

**THIS PRINT COVERS CALENDAR ITEM NO. 9
FOR THE MEETING OF: January 20, 2005**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION: Approving the draft Transbay Redevelopment Project Implementation Agreement ("Implementation Agreement"), and authorizing the Executive Director to sign a substantially similar document for adoption of the Transbay Redevelopment Plan.

SUMMARY:

- The Implementation Agreement provides that the Authority will loan the Redevelopment Agency funds to implement the first five years of the Transbay Redevelopment Plan ("Agency Costs"). The amount loaned must be in excess of monies the Agency receives from other sources and will be appropriated only upon Authority approval of an annual budget.
- The Authority also agrees to pay the Agency all staff and other costs ("Agency Administrative Fees") related to development of the "State-Owned Parcels" until all the parcels are sold. State-Owned Parcels are the parcels transferred from the State to the City and Authority under the Cooperative Agreement. The Agency agrees to prepare the parcels for development. All payments must be within the Authority's approved annual budget.
- The amount of Agency Costs and Agency Administrative Fees will be subject to advance Authority approval of an annual Agency budget. The budget must distinguish amounts for Agency Costs and Agency Administrative Fees. The Agency must enter into a separate agreement with the Authority to provide for payment of Agency invoices. All Agency invoices for Agency Costs and Agency Administrative Fees are subject to audit as required by the Authority or by the Authority's granting agencies.
- After five years, the parties must determine whether the Redevelopment Plan Area is generating sufficient tax increment from the non State-Owned Parcels to fund the Agency Costs. In the sixth year, the Agency must begin repayment of the loan, interest free to the extent that the Authority is not charged interest, and on such other terms as the parties agree.
- The Implementation Agreement also provides that the parties agree to coordinate a review process with respect to the design of the Transbay Terminal building as set forth in Exhibit C.
- The Implementation Agreement and other Agreements that become part of the Redevelopment Plan are scheduled for approval by the Redevelopment Agency on January 25, 2005 and then must be approved and adopted by the San Francisco Board of Supervisors when the Redevelopment Plan is finally adopted. If the Agency or the City decides that substantial changes are needed to the Implementation Agreement, the Authority Board will

have to approve the changes before the Agreement becomes effective.

ENCLOSURES:

1. Resolution
2. Transbay Redevelopment Project Implementation Agreement

EXPLANATION:

The Redevelopment Agency has no funding to begin implementing the Transbay Redevelopment Plan or to prepare the State-Owned Parcels for development. Tax increment from State-Owned Parcels will be pledged to the Authority rather than to the Agency, as normally occurs under the Community Redevelopment Law. When any of the State-Owned Parcels are sold for development, the gross sales proceeds must be turned over to the Authority's account. All of these funding restrictions are contained in the deeds to the actual parcels as well as in Agreements between the State, the City, the Redevelopment Agency and the Authority.

There will be tax increment from the non State-Owned Parcels within the Redevelopment Plan area, but it will be several years before tax money from those parcels is sufficient to support the Agency's costs to implement the Plan. Planning for general infrastructure, streets, sidewalks, parks, and other public amenities must proceed once the Plan is adopted. Thus, the Authority's loan funds and payments in this Agreement will be used by the Agency to generate the tax increment and sales proceeds that will finance the Transbay Terminal Project.

In designing and developing the Transbay Terminal Building (the "Terminal") on the parcels designated for the improvements (the "Terminal Parcels"), the Transbay Joint Powers Authority (the "Authority") will coordinate its planning and design activities related to the new Transbay Terminal project with the San Francisco Redevelopment Agency ("Agency"). The Agency recognizes and acknowledges that the planning and design of the new Terminal will involve numerous other agencies and stakeholders within and outside of the City of San Francisco. Resolution of any potential issues related to the design of the Terminal shall be at the sole discretion of the Authority.

TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS

Resolution No. _____

WHEREAS, Upon adoption of the Transbay Redevelopment Plan the Redevelopment Agency ("Agency") will begin the process of rehabilitating and revitalizing the Plan area to attract and enhance the ability of the area to attract developers to create a cohesive neighborhood designed around the Transbay Terminal; and

WHEREAS, The Agency has agreed to prepare the vacant State-Owned Parcels within the Redevelopment Plan area for development and sell them to third parties for development consistent with the Redevelopment Plan; and

WHEREAS, All net tax increment from the State-Owned Parcels will be pledged to the Transbay Terminal Project under the terms of the Cooperative Agreement between the City and County of San Francisco ("City"), the State of California and the Transbay Joint Powers Authority ("Authority"), and the draft Tax Allocation Pledge and Sales Proceeds Agreement between the Authority ("Tax Allocation Agreement"), the City and the Agency; and

