

STAFF REPORT FOR CALENDAR ITEM NO.: 12
FOR THE MEETING OF: November 10, 2022

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Approving an update to Board Policy No. 013: Authorities Relating to Administration of Real Property, authorizing the Executive Director to exercise certain authorities relating to the administration of real property for the Transbay Program.

EXPLANATION:

Under the TJPA Joint Powers Agreement and Bylaws, the Board of Directors is the governing body of the TJPA and establishes all policies for the Transbay Transit Center Program (“Program”). Under the TJPA Bylaws, the Executive Director generally is responsible for implementing these policies by supervising, directing and controlling the day-to-day business and administration of the TJPA.

In 2008, the Board adopted Board Policy No. 013: Authorities Relating to Administration of Real Property (“Policy”), expressly authorizing the Executive Director to take certain specified actions relating to real property matters. Applying the Policy, the TJPA successfully completed a real estate acquisition program for Phase 1 and has efficiently and effectively managed and operated the TJPA’s real estate assets.

As the TJPA plans Phase 2, staff anticipates the TJPA will continue to engage in transactions relating to real property. For example, staff is planning that the TJPA will receive additional property from Caltrans under the Cooperative Agreement, negotiate the acquisition of parcels, pay relocation assistance claims, manage properties in the interim period between acquisition and use for the Program, and certify to the State and appropriate Federal authorities that TJPA has conducted real estate acquisition and relocation activities in accordance with applicable federal and state laws and procedures.

In reviewing the existing Policy, staff identified opportunities to further streamline real estate operations (relieving the Board of responsibility for day-to-day operations, where appropriate), and bring the Policy into full conformance with existing Federal regulations that will apply to TJPA based on anticipated funding sources for the Program. Lastly, thresholds of authority for the Executive Director in certain areas are modified to reflect inflationary impacts to payments since the Policy’s initial adoption fourteen years ago.

The changes to the Executive Director’s authorities under this Policy update can be summarized as follows:

- A) New authority to acquire real property up to a value of \$200,000 under certain conditions and requirements, including supporting appraisal, compliance with applicable federal, state and local laws and regulations, documentation through standard Purchase and Sale Agreement, and conformance with the applicable Board-approved budget.

- B) Express authority to accept assignment of leases or other obligations associated with acquired real property.
- C) Express authority to accept releases of property interests and relinquishment of power of termination held by Caltrans and other project partners under appropriate circumstances.
- D) Broadening of express authority to arrange for short-term leases, licenses, and rights of entry, documented through standard agreements and under terms determined by the Executive Director to be reasonable, appropriate, and in the best interest of the TJPA.
- E) Express authority to enter right of entry agreements on standard terms so that TJPA may conduct due diligence as needed to advance the Program.
- F) Increase in threshold to pay valid relocation claims to \$200,000 per displacee.
- G) Inclusion of new threshold to pay valid goodwill loss claims up to \$50,000 per displaced business.

Additionally, Policy language has been adjusted to conform to any federal, state or local regulatory requirements that have been modified since the Policy was originally adopted in 2008.

The Executive Director would continue to report periodically to the Board on the activities undertaken pursuant to the Policy. The Board would retain the authority to require the Executive Director to seek the Board's prior approval for any activity authorized by this Policy in specific cases.

RECOMMENDATION:

Staff recommends that the Board adopt the amended Board Policy No. 013: Authorities Relating to Administration of Real Property, as presented herein, authorizing the Executive Director to exercise certain authorities relating to the administration of real property for the Program.

ENCLOSURES:

1. Resolution
2. Amended Real Estate Policy (redline, showing proposed edits)
3. Amended Real Estate Policy (clean, with proposed edits incorporated)

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, The Transbay Joint Powers Authority (“TJPA”) Board of Directors (“Board”) is responsible for establishing the policies of the Transbay Transit Center Program (“Program”); and

WHEREAS, Under the TJPA Bylaws, the Executive Director generally supervises, directs and controls the day-to-day business and administration of the TJPA; and

WHEREAS, In March 2008, the TJPA Board adopted Board Policy No. 013: Authorities Relating to Administration of Real Property (“Policy”). The Policy authorizes the Executive Director to exercise certain authorities relating to real property to facilitate the efficient operation of the Program and relieve the Board of responsibility for certain administrative tasks relating to real property; and

WHEREAS, An update to the Policy is appropriate at this time to align the Policy with current local, state and federal laws, and regulations, further streamline day-to-day operations, and reflect inflationary impacts since the Policy’s initial adoption fourteen years ago; and

WHEREAS, The Board would retain the authority to require the Executive Director to seek the Board’s prior approval for any activity authorized by such an amended Policy in specific cases; now, therefore, be it

RESOLVED, That the Board adopts the amended Board Policy No. 013: Authorities Relating to Administration of Real Property, as presented to the Board, authorizing the Executive Director to exercise certain authorities relating to the administration of real property for the Program.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of November 10, 2022.

Secretary, Transbay Joint Powers Authority

TRANSBAY JOINT POWERS AUTHORITY

Board Policy No. 013

Category: Real Estate

AUTHORITIES RELATING TO ADMINISTRATION OF REAL PROPERTY

I. Purpose.

Transbay Joint Powers Authority (“TJPA”) Board Policy No. 013: Authorities Relating to Administration of Real Property (“Policy”) authorizes the Executive Director to take administrative certain specified actions relating to real property ~~acquired, leased, or sold by the TJPA.~~

II. General Policy.

The Executive Director is responsible for supervision, direction and control of the business and administration of the TJPA, including the acquisition, control, and management of all real property associated with the Transbay Transit Center Program (“Program”). To facilitate the efficient operation of the Program and to relieve the Board of Directors (“Board”) of responsibility for day-to-day administrative operations relating to real property, the Board authorizes the Executive Director to exercise certain powers relating to the administration of real property without further Board approval, unless directed otherwise by formal action of the Board. The Executive Director shall periodically report to the Board on the actions taken under this Policy.

