



118-2112022-002

Agenda Item **No. 5(f)**
Meeting of April 19, 2022

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: James B. Morales, Interim Executive Director

SUBJECT: Authorizing a Disposition and Development Agreement and a Loan Agreement for \$75,184,522 with 350 China Basin Partners, LLC, a Limited Liability Company, for the Construction of a 148-Unit Affordable For-Sale Residential Project at 400 China Basin Street (Mission Bay South Block 9a); providing notice that these approvals are within the scope of the Mission Bay Project approved under the Mission Bay Final Subsequent Environmental Impact Report ("FSEIR"), a Program EIR, and are adequately described in the FSEIR for the purposes of the California Environmental Quality Act ("CEQA"); and, adopting Environmental Review Findings under CEQA; Mission Bay South Redevelopment Project Area

EXECUTIVE SUMMARY

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MAYOR

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INTERIM
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Curtis Development ("CD"), Michael Simmons Property Development, Inc. ("MSPDI"), and Young Community Developers ("YCD"), (the "Developer" or "350 China Basin Partners") of a proposed 148-unit affordable for-sale housing project ("Project") on Mission Bay South Block 9a ("MBS 9a"), are requesting approval of a Disposition and Development Agreement ("DDA") and a gap loan of up to \$75,184,522 for the development of the Project. The Project will be priced to be affordable to households earning 80-110% of area median income ("AMI") as defined by the San Francisco Mayor's Office of Housing and Community Development ("MOHCD"). The development team consists of 350 China Basin Partners, and Mithun and YA Studios as architects. The requested funding amount is included in the approved Recognized Obligations Payment Schedule ("ROPS") for the fiscal year beginning July 1, 2021, and ending June 30, 2022, as item #419, which was approved by the California Department of Finance ("DOF").

The Project is located on a parcel within the Mission Bay South Redevelopment Project Area (“Project Area”) located across Bridgeview Way from 410 China Basin Street (Mission Bay South Block 9), a 141-unit affordable housing project currently under construction. The Project is one of the last few remaining residential blocks in the Project Area. Mission Bay South (“MBS”) Blocks 10 and 10a are existing market rate residential developments with 329 and 99 units respectively located across China Basin Street from the Project.

The Commission on Community Investment and Infrastructure (“Commission”) authorized an Exclusive Negotiations Agreement and a Predevelopment Loan Agreement in the amount of \$3,500,000 for the Project on April 7, 2020 and approved a basic concept and schematic design on February 16, 2021. On December 7, 2021, the Commission approved \$1,500,000 in additional predevelopment funding, for an aggregate amount of \$5,000,000.

In preparation for the close of construction financing and construction start, planned for May 2022, the Developer is seeking to enter into a Disposition and Development Agreement (“DDA”) (Attachment B) and an Amended and Restated Loan Agreement (“Loan Agreement”) (Attachment A) authorizing an aggregate loan amount not to exceed \$75,184,522 (this amount is the total of the existing \$5,000,000 predevelopment loan and requested additional gap amount of \$70,184,522). The Citywide Affordable Housing Loan Committee approved the loan request on November 5, 2021 (Attachment F).

Staff recommends that the Commission authorize a DDA and Amended and Restated Loan Agreement and adopt environmental findings pursuant to the California Environmental Quality Act.

DISCUSSION

Mission Bay Affordable Housing Development

On September 17, 1998, the San Francisco Redevelopment Agency Commission approved the Mission Bay North and South Redevelopment Plans and conditionally approved Owner Participation Agreements (“OPAs”) with the Mission Bay master developer, Catellus Development Corporation. Subsequently, the Board of Supervisors of the City and County of San Francisco approved, by Ordinance No. 335-98 (Nov. 2, 1998), the Redevelopment Plan for the Mission Bay South Redevelopment Project (“Redevelopment Plan”). FOCIL-MB, LLC (“FOCIL”) is the successor in interest to Catellus Development Corporation. Since the initial approval of the Mission Bay South Owner Participation Agreement (“South OPA”), the document has been amended nine times to modify the development plan on several parcels.

The implementation of the Mission Bay North and South OPA’s as amended will result in a maximum of 6,514 residential units, with approximately 29% or 1,918 units set aside and allowed as affordable.

The affordable units are comprised of inclusionary affordable units in Mission Bay North and units developed by nonprofit housing developers in stand-alone projects in Mission Bay North and MBS on Agency Affordable Housing Parcels.

Mission Bay North residential development is complete, with a total of 2,264 market rate and 700 affordable rental and for-sale homes constructed. In MBS all market-rate residential development, totaling 2,332 units, is complete. To date, 612 units have been constructed in stand-alone affordable housing projects in MBS. Below is a table detailing the status of affordable housing in both Mission Bay North and South.

# of Affordable Units	Mission Bay North	Mission Bay South	Mission Bay North and South
Built	700	612	1,312
Under Construction or Planned	0	<u>606*</u>	<u>606*</u>
TOTAL	700	1,218	1,918

** The South OPA requires OCII to construct a base number of 1,108 affordable housing units. In addition, Section 3.6 of the MBS Housing Program (Attachment 3 to the MBS OPA) allows for OCII to construct an additional 110 affordable housing units. The total obligation is approximately 1,218 affordable housing units.*

Mission Bay South Block 9A Program

Block 9a Development Program	
Number of units	148
Population/AMI Restrictions	Households earning between 80-110% AMI as defined by MOHCD
Unit sizes	• 33.8% 1 bds: averaging 658 net sf • 42.6% 2 bds: averaging 932 net sf • 23.6% 3 bds: averaging 1,220 net sf
Parking	34 spaces for vehicles; 0.23:1 ratio per unit 76 spaces for bikes
Amenities/community spaces	• Community room • Outdoor courtyard and roof deck • Offices for sales and property management staff • In-unit washer & dryers • Refrigerator and dishwasher

PROJECT BACKGROUND

OCII issued a Request for Proposals (the “RFP”) on May 23, 2019 to develop and market approximately 135 units of affordable for-sale housing at the Site. OCII staff made extensive outreach efforts to attract RFP submittals by the July 22, 2019, deadline, and ultimately received one proposal from MSPDI, CD, and YCD that met the minimum threshold submission requirements of the RFP. The RFP set forth specific qualifications including previous development experience, developer staff capacity, architectural design, building constructability, and financial feasibility.

After staff completed review of the submittal, a five-member evaluation panel comprised of one representative from MOHCD, one member from the Mission Bay Citizens Advisory Committee (the “CAC”), and three OCII staff interviewed the developer team. The evaluation panel determined that the submittal was responsive to the RFP criteria, and that the team demonstrated strong prior experience with affordable homeownership projects, and marketing and sales to first-time homebuyers. Based on the selection criteria set forth in the RFP, the evaluation panel recommended entering into an agreement with the Developer for exclusive negotiating rights to develop affordable for-sale family housing at the Site.

On April 7, 2020, the Commission approved, by Resolution No. 01-2020, an Exclusive Negotiations Agreement and a Predevelopment Loan Agreement, which have allowed the Developer to commence predevelopment activities. On December 7, 2021, the Commission approved an additional Predevelopment loan amount of \$1,500,000, for an aggregate total of \$5,000,000. In February 2021, the Commission approved the Project’s Basic Concept/Schematic Design and amendments to the Design for Development needed to allow a continuous 90’ height limit across the site (Resolution No. 7-2021).

DISCUSSION

Project Description

Block 9a is a .69-acre rectangular site, bounded by Mission Rock Street to the north; the proposed Bridgeview Way to the west; China Basin Street to the south; and the proposed Park P19 and Terry Francois Boulevard to the east. The Project is a 148-unit affordable for-sale housing development serving households earning between 80-110%. It includes 50 one-bedroom units, 63 two-bedroom units and 35 three- bedroom units.

The U-shaped eight-story building form wraps a podium level outdoor space with views across the water toward the East Bay, forming an open space outdoor amenities and the adjacent community room. A rooftop deck will offer 360-degree views of the City and the Bay. The entry at the corner of China Basin and Bridgeview Way will provide private access to the building lobby for residents as well as a “front porch” where residents can interact informally.

The most public, east-facing façade includes articulation with subtle references in its massing to the heritage of the busy port activities. Along the west side the building steps up in massing that relates to both the lower 4-5 story neighboring buildings and the taller forms proposed to the north at Mission Rock.

Neighborhood Amenities, Transit Access, and Site Parking

Mission Bay is rich in transit, open space, retail and entertainment amenities. The neighborhood is well-served by public transit, including the existing Muni T line, which stops a block away from the site and connects to the City's financial district and to BART, and Caltrain which stops approximately seven blocks away from the site and runs south down the peninsula. Significantly, the Central Subway Project which will be completed later this year, will extend the T Line with direct access to SoMa, downtown, Union Square and Chinatown and thus will provide even greater transit access for the Mission Bay community. In addition, the Muni 55-16th Street bus line stops approximately three blocks from the site and connects to the Mission and BART. (Please see Attachment C for amenities and transit maps).

Parking at the Project

In the Mission Bay South Block 9a Request for Proposals that was provided to the Commission, as an Informational Item on May 21, 2019, and issued on May 23, 2019, the Development Program requirements contained a 0.25 cars per unit parking ratio, or 34 parking spaces. On February 16, 2021, the Commission considered and conditionally approved the Basic Concept and Schematic Design for the Project. Included in the Basic Concept Design & 100% Schematic Design Resubmission submittal was the .23 parking ratio, or 34 for-lease vehicular parking spaces. The parking ratio had been slightly reduced because the unit count had increased from 135 to 148 units. Additionally, the Project includes 76 bicycle parking, for a 0.51:1 ratio per unit. The 0.23 ratio is in line with other Mission Bay 100% affordable developments, which range from 0 to 0.38 spaces per unit and seeks to balance parking availability and project financial feasibility. Parking rates will be below market rate and will be set to cover the cost of parking operations per MOHCD guidelines.

Parking Allocation

Staff worked with MOHCD to determine the best method to allocate the parking spaces in the Project, taking into consideration Commission's request to ensure larger households have access to parking. MOHCD will ultimately assume responsibility to enforce the affordability and related restrictions for this affordable housing asset under Redevelopment Dissolution Law. The MOHCD 2018 Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Inclusionary Manual") states: "The opportunity to purchase or lease a parking space will be offered in lottery rank order until all required BMR parking spaces are purchased or leased." MOHCD also allocates parking spaces in 100% affordable developments in lottery rank order. OCII has followed the standard in the Inclusionary Manual in previous affordable housing projects and has determined that it favorably serves households with children.

OCII, with support from MOHCD, has reviewed parking data in recently completed affordable developments to assess how the current lottery rank order parking allocation methods have affected priority and large households. Currently, parking is allocated in lottery rank order, which ensures priority populations get first access to parking and ensures an efficient lease up process that allows applicants the information they need when deciding to lease a unit. Staff evaluated the data as well as considered programmatic benefits and drawbacks of allocating parking spaces according to lottery rank order versus offering a parking preference for larger units.

OCII staff has reviewed four other OCII developments where lottery rank order determined which applicants received parking spaces and has found the following:

- All COP holders who desired parking were able to obtain it within the Project (because they receive first priority). Of the 108 available parking spaces a total of 20 (or 19%) went to COP holders.
- 72% of parking spaces went to households living in two- or three-bedroom units. In general, MOHCD estimates that 75% of households in two- or three-bedrooms units have children, and that households who live in two-bedroom units are as likely to have children as households who live in three-bedroom units.
- Together, households in two- and three-bedrooms units and COP holders received 76% of parking spaces.
- The share of parking spaces among one-bedroom units is lower than the share of one-bedroom units in the development overall (28% to 44%). Two-bedroom units represent 28% of units and 36% of parking space holders, and three-bedroom units reflect 25% of units and 36% of parking space holders.
- Two of the four project sites that were analyzed are in Mission Bay, where the affordability level (AMI) was much lower, and parking was free. Because parking will not be free at Mission Bay South Block 9a, Staff cannot assume the demand for leased parking by households will be as high as it was at the other developments staff reviewed.

Programmatic Implications:

- Establishing a separate preference system for housing and parking may leave COP holders with less parking because COP holders tend to live in smaller units (41% live in one-bedroom units). We know from our COP surveys and prior lease ups and sales that parking is a priority for COP holders.
- Larger households are already securing parking at a higher rate than smaller households, therefore offering parking based on unit size does not guarantee an outcome better than the current data suggests.
- MOHCD states that its DAHLIA system does not include tracking the offering of parking spaces and households' parking decisions. If not lottery rank, that information would need to be tracked separately, adding training, cost, time, and complexity for the Developer, and later the Homeowner Association's administrative responsibilities and MOHCD's monitoring.

Planning Code Section 167

While this Project is not bound by the Planning Code, staff did evaluate pertinent sections in determining the best method to allocate parking at the Project. The City's Planning Code Section 167 requires parking to be unbundled from the housing units and also has a section that states: "In cases where there are fewer parking spaces than dwelling units, the parking spaces shall be offered first to the potential owners or renters of three-bedroom or more units, second to the owners or renters of two-bedroom units, and then to the owners or renters of other units." The Planning Department, however, does not track any information about parking lease-up or sales, and apparently does not include the large unit preference in approval documents. Moreover, the City's Planning Code separately directs that affordable units should be allocated according to the Inclusionary Manual procedures, which specifies lottery rank order—not unit size—as the basis for determining parking spaces. Accordingly, OCII staff has not recommend following Section 167's preference for parking spaces based on unit size.

Recommendation

Based on the evaluation above, staff believes that the current lottery rank order approach provides advantages to COP holders and large households in obtaining parking spaces and that this approach should continue to guide the allocation of parking spaces. The available data indicates that households living in one-bedroom units are less likely to take a parking space than households living in two- and three-bedroom units. Offering the parking in lottery rank order also promotes the timely sales of the units and lease up of parking spaces in a way that prioritizes the key applicant groups, without negatively impacting COP holders.

Affordability Ladder

The Project will offer low- and moderate-income households, earning between 80-110% of AMI, the benefits of owning a home. Mission Bay's affordable housing program includes rental housing for formerly homeless households, very low- to low-income seniors and families, and low- to moderate-income homeownership housing. Most of the low- to moderate-income homeownership opportunities in Mission Bay have come in the form of inclusionary below market rate units provided within market-rate developments in Mission Bay North except for Mission Walk. In 2005, the former San Francisco Redevelopment Agency funded the 131-unit Mission Walk project, which is the only 100% affordable homeownership project completed to-date in Mission Bay. MBS 9a, once complete, would be the only 100% affordable homeownership development in Mission Bay South. MBS 9a adds a much-needed rung to the overall ladder of affordability in Mission Bay, and in doing so, it also affords interested Certificate of Preference ("COP") Program holders who may be over-income for an income-restricted rental unit an opportunity to use their certificate for a limited equity-building homeownership opportunity.

Unit Mix and Affordability

The Project includes: 50 one-bedroom (34%), 63 two-bedroom (43%), and 35 three-bedroom (23%) condominiums. The units will be sold pursuant to OCII's Limited Equity Program to ensure the units will be permanently affordable.

For this Project, units will be affordable to households at four income tiers: 80%, 90%, 100%, and 110% of AMI, and average 90% AMI overall. To create bands of affordability for these income tiers, the units will be priced at 75%, 85%, 95%, and 105% of AMI respectively.

Unit Type	Net Sq. Ft.	Quantity	% Median Income (for pricing)	% Median Income (for qualifying)
1 Bedroom, 1 Ba	500-550	10	75%	80%
1 Bedroom, 1 Ba	500-550	14	85%	90%
1 Bedroom, 1 Ba	500-550	14	95%	100%
1 Bedroom, 1 Ba	500-550	<u>12</u>	105%	110%
Subtotal 1 Bdrms		50		
2 Bedroom, 2 Ba	800-850	11	75%	80%
2 Bedroom, 2 Ba	800-850	22	85%	90%
2 Bedroom, 2 Ba	800-850	19	95%	100%
2 Bedroom, 2 Ba	800-850	<u>11</u>	105%	110%
Subtotal 2 Bdrms		63		
3 Bedroom, 2 Ba	1,000-1,100	8	75%	80%
3 Bedroom, 2 Ba	1,000-1,100	12	85%	90%
3 Bedroom, 2 Ba	1,000-1,100	7	95%	100%
3 Bedroom, 2 Ba	1,000-1,100	<u>8</u>	105%	110%
Subtotal 3 Bdrms		35		
TOTAL		148	90% average	95% average

Limited Equity Program ("LEP")

To ensure the units long term affordability, these units will be sold under the Limited Equity Program ("LEP"), which seeks to ensure the units will be permanently affordable. Purchase prices (at initial sale and future resale) are set according to a formula based on area median income rather than market values. At resale, the price will be set at the same affordability level established at the original sales price, regardless of the current market value. For example, if a home is sold today at a price affordable to a household at 80% of median income, its resale price in the future will be based upon what is affordable to a household at 80% of median income. Homeowner equity, when the unit is sold, is based on change in AMI over time, plus eligible capital improvements made by the homeowner.

Permanent Sources and Loan Request

Total development cost of the Project is budgeted at \$135,145,636. As this Project is a 100% affordable homeownership development, the available sources of permanent funding are extremely limited. Financing will include sales revenue, OCII loan funds, State of California Housing and Community Development funds represented by a \$4.2 million award of Infill and Infrastructure Grant funds, and a conventional construction loan. Sales revenues are expected to provide 41% of total development sources.

Exclusive Negotiations Agreement and Disposition and Development Agreement

On June 6, 2006, the Redevelopment Agency and FOCIL-MB, LLC entered into a memorandum of option providing the Redevelopment Agency with the right to acquire the Project site for development of an affordable housing project consistent with the Mission Bay South Housing Program of the Mission Bay South Owner Participation Agreement (the "Option"). On April 7, 2020, the Commission authorized the ENA with 350 China Basin Partners for the Project on the Site. The ENA gave the Developer site control in return for agreeing to abide by OCII policies and meeting various ENA performance milestones. The initial term of the ENA was 18 months, with up to four 90-day extensions granted by the Interim Executive Director. On October 4, 2021, the Interim Executive Director authorized an extension for a six-month period extending the ENA through April 7, 2022.

Currently, 350 China Basin Partners is requesting a Disposition and Development Agreement ("DDA"), for the development of 148 units of homeownership housing. In the DDA, OCII agrees to exercise the Option and then convey the Site to the Developer for the purpose of constructing and selling the low- and moderate-income homeownership units. The DDA includes the following milestones in a Schedule of Performance:

Item	Status
Approved Site Permit and Addenda #1	Complete
Evidence of all financing prior to construction	Secured State IIG Funding, negotiating term sheet with construction lender
Current certificates of insurance	In process

Marketing and Occupancy Preferences

All units will be restricted and affordable to households earning no more than 110% AMI as defined by MOHCD. The preferences applicable for the Project are listed below. Then-current preferences at the time of the lottery will apply.

1. Certificate of Preference holders
2. Displaced Tenant Preference Program

3. Neighborhood Resident Housing Preference for 25% of the lottery units (as the Project has State IIG funding).
4. San Francisco Residents or Workers
5. Members of the General Public

Certificate of Preference Holders

Notably, the design team has included design elements that COP Program holders (and other affordable housing applicants) have commented on as desirable during past lease-up and sales processes. These include the generous unit square footages, in particular for the one- bedroom units, and larger windows.

Equal Opportunity Program and Compliance with OCII Policies

The Development team will continue to comply with OCII's Nondiscrimination in Contracts, Minimum Compensation and Health Care Accountability policies, and will continue to work closely with Contract Compliance staff to comply with OCII's Small Business Enterprise (SBE) Program on this Project.

To date the Developer has secured the following SBE percentages on the Project through Professional Services contracts: SBE 71.6%, San Francisco-Based (SF) SBE 67%, Minority-Owned Business Enterprise (MBE) 51.8%, Woman-Owned Business Enterprise (WBE) 2.7%, and 3.8% Minority Women-Owned Business Enterprise.

The Developer has contracted with Workforce and Contracting Action Plan (WCAP) consultant Monica Wilson to work with the general contractor to implement their commitment to providing opportunities for Black Indigenous People of Color (BIPOC)-Led organizations and individuals. During the construction phase, Ms. Wilson will work with the Developer to ensure maximum exposure to LBE/SBE/MBE/BIPOC subcontractors with a goal of achieving 50% participation. Through a competitive process, the Developer selected the Baines Nibbi, a joint venture between the general contractors Nibbi Brothers Construction and Baines Group, Inc., an OCII-recognized SBE and Minority-Owned Business Enterprise. See Attachments D and E for more information.

COMMUNITY PARTICIPATION

The Mission Bay Citizens Advisory Committee ("Mission Bay CAC") has been involved in the Project as of developer selection. OCII staff has continued to work with the CAC as the project has moved forward with its design. On January 14, 2021, OCII and the Developer's and architect presented the BCSD and the Major Phase Amendment to the Mission Bay CAC, who voted to recommend the design and to move forward for Commission review and approval.

CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")

The authorizations of the DDA and the Amended and Restated Loan Agreement are undertakings in furtherance of the Redevelopment Plan ("Implementing Actions") and are within the scope of the Mission Bay Project analyzed in the FSEIR. They require no further environmental review beyond the FSEIR pursuant to the State CEQA Guidelines Section 15180, 15162 and 15163 for the following reasons:

(1) The Implementing Actions are consistent with the project analyzed in the FSEIR and do not require major revisions to the FSEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant impacts; and,

(2) no substantial changes have occurred with respect to the circumstances under which the "Mission Bay Project" analyzed in the FSEIR will be undertaken that would require major revisions to the FSEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the FSEIR; and,

(3) no new information of substantial importance relating to the Implementing Actions has become available, which would indicate that (i) the Implementing Actions will have significant effects not discussed in the FSEIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (iv) mitigation measures or alternatives, which are considerably different from those in the FSEIR, will substantially reduce one or more significant effects on the environment that would change the conclusions set forth in the FSEIR.

NEXT STEPS

Subject to the Commission's authorization of the DDA and the Loan agreement, the construction loan closing will occur later this month, and construction will start shortly thereafter. Construction is anticipated to be completed in the first half of 2024.

(Originated by Pamela Sims, Senior Development Specialist)

DocuSigned by:
James B. Morales
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James B. Morales

Interim Executive Director

Attachments: A. Loan Agreement
 B. Disposition and Development Agreement
 C. Mission Bay South Block 9A – Transit and Amenities Maps
 D. Professional Services Contracting Summary
 E. Professional Services Firm Biographies
 F. Loan Evaluation dated November 5, 2021

ATTACHMENT A

AMENDED AND RESTATED LOAN AGREEMENT

By and Between

**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
OF THE CITY AND COUNTY OF SAN FRANCISCO,**
a public body, organized and existing under the laws of the State of California

and

350 CHINA BASIN PARTNERS, LLC,
a California limited liability company

For the Development of
400 CHINA BASIN STREET
(MISSION BAY SOUTH BLOCK 9A)
SAN FRANCISCO, CALIFORNIA
\$75,184,522

Dated as of _____

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SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND
COUNTY OF SAN FRANCISCO
400 CHINA BASIN STREET
AMENDED AND RESTATED LOAN AGREEMENT

THIS LOAN AGREEMENT (the “**Agreement**”) is entered into this _____ day of _____, 2022 by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, hereafter referred to as the Office of Community Investment and Infrastructure, a public body organized and existing under the laws of the State of California (“**OCII**” or **Agency**”) and 350 China Basin Partners, LLC, a California limited liability company (“**Borrower**”) whose co-managing members are Mission Bay 9A LLC, a California limited liability company whose sole member is Curtis Development, a California sole proprietorship, and Michael Simmons Property Development, Inc., a California corporation, and whose other member is YCD MGP I, LLC, whose sole member is Young Community Developers, Inc., a California nonprofit public benefit corporation, and their authorized successors and assigns.

