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**CANDLESTICK POINT STATE RECREATION AREA  
RECONFIGURATION, IMPROVEMENT AND TRANSFER AGREEMENT**

This CANDLESTICK POINT STATE RECREATION AREA RECONFIGURATION, IMPROVEMENT AND TRANSFER AGREEMENT (“Reconfiguration Agreement” or “Agreement”) is dated for reference as of \_\_\_\_\_, 2010. The parties to this Reconfiguration Agreement (each individually a “Party,” and collectively “Parties”) are the State of California, acting by and through the State Lands Commission (“Commission”); the State of California, acting by and through the Department of Parks and Recreation (“State Parks”); and the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic (“Agency”). This Reconfiguration Agreement is entered into pursuant to Chapter 203 of the Statutes of 2009 (“SB 792”).

**RECITALS**

A. This Reconfiguration Agreement concerns the real property located in the City and County of San Francisco (“City”) within the area commonly known as Candlestick Point, including certain lands within Candlestick Point State Recreation Area (“CPSRA”). The purpose of this Reconfiguration Agreement is to provide for the reconfiguration and improvement of the CPSRA, and to facilitate the redevelopment of areas surrounding the CPSRA, in accordance with SB 792. In addition to the conveyances described in this Reconfiguration Agreement, an integral part of the reconfiguration contemplated by SB 792 will be implemented pursuant to that certain Hunters Point Shipyard/Candlestick Point Title Settlement, Public Trust Exchange and Boundary

Line Agreement, recorded in the in the office of the City and County of San Francisco Recorder on \_\_\_\_\_ in Book \_\_\_\_\_ Document No. \_\_\_\_\_ (“Trust Exchange Agreement”).

B. SB 792 authorizes the director of State Parks (“Director”) to enter into an agreement for the transfer of certain lands within the CPSRA to the Agency in exchange for the transfer of lands from the Agency to State Parks, funding for operation and maintenance of the CPSRA, funding for the planning and construction of improvements to be added to the CPSRA, and other consideration, having an aggregate value of at least \$50 million, provided the agreement will result in an overall benefit to the CPSRA and meets certain other requirements. Consistent with SB 792, this Reconfiguration Agreement contemplates the conveyance from the State to the Agency of certain parcels currently within CPSRA (each a “Transfer Parcel” and collectively, the “Transfer Parcels”) in exchange for the conveyance from the Agency to the State of certain other parcels that are not presently included within the CPSRA, but are adjacent to the current CPSRA boundary (each an “Addition Parcel” and collectively the “Addition Parcels”). The Transfer Parcels are described and depicted in **Exhibit A** (“Legal Description and Illustrative Plat of Transfer Parcels”). The Addition Parcels consist of lands adjacent to the CPSRA near Yosemite Slough (“Yosemite Slough Addition Parcels”), described and depicted in **Exhibit B** (“Legal Description and Illustrative Plat of Yosemite Slough Addition Parcels”), and lands adjacent to the park’s southern shoreline (“Park Addition Parcels”), depicted in **Exhibit C** (“Illustrative Plat of Park Addition Parcels”). Fee title to the Yosemite Slough Addition Parcels is presently claimed by the City. The City’s interest in those parcels will be transferred to the Agency pursuant to the Trust Exchange Agreement. The Park Addition Parcels are presently owned by the City, a portion of which is currently leased to the San Francisco Forty Niners football team (“49ers”). By separate agreement, the City is obligated to convey the Park Addition Parcels to the Agency if and when the 49ers lease expires or terminates and the 49ers have vacated the lease premises.

C. In addition to authorizing the reconfiguration of the CPSRA, SB 792 authorizes an exchange of lands among the Agency, the Commission, State Parks, and the City to establish the Public Trust (as defined below) on certain lands, and terminate the Public Trust in certain other lands, within Candlestick Point and the Shipyard (“Subject Area”), which exchange shall be conducted pursuant to the Trust Exchange Agreement. Under SB 792, Public Trust lands may be held by the Agency subject to the Public Trust, and subject to the “applicable statutory trust” as that term is defined in SB 792 (“Statutory Trust”). By the Trust Exchange Agreement, State Parks, the Commission and the Agency have agreed to make certain conveyances of lands for the purpose of impressing certain lands with the Public Trust and terminating the Public Trust in certain other lands as authorized by SB 792 (“Trust Exchange”). The respective ownership interests of State Parks and the Commission in CPSRA following the Trust Exchange are depicted in **Exhibit D** (“Illustrative Plat of Ownership Interests within the CPSRA following Trust Exchange”). This Reconfiguration Agreement provides that, prior to or concurrently with the conveyance of lands under this Reconfiguration Agreement, the Trust Exchange shall have occurred as to the lands to be conveyed.

D. A substantial portion of the lands at Candlestick Point, including most of the lands within the CPSRA, were historically tide and submerged lands held by the State by virtue of its

sovereignty, subject to the public trust for commerce, navigation and fisheries (“Public Trust”). Pursuant to various state statutes, the state sovereign lands at Candlestick Point were either conveyed into private ownership, or were reserved by the State for streets or other public purposes and subsequently granted and conveyed to the City. Certain of these conveyances were intended to terminate the Public Trust in the lands conveyed. However, certain lands were conveyed to the City pursuant to Chapter 1333 of the Statutes of 1968 (“Burton Act”), which granted the lands to the City subject to the Public Trust.

E. In 1973, the Legislature authorized State Parks to acquire and develop real property at Candlestick Point for the state park system. State Parks subsequently acquired private lands along the shoreline of Candlestick Point to create the CPSRA. In 1984, the City conveyed back to the State those lands within the CPSRA boundaries that had previously been granted to the City, including lands granted pursuant to the Burton Act. Those portions of the CPSRA that are subject to the Public Trust are currently held by the Commission and are leased to State Parks. The remaining lands within the CPSRA are held in fee by State Parks.

F. The CPSRA was the first California state park unit developed in an urban environment and is a critical component of the state park system. Between 1979 and 1981, State Parks received grants from the federal Land and Water Conservation Fund (“LWCF”) to assist with the development of trails, picnic areas, utilities, and other amenities within an approximately 35-acre portion of the CPSRA. At present, however, much of the CPSRA is underutilized and in need of substantial improvement, restoration, and reconfiguration. A substantial portion of the CPSRA, including most of the land comprising the Transfer Parcels, currently serves as a parking area for events at the adjacent football stadium. In other areas, specifically those portions of the CPSRA adjacent to the Park Addition Parcels, the CPSRA does not contain enough land adjacent to the shoreline to provide the desired level of public access. The CPSRA also lacks needed improvements, and many of the improvements that do exist are in a state of disrepair. In addition, the CPSRA lacks an adequate and reliable funding stream to support the operation and maintenance of the CPSRA.

G. The park reconfiguration, improvements to the CPSRA, and operation and maintenance funding for the CPSRA called for in this Agreement are part of a larger redevelopment program for Candlestick Point and the adjacent Hunters Point Naval Shipyard (“Shipyard”) initiated by the City and the Agency. The redevelopment program is the product of many years of community planning efforts. In June 2008, the voters of the City approved Proposition G, the “Mixed Use Development Project for Candlestick Point and Hunters Point Shipyard.” Proposition G calls for the redevelopment of Candlestick Point and the Shipyard to provide, among other things, new business, employment and affordable housing opportunities for the Bayview Hunters Point community and the City, as well as major improvements to the CPSRA to enhance public access to the waterfront. Following an extensive public review process, the Agency certified an environmental impact report for a proposed mixed-use development on the Shipyard and Candlestick Point consistent with Proposition G (the “Project”). Among the public benefits of the Project is approximately 226 to 336 acres of new or improved public parks and open spaces. The Agency and CP Development Co., L.P., a Delaware limited partnership (“Developer”) have entered into a Disposition and Development Agreement (“DDA”) and

related transaction documents to effectuate the Project, and the City and the Agency have approved initial land use entitlements for the Project.

H. SB 792 requires that the State receive consideration having a value that equals or exceeds the greater of either the fair market value of the State property conveyed or \$50,000,000. An appraisal of the Project site, including the Transfer Parcels, entitled “Appraisal Report, Hunters Point Shipyard/ Candlestick Point Redevelopment Project Site, San Francisco, California”, and dated **[insert date]**, was prepared by Clifford Associates and was reviewed and approved by the Real Estate Services Division of the Department of General Services. Based on the appraisal, the fair market value of the Transfer Parcels is substantially below \$50,000,000. Accordingly, this Agreement provides for consideration having a value of at least \$50,000,000 if all Transfer Parcels are conveyed to the Agency.

I. The reconfiguration contemplated by this Reconfiguration Agreement, including the conveyance of the Yosemite Slough Addition Parcels and Park Addition Parcels to the State, will result in a configuration of the CPSRA that substantially conforms to the configuration shown on the diagram included as Section 27 of SB 792 and more particularly illustrated on the map on file with the City’s planning department entitled “Proposed State Park Land Exchange” and dated September 3, 2009, a copy of which is attached hereto as **Exhibit E** (“Statutory Configuration”).