III. Executive Director’s Authorities.

The Executive Director may exercise the following authorities relating to real property without further approval by the Board, unless directed otherwise by formal action of the Board:

A. Acquire Real Property Up to \$200,000.

The Executive Director is authorized to acquire on behalf of the TJPA any real property interests necessary for the Program in an amount up to Two Hundred Thousand Dollars (\$200,000) per property, without further Board authorization. Prior to acquisition of such real property interests, an independent appraisal must be prepared, and the Executive

Director must approve the purchase price based on sufficient evidence and a finding that the purchase price complies with federal, state, and local law, and can be accommodated in the applicable TJPA budget approved by the TJPA Board. Any such acquisition shall be documented in a standard form of purchase and sale, easement, or other similar form of agreement determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel.

Any proposed acquisition of real property interests in an amount greater than Two Hundred Thousand Dollars (\$200,000) per property must be approved by the TJPA Board, in its sole discretion.

A.B. Accept ~~Deeds~~Real Property.

Following the Board's authorization of the expenditure of funds to acquire real property interests for the Program or the Executive Director's exercise of authority pursuant to this Policy to acquire real property interests for the Program, the Executive Director is authorized to accept on behalf of the TJPA grant and quitclaim deeds, easements, ~~or and~~ other instruments granting, ~~or~~ quitclaiming, or otherwise conveying real property interests to the TJPA, and to sign any required certificate of acceptance of real property, without further Board authorization. When accepting the conveyance of real property interests, the Executive Director is also authorized to accept on behalf of the TJPA assignment of lease agreements and other similar agreements associated with such real property, as determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel.

The Executive Director is authorized to accept on behalf of the TJPA ~~the~~ quitclaim deeds (also referred to as "Directors Deeds") transferring-conveying real property interests to the TJPA under the Cooperative Agreement between the TJPA, the State Department of Transportation ("Caltrans"), and the City and County of San Francisco, without further Board authorization.

The Executive Director is authorized to accept on behalf of the TJPA releases of property interests and relinquishments of power of termination held by Caltrans and other project partners upon satisfaction of any applicable conditions to such release or relinquishment, without further Board authorization.

B.C. Enter Short Term License, Lease, Entry, and Use Agreements.

The Executive Director is authorized to enter into ~~short-term lease~~ agreements permitting the ~~license, lease, entry, or use~~ of the TJPA's real property, without further Board authorization. Any such ~~lease~~ agreements shall limit occupancy of the ~~TJPA's~~ real property to a ~~short term basis (typically, a "month-to-month" term, and shall authorize and/or provide~~ the TJPA ~~the right~~ to terminate the ~~lease~~ agreement at its sole discretion on thirty days' notice ~~to the lessee~~), ~~consistent with the TJPA's planned use of the property for the Program. Any such agreement shall require consideration, which may be determined by the Executive Director in their reasonable judgment based on the facts and circumstances of the specific real property at issue and the terms of its proposed use. Any such agreement shall be in a standard form determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel. Any such lease agreement shall be in substantially the form attached hereto as Exhibit A or Exhibit B, which the Executive Director has the discretion to select based on the circumstances of the lease.~~

~~The Executive Director is authorized to enter into short-term right of entry agreements permitting the TJPA to enter a third party's real property to conduct due diligence investigations to advance the Program, without further Board authorization. Any such right of entry agreement shall be in a standard form determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel.~~

D.C. Pay Relocation Assistance Claims and Lost Business Goodwill Claims.

The Executive Director is authorized to pay relocation assistance claims of up to ~~One Two~~ Hundred Thousand Dollars (~~\$2~~100,000) aggregate per ~~occupant displaced person~~, without further Board action. Prior to payment of any such claims, the TJPA's relocation assistance consultant must recommend payment of the claims and the ~~TJPA staff~~ Executive Director must approve the claims based on sufficient evidence and a finding that the claims comply with federal, state, and local law, and can be accommodated in the applicable TJPA budget approved by the TJPA Board.

The Executive Director is authorized to pay claims for lost business goodwill of up to Fifty Thousand Dollars (\$50,000) per displaced business, without further Board authorization. Prior to payment of any such claims, an independent goodwill loss appraisal

must be prepared, confirming entitlement to goodwill loss and amount of goodwill loss, and the Executive Director must approve the claims based on sufficient evidence and a finding that the claims comply with state law, and can be accommodated in the applicable TJPA budget approved by the TJPA Board. Any such payment of goodwill loss claim shall be documented in a standard form of agreement determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel.

Any relocation claim in an amount greater than Two Hundred Thousand Dollars (\$200,000) in the aggregate, and any goodwill loss claim in an amount greater than Fifty Thousand Dollars (\$50,000), per displaced person must be approved by the TJPA Board, in its sole discretion.

C.D. Establish Just Compensation and Make Offers to Acquire.

The Executive Director is authorized to establish the amount of just compensation for the acquisition of any real property interests necessary for the Program without further Board authorization. The establishment of just compensation shall be based on at least onetwo independent appraisals, a review ~~of the~~ appraisals (if required under applicable regulations) ~~and recommendation by a third party review appraiser~~, and concurrence by the Federal Transit Administration (FTA) (if required under applicable regulations). ~~The amount of just compensation shall be the full amount of the appraisal recommended by the review appraiser and concurred with by the FTA.~~

The Executive Director may authorize the TJPA's real estate negotiator to offer an amount established as just compensation to a property owner for acquisition of the property; provided, however, that any acquisition based on an offer to acquire is subject to approval by the Board for property in an amount greater than \$200,000 and by the Executive Director for property in an amount up to \$200,000, in ~~their~~ts sole discretion.

D.E. Certify Right of Way.