RECITALS

A. In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 *et seq.* the “**CRL**”), the Redevelopment Agency of the City and County of San Francisco (“**Former Agency**”) and the City and County of San Francisco (the “**City**”) established the Mission Bay South Redevelopment Project Area (the “**Project Area**”).

B. In accordance with the CRL, the City, acting through its Board of Supervisors, approved, by Ordinance No. 335-98 on Nov. 2, 1998, the Redevelopment Plan for the Project Area and approved amendments to the Redevelopment Plan by Ordinance No. 143-13 on July 9, 2013, Ordinance No. 32-18 on March 6, 2018, Ordinance No. 128-20 on July 31, 2020, Ordinance No. 209-20 on October 9, 2020, and Ordinance No. 14-21 on February 12, 2021. The Redevelopment Plan, as amended, is referred to as the “**Mission Bay South Redevelopment Plan**”.

C. Pursuant to California Health and Safety Code §§ 34170 *et seq.* (the “**Redevelopment Dissolution Law**”), the Former Agency was dissolved as of February 1, 2012 and all of the Former Agency’s assets (other than specified housing assets) and obligations were transferred to OCII.

D. The Board of Supervisors, acting as the legislative body of the Successor Agency, adopted Ordinance No. 215-12 (October 4, 2012), which, among other things established the Successor Agency Commission (“**Commission**”) and delegated to it state authority under the Redevelopment Dissolution Law to implement the Redevelopment Plan and fulfill enforceable obligations, including the Mission Bay South Owner Participation Agreement between the Former Agency (succeeded by OCII) and Catellus Development Corporation (succeeded by FOCIL-MB, LLC, the “**Owner**”) (November 16, 1998), as amended (the “**OPA**”).

E. The OPA includes the Mission Bay South Housing Program (Attachment C to the OPA), which (as currently amended) provides that the Owner will contribute parcels of land

within the Project Area to OCII, at no cost, for the development of up to one thousand two hundred eighteen (1,218) affordable housing units (defined in the OPA as “**Agency Affordable Housing Parcels**”).

F. On January 24, 2014, the California Department of Finance made a final and conclusive determination pursuant to Redevelopment Dissolution Law, Cal. Health & Safety Code § 34177.5 (i), that the OPA is an enforceable obligation that survives the dissolution of the Former Agency and requires OCII to complete development authorized under the OPA, including the obligation to fund construction of affordable housing on the Agency Affordable Housing Parcels.

G. In 2015, the State of California adopted amendments to the Redevelopment Dissolution Law, codified in Health and Safety Code Section 34177.7, which authorized OCII to incur indebtedness for the purpose of funding development of affordable housing, including the Agency Affordable Housing Parcel subject to this Agreement.

H. On May 23, 2019, OCII issued a Request for Proposals (the “RFP”) to develop market, and sell affordable for-sale housing units for low- to moderate-income households on Mission Bay South Block 9a, on parcels identified as Block 8719, Lot 005 of that certain map entitled “Final Map Planned Development Mission Bay (9-9A and 10-10A)”, recorded on May 31, 2005 and filed on pages 6-10 in Book BB of the County’s Survey Maps (the “Site”). The OPA identifies the Site as an Agency Affordable Housing Parcel and the Owner recorded on July 28, 2011, a Declaration of Restrictions and Reservation of Easement as Document No. 2011-J221597-00 in the Official Records of San Francisco County (the “Official Records”) restricting the use of the Site to the construction and operation of Agency Affordable Housing Projects.

I. On April 7, 2020, the Commission approved, by Resolution 1-2020, an Exclusive Negotiations Agreement and a Predevelopment Loan Agreement in the amount of Three Million Five Hundred Thousand Dollars (\$3,500,000) (“**Predevelopment Agreement**”) by and between OCII and the Developer. The Developer is a “Qualified Housing Developer” under the OPA.

J. On February 16, 2021, the Commission conditionally approved, by Resolution No. 17-2021, “**Schematic Designs**” authorizing 148 affordable homeownership housing units, in a building with eight residential floors, common areas, parking and open space, as further described in the Schematic Designs. The unit distribution shall be approximately 50 one-bedroom (33%), 63 two-bedroom (43%), 35 three-bedroom (24%) condominiums, priced to be affordable on average to households earning 90% of area median income (the “**Project**”).

K. On October 15, 2021, the Citywide Affordable Housing Loan Committee (“**Loan Committee**”) approved a gap loan to the Borrower (the “**Loan**”) for the development of the Project for an amount not to exceed Seventy Million One Hundred Eighty-Four Thousand Five Hundred and Twenty-Two Dollars (\$70,184,522).

L. On December 7, 2021, the Commission approved, by Resolution No. 45-2021, an amendment to the Predevelopment Agreement to increase the loan amount by One Million Five Hundred Thousand Dollars (\$1,500,000) for a total predevelopment loan amount of Five Million Dollars (\$5,000,000).

M. OCII now intends to issue the Loan to Borrower in accordance with the terms of this Agreement to fund construction of the Project.

N. Upon completion of construction of the Project, OCII intends to assign any of its remaining rights and obligations under this Agreement, the Disposition and Development Agreement (“DDA”) and restrictive covenants preserving the affordability of the units, to MOHCD as the designated Housing Successor of the City and County of San Francisco under Board of Supervisors Resolution 11-12 (Jan. 26, 2012), as required by Redevelopment Dissolution Law and the DOF- approved Long-Term Property Management Plan dated December 2015.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Loan Agreement, the parties agree as follows:

ARTICLE 1: DEFINITIONS

1.1 **“Accounts”** means all depository accounts, including reserve and trust accounts, required or authorized under this Agreement or otherwise by the OCII in writing. All Accounts must be maintained in accordance with Section 2.4.

1.2 **“Administration Fees”** is described in Article 11.1 and is defined in the Loan Disbursement Budget.

1.3 **“Agreement Date”** means the date first above written.

1.4 **“Approved Title Exceptions”** means: (a) Permitted Exceptions, (b) liens in favor of the Agency in writing and (c) other title exceptions expressly approved by the Agency in writing.

1.5 **“Area Median Income”** or **“AMI”** means the median household income under the table published by MOHCD for the HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco, adjusted for household size, but not for high cost.

1.6 **“Assignment of Work Product”** means the assignment of work product executed by Borrower granting OCII a security interest in the Work Product to secure Borrower's performance under this Agreement and the Note prior to the Loan Closing Date, in substantially the form and substance attached hereto as Exhibit O.

1.7 **“Authorization”** means any authorization, consent, approval, order, license, permit, exemption or other action by or from, or any filing, registration or qualification with, any governmental agency or other person.

1.8 **“Authorizing Resolutions”** means: (a) in the case of a corporation, a certified copy of resolutions adopted by its board of directors, (b) evidence of such other action as the Agency may require, in each case authorizing the execution, delivery and performance of all Loan Documents to which it is a party or by which it is bound.

1.9 “**Borrower**” is defined in the first paragraph of this Agreement.

1.10 “**Business Day**” means a calendar day other than a Saturday, Sunday or OCII holiday.

1.11 “**CFR**” means the Code of Federal Regulations.

1.12 “**Charter Documents**” means: (a) in the case of a corporation, its articles of incorporation, bylaws; (b) in the case of a partnership, its partnership agreement, any certificate or statement of partnership; and (c) in the case of a limited liability company, its operating agreement and any LLC certificate or statement. The Charter Documents must be delivered to OCII in their original form and as amended from time to time and be accompanied by a certificate of good standing for Borrower issued by the California Secretary of State and, if Borrower is organized under the laws of a State other than California, a certificate of good standing issued by the Secretary of State of the state of organization, issued no more than ninety (90) days before the Loan Closing Date.

1.13 “**City**” means the City and County of San Francisco, a municipal corporation. Whenever this Agreement provides for a submission to the City or an approval or action by the City, this Agreement refers to submission to or approval or action by MOHCD unless otherwise indicated.

1.14 “**Commission**” means the Successor Agency Commission, commonly referred to as the Commission on Community Investment and Infrastructure.

1.15 “**Completion Date**” has the meaning set forth in Article 5.5 as set forth in more detail in the Schedule of Performance (**Exhibit F**).

1.16 “**Construction Contract**” has the meaning set forth in Section 5.1.

1.17 “**CRL**” has the meaning set forth in Recital A.

1.18 “**DDA**” is defined in Recital N.

1.19 “**Declaration of Site Restrictions**” means a recorded declaration of restrictions in substantially the form and substance attached as Attachment 13 to the DDA that (a) requires Borrower and the Project to comply with the use restrictions in this Agreement, including the affordability and eligibility restrictions, for the duration specified therein, even if the Loan is repaid or otherwise satisfied, this Agreement terminates or the Deed of Trust is reconveyed and (b) shall be in a first lien position and shall not be subordinated to any lien or other encumbrance during the term of such restrictions unless OCII determines in its sole discretion that subordination is necessary to secure adequate construction and/or permanent financing to ensure the viability of the Project.

1.20 “**Deed of Trust**” means the deed of trust granting OCII a lien on the Borrower’s interest in the Site to secure Borrower's performance under this Loan Agreement and the Note, in substantially the form attached as **Exhibit E**.

1.21 “**Default Interest Rate**” is defined in Article 3.3.

1.22 “**Developer**” means 350 China Basin Partners, LLC, a California limited liability company.

1.23 “**Developer Fees**” is described in Article 11.1 and is defined in the Loan Disbursement Budget (**Exhibit C-2**).

1.24 “**Development Expenses**” means all costs incurred by Developer and approved by OCII in connection with the development of the Project, including: (a) hard and soft development costs; (b) deposits into required reserve accounts; and (c) allowed Developer Fees.

1.25 “**Disburse**”, “**Disbursement**” and other derivatives thereof means the disbursement of all or a portion of the Funding Amount by OCII as described in Article 4.

1.26 “**Environmental Activity**” means any actual, proposed or threatened spill, leak, pumping, discharge, leaching, storage, existence, release, generation, abatement, removal, disposal, handling or transportation of any Hazardous Substance from, under, into or on the Site.

1.27 “**Environmental Laws**” means all present and future federal, state and local and administrative laws ordinances, statutes, rules and regulations, orders, judgments, decrees, agreements, authorizations, consents, licenses, permits and other governmental restrictions and requirements relating to health and safety, industrial hygiene or the environment or to any Hazardous Substance or Environmental Activity, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (commonly known as the “Superfund” law) (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act of 1976, as amended by the Solid Waste and Disposal Act of 1984 ((42 U.S.C. § 9601 et seq.); the National Environmental Policy Act of 1969 (“NEPA”) (24 CFR §§ 92 and 24 CFR §§ 58); the California Hazardous Substance Account Act (also known as the Carpenter-Presley-Tanner Hazardous Substance Account Law and commonly known as the “California Superfund” law) (Cal. Health & Safety Code §§ 25300 et seq.); and the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”) (Cal. Health & Safety Code §§ 25249.2 et seq.); and Sections 25117 and 25140 of the California Health & Safety Code.

1.28 “**Escrow Agent**” means the escrow agent for the title company issuing the Title Policy.

1.29 “**Event of Default**” has the meaning set forth in Article 15.1.

1.30 “**Excess Development Proceeds**” means Development Proceeds remaining after payment of Development Expenses.

1.31 “**Expenditure Request**” means a written request by Borrower for a Disbursement from the Funding Amount, which must certify that the Project costs covered by the Expenditure Request have been paid or incurred by Borrower.

1.32 “**Final Financial Plan**” means the Table of Sources and Uses, (including without limitation the Funding Amount and interest rate) (Exhibit), as they may be revised by the Final

Financial Plan Confirmation Letter and approved by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date.

1.33 “**Final Financial Plan Confirmation Letter**” means a letter documenting the approved Final Financial Plan including any adjustments thereto made and approved by the MOHCD Director and the OCII Executive Director subsequent to execution of this Agreement but prior to the Loan Closing Date, including without limitation the Funding Amount and interest rate.

1.34 “**Force Majeure**” is defined in Article 15.3.

1.35 “**Funding Amount**” means an amount not to exceed Seventy Million One Hundred Eighty-Four and Five Hundred Twenty-Two Dollars (\$70,184,522) and shall include any revision that is less than the foregoing amount included in the Final Financial Plan.

1.36 “**Funds**” means the monies to be disbursed by OCII under this Agreement.

1.37 “**GAAP**” means generally accepted accounting principles in effect on the date of this Agreement and at the time of any required performance.

1.38 “**Governmental Agency**” means: (a) any government or municipality or political subdivision of any government or municipality; (b) any assessment, improvement, community facility or other special taxing district; (c) any governmental or quasi-governmental agency, authority, board, bureau, commission, corporation, department, instrumentality or public body; or (d) any court, administrative tribunal, arbitrator, public utility or regulatory body.

1.39 “**Hazardous Substance**” means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any Governmental Agency to pose a present or potential hazard to human health or safety or to the environment. Hazardous Substance includes, any material or substance listed, defined or otherwise identified as a "hazardous substance," "hazardous waste," "hazardous material," "pollutant," "contaminant," "pesticide" or is listed as a chemical known to cause cancer or reproductive toxicity or is otherwise identified as "hazardous" or "toxic" under any Environmental Law, as well as any asbestos, radioactive materials, polychlorinated biphenyls and any materials containing any of them, and petroleum, including crude oil or any fraction, and natural gas or natural gas liquids. Materials of a type and quantity normally used in the construction, operation or maintenance of developments similar to the Project will not be deemed "Hazardous Substances" for the purposes of this Agreement if used in compliance with applicable Environmental Laws.

1.40 “**HUD**” means the U.S. Department of Housing and Urban Development acting by and through the Secretary of Housing and Urban Development and any authorized agents.

1.41 “**Income Restrictions**” means the maximum household income limits for qualified homebuyers, as set forth in Exhibit T.

1.42 “**Interest**” is defined in Article 3.2.

1.43 “**Loan Agreement**” means this Loan Agreement.

1.44 **“Funding Amount”** is defined in Article 2.1.

1.45 **“Loan Closing”** means the date on which all conditions to closing of the Loan under Section 4.1.1 have been met and Borrower and OCII authorize recordation of the Deed of Trust.

1.46 **“Loan Closing Date”** means the date on which OCII, and the Borrower authorize Loan Closing and the Deed of Trust is recorded in the Official Records.

1.47 **“Loan Committee”** has the meaning set forth in Recital I.

1.48 **“Loan Documents”** means this Loan Agreement, the Note, the Deed of Trust and any other documents executed or delivered in connection with this Loan Agreement. However, the DDA is not a Loan document.

1.49 **“Loss”** or **“Losses”** includes any loss, liability, damage, cost, expense or charge and reasonable attorneys’ fees and costs, including those incurred in a proceeding in court or by mediation or arbitration, on appeal or in the enforcement of OCII’s or the City’s rights or in defense of any action in a bankruptcy proceeding.

1.50 **“Median Income”** means area median income as determined by MOHCD, adjusted solely for actual household size.

1.51 **“MOHCD”** means the Mayor's Office of Housing and Community Development or its successor.

1.52 **“Note”** means the promissory note executed by Borrower in favor of OCII in the original principal amount of the Funding Amount, as defined in Article 2.1, in substantially the form attached as **Exhibit D**.

1.53 **“Notice to Proceed”** has the meaning set forth in Section 5.5.

1.54 **“OCII”** means the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, commonly known as the Office of Community Investment and Infrastructure.

1.55 **“OCII Documents”** means this Agreement, the Note, the Deed of Trust, the Assignment of Work Product, the DDA, the Declaration of Site Restrictions, and any other documents executed or delivered in connection with this Agreement.

1.56 **“OCII Monthly Project Update”** has the meaning set forth in Section 10.2.

1.57 **“Official Records”** means the Official Records of the City and County of San Francisco.

1.58 **“Opinion”** means an opinion of Borrower's California legal counsel, satisfactory to OCII and its legal counsel, that Borrower is a duly formed, validly existing California limited liability company; in good standing under the Laws of the State of California, has the power and

authority to enter into the OCII Documents and shall be bound by their terms when executed and delivered, and that addresses such other matters OCII reasonably requests.

1.59 “**Permitted Exceptions**” means Liens in favor of OCII, real property taxes and assessments that are not delinquent, and any other liens and encumbrances OCII expressly approves in writing in its escrow instructions and/or in favor of any construction lenders shown in the Final Financial Plan.

1.60 “**Predevelopment Loan Amount**” is defined in Article 2.1.

1.61 “**Project**” is defined in Recital J. and may include both the Site and the improvements developed on the Site.

1.62 “**Publication**” means any report, article, educational material, handbook, brochure, pamphlet, press release, public service announcement, webpage, audio or visual material or other communication for public dissemination, which relates to all or any portion of the Project or is paid for in whole or in part using the Funding Amount.

1.63 “**Qualified Home Buyer**” means a household that meets the requirements of the OCII’s Limited Equity Affordable Housing Program and secures a loan from a reputable first mortgage lender for the acquisition of a Unit in the Project all in accordance with the terms of the DDA and this Loan Agreement.

1.64 “**Redevelopment Dissolution Law**” has the meaning set forth in Recital B.

1.65 “**Redevelopment Requirements**” means the OPA, the Mission Bay South Redevelopment Plan and Plan Documents (as defined therein), and the Redevelopment Area Declaration of Site Restrictions.

1.66 “**Senior Financing**” means financing by a construction lender and its successors, assigns, and participants or other entity who will hold the first deed of trust on the Property, as approved by OCII.

1.67 “**Site**” means the real property described in **Exhibit B** of this Agreement.

1.68 “**Table**” means a table of sources and uses of funds attached hereto as Exhibit C-1, including a line-item disbursement budget for the use of the Funding Amount attached hereto as Exhibit C-2, which may not be adjusted without OCII’s prior written approval except as otherwise provided herein.

1.69 “**Term**” is defined in Article 3.1.

1.70 “**Title Policy**” means an ALTA extended coverage lender's policy of title insurance in form and substance satisfactory to OCII, issued by an insurer selected by the Borrower and satisfactory to OCII, together with any endorsements and policies of coinsurance and/or reinsurance required by OCII, in a policy amount equal to the Funding Amount, insuring the Deed of Trust as a valid lien on the Site, subject only to the Permitted Exceptions.

1.71 “**Unit**” means an individual townhome or flat constructed on the Site in accordance with the DDA and this Loan Agreement.

1.72 “**Work Product**” has the meaning set forth in Section 24.21.

1.73 Interpretation. The following rules of construction will apply to this Agreement and the other OCII Documents.

(a) The masculine, feminine or neutral gender and the singular and plural forms include the others whenever the context requires. The word "include(s)" means "include(s) without limitation" and "include(s) but not limited to," and the word "including" means "including without limitation" and "including but not limited to" as the case may be. No listing of specific instances, items or examples in any way limits the scope or generality of any language in this Agreement. References to days, months and years mean calendar days, months and years unless otherwise specified. References to a party mean the named party and its successors and assigns.

(b) Headings are for convenience only and do not define or limit any terms. References to a specific OCII Document or other document or exhibit mean the document, together with all exhibits and schedules, as supplemented, modified, amended or extended from time to time in accordance with this Agreement. References to Articles, Sections and Exhibits refer to this Agreement unless otherwise stated.

(c) Accounting terms and financial covenants will be determined, and financial information must be prepared, in compliance with GAAP as in effect on the date of performance. References to any Law, specifically or generally, will mean the Law as amended, supplemented or superseded from time to time.

(d) The terms and conditions of this Agreement and the other OCII Documents are the result of arms'-length negotiations between and among sophisticated parties who were represented by counsel, and the rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not apply to the construction and interpretation of the OCII Documents. The language of this Agreement must be construed as a whole according to its fair meaning.

(e) Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the DDA.

ARTICLE 2: FUNDING

2.1 Funding Amount.

OCII agrees to lend to Borrower a maximum principal amount equal to the Funding Amount in order to finance predevelopment and development costs associated with the Project. Borrower

hereby acknowledges that, upon execution of this Agreement, the Predevelopment Loan Amount totaling Five Million Dollars (\$5,000,000) (“**Initial Predevelopment Loan**”) will be included with the Construction Loan Amount of Seventy Million One Hundred Eighty-Four Thousand One Hundred Twenty-Two Dollars (\$70,184,522) for an aggregate not to exceed amount of Seventy-Five Million One Hundred Eighty-Four Thousand Five Hundred Twenty-Two Dollars (\$75,184,522) (the “**Funding Amount**”), the Loan Agreement (as amended) for the Initial Predevelopment Loan shall terminate and be of no further force and effect, and the Amended and Restated Promissory Note evidencing the Initial Predevelopment Loan shall be cancelled and be of no further force or effect. The Funding Amount includes both the Construction Loan Amount and the Predevelopment Loan Amount as amended. The Funding Amount shall be used to finance the costs of construction and related expenses incurred by the Project, including predevelopment expenses. The Funding Amount shall be disbursed according to the terms and subject to the conditions set forth in this Loan Agreement.

2.2 **Required Reserves.**

The Borrower will establish a segregated interest-bearing reserve in an amount no less than Ten Thousand Dollars (\$10,000) per Unit as a reserve for each Unit as included in the Table defined as Exhibit C-1 (the “**Warranty Reserve**”). Unexpended funds shall remain in the Warranty Reserve account until such time as any and all claims and suits for bodily injury, death and property damage arising out of the Project are barred by the applicable statutes of limitations and repose. Withdrawals in excess of Two Thousand Five Hundred Dollars (\$2,500) from the Warranty Reserve may be made only with the express prior written approval of the OCII Housing Manager or MOHCD designee, as appropriate. Borrower shall submit a statement of all expenditures from the Warranty Reserve at the end of each calendar year. After such time, OCII and the Borrower shall split 50% - 50% any unexpended funds that remain in the Warranty Reserve.

(b) As part of the Warranty Reserve the Borrower shall reserve the sum of One Hundred Thousand Dollars (\$100,000) per occurrence as a deductible or self-insured retention attributable to the Project OCIP (the “**SIR Fund**”). Unexpended funds shall remain in the SIR Fund until such time as any and all claims and suits for bodily injury, death and property damage arising out of the Project are barred by the applicable statutes of limitations and repose. After such time, OCII and the Borrower shall split 50% - 50% any unexpended funds that remain in the SIR Fund.

2.3 **Use of Funds.**

Borrower acknowledges that OCII's agreement to make the Loan is based in part on Borrower's agreement to use the Funds solely for the purposes set forth in Sections 2.1 and 2.2 and agrees to use the Funds solely for that purpose in accordance with the approved Table of Sources and Uses as the same may be amended from time to time pursuant to this Agreement and as finalized as part of the Final Financial Plan.

2.4 Accounts; Interest.

Each Account to be maintained by Borrower under this Agreement must be held in a bank or savings and loan institution acceptable to OCII as a segregated account that is insured by the Federal Deposit Insurance Corporation or other comparable federal insurance program. Any interest earned on funds in any Account must be used for the benefit of the Project.

2.5 Records.

Borrower must maintain and provide to OCII upon request records that accurately and fully show the date, amount, purpose and payee of all expenditures from each Account authorized under this Agreement or by OCII in writing and keep all estimates, invoices, receipts and other documents related to expenditures from each Account. In addition, Borrower shall provide to OCII promptly following OCII's request, complete copies of all monthly bank statements, together with a reconciliation for each Account until all funds (including accrued interest) in each Account have been disbursed for eligible uses.

2.6 Conditions to Additional Financing.

OCII may grant or deny any application by Borrower for additional financing for the Project in its sole discretion.

2.7 Contracting Requirements.

Borrower shall comply with OCII's contract compliance requirements for procurement activities as further set forth in Exhibit H of this Agreement.

2.8 Workforce Requirements.

Borrower shall comply with OCII workforce requirements pursuant to Exhibit K and Exhibit M, including but not limited to OCII's Labor Standards and the Construction Workforce Agreement, as set forth in Exhibit L for all construction related work.

ARTICLE 3: TERMS AND PROVISIONS OF THE LOAN.

