

Attachment 13

**Due Diligence Right of Entry**

[See attached]

## RIGHT OF ENTRY

(Oakland Army Base – City Property)

The CITY OF OAKLAND, a municipal corporation, and the OAKLAND REDEVELOPMENT SUCCESSOR AGENCY (“ORSA” and together with the City of Oakland, the “City”) as owner of record of that certain real property commonly referred to as the Oakland Army Base, located in the in the City of Oakland, County of Alameda, State of California and as shown on Exhibit A (the “City Property”), hereby grants to Prologis CCIG Oakland Global, LLC, a Delaware limited liability company (“Grantee”), and its agents (collectively, the “Grantee Parties”) the right to enter upon the City Property during the term of the Lease Disposition and Development Agreement by and between the City and Grantee, dated \_\_\_\_\_, 2012 (the “LDDA”), for the sole purpose of performing environmental due diligence pursuant to the LDDA, including subsurface drilling and sampling pursuant to the work plan attached hereto as Exhibit B (referred to herein as “Right of Entry” or “Agreement”). Furthermore, notwithstanding anything to the contrary in Exhibit B, this Right of Entry applies to the City Property only. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the LDDA.

### Insurance:

The Grantee Parties shall, at no cost to the City, obtain and maintain and cause to be in effect at all times during the term of this Agreement, the types and amounts of insurance specified in Exhibit C attached hereto.

Any attempt by one of the Grantee Parties to cancel or modify any insurance coverage required by Exhibit C, or any failure by one of the Grantee Parties to maintain such coverage, shall be a default under this Agreement and, upon such default, the City will have the right to terminate this Agreement and/or exercise any of its rights at law or at equity.

### Defense, Indemnity and Hold Harmless:

a. Grantee shall defend, indemnify and hold the City, and the City’s council members, directors, officers, agents, employees, and volunteers (collectively, the “City Additional Insureds”) harmless against all liabilities, losses, claims, judgments, suits or demands for (1) injuries to or death of persons, (2) damages to personal or real property and (3) economic loss (collectively, “Claims”) brought against or incurred by any of the City Additional Insureds arising out of, resulting from or relating to the Grantee Parties’ entry onto the City Property pursuant to this Right of Entry. The City Additional Insureds’ rights to indemnity from the Grantee are in addition to and cumulative to any benefits that they may have under any policy of insurance.

b. Notwithstanding the foregoing to the contrary, the foregoing defense, indemnity and hold harmless obligations of Grantee shall not apply to any Claims arising out of or related to (1) the sole negligence or willful misconduct of the City Additional Insureds or (2) the mere discovery of existing conditions at the City Property, including, but not limited to the presence of hazardous materials.

c. Grantee's duty to defend the City Additional Insureds shall arise at the time notice of a Claim is first provided to Grantee by the City Additional Insureds, regardless of whether the claimant has filed suit on the Claim. Grantee's duty to defend the City Additional Insureds shall arise even if the City Additional Insureds, or any of them, are the only parties identified/sued by the claimant. After tender by the City or another City Additional Insured, Grantee will defend any and all Claims which may be brought or threatened against the City Additional Insureds and will pay on behalf of the City Additional Insureds any expenses incurred by reason of such Claims including, but not limited to, court costs and reasonable attorney fees incurred in defending or investigating such Claims. Such payments on behalf of the City Additional Insureds shall be in addition to any and all other legal remedies available to the City Additional Insureds and shall not be considered the City Additional Insureds' exclusive remedy. Notwithstanding anything to the contrary, if a defense was provided by Grantee, upon final resolution of the Claim by judgment or award, the applicable City Additional Insured(s) will reimburse Grantee for such defense costs to the extent that:

- (1) the Claim arises out of, pertains to, or relates to the sole negligence or willful misconduct of the individual or entity being indemnified; or
- (2) the Claim does not arise out of, pertain to, or relate to the scope of the Grantee's entry upon or activities on the City Property pursuant to this Agreement.