The Executive Director is authorized to certify to the State the status of all real estate acquisition and relocation assistance related matters for purposes of advertising and awarding construction contracts for the Program without further Board approval; provided, however, that any award of a construction contract for the Program is subject to approval of the Board, in its sole discretion.

**Transbay Joint Powers Authority
Lease**

~~THIS Lease ("Lease") is made and entered into as of this ___ day of _____
2008 by and between the Transbay Joint Powers Authority ("TJPA" or "Lessor"), and
_____ ("Lessee").~~

~~IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:~~

~~1. Leased Premises. As used herein, the term "Premises" shall mean
_____, San Francisco, California (Block ___, Lot ___),
consisting of approximately _____ square feet;
as further described in Exhibit A attached hereto.~~

~~2. Lease Term. The term of this Lease shall be month to month. Notwithstanding
the foregoing, the Lease shall terminate on _____, unless earlier terminated by
TJPA or Lessee under Subsection 4.(hl).~~

~~3. Commencement Date. The term of this lease shall commence on _____, 2008.~~

~~4. Right to Terminate Lease.~~

~~(a) The Lease shall terminate on _____, 2008, unless earlier terminated
by TJPA or Lessee under Subsection 4(b).~~

~~(b) Either party shall have the right, in its sole and absolute discretion, to
terminate this Lease prior to _____ 2008 by giving the other party at least thirty (30)
days' prior written notice ("Termination Notice"). Such termination shall be effective as
of the last day of a calendar month.~~

~~(c) Upon the earlier of either _____, 2008 or the effective date of the
termination as set forth in the Termination Notice, the term of this Lease shall expire and
Lessee shall peaceably and quietly leave, yield up to, vacate, and surrender the Premises
to Lessor in the condition required under Section 10 of this Lease.~~

~~(d) In the event that Lessee does not promptly vacate the Premises on or before
_____, 2008, Lessee agrees that Lessor may immediately file a Complaint in
Unlawful Detainer, in the form attached hereto as Exhibit B, and Lessor shall be entitled
to Judgment awarding Lessor immediate possession of the Premises, under a Stipulation
for Entry of Judgment entered by Lessor and Lessee, attached hereto as Exhibit C.
Lessee further agrees that a Writ of Possession will issue, and be executed and enforced
immediately following Judgment. Lessee further agrees that it waives any claims or
defenses to possession of the Premises, and waives any claims or defenses in the
unlawful detainer action.~~

~~(e) Lessee further agrees and acknowledges that in the event Lessee does not promptly vacate the Premises as required pursuant to any Termination Notice under Subsection 4(b) above, in addition to any other rights or remedies of Lessor relating to such unlawful holdover, Lessee agrees to indemnify and protect Lessor from and reimburse Lessor for any and all losses, costs, and damages (including, but not limited to, lost profits) arising from any delays in Lessor selling or developing the property due to Lessee's failure to vacate and abandon the Premises, and in addition, Lessee shall indemnify, defend and hold harmless Lessor from any and all claims, losses, costs and damages arising from such holdover (including, but not limited to lost profits and/or any claims asserted against Lessor by any party).~~

~~5. Rent. On _____, 2008, Lessee shall pay in advance the last month's rent of _____ dollars, and a security deposit of _____ dollars. The security deposit will be returned to Lessee as provided under Section 36.~~

~~Lessee shall pay Lessor as rent, without deduction, setoff, prior notice, or demand, the sum of _____ dollars in advance on the first day of each month, commencing on _____, 2008, and continuing for the duration of this Lease.~~

~~All rent shall be paid to Lessor at the following address:~~

~~Transbay Joint Powers Authority
Attention Maria Ayerdi,
425201 Mission Street, Suite
201960 San Francisco, CA
94105~~

~~6. Financial Reports. Upon the request of Lessor, Lessee shall promptly provide, at Lessee's expense, all data necessary, in Lessor's sole discretion, to enable Lessor to comply fully with any and every requirement of any government agency for information or reports relating to this Lease and to Lessee's use of the Premises and to enable Lessor to determine Lessee's compliance with the requirements of this Lease. Such data shall include, if requested by Lessor, a detailed breakdown of Lessee's receipts, or statements of revenues and gross income.~~

~~7. Lessor' Compensation Upon Assignment, Transfer, or Sublease.~~

~~(a) In the event that Lessee receives Lessor's consent under Section 28 of this Lease, and thereafter voluntarily assigns, transfers, or subleases any of Lessee's rights in the Premises, Lessee shall pay to Lessor compensation in connection with the transaction in an amount equal to fifty percent (50%) of any and all consideration, whether in present payments or in future payments, which Lessee receives from assignee, transferee, or subtenant in excess of the amount of rent Lessee is obligated to pay to Lessor under this Lease.~~

~~(b) — Payment by Lessee of the amount of compensation required under this Section is a condition to Lessor's giving its consent to any assignment, transfer, or sublease under Section 28, and Lessor may withhold its consent to any such assignment, transfer, or sublease until this compensation has been paid. In addition, before Lessor gives its consent to any such transaction, Lessee shall deliver to the assignee, transferee, or subtenant a written summary of all sums due and owing to Lessor under this Section and shall deliver to Lessor a written acknowledgement by the assignee, transferee, or subtenant that said person affirms that the sums are due and owing to Lessor and that said person accepts responsibility for ensuring that such sums are paid directly to Lessor.~~

~~(c) — Lessee shall supply Lessor with all information Lessor determines to be reasonably necessary on all persons or firms to which Lessee proposes to sublet, transfer, or assign 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 Lessee. In addition, with respect to any proposed sublease, transfer or assignment, Lessee shall provide Lessor with a copy of all documents relating thereto, a statement of all terms and conditions of said transaction, including the consideration therefore, and a copy of the financial statement of the prospective subtenant, transferee, or assignee.~~