WHEREAS, Pursuant to the Cooperative Agreement and the Tax Allocation Agreement, the Authority will receive the gross sales proceeds from sales of the State-Owned Parcels to third-party developers; and

WHEREAS, The bulk of funds generated within the Redevelopment Plan area are dedicated to the Authority for the Transbay Terminal Project and are not available to pay the Agency's costs for implementing the Plan, or preparing the State-Owned Parcels for development and sale; and

WHEREAS, It will be several years before the Plan area generates any income available to the fund the Agency's staff and other implementation costs; and

WHEREAS, The Transbay Redevelopment Project Implementation Agreement has been filed with the Secretary and provides that the Authority will provide funding to the Agency, subject to certain limitations and the Authority's discretion to approve annual budgets; and

WHEREAS, Authority funding is necessary to begin the redevelopment process and provide funds necessary to fund the Transbay Terminal Project; and

WHEREAS, The parties agree to coordinate a review process with respect to the design of the Transbay Terminal building as set forth in Exhibit C; and

WHEREAS, The Transbay Redevelopment Project Implementation Agreement must be

approved as part of the Transbay Redevelopment Plan before it becomes effective; now, therefore, be it

RESOLVED, That the Transbay Joint Powers Authority Board authorizes the Executive Director to sign the Transbay Redevelopment Project Implementation Agreement on file with the Secretary or a substantially similar final document; and be it

FURTHER RESOLVED, That if changes are made by the parties to the document on file with Secretary, and those changes are substantial in the opinion of the Executive Director and the General Counsel, the Executive Director shall return to the Board of Directors for additional signature authorization and approval.

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

Secretary, Transbay Joint Powers Authority

TRANSBAY REDEVELOPMENT PROJECT
IMPLEMENTATION AGREEMENT

THIS TRANSBAY REDEVELOPMENT PROJECT IMPLEMENTATION AGREEMENT (this "Agreement") dated as of _____, 2005, is between the REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic, established pursuant to the Community Redevelopment Law of the State of California (the "Agency"), the CITY AND COUNTY OF SAN FRANCISCO, a municipal authority acting by and through its Board of Supervisors (the "City"), and the TRANSBAY JOINT POWERS AUTHORITY, a joint powers authority duly created and organized under California Government Code Sections 6500 *et seq.* (the "Authority"). For purposes of this Agreement, "Party" means City, Authority or Agency, as a party to this Agreement, and "Parties" means the City, Authority and Agency, as parties to this Agreement. Unless otherwise defined in this Agreement, all initially capitalized terms used in this Agreement shall have the meanings given them in the Transbay Redevelopment Plan (as described in Paragraph A of the Recitals, below), the Cooperative Agreement (as described in Paragraph I of the Recitals), or the Option Agreement (as described in Paragraph K of the Recitals).

THIS AGREEMENT is made with reference to the following facts and circumstances:

- A. In accordance with the Community Redevelopment Law of California (Health & Safety Code Section 33000 *et seq.*), the City has approved a Redevelopment Plan for the Transbay Redevelopment Project by Ordinance No. ____-05, adopted by the Board of Supervisors on _____, 2005 and approved by the Mayor on _____. The Redevelopment Plan, as it may be amended, is referred to as the "Transbay Redevelopment Plan."
- B. The Transbay Redevelopment Plan provides for the redevelopment, rehabilitation and revitalization of the area generally bounded by Mission, Main, Second and Folsom Streets in downtown San Francisco, and containing approximately forty (40) acres of land, as more particularly described in such plan (the "Project Area"). The Transbay Redevelopment Plan envisions the Project Area as a mixed-use transit-oriented neighborhood comprised of approximately seven million six hundred thousand (7.6 million) square feet of residential, office, retail, hotel and public space. This development scenario includes up to three thousand four hundred (3,400) units of housing on publicly owned land, including approximately twelve-hundred (1,200) units which would be affordable to very low, low and moderate income households.
- C. The Project Area is characterized by ten (10) acres of blighted and underutilized publicly owned land (the "State-Owned Parcels") that resulted from demolition of highway ramps damaged in the 1989 Loma Prieta earthquake. Most of this land is vacant and used for parking. The State-Owned Parcels also include the sixty-five (65) year old Transbay Terminal building and its bus access ramps. The Transbay Terminal is obsolete, and underutilized. The Agency has determined that the Transbay Terminal building and ramps are in a blighted physical condition and in need of substantial upgrades or replacement to meet seismic and safety codes.