3.1 Term of Agreement.

The term of this Loan Agreement shall commence on the Loan Closing Date and continue until the Funding Amount is repaid in full plus accrued interest and all of the Units are constructed and sold to Qualified Home Buyers in accordance with the DDA and this Loan Agreement (the "Term").

3.2 Interest.

Interest shall accrue on the outstanding principal amount due under the Note at a rate of Three percent (3%), simple interest, unless Borrower is in default and then default interest shall accrue as set forth in Article 3.3.

3.3 **Default Interest Rate.**

Notwithstanding any other provision in this Loan Agreement or the Loan Documents to the contrary, upon the occurrence of an Event of Default under any Loan Document, following any applicable notice and cure periods, and without waiving any other remedy of OCII, interest shall be deemed to have accrued on the outstanding principal balance of the Funding Amount at a compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the date of the Event of Default through the date all amounts due under the Loan Documents are paid to OCII. OCII may declare the unpaid principal of the Note, together with accrued interest thereon, as immediately due and payable and other amounts payable under the Loan Documents to be immediately due and payable, each without protest, presentment, notice of dishonor, demand or further notice of any kind, all of which are expressly waived by Borrower.

3.4 **Loan Repayment; Partial Reconveyance.**

(a) **Loan Repayment.** Subject to Subsections (b) and (d), Borrower shall repay the outstanding principal balance of the Loan, together with accrued interest, on the earlier of (i) the date on which Borrower sells, assigns, conveys or otherwise transfers the Site in violation of this Agreement; or (ii) the date on which Borrower defaults and fails to cure within the specified time provided under this Loan Agreement (the “**Repayment Date**”) as determined by OCII.

(b) **Partial Repayment of Loan.** If Borrower is not required to repay the Loan under Subsection (a), then as a condition to the sale of the last Unit in the Project the Borrower shall pay OCII an amount calculated as follows (the “**Repayment Amount**”):

(i) The aggregate net amount of all sales proceeds received by Borrower from the sale of all of the Units; less

(ii) The amount necessary to fully repay all amounts owing under the Senior Financing, if any; less

(iii) payment of all costs and fees related to development of the Project as indicated in the Loan Disbursement Budget (Exhibit C-2).

The Borrower’s payment of the Repayment Amount shall be deemed payment in full of the Loan and all accrued interest on the Loan.

(c) **Partial Reconveyance of Deed of Trust.** Subject to satisfaction of the conditions in Section 6 of the Deed of Trust, OCII agrees to reconvey the lien of the Deed of Trust from each Unit as each Unit is sold.

3.5 **Repayment of Excess Development Proceeds.**

Developer must repay all Excess Proceeds to OCII no later than six (6) months after the Completion Date. OCII must use such Excess Development Proceeds to reduce the balance of the Funding Amount.

3.6 **Recourse**

Following recordation of the Deed of Trust, the Loan shall be a non-recourse obligation of Maker, as provided in Section 4 of the Note.

3.7 **Changes in Funding Streams**

OCII's agreement to make the Loan on the terms set forth in this Agreement and the Note is based in part on Borrower's projected sources and uses for construction of the Project (including predevelopment activities and construction phase expenses), as set forth in the Table of Sources and Uses. Borrower covenants to give written notice to the OCII within thirty (30) days of any significant changes in budgeted funding or income set forth in documents previously provided to the OCII. OCII reserves the right to modify the terms of this Agreement based upon any substantial reductions in Borrower's projected sources or substantial increase in Borrower's uses of all funds for the Project to the extent Borrower has not provided additional Project sources sufficient to cover any reductions in sources or increase in uses, which sources shall be acceptable to the OCII in its reasonable discretion.

3.8 **Additional OCII Approvals**

Borrower understands and agrees that OCII is entering into this Agreement in its proprietary capacity and not as a regulatory agency with certain police powers. Borrower understands and agrees that neither entry by OCII into this Agreement nor any approvals given by OCII under this Agreement shall be deemed to imply that Borrower will obtain any required approvals from City departments, boards or commissions which have jurisdiction over the Project. By entering into this Agreement, OCII is in no way modifying or limiting the obligations of Borrower to develop the Project in accordance with all local laws. Borrower understands that any development of the Project shall require approvals, authorizations and permits from governmental agencies with jurisdiction over the Project, which may include, without limitation, the City Planning Commission and the San Francisco Board of Supervisors. Notwithstanding anything to the contrary in this Agreement, no party is in any way limiting its discretion or the discretion of any department, board or commission with jurisdiction over the Project, including but not limited to a party hereto, from exercising any discretion available to such department, board or commission with respect thereto, including but not limited to the discretion to (i) make such modifications deemed necessary to mitigate significant environmental impacts, (ii) select other feasible alternatives to avoid such impacts, including the "No Project" alternative; (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided, or (iv) determine not to proceed with the proposed Project.

3.9 **Additional Borrower Covenants**

Borrower hereby agrees to the following:

(a) Borrower acknowledges that the MOHCD Director and OCII Executive Director may, prior to Loan Closing, collectively approve and include as part of this Agreement

revisions to the Final Financial Plan for the benefit of the Project, and Borrower shall cooperate with OCII and MOHCD and their financial advisor in identifying such revisions.

(b) Assuming the Project does not experience significant hard-cost increases as a result of pricing estimates at Construction Drawing completion, Construction Document bid by the General Contractor, final plan checks of all addenda, or any significant schedule delay preventing the Project from beginning construction in 2022, all remaining contingencies including 5% Bid Contingency, 5% Plan Check Contingency, and the 5% Escalation Contingency will be eliminated from the Project budget. OCII's Funding Amount available to the Project will be reduced by the total value of the eliminated subsidies (unless OCII approves allocation of some or all of eliminated subsidies for other costs in the Project budget as part of the Final Financial Plan).

(c) Borrower has complied with or shall comply with the following loan conditions based on OCII's requirements and the Loan Committee's recommendations in reviewing and approving the Project's Loan Evaluation on October 15, 2021.

- i. Borrower will continue working with OCII and MOHCD staff to determine the appropriate staffing and budget for Project marketing and sales contract services as well as MOHCD staffing/services, subject to OCII and MOHCD approval. Status: On-going.
- ii. Borrower will inform in writing Mission Bay Development Group (MBDG) staff of the area needed and length of time required to stage on Bridgeview Way. Status: Completed.
- iii. Borrower will seek OCII's approval for any amount in excess of \$4.3M amount for the architecture and design budget. Status: On-going
- iv. Borrower will explore the possibility of obtaining AHP Funding for the units at 80% Area Median Income (AMI). Sponsor will provide self-score to OCII staff. If this funding is secured then the OCII funding amount will be reduced, and will be reflected in the Final Financial Plan. Status: Completed
- v. Borrower will apply for CalHome funding, if the funding guidelines allow for this Project to be competitive for an award. If funding is secured then the OCII funding amount will be reduced and will be reflected in the Final Financial Plan. Status: Completed
- vi. Borrower will provide drafts of the RFQ/P for a construction lender for OCII review and approval prior to soliciting bids for the same. OCII will review the RFQ/P for indemnification language. Status: As there is an extremely limited pool of interested construction lenders, Borrower is negotiating one-on-one with lenders.
- vii. To determine the impact (if any) of the indicator pile program, Sponsor will provide results of program and recommendations from construction and design team. Status: On-going

- viii. Sponsor will provide responses to the RFQ/P for a construction lender for OCII review and approval prior to selection of the same. Status: Borrower will provide draft term-sheet to OCII staff for review and approval.
- ix. Borrower through its member YCD MGP I, LLC will provide a draft Workforce and Contracting Action Plan (WCAP) and schedule of implementation. Status: On-going
- x. Borrower must provide operating and development budgets (including contractor budgets) that meet MOHCD underwriting guidelines. Status: On-going
- xi. Borrower will obtain cost estimates from the selected contractor and will work with their architectural team to ensure that the site's development costs are managed to OCII's approval. Furthermore, Borrower shall cooperate with OCII and continue to require the general contractor to exercise good faith efforts to select subcontractors who either are SBEs or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs. Status: On-going
- xii. Borrower must provide OCII with an information memo outlining cost containment, efficiencies and innovation strategies to reduce overall project costs and maximize efficiency of OCII gap funding. Status: On-going
- xiii. Borrower must provide an Early Outreach Plan 1 month after the start of construction and initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps they will take to market the project to persons eligible for housing preferences under Section 34178.8 of the Health and Safety Code and under OCII Resolution No. 0-2019 (April 16, 2019) (e.g. Displaced Tenants and Neighborhood Residents). Status: On-going
- xiv. Borrower must provide quarterly updated responses to any letters requesting corrective action. Status: On-going

Post-Closing:

- xv. Borrower will submit to OCII for review and approval all the organizational documents (including, Covenants, Conditions and Restrictions, a Tentative Map, and a Reciprocal Easement Agreement) required for issuance of a Final Public Report by the California Department of Real Estate (DRE). Status: On-going
- xvi. Borrower will submit a copy of the Preliminary Public Report application; a copy of the Conditional Public Report application; and, a copy of any revisions or resubmittals of any of these items. Status: On-going

- xvii. Borrower must provide a parking management plan, subject to approval by OCII and MOHCD. The parking management plan must include the fee schedule, projected revenues to cover parking maintenance costs, any contracted services to manage the parking garage, waitlist management and so forth. OCII and MOHCD will provide feedback during their review of the draft CC&Rs; however, the parking management plan must be approved by OCII and MOHCD by the time of marketing plan approval.
- xviii. Borrower will work with OCII and MOHCD to proactively identify and assess possible additional support for BMR homeowners, given it is a 100% affordable development. (Such as, this could include targeting excess revenues to a fund to assist with escalating HOA costs and special assessments as well as post-purchase education about HOA management, expected repairs and maintenance and legitimate construction defaults.)

ARTICLE 4: DISBURSEMENTS

4.1 Generally.

Subject to the terms of this Loan Agreement, OCII shall make Disbursements of the Funding Amount to or for the account of the Borrower in accordance with this Loan Agreement, the Table (**Exhibit C-1**) and the Loan Disbursement Budget (**Exhibit C-2**).

4.2 Condition Precedent to Disbursement of Funds Prior to Site Transfer.

Notwithstanding anything in this Loan Agreement to the contrary, the Borrower will only be entitled to disbursement of Predevelopment Loan funds in an amount not to exceed an aggregate total of Five Million Dollars (\$5,000,000) prior to the execution and recordation of the DDA and transfer of fee title to the Site from the Agency to the Borrower. The parties acknowledge that the Predevelopment Loan Amount will be an unsecured loan until such time as the Deed of Trust is recorded against the Site.

4.3 Conditions Precedent to Disbursement of Funds Generally.

In addition to the conditions in Articles 4.2 and 4.3 above, OCII's obligation to disburse the Funding Amount to Borrower (other than the Predevelopment Loan Amount, is conditioned upon Borrower's satisfactory completion of the following:

- (a) No Event of Default shall have occurred that remains uncured as of the date of the Expenditure Request;
- (b) Borrower shall have fulfilled all additional terms, covenants, and conditions then due in any other Loan Documents;
- (c) Borrower or its approved assignee shall have delivered to OCII fully-executed (and for documents to be recorded, fully-acknowledged) originals of the following documents, in form and substance satisfactory to the Agency: (i) this Loan Agreement; (ii) the Note (**Exhibit**

D); (iii) the Deed of Trust (**Exhibit E**); (iv) the opinions of Borrower's counsel; (v) the Authorizing Resolutions; (vi) Agency Nondiscrimination in Contracts and Benefits Policy (**Exhibit H**); (vii) Minimum Compensation Policy Declaration (**Exhibit I**); (viii) Health Care Accountability Policy Declaration (**Exhibit J**); (ix) Small Business Enterprise Agreement (**Exhibit K**); (x) Prevailing Wage Provisions (Labor Standards) (**Exhibit L**); (xi) OCII's Construction Workforce Policy (**Exhibit M**); and (xii) any other Loan Documents reasonably requested by OCII;

(d) Borrower shall have delivered to OCII the Borrower's Charter Documents;

(e) Borrower must have delivered to OCII current insurance endorsements and, if requested by OCII, copies of policies for all insurance required under Exhibit W of this Agreement.

(f) Borrower must have delivered to OCII an Expenditure Request in form and substance satisfactory to OCII, together with: (i) copies of invoices, contracts or other documents covering all amounts requested; (ii) a line-item breakdown of costs to be covered by the Expenditure Request; and (iii) copies of checks issued to pay expenses covered in the previous Expenditure Request. Any request from Borrower to reallocate the Funding Amount between the line items or to change the budget limits for a line item from what is shown in the Table of Sources and Uses must be approved as follows: (i) except for funds moved from the contingency line item to another line item, a requested reallocation of Funds in an amount up to ten percent (10%) of the Funding Amount in the aggregate may be made with the express written approval of OCII's Housing Manager; and (ii) except for funds moved from the contingency line item to another line item, a requested reallocation of the Funding Amount in an amount up to ten percent (10%) of the Funding Amount may be made only with the express written approval of the OCII Executive Director. Reallocations of the Funding Amount from contingency line items to other line items shall not require the consent of OCII. Any such approved changes will be considered amendments to the Table of Sources and Uses in the Final Financial Plan.

(g) OCII shall use best efforts to either approve or disapprove each such Expenditure Request within ten (10) business days of receipt. In the event that OCII disapproves an Expenditure Request, OCII shall provide written notice thereof to Borrower specifying the reason for such disapproval. OCII shall use best efforts to fund all approved Expenditure Requests within five (5) business days of approval.

(h) Borrower shall have delivered to OCII evidence satisfactory to OCII's Housing Manager that Borrower has obtained commitments for any additional financing for the Project shown in the Table of Sources and Uses attached hereto as **Exhibit C-1**, or that may be required in order to construct the Project in accordance with the plans and specifications approved by OCII, as determined by OCII in its reasonable discretion;

(i) As a condition to any disbursement in excess of the Predevelopment Loan Amount, the Deed of Trust shall have been executed and delivered to the Escrow Agent to be recorded as a valid Lien in the Official Records, subject only to the Approved Title Exceptions;

(j) As a condition to any disbursement in excess of the Predevelopment Loan Amount, Escrow agent shall be irrevocably committed to deliver to OCII the Title Policy in form and substance satisfactory to OCII;

(k) With respect to Expenditure Requests which include construction costs, the Borrower shall have certified to OCII that the Project complies with the labor standards set forth in Article 9.1(k) below, if applicable; and

(l) As a condition to any disbursement in excess of the Predevelopment Loan Amount, Borrower shall have delivered to OCII a proposed estimated closing cost statement in a form that is acceptable to the OCII's Housing Manager.

4.4 **Schedule of Performance.**

Borrower must perform in accordance with the Schedule of Performance (**Exhibit F**). The Schedule of Performance may be modified at the request of the Borrower; however, any modification to the Schedule of Performance shall be at the reasonable direction of the OCII Executive Director or his/her designee.

4.5 **Retention.**

In addition to the other conditions to Disbursements, Borrower acknowledges that the amount of hard costs included in any Expenditure Request associated or construction, when added to previously approved costs, may not exceed ninety percent (90%) of the approved budgeted costs on a line-item basis. OCII (or other entity approved in writing by OCII) will retain the remaining ten percent (10%) of hard costs associated construction (the "**Retention**"), and no portion of the Retention may be released without OCII's prior written consent. Borrower may request Disbursement of the aggregate amount of the Retention only upon satisfaction of each of the following conditions, unless otherwise approved in writing by OCII: (a) completion of construction of the Project in accordance with the plans and specifications approved by OCII, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection ("**DBI**"), and an architect's or engineer's certificate of completion; (b) timely recordation of a notice of completion; and (c) either expiration of the lien period and the absence of any unreleased mechanics' liens or stop notices or recordation of the lien releases of all contractors, subcontractors and suppliers who provided labor or materials for the Project.

After fifty percent (50%) of the construction of the Project is complete as determined by the OCII-assigned construction management staff, and upon Borrower's written request, OCII may elect to reduce the amount of Retention withheld to a level of no less than five percent (5%) of the hard costs, provided that the following prerequisites have been met: (a) all work required to be performed by all parties for whom OCII agrees to release the Retention (the "Early Retention Release Contractors") has been completed in conformance with the terms of the applicable contract documents, the plans and specifications approved by the City and all applicable Laws; (b) the applicable Early Retention Release Contractors have filed unconditional lien waivers satisfactory to the OCII construction specialist; (c) no liens or stop notices have been filed against the Project that have not been released or bonded for according to construction

mechanic's lien laws of the State of California or an appropriate title endorsement has been issued in a form reasonably satisfactory to OCII; (d) no claims against the Project are pending; (e) OCII determines that the contingency is in balance and adequate to complete the Project; and (f) the Project is on schedule.

4.6 Limitations on Approved Expenditures.

OCII may refuse to make any Disbursement: (a) during any period in which an event that, with notice or the passage of time or both, would constitute an Event of Default remains uncured; or (b) for disapproved, unauthorized or improperly documented Expenditure Requests. OCII is not obligated to approve expenditure of the full Funding Amount unless approved Expenditure Requests support Disbursement of the full Funding Amount, and in no event may the aggregate amount of all Funds Disbursed to Borrower under this Agreement exceed the Funding Amount.

ARTICLE 5: CONSTRUCTION OF THE IMPROVEMENTS

5.1 Plans and Specifications.

Prior to the start of any construction on the Site, the Borrower shall have delivered to OCII the plans and specifications and the construction contract entered into between Borrower and Borrower's general contractor for the Project (the "Construction Contract"), and OCII shall have reviewed and approved the plans and specifications. The plans approved by OCII must also be approved by DBI (collectively, the "Approved Plans") prior to the start of any demolition, rehabilitation or construction on the Site. The Approved Plans must be explicitly identified in the Construction Contract. The specifications approved by OCII, including the funder requirements and the technical specifications (the "Approved Specifications") must also be explicitly identified in the Construction Contract. The Construction Contract may include funder requirements not otherwise addressed in the Approved Specifications. Upon completion of the Project, Borrower must retain the Approved Plans as well as "as-built" plans for the Project, the Approved Specifications and the Construction Contract, all of which Borrower must make available to OCII upon request.

5.2 Change Orders.

Borrower may not approve or permit any change orders to the plans and specifications approved by OCII without the OCII's prior written consent. Borrower acknowledges that OCII's approval of any change order will not constitute an agreement to amend the Table of Sources and Uses or to provide additional funds for the Project, unless OCII agrees in its sole discretion to amend the Table of Sources and Uses or provide additional funds for that purpose. OCII shall endeavor to provide written approval or disapproval of each change order and any equivalent amendment to the Table of Sources and Uses within ten (10) calendar days of receipt for request therefor.

5.3 **Insurance and Bonds.**

Prior to the commencement of any construction on the Site, the Borrower must deliver to OCII insurance endorsements and bonds as described in Exhibit W. At all times, Borrower must take prudent measures to ensure the security of the Site.

5.4 **Notice to Proceed.**

No construction may commence until Borrower has issued a written notice to proceed with OCII's approval.

5.5 **Commencement and Completion of Construction.**

Unless otherwise extended in writing by OCII, Borrower shall commence construction of the Improvements by May 30, 2022, and complete all work and obtain final certificates of occupancy for the Project on or before June 30, 2024 (the "**Completion Date**") and achieve occupancy of one hundred percent (100%) of the Units on or before November 30, 2026, or on such other dates as OCII may approve in writing.

5.6 **Construction Standards.**

The construction of the Project shall be performed in a first-class manner, meet all federal, state and local code requirements and licensing requirements, and be done substantially in accordance with the DDA, this Loan Agreement and the construction plans and specifications approved by OCII.

5.7 **Architect Certifications**

The Borrower shall hire an architect (or architects) who is licensed to practice architecture in and by the State of California and who certifies that it shall comply with the terms of the Assignment of Architects & Engineers Agreement Plans and Specifications (**Exhibit U**). The Borrower shall cause the architect(s) to: (1) prepare or sign the Construction Documents; (2) coordinate the work of any associated design professions, including engineers and landscape architects; (3) inspect all construction of Improvements; and (4) upon completion of the Improvements, provide to OCII the following certifications:

- (a) an Architect's Certification (Accessibility for Person with a Disability) substantially in the form of **Exhibit O** that the Improvements comply with a reasonable interpretation of all applicable local, state, federal building laws and regulations with respect to Accessibility for Persons with Disabilities; and
- (b) an Architect's Certification (Code Compliance) substantially in the form of **Exhibit P** that the Improvements comply with a reasonable interpretation of all applicable local and state building laws and regulations; and
- (c) an Architect's Certification (Construction Complies with Approved Construction Documents) substantially in the form of **Exhibit Q** that the Improvements have

been constructed in compliance with the Construction Documents approved by the City and/or OCII.

ARTICLE 6: MARKETING OF UNITS

6.1 Marketing Plan.

No later than thirty (30) days after the start of construction, Developer shall submit to OCII and MOHCD for its review and approval an early outreach plan for initial marketing of the Affordable Housing Units in compliance with the restrictions set forth in Attachment 22 in the DDA and in form and substance acceptable to OCII and MOHCD.

Borrower must submit a draft Marketing Plan and Tenant Selection Plan (the “Marketing and Tenant Selection Plans”) consistent with the requirements described in Exhibits X, the Limited Equity Program (“LEP”) Loan Disclosure Book, the City Inclusionary Affordable Housing Monitoring and Procedures Manual as amended from time to time, the MOHCD Housing Preferences and Lottery Procedures Manual as amended from time to time, and no later than 12 months prior to the projected Completion Date. Borrower must obtain OCII's approval of reasonable alterations to the Marketing Plan or the Tenant Selection Plan. Borrower must market and rent the Units in the manner set forth in the Marketing Plan and the Tenant Selection Plan both as approved by OCII. Before marketing any Units, Borrower must provide OCII with updated implementation and contact information.

6.2 Affirmative Marketing Elements.

Marketing Plan. No later than twelve (12) months prior to the projected issuance of a Temporary Certificate of Occupancy, Developer shall submit to OCII and MOHCD for its review and approval a marketing plan for the sale of the units (“Marketing Plan”) in accordance with the requirements of **Exhibit X**. The Marketing Plan shall include as many of the following elements as are appropriate to the Project, as determined by OCII and consistent with OCII and MOHCD policies and procedures related to applicants throughout the marketing process. The following shall be provided lottery preference in the following order or as may be updated at the time of marketing plan submission:

- Persons eligible for housing preferences under Section 34178.8 of the Health and Safety Code
- Persons eligible for a preference under OCII Resolution No. 0-2019 (April 16, 2019), including
 - i. Certificate or Preference Holders
 - ii. DTHP Holders (up to 20% of units)
 - iii. NRHP Holders (up to 25% of units)
 - iv. San Francisco Residents or Workers
 - v. Members of the General Public

6.3 Marketing Records.

The Borrower shall keep records of its activities in implementing the affirmative marketing plan. The Borrower shall maintain records of advertisement and other community outreach efforts.

ARTICLE 7: AFFORDABILITY RESTRICTIONS

7.1 Term of Affordability Restrictions.

Borrower acknowledges and agrees that the covenants and affordability restrictions of this Article 7 will remain in full force and effect for the life of the Project, as further described in the Declaration of Site Restrictions.

7.2 Income Restrictions.

All of the Units shall be sold pursuant to OCII's Limited Equity Program ("LEP"), included as Exhibit V, to ensure the units will be permanently affordable. Prior to each sale, a declaration in the form of the "Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement" in the form contained in Exhibit V (or such revised form of Declaration approved by the Successor Agency) shall be recorded. The Affordable Purchase Price (at initial sale and future resale), as defined in Exhibit V, will be set according to a formula based on the Unadjusted Area Median Income for the HUD Metro Fair Market Rent Area that contains San Francisco, as published by MOHCD ("AMI") rather than market values. The initial affordability AMI levels of the Affordable Housing Units are shown in Section 7.4 and in Exhibit T. At resale, the price will be set according to Exhibit V and the Inclusionary Affordable Housing Monitoring and Procedures Manual as amended from time to time, regardless of the current market value.