Notwithstanding anything to the contrary, if a defense was provided by Grantee, upon final resolution of the Claim by a settlement agreement, the applicable City Additional Insured shall reimburse Grantee for a percentage of defense costs actually incurred by Grantee, which percentage shall be calculated by dividing the amount that the City Additional Insureds agreed to pay pursuant to the settlement agreement by the total amount that both Grantee and the City Additional Insureds agreed to pay pursuant to the settlement agreement. Grantee shall not agree to enter into any settlement agreement that requires any City Additional Insureds to pay any amount without such City Additional Insured's express, prior consent.

d. Nothing contained in this paragraph shall affect (1) the validity of any insurance contract, workers' compensation or agreement issued by an admitted insurer as defined by the California Insurance Code or (2) obligations of an insurance carrier under the holding of *Presley Homes, Inc. v. American States Insurance Company* (2001) 90 Cal.App.4th 571.

e. The obligations of Grantee under this paragraph arising by reason of any occurrence taking place during the term of this Right of Entry shall survive any termination of this Right of Entry.

#### **Handling of Hazardous Materials:**

All samples and by-products from sampling processes in connection with the Grantee Parties' entry upon the City Property pursuant to this Agreement shall be disposed of by Grantee at Grantee's expense in accordance with applicable law; provided, however, (a) as between the Grantee Parties and the City, the City shall be deemed to be the owner of any and all such materials, including wastes, that cannot be introduced back into the environment under existing

law without additional treatment, and all hazardous wastes, radioactive wastes, or hazardous substances (“Hazardous Substances”) related to the Grantee Parties’ entry upon the City Property pursuant to this Agreement and (b) the City shall execute any necessary generator, transporter, or disposer manifests or other documents reasonably required in connection with the disposal of Hazardous Substances.

**Miscellaneous:**

Grantee understands that this Right of Entry shall not in any way whatsoever grant or convey any permanent easement or other interest in the City Property to the Grantee Parties.

Any entry onto the City Property by the Grantee Parties shall not interfere with the operation or use of the City Property by the City or City departments or its tenants, as applicable, or cause any damages to any improvements on the City Property. Any entry shall be coordinated with the City, City departments using the City Property and the terms of any existing leases. All property disturbed by the Grantee Parties’ entry upon the City Property will be restored by Grantee, to condition reasonably similar or better. Any entry upon the City Property pursuant to this Agreement by the Grantee Parties shall conform to the regulatory requirements for hazardous materials set forth in the terms of the LDDA.

For the purposes of delivering notices pursuant to this Right of Entry, Grantee's notice address is as follows:

Prologis CCIG Oakland Global, LLC  
Pier 1, Bay 1  
San Francisco, CA 94111  
Attn: Mr. Mark Hansen  
email: mhansen@prologis.com

With copies to: Prologis CCIG Oakland Global, LLC  
c/o California Capital & Investments, Inc.  
The Rotunda Building  
300 Frank Ogawa Plaza, Suite 340  
Oakland, CA 94612  
Attn: Mr. Phil Tagami  
Facsimile: (510) 834-5380

Law Office of Jeffrey A. Trant  
60815 Falcon Pointe Lane  
Bend, OR 97702  
Attn: Jeffrey A. Trant, Esq.  
Facsimile: (541) 639-8201

Prologis, Inc.  
4545 Airport Way  
Denver, CO 80239  
Attn: General Counsel

Facsimile: (303) 567-5761

Law Office of Marc Stice  
2201 Broadway, Suite 604  
Oakland, CA 94612  
Attn: Marc Stice, Esq.  
Facsimile: (510) 832-2638

If a party brings any action or legal proceeding against the other party with respect to this Right of Entry, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees, expert witness fees, court costs, and other related expenses incurred by the prevailing party.

[Signatures on next page]

CITY

**CITY OF OAKLAND:**

CITY OF OAKLAND,  
a municipal corporation

By \_\_\_\_\_  
City Administrator

Approved as to Form

By: \_\_\_\_\_  
City Attorney

**ORSA:**

Oakland Redevelopment Successor Agency

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to Form

By: \_\_\_\_\_  
City Attorney

**GRANTEE**

Prologis CCIG Oakland Global, LLC,  
a Delaware limited liability company

By: Authorized Person

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Exhibit A  
Legal Description of City Property

[See attached]

Exhibit B  
Work Plan

[See attached]

Exhibit C  
Required Insurance

[See attached]