- Because these structures occupy several acres of land centrally located in the Project Area, they have a primary impact on physical and economic blighting conditions in the surrounding area. Redevelopment of the Project Area in accordance with the Transbay Redevelopment Plan will require development of the vacant State-Owned Parcels, replacement of the Transbay Terminal building, and revitalization and improvement of existing buildings, public facilities and infrastructure.
- D. The Transbay Redevelopment Plan will provide numerous public benefits for the City and its residents. These public benefits include revitalization of the Project Area, which is currently blighted, the provision of substantial new affordable housing, economic development opportunities, and a variety of infrastructure, public facility, and open space improvements.
 - E. A major goal of the Transbay Redevelopment Plan is to stimulate private investment in the Project Area through elimination of blight, improvement of public facilities and infrastructure, and the establishment of a positive climate for private participation. The Agency intends to finance these improvements using tax increment financing and a range of other potential financing sources, including the potential establishment of a Mello-Roos Community Facilities District (“CFD”) on some or all of the parcels in the Project Area.
 - F. The revitalization of the Project Area surrounding the Transbay Terminal is essential if the new facility is to be a major new gateway to the City. The Project Area is currently characterized by conditions of blight including vacant and underutilized properties, deteriorated and unreinforced masonry buildings, and high vacancy and crime rates. Development of the vacant and underutilized properties will create a vibrant mixed-use neighborhood with more than 3,400 new housing units, new commercial development, and neighborhood-serving retail.
 - G. The Authority intends to demolish the Transbay Terminal building and its associated ramps and construct a modern publicly-owned multimodal terminal on the same site with an underground train connection to existing rail lines terminating at 4th and Townsend Streets in San Francisco (the “Transbay Terminal Project”). Demolition of these existing structures will provide additional vacant land for development consistent with the Transbay Redevelopment Plan. The Transbay Terminal Project will help to revitalize the Project Area and stimulate private investment by serving as a center of transit, retail, entertainment, and community facilities for the new transit oriented neighborhood. The Transbay Terminal Project is a public benefit and a central part of the Transbay Redevelopment Plan.
 - H. In essence, the Transbay Redevelopment Plan and the Transbay Terminal project share the same purpose: to create a vibrant new downtown residential district centered on a major new regional transit hub. The Transbay Redevelopment Plan is vital to the financial feasibility and long-term success of the Transbay Terminal project.
 - I. The Authority, the City, and the State of California entered into an agreement dated July 11, 2003 (the “Cooperative Agreement”) in which the State agreed to transfer specified State-Owned Parcels, to the City and Authority, subject to certain restrictions. The State-Owned Parcels are listed in the Cooperative Agreement attached hereto as Exhibit A.

- J. Under the Cooperative Agreement, City and Authority title to the State-Owned Parcels is subject to a deed restriction requiring that any such parcel may be sold for development only when the Gross Sales Proceeds are provided to the Authority to finance development of the Transbay Terminal Project. This deed restriction is set forth in the Transbay Redevelopment Plan and is applicable to the Agency if it acquires any of the State-Owned Parcels from the City or the Authority and sells the parcel for development.
- K. The Cooperative Agreement further requires that a portion of tax increment revenues attributable to the State-Owned Parcels, the "Net Tax Increment," must be provided to the Authority to finance development of the Transbay Terminal Project. This requirement is applicable to the Agency as set forth in the Transbay Redevelopment Plan and the Tax Increment Increment Allocation And Sales Proceeds Pledge Agreement.
- L. The Transbay Redevelopment Plan authorizes the Agency to provide financial and other assistance to public entities in the development of land, buildings, facilities, structures and other improvements that benefit the Project Area consistent with the Cooperative Agreement. Investment of Net Tax Increment revenues in the Transbay Terminal Project, as set forth in the Transbay Redevelopment Plan, will help catalyze the development of underutilized properties such as the State-Owned Parcels, and eliminate their blighting influence on existing buildings in the surrounding area. The Agency intends to fund major infrastructure improvements, including new public parks, new pedestrian-oriented alleys, and widened sidewalks, as well as programs to support building rehabilitation, façade improvements and historic preservation, with tax increment from non State-Owned Parcels in the Project Area.
- M. The City, Agency and Authority have executed an Option Agreement, attached hereto as Exhibit B, authorizing the Agency to take title to certain State-Owned Parcels (the "Agency Transfer Parcels"), subject to limitations of the Cooperative Agreement, and with no payment for land value at the close of escrow.
- N. Agency staff will be responsible for all plan adoption and implementation activities, as well as for activities related to preparing the Agency Transfer Parcels for sale. Funding, during the initial years of implementation of the Transbay Redevelopment Plan, is not available to pay for these Agency activities because the Agency will not collect significant amounts of tax increment from the Project Area for several years, and, even then, most of it will be required to meet the costs of the Transbay Terminal Project and the state-mandated affordable housing requirements. In order to keep the Transbay Redevelopment Plan on a forward track, it is vital that a source of funds be available to fund the Agency's costs during this critical stage of the project.
- O. The City has made the findings required by Section 33440(a) of the Community Redevelopment Law that the Transbay Terminal Project will benefit the Redevelopment Project Area, that no other means of financing the Transbay Terminal Project is available without Agency funding, and that the Agency's payment of funds will assist in the elimination of blighting conditions.
- P. Pursuant to Sections 33220, 33343, 33344 and 33370 of the Community Redevelopment Law, and in order to promote development in accordance with