7.3 Restrictions Before Completion

Prior to OCII's issuance of the Development Certificate of Completion the Site may be used only for the construction of the Improvements thereon in accordance with the DDA and this Loan Agreement, with the exception in cases of marketing the Improvements.

7.4 Restrictions After Completion - Permitted Uses

Following the Agency's issuance of the Development Certificate of Completion, the Site may be used only for one hundred forty-eight (148) units of affordable for-sale dwelling units for low- and moderate-income households, including common areas, parking and open space. The unit distribution shall be approximately 50 one-bedroom (34%), 63 two-bedroom (42%), and 35 three-bedroom (24%) condominiums, priced at 90% of area median to be affordable on average to households earning 95% of area median income. Borrower must market and sell the Units for initial sale subject to the following affordability restrictions:

(a) Twenty-nine units (ten 1-BR, eleven 2-BR, and eight 3-BR units) of the units affordable to households earning no more than 80% AMI. These units will be priced according to

the formula (described in Exhibit V: Limited Equity Homeownership Program Loan Disclosure Book as amended and approved by OCII and MOHCD) based on households earning 75% AMI.

(b) Forty-eight units (fourteen 1-BR, twenty-two 2-BR, and twelve 3-BR units) of the units affordable to households earning no more than 90% AMI. These units will be priced according to the formula (described in Exhibit V: Limited Equity Homeownership Program Loan Disclosure Book, as amended and approved by OCII and MOHCD ensure the price averaging) based on households earning 85% AMI.

(c) Forty units (fourteen 1-BR, nineteen 2-BR, and seven 3-BR) of the units affordable to households earning no more than 100% AMI. These units will be priced according to the formula (described in Exhibit V: Limited Equity Homeownership Program Loan Disclosure Book, as amended and approved by OCII and MOHCD ensure the price averaging) based on households earning 95% AMI.

(d) Thirty-one units (twelve 1-BR, eleven 2-BR, and eight 3-BR) of the units affordable to households earning no more than 110% AMI. These units will be priced according to the formula (described in Exhibit V: Limited Equity Homeownership Program Loan Disclosure Book, as amended and approved by OCII and MOHCD) based on households earning 105% AMI.

7.5 **Certification.**

As a condition to initial occupancy, each household who desires to be a Qualified Homebuyer in the Project shall be required to participate in OCII's Limited Equity Home Ownership Program and provide all information and execute all documents required by the program as administered by MOHCD.

7.6 **Nondiscrimination.**

Borrower covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this Agreement is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the use, occupancy, tenure, or enjoyment of the Project nor shall Borrower, or any person claiming under or through Borrower, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants. Borrower shall not discriminate against or permit discrimination against potential Qualified Home Buyers using local, state or federal subsidy programs to assist in the financing of the Unit.

ARTICLE 8: MAINTENANCE AND MANAGEMENT OF THE PROJECT

8.1 Generally.

During the Term, Borrower shall maintain or cause to be maintained the Project, including the Units and common areas (whether constructed or under construction) in a safe and sanitary manner in accordance with local health, building, and applicable housing codes.

ARTICLE 9: GOVERNMENTAL REQUIREMENTS

9.1 Borrower Compliance.

The Borrower shall comply, and where applicable require its contractors to comply, with all applicable laws governing the use of the Funding Amount for the design, construction, rehabilitation and/or operation of the Project, including but not limited to the CRL. Borrower acknowledges that its failure to comply with the foregoing will constitute an Event of Default under this Agreement, subject to applicable notice and cure periods.

ARTICLE 10: PROJECT MONITORING

10.1 Generally.

The Borrower understands and agrees that it will be monitored by OCII from time to time to assure compliance with all terms and conditions in this Loan Agreement and all laws. The Borrower acknowledges that, if and after Borrower acquires Control of the Site, OCII may also conduct periodic on-site inspections of the Project provided access to the interior of any residential unit preceded by no less than 48 hours' prior notice. The Borrower shall cooperate with the monitoring by OCII and shall ensure full access to the Project and all information related to the Project as reasonably required by OCII.

10.2 Monthly Reporting.

Commencing upon the Loan Closing Date, Borrower must submit monthly reports (the “**OCII Monthly Project Update**”) describing progress toward developing the Project with respect to obtaining necessary approvals from other City departments, construction progress and significant milestones achieved, schedule progress, and changes in scope or cost. The OCII Monthly Project Update must be submitted by email in substantially the form attached hereto as Exhibit X through to receipt of Temporary Certificate of Occupancy.

10.3 Project Completion Report.

Within the specific time periods set forth below after the completion of construction, Borrower must provide to OCII the reports listed below certified by Borrower to be complete and accurate. Subsequent to the required submission of the reports listed below, Borrower shall provide to OCII information or documents reasonably requested by OCII to assist in OCII's review and analysis of the submitted reports. To the extent not otherwise prohibited by applicable Law,

Borrower shall provide the following reports and the ninety (90) days after the final Unit sale, Borrower shall provide OCII with the following documents:

- (a) within ninety (90) days after the Final Unit Sale, a financial project completion report prepared a certified public accountant identifying the sources and uses of all Project funds including Loan Funds; and
- (b) within thirty (30) days after the Final Unit Sale, a report on expenditures to third-party firms, including but not limited to consultants, contractors and subcontractors, whether such firms are small business enterprises, the type of work and the dollar value of such work; and
- (c) A report on the sale of Units indicating the Units by income and bedroom category.

ARTICLE 11: DEVELOPER FEES

11.1 Developer and Administration Fees.

OCII has approved the payment of fees, per the OCII Homeownership Developer Fee Policy dated March 2019, to the Developer in an aggregate amount not to exceed Two Million Six Hundred Eighty Thousand Dollars (\$2,680,000) (“**Developer Fees**”), to be paid in accordance with the Developer Fee Schedule. The Developer Fee is comprised of the following:

- (a) an amount not to exceed One Million One Hundred Thousand Dollars (\$1,100,000), for the predevelopment and construction periods of the Project (the “**Project Management Fee**”); and,
- (b) an additional amount not to exceed One Million Five Hundred Eighty Thousand Dollars (\$1,580,000) that is at-risk to the extent needed to fund cost overruns if total development costs exceed estimated development costs shown in the Final Financial Plan (the “**At-Risk Fee**”).

ARTICLE 12: TRANSFERS

12.1 Permitted Transfers / Consent.

Borrower shall not cause or permit any voluntary transfer, assignment or encumbrance of its interest in the Site or Project, or lease or permit a sublease on all or any part of the Project, other than: (a) sales of Units to Qualified Home Buyers and (b) security interests for the benefit of private lenders securing loans for the Project on terms and in amounts as approved by the Agency in its reasonable discretion. Any other transfer, assignment, encumbrance, or lease without OCII's written consent shall be voidable and shall constitute a breach of this Loan Agreement. No consent to any assignment, encumbrance, lease or other transfer shall constitute

a consent to any subsequent transfer, or a waiver of any of the OCII's rights under this Loan Agreement.

ARTICLE 13: INSURANCE AND BONDS

13.1 Borrower's Insurance.

Subject to approval by OCII's risk manager of the insurers and policy forms, Borrower must obtain and maintain, or cause to be obtained and maintained, insurance and bonds as set forth in Exhibit W commencing with Loan Closing and thereafter for the term of the Owner Controlled Insurance Program ("OCIP"), at no expense to OCII.

ARTICLE 14: GOVERNMENTAL APPROVALS

Borrower covenants that it has obtained or will obtain in a timely manner and comply with all federal, state and local governmental approvals required by law to be obtained for the Project.

ARTICLE 15: DEFAULT

15.1 Event of Default.

Any material breach by Borrower of any covenant, agreement, provision or warranty contained in this Agreement or in any of the OCII Documents that remains uncured upon the expiration of any applicable notice and cure periods contained in any OCII Document, including without limitation, in this Section 15.1 and in Section 9.01 of the DDA, will constitute an event of default ("**Event of Default**"):

- (a) The Borrower fails to make any payment required under this Agreement within fifteen (15) days after the date when due; or
- (b) On or after the Loan Closing Date, any lien is recorded against all or any part of the Site or the Project without OCII's prior written consent, whether such lien is prior or subordinate to the lien of the Deed of Trust or Declaration of Site Restrictions, and such lien is not removed from title or otherwise remedied to the OCII's satisfaction within thirty (30) days after Borrower's receipt of written notice from OCII to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have sixty (60) days to cure the default, or any longer period of time deemed necessary by OCII, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; or
- (c) Borrower fails to perform or observe any other term, covenant or agreement contained in any OCII Document, and the failure continues for more thirty (30) days after Borrower's receipt of written notice from OCII to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have a longer period of time deemed necessary by OCII, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; or

(d) Any representation or warranty made by the Borrower in any OCII Document proves to have been incorrect in any material respect when made; or

(e) On or after the Loan Closing Date, all or a substantial or material portion of the Project is damaged or destroyed by fire or other casualty, and if the Borrower has elected to restore as provided in the DDA, such restoration has not been completed as provided in and in accordance with the DDA and Deed of Trust within two (2) years of the receipt of insurance proceeds (or such longer period as may be agreed by Borrower and OCII); or all or a substantial portion of the improvements is condemned, seized or appropriated by any non-City Governmental Agency which prevents the Project from being operated for its intended purpose; or

(f) Borrower is dissolved or liquidated or merged with or into any other entity; or, if the Borrower is a corporation, partnership, or trust, Borrower ceases to exist in its present form (unless otherwise approved pursuant to Article 12) and (where applicable) ceases to be in good standing and duly qualified under the laws of the jurisdiction of formation and California for any period of more than ten (10) days; or

(g) Without OCII's prior written consent as required under the terms of this Agreement, Borrower assigns or attempts to assign any rights or interest under any OCII Document, whether voluntarily or involuntarily, except as permitted under Article 12; or

(h) Without OCII's prior written consent, Borrower voluntarily or involuntarily assigns or attempts to sell, lease, assign, encumber or otherwise transfer all or any portion of the ownership interests in Borrower except as permitted under Article 12; or

(i) Without OCII's prior written consent, Borrower transfers, or authorizes the transfer of, funds in any of the Accounts required or authorized under this Agreement; or

(j) Following recordation of the Deed of Trust, the Deed of Trust ceases to constitute a valid and indefeasible perfected lien on both or either the Project, subject only to Approved Title Exceptions; or

(k) Borrower is subject to an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee or similar official for Borrower or for all or any part of its property (or an appointment is made without its consent and the appointment continues undischarged and unstayed for sixty (60) days); or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to Borrower or to all or any part of its property under the laws of any jurisdiction (or a proceeding is instituted without its consent and continues undismissed and unstayed for sixty (60) days); or any judgment, writ, warrant of attachment or execution or similar process is issued or levied against the Site, the Project or any other property of the Borrower and is not released, vacated or fully bonded within sixty (60) days after its issue or levy; or

- (l) Any material adverse change occurs in the financial condition or operations of Borrower that has a material adverse impact on the Project; or
- (m) Intentionally omitted.
- (n) On or after the Loan Closing Date and before a certificate of occupancy is issued for the Project, Borrower ceases rehabilitation or construction of the Project for a period of fifteen (15) consecutive working days, and the cessation is not excused under Section 15.3; or
- (o) Borrower is in default of its obligations with respect to any funding obligation (other than the Loan) for the Project, and the default remains uncured following the expiration of any applicable cure periods; or
- (p) Borrower is in default of its obligations under any other agreement entered into with OCII or the City, and the default remains uncured following the expiration of any applicable cure periods.

15.2 **Remedies.**

During the pendency of an uncured Event of Default, OCII may, exercise any right or remedy available under this Agreement or any other OCII Document or at law or in equity. All of OCII's rights and remedies following an Event of Default are cumulative, including:

- (a) OCII, at its option, may declare the unpaid principal balance of the Note, together with default interest as provided in the Note and any other charges due under the Note and the other OCII Documents, immediately due and payable without protest, presentment, notice of dishonor, demand or further notice of any kind, all of which Borrower expressly waives.
- (b) OCII may, at its option, terminate all commitments to make Disbursements, or, without waiving the Event of Default, OCII may determine to make further Disbursements or to release any of the Improvements from the Deed of Trust upon terms and conditions satisfactory to OCII in its sole discretion.
- (c) OCII may perform any of Borrower's obligations in any manner, in OCII's reasonable discretion.
- (d) OCII may terminate this Agreement.
- (e) OCII, either directly or through an agent or court-appointed receiver, take possession of the Project and enter into such contracts and take such other action OCII deems appropriate to complete or construct all or any part of the improvements, subject to modifications and changes in the Project OCII deems appropriate.
- (f) OCII may apply to any court of competent jurisdiction for specific performance, or an injunction against any violation, of this Agreement or for any other remedies or actions necessary or desirable to correct Borrower's noncompliance with this Agreement.

(g) Upon the occurrence of an Event of Default described in Section 15.1(j), the unpaid principal balance of the Note, together with default interest as provided in the Note and any other charges due under the Note and the other OCII Documents, will become due and payable automatically.

(h) All costs, expenses, charges and advances of OCII in exercising its remedies or to protect the Project will be deemed to constitute a portion of the principal balance of the Note, even if it causes the principal balance to exceed the face amount of the Note, unless Borrower reimburses OCII within ten (10) days of OCII's demand for reimbursement.

15.3 **Force Majeure.**

(a) For the purposes of any of the provisions of this Agreement, and notwithstanding any provision herein to the contrary, neither OCII nor Borrower, as the case may be (the “**Delayed Party**” as applicable), will be considered in breach of or default in any obligation or satisfaction of a condition to an obligation of another Party, and provided that the Delayed Party continues to diligently pursue the resumption or completion of construction or other milestone, as applicable, and otherwise complies with the applicable requirements of this Section 10.01, the time or times for performance of the obligations of OCII or Borrower shall automatically be extended during an event of Force Majeure (defined below); *provided, however*, that the Party seeking the benefit of the provisions of this Article must notify the other Party in writing within thirty (30) days after the beginning of any Force Majeure event, and state the cause or causes of delay and provide an explanation of the delay sufficient for the other Party to verify the delay.

(b) “**Force Majeure**” means events that cause enforced delays in the Delayed Party's performance of its obligations under this Agreement due to one or more of the following causes, to the extent the cause is beyond the Delayed Party's reasonable control: acts of God or of a public enemy, acts of terrorism, acts of the government (but not those of OCII with regard to its own acts or other acts of the government relating to the delay or failure to issue building permits for cause), fires, floods, epidemics, pandemics, quarantine restrictions, freight embargoes, inability to obtain supplies or materials or reasonably acceptable substitute supplies or materials (provided that Borrower has ordered the materials on a timely basis), unusually severe weather, archeological finds on the Site, substantial interruption of work because of labor disputes, administrative appeals, litigation and arbitration (provided that Developer proceeds with due diligence to resolve any dispute that is the subject of action), and delays of subcontractors due to any of these causes. .

ARTICLE 16: RECORDS AND DOCUMENTS

16.1 **Generally.**

Borrower shall keep and maintain books, records, and other documents relating to the receipt and use of all Loan proceeds. Borrower shall maintain records of all income, expenditures, assets, liabilities, contracts, operations and condition of the Project, which shall be maintained in accordance with generally accepted accounting principles, as applicable.

16.2 Response to Inquiries.

At the request of OCII, its agents, employees, or attorneys, Borrower shall promptly and specifically respond to questions relating to the income, expenditures, assets, liabilities, contracts, operations and condition of the Project, the status of any mortgage encumbering the Project, and any other information with respect to the Borrower or the Project.

16.3 Delivery of Records. At the request of OCII, made through its agents, employees, officers, or attorneys, the Borrower shall provide OCII within a reasonable period of time of no less than sixty (60) days from request therefor with copies of each of the following documents, certified in writing by the Borrower to be complete and accurate:

(a) all tax returns filed with the United States Internal Revenue Service, the California Franchise Tax Board, and/or the California State Board of Equalization on behalf of Borrower and, as applicable, any officer, employee, general or limited partner of Borrower;

(b) all previously prepared certified financial statements of the Borrower and, if applicable, its manager, the accuracy of which shall be certified by an auditor satisfactory to OCII; and

(c) any other records related to the Borrower's ownership structure and the use and occupancy of the Site.

16.3 Access to the Project and Other Project Books and Records.

In addition to Borrower's obligations under Sections 2.4, 10.1, 10.2, and 10.3, any other obligations to provide reports or maintain records in this Agreement or any other OCII Document, Borrower agrees that duly authorized representatives of OCII (which shall include but not be limited to MOHCD staff) will have access to and the right to inspect, copy, audit and examine all books, records and other documents Borrower is required to keep at all reasonable times, following reasonable notice, for the retention period required under Section 10.7.

16.4 Records Retention.

Borrower must retain all records required for the periods required under applicable Laws.

ARTICLE 17: REPRESENTATIONS AND WARRANTIES

17.1 Borrower Representations and Warranties.

As a further inducement for OCII to enter into this Agreement, Borrower represents and warrants as follows as of the date hereof:

(a) The execution, delivery and performance of the OCII Documents will not contravene or constitute a default under or result in a lien upon assets of Borrower under any applicable Law, any Charter Document of Borrower or any instrument binding upon or affecting Borrower, or any contract, agreement, judgment, order, decree or other instrument binding upon or affecting Borrower.

2370 Market Street #458
San Francisco, CA 94114
Attn: Michael Simmons
415-845-5527
michaels@mispdi.com

c/o Curtis Development
10 Linares Avenue
San Francisco, CA 94116
Attn: Charmaine Curtis
415-609-4996
charmaine@curtis-development.com

or any other address a party designates from time to time by written notice sent to the other party in manner set forth in this Section

ARTICLE 19: HAZARDOUS SUBSTANCES

19.1 Intentionally Deleted.

19.2 **Covenant.**

Unless OCII otherwise consents in writing, at all times from and after the date of this Agreement, at its sole expense, Borrower must: (a) comply with all applicable Environmental Laws relating to the Site and the Project, and not engage in or otherwise permit its agents to cause the occurrence of any Environmental Activity in violation of any applicable Environmental Laws or that is not customary and incidental to the intended use of the Site, *provided that* nothing contained in this Section will prevent Borrower from contesting, in good faith and by appropriate proceedings, any interpretation or application of Environmental Laws; and (b) deliver to OCII notice of the discovery by the Borrower of any Environmental Activity on the Site promptly following Borrower's discovery.

ARTICLE 20: INDEMNITY

20.1 **Borrower's Obligations.**

Borrower shall, to the fullest extent allowable by law, defend, hold harmless and indemnify OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees (collectively, the "Indemnified Parties") of and from all claims, loss, damage, injury, actions, causes of action (including reasonable attorney's fees and court costs) and liability of every kind, nature and description directly or indirectly arising out of or connected with the Borrower's performance of this Agreement or any of Borrower's operation or activities related thereto, whether caused by the negligence or any other act or omission of the Borrower or its contractors, agents, permittees or invitees, excluding the willful misconduct or the gross negligence of any Indemnified Party, provided that the OCII may require that the Borrower defend the Indemnified Parties against claims pursuant to this section until it is

established that such claims are not subject to this indemnity requirement. This Article 20.1 shall survive the termination of this Agreement.

20.2 No Limitation.

Borrower's obligations under Section 20.1 are not limited by the insurance requirements under this Agreement.

ARTICLE 21: GENERAL PROVISIONS

21.1 Subordination.

The Deed of Trust may be subordinated to other financing secured by and used for development of the Project, but only if OCII determines in its sole discretion that subordination is necessary to secure adequate construction and/or permanent financing to ensure the viability of the Project. Following the review and approval by OCII and approval as to form by OCII counsel the Executive Director of OCII or his/her successor or designee will be authorized to execute any approved subordination agreement without the necessity of any further action or approval.

21.2 No Third-Party Beneficiaries other than the City.

Nothing contained in this Agreement, nor any act of OCII, may be interpreted or construed as creating the relationship of third-party beneficiary, limited partnership, joint venture, employer and employee, or principal and agent between OCII and Borrower or Borrower's agents, employees or contractors. Notwithstanding the forgoing, OCII and Borrower hereby acknowledge as the intended assignee of OCII's rights under the OCII Documents, the City is a third-party beneficiary under the OCII Documents.

21.3 No Claims by Third Parties.

Nothing contained in this Agreement creates or justifies any claim against OCII by any person or entity with respect to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Project. Borrower shall include this requirement as a provision in any contracts entered into for the development of the Project.

21.4 Entire Agreement.

This Agreement and its Exhibits to it incorporate the terms of all agreements made by OCII and Borrower with regard to the subject matter of this Agreement. No alteration or variation of the terms of this Agreement will be valid unless made in writing and signed by the parties hereto. No oral understandings or agreements not incorporated herein shall be binding on OCII or Borrower.

21.5 **OCII Obligations.**

OCII's sole obligations under this Agreement are limited to providing the funds as described in this Agreement, up to the Funding Amount, and performing its other obligations explicitly set forth hereunder. Under no circumstances, including breach of this Agreement, will OCII be liable to Borrower for any special or consequential damages arising out of actions or failure to act by OCII in connection with any of the OCII Documents.

21.6 **Borrower Solely Responsible.**

Borrower is an independent contractor with the right to exercise full control of employment, direction, compensation and discharge of all persons assisting in the performance contemplated under this Agreement. Borrower is solely responsible for: (a) its own acts and those of its agents, employees and contractors and all matters relating to their performance, including compliance with Social Security, withholding and all other Laws governing these matters and requiring that contractors include in each contract that they will be solely responsible for similar matters relating to their employees; (b) any losses or damages incurred by Borrower, any of its contractors or subcontractors and OCII and its officers, representatives, agents and employees on account of any act, error or omission of Borrower in the performance of this Agreement or any other OCII Document and the development and operation of the Project; and (c) all costs and expenses relating to Borrower's performance of obligations under the OCII documents, the delivery to OCII of documents, information or items under or in connection with any of the OCII Documents and taxes, fees, costs or other charges payable in connection with the execution, delivery, filing and/or recording of any OCII Document or document required under any OCII Document.

21.7 **No Inconsistent Agreements.**

Borrower warrants that it has not executed and will not execute any other agreement(s) with provisions materially contradictory or in opposition to the provisions of this Agreement.

21.8 **Inconsistencies in Loan Documents.**

In the event of any conflict between the terms of this Agreement and any other OCII Document, the terms of this Agreement control unless otherwise stated; *provided, however*, that any provision in this Agreement in conflict with any Law will be interpreted subject to that Law.

21.9 **Governing Law.**

This Loan Agreement is governed by California law without regard to its choice of law rules.

21.10 **Joint and Several Liability.**

If more than one person or entity signs this Agreement as Borrower or if Borrower consists of more than one person or entity, the obligations of such persons and entities shall be joint and several.

21.11 **Successors.**

Except as otherwise limited herein, the provisions of this Loan Agreement bind and inure to the benefit of the undersigned parties and their heirs, executors, administrators, legal representatives, successors and assigns. This provision does not relieve Borrower of its obligation under the OCII Documents to obtain OCII's prior written consent to any assignment or other transfer of Borrower's interests in the Loan, the Site or the ownership interests in Borrower.

21.12 **Attorneys' Fees.**

If any legal action is commenced to enforce any of the terms of this Agreement or rights arising from any party's actions in connection with this Agreement, the prevailing party will have the right to recover its reasonable attorneys' fees (including allocated fees of the City Attorney's Office) and costs of suit from the other party, whether incurred in a judicial, arbitration, mediation or bankruptcy proceeding or on appeal. For the purposes of this Agreement, reasonable fees of OCII counsel and attorneys in the City Attorney's office will be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter of law for which the OCII counsel and City Attorney's services were rendered, who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. An award of attorneys' fees and costs will bear interest at the default rate under the Note from the date of the award until paid.

