") between 2nd and 3rd Streets in the City and County of San Francisco ("Premises"), said land or interest therein being shown on the map marked "Exhibit A," attached hereto and by this reference made a part hereof.

EXCEPTING THEREFROM all those portions of the above-described Premises occupied by the supports and foundations of the Freeway Structure and any lighting structures and irrigation facilities existing on, in, or under the Premises on the Airspace Lease Commencement Date.

ALSO EXCEPTING THEREFROM all that portion of the Premises above a horizontal plane 5 feet below the underside of the superstructure of the Freeway Structure, which plane extends to a line 10 feet, measured horizontally, beyond the outermost protrusion of the superstructure of the Freeway Structure.

ALSO EXCEPTING THEREFROM the "Bus Ramp Access" roadway structure shown in Exhibit D for access for Tenant's buses and the buses of other common carriers to and from the TJPA's Bus Ramp connecting the Transit Center to the San Francisco-Oakland Bay Bridge. Access and use of the Bus Ramp Access is addressed in the Lease and Use Agreement.

The portion of the Premises subleased to Tenant shall be defined as "the Subleased Premises."

2.2 Bus Storage Facility

The Bus Storage Facility shall include the Subleased Premises and all improvements constructed by the TJPA on the Subleased Premises under the Bus Storage Facility Contract (with the

exception of the Bus Ramp Access) and any other improvements constructed on the Subleased Premises by the Parties after the Sublease Commencement Date.

ARTICLE 3. SUBLEASE COMMENCEMENT DATE AND TERM

3.1 Tenant Possession

Tenant shall take possession of the Bus Storage Facility within thirty (30) days after Landlord notifies Tenant that construction of the Bus Storage Facility is complete in accordance with the terms of the Bus Storage Facility Contract (“Completion Date”).

Tenant shall give written notice to Landlord and the State of the date that Tenant takes possession of the Bus Storage Facility (“Sublease Commencement Date”). If Tenant has not taken actual possession of the Bus Storage Facility within thirty (30) days after Landlord has given the notice under this Section 3.1, Tenant shall be deemed in possession on the 30th day after the date on which Landlord gives the notice under this Section 3.1, which shall be deemed the Sublease Commencement Date.

3.2 Term

The term of this Sublease (“Term”) shall begin on the Sublease Commencement Date and continue for the remainder of the term of the Airspace Lease, unless earlier terminated under any other provision of this Sublease. The term of the Airspace Lease is for 25 years beginning on the Airspace Commencement Date as defined in Article 1, which shall be the earlier of (1) the date of the issuance of the Caltrans Encroachment Permit permitting Landlord’s commencement of construction of the Bus Storage Facility; or (2) the date that Landlord takes possession of the Premises from the State thereby requiring the State’s existing public parking tenant to vacate the Premises. This Sublease shall be effective, and the Parties shall be subject to all rights and obligations under this Sublease, on the Sublease Commencement Date. Tenant shall be deemed to be in possession of the Bus Storage Facility, and each part thereof, during the Term. Landlord shall not be deemed to be in possession of the Bus Storage Facility, or any part thereof, during the Term.

ARTICLE 4. RENT

4.1 Monthly Rent

From the Airspace Lease Commencement Date until the Sublease Commencement Date, Landlord shall be responsible for and pay to the State the Monthly Rent as defined below. Tenant shall not be responsible for the Monthly Rent due prior to the Sublease Commencement Date. During the Term, Tenant shall be responsible for, and pay to the State, the Monthly Rent, without deduction, setoff, prior notice, or demand. The “Monthly Rent” shall be \$24,160, representing 119,300 square feet of net rentable area, as shown on Exhibit A, multiplied by \$0.2025/sf per month (“Monthly Rental Rate”), as adjusted annually in accordance with Section 4.2. The Monthly Rental Rate represents the fair market rental rate of \$1.35/sf per month established pursuant to a written appraisal approved by the State (“Fair Market Rental Rate or FMRR”), less an 85% discount, as authorized by the California Transportation Commission at its October 20, 2016 meeting.

Monthly rent for the first month, or portion of it, after the Sublease Commencement Date shall be paid on the Sublease Commencement Date, and shall be due thereafter on the first day of each subsequent month. Monthly Rent for any partial month shall be prorated at the rate of 1/30th of the

Monthly Rent per day. All payments of Monthly Rent shall be sent directly to the State and shall have printed on their face the following tenancy reference number 04-A70001-04-24 and shall be paid to the State at the following address: State of California, Department of Transportation, Attention: Cashier, P. O. Box 168019, Sacramento, CA 95816-8019. Copies of all Monthly Rent payments shall be sent to Landlord at the address in Article 1.

4.2 Annual Rent Adjustment

Beginning one year following the Airspace Lease Commencement Date, and continuing thereafter on each anniversary thereof (“Anniversary Date”), Monthly Rent provided for in Section 4.1 shall be adjusted by a fixed escalation rate of three percent (3%) rounded up or down to the closest \$5. Landlord shall not be required to provide any further notice to Tenant regarding annual rent adjustments during the Term. Table 4.2.1 provides Tenant’s Monthly Rent obligation for the Term.

Table 4.2.1

Airspace Lease Year	Monthly Rent	Airspace Lease Year	Monthly Rent
Year 1	\$24,160.00	Year 14	\$35,475.00
Year 2	\$24,885.00	Year 15	\$36,540.00
Year 3	\$25,630.00	Year 16	\$37,635.00
Year 4	\$26,400.00	Year 17	\$38,765.00
Year 5	\$27,190.00	Year 18	\$39,930.00
Year 6	\$28,005.00	Year 19	\$41,125.00
Year 7	\$28,845.00	Year 20	\$42,360.00
Year 8	\$29,710.00	Year 21	\$43,630.00
Year 9	\$30,600.00	Year 22	\$44,940.00
Year 10	\$31,520.00	Year 23	\$46,290.00
Year 11	\$32,465.00	Year 24	\$47,680.00
Year 12	\$33,440.00	Year 25	\$49,110.00
Year 13	\$34,445.00		

4.3 Landlord's Compensation upon Sublease of Tenant's Leasehold

(a) In the event that Tenant voluntarily subleases any of Tenant's rights in the Bus Storage Facility, the subtenant shall pay to the State compensation in connection with the transaction in an amount equal to 100 percent (100%) of any and all consideration which Tenant is owed by a subtenant that is in excess of the total amount of rent Tenant is obligated to pay to the State under this Sublease for the period corresponding to the rental period for which the consideration is owed by the subtenant. The State shall be paid any compensation due hereunder at the time Tenant is obligated to pay such amount to the State under the Sublease.

(b) Before Landlord gives its consent to any such transaction, Tenant shall deliver to the subtenant a written summary of all sums that will be due and owing to the State under this section and shall deliver to Landlord a written acknowledgement by the subtenant that said person affirms that the sums will be due and owing to the State and that said person accepts responsibility for ensuring that such sums are paid directly to the State.

4.4 Reevaluation on Change in Use

Landlord expressly reserves the right to establish a new Monthly Rent as a condition to Landlord’s approval of any use of the Bus Storage Facility not specifically permitted by Section 5.1 and as a condition to any amendment to or changes in the uses permitted by that section.

4.5 Reevaluation on Transfer

Landlord expressly reserves the right to establish a new Monthly Rent as a condition to Landlord's specific approval of any transfer, or assignment of this Sublease or any subletting of all or any portion of the Bus Storage Facility; provided, however, that Tenant shall have the right from time to time, upon notice to, but without the consent of Landlord, to transfer this Sublease or use and occupancy of all or any of the Bus Storage Facility to any person or entity that directly or indirectly controls, is controlled by or is under common control with Tenant for any or all of the uses permitted under this Sublease without any such new Monthly Rent and without obtaining Landlord's consent.

ARTICLE 5. USE

5.1 Specified Use

The Bus Storage Facility shall be used and occupied by Tenant only and exclusively for the purpose of the Bus Storage Facility (the "Use" as defined in Article 1), and for no other purpose whatsoever without obtaining prior written consent of Landlord, the State, and the concurrence of the Federal Highway Administration ("FHA") Landlord expressly reserves the right to establish a new Monthly Rent as a condition to Landlord's approval of any use of the Bus Storage Facility not specifically permitted by this section.

5.2 Landlord's Construction of Bus Storage Facility and Condition of Bus Storage Facility

(a) Landlord agrees to construct the Bus Storage Facility as provided in the Bus Storage Facility Contract. On the Sublease Commencement Date, Tenant shall take possession of the Bus Storage Facility subject to all applicable zoning, municipal, county, state and federal laws, ordinances and regulations governing and regulating the use of the Bus Storage Facility, and accepts this Sublease and the Bus Storage Facility subject to all matters disclosed thereby and by any exhibits attached to this Sublease. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of the Bus Storage Facility or the suitability thereof for the conduct of Tenant's business, nor has Landlord agreed to undertake any modification, alteration or improvement to the Premises except as provided in the Bus Storage Facility Contract.

(b) Except as may be otherwise expressly provided in this Sublease, Tenant's taking of possession of the Bus Storage Facility on the Sublease Commencement Date shall constitute acknowledgement that the Bus Storage Facility is in good and tenantable condition, and Tenant agrees to accept the Bus Storage Facility in its condition "as is", and that Landlord shall not be obligated to make any additional improvements or modifications thereto, with the sole exception of defects in construction of the Bus Storage Facility required to be repaired under the TJPA's contractors' warranties under the Bus Storage Facility Contract.

(c) As of the Sublease Commencement Date, Tenant represents and acknowledges that it has made a sufficient investigation of the conditions of the Bus Storage Facility existing immediately prior to the Sublease Commencement Date and that the Bus Storage Facility has been constructed in accordance with the Bus Storage Facility Contract, the Bus Storage Facility is fully fit physically and lawfully for the Use, and Tenant accepts all risks associated therewith.

(d) Landlord has informed Tenant that Landlord does not know nor has reasonable cause to believe that any release of any hazardous material has come to be located on or beneath the Bus Storage

Facility. Prior to the Sublease Commencement Date, Landlord shall make available to Tenant, for review and inspection, records in the possession or control of Landlord which might reflect the potential existence of hazardous materials on or beneath the Premises, including, but not limited to, records identified in "Exhibit B" attached hereto. As of the Sublease Commencement Date, Tenant shall acknowledge that (a) Landlord has provided Tenant access to the Bus Storage Facility for a reasonable time and upon reasonable terms and conditions for purposes of providing to Tenant the opportunity to investigate, sample and analyze the soil and groundwater on the Bus Storage Facility for the presence of hazardous materials; (b) except as otherwise may be stated in Exhibit "C", Landlord does not know nor has reasonable cause to believe that any release of hazardous material has come to be located on or beneath the Bus Storage Facility; and (c) with respect to any hazardous material which Landlord knows or has reasonable cause to believe has come or will come to be located on or beneath the Bus Storage Facility, Landlord has listed the hazardous material in records identified in "Exhibit C". The phrase "hazardous material," as used herein, has the same meaning as that phrase has in Section 5.7 of this Sublease.