objectives and purposes of the Transbay Redevelopment Plan, and its associated implementation documents, including the Cooperative Agreement, the Tax Increment Allocation And Sales Proceeds Pledge Agreement and the Option Agreement (the “Plan Documents”), the Agency, City and Authority wish to enter into this Agreement to provide for their cooperation in carrying out the Transbay Redevelopment Plan and the Transbay Terminal Project.

ACCORDINGLY, in consideration of the public benefits and other matters described in the foregoing recitals, the covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the Agency, City and Authority agree as follows:

1. Purpose of this Agreement. The purpose of this Agreement is to facilitate the implementation of the Transbay Redevelopment Plan and the Plan Documents. The parties agree that the implementation of the Transbay Redevelopment Plan pursuant to the Plan Documents is in the best interests of the City and the health, safety and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state and local laws. This Agreement is intended to provide the framework for and facilitate cooperation between the Agency, City and Authority in accordance with the Transbay Redevelopment Plan and the Plan Documents with respect to the development of a major new regional transit hub, the development of vacant and underutilized properties to create a vibrant mixed-use neighborhood with more than 3,400 new housing units, including approximately 1200 affordable units, new commercial development and neighborhood-serving retail, and with respect to such other acts as may be required by the Agency, City and Authority to implement the Transbay Redevelopment Plan and the Plan Documents.

2. Cooperation. Pursuant to Sections 33220, 33343, 33344 and 33370 of the Community Redevelopment Law, the City and Authority shall aid the Agency, and the parties shall cooperate with one another, in carrying out the Plan Documents, and shall, for the term of this Agreement, undertake and complete all actions or proceedings necessary or appropriate to ensure the continued fulfillment of the objectives of the Plan Documents, including, without limitation, preventing the recurrence or spread of conditions causing blight in the Project Area.

1.0 Specific Actions by the Agency.

() Preparation and Sale of Agency Transfer Parcels. The Agency shall prepare and sell the Agency Transfer Parcels to third parties, and require the Gross Sales Proceeds to be deposited in the Trust Account as set forth and defined in the Cooperative Agreement attached hereto as Exhibit A, and incorporated as though fully set forth herein. The costs of preparation and sale of the Agency Transfer Parcels (the “Agency Administrative Fees”) shall include, but not be limited to, personnel and overhead costs related to site preparation, relocation costs, planning costs (to the extent such costs are related to the State-Owned Parcels), lease management costs pursuant to Section 2.1(b) of this Agreement, issuance of Requests for Proposals or Requests for Qualifications, proposal review, developer selection, developer negotiations, design review, drafting and execution of Owner Participation Agreements and Disposition and Development Agreements, and compliance monitoring.

() Additional Requirements for Agency Transfer Parcels. Upon acceptance of title to any Agency Transfer Parcel, the Agency shall accept assignments of leases and prohibit the transfer of development rights as set forth in Section II., Subsection C. and Section III., Subsection J. of the Cooperative Agreement. The Agency shall comply with all other Cooperative Agreement obligations applicable to Agency Transfer Parcels, including obligations regarding relocation of State personnel, subject to reimbursement as Agency Administrative Fees.

() Tax Increment Obligations. The Agency agrees that it is subject to and accepts the terms of the Tax Increment Allocation and Sales Proceeds Pledge Agreement.