~~(d) — If Lessee is a partnership, a withdrawal or change, voluntary, involuntary, or by operation of law, or the dissolution of the partnership, shall be deemed a voluntary assignment subject to the provisions of Subsections 7(a) and (h). If Lessee consists of more than one person, a purported assignment voluntary, involuntary, or by operation of law, shall be deemed a voluntary assignment subject to the provisions of Subsections 7(a) and (h). If Lessee is a corporation, any dissolution, merger, consolidation, or other reorganization of Lessee, or the sale or other transfer of a controlling percentage of the capital stock of Lessee, or the sale of fifty one percent (51%) of the value of the assets of Lessee, shall be deemed a voluntary assignment subject to the provisions of Subsections 7(a) and (h). The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least fifty one (51%) of the total combined voting power of all classes of Lessee's capital stock issued, outstanding, and entitled to vote for the election of directors.~~

~~8. — Late Charge and Interest. If any installment of rent or any other sum due from Lessee under any provision of this Lease shall not be received by Lessor or Lessor's designee within five (5) days after such amount shall be due, then, without requirement for notice to Lessee, Lessee shall pay to Lessor a late charge equal to six percent (6%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of late payment by Lessee. In addition to the late charge required by this Section, any amount due Lessor under any provision of this Lease that shall not be received by Lessor or Lessor's designee when due shall bear interest at a rate of one percent (1%) above the discount rate of the Federal Reserve Bank of San Francisco from the due date.~~

9. ~~Use.~~ The Premises shall be used only for _____ and for no other purpose without obtaining prior written consent of Lessor. Lessee agrees not to _____ on the Premises.

Lessee will comply with all applicable laws related to _____
at the Premises.

10. ~~Condition of Premises.~~

(a) ~~Lessee accepts the Premises in the condition existing as of the Commencement Date, subject to all applicable zoning, municipal, county, state, and federal laws, ordinance, and regulations governing and regulating the use of the Premises, and accepts this Lease subject thereto and to all matters disclosed thereby. Lessee acknowledges that neither Lessor nor any agent of Lessor has made any representation or warranty with respect to the condition of the Premises or the suitability thereof for the conduct of Lessee's business, nor has Lessor agreed to undertake any modification, alteration, or improvement to the premises.~~

(b) ~~The taking of possession of the premises by Lessee shall in itself constitute acknowledgement that the Premises are in good and tenantable condition, and Lessee agrees to accept the Premises in its presently existing condition "as is."/~~

(c) ~~Lessee, 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. Lessee shall ensure that the Premises is at all times in an orderly, clean, safe, and sanitary condition. Lessee hereby expressly waives the right to make repairs at the expense of Lessor and waives the benefit of the provisions of Sections 1941 and 1942 of the California Civil Code or any successor thereto. Lessee shall take all steps necessary to protect the _____ on the Premises from damage incident to Lessee's use of the Premises without expense to Lessor. Lessee shall, at its own cost and expense, repair in accordance with Lessor's standards any damage to any property owned by Lessor, by Lessee, subtenants, invitees, or other third parties. Lessee shall designate in writing to Lessor a representative who shall be responsible for the day-to-day operation and maintenance, cleanliness, and general order of the Premises.~~

(d) ~~Lessee acknowledges that it does not know of nor has reasonable cause to believe that Lessee or any other person or entity has released any hazardous material beneath the Premises. The phrase "hazardous material" has the meaning as that phrase has in Subsection 10.(g).~~

(e) ~~Lessee shall not use the Premises or permit anything to be done on 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, relating to or affecting the condition, use, or occupancy of the Premises. The judgment of any court of competent~~

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

~~(f) Lessee shall not install facilities for, nor operate on the Premises, a gasoline or petroleum supply station. Lessee shall not permit on the Premises any vehicle used or designed for the transportation or storage of gasoline or petroleum products. Lessee shall also not permit on the Premises any bulk storage of gasoline or petroleum products. Lessee shall not repair or allow repair of vehicles on the Premises.~~

~~(g) Lessee 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. sections 1251 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. sections 6901 *et seq.*), Safe Drinking Water Act (42 U.S.C. sections 300f *et seq.*), Toxic Substances Control Act (15 U.S.C. sections 2601 *et seq.*), Clean Air Act (42 U.S.C. sections 7401 *et seq.*), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. sections 9601 *et seq.*), Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code sections 25249.5 *et seq.*), other applicable provisions of the California Health and Safety Code (sections 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 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, Lessee 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 Lessee cause or allow the deposit or disposal of any hazardous materials on the Premises. Lessor, 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 Lessee breaches any of the provisions of this Section, this Lease may~~

~~be terminated immediately by Lessor and be of no further force or effect. It is the intent of the parties hereto that Lessee shall be responsible for and bear the entire cost of removal and disposal of hazardous materials introduced to the Premises during Lessee's period of use and possession as operator or lessee of the Premises necessitated by the introduction of such hazardous materials on the Premises. Lessee shall not be responsible or bear the cost of removal or disposal of hazardous materials introduced to the Premises by any party other than Lessee during any period prior to commencement of Lessee's period of use and possession of the Premises as operator or lessee.~~

~~Lessee shall further hold Lessor and its officers and employees harmless from all responsibility, liability, and claims for damages resulting from the release or use of hazardous materials on the Premises during Lessee's period of use and possession of the Premises.~~

~~(h) Lessee shall not construct, erect, maintain, or permit any sign, banner, or flag upon the Premises without the prior written approval of Lessor, which will not be unreasonably withheld. The location of all signs on the Premises shall also be subject to Lessor's prior approval. All signs shall also comply with all applicable requirements of local governmental agencies, including governmental approval and payment of any fees. Lessee shall not place, construct, or maintain upon the Premises any advertising media that include moving or rotating parts, searchlights, flashing lights, loudspeakers, 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. Lessor may remove any unapproved sign, banner, or flag existing on the Premises, and Lessee shall be liable to and shall reimburse Lessor for the cost of such removal plus interest as provided in Subsection L1® from the date of completion of such removal.~~