<b>SCHEDULE OF INSURANCE REQUIREMENTS FOR RIGHT OF ENTRY*</b>				
<b>*See Key at end of Schedule for definitions of certain terms used in this Schedule</b>				
			<b>Grantee</b>	<b>Contractors / Subcontractors</b>
<b>A.</b>	<b>REQUIRED POLICIES AND COVERAGES</b>			
	Grantee shall procure and, as applicable, shall cause the other Grantee Parties to procure, prior to the commencement date of the Right of Entry and, as applicable, prior to the effective date of any contract for services, at no cost or expense to the City, all policies of insurance set forth in this Schedule. This Schedule does not modify and is subject to all terms and conditions set forth elsewhere in the Right of Entry. The amounts and types of insurance set forth herein are the minimums required by the City and shall not substitute for an independent determination by the Grantee Parties of the amount and types of the insurance which the Grantee Parties shall determine to be reasonably necessary to protect themselves, their work and their property.			
	<b>i.</b>	<b>Commercial General Liability</b>		
	a.	CGL insurance, written on an "occurrence basis" and covering Bodily Injury, Property Damage and Personal Injury for Premises Operations, Products and Completed Operations, Broad Form Property Damage, Independent Contractors and Contractual Liability. Coverage shall be at least as broad as ISO Commercial General Liability coverage (occurrence Form CG 00 01).	\$3 million per occurrence, \$4 million general aggregate that applies separately to this Agreement	\$3 million per occurrence, \$4 million general aggregate that applies separately to this Agreement
	b.	The Grantee Parties shall provide additional insured status using ISO endorsement CG 20 10 11/85 or its equivalent naming (1) City Additional Insureds, and (2) with respect to Port-Related Activities, the Port Additional Insureds. A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT. All liability insurance required hereunder shall be primary insurance as respects the City and each other additional insured and any other insurance available to the City or any other additional insured under any other policies or self-insurance shall be excess insurance over, and not contributing with, the insurance required by this Schedule and the Right of Entry.		
	c.	Cross Liability / Separation of Insureds clause: Liability policy shall contain cross-liability coverage as provided under standard ISO forms' separation of insureds clause, such that in the event of one of the assureds incurring liability to any other of the assureds, the policy shall cover the assured against whom claim is or may be made in the same manner as if separate policies had been issued to each assured. Nothing contained herein shall operate to increase the insurer's limit of liability.		
	d.	Continuation of Coverage: If the City, in its sole and absolute discretion, approves CGL insurance written on a "claims made basis," the Grantee Parties shall maintain the required insurance continuously for a period of five (5) years after, as applicable, the expiration of the Term of the Right of Entry or completion of the work under the applicable contract. During this period, evidence of this continuous coverage shall be provided by Grantee to the City on an annual basis		

		until the required coverage period has expired.		
	<b>ii.</b>	<b>Automobile Liability Insurance</b>		
	a.	The Grantee Parties shall maintain automobile liability insurance for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be at least as broad as ISO Form Number CA 00 01.	\$1 million each accident	\$1 million each accident
	b.	If the Grantee Parties are required to maintain Pollution Legal Liability insurance (see item A.iv below), and if further required by federal or state law, the policy shall be endorsed to delete the Pollution exclusion and add the Motor Carrier Act endorsement (MCS-90) and/or other endorsements required by federal or state authorities.	If Required	If Required
	<b>iii.</b>	<b>Worker's Compensation Insurance</b>		
	a.	As required by the laws of the State of California. Coverage shall include Employers Liability coverage.	Statutory Limits	Statutory Limits
	b.	The Grantee Parties certify that they are aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Grantee Parties shall comply with the provisions of section 3700 of the California Labor Code before, as applicable, the commencement date of the Right of Entry or the commencement of work under the applicable contract, and continuing thereafter as required by that Code.		
	c.	The Workers' Compensation policy shall be endorsed with a waiver of subrogation (i) in favor of the City for all work and operations performed by the Grantee Parties and their respective employees and agents and (ii) with respect to any Port-Related Activities, in favor of the Port for all such Port-Related Activities performed by the Grantee Parties and their respective employees and agents.		
	<b>iv.</b>	<b>Pollution Legal Liability</b>		
	a.	Prior to commencement of and at all times during any subterranean work or other work or operations that, in accordance with industry custom and practice, would ordinarily warrant such coverage, the Grantee Parties shall procure and maintain Pollution Legal Liability Insurance. The Certificate required pursuant to item F(i) must plainly designate the name of the project, name of the disposal site, and the permits secured for its disposal.	If Applicable: \$2 million per occurrence, \$2 million aggregate separate to the City Property	If Applicable: \$2 million per occurrence, \$2 million aggregate separate to the City Property
	b.	Any insurance deductibles greater than \$25,000 shall be declared on the Certificate of insurance and shall be subject to the City's prior written approval.		
	c.	The Pollution Legal Liability policy shall contain, or be endorsed to contain, the following provisions:  1. City Additional Insureds and, with respect to Port-Related Activities, Port Additional Insureds, are to be covered as Additional Insureds with respect to liability arising out of work or operations performed by or on behalf of the Grantee Parties.		