21.13 **Severability.**

The invalidity or unenforceability of any one or more provisions of this Agreement will in no way affect any other provision.

21.14 **Time.**

Time is of the essence in this Agreement. Whenever the date on which an action must be performed falls on a Saturday, Sunday or federal holiday, the date for performance will be deemed to be the next succeeding business day.

21.15 **Further Assurances.**

Borrower agrees to: (a) pursue in an effective and continuous manner; (b) use best efforts to achieve; and (c) take all actions reasonably required by OCII from time to time to confirm or otherwise carry out the purpose of this Agreement.

21.16 **Binding Covenants.**

Certain provisions of the OCII Documents shall constitute covenants which shall run with the land and be binding upon Borrower and Borrower's successors and assigns, and all parties having or acquiring any right, title, interest in whatever form in or to any part of the subject

property. Any attempt to transfer title or any interest therein in violation of these covenants shall be void.

21.17 **Consent.**

Except as expressly provided otherwise, whenever consent or approval of a party is required in any OCII Document, that party agrees not to withhold or delay its consent or approval unreasonably.

21.18 **Counterparts.**

This Agreement may be executed in any number of counterparts, all of which will constitute but one agreement.

21.19 **Borrower's Personnel.**

The Project shall be implemented only by competent personnel under the direction and supervision of Borrower.

21.20 Intentionally Omitted.

Intentionally omitted.

21.21 **Ownership of Results.**

Any interest of Borrower or any sub-borrower, in drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of electronic files or other documents or Publications prepared by or on behalf of Borrower or any sub-borrower in connection with this Agreement, the implementation of the Project, the services to be performed under this Agreement, or acquired through the use of any Loan proceeds ("Work Product"), will be pledged to OCII as security for Borrower's obligations under this Agreement and the Note, pursuant to that certain Assignment of Work Product attached hereto as Exhibit U, and upon an Event of Default, subject to all applicable notice and cure periods, shall become the property of and be promptly transmitted by Borrower to OCII. Notwithstanding the foregoing, Borrower may retain and use copies for reference and as documentation of its experience and capabilities. This Agreement constitutes a security agreement under the California Uniform Commercial Code, as it may be amended from time to time, and Borrower authorizes OCII to file any financing statements OCII elects and deems necessary to perfect its security interest in the Work Product.

21.22 **Works for Hire.**

If, in connection with this Agreement or the implementation of the Project, Borrower directly creates artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship or Publications, such creations shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such creations shall be the property of OCII. If it is ever determined that any such creations are not works for hire under applicable law, Borrower hereby assigns all copyrights thereto to OCII, and agrees to provide any material, execute such documents and take

such other actions as may be necessary or desirable to effect such assignment. With the prior written approval of OCII, Borrower may retain and use copies of such creations for reference and as documentation of its experience and capabilities. Borrower shall use commercially reasonable efforts to obtain all releases, assignments or other agreements from other persons or entities implementing the Project to ensure that OCII obtains the rights set forth in this Section.

21.23 **Nonrecourse.**

OCII's recourse against Borrower following an Event of Default is limited as set forth more specifically in the Note.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Developer and the Agency have executed this Loan Agreement as of the day and year first above written.

OCII:

Office of Community Investment and Infrastructure, Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body organized and existing under the laws of the State of California

By: _____

James B. Morales
Interim Executive Director

DEVELOPER

350 China Basin Partners, LLC,
a California limited liability company

By: Mission Bay 9A LLC,
a California limited liability company,
Its co-manager

By: 

Charmaine Curtis
Manager

APPROVED AS TO FORM:

By: Michael Simmons Property Development, Inc.,
a California corporation, its co-manager

By: _____

Agency Counsel

By: *Michael Simmons*

Michael Simmons
President

Authorized by Agency Resolution No. _____-2022, adopted _____

LIST OF EXHIBITS

The following exhibits are attached to this Agreement and incorporated by reference:

- A. Site Map**
- B. Legal Description of the Site**
- C-1 Table of Sources and Uses of Funds**
- C-2 Loan Disbursement Budget**
- D. Form of Promissory Note**
- E. Form of Deed of Trust**
- F. Schedule of Performance**
- G. CEQA Mitigation Measures**
- H. Agency Nondiscrimination in Contracts and Benefits Policy**
- I. Minimum Compensation Policy (MCP) Declaration**
- J. Health Care Accountability Policy (HCAP) Declaration**
- K. Small Business Enterprise Agreement**
- L. Prevailing Wage Provisions (Labor Standards)**
- M. Agency's Construction Workforce Policy**
- N. Intentionally Omitted**
- O. Form of Architect's Certificate (Accessibility for the Disabled)**
- P. Form of Architect's Certificate for Code Compliance**
- Q. Form of Architect's Certificate that Construction Complies with Approved Construction Documents**
- R. Homeownership Developer Fee Policy**
- S. Final Financial Plan**
- T. Proposed Unit Detail Summary**
- U. Assignment of Architects & Engineers Agreement Plans and Specifications**
- V. Form of Limited Equity Homeownership Program**
- W. Insurance Requirements**
- X. Marketing Plan**

EXHIBIT A
SITE MAP

Attached

MISSION BAY SOUTH BLOCK 9A

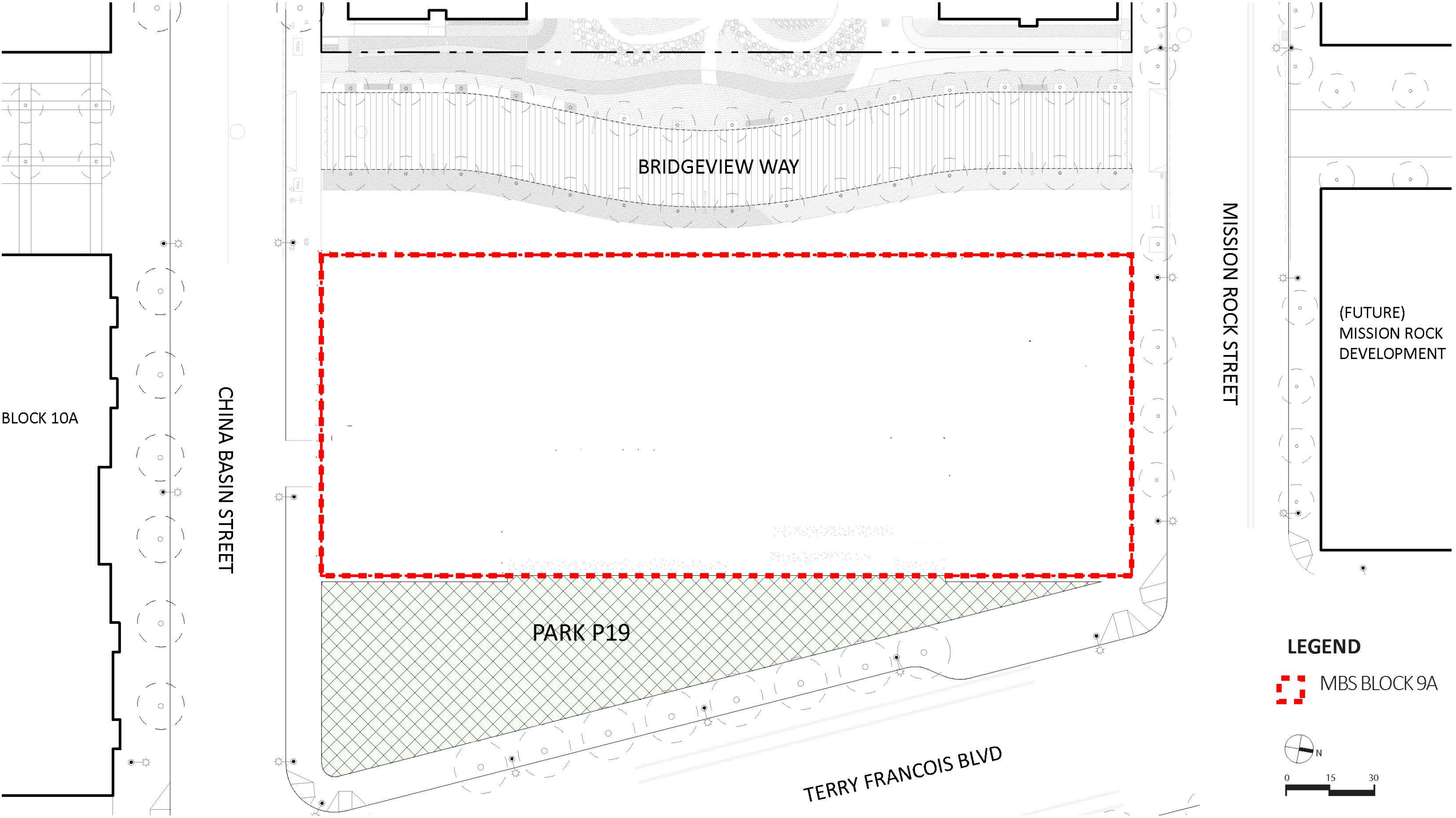


EXHIBIT B
SITE LEGAL DESCRIPTION

Real property in the City and County of San Francisco, State of California, described as follows:

BLOCK 8719, LOT 005 OF THAT CERTAIN MAP ENTITLED "FINAL MAP PLANNED DEVELOPMENT MISSION BAY (9-9A AND 10-10A)", RECORDED ON MAY 31, 2005 AND FILED ON PAGES 6-10 IN BOOK BB OF THE COUNTY'S SURVEY MAPS

EXHIBIT C-1

TABLE OF SOURCES AND USES OF FUNDS

SOURCES							
	75,184,522	55,717,121	-	4,243,993	-	-	135,145,636
MOHCD/OCII	Sales Proceeds			Infill Infrastructure Grant			
USE							
ACQUISITION							
Acquisition cost or value							0
Legal / Closing costs / Broker's Fee							0
Holding Costs							0
Transfer Tax							0
TOTAL ACQUISITION							
CONSTRUCTION (HARD COSTS)							
Unit Construction/Rehab	41,922,078	39,855,226					81,777,304
Commercial Shell Construction							0
Demolition							0
Environmental Remediation				1,050,000			1,050,000
Onsite Improvements/Landscaping				800,000			800,000
Offsite Improvements							0
Infrastructure Improvements				513,993			513,993
Parking				1,530,000			1,530,000
GC Bond Premium/GC Insurance/GC Taxes	2,027,280						2,027,280
GC Overhead & Profit	1,760,558	1,173,705					2,934,263
GC General Conditions	1,939,138	1,292,759					3,231,897
Sub-total Construction Costs	47,649,034	42,327,690	0	3,893,993	0	0	93,864,717
Design Contingency (remove at DD)							0
Bid Contingency (remove at bid)	3,432,134						3,432,134
Plan Check Contingency (remove/reduce during Plan Rev	3,432,134						3,432,134
Hard Cost Construction Contingency	2,235,112	2,235,112					4,470,223
Sub-total Construction Contingencies	9,099,380	2,235,112	0	0	0	0	11,334,492
TOTAL CONSTRUCTION COSTS	56,748,414	44,562,802	0	3,893,993	0	0	105,199,208
SOFT COSTS							
Architecture & Design							
Architect design fees	1,385,280	400,000					1,785,280
Design Subconsultants to the Architect (incl. Fees)	1,149,730	300,000					1,449,730
Architect Construction Admin	314,780	275,000					589,780
Reimbursables	50,000						50,000
Additional Services	80,000						80,000
Sub-total Architect Contract	2,979,790	975,000	0	0	0	0	3,954,790
Other Third Party design consultants (not included under Architect contract)	150,000			175,000			325,000
Total Architecture & Design	3,129,790	975,000	0	175,000	0	0	4,279,790
Engineering & Environmental Studies							
Survey	25,000						25,000
Geotechnical studies	350,000						350,000
Phase I & II Reports	50,000						50,000
CEQA / Environmental Review consultants	0						0
NEPA / TIG Review	0						0
CNA/PNA (rehab only)	0						0
Other environmental consultants	150,000	50,000		175,000			375,000
Total Engineering & Environmental Studies	575,000	50,000	0	175,000	0	0	800,000
Financing Costs							
Construction Financing Costs							
Construction Loan Origination Fee		600,000					600,000
Construction Loan Interest		4,370,000					4,370,000
Title & Recording		60,000					60,000
CDLAC & CDIAC fees							0
Bond Issuer Fees							0
Other Bond Cost of Issuance							0
Other Lender Costs (specify)							0
Sub-total Const. Financing Costs	0	5,030,000	0	0	0	0	5,030,000
Permanent Financing Costs							
Permanent Loan Origination Fee							0
Credit Enhance. & Appl. Fee							0
Title & Recording							0
Sub-total Perm. Financing Costs	0	0	0	0	0	0	0
Total Financing Costs	0	5,030,000	0	0	0	0	5,030,000
Legal Costs							
Borrower Legal fees	75,000	25,000					100,000
Land Use / CEQA Attorney fees							0
Tax Credit Counsel							0
Bond Counsel							0
Construction Lender Counsel							0
Permanent Lender Counsel							0
Other Legal (specify): Predev Loan Interest	25,000						25,000
Total Legal Costs	100,000	25,000	0	0	0	0	125,000
Other Development Costs							

Appraisal	10,000						10,000	
Market Study	10,000						10,000	
Insurance	3,650,000						3,650,000	incl. Builder's risk and OCIP
Property Taxes	2,085,000	325,000					2,410,000	taxes paid on unsold units once condo map is recorded
Accounting / Audit	25,000						25,000	
Organizational Costs	20,000						20,000	
Entitlement / Permit Fees	1,000,000	370,000					1,370,000	
Marketing / Rent-up	1,270,000	224,000					1,494,000	See backup+added \$500K for MOHCD
Furnishings		370,000					370,000	\$2,000/unit. See MOHCD U/W Guidelines on: http://sfmohcd.org/documents-reports-and-forms
PGE / Utility Fees	555,000						555,000	
TCAC/ App / Alloc / Monitor Fees							0	
Financial Consultant fees							0	
Construction Management fees / Owner's Rep	170,000	110,000					280,000	per revised proposal
Security during Construction							0	
Relocation							0	
Condo mapping/CC&R's, Bureau of Real Estate Costs	175,000	25,000					200,000	
WCAP Consultant	50,000						50,000	
Total Other Development Costs	9,020,000	1,424,000	0	0	0	0	10,444,000	
Soft Cost Contingency								
Contingency (Arch, Eng, Fin, Legal & Other Dev)	1,061,859	562,800				0	0	1,624,659
TOTAL SOFT COSTS	13,886,649	8,066,800	0	350,000	0	0	22,303,449	

RESERVES

Operating Reserves							0	
Replacement Reserves							0	
Tenant Improvements Reserves							0	
HOA Reserve	705,459	409,541					1,115,000	HOA fees paid until all units are sold plus \$250K sidewalk reserve
Sales Commissions		1,671,514					1,671,514	1.50%
Unit Closing Costs		696,464					696,464	transfer tax, escrow, buyer warranties
TOTAL RESERVES	705,459	2,777,519	0	0	0	0	3,482,978	

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	1,100,000						1,100,000	
Developer Fee - Cash-out At Risk	1,264,000	316,000					1,580,000	
Developer Fee - GP Equity (also show as source)							0	
Developer Fee - Deferred (also show as source)							0	
Development Consultant Fees							0	
Other (Warranty and SIR Reserve)	1,480,000						1,480,000	
TOTAL DEVELOPER COSTS	3,844,000	316,000	0	0	0	0	4,160,000	

75,184,522	55,717,121	0	4,243,993	0	0	135,145,636	
508,004	376,467	0	28,676	0	0	913,146	
55.6%	41.2%	0.0%	3.1%	0.0%	0.0%	100.0%	

TOTAL DEVELOPMENT COST

Development Cost/Unit by Source
Development Cost/Unit as % of TDC by Source

0	0	0	0	0	0	0	
Acquisition Cost/Unit by Source							

383,435	301,059	0	26,311	0	0	710,805	
276.82	217.35	0.00	19.00	0.00	0.00	513.17	

Construction Cost (inc Const Contingency)/Unit By Source
Source Construction Cost (inc Const Contingency)/SF

EXHIBIT C-2
LOAN DISBURSEMENT BUDGET

Development Costs	OCII
Unit Construction	37,870,088
GC Bond Premium/GC Insurance/GC Taxes	2,027,260
GC Overhead & Profit	1,760,558
GC General Conditions	1,939,138
Bid Contingency	3,432,134
Plan Check Contingency	3,432,134
Hard Cost Construction Contingency	2,235,112
Architect Design Fees	1,385,280
Design Subconsultants	1,149,730
Architect Construction Admin	314,780
Reimbursables	50,000
Additional Services	80,000
Third Party design consultants	150,000
Survey	25,000
Geotechnical studies	350,000
Phase I & II Reports	50,000
Other environmental consultants	150,000
Borrower Legal Fees	75,000
Other Legal	25,000
Appraisal	10,000
Market Study	10,000
Insurance	3,650,000
Property Taxes	2,085,000
Accounting/Audit	25,000
Organizational Costs	20,000
Entitlement/Permit Fees	1,000,000
Marketing	1,070,000
PGE/Utility Fees	555,000
Construction Management fees/Owner's Rep	170,000
Condo mapping/CC&R's, DRE costs	175,000
WCAP Consultant	50,000
Soft Cost Contingency	1,046,859
HOA Reserve	705,459
Developer Fee	1,100,000
Developer Fee – At Risk	1,264,000
TOTAL	\$70,926,532

EXHIBIT D
FORM OF PROMISSORY NOTE
PROMISSORY NOTE

Principal Amount: \$75,184,522

San Francisco, CA

Date: _____, 2022

FOR VALUE RECEIVED, the undersigned, 350 China Basin Partners, LLC, a California limited liability company, ("Maker"), hereby promises to pay to the order of the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, organized and existing under the laws of the State of California, commonly referred to as the Office of Community Investment and Infrastructure, ("OCII", including any successors or assigns), or holder (as the case may be, "Holder"), the principal sum of Seventy Five Million One Hundred Eighty-Four Thousand, Five Hundred Twenty-Two and No/100 Dollars (\$75,184,522.00) (the "Funding Amount"), or so much of the Funding Amount as may be disbursed from time to time pursuant to the Agreement described in Section 1 below, together with interest thereon, as provided in this Note.

1. Agreement. This Secured Promissory Note ("Note") is given under the terms of a Loan Agreement by and between Maker and Holder dated as of the date set forth above, as amended by the First Amendment to the Loan Agreement dated December 7, 2021 (collectively, the "Agreement"), which Agreement is incorporated herein by reference. Unless otherwise specified herein, definitions and rules of interpretation set forth in the Agreement apply to this Note. In the event of any inconsistency between the Agreement and this Note, this Note will control. A previous note by Borrower for OCII dated December 7, 2021 in the amount of Five Million Dollars (\$5,000,000) (the "Amended and Restated Note") has been cancelled and returned to Borrower, and this Note replaces the Original Note in its entirety.

2. Interest. Interest will accrue on the principal balance outstanding under this Note from time to time at the rate of three percent (3%) per annum, simple interest, from the date of disbursement of funds by Holder through the date of full payment of all amounts owing under the OCII Documents.

3. Default Interest Rate. Upon the occurrence of an Event of Default under any OCII Document, interest will be deemed to have accrued on the outstanding principal balance of the Loan at a compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the date on which Maker receives written notice from Holder of the Event of Default through the earlier of: (x) the date on which the Event of Default is cured; or (y) the date on which all amounts due under the OCII Documents are paid to Holder. Maker acknowledges and agrees that the default interest that must be paid in

the event of an Event of Default pursuant to this Section represents a reasonable sum considering all the circumstances existing on the date of this Note and represents a fair and reasonable estimate of the costs that will be sustained by Holder if Maker defaults. Maker further agrees that proof of actual damages would be costly and inconvenient and that default interest will be paid without prejudice to Holder's right to collect any other amounts to be paid or to exercise any of its other rights or remedies under any OCII Document.

4. Repayment of Funding Amount. Maker must repay all amounts owing under the OCII Documents in accordance with Section 3.4 of the Agreement. All payments will be applied in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan. The unpaid principal balance of the Loan, together with all accrued and unpaid interest and unpaid costs and fees incurred, will be due and payable on the Maturity Date, as such term is defined in the Agreement. Any Payment Date, including the Maturity Date, that falls on a weekend or holiday will be deemed to fall on the next succeeding business day.

5. Security. Maker's obligations under this Note are secured by the Deed of Trust and the pledge of Work Product given in the Assignment of Work Product, and the Loan is non-recourse to such Maker, its partners and their members.

6. Terms of Payment.

6.1 All Payments must be made in currency of the United States of America then lawful for payment of public and private debts.

6.2 All Payments must be made payable to Holder and mailed or delivered in person to Holder's office at One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103, or to any other place Holder from time to time designates.

6.3 In no event will Maker be obligated under the terms of this Note to pay interest exceeding the lawful rate. Accordingly, if the payment of any sum by Maker pursuant to the terms of this Note would result in the payment of interest exceeding the amount that Holder may charge legally under applicable state and/or federal law, the amount by which the payment exceeds the amount payable at the lawful interest rate will be deducted automatically from the principal balance owing under this Note.

6.4 Maker waives the right to designate how Payments will be applied pursuant to California Civil Code Sections 1479 and 2822. Subject to the terms in this Note, Holder will have the right in its sole discretion to determine the order and method of application of Payments to obligations under this Note.

6.5 Subject to this Section, Holder will not seek or obtain judgment against Maker for the payment of any amounts due under this Note following a judicial or nonjudicial foreclosure of the Deed of Trust, or exercise of Holder's rights under the Assignment of Work Product, and Holder's sole recourse against Maker for any default under this Note will be limited to the collateral for the Loan, *provided, however*, that this Section will be deemed void and of no effect if Maker challenges Holder's right to foreclose following an Event of Default in any legal

proceeding on the grounds that the OCII Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover from Maker sums incurred by Holder as a result of Maker's fraud, willful misrepresentation, misapplication of funds, waste or negligent or intentional damage to the collateral for the Loan.

6.6 This Note may be prepaid in whole or in part at any time, and from time to time, without penalty provided that notice is given to Holder no later than sixty (60) days prior to prepayment.

7. Default.

7.1 Any of the following will constitute an “**Event of Default**” under this Note:

(a) Maker fails to make any Payment required under this Note within ten (10) days of the date it is due; or

(b) the occurrence of any other Event of Default under the Agreement or other instrument securing the obligations of Maker under this Note or under any other agreement between Maker and Holder with respect to the Loan subject to all applicable notice and cure rights.

(c) The filing of a petition in bankruptcy by, or the initiation of any proceeding under any bankruptcy or insolvency laws against, the Maker or any present or future guarantor of this Note.

7.2 (a) Upon the occurrence of any Event of Default, without notice to or demand upon Maker, which are expressly waived by Maker (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by Maker and any notices or demands specified in the OCII Documents), Holder may exercise all rights and remedies available under this Note, the Agreement or otherwise available to Holder at law or in equity. Maker acknowledges and agrees that Holder's remedies include the right to accelerate the Maturity Date by declaring the outstanding principal balance of the Loan, together with all accrued and unpaid interest and unpaid fees and costs incurred, due and payable immediately, in which case, the Maturity Date will be superseded and replaced by the date established by Holder.

(b) Automatically upon the occurrence of an Event of Default under subsection 7.1 (c), all sums remaining unpaid under this Note become immediately due and payable, without notice, demand, or presentment and regardless of any prior forbearance.

8. Waivers.

8.1 Maker expressly agrees that the term of this Note or the date of any payment due hereunder may be extended from time to time with Holder's consent, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Maker.

8.2 No extension of time for any Payment made by agreement by Holder with any person now or hereafter liable for the payment of this Note will operate to release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part.

8.3 The obligations of Maker under this Note are absolute, and Maker waives any and all rights to offset, deduct or withhold any Payments or charges due under this Note for any reason whatsoever.