~~(i) Lessee shall not park or store wrecked or inoperable vehicles of any kind on the Premises.~~

~~(i) No vending of any kind or character shall be conducted, permitted, or allowed upon the Premises.~~

~~(k) No improvements of any kind 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 Lessor, which consent will not be unreasonably withheld.~~

~~(l) Lessee shall not encumber the Premises in any manner whatsoever.~~

~~(m) In the event Lessee fails to perform Lessee's obligations under this Section, Lessor shall give Lessee notice to do such acts as are reasonably required to so maintain the Premises. If within ten (10) days after Lessor sends written notice to repair, Lessee fails to do the work and diligently proceed in good faith to prosecute it to completion,~~

~~Lessor shall have the right, but not the obligation, to do such acts and expend such funds at the expense of Lessee as are reasonably required to perform such work. Any amount so expended by Lessor shall be paid by Lessee promptly after demand plus interest as provided in Section 8 from the date of completion of such work to date of payment. Lessor shall have no liability to Lessee for any damage, inconvenience, or interference with the use of the Premises by Lessee as a result of performing any such work.~~

~~11. Ownership of Improvements.~~

~~(a) — All improvements constructed and placed on the Premises at the Commencement Date are the property of and vested in Lessor, and all improvements constructed and placed on the Premises following the Commencement Date shall be the property of and vest in Lessor. Lessee shall not remove any of these improvements from the Premises nor waste, destroy, or modify them in any way. Upon termination of this Lease, Lessee shall deliver these improvements to Lessor in good condition and repair, reasonable wear and tear excepted, without compensation to Lessee, any subtenant, or third party, free and clear of all claims to or against them by Lessee, any subtenant, or third party, and Lessee shall defend and hold Lessor harmless from all liability arising from such claims or from the exercise by Lessor of its rights under this Section. Lessee and Lessee covenant for themselves and all persons claiming under or through them that the improvements are real property.~~

~~(b) — Any signs or other appurtenances placed on the Premises by Lessee are the personal property of Lessee. At the termination of this Lease, Lessee shall remove all personal property placed on the Premises and shall restore the Premises to its condition at the Commencement Date, at Lessee's sole expense, with the exception of the improvements made following the Commencement Date with the prior written approval of Lessor under Subsection 10(k). Any personal property not removed by Lessee after thirty (30) days following Lessor's sending written notice to Lessee may be removed by Lessor. Lessee shall be liable to Lessor for all reasonable costs incurred by Lessor in effecting the removal of personal property and restoring the Premises. Lessor may, in its sole discretion, declare all personal property not removed by Lessee to be abandoned by Lessee and this property shall, without compensation to Lessee, become Lessor's property, free and clear of all claims to or against it by Lessee or any other person.~~

~~12. Insurance and Indemnification.~~

~~(a) — Lessee shall insure, indemnify and hold harmless Lessor from any and all claims, loss and liability, including attorneys' and expert fees and litigation costs, on account of any damages, injuries, claims and demands arising out of: Lessee's use or occupation of the Premises; the acts or omissions of Lessee, its agents, employees, invitees, or any other person; or, the conduct of Lessee's business or anything else done or permitted by Lessee to be done in or about the Premises, and/or any claims asserted against Lessor by any party, including, without limitation, the City of San Francisco, in~~

~~connection with Lessee's use, except to the extent that any such claims, loss, or liability arise out of the active negligence of Lessor. Lessee will be liable for any environmental issues and clean up that are caused as a direct result of the Lessee's operation of its business on the Premises and shall indemnify, defend and hold harmless Lessor from any and all claims, loss and liability, including attorneys' and expert fees and litigation costs, on account of any damages, injuries, claims and demands arising out of any such environmental issues or clean up.~~

~~(b) — Lessee shall obtain and keep in force during the term of this Lease:~~
~~(a) comprehensive general liability insurance, including property damage, against liability for personal injury, bodily injury, fire, death and damage to property occurring in or about the Premises in the amount of Two Million Dollars (\$2,000,000) combined single limit for injuries to or death of one or more persons in any one occurrence; and (b) casualty insurance for damages or loss to property, including, but not limited to, vehicles parked or driving on the Premises, in the amount of One Million Dollars (\$1,000,000). The limits of such insurance shall not limit the liability of Lessee. All policies shall be written as primary policies, not contributing with and not in excess of coverage which Lessor may carry. Said policies shall name Lessor as additional insured/loss payee and shall insure against the contingent liabilities, if any, of Lessor and the officers, agents, and employees of Lessor and shall obligate the insurance carriers to notify Lessor, in writing, not less than thirty (30) days prior to the cancellation thereof, or any other change affecting the coverage of the policies. Lessee shall furnish to Lessor a Certificate of Insurance acceptable to Lessor within not more than ten (10) days following execution of this Lease. Lessor shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of Lessor, the insurance provisions in this Lease do not provide adequate protection for Lessor and for members of the public using the Premises, Lessor may require Lessee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. Lessor'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. Lessor shall notify Lessee in writing of changes in the insurance requirements. If Lessee does not deposit copies of acceptable insurance policies with Lessor incorporating such changes within sixty (60) days following receipt of such notice, this Lease may be terminated, at Lessor's sole option, without further notice to Lessee, and be of no further force and effect.~~

~~(c) — Lessee shall obtain and keep in effect at all times during the term of this Lease Worker's Compensation insurance, including employers' liability, in an amount not less than One Million Dollars (\$1,000,000) for each occurrence, covering all employees employed in or about the Premises, that provides statutory benefits as required by the laws of the State of California.~~

~~(d) — Lessee 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 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 Ten Thousand Dollars (\$10,000) each occurrence.~~

~~(e) — Lessee shall maintain any and all other types of insurance as may be legally required of ____, or maintained by reasonably prudent operators of similar facilities in Downtown San Francisco.~~

