

THIS PRINT COVERS CALENDAR ITEM NO. : 10.4

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance and Information Technology

BRIEF DESCRIPTION:

Authorizing the Director of Transportation of the San Francisco Municipal Transportation Agency (SFMTA) to execute a Transit Center Lease (Lease) and an Ancillary Improvements Agreement (Ancillary Agreement) with the Transbay Joint Powers Authority (TJPA) and a License Agreement (License) with Alameda-Contra Costa Transit District (AC Transit) for a Pilot Program for Muni bus facilities at the new Salesforce Transit Center (Transit Center).

SUMMARY:

- The TJPA has constructed the Transit Center to add significant value to the transportation network in San Francisco. The SFMTA will provide service from the street-level Bus Plaza and the Bus Deck. The SFMTA expects to benefit operationally from this new premier transit hub.
- The SFMTA will be the Master Tenant for the Bus Plaza. AC Transit will be the Master Tenant for the Bus Deck. The SFMTA will license a portion of the Bus Deck from AC Transit.
- The term of the Lease and License is three years, with three one-year extension options.
- A fair-share operating charge determines rent and license fees. When Transit Center operating costs exceed revenues, the operating deficit will be paid by each transit provider based on the percentage of exclusive use space utilized.
- The SFMTA will occupy nearly 26% of exclusive use space and will pay that percent share of the operating deficit, should one exist.
- The SFMTA will have the right to terminate the Lease and License, if the aggregate rent and license fees reach \$9,545,000 during the term of those agreements.
- An Ancillary Agreement between the SFMTA and TJPA will be effective during the term of the Lease and address ownership, operation, and maintenance of the overhead catenary system, traffic signals, and four SFMTA ticket vending machines in the Transit Center.

ENCLOSURES:

1. SFMTAB Resolution
2. Transit Center Lease for Bus Plaza with TJPA
3. Ancillary Improvements Agreement with TJPA
4. License Agreement for Bus Deck with AC Transit

APPROVALS:

DIRECTOR  _____

DATE

5/29/2018

SECRETARY  _____

5/29/2018

ASSIGNED SFMTAB CALENDAR DATE: June 5, 2018

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PURPOSE

Authorizing the Director of Transportation of the San Francisco Municipal Transportation Agency (SFMTA) to execute a Transit Center Lease (Lease) and an Ancillary Improvements Agreement (Ancillary Agreement) with the Transbay Joint Powers Authority (TJPA) and a License Agreement (License) with Alameda-Contra Costa Transit District (AC Transit) for a Pilot Program for Muni bus facilities at the new Salesforce Transit Center (Transit Center).

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This item will meet the following goals and objectives of the SFMTA FY2013-18 Strategic Plan:

- Goal 1: Create a safer transportation experience for everyone:
 - Objective 1.3 Improve the safety of the transportation System.

- Goal 2: Make transit, walking, bicycling, taxi, ridesharing & car-sharing the preferred means of travel:
 - Objective 2.2 Improve transit performance.

- Goal 3: Improve the environment and quality of life in San Francisco.
 - Objective 3.2 Increase the transportation system's positive impact to the economy.
 - Objective 3.3 Allocate capital resources effectively.
 - Objective 3.4 Deliver services efficiently.

- Goal 4: Create a workplace that delivers outstanding service:
 - Objective 4.2 Create a collaborative and innovative work environment.

This item will support the following Transit First Policy Principle:

- Principle 1: To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.

- Principle 9: The ability of the City and County to reduce traffic congestion depends on the adequacy of regional public transportation. The City and County shall promote the use of regional mass transit and the continued development of an integrated, reliable, regional public transportation system.

DESCRIPTION

The Salesforce Transit Center (Transit Center) located at First and Mission Streets was designed and constructed as a replacement facility for the Transbay Terminal and will serve as the premier transit hub and connector for local and regional transit providers, including but not limited to, Muni, AC Transit, Greyhound, and Amtrak. The new Transit Center will provide the SFMTA with a facility to operate multiple lines of Muni service from both the Transit Center's Bus Plaza at street level and Bus Deck located on the third level.

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The Bus Deck provides a direct connection onto the Bay Bridge. Alameda-Contra Costa Transit District (AC Transit) will occupy the majority of the Bus Deck via a Lease and Use Agreement dated September 10, 2008 between AC Transit and TJPA. As the master tenant of the Bus Deck, AC Transit has agreed to grant to the SFMTA a license to use two bus bays and related operator restrooms for its 25 – Treasure Island line pursuant to the License enclosed for approval.

The SFMTA began trial operation of the 5 Fulton line from the Transit Center on December 26, 2017 under a temporary license agreement with the TJPA. The SFMTA anticipates commencement of service for the Bus Plaza on June 16, 2018, with service on the Bus Deck commencing once construction on the Bus Deck is complete later in the summer.

The Muni lines moving into the new Transit Center will be those that currently terminate adjacent to the temporary Transbay Terminal: 5/5R - Fulton, 7 - Haight, 38/38R - Geary, and 25-Treasure Island. The Transit Center will also be the San Francisco terminus for all 37 of AC Transit's transbay routes from the East Bay, WestCAT buses from Contra Costa County, Greyhound buses, and Amtrak buses connecting to trains in Emeryville.

The Transit Center also has below-grade space that one day will accommodate Caltrain and the California High Speed Rail. The design and construction of the Transit Center has been a closely coordinated effort of the TJPA, the SFMTA, AC Transit and other transit agencies since 2007, thereby ensuring that the final development is one that is consistent with a functionally efficient facility for the various transportation providers it was envisioned to serve.

Transit Center Lease, Ancillary Improvement Agreement and AC Transit License

The proposed Lease and License will cover approximately 61,177 square feet of exclusive-use space for the SFMTA's bus operations at the Transit Center and enhance the SFMTA's transportation network, improve its connectivity to other regional transit agencies, and provide improved facilities for both riders and operators.

As part of the Lease, TJPA will deliver a fully improved Bus Plaza as well as provide regular, on-going maintenance, janitorial, and security services to the Bus Plaza and the rest of the Transit Center, including in the SFMTA's exclusive-use areas, operator restrooms, and associated public areas. The SFMTA and TJPA have created an Ancillary Agreement to specifically delineate the installation, ownership, operation, and maintenance of the overhead catenary system and traffic signals in the Bus Plaza, and SFMTA's four ticket vending machines at the Transit Center.

The Transit Center's operating expenses and revenues will determine the SFMTA's Lease rent and License fee. When operating expenses exceed revenues, the resulting deficit will be charged proportionally to each public transit operator. Each public transit operator will be responsible for its share of the deficit based on the percentage of exclusive-use area it occupies. The SFMTA's Bus Plaza exclusive-use area contains approximately 50,436 square feet, or 19.8%, of the total exclusive-use area in the Transit Center. At the SFMTA's request, a bus island was removed, but the SFMTA must still pay for the space, which comprises an additional two percent of the exclusive-use area for the Bus Plaza level. This increases the total for the Bus Plaza level

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exclusive-use space to 21.8% of the total. The SFMTA's Bus Deck exclusive-use area contains approximately 10,741 square feet, or 4.2%, of the total exclusive-use area. Collectively, the SFMTA will pay 26% of the Transit Center's operating deficit under the Lease and the License.

The Transit Center's expenses will consist mainly of operations, maintenance, janitorial, and facility repairs. Transit Center revenues will come from retail, advertising space, event space rental, and naming rights/sponsorship agreements. Therefore, one of the keys to minimizing the operating deficit, and thus the SFMTA's Lease rent and License fees, is the acquisition of strong, long-term commercial tenants and partners. To this end, TJPA is actively pursuing multiple revenue streams as evidenced by recently entering into a naming rights agreement with Salesforce, Inc. to name the Transit Center, the Salesforce Transit Center. TJPA has also engaged Colliers International to develop and execute a retail leasing strategy for the Transit Center. TJPA anticipates that with the future extension of Caltrain and the California High Speed Rail to the Transit Center, the demand for retail space will increase because of the increased ridership levels, optimistically resulting in an increase in operating revenues to offset the Transit Center's operating costs.

Because operating costs and revenues will be variable as the Transit Center non-transit space leases up and operations commence, the SFMTA is proposing an initial pilot program to determine how they stabilize once the Transit Center is fully occupied and functional. Accordingly, the terms of the Lease and License shall be for three years, with three one-year extension options. The SFMTA shall also have the right to terminate the Lease and the License if the aggregate SFMTA Lease rent and License fees reach \$9,545,000. Additionally, TJPA has initiated discussions with the Metropolitan Transportation Commission (MTC) regarding additional bridge toll funds to cover any operating shortfalls after annual costs and revenues have stabilized. Such funds would be contingent on voter approval of Regional Measure 3 (RM3) and future commitments from the MTC. If these funds are not provided, then ongoing funding from public transit operators would be required.

STAKEHOLDER ENGAGEMENT

Extensive stakeholder engagement occurred as part of the development process for the Transit Center. Relocating the SFMTA's bus lines from the former Transbay Terminal to the new Transit Center has been a part of the project plan from its inception.

No direct outreach was conducted for these agreements as they are merely a formalization of a process that has been on-going for over a decade.

ALTERNATIVES CONSIDERED

The Transit Center has been an SFMTA project since 2007 and in the planning process for years prior to that. The project has required significant coordination with various SFMTA divisions and departments, including Capital Projects and Construction, Transit, Sustainable Streets, and Finance and Information Technology. While an alternative to continue operations at the current temporary location and not lease and license space at the new Transit Center exists, this alternative has not been seriously considered, nor does Staff recommend it, as it would not be in

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keeping with previous decisions to develop and build a regional transit center with direct connections between Muni and regional transportation networks.

FUNDING IMPACT

The Lease and License shall have initial terms of three years, with three one-year extension options exercisable at the SFMTA's sole option. The SFMTA shall have the right to terminate either agreement if aggregate SFMTA rent and license fees reach \$9,545,000 over the term of the agreements. The SFMTA's payment of its Lease rent and License fees shall be subject to allocation of such an amount in its budget. For the current fiscal year 2017– 2018, the aggregate charge to the SFMTA is estimated at \$1,475,055. For fiscal year 2018 – 2019, the estimated aggregate charge to the SFMTA is projected at \$2,592,609. It is anticipated that the aggregate Lease rent and License fees will decrease over time as the TJPA revenue program evolves.

ENVIRONMENTAL REVIEW

On April 17, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the SFMTA's lease and license of the Transit Center pursuant to the Lease and License are not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b).

A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

The TJPA approved the Lease and the Ancillary Improvements Agreement on May 10, 2018. AC Transit approval of the License to follow on May 30, 2018 .

The City Attorney has reviewed this report.

RECOMMENDATION

Staff recommends that the Board of Directors authorize the Director of Transportation to execute a Transit Center Lease and an Ancillary Improvements Agreement with the Transbay Joint Powers Authority and a License Agreement with Alameda-Contra Costa Transit District for a pilot program for Muni bus facilities at the new Salesforce Transit Center.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The Salesforce Transit Center (Transit Center) was designed and constructed as a replacement for the former Transbay Terminal and as a transit hub and connector between local and regional transit, including Muni; and,

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) and the Transbay Joint Powers Authority (TJPA) have executed a number of agreements, dating back to at least 2007, to provide SFMTA staff to assist the TJPA in support of the Transit Center construction; and,

WHEREAS, On September 10, 2008, Alameda-Contra Costa Transit District (AC Transit) and TJPA entered into a lease and use agreement that included AC Transit's lease of the Transit Center's Bus Deck, and AC Transit has agreed to grant the SFMTA a license to use two Bus Deck bus bays for its 25 – Treasure Island line pursuant to a License Agreement (License); and,

WHEREAS, The SFMTA wishes to lease the entirety of the Transit Center Bus Plaza from TJPA for its bus services pursuant to a Transit Center Lease (Lease); and,

WHEREAS, The TJPA has constructed certain improvements for the SFMTA's Bus Plaza, including an overhead catenary system and traffic signals, and the SFMTA installed four of its ticket vending machines at the Transit Center, for which the two agencies have created an Ancillary Improvements Agreement (Ancillary Agreement) to specifically delineate the installation, ownership, operation, and maintenance of these improvements; and,

WHEREAS, The SFMTA has agreed to pay a proportional share, equal to its exclusive use area of the Bus Plaza and the Bus Deck, of any operating deficit as its rent payment under the Lease and as its license fee under the License; and,

WHEREAS, Because operating costs and revenues will be variable as the Transit Center leases up and operations commence, the SFMTA is proposing an initial pilot program until the Transit Center operations are stabilized. Accordingly, the initial term of the Lease and the License will be for three years, with three one-year extension options, and subject to SFMTA's right to terminate both agreements if the SFMTA's aggregate rent and license fee payments reach \$9,545,000; and,

WHEREAS, On April 17, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the SFMTA's lease and license of the Transit Center pursuant to the Lease and the License are not a "project" under the California Environmental Quality Act (CEQA) pursuant Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; now, therefore, be it

RESOLVED, The Board of Directors authorizes the Director of Transportation to execute a Transit Center Lease and an Ancillary Improvements Agreement with the Transbay Joint Powers Authority and a License Agreement with Alameda-Contra Costa Transit District for a Pilot Program for Muni bus facilities at the new Salesforce Transit Center.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting June 5, 2018.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

**Transbay Joint Powers Authority,
San Francisco Municipal Transportation Agency**

Transit Center Lease

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**San Francisco Municipal Transportation Agency
Transit Center Lease**

This Transit Center Lease (“Lease”) is made and entered into this _____ day of _____, 2018 (“Effective Date”) by and between the TRANSBAY JOINT POWERS AUTHORITY, a joint powers authority created under California Government Code sections 6500 *et seq.* (“TJPA”), as lessor, and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“City”) acting by and through the SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY (“SFMTA”), as lessee, (each, a “party” and collectively, the “parties”).

RECITALS

A. The TJPA is developing the Transbay Program in San Francisco. The Transbay Program includes, among other things, a new transit center generally located at First and Mission Streets (“transit center”), which includes, but is not limited to, a Bus Deck Level and a Bus Plaza with an overhead catenary system (“OCS”) in the Bus Plaza; and, in Phase II of the Program, a future extension of the Caltrain commuter rail system and California High Speed Rail into the transit center, including an Intercity Bus Facility.

B. The SFMTA oversees transit, streets, and taxis in the City and County of San Francisco. The SFMTA wishes to have a pilot program that makes the transit center a point of destination/departure for a portion of its public transportation operations in San Francisco. The SFMTA and the TJPA entered into the Ancillary Improvements Agreement, dated even herewith (“Ancillary Improvements Agreement”), setting forth the terms for ownership, operation, and maintenance of the OCS, six (6) traffic signals (the “Signals”), and four (4) transit vending machines (“TVMs”) in the transit center.

C. Pursuant to a September 10, 2008 Transbay Transit Center Program Lease and Use Agreement (“AC Transit Lease”), the Alameda-Contra Costa Transit District (“AC Transit”) leases the Bus Deck Level of the transit center. Consistent with the AC Transit Lease, AC Transit intends to grant the SFMTA a license to operate on a portion of the Bus Deck Level. This Lease provides the terms and conditions for the SFMTA’s lease and use of portions of the transit center other than the Bus Deck Level, but the commencement of this Lease is expressly contingent and conditioned on the execution of a license agreement between the SFMTA and AC Transit for SFMTA’s operation from two Bus Deck Level bus bays (the “Bus Deck Agreement”).

D. Pursuant to a May 8, 2017 Asset Management Agreement (“Asset Management Agreement”), the TJPA has hired LPC West Transit Management LLC (“Asset Manager”) to provide operations and maintenance services for the transit center. Consistent with the Asset Management Agreement, the Asset Manager is expected to provide ongoing management of the transit center, including portions of the transit center leased to the SFMTA under this Lease.

E. Pursuant to a July 24, 2017 Naming and Signage Rights Agreement (“Naming Rights Agreement”), the TJPA provided salesforce.com the right to name the new transit center the “Salesforce Transit Center” and the right to receive certain other benefits. The Naming Rights Agreement imposes requirements and obligations relative to the name of, references to, and logos associated with the transit center.

F. The TJPA has the right to lease portions of and grant the right to use the transit center and has full power and authority to enter into this Lease.

G. The SFMTA has the right to lease property related to its public transportation operations and has full power and authority to enter this Lease.

NOW, THEREFORE, in consideration of the covenants, conditions, and agreements set forth herein, the TJPA and the SFMTA do hereby agree as follows:

*Section 1. **Leased Premises***

The TJPA leases to the SFMTA, and the SFMTA leases from the TJPA, the approximately Fifty Thousand Four Hundred Thirty Six (50,436) square-foot Bus Plaza, including bus spaces, drive aisles, two operating booths, passenger waiting areas, bus shelters, and four (4) driver/staff restrooms, as labeled and identified in the attached Exhibit A (“Premises”), for SFMTA’s public transportation operations; provided, however, that SFMTA shall allow the general public to use the portion of the Premises depicted as the “Shared Vertical Circulation Elements” for vertical circulation within the Center at all times the Center is open to the public. The parties may modify the description of the Premises by mutual written agreement at any time.

*Section 2. **Commencement Date***

The SFMTA’s lease and use of the Premises shall commence on the date on which the last of the following has occurred: (i) a temporary certificate of occupancy for the transit center has been issued by the TJPA, (ii) the TJPA substantially completes construction of the transit center, including ingress and egress, and the Improvements (as described in Exhibit B), (iii) the transit center is ready for occupancy and use by the SFMTA and the public as a transportation facility and will not subject either SFMTA or the public to any hazard, delay, or undue inconvenience, and (iv) the SFMTA and AC

Transit have entered the Bus Deck Agreement. The last to occur of the foregoing (i) – (iv) shall be the “Commencement Date”. The TJPA shall give the SFMTA at least sixty (60) days’ prior written notice of the planned Commencement Date and permit SFMTA reasonable access to the Premises during such sixty (60) day period to complete any tenant improvements the SFMTA wishes to make to the Premises, consistent with the terms and conditions of this Lease. The SFMTA shall commence operations at the Premises on the Commencement Date.

Section 3. Termination Date

The Lease shall terminate on the third (3rd) anniversary of the Commencement Date (“Termination Date”) unless earlier terminated pursuant to Section 8 below; provided, however, that the SFMTA shall have three (3) options (each, an “Extension Option”) to extend the term of the Lease by one (1) year (each, a “Extended Term”) by delivering written notice of the SFMTA’ exercise of an Extension Option (each, an “Extension Notice”) to the TJPA at least seven (7) months prior to the then-scheduled termination of the Lease; provided, however, that if the SFMTA is in material default under this Lease on the date of giving an Extension Notice and fails to cure such default as provided in the Lease prior to the commencement of the applicable Extended Term, the TJPA may reject such exercise by delivering written notice thereof to the SFMTA promptly after such failure to cure. Each Extended Term, if any, shall be on all of the terms and conditions contained in this Lease.

If the SFMTA holds over in possession of the Premises after the expiration of the term with the TJPA’s consent, such holding over shall not be deemed to extend the term of or renew this Lease, but such tenancy thereafter shall continue as a month-to-month

tenancy on all the terms and conditions set forth in this Lease, and the SFMTA shall continue as a month-to-month tenant until the tenancy shall be terminated by the TJPA giving the SFMTA, or the SFMTA giving the TJPA, at least thirty (30) days' prior written notice of termination.

Section 4. SFMTA Obligation Upon Termination

Upon the Termination Date, or earlier termination of this Lease, the SFMTA shall peaceably and quietly leave, yield up to, vacate, and surrender the Premises to the TJPA in the condition required under Section 5 of this Lease. The SFMTA agrees and acknowledges that in the event SFMTA does not promptly vacate the Premises at the termination of this Lease and holds over without the TJPA's prior written consent, in addition to any other rights or remedies of the TJPA relating to such unlawful holdover, the SFMTA shall indemnify, defend, and hold harmless the TJPA from any and all third party claims, losses, costs, and damages to the extent arising from such unlawful holdover (including, but not limited to attorneys' fees, and/or any claims asserted against the TJPA by any party who has the right to use the Premises during such unlawful holdover).

Section 5. Surrender of Possession

The SFMTA shall yield and deliver to the TJPA possession of the Premises at the termination of this Lease in good condition in accordance with its express obligation hereunder, except for damage or loss due to reasonable wear and tear, fire or other casualty, or other cause beyond the SFMTA's control. The SFMTA shall remove all moveable furnishings, trade fixtures, and equipment installed or placed by it in, on, or about the Premises, in addition to removing portions of the OCS from the Premises as

specified in the Ancillary Improvements Agreement. If the SFMTA's removal of such moveable furnishings, trade fixtures, or equipment damages the Premises, the SFMTA shall repair such damaged portion of the Premises to the condition it was in immediately prior to such removal.

Section 6. Relocation Costs

A. The parties acknowledge that at the termination of this Lease, the SFMTA will not be a "displaced person" and will not be entitled to relocation assistance under the California Relocation Assistance Act (Cal. Gov. Code sections 7260 *et seq.*), or the Uniform Relocation Assistance Act of 1970 (42 U.S.C. sections 4601 *et seq.*).

B. If, as reasonably determined by a Party, the SFMTA is materially prevented from conducting its public transportation operations at the Premises because of a condemnation or sale in lieu of condemnation by any entity other than the TJPA, then such Party shall give written notice of such determination to the other Party and this Lease shall automatically terminate as of the date such notice is delivered to the other Party. The TJPA shall be entitled to the entire award of proceeds for any total or partial condemnation, or sale in lieu thereof, including, without limitation, any award of proceeds for the value of the Premises, any and all improvements to the Premises owned by the TJPA, or leasehold estate/bonus value created by this Lease. Notwithstanding the foregoing, the SFMTA shall have the right to pursue recovery from a condemning authority other than the TJPA of such compensation as may be separately awarded to the SFMTA for any taking of any of the SFMTA's personal property and fixtures in the Bus Plaza, relocation assistance, and the interruption of or damage to the SFMTA's business.

Section 7. Accommodation of Additional Transportation Providers

A. To facilitate and promote regional transportation facilities and to maximize the use of the substantial public investment in facilities at the transit center, the SFMTA agrees, upon request by the TJPA, not to unreasonably object to sublease portions of the Premises to willing and able bus transportation operators at times when such portions of the Premises are not needed for the SFMTA's scheduled or planned operations. The SFMTA shall also have the right to request the TJPA's approval to the SFMTA subleasing portions of the Premises to willing and able bus transportation operators, which approval shall not be unreasonably withheld, conditioned or delayed. Any operator that enters into a sublease with the SFMTA that meets the requirements of this Section shall be a "Subtenant". The SFMTA's obligations hereunder shall be subject to the SFMTA's operational analysis confirming the feasibility of accommodating the proposed Subtenants' operations within the Premises and subject to execution of written agreements between the SFMTA and such proposed Subtenants, subject to concurrence by the TJPA, setting forth mutually agreed terms and conditions governing such use, which shall include the following provisions:

(1) Each Subtenant that is or is controlled by a public entity shall assume a pro-rata share of the SFMTA's Operating Charge (as defined in Section 8(A)) and Assessment (as defined in Section 8(E)) during the term of its sublease based on the ratio of the Subtenant's space to the SFMTA's Exclusive Use Space (as defined in Section 8(B)) within the Premises. The SFMTA shall deliver any such pro-rata payment to the TJPA at the time such Operating Charge or Assessment is due.

(2) Each Subtenant this is or is controlled by a private or quasi-private entity shall assume an annual fee (the "Private Operator Minimum Rent") equivalent to the

greater of either (a) two and one-tenth percent (2.1%) of the Terminal Net Operating Expenses (as defined in Section 8(B)) for each bus bay that Subtenant contracts to use within the Premises, or (b) two hundred sixty-eight thousand five hundred dollars (\$268,500), escalated by three percent (3%) per year, for each bus bay that Subtenant contracts to use within the Premises.

Each Subtenant that is or is controlled by a private or quasi-private entity shall also assume two and one-tenth percent (2.1%) of the total amount of any Assessment imposed on SFMTA during the term of the Subtenant's agreement. The SFMTA shall promptly remit any Private Operator Minimum Rent and Assessment it receives to the TJPA.

Each Subtenant's proportional share as specified above is subject to change based on changes to the amount of the Exclusive Use Space leased to the Primary Tenants (as defined in Section 8(A)).

(3) The SFMTA shall make all reasonable efforts to facilitate its Subtenants' ancillary needs at its Subtenants' costs, including use of space for ticket vending and the rendering of customary support services, provided that the SFMTA has adequate capabilities, capacity, facilities and personnel therefore, after taking into account the SFMTA's own requirements and contractual obligations, the compatibility of the Subtenants' proposed operations with those of the SFMTA, and the need for labor harmony.

(4) The SFMTA shall be relieved of any obligation to indemnify and save harmless the TJPA and the Additional Insureds (as defined below) with regard to any claim for damages or personal injury arising out of or in connection with a Subtenant's

use of the subleased portion of the Premises except to the extent caused by the negligence or willful misconduct of the SFMTA, its officers, director, employees, agents, or representatives. The SFMTA shall require that each Subtenant agree in writing to indemnify the TJPA, the City, and the Additional Insureds with regard to any claim for damages or personal injury arising out of or in connection with such Subtenant's use of the subleased portion of the Premises except to the extent caused by the negligence or willful misconduct of the TJPA, the City, or the Additional Insureds.

(5) In the event that the SFMTA requires the use of all or part of the Premises subleased to a Subtenant, the SFMTA may terminate the sublease on ninety (90) days written notice. Before giving such notice, the SFMTA shall provide the TJPA its justification for termination of the sublease and obtain the TJPA's approval to terminate the sublease for the SFMTA's uses, which approval shall not be unreasonably withheld, conditioned, or delayed.

(6) Each Subtenant shall, at its own expenses, procure and maintain insurance in forms and amounts no less than that required for the SFMTA under Section 18 in favor of TJPA, the City, the Additional Insureds, and the SFMTA.

(7) The Subtenant shall defined, indemnify, and hold harmless the TJPA, the City, the Additional Insureds, and the SFMTA and its directors, officers, employees, agents, and representatives from any and all damages, claims, demands, obligations, suits, judgments, penalties, causes of action, losses, or liabilities at any time received, incurred, or accrued by the TJPA, the City, the Additional Insureds, or the SFMTA as a result of or arising out of the acts, omissions, use, occupancy, or operations of the Subtenant on, about, or related to the transit center for which the TJPA, the City, the

Additional Insureds, or the SFMTA is liable to any person by law.

(8) The SFMTA shall work in good faith with any Subtenants to develop formal procedures addressing operating protocols for all carriers using the Premises. TJPA shall have a right to review the proposed protocols and work in good faith with the SFMTA on any potential concerns. The protocols must be consistent with the Tenant Rules (as defined in Section 10(B)(8)), to the extent applicable.

B. In accommodating or proposing Subtenants under this Section, the SFMTA shall give priority to Subtenants as follows: (1) Additional Regional Services, (2) Intercity Services, and (3) Charter and Non-Scheduled Services.

C. To ensure full and productive use of the substantial investment that the TJPA has made on behalf of the public in the transit center, the TJPA may request operational changes in the SFMTA's use of the Premises to enable additional capacity for Subtenants, to which the SFMTA agrees it will not unreasonably object. If the SFMTA objects to such request, then representatives of the parties will meet to determine if there is a reasonable compromise available to address the SFMTA's concerns and the desire of the TJPA to enable additional capacity for Subtenants.

Section 8. Annual Operating Charge

A. Operating Charges. A "Primary Tenant" means any public transportation carrier occupying Exclusive Use Space under an agreement with the TJPA, and SFMTA and AC Transit will each be Primary Tenants as of the Effective Date. Each Primary Tenant must pay an annual fair share operating charge, as calculated below (each, an "Operating Charge"). Starting at the Commencement Date, and continuing for the term

of the Lease, the SFMTA shall pay its allocated Operating Charge to the TJPA as rent for the Premises.