		2. For any claims related to this Right of Entry, the Grantee Parties' insurance coverage shall be primary insurance as respects the City and each other additional insured. Any insurance or self-insurance maintained by the City or any other additional insured shall be excess of the Grantee Parties' insurance and not contributing with it.		
	d.	<p>If Pollution Legal Liability policy is written on a claims-made form, the following provisions apply:</p> <ol style="list-style-type: none"> <li>1. The Retroactive Date shall be shown on the Certificate of Insurance and must be prior to, as applicable, the commencement date of the Right of Entry or other applicable contract, or the commencement of the work.</li> <li>2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after the completion of the work.</li> <li>3. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the commencement date of the terminating policy, the Grantee Parties must purchase "extended reporting" coverage for a minimum of five (5) years for the terminating policy.</li> <li>4. A copy of the claims reporting requirements must be submitted to the City for review and approval.</li> </ol>		
	<b>v.</b>	<b>Marine Exposure</b>		
	a.	<b>U.S. Longshore and Harbor Workers' Coverage.</b> Required of the Grantee Parties with respect to any work or operations on or adjacent to navigable water, as defined by the U.S. Department of Labor. Requires proof of insurance coverage in compliance with the statutory requirements of Longshoreman and Harbor Workers' Compensation Act (administered by the U.S. Department of Labor).	Required where applicable Statutory Limits	Required where applicable Statutory Limits
	b.	<b>Protection &amp; Indemnity (to include Jones Act).</b> With respect to any work or operations involving marine activities, or work from a boat, vessel, or floating platform, the Grantee Parties shall provide Protection & Indemnity coverage including injury to crew (Jones Act) and passengers; Protection & Indemnity, SP 38 or SP 23 for \$5,000,000 written on a per occurrence basis. The City shall be named as an additional insured on the policy and a waiver of subrogation in favor of the City shall apply.	Required where applicable	Required where applicable
	c.	<b>Pollution Liability (OPA, CERCLA).</b> With respect to any work or operations involving marine activities or work from a boat, vessel, or floating platform, the Grantee Parties shall provide Pollution insurance to satisfy U.S. Coast Guard requirements as respects the Federal Oil Pollution Act of 1990 and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, for \$5,000,000 and statutory limits of liability as applicable.	Required where applicable	Required where applicable
	d.	<b>Hull and Machinery.</b> With respect to any work or operations involving marine activities or work from a boat, vessel, or floating platform, the Grantee Parties shall provide coverage at Market Value of vessel on American Institute Hull Clauses, 6/2/77 form.	Required where applicable	Required where applicable
	e.	<b>Maritime Employers Liability.</b> With respect to any work or operations that involving diving (which is considered an 'ultra-hazardous' activity), the Grantee Parties shall provide MEL with a limit of liability of \$5,000,000, and proof of insurance coverage for these activities. The MEL coverage shall have no exclusions or limitations for diving	Required where applicable	Required where applicable