9. Miscellaneous Provisions.

9.1 All notices to Holder or Maker must be given in the manner and at the addresses set forth in the Agreement, or to the addresses Holder and/or Maker hereafter designate in accordance with the Agreement.

9.2 In the event of any legal proceedings arising from the enforcement of or a default under this Note or in any bankruptcy proceeding of Maker, the non-prevailing party promises to pay all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the proceeding, as provided in the Agreement.

9.3 This Note may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

9.4 This Note is governed by and must be construed in accordance with the laws of the State of California, without regard to the choice of law rules of the State.

9.5 Time is of the essence in the performance of any obligations hereunder.

[SIGNATURE ON NEXT PAGE]

"MAKER"

350 China Basin Partners, LLC,
a California limited liability company

By: Mission Bay 9A LLC,
a California limited liability company,
its co-manager

By: _____
Charmaine Curtis
Manager

By: Michael Simmons Property Development, Inc.,
a California corporation, its co-manager

By: _____
Michael Simmons
President

EXHIBIT E
FORM OF DEED OF TRUST

FREE RECORDING PURSUANT TO
GOVERNMENT CODE §27383

WHEN RECORDED RETURN TO:

Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Attention: Housing Division, Jane Suskin
(Assessor's Lot 005; Block 8719)

Space above for Recorder

TAX INCREMENT DEED OF TRUST and ASSIGNMENT OF RENTS

This DEED OF TRUST and ASSIGNMENT OF RENTS ("**Deed of Trust**") is made as of _____, 20__ by 350 China Basin Partners, LLC, ("**Trustor**"), whose address is _____, San Francisco, California _____, to _____, a California corporation ("**Trustee**"), whose address is _____, San Francisco, California _____; for the benefit of the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, organized and existing under the laws of the State of California ("**Beneficiary**"). This Deed of Trust is executed pursuant to the Loan Agreement between Trustor and Beneficiary dated _____, 20__ as it may be amended from time to time (the "**Loan Agreement**"), the provisions of which are incorporated herein by reference. Definitions and rules of interpretation set forth in the Loan Agreement apply to this Deed of Trust.

1. **Grant in Trust.** For valuable consideration, Trustor hereby grants, transfers and assigns to Trustee, in trust, with power of sale, for the benefit of Beneficiary, all right, title and interest Trustor now has or may have in the future in the following, all or any part of the following, or any interest in all or any part of it, as the context requires:

(a) that fee title interest in real property situated in the City and County of San Francisco, State of California, described in Exhibit A attached hereto and incorporated herein by reference (the "**Site**"), on which Trustor intends to construct and develop 148 units of affordable townhomes for low- and moderate-income households, including common areas, parking and open space; and

(b) all buildings, structures and other improvements on the in the Site (the "**Project**" or "**Improvements**"); and

(c) all existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions (“**Leases**”) relating to the use and enjoyment of all or any part of the Site or Improvements, and any and all guaranties and other agreements relating to or made in connection with any of the Leases; and

(d) all goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Site or Improvements, whether stored on the Site or elsewhere, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which will be considered to the fullest extent of the law to be real property for purposes of this Deed of Trust; and

(e) all building materials, equipment, work in process or other personal property of any kind, whether stored on the Site or elsewhere, that have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Site or Improvements; and

(f) all Loan funds, whether disbursed or not, the Project Income Account, the Replacement Reserve Account, the Operating Reserve Account and any other reserve account required for the Project; and

(g) all proceeds, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Site, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements; and

(h) all books and records pertaining to any and all of the property described above, including records relating to tenants under any Leases, the qualifications of any tenants and any certificates, vouchers and other documents in any way related thereto and records relating to the application and allocation of any federal, state or local tax credits or benefits; and

(i) all rents, revenues, issues, royalties, proceeds and profits, including prepaid rent and, carrying charges, security deposits (“**Rents**”), from the Site and the Improvements, subject to: (i) Trustor's right to collect and retain the same as they become due and payable; and (ii) Beneficiary's rights under Section 5(d) of this Deed of Trust; and

(j) all proceeds of, interest accrued on, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

This Deed of Trust constitutes a security agreement under, and a fixture filing in accordance with, the California Uniform Commercial Code, as it may be amended from time to time. The filing of a financing statement pertaining to personal property may not be construed in any way as derogating from or impairing the lien of, or the rights or obligations of the parties under, this Deed of Trust.

2. **Obligations Secured.** This Deed of Trust is given for the purpose of securing the following (collectively, the “**Secured Obligations**”):

(a) performance of all present and future obligations of Trustor set forth in the Loan Agreement, specifically compliance with certain restrictions on the use of the Site recited in that certain Declaration of Site Restrictions executed by Trustor, dated as of the date hereof and being recorded concurrently with this Deed of Trust, and the promissory note dated the date of this Deed of Trust made to the order of Beneficiary (the “**Note**”) and performance of each agreement incorporated by reference or contained therein;

(b) payment of the indebtedness evidenced by the Loan Agreement and the Note in the original principal amount of up to Seventy Five Million One Hundred Eighty-Four Thousand Five Hundred Twenty-Two Dollars (\$75,184,522) (the “**Funding Amount**”) which is the sum of Five Million Dollars (\$5,000,000) and Seventy Million One Hundred Eighty-Four Thousand Five Hundred Fifty-Two Dollars (\$70,184,522) repayment of the Funding Amount with compounded annual interest equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the date of the first Disbursement through the date all amounts under the Loan Agreement are paid to the Beneficiary (“default interest”), plus attorney’s fees and cost, if any, following an Event of Default under the Loan Agreement Note; and

(c) payment of any additional sums Trustor may borrow from Beneficiary, when evidenced by another note (or any other instrument) reciting that payment is secured by this Deed of Trust.

3. **Trustor's Covenants.** To protect the security of this Deed of Trust, Trustor agrees as follows:

(a) to perform the Secured Obligations in accordance with their respective terms;

(b) to keep the Site and the Improvements in good condition and repair; not to remove or demolish any Improvements without Beneficiary's prior written consent; to complete or restore promptly and in good and workmanlike manner any Improvement constructed, damaged or destroyed on the Site; to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting the Project; not to commit or permit waste with respect to the Site or the Improvements; not to commit, suffer or permit any act upon the Site or the Improvements in violation of law, including Environmental Laws; and to do all other acts made reasonably necessary by the character or use of the Site and the Improvements;

(c) to provide, maintain and deliver to Beneficiary property and liability insurance as required under the Loan Agreement and apply any insurance proceeds as provided below;

(d) to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees and costs incurred in

any such action or proceeding in which Beneficiary or Trustee may appear and in any suit brought by Beneficiary to foreclose this Deed of Trust;

(e) to pay in accordance with the Loan Agreement, but in each case prior to delinquency: (i) all taxes and assessments affecting the Property, including assessments on appurtenant water stock; and (ii) all encumbrances, charges and liens, with interest, on the Property or any part thereof that appear to be prior or superior hereto; and

(f) should Trustor fail to make any payment or to do any act as herein provided and after the expiration of the applicable cure periods, then, without: (i) obligation to do so; (ii) notice to or demand upon Trustor; or (iii) releasing Trustor from any obligation hereof, Beneficiary or Trustee may: (A) make or do the same in any manner and to the extent as it deems necessary to protect the security hereof; (B) appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (C) pay, purchase, contest or compromise any encumbrance, charge or lien that in its judgment appears to be prior or superior hereto; and (D) in exercising these powers, pay necessary expenses, employ counsel and pay reasonable attorneys' fees and costs, and Trustor consents to Beneficiary's and/or Trustee's entry upon the Property for any purpose set forth in this Subsection, including Beneficiary's exercise of its rights under California Code of Civil Procedure Section 564(c).

4. Insurance and Condemnation Proceeds.

(a) Trustor hereby assigns to Beneficiary any award of damages arising from the condemnation of all or any part of the Property for public use and any insurance proceeds arising from injury to all or any part of the Property or the Project.

(b) Any condemnation award or insurance proceeds must be paid to Beneficiary or, if Beneficiary has consented to subordinate the lien of this Deed of Trust to the lien of another lender for the Project, according to the provisions in the senior lender's loan documents.

(c) If a condemnation award or insurance proceeds are paid to Beneficiary, Beneficiary shall release or authorize the release of funds to Trustor, provided that the funds will be used for the reconstruction of the Project in accordance with: (i) projections demonstrating that reconstruction is economically feasible; and (ii) Trustor's construction budget, each of which must be satisfactory to Beneficiary in its reasonable discretion. In all other cases, Beneficiary may choose in its discretion to apply funds to Trustor's obligations under the Note and the Loan Agreement and to reduce the Funding Amount or to any senior obligations, in accordance with the respective priorities of the approved lien holders as their interests may appear of record, with the remaining funds, if any, released to Trustor.

(d) Trustor agrees that Beneficiary's application or release of funds pursuant to this Section will not cure or waive any default or Notice of Default (as defined below) or invalidate any act by Beneficiary performed following a default pursuant to any Agency Document unless the default has been cured by the application or release of funds.

5. **Further Agreements.** Trustor further acknowledges and agrees as follows:

(a) Beneficiary does not waive its right either to require prompt payment when due of all other sums secured by this Deed of Trust or to declare Trustor in default for failure to pay timely by accepting payment of any sum secured hereby after its due date and applicable cure period.

(b) Trustee may reconvey any part of the Property at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note for endorsement without affecting the liability of any entity or person for payment of the indebtedness secured hereby.

(c) Upon: (i) written request of Beneficiary stating that all obligations secured hereby have been paid or performed; (ii) Beneficiary's surrender of this Deed of Trust and the Note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose; and (iii) payment of its fees, if any, Trustee shall reconvey the Property then held hereunder without covenant or warranty.

(d) As additional security, Trustor hereby irrevocably, absolutely and unconditionally assigns to Beneficiary all Rents, whether now due, post due or to become due, subject to Beneficiary's grant to Trustor of a license to collect and retain Rents as they become due and payable so long as no Event of Default has occurred.

(e) Any voluntary or involuntary conveyance, sale, encumbrance, pledge or other transfer of all or any interest in the Property or in Trustor, including a security interest, without Beneficiary's prior written consent will constitute an Event of Default (as defined below) giving Beneficiary the right to exercise its remedies at law or in equity.

(f) For the purposes of this Deed of Trust, Beneficiary from time to time may substitute a successor or successors to Trustee named herein or acting hereunder by instrument in writing executed by Beneficiary and duly acknowledged and recorded in the office of the recorder of San Francisco County, which instrument shall be conclusive proof of proper substitution of a successor trustee or trustees. Without conveyance from Trustee, any successor or substitute trustee succeed to all title, estate, rights, powers and duties of Trustee. The instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the recording information for this Deed of Trust and the name and address of the new Trustee.

(g) This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns, provided that this subsection does not constitute Beneficiary's consent to any transfer in violation of this Deed of Trust. The term Beneficiary shall mean the holder of the Note, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.

(h) Trustee accepts this Trust when this duly executed and acknowledged Deed of Trust is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

6. **Partial Reconveyance.** Beneficiary shall cause Trustee to take all steps necessary to cause the partial reconveyance of the lien of this Deed of Trust from any one or more Units upon application by Trustor to Beneficiary and Beneficiary's determination that such Unit(s) have been sold in conformity with the requirements of the Loan Agreement and the Disposition and Development Agreement, dated _____, 20__, between Trustor and Beneficiary (the "DDA").

7. **Beneficiary's Rights Following Default.** Upon any default by Trustor in performance of the Secured Obligations following expiration of any applicable notice and cure periods ("Event of Default"):

(a) Trustor's license to collect and retain Rents will terminate automatically.

(b) Trustor consents to Beneficiary's entry upon and taking possession of the Property or any part thereof, at any time after the occurrence of an Event of Default without notice, either in person, by agent or by a receiver to be appointed by a court without regard to the adequacy of any security for the indebtedness hereby secured to sue for or otherwise collect and apply Rents, less costs and expenses of operation and collection, including those of the Property, in its own name or in the name of Trustor. Beneficiary's collection and application of Rents shall not cure or waive any Event of Default or Notice of Default or invalidate any act done pursuant to any notice.

(c) Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold the Property ("**Notice of Default**"), and:

i. Trustee shall cause the Notice of Default to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, the Loan Agreement, the Note and all documents evidencing expenditures secured hereby.

ii. After the lapse of time then required by law following the recordation of a Notice of Default, and notice of sale ("**Notice of Sale**") having been given as then required by law, Trustee without demand on Trustor may sell the Property at the time and place fixed in the Notice of Sale either as a whole or in separate parcels in any order at public auction to the highest bidder for cash in lawful money of the United States payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to any purchaser a trustee's deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the trustee's deed of any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale.

iii. After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds

of sale to payment of: (1) all sums expended under the terms of this Deed of Trust not then repaid, with accrued interest at the highest rate allowed by law in effect at the date hereof; (2) all other sums then secured hereby; and (3) the remainder, if any, to the person or persons legally entitled thereto.

8. **Notice of Default to Trustor.** The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to it at its address set forth above.

TRUSTOR:

350 China Basin Partners, LLC,
a California limited liability company

By: Mission Bay 9A LLC,
a California limited liability company,
Its co-manager

By: _____
Charmaine Curtis
Manager

By: Michael Simmons Property Development, Inc.,
a California corporation, its co-manager

By: _____
Michael Simmons
President

ALL SIGNATURES MUST BE NOTARIZED

EXHIBIT A

SITE LEGAL DESCRIPTION

Real property in the City and County of San Francisco, State of California, described as follows:

BLOCK 8719, LOT 005 OF THAT CERTAIN MAP ENTITLED "FINAL MAP PLANNED DEVELOPMENT MISSION BAY (9-9A AND 10-10A)", RECORDED ON MAY 31, 2005 AND FILED ON PAGES 6-10 IN BOOK BB OF THE COUNTY'S SURVEY MAPS

EXHIBIT F
SCHEDULE OF PERFORMANCE

No.	Performance Milestone	Estimated or Actual (in bold)	LA and DDA Contract Deadline
A. <i>Entitlements</i>			
1	Phase I /Phase II	September-20	N/A
2	OCII Schematic Design Complete	February-21	N/A
3	Submit Design Development plans & DD cost estimate	March-21	N/A
4	HazMat Investigation Complete	December 20	
5	Geotechnical Investigation Complete	February-21	N/A
6	Tentative Map to DPW	September 21	N/A
7	Submitted 50% Construction Design drawings to OCII	August-21	N/A
8	Site Permit Obtained	August-21	N/A
9	1st Building Permit Addendum (foundation) Obtained	December-21	December 21
10	2nd Building Permit Addendum (superstructure, arch, MEP) Obtained	April-22	May 22
B. <i>Financing Milestones</i>			
1	OCII Predevelopment Loan Committed	February-20	N/A
2	Bank Construction Loan Financing Committed	March 22	N/A
4	Early Outreach Marketing Plan Submitted	June-22	N/A
5	DDA Closed	March -22	April-22
6	IIG Loan Committed	December-21	December-21
7	Bank Construction Loan Closed	June 22	August 22
8	OCII Construction Loan Committed	March-22	April- 22
C. <i>Acquisition/Construction Milestones</i>			
1	Site Transfer from MBDG Complete	April-22	May-22
2	Construction Begins	May-22	June-22
4	Preliminary Public report to DRE	September-21	September-21
5	Preliminary Public Report Issued by DRE (pink)	October-21	October-21
6	Final Public Report Received from DRE (white)	March-24	June-24
7	Temporary Cert of Occupancy Obtained	June-24	July-24
8	Sale and Occupancy of 95% of Units	June-26	June-26

EXHIBIT G

CEQA MITIGATION MEASURES

Sections Applicable to this Project

D. VISUAL QUALITY AND URBAN DESIGN

D.3 Archeological Resources

Retain the services of an archaeologist, because of the strong possibility of encountering the remains of cultural or historic artifacts or features in the six historic resources areas. The Environmental Review Officer (ERO) in consultation with the President of the Landmarks Preservation Advisory Board (LPAB) and the archaeologist would determine: 1) whether the archaeologist should instruct all excavation and foundation crews on the project site of the potential for discovery of historic archaeological deposits and artifacts, and the procedures to be followed if such materials are uncovered; and 2) prior to the commencement of foundation excavation, a program of archaeological testing.

Retain a qualified historic archaeologist to supervise a pre-foundation excavation testing program for each phase of Project Area development or each construction site, as appropriate, using a series of mechanical, exploratory borings or other testing methods determined by the archaeologist to be appropriate. A qualified historical archaeologist would supervise the testing in the six historic resource areas to determine the probability of finding cultural and historical remains. At the completion of the archaeological testing program, the archaeologist would submit a written report first and directly to the ERO and the President of the LPAB, with a copy to the project sponsor, which describes the findings, assesses their significance and proposes appropriate recommendations for any additional procedures necessary for the mitigation of adverse impacts to cultural resources determined to be significant.

Retain a certified archaeologist to supervise a program of on-site monitoring during site excavation in the six historic resource areas, following site clearance and pre-excavation testing. The certified archaeologist would record observations in a permanent log. Should cultural or historic artifacts be found following commencement of excavation activities, the archaeologist would assess the significance of the find, and immediately report to the ERO and the President of LPAB. Upon receiving the advice of the consultant and the LPAB, the ERO would recommend specific mitigation measures, if necessary. The monitoring program, whether or not there are finds of significance, would result in a written report to be submitted first and directly to the ERO and the President of the LPAB, with a copy to the project sponsor.

Suspend excavation or construction activities which might damage discovered cultural resources for a total maximum of four weeks over the course of construction at each site to permit inspection, recommendation and retrieval, if appropriate.

Implement an appropriate security program to prevent looting or destruction, if cultural resources of potential significance are discovered. Any discovered cultural artifact

assessed as significant by the archaeologist upon concurrence by the ERO and the President of the LPAB would be placed in a repository designated for such materials or possibly exhibited in a public display. Following approval of the archaeological testing and monitoring program reports by the ERO and the President of LPAB, a final report would be sent to the California Archaeological Site Survey Office at Sonoma State University, the Foundation for San Francisco's Architectural Heritage and the State Office of Historic Preservation. The Office of Environmental Review would receive three final copies of the final archaeological findings report. Archaeological testing could be coordinated with other site investigations for geotechnical and toxic waste purposes.

D.4 Archaeological Exploration Program

Develop archaeological exploration programs, consistent with Measure D.3, above, for pre-identified sensitive historic archaeological areas that should include the following:

D.4a Define specific research parameters and prepare a written study plan in consultation with the ERO and LPAB prior to subsurface exploration, with emphasis on National Register determination of historical significance and the maximum retrieval of archaeological data.

D.4b Examine large-scale exposure of soil profiles.

D.4c Complete detailed field records, including photographs and drawings, to document subsurface soil profiles, archaeological deposits and integrity of such deposits.

D.4d Complete a detailed report of findings to describe research and exploration methodologies, testing results, all archaeological findings and recommendations for resource management.

D.6 Unknown Archaeological Remains

The entire Mission Bay Project Area has at least some sensitivity for the presence of unknown archaeological remains. Prehistoric cultural deposits could be encountered in three identified areas and unknown historical features, artifact caches and debris areas could be located anywhere in the Project Area. Follow procedures for instructing excavation crews, notifying the ERO and President of the LPAB, and developing recovery measures, as described in Measure D.3, above. In addition, in the event that prehistoric archaeological deposits are discovered, consult local Native American organizations. Dialogue with the ERO, LPAB and the archaeological consultant would take place in developing acceptable archaeological testing and excavation procedures, particularly in regard to the disposition of cultural materials and Native American burials.

E. TRANSPORTATION

E.47 Transportation System Management (TSM) Plan

Prepare a TSM Plan, which could include the following elements:

E.47e Secure Bicycle Parking Provide secure bicycle parking areas in parking garages of residential buildings, office buildings, and research and development facilities. Provide secure bicycle parking areas by 1) constructing secure bicycle parking at a ratio of 1 bicycle parking space for every 20 automobile parking spaces, and 2) carrying out an annual survey program during project development to establish trends in bicycle use and to estimate demand for secure bicycle parking and for sidewalk bicycle racks, increasing the number of secure bicycle parking spaces or racks either in new buildings or in existing automobile parking facilities to meet the estimated demand.

Provide secure bicycle racks throughout Mission Bay for the use of visitors.

F. AIR QUALITY

F.2 Construction PM

As conditions of construction contracts, require contractors to implement the following mitigation program, based on the instructions in the BAAQMD CEQA Guidelines, at all construction sites within the Project Area:

F.2.a. Water all active construction areas at least twice a day, or as needed to prevent visible dust plumes from blowing off-site.

F.2.b. Use tarpaulins or other effective covers for on-site storage piles and for haul trucks that travel on streets.

F.2.c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas at construction sites.

F.2.d. Sweep all *paved* access routes, parking areas, and staging areas daily (preferably with water sweepers).

F.2.e. Sweep streets daily (preferably with water sweepers) if visible amounts of soil material are carried onto public streets.

F.2.f. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).

F.2.g. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).

F.2.h. Limit traffic speeds on unpaved roads to 15 mph.

F.2.i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

F.2.j. Replant vegetation in disturbed areas as quickly as possible.

F.2.k. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.

F.2.l. Install wind breaks, or plant trees / vegetative wind breaks at windward side(s) of construction areas.

F.2.m. Suspend excavation and grading on large construction sites when winds (instantaneous gusts) exceed 25 mph.

F.2.n. Limit the area subject to excavation, grading and other construction activity at any one time.

F.3 Toxic air contaminants (TACs)

Prior to issuing a certificate of occupancy for a facility containing potential toxic air contamination sources, obtain written verification from BAAQMD either that the facility has been issued a permit from BAAQMD, if required by law, or that permit requirements do not apply to the facility.

G. NOISE AND VIBRATION

G.1 Noise Reduction in Pile Driving

Use noise-reducing pile driving techniques such as pre-drilling pile holes (if feasible, based on soils) to the maximum feasible depth, installing intake and exhaust mufflers on piledriving equipment, vibrating piles into place when feasible, installing shrouds around the piledriving hammer where feasible, and restricting the hours of operation.

H. SEISMICITY

H.3.b. In addition to the Project Area-wide plan, require each building or complex in the Project Area to prepare an emergency response plan. Each plan would be the responsibility of the owner(s) of each building or complex, and would be reviewed by the City periodically to ensure it is kept up to date.

H.7 Corrosivity

Test soils for sulfate and chloride content. If necessary, use admixtures in concrete so it would not be susceptible to attack by sulfates, and/or use coated metal pipes so that pipes would be more resistant to corrosion by chlorides.

J. CONTAMINATED SOILS AND GROUNDWATER

J.1 Risk Management Plan(s)

Prior to any site development activities in the Project Area, develop and implement an RWQCB-approved Risk Management Plan or Plans (RMP). The RMP shall address all site development activities and post-development activities and shall include specific

measures that would be protective of human health and the aquatic environment. The human health standards to be applied in the RMP are a cumulative cancer risk of 1×10^{-5} and Hazard Index of 1, or more stringent standards as may be required by the RWQCB. Amend the RMPs as required by the RWQCB to reflect new information regarding contamination, land use decisions, or as a result of Article 20 compliance.

- J.1.a. RMP Enforcement Provide an enforcement structure for RMPs, to be in place and effective during construction and after project development, including:
- i. Develop and record a restrictive covenant as an Environmental Restriction and Covenant under California Civil Code Section 1471 that:
 - a. Places limits on future uses in the Project Area consistent with the provisions in the RMP;
 - b. Provides notice to current and future property owners that the RMP contains use restrictions and other requirements and obligates property owners to provide like notice to occupants; and
 - c. Provides notice to current and future property owners that the RWQCB maintains residual regulatory enforcement authority over all portions of the Project Area sufficient to compel enforcement of the entire RMP.
 - ii. As part of any future transfer of property title of any portion of the Project Area, require current property owners to provide a copy of the RMP to each of their future transferees.