() Plan Adoption and Implementation Activities. The Agency shall execute all activities related to the implementation of the Transbay Redevelopment Plan, including all administrative activities related to implementation, including, but not limited to, activities related to major infrastructure improvements, including new public parks, new pedestrian-oriented alleys, and widened sidewalks, as well as programs to support building rehabilitation, façade improvements, and historic preservation, relocation activities as necessary, as well as activities related to the development of more than 3,400 new housing units, including the affordable housing requirements of Section 33413 of the California Community Redevelopment Law and the additional affordable housing requirements of Section 5027.1 of the California Public Resources Code. The costs for implementation of the Transbay Redevelopment Plan activities set forth in this paragraph (the “Agency Costs”), and repayment of Authority loans in Section 2.2(b) shall be an indebtedness incurred by the Agency and included in the Agency's annual budget submitted to the City.

2.0 Specific Actions by the Authority and/or the City.

() Compliance with Transbay Redevelopment Plan. The Authority and the City agree to develop all State-Owned Parcels retained by Authority or City, subject to and in conformance with the Transbay Redevelopment Plan, provided that; the Transbay Terminal building shall be subject only to the goal and objectives enumerated in Section 2.2 G of the Redevelopment Plan. The parties agree to coordinate a review process with respect to the design of the Transbay Terminal building substantially as set forth in Exhibit C. _____.

() Funding for Agency Costs. Subject to limitations imposed by funding sources, grant restrictions and legal requirements, the Authority shall reimburse the Agency in the amount of the actual costs for Agency Costs incurred during the initial years of the Transbay Redevelopment Plan to the extent that such Agency Costs are in excess of funds received by the Agency from the Project Area as tax increment under the Community Redevelopment Law, or as an assessment or tax under other law. Payments to the Agency will be within forty-five (45) days following the receipt of an Agency invoice. The Parties contemplate that such invoices will be submitted monthly, unless the Parties agree to a different invoicing period, and that such invoices will include actual costs incurred, including, but not limited to, personnel and overhead costs, and indirect and direct costs. Payments to the Agency will be in the form of a loan, subject to and based on Authority approval of the Agency's annual budget. The Authority may require an independent audit of Agency Costs on an annual basis, or more frequently if necessary to comply with audit requirements imposed by funding sources,

grant restrictions and legal requirements, and the Parties agree to make such funding adjustments as are determined in a final audit. The Parties may terminate the funding process when it is determined that the Project Area is generating adequate tax increment to cover the Agency Costs. In no event shall the Authority's funding obligations exceed five years from the date of Plan adoption by the City, unless otherwise agreed to by the Parties. Repayment of the Authority's funding loan shall commence as an Agency debt under the Community Redevelopment Law, without interest to the extent the Authority is not charged interest, at the beginning of the sixth year of the Redevelopment Plan on such terms as the Parties shall adopt in writing.

() Funding for Agency Administrative Fees. Subject to limitations imposed by funding sources, grant restrictions and legal requirements, the Authority shall pay the Agency for Agency Administrative Fees until all the State-Owned Parcels are sold. Payments to the Agency will be within forty-five (45) days following the receipt of an Agency invoice, subject to Authority approval of the Agency's annual budget. The Parties contemplate that such invoices will be submitted monthly, unless the Parties agree to a different invoicing period, and that such invoices will include actual costs incurred, including, but not limited to, personnel and overhead costs, and indirect and direct costs. Payment of fees will be subject to Authority approval of the Agency's annual budget. The Authority may require an independent audit of Agency Costs on an annual basis, or more frequently if necessary to comply with audit requirements imposed by funding sources, grant restrictions and legal requirements, and the Parties agree to make such funding adjustments as are determined in a final audit.

() Payment Agreement. The Agency and Authority agree that, subject to the above definitions and limitations in Subsections 2.2(b) and 2.2(c), the Authority's payments to the Agency for Agency Costs and Agency Administrative Fees will be the subject of a separate agreement detailing funding agency requirements, funding limitations, eligible costs, invoicing requirements, and management of the annual Agency budget. The agreement shall include a sufficiently detailed budget so as to distinguish amounts for Agency Costs and Agency Administrative Fees.

() Agreement Regarding Determinations of Gross Sales Proceeds. The City and Authority agree that, consistent with the Agency's obligation set forth in Section 2.1(a) above to deposit the Gross Sales Proceeds of third party purchasers to the Trust Account, the Agency's good faith acceptance of a final purchase price may include consideration of Redevelopment Plan development restrictions, environmental contamination, legally required affordable housing, and other conditions which reasonably effect the determination of fair market value.