B. Allocation Formula. An annual Operating Charge will be the product of a Primary Tenant's proportion of the Exclusive Use Space (as defined below) multiplied by the Terminal Net Operating Expenses (as defined below).

"Exclusive Use Space" means transportation operating space in the transit center (but not including the bus storage facility) leased to a single Primary Tenant for its exclusive use. The SFMTA's Exclusive Use Space is the Premises, subject to change by mutual written agreement of the parties.

"Terminal Net Operating Expenses" means the amount by which the Terminal Operating Expenses (as defined below) exceed Terminal Revenues (as defined below).

"Terminal Operating Expenses" means the total fiscal year expenses incurred by the TJPA for all management, janitorial, security, maintenance, utility, insurance, taxes, and additional repairs and expenses incurred to operate the transit center (including the bus ramp but excluding the bus storage facility), but excluding the TJPA's debt service and its on-going expenses for engineering, design, and construction of Phase II of the program.

"Terminal Revenues" means total fiscal year revenues from all sources, excluding passenger facilities charges and Operating Charges paid by Primary Tenants, but includes any Private Operator Minimum Rent.

In developing proposed Operating Charges, the TJPA shall use endeavor to maximize Terminal Revenues and minimize Terminal Operating Expenses.

As of the Effective Date, AC Transit has seventy-eight and two tenths percent (78.2%) of the Exclusive Use Space and the SFMTA will have twenty-one and eight-tenths percent (21.8%) of the Exclusive Use Space, as shown and further described on the attached Exhibit C (Proportional Share Calculation). Accordingly, the SFMTA's Operating Charge at the Commencement Date is expected to be twenty-one and eight tenths percent (21.8%) of the Terminal Net Operating Expenses. The SFMTA's and AC Transit's proportional share of Exclusive Use Space is subject to change based on changes to the amount of Exclusive Use Space leased to a Primary Tenant.

Notwithstanding anything to the contrary, if a TJPA Board adopted Budget and Projection for the next fiscal year would result in a projected SFMTA Operating Charge and Assessment for such fiscal year that would exceed Three Million Dollars (\$3,000,000), the SFMTA shall have the right to terminate this Lease by delivering written notice of such termination to the TJPA within thirty (30) days after such TJPA Board adopting such Budget and Projection. Any such termination by the SFMTA shall be effective on June 30 of the year in which such written notice is timely delivered by the SFMTA to the TJPA. If the SFMTA does not timely exercise such termination right, the SFMTA's obligation to pay the SFMTA Operating Charge consistent with the Budget and Projection and the terms of this Lease shall apply.

C. Primary Tenants Committee. The TJPA shall form a committee consisting of one representative from each Primary Tenant ("Primary Tenants Committee"), to review, comment on, and work with the TJPA staff on changes to the TJPA's proposed Budget and Projection, Capital Improvement Plan (as defined below), and the Tenant Rules. As a Primary Tenant, the SFMTA will be a member of a Primary Tenants

Committee. Actions of the Primary Tenants Committee shall be by majority vote of the members.

D. Budgeting Process. No later than September 15 of each year, the TJPA shall submit to the Primary Tenants Committee a proposed Budget and Projection for the upcoming fiscal year for its review, comment, modification, or objection. The TJPA shall assist the Primary Tenants Committee in its evaluation of the proposed Budget and Projection, including making available any financial accounting system records and other information reasonably requested by the Primary Tenants Committee regarding the Terminal Operating Expenses and Terminal Revenues, and permitting the Primary Tenants Committee to audit relevant TJPA financial records for the transit center. No later than November 15 of each year, or within sixty (60) days after the TJPA submits a proposed Budget and Projection to the Primary Tenants Committee if the Commencement Date occurs after September 15 in the initial year of this Lease, the Primary Tenants Committee shall submit to the TJPA its written explanation of any comments, modifications, and/or objections, if any, to the proposed Budget and Projection. No later than December 1 of each year, or within ninety (90) days after the TJPA submits a proposed Budget and Projection to the Primary Tenants Committee if the Commencement Date occurs after September 15 in the initial year of this Lease, the TJPA shall deliver a written response to any Primary Tenants Committee comments, modifications, and/or objections. No later than December 31 of each year, if, following the TJPA's written response, the Primary Tenants Committee continues to object to any part of the proposed Budget and Projection, the Primary Tenants Committee shall notify the TJPA. No later than January 10 of each year and prior to making a final

recommendation to the Board for approval of the Budget and Projection, the TJPA shall meet and confer with the Primary Tenants Committee in a good faith attempt to resolve any objections. No later than January 31 of each year, the TJPA Board of Directors shall adopt a Budget and Projection for the next fiscal year, or if the Commencement Date occurs after September 15 in the initial year of this Lease, within sixty (60) days after the Primary Tenants Committee submits its response to the proposed Budget and Projection to the TJPA. If the TJPA Board's adopted Budget and Projection departs from the Primary Tenants Committee's modifications and/or objections, the Board shall make detailed written findings explaining the basis for the departure from the Primary Tenants Committee's modifications and/or objections. If such TJPA Board adopted Budget and Projection for the next fiscal year would result in projected SFMTA Operating Charge and Assessment for such fiscal year that, combined with the SFMTA Operating Charges and any Assessments paid by the SFMTA to the TJPA for previous fiscal years and actual and projected payments made by the SFMTA to AC Transit under the Bus Deck Agreement, would exceed Nine Million Five Hundred Forty-Five Thousand Dollars (\$9,545,000), the SFMTA shall have the right to terminate this Lease by delivering written notice of such termination to the TJPA within thirty (30) days after the TJPA Board adopting such Budget and Projection. Any such termination by the SFMTA shall be effective on June 30 of the year in which such written notice is timely delivered by the SFMTA to the TJPA. If the SFMTA does not timely exercise such termination right, the SFMTA's obligation to pay the SFMTA Operating Charge consistent with the Budget and Projection and the terms of this Lease shall apply.

“Budget and Projection” means the proposed line item budget detailing the

revenues, expenses and charges (including projected Primary Tenant Operating Charges) required during each fiscal year, or any portion thereof, that the transit center is in use during the term of the Lease.

“Capital Improvement Plan” means a 10-year plan prepared and annually updated by the TJPA that identifies the Capital Improvements (as defined below) needed to keep the transit center in a state of good repair.

“Capital Improvement” means a single addition or improvement to the transit center’s physical building or equipment which is purchased, leased, or constructed at a cost of five hundred thousand dollars (\$500,000) or more, with a useful life in excess of five (5) years. In calculating the cost of each such item, the cost of the planning and design, if any, shall be included. The above cost figure in this definition are based on June 30, 2008 dollars and shall be increased or decreased annually in proportion to changes in the Implicit Price Deflator Index published by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor or replacement, using as a base the latest published index available as of July 1, 2008 .

The TJPA shall submit the following information to the Primary Tenants Committee with each year’s proposed Budget and Projection: (1) the projected total annual Terminal Operating Expenses; (2) the projected total annual Terminal Revenues; (c) the total area of each Primary Tenant’s Exclusive Use Space; (d) the projected Terminal Net Operating Expenses; and (e) the projected Terminal Net Operating Expenses multiplied by each Primary Tenant’s proportion of Exclusive Use Space.

E. Operating Reserve. The TJPA shall establish an Operating Reserve (as defined below) for the transit center.

“Operating Reserve” means a reserve fund to provide the TJPA with sufficient assets to meet on-going expenses of operating the transit center, and address delays, fluctuations, and variances in operating revenues and expenses. The Operating Reserve shall be established by a TJPA Board Policy consistent with generally accepted accounting principles. The TJPA Board shall annually establish the reserve amount for the following fiscal year or part thereof on or before June 30 of each year.

After the Commencement Date, at the time the TJPA adopts the first Budget and Projection, the TJPA shall review the standards for the Operating Reserve, including the minimum amount of funds that shall be maintained in the Operating Reserve, the source of those funds, the uses of Operating Reserve funds, and authorization required to spend Operating Reserve funds. The TJPA shall conduct reviews of such standards at least once per fiscal year. The TJPA shall seek funding for the Operating Reserve in the following order: (1) from external sources; (2) from any excess of actual Terminal Revenues over actual Terminal Operating Expenses; (3) from any payment of projected Operating Charge in excess of the actual Operating Charge, unless the Operating Reserve is fully funded, in which case the overpayment shall be proportionately refunded to SFMTA and any other Primary Tenant that paid such excess Operating Charge; and (4) by adding an assessment to each Primary Tenant’s Operating Charge (each, an “Assessment”) no more than once per fiscal year in an amount that does not exceed ten percent (10%) of such Primary Tenant’s Operating Charge for the previous fiscal year or Two Hundred Thousand Dollars (\$200,000), whichever is greater. Notwithstanding the foregoing, if the SFMTA’s actual revenues from all sources for the fiscal year previous to the year of an Assessment are less than the SFMTA’s total operating and capital expenses for such

fiscal year, the parties may defer all or part of the Assessment allocated to the SFMTA to a subsequent year.

F. Invoicing and Payment. Not less than twenty (20) days before the Commencement Date and the beginning of each quarter of each fiscal year following the Commencement Date, the TJPA shall submit to the SFMTA an invoice describing the SFMTA's projected Operating Charge for the upcoming quarter based on the approved Budget and Projection for that fiscal year. The SFMTA shall render its payment of its projected Operating Charge to the TJPA no later than the first (1st) day of each quarter for which they are due. The Operating Charge and any other sum due from the SFMTA to the TJPA under any provision of this Lease shall be paid to TJPA at the address specified in the Section 28 below.

G. Reconciliation.

1. At the start of each quarter following the Commencement Date, TJPA shall deliver a statement of the actual Terminal Operating Expenses, Terminal Revenues, and the SFMTA's actual proportional share of Exclusive Use Space for the previous quarter to the SFMTA. If the SFMTA's actual Operating Charge obligation for any quarter is greater than SFMTA's payment for that quarter based on the projected Operating Charge, the excess remaining obligation shall be added to the SFMTA's obligation for the next quarter, less any amounts the TJPA elects to apply from the Operating Reserve, if any.

2. If the SFMTA's actual Operating Charge obligation for any quarter is less than the SFMTA's payment for that quarter based on the projected Operating Charge, the surplus/overpayment shall be applied in the following order: (a) to any

unpaid balance of the SFMTA's Operating Charge obligation from prior quarters, if any; (b) to the Operating Reserve, if the Operating Reserve is not fully funded; and (c) refunded to the SFMTA. Notwithstanding the foregoing, in the last quarter of the term of this Lease, such surplus/overpayment shall not be applied to item (b) above.

3. If, at any time during any fiscal year, the TJPA determines that the actual Terminal Net Operating Expenses will exceed the projected Terminal Net Operating Expenses, the TJPA shall, after using its best efforts to reduce such expenses, give the Primary Tenants Committee fifteen (15) days written notice that the TJPA intends to use all or a portion of the Operating Reserve to pay all or a portion of the excess expense. The Primary Tenants Committee may submit to the TJPA its written comments on the proposed use of the Operating Reserve within eight (8) days after receipt of the TJPA's notice. The TJPA shall consider the Primary Tenants Committee's comments in deciding whether to use the Operating Reserve to pay the excess expense.

4. If the actual Terminal Revenues exceed the actual Terminal Operating Expenses for any fiscal year, the surplus shall be deposited in the Operating Reserve, if the Operating Reserve is not fully funded. If the Operating Reserve is fully funded, any excess of actual Terminal Revenues over actual Terminal Operating Expenses shall be deposited in the Capital Reserve Fund, which is the capital account maintained by the TJPA to fund Capital Improvements, including the replacement and/or rehabilitation of major building components and systems of the transit center that require repairs or have met or exceeded their useful lives under the Capital Improvement Plan.

H. In no event shall the TJPA pay any fee, dividend, payment or other monetary consideration to its member agencies, except for services directly requested and

properly invoiced. Nothing in this Section shall prohibit the City and County of San Francisco from collecting its legally obligated taxes and fees from the TJPA, its member agencies, Primary Tenants, and any subtenants.

I. Audit. No later than December of each fiscal year, the TJPA shall prepare and submit to the Primary Tenant Committee a final audit of the actual Terminal Revenues and the actual Terminal Operating Expenses for the transit center. The SFMTA shall have the right, upon not less than five (5) business days' notice to TJPA, to audit the books and records related to actual Terminal Revenues and the actual Terminal Operating Expenses for any fiscal year. If such audit discloses any discrepancies which would result in a reduction of the SFMTA's actual Operating Charges for such fiscal year, and which was not applied in the manner described in Section 8(G), the TJPA shall immediately refund to the SFMTA the amount of any overpayment by the SFMTA. The SFMTA shall pay the cost of such audit, provided that if such audit discloses any discrepancies which result in a reduction of the SFMTA's Operating Charges of three percent (3%) or more for any fiscal year, and which was not applied in the manner described in Section 8(G), then the TJPA shall pay the costs of such audit. The TJPA shall maintain, at its offices in San Francisco and in a safe, complete and organized manner, all of its records pertaining to this Lease, the Operating Charges by the SFMTA and any other Primary Tenant, all Terminal Operating Expenses, and all Terminal Revenues, for a period of not less than three (3) years following expiration of the term of this Lease. The TJPA shall maintain such records on a current basis and in sufficient detail to facilitate adequate audit and review thereof. All such books and records shall be available for inspection, copying and audit by the SFMTA and its representatives, at the

SFMTA's expense, subject to the provisions of this Section.

L. No Other Charges. Other than the SFMTA's Operating Charge and any Private Operator Minimum Rent, and the SFMTA's obligations under the Ancillary Improvements Agreement, the TJPA shall not charge the SFMTA or its employees or passengers for any of the Premises, facilities, rights, licenses, and privileges granted in this Lease to SFMTA or its employees or passengers.

Section 9. Ingress and Egress

A. The TJPA grants to the SFMTA, and the SFMTA's vehicles, machinery, equipment, employees, contractors, subcontractors, passengers, guests, and invitees the rights and privileges of ingress and egress over the transit center to access the Premises and the public space in the transit center to perform such operations and functions as are incidental, necessary, or proper to the conduct of the SFMTA's public transportation operations, subject to TJPA's reasonable regulation and consent. The TJPA grants to the SFMTA, and the SFMTA's vehicles, machinery, equipment, employees, contractors, and subcontractors the rights and privileges of ingress and egress over the transit center to access the Premises for the performance of any Work (as defined in Section 10(B)(5)) or the SFMTA's maintenance, repair, and removal obligations under this Lease subject to TJPA's reasonable regulation and consent. The SFMTA shall provide TJPA with its schedule for routine operations and functions under this Lease. To the extent routine operations and functions are required to occur outside that schedule, the SFMTA shall provide TJPA three (3) business days advance written notice before conducting such routine work. In the case of emergency or non-

routine work, the hours for conducting work and the notice of such work shall be reasonable under the circumstances.

B. The SFMTA's full and free right of ingress and egress provided for above shall not be used, enjoyed, or extended for any purpose or use in contravention of the provisions of Sections 12 and 13 of this Lease unless expressly authorized in writing in advance by the TJPA, which authorization the TJPA may grant or withhold at its sole discretion.

C. When reasonably required for reasons of safety, security, or crowd control, the TJPA may limit the SFMTA's access to the Premises. The TJPA will provide the SFMTA forty eight (48) hours prior written notice of its intent to limit access to the Premises, describing the purpose, scope, and duration of any limitation of access, unless emergency circumstances make such notice unreasonable or infeasible. In all events under this Section 9(C), the TJPA shall use best efforts to minimize disruption and interference with the SFMTA's operations at the Premises.

Section 10. Responsibility for Improvements and Services

A. TJPA's Responsibility.

1. On or before the Commencement Date, the TJPA, at its sole expense, shall construct certain improvements to the Premises and other areas of the transit center ("Improvements") as described in Exhibit B and in compliance with the layout and scope for the Improvements shown in the applicable 100% construction documents for the transit center, dated May 31, 2013, copies of which have were provided by the TJPA to the SFMTA prior to its execution of this Lease. The TJPA shall

cause the Improvements to be constructed in accordance with all applicable federal, state, and local laws. If there is any construction defect in the Improvements, the TJPA fails to construct the Improvements as required in this paragraph, or the TJPA installs other improvements in the Premises that interfere with the SFMTA's permitted operations, the TJPA shall cure such matter at the TJPA's sole cost.

2. Except for the Improvements, the TJPA shall have no obligation to provide any additional improvements, furnishings, fixtures, or equipment to the Premises. The SFMTA shall be responsible for any such additional improvements, furnishings, fixtures, or equipment to the Premises at its sole expense and only upon first receiving the TJPA's express written permission, as provided in Section 10(B), which shall not be unreasonably withheld, delayed, or conditioned.

3. Except for the TVMs, the Signals, and the portions of the OCS to be maintained by the SFMTA under the Ancillary Improvements Agreement, the TJPA, at its sole expense, shall prudently and efficiently maintain and repair the transit center, including the Improvements, foundations, structures, outside walls, windows, window glass, plate glass and all doors, roof (including water tightness), building systems (including plumbing), utility systems (such as water, sewer, electric, gas, and other utility lines), components in any central air conditioning and heating systems, sprinkler system, and any central hot water system, in good condition and repair, consistent with business and management practices at similar facilities in the United States and in compliance with all applicable laws and regulations.

4. The TJPA, at its sole expense, shall maintain insurance; provide public wi-fi, electricity, lighting and certain HVAC; and provide standard operations,

janitorial, maintenance, repair, and security services for the Premises consistent with business and management practices at similar facilities in the United States. The TJPA is not obligated to provide any dedicated/unique security or other services to the Premises or for the SFMTA's operations in the transit center.

5. The TJPA reserves the right, with at least thirty (30) days advance notice to the SFMTA, to construct, reconstruct, install, repair, remove, replace, renew, operate, and use building systems, structures, or other improvements in, over, or under the Premises. In all events under this Section 10(A)(5), the TJPA shall use best efforts to minimize disruption and interference with SFMTA's operations at the Premises.

6. Notwithstanding the above, the SFMTA acknowledges that Phase II of the Transbay Program involves excavation and construction of an underground rail tunnel, fit out of the train box in the subsurface levels of the transit center, and other construction work, and that such work may have noise, traffic, and other impacts to SFMTA's operations at the Premises. The SFMTA waives any claim or right to compensation resulting from damages, lost business, or other impacts that may result from TJPA's Phase II activities except to the extent caused by the negligence or willful misconduct of any Phase II contractor or subcontractor. In the event the SFMTA suffers damages, lost business or other impacts reasonably attributed to the Phase II activities, the SFMTA shall have the right to terminate this Lease upon thirty (30) days' notice to the TJPA.

B. SFMTA's Responsibility.

1. Subject to the TJPA's obligations under Section 10(A), the SFMTA, at its sole expense, shall (a) keep, operate, and maintain the SFMTA's

furnishings, trade fixtures, equipment, floor coverings, personal property in the Premises, in a neat, clean, safe, sanitary, and operating condition, (b) not cause or maintain any nuisance on the Premises, or commit any waste upon the Premises, and (c) not negligently permit any nuisance on the Premises, or negligently suffer to be committed any waste upon the Premises.

2. The SFMTA, at its sole expense, shall provide any additional improvements, furnishings, fixtures, or equipment, including operating equipment, security cameras and cabling, and telecommunications cabling it desires for the Premises, consistent with the terms and conditions of this Lease; provided, however, that the SFMTA's provision of any additional improvements or equipment for the OCS or Signals at the Premises shall be governed by the Ancillary Improvements Agreement.

3. The SFMTA, at its sole expense, shall bear the cost of moving its operations to the Premises.

4. The SFMTA, at its sole expense, shall be responsible for maintaining insurance as provided in Section 18, and providing any dedicated/unique security or other services required by the SFMTA at the Premises or for the SFMTA's operations in the transit center. Any SFMTA security for the Premises shall coordinate and cooperate with security provided by the TJPA for the transit center.

5. Except for the Improvements, the SFMTA shall bear the cost and expense for all Work (defined as follows) it desires on or to the Premises. "Work" shall mean designing, financing, and constructing any additional improvements, additions, alterations, reconstruction, demolition, or repairs not covered by the Ancillary Improvements Agreement. The SFMTA shall not commence the construction of any

Work before the SFMTA submits complete plans and specifications to the TJPA and receives the TJPA's written approval of the plans and specifications. The SFMTA shall obtain the TJPA's written consent for any proposed alterations and variances from the approved plans and specifications, except minor changes.

Prior to commencing any Work, the SFMTA shall obtain building, electrical, plumbing, and any other permits required by any legal authority with jurisdiction over such Work at the SFMTA's sole cost. Upon the TJPA's request, the SFMTA shall exhibit within the area of the Work all certificates and permits required by any legal authority with jurisdiction over the Work. The SFMTA shall give the TJPA at least fourteen (14) days advance written notice before commencing Work, except in the case of emergency Work, where notice shall be reasonable under the circumstances. Any notices of such Work shall remain posted within the Premises until completion and acceptance of the Work.

In conducting the Work, the SFMTA shall not, either directly or indirectly, use any contractors, laborers, or materials the use of which would create any conflicts with other contractors and/or laborers employed by TJPA or Asset Manager in the construction, maintenance, or operation of the transit center or would cause any jurisdictional or other labor disputes threat.

The SFMTA's Work shall not unreasonably interfere with the operations of other tenants in the transit center, unless agreed by such other tenants and the TJPA.

6. Except as provided in the Ancillary Improvements Agreement with respect to certain portions of the OCS, all improvements made by the TJPA to or of the Premises, and any improvements to or of the Premises made by the SFMTA, except

movable furnishings, personal property, trade fixtures, and equipment, shall belong to the TJPA, and shall be surrendered with the Premises on or before the termination of this Lease.

7. The SFMTA expressly waives all rights to make repairs at the expense of the TJPA or to vacate the Premises or terminate this Lease for failure by the TJPA to keep the Premises in good order, condition, or repair as provided for in sections 1941 and 1942 of the California Civil Code or any successor thereto.

8. The SFMTA shall comply, to the extent applicable, with the Salesforce Transit Center Tenant Rules and Regulations version dated October 12, 2017, and as may be updated by the TJPA from time to time with notice to SFMTA (“Tenant Rules”), and any other rules and regulations adopted by the TJPA for the operation, maintenance, security, and management of the transit center. These operating parameters must be reasonable and must not be inconsistent with the terms of this Lease. The TJPA shall administer the Tenant Rules and other transit center rules and regulations in a fair and nondiscriminatory manner and use reasonable efforts to cause other transit center tenants to comply with them. To the extent that any rule or regulation conflicts with any provision in this Lease, the provision in this Lease controls.

9. The SFMTA shall comply with the commercially reasonable transit center procedures, restrictions, and requirements developed by the TJPA related to implementation of its obligations under the Naming Rights Agreement, and the terms for the SFMTA’s use of the name and logos associated with the transit center.

Section 11. Use of Premises

Subject to the terms and conditions of this Lease, the TJPA shall permit the SFMTA to use the Premises to perform its obligations under this Lease and to perform its other obligations under the Ancillary Improvements Agreement (to the extent such other obligations reasonably need to be performed in the Premises and are performed in compliance with the terms and conditions of the Ancillary Improvements Agreement) and to perform such operations and functions as are incidental, necessary, or proper to the conduct of its public transportation operations, including, but not limited to, the following:

A. Any and all purposes in connection with and incidental to the operation of a public transportation business consistent with the rules of the SFMTA and federal and state law, including, without limiting the generality hereof, the movement, loading, and unloading of passengers and their personal belongings from buses; the ticketing of passengers; and the installation, maintenance, and operation of radio and other telecommunications equipment and facilities.

B. The positioning, stopping, parking, loading, or unloading of the SFMTA's vehicles and equipment.

C. The loading and unloading of property and carriage by such manner of conveyance as SFMTA may desire or require in the operation of its public transportation operations, but excluding the parking of the vehicles of individual SFMTA employees.

D. Omitted.

E. The use of the space in the transit center but outside the Premises to perform such operations and functions as are incidental, necessary, or proper to the

conduct of the SFMTA's public transportation operations, subject to the TJPA's regulation and consent.

F. The SFMTA has been a key participant in the design of the transit center. The SFMTA has observed field operation simulations testing the layout and circulation patterns of the transit center.

Section 12. Prohibited Uses

The SFMTA shall not use the Premises or cause or permit its employees, agents, contractors, or others to use the Premises for any purpose other than specified under the terms and conditions of this Lease. Without limiting the generality of the foregoing, the SFMTA shall not do, or cause or permit to be done, anything in or about the Premises, or bring or keep anything thereon which will in any way:

- A. increase the rate of fire insurance for the transit center;
- B. conflict with any law, ordinance, rule, or regulation now in effect or which may hereafter be enacted or promulgated by any public authority relating to or affecting the condition, use, or occupancy of the Premises;
- C. create a nuisance;
- D. obstruct or interfere with the rights of other tenants in the transit center;
- E. place any loads upon the floor, walls, or ceiling which endanger the structure of the transit center;
- F. obstruct the sidewalk or other passageways of the transit center, including in front of, within, or adjacent to the Premises, except to the extent reasonably

necessary to protect health and safety during the SFMTA's performance of any of its obligations under this Lease or the Ancillary Improvements Agreement; or

G. use or allow the Premises to be used for any unlawful purpose; provided, however, that TJPA's security personnel for the Center shall be responsible for keeping the general public from using the Premises for any unlawful purpose.

Section 13. Further Prohibited Uses Regarding Environmental Laws and Hazardous Materials

A. The SFMTA 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").

B. 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.

C. Except as otherwise expressly permitted in this Lease, the SFMTA shall not use, create, store, deposit, dispose, or allow any hazardous materials on the Premises. The SFMTA shall have the right to have petroleum products stored in a vehicle or equipment for the exclusive use in such vehicle or equipment, or brought on the Premises by a service truck in an emergency to perform bus repairs or to refuel a bus that does not have enough fuel to reach a SFMTA bus maintenance facility (up to 18 gallons diesel #2, 10 gallons 30 weight engine oil, and 5 gallons antifreeze).

D. The SFMTA shall not install facilities for, nor operate on the Premises, a gasoline or petroleum supply station. The SFMTA shall not permit on the Premises any vehicle used or designed for the transportation or storage of gasoline or petroleum products; provided, however, that if a SFMTA bus does not have enough fuel to return to a SFMTA bus maintenance facility, the SFMTA shall have the right to bring a refueling vehicle on the Premises and refuel such bus.

E. All of the foregoing notwithstanding, the following hazardous materials may be brought onto or stored on the Premises:

1. Household and office products necessary for routine cleaning and maintenance of the property may be kept on the Premises in quantities reasonable for SFMTA’s or the TJPA’s needs; and

2. Petroleum products carried on a service truck to be brought on the Premises only in an emergency to perform repairs on a bus: 18 gallons diesel #2, 10 gallons 30 wt engine oil and 5 gallons antifreeze.

F. The TJPA, or its agents or contractors, shall at all times, upon reasonable advance notice to the SFMTA except in the event of an emergency, 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; provided, however, that the TJPA shall provide no less than five (5) business days' prior notice to the SFMTA for any invasive sampling or testing and shall use commercially reasonable efforts to minimize any negative impact of such sampling or testing on the SFMTA operations at the Premises.

