

LEASE AGREEMENT

BY AND BETWEEN

CITY OF ALAMEDA,

a charter city and municipal corporation
AS LANDLORD

and

**SAN FRANCISCO BAY AREA WATER EMERGENCY
TRANSPORTATION AUTHORITY**

a California public entity created pursuant to Government Code
Section 66540 *et seq.*
AS TENANT

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- H CONSTRUCTION COST ESTIMATE

LEASE AGREEMENT

BASIC LEASE INFORMATION

<i>Lease Date:</i>	_____, 2015
<i>Landlord:</i>	City of Alameda, a charter city and municipal corporation
<i>Landlord's Address:</i>	City of Alameda City Hall 2263 Santa Clara Ave Alameda, CA 94501 Tel: (510) 748-4509 Attn: City Manager Notice Copy to: PM Realty Group, L.P., as Agent for City of Alameda 101 W. Atlantic Avenue Alameda, CA 94501 Tel: (510) 749-0304
<i>Tenant:</i>	San Francisco Bay Area Water Emergency Transportation Authority, a California public entity created pursuant to Government Code Section 66540 <i>et seq.</i>
<i>Tenant's Address:</i>	San Francisco Bay Area Water Emergency Transportation Authority Pier 9 Suite 111, The Embarcadero San Francisco, CA 94111 Attn: Executive Director Tel: (415) 364-3192
<i>Premises:</i>	Those certain premises located at the southern end of West Hornet Avenue (670 W. Hornet Avenue), Alameda, as depicted on Exhibit A-1 . (Exhibit A-1 is comprised of two (2) drawings, entitled "Site Context Plan" and "Site Plan".) The Premises include certain (i) upland real property (A) south of W. Hornet Avenue (0.51 acres) and (B) north of W. Hornet Avenue (0.22 acres (referenced as "WETA Fuel Tank Area" on the Site Context Plan attached hereto as part of Exhibit A-1)) (jointly, the " Landside Lease Area ") and (ii) submerged lands (3.4 acres) (the

	“ Waterside Lease Area ”), each as depicted on such Exhibit A-1 .
<i>Building:</i>	Tenant to construct a four-story building on the Premises (the “ Building ”)
<i>Length of Term:</i>	Sixty (60) years
<i>Estimated Commencement Date:</i>	_____, 20__
<i>Estimated Expiration Date:</i>	_____, 20__
<i>Base Rent:</i>	Initial Monthly Base Rent shall be equal to \$5,125 and shall be subject to the CPI Rent Adjustment under Section 4.1(a) below.
<i>Taxes and Utilities:</i>	Tenant shall pay directly all costs for Utilities under Section 8.1 below. Tenant shall pay all Taxes (as defined in Section 5.1(a) below) and Tenant Taxes (as defined in Section 9.1 below).
<i>Security Deposit:</i>	None
<i>Permitted Use:</i>	To the extent permitted by the Use Permit (as defined in Section 6.4 below), the following uses shall be permitted: Fuel storage, maintenance shops, dispatch and administrative support, and office and meeting facilities, as well as vessel mooring, fueling, servicing and provisioning and other functions related to a regional ferry and maintenance facility; which facility shall be secured with no public access permitted to the Premises without the prior written permission of Tenant. The facility will also serve as an Emergency Operations Center (“ EOC ”) during emergency events and will have the capability of boarding passengers during these events.
<i>Parking:</i>	Tenant shall have the right, on a nonexclusive basis, to have its employees and visitors park in a paved 75-vehicle parking area within One Thousand Five Hundred (1,500) feet of the Premises as identified on Exhibit A-2 attached hereto, as further set forth in Section 2.2 herein below.

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into by and between CITY OF ALAMEDA, a charter city and municipal corporation (“**Landlord**”) and SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY, a California public entity created pursuant to Government Code Section 66540 *et seq.* (“**Tenant**”). The Basic Lease Information, the Exhibits and this Lease Agreement are and shall be construed as a single instrument and are referred to herein as the “**Lease**”.

1. DEMISE.

In consideration for the rents and all other charges and payments payable by Tenant, and for the agreements, terms and conditions to be performed by Tenant in this Lease, Landlord does hereby lease to Tenant and Tenant does hereby hire and take from Landlord, the Premises described below, upon the agreements, terms and conditions of this Lease for the Term hereinafter stated.

2. PREMISES.

2.1 Premises. The Premises demised by this Lease are as specified in the Basic Lease Information. The Premises are located on property commonly referred to as Terminal 1 (“**Property**”). The Premises has the address and includes the area depicted in the Basic Lease Information and **Exhibit A-1** attached hereto; provided, however, that any statement of square footage set forth in this Lease is an approximation which Landlord and Tenant agree is reasonable and no economic terms based thereon shall be subject to revision whether or not the actual square footage is more or less.

2.2 Parking.

(a) Tenant and its employees, agents, suppliers, and invitees shall have the nonexclusive right to use a paved 75-vehicle parking area within 1,500 feet of the Premises as identified on **Exhibit A-2** attached hereto (the “**Parking Area**”) for parking purposes, which Parking Area may be relocated to within 1,500 feet of the Premises as the Property is redeveloped. Landlord shall not be required to enforce Tenant’s right to use such parking spaces, but Tenant shall be permitted to add signage, numbering, or other identification that reflects Tenant’s right to use such parking spaces, subject to Landlord’s reasonable consent. Landlord reserves the right, from time to time, to stripe, re-stripe or otherwise designate the Parking Area; provided, however, that at all times Landlord provides the Parking Area, Landlord shall comply with all Laws (as defined below) concerning the Parking Area. Under no circumstances may the Parking Area be utilized for the storage, repair or maintenance of any vehicles. Should Tenant or its agents, employees or invitees use the Parking Area or any portion thereof, in violation of this Section 2.2, Landlord shall have the right, upon reasonable prior notice to Tenant, in addition to such other rights and remedies that it may have, to tow away any vehicle involved and charge the cost of towing and storage to the owner of such vehicle.

(b) Except in the case of Landlord’s or Landlord Related Parties’ (as defined in Section 14.1 below) negligence or willful misconduct, in no event shall Landlord or any

Landlord Related Parties be liable for (i) loss or damage to any vehicle or other personal property parked or located upon or within the Parking Area, whether pursuant to this license or otherwise and whether caused by fire, theft, explosions, strikes, riots or other cause whatsoever or (ii) injury to or death of any person in, about or around any parking spaces or any portion of the Parking Area or any vehicle parked thereon whether caused by fire, theft, assault, explosion, riot or any other cause whatsoever and Tenant hereby waives any claims for, or in respect to, the above.

(c) Except in conjunction with a Transfer (as defined in Section 13.5 below) of all of Tenant's rights and obligations under this Lease, Tenant shall not assign any of its rights under this Section 2.2.

2.3 [Intentionally deleted].

2.4 Possession. Tenant accepts the Premises in "AS IS" "WITH ALL FAULTS" condition and configuration without any representations or warranties by Landlord, and with no obligation of Landlord to make alterations or improvements to the Premises. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the suitability of the Premises or the Building for the conduct of Tenant's business. Landlord shall not be liable for any latent or patent defects in the Premises. Tenant shall be responsible for requesting an inspection and obtaining a Certificate of Occupancy from the City of Alameda for the Building. This shall include, but is not limited to installation of any necessary fire sprinklers and other life-safety improvements, compliance with the ADA (as defined in Section 6.2 below), and any other requirements mandated by the Certificate of Occupancy inspection.

2.5 [Intentionally deleted].

2.6 Other Access.

(a) Hornet Avenue. Landlord shall maintain Hornet Avenue, which is a public street, in accordance with other City-maintained public streets in the vicinity, which Tenant may use, nonexclusively and in common with the public and other tenants, for vehicular access to and from the Premises.

(b) Waterside. Landlord shall provide and maintain an unencumbered waterside access route for transit by Tenant's ferry vessels to the Premises from San Francisco Bay. Tenant shall be prohibited, and Landlord shall prohibit other parties from stationing vessels in or otherwise placing obstructions within the "Shared Vessel Access Area" designated on the Site Context Plan attached hereto as part of **Exhibit A-1** attached hereto that would impede access to the Tenant's berths.

(c) East Bay Regional Park District Site. Concurrently with the execution of this Lease, Landlord and Tenant shall execute that certain Right of Entry for Construction Work (Park Improvements) ("**Park Right of Entry**") for construction of certain improvements more particularly described therein (collectively, the "**Park Improvements**") within certain adjacent premises leased by the East Bay Regional Park District ("**EBRPD**") from Landlord pursuant to that certain City of Alameda Lease Agreement dated for reference purposes as December 1,

2006. The Park Right of Entry shall require the consent of EBRPD, pursuant to which Landlord shall request that EBRPD maintain such Park Improvements following completion of construction by Tenant.

3. TERM.

3.1 Term. The term of this Lease (“**Term**”) shall be for the period specified in the Basic Lease Information, commencing on the later of (a) the Estimated Commencement Date (specified in the Basic Lease Information), or (b) one (1) day after this Lease has been approved by the City Council, the date of which approval shall be deemed to be the effective date of an ordinance approving this Lease as required by the City Charter (“**Commencement Date**”). This Lease shall terminate at midnight on the last day of the sixtieth (60th) year following the Commencement Date (“**Expiration Date**”), unless sooner terminated or extended as hereinafter provided. Promptly following the Commencement Date, Landlord and Tenant shall enter into a letter agreement substantially in the form attached hereto as **Exhibit B**, specifying and confirming the Commencement Date and the Expiration Date; if Tenant fails to execute and deliver such letter agreement to Landlord within ten (10) business days after Landlord’s delivery of the same to Tenant, such letter agreement will be deemed final and binding upon Tenant.

3.2 [Intentionally deleted].

4. RENT; DEVELOPMENT IMPACT FEES.

4.1 Base Rent.

(a) Generally. From and after the date Tenant receives the earlier of a temporary or final Certificate of Occupancy for the Building (the “**Rent Commencement Date**”), Tenant shall pay to Landlord, in advance of the first day of each calendar month, without any setoff or deduction and without further notice or demand, the monthly installment of rent in an amount equal to \$5,125.00, plus the CPI Rent Adjustment (as defined below), and as modified in accordance with this Lease (“**Base Rent**”). If the Rent Commencement Date should be on a date other than the first day of a calendar month, the monthly Base Rent installment paid for any fractional month during the Term shall be prorated based upon a thirty (30) day calendar month. The CPI Rent Adjustment shall be calculated on each anniversary of the Rent Commencement Date (each an “**Adjustment Date**”). The “**CPI Rent Adjustment**” shall be an amount equal to the lesser of (i) the product of the Percentage Change and the Base Rent and (ii) one hundred three percent (103%) of the Base Rent, in each instance calculated at the last Adjustment Date. The “**Percentage Change**” shall be a fraction, the denominator of which shall be the Price Index (as defined below) for the first month after the Rent Commencement Date, or the Price Index used for the immediately preceding Adjustment Date, as applicable (the “**Base Month**”), and numerator of which shall be the Price Index for the most recent period prior to the current Adjustment Date. “**Price Index**” shall mean the Consumer Price Index-All Urban Consumers for the San Francisco-Oakland-San Jose Metropolitan Statistical Area, as prepared by the U.S. Bureau of Labor Statistics. In the event the Price Index is no longer prepared by the U.S. Bureau of Labor Statistics, Landlord and Tenant shall reasonably agree upon a replacement Price Index.

(b) Development Impact Fees.

(i) Landlord and Tenant acknowledge that final plans and specifications for development and construction of the Building, as well as for development of those portions of the Property to be served by infrastructure improvements that may also serve the Premises, have not been developed. In conjunction with its planning and development of the Building, Tenant has determined, in consultation with Landlord, to construct certain infrastructure improvements to a level or size in excess of that required for Tenant's use and operation of the Premises in order to serve other development within the Property listed on **Exhibit H** attached hereto as the "Off-site Infrastructure Improvements" (collectively, the "**Infrastructure Improvements**"). A construction cost estimate for the Infrastructure Improvements and other infrastructure improvements is attached hereto as **Exhibit H**. Tenant agrees to execute such reasonable documentation as may be necessary to publicly dedicate those portions of the Infrastructure Improvements within public rights of way.

(ii) Landlord and Tenant acknowledge that under the City of Alameda's Development Impact Fee Program (or its replacement program, if any), Tenant's project would be subject to a fee rate of \$978,956 per acre ("**Tenant's Impact Fee**"). If Tenant constructs the Infrastructure Improvements, Landlord shall waive Tenant's Impact Fee for Tenant's development of the Building. Landlord shall have deemed to have waived Tenant's Impact Fee upon completion of all of the Infrastructure Improvements and acceptance of all of the Infrastructure Improvements. Landlord shall, upon Tenant's request, provide a written waiver of Tenant's Impact Fee.

(iii) Landlord and Tenant acknowledge that improvements constructed in the future that are not replacement, restoration or reconstruction of Tenant's initial project, including development of the Building and the Infrastructure Improvements, may be subject to impact fees under the City of Alameda's Development Impact Fee Program (or its replacement program, if any), as determined at the time of such improvements (if any).