(e) The conditions of the Bus Storage Facility on the Sublease Commencement Date are accepted by Tenant "as is" under (a) through (d) above and Tenant's operations on the Bus Storage Facility shall be defined as the "Condition of the Bus Storage Facility." Tenant shall hold harmless and indemnify Landlord and the State and provide insurance coverage for Landlord and the State for any claims or damages arising from the Condition of the Bus Storage Facility as provided in Article 10 of this Sublease.

(f) Tenant agrees that, except as otherwise expressly provided in this Sublease, Tenant is solely responsible without any cost or expense to Landlord to take all actions necessary to continuously use the Bus Storage Facility as required by this Sublease and in compliance with all applicable laws and regulations.

(g) California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements. Landlord has advised Tenant that the Premises have NOT been inspected by a CASp.

5.3 Compliance with Law

Tenant shall not use the Bus Storage Facility or permit anything to be done in or about the Bus Storage Facility which will in any way conflict with any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirements of duly constituted public authorities now in force or which may hereafter be in force, or with the requirements of the State Fire Marshal or other similar body now or hereafter constituted, relating to or affecting the condition, use or occupancy of the Bus Storage Facility. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant. Tenant shall not allow the Bus Storage Facility to be used for any unlawful purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Bus Storage Facility. Tenant shall not commit or suffer to be committed any waste in or upon the Bus Storage Facility.

5.4 [omitted]

5.5 Petroleum Products

Tenant shall not install facilities for, nor operate on the Bus Storage Facility, a gasoline or petroleum supply station. Tenant shall not permit on the Bus Storage Facility any vehicles used or designed for the transportation or storage of gasoline or petroleum products. Tenant shall also not permit on the Bus Storage Facility any bulk storage of gasoline or petroleum products.

5.6 Explosives and Flammable Materials

The Bus Storage Facility shall not be used for the manufacture of flammable materials or explosives, or for any storage of flammable materials, explosives or other materials or other purposes deemed by Landlord to be a potential fire or other hazard to the transportation facility. Fuel stored in a motor vehicle for the exclusive use in such vehicle and fuel stored on tow trucks is excepted. The operation and maintenance of the Bus Storage Facility shall be subject to regulations of Landlord and the State so as to protect against fire or other hazard impairing the use, safety and appearance of the transportation facility. The occupancy and use of the Bus Storage Facility shall not be such as will permit hazardous or unreasonably objectionable smoke, fumes, vapors or odors to rise above the surface of the traveled way of the transportation facility.

5.7 Hazardous Materials

Tenant shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations, including, but not limited to, the Federal Water Pollution Control Act (33 U.S.C. section 1251, et seq.), Resource Conservation and Recovery Act (42 U.S.C. section 6901, et seq.), Safe Drinking Water Act (42 U.S.C. section 300f, et seq.), Toxic Substances Control Act (15 U.S.C. section 2601, et seq.), Clean Air Act (42 U.S.C. section 7401, et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601, et seq.), Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code section 25249.5, et seq.), other applicable provisions of the California Health and Safety Code (section 25100, et seq., and section 39000, et seq.), California Water Code (section 13000, et seq.), and other comparable state laws, regulations and local ordinances relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances" under any such laws, ordinances or regulations (collectively "Hazardous Materials Laws"). As used in the provisions of this Sublease, "hazardous materials" include any "hazardous substance" as that term is defined in section 25316 of the California Health and Safety Code and any other material or substance listed or regulated by any Hazardous Materials Law or posing a hazard to health or the environment. Except as otherwise expressly permitted in this Sublease, Tenant shall not use, create, store or allow any hazardous materials on the Bus Storage Facility. Fuel stored in a motor vehicle for the exclusive use in such vehicle or stored on a tow truck is excepted.

In no case shall Tenant cause or allow the deposit or disposal of any hazardous materials on the Bus Storage Facility. Landlord and the State, or their agents or contractors, shall at all times have the right to go upon and inspect the Bus Storage Facility and the operations thereon to assure compliance with the requirements herein stated. This inspection may include taking samples of substances and materials present for testing, and/or the testing of soils or underground tanks on the Bus Storage Facility.

In the event Tenant breaches any of the provisions of this Section, this Sublease may be terminated immediately by Landlord and be of no further force or effect. It is the intent of the parties

hereto that Tenant shall be responsible for and bear the entire cost of removal and disposal of hazardous materials introduced to the Bus Storage Facility during the Term. Tenant shall also be responsible for any clean-up and decontamination on or off the Bus Storage Facility necessitated by the introduction of such hazardous materials on the Bus Storage Facility during the Term, or, if introduced by Tenant or its agents or contractors, prior to the Term. Tenant shall not be responsible for or bear the cost of removal or disposal of hazardous materials introduced to the Bus Storage Facility by any party, other than Tenant or its agents or contractors, during any period prior to the Sublease Commencement Date.

On and after the Sublease Commencement Date, Tenant shall defend, indemnify, and hold Landlord and the State and their officers and employees, harmless from all responsibility, liability and claims for damages resulting from the presence or use of hazardous materials on the Bus Storage Facility prior to the expiration or termination of this Sublease, excepting only liability and claims for damages resulting from the gross active negligence or willful misconduct of Landlord or the State, or their employees, agents or officers. Tenant's duty to defend, indemnify, and hold harmless shall survive the expiration or termination of this Sublease.

5.8 Signs

Not more than four (4) advertising signs of a size not greater than thirty (30) square feet of surface area may be erected on the Bus Storage Facility. The wording on these signs shall be limited to Tenant's name. The location of all these signs shall be subject to Landlord's prior approval. None of these signs shall be attached to or painted on any bridge structure or building without the express written consent of Landlord. Tenant shall ensure that all signs comply with all applicable requirements of local governmental entities, including any required governmental approval or payment of fees, which shall be the sole responsibility of Tenant.

Except as set forth in the previous paragraph of this Section, Tenant shall not construct, erect, maintain or permit any sign, banner or flag upon the Bus Storage Facility without the prior written approval of Landlord. Tenant shall not place, construct or maintain upon the Bus Storage Facility any advertising media that include moving or rotating parts, searchlights, flashing lights, loudspeakers, phonographs or other similar visual or audio media. The term "sign" means any card, cloth, paper, metal, painted or wooden sign of any character placed for any purpose on or to the ground or any tree, wall, bush, rock, fence, building, structure, trailer or thing. Landlord may remove any unapproved sign, banner or flag existing on the Bus Storage Facility, and Tenant shall be liable to and shall reimburse Landlord for the cost of such removal plus interest as provided in Section 19.11 from the date of completion of such removal.

5.9 Landlord's Rules and Regulations

Tenant shall faithfully observe and comply with the rules and regulations that Landlord shall from time to time promulgate for the protection of the Bus Storage Facility and the safety of the traveling public. Landlord reserves the right from time to time to make reasonable modifications to said rules and regulations. The additions and modifications to those rules and regulations shall be binding upon Tenant upon delivery of a copy of them to Tenant.

5.10 Wrecked Vehicles

Tenant shall not park or store wrecked or inoperable vehicles of any kind on the Bus Storage Facility. Tenant may from time to time require interim storage of disabled buses until they can be

reasonably towed/removed from the Bus Storage Facility, but in no event shall such storage for transport back to Tenant's maintenance facilities be for periods longer than 48 hours.

5.11 Vending

Tenant shall be allowed to install vending machines inside its administrative offices for the sole purpose of providing food and beverages to bus drivers and other employees of Tenant using the facilities. No other third party vending of any kind or character shall be conducted, permitted or allowed upon the Bus Storage Facility without the prior express written consent of Landlord.

5.12 Water Pollution Control

On and after the Sublease Commencement Date, Tenant shall comply with all applicable State and Federal water pollution control requirements regarding storm water and non-storm water discharges from the Bus Storage Facility and will be responsible for all applicable permits including but not limited to the National Pollutant Discharge Elimination System (NPDES) General Permit and Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activities (Excluding Construction), the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, and the Caltrans Municipal Separate Storm Sewer System NPDES Permit, and permits and ordinances issued to and promulgated by municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water and non-storm water to sewer systems, storm drain systems, or any watercourses under the jurisdiction of the above agencies. Copies of the current storm water related NPDES permits are available on the State Water Resources Control Board's website at http://www.swrcb.ca.gov/water_issues/programs/stormwater/.

Tenant understands that the discharge of non-storm water into the storm sewer system is prohibited unless specifically authorized by one of the permits or ordinances listed above. In order to prevent the discharge of non-storm water into the storm sewer system, vehicle or equipment washing, fueling, maintenance and repair on the Bus Storage Facility is prohibited.

In addition to complying with all permit and other regulatory requirements pertaining to stormwater, Tenant shall implement and maintain the Best Management Practices (BMPs) shown in the attached Stormwater Pollution Prevention Fact Sheet(s) for: Parking and Storage marked "Exhibit B." Tenant shall identify any other potential sources of storm water and non-storm water pollution resulting from Tenant's activities on the Bus Storage Facility, which are not addressed by the BMPs, contained in the attached Fact Sheet(s), and shall implement additional BMPs to prevent pollution from those sources. Additional BMPs may be obtained from 2 other manuals:

(1) Right of Way Property Management and Airspace Storm Water Guidance Manual available for review online at: www.dot.ca.gov/hq/row/rwstormwater, and

(2) Construction Site Best Management Practices Manual, available for review online at: www.dot.ca.gov/hq/construc/stormwater/manuals.htm.

In the event of conflict between the attached fact sheet(s), the above-referenced manuals, and this Sublease, this Sublease shall control. Tenant shall comply with the BMPs required by this Section 5.12 even if the BMPs are not required by law, regulation or stormwater permit, except to the extent such compliance would cause Tenant to be in violation of an applicable law, regulation or permit.

Tenant shall provide Landlord and the State with the Standard Industrial Classification (SIC) code applicable to Lessee's facilities and activities on the Bus Storage Facility. A list of SIC codes regulated under the General Industrial Permit SIC codes may be found at the State Water Resources Control Board website:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/gen_indus.shtml. Other SIC codes may be found at www.osha.gov/pls/imis/sicsearch.html.

Landlord and the State, or their agents or contractors, shall at all times have the right to enter and inspect the Bus Storage Facility and the operations thereon to assure compliance with the applicable permits, and ordinances listed above. Inspection may include taking samples of substances and materials present for testing, and/or the testing of storm sewer systems or watercourses on the Bus Storage Facility.