G. In the event the SFMTA breaches any of the provisions of this Section, and such breach continues for ten (10) days after written notice thereof has been given by the TJPA to the SFMTA (unless such breach is of the type that cannot be cured within ten (10) days, in which case if the SFMTA fails to commence to cure such breach within ten (10) days and to pursue diligently to completion), this Lease may be terminated immediately by TJPA and be of no further force or effect. It is the intent of the parties hereto that the SFMTA shall be responsible for and bear the entire cost of any cleanup, removal, disposal, and decontamination on or off the Premises, resulting from hazardous materials introduced to the Premises by the SFMTA, its employees or contractors after the Commencement Date. The SFMTA shall not be responsible or bear the cost of clean up, removal, disposal, or decontamination of hazardous materials introduced to the

Premises by any party other than SFMTA, its employees or contractors during any period prior to or after the Commencement Date.

H. The SFMTA shall further hold the TJPA 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 by the SFMTA, its employees or contractors during the SFMTA's period of use and possession of the Premises.

Section 14. Right of Entry to Inspect and Correct Prohibited Uses

A. The TJPA and the Asset Manager, through their agents or representatives, shall have full right and authority to enter in and upon the Premises and any building or improvements situated thereon at any and all reasonable times during the term of this Lease, with reasonable advance notice to the SFMTA except in the event of an emergency, for the purpose of inspecting the same without interference or hindrance by the SFMTA, its agents or representatives; provided the TJPA shall cause such inspection to be performed in a manner that minimizes any negative impact on the SFMTA operations at the Premises.

B. In the event the SFMTA uses or maintains the Premises in a way prohibited by this Lease or that poses a risk to the health and safety of the public, the TJPA shall give the SFMTA notice to do such acts as are reasonably required to comply with the Lease. If within ten (10) days after the TJPA sends written notice to comply, the SFMTA fails to do the work and diligently proceed in good faith to comply (unless such acts are of the type that cannot be performed within ten (10) days, in which case if the SFMTA fails to commence such acts within ten (10) days and to pursue diligently to completion), the TJPA shall have the right, but not the obligation, to enter the Premises

and do such acts and expend such funds at the expense of the SFMTA as are reasonably required to perform such work by delivering no less than three (3) days prior notice of the TJPA's election to do such acts or expend such funds. Any reasonable amount so expended by the TJPA shall be paid by the SFMTA promptly after demand from the date of completion of such work to date of payment. The TJPA shall have no liability to the SFMTA for any damage, inconvenience, or interference with the use of the Premises by the SFMTA as a result of performing any such work.

Section 15. Omitted.

Section 16. Quiet Enjoyment

The TJPA represents that it has the right to lease the Premises together with all the premises and facilities, easements, rights, licenses, and privileges granted in this Lease, and has full power and authority to enter into this Lease. The TJPA further covenants that the SFMTA shall peaceably have and enjoy the Premises, the Improvements, easements, rights, licenses, and privileges during the time this Lease is in effect.

Section 17. Indemnity

A. The SFMTA agrees to defend, indemnify, and hold harmless the entities identified on the attached Exhibit D (collectively, "Additional Insureds"), from any and all liability, loss, damage, expense, cost, (including, without limitation, costs and fees of litigation), claims, demands, obligations, suits, judgments, penalties, causes of action, or liabilities at any time received, incurred, or accrued by the Additional Insureds as a result of or arising out of the acts, omissions, use, occupancy, or operations of the SFMTA

and/or its consultants, contractors, representatives, employees, or agents on, about, or related to the transit center pursuant to this Lease, except to the extent caused by the negligence or willful misconduct of the Additional Insureds. The SFMTA's obligations under this Section shall survive the termination of this Lease.

B. The TJPA agrees to defend, indemnify, and hold harmless the SFMTA, and its officers, directors, agents, representatives, permitted assigns, and employees (collectively, "SFMTA Parties"), from any and all liability, loss, damage, expense, cost, (including, without limitation, costs and fees of litigation), claims, demands, obligations, suits, judgments, penalties, causes of action, or liabilities at any time received, incurred, or accrued by the SFMTA Parties as a result of or arising out of the acts, omissions, use, occupancy, or operations of the TJPA or and/or its consultants, contractors, representatives, employees, or agents on, about, or related to the transit center pursuant to this Lease, except to the extent caused by the negligence or willful misconduct of the SFMTA Parties. The TJPA's obligations under this Section shall survive the termination of this Lease.

C. If either of the parties hereto receives a claim, demand, or suit for which the other party has hereinabove agreed to indemnify it, then the indemnitee shall notify the indemnitor of such claim, demand, or suit as soon after its receipt as is practicable, but in no event more than thirty (30) days after receipt of the claim, demand, or suit, and the indemnitor shall have the right to investigate, settle, compromise, satisfy, or defend the same. In any action or proceeding brought against any of the Additional Insureds by reason of any matter indemnified by the SFMTA pursuant to this Section, the SFMTA may, at its sole option, elect to defend such matter by attorneys in the San Francisco

Office of the City Attorney, by other attorneys selected by the SFMTA, or both. The SFMTA shall have the right to control the defense and to determine the settlement or compromise of any such matter, provided that the TJPA shall have the right, but not the obligation, to participate in the defense of any such matter at its sole cost.

D. To the extent that the allocation of loss or liability between the parties hereto is for any reason not covered by the provisions hereof, the parties agree that the rights of implied indemnity and contribution provided by law shall be fully applicable to the relationship of the parties under this Lease.

Section 18. Insurance

A. SFMTA.

(1) Without in any way limiting the SFMTA's indemnification obligations under this Lease, and except as otherwise set forth in Section 18(B) below, the SFMTA must maintain in force, during the full term of this Lease, insurance coverages at least as broad as:

(a) Worker's Compensation, as required by the State of California in statutory amounts, and Employers' Liability Insurance with limits not less than one million dollars (\$1,000,000) each accident, injury, or illness; and

(b) Commercial General Liability Insurance on an "occurrence" basis, including products and completed operations, property damage, bodily injury, personal and advertising injury, and contractual liability, with limits not less than ten million dollars (\$10,000,000) each occurrence; and

(c) Automobile Liability Insurance with limits not less than twenty five million dollars (\$25,000,000) per accident for bodily injury (including death)

and property damage, including owned, non-owned, and hired auto coverage, as applicable; and

(d) Property Insurance against all risks of loss to any improvements made by the SFMTA to the Premises, at full replacement cost with no coinsurance penalty provisions.

(2) The SFMTA's Commercial General Liability Insurance policy must provide the following:

(a) Name as additional insured the entities identified in the attached Exhibit D.

(b) That such policies are primary insurance to any other insurance available to the additional insureds, any insurance or self-insurance maintained by the additional insureds shall be excess of SFMTA's insurance and shall not contribute with it, and the SFMTA's insurance applies severally and not collectively to each additional insured against whom claim is made or suit is brought.

(3) All policies shall be endorsed to provide thirty (30) days' advance written notice to the TJPA of material change in coverages, or nonrenewal of coverages, or cancellation of coverages for any reason. Notices shall be sent to the address specified in Section 28.

(4) Should any of the required insurance be provided under a claims-made form, the SFMTA shall maintain such coverage continuously throughout the term of this Lease, and without lapse, for a period of five (5) years beyond the expiration of this Lease, to the effect that, should occurrences during the Lease term give rise to claims made after expiration of the Lease, such claims shall be covered by such claims-made

policies.

(5) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

(6) Except to the extent the SFMTA elects to self insure pursuant to Section 18(B) below, on or before the Effective Date, the SFMTA shall do the following: (a) furnish to the TJPA certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A.M. Best's A:VII or higher, that are authorized to do business in the State of California, and that are satisfactory to the TJPA, in form evidencing all coverages set forth above, and (b) furnish complete copies of policies promptly upon the TJPA's request.

(7) Approval of the insurance by the TJPA shall not relieve or decrease the liability of the SFMTA under this Lease. If the SFMTA maintains broader coverage and/or higher limits than the minimums shown above, the TJPA requires and shall be entitled to the broader coverage and/or the higher limits maintained by the SFMTA. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the TJPA.

(8) Failure to maintain insurance shall constitute a substantial breach by the SFMTA of this Lease.

(9) The TJPA reserves the right to require increases to the aforesaid limits as necessary upon the written demand of the TJPA, provided that the TJPA

provides a written justification for the increase to the SFMTA, and such coverage is reasonably available and affordable and commercially reasonable.

(10) As a part of or in lieu of the insurance required in this Section, and subject to prior approval by the TJPA, the SFMTA shall have the right to provide equivalent protection under a self-insurance program acceptable to the TJPA; provided, however, that the TJPA's approval shall not be unreasonably withheld.

B. SFMTA Self-Insurance

Notwithstanding anything to the contrary in this Section, the TJPA acknowledges that the SFMTA maintains a program of self-insurance and agrees that the SFMTA shall not be required to carry any third party insurance with respect to this Lease. If the SFMTA elects to self-insure, the SFMTA shall be responsible for any losses or liabilities which would have been assumed by the insurance companies which would have issued the insurance required of the SFMTA under this Lease. If the SFMTA elects to carry third party insurance instead of a program of self insurance with respect to this Lease, the SFMTA shall provide the TJPA with at least thirty (30) days' prior written notice of such election.

C. SFMTA Contractors.

(1) The SFMTA shall require that any SFMTA contractor (including subcontractors) entering the transit center property (including the Premises) under this Lease maintain in force, during the full term of its contracts, insurance coverages at least as broad as:

(a) Worker's Compensation, as required by the State of California in statutory amounts, and Employers' Liability Insurance with limits not less than one million dollars (\$1,000,000) each accident, injury, or illness; and

(b) Commercial General Liability Insurance on an "occurrence" basis, including products and completed operations, property damage, bodily injury, personal and advertising injury, and contractual liability, with limits not less than two million dollars (\$2,000,000) each occurrence; and

(c) Automobile Liability Insurance with limits not less than one million dollars (\$1,000,000) per accident for bodily injury (including death) and property damage, including owned, non-owned, and hired auto coverage, as applicable; and

(d) Professional Liability Insurance (if applicable) with limits not less than two million dollars (\$2,000,000) each occurrence or claim, with respect to negligent acts, errors or omissions, if applicable.

(2) The SFMTA's contractors' insurance shall satisfy the terms and conditions specified in Section 18(A)(2) – (9), as appropriate.

D. TJPA.

(1) Without in any way limiting the TJPA's indemnification obligations under this Lease, the TJPA must maintain in force, during the full term of this Lease, insurance coverages at least as broad as:

(a) Worker's Compensation, as required by the State of California in statutory amounts, and Employers' Liability Insurance with limits not less than one million dollars (\$1,000,000) each accident, injury, or illness; and

(b) Commercial General Liability Insurance on an “occurrence” basis, including products and completed operations, property damage, bodily injury, personal and advertising injury, and contractual liability, with limits not less than two million dollars (\$2,000,000) each occurrence; and

(c) Automobile Liability Insurance with limits not less than one million dollars (\$1,000,000) per accident for bodily injury (including death) and property damage, including owned, non-owned, and hired auto coverage, as applicable.

(d) Property Insurance against all risks of loss, and Boiler & Machinery Insurance, sufficient to cover the values at risk for the transit center. Such insurance shall provide for replacement costs, including increased cost of construction.

(2) The TJPA’s Commercial General Liability Insurance policy must name as additional insured SFMTA, and all of its officers, agents, and employees.

(3) All policies shall be endorsed to provide thirty (30) days' advance written notice to SFMTA of nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the address specified in Section 28.

(4) Should any of the required insurance be provided under a claims-made form, the TJPA shall maintain such coverage continuously throughout the term of this Lease, and without lapse, for a period of five (5) years beyond the expiration of this Lease, to the effect that, should occurrences during the Lease term give rise to claims made after expiration of the Lease, such claims shall be covered by such claims-made policies.

(5) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims

investigation or legal defense costs are included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

(6) On or before the Effective Date, the TJPA shall do the following:

(a) furnish to SFMTA certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A.M. Best's A:VII or higher, that are authorized to do business in the State of California, and that are satisfactory to the SFMTA, in form evidencing all coverages set forth above, and (b) furnish complete copies of policies promptly upon the SFMTA request. As a part of or in lieu of the insurance required herein and subject to prior approval by the SFMTA, the TJPA may provide equivalent protection under a self-insurance program acceptable to the SFMTA; provided, however, that the SFMTA's approval shall not be unreasonably withheld.

(7) Approval of the insurance by the SFMTA shall not relieve or decrease the liability of the TJPA under this Lease. If the TJPA maintains broader coverage and/or higher limits than the minimums shown above, the SFMTA requires and shall be entitled to the broader coverage and/or the higher limits maintained by the TJPA. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the SFMTA.

(8) Failure to maintain insurance shall constitute a substantial breach by the TJPA of this Lease.

(9) The SFMTA reserves the right to require increases to the aforesaid limits as necessary upon the written demand of the SFMTA, provided that the SFMTA provides a written justification for the increase to the TJPA, and such coverage is

reasonably available and affordable.

Section 19. Nondiscrimination

A. Neither Party Shall Discriminate

In the performance of this Lease, each party agrees not to discriminate against any SFMTA employee or any TJPA employee working with either party, or applicant for employment with either party, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or Human Immunodeficiency Virus (AIDS/HIV) status, or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

In addition, the TJPA shall incorporate by reference in all subcontracts for the Premises the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. The TJPA's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

B. Non-Discrimination in Benefits

Neither party does as of the date of this Lease and will not during the term of this Lease, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for the either party elsewhere within the United States,

discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

C. TJPA's Nondiscrimination Policy

In the performance of this Lease, the SFMTA agrees to comply with the provisions of the TJPA Equal Employment Opportunity/Non-Discrimination Policy No. 004 set forth in Exhibit E to this Lease.

D. CMD Form

As a condition to this Lease, the TJPA shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division (the "CMD"). The TJPA hereby represents that prior to execution of the Lease: (a) the TJPA executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and (b) the CMD approved such form.

E. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of property to

City are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. The TJPA shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, the TJPA understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against the TJPA and/or deducted from any payments due to the TJPA..

Section 20. Assignment and Subletting

The SFMTA shall not assign or transfer this Lease or any part hereof in any manner whatsoever, or sublet the Premises except in a manner consistent with this Lease, without the prior written consent of the TJPA. Notwithstanding the foregoing, the SFMTA shall have the right to assign all or any part of its rights and interests under this Lease to any successor to its services through consolidation or reorganization or transfer of substantially all of its assets, or as required by legislative action, and the consent of the TJPA thereto shall not be required, but due notice of any such assignment shall be given to the TJPA within sixty (60) days after such assignment hereunder. This provision does not release the SFMTA from any of its obligations with respect to the terms hereof.

Section 21. Encumbrances

The SFMTA shall not encumber the Premises in any manner whatsoever.

Section 22. No Personal Liability

No director, officer, agent or employee of either party shall be personally charged by or contractually liable to the other party under any term or provision of this Lease or because of any breach thereof or because of its or their execution or attempted execution.

Section 23. Agreements with Governments and Others Related to the Transit Center

Except for the payment of rentals provided for herein, this Lease is subject and subordinate to the provisions of any agreement and amendments thereto heretofore made between the TJPA and the United States or the State of California, relative to the construction, use, operation, funding, or maintenance of the transit center. However, any agreement or arrangement the TJPA makes with any federal, state, or local government, or any other entity or any agency thereof for the construction, use, operation, funding, or maintenance of the transit center, or any substantial part thereof, shall not substantially interfere with SFMTA's rights under this Lease.

Section 24. Termination

A. TJPA's Right to Terminate. The TJPA, in addition to any other rights given to it herein or to which it may be entitled by law, may terminate this Lease in its entirety, subject to and in the manner provided herein, upon or after the occurrence of any one or more of the following events and may exercise all rights of entry and re-entry provided by law:

1. The filing for the SFMTA of any request for relief under any state insolvency statute.
2. Any action of any governmental authority, legislative body, board,

agency, or officer, other than the TJPA and any working for it, having jurisdiction thereof ceasing or suspending SFMTA operations at the transit center.

3. The voluntary abandonment by the SFMTA of the conduct of its public transportation operations at the transit center.

4. The substantial breach by the SFMTA of any of the covenants or agreements herein contained and the failure of the SFMTA to remedy such breach as provided herein.

5. Failure of the SFMTA to make full payment to the TJPA of any amount due and payable hereunder within thirty (30) days after the same becomes due and payable.

B. SFMTA's Right to Terminate. The SFMTA, in addition to any other rights given to it herein or to which it may be entitled by law, may terminate this Lease in its entirety, subject to and in the manner provided herein, upon or after the occurrence of any one or more of the following events:

1. Issuance of a permanent injunction by any court of competent jurisdiction substantially restraining or preventing the SFMTA from using all or major portions of the Premises and its remaining in force of one hundred twenty (120) days; provided, however, that the TJPA, if a party to the litigation, shall not have taken such steps as may be necessary to effect an appeal of the injunction to appropriate appellate courts.

2. Any action of any governmental authority, legislative body, board, agency, or officer having jurisdiction thereof materially preventing the SFMTA from

conducting its public transportation operations at the Premises.

3. The substantial breach by the TJPA of any of the covenants or agreements herein contained and the failure of the TJPA to remedy such breach as provided herein.

4. The occurrence of a Force Majeure (as defined in Section 30) that materially prevents the SFMTA from conducting its public transportation operations at the Premises.

5. Any termination of the Ancillary Improvements Agreement as a result of (a) TJPA's default or breach under the Ancillary Improvements Agreement that materially interferes with the SFMTA's public transportation operations at the Premises; (b) the TJPA's election in its sole discretion to terminate the Ancillary Improvements Agreement due to the SFMTA's material default or breach thereunder, (c) condemnation, or (d) fire, or other casualty.

C. Procedure for Termination or Repossession. No termination declared by either party shall be effective and the TJPA shall not take possession of the Premises unless and until not less than sixty (60) days have elapsed after written notice by either party to the other specifying the date upon which such termination will take effect and specifying the cause for which this Lease is being terminated or for which the Premises are being repossessed; and no such termination shall be effective nor shall the TJPA retake possession of the Premises if:

1. such cause of default is cured within sixty (60) days, or
2. the default by its nature cannot be cured within such sixty (60) day

period and the party in default commences to correct such default within said sixty (60) days and corrects the same as promptly as is reasonably practicable.

Section 25. Omitted.

Section 26. Omitted.

Section 27. Governing Law

This Lease shall be deemed to have been made in, and be construed in accordance with, the laws of the State of California and City's Charter. The parties agree that any state or federal district court located in the City and County of San Francisco, State of California shall have exclusive jurisdiction over any case or controversy arising from, under or in connection with this Lease and shall be the sole and exclusive forum in which to adjudicate any such dispute(s).

Section 28. Notices

All notices required to be given to the SFMTA hereunder shall be in writing and given by registered mail addressed to the SFMTA as follows:

San Francisco Municipal Transportation Agency
City and County of San Francisco
Municipal Transportation Agency
1 South Van Ness Avenue, 8th Floor
San Francisco, CA 94103
Attn: Senior Manager – SFMTA Strategic Real Estate

with copy to:

San Francisco City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attention: Special Projects Team

All notices required to be given to the TJPA hereunder shall be in writing and given by registered mail addressed to TJPA as follows:

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

with copy to:

Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102
Attn.: Deborah Miller

Either party may designate in writing from time to time any changes in addresses or any addresses of substitute or supplementary persons in connection with said notices. The effective date of service of any such notice shall be one (1) business day after such notice is mailed to SFMTA, or to the TJPA. Any provision herein that one party shall notify the other of some matter is to be construed as a requirement that notice is to be given in accordance with the provisions of this Section.

Section 29. Waivers

No waiver of default by either party of any of the terms, covenants and conditions hereof to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept and observed by the other party.

Section 30. Force Majeure

Neither the TJPA nor SFMTA shall be deemed in violation of this Lease if it is

prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of terrorism, riots, rebellion, sabotage, fire or any other casualty which is not within its control (except financial inability) (each, a “Force Majeure”); provided, however, that these provisions shall not excuse SFMTA from payment of the Operating Charge.

Section 31. Invalid Provisions

In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either the TJPA or the SFMTA in their respective rights and obligations contained in the valid covenants, conditions and provisions of this Lease.

Section 32. Headings

The headings of the several Sections of this Lease are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provisions of this Lease, and shall not be construed to affect in any manner the term and provisions hereof or the interpretation or construction thereof.

Section 33. Withholding Required Approvals

Whenever the approval of the TJPA or of the SFMTA is required herein, no such approval shall be unreasonably refused, withheld, or delayed.

Section 34. Subordination of Lease

- A. This Lease and all rights of the SFMTA hereunder shall be expressly

subject and subordinate to (i) the lien of any pledge, transfer, hypothecation, or assignment made at any time by the TJPA to secure its obligations, including those items described in the attached Exhibit F; and (ii) any matters of record pertaining to the transit center in the Official Records of the City and County of San Francisco, California. The SFMTA shall execute, acknowledge, and deliver any instrument requested by the TJPA to evidence such subordination, but no such instrument shall be necessary to make such subordination effective.

B. The SFMTA further agrees to subordinate its interest in this Lease to the lien of any future ground lessors or mortgagees encumbering the Premises, provided that TJPA obtains, at its expense, a non-disturbance and attornment agreement that provides to the SFMTA all of the rights and obligations under this Lease from any mortgagee or ground lessor of TJPA whose lien may have priority over this Lease. Such agreement will be in form and substance reasonably acceptable to the SFMTA.

Section 35. Inspection of Records

The SFMTA and the TJPA, each at its own expense and upon reasonable notice, shall have the right to inspect the books, records, and other data of the other party relating to the provisions and requirements hereof, provided such inspection is made during regular business hours. The TJPA agrees to provide the SFMTA with a copy of the report of the annual audit of the TJPA financial statements.

Section 36. Successors and Assigns

All of the terms, provisions, covenants, stipulations, conditions and considerations in this Lease shall extend to and bind the legal representatives, successors, and assigns of

the respective parties hereto.

Section 37. Taxes, Assessments, and Liens

The SFMTA agrees to pay and discharge promptly all lawful taxes properly levied and to which the SFMTA is subject by reason of its use and occupancy of the Premises. The SFMTA further agrees not to permit or suffer any liens to be imposed upon the Premises as a result of its activities without promptly discharging the same; provided, however, that the SFMTA may, if it so desires, contest the legality of such taxes and liens without being in breach of this Lease.

Section 38. Attorneys' Fees

If either party fails to perform any of its obligations under this Lease or a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For purposes of this Lease, reasonable attorneys' fees of the TJPA's legal counsel or the City's Office of the City Attorney (as applicable) shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the TJPA's legal counsel's services or the City Attorney's services (as applicable) were rendered who practice in the City of San Francisco, and, for the City's Attorney's fees, in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also

include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

Section 39. MacBride Principles - Northern Ireland

The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Lease. By signing this Lease, the TJPA confirms that it has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

Section 40. Non-Liability of City Officials, Employees and Agents

Notwithstanding anything to the contrary in this Lease, no elective or appointive board, commission, member, officer, employee or agent of City or the TJPA shall be personally liable to the other party, its successors and assigns, in the event of any default or breach by the SFMTA or the TJPA, respectively, or for any amount which may become due to the other party, its successors and assigns, or for any obligation of the SFMTA or the TJPA, respectively, under this Lease.

Section 41. Controller's Certification of Funds

The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the City's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by the SFMTA under this Lease unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of the SFMTA after the fiscal year in which the term of this Lease commences, sufficient funds for the payment of Operating Charges and any other payments required under this Lease are not appropriated, then the SFMTA may terminate this Lease, without penalty, liability or expense of any kind to the SFMTA, as of the last date on which sufficient funds are appropriated. The SFMTA shall use its reasonable efforts to give the TJPA reasonable advance notice of such termination.

Section 42. Prevailing Wages and Working Conditions

Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. The TJPA agrees to require its Contractors and Subcontractors performing (i) labor in the construction of a “public work” as defined in California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling if paid for in whole or part out of public funds) at the Premises, or (ii) Covered Construction at the Premises to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed

in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, “Prevailing Wage Requirements”). The TJPA agrees to cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

The TJPA shall include, and require its Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. The TJPA’s failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A Contractor’s or Subcontractor’s failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party.

Section 43. Tropical Hardwood and Virgin Redwood Ban

Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, neither the TJPA nor any of its contractors shall provide any items to the SFMTA in the construction of the Improvements or otherwise in the performance of this Lease which are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

If the TJPA fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, it shall be liable for liquidated damages for each violation in an amount equal to the TJPA's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. The TJPA acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to the TJPA from any contract with the City and County of San Francisco.

Section 43. Bicycle Parking Facilities

Article 1.5, Section 155.3, of the San Francisco Planning Code (the "Planning Code") requires the provision of bicycle parking at City-leased buildings at no cost to the TJPA. During the term of this Lease, the SFMTA shall have the right to install and maintain, at its sole cost, all Class 1 Bicycle Parking Spaces (as defined in the Planning Code) and all Class 2 Bicycle Parking Spaces (as defined in the Planning Code) in the transit center locations, if any, required under the Planning Code.

Section 44. Resource Efficient City Buildings

The TJPA acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction and operation of City buildings. The TJPA hereby agrees that it shall comply with all applicable provisions of such Code sections.

Section 44. Sunshine Ordinance

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

Section 46. Conflicts of Interest

Through its execution of this Lease, the parties acknowledge that they are familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certify that they do not know of any facts which would constitute a violation of said provisions, and agree that if a party becomes aware of any such fact during the term of this Lease, the such party shall immediately notify the other party.

Section 47. Notification of Limitations on Contributions

Through its execution of this Lease, the TJPA acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any

land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The TJPA acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. The TJPA further acknowledges that the prohibition on contributions applies to the TJPA; each member of its board of directors, and its chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in the TJPA; any subcontractor listed in the contract; and any committee that is sponsored or controlled by the TJPA. Additionally, the TJPA acknowledges that it must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. The TJPA further agrees to provide to City the name of each person, entity or committee described above.

Section 48. Preservative-Treated Wood Containing Arsenic

The TJPA may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code, Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing

arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. The TJPA may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude the TJPA from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

Section 49. Exhibits

All exhibits referred to herein which may, from time to time, be referred to in any duly executed amendment hereto are (and with respect to future amendments, shall be) by such reference incorporated herein and shall be deemed a part of this Lease as fully as if set forth herein.

Section 50. Amendment

This Lease may be amended by a duly executed, mutual agreement of the parties to this Lease in writing.

Section 51. Corporate Authority

Each party represents and warrants to the other that it has full right, authority, and capacity to execute and perform this Lease; the execution and delivery of this Lease has been duly authorized by all requisite actions of the party; the Lease constitutes a valid, binding, and enforceable obligation of the party; and neither the execution of the Lease

nor the consummation of the Lease violates any agreement, contract, or other restriction to which the party is bound.

Section 52. Recording

Neither TJPA nor SFMTA shall record this Lease.

Section 53. Time of Essence

Time is of the essence of this Lease and each and every provision of the Lease.

Section 54. Entire Agreement

This Lease, including the Exhibits attached, contains all the terms and provisions between TJPA and the SFMTA relating to the matters set forth herein, and no prior or contemporaneous agreement or understanding pertaining to the same will be of any force or effect.

Section 55. Limitation of Liability.