J. This Agreement permits the conveyances described herein to occur in a series of phased closings. The initial closing provides for the conveyance to the Agency of the lands depicted as “Initial Closing Phase” in **Exhibit F** (“Illustrative Plat of Phase Areas”) and more particularly described in **Exhibit S** (“Legal Description and Illustrative Plat of Initial Transfer Parcels”). Subsequent closings may occur in one or more later phases. The amount of consideration, other than real property, that is provided to State Parks at each closing will be prorated based on the area of land conveyed to the Agency and removed from the CPSRA in that closing, in proportion to the total area of the Transfer Parcels. Each subsequent closing will consist of the lands within the boundaries of one or more of the areas depicted in **Exhibit F** (each a “Phase Area”), as those boundaries may be modified in accordance with this Reconfiguration Agreement.

K. A portion of the Transfer Parcels located approximately within the Arelious Walker Drive right-of-way, referred to as the “Walker Drive State Parks Transfer Parcel” and the “Walker Drive Commission Transfer Parcel” (collectively “Walker Drive Transfer Parcels”) and depicted in **Exhibit G** (“Illustrative Plat of Walker Drive Transfer Parcels”), is the location of the north and south approaches to a proposed bridge spanning Yosemite Slough (“Bridge”). This Agreement provides for the reverter of the Walker Drive Transfer Parcels from the Agency to the State if construction of the Bridge has not proceeded in accordance with the terms set forth herein.

L. Improvements within the CPSRA are governed by the CPSRA General Plan, which was last amended in 1988 (“1988 CPSRA General Plan”). State Parks is currently undertaking an amendment of the 1988 CPSRA General Plan. Designation of those improvements to be constructed in the CPSRA pursuant to this Reconfiguration Agreement will occur after the amendment of the CPSRA General Plan. In the event a closing occurs prior to the completion of the CPSRA General Plan amendment process, and the subsequent designation of specific improvements to be constructed or funded by the Agency, this Agreement requires the Agency to

provide State Parks with a cash deposit or other security to be used for the construction of improvements .

M. A portion of the CPSRA is the site of the Yosemite Slough Restoration Project (“Restoration Project”), a joint project of the California State Parks Foundation, a California nonprofit public benefit corporation (“CSPF”), and State Parks. The purpose of the Restoration Project is to restore tidal wetlands and associated wildlife habitat around Yosemite Slough (or “Slough”), provide public access thereto, and to provide mitigation for certain public projects affecting the San Francisco Bay. This Agreement includes provisions to ensure that the design and construction of the Bridge is coordinated with the implementation of the Restoration Project and will incorporate design elements that are consistent with the objectives of the Restoration Project.

N. The Agency approved execution of an agreement substantially in the form of this Agreement through Agency Resolution \_\_\_\_\_, adopted by the Agency on June 3, 2010.

O. The Commission approved execution of an agreement substantially in the form of this Agreement on \_\_\_\_\_.

## AGREEMENT

1. Definitions. Terms in this Agreement are defined as they appear herein. **Exhibit V** (“Definitions”) contains a list of defined terms and the sections in which they are defined.

2. Conveyance of the Transfer Parcels to Agency. In accordance with and subject to the phasing procedures described in Section 5, the closing procedures described in Section 12, the conditions of closing described in Section 13, and the other terms, conditions and covenants of this Agreement, the State shall convey the Transfer Parcels to the Agency as follows:

2.1 The Commission shall convey, remise, release, and forever quitclaim to the Agency, in trust, all of the State’s right, title, and interest existing by virtue of its sovereignty, or otherwise, the real property described and depicted as “Commission Transfer Parcels” in **Exhibit A**, subject to the Public Trust and the Statutory Trust. A conveyance made pursuant to this paragraph shall be by patent in the form of **Exhibit H** (“Form of Patent of Commission Transfer Parcels”), except that, with respect to the Walker Drive Commission Transfer Parcel, the patent shall be in the form of **Exhibit I** (“Form of Patent of Walker Drive Commission Transfer Parcels”) and shall provide that the Commission retains a power of termination, pursuant to which the Commission shall have the power to re-enter and take possession and title to the Walker Drive Commission Transfer Parcel, at no cost to the Commission, if substantial physical construction of the Bridge as part of a sustained and continuous construction plan (i) has not commenced on or before June 1, 2025, or such later date as the Commission and the Agency may agree in writing, or (ii) after June 1, 2025, is not diligently prosecuted to completion, subject to force majeure. The conveyance of the Commission Transfer Parcels shall be accepted by the Agency upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit J** (“Form of Agency’s Certificate of Acceptance of Commission Transfer Parcels”).

2.2 State Parks shall convey, remise, release, and forever quitclaim to the Agency all of the State's right, title, and interest in the real property described and depicted as "State Parks Transfer Parcel" in **Exhibit A**. A conveyance made pursuant to this paragraph shall be by quitclaim deed in the form of **Exhibit K** ("Form of Quitclaim Deed of State Parks Transfer Parcels"), except that, with respect to the Walker Drive State Parks Transfer Parcel, the quitclaim deed shall be in the form of **Exhibit L** ("Form of Quitclaim Deed of Walker Drive State Parks Transfer Parcel") and shall provide that State Parks retains a power of termination, pursuant to which State Parks shall have the power to re-enter and take possession and title to the Walker Drive State Parks Transfer Parcel, at no cost to State Parks, if substantial physical construction of the Bridge as part of a sustained and continuous construction plan (i) has not commenced on or before June 1, 2025, or such later date as the State Parks and the Agency may agree in writing, or (ii) after June 1, 2025, is not diligently prosecuted to completion, subject to force majeure. The conveyance of the State Parks Transfer Parcels shall be accepted by the Agency upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit M** ("Form of Agency's Certificate of Acceptance of State Parks Transfer Parcels").

2.3 For any Transfer Parcel that the Agency determines may include lands that were previously transferred by the State pursuant to Chapter 2 of the Statutes of 1958, First Extraordinary Session ("1958 Act"), and may be subject to restrictions or other encumbrances on title arising from or imposed pursuant to Section 3 of the 1958 Act, the Commission shall, as part of the closing involving such Transfer Parcel, take all reasonably necessary actions to remove such restrictions and encumbrances from the Transfer Parcel in accordance with section 28 of SB 792, which actions may include, without limitation, a quitclaim to the Agency of the Transfer Parcel terminating any such restrictions and encumbrances.

3. **Conveyance of the Addition Parcels to State.** In accordance with and subject to the phasing procedures described in Section 5, the closing procedures described in Section 12, the conditions of closing described in Section 13, and the other terms, conditions and covenants of this Reconfiguration Agreement, the Agency shall convey the Addition Parcels to the State as follows:

3.1 The Agency shall convey, remise, release, and forever quitclaim to the Commission all of its right, title, and interest in the real property described and depicted as "Yosemite Slough Addition Public Trust Parcel" in **Exhibit B** and the real property depicted as "Park Addition Public Trust Parcel" in **Exhibit C**. A conveyance made pursuant to this paragraph shall be by quitclaim deed in the form of **Exhibit N** ("Form of Quitclaim Deed for Yosemite Slough Addition/Park Addition Public Trust Parcels").

3.2 The Commission shall accept the conveyances of the Yosemite Slough Addition Public Trust Parcel and the Park Addition Public Trust Parcel upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit O** ("Form of Commission's Certificate of Acceptance for Yosemite Slough Addition/Park Addition Public Trust Parcels").

3.3 The Agency shall convey, remise, release, and forever quitclaim to State Parks all of its right, title, and interest in the real property described and depicted as "Yosemite Slough Trust Termination Parcel" in **Exhibit B** and the real property depicted as "Park Addition Trust Termination Parcel" in **Exhibit C**. A conveyance made pursuant to this paragraph shall be by

quitclaim deed in the form of **Exhibit P** (“Form of Quitclaim Deed for Yosemite Slough Addition/Park Addition Trust Termination Parcels”).

3.4 State Parks shall accept the conveyances of the Yosemite Slough Addition Trust Termination Parcel and the Park Addition Trust Termination Parcel upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit Q** (“Form of State Parks’ Certificate of Acceptance of Yosemite Slough Addition/Park Addition Trust Termination Parcels”).

3.5 The Commission shall lease the Yosemite Slough Addition Public Trust Parcel and the Park Addition Public Trust Parcel to State Parks for a term of 66 years, and State Parks shall accept the lease. The lease shall be substantially in the form of **Exhibit R** (“Form of Lease from Commission to State Parks”).

3.6 If the portion of the Trust Exchange pertaining to the Yosemite Slough Addition Parcels or the Park Addition Parcels is to occur concurrently with the conveyances of those parcels under this Reconfiguration Agreement, the Parties may, by mutual agreement, consolidate the required conveyances as appropriate to simplify the transaction, provided the agreed conveyances are consistent with the intent of the Trust Exchange Agreement and this Reconfiguration Agreement.

4. Additional Park Consideration. In further consideration for the conveyance of the Transfer Parcels to the Agency, and in accordance with and subject to the phasing procedures described in Section 5, the closing procedures described in Section 12, the conditions of closing described in Section 13, and the other terms, conditions and covenants of this Agreement, the Agency shall additionally provide the following consideration (“Additional Park Consideration”):

4.1 Ten million dollars (\$10,000,000) to be invested and disbursed in the manner agreed by State Parks and the Agency in accordance with Section 14 of this Agreement, for the exclusive purpose of providing a dedicated source for future funding for the operation and maintenance of the CPSRA (“O&M Funding”).