On and after the Sublease Commencement Date, Tenant shall defend, indemnify, and hold Landlord and the State and their officers and employees, harmless from all responsibility, liability and claims for damages resulting from the discharge of storm and non-storm water from the Bus Storage Facility prior to the expiration or termination of this Sublease, excepting only liability and claims for damages resulting from the gross active negligence or willful misconduct of Landlord or the State, or their employees, agents or officers. Tenant's duty to defend, indemnify, and hold harmless shall survive the expiration or termination of this Sublease.

5.13 Bus Ramp Access

Tenant may have full use of the "Bus Ramp Access" shown on Exhibit D during the Term.

ARTICLE 6. IMPROVEMENTS

6.1 No Improvements Without Prior Written Consent of Landlord

Following the Sublease Commencement Date, Tenant shall not place improvements of any kind beyond the scope of work included in the Bus Storage Facility Contract in, on, or upon the Bus Storage Facility, and shall make no alterations in, on, or upon the Bus Storage Facility without the prior written consent of Landlord, the State, and the concurrence of the FHA. Tenant may, at its sole expense, install and maintain any additional fencing and entrances that may be required by its use of the Bus Storage Facility, subject to the approval of the location by Landlord, the State, the FHA, and the City and County of San Francisco; provided that Tenant shall at its sole expense construct and maintain sidewalks and driveways at the locations where the additional entrances are installed. In the event that Tenant violates any of the provisions of this Article, this Sublease may be terminated immediately by Landlord and be of no further force or effect.

6.2 Encroachment Permit

Prior to construction of the Bus Storage Facility, Landlord shall obtain an executed Encroachment Permit from the State. Landlord agrees to diligently apply for and meet all requirements for issuance of the Encroachment Permit.

6.3 Planning and Zoning

Landlord and Tenant agree that the construction and use of the Bus Storage Facility shall be subject to all applicable zoning, municipal, county, state and federal laws, ordinances and regulations governing and regulating the use of the Bus Storage Facility.

6.4 Standard of Construction

Landlord and Tenant agree that any improvements or construction by Tenant upon the Bus Storage Facility shall: (a) be consistent with all fire safety requirements including State Fire Marshall approval, (b) be subject to the approval of Landlord and the State, and (c) in every material respect comply with the laws, ordinances and regulations, federal, state, municipal or otherwise, that may govern construction of the same. The parties shall not construct or place on the Bus Storage Facility any improvements which impair the State's ability to maintain, operate, use, repair or improve any part of the Freeway Structure situated on the Bus Storage Facility or on adjoining real property. Following the Sublease Commencement Date, Tenant shall save Landlord and the State harmless of and from any loss or damage caused by reason of the construction of any improvements on the Bus Storage Facility under Article 10, with the sole exception of defects in construction of the Bus Storage Facility required to be repaired under the TJPA's contractors' warranties under the Bus Storage Facility Contract.

6.5 Soil Testing

At Landlord's sole cost and expense, Landlord shall secure soil compaction tests and other tests as necessary for construction of the Bus Storage Facility. The test borings shall not interfere in any manner with the operation of the Bus Storage Facility. Tenant hereby agrees that Landlord is making no representation regarding existing soil compaction or structural capability of the land or any existing structure thereon. On and after the Sublease Commencement Date, responsibility for any loss or damage caused by inadequate soil compaction or other structural capacity for Tenant's proposed improvements shall be subject to the indemnification provisions of Section 10.1.

6.6 Commencement of Construction

Landlord shall commence construction of the Bus Storage Facility in accordance with the Bus Storage Facility Contract within 180 days after the Execution Date. For the purposes of this Article, construction shall be deemed to have commenced upon the issuance by the State of an Encroachment Permit under Section 6.2. In the event construction is not commenced within the time set forth herein, this Sublease may be terminated by Landlord or Tenant and thereafter be of no further force and effect.

6.7 Completion of Construction and Occupancy of Improvements

Construction of the Bus Storage Facility shall be completed consistent with the Bus Storage Facility Contract within two years after the commencement of construction. Tenant shall not occupy or use any portion of the Bus Storage Facility until Landlord has received final building approval and a Certificate of Occupancy from the appropriate local agency and the State has issued to Landlord an executed Encroachment Permit Completion Notice. In the event Landlord violates any of the provisions of this section, this Sublease may be terminated by Tenant and be of no further force and effect.

ARTICLE 7. SURRENDER OF PREMISES AT EXPIRATION OR TERMINATION OF SUBLEASE

Subject to Article 8.3, at the expiration or earlier termination of this Sublease, Tenant shall peaceably and quietly leave, surrender, and yield up to Landlord the Bus Storage Facility, together with all appurtenances and fixtures, in good order, condition and repair, reasonable wear and tear excepted. Subject to the requirements of Article 8, if the State terminates the Airspace Lease prior to the expiration of the Term, this Sublease shall terminate on the date that the State terminates the Airspace Lease. Tenant waives any and all claims for damages or other relief against Landlord if the State terminates the Airspace Lease prior to the expiration of the Term.

ARTICLE 8. OWNERSHIP AND REMOVAL OF IMPROVEMENTS AND PERSONAL PROPERTY

8.1 Ownership of Improvements During Term

All improvements constructed on the Premises by Landlord as permitted or required by this Sublease shall, during the Term, be and remain the property of Tenant; provided, however, that Tenant's rights and powers with respect to the improvements are subject to the terms and limitations of this Sublease and Tenant's interest in such improvements shall terminate upon the expiration or earlier termination of this Sublease. Following Landlord's completion of construction of the Bus Storage Facility under the Bus Storage Facility Contract, Tenant shall not remove any improvements from the Bus Storage Facility nor waste, destroy or modify any improvements on the Bus Storage Facility, except as specifically permitted by this Sublease. At the expiration or termination of this Sublease, all improvements constructed on the Bus Storage Facility by Landlord or Tenant shall vest in Landlord. Tenant shall deliver said improvements to Landlord in good condition and repair, reasonable wear and tear excepted, without compensation to Tenant, any subtenant or third party, free and clear of all claims to or against them by Tenant, any subtenant or third party, and Tenant shall defend and hold Landlord and the State harmless from all liability arising from such claims or from the exercise by Landlord of its rights under this section. In the event said improvements are not delivered to Landlord in good condition and repair, reasonable wear and tear excepted, Landlord shall make the necessary maintenance and repairs and Tenant shall be liable to and shall reimburse Landlord for any such expenditures made, plus interest as provided in Section 22.11 from the date of completion of work. Landlord and Tenant covenant for themselves and all persons claiming under or through them that the improvements are real property. This provision shall survive the expiration or termination of this Sublease.

8.2 Removal of Personal Property and Ownership at Expiration or Termination

At the expiration or earlier termination of this Sublease, Landlord may, at Landlord's sole election, require the removal from the Bus Storage Facility, at Tenant's sole cost and expense, of all personal property (other than fixtures), or of certain personal property (other than fixtures), as specified in the notice provided for below. A demand to take effect at the normal expiration of the term shall be effected by notice given at least thirty (30) days before the expiration date. A demand to take effect on any other termination of the Term shall be effectuated by notice given concurrently with notice of such termination or within ten (10) days after such termination. Tenant shall be liable to Landlord for costs incurred by Landlord in effecting the removal of personal property which Tenant has failed to remove after demand pursuant to this Section 8.2. This provision shall survive the expiration or termination of this Sublease.

Tenant may remove any personal property from the Bus Storage Facility from time to time within forty-five (45) days after the expiration or earlier termination of this Sublease. Tenant shall repair all damage (structural or otherwise) caused by any such removal. Any personal property not removed by Tenant within forty-five (45) days following expiration of the Term shall be deemed to be abandoned by Tenant and shall, upon election by Landlord in its sole and absolute discretion, and without compensation to Tenant, become the Landlord's property, free and clear of all claims to or against them by Tenant or any other person.

8.3 Removal of Improvements at Expiration or Termination

Upon the expiration or earlier termination of this Sublease, Landlord may, upon written notice to Tenant within thirty (30) days after the expiration or earlier termination of this Sublease, require Tenant to remove, at the sole cost and expense of Tenant, and not later than three hundred sixty (360) days after the expiration or earlier termination of this Sublease, all structures, buildings and improvements of any kind whatsoever placed or maintained by Tenant on the Bus Storage Facility during the Term, whether below, on or above the ground, including, but not limited to, foundations, structures, buildings, utility lines, switchboards, transformer vaults and all other service facilities constructed or installed by Tenant upon the Bus Storage Facility; and Tenant shall, upon the expiration or earlier termination of this Sublease, immediately restore, and quit and peacefully surrender possession of the Bus Storage Facility to Landlord in at least as good and usable condition, acceptable to Landlord, as the same was in at the time of first occupation thereof by Tenant, ordinary wear and tear excepted. Should Tenant fail to so remove said structures, buildings and improvements and restore the Bus Storage Facility, Landlord may sell, remove or demolish the same, and in the event of said sale, removal or demolition, Tenant shall reimburse Landlord for any cost or expense thereof in excess of any consideration received by Landlord as a result of such sale, removal or demolition. The provisions of this section shall survive termination or expiration of the Sublease.

8.4 Liens; Exemption of Landlord from Liability

On and after the Sublease Commencement Date, Tenant shall at all times indemnify and save Landlord and the State harmless from all claims for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment or facilities within the Bus Storage Facility for work undertaken by Tenant or Tenant's agents, and from the cost of defending against such claims, including attorney fees. This provision shall survive termination or expiration of the Sublease.

ARTICLE 9. OPERATIONS, MAINTENANCE, REPAIRS, AND SECURITY

9.1 Tenant's and Landlord's Obligations

(a) On and after the Sublease Commencement Date, Tenant, at its own cost and expense, shall have all responsibility for bus operations on the Bus Storage Facility, including Tenant's buses and the buses of Tenant's subtenants, and shall provide to the Bus Storage Facility at its own cost and expense:

- (i) security services not provided by Landlord under the Landlord Services Contract as defined below;
- (ii) payment of all charges for utilities, including water, gas, heat, light, power, telephone, data, television, cable, and sewage;
- (iv) air conditioning and ventilating;
- (v) scavenger (refuse hauled off the Bus Storage Facility); and
- (vi) all other materials and utilities supplied to the Bus Storage Facility.

Landlord and Tenant shall have joint rights to open the two gates to the Bus Storage Facility from Third and Stillman Streets and the right to open doors and gates to any structures or fences on the Bus Storage Facility.

(b) On or before the Airspace Lease Commencement Date, and on every anniversary of the Airspace Lease Commencement Date, Landlord and Tenant shall attempt to agree on the terms, conditions, requirements, and budget for services to be provided to the Bus Storage Facility on Tenant's behalf ("Landlord Services") for the following Sublease year commencing on the Sublease Commencement Date and each anniversary of the Sublease Commencement Date during the Term ("Landlord Services Contract"). If the Parties agree on a Landlord Services Contract, Landlord shall require the personnel provided by Landlord to conduct the Landlord Services ("Vendors") to list Tenant as an additional insured on any insurance policies carried by each Vendor. If Landlord and Tenant are unable to agree on a Landlord Services Contract for any Sublease year, then Tenant shall provide the Landlord Services at its cost and Landlord shall have no responsibility for providing any Landlord Services.