() City Actions Related to Property Tax Revenues. The City shall comply with the provisions of the California Community Redevelopment Law, pursuant to Health and Safety Code Section 33670 et seq., that generally entitle the Agency to all of the property tax revenues realized from growth in property values since the inception of the Transbay Redevelopment Plan to the extent that the Agency has incurred debt approved in accordance with the Community Redevelopment Law for the implementation of the Transbay Redevelopment Plan.

3.0 Agency, City and Authority Efforts Related to the Transfer of the Agency Transfer Parcels to Third Parties. The Agency, City and Authority will work cooperatively, and use good faith efforts to provide adequate resources to provide for the preparation and sale of the Agency Transfer Parcels to third parties, including, but not limited to, the resources necessary to address environmental contamination issues.

3. Taxes and Assessments. Nothing in this Agreement or the Plan Documents shall limit the City's or the Agency's ability to impose new or increased taxes or special assessments, including, but not limited to, the special taxes under the Mello-Roos Community Facilities Act of 1982, as amended, or any equivalent or substitute tax or assessment.

4. Environmental Review. Nothing in this Agreement shall be deemed to limit the City, Agency or Authority's ability to comply with the California Environmental Quality Act ("CEQA").

5. Effective Date. As used herein, the term "Effective Date" shall mean the date on which all of the following have occurred: the Authority's Board of Directors has approved this Agreement, the City's Board of Supervisors and Mayor have enacted a resolution or ordinance approving and authorizing this Agreement as part of the Transbay Redevelopment Plan, the Agency has accepted this Agreement, and the Parties have executed this Agreement.

6. Acceptance by Agency. This Agreement shall be deemed accepted by the Agency on the date that execution hereof is authorized by the Agency's Commission.

7. Term. The term of this Agreement shall begin on the Effective Date and shall end upon the expiration of the Transbay Redevelopment Plan.

8. Remedies

1.0 General

() In the event of any default in or breach of this Agreement (each a "default"), or any of its terms, by either the City, the Authority or the Agency, any non-defaulting party may deliver a written notice of default to the other(s) regarding such default. The notice of default shall state with reasonable specificity the nature of the alleged default, the provisions under which the default is claimed to arise, and the manner in which the failure of performance may be satisfactorily cured. Upon receipt of such notice of default, either the City, the Authority or the Agency, as applicable, shall commence within a reasonable time not to exceed sixty (60) days to cure or remedy such default, and shall thereafter pursue such cure or remedy to completion.

() Upon delivery of a notice of default, the City, the Authority and the Agency, shall promptly meet to discuss the default and the manner in which the defaulting party can cure or remedy the same so as to satisfy the aggrieved party's concerns. The parties shall continue meeting regularly, discussing, investigating and considering alternatives for a period of sixty (60) days from the delivery of the notice of default. If, at the end of the meet and confer period, the aggrieved party no longer holds the view that the other party is in default, such

party shall issue a written acknowledgment of the other party's cure or remedy of the matter which was the subject of the notice of default.

() If (i) action is not diligently taken or pursued, or the default shall not be cured or remedied within a reasonable time or (ii) either the City, the Authority or the Agency, whichever is alleged to be responsible for the default, shall refuse to meet and discuss as described above, then the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default, including, without limitation, proceedings to compel specific performance by the party in default of its obligations. Nothing in this Section shall require a party to postpone instituting any injunctive proceeding if it believes in good faith that such postponement will cause irreparable harm to such party.

2.0 No Monetary Damages. The parties have determined that monetary damages generally are inappropriate and that it would be extremely difficult and impractical to fix or determine the actual damages to a party as a result of a breach or default under this Agreement and that equitable remedies and remedies at law not including damages are the appropriate remedies for enforcement of this Agreement. The parties would not have entered into this Agreement if either of them were liable to the other, for damages under or with respect to this Agreement. Consequently, the parties have agreed that neither party shall be liable in damages to the other, or to any other Person, and each covenants not to sue for or claim any damages and expressly waives its right to do so (A) for any breach of, or which arises out of, this Agreement or (B) arising out of or connected with any dispute, controversy or issue regarding the application, interpretation or effect of the provisions of this Agreement.

3.0 Attorneys' Fees. In the event of any dispute or any legal action or other dispute resolution mechanism to enforce or interpret any provision of this Agreement, the prevailing party shall not be entitled to its reasonable attorneys' fees.