4.2 Forty million dollars (\$40,000,000) for planning and constructing park-related improvements within the CPSRA, which may be provided in kind by the performance of construction (and the provision of security before the start of construction) (“Park Improvement Commitment”), and for the State’s legal, transactional, planning, or other costs associated with actions carried out pursuant to Section 26 of SB 792 (“Reimbursement Amount”), all in the manner prescribed by Section 6 of this Agreement.

5. Phasing

5.1 General. The conveyances and provision of consideration described in Sections 2, 3, and 4 of this Agreement will occur in a series of phased closings (each a “Closing Phase”), subject to the terms and conditions of this Agreement. The timing of the Closing Phases is to be determined by the Agency, with Closing Phases expected to proceed concurrently with the phased redevelopment currently planned for Candlestick Point. Each Closing Phase will consist

of the conveyance of the lands within one or more of the four Phase Areas depicted in **Exhibit F**. The area depicted as “Phase Area 2A” in **Exhibit F** shall be included as part of Phase 2, except as provided in Section 5.4(b). At each Closing Phase, subject to the conditions of closing set forth in this Agreement, the Parties’ obligations shall be as follows:

a. The Parties shall be obligated to convey only those portions of the Transfer Parcels that lie within the boundaries of the Phase Area applicable to that Closing Phase.

b. The Agency shall provide Additional Park Consideration in an amount totaling at least [**\$1,862,891.20**] per acre of land being conveyed to the Agency and removed from the CPSRA in that Closing Phase (“Minimum Amount”). The Minimum Amount reflects the pro rata share per acre of the total \$50,000,000 Additional Park Consideration, as applied across the [**26.84**] acres comprising the Transfer Parcels. *[Following the completion of surveys, the Parties will revise the bracketed numbers as necessary to reflect survey results.]*

5.2 **Initial Closing.** At the initial Closing Phase (“Initial Closing Phase”), State Parks and the Commission shall each convey to the Agency those portions of the State Parks Transfer Parcels and Commission Transfer Parcels, respectively, lying within the boundaries of the Initial Closing Phase Area depicted in **Exhibit F** (collectively, “Initial Transfer Parcels”). The Initial Transfer Parcels consist of the State Parks Initial Transfer Parcel, the Walker Drive State Parks Transfer Parcel, and the Walker Drive Commission Transfer Parcel, each as more particularly described in **Exhibit S** (“Legal Description of Initial Transfer Parcels”). The Agency shall convey to State Parks the Yosemite Slough Addition Trust Termination Parcel, and shall convey to the Commission the Yosemite Slough Addition Public Trust Parcel, each as described and depicted in **Exhibit B**. The Agency shall also provide consideration of [**\$6,333,830.08**], which shall be applied first to the Reimbursement Amount, calculated in accordance with Section 5.5, with the remainder then applied to O&M Funding. *[Following the completion of surveys, the Parties will revise the bracketed amount as necessary, based on the surveyed acreage of the Initial Transfer Parcels]*

5.3 **Subsequent Closings.**

a. At each Closing Phase following the Initial Closing Phase (each a “Subsequent Closing Phase”), State Parks and the Commission shall each convey to the Agency those portions of the State Parks Transfer Parcels and (if applicable) the Commission Transfer Parcels, respectively, lying within the boundaries of the Phase Area applicable to that Subsequent Closing Phase, as those boundaries may be modified in accordance with Section 5.4 of this Agreement, and, if it has not previously done so, the Agency shall convey the Park Addition Parcels to State Parks and the Commission, as applicable, in accordance with Section 3 of this Agreement. The conveyance of the Park Transfer Parcels in any Subsequent Closing Phase shall be conditioned on the prior or concurrent conveyance of the Park Addition Parcels to the State, as provided in Section 13.2, and this condition shall be reflected in the escrow instructions for the applicable Subsequent Closing Phase.

b. In addition, at each Subsequent Closing Phase, the Agency shall provide Additional Park Consideration in the Minimum Amount, calculated in accordance with Section

5.1(b). The Additional Park Consideration provided by the Agency at each Subsequent Closing Phase shall be applied first, to any Reimbursement Amount as determined in accordance with Section 5.5, second, to O&M Funding until the aggregate amount of O&M Funding provided in that Subsequent Closing Phase and previous Closing Phases reaches Ten Million Dollars (\$10,000,000), and third, to the Park Improvement Commitment in the manner prescribed in Section 6.

c. As may be agreed by State Parks and the Agency in writing, the Agency may provide some or all of the Park Improvement Commitment required for a Subsequent Closing Phase in advance of the time for closing.

d. If the amount of the Park Improvement Commitment provided at a Subsequent Closing Phase (or at such earlier time as may be agreed by State Parks and the Agency under Section 5.3(c)) exceeds the minimum required for that Subsequent Closing Phase, the excess shall be applied as a credit toward the amount of Park Improvement Commitment required in the next Subsequent Closing Phase.

#### 5.4 Modifications to Phase Area Boundaries.

a. The parties anticipate that, as development of the Project progresses, modifications to the boundaries of the Phase Areas depicted in **Exhibit F** may become necessary or desirable. The Agency may at any time submit to the Director a diagram depicting proposed revisions to the boundaries of any Phase Area (“Revised Phasing Diagram”). If the proposed revisions would change the boundaries of any Commission Transfer Parcel, the Agency shall also submit the Revised Phasing Diagram to the Commission for review and approval, which approval shall not be unreasonably delayed or withheld. If the Director and, if applicable, the Commission approve the Revised Phasing Diagram, the boundaries of the Phase Areas shall be deemed modified in accordance with the Revised Phasing Diagram. Following approval of a Revised Phasing Diagram, the amount of Additional Park Consideration provided by the Agency at each Closing Phase that includes a modified Phase Area shall be adjusted as appropriate to reflect any modified acreage of the Phase Area.

b. Notwithstanding the foregoing, in order to coordinate the construction of Harney Way improvements with the transfer of lands to the Agency for that purpose, the Agency, in its sole discretion, may elect to remove the lands identified as “Phase Area 2A” in **Exhibit F** from Phase Area 2 and add the lands to Phase Area 3. Upon the provision of written notice to the Parties by the Agency of such election, the boundaries of Phase Area 2 and Phase Area 3 shall be deemed modified accordingly.

5.5 Reimbursement Amount. The Reimbursement Amount to be credited toward the Additional Park Consideration due at each Closing Phase shall consist of all amounts actually paid by the Agency as reimbursement to or on behalf of State Parks prior to that Closing Phase for purposes of legal, transactional, planning, or other costs, including but not limited to costs of designing improvements for the CPSRA, pursuant to separate agreements between the Agency and State Parks (including but not limited to agreements entered into or amended after the effective date of this Agreement), excluding any portion of those amounts that has been previously credited toward Additional Park Consideration in a prior Closing Phase. Prior to each

Closing Phase, State Parks and the Agency shall memorialize the Reimbursement Amount applicable to that Closing Phase in a writing signed by both parties, and shall deposit the writing into escrow prior to closing.

6. Park Improvement Commitment.

6.1 General. The Park Improvement Commitment provided by the Agency at each Subsequent Closing Phase shall consist of (a) binding commitment from the Agency to construct or cause to be constructed Designated Improvements, defined in Section 6.2, together with a Performance Bond as defined in Section 6.3; (b) a Cash Deposit or Alternate Security, as those terms are defined in Section 6.4, to be used for the construction of Designated Improvements; or (c) a combination thereof, all in the manner provided in this Section 6.

6.2 Process for Designating Park Improvements. Except as provided in Section 6.4, State Parks and the Agency shall designate the specific park improvements to be constructed as part of the Park Improvement Commitment for a Subsequent Closing Phase prior to the closing for that Closing Phase, in accordance with the procedures set forth below.

a. Improvement List. Following the adoption by State Parks of an amendment to the 1988 CPSRA General Plan (“GP Amendment”), State Parks and the Agency shall promptly meet and confer for the purpose of establishing a prioritized list of park improvements to be constructed in satisfaction of the Park Improvement Commitment under this Agreement (“Improvement List”). The improvements identified on the Improvement List shall be consistent with the CPSRA General Plan, as amended. In establishing priorities for improvement construction, the Parties shall take into account the need to coordinate the construction of park improvements and infrastructure with the redevelopment of adjacent property. To this end, the Improvement List shall identify, for each Improvement Zone depicted in **Exhibit T** (“Illustrative Plat of Improvement Zones”), the basic improvements needed to (A) render the area within the Improvement Zone useable by and accessible to the public, (B) remove safety hazards from the Improvement Zone, (C) ensure coordination and integration of park improvement construction with the construction of utilities and other infrastructure within the Improvement Zone and (D) eliminate visual blight within and beautify the Improvement Zone (collectively, the “Core Improvements”). The Agency and State Parks shall use their best efforts to reach mutual agreement on the Improvement List and to complete the Improvement List promptly following adoption of the GP Amendment; provided, however, that the contents of the final Improvement List shall be determined by State Parks, in its reasonable discretion, consistent with the terms of this Section. If the Agency or State Parks desires to amend the Improvement List, the Party desiring the amendment shall notify the other Party in writing. Thereafter, the Agency and State Parks shall use their best efforts to reach mutual agreement on the proposed amendment; provided, however, that any final decision to amend the Improvement List shall be made by State Parks in its reasonable discretion and shall be consistent with the terms of this Section 6.2(a).