(c) On and after the Sublease Commencement Date, if the Parties have agreed to a Landlord Services Contract, Landlord shall provide the following Landlord Services to Tenant for the Bus Storage Facility:

- (i) maintenance;
- (ii) repairs;
- (iii) janitorial services, including trash pick-up from the Bus Storage Facility;
- (iv) landscaping, including pruning of trees, shrubs, or any other landscaping;
- (v) security guards as agreed in the Landlord Services Contract;
- (vi) keep the Bus Storage Facility free of all grass, weeds, refuse and debris, and flammable materials of every description, other than in-vehicle fuels;
- (vii) ensure that the Bus Storage Facility is at all times in an orderly, clean, safe, and sanitary condition;
- (viii) protect the fences, guardrails, and the piers and columns, if any, of the Freeway Structure located on the Bus Storage Facility from damage incident to Tenant's use of the Bus Storage Facility; and
- (ix) repair in accordance with the State's standards any damage to any property owned by the State on the Bus Storage Facility, including, but not limited to, all fences, guardrails, piers and columns, caused by Tenant, subtenants, invitees or other third parties;

Tenant shall be responsible for all supervision, management, direction, and control of the Vendors.

(d) If Landlord and Tenant enter into a Landlord Services Contract, Landlord shall provide Tenant with monthly invoices for Vendors providing the Landlord Services, and Tenant shall pay the invoices directly to the Vendors within thirty (30) days after receipt of each approved monthly invoice. Any amount due from Tenant to Vendors under Section 9.1(d) not paid when due shall bear interest at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco from the due date. Payment of such interest together with the amount due within the cure period specified in

Section 15.1 shall excuse or cure Tenant's breach of this Sublease occasioned by its failure to pay when due. Tenant shall pay the cost of the Landlord Services at the same hourly rates paid by the TJPA for similar facilities operations and maintenance services performed at the Transit Center.

(e) Tenant hereby expressly waives the right to make repairs to the Bus Storage Facility at the expense of Landlord and waives the benefit of the provisions of Sections 1941 and 1942 of the California Civil Code or any successor thereto.

(f) Under, and as limited by, Article 10, Tenant shall defend, indemnify, and hold Landlord harmless from, and provide insurance for, any claims for equitable relief, damages, or other relief brought against Landlord for any Landlord Services. Landlord shall not be liable to Tenant or third parties in damages, equity, or otherwise for any failure or interruption of any Landlord Services or utilities furnished to the Bus Storage Facility, and no such failure or interruption shall entitle Tenant to terminate this Sublease. Under, and as limited by, Article 10, Tenant assumes the liability for any damage or injury caused by any falling branches or other such materials from any tree or shrub on the Bus Storage Facility whether the branches fall due to lack of maintenance or act of god or any other natural or unnatural causes. Tenant's liability insurance required within Article 10 shall cover any damage caused by any falling tree or shrub branches or other materials on the Bus Storage Facility, except as limited in Article 10; and, furthermore, per the same Article 10, Tenant covenants and agrees to indemnify and save harmless Landlord and the State from all liability, loss, cost, and obligation on account of any injuries or losses caused by any falling branches or material from any tree or shrub on the Bus Storage Facility, except as limited in Article 10. This provision shall survive termination or expiration of the Sublease.

(g) During the Term, Tenant shall designate in writing to Landlord a representative of Tenant who shall be responsible for the day-to-day operations of the Bus Storage Facility and if Landlord Services are provided, for supervision of Landlord Services. During the Term, Landlord shall designate in writing a representative of Landlord who shall be responsible for administering the Sublease, including the provision of Landlord Services, if any.

9.2 Landlord's Rights

In the event that Landlord and Tenant are unable to agree on a Landlord Services Contract and Tenant fails to perform Tenant's obligations to maintain and repair the Bus Storage Facility under this Article, Landlord shall give Tenant notice to do such acts as are reasonably required to so maintain or repair the Bus Storage Facility. If within ninety (90) days after Landlord sends written notice to maintain or repair, Tenant fails to do the work and diligently proceed in good faith to prosecute it to completion, Landlord or the State shall have the right, but not the obligation, to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord or the State shall be paid by Tenant promptly after demand plus interest as provided in Section 19.11 from the date of completion of such work to date of payment. Landlord and the State shall have no liability to Tenant for any damage, inconvenience or interference with the use of the Bus Storage Facility by Tenant as a result of performing any such work.

9.3 Retention of Existing Improvements

The State may at its option retain ownership and use of the Freeway Structure located on the Premises on the Airspace Lease Commencement Date, including fencing, lighting and irrigation facilities, all of which are excluded from the Bus Storage Facility.

9.4 Transit Center Connectivity

The Lease and Use Agreement shall control access to, use, and maintenance of the Bus Ramp connections between the Transit Center and the Bus Storage Facility, including: (a) the physical roadway of the Bus Ramp east of Second Street; and (b) the Bus Ramp converged network information technology system connecting the security cameras and access control system for the gates and doors at the Bus Storage Facility to the Security System at the Transit Center.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

10.1 Exemption of Landlord from Liability

This Sublease is made upon the express condition that on or after the Sublease Commencement Date, Landlord and the State are to be free from all liability and claims for damages or equitable relief by reason of any injury to any person or persons, including Tenant, or property of any kind whatsoever and to whomsoever belonging, including Tenant, from any cause or causes resulting from the Condition of the Bus Storage Facility under Article 5, Landlord's provision of Landlord Services under Article 9, Tenant's, or its agents, customers or invitees conduct and activity under Article 9.1(a), Tenant's or its agents operation or use of the Bus Storage Facility or by Tenant's agents, customers or business invitees, excepting only that resulting from the gross active negligence or willful misconduct of Landlord or the State, or their employees, agents or officers. Tenant hereby covenants and agrees to defend, indemnify, and save harmless Landlord and the State from all liability, loss, cost and obligation on account of any such injuries or losses except for liability, injury, loss or damage caused by Landlord or the State's gross active negligence or willful misconduct. This provision shall survive termination or expiration of the Sublease.

10.2 Commercial General Liability Insurance

Tenant shall at its own cost and expense procure and keep in force during the Term comprehensive bodily injury liability and property damage liability insurance adequate to protect Landlord and the State, their officers, agents and employees, against any liability to the public, except due to landlord and/or State's negligence or willful misconduct, resulting from injury or death of any person or damage to property in connection with the Condition of the Bus Storage Facility under Article 5, Landlord's provision of Landlord Services under Article 9, Tenant's conduct and activity under Section 9.1(a), Tenant's operation or use of the Bus Storage Facility or by Tenant's agents, customers or business invitees, and any and all liability of Landlord or the State for damage to vehicles parked on the Bus Storage Facility. Such insurance shall be in an amount of not less than Five Million Dollars (\$5,000,000) combined single limit for bodily injury and property damage. The limits of such insurance shall not limit the liability of Tenant. All insurance required hereunder shall be with companies to be approved by Landlord. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord or the State may carry. Said policies shall name Landlord and the State as additional insureds and shall insure against the contingent liabilities, if any, of Landlord and the State and the officers, agents, and employees of Landlord and the State and shall obligate the insurance carriers to notify Landlord, in writing, not less than thirty (30) days prior to the cancellation thereof, or any other change affecting the coverage of the policies. If said policies contain any exclusion concerning property in the care, custody or control of the insured, an endorsement shall be attached thereto stating that such exclusion shall not apply with regard to any liability of Landlord or the State, their officers, agents, or employees. Tenant shall furnish to Landlord a Certificate of Insurance acceptable to Landlord within not more than ten (10) days after the Sublease Commencement Date. Landlord shall retain the right at any time to review the coverage, form, and

amount of the insurance required hereby. If, in the opinion of Landlord, the insurance provisions in this Sublease do not provide adequate protection for Landlord, the State, and for members of the public using the Bus Storage Facility, Landlord may require Tenant to obtain insurance sufficient in coverage, form and amount to provide adequate protection. Landlord's requirements shall be reasonable but shall be designed to assure protection from and against the kind and extent of the risks which exist at the time a change in insurance is required. Landlord shall notify Tenant in writing of changes in the insurance requirements; and if Tenant does not deposit copies of acceptable insurance policies with Landlord incorporating such changes within sixty (60) days after receipt of such notice, this Sublease may be terminated, at Landlord's option, without further notice to Tenant, and be of no further force and effect.

10.3 Business Automobile Liability Insurance

Tenant shall obtain and keep in effect at all times during the Term business automobile liability insurance in an amount not less than One Million Dollars (\$1,000,000) for each occurrence combined single limit for bodily injury and property damage, including coverage for owned, non-owned and hired automobiles, as applicable. Any deductible under such policy shall not exceed \$10,000 each occurrence.

10.4 [omitted]

10.5 Workers' Compensation Insurance

Tenant shall obtain and keep in effect at all times during the term of this Sublease workers' compensation insurance, including employers' liability, in an amount not less than One Million Dollars (\$1,000,000) for each accident, covering all employees employed in or about the Bus Storage Facility to provide statutory benefits as required by the laws of the State of California. Said policy shall be endorsed to provide that the insurer waives all rights of subrogation against Landlord.

10.6 Failure to Procure and Maintain Insurance

If Tenant fails to procure or maintain the insurance required by this Article in full force and effect, this Sublease may be terminated immediately by Landlord after providing ten (10) business days' written notice to Tenant to cure, and Tenant fails to do so. In addition, if Tenant fails to procure or maintain the insurance required by this Article, Tenant shall cease and desist from operating any business on the Bus Storage Facility, and shall prevent members of the public from gaining access to the Bus Storage Facility during any period in which such insurance policies are not in full force and effect.

10.7 Waiver of Subrogation

Tenant hereby waives any and all rights of recovery against Landlord and the State, or against the officers, employees, agents and representatives of Landlord and the State, for loss of or damage to Tenant or its property or the property of others under its control to the extent that such loss or damage is insured against under any insurance policy in force at the time of such loss or damages. Tenant shall give notice to its insurance carrier or carriers that the foregoing waiver of subrogation is contained in the Sublease.

10.8 Self-Insurance Coverage

Notwithstanding any other provision of this Agreement, the insurance required under Article 10 may include a self-insurance program, subject to Landlord's prior express written consent and approval. No such self-insurance program shall diminish the rights and privileges to which Landlord and the State would otherwise have been entitled to under the terms of this Sublease had there been a third-party insurer.