9. General Provisions.

1.0 Notices. Any notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, or (c) by U.S. Express Mail or commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be addressed as follows:

City:

Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property

with a copy to:
Office of the City Attorney
Room 234, City Hall
1 Dr. Carlton B. Goodlett Place

Transbay Implementation Agreement

San Francisco, CA 94102-4682
Attn: Real Estate & Finance Team

with an additional copy to:

Mayors Office of Economic and Workforce
Development
Room 336, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94105
Attn: Transbay Project Manager

Agency:

Redevelopment Agency of the City and
County of San Francisco
770 Golden Gate Avenue, 3rd Floor
San Francisco, CA 94102
Attn: Marcia Rosen, Executive Director

with a copy to:

Redevelopment Agency of the City and
County of San Francisco
770 Golden Gate Avenue, 3rd Floor
San Francisco, CA 94102
Attn: James B. Morales,
Agency General Counsel

Authority:

Transbay Joint Powers Authority
201 Mission Street, Suite 1960
San Francisco, CA 94105
Attn: Maria Ayerdi, Executive Director

with a copy to:

Office of the City Attorney
Rm. 234, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94105
Attn: Transbay Terminal Project

Every notice given to a party hereto, pursuant to the terms of this Agreement, must state (or must be accompanied by a cover letter that states) substantially the following:

- (a) the Section of this Agreement pursuant to which the notice is given and the action or response required, if any;
- (b) if applicable, the period of time within which the recipient of the notice must respond thereto;
- (c) if approval is being requested, shall be clearly marked "Request for Approval under the Transbay Redevelopment Project Implementation Agreement"; and
- (d) if a notice of a disapproval or an objection which requires reasonableness, shall specify with particularity the reasons therefor.

Any mailing address or telefacsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. A party may not give official or binding notice by telefacsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

2.0 Amendments. Except as otherwise provided in this Agreement, this Agreement may be amended or modified only by a written instrument executed by the City, Authority and Agency.

3.0 Severability. If any provision of this Agreement, or its application to any Person, corporation, firm, partnership, association, joint venture, governmental or political subdivision or agency or any similar entity (collectively "Person") or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other Person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all the circumstances or would frustrate the fundamental purposes of this Agreement.

4.0 Non-Waiver. Any delay or failure by the City, Authority or the Agency to exercise any right under this Agreement shall not be deemed a waiver of that or any other right contained in this Agreement.

5.0 Successors and Assigns; Third Party Beneficiary. This Agreement shall inure to the benefit of and bind the respective successors and assigns of the City, Authority and the Agency. This Agreement is for the exclusive benefit of the Parties hereto and not for the benefit of any other Person and shall not be deemed to have conferred any rights, express or implied, upon any other Person.

6.0 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

7.0 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

8.0 Interpretation of Agreement

() Exhibits. Whenever an "Exhibit" is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All such Exhibits are incorporated herein by reference.

() Captions. Whenever a section, article or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

() Words of Inclusion. The use of the term "including," "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

() References. Wherever reference is made to any provision, term or matter "in this Agreement," "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered, section or paragraph of this Agreement or any specific subdivision thereof.

() Recitals. In the event of any conflict or inconsistency between the recitals and any of the remaining provisions of this Agreement, the remaining provisions of this Agreement shall prevail.

9.0 Entire Agreement. This Agreement (including the Exhibits) contains all the representations and the entire agreement between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either party or any other Person and no court or other body shall consider those drafts in interpreting this Agreement.

10.0 Further Assurances. The Agency, Authority and City shall each take all actions and do all things, and execute, with acknowledgment or affidavit if required, any and all documents that may be necessary or appropriate to achieve the purposes of this Agreement.

The Parties have duly executed this Agreement as of the respective dates written below.

AGENCY:

Authorized by Agency Resolution No.
2002, adopted _____, 2002

REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN
FRANCISCO,
a public body corporate and politic

By: _____
MARCIA ROSEN
Executive Director

Date: _____

APPROVED AS TO FORM:

By: _____
JAMES B. MORALES
General Counsel

<p>AUTHORITY: Transbay Joint Powers Authority Board of Directors Resolution No. _____ Adopted: _____ Attest: _____ Secretary, TJPA Board</p>	<p>TRANSBAY JOINT POWERS AUTHORITY, a Joint Powers Agency</p> <p>By: _____ MARIA AYERDI Executive Director</p>
<p>APPROVED AS TO FORM:</p> <p>By: _____ Deputy City Attorney</p>	

CITY:

CITY AND COUNTY OF SAN
FRANCISCO,
a municipal corporation

By: _____
STEVE LEGNITTO
Director of Property

Date: _____

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Deputy City Attorney

EXHIBIT A
COOPERATIVE AGREEMENT

EXHIBIT B
OPTION AGREEMENT

EXHIBIT C

COORDINATION BETWEEN THE TRANSBAY JOINT POWERS AUTHORITY AND THE SAN FRANCISCO REDEVELOPMENT AGENCY RELATING TO THE TRANSBAY TERMINAL

In designing and developing the Transbay Terminal Building (the “Terminal”) on the parcels designated for the improvements (the “Terminal Parcels”), the Transbay Joint Powers Authority (the “Authority”) will coordinate its planning and design activities related to the new Transbay Terminal project with the San Francisco Redevelopment Agency (“Agency”). The Agency recognizes and acknowledges that the planning and design of the new Terminal will involve numerous other agencies and stakeholders within and outside of the City of San Francisco. Resolution of any potential issues related to the design of the Terminal shall be at the sole discretion of the Authority.