b. Preliminary Designated Improvements. Prior to each Subsequent Closing Phase, the Agency and State Parks shall meet and confer to preliminarily identify the specific Core Improvements and other improvements from the Improvement List to be constructed in satisfaction of the Park Improvement Commitment for that Subsequent Closing Phase

(“Designated Improvements”). In selecting the Designated Improvements, first priority shall be given to the Core Improvements identified in the Improvement List for the Improvement Zone corresponding to the Phase Area applicable to the pending closing or any prior closing, as shown on Exhibit T, and the remaining Designated Improvements shall be selected in accordance with the priorities set forth in the Improvement List, except as State Parks and the Agency may otherwise agree.

c. Agreed Costs. After the Designated Improvements have been preliminarily identified, the Agency and State Parks shall reasonably cooperate to (i) develop and agree upon designs for the Designated Improvements, (ii) prepare the necessary construction documents (provided, however, that State Parks shall direct the preparation of and approve all final construction documents), (iii) jointly select a mutually agreed upon contractor to perform the work, in accordance with any applicable requirements of the Public Contract Code, and (iv) establish and agree upon the reasonable cost of each Designated Improvement (the “Agreed Cost”). Except as the Agency and State Parks may otherwise agree, the Agreed Cost shall be based on the bid received from the jointly selected contractor.

d. Final Designated Improvements. After the Agreed Cost of each of the preliminarily identified Designated Improvements has been established, State Parks and the Agency shall agree on a final list of Designated Improvements having an aggregate Agreed Cost that is at least equal to the amount of Park Improvement Commitment required for the Subsequent Closing Phase under Section 5.3. If the aggregate Agreed Cost is less than the amount of the Park Improvement Commitment required for the Subsequent Closing Phase, State Parks and the Agency shall identify additional Designated Improvements in accordance with Sections 6.2 (b) and (c) until the aggregate Agreed Cost meets or exceeds the required amount.

e. Exhaustion of Improvement List. If all of the improvements on the Improvement List have been designated or constructed and the aggregate Agreed Cost of the Designated Improvements for the Closing Phase is less than the Park Improvement Commitment required for that Closing Phase, then the Agency and State Parks may, by joint agreement, identify other park improvements within CPSRA as Designated Improvements. If the aggregate Agreed Cost of the Designated Improvements remains less than the required Park Improvement Commitment, then the shortfall shall be either (A) provided to State Parks by the Agency at the closing in the form of additional O&M Funding, or (B) if a Cash Deposit or Alternate Security has already been provided pursuant to Section 6.4, withdrawn from the Cash Deposit or demanded from the Alternate Security by State Parks and deposited into the O&M Fund.

f. Sea Level Rise Improvements. Notwithstanding the foregoing, an improvement to protect the CPSRA from the effects of sea level rise may be a Designated Improvement only if the Director has determined that the improvement will primarily benefit the CPSRA.

6.3 Performance Bond. At or before each Subsequent Closing Phase, the Agency shall post or cause to be posted a performance bond and labor and materials bond in favor of State Parks, or shall provide or cause to be provided other similar security, the form and issuer of which shall be subject to the reasonable approval of State Parks. Such bonds or other security (collectively “Performance Bond”) shall guarantee the completion of construction of all

Designated Improvements for that closing within a reasonable time period. The face value of the Performance Bond shall be equal to the Agreed Cost of the Designated Improvements.

6.4 Deferral of Designated Improvements; Cash Deposit.

a. Notwithstanding Section 6.3, if a Subsequent Closing Phase occurs prior to the adoption of the GP Amendment, or if the Agency otherwise elects in its sole discretion to proceed with a Subsequent Closing Phase in advance of the identification of some or all of the Designated Improvements for that Closing Phase, the Agency and State Parks shall defer the identification of those Designated Improvements until after the Subsequent Closing Phase, and the Agency shall provide a Cash Deposit or Alternate Security in accordance with this Section 6.4. Following the Subsequent Closing Phase (and, if applicable, adoption of the GP Amendment), the Agency and State Parks shall promptly meet and confer to identify any Designated Improvements that have been deferred pursuant to this paragraph, in accordance with the procedures set forth in Section 6.2.

b. If the identification of some or all the Designated Improvements for a Subsequent Closing Phase has been deferred, the Agency shall, at closing, deposit (or cause to be deposited) cash or cash equivalent (“Cash Deposit”). The Cash Deposit shall be in an amount equal to the required amount of Park Improvement Commitment for the Closing Phase, less the amount of any Performance Bond posted pursuant to Section 6.3. The Cash Deposit shall be held by State Parks in a separate, interest-bearing account (“Improvement Account”), and shall be used only for the purpose of constructing the deferred Designated Improvements, except as provided in Section 6.2(e). Except as the Agency and State Parks may otherwise agree in writing, no portion of the Cash Deposit shall be withdrawn except in accordance with the following:

i. Subsequent to the identification by State Parks and the Agency of the deferred Designated Improvements, the Agency may elect to assume the obligation to construct or cause to be constructed some or all of the deferred Designated Improvements. For any Designated Improvement for which the Agency has made such election, Agency shall enter into a binding commitment to construct or cause to be constructed the Designated Improvement, using the contractor jointly selected pursuant to Section 6.2(c) or other contractor as State Parks and the Agency may mutually agree, and shall post or cause to be posted a Performance Bond for that Designated Improvement, in the same manner as specified in Section 6.3. Following the posting of a Performance Bond, State Parks shall promptly return to the Agency the deposited funds in the amount of the face value of the bond plus any accrued interest thereon.

ii. If the Agency has not posted or caused to be posted a Performance Bond for a deferred Designated Improvement within 60 days after the identification of that Designated Improvement, or if the Agency has stated in writing that it does not intend to post a Performance Bond for a Designated Improvement, the Agency shall be deemed to have waived its right to construct the Designated Improvement. State Parks may thereafter proceed with the construction of the Designated Improvement and may withdraw from the deposited funds the amount required to reimburse State Parks for its actual costs of construction of the Designated Improvement.

c. In lieu of the Cash Deposit, the Agency may elect to provide (or cause to be provided) a letter of credit, or, if approved by the Director, a corporate guarantee of payment, a promissory note secured by a deed of trust on the property to be conveyed at the closing, or other payment security (collectively “Alternate Security”). The Agency and State Parks shall agree upon reasonable terms for the Alternate Security prior to the closing, which terms shall provide, without limitation, that State Parks shall not call or otherwise demand payment on the Alternate Security unless and until the Agency, in accordance with Section 6.4(b)(ii), has waived its right to construct the Designated Improvement(s) for which the Alternate Security was provided, or, in accordance with Section 6.2(e), no further Designated Improvements are identified. State Parks shall promptly deposit any security payment it receives into the Improvement Account or, if applicable, the O&M Fund, to be held subject to the requirements of Section 6.4(b), or Section 14, as applicable.

d. For purposes of this Section 6.4, “identification of a Designated Improvement” includes the establishment of the Agreed Cost for the Designated Improvement.

6.5 Construction of Improvements. State Parks shall permit the Agency and its agents (which may include, without limitation, the Developer) to access and enter CPSRA for the purpose of designing and constructing the Designated Improvements, and shall grant any other rights or permissions reasonably necessary for the Agency and its agents to carry out and complete the design and construction of the Designated Improvements, all subject to reasonable terms and conditions relating to project oversight and use of the property. All construction work undertaken by or on behalf of the Agency within CPSRA shall be approved by, and is to be carried out under the direction of, State Parks. The Agency shall take all necessary steps to ensure that any construction of Designated Improvements undertaken on its behalf proceeds in accordance with the designs and plans approved by State Parks.

6.6 Actual Costs. The Agency and State Parks shall agree on a method for accounting for actual construction costs for the Designated Improvements (“Actual Costs”). The Agency shall not be obligated to incur any Actual Costs that are in excess of the total combined Agreed Costs for the Designated Improvements associated with all completed Closing Phases (“Overage”). If, over the course of construction, the Agency determines that Actual Costs may exceed the Agreed Costs, the Agency and State Parks shall promptly meet and confer to discuss options for completing the work, which may include, without limitation, assumption by State Parks of the remainder of the work, reimbursement by State Parks for any Overage incurred by the Agency, or application of any Overage incurred by the Agency as a credit toward the Park Improvement Commitment for a later Closing Phase, as the Agency and State Parks may agree. If, upon completion of construction of all Designated Improvements associated with all completed Closing Phases, combined Actual Costs incurred by the Agency for those improvements are less than the combined Agreed Costs for those improvements, the amount of that shortfall (“Deficiency”) shall be added to the Agency’s Park Improvement Commitment for the next Closing Phase or, if all Closing Phases have been completed, the Agency shall promptly deposit (or cause to be deposited) the Deficiency into the O&M Fund, as that term is defined in Section 14 of this Agreement; provided, however, that the Agency and State Parks may agree to identify additional Designated Improvements and to apply some or all of the Deficiency toward the construction of those improvements.