- J.1.b. Pre-Development Include, at a minimum, the following elements in the RMP:

Limit direct access to areas with exposed native soils (defined as soils that exist at the site prior to project approval) and perform inspections to verify that measures taken to limit direct access are maintained. Alternatively, for each location with exposed native soils, provide risk management procedures for those areas. If this alternative is chosen, for each exposed soil location that would remain vacant and undeveloped at the initiation of development, and for each site that becomes vacant and includes exposed native soil, evaluate and document potential health risks to the general public that could occur before site development using the following process:

Evaluate sampling results to determine constituents that could pose a risk to the general public. Identify populations who could be exposed to the constituents in soils based on land uses within and adjacent to the Project Area. Exposed populations that would be considered would include adult and child visitors/trespassers, nearby residents (adults and children), and workers not involved in project construction within and adjacent to the Project Area. Using specific EPA- and DTSC-recommended exposure assumptions, identify the appropriate exposure pathways and assumptions in consultation with the RWQCB.

Using the specific exposure assumptions identified above, adopt contaminant-specific interim target levels (ITLs) following regulatory risk assessment guidelines established by DTSC and EPA.

Compare ITLs to the range of concentrations detected in exposed native soils to identify areas where ITLs are exceeded. No further action prior to development (other than that required under Article 20 or other applicable regulations) would be required in areas in which ITLs are not exceeded.

- J.1.c For areas where ITLs are exceeded, identify specific Interim Risk Management (IRM) measures that would reduce potential contamination-related risks to Project Area occupants and visitors during site build-out. Based on the results of the ITL evaluation and need for site controls, general IRM measures could include measures such as:
- i. Limit Direct Access to Uncovered Native Soil on Undeveloped Portions of the Project Area. To effectively limit access, install fencing or other physical barriers around the identified areas, and post "No trespassing" signs.
 - ii. Hydroseed or Apply Other Vegetative or Other Cover to Uncovered Areas. Hydroseed or apply other vegetative or other cover to the uncovered areas to reduce the potential for windblown dusts to be generated, and to reduce the potential for individuals to have direct contact with the native soils.
 - iii. Include Safety Notices in Leases. Notify tenants of occupied portions of the Project Areas of the potential risks involved with the disturbance of existing cover (asphalt, concrete, vegetation) or exposed native soil.
 - iv. Conduct Periodic Inspections of Open Spaces. Conduct periodic inspections of the Project Area to reduce the illegal occupancy of open areas by transient populations, and to reduce the illegal dumping by unauthorized occupants or off-site populations. Implement additional security measures such as fencing and/or the use of security guards, if inspections show a need.
 - v. Periodic Monitoring. Perform inspections verifying that risk management measures remain effective by identifying disturbances to cover materials that could result in the exposure of underlying native soil and by identifying areas where temporary fencing or other physical barriers might need to be reinstalled. If the inspections identify areas where measures have been rendered ineffective, implement corrective action.
- J.1.d. Include in the RMP, health and safety training and health protection objectives for workers who may directly contact contaminated soil during construction and/or maintenance, including Cal/OSHA worker safety regulations appropriate to the type of construction activity, location, and risk relative to the potential types of hazards associated with contaminated soil or groundwater, and where appropriate, compliance with Title 8, Group 16, requirements.
- J.1.e. Identify site access controls to be implemented during construction, such as:

- i. Secure construction site to prevent unauthorized pedestrian/vehicular entry with fencing or other barrier of sufficient height and structural integrity to prevent entry and based upon the degree of control required.
- ii. Post "No Trespassing@ signs.
- iii. Provide on-site meetings with construction workers to inform them about security measures and reporting/contingency procedures.

J.1.f. Identify protocols for managing soil during construction, which will include at a minimum:

- i. The dust controls found in Measure F.2 in Section VI.F, Mitigation Measures: Air Quality.
- ii. Standards for imported fill (defined as fill brought onto the site from outside the Project Area) that are protective of human health and the aquatic environment and an identified minimum depth of fill to be required for landscaped areas.
- iii. A requirement that prior to placement, if native soil in the Project Area is to be used on site in any manner that could result in direct human exposure, characterization of the soil be conducted to confirm that it meets appropriate standards approved by the RWQCB and would be appropriate for the intended use.
- iv. Protocols for managing stockpiled and excavated soils.
- v. A program for off-site dust monitoring, consisting of real-time monitoring for PM10 concentrations to demonstrate that the health and safety of all individuals not engaged in construction activities would not be adversely affected by chemicals that could be contained in dust generated by soil-disturbing activities. If monitoring shows dust levels exceeding 250 g/m³, implement additional dust control measures, such as continuous misting of exposed areas with water, until concentrations are reduced below the action level.

J.1.g. Identify protocols for managing groundwater, which will include at a minimum:

- i. Procedures to prevent unacceptable migration of contamination from defined plumes during dewatering, such as monitoring, counter-pumping, or installing sheet piles down to Bay Mud before dewatering.
- ii. Procedures for the installation of subsurface pipelines and other utilities, where necessary, to prevent lateral transmission of chemicals in groundwater. Such procedures could include, but would not be limited to, selection of proper backfill materials and thickness and installation of clay plugs or barrier collars.

- J.1.h. Include SWPPP requirements and MBPs as described in Mitigation Measure K.1 in Section VI.I, Mitigation Measures: Hydrology and Water Quality.
- J.1.i. Include a requirement that construction personnel be trained to recognize potential hazards associated with underground features that could contain hazardous materials, previously unidentified contamination, or buried hazardous debris.
- J.1.j. Develop and describe procedures for implementing a contingency plan, including appropriate notification and control procedures, in the event unanticipated subsurface hazards are discovered during construction. Control procedures could include, but would not be limited to, further investigation and removal of USTs or other hazards.
- J.1.k. Establish procedures, as necessary, so that construction activities avoid interfering with any RWQCB-required site investigation and remediation in the free product area.

Post Development

- J.1.l. Except where testing demonstrates that native soils meet standards established by the RWQCB as being protective of human health and the aquatic environment, require that upon project completion, all native soils shall be capped, so as to preclude human contact by using buildings, paved surfaces (such as parking lots, sidewalks, or roadways), or fill of a kind and depth approved by the RWQCB.
- J.1.m. Prohibit residences with unrestricted access to soils in front yards or backyards anywhere in the Project Area.
- J.1.n. Prohibit access to native soils for private use. If disturbance of native subsurface soils or groundwater dewatering is planned, carry out these activities in accordance with the elements of the RMP called for in Measures J.1d through J.1k. Following construction or excavation or soil disturbance, restore the cap in accordance with the provisions of the RMP as called for in Measure J.1l.
- J.1.o. Prohibit the use of shallow groundwater within the Project Area for domestic, industrial, or irrigation purposes. Permit installation of groundwater wells within the Project Area only for environmental monitoring purposes. Secure and lock environmental wells installed within the Project Area to prevent unauthorized access to the groundwater. In the event the use of shallow groundwater is proposed, perform an assessment of the risks from direct exposure to the groundwater prior to use and obtain RWQCB or other appropriate regulatory agency approval of the results of the assessment and proposed uses.

J.2 Site Specific Risk Evaluation

Carry out a site-specific risk evaluation for each site in a non-residential area proposed to be used for a public school or child care facility; submit to RWQCB for review and approval. If cancer risks exceed 1×10^{-5} and/or non-cancer risk exceeds a Hazard Index

of 2, carry out remediation designed to reduce risks to meet these standards or select another site that is shown to meet these standards.

K. HYDROLOGY AND WATER QUALITY

K.1 Storm Water Pollution Prevention Program (SWPPP)

Develop and implement a comprehensive Stormwater Pollution Prevention Plan (SWPPP) for all construction activities within the Project Area to avoid and minimize erosion and sedimentation in China Basin Channel and San Francisco Bay and to manage other aspects of the construction site. Include at least the following Best Management Practices, or substantially equivalent measures.

K.1.a. Minimize dust during demolition, grading, and construction by lightly spraying exposed soil on a regular basis.

K.1.b. Minimize wind and water erosion on temporary soil stockpiles by spraying with water during dry weather and covering with plastic sheeting or other similar material during the rainy season (November to April).

K.1.c. Minimize the area and length of time during which the site is cleared and graded.

K.1.d. Prevent the release of construction pollutants such as cement, mortar, paints and solvents, fuel and lubricating oils, pesticides, and herbicides by storing such materials in a bermed, or otherwise secured, area.

K.1.e. As needed, install filter fences around the perimeter of the construction site to prevent off-site sediment discharge. Prior to grading the bank slopes of China Basin Channel for the proposed channel-edge treatments, install silt or filter fences to slow water and remove sediment. As needed, properly trench and anchor in the silt or filter fences so that they stand up to the forces of tidal fluctuation and wave action, and do not allow sediment-laden water to escape underneath them.

K.1.f. Follow design and construction standards found in the *Manual of Standards for Erosion and Sediment Control Measures* for placement of riprap and stone size.

K.1.g. Install and maintain sediment and oil and grease traps in local stormwater intakes during the construction period, or otherwise properly control oil and grease discharges.

K.1.h. Clean wheels and cover loads of trucks carrying excavated soils before they leave the construction site.

K.1.i. Implement a hazardous material spill prevention, control, and clean-up program for the construction period. As needed, the program would include measures such as

constructing swales and barriers that would direct any potential spills away from the Channel and the Bay and into containment basins to prevent the movement of any materials from the construction site into water.

K.3 Sewer Improvement Design

Design and construct sewer improvements such that potential flows to the City's combined sewer system from the project do not contribute to an increase in the annual overflow volume as projected by the Bayside Planning Model by providing increased storage in oversized pipes, centralized storage facilities, smaller dispersed storage facilities, or detention basins, or through other means to reduce or delay stormwater discharges to the City system.

K.4 Alternative Technologies to Improve Stormwater Discharge Quality

Implement alternative technologies or use other means to reduce settleable solids and floatable materials in stormwater discharges to China Basin Channel to levels equivalent to, or better than City-treated combined sewer overflows. Such alternative technologies could include one or more of the following: biofilter system, vortex sediment system, catch basin filters, and/or additional source control measures to remove particulates from streets and parking lots.

K.5 Central/Bay Basin Stormwater Management Program

Develop and implement a Stormwater Management Program for the Central/Bay Basin applicable to new and interim development under the Redevelopment Plan if any are contributing to direct discharges of stormwater to near-shore waters. Develop the plan in coordination with City and County of San Francisco agencies such as the Water Pollution Prevention Program of the City and County of San Francisco Public Utilities Commission (SFPUC) Bureau of Environmental Regulation and Management, and the Clean Water Program. Develop the Stormwater Management Program according to guidelines contained in California Municipal Storm Water Best Management Practice Handbook and in California Industrial/Commercial Storm Water Best Management Practice Handbook. In addition, design the program with Best Management Practices consistent with the minimum control measures pursuant to the proposed Phase II stormwater regulations. Implement the Stormwater Management Program until a city-wide stormwater management program is developed that includes any area contributing to direct discharges of stormwater to near-shore waters. If the City and County of San Francisco develops a city-wide stormwater management program, such a program would supersede the stormwater management program for the Project Area. Periodically prepare and submit a monitoring report to the City detailing progress on implementation of Best Management Practices. Modify the Stormwater Management Program, as necessary, to respond to changes in conditions, and record any changes made (additions or deletions) in the monitoring report.

K.6 Structure Placement and Design to Minimize Dangers of Flooding

Structures in the Project Area should be designed and located in such a way to assure the reasonable safety of structures and shoreline protective devices built in the Bay or in low-lying shoreline areas from the dangers of tidal flooding, including consideration of a rise in relative sea level. Detailed construction specifications to mitigate against impacts of a sea-level rise, however, would require specific flood protection engineering and building analysis by a licensed engineer where structures are proposed below a 99-foot elevation (Mission Bay Datum). Measures include:

K.6.a. Setback from the water's edge.

K.6.b. Install seawalls, dikes, and/or berms during construction of infrastructure

K.6.c. Provide for dewatering basements.

K.6.d. Construct streets and sidewalks above existing grades by reducing the amount of excavation for utilities or basements.

K.6.e. Use topsoil to raise the level of public open spaces.

K.6.f. Use half-basements and partially depressed garage levels to minimize excavation.

M.2 Include Water Conservation in Buildings and Landscaping

Include methods of water conservation in Mission Bay buildings and landscaping. Water conservation methods include the following:

M.2.a Install water conserving dishwashers and washing machines in rental apartments and condominiums.

M.2.b. Install water conserving dishwashers and water efficient centralized cooling systems in office buildings.

M.2.c. Incorporate water efficient laboratory techniques in research facilities where feasible.

M.2.d. Provide information to residences and businesses advising methods to conserve water.

M.2.e. Install water conserving irrigation systems (e.g., drip irrigation).

M.2.f. Design landscaping using drought resistant and other low-water use plants.

EXHIBIT H



OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE

INSTRUCTIONS FOR DECLARATION FORM

NONDISCRIMINATION IN CONTRACTS AND BENEFITS

A. What is the Nondiscrimination in Contracts Policy?

The Office of Community Investment and Infrastructure (successor agency to the San Francisco Redevelopment Agency) (“Agency”) has adopted a Nondiscrimination in Contracts Policy (“Policy”) which requires companies or organizations providing products or services to, or leasing a real property from, the Agency to agree not to discriminate against groups who are protected from discrimination under the Policy, and to include a similar provision in subcontracts and other agreements. Those provisions are the subjects of this form. The Policy is posted on the Web at: <http://sfocii.org/policies-and-procedures>.

If you do not comply with the Policy, the Agency cannot do business with you, except under certain very limited circumstances.

B. What Agency contracts are covered by the Policy?

- Contracts or purchase orders where the Agency purchases products, services or construction with contractors/vendors whose total amount of business with the Agency exceeds a cumulative amount of \$5,000 in a 12-month period.
- Leases of property owned by the Agency for a term of 30 days or more. In these cases, the Agency is the landlord. The Policy also applies to leases for a term of 30 days or more where the Agency is the tenant.

C. What are the groups protected from discrimination under the Policy?

You may not discriminate against:

- your employees
- an applicant for employment
- any employee of the Agency or the City and County of San Francisco
- a member of the public having contact with you.

D. What are prohibited types of discrimination?

You may not discriminate against the specified groups for the following reasons (see Question 1a on the declaration form).

• race	• color
• creed	• religion
• ancestry	• national origin
• age	• sex
• sexual orientation	• gender identity
• marital status	• domestic partner status
• disability	• AIDS/HIV status

In the provision of benefits, you also may not discriminate between employees with spouses and employees with domestic partners, or between the spouses and domestic partners of employees, subject to the conditions listed in F.2 below.

E. How are subcontracts affected?

For any subcontract, sublease, or other subordinate agreement you enter into which is related to a contract you have with the Agency, you must include a nondiscrimination provision (See Question 1b on the Declaration Form). The subcontracting provision need not include nondiscrimination in benefits as part of the

nondiscrimination requirements. If you're unsure whether a contract qualifies as a subcontract, contact the Agency division administering your contract with the Agency. "Subcontract" also includes any subcontract of your subcontractor for performance of 10% or more of the subcontract.

INSTRUCTIONS FOR DECLARATION FORM

Nondiscrimination in Contracts and Benefits

F. Nondiscrimination in benefits for spouses and domestic partners

1. Who are domestic partners?

If your employee and another person are currently registered as domestic partners with a state, county or city that authorizes such registration, then those two people are domestic partners. It doesn't matter where the domestic partners now live or whether they are a same-sex couple or an opposite sex couple. A company/organization may also institute its own domestic partnership registry (contact the Agency for more information).

2. What is nondiscrimination in benefits?

You must provide the same benefits to employees with spouses and employees with domestic partners, and to spouses and domestic partners of employees, subject to the following qualifications (See Question 2c on the Declaration Form).

- If your cost of providing a benefit for an employee with a domestic partner exceeds that of providing it for an employee with a spouse, or vice versa, you may require the employee to pay the excess cost.
- If you are unable to provide the same benefits, despite taking all reasonable measures to do so, you must provide the employee with a cash equivalent. This qualification is intended to address situations where your benefits provider will not provide equal benefits and you are unable to find an alternative source or state or federal law prohibit the provision of equal benefits. (See Question 2d on the Declaration form).
- The Policy does not require any benefits be offered to spouses or domestic partners. It does require, however, that whatever benefits are offered to spouses be offered equally to domestic partners, and vice versa.

3. Examples of benefits

The law is intended to apply to all benefits offered to employees with spouses and employees with domestic partners. A sample list appears in Question 2c on the Declaration Form.

G. Form required

Complete the Declaration Form to tell the Agency whether you comply with the Policy. All parties to a Joint Venture must submit separate Declarations.

Please submit an original of the Declaration Form and keep a copy for your records. If an Agency division should ask you to complete the form again, you may submit a copy of the form you originally submitted (if the information has not changed), unless you are advised otherwise.

H. Attachments

If you provide equal benefits, as indicated by your answers to Question 2c on the Declaration form, **YOU MUST ATTACH DOCUMENTATION TO THIS FORM**, unless such documentation does not exist. See item 3, "Documentation for Nondiscrimination in Benefits." If documentation does not exist, attach an explanation (e.g., some of your policies are unwritten).

I. If your answers change

If, after you submit the Declaration, your company/organization's nondiscrimination policy or benefits change such that the information you provided to the Agency is no longer accurate, you must advise the Agency promptly by submitting a new Declaration.

EXHIBIT I

MINIMUM COMPENSATION POLICY (MCP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (“OCII”) (Successor Agency to the San Francisco Redevelopment Agency) adopted the Minimum Compensation Policy (“MCP”), which became effective on September 25, 2001. The MCP requires contractors and subcontractors to pay Covered Employees a minimum hourly wage and to provide 12 compensated and 10 uncompensated days off per year. The Minimum Compensation rate adjusts automatically to match the wage rate required by the City and County of San Francisco’s Minimum Compensation Ordinance. Contractor is obligated to keep informed of the then-current requirements, which are published at <https://sfgov.org/olse/minimum-compensation-ordinance-mco>.

The OCII may require contractors to submit reports on the number of employees affected by the MCP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the MCP will have the following effect:

- in each contract, the contractor will agree to abide by the MCP and to provide its employees the minimum benefits the MCP requires, and to require its subcontractors subject to the MCP to do the same.
- if a contractor does not provide the MCP minimum benefits, OCII can award a contract to that contractor only if the contract is exempt under the MCP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII’s contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the MCP to your covered employees, and will ensure that your subcontractors also subject to the MCP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the MCP, available from the OCII’s Contract Compliance Department at (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure, 1 South Van Ness, Fifth Floor, San Francisco, CA 94103.

DECLARATION

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the MCP to our covered employees, and will ensure that our subcontractors also subject to the MCP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

EXHIBIT J

HEALTH CARE ACCOUNTABILITY POLICY (HCAP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (“OCII”) (as Successor Agency to the Redevelopment Agency) adopted the San Francisco Health Care Accountability Policy (the “HCAP”), which became effective on September 25, 2001. The HCAP requires contractors and subcontractors that provide services to OCII, contractors and subcontractors that enter into leases with OCII, and parties providing services to tenants and sub-tenants on OCII property to offer health plan benefits to their employees.

Specifically, contractors can either: (1) offer the employee minimum standard health plan benefits established by the San Francisco Department of Public Health (“SFPDH”), as approved by the OCII Commission; (2) pay OCII an amount equivalent to the current fee established by the SFPDH for each hour the employee works on the covered contract or subcontract or on property covered by a lease and OCII will appropriate the money for staffing and other resources to provide medical care for the uninsured; or (3) participate in a health benefits program developed and offered by SFPDH. The minimum health plan standards and fees established by SFPDH are published at <https://sfgov.org/olse/health-care-accountability-ordinance-hcao>.

The OCII may require contractors to submit reports on the number of employees affected by the HCAP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the HCAP will have the following effect:

- in each contract, the contractor will agree to abide by the HCAP and to provide its employees the minimum benefits the HCAP requires, and to require its subcontractors to do the same.
- if a contractor does not provide the HCAP’s minimum benefits, OCII can award a contract to that contractor **only if** the contract is exempt under the HCAP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII’s contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII’s contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the HCAP to your covered employees, and will ensure that your subcontractors also subject to the HCAP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the HCAP, available from the OCII’s Contract Compliance Department at: (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure, 1 South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the HCAP to our covered employees, and will ensure that our subcontractors also subject to the HCAP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

EXHIBIT K
SMALL BUSINESS ENTERPRISE (SBE) AGREEMENT

The company or entity executing this Small Business Enterprise Agreement, by and through its duly authorized representative, hereby agrees to use good faith efforts to comply with all of the following:

I. PURPOSE. The purpose of entering into this Small Business Enterprise Program agreement (“**SBE Program**”) is to establish a set of Small Business Enterprise (“SBE”) participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in contracts by or at the behest of the Successor Agency to the San Francisco Redevelopment Agency (“**Agency**”) and/or the Agency-Assisted Contractor. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco-based SBEs before looking outside of San Francisco.

II. APPLICATION. The SBE Program applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract.

III. GOALS. The Agency’s SBE Participation Goals are:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

IV. TRAINEE HIRING GOAL. In addition to the goals set forth above in Section III, there is a trainee hiring goal for all design professionals (architects, engineers, planners, and environmental consultants) on contracts or subcontracts over \$100,000. The trainee hiring goal requires architects, engineers and other design professionals only to hire qualified San Francisco residents as trainees. The trainee hiring goal is based upon the total amount of the design professional’s contract as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 – \$99,000
1	\$ 100,000 – \$249,999
2	\$ 250,000 – \$499,999
3	\$ 500,000 – \$999,999
4	\$1,000,000 – \$1,499,999
5	\$1,500,000 – \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 – or more

A. Procedures For Trainee Hires

1. Compliance with the Trainee Hiring Goal

Design professionals will be deemed in compliance with this Agreement by meeting or exceeding the trainee hiring goal or by take the following steps in good faith towards compliance.

2. Execution and Incorporation of this Agreement to Sub-agreements

The Agency-Assisted Contractor shall execute this Agreement and shall incorporate by reference or attach this Agreement to its contract(s) with the architects, engineers and other design professionals. Thus, each design professional (regardless of tier) will be obligated to comply with the terms of this Agreement. The Agency-Assisted Contractor and/or the design professionals shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. Contact Educational Institutions

Each design professional shall call the City and County of San Francisco Office of Economic and Workforce Development (OEWD) or educational institution(s) and request referrals for the required trainee positions. The request will indicate generally: (1) the number of trainees sought; (2) the required skills set (keeping in mind that these are trainee positions); (3) a brief description of job duties; (4) the duration of the trainee period; and (5) any other information that would be helpful or necessary for the educational institution or OEWD to make the referral. The minimum duration of assignment is part-time for one semester. However, design professionals are strongly encouraged to offer longer trainee employment periods to allow a more meaningful learning experience. (For example, a half-time or full-time assignment over the summer.) Although the initial contact shall be made by phone, the educational institution(s) or OEWD may require the design professionals to send a confirming letter or complete its form(s). Each design professional is required to timely provide all of the information requested by the OEWD or educational institution(s) in order to get the referrals.

4. Response from Educational Institutions

Each educational institution may have a different way of referring applicants, such as: sending resumes directly to the design professional; having the applicant contact the design professional by phone; require design professionals to conduct on-campus interviews; or some other method. The timing and method of the response will normally be discussed with the design professional during the initial phone request. The design professional is required to follow the process set by the educational institution(s) in order to get the referrals.

5. Action by Design Professionals When Referrals Available

The design professional shall interview each applicant prior to making the decision to hire or not to hire. The design professional shall make the final determination whether the applicant is qualified for the trainee position and the ultimate hiring decision. The Agency strongly encourages the design professional to hire a qualified San Francisco resident referred by the educational institution(s). The design professional shall notify the educational institution in writing of the hiring decision.