1. Design Consultation.

Authority will provide the Agency and members of the local community the opportunity to review the design of the exterior of the improvements to be built on any of the Terminal Parcels, and the overall site plan for the Terminal Parcels. The review of the site plan will include, but not be limited to, the plan’s relationship to the urban physical design and urban planning objectives for the area as the Terminal Parcels are developed. The Agency and the Authority will cooperate in a timely manner in carrying out the review. The Authority will provide opportunities for this review before final decisions are made by the Authority Board of Directors. The Agency acknowledges that the interior design of the improvements will be outside the scope of any Agency review.

2. Method of Consultation.

(a) Pre-Design Discussions. The Authority and the Agency will conduct pre-design discussions to review the urban design goals for the Terminal Parcels. The Authority will conduct at least one pre-design public meeting to gather input from the local community. In carrying out its project design for improvements on the Terminal Parcels, the Authority will consider the comments provided by the local community and the Agency during the pre-design discussions and public meeting(s).

(b) Review of Plans. During the design development process, the Authority will provide the Agency the opportunity to meet periodically with the Authority and its designers to comment on the design of the improvements and the overall site plan. Coordination with other City departments will be the responsibility of the Authority. Throughout the design development stage, the Authority will provide the Agency copies of, or reasonable access to, design documents for the terminal exterior, including, without limitation, site and building plans and schematic drawings.

- (c) Citizen's Advisory Committee. The Authority and the Agency will conduct public information meetings with the Transbay Citizen's Advisory Committee ("CAC"), or any successor or other advisory body established by the Agency, City or Authority, as an ongoing forum for public design presentations and general public design comments. The CAC will have the opportunity to view the plans periodically during the conceptual and design development stages and to provide comments.
- (d) Design Presentation Public Hearing. When the Authority has developed the project design concept package sufficiently, as described below, the Authority will present the design to the Agency Commission at one or more public meetings, which will occur before final design decisions by the Authority's Board on the concept package. The Agency Commission will have the opportunity to offer comments on the design and to hear comments from the public. Before the presentation to the Agency Commission, the Authority will provide to the Commission a concept package generated by the Authority's architect(s). The concept package will include all appropriate exterior design documents illustrating the architectural character together with the project's relationship to the surrounding environment. The Agency Commission will make its best efforts to hold the public meeting within thirty (30) days of the submission of the concept package by the Authority to the Agency. The Authority may proceed with the project after 60 days of submission of the concept package upon notice to the Agency, where further delay would substantially and adversely impact the project.
- (e) Due Consideration of Timely Submitted Comments. The Authority will consider all written or recorded comments submitted in a timely manner by the Agency, the City and the public. The Agency understands that time is of the essence and agrees to submit all comments in a timely manner, including comments from the CAC or other interested party as necessary.

3. Design for Development and Decision-Making Authority.

The Authority's Board will have the sole discretion to make design decisions with respect to the improvements for the Terminal Parcels. The parties acknowledge that the integration of the Terminal into the street grid and surrounding community is a matter of particular importance to the Agency and to the overall success of revitalization of the larger Plan Area under the Redevelopment Plan. Accordingly, the Authority shall endeavor to design and develop the Terminal to substantially conform in all material respects with the Development Controls and Design Guidelines and the goals and objectives enumerated in Section 2.2 G of the Redevelopment Plan [draft of 12/22/04] (together, the "Plan Standards"), to preserve and enhance elements of the Transbay Redevelopment Plan. If the Authority wishes to design and develop any project in a manner that does not comply in all major respects with the Plan Standards, the Authority will notify the Agency in advance of the proposed changes and the reasons for them, and the Authority and the Agency will meet and confer to attempt to agree upon modified design standards that will

permit the development of the project as designed by the Authority. If the Authority and the Agency are unable to agree upon such modified design standards, the Authority shall have the right to design and develop the project without complying with the Plan Standards.