EXCEPT FOR THIRD-PARTY CLAIMS UNDER ANY INDEMNITY PROVISION HEREIN, IN NO EVENT SHALL THE TJPA OR THE SFMTA BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES OR LOST PROFITS, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE) ARISING IN ANY WAY OUT OF THIS AGREEMENT, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

[signature page follows]

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

Execution Date: _____

TRANSBAY JOINT POWERS AUTHORITY

By: _____

Mark Zabaneh
Executive Director

APPROVED AS TO FORM

By _____

TJPA Attorney

Execution Date: _____

CITY AND COUNTY OF SAN FRANCISCO,
ACTING BY AND THROUGH ITS SAN
FRANCISCO MUNICIPAL TRANSPORTATION
AGENCY

By: _____

Edward D. Reiskin
Director of Transportation

San Francisco Municipal Transportation Agency
Board of Directors

Resolution No: _____

Adopted: _____

Attest:
Secretary, SFMTA Board of Director

APPROVED AS TO FORM

By _____

Deputy City Attorney

SFMTA Bus Plaza Exclusive Use Area

EXHIBIT A

Depiction of Premises

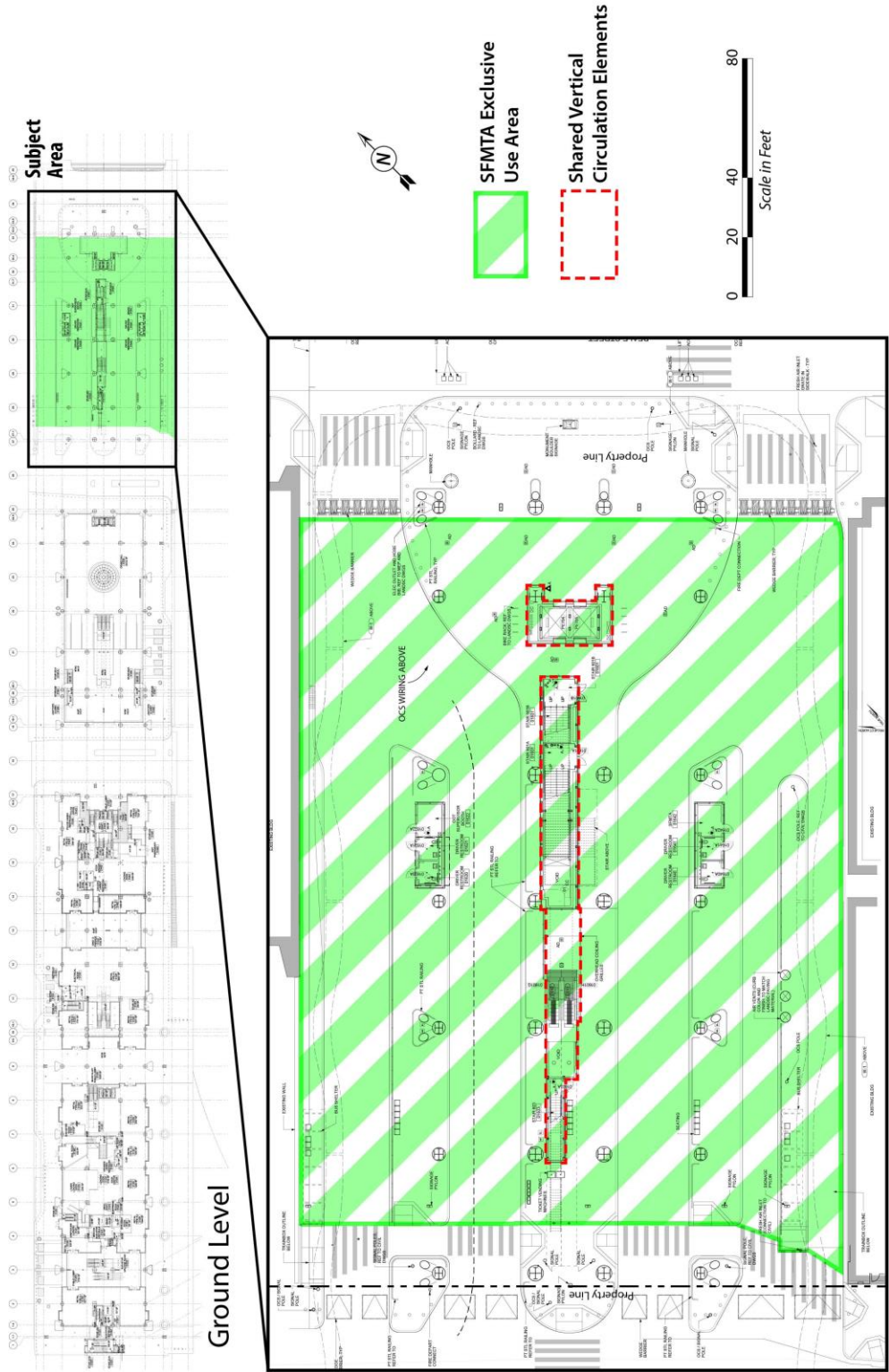


EXHIBIT B

Improvements

The Improvements include all wall/ceiling/floor finishes, lighting, telecom/electrical, fire alarm/sprinklers, CCTV, access control, signage, striping, traffic signals, and the OCS. Program elements include:

- SFMTA Supervisor's Office: Two Supervisor Offices each measuring approximately 125 sf. with built-in stainless steel counter surface for two staff members
- Boarding Platforms/Islands: Covered area with five passenger waiting/loading platforms with digital signage pylons and fixed seating at each platform, wall mounted digital schedule board, and digital interactive kiosks for building information and announcements
- Drive Aisles: Covered area with concrete drive aisles and uncovered lanes from Beale Street through the Bus Plaza to Fremont Street, serving the SFMTA waiting/loading platforms
- Benches: Accessible bench seating for passengers at each platform
- OCS wiring installed in the ceiling above SFMTA's northern drive aisle and bypass lane with structural members located above the ceiling to accommodate future OCS expansion on SFMTA's three platforms to the south
- Driver's Restroom: Four unisex single occupant driver/staff restrooms
- Traffic signals within the Premises and outside the Premises but within the Bus Plaza, consisting of pole-mounted traffic and pedestrian signal heads as designed by SFMTA

Improvements that will be installed in other portions of the transit center include the following:

- Certain transit operator digital signage distributed on all levels throughout the transit center including Grand Hall schedule board, wall mounted digital schedule boards, interactive kiosks for building information and announcements, and static map displays.
- Certain traffic signals at the Fremont Street interface with the Bus Plaza, consisting of pole-mounted traffic and pedestrian signal heads as designed by SFMTA

Notes:

Although not the subject of this Lease, the TJPA will provide to the Bus Deck Level of the transit center all wall/ceiling/floor finishes, lighting, telecom/electrical, fire alarm/sprinklers, CCTV, signage, striping, and access control. Program elements within the Bus Deck Level include:

- Boarding Platforms: Covered area with two passenger waiting/loading platforms with digital signage pylons and fixed seating at each platform
- Drive Aisle: Covered area with concrete drive aisle and bypass lane serving the SFMTA waiting/loading platforms
- Driver's Restroom: One pair of shared driver/staff restrooms and one pair of unisex single occupant driver/staff restrooms

EXHIBIT C

Proportional Share Calculation

Transbay Transit Center Proportional Share Calculation

Exclusive Use of Bus Deck and Bus Plaza			
	Number of Bus Spaces	Square Footage	Percent of Exclusive Area
AC Transit - Bus Deck	37	198,706	78.2%
SFMTA - Bus Plaza	10	50,436	19.8%
SFMTA - Loss of Bus Island	0	0	2.0%
Totals	47	249,142	100.0%

EXHIBIT D

Additional Insureds

Transbay Joint Powers Authority

Alameda-Contra Costa Transit District

Peninsula Corridor Joint Powers Board - Caltrain

State of California, Department of Transportation

Trustee, the Series 1 Holders, the LC Banks and the Direct Placement Banks, and their officers, agents and employees, as those terms are defined in the “Sublease – TJPA Property, dated as of January 1, 2017, by and between U.S. Bank National Association, in its capacity as Trustee, as Sublessor, and City and County of San Francisco, as Sublessee” recorded in the official records of the City and County of San Francisco on January 17, 2017 as document number 2017-K395369

United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau

Salesforce.com and all legal entities controlling, controlled by, or under common control with, directly or indirectly, salesforce.com

All of the officers, directors, agents, representatives, permitted assigns, and employees of each of the above.

The Additional Insureds listed in this Exhibit shall also include such other parties as the TJPA may request from time to time.

EXHIBIT E

TRANSBAY JOINT POWERS AUTHORITY

Board Policy No. 004

Category: Workplace Matters

EQUAL EMPLOYMENT OPPORTUNITY / NON-DISCRIMINATION POLICY

1. Equal Employment Opportunity

The Transbay Joint Powers Authority (the “Authority”) is committed to equal opportunity in employment and services. It is the policy of the Authority to ensure:

- a. Equal opportunity to all persons in or seeking employment with the Authority.
- b. That selection of employees to positions within the Authority are made on the basis of merit and fitness without discrimination

The Authority, its staff, employees, contractors and agents shall not discriminate with respect to service provision or program operation or in the recruitment, selection, testing, training, transfer, promotion or demotion, termination, performance appraisal process, compensation or in any other term, condition, or privilege of employment because of the individual’s race, religious creed, color, medical condition, sex, sexual orientation, gender identity, marital status, parental status, domestic partner status, age, national origin, ancestry, disability, veteran status, or any other basis protected by law.

2. Nondiscrimination Based on Disability

The Authority is firmly committed to equal opportunity for people with disabilities in compliance with the Americans with Disabilities Act of 1990 (ADA) and corresponding state law. The law prohibits discrimination against persons with disabilities in the application process and in all phases of employment and requires that qualified individuals be provided with reasonable accommodation to perform the essential functions of their jobs and to enable them to enjoy equal benefits and privileges of employment. The Authority will provide reasonable accommodation for the known physical or mental disability of a qualified employee or applicant unless to do so would pose an undue hardship or direct threat to the health and safety of others.

The Authority, its staff, employees, contracts and agents must administer all personnel functions in a manner that is equal and fair to all employees and prospective employees. It is the obligation of every staff member or employee of the Authority to comply with this policy in substance, practice and spirit.

EXHIBIT F
Subordination

The Lease and all rights of SFMTA hereunder shall be expressly subject and subordinate to the following:

- TIFIA Loan Agreement, dated as of January 1, 2010, by and between the Transbay Joint Powers Authority and the United States Department of Transportation, as amended by the First Amendment thereto, dated as of May 8, 2014, the Second Amendment thereto, dated as of December 1, 2014, and the Third Amendment thereto, dated as of January 1, 2017.
- Site Lease – TJPA Property, dated as of January 1, 2017, by and between the Transbay Joint Powers Authority, as Lessor, and U.S. Bank National Association, in its capacity as Trustee, as Lessee, recorded in the Official Records of the City and County of San Francisco on January 17, 2017 as Document No. 2017-K395368.
- Sublease – TJPA Property, dated as of January 1, 2017, by and between U.S. Bank National Association, in its capacity as Trustee, as Sublessor, and City and County of San Francisco, as Sublessee, recorded in the Official Records of the City and County of San Francisco on January 17, 2017 as Document No. 2017-K395369.
- Leaseback Lease, dated as of January 1, 2017, by and between City and County of San Francisco, as Sublessor, and the Transbay Joint Powers Authority, as sublessee.

ANCILLARY IMPROVEMENTS AGREEMENT

THIS ANCILLARY IMPROVEMENTS AGREEMENT (“Agreement”) is made and entered into on _____, 2018 (“Effective Date”), by and between the TRANSBAY JOINT POWERS AUTHORITY, a joint powers authority created under California Government Code Sections 6500 et seq. (“TJPA”), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“City”) acting by and through the SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY (“SFMTA”). The TJPA and the SFMTA are each individually referred to herein sometimes as a “Party” and are collectively referred to herein sometimes as the “Parties.” The Parties agree as follows:

RECITALS

This Agreement is entered into by the TJPA and the SFMTA on the basis of the following recitals:

A. The TJPA is developing a new transit center generally located at First and Mission Streets (“transit center”), which includes the bus plaza depicted on the attached Exhibit A (“Bus Plaza”).

B. The SFMTA oversees transit, streets, and taxis in San Francisco and is interested in a pilot program that makes the transit center a point of destination/departure for a portion of its transit operations. The SFMTA and the TJPA entered into the Transit Center Lease dated even herewith (“SFMTA Bus Plaza Lease”), setting forth the terms for the SFMTA’s lease and use of the portion of the Bus Plaza depicted as the “SFMTA Premises” on the attached Exhibit A.

C. The SFMTA will require an Overhead Catenary System (“OCS”) and traffic signals and related equipment (“Signals”) in the Bus Plaza for its Bus Plaza operations; the OCS and Signals will be located in the SFMTA Premises and the portions of the Bus Plaza between the western boundary of the SFMTA Premises and Fremont Street and between the eastern boundary of the SFMTA Premises and Beale Street (the “Plaza License Area”), as generally as depicted on the attached Exhibit A.

D. The SFMTA is installing four (4) ticket vending machines (the “TVMs”) in the transit center locations depicted as the “TVM License Area” on the attached Exhibit B for the convenience of its passengers.

E. The Parties wish to set forth the terms and conditions under which the SFMTA and the TJPA will each own, operate, and maintain certain portions of the OCS; the TJPA will own and the SFMTA will maintain the Signals; the SFMTA will own, service, and maintain the TVMs; and the SFMTA will remove the TVMs and certain portions of the OCS.

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. Installation.

(a) OCS. On or before the Commencement Date (as defined in the SFMTA Bus Plaza Lease), the TJPA will, at its sole cost and expense, install the OCS in the Plaza License Area and the SFMTA Premises areas depicted in the attached Exhibit A. The OCS shall be

comprised of (a) wires and switch mechanisms, as well as poles and associated equipment (collectively, the “Horizontal Elements”), and (b) the wires’ structural support system (series of threaded rods and struts), which will be attached the Bus Plaza ceiling (collectively, the “Vertical Elements”). The Horizontal Elements and Vertical Elements are depicted in detail in Exhibit C. The TJPA shall cause the OCS to be installed in compliance with the construction documents for the transit center and in accordance with all applicable federal, state, and local laws.

(b) Signals. On or before the Commencement Date, the TJPA will, at its sole cost and expense, install the Traffic Signals in the Bus Plaza locations depicted in the attached Exhibit A. The TJPA shall cause the Signals to be installed in compliance with the construction documents for the transit center and in accordance with all applicable federal, state, and local laws.

(c) TVMs. On or before the Commencement Date, the SFMTA will, at its sole cost and expense, install the TVMs in the TVM License Area. The SFMTA shall cause the TVMs to be installed in the locations specified for the TVMs in the drawings attached as Exhibit B-1 and accordance with all applicable federal, state, and local laws.

2. Ownership.

(a) OCS. As of the Commencement Date, ownership of the Horizontal Elements installed in the Bus Plaza shall automatically vest in the SFMTA, and the TJPA shall retain sole ownership of the Vertical Elements installed in the Bus Plaza.

(b) Signals. As of the Commencement Date, the TJPA shall retain sole ownership of the Signals installed in the Bus Plaza.

(c) TVMs. As of the Commencement Date, the SFMTA shall retain sole ownership of, and the right to take collections from, the TVMs installed in the TVM License Area.

3. Maintenance and Removal.

(a) The “Maintenance Period” shall mean the period beginning on the Commencement Date and continuing until the earlier to occur of the termination of the SFMTA Bus Plaza Lease (the “Lease Termination Date”) and the termination of this Agreement.

(b) OCS. During the Maintenance Period, the obligations to operate and maintain the OCS installed in the Bus Plaza shall be divided such that (i) the SFMTA shall, at its sole cost and expense, keep, operate, maintain, service, and repair in a safe, secure, and sanitary condition the Horizontal Elements in the Bus Plaza (the “SFMTA OCS Obligation”), and (ii) the TJPA shall, at its sole cost and expense, keep, operate, maintain, service, and repair in a safe, secure, and sanitary condition the Vertical Elements in the Bus Plaza (the “TJPA OCS Obligation”). The SFMTA OCS Obligation and the TJPA OCS Obligation shall encompass both routine and emergency operation and maintenance, including but not limited to any replacements the SFMTA deems reasonably necessary for its performance of the SFMTA OCS Obligation or the TJPA deems reasonably necessary or desirable for its performance of the TJPA OCS Obligation. Except as otherwise set forth in Section 10(b), prior to the last day of the term of this Agreement, the SFMTA shall, at its sole cost, remove the Horizontal Elements.

(c) Signals. During the Maintenance Period, the SFMTA shall, at its sole cost and expense, keep, operate, maintain, service, and repair in a safe, secure, and sanitary condition the Signals on the Bus Plaza (the “SFMTA Signal Obligation”). The SFMTA Signal Obligation shall encompass both routine and emergency operation and maintenance, including but not limited to any replacements the SFMTA deems reasonably necessary or desirable for its performance of the SFMTA Signal Obligation.

(d) TVMs. During the Maintenance Period, the SFMTA shall, at its sole cost and expense, keep, operate, maintain, service, and repair in a safe, secure, and sanitary condition the TVMs installed in the TVM License Area (the “SFMTA TVM Obligation”). The SFMTA TVM Obligation shall encompass the right and obligation to take all collections from the TVMs; remove the TVMs at any time during the Maintenance Period; and both routine and emergency operation and maintenance, including but not limited to any replacements the SFMTA deems reasonably necessary or desirable for its performance of the SFMTA TVM Obligation or to upgrade the TVMs. Except as otherwise set forth in Section 10(b), prior to the last day of the term of this Agreement, the SFMTA shall, at its sole cost, remove the TVMs.

(e) Compliance with Laws. The SFMTA and the TJPA shall conduct their activities pursuant to this Agreement in compliance with all applicable laws, and shall diligently pursue their activities to completion. The SFMTA and the TJPA shall secure and pay for any permits, approvals, government fees, licenses, and inspections, as applicable, related to the performance of their respective activities pursuant to this Agreement.

(f) Hazardous Materials. The SFMTA and the TJPA shall not in performing their activities pursuant to this Agreement cause, or allow their respective consultants, contractors, representatives, employees, or agents to cause, the deposit or disposal of any hazardous materials on any portion of the transit center.

4. Grant of License.

(a) OCS. During the Maintenance Period, the TJPA grants to the SFMTA a temporary and non-exclusive license (“License”) to the Plaza License Area to perform the SFMTA OCS Obligation.

(b) Signals. During the Maintenance Period, the TJPA grants to the SFMTA a License to the Plaza License Area to perform the SFMTA Signal Obligation.

(c) TVMs. During the Maintenance Period, the TJPA grants to the SFMTA a License to the TVM License Area to perform the SFMTA TVM Obligation.

(d) No License Fee. The TJPA grants the License at no cost to the SFMTA in exchange for the SFMTA’s acceptance of certain rights and responsibilities under this Agreement.

(e) Access. The TJPA further grants to the SFMTA, and the SFMTA’s employees, contractors, subcontractors, agents, and representatives, the rights and privileges of ingress and egress over the transit center to access the Plaza License Area and the TVM License Area to perform such operations and functions as are incidental, necessary, or proper to the SFMTA OCS Obligation, the SFMTA Signal Obligation, and the SFMTA TVM Obligation.

5. Terms of License. The SFMTA's right to use and occupy the Plaza License Area and the TVM License Area pursuant to this Agreement shall be subject to the following terms and conditions:

(a) The SFMTA shall only use the Plaza License Area to perform the SFMTA OCS Obligation and the SFMTA Signal Obligation, and shall only use the TVM License Area to perform the SFMTA TVM Obligation.

(b) The SFMTA shall not do, cause, or permit its employees, agents, or contractors to do anything in or about the Plaza License Area or the TVM License Area which will in any way (1) increase the rate of fire insurance for the transit center; (2) conflict with any law, ordinance, rule, or regulation now in effect or which may hereafter be enacted or promulgated by any public authority relating to or affecting the condition, use, or occupancy of the Plaza License Area or the TVM License Area; (3) create a nuisance; (4) obstruct or interfere with the rights of other tenants in any portion of the transit center, except to the extent reasonably necessary to perform the SFMTA OCS Obligation, SFMTA Signal Obligation, and SFMTA TVM Obligation; (5) obstruct the sidewalk or other passageways of the transit center, except to the extent reasonably necessary to protect health and safety during the SFMTA's performance of the SFMTA OCS Obligation, SFMTA Signal Obligation, or SFMTA TVM Obligation; (6) be an unlawful purpose; or (6) commit or suffer to be committed any waste in or upon the Plaza License Area or TVM License Area.

(c) The SFMTA shall not place any permanent improvements of any kind in, on, or upon the Plaza License Area or the TVM License Area, and shall not make any alterations in, on, or upon the Plaza License Area or the TVM License Area without the prior written consent of the TJPA; provided, however, that the foregoing shall not apply to any alterations made as part of the SFMTA OCS Obligation, the SFMTA Signal Obligation, or the SFMTA TVM Obligation.

(d) The SFMTA's rights under the License to the Plaza License Area and the TVM License Area are non-exclusive. The TJPA shall have full right and authority to enter in and upon the Plaza License Area and the TVM License Area at any and all times during the term of this Agreement and to grant rights in the Plaza License Area and the TVM License Area to third parties, so long as the exercise of such rights do not unreasonably interfere with (i) the SFMTA's ability to perform the SFMTA OCS Obligation, the SFMTA Signal Obligation, or the SFMTA TVM Obligation, (ii) the SFMTA's rights under this Agreement, or (iii) damage the OCS, the Signals, or the TVMs.

6. Performance of OCS Obligation.

(a) The SFMTA shall comply with the following requirements in performing the SFMTA OCS Obligation:

(i) The SFMTA shall provide the TJPA with its schedule for routine work related to the SFMTA OCS Obligation. To the extent routine work is required outside that schedule, the SFMTA shall provide the TJPA three (3) business days advance written notice before conducting such routine work. In the case of emergency or non-routine work, the hours for conducting work and the notice of such work shall be reasonable under the circumstances.

(ii) The SFMTA shall have the right to place temporary barriers to keep the general public from affected portions of the Bus Plaza during the times the SFMTA or its Agents performs the SFMTA OCS Obligation.

(iii) The SFMTA shall not, either directly or indirectly, use any contractors, laborers, or materials the use of which would create any conflicts with other contractors and/or laborers employed by the TJPA or the asset manager it hires for transit center (“Asset Manager”).

(iv) The SFMTA’s work related to the SFMTA OCS Obligation shall not unreasonably interfere with the operations of other tenants in any portion of the transit center.

(v) The SFMTA shall comply with any rules and regulations adopted by the TJPA for the operation, maintenance, security, and management of the transit center. These operating parameters must be reasonable and must not be inconsistent with the terms of this Agreement. The TJPA shall administer the rules and regulations in a fair and non-discriminatory manner and use reasonable efforts to cause other entities that are subject to the rules and regulations to comply with them. To the extent that any rule or regulation conflicts with any provision in this Agreement, the provision in this Agreement controls.

(b) The TJPA shall comply with the following requirements in performing the TJPA OCS Obligation:

(i) The TJPA shall provide the SFMTA with TJPA’s schedule for routine work related to the TJPA OCS Obligation. To the extent routine work is required outside that schedule, the TJPA shall provide the SFMTA with three (3) business days advance written notice before conducting such routine work. In the case of emergency or non-routine work, the hours for conducting work and the notice of such work shall be reasonable under the circumstances.

(ii) The TJPA’s work related to the TJPA OCS Obligation shall not unreasonably interfere with the SFMTA’s use of the Bus Plaza under the SFMTA Bus Plaza Lease.

(iii) The TJPA shall provide written notice to the SFMTA of any permanent improvements or alterations of any kind being made by the TJPA to the Vertical Elements in the Bus Plaza.

7. Performance of the SFMTA Signal Obligation. The SFMTA shall comply with the following requirements in performing the SFMTA Signal Obligation:

(a) The SFMTA shall provide the TJPA with its schedule for routine work related to the SFMTA Signal Obligation. To the extent routine work is required outside that schedule, the SFMTA shall provide the TJPA three (3) business days advance written notice before conducting such routine work. In the case of emergency or non-routine work, the hours for conducting work and the notice of such work shall be reasonable under the circumstances.

(b) The SFMTA shall have the right to place temporary barriers to keep the general public from affected portions of the Bus Plaza during the times the SFMTA or its Agents performs the SFMTA Signal Obligation.

(c) The SFMTA shall not, either directly or indirectly, use any contractors, laborers, or materials the use of which would create any conflicts with other contractors and/or laborers employed by the TJPA or the Asset Manager.

(d) The SFMTA's work related to the SFMTA Signal Obligation shall not unreasonably interfere with the operations of other tenants in any portion of the transit center.

(e) The SFMTA shall comply with any rules and regulations adopted by the TJPA for the operation, maintenance, security, and management of the transit center. These operating parameters must be reasonable and must not be inconsistent with the terms of this Agreement. The TJPA shall administer the rules and regulations in a fair and non-discriminatory manner and use reasonable efforts to cause other entities that are subject to the rules and regulations to comply with them. To the extent that any rule or regulation conflicts with any provision in this Agreement, the provision in this Agreement controls.

8. Performance of the TVM Obligation. The SFMTA shall comply with the following requirements for its performance of the SFMTA TVM Obligation:

(a) The SFMTA shall provide the TJPA with its schedule for routine work related to the SFMTA TVM Obligation. To the extent routine work is required outside that schedule, the SFMTA shall provide the TJPA three (3) business days advance written notice before conducting such routine work. In the case of emergency or non-routine work, the hours for conducting work and the notice of such work shall be reasonable under the circumstances.

(b) The SFMTA shall have the right to place temporary barriers to keep the general public from affected portions of the TVM License Area during the times the SFMTA or its Agents performs the SFMTA TVM Obligation.

(c) The SFMTA shall not, either directly or indirectly, use any contractors, laborers, or materials the use of which would create any conflicts with other contractors and/or laborers employed by the TJPA or the Asset Manager.

(d) The SFMTA's work related to the SFMTA TVM Obligation shall not unreasonably interfere with the operations of other tenants in any portion of the transit center.

(e) The SFMTA shall comply with any rules and regulations adopted by the TJPA for the operation, maintenance, security, and management of the transit center. These operating parameters must be reasonable and must not be inconsistent with the terms of this Agreement. The TJPA shall administer the rules and regulations in a fair and non-discriminatory manner and use reasonable efforts to cause other entities that are subject to the rules and regulations to comply with them. To the extent that any rule or regulation conflicts with any provision in this Agreement, the provision in this Agreement controls.

(f) The TJPA shall have no obligation to provide any dedicated/unique security or other services for the SFMTA's performance of the SFMTA TVM Obligation. If the SFMTA wishes to provide for such dedicated/unique security or other services, it shall do so at its sole expense and shall cause such security or other services to coordinate and cooperate with the general transit center security provided by the TJPA.

9. Termination. This Agreement shall terminate on the termination of the SFMTA Bus Plaza Lease, unless earlier terminated as provided in Sections 12 or 13.

10. Surrender of License Areas.

(a) On or before the termination of this Agreement, the SFMTA shall peaceably and quietly leave, yield up, vacate, and surrender the Bus Plaza (including the Plaza License Area) and the TVM License Area, to the extent used and occupied by the SFMTA under this Agreement, to the TJPA in accordance with its express obligations hereunder, except for damage or loss due to reasonable wear and tear, fire, other casualty, or other cause beyond the SFMTA's control.

(b) On or before the termination of this Agreement, the SFMTA shall remove at its sole cost (i) all moveable furnishing, trade fixtures, and equipment installed or placed by it in, on, or about the Bus Plaza (including the Plaza License Area) or the TVM License Area under this Agreement, including the TVMs, and (ii) the Horizontal Elements in the Bus Plaza. Notwithstanding the foregoing, in the event that either the SFMTA Bus Plaza Lease or this Agreement is terminated early as a result of the TJPA's default or as a result of condemnation, fire, or other casualty, the SFMTA shall remove the Horizontal Elements from the Bus Plaza and the TVMs from the TVM License Area with all due speed but in no event more than forty-five (45) days following such termination.

(c) If the SFMTA's removal of such moveable furnishings, trade fixtures, equipment, the Horizontal Elements or the TVMs damages the transit center property, the SFMTA shall repair such damaged portion of the transit center property to the condition it was in immediately prior to such removal.