7. Procedures for Parcel Boundary Adjustments.

7.1 The Parties anticipate that minor adjustments to the boundaries of the Transfer Parcels or Addition Parcels may become necessary or desirable. The precise boundary between the Commission Transfer Parcels and the State Parks Transfer Parcels will not be known until the portion of the Trust Exchange involving those lands is complete. In addition, the engineering and design information developed in connection with the development of the Project will assist in determining the precise location of land parcel boundaries and Project infrastructure. Any proposed adjustment to parcel boundaries shall be submitted to the Director if the adjustment affects the boundary of a State Parks Transfer Parcel, the Yosemite Slough Addition Trust Termination Parcel, or the Park Addition Trust Termination Parcel, and to the Commission if the adjustment affects the boundary of a Commission Transfer Parcel, the Yosemite Slough Addition Public Trust Parcel, or the Park Addition Public Trust Parcel. If the Director or Commission, as applicable, determines that the proposed adjustment is required to conform to parcel boundaries in the Trust Exchange, or that the adjustment would not otherwise materially alter the parcel boundaries described or depicted in Exhibit A, Exhibit B or Exhibit C, which determination shall not be unreasonably delayed or withheld, Exhibit A, Exhibit B and Exhibit C, each as applicable, shall be deemed modified in accordance with the proposed adjustment.

7.2 If the Director or Commission, as applicable, determines that the proposed boundary adjustment may materially alter the boundaries described or depicted in Exhibit A, Exhibit B or Exhibit C, the parcel boundaries shall be adjusted only if the Director or the Commission, as applicable, has determined that the adjusted boundaries would be consistent with any corresponding parcel boundaries established pursuant to the Exchange Agreement, and the Director has made a written finding, in accordance with any applicable notice requirements of SB 792, that (a) the configuration of the CPSRA after incorporating the materially different parcel boundaries would nevertheless still substantially conform to the Statutory Configuration, and (b) any other applicable requirements of Section 26 of SB 792 are satisfied.

7.3 Any boundary adjustment made pursuant to this Reconfiguration Agreement shall not reduce the \$50 million total amount of Additional Park Consideration the Agency is required to pay State Parks for the removal of the Transfer Parcels from the CPSRA. If an adjustment reduces the net total area of the Transfer Parcels, the per acre Minimum Amount set forth in Section 5.1(b) above shall be adjusted to ensure that the total Additional Park Consideration is not decreased if all Transfer Parcels are conveyed to the Agency, which adjustment shall be memorialized in writing by the Agency and State Parks.

8. Additional Improvements. The redevelopment of Candlestick Point and improvement of the CPSRA will necessitate construction of certain infrastructure-related improvements (“Additional Improvements”) that will be located, in part, within the CPSRA. The Parties anticipate that the Additional Improvements will be as generally described in Exhibit U (“General Description of Additional Improvements”). The Agency (directly or through its agents or successors) shall construct the Additional Improvements and shall maintain the Additional Improvements for the duration of their useful life or until the Additional Improvements are no longer required. The construction and maintenance of the Additional Improvements by the Agency or its agents shall be subject to approval by State Parks and the Commission, as applicable, of final designs, construction documents, and easements, including

reasonable terms and conditions pertaining thereto. For those portions of the Additional Improvements to be located on lands owned by State Parks, approval of the final designs, construction documents, and easements shall not be unreasonably delayed or withheld, provided that the proposed Additional Improvements are substantially as described in this Section, benefit the public and lands held by State Parks, are not inconsistent with the terms of any grant made pursuant to the federal Land and Water Conservation Fund Act, 16 U.S.C. 4601-4 et seq., and do not materially interfere with the planned recreational development of the CPSRA. For purposes of this Section, reasonable terms and conditions include, but are not limited to, provisions allowing State Parks to connect CPSRA drainage infrastructure to the new drainage facilities constructed by the Agency. The consideration for the easements granted by State Parks pursuant to this Section shall be the construction and maintenance of the Additional Improvements by the Agency as provided above, and the public use and benefit of the Additional Improvements. The Agency shall obtain separate approval from the Commission for any portions of the easements for the Additional Improvements to be located on lands owned by the Commission. The Parties acknowledge that any rights to construct or maintain the Additional Improvements shall be subject to the requirements of state law, including but not limited to statutory requirements limiting the term of easements on Public Trust lands. Neither State Parks nor the Commission shall be liable for the costs of constructing or maintaining the Additional Improvements except as the Parties may otherwise agree, and in no event shall those costs be credited against the Agency's obligation to provide Additional Park Consideration. Nothing in this Section is intended to preclude the Parties from agreeing, where appropriate, to combine construction or maintenance activities for Additional Improvements and Designated Improvements, and to apportion the construction or maintenance costs between the Additional Improvements and Designated Improvements accordingly. Further, nothing in this Section shall be construed as limiting the Commission's exercise of its approval authority, as trustee, over those portions of the Additional Improvements located on Public Trust lands.

9. Consideration Not Market Value. The value of the consideration required by this Agreement is not intended to be reflective of the fair market value of the property and shall not be used as a basis for determining value in any appraisal of the Transfer Parcels or any property in or around the Project.

10. State Minerals Reservation. The State excepts from the conveyances of the Commission Transfer Parcels made pursuant to this Agreement, and reserves unto the State of California, its successors and assigns, forever, any and all minerals and any and all mineral rights in the lands of every kind and character now known to exist or hereafter discovered in the lands. Such mineral rights shall include, but are not limited to, oil and gas and rights, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the State of California or to its successors and assigns, except that, this reservation shall not include the right of the State or its successors or assigns in connection with any mineral reservation, removal, or disposal activity, to do either of the following: (1) enter upon, use or damage the surface of the lands or interfere with the use of the surface by the grantee or by the grantee's successor, assigns or lessees; or (2) conduct any mining activities of any nature whatsoever above a plane located five hundred (500) feet below the surface of the lands without written permission of the Agency or its successors or assigns.

11. Commission Findings. The Commission, effective upon execution and recordation of this Agreement, makes the following findings as to the conveyances described in Section 2 of this Agreement:

a. No substantial interference with Public Trust uses and purposes, including public rights of navigation and fishing, will ensue by virtue of the conveyances described in Section 2 of this Agreement.

b. The lands or interests in lands to be conveyed pursuant to Section 2 of this Agreement will provide a significant benefit to the Public Trust and are useful for the particular Trust purposes authorized by SB 792.

c. The configuration of lands conveyed pursuant to Section 2 of this Agreement that will be subject to the Public Trust (“Public Trust Parcels”) upon completion of the conveyances is substantially similar to the configuration shown on the diagram in Section 25 of SB 792, includes all lands within the Subject Area that are presently below mean high tide, and consists of lands suitable to be impressed with the Public Trust.

d. The final layout of streets in the Subject Area will provide access to the Public Trust Parcels and will be consistent with the beneficial use of the Public Trust Parcels.

e. The lands to be subject to the Public Trust are configured so as to be accessible from the streets as finally configured in the Subject Area.

f. Streets and other transportation facilities located on Public Trust Parcels will be designed to be compatible with the Public Trust and to serve primarily Public Trust purposes of access to shoreline improvements and shoreline circulation rather than serving nontrust purposes.

g. All surveys and legal descriptions required for the parcels in conjunction with the conveyances described in Section 2 have been or will be approved by the Commission.

h. The trustees who own or will own fee title in the Public Trust Parcels have approved this Agreement.

i. The conveyances described in Section 2 otherwise comply with the requirements of SB 792.

j. The conveyances described in Section 2 are consistent with and further the purpose of the Public Trust and SB 792.

12. Escrow

12.1 Initial Closing

a. Opening of Escrow. The Parties have agreed to open an escrow with Chicago Title Company in San Francisco, California (“Escrow Agent”). As part of escrow, the Parties shall submit additional mutually agreeable escrow instructions.

b. Deposits into Escrow

i. State Parks Deposits into Escrow. State Parks shall deposit the following documents into escrow:

- (1) This Agreement, duly and properly executed by State Parks;
- (2) A quitclaim deed substantially in the form attached hereto as **Exhibit K** transferring to the Agency the State Parks Initial Transfer Parcel, duly and properly executed; and
- (3) A quitclaim deed substantially in the form attached hereto as **Exhibit L** transferring to the Agency the Walker Drive State Parks Transfer Parcel, duly and properly executed;
- (4) A writing memorializing the Reimbursement Amount for the Initial Closing Phase, prepared in accordance with Section 5.5;
- (5) Written approval by the State Parks of the condition of title to the Yosemite Slough Addition Trust Termination Parcel, as shown in pro forma title commitments in coverage amounts acceptable to the State Parks;
- (6) A certificate of acceptance, substantially in the form attached hereto as **Exhibit Q**, accepting conveyance the Yosemite Slough Addition Trust Termination Parcel; and
- (7) Directions to the escrow agent for the delivery of any funds to State Parks from escrow to be deposited into a separate CPSRA account or accounts as required under this Agreement.

ii. Commission Deposits into Escrow. The Commission shall deposit the following documents into escrow:

- (1) A certified copy of the Minute Item for Calendar Item No. \_\_\_\_\_ of the Commission's public hearing on \_\_\_\_\_, showing the Commission's approval of this Agreement and the Commission's authorization that this Agreement and the patents and certificates of acceptance be executed and delivered to the Escrow Agent on behalf of the Commission.
- (2) This Agreement, duly and properly executed by the Commission;
- (3) A patent substantially in the form attached hereto as **Exhibit I** transferring to the Agency the Walker Drive Commission Transfer Parcels, duly and properly executed;