4.2 Additional Rent. As used in this Lease, the term "**Additional Rent**" shall mean all sums of money, other than Base Rent, that are due and payable by Tenant under the terms of this Lease including, but not limited to, Utilities in accordance with Article 8 of this Lease. The term "**Rent**," as used herein, shall mean all Base Rent, Additional Rent and all other amounts payable hereunder from Tenant to Landlord. Unless otherwise specified herein, all items of Rent other than Base Rent shall be due and payable by Tenant on or before the date that is thirty (30) days after billing by Landlord.

4.3 Late Charge. Other remedies for non-payment of Rent notwithstanding, if any Monthly Base Rent installment or Additional Rent is not received by Landlord on or before the fifth (5th) day following the due date, or any payment due Landlord by Tenant which does not have a scheduled date is not received by Landlord on or before the thirtieth (30th) day following the date Tenant was invoiced for such charge, a late charge of five percent (5%) of such past due amount shall be immediately due and payable as Additional Rent.

4.4 Interest. Any installment of Rent and any other sum due from Tenant under this Lease which is not received by Landlord within five (5) days from when the same is due shall

bear interest from the date such payment was originally due under this Lease until paid at the lesser of: (a) an annual rate equal to the maximum rate of interest permitted by law, or (b) ten percent (10%) per annum. Payment of such interest shall not excuse or cure any Default by Tenant.

5. TAXES.

5.1 Definitions. For purposes of this Article 5, the following terms shall have the meanings hereinafter set forth:

(a) “**Taxes**” shall mean all taxes, assessments, fees (other than Tenant’s Impact Fee), impositions and charges levied (if at all) upon or with respect to the Building, other than personal property or possessory interest taxes. Taxes shall include, without limitation and whether now existing or hereafter enacted or imposed, all general real property taxes, all general and special assessments, all charges, fees and levies for or with respect to transit, housing, police, fire or other governmental or quasi-governmental services or purported benefits to or burdens attributable to the Building or any occupants thereof, all service payments in lieu of taxes, and any tax, fee or excise on the act of entering into this Lease, on the use or occupancy of the Building, on the rent payable this Lease, that are now or hereafter levied or assessed against Landlord or the Building by the United States of America, the State of California, the City of Alameda, or any other political or public entity, and shall also include any other tax, fee or other excise, however described, that may now or hereafter be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other Taxes, whether or not now customary or in the contemplation of the parties on the date of this Lease. Notwithstanding the foregoing, in the event Landlord has the right to elect to have assessments amortized over different time periods, Landlord will elect (or will charge such assessment through to Tenant as if Landlord had elected) to have such assessment amortized over the longest period permitted by the assessing authority, and only the amortized portion of such assessment (with interest at the lesser of the actual interest rate paid by Landlord or the then maximum rate of interest not prohibited or made usurious by Law) shall be included in Taxes on an annual basis. Taxes shall not include any franchise, transfer or inheritance or capital stock taxes, or any income taxes measured by the net income of Landlord from all sources, unless due to a change in the method of taxation any such taxes are levied or assessed against Landlord as a substitute for, or as an addition to, in whole or in part, any other tax that would otherwise constitute a Tax. Taxes shall also include reasonable legal fees and other costs and disbursements incurred by Landlord in connection with successful proceedings to contest, determine or reduce Taxes provided, however, that Landlord shall pay to Tenant promptly after receipt by Landlord an amount equal to any refunded or recovered Tax previously paid by Tenant.

5.2 [Intentionally deleted]

5.3 Tenant Rights to Claim Exemption from Taxes. Landlord and Tenant acknowledge that Tenant is a public agency, and Tenant asserts that its operations on the Premises are for a public purpose. Landlord agrees that Tenant may apply for and receive exemptions from various Taxes due to its status and use of the Premises, and Landlord shall not oppose or delay Tenant’s application and receipt of any such exemptions. Landlord agrees to

reasonably cooperate in any such applications, so long as Landlord is not required to pay out of pocket expenses.

6. USE; COMPLIANCE WITH LAWS.

6.1 Use. The Premises shall be used for the Permitted Use specified in the Basic Lease Information and for no other use whatsoever. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Premises, Building or with respect to the suitability or fitness of either for the conduct of Tenant's business or for any other purpose.

6.2 Compliance with Laws. Tenant shall comply with all laws, ordinances, rules, regulations and codes, of all municipal, county, state and federal authorities, including the Americans With Disabilities Act, as amended, (42 U.S.C. Section 1201 et seq. (the "ADA")) (collectively, "**Laws**") pertaining to Tenant's use and occupancy of the Premises and the conduct of its business. Tenant shall be responsible for making all improvements necessary to comply with applicable ADA requirements and to ensure that the Premises remain in compliance throughout the Term of this Lease. Tenant shall not commit, or suffer to be committed, any waste upon the Premises or any public or private nuisance. Tenant shall not permit any objectionable odor to escape or be emitted from the Premises and shall ensure that the Premises remain free from infestation from rodents or insects. Tenant shall not do or permit anything to be done on or about the Premises or bring or keep anything into the Premises which will in any way invalidate or prevent the procuring of any insurance, protecting against loss or damage to the Building or any of its contents by fire or other casualty or against liability for damage to property or injury to persons in or about the Building.

6.3 [Intentionally deleted]

6.4 Use Permit and Related Approvals. Tenant and any of its subtenants shall maintain a City of Alameda Use Permit and other applicable City permits and approvals for the intended use of the Premises (collectively "**Use Permit**"). Landlord agrees that it shall join Tenant as co-applicant for the required San Francisco Bay Conservation and Development Commission permit (the "**BCDC Permit**") required for construction of the improvements on the Premises, subject to Landlord's review and reasonable approval of the BCDC Permit application.

7. INTENTIONALLY DELETED.

8. UTILITIES.

8.1 Payments for Utilities and Services. Tenant shall contract directly with the providers of, and shall pay all charges for, water, sewer, gas, electricity, heat, cooling, telephone, refuse collection, janitorial, pest control, security and monitoring services furnished to the Premises, together with all related installation or connection charges or deposits (collectively, "**Utilities**"). If any such Utilities are not separately metered, Tenant shall cause such Utilities to be separately metered to the Premises as an element of improvements to be constructed by Tenant pursuant to Section 4.1(b) above.

8.2 No Liability of Landlord. Except in the case of Landlord's negligence or willful misconduct, in no event shall Landlord be liable or responsible for any loss, damage, expense or liability, including, without limitation, loss of business or any consequential damages, arising from any failure or inadequacy of any service or utility provided to the Premises or Building, whether resulting from any change, failure, interference, disruption or defect in supply or character of the service or utility provided to the Premises or Building, or arising from the partial or total unavailability of the service or utility to the Premises or Building, from any cause whatsoever, or otherwise, nor shall any such failure, inadequacy, change, interference, disruption, defect or unavailability constitute an actual or constructive eviction of Tenant, or entitled Tenant to any abatement or diminution of Rent or otherwise relive Tenant from its obligations under this Lease.

9. PERSONAL PROPERTY AND POSSESSORY INTEREST TAXES.

9.1 Tenant's Tax Obligation. Tenant shall pay all Tenant Taxes (as hereinafter defined) levied or imposed against the Premises or Tenant's personal property or trade fixtures placed by Tenant in or about the Premises during the Term. "**Tenant Taxes**" shall mean all taxes, assessments and governmental charges, whether federal, state, county or municipal, and whether general or special, ordinary or extraordinary, foreseen or unforeseen, imposed upon, the Premises, the Building, any possessory interest therein, or their operation, whether or not directly paid by Landlord, but excluding those Taxes paid by Landlord as defined in Section 5.1(a) above.

9.2 Possessory Interest Taxes. The interest created by this Lease may at some time be subject to property taxation under the laws of the State of California. If property taxes are imposed, the party in whom the possessory interest is vested may be subject to the payment of the taxes levied on such interest. This notice is included in this Lease pursuant to the requirements of section 107.6 (a) of the Revenue and Taxation Code of the State of California.

9.3 Payment. Tenant shall pay the Tenant Taxes directly imposed upon it for its personal property or trade fixtures or possessory interests in accordance with the instructions of the taxing entity. Tenant shall pay the Taxes originally imposed upon Landlord, upon Landlord's election, either (a) annually within thirty (30) days after the date Landlord provides Tenant with a statement setting forth in reasonable detail such Taxes, or (b) monthly in advance based on estimates provided by Landlord based upon the previous year's tax bill. All Taxes originally imposed upon Landlord and payable by Tenant with respect to the Premises shall be prorated on a per diem basis for any partial tax year included in the Term. Tenant's obligation to pay Tenant Taxes during the last year of the Term shall survive the termination of this Lease.

10. ALTERATIONS.

10.1 Landlord Consent Required. Tenant shall not make any alterations, improvements, removals, or additions to the Premises, including construction of the Building, other than those specifically included within and contemplated by the Use Permit (collectively, the "**Alterations**"), without Landlord's prior written consent in each and every instance, which consent may be conditioned upon criteria and/or requirements deemed reasonably necessary by Landlord, which may include, but not be limited to, compliance with the Use Permit obtained in

accordance with Section 6.4 above. In the event Tenant desires to perform any Alterations, Tenant shall first submit to Landlord a written description of the proposed Alterations, and, if Landlord requires, plans and specifications relating thereto, and obtain Landlord's written approval prior to commencing it. Approval of Alterations may be conditioned upon providing Landlord with a performance and payment bond satisfactory to Landlord in all respects in addition to other requirements deemed reasonably necessary to protect the interests of Landlord. Notwithstanding the foregoing, Tenant shall have the right to make Alterations to the Premises with prior written notice to, but without the consent of, Landlord provided that such Alterations (a) do not require the procurement of a building permit, (b) do not affect the structural portion of the Buildings or the systems serving the Buildings, (c) do not involve excavations below the surface of the Premises, (d) are performed below the ceiling and above the raised floor of the Premises, (e) the reasonably estimated costs of the Alterations, together with the costs of any other Alteration made during the immediately preceding twelve (12) months period, do not exceed Ten Thousand Dollars (\$10,000) and, (f) are performed in full compliance with the Use Permit, building permit for the Building, and the terms Sections 10.2 and 10.4 below.

10.2 Alterations. Any Alterations to the Premises shall be made in compliance with all applicable Laws and all reasonable requirements requested by Landlord. Prior to undertaking any Alterations, to the extent required by applicable Laws, Tenant agrees to submit an application to the applicable governmental authorities, for review and obtaining approval of such plans and proposals for such Alterations to the Premises. In addition, Tenant shall also submit to Landlord a narrative description of all proposed Alterations on the Premises, with the projected schedule and costs thereof. All Alterations shall be done at the expense of Tenant without any costs or obligation to Landlord. No Alterations shall be undertaken by Tenant on the Premises, unless such Alterations have been approved by all applicable governmental authorities and all requisite permits have been obtained, including, without limitation any encroachment or other permit required by EBRPD. Upon completion of construction of any Alterations, including the Building and related improvements, Tenant shall timely file or cause to be filed a notice of completion. Landlord may post upon the leased Premises a notice of non-responsibility.

10.3 Excavations. In the event Tenant intends to perform any Alterations requiring excavations below the surface of the Premises, Tenant must determine the actual location of all utilities using standard methods (i.e., potholing, metal fish line, etc.) and submit this information with an application to excavate or application to build a permanent structure to Landlord for approval (which shall also include the approval of other applicable governmental authorities). The application shall include a site plan showing the location of utilities and that construction will not take place above the utility line or within the utility easement, specifically showing that no permanent structure will be constructed in these areas. Tenant shall be responsible for complying with the provisions of the City of Alameda's Marsh Crust Ordinance, and if required, shall obtain a Marsh Crust Permit.

10.4 Liens. Tenant shall pay when due all claims for labor or materials furnished Tenant for use in the Premises. Tenant shall not permit any mechanic liens or any other liens against the Premises for any labor or materials furnished to Tenant in connection with work performed on or about the Premises by or at the direction of Tenant. Tenant shall indemnify, hold harmless and defend Landlord (by counsel reasonably satisfactory to Landlord) from any liens and encumbrances arising out of any work performed or materials furnished by or at the

direction of Tenant. In the event that Tenant shall not, within ten (10) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein or by law, the right, but not the obligation, to cause the same to be released by such means as it may deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and expenses reasonably incurred in connection therewith, including attorneys' fees and costs, shall be payable to Landlord by Tenant on demand.

10.5 Construction of New Building. Construction of the Building and improvements to be located on the Premises shall be completed at Tenant's sole cost and expense and in accordance with the terms and conditions of this Lease, including, without limitation, the provisions of Section 10 above. The term "**City**" as used in this Section 10.5 shall mean the City of Alameda in its regulatory capacity, as distinguished from the City of Alameda as the Landlord under this Lease. During construction of the Building, Tenant shall have reasonable access to reasonably available areas under the control of Landlord in the vicinity of the Premises, as reasonably agreed to by Landlord and Tenant, which includes the area specified on **Exhibit A-2** (Parking Area), as construction staging for the purpose of mobilization, lay-down, coordination, preconstruction and construction activities.