		activities.		
	<b>vi.</b>	<b>Professional Liability/Errors and Omissions</b>		
	a.	Coverage shall be at least as broad as Errors and Omissions Liability insurance appropriate to the contractor's or consultant's profession. May be written on a "claims made" basis. Architects' and engineers' coverage shall be endorsed to include contractual liability.	N/A	\$2 million per occurrence, \$2 million general aggregate
	b.	Insurance deductibles greater than \$25,000 shall be declared on the certificate of insurance and shall be subject to approval by City.		
	c.	The Errors and Omissions Liability policy shall contain, or be endorsed to contain, the following provisions:		
		1. For any claims related to this project, the contractor's or consultant's insurance coverage shall be primary insurance as respects the City. Any insurance or self-insurance maintained by the City shall be excess of the contractor's or consultant's insurance and not contributory with it.		
	d.	If the Errors and Omissions Liability policy is written on a claims-made form the following provisions apply:		
		1. The Retroactive Date shall be shown on the Certificate of Insurance and must be prior to, as applicable, the commencement date of the Right of Entry or other applicable contract, or the commencement of the work. 2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after the completion of the work. 3. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the commencement date of the terminating policy, the Grantee Parties must purchase "extended reporting" coverage for a minimum of five (5) years for the terminating policy. 4. A copy of the claims reporting requirements must be submitted to the City for review and approval.		
<b>B. TERMS, CONDITIONS AND ENDORSEMENTS (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF THE GRANTEE PARTIES EXCEPT AS OTHERWISE PROVIDED BELOW)</b>				
	<b>i.</b>	For all policies of liability insurance, the Grantee Parties shall provide additional insured status using ISO endorsement CG 20 10 11/85 or its equivalent naming (1) City Additional Insureds, and (2) with respect to Port-Related Activities, the Port Additional Insureds. A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT. All liability insurance required hereunder shall be primary insurance as respects the City and each other additional insured and any other insurance available to the City or any other additional insured under any other policies or self-insurance shall be excess insurance over, and not contributing with, the insurance required by this Schedule and the Right of Entry.		
	<b>ii.</b>	Provide a separate certificate of insurance for each project or scope of work with the name of the project or scope of work stated thereon.		
	<b>iii.</b>	The words, "endeavor to" and "but failure to mail such notice shall impose no obligation of liability of any kind upon the company, its agents or representatives" shall be lined out or such policy shall contain an endorsement attached to the Certificate of Insurance, that states that the policy may not be cancelled or terminated without at least ten (10) days' prior notice for nonpayment of premiums and not less than thirty (30) days' prior notice for any other reason, to		

	the City.
iv.	Certificate holder is to be the same entity or person and the same address as indicated in the "notices" section of the Right of Entry or other applicable agreement.
v.	All insurance required under this Schedule and the Right of Entry shall be placed and maintained with an Insurer with a current Best Rating of A:VII or better (or a comparable successor rating) and admitted or legally authorized to sell such insurance within the State of California.
<b>C.</b>	<b>DEDUCTIBLES AND SELF-INSURED RETENTIONS (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF GRANTEE PARTIES EXCEPT AS OTHERWISE PROVIDED BELOW)</b>
i.	Except for limits expressly specified above, any deductible or self-insured retention must be declared to and approved by the City, which approval shall not be unreasonably withheld, conditioned or delayed with respect to any insurance that otherwise meets all requirements of this Schedule and the Right of Entry. Upon the written election by the City, in the City's sole and absolute discretion, the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City and its Councilmembers, directors, officers, agents, employees and volunteers; or the Grantee Parties shall provide a financial guarantee satisfactory to the City, in the City's sole and absolute discretion, guaranteeing payment of losses and related investigations, claim administration and defense expenses.
<b>D.</b>	<b>THE CITY'S PLACEMENT OF COVERAGES (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF GRANTEE PARTIES)</b>
i.	If any one of the Grantee Parties fails to meet the insurance requirements of this Schedule, and such failure is not cured within ten (10) days after receipt of the City's written notice to Grantee, the City may, at its option and without limiting any other remedies of the City under the Right of Entry, take out and maintain at the expense of Grantee, such insurance in the name of the Grantee Parties as is required pursuant to this Schedule.
<b>E.</b>	<b>INSURANCE INTERPRETATION (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF GRANTEE PARTIES)</b>
i.	Unless otherwise consented to by the City, in its sole and absolute discretion, all endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the ISO as of the date of this Right of Entry.
<b>F.</b>	<b>PROOF OF INSURANCE (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF GRANTEE PARTIES)</b>
i.	The Grantee Parties will be required to provide the City proof of all insurance required for the work or operations prior to entry upon the City Property pursuant to the Right of Entry or other applicable contract, including copies of insurance policies if and when requested by the City.
ii.	The Grantee Parties agree that the City, or the City's designated insurance agent, manager or administrator may audit the Grantee Parties' books and records, insurance coverages, insurance cost information, or any other information that the Grantee Parties provide to the City, or the City's designated insurance agent, manager or administrator to confirm the accuracy of such documents and matters.
<b>G.</b>	<b>SUBCONTRACTORS (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF GRANTEE PARTIES EXCEPT AS OTHERWISE PROVIDED BELOW)</b>
i.	The Grantee Parties shall include all subcontractors as insureds under their policies or shall furnish separate certificates and endorsements for each subcontractor. Except as otherwise expressly set forth in this Schedule, all coverages for subcontractors shall be subject to all the requirements stated herein.
<b>H.</b>	<b>WAIVER OF CLAIMS AND SUBROGATION (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF THE GRANTEE PARTIES)</b>