- (4) Written approval by the Commission of the condition of title to the Yosemite Slough Addition Public Trust Parcel, as shown in pro forma title commitments in coverage amounts acceptable to the Commission;
- (5) A certificate of acceptance, substantially in the form attached hereto as **Exhibit O**, accepting conveyance the Yosemite Slough Addition Public Trust Parcel; and
- (6) A duly and properly executed copy of a lease of the Yosemite Slough Addition Public Trust Parcel to State Parks substantially in the form attached hereto as **Exhibit R**.

iii. Agency Deposits into Escrow. The Agency shall deposit the following into escrow:

- (1) A certified copy of Agency Resolution \_\_\_\_\_ adopted on June 3, 2010, approving this Agreement and authorizing that it be executed on behalf of the Agency;
- (2) This Agreement duly and properly executed by the Agency;
- (3) A quitclaim deed substantially in the form attached hereto as **Exhibit P** transferring to State Parks the Yosemite Slough Addition Trust Termination Parcel;
- (4) A quitclaim deed substantially in the form attached hereto as **Exhibit N** transferring to the Commission the Yosemite Slough Addition Public Trust Parcel;
- (5) Written approval by the Agency of the condition of title to the State Parks Initial Transfer Parcel and the Commission Initial Transfer Parcel, as shown in pro forma title commitments in coverage amounts acceptable to the Agency;
- (6) A certificate of acceptance, substantially in the form attached hereto as **Exhibit M**, accepting conveyance the State Parks Initial Transfer Parcel and the Walker Drive State Parks Transfer Parcel;
- (7) A certificate of acceptance, substantially in the form attached hereto as **Exhibit J**, accepting conveyance the Commission Initial Transfer Parcel; and
- (8) A written acknowledgement from the Parties of the Reimbursement Amount for the Initial Closing.

(9) The initial O&M Funding in the amount of **[\$6,333,830.08]**, less the Reimbursement Amount for the Initial Closing. *[Following the completion of surveys, the Parties will revise the bracketed amount as necessary, based on the surveyed acreage of the Initial Transfer Parcels]*

iv. Close of Escrow and Recordation. Upon receipt of all documents listed and described in Section 12.1(b) above pertaining to the deposits into escrow, and written confirmation from each Party that all conditions to the close of escrow have been satisfied or waived, Escrow Agent shall notify the Parties of its intention to close escrow and to record this Agreement, if not already recorded, and all patents and other instruments pertaining to that closing, in the manner and subject to the requirements of escrow instructions submitted to the Escrow Agent by the Parties and agreed to by the Escrow Agent.

## 12.2 Subsequent Closing Procedures

a. Notice by Agency to Other Parties. Each Subsequent Closing Phase will be initiated by the Agency if and when it has determined, in its sole discretion, that the Developer is ready, willing and able to provide the consideration necessary for the Agency to satisfy its obligations for the closing under this Agreement. The Agency shall initiate a Subsequent Closing Phase by establishing an escrow in San Francisco with a title company agreed upon by the Parties and providing written notice to the other Parties. The notice shall include draft legal descriptions for the lands to be conveyed in the Subsequent Closing Phase, a list of all documents required to close with required signatories indicated, and drafts of all deeds, instruments, certificates of acceptance, title commitments, and other documents that are required for the closing and are within the Agency's responsibility and control. The parties shall use commercially reasonable efforts to close within one hundred and twenty (120) days of receipt of the notice.

b. Preparation of Legal Descriptions. The Agency shall be responsible for preparing legal descriptions for the lands to be conveyed in each Subsequent Closing Phase. The Parties involved in the Subsequent Closing Phase shall reasonably cooperate with the Agency in obtaining mutually acceptable legal descriptions. It shall be a condition precedent to a Party's obligation to close escrow for the conveyance or acceptance of real property by that Party that the other Party or Parties conveying or accepting the real property in the Subsequent Closing Phase have agreed on the legal description for the real property.

c. Escrow Instructions. The Parties involved in a Subsequent Closing Phase shall deposit into escrow documents substantially similar to those described in Section 12.1(b), subject to any supplemental joint escrow instructions agreed to in writing by the Parties. The instructions shall include, without limitation, instructions for the deposit by the Agency of written documentation of the Park Improvement Commitment required for the Subsequent Closing Phase, including, if applicable, a binding commitment in writing from the Agency to construct or cause to be constructed the applicable Designated Improvements. Any such commitment shall include a representation of authority to sign on behalf of the Agency.

## 13. Conditions Precedent to Closing

13.1 Agency Conditions Precedent. It is a condition precedent to the Agency's obligation to close escrow on a Closing Phase under this Agreement that the Agency shall have determined, in its sole discretion, that the Developer is ready, willing and able to provide the consideration necessary for the Agency to satisfy its obligations for the closing under this Agreement.

13.2 State Conditions Precedent. With respect to Subsequent Closing Phases only, it is a condition precedent to the obligation of State Parks or the Commission to close escrow on a Subsequent Closing Phase that the Park Addition Trust Termination Parcel and the Park Addition Public Trust Parcel shall have been (or shall be concurrently) conveyed, respectively, to State Parks and the Commission.

13.3 Mutual Conditions Precedent. The following are conditions precedent to each Party's obligation to close escrow on a Closing Phase for the conveyance of the applicable real property under this Agreement:

a. Trust Exchange. The Trust Exchange shall have been completed for those parcels to be conveyed. Nothing in this Agreement shall be construed as creating an obligation on the part of any Party to satisfy the requirements for completing the Trust Exchange.

b. Title Condition. Each Party to receive title to real property under this Agreement shall have approved the condition of title and the form of title insurance to be issued by the Title Company, in amount of coverage reasonably requested, which approval shall not be unreasonably withheld.

c. Physical Condition. Each Party to receive title to real property under this Agreement shall have approved, in its reasonable discretion, the physical condition of the property, which approval shall not be unreasonably withheld.

13.4 LWCF Conversion Approval. No Party shall have an obligation to close escrow on a Closing Phase under this Agreement that includes the conveyance of any portion of the Transfer Lands that are subject to conversion limitations under 16 U.S.C. § 460l(f)(3) and that are to be converted to uses other than outdoor recreation ("LWCF Lands"), and no portion of the the LWCF Lands shall be conveyed to the Agency, unless or until the Secretary of the Interior (or his delegate) has approved the conversion.

14. O&M Funding. Any amounts paid by Agency as O&M Funding shall be designated and utilized solely for operation and maintenance of the CPSRA. Allowable uses of O&M Funding ("Allowable O&M Expenses") consist of reasonable costs, including personnel costs, incurred by State Parks for (a) operation of CPSRA, including the provision of management, public safety, and law enforcement services, and (b) maintenance and/or repair of the park facilities located in CPSRA (as such facilities may change from time to time) including but not limited to landscaping, signage, pathways, lighting, benches or any other improvements within the boundaries of CPSRA (as such boundaries and improvements may change from time to time). Allowable O&M Expenses do not include capital improvements, construction of new facilities,

or other material upgrades to park facilities. State Parks shall deposit each of Agency's payments for O&M Funding in a separate investment account selected to provide a reasonable return on investment, consistent with prudent investment practice and subject to the requirements of state law, which account shall restrict disbursements of both capital and interest to payment of Allowable O&M Expenses ("O&M Fund"). It is the objective of the Parties that the O&M Fund provide a long-term source of funds to pay for Allowable O&M Expenses, and State Parks shall manage the O&M Fund consistent with this objective. State Parks shall maintain accounting records for the O&M Fund and all expenditures made with the funds therein. Upon the written request of the Agency, State Parks shall promptly deliver to the Agency a written accounting of the O&M Fund, which shall itemize all disbursements for Allowable O&M Expenses, and include both a narrative description and evidence of the services included in such Allowable O&M Expenses.

15. No Warranties. The Parties acknowledge and agree that, except as expressly set forth in this Agreement or any document or instrument executed in connection with or as contemplated by this Agreement, no Party holding title to real property to be conveyed under this Agreement has made any representations or warranties, express or implied, as to any matters, directly or indirectly, concerning the real property, including, but not limited to the condition of title, hazardous materials, the physical condition of the property, or any other matters affecting or relating to the property.

16. Hazardous Materials Indemnification.

16.1 The Agency shall indemnify, defend and hold harmless the Commission, its officers, agencies, commissions, and employees from and against any and all claims, liability, losses, costs and expenses (collectively "Claims"), including third party Claims and Claims by any governmental agency (other than the Commission), relating to any hazardous materials that are located at, on, over, under, or flowing through the Park Addition Public Trust Parcel as of the date of the Closing Phase that pertains to that parcel; provided, however, that the obligation to indemnify under this Section shall not apply to the extent that (i) the hazardous materials were present on the Park Addition Public Trust Parcel during any period (prior to the Closing Phase) in which the State owned the fee in the Park Addition Public Trust Parcel, or (ii) the State or its agents released, generated, treated, stored, used, disposed of, deposited, abandoned or exacerbated the hazardous materials affecting the Park Addition Public Trust Parcel. The Agency and the Commission agree that if the Commission is a named insured in a pollution liability insurance policy obtained by the Agency, the obligation to indemnify the Commission under this Section shall not become effective unless and until any proceeds from the policy are exhausted. The obligation to indemnify under this Section shall terminate on the later of January 1, 2040, or 15 years following the date of the Closing Phase that pertains to that parcel; provided, however, that the obligation shall not terminate as to Claims asserted in an action filed prior to the termination date.