(a) Tenant shall commence construction in an expeditious manner following receipt of all required permits by the City and all governmental authorities having jurisdiction over the Premises for the construction of the Building and in accordance with the schedule of performance attached hereto as **Exhibit G** (as updated from time to time by reasonable mutual agreement by the Landlord and Tenant, the "**Schedule of Performance**"). If Tenant does not commence construction and diligently continue to construct, subject to Force Majeure (as defined below), within five (5) years after full execution of this Lease, then Landlord shall have the right to terminate this Lease.

(b) Landlord and the City assume no liability or responsibility for any defect in any structure by their approval of plans and specifications for the Building and related improvements.

(c) Tenant shall require any and all contractors engaged by Tenant to construct the Building and related improvements on the Premises must comply with all applicable Laws, including without limitation, applicable Prevailing Wage Laws and Hazardous Materials Laws.

(d) Tenant shall provide Landlord two (2) complete sets of final approved "as built" plans within ninety (90) days after completion of the Building and related improvements.

(e) Tenant shall, until expiration or termination of this Lease, own the physical improvements constituting the Building. Subject to restrictions (if any) required by Tenant's funding sources, upon the expiration or earlier termination of this Lease, the physical improvements constituting the Building shall be the property of the Landlord free and clear of any and all liens, encumbrances or claims of any kind and the City shall have no obligation to reimburse Tenant for any portion of the value or cost.

11. MAINTENANCE AND REPAIR OF PREMISES.

11.1 Maintenance and Repair by Tenant. Tenant shall, at its sole cost and expense, keep and maintain the Premises in good order and repair, taking into consideration the industrial nature of the Permitted Use. Tenant, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices. Tenant shall maintain the grounds of the Premises, including paving, the mowing of grass, care of shrubs and general landscaping. Tenant's obligations shall include restorations, replacements and renewals when necessary, as reasonably determined by Tenant to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(a) Debris and materials not intended to be used as part of Tenant's operations on the Premises shall be promptly removed from the Premises, and the area of work shall be kept reasonably clean and free of such unused materials at all times.

(b) Tenant shall provide for all security and safety within the Premises. Any crimes or other offenses, involving damage to or theft of Landlord property shall be reported to the appropriate authorities for their investigation and disposition and to Landlord as property owner and lessor. Notwithstanding the foregoing, Tenant shall have no responsibility for any personal property of Landlord that Landlord has stored or located on the Premises, and Landlord shall be solely responsible for its safety and security.

(c) Tenant shall be responsible, at its cost and expense, for obtaining and providing any and all other services which may be required in connection with Tenant's use or occupancy of the Premises.

11.2 Maintenance and Repair by Landlord.

(a) Landside Lease Area. Landlord shall have no responsibility for maintenance or repair of any portion of the Building or the Landside Lease Area, except to the extent Landlord is required to make repairs pursuant to Section 12 below. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932, and Sections 1941 and 1942 of the California Civil Code or any similar or successor Laws now or hereby in effect.

(b) Waterside Lease Area. Tenant shall be solely responsible for all dredging and similar maintenance activities within the Waterside Lease Area. Tenant shall also be permitted to, but shall not be required, to complete dredging within the area depicted on the attached **Exhibit F**. Notwithstanding the terms of Section 2.6(b) herein, Landlord has no obligation to dredge and/or otherwise maintain the Premises, any channels, or any turning basins, and Landlord provides no warranty that the water depth will be sufficient for Tenant to conduct its activities on or to or from the Premises. Landlord, in its sole discretion, may notify Tenant that Landlord is dredging the channel directly adjacent to the Waterside Lease Area, and Tenant, in its sole discretion, may request that Landlord dredge the subaqueous portion of the Premises at the same time as the channel is being dredged, at the cost and expense of Tenant, in order to achieve cost savings and economies of scale. In such event, Landlord and Tenant shall execute a separate letter agreement setting forth the costs and liabilities for such actions.

12. ENVIRONMENTAL PROTECTION PROVISIONS.

12.1 Hazardous Materials. “**Hazardous Materials**” shall mean any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive, flammable, explosive, radioactive or corrosive, including, without limitation, petroleum, solvents, lead, acids, pesticides, paints, printing ink, PCBs, asbestos, materials commonly known to cause cancer or reproductive problems and those materials, substances and/or wastes, including wastes which are or later become regulated by any local governmental authority, the state in which the Premises are located or the United States Government, including, but not limited to, substances defined as “hazardous substances,” “hazardous materials,” “toxic substances” or “hazardous wastes” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; the Resource Conservation and Recovery Act; all environmental laws of the state where the Property is located, and any other environmental law, regulation or ordinance now existing or hereinafter enacted. “**Hazardous Materials Laws**” shall mean all present and future federal, state and local laws, ordinances and regulations, prudent industry practices, requirements of governmental entities and manufacturer's instructions relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, presence, disposal or transportation of any Hazardous Materials, including without limitation the laws, regulations and ordinances referred to in the preceding sentence.

12.2 Reportable Uses Required Consent. Except as permitted in this Article 12, Tenant hereby agrees that Tenant and Tenant's officers, employees, representatives, agents, contractors, subcontractors, successors, assigns, subtenants, concessionaires, invitees and any other occupants of the Premises (for purposes of this Article 12, referred to collectively herein as “**Tenant Representatives**”) shall not cause or permit any Hazardous Materials to be used, generated, manufactured, refined, produced, processed, stored or disposed of, on, under or about the Premises or Building or transport to or from the Premises or Building without the express prior written consent of Landlord, which consent may be limited in scope and predicated on strict compliance by Tenant of all applicable Hazardous Materials Laws and such other reasonable rules, regulations and safeguards as may be required by Landlord (or any insurance carrier, environmental consultant or lender of Landlord, or environmental consultant retained by any lender of Landlord) in connection with using, generating, manufacturing, refining, producing, processing, storing or disposing of Hazardous Materials on, under or about the Premises or the Building. In connection therewith, Tenant shall, at its own expense, procure, maintain in effect and comply with all conditions of any and all permits, licenses and other governmental and regulatory approvals required for the storage or use by Tenant or any of Tenant's Representatives of Hazardous Materials on the Premises or the Building, including without limitation, discharge of (appropriately treated) materials or wastes into or through any sanitary sewer serving the Premises or the Building. The foregoing notwithstanding, Tenant may use ordinary and customary materials reasonably required to be used in the course of the Permitted Use, ordinary office supplies (copier, toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Hazardous Materials Laws and does not expose Landlord to any liability therefor. In conjunction with the foregoing, Landlord expressly authorizes Tenant to install and use fuel storage facilities, subject to the following requirements: Any fuel tanks Tenant constructs on the Premises are required to be double-walled. Such fuel

tanks and any fuel dock must contain adequate measures to prevent and detect any fuel spills or leaks, as reasonably determined by Tenant. All fuel tank construction and use shall be in compliance with all Laws, including without limitation, Hazardous Materials Laws.

12.3 Remediation Obligations. If at any time during the Term, any contamination of the Premises and/or Parking Area by Hazardous Materials in violation of Hazardous Materials Laws shall occur where such contamination is caused by the act or omission of Tenant or Tenant's Representatives (“**Tenant's Contamination**”), then Tenant, at Tenant's sole cost and expense, shall promptly and diligently remove such Hazardous Materials from the Premises or the groundwater underlying the Premises to the extent required to comply with applicable Hazardous Materials Laws. Tenant shall not take any required remedial action in response to any Tenant's Contamination in or about the Premises or enter into any settlement agreement, consent, decree or other compromise in respect to any claims relating to any Tenant's Contamination without first obtaining the prior written consent of Landlord, which may be subject to conditions imposed by Landlord as determined in Landlord's sole discretion. Such prior written consent shall not be required to the extent the delay caused by the requirement to obtain consent may increase the damage to the Premises or the risk of harm to human health, safety or security caused by the Tenant Contamination. Landlord and Tenant shall jointly prepare a remediation plan in compliance with all Hazardous Materials Laws and the provisions of this Lease. In addition to all other rights and remedies of Landlord hereunder, if Tenant does not promptly and diligently take all steps to prepare and obtain all necessary approvals of a remediation plan for any Tenant's Contamination, and thereafter commence the required remediation of any Hazardous Materials released or discharged in connection with Tenant's Contamination within thirty (30) days after all necessary approvals and consents have been obtained, and thereafter continue to prosecute such remediation to completion in accordance with the approved remediation plan, then Landlord, at its sole discretion, shall have the right, but not the obligation, to cause such remediation to be accomplished, and Tenant shall reimburse Landlord within fifteen (15) business days of Landlord's demand for reimbursement of all amounts reasonably paid by Landlord (together with interest on such amounts at the highest lawful rate until paid), when such demand is accompanied by proof of payment by Landlord of the amounts demanded. Tenant shall promptly deliver to Landlord, copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises as part of Tenant's remediation of any Tenant's Contamination. The foregoing notwithstanding, “Tenant's Contamination” shall not refer to or include any Preexisting Contamination (as defined in Section 12.8 below) or other Hazardous Materials that were not clearly introduced to the Premises by Tenant or Tenant's Representatives. As an example, if lead dust or asbestos are found on the Premises, unless there is clear evidence that Tenant introduced those Hazardous Materials to the Premises, those Hazardous Materials shall not be considered “Tenant's Contamination,” and it shall not be Tenant's responsibility to take remedial action relating to such Hazardous Materials.

12.4 Environmental Permits. Tenant, its contractors, assigns or subtenants shall be solely responsible for obtaining and complying with, at their cost and sole expense, any environmental permits required for Tenant's operations under the Lease, independent of any existing permits held by Landlord. Tenant shall not conduct operations or activities under any environmental permit that names Landlord as a secondary discharger or co-permittee. Tenant shall provide prior written notice to Landlord of all environmental permits and permit

applications required for any of Tenant's operations or activities. Tenant acknowledges that Landlord will not consent to being named a secondary discharger or co-permittee for any operations or activities of Tenant, its contractors, assigns or subtenants. Tenant shall strictly comply with any and all environmental permits (including any hazardous waste permit required under the Resource Conservation and Recovery Act or its state equivalent) and must provide, at its own expense, any hazardous waste management facilities complying with all Hazardous Material Laws.

12.5 Landlord's Inspection Right. Landlord shall have the right to inspect, upon reasonable notice, the Premises for compliance with environmental, safety, and occupational health laws and regulations, regardless of whether Landlord is responsible for enforcing or complying with them. Landlord normally will give Tenant twenty-four (24) hours' prior notice of its intention to enter the Premises unless it determines the entry is required for exigent circumstances related to health, safety, or security; provided, however, Landlord agree to use its best commercial efforts to provide Tenant with the maximum advance notice of any such entrance and will, without representation or warranty, attempt to structure such entrance in the least intrusive manner possible. Tenant shall have no claim against Landlord, or any officer, agent, employee, contractor or subcontractor of Landlord by reason of entrance of such Landlord officer, agent, employee, contractor or subcontractor onto the Premises.

12.6 Hazardous Materials Handling Plan. Prior to the execution of this Lease, Tenant shall complete, execute and deliver to Landlord an Environmental Questionnaire Disclosure Statement (the "**Environmental Questionnaire**"), in the form of **Exhibit E** attached hereto. To the extent Tenant intends to store, use, treat or dispose of Hazardous Materials on the Premises, Tenant shall prepare and submit together with the Environmental Questionnaire a Hazardous Materials Handling Plan (the "**Hazardous Materials Handling Plan**"). For a period of fifteen (15) days following Landlord's receipt of the Environmental Questionnaire and Hazardous Materials Handling Plan, if applicable, Landlord shall have the right to approve or disapprove such documents. The failure of Landlord to approve such documents shall be deemed Landlord's disapproval thereof. Landlord approval of the Environmental Questionnaire and the Hazardous Materials Handling Plan shall constitute approval for Tenant's use of the Hazardous Materials set forth therein in compliance with Hazardous Materials Laws and the Hazardous Materials Handling Plan. Following approval of the Hazardous Materials Handling Plan, Tenant shall comply therewith throughout the Term. To the extent Tenant is permitted to utilize Hazardous Materials upon the Premises, such use shall be limited to the items set forth in the Environmental Questionnaire, shall comply with Hazardous Materials Laws and the Hazardous Materials Handling Plan and Tenant shall promptly provide Landlord with complete and legible copies of all the following environmental items relating thereto: reports filed pursuant to any self-reporting requirements; permit applications, permits, monitoring reports, workplace exposure and community exposure warnings or notices and all other reports, disclosures, plans or documents relating to water discharges, air pollution, waste generation or disposal, and underground storage tanks for hazardous materials; orders, reports, notices, listing and correspondence of or concerning the release, investigation of, compliance, cleanup, remedial and corrective actions, and abatement of hazardous materials; and all complaints, pleadings and other legal documents filed by or against Tenant related to Tenant's use, handling, storage or disposal of hazardous materials. If, in conjunction with Tenant's Permitted Use of the Premises, Tenant desires to commence the use, treatment, storage or disposal of previously undisclosed Hazardous Materials,

prior to such usage thereof, Tenant shall notify Landlord thereof, by written summary detailing the scope of such proposed usage and updating the Hazardous Materials Handling Plan to the extent required by such proposed usage. For a period of fifteen (15) days following Landlord's receipt of such notice, Landlord shall have the right to approve or disapprove of such documents. The failure of Landlord to approve of such documents within such time period shall be deemed Landlord's disapproval thereof.