~~(f) — If Lessee fails to procure or maintain the insurance required by this Section in full force and effect, this Lease may be terminated immediately by Lessor and be of no further force or effect. In addition, if Lessee fails to procure or maintain the insurance required by this Section, Lessee 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.~~

~~(g) — Lessee waives any and all rights of recovery against Lessor, or against the officers, employees, agents, and representatives of Lessor, for loss or damage to Lessee 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. Lessee shall give notice to its insurance carrier or carriers that the foregoing waiver of subrogation is contained in the Lease.~~

~~13. — Right of Entry. Lessor, through its 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 Lessee, its agents or representatives. Lessor further reserves the right of entry by any authorized officer, engineer, employee, contractor, or agent of Lessor for the purpose of performing any maintenance activities upon the Premises which Lessee has failed to perform. All agreements which Lessee enters into for the sublease or use of all or any part of the Premises shall contain a provision, approved by Lessor, which describes Lessor's right of entry as set forth in this Section.~~

~~14. — Utilities and Services. Lessee shall pay when due, and shall hold Lessor 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. Lessor shall not be liable in damages or otherwise for any failure or interruption of any utility service furnished to the Premises. No such failure or interruption shall entitle Lessee to terminate this Lease, unless such failure is due to the fault or neglect of Lessor and is not remedied within five (5) days after written notice by Lessee to Lessor.~~

~~15.— Payment of Taxes. Lessee 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 structures or improvements at any time located thereon, or any estate, right, title, or interest of Lessee in and to the Premises, improvement, or structures. Specifically, and without placing any limitation on Lessee's obligations under the immediately preceding sentence, Lessee shall pay when due, before delinquency, any and all business taxes, other taxes required by the City and County of San Francisco or any other governmental entity, workers' compensation taxes payable to the California Franchise Tax Board, and personal property taxes on fixtures, equipment, and facilities owned by Lessee, whether or not the same have become so fixed to the land as to comprise a part of the real estate. Notwithstanding anything else in this Lease, to the extent that a possessory interest tax is owed, it will be the responsibility of Lessor. Any obligation of Lessee under this Section may be imposed upon Lessee's interest herein shall not reduce any rent due Lessor under this Lease and any such obligation shall become the liability of and be paid by Lessee. In the event Lessee defaults in the payment of any of the obligations set forth in this Section, this Lease may be terminated immediately by Lessor and be of no further force or effect. Lessee agrees to provide to Lessor on a quarterly basis evidence of compliance with the foregoing.~~

~~16.— Permits and Licenses. Lessee shall at its sole cost, expense and risk procure any and all permits or licenses necessary for the operation of its enterprise on the Premises, and Lessor agrees to assist Lessee to obtain such permits or licenses if such assistance is necessary, at no material cost to Lessor and provided no conditions to any permit or license will burden the Premise after termination of this Lease. Rent shall be payable on the Commencement Date, whether or not Lessee has obtained any such licenses and approvals. Lessee will abide by City and County of San Francisco laws and regulations with respect to permits, fees licenses, taxes and penalties and all other matters related to the permitted use allowed under this Lease, including, without limitation, wage and labor laws, immigration laws, worker safety and environmental laws and any other laws or regulations applicable to the use permitted hereunder.~~

~~17.— Default. The occurrence of any of the following shall constitute a material breach and default of this Lease by Lessee.~~

~~(a) Any failure by Lessee 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 Lessor to Lessee.~~

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

~~(c) — The making by Lessee of any general assignment or general arrangement for the benefit of creditors; the filing by or against Lessee of a petition to have Lessee 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 Lessee the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets, where possession is not restored to Lessee within forty five (45) days; or the attachment, execution, or other judicial seizure of substantially all of Lessee's assets, where such seizure is not discharged within thirty (30) days.~~

~~(d) — The failure by Lessee to comply with any provision of any law, statute, zoning restriction, ordinance or governmental rule, regulation or requirement as set forth in Subsection 10(e) of this Lease, where such failure continues after ten (10) days written notice from Lessor to Lessee.~~

~~(e) — The failure by Lessee to comply with the requirements regarding the condition of the Premises as set forth in Subsections 10(f) and (g) of this Lease.~~

~~(f) — The construction by Lessee of any improvements on the Premises contrary to the provisions as set forth in Subsection 10(k) of this Lease, where such failure continues after ten (10) days written notice from Lessor to Lessee.~~

~~(g) — The failure by Lessee to pay any tax, assessment, imposition, levy or charge of any kind as set forth in Section 15 of this Lease.~~

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

~~18. — Lessor's Remedies — In the event of any material default or breach by Lessee, Lessor may at any time thereafter, without limiting Lessor in the exercise of any right of remedy at law or in equity which Lessor may have by reason of such default or breach, terminate Lessee's right to possession by any lawful means, in which case this Lease shall terminate pursuant to the provisions of Section 17, and Lessee shall surrender possession of the Premises to Lessor upon such termination. In such event Lessor shall~~

~~be entitled to recover from Lessee all damages incurred by Lessor by reason of Lessee'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. 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 the default. The term "rent" as used in this Article shall be deemed to be and to mean rent to be paid pursuant to Section of this Lease and all other monetary sums required to be paid by Lessee pursuant to the terms of this Lease; plus~~

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

~~(c) — at Lessor'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 under this Section, Lessor shall have the right to make any reasonable repairs, alterations, or modifications to the premises.~~

~~No waiver by Lessor of any breach of any of the covenants to be performed by Lessee shall be construed as a waiver of any other breach of any of the covenants of this Lease.~~