(d) The SFMTA further agrees and acknowledges that in the event the SFMTA does not promptly vacate the portions of the Bus Plaza (including the Plaza License Area) or the TVM License Area, to the extent used and occupied by the SFMTA under this Agreement, on or before the last day of the term of this Agreement and holds over without the TJPA's prior written consent, in addition to any other rights or remedies of the TJPA relating to such unlawful holdover, the SFMTA agrees to indemnify, defend, and hold harmless the TJPA from any and all third party claims, losses, costs, and damages to the extent arising from such unlawful holdover (including, but not limited to attorneys' fees and/or any claims asserted against the TJPA by any party who has the right to use the Bus Plaza or the TVM License Area during such unlawful holdover).

11A. Indemnification.

(a) The SFMTA agrees to defend, indemnify, and hold harmless the entities identified on the attached Exhibit D (collectively, "Additional Insureds") from any and all liability, loss, damage, expense, cost, (including, without limitation, costs and fees of litigation), claims, demands, obligations, suits, judgments, penalties, causes of action, or liabilities at any time received, incurred, or accrued by the Additional Insureds as a result of or arising out of the acts, omissions, use, occupancy, or operations of the SFMTA and/or its consultants, contractors, representatives, employees, or agents on, about, or related to the transit center pursuant to this

Agreement, except to the extent caused by the negligence or willful misconduct of the Additional Insureds. The SFMTA's obligations under this Section shall survive termination of this Agreement.

(b) The TJPA agrees to defend, indemnify, and hold harmless the SFMTA, and its officers, directors, agents, representatives, permitted assigns, and employees (collectively, "SFMTA Parties") from any and all liability, loss, damage, expense, cost, (including, without limitation, costs and fees of litigation), claims, demands, obligations, suits, judgments, penalties, causes of action, or liabilities at any time received, incurred, or accrued by the SFMTA Parties as a result of or arising out of the acts, omissions, use, occupancy, or operation of the TJPA and/or its consultants, contractors, representatives, employees, or agents on, about, or related to the transit center pursuant to this Agreement, except to the extent caused by the negligence or willful misconduct of the SFMTA Parties. The TJPA's obligations under this Section shall survive termination of this Agreement.

(c) If either of the parties hereto receives a claim, demand, or suit for which the other party has hereinabove agreed to indemnify it, then the indemnitee shall notify the indemnitor of such claim, demand, or suit as soon after its receipt as is practicable, but in no event more than thirty (30) days after receipt of the claim, demand, or suit, and the indemnitor shall have the right to investigate, settle, compromise, satisfy, or defend the same. (i) In any action or proceeding brought against any of the Additional Insureds by reason of any matter indemnified by the SFMTA pursuant to this Section, the SFMTA may, at its sole option, elect to defend such matter by attorneys in the San Francisco Office of the City Attorney, by other attorneys selected by the SFMTA, or both. The SFMTA shall have the right to control the defense and to determine the settlement or compromise of any such matter, provided that the TJPA shall have the right, but not the obligation, to participate in the defense of any such matter at its sole cost. (ii) In any action or proceeding brought against any of the SFMTA Parties by reason of any matter indemnified by the TJPA pursuant to this Section, the TJPA shall have the right to control the defense and to determine the settlement or compromise of any such matter, provided that the SFMTA shall have the right, but not the obligation, to participate in the defense of any such matter at its sole cost.

(d) To the extent that the allocation of loss or liability between the parties hereto is for any reason not covered by the provisions hereof, the parties agree that the rights of implied indemnity and contribution provided by law shall be fully applicable to the relationship of the parties under this Agreement.

11B. Insurance.

(a) Without in any way limiting the SFMTA's indemnification obligations under this Agreement, and except as otherwise set forth in subsection (k) below, the SFMTA must maintain in force, during the full term of this Agreement, insurance coverages at least as broad as:

(i) Worker's Compensation, as required by the State of California in statutory amounts, and Employers' Liability Insurance with limits not less than one million dollars (\$1,000,000) each accident, injury, or illness; and

(ii) Commercial General Liability Insurance on an "occurrence" basis,

including products and completed operations, property damage, bodily injury, personal and advertising injury, and contractual liability, with limits not less than two million dollars (\$2,000,000) each occurrence; and

(iii) Automobile Liability Insurance with limits not less than one million dollars (\$1,000,000) per accident for bodily injury (including death) and property damage, including owned, non-owned, and hired auto coverage, as applicable; and

(iv) Property Insurance against all risks of loss to the OCS and Traffic Signals located in the Bus Plaza and the TVMs, at full replacement cost with no coinsurance penalty provisions.

(b) The SFMTA's Commercial General Liability Insurance policy must provide the following:

(i) Name as additional insured the entities identified in the attached Exhibit D.

(ii) That such policies are primary insurance to any other insurance available to the additional insureds, any insurance or self-insurance maintained by the additional insureds shall be excess of SFMTA's insurance and shall not contribute with it, and the SFMTA's insurance applies severally and not collectively to each additional insured against whom claim is made or suit is brought.

(c) All policies shall be endorsed to provide thirty (30) days' advance written notice to the TJPA of material change in coverages, or nonrenewal of coverages, or cancellation of coverages for any reason. Notices shall be sent to the address specified in Section 16(b).

(d) Should any of the required insurance be provided under a claims-made form, the SFMTA shall maintain such coverage continuously throughout the term of this Agreement, and without lapse, for a period of five (5) years beyond the expiration of this Agreement, to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

(e) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

(f) Except to the extent the SFMTA elects to self insure pursuant to subsection (k) below, on or before the Commencement Date, the SFMTA shall do the following: (i) furnish to the TJPA certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A.M. Best's A:VII or higher, that are authorized to do business in the State of California, and that are satisfactory to the TJPA, in form evidencing all coverages set forth above, and (ii) furnish complete copies of policies promptly upon the TJPA's request.

(g) Approval of the insurance by the TJPA shall not relieve or decrease the liability of the SFMTA under this Agreement. If the SFMTA maintains broader coverage and/or higher limits than the minimums shown above, the TJPA requires and shall be entitled to the broader coverage and/or the higher limits maintained by the SFMTA. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the TJPA.

(h) Failure to maintain insurance shall constitute a substantial breach by the SFMTA

of this Agreement.

(i) The TJPA reserves the right to require increases to the aforesaid limits as necessary upon the written demand of the TJPA, provided that the TJPA provides a written justification for the increase to the SFMTA, and such coverage is reasonably available and affordable and commercially reasonable.

(j) As a part of or in lieu of the insurance required in this Section, and subject to prior approval by the TJPA, the SFMTA shall have the right to provide equivalent protection under a self-insurance program acceptable to the TJPA; provided, however, that the TJPA's approval shall not be unreasonably withheld.

(k) Notwithstanding anything to the contrary in this Section, the TJPA acknowledges that the SFMTA maintains a program of self-insurance and agrees that the SFMTA shall not be required to carry any third party insurance with respect to this Agreement. If the SFMTA elects to self-insure, the SFMTA shall be responsible for any losses or liabilities which would have been assumed by the insurance companies which would have issued the insurance required of SFMTA under this Agreement. If the SFMTA elects to carry third party insurance instead of a program of self insurance with respect to this Agreement, the SFMTA shall provide the TJPA with at least thirty (30) days' prior written notice of such election.

(l) The SFMTA shall require that any SFMTA contractor (including subcontractors) entering the transit center property pursuant to this Agreement to maintain in force, during the full term of its contracts, insurance coverage at least as broad as the coverage required of the SFMTA under subsection (c), and to satisfy the terms and conditions specified in subsections (d) through (k), as appropriate.

12. Assignment/Sublicense. The SFMTA may not assign or sublicense its rights under the Agreement without the TJPA's prior written consent, which the TJPA may grant or withhold in its sole discretion.

13. Default.

(a) The occurrence of any of the following shall constitute a material breach and default of this Agreement by the SFMTA:

(i) The filing for the SFMTA of any request for relief under any state insolvency statute.

(ii) Any action of any governmental authority, legislative body, board, agency, or officer, other than the TJPA and any working for it, having jurisdiction thereof ceasing or suspending the SFMTA's work related to the SFMTA OCS Obligation, the SFMTA Signal Obligation, or the SFMTA TVM Obligation.

(iii) The voluntary abandonment by the SFMTA of the conduct of its public transportation operations at the transit center.

(iv) The substantial breach by the SFMTA of any of the covenants or agreements herein contained and the failure of the SFMTA to remedy such breach within sixty (60) days after written notice from the TJPA of the default, except if the default by its nature

cannot be cured within such sixty (60) day period and the SFMTA commences to correct such default within said sixty (60) days and corrects the same as promptly as is reasonably practicable.

(b) The occurrence of the following shall constitute a material breach and default of this Agreement by the TJPA:

(i) Any action of any governmental authority, legislative body, board, agency, or officer, other than the SFMTA and any working for it, having jurisdiction thereof ceasing or suspending the TJPA's work related to the TJPA OCS Obligation.

(ii) The substantial breach by the TJPA of any of the covenants or agreements herein contained and the failure of the TJPA to remedy such breach within sixty (60) days after written notice from the SFMTA of the default, except if the default by its nature cannot be cured within such sixty (60) day period and the TJPA commences to correct such default within said sixty (60) days and corrects the same as promptly as is reasonably practicable.

14. Remedies.

(a) In the event of any default or breach by the SFMTA, the TJPA may at any time thereafter, without limiting the TJPA in the exercise of any right of remedy at law or in equity which the TJPA may have by reason of such default or breach, terminate the License and this Agreement. In the event of any default or breach by the TJPA, the SFMTA may at any time thereafter, without limiting the SFMTA in the exercise of any right of remedy at law or in equity which the SFMTA may have by reason of such default or breach, terminate this Agreement.

(b) If either Party fails to perform any of its obligations under this Agreement or a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting Party or the non-prevailing Party in such dispute, as the case may be, shall pay the prevailing Party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing Party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For purposes of this Agreement, reasonable attorneys' fees of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the Parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney

(c) In no event shall the TJPA be liable to the SFMTA for monetary damages of any kind for a breach of this Agreement by the TJPA; provided, however, that the SFMTA may seek recovery of (i) attorney's fees and costs, to the extent expressly provided under this Agreement, and (ii) costs to repair or replace any SFMTA property to the extent damaged by TJPA's employees or contractors.

(d) The remedies provided in this section shall be in addition to, and cumulative with, any remedies available under law or equity, or under any other provision of this Agreement.

(e) No waiver by either Party of any breach of any of the covenants to be performed shall be construed as a waiver of any other breach of any of the covenants.

15. Condemnation; Damage by Fire or Other Casualty.

(a) Condemnation of Bus Plaza. Except for the Horizontal Elements, this Agreement is not intended to convey any interest in property to the SFMTA. If, as reasonably determined by a Party, the SFMTA is materially prevented from conducting its public transportation operations at the Bus Plaza (including the Plaza License Area) because of a condemnation or sale in lieu of condemnation by any entity other than the TJPA, then such Party shall give written notice of such determination to the other Party and this Agreement shall automatically terminate as of the date such notice is delivered to the other Party. The TJPA shall be entitled to the entire award of proceeds for any total or partial condemnation, or sale in lieu thereof, of the Bus Plaza (including the Plaza License Area), including, without limitation, any award of proceeds for the value of this Agreement (including any leasehold estate/bonus value) and any and all improvements to the Bus Plaza (except for the Horizontal Elements). Notwithstanding the foregoing, the SFMTA shall have the right to pursue recovery from a condemning authority other than the TJPA of such compensation as may be separately awarded to the SFMTA for any taking of any of the Horizontal Elements and or the SFMTA's personal property and fixtures in the Bus Plaza (including the Plaza License Area), relocation assistance, and the interruption of or damage to the SFMTA's business.

(b) Condemnation of TVM License Area. If, as reasonably determined by a Party, the SFMTA is materially prevented from using the TVM License Area pursuant to this Agreement because of a condemnation or sale in lieu of condemnation by any entity other than the TJPA, then such Party shall give written notice of such determination to the other Party and the License to the TVM License Area shall automatically terminate as of the date such notice is delivered to the other Party. The TJPA shall be entitled to the entire award of proceeds for any total or partial condemnation or sale in lieu of the TVM License Area, including, without limitation, any award of proceeds for the value of this Agreement (including any leasehold estate/bonus value) with respect to the TVM License Area and any and all improvements to the TVM License Area (except the TVMs). Notwithstanding the foregoing, the SFMTA shall have the right to pursue recovery from a condemning authority other than the TJPA of such compensation as may be separately awarded to the SFMTA for any taking of the TVMs or the SFMTA's personal property and fixtures, relocation assistance, and the interruption of or damage to the SFMTA's business.

(c) Material Damage to Bus Plaza. If, as reasonably determined by a Party, the SFMTA is materially prevented from conducting its public transportation operations at the Bus Plaza (including the Plaza License Area) because of material damage to the area by fire or other casualty, then such Party shall give written notice of such determination to the other Party and either Party shall have the right to terminate this Agreement by delivering written notice of such termination to the other Party within thirty (30) days after such notice of determination.

(d) Material Damage to TVM License Area. If, as reasonably determined by a Party, the SFMTA is materially prevented from using the TVM License Area pursuant to this Agreement because of material damage to the area by fire or other casualty, then such Party shall give written notice of such determination to the other Party and either Party shall have the right to terminate the License to use the TVM License Area by delivering written notice of such termination to the other Party within thirty (30) days after such notice of determination. If the License to use the TVM License Area is terminated early pursuant to this subsection, the SFMTA shall remove any remaining portion of the TVMs from the TVM License Area with all due speed but in no event more than forty-five (45) days after such notice of determination.

16. General Provisions.

(a) Governing Law. This Agreement shall be deemed to have been made in, and be construed in accordance, with the laws of the State of California and the City's Charter. The Parties agree that any state or federal district court located in the City and County of San Francisco, State of California shall have exclusive jurisdiction over any case or controversy arising from, under or in connection with this Agreement and shall be the sole and exclusive forum in which to adjudicate any such dispute(s).

(b) Notices. All notices required by be given to the SFMTA hereunder shall be in writing and given by registered U.S. mail addressed to the SFMTA as follows:

San Francisco Municipal Transportation Agency
City and County of San Francisco
Municipal Transportation Agency
1 South Van Ness Avenue, 8th Floor
San Francisco, CA 94103
Attn: Manager – Strategic Real Estate

with copy to:

San Francisco City Attorney Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attention: Special Projects Team

All notices required to be given to the TJPA hereunder shall be in writing and given by registered mail addressed to the TJPA as follows:

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

with copy to:

Shute, Mihaly & Weinberger LLP
396 Hayes Street

San Francisco, CA 94102

Attn.: Deborah Miller

Either Party may designate in writing from time to time any changes in addresses or any addresses of substitute or supplementary persons in connection with said notices. The effective date of service of any such notice shall be one (1) business day after such notice is mailed to the SFMTA, or to the TJPA.

(c) Waivers. No waiver by either Party of any of the terms, covenants and conditions hereof to be performed, kept and observed by the other Party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept and observed by the other Party.

(d) Force Majeure. Neither the TJPA nor the SFMTA shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of terrorism, riots, rebellion, sabotage, fire or any other casualty which is not within its control (except financial inability).

(e) Invalid Provision. In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either the TJPA or the SFMTA in their respective rights and obligations contained in the valid covenants, conditions and provisions of this Agreement.

(f) Headings. The headings of the several Sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provisions of this Agreement, and shall not be construed to affect in any manner the term and provisions hereof or the interpretation or construction thereof.

(g) Withholding Required Approvals. Whenever the approval of the TJPA or of the SFMTA is required herein, no such approval shall be unreasonably refused, withheld, or delayed.

(h) Successors and Assigns. All of the terms, provisions, covenants, stipulations, conditions and considerations in this Agreement shall extend to and bind the legal representatives, successors, and assigns of the respective Parties hereto.

(i) Non-Liability of Public Officials, Employees, and Agents. Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee or agent of City or the TJPA shall be personally liable to the other Party, its successors and assigns, in the event of any default or breach by the SFMTA or the TJPA, respectively, or for any amount which may become due to the TJPA or the SFMTA, respectively, or their successors and assigns, or for any obligation of the SFMTA or the TJPA, respectively, under this Agreement.

(j) Exhibits. All exhibits referred to herein which may, from time to time, be referred to in any duly executed amendment hereto are (and with respect to future amendments, shall be) by such reference incorporated herein and shall be deemed a part of this Agreement as fully as if set forth herein.

(k) Amendments. This Agreement may be amended by a duly executed, mutual agreement of the Parties in writing.

(l) Corporate Authority. Each Party represents and warrants to the other that it has full right, authority, and capacity to execute and perform this Agreement; the execution and delivery of this Agreement has been duly authorized by all requisite actions of the Party; the Agreement constitutes a valid, binding, and enforceable obligation of the Party; and neither the execution of this Agreement nor the consummation of this Agreement violates any agreement, contract, or other restriction to which the Party is bound.

(m) Recording. Neither the TJPA nor the SFMTA shall record this Agreement.

(n) Time Is of the Essence. Time is of the essence with respect to each provision of this Agreement.

(o) Entire Agreement. This Agreement, including the Exhibits attached, contains all the terms and provisions between the TJPA and the SFMTA relating to the matters set forth herein, and no prior or contemporaneous agreement or understanding pertaining to the same will be of any force or effect.

(p) Counterparts; Facsimile Signature. 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. This Agreement may be executed by facsimile or similar signature.

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the TJPA and SFMTA have duly executed and delivered this Agreement as of the date first written above.

TRANSBAY JOINT POWERS AUTHORITY,
a California joint powers agency

APPROVED AS TO FORM:

Shute, Mihaly & Weinberger LLP

By: _____
Mark Zabaneh
Executive Director

Deborah Miller, Counsel for the TJPA

CITY AND COUNTY OF SAN FRANCISCO,
ACTING BY AND THROUGH ITS SAN
FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney:

By: _____
Edward D. Reiskin
Director of Transportation

Carol Wong, Deputy City Attorney

License Agreement

Exhibit B

Depiction of Location of TVM License Area

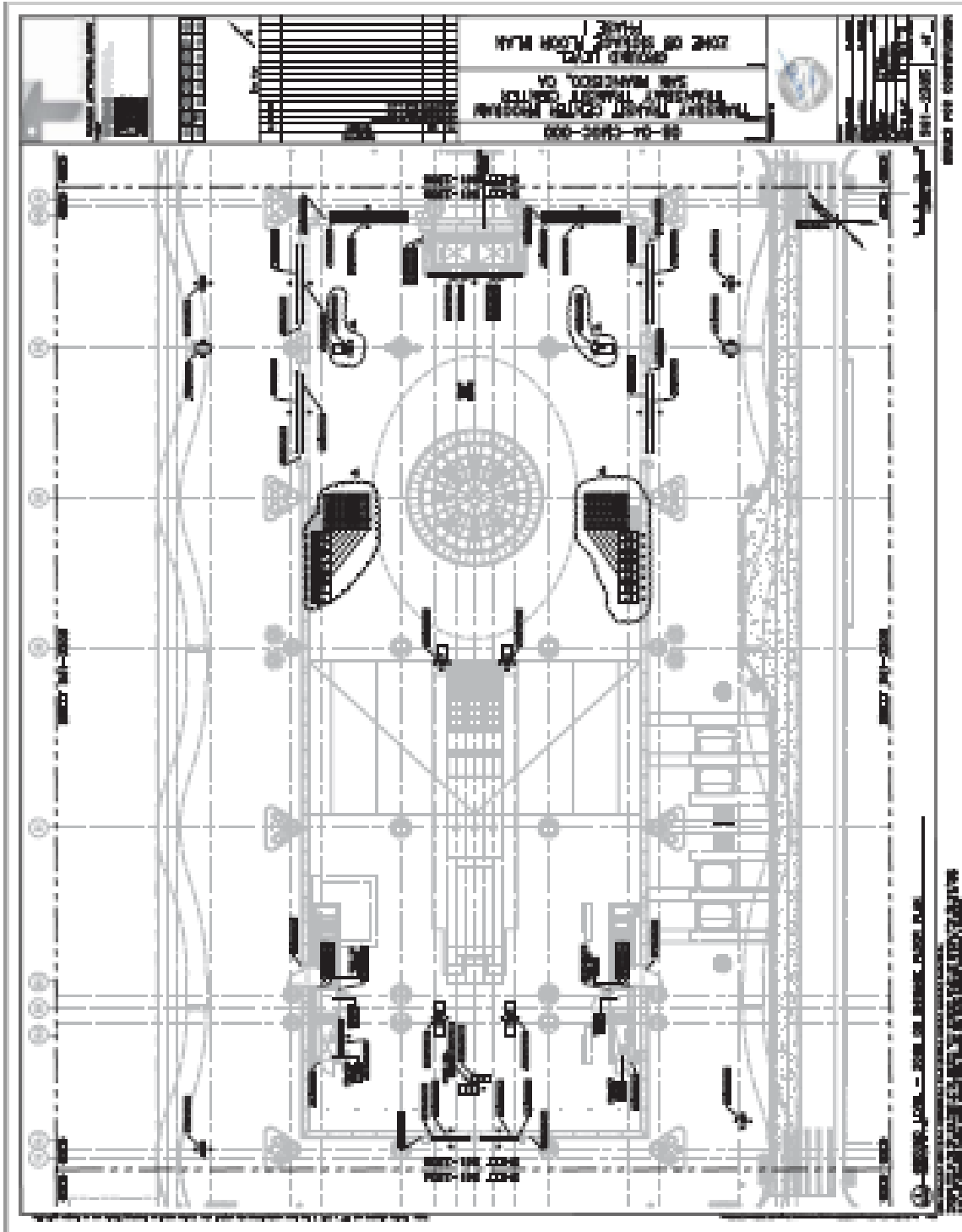


TVM Locations

License Agreement

Exhibit B-1

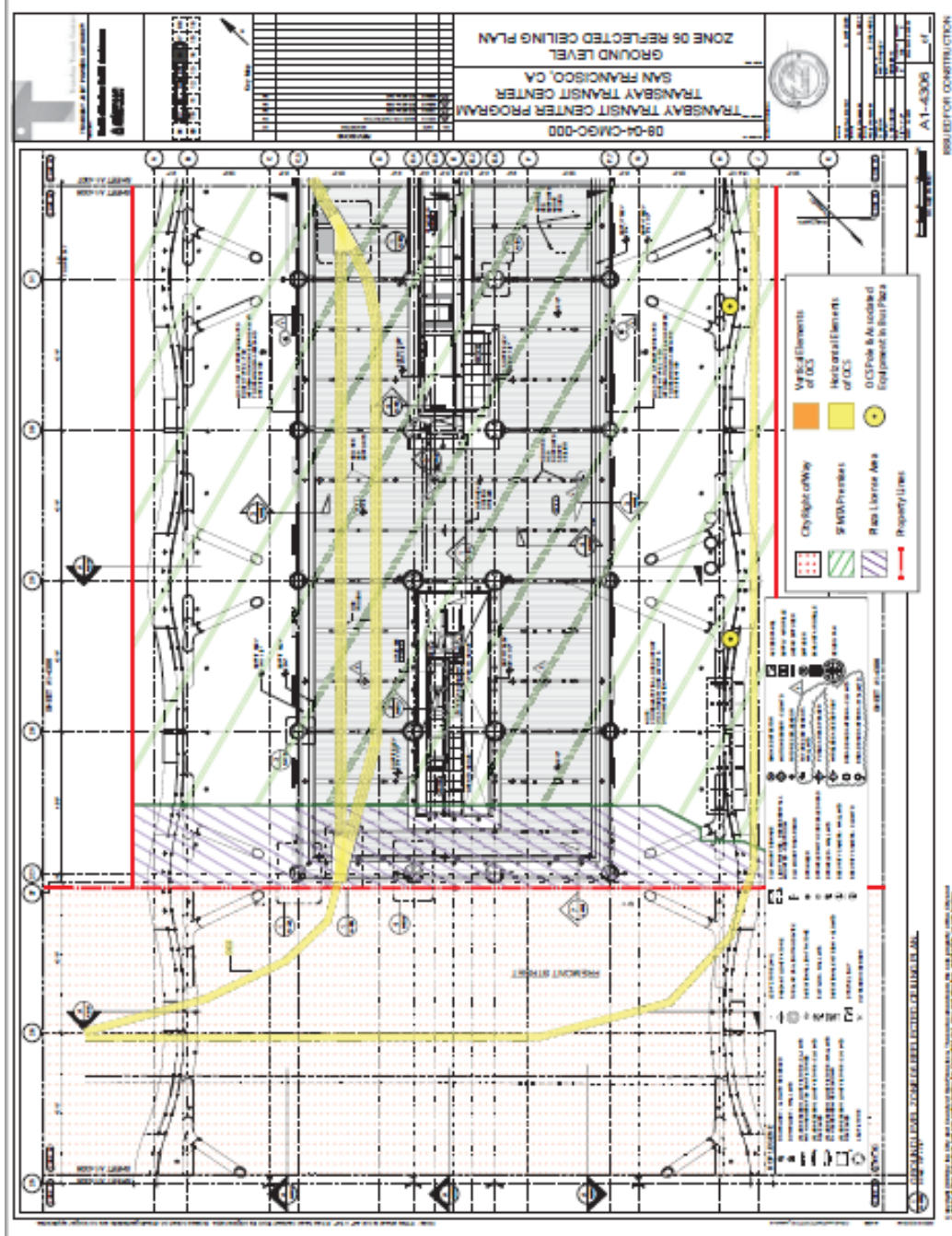
TVM Drawings



License Agreement

Exhibit C

Description of Horizontal Elements and Vertical Elements



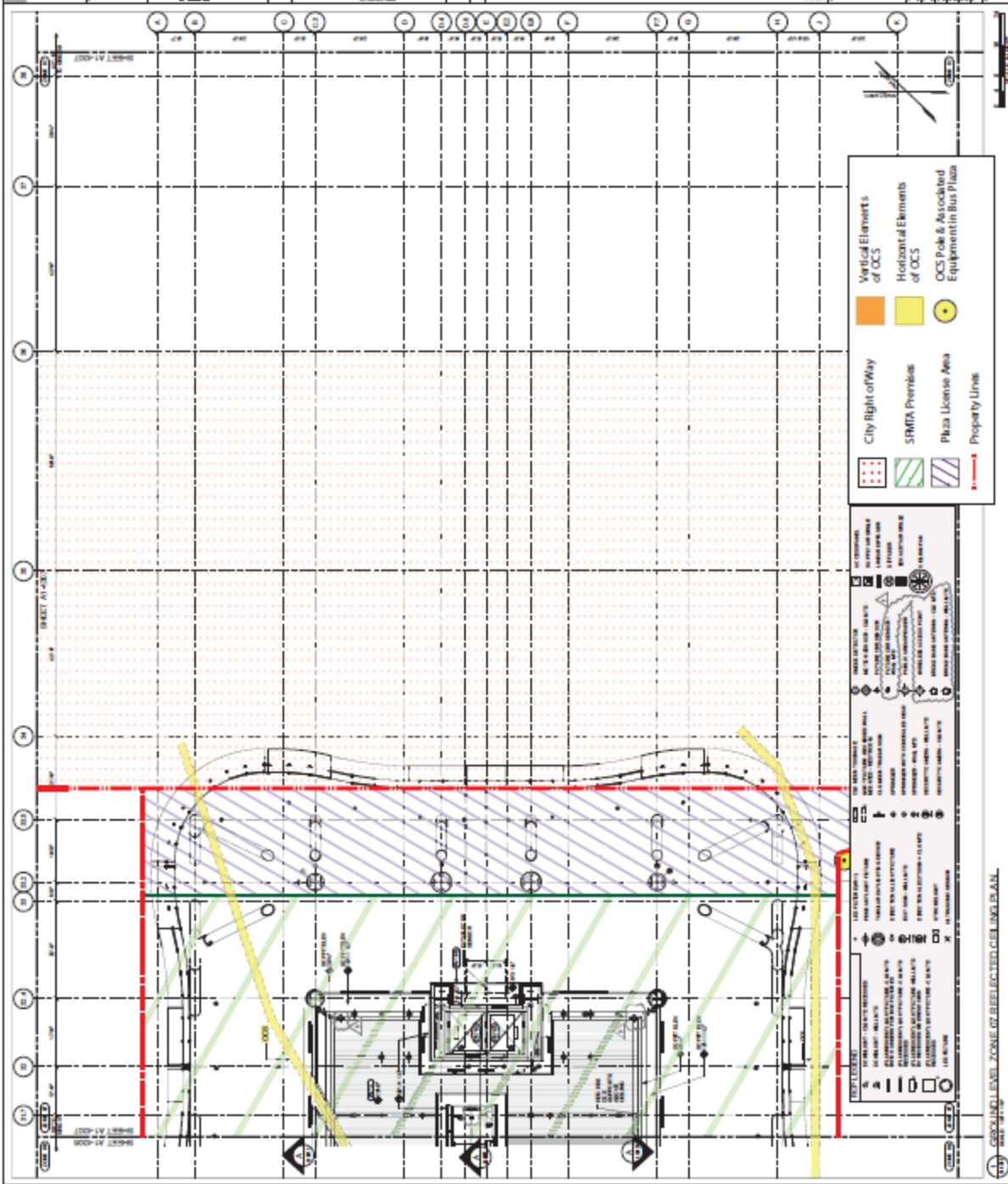
08-04-CMGC-000
 TRANSBAY TRANSIT CENTER PROGRAM
 SAN FRANCISCO, CA
 GROUND LEVEL
 ZONE 07 REFLECTED CEILING PLAN

TRANSBAY TRANSIT CENTER
 450 CALIFORNIA STREET
 SAN FRANCISCO, CA 94104

DATE: 08/04/08
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

Scale: 1/8" = 1'-0"

North Arrow



08-04-CMGC-000
 TRANSBAY TRANSIT CENTER PROGRAM
 SAN FRANCISCO, CA
 GROUND LEVEL
 ZONE 07 REFLECTED CEILING PLAN

TRANSBAY TRANSIT CENTER
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DATE: 08/04/08
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

Scale: 1/8" = 1'-0"

North Arrow

LEGEND

City Right of Way
 SFMTA Premises
 Plaza License Area
 Property Lines

Vertical Elements of OCS
 Horizontal Elements of OCS
 OCS Pole & Associated Equipment in Bus Plaza

CONSTRUCTION NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODE (CBC) AND THE CALIFORNIA MECHANICAL CODE (CMC).