12.7 Hazardous Materials Indemnity. In addition to any other provisions of this Lease, Tenant shall, and does hereby agree, to, indemnify and hold harmless Landlord from any costs, expenses, liabilities, fines or penalties resulting from discharges, emissions, spills, storage or disposal arising from Tenant's occupancy, use or operations, or any other action by Tenant or its contractors, employees, agents, assigns, invitees, or subtenants giving rise to liability, civil or criminal, or any other action by Tenant or its contractors, employees, agents, assigns, or subtenants giving rise to responsibility under any Hazardous Materials Laws. Tenant's obligations hereunder shall apply whenever Landlord incurs costs or liabilities for Tenant's activities or for the activities of Tenant's contractors, employees, agents, assigns, invitees, or subtenants as provided hereunder. This provision shall survive the expiration or termination of this Lease.

12.8 Preexisting Contamination. Tenant acknowledges that preexisting, undisclosed contamination by Hazardous Materials in violation of Hazardous Materials Laws may exist at the Premises or the final designated Parking Area shown on **Exhibit A-2** attached hereto prior to the Commencement Date ("**Preexisting Contamination**"). If during development of the Premises, Tenant or Tenant's Representatives discover Preexisting Contamination, Tenant's sole remedy under the Lease shall be to remediate the Preexisting Contamination in accordance with the procedures set forth in Section 12.3 above with respect to remediation of Tenant's Contamination (except that such remediation shall be subject to reimbursement as set forth in Section 12.8(a) below and Tenant shall not be obligated to commence remediation within thirty (30) days after receiving all necessary approvals and consents, but shall perform such remediation in conjunction with Tenant's construction of the Infrastructure Improvements and/or the Building), and either:

(a) (i) (A) request that Landlord make a claim for the costs of such remediation against the U.S. Department of the Navy ("**Navy**"), which Landlord shall be obligated to undertake, and (B) pay the proceeds of such action to the Tenant or its environmental insurance carrier if Tenant has procured insurance, made a claim with its carrier for such costs, and received reimbursement from its carrier, or (ii) request that Landlord allow the Tenant, or if applicable, its environmental insurance carrier, to make the claim directly against the Navy on behalf of Landlord; or

(b) terminate the work if the costs exceed the original estimates for the Preexisting Contamination remediation and terminate the Lease.

13. ASSIGNMENT AND SUBLETTING.

13.1 Landlord Consent Required. Subject to Sections 13.5 and 13.6 below, Tenant shall not voluntarily (a) mortgage, pledge, hypothecate or encumber this Lease or any interest

therein, or (b) assign or transfer this Lease or any interest herein, sublease the Premises or any part thereof or any right or privilege appurtenant thereto, or allow any other person (the employees and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of Landlord, which consent shall not be withheld unreasonably provided that (i) Tenant is not then in Default under this Lease nor is any event then occurring, with the giving of notice or the passage of time, or both, would constitute a Default hereunder; and (ii) Tenant has not previously assigned or transferred this Lease or any interest herein or subleased the Premises or any part thereof. A transfer of greater than fifty percent (50%) interest (whether stock, partnership interest, membership interest or otherwise) of Tenant, either in one (1) transaction or a series of transactions shall be deemed to be an assignment under this Lease. For the purpose of this Article 13, Landlord's consent shall not be required for an assignment or transfer by Tenant mandated by the California legislature.

13.2 Intentionally deleted.

13.3 Reasonable Consent.

(a) If Tenant intends to assign this Lease or sublet the Premises or any part thereof, Tenant shall give Landlord written notice of such intent. Tenant's notice shall be accompanied by a copy of the proposed assignment or sublease between Tenant and the proposed assignee or subtenant, together with current financial statements for the proposed assignee or subtenant, which financial statement shall be prepared in accordance with generally accepted accounting principles (or the Governmental Accounting Standards Board, if applicable). Tenant shall provide Landlord with any additional information or documentation reasonably requested by Landlord within ten (10) business days after receiving Landlord's request.

(b) Landlord shall then have a period of thirty (30) days following receipt of such additional information (or thirty (30) days after receipt of Tenant's notice if no additional information is requested) within which to notify Tenant in writing that Landlord elects either (i) to permit Tenant to assign this Lease or sublet such space, subject, however, to prior written consent to the proposed assignment or sublease, or (ii) deny Tenant's request to assign this Lease or sublet such space.

(c) Among other factors upon which Landlord may base a withholding of consent, taking into account the nature of Tenant's status as a governmental agency, are the following: (i) the use of the Premises by such proposed assignee or subtenant would not be a Permitted Use; (ii) the financial condition of the proposed assignee or subtenant is such that, in Landlord's reasonable determination, it would be unable to perform its obligations under the proposed sublease or assignment; (iii) the portion of the Premises proposed to be sublet is irregular in shape and/or does not permit safe or otherwise appropriate means of ingress and egress, or does not comply with other Laws or regulations; (iv) Landlord or Landlord's agents have negotiated with the proposed assignee or subtenant regard the leasing of space, at any time within the preceding six (6) months; or (v) any other reasonable basis that Landlord may assert.

13.4 Transfer Premium. If Landlord consents to any requested assignment or sublease (each "**Transfer**") and the assignee or subtenant pays to Tenant an amount in excess of the Rent

due under this Lease (after deducting Tenant's reasonable, actual expenses in obtaining such assignment or sublease, such expenses being limited to: (a) any Alterations to the subject space made in order to achieve the Transfer, or contributions to the cost thereof, amortized in equal monthly installments over the then remainder of the Term; and (b) any commercially reasonable brokerage commissions, reasonable attorneys' fees and reasonable advertising and marketing costs incurred by Tenant in connection with the Transfer) ("**Transfer Premium**"). Tenant shall pay fifty percent (50%) of such Transfer Premium to Landlord as and when the monthly payments are received by Tenant.

13.5 Tenant Affiliates. Notwithstanding anything to the contrary contained in Section 13.1, Tenant may, without obtaining the prior consent of Landlord, and without the payment of any amounts pursuant to Section 13.4, sublet or license the use of all or any part of the Premises or assign this Lease to a Tenant Affiliate, provided that (a) Tenant shall give not less than thirty (30) days' prior written notice thereof to Landlord (to the extent such notice is permitted by applicable Law), (b) Tenant shall continue to be fully obligated under this Lease, and (c) any such assignee or sublessee shall expressly assume and agree to perform all the terms and conditions of this Lease to be performed by Tenant and to use the Premises only for a Permitted Use (but with respect to a sublease, only with respect to that portion of the Premises that is the subject of the sublease and excluding all rental obligations of Tenant hereunder). As used herein, "Tenant Affiliate" means (i) an entity controlling, controlled by or under common control with Tenant, (ii) a successor entity related to Tenant by merger, consolidation, nonbankruptcy reorganization, or government action, or (iii) a purchaser of substantially all of Tenant's assets located in the Premises; and a party shall be deemed to "control" another party for purposes of the definition contained in the aforesaid clause (i) only if the first party owns more than fifty percent (50%) of the stock or other beneficial interests of the second party or has the power to direct or cause the direction of the management or policy of the second party, or the first and second party share the same, or substantially the same (defined as a majority of directors on the "controlled" entity's board are also on the other entity's board), board of directors.

13.6 No Release. No Transfer shall release or discharge Tenant of or from any liability, whether past, present or future, under this Lease, and Tenant shall continue to be fully liable hereunder. Each subtenant or assignee shall agree, in a form reasonably satisfactory to Landlord, to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Lease. The assignment or sublease agreement, as the case may be, after approval by Landlord, shall not be amended without Landlord's prior written consent, and shall contain a provision directing the assignee or subtenant to pay the rent and other sums due thereunder directly to Landlord upon receiving written notice from Landlord that Tenant is in default under this Lease with respect to the payment of Rent. In the event that, notwithstanding the giving of such notice, Tenant collects any rent or other sums from the assignee or subtenant, then Tenant shall hold such sums in trust for the benefit of Landlord and shall immediately forward the same to Landlord. Landlord's collection of such rent and other sum shall not constitute an acceptance by Landlord of attornment by such assignee or subtenant. Tenant shall deliver to Landlord promptly after execution an executed copy of each Transfer and an agreement of compliance by each such subtenant or assignee.

13.7 Expenses and Attorneys' Fees. Tenant shall pay to Landlord all costs and expenses (including without limitation, the reasonable fees of Landlord's counsel) incurred in

connection with Landlord's review and processing of documents regarding any proposed Transfer.

13.8 Limitations on Transfer Reasonable. Tenant acknowledges and agrees that the restrictions, conditions, and limitations imposed by this Article 13 on Tenant's ability to assign or transfer this Lease or any other interests herein, to sublet the Premises or any part thereof, are, for purposes of California Civil Code Section 1951.4, as amended from time to time, and for all other purposes, reasonable at the time this Lease was entered into and shall be deemed to be reasonable at the time that Tenant seeks to assign or transfer this Lease or any interest herein, to sublet the Premises or any part thereof, or to transfer or assign any right or privilege appurtenant to the Premises.

14. INDEMNITY AND WAIVER OF CLAIMS.

14.1 Indemnification by Tenant of Landlord. Tenant shall indemnify, defend and hold Landlord and Landlord Related Parties harmless against and from all liabilities, obligations, damages, penalties, claims, actions, costs, charges, judgment and expenses (including reasonable attorneys' fees, costs and disbursements) (collectively referred to as "**Losses**"), arising from or growing out of any injury to persons or damage to the Premises caused by any act, neglect, fault, willful misconduct of Tenant or Tenant's employees, agents servants, guests, invitees, contractors, or sublessees. However, this indemnity shall not extend to damages due to the negligence or willful misconduct of Landlord or Landlord Related Parties (as defined below). If any action or proceeding is brought against Landlord by reason of any such claim, upon notice from Landlord, Tenant shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. As a material part of the consideration to Landlord, Tenant hereby releases Landlord and its trustees, members, principles, beneficiaries, partners, officers, directors, employees, property managers, Mortgagees and agents ("**Landlord Related Parties**") from responsibility for, waives its entire claim of recovery for and assumes all risks of damage to property or injury to person in or about the Premises or the Building from any cause whatsoever except to the extent caused by the negligence or willful misconduct of Landlord or Landlord Related Parties.

14.2 Waiver of Claims. Except in the event of its own negligence or willful misconduct, Landlord shall not be liable to Tenant and Tenant hereby waives all claims against Landlord and Landlord Related Parties for any injury or damage to any person or property occurring or incurred in connection with or in any way relating to the Premises or Building from any cause. Without limiting the foregoing, neither Landlord nor any Landlord Related Parties shall be liable for and there shall be no abatement rent for (a) any damage to Tenant's property stored with or entrusted to any Landlord Related Parties, (b) loss of or damage to any property by theft or any other wrongful or illegal act, or (c) any injury or damage to person or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Premises or Building or from the pipes, appliances, appurtenance or plumbing works thereof or from the roof, street or surface or from any other place or resulting from dampness or any other cause whatsoever or from the acts or omissions of other tenants, occupants or other visitors to the Premises or Building or from any other cause whatsoever, (d) any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to the Premises or (e) any latent or other defects in the Premises or the Building.

Tenant agrees that no case shall Landlord or any Landlord Related Parties be responsible or liable on any theory for any injury to Tenant's business, loss of profits, loss of income or any other form of consequential damage.

14.3 Survival/No Impairment. The obligations of the parties under this Article 14 shall survive any termination of this Lease. The foregoing indemnity obligations shall not relieve any insurance carrier of its obligations under any policies required to be carried by either party pursuant to this Lease, to the extent that such policies cover the peril or currents that results in the claims that is subject to the foregoing indemnity.

15. INSURANCE.

15.1 Tenant's Insurance.

(a) Commercial Marine Liability Insurance. Tenant shall maintain in full force throughout the Term, commercial general liability insurance providing coverage that includes maritime operations, contractual liabilities, and products/completed operations liability exposures, on an occurrence form basis with limits of not less than Four Million Dollars (\$4,000,000.00) each occurrence for bodily injury and property damage combined, or such larger amount as Landlord may prudently require from time to time, covering bodily injury and property damage liability. Each policy of liability insurance required by this Section shall: (i) contain a cross liability endorsement or separation of insureds clause; (ii) provide that any waiver of subrogation rights or release prior to a loss does not void coverage; (iii) provide that it is primary to and not contributing with, any policy of insurance carried by Landlord covering the same loss; (iv) provide that any failure to comply with the reporting provisions shall not affect coverage provided to Landlord, its partners, property managers and Mortgagees; and (v) name Landlord, and such other parties in interest as Landlord may from time to time reasonably designate to Tenant in writing, as additional insureds. Such additional insureds shall be provided at least the same extent of coverage as is provided to Tenant under such policies.

(b) Property Insurance. Tenant shall obtain and keep in full force and affect a policy or policies in Tenant's name insuring loss or damage to the Premises and the Building and any other Alterations, with Landlord as a named additional insured. The amount of such insurance shall be equal to the full insurable replacement costs of the Premises, as the same shall exist from time to time, but in no event more than the commercially reasonable and available insurable value thereof. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage, including coverage for debris removal and enforcement of any applicable Laws requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as a result of a covered loss. Such policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause and inflation guard protection causing an increase in the annual property insurance amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose.