	<p>i. The Grantee Parties waive all rights against City Additional Insureds for recovery of damages arising out of or related to the Right of Entry to the extent these damages are covered by the forms of insurance coverage required of the Grantee Parties in this Schedule; provided, however, such waiver by Grantee shall not apply to the extent such damages incurred by Grantee are determined by a final non-appealable judgment of a court of competent jurisdiction to have arisen from losses that are expressly excluded from the scope of Grantee's indemnity obligations under the Right of Entry (provided, however, that nothing in this Schedule shall be deemed to create any right of Grantee to claim any such losses).</p>
	<p>ii. The Grantee Parties hereby grant to the City, on their own behalf and on behalf of their insurers, a waiver of subrogation which any insurer may acquire from the Grantee Parties against City Additional Insureds by virtue of the payment of any loss. The Grantee Parties agree to obtain any endorsement that may be necessary to further evidence this waiver of subrogation but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the Grantee Parties' insurer.</p> <p>Without limiting the Grantee Parties' obligations under the preceding paragraph and without creating any obligation under this Schedule, the Right of Entry or otherwise, on the part of the City or City Additional Insureds to procure or maintain any policies of insurance, or any self-insurance, with respect to the City Property, this Right of Entry or otherwise, if and to the extent the City elects, in its sole and absolute discretion, to procure and maintain any policy of insurance with respect to the City Property, the City agrees to use reasonable good faith efforts to obtain from such insurer a waiver of subrogation which such insurer may acquire from the City against the Grantee Parties by virtue of the payment of any loss under such policy; provided, however, that the City and City Additional Insureds shall not incur any liability whatsoever to Grantee or any other Person for any inability or failure of the City, for any reason whatsoever, to obtain any such waiver of subrogation at any time.</p>
<p><b>I.</b></p>	<p><b>EVALUATION OF ADEQUACY OF INSURANCE (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF GRANTEE PARTIES)</b></p>
	<p>i. The City maintains the right to modify, delete, alter or change the requirements set forth in this Schedule upon not less than ninety (90) days prior written notice to Grantee. In the event that a policy is in force for a particular coverage at the time of such modification, and the insurer is unwilling to make such modification until the expiration of the current policy, the modification shall be applied to such coverage upon the expiration of the current policy.</p>
<p><b>J.</b></p>	<p><b>OTHER INSURANCE AND SPECIAL RISKS OR CIRCUMSTANCES (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF GRANTEE PARTIES)</b></p>
	<p>i. In addition to the provisions of item I (Evaluation of Adequacy of Insurance) above, and notwithstanding any provision in this Schedule or the Lease to the contrary, the Grantee Parties shall obtain such other insurance, excluding any professional liability (errors or omissions) or environmental insurance (other than pollution legal liability insurance), as is reasonably requested by the City's Risk Manager and is customary with respect to projects similar in nature and scope to the Right of Entry. Without limiting the preceding sentence, the City reserves the right to supplement this Schedule, upon not less than ninety (90) days prior written notice to Grantee, with requirements for additional coverages not currently provided herein in the event that: (i) a new risk is identified (whether or not based upon prior experience) or new coverages become available and such risk or coverage is typically required, based upon industry custom and practice, to be covered or maintained with respect to activities contemplated by this Right of Entry; or (ii) the insurer's financial or business status or capacity materially adversely changes; or (iii) the City's Risk Manager, in the exercise of its reasonable judgment, deems such additional coverages necessary or appropriate to address any other special circumstances that may have arisen with respect to the City Property or the Right of Entry.</p>
<p><b>K.</b></p>	<p><b>HIGHER LIMITS OF INSURANCE (APPLICABLE TO ALL POLICIES AND COVERAGES REQUIRED OF GRANTEE PARTIES)</b></p>
	<p>i. If the Grantee Parties maintain higher limits than the required minimum limits specified above in this Schedule, the City shall be entitled to coverage for the higher limits maintained by the Grantee Parties, up to \$10 Million in excess of the required minimum limits specified above in this Schedule.</p>

**KEY:**

As used in this Schedule, the following terms shall have the following meanings:

City Additional Insureds means, collectively, City, ORSA, and their respective Board/City Council members, directors, officers, agents, employees and volunteers.

ISO means Insurance Services Office or any successor thereto.

Port Additional Insureds means, collectively, Port, its Board of Port Commissioners and each of its Commissioners, officers, employees and agents.

Port-Related Activities means any activities conducted by the Grantee Parties that are subject to the ARMOA or on property owned by the Port.