2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA ELECTRICAL CODE (CEC) AND THE CALIFORNIA FIRE CODE (CFC).

3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA PLUMBING CODE (CPC) AND THE CALIFORNIA GAS CODE (CGC).

4. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA PAVEMENT CODE (CPC) AND THE CALIFORNIA SIGN CODE (CSC).

5. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA TREE PRESERVATION ACT (CTPA) AND THE CALIFORNIA HISTORIC PRESERVATION ACT (CHPA).

6. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND THE CALIFORNIA CULTURAL IMPACT ACT (CICA).

7. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA AIR RESOURCES ACT (CARA) AND THE CALIFORNIA CLIMATE CHANGE ACT (CCC).

8. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA WATER RESOURCES ACT (CWRA) AND THE CALIFORNIA WASTE MANAGEMENT ACT (CWA).

9. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA OCEANOGRAPHY ACT (COA) AND THE CALIFORNIA COASTAL MANAGEMENT ACT (CCMA).

10. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA MARINE RESOURCES ACT (CMRA) AND THE CALIFORNIA FISH AND WILDLIFE ACT (CFLWA).

11. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BIODIVERSITY ACT (CBA) AND THE CALIFORNIA NATURAL RESOURCES ACT (CNRA).

12. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA SCIENCE AND TECHNOLOGY ACT (CSTA) AND THE CALIFORNIA INNOVATION ACT (CIA).

13. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA EDUCATION ACT (CEA) AND THE CALIFORNIA HIGHER EDUCATION ACT (CHEA).

14. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR RELATIONS ACT (CLRA) AND THE CALIFORNIA EMPLOYMENT RELATIONS ACT (CERA).

15. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR MARKET ACT (CLMA) AND THE CALIFORNIA WORKFORCE DEVELOPMENT ACT (CWDA).

16. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR TRAINING ACT (CLTA) AND THE CALIFORNIA SKILLS DEVELOPMENT ACT (CSDA).

17. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR EDUCATION ACT (CLEA) AND THE CALIFORNIA VOCATIONAL TRAINING ACT (CVTA).

18. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR RESEARCH ACT (CLRA) AND THE CALIFORNIA LABOR MARKET RESEARCH ACT (CLMRA).

19. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR POLICY ACT (CLPA) AND THE CALIFORNIA LABOR MARKET POLICY ACT (CLMPA).

20. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR LEGISLATION ACT (CLLA) AND THE CALIFORNIA LABOR MARKET LEGISLATION ACT (CLMLA).

21. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR COURT ACT (CLCA) AND THE CALIFORNIA LABOR MARKET COURT ACT (CLMCA).

22. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR DISPUTE ACT (CLDA) AND THE CALIFORNIA LABOR MARKET DISPUTE ACT (CLMDA).

23. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR MEDIATION ACT (CLMA) AND THE CALIFORNIA LABOR MARKET MEDIATION ACT (CLMMA).

24. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR ARBITRATION ACT (CLAA) AND THE CALIFORNIA LABOR MARKET ARBITRATION ACT (CLMAA).

25. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR CONCILIATION ACT (CLCA) AND THE CALIFORNIA LABOR MARKET CONCILIATION ACT (CLMCA).

26. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR RECONCILIATION ACT (CLRA) AND THE CALIFORNIA LABOR MARKET RECONCILIATION ACT (CLMRA).

27. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR REPAIR ACT (CLRA) AND THE CALIFORNIA LABOR MARKET REPAIR ACT (CLMRA).

28. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR RESTITUTION ACT (CLRA) AND THE CALIFORNIA LABOR MARKET RESTITUTION ACT (CLMRA).

29. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR REFORMATION ACT (CLRA) AND THE CALIFORNIA LABOR MARKET REFORMATION ACT (CLMRA).

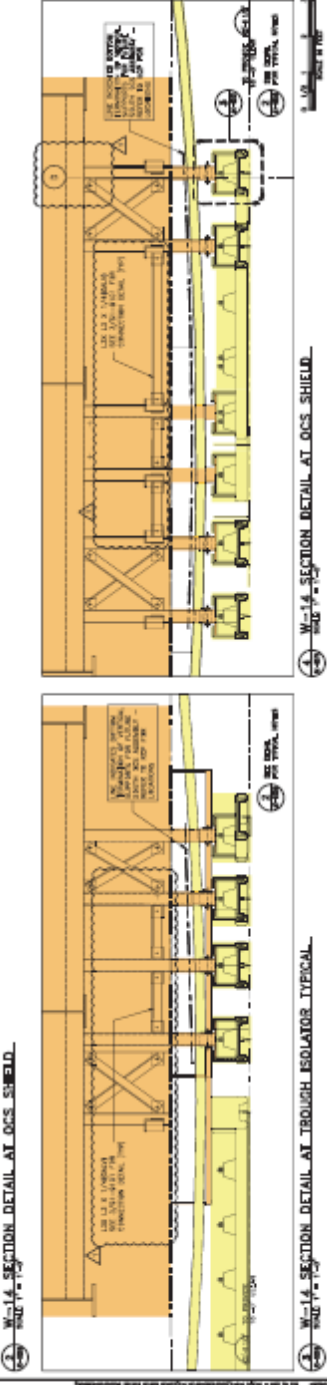
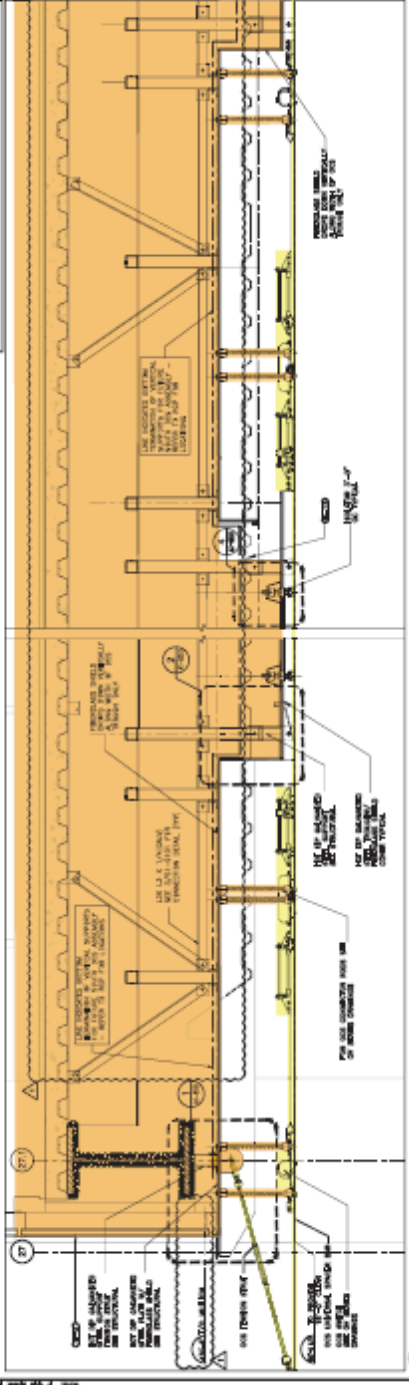
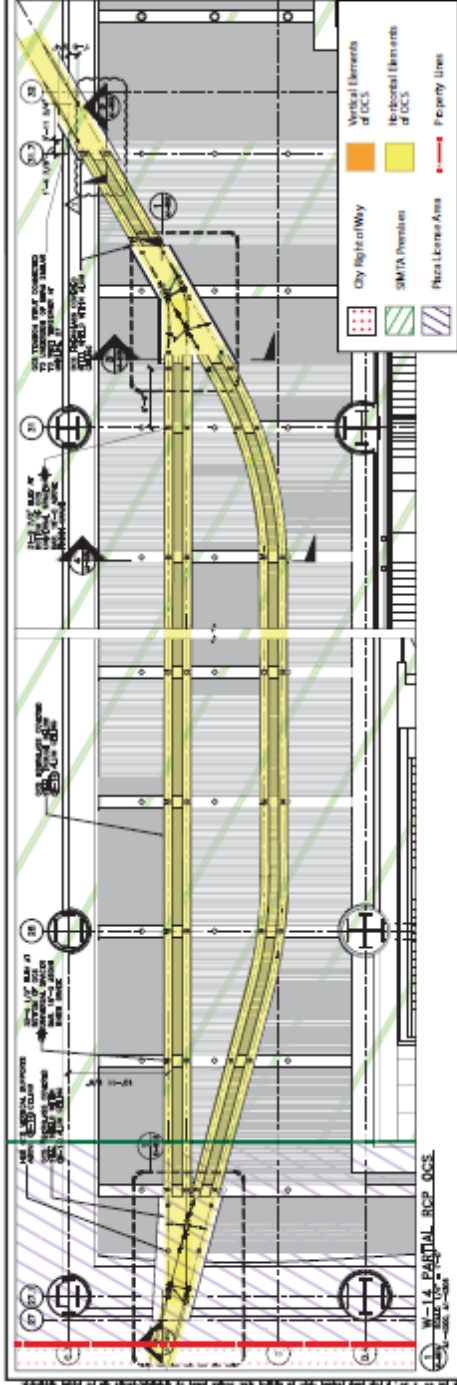
30. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LABOR REFORMATION ACT (CLRA) AND THE CALIFORNIA LABOR MARKET REFORMATION ACT (CLMRA).

TRANSBAY TRANSIT CENTER PROGRAM
 SAN FRANCISCO, CA
 ALUMINUM CEILING SYSTEM
 (W-14)
 OCS DETAIL SHEET

08-04-CMCC-000

A1 - 8550 of

ISSUED FOR CONSTRUCTION



NOT TO SCALE

DATE: 08/14/14

BY: [Signature]

FOR: [Signature]

PROJECT: TRANSBAY TRANSIT CENTER PROGRAM

LOCATION: SAN FRANCISCO, CA

DATE: 08/14/14

BY: [Signature]

FOR: [Signature]

PROJECT: TRANSBAY TRANSIT CENTER PROGRAM

LOCATION: SAN FRANCISCO, CA

TRANSBAY TRANSIT CENTER PROGRAM
SAN FRANCISCO, CA
ALUMINUM CEILING SYSTEM
(W-14)
OCS DETAIL SHEET

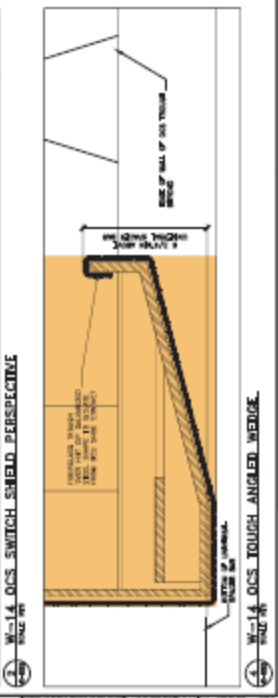
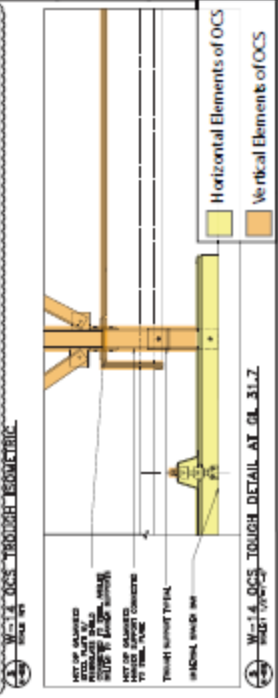
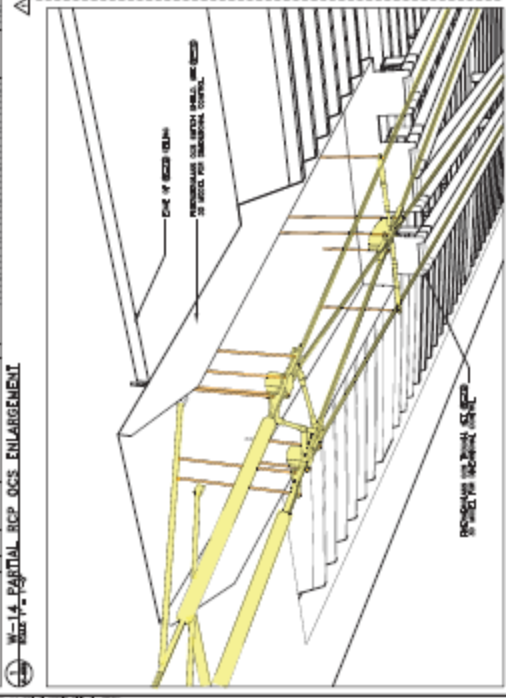
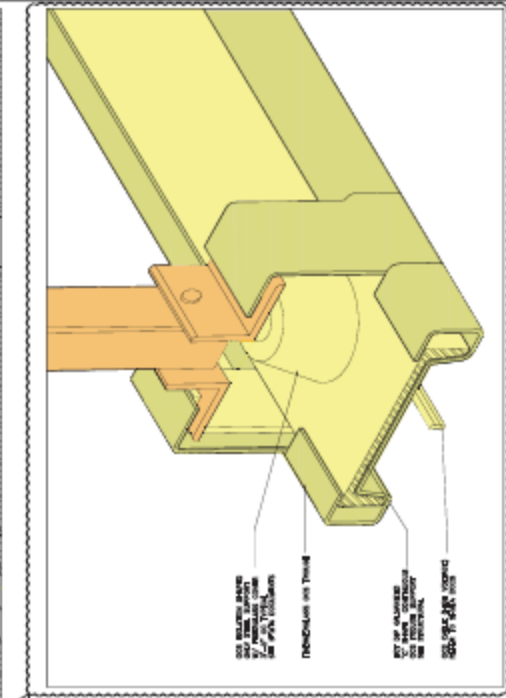
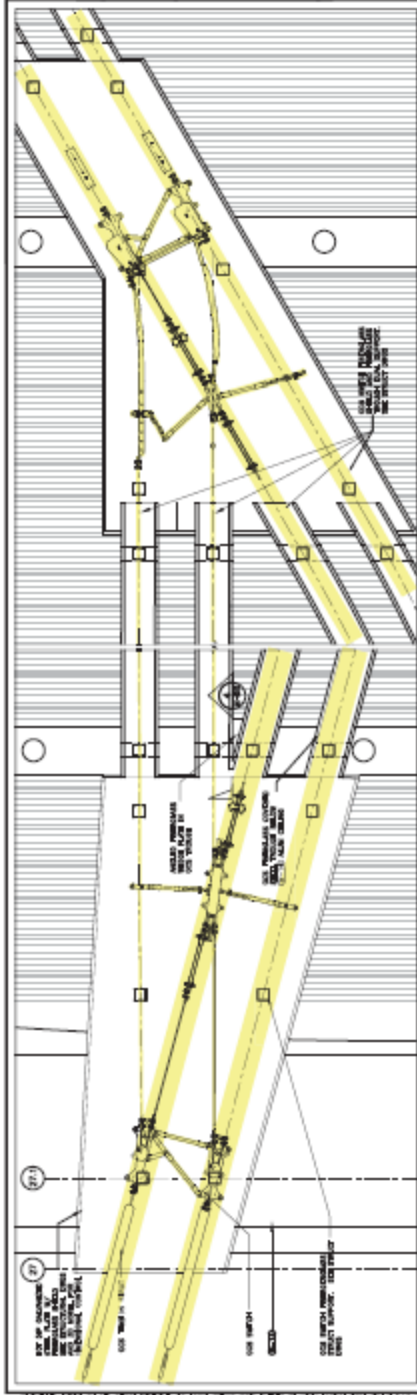
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TRANSBAY TRANSIT CENTER PROGRAM
SAN FRANCISCO, CA
ALUMINUM CEILING SYSTEM
(W-14)
OCS DETAIL SHEET

DATE: 11/11/08
BY: [Signature]
CHECKED BY: [Signature]
SCALE: AS SHOWN

PROJECT NO. 08-04-CMCC-000
SHEET NO. 11 OF 11

ISSUED FOR CONSTRUCTION



TRANSBAY TRANSIT CENTER PROGRAM
SAN FRANCISCO, CA
ALUMINUM CEILING SYSTEM
(W-14)
OCS DETAIL SHEET

08-04-CMCC-000

TRANSBAY TRANSIT CENTER PROGRAM
SAN FRANCISCO, CA
ALUMINUM CEILING SYSTEM
(W-14)
OCS DETAIL SHEET

DATE: 11/11/08
BY: [Signature]
CHECKED BY: [Signature]
SCALE: AS SHOWN

PROJECT NO. 08-04-CMCC-000
SHEET NO. 11 OF 11

ISSUED FOR CONSTRUCTION

License Agreement

Exhibit D

Additional Insureds

Transbay Joint Powers Authority

Alameda-Contra Costa Transit District

Peninsula Corridor Joint Powers Board - Caltrain

State of California, Department of Transportation

Trustee, the Series 1 Holders, the LC Banks and the Direct Placement Banks, and their officers, agents and employees, as those terms are defined in the “Sublease – TJPA Property, dated as of January 1, 2017, by and between U.S. Bank National Association, in its capacity as Trustee, as Sublessor, and City and County of San Francisco, as Sublessee” recorded in the official records of the City and County of San Francisco on January 17, 2017 as document number 2017-K395369

United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau

Salesforce.com and all legal entities controlling, controlled by, or under common control with, directly or indirectly, salesforce.com

All of the officers, directors, agents, representatives, permitted assigns, and employees of each of the above.

The Additional Insureds listed in this Exhibit shall also include such other parties as the TJPA may request from time to time.

976649.8

AC Transit,

and

SFMTA

License Agreement

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LICENSE AGREEMENT

This License Agreement ("Agreement"), is made and entered into this ____ day of

_____, 2018 by and between the ALAMEDA-CONTRA COSTA TRANSIT DISTRICT, a transit district created under Public Utility Code sections 24501 *et seq.* ("AC Transit"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation acting by and through the SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY (the "SFMTA") (each, a "party" and collectively, the "parties").

RECITALS

H. The Transbay Joint Powers Authority, a joint powers authority created under California Government Code sections 6500 *et seq.* ("TJPA") is developing a new transit center generally located at First and Mission Streets in the City and County of San Francisco ("Transit Center") which includes, but is not limited to, a Bus Deck Level, a Bus Plaza, and, in Phase II, an extension of the Caltrain commuter rail system and California High Speed Rail into the Transit Center, as shown on the attached Exhibit A (the "Property").

I. Pursuant to a September 10, 2008 Transbay Transit Center Program Lease and Use Agreement ("AC Transit Agreement"), AC Transit leases, *inter alia*, from the TJPA the Bus Deck Level of the Transit Center depicted on the attached Exhibit B (the "Bus Deck Level") and has rights of ingress and egress across the Property to access the Bus Deck Level. Consistent with the AC Transit Agreement, AC Transit must accommodate additional carriers on the Bus Deck Level.

J. The SFMTA operates a public transportation service in the City and County of San Francisco and leases the Bus Plaza of the Transit Center from TJPA for a portion of its operations pursuant to a Transit Center Lease between the SFMTA and TJPA dated as of _____, 2018 (the "SFMTA Agreement").

K. The SFMTA wishes to also make the Bus Deck Level a point of destination/departure for a portion of its operations, and AC Transit is willing to grant: (i) a license to the SFMTA, in accordance with the terms, conditions, and covenants of this Agreement, to use Bays 29 and 31 of the Bus Deck Level shown on the attached Exhibit C ("Designated Area"), subject to any change in the location of the Designated Area pursuant to Section 5 below, (ii) a license for the SFMTA's employees and contractors to use the Bus Deck Level operator restroom facilities shown on the attached Exhibit C ("Operator Restrooms"), and (iii) the rights of ingress and egress across the Property to access the Bus Deck Level.

L. Pursuant to a May 8, 2017 Asset Management Agreement ("Asset Management Agreement"), the TJPA has hired LPC West Transit Management LLC ("Asset Manager") to provide operations and maintenance services for the Transit Center. Consistent with the Asset Management Agreement, the Asset Manager is expected to provide ongoing management of the Transit Center, including the Designated Area and Operator Restrooms.

M. Pursuant to a July 24, 2017 Naming and Signage Rights Agreement (“Naming Rights Agreement”), the TJPA provided salesforce.com the right to name the new Transit Center the “Salesforce Transit Center” and the right to receive certain other benefits. The Naming Rights Agreement imposes requirements and obligations relative to the name of, references to, and logos associated with the Transit Center.

N. AC Transit has full power and authority to enter into this Agreement.

O. The SFMTA has full power and authority to enter this Agreement.

NOW, THEREFORE, in consideration of the covenants, conditions, and agreements set forth herein, AC Transit and the SFMTA do hereby agree as follows:

Section 1. Grant of License

A. AC Transit hereby grants to the SFMTA, subject to the terms, conditions, and covenants of this Agreement, a revocable, nonexclusive license for use of the Designated Area by the SFMTA for the purpose of operating public transit services to and from the Transit Center ("License"). In addition, the License will include occasional access for SFMTA vehicles to enter the Transit Center and park in the Designated Area to respond to incidents, use of the Operator Restrooms by SFMTA employees and contractors, and the necessary rights of ingress and egress over the Property for these purposes in the locations described in Exhibit A and more specifically depicted in Exhibit C. Notwithstanding that the License is nonexclusive, AC Transit shall not grant any other party a sublease, license, or other agreement to use or possess the Designated Area except as set forth in Section 5 below.

B. This grant is made subject and subordinate to the prior and continuing obligation of AC Transit, its successors and assigns, to use the Bus Deck Level for transportation operations under the AC Transit Agreement.

C. This grant is made subject to all licenses, agreements, easements, restrictions, conditions, covenants, encumbrances, liens, and claims of title which may affect the Property prior to the execution of this Agreement and any pledge, transfer, hypothecation, or assignment made at any time by the TJPA to secure Obligations (as defined in the AC Transit Agreement). The word “grant” shall not be construed as a covenant against the existence of any of these.

D. AC Transit and the SFMTA recognize that this Agreement does not create any possessory interest in the Designated Area or the Property, but is merely a temporary, revocable authorization for a non-possessory use of a portion of the Property.

E. AC Transit and the SFMTA further recognize that the AC Transit Agreement reserves unto the TJPA, its successors and assigns, the right to construct, reconstruct, maintain, and use existing and future facilities and appurtenances, including, without limitation, existing

and future transportation facilities and appurtenances in, upon, over, under, across, and along Property.

Section 2. Term of License and Termination

A. The term of this License (“Term”) shall commence on the ___ day of _____ 2018 (the “Effective Date”), and shall continue until this License is terminated as set forth herein.

B. The Agreement shall terminate on the third anniversary of the Effective Date (“Termination Date”); provided, however, that the SFMTA shall have three (3) options (each, an “Extension Option”) to extend the Term by one (1) year (each, an “Extended Term”) by delivering written notice of the SFMTA’s exercise of an Extension Option (each, an “Extension Notice”) to AC Transit at least seven (7) months prior to the then-scheduled termination of the Agreement; provided, however, that if the SFMTA is in material default under this Agreement on the date of giving an Extension Notice and fails to cure such default as provided in the Agreement prior to the commencement of the applicable Extended Term, AC Transit may reject such exercise by delivering written notice thereof to the SFMTA promptly after such failure to cure. Each Extended Term, if any, shall be on all of the terms and conditions contained in this Agreement.

C. If the SFMTA holds over in possession of the Designated Area after the expiration of the Term with AC Transit’s consent, such holding over shall not be deemed to extend the Term or renew this Agreement, but the License thereafter shall continue as a month-to-month License on all the terms and conditions set forth in this Agreement, and the SFMTA shall continue as a month-to-month licensee until the License shall be terminated by AC Transit giving the SFMTA, or the SFMTA giving AC Transit, at least thirty (30) days’ prior written notice of termination.

D. This Agreement shall be deemed terminated upon the SFMTA’s discontinuance of the use of the Designated Area for thirty (30) continuous days and failure to cure such matter within fifteen (15) days of AC Transit’s delivery of written notice of such discontinued use to the SFMTA.

E. If the SFMTA defaults with respect to any obligation, covenant or condition of this Agreement and fails to correct the default within thirty (30) days after receipt of notice from AC Transit to do so (or any longer period reasonably necessary to correct such default if it cannot be reasonably cured within thirty (30) days and the SFMTA has commenced to cure such default within such initial thirty (30) day period and diligently pursues the cure to completion), AC Transit may immediately terminate this Agreement by providing no less than ninety (90) days written notice of such termination to the SFMTA, subject to approval by the TJPA.

F. The Agreement may be terminated immediately upon written notice by AC Transit should AC Transit's rights or interests in the Property be changed, modified or otherwise

affected in its capacity as a lessee of said Property to prevent it from allowing the SFMTA to access or use the Designated Area pursuant to this Agreement.

G. AC Transit, in addition to any other rights given to it herein or to which it may be entitled by law, may terminate this Agreement in its entirety, subject to and in the manner provided herein, upon or after the occurrence of any one or more of the following events and may exercise all rights of entry and re-entry provided by law:

1. The filing for the SFMTA of any request for relief under any state insolvency statute; and/or
2. Any action of any governmental authority, legislative body, board, agency, or officer, other than AC Transit and any person or entity working for it, having jurisdiction thereof ceasing or suspending SFMTA operations at the Transit Center.