(c) Wharfingers Legal Liability. Tenant shall maintain in full force throughout the Term, wharfingers legal liability insurance providing coverage on an occurrence form basis with limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence for

the care, custody, and control coverage for damage to vessels and the vessels' cargo while moored at the owner/operator's facility for which the owner/operator is legally liable.

(d) Protection and Indemnity Coverage. Tenant shall maintain or cause to be maintained through its system operator (presently Blue & Gold Fleet, L.P.) in full force throughout the Term, protection and indemnity insurance providing coverage on an occurrence form basis with limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence, endorsed to include pollution legal liability, covering bodily injury, property damage and remediation costs arising from the use of a vessel. A vessel pollution liability policy with a minimum of \$5,000,000.00 per occurrence, with provision for remediation costs, may be substituted for the pollution legal liability policy endorsement on the protection and indemnity policy.

(e) Worker's Compensation Insurance; Employer's Liability Insurance. Tenant shall, at Tenant's expense, maintain in full force and effect during the Term of this Lease, worker's compensation insurance with not less than the minimum limits required by law, and employer's liability insurance with a minimum limit of coverage of One Million Dollars (\$1,000,000.00).

(f) Commercial Pollution Legal Liability. Commercial Pollution Legal Liability Insurance with coverage limits of not less than Five Million Dollars (\$5,000,000) covering remediation liability, defense costs, bodily injury and property damage arising out of the operations of Tenant. Coverage shall include all costs associated with remediation of the Premises, and risks associated with transportation and disposal of any dredge spoils or Hazardous Materials. All fuel storage tanks and associated piping shall be scheduled on the policy. Such coverage shall be for a period of not less than ten (10) years, shall not contain a self-insured retention amount in excess of \$250,000, and shall be renewed in a timely fashion so as to preclude any gaps in coverage during the Term of this Lease.

(g) Automobile Liability. Tenant shall, at Tenant's expense, maintain in full force and effect during the Term of this Lease, Commercial Automobile Liability providing coverage for any vehicle owned by Tenant and used in the conduct of its business. Such policy shall be in an amount of not less than One Million Dollars (\$1,000,000) combined singled limit. Such policy of insurance shall be issued by an insurance company authorized to do business in the state of California and rated A-: VII or better in the Best's Key Rating Guide.

(h) Builder's Risk Insurance. During construction of the Building and related improvements, Tenant shall maintain Special Form coverage for "builder's risk" insurance.

15.2 Requirements For All Policies. Each policy of insurance required under Section 15.1 shall: (a) be in a form, and written by an insurer, reasonably acceptable to Landlord, (b) be maintained at Tenant's sole cost and expense and (c) endeavor to provide at least fifteen (15) days' written notice to Landlord prior to any cancellation, nonrenewal or modification of insurance coverage. Insurance companies issuing such policies shall have rating classifications of "A-" or better and financial size category ratings of "VII" or better according to the latest edition of the Best Key Rating Guide. All insurance companies issuing such policies shall be admitted carriers licensed to do business in the state where the Property is located, unless any

such policy is solely available through a non-admitted insurance company. Tenant shall provide to Landlord, upon request, evidence that the insurance required to be carried by Tenant pursuant to this Section, including any endorsement affecting the additional insured status, is in full force and effect and that premiums therefore have been paid. Tenant shall furnish Landlord with certificates of renewal thereof and shall provide Landlord with at least thirty days prior written notice of any cancellation or modification. Landlord and Tenant agree, to the extent such waivers are commercially reasonable, to have their respective insurance companies waive any rights of subrogation that such company may have against Landlord or Tenant, as the case may be.

15.3 Certificates of Insurance. Upon execution of this Lease by Tenant, and not less than thirty (30) days prior to expiration of any policy thereafter, Tenant shall furnish to Landlord a certificate of insurance reflecting that the insurance required by this Article is in force, accompanied by an endorsement(s) showing the required additional insureds satisfactory to Landlord in substance and form.

16. DAMAGE OR DESTRUCTION.

16.1 Definitions.

(a) “**Insured Loss**” shall mean damage or destruction to improvements on the Premises, other than Tenant-owned trade fixtures, which was caused by an event required to be covered by the insurance described in Section 15.1, irrespective of any deductible amounts or coverage limits involved.

(b) “**Premises Partial Damage**” shall mean damage or destruction to the improvements on the Premises, which can reasonably be repaired in six (6) months or less from the date of the damage or destruction. Tenant shall notify Landlord in writing within thirty (30) days from the date of the damage or destruction as to whether or not the damage is Partial or Total and the estimated time for repairing such damage.

(c) “**Premises Total Destruction**” shall mean damage or destruction to the Premises, which cannot reasonably be repaired in six (6) months or less from the date of the damage or destruction. Tenant shall notify Landlord in writing within thirty (30) days from the date of the damage or destruction as to whether or not the damage is partial or total.

16.2 Partial Damage - Insured Loss. If Premises Partial Damage has occurred, Tenant shall, at Tenant’s expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, Tenant shall promptly contribute the shortage in proceeds (except as to the deductible which is Tenant’s responsibility) as and when required to complete such repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Tenant shall have no obligation to fully restore the unique aspects of the Premises.

16.3 Partial Damage - Uninsured Loss. If Premises Partial Damage has occurred that is not an Insured Loss occurs, Tenant may either: (a) repair such damage as soon as reasonably

possible at its expense, in which event this Lease shall continue in full force and effect, or (b) terminate this Lease by giving written notice to Landlord within thirty (30) days after receipt by Tenant of knowledge of the occurrence of such damage. Such termination shall be effective sixty (60) days following the date of such notice.

16.4 Total Destruction. Notwithstanding any other provision hereof, if Premises Total Destruction occurs, Tenant may either: (a) repair such damage as soon as reasonably possible at its expense, in which event this Lease shall continue in full force and effect, or (b) terminate this Lease by giving written notice to Landlord within thirty (30) days after receipt by Tenant of knowledge of the occurrence of such damage. Such termination shall be effective sixty (60) days following the date of such notice.

16.5 Rent Abatement. In the event of Premises Partial Damage or Premises Total Destruction not caused by an act or omission of Tenant, the Rent payable by Tenant for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Tenant's use of the Premises is impaired. All other obligations of Tenant hereunder shall be performed by Tenant, and Landlord shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

17. INTENTIONALLY DELETED.

18. DEFAULT.

18.1 Events of Default. The occurrence of any of the following shall constitute a "Default" by Tenant:

(a) Tenant fails to make any payment of Rent when due, if payment in full is not received by Landlord within five (5) days after written notice that it is past due.

(b) Tenant abandons the Premises as defined in Section 1951.3 of the California Civil Code.

(c) Tenant fails timely to deliver any subordination document or estoppel certificate requested by Landlord within the applicable time period specified hereinbelow.

(d) Tenant violates the restrictions on Transfer set forth in Article 13.

(e) Tenant ceases doing business as a going concern; makes an assignment for the benefit of creditors; is adjudicated an insolvent, files a petition (or files an answer admitting the material allegations of a petition) seeking relief under any state or federal bankruptcy or other statute, law or regulation affecting creditors' rights; all or substantially all of Tenant's assets are subject to judicial seizure or attachment and are not released within thirty (30) days, or Tenant consents to or acquiesces in the appointment of a trustee, receiver or liquidator for Tenant or for all or any substantial part of Tenant's assets.

(f) Tenant fails to perform or comply with any provision of this Lease other than those described in (a) through (e) above, and does not fully cure such failure within fifteen (15) days after notice to Tenant or, if such failure cannot be cured within such fifteen (15) day

period, Tenant fails within such fifteen (15)-day period to commence, and thereafter diligently proceed with, all actions necessary to cure such failure as soon as reasonably possible but in all events within ninety (90) days of such notice.

18.2 Remedies. Upon the occurrence of any Default under this Lease, whether enumerated in Section 18.1 or not, Landlord shall have the option to pursue any one or more of the following remedies without any notice (except as expressly prescribed herein) or demand whatsoever. Without limiting the generality of the foregoing, Tenant hereby specifically waives notice and demand for payment of Rent or other obligations, and waives any and all other notices or demand requirements imposed by applicable Law:

(a) Terminate this Lease and Tenant's right to possession of the Premises and recover from Tenant an award of damages equal to the sum of the following:

- (i) The Worth at the Time of Award of the unpaid Rent which had been earned at the time of termination;
- (ii) The Worth at the Time of Award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that Tenant affirmatively proves could have been reasonably avoided;
- (iii) (The Worth at the Time of Award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that Tenant affirmatively proves could be reasonably avoided discounted to the then present value;
- (iv) Any other amount necessary to compensate Landlord for all the detriment either proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom; and
- (v) All such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time under applicable law.

The "**Worth at the Time of Award**" of the amounts referred to in parts (i) and (ii) above, shall be computed by allowing interest at the lesser of a per annum rate equal to: (A) the greatest per annum rate of interest permitted from time to time under applicable law, or (B) the Prime Rate plus 5% as determined by Landlord.

(b) Employ the remedy described in California Civil Code § 1951.4 (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations);
or

(c) Notwithstanding Landlord's exercise of the remedy described in California Civil Code § 1951.4 in respect of an event or events of default, at such time thereafter as Landlord may elect in writing, to terminate this Lease and Tenant's right to possession of the Premises and recover an award of damages as provided above.

18.3 No Waiver. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No waiver by Landlord of any breach hereof shall be effective unless such waiver is in writing and signed by Landlord.

18.4 Waiver of Redemption, Reinstatement, or Restoration. Tenant hereby waives any and all rights conferred by Section 3275 of the Civil Code of California and by Sections 1174 (c) and 1179 of the Code of Civil Procedure of California and any and all other laws and rules of law from time to time in effect during the Lease Term or thereafter providing that Tenant shall have any right to redeem, reinstate or restore this Lease following its termination as a result of Tenant's breach.

18.5 Remedies Cumulative. No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing by agreement, applicable Law or in equity. In addition to other remedies provided in this Lease, Landlord shall be entitled, to the extent permitted by applicable Law, to injunctive relief, or to a decree compelling performance of any of the covenants, agreements, conditions or provisions of this Lease, or to any other remedy allowed to Landlord at law or in equity. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of Default shall not be deemed or construed to constitute a waiver of such Default.

18.6 Landlord's Right to Perform Tenant's Obligations. If Tenant is in Default of any of its non-monetary obligations under this Lease, in addition to the other rights and remedies of Landlord provided herein, then Landlord may at Landlord's option, but without any obligation to do so and without further notice to Tenant, perform any such term, provision, covenant or condition or make any such payment and Landlord by reason of doing so shall not be liable or responsible for any loss or damage thereby sustained by Tenant. If Landlord performs any of Tenant's obligations hereunder in accordance with this Section 18.6, the full amount of the costs and expense incurred or the payments so made or the amount of the loss so sustained shall be immediately be owed by Tenant to Landlord, and Tenant shall promptly pay to Landlord upon demand, as Additional Rent, the full amount thereof with interest thereon from the day of payment by Landlord the lower of ten percent (10%) per annum, or the highest rate permitted by applicable law.

18.7 Severability. This Article 18 shall be enforceable to the maximum extent such enforcement is not prohibited by applicable Law, and the unenforceability of any portion thereof shall not thereby render unenforceable any other portion.

19. LIMITATION OF LIABILITY.

Notwithstanding anything to the contrary contained in this Lease, the liability of Landlord (and of any successor landlord) shall be limited to the interest of Landlord in the Building and the Premises as the same may from time to time be encumbered. Tenant shall look solely to Landlord's interest in the Building or Premises for the recovery of any judgment. Neither Landlord nor any Landlord Related Parties shall be personally liable for any judgment or deficiency, and in no event shall Landlord or any Landlord Related Parties be liable to Tenant for any lost profit, damage to or loss of business or a form of special, indirect or consequential damage. Before filing suit for an alleged default by Landlord, Tenant shall give Landlord and the Mortgagee(s) whom Tenant has been notified hold mortgages (defined in Article 22 below), notice and reasonable time to cure the alleged default.

20. SURRENDER OF PREMISES.

At the termination of this Lease or Tenant's right of possession, Tenant shall remove Tenant's personal property from the Premises, and quit and surrender the Premises to Landlord, broom clean, and in good order, condition and repair, ordinary wear and tear and damage excepted. If Tenant fails to remove any of Tenant's personal property, or to restore the Premises to the required condition, Landlord, at Tenant's sole cost and expense, shall be entitled (but not obligated) to remove and store Tenant's property and/or perform such restoration of the Premises. Landlord shall not be responsible for the value, preservation or safekeeping of Tenant's personal property. Tenant shall pay Landlord, upon demand, the expenses and storage charges incurred. If Tenant fails to remove Tenant's personal property from the Premises or storage, within 30 days after notice, Landlord may deem all or any part of Tenant's personal property to be abandoned and, at Landlord's option, title to Tenant's personal property shall vest in Landlord or Landlord may dispose of Tenant's personal property in any manner Landlord deems appropriate.