16.2 The Agency shall indemnify, defend and hold harmless State Parks, its officers, agencies, commissions, and employees from and against any and all Claims, including third party Claims and Claims by any governmental agency (other than State Parks), relating to any hazardous materials that are located at, on, over, under, emanating from or flowing through the Park Addition Trust Termination Parcel as of the date of the Closing Phase that pertains to that

parcel; provided, however, that the obligation to indemnify under this Section shall not apply to the extent that (i) the hazardous materials were present on the Park Addition Trust Termination Parcel during any period (prior to the Closing Phase) in which the State owned the fee in the Park Addition Trust Termination Parcel, or (ii) the State or its agents released, generated, treated, stored, used, disposed of, deposited, abandoned or exacerbated the hazardous materials affecting the Trust Termination Parcel. The Agency and the State Parks agree that if State Parks is a named insured in a pollution liability insurance policy obtained by the Agency, the obligation to indemnify the State Parks under this Section shall not become effective unless and until any proceeds from the policy are exhausted. The obligation to indemnify under this Section shall terminate on the later of January 1, 2040, or 15 years following the date of the Closing Phase that pertains to that parcel; provided, however, that the obligation shall not terminate as to Claims asserted in an action filed prior to the termination date.

16.3 A Party holding title to property to be conveyed pursuant to this Agreement (“Owner”) shall permit any other Party to which the property is to be conveyed (“Recipient”) to enter upon the property, upon reasonable notice and subject to reasonable time and manner conditions, for the purpose of conducting such investigations of the physical condition of the property as the Recipient deems necessary to satisfy itself as to the matters described in Section 13.3(c) in preparation for a closing. Upon the request of a Recipient, an Owner shall provide or make available to the Recipient any existing environmental reports, including any Phase I Environmental Site Assessments, relating to the property to be conveyed by Owner. An Owner shall accommodate a reasonable request by a Recipient for additional invasive testing, including but not limited to soil or groundwater sampling, subject to Owner’s approval of testing plans and procedures, which shall not be unreasonably withheld, and further subject to mutual agreement of the Owner and Recipient regarding responsibility for the costs of such additional testing. No entry by a Recipient shall unreasonably interfere with the use of the property by Owner or its tenants, easement holders, licensees, or permittees.

17. Remedies; Specific Performance. Upon a breach by any Party, the aggrieved Party may institute proceedings to compel injunctive relief or specific performance by the Party in breach of its obligations, including specific performance of an obligation to transfer land, make improvements or make monetary contributions to the O & M Fund described above. The Parties have determined that monetary damages (which, for purposes of this Section, do not include payment of monetary consideration) are inappropriate, would be extremely difficult and impractical to fix or determine, and that the equitable remedies described above are appropriate for the enforcement of this Agreement. No Party would have entered into or become a party to this Agreement if it were to be liable for monetary damages, and the parties agree not to sue for or claim any monetary damages under this Agreement, and expressly waive the right to do so.

18. Community Facilities District Financing. The Parties agree and confirm that the Designated Improvements will be, inter alia, beneficial to the existing and future residents of the City and the State, and the affected property, and acknowledge the Agency’s intent to finance its provision of consideration under this Agreement for the design and construction of the Designated Improvements, in whole or in part, through one or more community facility districts (“CFDs”) under the Mello-Roos Community Facilities Act of 1982 (Government Code §§ 53311 et seq.) (as amended, the “CFD Act”). To facilitate this effort, the Parties shall reasonably

cooperate in taking any additional actions that may be necessary to ensure compliance with the requirements of the CFD Act, including but not limited to entry into a joint facilities agreement identifying the Designated Improvements if such agreement is required by applicable law; provided, however, that any such actions shall be undertaken at the Agency's sole cost and expense, and in no event shall State Parks or the Commission be obligated to undertake any action that would adversely affect their respective rights and obligations under this Agreement, including but not limited to State Parks' discretion regarding the improvements to be constructed in the CPSRA. Nothing in this section shall affect the form, amount, or timing of the Additional Park Consideration that the Agency is required to provide to State Parks under this Agreement.

19. Workforce Housing. The Agency shall cooperate in good faith with State Parks to provide opportunities, at purchase prices or rental charges established under the Below-Market Rate Housing Plan that is attached to and a part of the DDA (the "Housing Plan") and subject to applicable fair housing laws, for up to eleven (11) Workforce Units (as defined in the Housing Plan) in the Candlestick Site to income-eligible employees of State Parks working in the CPSRA.

20. Community Facilities Space. The Agency shall cooperate in good faith with State Parks to provide to State Parks a portion of the Community Facilities Space (as defined in the DDA) that the Agency is to receive under the DDA, to be used by State Parks for a welcoming or information center for the CPSRA. The Agency shall offer to provide State Parks with Community Facilities Space of not less than 3,000 gross square feet on the Candlestick Site (as defined in the DDA), for which State Parks shall not be required to pay a purchase price or base rent; provided, however, that State Parks shall be subject to all terms and conditions of the DDA applicable to other users of Community Facilities Space, including but not limited to the requirement to pay applicable charges, assessments and expenses for the use of the space. Notwithstanding the foregoing, the Agency shall not be obligated to offer any Community Facilities Space to State Parks unless and until it has received from Vertical Developer (as defined in the DDA) at least fifty (50) percent of the Community Facilities Space the Agency is entitled to receive under the DDA, unless State Parks and the Agency otherwise agree in writing. The location of the Community Facilities Space shall be determined by the Agency in its sole discretion; provided, however, that the Agency shall consult in good faith with State Parks to identify a mutually acceptable site. The Agency has fully discharged its obligations under this Section if it has made a good faith offer to provide Community Facilities Space to State Parks that reasonably accommodates the needs of State Parks consistent with the requirements of this Section, regardless of whether the offer is accepted by State Parks. If the Community Facilities Space is to be located upon lands subject to the Public Trust, then its use shall be limited to public trust consistent uses.

21. Yosemite Slough Bridge.

21.1 The Agency shall not undertake, approve, or permit construction of the Bridge unless all of the following conditions are met: (a) the Bridge is required to function primarily for public transit, bicycle, and pedestrian use, and is closed to private motor vehicle traffic except for no more than 20 days per year; (b) the Bridge will serve as a part of the open space network on all days when it is not open to private motor vehicle traffic; (c) any traffic lane on the Bridge that will carry private vehicle traffic will be no wider than 10 feet; (d) no more than four private

vehicle traffic lanes will exist on the Bridge; and (e) the bicycle and pedestrian lanes on the Bridge will be integrated with the bicycle and trail system in the CPSRA.

21.2 Prior to the approval by the Agency of the Bridge design and construction documents, the Agency shall meet and confer with State Parks for the purpose of coordinating the design and construction of the Bridge with the implementation of the Restoration Project. Subject to any requirements imposed on Bridge construction and design by the Bay Conservation and Development Commission and other public agencies with approval authority over those activities, the Agency and State Parks shall (a) reasonably cooperate to identify and incorporate into the construction and design plans for the Bridge features that will (i) be consistent with the wetland and aquatic habitat objectives set forth in the Wetland Restoration and Management Plan, Yosemite Slough, WRA Environmental Consultants, January, 2006 ("Restoration Plan"), which may include, but are not limited to, providing new or restored habitat to compensate for any portion of the wetland or aquatic habitat (or any upland habitat that is immediately adjacent to the Bridge abutments) that is proposed to be created or restored in the Restoration Plan but cannot be created or restored due to Bridge construction; (ii) provide vista points in the park and on the Bridge offering views of the Bay and the Slough; (iii) ensure that Bridge design and aesthetics meet a high standard of excellence; (iv) provide for substantial views of the Bay beyond the Bridge from the Slough; and (v) ensure consistency with the public access and recreational objectives of the Restoration Plan, including the ability to navigate small human-powered craft between the Slough and the Bay and which may include, but are not limited to, providing new or enhanced recreational or public access improvements to compensate for any portion of the proposed creation of such improvements under the Restoration Project (as that project is described in the Restoration Plan) that cannot be created due to Bridge construction; and (b) use their best efforts to reach mutual agreement on the final Bridge design, construction plans, and associated enhanced restoration plans; provided, however, that the final Bridge design shall be determined by the Agency, in its reasonable discretion, consistent with the terms of this Section 21.

21.3 The Foundation is a third party beneficiary to this Agreement for purposes of enforcing the requirements of this Section 21.

22. Judicial Confirmation of Validity of Agreement. An action may be brought under Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure to establish title to any lands conveyed pursuant to this Agreement, or by the Parties to confirm the validity of this Agreement. An action may also be brought under Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine, inter alia, the legality and validity of a deed, patent, agreement, or other instrument executed in furtherance of or authorized by SB 792. Upon entry of a judgment confirming the validity of the settlement embodied in this Agreement, each party shall be deemed to have waived any right to appeal from such judgment.