~~19. — Damage by Fire, Disaster or Other Casualty. In case of damage to the Premises by fire or other casualty, if the damage is so extensive as to substantially amount to the total destruction of the Premises that renders it unsuitable for continued use as _____ this Lease may, at the option of either Lessee or Lessor, be terminated, and the rent shall be apportioned in relation to the time of the damage. If said damage has rendered the Premises untenable in part for the use permitted hereunder, rent shall be abated in proportion to that part of the Premises on which Lessee is unable to operate its enterprise during the period of damage and repair.~~

~~20. — Reserve~~

~~21. — Limitation Period. Any claim, demand, right or defense of any kind by either party which is based upon or arises in any connection with this Lease or the negotiations prior to its execution shall be barred unless an action thereon is commenced or interposed in a legal proceeding within one (1) year after the date of the action or omission or the date of the occurrence of the event or action to which the claim, demand, right or defense relates.~~

~~22. — Notices.~~

~~Any thirty (30) day notice to quit shall be served on Lessee by sending a copy by certified or registered mail to:~~

~~_____

Attn: _____~~

~~Any other notices or communications required or requested to be given under the terms of this Lease shall be in writing and shall be deemed properly given either by personal service, overnight service, or mailed by United States mail, registered and with postage prepaid, if to:~~

~~Lessor To: Transbay Joint Powers Authority
201 Mission Street, Suite
1960425 Mission Street, Suite
200 San Francisco, CA 94105
Attn: Maria Ayerdi~~

~~Lessee To: _____

Attn: _____~~

~~Such addresses for notices may be changed by delivering notice of such change in the manner provided above.~~

~~23. Brokerage Commission. Lessor shall have no liability for any commission in connection with this Lease and Lessee shall indemnify, defend, and hold harmless Lessor from and against same.~~

~~24. Attorneys' Fees. In the event any legal action or arbitration proceeding is brought to enforce any provision of this Lease or construe or interpret any part or provision hereof, the prevailing party shall be entitled to reasonable attorney's fees and costs, including costs for expert witnesses, which shall be included as part of any judgment. Attorneys' fees shall be assessed at rates prevailing in San Francisco for the legal services required for the type of litigation or arbitration in question.~~

~~25. Descriptive Headings. The Section headings used herein are descriptive only and for the convenience of identifying the provisions hereof and are not determinative of the meaning or effect of any of the provisions of this Lease.~~

~~26. Severability. If any provision of this Lease shall 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.~~

~~27. — Entire Agreement. The Lease contains the entire agreement and understanding between the parties hereto, and may not be amended, changed, or revoked except by agreement in writing executed by both parties. Lessor and Lessee agree 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 Lease.~~

~~28. — Successors and Assigns. This Lease shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns provided, however, that in the event Lessee desires to assign its interest hereunder that it must obtain the written consent of Lessor which consent may be withheld in Lessor's sole and absolute discretion.~~

~~29. — Governing Law. This Lease shall be governed by, and construed and enforced in accordance with the laws of the State of California. Venue for all actions or proceedings shall be in the City and County of San Francisco, California.~~

~~30. — Time of Essence. Time is of the essence of this Lease and each and every provision of the Lease.~~

~~31. — 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 Lessor of any performance by Lessee after the time the same shall have become due shall not constitute a waiver by Lessor of the breach or default of any covenant, term, or condition unless otherwise expressly agreed to by Lessor in writing.~~

~~32. — Recording. Neither Lessor nor Lessee shall record this Lease.~~

~~33. — Corporate Authority. If Lessee is a corporation, each individual executing this Lease on behalf of the 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 the corporation or in accordance with the Bylaws of the corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Lessee is a corporation, Lessee shall, within thirty (30) days following execution of this Lease, deliver to Lessor a certified copy of a resolution of the Board of Directors of the corporation authorizing or ratifying the execution of this Lease~~

~~34. — Force Majeure. If either Lessor or Lessee shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, government 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 Lessee from prompt payment of any rent, taxes, insurance, or any other charge required of Lessee, except as may be expressly provided in this Lease.~~

~~35. — Condemnation. If, as reasonably determined by Lessor, the Premises cannot be used by Lessee because of a condemnation or sale in lieu of condemnation, then this Lease shall automatically terminate. Lessor shall be entitled to the entire awarded or proceeds for any total or partial condemnation or sale in lieu thereof, including, without limitation, any award of proceeds for the value of the leasehold estate created by this Lease. Notwithstanding the foregoing, Lessee shall have the right to pursue recovery from the condemning authority of such compensation as may be separately awarded to Less for Lessee's relocation expenses, the taking of Lessee's personal property and fixtures, and the interruption of or damage to Lessee's business.~~

~~36. — Security Deposit. On __, 2008, Lessee shall have deposited with Lessor _____ dollars as a security deposit for the performance by Lessee of the obligations of this Lease. If Lessee is in default, Lessor may use the security deposit, or any portion of it, to cure the default or compensate Lessor for any damages sustained by Lessor resulting from Lessee's default. If Lessee is not in default at the expiration or termination of the Lease, Lessor shall return the security deposit to Lessee within thirty (30) days following the expiration or termination date. Lessor shall not be required to pay Lessee interest on the security deposit.~~

~~37. — Counterparts. This document may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.~~

~~Executed as set forth below in the City and County of San Francisco.~~

~~Date: _____~~

~~By: _____~~

Date: _____

~~TRANSBA Y JOINT POWERS AUTHORITY,
a joint powers agency created under California
Government Code sections 6500 *et seq.*~~

By: _____

~~Maria Ayerdi,
Executive Director~~

~~Lease~~
~~Exhibit A~~
~~Premises Description~~

TRANSBAY JOINT POWERS AUTHORITY

Board Policy No. 013

Category: Real Estate

AUTHORITIES RELATING TO ADMINISTRATION OF REAL PROPERTY

I. Purpose.

Transbay Joint Powers Authority (“TJPA”) Board Policy No. 013: Authorities Relating to Administration of Real Property (“Policy”) authorizes the Executive Director to take certain specified actions relating to real property.