21. HOLDING OVER.

If Tenant fails to surrender all or any part of the Premises at the termination of this Lease, occupancy of the Premises after termination shall be that of a tenancy at sufferance. Tenant's occupancy shall be subject to all the terms and provisions of this Lease and Tenant shall pay an amount (on a per month basis without reduction for partial months during the holdover) equal to 150% of the sum of the Base Rent due for the period immediately preceding the holdover. No holding over by Tenant shall operate to extend the Term. If Tenant does not surrender possession at the end of the Term or sooner termination of this Lease, Tenant shall indemnify and hold Landlord harmless from and against any and all losses or liability resulting from delay in Tenant so surrendering the Premises including, without limitations, any loss or liability resulting from any claim against Landlord made by any succeeding tenant or prospective tenant founded on or resulting from such delay. Any holding over by Tenant with the written consent of Landlord shall thereafter constitute a lease from month to month.

22. MORTGAGES; ESTOPPEL CERTIFICATE.

22.1 Subordination to Mortgages. Tenant accepts this Lease subject and subordinate to any mortgage(s), deed(s) of trust, ground lease(s) or other lien(s) now or subsequently arising upon the Premises and any ground lease(s) or other agreements or covenants running with the land now or subsequently arising upon the Premises, and to renewals, modifications, refinancing and extensions thereof (collectively referred to as a “**Mortgage**”). The party having the benefit of a Mortgage shall be referred to as a “**Mortgagee**”. This clause shall be self-operative, but upon request from a Mortgagee, Tenant shall, within ten (10) days written request therefor from Landlord, execute a commercially reasonable subordination agreement in favor of the Mortgagee. Landlord shall use commercially reasonable efforts to obtain for Tenant a non-disturbance provision in any such subordination agreement. As an alternative, a Mortgagee shall have the right at any time to subordinate its Mortgage to this Lease. Upon request, Tenant, shall attorn to any successor to Landlord’s interest in this Lease.

22.2 Mortgage Protection. Tenant shall give to any Mortgagee, in accordance with the Notice Requirements of Article 25 below, at the same time as it is given to Landlord, a copy of any Notices of Default given to Landlord, provided that, prior to such notice, Tenant has been notified in writing (by way of notice of assignment of rent and leases, or otherwise) of the address of such Mortgagee. Tenant further agrees that, if Landlord shall have failed to cure such default within the time provided for in this Lease, then the Mortgagee shall have an additional reasonable period of time within which to cure such default, or if such default cannot be cured without Mortgagee pursuing its remedies against Landlord, then such additional time as may be necessary to commence and complete a foreclosure proceeding. If, in connection with obtaining financing for the Project, or a portion thereof, Landlord’s lender shall request reasonable modifications to this Lease as a condition to such financing, Tenant shall not unreasonably withhold, delay or defer its consent to such modifications, provided that such modifications do not materially adversely affect Tenant’s rights or increase Tenant’s obligations under this Lease.

23. TENANT’S ESTOPPEL CERTIFICATE.

Within ten (10) days after written request therefor, Tenant shall execute and deliver to Landlord, in a form provided by or satisfactory to Landlord, an estoppel certificate stating, that this Lease is in full force and effect, describing any amendments or modifications thereto, acknowledging that this Lease is subordinate or prior, as the case may be, to any Mortgage and stating any other information Landlord may reasonably request, including the Term, the monthly Base Rent, the date to which Rent has been paid, the amount of any security deposit or prepaid rent, whether either party hereto is in default under the terms of the Lease, and whether Landlord has completed any construction obligations hereunder. Any such estoppel certificate may be relied upon by any person or entity purchasing, acquiring an interest in or extending finance with respect to the Project, or any part thereof. If Tenant fails to provide such certificate within ten (10) days as herein provided, such failure shall at Landlord’s election, constitute a Default and Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee or deed of trust holder.

24. [INTENTIONALLY OMITTED]

25. NOTICE.

All notices shall be in writing and delivered by hand or sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service, or sent by overnight or same day courier service at the party's respective Notice Address(es) set forth in the Basic Lease Information. Each notice shall be deemed to have been received on the earlier to occur of actual delivery or the date on which delivery is refused, or, if Tenant has vacated the Premises or any other Notice Address of Tenant without providing a new Notice Address, 3 days after notice is deposited in the U.S. mail or with a courier service in the manner described above. Either party may, at any time, change its Notice Address (other than to a post office box address) by giving the other party written notice of the new address.

26. LABOR PROVISIONS.

26.1 Equal Opportunity. During the Term of this Lease, and with respect only to employment or employees at the Premises, Tenant agrees as follows:

(a) Tenant will not discriminate against any employee of Tenant or applicant for employment because of race, color, religion, sex or national origin. The employees of Tenant shall be treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, selection for training, including apprenticeship. Tenant agrees to post in conspicuous places, notices to be provided by the applicable government agencies, setting forth the provisions of this nondiscrimination provision.

(b) Tenant will, in all solicitations or advertisements for employees placed by or on behalf of Tenant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) tenant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by Landlord, advising the labor union or worker's representative of Tenant's commitments under this Equal Opportunity Clause and shall post copies of notice in conspicuous places available to employee and applications for employment.

26.2 Convict Labor. In connection with the performance of work required by this Lease, Tenant agrees not to employ any person undergoing a sentence of imprisonment at hard labor.

27. MISCELLANEOUS.

27.1 Governing Law. This Lease shall be interpreted and enforced in accordance with the Laws of the State of California and Landlord and Tenant hereby irrevocably consent to the jurisdiction and proper venue of such state.

27.2 Severability. If any section, term or provision of this Lease is held invalid by a court of competent jurisdiction, all other sections, terms or severable provisions of this Lease shall not be effected thereby, but shall remain in full force and effect.

27.3 Attorneys' Fees. In the event of an action, suit, arbitration or proceeding brought by Landlord or Tenant to enforce any of the other's covenants and agreements in this Lease, the prevailing party shall be entitled to recover from the non-prevailing party any costs, expenses (including out of pocket costs and expenses) and reasonable attorneys' fees incurred in connection with such action, suit or proceeding. Without limiting the generality of the foregoing, if Landlord utilizes the services of an attorney for the purpose of collecting any Rent due and unpaid by Tenant or in connection with any other breach of this Lease by Tenant following a written demand by Landlord pursuant to Section 18.1 above to pay such amount or cure such breach and Tenant is in Default with respect to such payment or such breach, Tenant agrees to pay Landlord reasonable actual attorneys' fees for such services, irrespective of whether any legal action may be commenced or filed by Landlord.

27.4 Force Majeure. Whenever a period of time is prescribed for the taking of an action by Landlord or Tenant (other than the payment of Rent), the period of time for the performance of such action shall be extended by the number of days that the performance is actually delayed due to strikes, acts of God, shortages of labor or materials, war, terrorist acts, pandemics, civil disturbances and other causes beyond the reasonable control of the performing party, or act or failure to act of any public or governmental agency or entity having jurisdiction over the Premises (other than the act of Landlord which shall not excuse performance by Landlord unless such performance is beyond Landlord's control) ("**Force Majeure**").

27.5 Sale. Landlord shall have the right to transfer and assign, in whole or in part, all of its rights and obligations under this Lease and in the Building. Upon transfer, Landlord shall be released from any further obligations hereunder and Tenant agrees to look solely to the successor in interest of Landlord for the performance of such obligations, provided that any successor pursuant to a voluntary, third party transfer (but not as part of an involuntary transfer resulting from a foreclosure or deed in lieu thereof) shall have assumed Landlord's obligations under this Lease.

27.6 Signs. Tenant shall not place any sign upon the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. All signage shall comply with Landlord's signage design criteria, as exist from time to time. In addition, any style, size, materials and attachment method of any such signage shall be subject to Landlord's prior written consent. The installation of any sign on the Premises by or for Tenant shall be subject to the provisions of this Lease. Tenant shall maintain any such signs installed on the Premises.

27.7 Brokers. Landlord and Tenant each represents and warrants to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker in the negotiating or making of this Lease. Each party agrees to indemnify and hold harmless the other from any claim or claims, and costs and expenses, including attorneys' fees, incurred by the indemnified party in conjunction with any such claim or claims of any broker or

brokers to a commission in connection with this Lease as a result of the actions of the indemnifying party.

27.8 Access by Landlord. In addition to access provided by this Lease, Landlord shall be allowed access to the Premises at all reasonable times throughout the term of this Lease, for any reasonable purpose upon prior written notice to Tenant. Landlord will normally give Tenant a minimum twenty-four (24) hours prior notice of an intention to enter the Premises, unless the entry is reasonably required on an emergency basis for safety, environmental, operations or security purposes. Tenant shall ensure that a telephone roster is maintained at all times for on-call persons representing Tenant who will be available on short notice, twenty-four (24) hours a day, 365 days per year, and have authority to use all keys necessary to gain access to the Premises to facilitate entry in time of emergency. Tenant shall ensure that Landlord has a current roster of such on-call personnel and their phone numbers. Tenant shall not change any existing locks, or attach any additional locks or similar devices to any door or window, without providing to Landlord one set of keys therefor. All keys must be returned to Landlord at the expiration or termination of this Lease. Tenant shall have no claim against Landlord for exercise of its rights of access hereunder. Portions of the utilities systems serving the Property may be located within the Premises. Tenant agrees to allow Landlord and its utility supplier reasonable access to the Premises for operation, maintenance, repair and replacement of these utilities systems as may be required. In executing operation, maintenance, repair or replacement of these systems, Landlord agrees to take commercially reasonable steps to limit interference with the use of the Premises by Tenant.

27.9 Waiver of Right to Jury Trial. To the extent permitted by applicable Law, Landlord and Tenant waive their respective rights to trial by jury of any contract or tort claim, counterclaim, cross-complaint, or cause of action in any action, proceeding, or hearing brought by either party against the other on any matter arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use or occupancy of the Leased Premises, including without limitation any claim of injury or damage or the enforcement of any remedy under any current or future law, statute, regulation, code, or ordinance. Landlord and Tenant agree that this paragraph constitutes a written consent to waiver of trial by jury within the meaning of California Code of Civil Procedure Section 631(f)(2), and Tenant does hereby authorize and empower Landlord to file this paragraph and/or this Lease, as required, with the clerk or judge of any court of competent jurisdiction as a written consent to waiver of jury trial. If the waiver set forth in this Section 27.9 is determined by any court to be invalid because it was executed prior to the commencement of any action, then Landlord and Tenant each covenant and agree to execute and deliver to the other, within five (5) days of a written request by the other, a waiver of the right to trial by jury similar in terms and scope to the waiver set forth in this Section 27.9 at such time following the commencement of such action as such waiver, if then made, would be valid.

27.10 Recordation. Tenant acknowledges that the Premises is a portion of a larger parcel and that recordation of a memorandum of lease in connection with this Lease would affect the title of the entire parcel, therefore Tenant agrees that if Landlord subdivides the entire parcel, then Landlord and Tenant shall execute and Tenant shall record a memorandum of this lease in the Official Records of Alameda County, California, in form and substance reasonably satisfactory to the parties.

27.11 Paragraph Titles. The paragraph titles use herein are not to be considered a substantive part of this Lease, but merely descriptive aids to identify the paragraph to which they refer. Use of the masculine gender includes the feminine and neuter, and vice versa.

27.12 Authority. If Tenant is a corporation, partnership, trust, association or other entity, Tenant and each person executing this Lease on behalf of Tenant does hereby covenant and warrant that (a) Tenant is duly incorporated or otherwise established or formed and validly existing under the laws of its state of incorporation, establishment or formation, (b) Tenant has and is duly qualified to do business in California, (c) Tenant has full corporate, partnership, trust, association or other power and authority to enter into this Lease and to perform all Tenant's obligations hereunder, and (d) each person (and all of the persons if more than one signs) signing this Lease on behalf of Tenant is duly and validly authorized to do so. Upon execution hereof, Tenant shall provide to Landlord a written certification of its Corporate Secretary, a resolution certified by Tenant's Board Secretary, or other appropriate authorizing officer or partner attesting that at meeting of its Board of Directors or other governing body a resolution has been adopted approving or authorizing execution of this Lease by the Executive Director or other authorized officer of Tenant, thereby binding Tenant to the terms of this Lease and identifying the person(s) authorized to execute this Lease on behalf of Tenant.

27.13 Quiet Possession. Landlord covenants and agrees with Tenant that, upon Tenant's payment of Rent and observing and performing all of the terms, covenants, conditions, provisions and agreements of this Lease on Tenant's part to be observed or performed, Tenant shall have the quiet possession of the Premises throughout the Term.

27.14 Asbestos Notification for Commercial Property Constructed Before 1979. Tenant acknowledges that Landlord has advised Tenant that, because of their age, the preexisting improvements, such as concrete, within the Premises and Parking Area may contain asbestos-containing materials ("ACMs"). If ACMs are likely to be disturbed in the course of developing the Building, Tenant shall encapsulate or remove the ACMs in accordance with an asbestos-removal plan reasonably approved by Landlord and otherwise in accordance with all applicable Hazardous Materials Laws, including giving all notices required by California Health & Safety Code Sections 25915-25919.7.