H. The SFMTA, in addition to any other rights given to it herein or to which it may be entitled by law, may terminate this Agreement in its entirety, subject to and in the manner provided herein, upon or after the occurrence of any one or more of the following events:

1. Issuance of a permanent injunction by any court of competent jurisdiction substantially restraining or preventing the SFMTA from using all or major portions of the Designated Area and its remaining in force of one hundred twenty (120) days; provided, however, that AC Transit, if a party to the litigation, shall not have taken such steps as may be necessary to effect an appeal of the injunction to appropriate appellate courts.
2. Any action of any governmental authority, legislative body, board, agency, or officer having jurisdiction thereof:
 - a. preventing the SFMTA from conducting its transportation services in its entirety at the Designated Area, or
 - b. taking, directly or indirectly, in whole or substantial part, the Designated Area required for actual operation of the SFMTA's vehicles to and from the Designated Area.
3. The occurrence of an event of force majeure that prevents the SFMTA from conducting its transportation services in its entirety at the Designated Area.
4. Asset Manager's failure to keep the Designated Area or Operator Restrooms in good operating order within thirty (30) days' of the SFMTA delivering written notice of such failure to AC Transit.
5. The SFMTA's termination of this Agreement pursuant to Section 6.D below.

Section 3. SFMTA's Obligation Upon Termination

A. Upon termination of this Agreement, the SFMTA shall peaceably and quietly leave, yield up, vacate, and surrender the Designated Area to AC Transit in good condition, except for damage or loss due to reasonable wear and tear, fire or other casualty, acts of any party other than the SFMTA or its employees, contractors, or representatives, or other cause beyond the SFMTA's control.

B. The SFMTA shall remove all moveable furnishings, trade fixtures, and equipment installed or placed by the SFMTA in, on, or about the Designated Area. Such removal shall not damage the Designated Area.

C. Upon termination of this Agreement, the SFMTA shall bear the cost of repair for any damage to the Property (other than normal wear and tear) occasioned by the use of the Property by the SFMTA pursuant to this Agreement. AC Transit and/or TJPA may at its/their option (but shall not be required to) perform such repair on the SFMTA's behalf and put the same in good order, condition and repair after providing written notice of such election no less than fifteen (15) days before commencing such repair. The SFMTA shall pay the cost of any such repair by AC Transit and/or TJPA within thirty (30) days of receiving an invoice for such repair cost, together with reasonable supporting documentation of such cost. If the SFMTA does not timely make such payment, it shall accrue interest thereon at the maximum rate then allowable by law between the date such payment was owed and the date it is made.

D. The SFMTA agrees and acknowledges that in the event the SFMTA does not promptly vacate the Designated Area at the termination of this Agreement and holds over without AC Transit's prior written consent, in addition to any other rights or remedies of AC Transit relating to such unlawful holdover, the SFMTA shall indemnify, defend, and hold harmless AC Transit and TJPA from any and all third party claims, losses, costs, and damages to the extent arising from such unlawful holdover (including, but not limited to attorneys' fees, and/or any claims asserted against AC Transit or the TJPA by any party who has the right to use the Designated Area during such unlawful holdover).

Section 4. Relocation Costs

A. The parties acknowledge that at the termination of this Agreement, the SFMTA will not be a "displaced person" with respect to the Designated Area and will not be entitled to relocation assistance under the California Relocation Assistance Act (Cal. Gov. Code sections 7260 *et seq.*), or the Uniform Relocation Assistance Act of 1970 (42 U.S.C. sections 4601 *et seq.*).

B. If, as reasonably determined by AC Transit and/or the SFMTA, the Designated Area cannot be used by the SFMTA because of a condemnation or sale in lieu of condemnation by any entity other than the TJPA or AC Transit, then this Agreement shall automatically

terminate. The TJPA shall be entitled to the entire proceeds for any total or partial condemnation, or sale in lieu thereof, including, without limitation, any award of proceeds for the value of the Designated Area, any and all improvements to the Designated Area, or leasehold estate/bonus value created by this Agreement. Notwithstanding the foregoing, the SFMTA shall have the right to pursue recovery from a condemning authority other than AC Transit or the TJPA for relocation assistance, and for any taking of the SFMTA's personal property.

Section 5. Accommodation of Additional Transportation Providers; Relocation of Designated Area

A. To facilitate and promote regional transportation facilities and to maximize the use of the substantial public investment in facilities at the Transit Center, the SFMTA agrees, upon request by AC Transit, not to unreasonably object to allowing AC Transit the option to use a portion of the Designated Area for another carrier (public or private) if such portion of the Designated Area is not needed for the SFMTA's scheduled or planned operations. If another carrier uses part of the Designated Area pursuant to this Section (the "Recaptured Area"), the parties shall amend this Agreement to reflect the reduced Designated Area and terminate this Agreement as to the Recaptured Area.

B. The SFMTA shall have the right to relocate the Designated Area to Bays 28 and 30 of the Bus Deck Level, as shown on the attached Exhibit C, by delivering written notice of such election to AC Transit (the "Relocation Notice"). The "Relocation Date" shall mean the date the Designated Area changes from Bays 29 and 31 of the Bus Deck Level to Bays 28 and 30 of the Bus Deck Level and shall be specified in the Relocation Notice; provided, however, that if the SFMTA delivers the Relocation Notice to AC Transit before the second anniversary of the Effective Date, the Relocation Date shall be no earlier than the one hundred eighty-first (181st) day immediately following such delivery of the Relocation Notice, and if the SFMTA delivers the Relocation Notice to AC Transit after the second anniversary of the Effective Date, the Relocation Date shall be no earlier than the ninety-first (91st) day immediately following such delivery of the Relocation Notice. The SFMTA shall have the right to post temporary notices at Bays 29 and 31 of the Bus Deck Level to notify its users of the pending relocation of the Designated Area during the fourteen (14) day period immediately preceding the Relocation Date and the seven (7) day period immediately following the Relocation Date.

Section 6. Annual Operating Charge

A. The SFMTA shall pay an annual fee to AC Transit equivalent to 2.1% of the Terminal Net Operating Expenses (as defined in the AC Transit Agreement) for each bus bay it contracts to use within the Designated Area ("Rent"). The SFMTA is expected to require two (2) bus bays. Any change to the number of bus bays will require an addendum to this Agreement. The SFMTA's proportional share of Exclusive Use Space (as defined in the AC Transit Agreement) is subject to change based on changes to the amount of the Property's Exclusive Use Space.

B. Subject to reconciliation, the amount of the Terminal Net Operating Expenses between the Effective Date and June 30, 2019, and SFMTA's proportional share of the Exclusive Use Space on the Bus Deck Level is set forth in Exhibit D. On February 15, 2019, and each February 15th thereafter, AC Transit shall deliver to the SFMTA a statement (each, a "Projected Rent Statement") of the Terminal Net Operating Expenses for the then upcoming fiscal year (from July 1 to June 30) and the projected Rent for such fiscal year.

C. If the actual Terminal Net Operating Expenses for any year during the term of this Agreement is less than the amount of Terminal Net Operating Expenses used to calculate the Rent, AC Transit shall refund to the SFMTA the excess rent paid. If the actual Terminal Net Operating Expenses for any year during the term of this Agreement is more than the amount of Terminal Net Operating Expenses used to calculate the Rent, the SFMTA shall pay to AC Transit the additional Rent owed. Payments for such reconciled amounts to be made in conjunction with the next quarterly payment due under this Agreement.

D. Any Rent that is due under this Agreement will be payable in advance on or before the first of day of each calendar quarter; provided, however, that the installment of Rent for the calendar quarter in which the Effective Date occurs shall be paid within forty-five (45) days of the Effective Date. Payment of Rent shall be made payable and mailed to AC Transit, Attn: Accounts Receivable, 1600 Franklin Street, Oakland, CA 94612, or such address as AC Transit may designate in written notice to the SFMTA. AC Transit shall use the Rent to pay its Tenant Operating Charge (as defined in the AC Transit Agreement) for the Terminal under the AC Transit Agreement.

E. Notwithstanding Section 2 above, the SFMTA's failure to pay within thirty (30) days after its due date shall constitute a material breach of this Agreement. In the event that the SFMTA fails to make such payment within thirty (30) days of written notice of default from AC Transit, AC Transit may terminate this Agreement by delivering written notice of such termination to the SFMTA.

F. If a Projected Rent Statement shows the Rent for an upcoming fiscal year will exceed \$9,545,000 if combined with (i) the amounts to be paid by the SFMTA under the SFMTA Agreement for such upcoming fiscal year and (ii) the Rent and other amounts paid by the SFMTA under this Agreement and the SFMTA Agreement prior to such upcoming fiscal year, the SFMTA shall have the right to terminate this Agreement by delivering written notice of such termination to AC Transit within thirty (30) days of receiving such Projected Rent Statement. If

the SFMTA delivers such termination notice pursuant to this subsection, this Agreement shall terminate on June 30 of the fiscal year in which SFMTA received such Projected Rent Statement.

Section 7. Ingress and Egress

D. AC Transit grants to the SFMTA, its vehicles (specifically SFMTA buses and supervisory vehicles to the extent reasonably needed to respond to incidents,) and its passengers, guests, and invitees the rights and privileges of ingress and egress over the Property with respect to the Designated Area and the public space in the Transit Center during normal hours of operation to perform such operations and functions as are incidental, necessary, or proper to the conduct of the SFMTA's transportation business or performance of its obligations pursuant to this Agreement, subject to the TJPA's regulations and any additional reasonable AC Transit regulations for the Bus Deck Level.

E. The SFMTA's full and free right of ingress and egress provided for above shall not be used, enjoyed, or extended for any purpose or use in contravention of the provisions of this Agreement unless expressly authorized in writing in advance by AC Transit, which authorization AC Transit may grant or withhold at its sole discretion. In addition, the SFMTA's full and free right of ingress and egress provided for above shall not be used, enjoyed, or extended for any purpose or use that is inconsistent with or beyond the scope of AC Transit's rights under the AC Transit Agreement.

F. When reasonably required for reasons of safety, security, or crowd control, AC Transit or TJPA may limit SFMTA's access to the Designated Area or the Operator Restrooms. AC Transit or TJPA, as appropriate, will provide the SFMTA forty eight (48) hours prior written notice of its intent to limit access to the Designated Area or the Operator Restrooms, describing the purpose, scope, and duration of any limitation of access, unless emergency circumstances make such notice unreasonable or infeasible.

G. In all events under this section, AC Transit and TJPA shall use best efforts to minimize disruption and interference with SFMTA's operations at the Designated Area and use of the Operator Restrooms by the SFMTA's employees and contractors.

E. It may be necessary for AC Transit to move a disabled vehicle out of the flow of traffic at the Terminal. A SF MUNI vehicle will be moved to a safe location out of the flow of traffic into a position on the Bus Deck Level that will not impact the operations of any transit operator at the Terminal or cause a safety issue for pedestrians, bicyclists, or private vehicles. Should a disabled SF MUNI vehicle in the flow of traffic require assistance, AC Transit will alert SF MUNI personnel prior to taking any action to move it.

Section 8. Maintenance, Repair, and Alterations.

A. Except for an emergency, minimal repairs needed to move a disabled bus from the Property (including, but not limited to, fixing a flat tire, jammed door, or failing battery), or other repairs performed with the permission of AC Transit or performed on any portion of the Property leased by the SFMTA under the SFMTA Agreement, the SFMTA shall not perform any maintenance, repairs, or alterations to SFMTA buses anywhere on Property, including the Designated Area.

B. If the Property is damaged or destroyed by the SFMTA's employees, contractors, or representatives use of the Property pursuant to this Agreement, unless such damage or destruction is normal wear and tear, the SFMTA shall bear the cost of repair to the Property, and/or improvement located thereon, to the condition it was in before such damage or destruction.

C. If the SFMTA fails to timely repair any damage or destruction to the Property it is required to repair under this Agreement, then in addition to AC Transit's right to terminate this Agreement pursuant to Section 2 above, after providing no less than forty-five (45) days' prior written notice to the SFMTA, AC Transit and/or TJPA may at its/their option (but shall not be required to) perform such repair on the SFMTA's behalf and put the same in good order, condition and repair. The SFMTA shall reimburse AC Transit and/or TJPA, as applicable, for the cost thereof within thirty (30) days of receiving an invoice therefor, together with reasonable supporting information. If the SFMTA does not timely make such reimbursement, the unpaid amount shall accrue interest at the maximum rate then allowable by law between the date such reimbursement was owed and the date it is made.

D. TJPA has certain maintenance, operational, and repair obligations under Section 7.2 of the AC Transit Agreement. AC Transit shall use commercially reasonable efforts to require TJPA to perform such obligations.

Section 9. Use of Designated Area and Operator Restrooms

10. In its use of any of the Property pursuant to this Agreement, the SFMTA shall comply, to the extent applicable, with the Salesforce Transit Center Rules and Regulations version dated October 12, 2017, attached hereto as Exhibit F, and as may be updated by the TJPA from time to time with notice to AC Transit and SFMTA ("Tenant Rules"), and any other rules and regulations adopted by the TJPA for the operation, maintenance, security, and management of the Transit Center. These operating parameters must be reasonable and must not be inconsistent with the terms of the AC Transit Agreement. The TJPA has represented to AC Transit that it shall administer the Tenant Rules and other Transit Center rules and regulations in a fair and nondiscriminatory manner and use reasonable efforts to cause other

Transit Center tenants to comply with them. To the extent that any rule or regulation conflicts with any provision of this Agreement, the provisions of this Agreement shall control.

11. The SFMTA shall comply with the commercially reasonable Transit Center procedures, restrictions, and requirements developed by the TJPA related to implementation of its obligations under the Naming Rights Agreement, and the terms for SFMTA's use of the name and logos associated with the Transit Center in connection with the SFMTA's entry on and operations at the Property pursuant to this Agreement.

12. Subject to the terms and conditions of this Agreement, AC Transit shall permit the SFMTA to use and access the Designated Area to perform such operations and functions as are incidental, necessary, or proper to the conduct of its public bus transportation business, including, but not limited to, the following:

G. Any and all purposes in connection with and incidental to the operation of a public bus transportation business consistent with the rules of the SFMTA and federal and state law, including, without limiting the generality hereof, the movement, loading, and unloading of passengers and their personal belongings from buses; the ticketing of passengers; and the parking of supervisory vehicles to the extent reasonably needed to respond to incidents at the Designated Area.

H. The positioning, stopping, parking, loading, or unloading of the SFMTA's vehicles and equipment.

I. The loading and unloading of property and carriage by such manner of conveyance as the SFMTA may desire or require in the operation of a transportation business, but excluding the parking of the vehicles of individual SFMTA employees.

D. AC Transit shall permit the SFMTA to use space in the Transit Center but outside the Designated Area to perform such operations and functions as are incidental, necessary, or proper to the conduct of the SFMTA's public bus transportation service and obligations under this Agreement, subject to the TJPA's regulation and consent.

E. Subject to the terms and conditions of this Agreement, AC Transit shall permit SFMTA employees and contractors to use, and allow access to such employees and contractors over the Property to use, the Operator Restrooms.

Section 10. Prohibited Uses

The SFMTA shall not use the Designated Area or cause or permit its employees, agents, contractors, or representatives to use the Designated Area for any purpose other than specified under the terms and conditions of this Agreement. Without limiting the generality of the foregoing, SFMTA shall not do, or cause or permit to be done by its employees, agents, contractors, or representatives, anything in or about the Designated Area, or bring or keep

anything thereon which will in any way:

- H. increase the rate of fire insurance for the Transit Center;
- I. conflict with any law, ordinance, rule, or regulation now in effect or which may hereafter be enacted or promulgated by any public authority relating to or affecting the condition, use, or occupancy of the Designated Area;
- J. create a nuisance;
- K. obstruct or interfere with the rights of other tenants in the Transit Center, including the Designated Area;
- L. place any loads upon the floor, walls, or ceiling which endanger the structure of the Transit Center;
- M. obstruct the sidewalk or other passageways of the Transit Center, including in front of, within, or adjacent to the Designated Area; or
- N. use or allow its employees, agents, contractors, or representatives to use the Designated Area for any unlawful purpose; provided, however, that TJPA's security personnel for the Center shall be responsible for keeping the general public from using the Designated Area for any unlawful purpose.

Section 11. Further Prohibited Uses Regarding Environmental Laws and Hazardous Materials

I. The SFMTA 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").

J. As used in this Agreement, "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.

K. Except as otherwise expressly permitted in this Agreement, the SFMTA shall not, nor allow its employees, agents, contractors, or representatives to, use, create, store, deposit, dispose, or bring any hazardous materials into the Designated Area. Fuel stored in a motor vehicle for the exclusive use in such vehicle is exempt from this requirement.

L. The SFMTA shall not install facilities for, nor operate on the Designated Area, a gasoline or petroleum supply station. The SFMTA shall not permit on the Designated Area any vehicle used or designed for the transportation or storage of gasoline or petroleum products.

M. All of the foregoing notwithstanding, the following hazardous materials may be brought onto or stored on the Designated Area:

3. Household and office products necessary for routine cleaning and maintenance of the property may be kept on the Designated Area in quantities reasonable for SFMTA's needs; and

4. Petroleum products carried on a service truck to be brought on the Designated Area only in an emergency to perform repairs on a bus or to refuel a bus that does not have enough fuel to reach a SFMTA bus maintenance facility: up to 18 gallons diesel #2, 10 gallons 30 weight engine oil, and 5 gallons antifreeze.

N. AC Transit, or its agents or contractors, including but not limited to TJPA and Asset Manager, shall at all times have the right to go upon and inspect the Designated Area 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 on the Designated Area; provided, however, that AC Transit shall provide no less than five (5) business days' prior notice to the SFMTA for any invasive sampling or testing and shall use commercially reasonable efforts to minimize any negative impact of such sampling or testing on SFMTA operations at the Designated Area.

O. It is the intent of the parties hereto that SFMTA shall be responsible for and bear the entire cost of any cleanup, removal, disposal, and decontamination on or off the Designated Area, resulting from hazardous materials introduced to the Designated Area by the SFMTA, its employees or contracts, during the period of the SFMTA's License for use of the Designated Area. The SFMTA shall not be responsible or bear the cost of cleanup, decontamination, removal and/or disposal of hazardous materials introduced to the Designated Area by any party other than the SFMTA, its employees, agents, contractors, or representatives during any period prior to or after the Effective Date.

P. The SFMTA shall further hold AC Transit and the TJPA, their officers and employees, harmless from all responsibility, liability, and claims for damages resulting from the release or use of hazardous materials on the Designated Area by the SFMTA, its employees, agents, contractors, or representatives during the period of the SFMTA's License.

Section 12. Right of Entry to Inspect and Correct Prohibited Uses

C. AC Transit, TJPA, and the Asset Manager, through their agents or representatives, shall have full right and authority to enter in and upon the Designated Area at any and all reasonable times during the term of this Agreement, with reasonable advance notice to the SFMTA except in the event of an emergency, for the purpose of inspecting the same without interference or hindrance by the SFMTA, its agents or representatives; provided AC Transit or TJPA, as appropriate, shall cause such inspection to be performed in a manner that minimizes any negative impact on SFMTA operations at the Designated Area.

D. In the event the SFMTA uses or maintains the Designated Area in a way prohibited by this Agreement or that poses a risk to the health and safety of the public, AC Transit shall give the SFMTA notice to do such acts as are reasonably required to comply with the Agreement. If within ten (10) days after AC Transit sends written notice to comply, the SFMTA fails to do the work and diligently proceed in good faith to comply (unless such acts are of the type that cannot be performed within ten (10) days, in which case if the SFMTA fails to commence such acts within ten (10) days and to pursue diligently to completion), AC Transit shall have the right, but not the obligation, to enter the Designated Area and do such acts and expend such funds at the expense of SFMTA as are reasonably required to perform such work by delivering no less than three (3) days prior notice of AC Transit's election to do such acts or expend such funds. Any reasonable amount so expended by AC Transit shall be paid by SFMTA promptly after demand from the date of completion of such work. AC Transit shall have no liability to the SFMTA for any damage, inconvenience, or interference with the use of the Designated Area by SFMTA as a result of performing any such work.

Section 13. Insurance

SFMTA

B. Without in any way limiting the SFMTA's indemnification obligations under this Agreement, the SFMTA must maintain in force, during the full term of this Agreement, insurance coverages at least as broad as:

1. Worker's Compensation Insurance with limits not less than one million dollars (\$1,000,000) each accident, injury, or illness; and
2. Commercial General Liability Insurance on an "occurrence" basis, including products and completed operations, property damage, bodily injury, personal and advertising injury, and contractual liability, with limits not less than ten million dollars (\$10,000,000) each occurrence; and
3. Automobile Liability Insurance with limits not less than twenty five million dollars (\$25,000,000) per accident for bodily injury (including death) and

property damage, including owned, non-owned, and hired auto coverage, as applicable; and

4. Property Insurance against all risks of loss to any improvements made by SFMTA to the Designated Area, at full replacement cost with no coinsurance penalty provisions.

C. Any SFMTA Commercial General Liability Insurance policy must provide the following:

1. Name as additional insured the entities identified in the attached Exhibit E (“Additional Insureds”)

2. That such policies are primary insurance to any other insurance available to the additional insureds, any insurance or self-insurance maintained by the additional insureds shall be excess of the SFMTA’s insurance and shall not contribute with it, and the SFMTA’s insurance applies severally and not collectively to each additional insured against whom claim is made or suit is brought.

D. All policies shall be endorsed to provide thirty (30) days' advance written notice to AC Transit of material change in coverages, or nonrenewal of coverages, or cancellation of coverages for any reason. Notices shall be sent to the address specified in the Section entitled “Notices.”

E. Should any of the required insurance be provided under a claims-made form, the SFMTA shall maintain such coverage continuously throughout the term of this Agreement, and without lapse, for a period of five (5) years beyond the expiration of this Agreement, to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

F. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

G. On or before the Effective Date, the SFMTA shall do the following:

1. furnish to AC Transit certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A.M. Best’s A:VII or higher, that are authorized to do business in the State of California, and that are satisfactory to AC Transit, in form evidencing all coverages set forth above, and

2. furnish complete copies of policies promptly upon AC Transit’s request.

H. Approval of the insurance by AC Transit shall not relieve or decrease the liability of SFMTA under this Agreement.

I. Failure to maintain insurance shall constitute a substantial breach by the SFMTA of this Agreement.

J. AC Transit reserves the right to require increases to the aforesaid limits as necessary upon the written demand of AC Transit, provided that AC Transit provides a written justification for the increase to the SFMTA, and such coverage is reasonably available and affordable and commercially reasonable.

K. Notwithstanding anything to the contrary in this section, AC Transit acknowledges that the SFMTA currently has a program of self-insurance and agrees that if SFMTA continues to maintain such a self-insurance program then the SFMTA shall not be required to carry any third party insurance with respect to this Agreement. If SFMTA elects to self-insure, the SFMTA shall be responsible for any losses or liabilities which would have been assumed by the insurance companies which would have issued the insurance required of SFMTA under this Agreement. If the SFMTA elects to carry third party insurance instead of a program of self-insurance with respect to this Agreement, the SFMTA shall provide AC Transit with at least thirty (30) days' prior written notice of such election.

SFMTA Contractors

The SFMTA shall require that any SFMTA contractor operating SFMTA buses and conducting work or providing services to the Designated Area maintain in force, during the full term of its contracts, insurance coverages at least as broad as:

1. Worker's Compensation, as required by the State of California in statutory amounts, and Employers' Liability Insurance with limits not less than one million dollars (\$1,000,000) each accident, injury, or illness; and
2. Commercial General Liability Insurance on an "occurrence" basis, including products and completed operations, property damage, bodily injury, personal and advertising injury, and contractual liability, with limits not less than two million dollars (\$2,000,000) each occurrence; and
3. Automobile Liability Insurance with limits not less than one million dollars (\$1,000,000) per accident for bodily injury (including death) and property damage, including owned, non-owned, and hired auto coverage, as applicable; and
4. Professional Liability Insurance (if applicable) with limits not less than two million dollars (\$2,000,000) each occurrence or claim, with respect to negligent acts, errors or omissions, if applicable.

The SFMTA's contractors' insurance shall also satisfy the terms and conditions specified in subsections A. - K. above, as appropriate.

Section 14. Indemnity

A. The SFMTA agrees to defend, indemnify, and hold harmless the Additional Insureds from any and all liability, loss, damage, expense, cost, (including, without limitation,

costs and fees of litigation), claims, demands, obligations, suits, judgments, penalties, causes of action, or liabilities at any time received, incurred, or accrued by the Additional Insureds as a result of or arising out of the acts, omissions, use, occupancy, or operations of the SFMTA and its consultants, contractors, representatives, and employees on, about, or related to the Transit Center pursuant to this Agreement, except to the extent caused by the negligence or willful misconduct of the Additional Insureds. The SFMTA's obligations under this Section shall survive the termination of this Agreement.

B. AC Transit agrees to defend, indemnify, and hold harmless the SFMTA, and its officers, directors, agents, representatives, permitted assigns, and employees ("SFMTA Parties"), from any and all liability, loss, damage, expense, cost, (including, without limitation, costs and fees of litigation), claims, demands, obligations, suits, judgments, penalties, causes of action, or liabilities at any time received, incurred, or accrued by the SFMTA as a result of or arising out of the acts, omissions, use, occupancy, or operations of AC Transit on, about, or related to the Transit Center, except to the extent caused by the negligence or willful misconduct of the SFMTA. AC Transit's obligations under this Section shall survive the termination of this Agreement.

C. If either of the parties hereto receives a claim, demand, or suit for which the other party has hereinabove agreed to indemnify it, then the indemnitee shall notify the indemnitor of such claim, demand, or suit as soon after its receipt as is practicable, but in no event more than thirty (30) days after receipt of the claim, demand, or suit, and the indemnitor shall have the right to investigate, settle, compromise, satisfy, or defend the same. In any action or proceeding brought against any of the Additional Insureds by reason of any matter indemnified by the SFMTA pursuant to this Section, the SFMTA may, at its sole option, elect to defend such matter by SFMTA in-house attorneys, by other attorneys selected by the SFMTA, or both. The SFMTA shall have the right to control the defense and to determine the settlement or compromise of any such matter, provided that AC Transit shall have the right, but not the obligation, to participate in the defense of any such matter at its sole cost.

D. To the extent that the allocation of loss or liability between the parties hereto is for any reason not covered by the provisions hereof, the parties agree that the rights of implied indemnity and contribution provided by law shall be fully applicable to the relationship of the parties under this Agreement.

Section 15. Assignment and Subletting

The SFMTA shall not assign or transfer this Agreement or any part hereof in any manner whatsoever. Notwithstanding the foregoing, the SFMTA shall have the right to assign all or any part of its rights and interests under this Agreement to any successor to its services through

consolidation or reorganization or transfer of substantially all of its assets, or as required by legislative action, and the consent of AC Transit thereto shall not be required, but due notice of any such assignment shall be given to AC Transit within sixty (60) days after such assignment hereunder. This provision does not release SFMTA from any of its obligations with respect to the terms hereof.

Section 16. Encumbrances

The SFMTA shall not encumber the Designated Area in any manner whatsoever.

Section 17. No Personal Liability

No director, officer, agent or employee of either party shall be personally charged by or contractually liable to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution or attempted execution.

Section 18. Agreements with Governments and Others Related to the Transit Center

Except for the payment of rentals provided for herein, this Agreement is subject and subordinate to the provisions of any agreement and amendments thereto heretofore made between AC Transit and the United States or the State of California or the TJPA, relative to the construction, use, operation, funding, or maintenance of the Transit Center. However, any agreement or arrangement AC Transit makes with any federal, state, or local government, or any other entity or any agency thereof for the construction, use, operation, funding, or maintenance of the Transit Center, or any substantial part thereof, shall not substantially interfere with the SFMTA's rights under this Agreement.