23. Defense of Claims. The Parties agree to use reasonable efforts to defend this Reconfiguration Agreement, any deed, patent, agreement, or other instrument executed pursuant thereto, and any decision made by a Party to approve the foregoing, including the approval of any required findings related thereto, in any legal action challenging the validity or legality thereof. In any such action, the Agency shall reimburse the Commission and State Parks for all

reasonable costs incurred in connection with such action, including but not limited to reasonable staff time and attorneys fees incurred by the Commission and State Parks, and including but not limited to any award of attorney fees made by a court of competent jurisdiction against the Commission and/or State Parks, on such reasonable terms and conditions as the Parties may establish by separate agreement; provided, however, that the Agency's obligation to reimburse a Party shall apply only to the extent that Party agrees to allow the Agency to lead the joint defense, reasonably cooperates therein, and does not take a position materially adverse to the Agency; and provided further that the fee or expense (including any liability for an attorneys fees award) was incurred in connection with a claim that is part of the joint defense of the Party and the Agency. Nothing in this section limits the discretion of the Commission or State Parks to solely conduct its own defense, take the lead in its own defense, or take a position materially adverse to the Agency.

24. Park Consideration Not Affected by Indemnifications or Defense of Claims.

Notwithstanding anything in this Agreement to the contrary, the amount of the Park Improvement Commitment shall not be increased, decreased, or otherwise affected by amounts paid by a Party to another Party to satisfy an indemnification obligation under Section 16, or to reimburse another Party for the costs of a legal action under Section 23.

25. Effect of Judicial Finding of Invalidity. A judicial determination that any portion of this Agreement is invalid shall not invalidate the remainder. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the Parties shall amend this Agreement and/or take other action necessary to achieve the intent of this Agreement in a manner consistent with the ruling of the court.

26. Agreement Not to Encumber. None of the Parties shall sell, transfer, assign, mortgage, pledge, or hypothecate, whether by operation of law or otherwise, any of their respective rights, title, or interests in or to the Transfer Parcels or the Park Addition Parcels in any manner that will prevent, increase the cost of, or result in an encumbrance against the property at the phased closing, before the consummation of the transfers provided for herein with respect to such lands.

27. Allocation of Certain Costs and Expenses. The Agency shall pay the expenses and fees of the Escrow Agent, including those costs associated with document preparation and recordation of this Agreement, its deeds and patents, and any associated documents. All other fees, costs and expenses of any attorney, engineer or other person employed or retained by a Party in connection with the transactions underlying this Agreement shall be borne by the Party incurring the fee or expense, except as the Parties may otherwise agree.

28. Further Assurances. So long as authorized by applicable laws to do so, the Parties will perform such other acts, and execute, acknowledge and deliver all further conveyances and other instruments that may be necessary to fully assure to the other Parties all of the respective properties, rights, titles, interests, remedies, powers and privileges to be conveyed or provided for by this Agreement.

29. Execution Before a Notary Public. All signatures of the Parties and all deeds and other conveyances executed pursuant to this Agreement shall be acknowledged before a Notary Public and a certificate of acknowledgment shall be attached to the executed Agreement and other

documents to allow them to be recorded in the Office of the Recorder of the City and County of San Francisco, California.

30. No Admission or Effect if Agreement Not Made Effective. In the event this Agreement does not become effective, or becomes effective but is declared by a final non-appealable judgment of a court of competent jurisdiction to be invalid, nothing in it shall constitute, or be construed as, an admission by any Party hereto or evidence concerning the boundaries, physical character, or character of title or interest in the lands within the Subject Area.

31. No Determination of Trust Consistency. Nothing in this Agreement shall be construed as a determination by the Commission regarding the Public Trust consistency of any use of the Public Trust Parcels. Further, nothing in this Agreement shall be construed to authorize residential uses or other nontrust uses on the Public Trust Parcels.

32. Agreement Binding on Successors. All the terms, provisions, and condition of this Agreement shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, successors, and assigns of the Parties.

33. Modification or Amendment. Except as expressly provided in this Agreement, no modification, amendment, or alteration of this Agreement shall be valid unless in writing and signed by State Parks, the Agency, and each other Party whose rights or obligations under this Agreement would be affected by the amendment.

34. No Effect on Other Government Jurisdiction. This Agreement has no effect whatsoever on the regulatory, environmental or other jurisdiction of any federal, state, local, or other government entity not a party to this Agreement.

35. Park Boundary Map. Pursuant to Section 26(b) of SB 792, within a reasonable time following the completion of each Closing Phase, the Director shall cause to be prepared and kept on file in the office of the \_\_\_\_\_ a park boundary map memorializing the modification of the boundaries of the CPSRA to exclude any Transfer Parcel and include any Park Addition Parcel or Yosemite Slough Addition Parcel conveyed in the closing.

36. Notice. Any notice required pursuant to this Agreement shall be in writing and given by delivering the notice in person, by commercial courier, or by sending it by registered or certified mail, or overnight mail, return receipt requested, with postage to the addresses shown below or to such other address as the applicable Party may provide. For the convenience of the Parties, notice also may be given by facsimile in addition to one of the above methods, at the numbers listed below:

**Commission:**

California State Lands Commission  
100 Howe Avenue, Suite 100-S  
Sacramento, CA 95825  
Attention: Executive Officer

**With copies to:**

California Department of Justice  
1515 Clay Street  
Oakland, CA 94612-1413  
Attention: Joseph Rusconi, Patricia Peterson

**State Parks:**

California Dept. of Parks and Recreation  
1416 9th Street  
Sacramento, CA 95814  
Attention: Executive Director

**With copies to:**

California Department of Justice  
1515 Clay Street  
Oakland, CA 94612-1413  
Attention: Ellyn S. Levinson

**Agency:**

San Francisco Redevelopment Agency  
One South Van Ness Avenue, 5th Floor  
San Francisco, CA 94103  
Attention: Executive Director

**With copies to:**

San Francisco Redevelopment Agency  
One South Van Ness Avenue, 5th Floor  
San Francisco, California 94103  
Attn: Legal Division

Office of Economic and Workforce Development  
City Hall, Rm. 448  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102  
Attn: Director

Shute, Mihaly, & Weinberger LLP  
396 Hayes Street  
San Francisco, CA 94102  
Attn: William J. White

37. Approvals and Consents. Unless otherwise provided in this Agreement, whenever an approval, consent or satisfaction is required of a Party, the approval, consent or satisfaction shall be given on behalf of the Party by the representative(s) listed below:

37.1 If the Party is the Commission: by the Commission, as may be evidenced by appropriate document executed by the Executive Officer of the Commission.

37.2 If the Party is State Parks: by the Director.

37.3 If the Party is the Agency: by the Executive Director of the Agency.

38. Correction of Technical Errors. If by reason of inadvertence, and contrary to the intention of the Parties, errors are made in this Agreement in a legal description or the reference to or within any Exhibit with respect to a legal description, in the boundaries of any parcel in any map or drawing which is an Exhibit, or in the typing of this Agreement or any of its Exhibits, the Parties affected by the error may, by mutual agreement, correct such error by memorandum executed by them without the necessity of amendment of this Agreement.

39. Effective Date. This Agreement shall become effective on the date on which it is executed by the Governor, who shall be the last Party to execute the Agreement, following all required governmental approvals. For purposes of Section 764.080 of the Code of Civil Procedure, this Agreement is deemed to be entered into on the date it is executed by the Director or the Executive Officer, whichever is later.

40. Exhibits. **Exhibit A** through **Exhibit V** are attached to this Agreement and are incorporated by reference as parts of it.

To witness this Agreement, a duly authorized officer of each Party has executed it below on the date opposite each signature.

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
Paul D. Thayer  
Executive Officer

Approved as to form:

Edmund G. Brown, Jr.  
Attorney General  
State of California

DATED: \_\_\_\_\_

By: \_\_\_\_\_

Joseph C. Rusconi  
Deputy Attorney General

STATE OF CALIFORNIA  
DEPARTMENT OF PARKS AND  
RECREATION

DATED: \_\_\_\_\_

By: \_\_\_\_\_

Ruth Coleman  
Director

Approved as to form:

Edmund G. Brown, Jr.  
Attorney General  
State of California

DATED: \_\_\_\_\_

By: \_\_\_\_\_

Ellyn S. Levinson  
Deputy Attorney General

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

DATED: \_\_\_\_\_

By: \_\_\_\_\_

Fred Blackwell  
Executive Director

Approved as to form:

DATED: \_\_\_\_\_

By: \_\_\_\_\_

James Morales  
Agency Counsel

IN APPROVAL WHEREOF, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, have set my hand and caused the Seal of the State of California to be hereunto affixed this \_\_\_\_ day of \_\_\_\_\_, 2010.

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ARNOLD SCHWARZENEGGER  
Governor

Attest:  
SECRETARY OF STATE

By: \_\_\_\_\_

Debra Bowen  
Secretary of State



DRAFT (9-1-2010)

**Exhibit S** (“Legal Description and Illustrative Plat of Initial Transfer Parcels”)

**Exhibit T** (“Illustrative Plat of Improvement Zones”)

**Exhibit U** (“General Description of Additional Improvements”)

**Exhibit V** (“Definitions”)

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