Tenant's self-insurance shall include such coverage as would have been covered by Commercial General Liability Insurance with respect to the Bus Storage Facility with limits of liability not less than Five Million Dollars (\$5,000,000) per occurrence with no aggregate limit. Tenant shall provide Landlord with a certificate of self-insurance specifying the extent of self-insurance coverage hereunder and containing a waiver of subrogation provision reasonably satisfactory to Landlord. Tenant shall notify Landlord in writing not less than thirty (30) days prior to the effective date of the termination of its self-insurance coverage and shall obtain the insurance coverage required by this Article effective on that termination date. Execution of this Sublease shall be Tenant's acknowledgment that Tenant will be bound by all laws as if the Tenant were an insurer as defined under California Insurance Code Section 22 (7-1.12B(5)).

ARTICLE 11. PAYMENT OF TAXES

Tenant agrees to pay and discharge, or cause to be paid and discharged when due, before the same become delinquent, all taxes, assessments, impositions, levies and charges of every kind, nature and description that can be assessed against a public agency, whether general or special, ordinary or extraordinary, which may at any time or from time to time during the term of this Sublease, by or according to any law or governmental, legal, political, or other authority whatsoever, directly or indirectly, be taxed, levied, charged, assessed or imposed upon or against, or which shall be or may be or become a lien upon the Bus Storage Facility, or any estate, right, title or interest of Tenant in and to the Bus Storage Facility. Specifically, and without placing any limitation on Tenant's obligations under the immediately preceding sentence, Tenant shall pay when due, before delinquency, any and all possessory interest taxes, parking taxes, workers' compensation, taxes payable to the California Franchise Tax Board, personal property taxes on fixtures, equipment and facilities owned by Tenant, whether or not the same have become so fixed to the land as to comprise a part of the real estate.

Tenant understands that any possessory interest of Tenant created in the Bus Storage Facility by this Sublease may be subject to property taxation and that Tenant may be liable for payment of any such tax levied on such interest. Any obligation of Tenant under this Article, including possessory interest tax that the city or county may impose upon Tenant's interest herein, shall not reduce any rent due Landlord hereunder and any such obligation shall become the liability of and be paid by Tenant. In the event Tenant defaults in the payment of any of the obligations set forth in this Article, this Sublease may be terminated immediately by Landlord after providing ten (10) business days' written notice to Tenant to cure, and Tenant fails to do so.

ARTICLE 12. RIGHT OF ENTRY

12.1 Inspection, Maintenance, Construction and Operation of Freeway Structures

Landlord and the State, through their agents or representatives, and other city, county, state and federal agencies, through their agents or representatives, shall have full right and authority to enter in and upon the Bus Storage Facility at any and all reasonable times during the term of this Sublease for the purpose of inspecting the Freeway Structures, the Bus Storage Facility without interference or hindrance by Tenant, its agents or representatives, provided that Landlord and/or State give Tenant reasonable notice, and further provided that the inspection does not interfere with Tenant's operations.

Landlord and the State further reserve the right of entry at any and all reasonable times for the purpose of inspecting the Bus Storage Facility, or the doing of any and all acts necessary or proper on said Bus Storage Facility in connection with the protection, maintenance, reconstruction, and operation of the Freeway Structure and its appurtenances; provided, further, that Landlord and the State reserve the further right, at their discretion, to immediate possession of the same in case of any national or other emergency, or for the purpose of preventing sabotage, and for the protection of said freeway structures, in which event the term of this Sublease shall be extended for a period equal to the emergency occupancy by Landlord or the State, and during said period Tenant shall be relieved, to the degree of interference, from the performance of conditions or covenants specified herein. Landlord and the State further reserve the right of entry by any authorized officer, engineer, employee, contractor or agent of the Landlord or the State for the purpose of performing any maintenance activities upon the property which Tenant has failed to perform after the expiration of the applicable cure period specified in Article 9.

12.2 Future Transportation Projects

(a) Landlord's Right to Possession of Bus Storage Facility.

Tenant understands and acknowledges that the State may, during the Term, construct an Approved and Funded Transportation Project, which may require the temporary or permanent use of all or a portion of the Bus Storage Facility. An "Approved and Funded Transportation Project" is defined as a proposed transportation facility to be constructed by the State that has been environmentally cleared, has all necessary permits or approvals, where the funds necessary to construct the facility have been authorized and are available to the State (regardless of the source of the funds) and where the State after consideration of all of the available sites, has reasonably determined that the Approved and Funded Transportation Project requires the use of all or a portion of the Bus Storage Facility, and where construction of the transportation facility can reasonably be expected to be commenced within one hundred eighty (180) days following termination of this Sublease as provided in this Article.

In the event the State determines that the Bus Storage Facility or any portion thereof will be affected by an Approved and Funded Transportation Project, Landlord shall immediately notify Tenant of its intent to take possession of all or a portion of the Bus Storage Facility and shall provide Tenant with at least one hundred eighty (180) days written notice within which to vacate the required area. Landlord's notice to Tenant shall indicate the area of the Bus Storage Facility to be taken. If possession is to be a temporary use of all or part of the Bus Storage Facility, Landlord shall additionally state in such notice Landlord's reasonable estimate of the period of time of such temporary use by Landlord. If possession is to be a permanent use of all or a portion of the Bus Storage Facility, Landlord shall additionally state in such notice the extent of the permanent use and shall have the right to modify the Sublease to reflect the newly defined Bus Storage Facility, and if the entire Bus Storage Facility is affected, Landlord shall have the right to terminate the Sublease. Upon the date Landlord is entitled to possession of the Bus Storage Facility, or portion thereof, Tenant shall peaceably surrender possession

of the Bus Storage Facility, or portion thereof, and comply with the restriction as stated in the notice. The failure of Tenant to vacate the required area of the Bus Storage Facility shall constitute a material default and breach of this Sublease entitling Landlord to exercise its rights and remedies.

(b) Reduction of Monthly Rent if Sublease Remains Effective

For the period during which the State has taken possession of the Bus Storage Facility under this section, and if this Sublease remains effective, Tenant shall be entitled to receive a reduction in Monthly Rent for the term of the State's use of the area of the Bus Storage Facility used by the State. The rent will be reduced by the same percentage as the useable square footage reduction as required by the State's Approved and Funded Transportation Project.

(c) Tenant's Sole Rights; Tenant's Waiver.

The State's taking of possession of the Bus Storage Facility under this Section 12.2 does not constitute a taking or damaging entitling Tenant to compensation under any provision of law pertaining to Condemnation, as defined in Section 13.1 below. The reduction in Monthly Rent as provided herein shall be Tenant's sole remedy against Landlord for Tenant's inability to possess or use part or all of the area of the Bus Storage Facility as a result of an Approved and Funded Transportation Project. Tenant expressly agrees to hold Landlord and the State harmless from any and all liability for, and expressly waives any right it may have to recover against Landlord and the State, damages to the Bus Storage Facility, and damages to any other property, project or operations including any claim for loss of business goodwill or resulting from Tenant's inability to use or possess all or any portion of the Bus Storage Facility as a result of an Approved and Funded Transportation Project. In addition, Tenant expressly recognizes that it is not entitled to receive benefits under the federal or state Uniform Relocation Assistance Act (United States Code, Section 7260, et seq.) as a result of the State's use or possession of any portion of the Bus Storage Facility for an Approved and Funded Transportation Project. In this Section 12.2, the State agreed to instruct its authorized representatives to minimize the effect of any required construction on Tenant's use of the Bus Storage Facility, both in the construction phase and in the permanent effect on the Bus Storage Facility in connection with an Approved and Funded Transportation Project. In this Section 12.2, the State further agreed that, if possible, it will minimize the effect of any required construction on Tenant's use of the Bus Storage Facility, both in the construction phase and in the permanent effect on the Bus Storage Facility in connection with an Approved and Funded Transportation Project and will restore the Bus Storage Facility to its pre-existing condition at no cost to Tenant in the event that Landlord requires the temporary use of all or a portion of the Bus Storage Facility.

12.3 Maintenance Work and Retrofitting of Freeway Structures

Tenant understands and agrees that the State may be required to perform maintenance or retrofit work on all or a part of the Freeway Structure that is situated on and above the Bus Storage Facility. The State shall have the right to impose such restrictions on Tenant's right to enter, occupy, and use the Bus Storage Facility and to maintain the existing improvements or construct improvements thereon as the State deems are necessary to enable it to complete construction of all freeway maintenance or structural retrofit work without interference from Tenant.

In the event the State determines that it needs to obtain possession of all or a portion of the Bus Storage Facility, or needs to place restrictions on Tenant's use of the Bus Storage Facility, Landlord shall, if possible, at least thirty (30) days prior to the effective date of the commencement of such possession or restrictions notify Tenant in writing describing the extent of the possession or restrictions

and the effective date of their commencement. Upon the effective date of said notice, Tenant shall peaceably surrender possession of the Bus Storage Facility and comply with the restrictions as stated therein. The Monthly Rent stated in Section 4.1, as adjusted in Section 4.2, shall be reduced by an amount equal to the proportion which the area of the portion of the Bus Storage Facility which Tenant is restricted from using or which has been surrendered to the State bears to the total area of the Bus Storage Facility. This reduction in rent shall be Tenant's sole remedy against Landlord and the State for Tenant's inability to possess or use the entire area of the Bus Storage Facility. Tenant expressly agrees to hold Landlord and the State harmless from any and all liability for, and expressly waives any right it may have to recover against Landlord or the State, damages to the Bus Storage Facility and waives its right to use or possess any portion of the Bus Storage Facility and damages to any other property, project or operation caused by the State's possession, imposition of restrictions or Tenant's inability to use or possess all or any portion of the Bus Storage Facility. In addition, Tenant expressly recognizes that it is not entitled to receive benefits under the federal or state Uniform Relocation Assistance Acts (United States Code, title 42, Section 4601, et seq.; California Government Code, Section 7260, et seq.) as a result of the State's use or possession of any portion of the Bus Storage Facility.

Tenant shall conduct its operations on the Bus Storage Facility in such a manner so as not to interfere with the State's or its contractor's performance of any structural retrofit work done on or above the Bus Storage Facility. Tenant acknowledges that the performance of the structural retrofit work may cause damage to paving or other improvements constructed by Tenant on the Bus Storage Facility. Tenant expressly agrees to hold Landlord and the State harmless from all such damage to its improvements, except that at the conclusion of the retrofit work, Landlord shall cause the State to restore the Bus Storage Facility to its preexisting condition at no cost to Tenant. Tenant further acknowledges that any buildings Tenant places on the Bus Storage Facility shall be mobile such that Tenant can disconnect the building from utilities and move the building to an alternative location on the Bus Storage Facility on twenty four (24) hours' notice from the State or Landlord to allow the State to inspect, maintain, and repair freeway structures that may be damaged in a seismic event.