II. General Policy.

The Executive Director is responsible for supervision, direction and control of the business and administration of the TJPA, including the acquisition, control, and management of all real property associated with the Transbay Transit Center Program (“Program”). To facilitate the efficient operation of the Program and to relieve the Board of Directors (“Board”) of responsibility for day-to-day administrative operations relating to real property, the Board authorizes the Executive Director to exercise certain powers relating to the administration of real property without further Board approval, unless directed otherwise by formal action of the Board. The Executive Director shall periodically report to the Board on the actions taken under this Policy.

III. Executive Director’s Authorities.

The Executive Director may exercise the following authorities relating to real property without further approval by the Board, unless directed otherwise by formal action of the Board:

A. Acquire Real Property Up to \$200,000.

The Executive Director is authorized to acquire on behalf of the TJPA any real property interests necessary for the Program in an amount up to Two Hundred Thousand Dollars (\$200,000) per property, without further Board authorization. Prior to acquisition of such real property interests, an independent appraisal must be prepared, and the Executive Director must approve the purchase price based on sufficient evidence and a finding that the

purchase price complies with federal, state, and local law, and can be accommodated in the applicable TJPA budget approved by the TJPA Board. Any such acquisition shall be documented in a standard form of purchase and sale, easement, or other similar form of agreement determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel.

Any proposed acquisition of real property interests in an amount greater than Two Hundred Thousand Dollars (\$200,000) per property must be approved by the TJPA Board, in its sole discretion.

B. Accept Real Property.

Following the Board’s authorization of the expenditure of funds to acquire real property interests for the Program or the Executive Director’s exercise of authority pursuant to this Policy to acquire real property interests for the Program, the Executive Director is authorized to accept on behalf of the TJPA grant and quitclaim deeds, easements, and other instruments granting, quitclaiming, or otherwise conveying real property interests to the TJPA, and to sign any required certificate of acceptance of real property, without further Board authorization. When accepting the conveyance of real property interests, the Executive Director is also authorized to accept on behalf of the TJPA assignment of lease agreements and other similar agreements associated with such real property, as determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel.

The Executive Director is authorized to accept on behalf of the TJPA quitclaim deeds (also referred to as “Directors Deeds”) conveying real property interests to the TJPA under the Cooperative Agreement between the TJPA, the State Department of Transportation (“Caltrans”), and the City and County of San Francisco, without further Board authorization.

The Executive Director is authorized to accept on behalf of the TJPA releases of property interests and relinquishments of power of termination held by Caltrans and other project partners upon satisfaction of any applicable conditions to such release or relinquishment, without further Board authorization.

C. Enter Short Term License, Lease, Entry, and Use Agreements.

The Executive Director is authorized to enter into short-term agreements permitting

the license, lease, entry, or use of the TJPA’s real property, without further Board authorization. Any such agreement shall limit occupancy of the TJPA’s real property to a short term basis (typically, a “month-to-month” term and/or provide the TJPA the right to terminate the agreement at its sole discretion on thirty days’ notice), consistent with the TJPA’s planned use of the property for the Program. Any such agreement shall require consideration, which may be determined by the Executive Director in their reasonable judgment based on the facts and circumstances of the specific real property at issue and the terms of its proposed use. Any such agreement shall be in a standard form determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel.

The Executive Director is authorized to enter into short-term right of entry agreements permitting the TJPA to enter a third party’s real property to conduct due diligence investigations to advance the Program, without further Board authorization. Any such right of entry agreement shall be in a standard form determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel.

D. Pay Relocation Assistance Claims and Lost Business Goodwill Claims.

The Executive Director is authorized to pay relocation assistance claims of up to Two Hundred Thousand Dollars (\$200,000) aggregate per displaced person, without further Board action. Prior to payment of any such claims, the TJPA’s relocation assistance consultant must recommend payment of the claims and the Executive Director must approve the claims based on sufficient evidence and a finding that the claims comply with federal, state, and local law, and can be accommodated in the applicable TJPA budget approved by the TJPA Board.

The Executive Director is authorized to pay claims for lost business goodwill of up to Fifty Thousand Dollars (\$50,000) per displaced business, without further Board authorization. Prior to payment of any such claims, an independent goodwill loss appraisal must be prepared, confirming entitlement to goodwill loss and amount of goodwill loss, and the Executive Director must approve the claims based on sufficient evidence and a finding that the claims comply with state law, and can be accommodated in the applicable TJPA budget approved by the TJPA Board. Any such payment of goodwill loss claim shall

be documented in a standard form of agreement determined by the Executive Director to be reasonable, appropriate, and in the best interests of the TJPA, based on consultation with legal counsel.

Any relocation claim in an amount greater than Two Hundred Thousand Dollars (\$200,000) in the aggregate, and any goodwill loss claim in an amount greater than Fifty Thousand Dollars (\$50,000), per displaced person must be approved by the TJPA Board, in its sole discretion.

E. Establish Just Compensation and Make Offers to Acquire.

The Executive Director is authorized to establish the amount of just compensation for the acquisition of any real property interests necessary for the Program without further Board authorization. The establishment of just compensation shall be based on at least one independent appraisal, a review appraisal (if required under applicable regulations), and concurrence by the Federal Transit Administration (FTA) (if required under applicable regulations).

The Executive Director may authorize the TJPA's real estate negotiator to offer an amount established as just compensation to a property owner for acquisition of the property; provided, however, that any acquisition based on an offer to acquire is subject to approval by the Board for property in an amount greater than \$200,000 and by the Executive Director for property in an amount up to \$200,000, in their sole discretion.

F. Certify Right of Way.

The Executive Director is authorized to certify to the State the status of all real estate acquisition and relocation assistance related matters for purposes of advertising and awarding construction contracts for the Program without further Board approval; provided, however, that any award of a construction contract for the Program is subject to approval of the Board, in its sole discretion.