27.15 Lead Warning Statement. Tenant acknowledges that Landlord has advised Tenant that soils within the Premises and Parking Area may contain lead-based paints ("LBP"). Lead from paint, paint chips and dust can pose health hazards if not managed properly. Tenant may at its sole cost and expense, have a state-certified LBP Inspector complete a LBP inspection and abatement and, if Tenant completes such inspection, shall provide an abatement certification to Landlord. Landlord has no specific knowledge of the presence of LBP in the Premises and Parking Area.

27.16 OFAC Certification. Tenant represents, warrants and covenants that: (a) Tenant and its principals are not acting, and will not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "**Specially Designated and Blocked Person**," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; (b) Tenant acknowledges that

the breach of this representation, warranty and covenant by Tenant shall be an immediate Default under the Lease.

27.17 Certified Access Specialist Disclosure. In accordance with Civil Code Section 1938, Landlord hereby discloses that the Premises have not undergone inspection by a Certified Access Specialist for purposes of determining whether the property has or does not meet all applicable construction related accessibility standards pursuant to Civil Code Section 55.53.

27.18 Time of the Essence. Time is of the essence of this Lease and each and all of its provisions.

27.19 Entire Agreement. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understandings pertaining to any such matter shall be effective for any purpose. It is specifically understood and agreed that this Lease supersede and replaces the Original Lease. No provision of this Lease may be amended or added except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

27.20 Rules and Regulations. Tenant shall faithfully observe and comply with the non-discriminatory rules and regulations attached hereto as **Exhibit F** and incorporated herein by this reference, as the same may be modified from time to time by Landlord. Any additions or modifications to those rules shall be binding upon Tenant's upon Landlord's delivery of a copy to Tenant.

27.21 Intentionally deleted.

27.22 Relocation Benefits. Tenant acknowledges that upon the expiration or earlier termination of this Lease, Tenant shall, and hereby does, waive any and all claims for relocation benefits, assistances and/or payments under Government Code Sections 7260 et seq., California Code of Regulations Sections 600 et seq., 42 U.S.C. 4601 et seq., 29 C.F.R. Sections 121 et seq. and 49 C.F.R Sections 24.1 et seq. (collectively the "**Relocation Assistance Laws**"). Tenant further acknowledges and agrees that upon the expiration or earlier termination of this Lease for any reason, other than a Taking as hereinabove defined, no claim shall arise, nor shall Tenant assert any claim for loss of business goodwill (as that term is defined at CCP §1263.510) and no compensation for loss of business goodwill shall be paid by Landlord.

27.23 Prevailing Wages. Tenant acknowledges and agrees that Tenant is presently subject to the requirements of California Labor Code section 1720 *et seq.* Accordingly, Tenant shall comply with all applicable prevailing wage policies as set forth in applicable California Labor Code sections pertaining to "public works" (California Labor Code sections 1720 et seq., as amended from time to time and implementing regulations), the Davis-Bacon Act (sec. 1-7, 46 Stat. 1949, as amended; Pub. L. 74-403, 40 U.S.C. 27a-27a-7, as amended from time to time in implementing regulations, and other applicable laws, statutes, rules, regulations or ordinances now or hereinafter in effect addressing the payment of prevailing wages (the "**Prevailing Wage Laws**") in connection with the initial construction of the Building and any other improvements that constitute "public works." If Landlord is required by applicable Laws to maintain or provide evidence of Tenant's compliance with Prevailing Wage Laws, upon request by Landlord Tenant

shall provide to Landlord all necessary documentation evidencing such compliance. Tenant shall defend, indemnify and hold harmless Landlord and all Landlord Related Parties from and against any and all present and future liabilities, obligations, orders, claims, damages, finds, penalties and expenses (including attorney's fees and costs) (collectively, "Claims") arising out of or in any way connected with Tenant's obligation to comply with all laws, statutes, rules, regulations or ordinances now or hereinafter in effect with respect to Prevailing Wage Laws, including all Claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code section 1726. Tenant hereby waives, releases and discharges Landlord and all Landlord Related Parties from any and all present and future claims arising out of or in any way connected with Tenant's obligations to comply with Prevailing Wage Laws.

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

28. RIGHT OF FIRST NEGOTIATION.

Provided Tenant is not in Default hereunder and conditioned on this Lease being in full force and effect, Tenant shall have the right of first negotiation to enter into a new lease with Landlord of the Premises, provided Tenant shall provide to Landlord written notice at least six (6) months prior to the expiration of the Term that Tenant so desires (the "Tenant's Notice"). Landlord and Tenant shall negotiate in good faith the terms of the new lease for a period not to exceed four (4) months from the date Landlord's receipt of the Tenant's Notice (the "Negotiation Period"), which Negotiation Period may be extended by mutual written agreement of Landlord and Tenant. If at the end of the Negotiation Period (as such may be extended in accordance with this Section 28), Landlord and Tenant have not agreed upon the terms of a new lease, Tenant's right of first negotiation shall be terminated.

Landlord and Tenant have executed this Lease as of the day and year first above written.

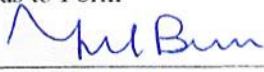
LANDLORD:

City of Alameda,
a charter city and municipal corporation

By: _____
John A. Russo
City Manager


Date: _____

Approved as to Form

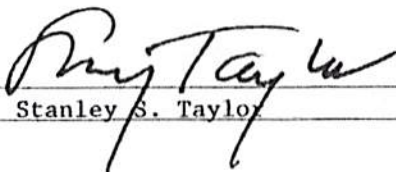
By:  _____
for Janet Kern

TENANT:

San Francisco Bay Area Water Emergency
Transportation Authority, a California public
entity created pursuant to Government Code
Section 66540 *et seq.*

By:  _____
Name: NINA PANNELLS
Title: EXECUTIVE DIRECTOR

Date: 2/19/15

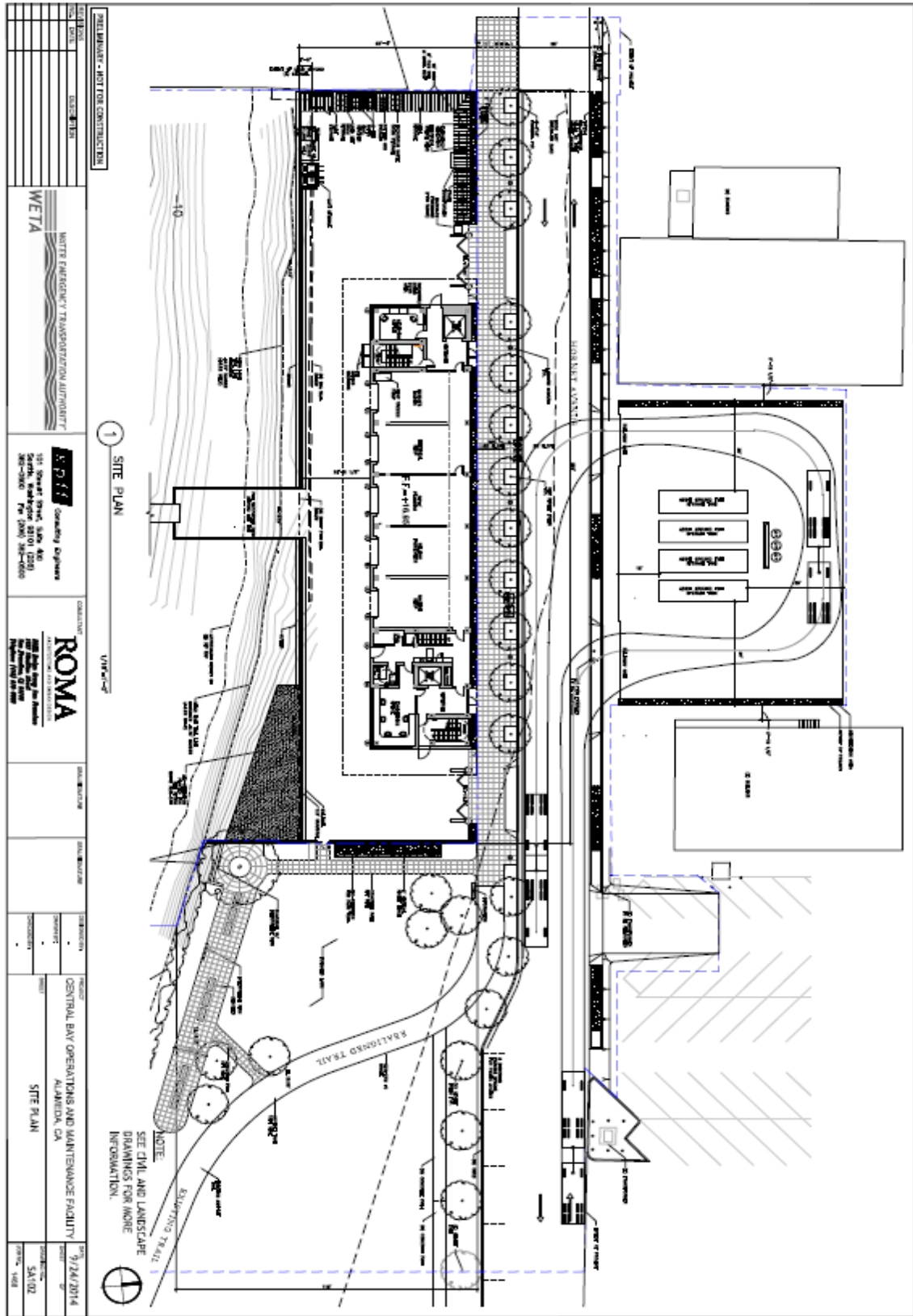
By:  _____
Name: Stanley S. Taylor

City Attorney

Title: General Counsel

Date: 2/19/2015

EXHIBIT A-1 – PREMISES



<p>WETA WATER ENVIRONMENT & TRANSPORTATION AUTHORITY 101 Street Street, Suite 400 South, Alameda, CA 94524 415-762-2800 Fax: 415-762-0000</p>		<p>ROMA CONSULTANTS 101 Street Street, Suite 400 South, Alameda, CA 94524 415-762-2800 Fax: 415-762-0000</p>		<p>ROMA CONSULTANTS 101 Street Street, Suite 400 South, Alameda, CA 94524 415-762-2800 Fax: 415-762-0000</p>		<p>ROMA CONSULTANTS 101 Street Street, Suite 400 South, Alameda, CA 94524 415-762-2800 Fax: 415-762-0000</p>	
<p>DATE: 9/24/2014 DRAWN BY: SAJ/D CHECKED BY: SAJ/D</p>		<p>PROJECT: CENTRAL BAY OPERATIONS AND MAINTENANCE FACILITY LOCATION: ALAMEDA, CA</p>		<p>SCALE: AS SHOWN</p>		<p>DATE: 9/24/2014 DRAWN BY: SAJ/D CHECKED BY: SAJ/D</p>	



SITE CONTEXT PLAN
WETA Central Bay Operations and Maintenance Facility

Prepared for the Water Emergency Transportation Authority by KPFF Consulting Engineers and ROMA Design Group

OCTOBER 16, 2014

Exhibit A-2

EXHIBIT A-2 – PARKING AREA



EXHIBIT A-3

[INTENTIONALLY DELETED]

EXHIBIT B

COMMENCEMENT LETTER

Date: _____

Re: Lease dated as of _____, ____, by and between _____, as Landlord, and _____, a(n) _____ as Tenant, for _____ rentable square feet on the _____ floor of the Building located at _____.

Dear _____:

In accordance with the terms and conditions of the above referenced Lease, Tenant accepts possession of the Premises and agrees:

1. The Commencement Date of the Lease is _____;
2. The Expiration Date of the Lease is _____.

Please acknowledge your acceptance of possession and agreement to the terms set forth above by signing all 3 counterparts of this Commencement Letter in the space provided and returning 2 fully executed counterparts to my attention.

Sincerely	Agreed and Accepted:
_____ Property Manager	Tenant: _____ By: _____ Name: _____ Title: _____ Address: _____

[Exhibit Do not sign]

EXHIBIT C

[INTENTIONALLY DELETED]

EXHIBIT D

[INTENTIONALLY DELETED]

EXHIBIT E

ENVIRONMENTAL QUESTIONNAIRE

The purpose of this form is to obtain information regarding the use, if any, of hazardous substances in the process proposed on the premises to be leased. Any such use must be approved in writing by Landlord. Prospective tenants should answer the questions in light of their proposed operations on the premises. Existing tenants should answer the questions as they relate to ongoing operations on the premises and should update any information previously submitted. If additional space is needed to answer the questions, you may attach separate sheets of paper to this form.

Your cooperation in this matter is appreciated. Any questions should be directed to, and when completed, the form should be mailed to:

PM Realty Group L.P.
Attn: Property Manager
101 West Atlantic Avenue
Alameda, California 94501
(510) 749-0304; (510) 749-1095 fax

1. General Information.

Name of Responding Company: _____

Check the Applicable Status: _____

Prospective Tenant Existing Tenant

Mailing Address: _____

Contact Person and Title: _____

Telephone Number: (____) _____

Alameda Point Address of Proposed Premises to be Leased: _____

Length of Lease Term: _____

Your Standard Industrial Classification (SIC) Code Number: _____

Describe the proposed operations to take place on the property, including principal products manufactured, services and a brief process flow description to be conducted. Existing tenants should describe any proposed changes to ongoing operations.