12.4 Reinstitution of Sublease.

If the State takes possession of all or a portion of the Bus Storage Facility in accordance with the preceding provisions of this Article 12, Landlord shall notify Tenant that Landlord has completed the use or work requiring such repossession within thirty (30) days after the State completes such use or work, and if requested by Tenant in writing within ninety days thereafter, either (i) in the case of a partial repossession by the State, Tenant shall be entitled to Sublease the entire Bus Storage Facility (i.e., the initial Bus Storage Facility Subleased before Landlord's repossession) and pay the corresponding minimum monthly rent for the remainder of the Sublease term and (ii) in the case of a total repossession by Landlord and termination of the Sublease, Landlord shall enter into a new Sublease with Tenant with respect to the entire Bus Storage Facility with substantially the same terms and conditions as set forth in this Sublease (except that the expiration date of the new Sublease shall be extended one day for each day between the date of Landlord's repossession and the commencement date of the new Sublease, which shall be Landlord's only obligation to Tenant in the case it repossesses all of the Bus Storage Facility).

ARTICLE 13. CONDEMNATION BY PUBLIC ENTITIES OTHER THAN LANDLORD

13.1 Definitions

- (a) "Condemnation" means (1) the exercise of the power of eminent domain, whether by

legal proceedings or otherwise, by a public entity having that power, that is, a condemnor, and (2) a voluntary sale or transfer to any condemnor, either under the threat of condemnation or while legal proceedings in condemnation are pending.

(b) "Award" means all compensation, sums, or anything of value awarded, paid or received upon a total or partial condemnation of the Bus Storage Facility.

(c) "Substantial taking" means a taking of a portion of the Bus Storage Facility by condemnation which, assuming a reasonable amount of reconstruction on the remainder, substantially impairs Tenant's ability to use the remainder for the purposes permitted under this Sublease.

13.2 Termination of Sublease as to Part Condemned

In the event the whole or any part of the Bus Storage Facility is taken by condemnation by a public entity, other than Landlord, in the lawful exercise of its power of eminent domain, this Sublease shall cease as to the whole or the part condemned upon the date possession of the whole or that part is taken by the public entity.

13.3 Partial Taking

If a part of the Bus Storage Facility is taken by condemnation but there is no substantial taking of the Bus Storage Facility, Tenant shall continue to be bound by the terms, covenants, and conditions of this Sublease. However, if the fair rental value of the remainder will be less than the rent required by this Sublease, the Monthly Rent shall be reduced to an amount equal to the fair rental value as of the date possession of the part is taken by the public entity.

If the part taken by condemnation constitutes a substantial taking of the Bus Storage Facility, Tenant may elect to:

(a) Terminate this Sublease and be absolved of obligations hereunder which have not accrued at the date possession is taken by the public entity; or

(b) Continue to occupy the remainder of the Bus Storage Facility and remain bound by the terms, covenants and conditions of this Sublease. If Tenant elects to continue to occupy the remainder, and if the fair rental value of the remainder will be less than the rent required by this Sublease, the Monthly Rent shall be reduced to the fair rental value of the remainder, as of the date of possession by the public entity of the part taken.

Tenant shall give notice in writing of its election to terminate this Sublease hereunder within thirty (30) days after the date of possession by the public entity of the part taken. If Tenant fails to give Landlord its written notice of termination within the time specified, this Sublease shall remain in full force and effect except that the Monthly Rental shall be reduced as provided in this section.

If it continues to occupy the remainder, Tenant, shall, at its expense, within a reasonable period of time, commence and complete restoration of the remainder of the Subleased premises as nearly as possible to its value, condition and character immediately prior to such taking; provided, however, that in the case of a taking for temporary use, Tenant shall not be required to effect restoration until such taking is terminated. Tenant shall submit to Landlord its plans for the restoration of the remainder within ninety (90) days after the date possession by the public entity of the part taken.

13.4 Adjustment of Rent

Should a portion of the Bus Storage Facility be condemned and the rent be reduced as provided above, the reduced rent shall continue to be subject to adjustment and reevaluation in accordance with Article 4, prorated as appropriate.

13.5 Compensation

Landlord shall be entitled to receive and shall receive all compensation for the condemnation of all or any portion of the Bus Storage Facility by exercise of eminent domain except as hereinafter provided. Tenant shall be entitled to that portion of said compensation which represents the present worth as of the date possession is taken by the public entity of the remaining use under the Sublease of all improvements constructed by Tenant on the Bus Storage Facility located within the part taken by the public entity. Tenant may also assert a claim for loss of business goodwill under the provisions of Section 1263.510 of the California Code of Civil Procedure. Tenant shall assert no claim for loss of condemnation bonus value. For the purposes of this Article, "condemnation bonus value" means that value attributable to the fact that the rental rate Tenant is obligated to pay under this Sublease is less than the fair market Sublease rate of the Bus Storage Facility as defined in Article 4 above.

If all or a portion of the Bus Storage Facility is condemned at a time when Tenant possesses an interest in real property located outside the Bus Storage Facility (hereinafter called "outside property"), Tenant may claim entitlement to an award of damages accruing to the outside property by reason of the severance therefrom of the condemned portion of the Bus Storage Facility as provided in the Eminent Domain Law (California Code of Civil Procedure Sections 1230.010 through 1273.050).

ARTICLE 14. UTILITIES

Tenant shall pay when due, and shall hold Landlord and the State harmless from any liability for, all charges for water, gas, heat, light, power, telephone, sewage, air conditioning and ventilating, scavenger, janitorial and landscaping services and all other materials and utilities supplied to the Bus Storage Facility. Landlord and the State shall not be liable in damages or otherwise for any failure or interruption of any utility service furnished to the Bus Storage Facility, and no such failure or interruption shall entitle Tenant to terminate this Sublease.

ARTICLE 15. DEFAULT

15.1 Default

The occurrence of any of the following shall constitute a material breach and default of this Sublease by Tenant:

(a) Any failure by Tenant to pay rent or any other monetary sums required to be paid to the State, Landlord, or to any vendor providing Landlord Services to Tenant under Article 9, where such failure continues for ten (10) days after written notice thereof has been given by Landlord to Tenant.

(b) The abandonment or vacation of the Bus Storage Facility by Tenant. Failure to occupy and operate the Bus Storage Facility for thirty (30) consecutive days following the mailing of written notice from Landlord to Tenant calling attention to the abandonment shall be deemed an abandonment or vacation.

(c) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets, where possession is not restored to Tenant within forty-five (45) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets, where such seizure is not discharged within thirty (30) days.

(d) The failure by Tenant to comply with any provision of any law, statute, zoning restriction, ordinance or governmental rule, regulation or requirement as set forth in Section 5.3 of this Sublease.

(e) [omitted].

(f) The failure by Tenant to comply with the requirements regarding hazardous materials as set forth in Article 5 of this Sublease.

(g) The construction by Tenant of any improvements on the Bus Storage Facility contrary to the provisions of Article 6 of this Sublease.

(h) The failure by Tenant to pay any tax, assessment, imposition, levy or charge of any kind as set forth in Article 11 of this Sublease.

(i) The failure by Tenant to observe and perform any other provision of this Sublease to be observed or performed by Tenant, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such default is such that it cannot be reasonably cured within such thirty (30) day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

15.2 Landlord's Remedies

In the event of any material default or breach by Tenant, Landlord may at any time thereafter, without limiting Landlord in the exercise of any right of remedy at law or in equity which Landlord may have by reason of such default or breach, terminate Tenant's right to possession by any lawful means, in which case this Sublease shall immediately terminate and Tenant shall immediately surrender possession of the Bus Storage Facility to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the following:

(a) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

(b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus

(c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that is proved could be reasonably avoided; plus

(d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Sublease or which in the ordinary course of events would be likely to result therefrom; plus

(e) if the State elects under the Airspace Lease, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable State law. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the Bus Storage Facility, which Landlord in its sole discretion deems reasonable and necessary.

(f) As used in subparagraphs (a) and (b), above, the "worth at the time of award" is computed by including interest on the principal sum at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco from the date of default. As used in subparagraph (c), above, the "worth at the time of award" is computed by discounting such amount at a rate one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco at the time of award. The term "rent" as used in this Article shall be deemed to be and to mean rent to be paid pursuant to Article 4 and all other monetary sums required to be paid by Tenant pursuant to the terms of this Sublease.

15.3 Late Charges

Tenant hereby acknowledges that late payment by Tenant to the State of rent will cause the State to incur costs not contemplated by this Sublease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and the cost incurred by Landlord to pay rent and late charges to the State to avoid default under the Airspace Lease. Accordingly, if any installment of rent or any other sum due from Tenant shall not be received by the State or the State's designee within ten (10) days after such amount shall be due, a late charge equal to one and one-half percent (1.5%) of the payment due and unpaid plus One Hundred Dollars (\$100.00) shall be added to the payment, and the total sum shall become immediately due and payable to the State. An additional charge of one and one-half percent (1.5%) of such payment, excluding late charges, shall be added for each additional month that such payment remains unpaid. The parties hereby agree that such late charges represent a fair and reasonable estimate of the costs the State will incur by reason of late payment by Tenant. The State's acceptance of such late charges shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord or the State from exercising any of the other rights and remedies granted hereunder.

15.4 Landlord's Right to Cure Tenant's Default

At any time after Tenant is in default or material breach of this Sublease, Landlord may cure such default or breach at Tenant's cost. If Landlord at any time, by reason of such default or breach, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if reimbursed at a later date shall bear interest as provided in Section 19.11 from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant.

ARTICLE 16. ASSIGNMENTS, TRANSFERS, SUBLEASES AND ENCUMBRANCES

16.1 [omitted]

16.2 Voluntary Assignments and Subleases for Mass Transit Uses

Tenant shall not voluntarily assign or transfer all or any part of its interest in this Sublease or in the Bus Storage Facility, or sublet all or any part of the Bus Storage Facility, or allow any other person or entity (except Tenant's authorized representatives) to occupy or use all or any part of the Bus Storage Facility without first obtaining the written approval of Landlord, the State, and the FHA.

Landlord consents to Tenant's sublease of all or part of the Bus Storage Facility, subject to Tenant satisfying the following express conditions:

(a) Landlord receives compensation from Tenant upon the assignment, transfer, sale or sublease of any of Tenant's rights in the Bus Storage Facility per the provisions of Article 4.3.

(b) [omitted].

Except as expressly provided herein, Tenant's failure to obtain the required written approvals of Landlord, the State, and FHA prior to any assignment, transfer or sublease shall render such assignment, transfer or sublease void. Occupancy of the Bus Storage Facility by a prospective transferee, subtenant or assignee before approval of the transfer, sublease or assignment by Landlord, the State, and FHA shall constitute a breach of this Sublease. The consent of Landlord, the State, and FHA to any assignment, transfer or sublease shall not constitute a waiver of any of the terms, covenants or conditions of this Sublease. Such terms, covenants and conditions shall apply to each and every assignment, sublease and transfer of rights under this Sublease and shall be severally binding upon each and every party thereto. Any document to transfer, sublet, or assign the Bus Storage Facility or any part thereof shall incorporate directly or by reference all the provisions of this Sublease.