Section 19. [Intentionally deleted]

Section 20. Governing Law

A. This Agreement shall be deemed to have been made in, and be construed in accordance with, the laws of the State of California.

B. In the event of a dispute or breach of contract that is not resolved pursuant to the arbitration provision herein, the parties agree that any state or federal district court located in Alameda County shall have exclusive jurisdiction over any case or controversy arising from,

under or in connection with this Agreement and shall be the sole and exclusive forum in which to adjudicate any such dispute(s).

C. The language of all parts of this Agreement shall be construed with its fair meaning and not strictly for or against AC Transit or the SFMTA.

Section 21. Notices

All notices required to be given to the SFMTA hereunder shall be in writing and given by registered mail addressed to the SFMTA as follows:

City and County of San Francisco
Municipal Transportation Agency
1 South Van Ness Avenue, 8th Floor
San Francisco, CA 94103
Attention: Manager of Strategic Real Estate

All notices required to be given to AC Transit hereunder shall be in writing and given by registered mail addressed to AC Transit as follows:

AC Transit
1600 Franklin Street
Oakland, California 94612
Attention: General Manager

Either party may designate in writing from time to time any changes in addresses or any addresses of substitute or supplementary persons in connection with said notices. The effective date of service of any such notice shall be the date such notice is mailed to the SFMTA, or to AC Transit. Any provision herein that one party shall notify the other of some matter is to be construed as a requirement that notice is to be given in accordance with the provisions of this Section.

Section 22. Waivers

No waiver of default by either party of any of the terms, covenants and conditions hereof to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept and observed by the other party.

Section 23. Force Majeure

Neither AC Transit nor the SFMTA shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of terrorism, riots, rebellion, sabotage or any other casualty which is not within its control (except financial inability); provided, however, that these provisions shall not excuse the SFMTA from payment of Rent.

Section 24. Invalid Provisions

In the event any covenant, condition, or provision herein contained is held to be invalid by an arbitrator or a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either AC Transit or the SFMTA in their respective rights and obligations contained in the valid covenants, conditions, and provisions of this Agreement.

Section 25. Headings

The headings of the several sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Agreement, and shall not be construed to affect in any manner the term and provisions hereof or the interpretation or construction thereof.

Section 26. Withholding Required Approvals

Whenever the approval of AC Transit or of the SFMTA is required herein, no such approval shall be unreasonably refused, withheld, or delayed.

Section 27. Subordination of Agreement

A. This Agreement and all rights of the SFMTA hereunder shall be expressly subject and subordinate to:

1. the lien of any pledge, transfer, hypothecation, or assignment made at any time by AC Transit to secure its obligations; and
2. any matters of record pertaining to the Transit Center in the Official Records of the City and County of San Francisco, California.

B. The SFMTA shall execute, acknowledge, and deliver any commercially reasonable instrument requested by AC Transit to evidence such subordination, but no such instrument shall be necessary to make such subordination effective.

C. The SFMTA further agrees to subordinate its interest in this Agreement to the lien of any future ground lessors or mortgagees encumbering the Designated Area, provided that AC Transit and/or the TJPA obtains, at its expense, a non-disturbance and attornment agreement that provides to the SFMTA all of the rights and obligations under this Agreement from any mortgagee or ground lessor of AC Transit or TJPA whose lien may have priority over this Agreement. Such agreement will be in form and substance reasonably acceptable to the SFMTA.

Section 28. [Reserved]

Section 29. Successors and Assigns

All of the terms, provisions, covenants, stipulations, conditions, and considerations in this Agreement shall extend to and bind the legal representatives, successors, and assigns of the respective parties hereto.

Section 30. Taxes, Assessments, and Liens

The SFMTA agrees to pay and discharge promptly all lawful taxes properly levied and to which the SFMTA is subject by reason of its use and occupancy of the Designated Area. The SFMTA further agrees not to permit or suffer any liens to be imposed upon the Designated Area as a result of its activities without promptly discharging the same; provided, however, that the SFMTA may, if it so desires, contest the legality of such taxes and liens without being in breach of this Agreement.

Section 31. Attorneys' Fees

A. If either party fails to perform any of its obligations under this Agreement or a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all arbitration or court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment).

B. For purposes of this Agreement, reasonable attorneys' fees of AC Transit's Office of the General Council shall be based on the fees regularly charged by private attorneys in Alameda County with the equivalent number of years of experience in the subject matter area of the law for which the AC Transit attorneys' services were rendered, and reasonable attorneys' fees of the San Francisco Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco and in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

C. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

Section 32. Exhibits

All exhibits referred to herein which may, from time to time, be referred to in any duly executed amendment hereto are (and with respect to future amendments, shall be) by such reference incorporated herein and shall be deemed a part of this Agreement as fully as if set forth herein.

Section 33. Amendment

This Agreement may be amended by a duly executed, mutual agreement of the parties to this Agreement in writing.

Section 34. Corporate Authority

Each party represents and warrants to the other that it has full right, authority, and capacity to execute and perform this Agreement; the execution and delivery of this Agreement has been duly authorized by all requisite actions of the party; the Agreement constitutes a valid, binding, and enforceable obligation of the party; and neither the execution of the Agreement nor the consummation of the Agreement violates any agreement, contract, or other restriction to which the party is bound.

Section 35. Recording

Neither AC Transit nor the SFMTA shall record this Agreement.

Section 36. Time of Essence

Time is of the essence of this Agreement and each and every provision of the Agreement.

Section 37. Entire Agreement

This Agreement, including the Exhibits attached, contains all the terms and provisions between AC Transit and the SFMTA relating to the matters set forth herein, and no prior or contemporaneous agreement or understanding pertaining to the same will be of any force or effect.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

LICENSOR:

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

By: _____

Michael Hursh
General Manager

APPROVED AS TO FORM AND CONTENT

By: _____

Denise Standridge
General Counsel

LICENSEE:

**CITY AND COUNTY OF SAN FRANCISCO, acting
by and through the San Francisco Municipal
Transportation Agency**

By: _____

Edward D. Reiskin
Director of Transportation

San Francisco Municipal Transportation Agency
Board of Directors

Resolution No: _____

Adopted: _____

Attest: _____

Secretary, SFMTA Board of Director

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____

Carol Wong
Deputy City Attorney

INSERT UPDATED EXHIBITS HERE

Exhibit A: [diagram of transit center property as a whole]

Exhibit B: [diagram of AC Transit lease of bus deck level]

Exhibit C: [diagram of SFMTA Designated Area and Operator Restrooms on the bus deck level]

Exhibit D: [Terminal Net Operating Expenses and proportional share calculation]

Exhibit E: [Additional Insureds]

Exhibit F: Salesforce Transit Center Rules and Regulations (10/12/17)

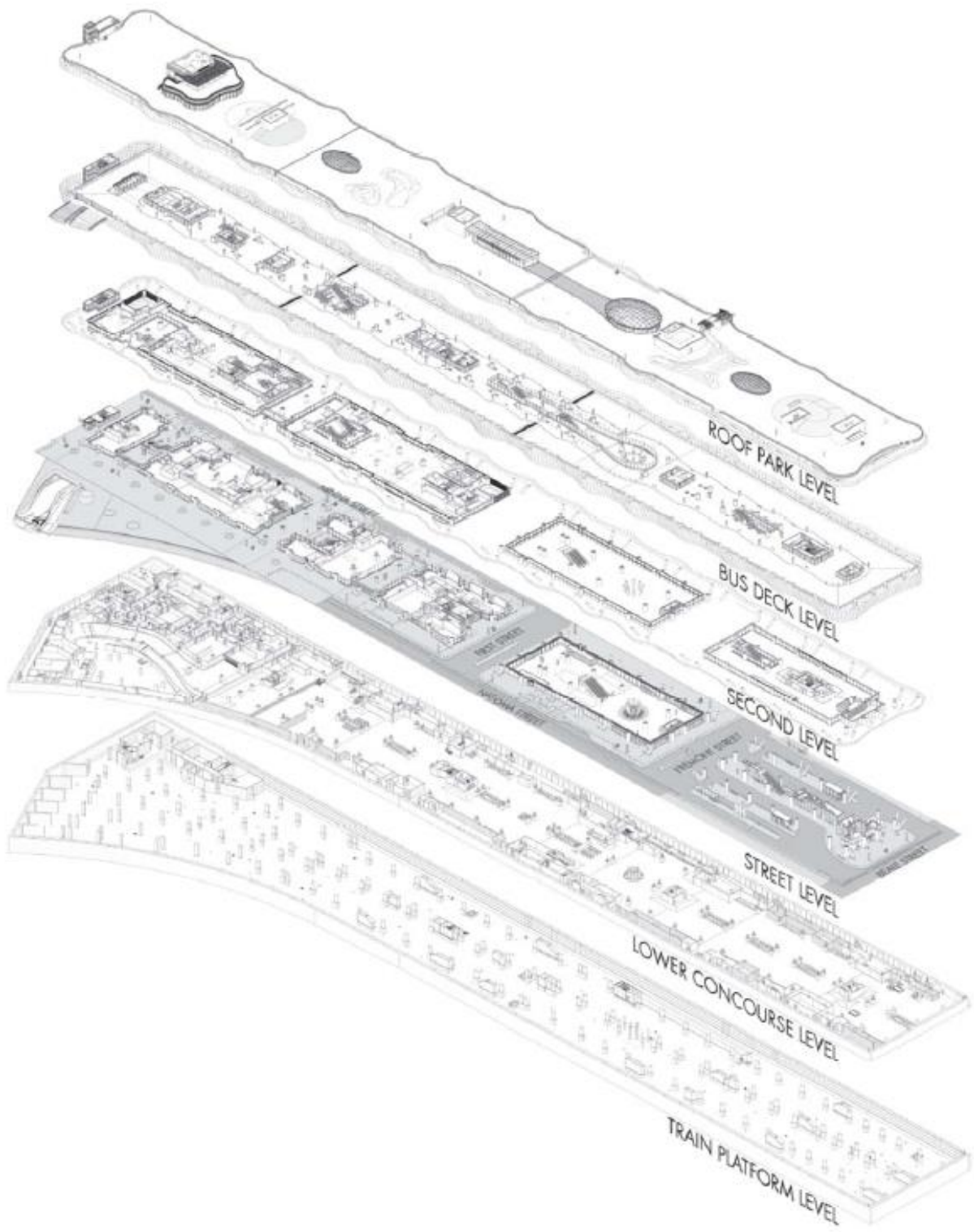
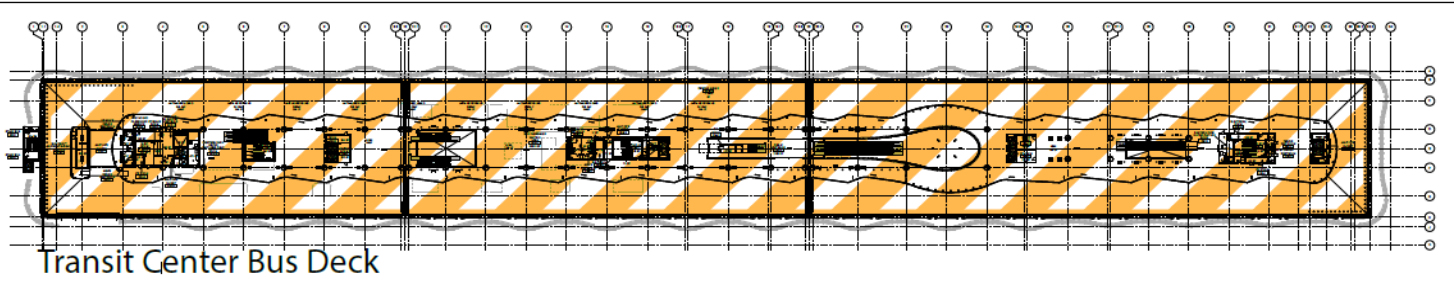


EXHIBIT A – THE PROPERTY




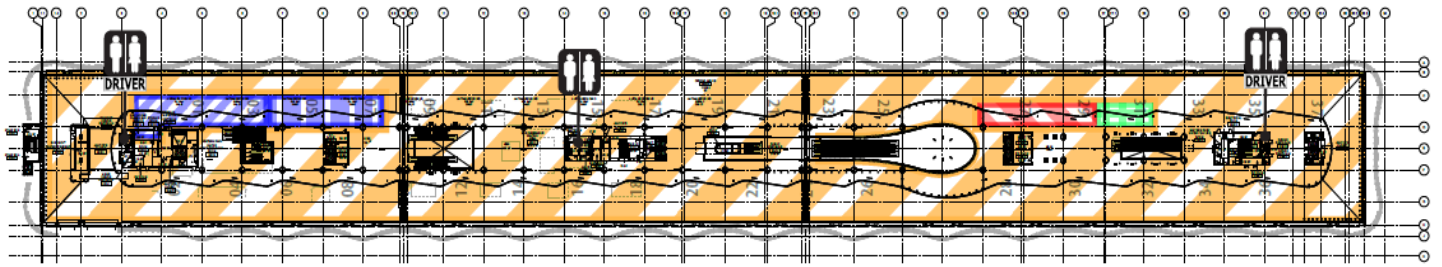
 AC TRANSIT
EXCLUSIVE USE AREA








EXHIBIT B - BUS DECK LEVEL



Transit Center Bus Deck

KEY

26 BUS BERTH ID

	AMTRAK (2 Berth) NON-EXCLUSIVE USE AREA		Driver Restrooms
	WESTCAT (1 Berth) NON-EXCLUSIVE USE AREA		Public Restrooms
	GREYHOUND (2 Berths + Office) NON-EXCLUSIVE USE AREA		
	SFMTA (2 Berths) NON-EXCLUSIVE USE AREA		
	AC TRANSIT (30 Berths) NON-EXCLUSIVE USE AREA		

0 50 100 200
Scale in feet



EXHIBIT C
BUS DECK DESIGNATED LICENSE AREAS

Graphic:ITTC Lease Areas

Transbay Transit Center Transit Operator Space Allocations						
Square Footage		Bus Deck and Bus Plaza Summary				
			Number of Bus Spaces	Percent of Exclusive Area	Exclusive Area (SF)	
Bus Deck	198,706					
Bus Plaza	50,436	Bus Deck - AC Transit	37	78.2%	198,706	
Total Exclusive Use Area	249,142	AC Transit - Actual Expected	30	63.4%	161,100	
		Greyhound *	2	4.2%	10,741	
Total Bus Bays and Spaces		Amtrak *	2	4.2%	10,741	
Bus Deck	37	WestCAT Lynx	1	2.1%	5,370	
Bus Plaza	10	SFMTA - Bus Deck	2	4.2%	10,741	
Total	47	Bus Plaza - SFMTA	10	19.8%	50,436	
		Loss of Bus Island - SFMTA	—	2.0%	—	
		Totals	47	100.0%	249,142	

Notes:

- SFMTA's total share is expected to be 21.8% – 19.8% for the Bus Plaza and 2.0% for loss of the Fremont Street Bus Island. The allocation assumes SFMTA will bear the 2% share that TJPA had previously assumed would be generated from SamTrans use of the Fremont Street bus island, as a result of SFMTA's request that TJPA and SamTrans agree to eliminate the bus island.
- Percentage allocations provided are reliant on all transit operators coming to agreement. To the extent that any one operator declines to contribute its fair share to the operating cost of the transit center or an operator assumes more (or less) bus bays than assumed, the burden on each other operator will necessarily be affected.
- The percentages were determined based on the number of bus bays occupied within the bus deck or bus plaza, with square footage allocated based on the number of bus bays used by a the transit operator within either the bus plaza or bus deck, divided by the total number of bus bays in the respective exclusive use area, multiplied by the total square footage of the respective exclusive use area.
- We assume that AC Transit is the primary tenant of the bus deck level, and that AC Transit would sublease/license bus deck space to Greyhound, Amtrak, WestCAT, and SFMTA; and that SFMTA is the primary tenant of the bus plaza level.
- The allocation among AC Transit and its subtenants/licensees is for illustrative purposes only—it shows what the allocation would be for each if AC Transit's rent obligation were divided according to the exclusive use formula based on the number of bus bays used by each operator. AC Transit, however, will be responsible to TJPA for the entirety of its share. AC Transit may elect to charge rent to Greyhound, Amtrak, or other private operators using a basis other than the formula described here.

* Private and quasi-private entities shall assume the greater of either (a) a pro-rata share of the Primary Tenant's Operating Charge based on the ratio of the private operator's space to the Primary Tenant's Exclusive Use Space, or (b) an amount equal to a specified dollars per square foot of the private operator's space.

EXHIBIT D – Proportional Share Calculation

EXHIBIT E
Additional Insureds

Transbay Joint Powers Authority

Alameda-Contra Costa Transit District

Peninsula Corridor Joint Powers Board - Caltrain State of

California, Department of Transportation

Trustee, the Series 1 Holders, the LC Banks and the Direct Placement Banks, and their officers, agents and employees, as those terms are defined in the “Sublease – TJPA Property, dated as of January 1, 2017, by and between U.S. Bank National Association, in its capacity as Trustee, as Sublessor, and City and County of San Francisco, as Sublessee” recorded in the official records of the City and County of San Francisco on January 17, 2017 as document number 2017-K395369

United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau

Salesforce.com and all legal entities controlling, controlled by, or under common control with, directly or indirectly, salesforce.com

All of the officers, directors, agents, representatives, permitted assigns, and employees of each of the above.

The Additional Insureds listed in this Exhibit shall also include such other parties as the TJPA may request from time to time.

Exhibit F – Rules and Regulations

SALESFORCE TRANSIT CENTER

TENANT RULES AND REGULATIONS

(version October 12, 2017)

1. These Tenant Rules and Regulations (“Tenant Rules”) shall apply to Tenant and all of its employees, agents, visitors, guests, customers, licensees, contractors, or invitees (collectively, “Tenant Invitees”); all references to “Tenant” are intended to also apply to any Tenant Invitees. Tenant is responsible for ensuring that its Tenant Invitees are informed of and comply with these Tenant Rules.

2. The sidewalks, halls, passages, exits, entrances, elevators and stairways of the transit center shall not be obstructed or used for any purpose other than for ingress or egress in the manner for which they were designed.

3. No sign, placard, picture, advertisement, name, or notice (except legally required notices), or other items shall be placed, inscribed, displayed, printed, or affixed on or near any window, door, partition or wall which may appear unsightly from outside the premises leased to Tenant (“Premises”). No curtains, draperies, blinds, shutters, shades, screens, sunscreens or other coverings, hangings or decorations shall be attached to, hung or placed in or used in connection with any window of the transit center or Premises. No awning, canopy or other projection of any kind over or around the windows or entrances of the Premises shall be installed.

4. The Premises shall not be used for lodging or sleeping, for washing clothes or for any improper, objectionable, or illegal purposes, and, unless ancillary to a restaurant or other food service use specifically authorized in the Lease, no cooking shall be done or permitted in the Premises, except that the preparation of coffee, tea, hot chocolate and similar items for Tenant and its employees shall be permitted, provided that Tenant uses Underwriter’s Laboratory-approved equipment in accordance with all applicable laws and codes and otherwise complies with these Tenant Rules.

5. The toilet rooms, toilets, urinals, wash bowls and other plumbing facilities and apparatus shall not be used for any purpose other than that for which they were constructed, no grease or other foreign substance of any kind whatsoever shall be deposited therein, and the expense of any breakage, stoppage or damage (whether on or off the Premises) resulting from violation of this rule by Tenant shall be paid for by Tenant.

6. No additional locks or bolts of any kind shall be placed upon any of the doors or windows, nor shall any changes be made in existing locks or the mechanisms thereof. Tenant shall not duplicate any keys or access cards provided to it. Each Tenant must, upon the termination of its tenancy, give to the Landlord all keys and access cards to doors in the transit center and the Premises, either furnished to, or otherwise procured by, such Tenant, and in the event of the loss of any keys or access cards so furnished, such Tenant shall pay the Landlord the cost of replacing the same or changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such change. Tenant shall bear all liability for claims or injuries resulting from misuse of keys or access cards.

7. All doors and windows of the Premises shall be closed and securely locked during all times when the business is not open to the public, and Tenant shall bear all liability for claims or injuries resulting from such failure or carelessness.

8. All water faucets, water apparatus, equipment, and appliances that are not designed to be left unattended shall be shut off when not in use, and Tenant shall bear all liability for claims or injuries resulting from such failure or carelessness.

9. No kerosene, gasoline or flammable, combustible, or explosive fluids or materials shall be used, kept, or stored in the Premises, other than a commercially reasonable supply of chemicals that are typically used for office machines and for cleaning. Tenant shall install and maintain within the Premises, at Tenant's cost and expense, visibly marked, properly operational fire extinguishers next to all duplicating or photocopy machines, and any other heat producing equipment, and as required by code or the Fire Department.

10. No penetration of the roof of the transit center is permitted. No boring or cutting for telephone, telegraph or electric wires, or for any pipes, plumbing, ventilation or for any other similar intrusions will be allowed without the consent of Landlord, and any such intrusions that are permitted shall be introduced at the place and in the manner approved by Landlord. The location of telephones, call boxes and all other equipment affixed to the Premises shall be subject to the approval of Landlord, which shall not be unreasonably withheld.

11. No sale of newspapers, magazines, periodicals, theater tickets or any other goods, merchandise or service is permitted from the hallways, foyers, sidewalks, or other common spaces of the transit center adjacent to the Premises. No display or sale of merchandise, or placement or storage of carts, portable signs, devices or any other objects is permitted outside the defined exterior walls, roof and permanent doorways of the Premises.

12. The Premises shall not be used for manufacturing of any kind, including manufacture or sale of narcotics or tobacco in any form, or for any business or activity other than that specifically provided for in the Lease.

13. No use or operation of any vending or coin operated machines, video or mechanical games, or automated teller machines shall be permitted on the Premises.

14. Landlord shall have the right to prohibit any advertising by any Tenant which, in Landlord's opinion, tends to impair the reputation of the transit center or its desirability as a transit center and retail complex. Upon written notice from Landlord, any such Tenant shall refrain from or discontinue such advertising.

15. No radio or television antenna, loudspeaker or other device may be installed on the roof or exterior walls of the Premises or the transit center. No advertising method shall be utilized in the Premises which can be heard or perceived outside the Premises, including without limitation flashing lights, searchlights, loudspeakers, phonographs, radios or television equipment.

16. No canvassing, soliciting, peddling or distribution of handbills or any other written material outside the Premises is permitted.

17. In any interior space in the transit center, Tenant shall not use any hand trucks or other transport equipment, except those equipped with air-filled or soft rubber tires and side guards. All hand trucks or other transport equipment shall be permanently marked with Tenant name. No other vehicles of any kind shall be brought into the transit center or kept in or about the Premises.

18. All loading, unloading and delivery of merchandise, supplies, materials, garbage and refuse shall be made only through such entryways and elevators and at such times as Landlord shall designate.

While loading and unloading, Tenant shall not obstruct or permit the obstruction of the entryways to the transit center or any tenant's space therein. Tenant expressly assumes (i) all risk of damage to any and all articles so loaded, unloaded or delivered, and (ii) all risk of injury incidental to any such loading, unloading or delivery, whether or not such injured person is engaged in such activity, and Tenant shall repair at its cost and expense any damage to the transit center resulting from such activities.

19. Landlord shall have the right to prescribe the weight, size and position of all equipment, materials, supplies, furniture or other property brought into the transit center. All deliveries, removals, or the carrying in or out of any stock, equipment, freight, furniture, safes, or bulky matter of any description must take place in the manner and during the hours which the Landlord may determine from time to time. The moving of safes, furniture, or other fixtures or bulky matter of any kind must be made upon previous notice to the Landlord and under Landlord's supervision, and the person employed by Tenant for such work must be acceptable to the Landlord. Tenant expressly assumes (i) all risk of damage to any and all articles moved, and (ii) all risk of injury incidental to any such moving, whether or not such injured person is engaged in such activity, and Tenant shall repair at its cost and expense any damage to the transit center resulting from such activities.

20. Tenant shall store, remove, and dispose of its waste and recyclables following Landlord's current waste and recycling procedures, which are subject to change from time to time. Among other things, Tenant shall store all waste and recyclables within the Premises until removal. Tenant shall only place waste and recyclables outside the Premises in locations and containers approved by Landlord. No material shall be placed in waste containers if the material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of waste and recyclable, or in violation of any law or ordinance governing disposal. If Tenant generates waste or recyclables that require special hauling (e.g., furniture, fixtures, and equipment), Tenant must coordinate such disposal in advance with the designated hauling provided; such materials may not be left in the common area loading dock. All waste and recyclables shall be disposed only through entry ways and elevators provided for such purpose and at such times as Landlord shall designate.

21. Tenant shall not permit waste of the Premises; Tenant shall regularly conduct cleaning and janitorial activities, especially in bathrooms, kitchens and janitorial spaces to remove mildew and prevent moist conditions.

22. No animals shall be permitted in the Premises, except for guide or signal dogs in use by a person with a disability.

23. Tenant shall not (i) use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, (ii) permit or suffer the Premises to be occupied or used in any manner offensive or objectionable to Landlord and other tenants of the transit center by reason of noise, odors, fumes, smoke, vapors or unusual lights, including without limitation spotlights and/or vibrations, or (iii) interfere in any way with other tenants of the transit center.

24. All electrical ceiling fixtures hung in the Premises must be of a quality, type, design, and bulb color approved by Landlord.

25. Tenant shall immediately, upon request from Landlord (which request need not be in writing), reduce its lighting in the Premises for temporary periods designated by Landlord, when required in Landlord's judgment to prevent overloads of the mechanical or electrical systems of the transit center.

26. Tenant shall cooperate with Landlord's efforts to implement the Building's Sustainability Practices and the applicable Green Building Standards, if any, including, but not limited to, complying with

Landlord's then-current energy saving efforts and participating in any recycling programs and occupant satisfaction and transportation surveys.

27. No heating or air conditioning unit or other similar apparatus shall be installed or used in the Premises.

28. Landlord reserves the right to select the name of the transit center and to make such change or changes of name as it may deem appropriate from time to time, and to adopt naming rights guidelines regarding the use of the transit center name that must be followed by Tenant.

29. No smoking (including use of e cigarettes and smokeless cigarettes) is permitted in the transit center, including the Premises, or within 25 feet of any entrance to the transit center, public walkways or the transit center's outdoor air intakes.

30. Tenant shall be solely responsible for providing and paying for all security personnel, devices, and systems that Tenant deems necessary for the protection of the Premises. Tenant supplied security shall coordinate with the TJPA Chief Security Officer.

31. Tenants are required to participate in the transit center's Trusted Access Program, badging, and other security, safety, and emergency preparedness programs. Landlord reserves the right to modify such programs over time.

32. Landlord intends to uniformly apply and enforce these Tenant Rules among all similarly-situated Tenants. Landlord may, however, waive any one (1) or more of the rules and regulations for the benefit of any particular Tenant where Landlord deems reasonable in a particular circumstance; no such waiver by Landlord shall be construed as a waiver of the rules and regulations in favor of any other Tenant, nor prevent Landlord from thereafter enforcing any rule or regulation against any or all of the Tenants of the transit center.

33. These Tenant Rules and are intended to supplement the terms and conditions of a Tenant's lease. In the event of any conflict between the Tenant's lease and these Tenant Rules, the lease controls.

34. Landlord reserves the right to modify or rescind any of these Tenant Rules and to make future rules and regulations as in its reasonable judgment may from time to time be reasonably necessary or desirable for the safety, care or cleanliness of the transit center, or for the preservation of good order therein. Such new or modified rules and regulations, when made and written notice thereof is given to Tenant, shall be binding on Tenant.