2. Use and/or Storage of Hazardous Materials.

2.1 Will any hazardous materials be used or stored onsite?

Hazardous Wastes Yes No
Hazardous Chemical Products Yes No

2.2 Attach the list of any hazardous materials/wastes to be used, stored, or generated the quantities that will be onsite at any given time, and the location and method of storage (e.g., 55-gallon drums on concrete pad).

2.3 Does your company handle hazardous materials in a quantity equal to or exceeding an aggregate of 500 pounds, 55 gallons, or 200 cubic feet?

Yes No

If yes please provide Material Safety Data Sheets (MSDS) on such materials.

2.4 Has your business filed for a Consolidated Hazardous Materials Permit from the Alameda County Environmental Management Department?

Yes No

If so, attach a copy of the permit application.

2.5 Are any of the chemicals used in your operations regulated under Proposition 65?

Yes No

If so, describe the actions taken, or proposed to be taken, to comply with Proposition 65 requirements. _____

2.6 Do you store or use or intend to store or use acutely hazardous materials above threshold quantities requiring you to prepare a risk management plan (RMP)?

Yes No

2.7 Describe the procedures followed to comply with OSHA Hazard Communication Standard requirements. _____

3. Storage Tanks and Pumps.

3.1 Are any above or below ground storage of gasoline, diesel, or other hazardous substances in tanks or pumps being used as a part of your present process or proposed for use on this leased premises?

Yes No

If yes, describe the materials to be stored, and the type, size and construction of the pump or tank. Attach copies of any permits obtained for the storage of such substances. _____

3.2 If you have an above ground storage tank (AST), do you have a spill prevention containment and countermeasures (SPCC) plan?

Yes No Not Applicable

3.3 Have any tanks, pumps or piping at you existing facilities been inspected or tested for leakage?

Yes No Not Applicable

If so, attach the results.

3.4 Have any spills or leaks occurred from such tanks, pumps or piping?

Yes No Not Applicable

If so, describe. _____

3.5 Were any regulatory agencies notified of any spills or leaks?

Yes No Not Applicable

If so, attach copies of any spill reports filed, any clearance letters or other correspondence from regulatory agencies relating to the spill or leak.

3.6 Have any underground storage tanks, sumps or piping been taken out of service or removed at the proposed facility or facilities that you operate?

Yes No Not Applicable

If yes, attach copies of any closure permits and clearance obtained from regulatory agencies relating to closure and removal of such tanks.

4. Spills.

4.1 During the past year, have any spills occurred on any site you occupy?

Yes No Not Applicable

If so, please describe the spill and attach the results of any process conducted to determine the extent of such spills.

4.2 Were any agencies notified in connection with such spills?

Yes No Not Applicable

If no, attach copies of any spill reports or other correspondence with regulatory agencies.

4.3 Were any clean-up actions undertaken in connection with the spills?

Yes No Not Applicable

If so, briefly describe the actions taken. Attach copies of any clearance letters obtained from any regulatory agencies involved and the results of any final soil or

groundwater sampling done upon completion of the clean-up work _____

5. Waste Management.

5.1 Has your business filed a Hazardous Material Plan with the Alameda County Environmental Management Department?

Yes No

5.2 Has your company been issued an EPA Hazardous Waste Generator I.D. Number?

Yes No

If yes: EPA ID# _____

5.3 Has your company filed a biennial report as a hazardous waste generator?

Yes No

If so, attach a copy of the most recent report filed.

5.4 Are hazardous wastes stored in secondary containments?

Yes No

5.5 Do you utilize subcontractors for lighting/electrical, plumbing, HVAC, pest services, landscaping and/or building maintenance services?

Yes No

If yes, do any of these subcontractors store, mix or utilize chemicals on site?

Yes No

If yes, what types and quantities? _____

Attach the list of the hazardous waste, if any, generated or to be generated at the premises, its hazard class and the quantity generated on a monthly basis.

Describe the method(s) of disposal for each waste. Indicate where and how often disposal will take place. _____

Indicate the name of the person(s) responsible for maintaining copies of hazardous waste manifests completed for offsite shipments of hazardous waste. _____

Is any treatment, processing and recycling of hazardous wastes currently conducted or proposed to be conducted at the premises:

Yes No

If yes, please describe any existing or proposed treatment, processing or recycling methods. _____

Attach copies of any hazardous waste permits or licenses issued to your company with respect to its operations on the premises.

6. Wastewater Treatment/Discharge.

6.1 Will your proposed operation require the discharge of wastewater to (answer Yes or No to each of the following)?

_____ storm drain _____ sewer
_____ surface water _____ no industrial discharge

6.2 Does your business have a Sewer Use Questionnaire on file with Alameda County Sanitation District?

Yes No

6.3 Is your wastewater treated before discharge?

Yes No Not Applicable

If yes, describe the type of treatment conducted.

6.4 Does your business conduct operations outside the building or store materials outside?

Yes No Not Applicable

6.5 Do you have a Storm Water Pollution Prevention Plan (SWPPP)?

Yes No Not Applicable

6.6 Does your business have a General Permit for storm water discharge associated with industrial activity?

Yes No Not Applicable

6.7 Does your business operate under a National Pollution Discharge Elimination System (NPDES) Permit?

Yes No Not Applicable

Attach copies of any wastewater discharge permits issued to your company with respect to its operations on the premises.

7. Air Discharges.¹

7.1 Do you have or intend to have any air filtration systems or stacks that discharge into the air?

Yes No

7.2 Do you operate or plan to operate any of the following types of equipment, or any other equipment requiring an air emissions permit (answer Yes or No to each of the following)?

Spray booth	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Dip tank	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Drying oven	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Incinerator	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Other (please describe)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Boiler	Yes <input type="checkbox"/>	No <input type="checkbox"/>
I/C Engine	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Emergency Backup Generator	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Processes that apply coatings, inks, adhesives or use solvents	Yes <input type="checkbox"/>	No <input type="checkbox"/>

7.3 Do you emit or plan to emit any toxic air contaminants?

Yes No

7.4 Are air emissions from your operations monitored?

Yes No

If so, indicate the frequency of monitoring and a description of the monitoring results. _____

Attach copies of any air emissions permits pertaining to your operations on the premises.

8. Enforcement Actions, Complaints.

8.1 Has your company, within the past five years, ever been subject to any agency enforcement actions, administrative orders, or consent decrees?

Yes No

If so, describe the actions and any continuing compliance obligations imposed as a result of these actions. _____

¹ NOTE: Businesses will have to comply with prohibitory rules regardless of whether they have or need a permit.

8.2 Has your company ever received requests for information, notice or demand letters, or any other inquiries regarding its operations?

Yes No

8.3 Have there ever been, or are there now pending, any lawsuits against the company regarding any environmental or health and safety concerns?

Yes No

8.4 Has any environmental audit ever been conducted at your company's current facility?

Yes No

If so, discuss the results of the audit. _____

8.5 Have there been any problems or complaints from neighbors at the company's current facility?

Yes No

Please describe: _____

The undersigned hereby certifies that all of the information contained in this questionnaire is accurate and correct.

_____ a _____

By: _____

Title: _____

Date: _____

EXHIBIT F

RULES AND REGULATIONS

Any terms not otherwise defined herein shall have the meanings ascribed to them in the Lease (as amended from time to time) to which these Rules and Regulations are attached as **Exhibit F**.

Tenant shall faithfully observe and comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the non-performance of any of such Rules and Regulations by or otherwise with respect to the acts or omissions of any other tenants or occupants of the Building. In the event of any conflicts between the Rules and Regulations and other provisions of this Lease, the latter shall control.

1. Landlord shall have the right to control and operate the public facilities within the Premises in such manner as it deems best for the benefit of the users of such public facilities generally.

2. No advertisements, pictures or signs of any sort shall be displayed on or outside the Premises or Building without the prior written consent of Landlord pursuant to the City signage program for Alameda Point. This prohibition shall include any portable signs or vehicles placed within the Parking Area or on streets adjacent thereto for the purpose of advertising or display. Landlord shall have the right to remove any such unapproved item without notice and at Tenant's Expense.

3. Storage of forklift propane tanks, whether interior or exterior, shall be in secured and protected storage and enclosure approved by the local fire department and, if exterior, shall be located in areas specifically designated by Landlord. Tenant shall protect electrical panels and building mechanical equipment from damage from forklift trucks.

4. Machinery, equipment and apparatus belonging to Tenant which causes noise or vibration that may be transmitted to such a degree as to be objectionable beyond the Premises or to Landlord shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate the transmission of such noise and vibration. Tenant shall cease using any such machinery which causes objectionable noise and vibration which cannot be sufficiently mitigated.

5. All goods, including materials used to store goods, delivered to the Premises shall be immediately moved within the confines the Premises.

6. Tractor trailers which must be unhooked or parked with dolly wheels beyond the concrete loading areas must use steel plates or wood blocks of sufficient size to prevent damage to any asphalt paving surfaces. No parking or storage of such trailers will be permitted in the Parking Area or on streets adjacent thereto.

7. Tenant is responsible for the safe storage and removal of all pallets within the confines of the Premises.

8. No displays or sales of merchandise shall be allowed in the Parking Area.

9. Tenant is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles stored within the confines of the Premises.

10. [Intentionally omitted.]

11. If Tenant shall so use the Premises such that noxious or objectionable fumes, vapors and/or odors are created that are detectable beyond the Premises, then Tenant shall provide proper ventilation equipment for the discharge of such fumes, vapors and odors so that they shall not be discharged into other vents or flues of any other building or annoy any of the other tenants of adjacent property. The design, location and installation of such equipment shall be subject to the Landlord's approval, which shall not be unreasonably withheld, conditioned or delayed.

12. All window coverings installed by Tenant and visible from the outside of the Building require the prior written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed.

13. [Intentionally omitted.]

14. [Intentionally omitted.]

15. No awnings or other projections over or around the windows or entrances of the Premises shall be installed by any tenant without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed.

16. Tenant shall not permit any animals, including, but not limited to, household pets (but excluding service animals, which are permitted), to be brought or kept in or about the Premises or Building.

17. Tenant hereby acknowledges that Landlord shall have no obligation to provide guard service or other security measures for the benefit of the Premises or Building. Tenant hereby assumes all responsibility for the protection of Tenant and its agents, employees, contractors, invitees and guests, and the property thereof, from acts of third parties, including keeping doors locked and other means of entry to the Premises closed.

18. No auction, liquidation, fire sale, going out of business or bankruptcy sale shall be conducted in or about the Premises without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed.

19. No tenant shall use or permit the use of any portion of the Premises for living quarters, sleeping apartments or lodging rooms.

20. Tenant, Tenant's agents, servants, employees, contractors, licensees, or visitors shall not park any vehicles in or areas posted as no parking.

21. If the Premises is or becomes infested with vermin as a result of the use or any misuse or neglect of the Premises by Tenant, its agents, employees, contractors, visitors or licensees, Tenant shall forthwith, at Tenant's expenses, cause the same to be exterminated from time to time to the satisfaction of Landlord and shall employ such licensed exterminators as shall be approved in writing in advance by Landlord.

22. [Intentionally omitted.]

23. No smoking shall be permitted in or around the Premises.

24. [Intentionally omitted.]

25. Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord's judgment may from time to time be necessary for protecting Landlord's interest in the Premises, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants thereof. Tenant shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition to its occupancy of the Premises.

EXHIBIT G
SCHEDULE OF PERFORMANCE

BCDC Permit Issued – April 2015

Construction Contract Award – September 2015

Start Construction – January 2016

In-Water Construction Start – August 2016

In-Water Construction End – November 2016

End Construction – March 2017

Closeout & Commissioning – May 2017

EXHIBIT H

CONSTRUCTION COST ESTIMATE



Rev: 10/31/2014

WETA Central Bay Operations & Maintenance Facility, Alameda
DRAFT Infrastructure Improvements Cost Estimates for Discussion (approx 30% design level)

Off-Site Infrastructure Improvements

Off-Site Improvements - W. Hornet Ave. / E. portion Enterprise Park (see attachment #1)	\$ 740,000
Water Main Extension - New 12" Water Main from Central Ave. (allowance)	\$ 1,000,000
Main St. Improvements - Street Reconfiguration (allowance)	\$ 250,000
	\$ 1,990,000

On-Site Infrastructure Improvements

Dredging/Fill Removal (see attachment #2)	\$ 560,000
Earthwork/Fill - Elevate site to meet future projected sea-level rise (see attachment #3)	\$ 95,000
Ground Improvements - seismic upgrades to develop site (see attachment #4)	\$ 1,140,000
Shoreline - Remove and replace dilapidated seawall, new rip-rap (see attachment #5)	\$ 1,230,000
	\$ 3,025,000

Subtotal	\$ 5,015,000
Mobilization and Demobilization (8%)	\$ 402,000
Design and Construction Contingency (15%)	\$ 753,000
Escalation to Feb 2017 (11%)	\$ 552,000
Total Cost	\$ 6,722,000

Note: Doesn't include sales tax