16.3 Voluntary Subleases for Non-Mass Transit Uses

Tenant shall not voluntarily sublease any part of its interest in this Sublease or in the Bus Storage Facility, or allow any other person or entity (except Tenant's authorized representatives) to occupy or use all or any part of the Bus Storage Facility without first obtaining the written consent of Landlord, the California Transportation Commission (CTC), and the FHA.

Landlord may, with the approval of the CTC, elect to consent to any such sublease if all of the following express conditions are satisfied:

(a) The proposed subtenant is the successful high bidder through a public auction with written auction rules to be pre-approved by Landlord.

(b) The prospective subtenant completes a Sublease Application and meets all of the requirements for eligibility to Sublease from the State of California.

(c) Per the provisions of Section 4.3, all sublease compensation collected by Tenant from any subtenant of all or part of the Bus Storage Facility in excess of the amount of rent Tenant is obligated to pay to the State shall be considered additional rent for Tenant's possession of the Bus Storage Facility, and such compensation shall be paid monthly in full to the State in addition to and together with the rent amount described in Article 4 herein.

(d) Tenant provides the negotiated sublease agreement to Landlord, the CTC, and FHA.

- (e) The CTC votes to authorize Landlord to consent to the proposed sublease proposal.

Tenant's failure to obtain the required written approval of Landlord, the CTC, and FHA prior to any sublease shall render such sublease void. Occupancy of the Bus Storage Facility by a prospective subtenant before approval of the sublease by Landlord, the CTC, and the State shall constitute a breach of this Sublease. Landlord's consent to any sublease shall not constitute a waiver of any of the terms, covenants or conditions of this Sublease. Such terms, covenants and conditions shall apply to each and every sublease and transfer of rights under this Sublease and shall be severally binding upon each and every party thereto. Any document to sublet the Bus Storage Facility or any part thereof shall incorporate directly or by reference all the provisions of this Sublease.

16.4 Assignment of Rent from Subtenants

Tenant immediately and irrevocably assigns to Landlord and the State, as security for Tenant's obligations under this Sublease, all rent from any subletting of all or a part of the Bus Storage Facility as permitted by this Sublease, and Landlord and the State, as assignee and attorney-in-fact for Tenant, or a receiver for Tenant appointed on Landlord's application, may collect such rent and apply it toward Tenant's obligations under this Sublease; except that, until the occurrence of an act of default by Tenant, Tenant shall have the right to collect such rent and pay such rent to the State.

16.5 Information to be Supplied to Landlord

Tenant shall supply Landlord with all information Landlord determines to be necessary on all persons or firms to which Tenant proposes to sublet any of its interest in the Bus Storage Facility, or which might establish rights to enter, control, or otherwise encumber the Bus Storage Facility by reason of any agreement made by Tenant. In addition, with respect to any proposed sublease, Tenant shall provide Landlord with:

- (a) a copy of all documents relating thereto,
- (b) a statement of all terms and conditions of said transaction, including the consideration therefor,
- (c) a copy of the financial statement of the prospective subtenant, and
- (d) a copy of all documents showing compliance by the prospective subtenant with all of the bid eligibility requirements contained in the bid package.

16.6 Encumbrances

Tenant shall not encumber the Bus Storage Facility in any manner whatsoever.

ARTICLE 17. NONDISCRIMINATION

Tenant, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person, on the ground of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in the use of said facilities, (2) in connection with the construction of any improvements on said land and the furnishing of services

thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors, (3) such discrimination shall not be practiced against the public in its access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed or operated on, over, or under the Bus Storage Facility, and (4) Tenant shall use the land in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21 (49 C.F.R., Part 21) and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the Landlord shall have the right to terminate this Sublease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Sublease had never been made or issued.

ARTICLE 18. SECURITY DEPOSIT

No security deposit shall be required as a condition of this Sublease.

ARTICLE 19. ADDITIONAL PROVISIONS

19.1 Quiet Enjoyment

Landlord covenants and agrees with Tenant that upon Tenant paying rent and other monetary sums due under the Sublease and performing its covenants and conditions, Tenant shall and may peaceably and quietly have, hold and enjoy the Bus Storage Facility for the term.

19.2 Captions, Attachments, Defined Terms

The captions of the Articles of this Sublease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Sublease. Exhibits attached hereto, and addenda and schedules initiated by the parties, are deemed by attachment to constitute part of this Sublease and are incorporated herein. The words "Landlord" and "Tenant," as used herein, shall include the plural as well as the singular. Words used in neuter gender include the masculine and feminine and words in the masculine or feminine gender include the neuter. If there be more than one Landlord or Tenant, the obligations hereunder imposed upon Landlord or Tenant shall be joint and several. If the Tenants are husband and wife, the obligations shall extend individually to their sole and separate property as well as to their community property.

19.3 Entire Agreement

This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Landlord and Tenant relative to the Bus Storage Facility and this agreement and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. Landlord and Tenant agree hereby that all prior or contemporaneous written and oral agreements, express or implied, between and among themselves and their agents and representatives relative to the leasing and construction of the Bus Storage Facility are merged in or revoked by this Sublease and that this Sublease supersedes and replaces the provisions of the Lease and Use Agreement applicable to the Bus Storage Facility.

19.4 Severability

If any terms or provision of this Sublease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Sublease shall not be affected thereby, and each term and provision of this Sublease shall be valid and be enforceable to the fullest extent permitted by law.

19.5 Costs of Suit

If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Sublease, including any suit by Landlord for the recovery of rent or possession of the Bus Storage Facility, the losing party shall pay the successful party a reasonable sum for attorney's fees which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Should Landlord or the State, without fault on Landlord's or the State's part, be made a party to any litigation instituted by Tenant or by any third party against Tenant, or by or against any person holding under or using the Bus Storage Facility by license of Tenant, or for the foreclosure of any lien for labor or materials furnished to or for Tenant or any such other person or otherwise arising out of or resulting from any act or transaction of Tenant or of any such other person, Tenant shall save and hold Landlord and the State harmless from any judgment rendered against Landlord or the State or the Bus Storage Facility or any part thereof, and all costs and expenses, including reasonable attorney's fees, incurred by Landlord or the State in connection with such litigation.

19.6 Time, Joint and Several Liability

Time is of the essence of this Sublease and each and every provision hereof, except as to the conditions relating to the delivery of possession of the Bus Storage Facility to Tenant. All the terms, covenants and conditions contained in this Sublease to be performed by either party if such party shall consist of more than one person or organization, shall be deemed to be joint and several, and all rights and remedies of the parties shall be cumulative and non-exclusive of any other remedy at law or in equity.

19.7 Binding Effect; Choice of Law

The parties hereto agree that all the provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate section hereof; and all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Sublease shall be governed by the laws of the State of California.

19.8 Waiver

No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed and any waiver or the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Acceptance by Landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any covenant, term or condition. Acceptance by Landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Landlord in writing.

19.9 Surrender of Bus Storage Facility

The voluntary or other surrender of this Sublease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of the Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies.

19.10 Holding Over

If Tenant remains in possession of all or any part of the Bus Storage Facility after the expiration of the term hereof, with or without the express or implied consent of Landlord, such tenancy shall be from month to month only and not a renewal hereof or an extension for any further term, and in such case, rent and other monetary sums due hereunder shall be payable at the time specified in this Sublease and such month-to-month tenancy shall be subject to every other term, covenant, condition and agreement contained herein, except that the Monthly Rental Rate set forth in Section 4.1 may be increased by Landlord effective the first month of the holdover period, or upon 30 days' notice any time thereafter.

19.11 Omitted

19.12 Recording

Neither Landlord nor Tenant shall record this Sublease. Either Party, however, may record a Memorandum of this Sublease.

19.13 Notices

All notices or demands of any kind required or desired to be given by Landlord or Tenant hereunder shall be in writing and shall be delivered by email and by overnight mail , at the addresses set forth in Article 1.

19.14 No Reservation

Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for Sublease; it is not effective as a Sublease or otherwise until execution and delivery by both Landlord and Tenant.

19.15 Omitted

19.16 Force Majeure

If either Landlord or Tenant shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, governmental restrictions, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this Sublease) or other cause without fault and beyond the control of the party obligated (except financial inability), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Nothing in this clause shall excuse Tenant from prompt payment of any taxes, insurance or any other charge required of Tenant, except as may be expressly provided in this Sublease.

19.17 Successor and Assigns



This Sublease and all covenants, terms, and conditions of the Sublease, shall be binding on the successors and assigns of the parties.

19.18 Third Party Beneficiary

The State shall be a third party beneficiary of this Sublease.

[Signatures next page]

In Witness Whereof Landlord and Tenant have executed this Sublease as of the dates set forth below and the Execution Date is as of the date first written above.

LANDLORD:	TENANT:
TRANSBAY JOINT POWERS AUTHORITY	ALAMEDA-CONTRA COSTA TRANSIT DISTRICT
_____	
Mark Zabaneh Executive Director	Michael Hursh General Manager
APPROVED AS TO FORM:	APPROVED AS TO FORM:
By _____	By 
TJPA Legal Counsel	General Counsel
TJPA Board of Directors	AC Transit Board of Directors
Resolution No. _____	Resolution No. _____ ★
Date: _____	Dated: _____
Attest: _____	Attest: _____
_____	_____
Secretary, TJPA Board	District Secretary, AC Transit Board


★ Not Required per Denise Standridge email dated 4/25/17.

 Dennis Turek

EXHIBIT A

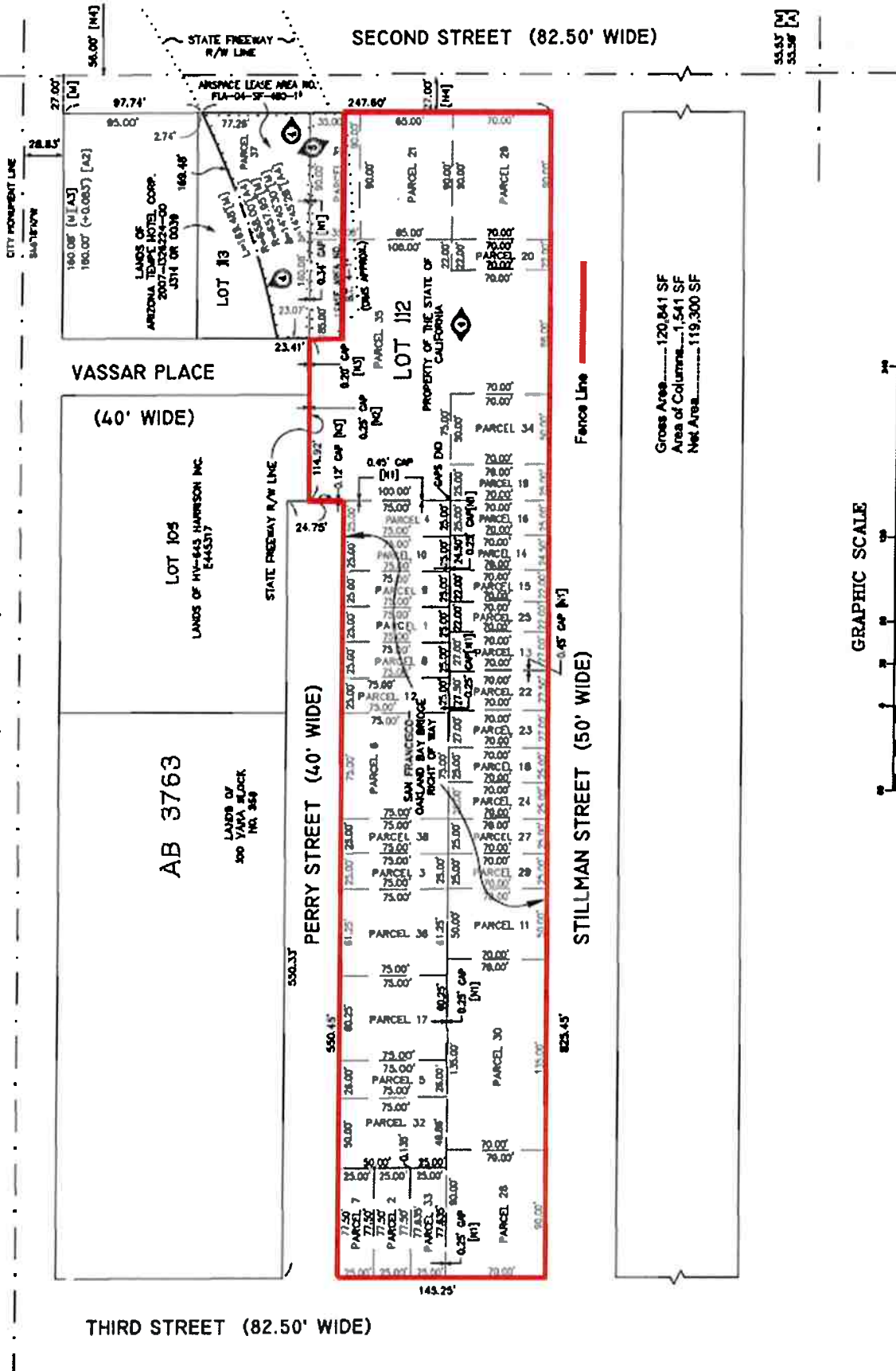
SF-BT-04
Between 2nd and 3rd Streets and Perry and Stillman Streets



Premises western limit extends to the east side of the freeway columns depicted by red line (as delineated on the ground by the existing fence).

From 2nd St. looking south by Stillman St.

HARRISON STREET (82.50' WIDE)



THIRD STREET (82.50' WIDE)

Stormwater Pollution Prevention

Parking Lots

Leaking Vehicles

Clean parking lots on a regular basis to prevent accumulated wastes and pollutants from being discharged into storm drain systems during rainy conditions. When cleaning heavy oily deposits, use absorbent materials on oily spots prior to sweeping or washing. Dispose of used absorbents appropriately.

Allow sheet runoff to flow into biofilters (vegetated strip and swale) and/or infiltration devices. Utilize sand filters or oleophilic collectors for oily waste in low concentrations. Clean out oil/water/sand separators regularly, especially after heavy storms.

Have designated personnel conduct inspections of the parking facilities and storm drain systems associated with them on a regular basis. Inspect cleaning equipment/sweepers for leaks on a regular basis.

Have spill cleanup materials readily available and in a known location. Cleanup spills immediately and use dry methods if possible. Properly dispose of spill cleanup material.



Trash

- Post "No Littering" signs and enforce anti-litter laws.
- Provide trash receptacles in parking lots to discourage litter. Clean out and cover trash receptacles frequently to prevent spillage. Regularly inspect, repair, and/or replace trash receptacles.
- Routinely sweep, shovel and dispose of litter in the trash. Remove litter and debris from drainage grates, trash racks and ditch lines to reduce discharge to the storm water drainage systems and watercourses.
- Provide regular training to field employees and/or contractors regarding cleaning of paved areas and proper operation of equipment.



Stormwater Pollution Prevention

Vehicle or Equipment Storage

Oil Leaks

Place drip pans under leaking vehicles. Drain all vehicles in long-term storage. Clean storage facilities on a regular basis to prevent accumulated wastes and pollutants from being discharged into conveyance systems during rainy conditions. When cleaning heavy oily deposits, use absorbent materials on oily spots prior to sweeping or washing. Dispose of used absorbents appropriately.

Use dry cleaning methods as much as possible. When wet cleaning methods are necessary, storm drains should be blocked and the wash water should be collected and pumped to the sanitary sewer or discharged to a pervious surface. After cleaning, remove blocks from storm drains. Wash water should not be allowed to enter the storm drains. Do not discharge wash water to the sanitary sewer before contacting the local sewer authority.

Train employees on proper spill containment and cleanup. Have spill cleanup materials readily available and in a known location. Cleanup spills immediately using dry methods if possible. Properly dispose of spill cleanup material. Designate personnel to conduct inspections of the facility and stormwater conveyance systems associated with them. Inspect cleaning equipment/sweepers for leaks on a regular basis.

Allow sheet runoff to flow into biofilters (vegetated strip and swale) and/or infiltration devices. Utilize sand filters or oleophilic collectors for oily waste in low concentrations. Clean out oil/water/sand separators regularly, especially after heavy storms.



Caked Dirt on Tires

- Conduct regular cleaning. Sweeping or vacuuming the storage facility is encouraged over wet cleaning methods. Sweep all storage lots at least once before the onset of the wet season. Establish frequency of sweeping based on usage and field observations of sediment accumulation.



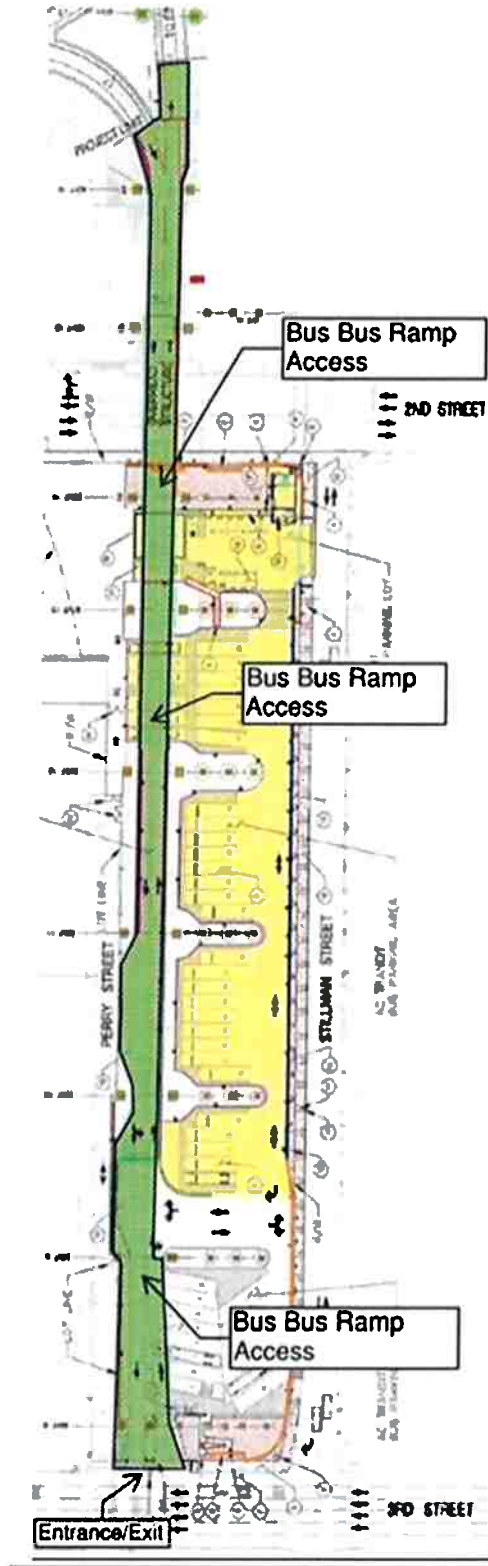
- Washing or rinsing of equipment shall be performed in designated areas and the resulting runoff shall not be discharged to the storm drain system.
- Train employees on appropriate Best Management Practices, storm water discharge prohibitions, and wastewater discharge requirements.



EXHIBIT C

Transbay Transit Center Program, Soil Investigation Report, Bus Storage Area, Block 3763, Lot 112 under Interstate 80 between Second and Third Streets, San Francisco, CA (March 2010)

EXHIBIT D





Alameda-Contra Costa Transit District

Mike Hursh, General Manager

November 18, 2016

Mr. Mark Zabaneh
Interim Executive Director
Transbay Joint Powers Authority (TJPA)
201 Mission Street
Suite 2100
San Francisco
California 94105

RE: AC Transit's Financial Commitment to the Bus Storage Facility (BSF)

Thank you for your continued coordinated efforts to work with AC Transit on the financing and construction of the Transbay Transit Center. We see this project as a true partnership between agencies to build a world-class bus facility for our passengers, making transit an even more attractive regional commute option.

The purpose of this letter is to confirm our financial commitment to operate the BSF; accepting responsibilities for the operations, maintenance and lease costs of the facility.

Following the successful outcome at the California Transportation Commission October meeting, I am pleased to provide AC Transit's full commitment to sub-lease the BSF from TJPA with the following terms:

1. AC Transit will initiate rent payments once Bus Storage Facility operations commence.
2. The lease will be at 85% discount of the Fair Market Value (FMV).
 - o Caltrans stated FMV at \$135,550 per month
 - o 15% of FMV = \$20,332.50 per month
3. The lease term will be 25 years with an escalation rate of a maximum 3 percent tied to the Consumer Price Index, and no reevaluation over the lease term.
4. Once Caltrans and TJPA execute the lease, AC Transit will codify the rent payments in a sub-lease amendment to the TJPA 2008 Lease and Use Agreement.

The primary function of the BSF is to provide midday storage for 49 buses. The District will realize operational savings associated with reduction in deadhead costs for these buses. These savings will allow us to fund the lease along with the estimated operations and maintenance costs, so we can confidently commit to covering these costs.

We look forward to continuing the exciting transition work into the Transbay Transit Center and starting operations in 2018.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael A. Hursh', written over a horizontal line.

Michael A. Hursh
General Manager