6. Action by Design Professionals When Referrals Unavailable

If after contacting two or more educational institutions the design professional is informed that no San Francisco residents are currently available, then the design professional should wait thirty (30) days and contact the educational institutions a second time to inquire whether qualified San Francisco residents are currently available for hire as trainees. If no qualified San Francisco residents are currently available after the second request, then the design professional has fulfilled its obligation under this Agreement, provided that the design professional has acted in good faith. The design professional must retain its file on all of the steps it took to comply with this Section IV and submit a copy of its file to the Agency Compliance Officer upon request.

7. Action by Design Professional When No Response From Educational Institutions

If a design professional has not received a response to its request for referrals from any of the

educational institutions within five (5) business days after the design professional has fully complied with the procedures, if any, set by the educational institution(s) for obtaining referrals, then the design professional should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause the educational institution(s) to respond to the design professional within five (5) business days of the Agency Compliance Officer being notified. If the design professional still has not received a response from the educational institution(s) after this additional five (5) business day period has run, then the design professional has fulfilled its obligation under this Section IV, provided that the design professional has acted in good faith. Each design professional must retain its file on all of the steps it took to comply with this Agreement and submit a copy of its file to the Agency Compliance Officer upon request.

8. Termination of Trainee for Cause

If at any time during the Term, it becomes necessary to terminate for cause a trainee who was hired under this Agreement and the design professional has not met the minimum duration requirements under this policy, then the design professional shall hire a new trainee by following the process set forth above.

B. Reporting Requirements For Trainee Hires

1. Reporting

Upon completion of the Term of the Agreement or the term of the design professional's contract with the Agency-Assisted Contractor, whichever is less, the design professional (i.e. Employer) shall fax or email a report to the Agency Compliance Officer stating in detail: (1) the names of the San Francisco resident(s) interviewed for trainee positions; (2) the date(s) of each interview; (3) the reasons for not hiring the San Francisco resident(s) interviewed; (4) the name, address, gender and racial/ethnic background of the successful candidate for the trainee position; and (5) the number of San Francisco residents hired as trainees.

2. Report on Terminations

In the event a San Francisco resident hired pursuant to this Agreement is terminated for cause, the responsible design professional shall within five (5) days fax or email a termination report to the Agency Compliance Officer stating in detail: (1) the name of the trainee(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); and (4) whether the design professional replaced the trainee(s).

V. TERM. The obligations of the Agency-Assisted Contractor and/or Contractor(s) with respect to SBE Program shall remain in effect until completion of all work to be performed by the Agency-Assisted Contractor in connection with the original construction of the site and any tenant improvements on the site performed by or at the behest of the Agency-Assisted Contractor unless another term is specified in the Agency-Assisted Contract or Contract.

VI. FIRST CONSIDERATION. First consideration will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: (1) Project Area SBEs, (2) San Francisco-based SBEs (outside an Agency Project or Survey Area, but within San Francisco), and (3) Non-San Francisco-based SBEs. Non-San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-San Francisco-based SBEs.

VII. ASSOCIATIONS AND JOINT VENTURES (JV). OCII will recognize JVs and Associations between non-SBE firms and SBE firms where the SBE partner performs at least 35% of the work defined in the JV or Association agreement, and receives at least 35% (or a proportionate share, whichever is higher) of the dollars to be earned by the JV or Association. Under this arrangement, OCII will deem the JV or Association to be an SBE for the purposes of meeting the SBE goal. Due to the technical nature of the disciplines and the various standards of each industry, OCII will not require a standardized agreement. However, each JV and Association agreement must be in writing and contain, at a minimum, the following terms:

- Define the management of the agreement between the parties;
- Define the technical and managerial responsibilities of each party;
- Define the scope of work to be performed by each party, and where possible identify the percentage and break-down of scope of work for each party;
- Identify any additional subcontractors or consultants that will perform the work under the agreement;
- Define the schedule, duration, and deliverable of the agreement;
- Detail the fee schedule, fee breakdown, or division of compensation;
- Specify insurance requirements and/or if each party shall maintain its own insurance;
- Specify how additional work or changes in scope shall be negotiated or determined and which party shall be responsible for notifying OCII of the changes;
- Specify how claims and disputes will be resolved.

A copy of the JV or Association agreement must be provided to OCII for approval in order for the JV or Association to be recognized.

VIII. CERTIFICATION. The Agency no longer certifies SBEs but instead relies on the information provided in other public entities' business certifications to establish eligibility for the Agency's program. Only businesses certified by the Agency as SBEs whose certification has not expired and economically disadvantaged businesses that meet the Agency's SBE Certification Criteria will be counted toward meeting the participation goals. The SBE Certification Criteria are set forth in the SBE Policy.

IX. INCORPORATION. Each contract between the Agency, Agency-Assisted Contractor or Contractor on the one hand, and any subcontractor on the other hand, shall physically incorporate as an attachment or exhibit and make binding on the parties to that contract, a true and correct copy of this SBE Agreement.

X. DEFINITIONS. Capitalized terms not otherwise specifically defined in this SBE Agreement have the meaning set forth in the Agency's SBE Policy adopted on November 16, 2004 and amended on July 21, 2009 ("**Policy**") or as defined in the Agency-Assisted Contract or Contract. In the event of a conflict in the meaning of a defined term, the SBE Policy shall govern over the Agency-Assisted Contract or Contract which in turn shall govern over this SBE Agreement.

Affiliates means an affiliation with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business.

Agency-Assisted Contract means, as applicable, the Development and Disposition Agreement (“DDA”), Land Disposition Agreement (“LDA”), Lease, Loan and Grant Agreements, and other similar contracts, and agreement that the Agency executed with for-profit or non-profit entities.

Agency-Assisted Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed an Agency-Assisted Contract.

Agency Contract means personal services contracts, purchase requisitions, and other similar contracts and operations agreements that the Agency executes with for-profit or non-profit entities.

Amendment to a Pre-existing Contract means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy (“SBE Policy”) takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

Annual Receipts means “total income” (or in the case of a sole proprietorship, “gross income”) plus “cost of goods sold” as these terms are defined and reported on Internal Revenue Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

Arbitration Party means all persons and entities who attend the arbitration hearing pursuant to Section XIII, as well as those persons and entities who are subject to a default award provided that all of the requirements in Section XIII.L. have been met.

Association means an agreement between two parties established for the purpose of completing a specific task or project. The associate agreement shall provide the SBE associate a significant project management role and the SBE associate shall be recognized in marketing and collateral material. The Association shall be distinguished from traditional subcontracting arrangements via a written Association agreement that defines the management of the agreement, technical and managerial responsibilities of the parties, and defined scopes and percentages of work to be performed by each party with its own resources and labor force. Unlike the more formal Joint Venture, an Association does not require formation of a new business enterprise between the parties. The Associate agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Commercially Useful Function means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco (“City”) as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a “commercially useful function” unless the brokerage, referral or temporary employment services are required and sought by the Agency.

Contract means any agreement between the Agency and a person(s), firm, partnership, corporation, or combination thereof, to provide or procure labor, supplies or services to, for, or on behalf of the Agency.

Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed a Contract.

Joint Venture means an entity established between two parties for the purposes of completing a venture or project. The Joint Venture agreement typically creates a separate business entity and requires acquisition of additional insurance for the newly created joint business entity. The Joint Venture agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Non-San Francisco-based Small Business Enterprise means a SBE that has fixed offices located outside the geographical boundaries of the City.

Office” or “Offices means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an “office” under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an “office.” The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an “as needed” basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

Project Area Small Business Enterprise means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms’ location in a Project Area.

Project Area means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), and Transbay.

San Francisco-based Small Business Enterprise means a SBE that: (a) has fixed offices located within the geographical boundaries of the City where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted

that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

Small Business Enterprise (SBE) means an economically disadvantaged business that: is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; has average gross annual receipts in the three years immediately preceding its application for certification as a SBE that do not exceed the following limits:

Industry	OCH SBE Size Standard
Construction Contractors	\$24,000,000
Specialty Construction Contractors	\$14,000,000
Suppliers (goods/materials/ equipment and general services)	\$12,000,000
Professional Services	\$5,000,000
Trucking	\$5,000,000

In addition, an economically disadvantaged business shall meet the other certification criteria described in the SBE Policy in order to be considered an SBE by the Agency.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's three most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for Corporations) to calculate the firm's three year average annual gross receipts. In addition, the calculation of a firm's size shall include the receipts of all affiliates.

Once a business reaches the 3-year average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

Specialty Construction Contractor means a contractor licensed by the Contractors State License Board under the "C" classification license pursuant to California Business and Professions Code Section 7058.

XI. GOOD FAITH EFFORTS TO MEET SBE GOALS Compliance with the following steps will be the basis for determining if the Agency-Assisted Contractor and/or Consultant has made good faith efforts to meet the goals for SBEs:

A. Outreach. Not less than 30 days prior to the opening of bids or the selection of contractors, the Agency-Assisted Contractor or Contractor shall:

1. **Advertise.** Advertise for SBEs interested in competing for the contract, in general circulation media, trade association publications, including timely use of the ***Bid and Contract Opportunities*** newsletter published by the City and County of San Francisco Purchasing Department and media focused specifically on SBE businesses such as the ***Small Business Exchange***, of the opportunity to submit bids or proposals and to attend a pre-bid meeting to learn about contracting opportunities.

2. **Request List of SBEs.** Request from the Agency's Contract Compliance Department a list of all known SBEs in the pertinent field(s), particularly those in the Project and Survey Areas and provide written notice to all of them of the opportunity to bid for contracts and to attend a pre-bid or pre-solicitation meeting to learn about contracting opportunities.

B. Pre-Solicitation Meeting. For construction contracts estimated to cost \$5,000 or more, hold a pre-bid meeting for all interested contractors not less than 15 days prior to the opening of bids or the selection of contractors for the purpose answering questions about the selection process and the specifications and requirements. Representatives of the Contract Compliance Department will also participate.

C. Follow-up. Follow up initial solicitations of interest by contacting the SBEs to determine with certainty whether the enterprises are interested in performing specific items involved in work.

D. Subdivide Work. Divide, to the greatest extent feasible, the contract work into small units to facilitate SBE participation, including, where feasible, offering items of the contract work which the Contractor would normally perform itself.

E. Provide Timely and Complete Information. The Agency-Assisted Contractor or Contractor shall provide SBEs with complete, adequate and ongoing information about the plans, specifications and requirements of construction work, service work and material supply work. This paragraph does not require the Agency-Assisted Contractor or Contractor to give SBEs any information not provided to other contractors. This paragraph does require the Agency Assisted Contractor and Contractor to answer carefully and completely all reasonable questions asked by SBEs and to undertake every good faith effort to ensure that SBEs understand the nature and the scope of the work.

F. Good Faith Negotiations. Negotiate with SBEs in good faith and demonstrate that SBEs were not rejected as unqualified without sound reasons based on a thorough investigation of their capacities.

G. Bid Shopping Prohibited. Prohibit the shopping of the bids. Where the Agency-Assisted Contractor or Contractor learns that bid shopping has occurred, it shall treat such bid shopping as a material breach of contract.

H. Other Assistance. Assist SBEs in their efforts to obtain bonds, lines of credit and insurance. (Note that the Agency has a Surety Bond Program that may assist SBEs in obtaining necessary bonding.) The Agency-Assisted Contractor or Contractor(s) shall require no more stringent bond or insurance standards of SBEs than required of other business enterprises.

I. Delivery Scheduling. Establish delivery schedules which encourage participation of SBEs.

J. Utilize SBEs as Lower Tier Subcontractors. The Agency-Assisted Contractor and its Contractor(s) shall encourage and assist higher tier subcontractors in undertaking good faith efforts to utilize SBEs as lower tier subcontractors.

K. Maximize Outreach Resources. Use the services of SBE associations, federal, state and local SBE assistance offices and other organizations that provide assistance in the recruitment and placement of SBEs, including the Small Business Administration and the Business Development Agency of the Department of Commerce. However, only SBEs certified by the Agency shall count towards meeting the participation goal.

L. Replacement of SBE. If during the term of this SBE Agreement, it becomes necessary to replace any subcontractor or supplier, the Agency's Contract Compliance Specialist should be notified prior to replacement due to the failure or inability of the subcontractor or supplier to perform the required services or timely delivery the required supplies, then First Consideration should be given to a certified SBE, if available, as a replacement.

XII. ADDITIONAL PROVISIONS

A. No Retaliation. No employee shall be discharged or in any other manner discriminated against by the Agency-Assisted Contractor or Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Agreement.

B. No Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of an Agency-Assisted Contract or Contract. The Agency-Assisted Contractor or Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

C. Compliance with Prompt Payment Statute. Construction contracts and subcontracts awarded for \$5,000 or more shall contain the following provision:

“Amounts for work performed by a subcontractor shall be paid within seven (7) days of receipt of funds by the contractor, pursuant to California Business and Professions Code Section 7108.5 *et seq.* Failure to include this provision in a subcontractor or failure to comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity.”

In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 *et seq.*), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

D. Submission Of Electronic Certified Payrolls. For any Agency-Assisted Contract which requires the submission of certified payroll reports, the requirements of Section VII of the Agency's Small Business Enterprise Policy shall apply. Please see the Small Business Enterprise Policy for more details.

XIII. PROCEDURES

A. Notice to Agency. The Agency-Assisted Contractor or Contractor(s) shall provide the Agency with the following information within 10 days of awarding a contract or selecting subconsultant:

1. the nature of the contract, e.g. type and scope of work to be performed;
2. the dollar amount of the contract;
3. the name, address, license number, gender and ethnicity of the person to whom the contract was awarded; And
4. SBE status of each subcontractor or subconsultant.

B. Affidavit. If the Agency-Assisted Contractor or Contractor(s) contend that the contract has been awarded to a SBE, the Agency-Assisted Contractor or Contractor(s) shall, at the same time also submit to the Agency a SBE Application for Certification and its accompanying Affidavit completed by the SBE owner. However, a SBE that was previously certified by the Agency shall submit only the short SBE Eligibility Statement.

C. Good Faith Documentation. If the 50% SBE Participation Goals are not met in each category (Construction, Professional Services and Suppliers), the Agency-Assisted Contractor or Contractor(s) shall meet and confer with the Agency at a date and time set by the Agency. If the issue of the Agency-Assisted Contractor's or Contractor's good faith efforts is not resolved at this meeting, the Agency-Assisted Contractor or Contractor shall submit to the Agency within five (5) days, a declaration under penalty of perjury containing the following documentation with respect to the good faith efforts ("**Submission**"):

1. A report showing the responses, rejections, proposals and bids (including the amount of the bid) received from SBEs, including the date each response, proposal or bid was received. This report shall indicate the action taken by the Agency-Assisted Contractor or Contractor(s) in response to each proposal or bid received from SBEs, including the reasons(s) for any rejections.

2. A report showing the date that the bid was received, the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the non-SBE contractor who was selected submitted more than one bid, the amount of each bid and the date that each bid was received shall be shown in the report. If the bidder asserts that there were reasons other than the respective amounts bid for not awarding the contract to an SBE, the report shall also contain an explanation of these reasons.

3. Documentation of advertising for and contacts with SBEs, contractor associations or development centers, or any other agency which disseminates bid and contract information to small business enterprises.

4. Copies of initial and follow-up correspondence with SBEs, contractor associations and other agencies, which assist SBEs.

5. A description of the assistance provided SBE firms relative to obtaining and explaining plans, specifications and contract requirements.

6. A description of the assistance provided to SBEs with respect to bonding, lines of credit, etc.

7. A description of efforts to negotiate or a statement of the reasons for not negotiating with SBEs.
8. A description of any divisions of work undertaken to facilitate SBE participation.
9. Documentation of efforts undertaken to encourage subcontractors to obtain small business enterprise participation at a lower tier.
10. A report which shows for each private project and each public project (without a SBE program) undertaken by the bidder in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars awarded to SBEs and the percentage of contract dollars awarded to non-SBEs.
11. Documentation of any other efforts undertaken to encourage participation by small business enterprises.

D. Presumption of Good Faith Efforts. If the Agency-Assisted Contractor or Contractor(s) achieves the Participation Goals, it will not be required to submit Good Faith Effort documentation.

E. Waiver. Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price.

F. SBE Determination. The Agency shall exercise its reasonable judgment in determining whether a business, whose name is submitted by the Agency-Assisted Contractor or Contractor(s) as a SBE, is owned and controlled by a SBE. A firm's appearance in any of the Agency's current directories will be considered by the Agency as prima facie evidence that the firm is a SBE. Where the Agency-Assisted Contractor or Contractor(s) makes a submission the Agency shall make a determination, as to whether or not a business which the Agency-Assisted Contractor or Contractor(s) claims is a SBE is in fact owned and controlled by San Francisco-based SBEs. If the Agency determines that the business is not a SBE, the Agency shall give the Agency-Assisted Contractor or Contractor a Notice of Non-Qualification and provide the Agency-Assisted Contractor or Contractor with a reasonable period (not to exceed 20 days) in which to meet with the Agency and if necessary make a Submission, concerning its good faith efforts. If the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to Section XIII.

G. Agency Investigation. Where the Agency-Assisted Contractor or Contractor makes a Submission and, as a result, the Agency has cause to believe that the Agency-Assisted Contractor or Contractor has failed to undertake good faith efforts, the Agency shall conduct an investigation, and after affording the Agency-Assisted Contractor or Contractor notice and an opportunity to be heard, shall recommend such remedies and sanctions as it deems necessary to correct any alleged violation(s). The Agency shall give the Agency-Assisted Contractor or Contractor a written Notice of Non-Compliance setting forth its findings and recommendations. If the Agency-Assisted Contractor or Contractor disagrees with the findings and recommendations of the Agency as set forth in the Notice of Non-Compliance, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to this SBE Agreement.

XIV. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this SBE Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Agency-Assisted Contractor or Contractor shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying any entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Agency-Assisted Contractor and Contractor fail to file a timely Demand for Arbitration, the Agency-Assisted Contractor and Contractor shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. Parties' Participation. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Agency-Assisted Contractor or Contractor made an initial timely Demand for Arbitration pursuant to Section XIII.B. above.

D. Agency Request to AAA. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. Selection of Arbitrator. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. Setting of Arbitration Hearing. A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. Discovery. In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

H. Burden of Proof. The burden of proof with respect to SBE status and/or Good Faith Efforts shall be on the Agency-Assisted Contractor and/or Contractor. The burden of proof as to all other alleged breaches by the Agency-Assisted Contractor and/or Contractor shall be on the Agency.

I. California Law Applies. Except where expressly stated to the contrary in this SBE Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. Arbitration Remedies and Sanctions. The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Agency-Assisted Contract or this SBE Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Agency-Assisted Contract or this SBE Agreement, other than those minor modifications or extensions necessary to enable compliance with this SBE Agreement.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the SBE Program requirements in the Agency-Assisted Contract or this SBE Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this SBE Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. Arbitrator's Decision. The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. Default Award; No Requirement to Seek an Order Compelling Arbitration. The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. Arbitrator Lacks Power to Modify. Except as otherwise provided, the arbitrator shall

have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agency-Assisted Contract, this SBE Agreement or any other agreement between the Agency, the Agency-Assisted Contractor or Contractor or to negotiate new agreements or provisions between the parties.

N. Jurisdiction/Entry of Judgment. The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. Exculpatory Clause. Agency-Assisted Contractor or Contractor (regardless of tier) expressly waive any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Agency-Assisted Contractor or Contractor (regardless of tier) acknowledge and agree that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this SBE Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. Severability. The provisions of this SBE Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this SBE Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this SBE Agreement or the validity of their application to other persons or circumstances.

Q. Arbitration Notice: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Agency-Assisted Contractor

XV. AGREEMENT EXECUTION

I, hereby certify that I have authority to execute this SBE Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency's 50% SBE Participation Goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name and Phone Number

EXHIBIT L
PREVAILING WAGE PROVISIONS (Labor Standards)

1. **Applicability.** These Prevailing Wage Provisions (hereinafter referred to as “Labor Standards”) apply to any and all construction of the Project Improvements as defined in the underlying agreement between the Borrower and the Office of Community Investment and Infrastructure (OCII) “Successor Agency” of which this Exhibit E and these Labor Standards are a part.
2. **All Contracts and Subcontracts shall contain the Labor Standards. Confirmation by Construction Lender.**
 - a. All specifications relating to the construction of the Project shall contain these Labor Standards and the Borrower shall have the responsibility to assure that all contracts and subcontracts, regardless of tier, incorporate by reference the specifications containing these Labor Standards. If for any reason said Labor Standards are not included, the Labor Standards shall nevertheless apply. The Borrower shall supply the Agency with true copies of each contract relating to the construction of the Project showing the specifications that contain these Labor Standards promptly after due and complete execution thereof and before any work under such contract commences. Failure to do shall be a violation of these Labor Standards.
 - b. Before close of escrow under the Agreement and as a condition to close of escrow, the Borrower shall also supply a written confirmation to the Agency from any construction lender for the Project that such construction lender is aware of these Labor Standards.
3. **Definitions.** The following definitions shall apply for purposes of this Exhibit E:
 - a. “Contractor” is the Borrower if permitted by law to act as a contractor, the general contractor, and any contractor as well as any subcontractor of any tier subcontractor having a contract or subcontract that exceeds \$10,000, and who employs Laborers, Mechanics, working foremen, and security guards to perform the construction on all or any part of the Project.
 - b. “Laborers” and “Mechanics” are all persons providing labor to perform the construction, including working foremen and security guards.
 - c. “Working foreman” is a person who, in addition to performing supervisory duties, performs the work of a Laborer or Mechanic during at least 20 percent of the workweek.
4. **Prevailing Wage.**
 - a. All Laborers and Mechanics employed in the construction of the Project will be paid unconditionally and not less often than once a week, and without subsequent

deduction or rebate on any account (except such payroll deductions as are permitted by §5) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination (hereinafter referred to as the "Wage Determination") made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, sections 1770, 1773 and 1773.1, regardless of any contractual relationship which may be alleged to exist between the Contractor and such Laborers and Mechanics. A copy of the applicable Wage Determination is on file in the offices of the Agency with the Development Services Manager. At the time of escrow closing the Agency shall provide the Borrower with a copy of the applicable Wage Determination.

- b. All Laborers and Mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or Mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the Contractor's payroll records accurately set forth the time spent in each classification in which work is performed.
- c. Whenever the wage rate prescribed in the Wage Determination for a class of Laborers or Mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.
- d. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any Laborer or Mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the Wage Determination, provided that the Executive Director of the Agency has found, upon the written request of the Contractor, made through the Borrower that the intent of the Labor Standards has been met. Records of such costs shall be maintained in the manner set forth in subsection (a) of §8. The Executive Director of the Agency may require the Borrower to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or program referred to above in subsection (b) of this §4. The interest shall be accumulated and shall be paid as determined by the Agency acting at its sole discretion.
- e. Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

5. **Permissible Payroll Deductions.** The following payroll deductions are permissible deductions. Any others require the approval of the Agency's Executive Director.

- a. Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.
- b. Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when case or its equivalent has been advanced to the employee in such manner as to give him or her complete freedom of disposition of the advanced funds.
- c. Any garnishment, unless it is in favor of the Contractor (or any affiliated person or entity), or when collusion or collaboration exists.
- d. Any contribution on behalf of the employee, to funds established by the Contractor, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met:
 - (i) The deduction is not otherwise prohibited by law; and
 - (ii) It is either:
 - 1) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining or for the continuation of employment, or
 - 2) Provided for in a bona fide collective bargaining agreement between the Contractor and representatives of its employees; and
 - (iii) No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor (or any affiliated person or entity) in the form of commission, dividend or otherwise; and
 - (iv) The deduction shall serve the convenience and interest of the employee.
- e. Any authorized purchase of United States Savings Bonds for the employee.
- f. Any voluntarily authorized repayment of loans from or the purchase of shares in

credit unions organized and operated in accordance with Federal and State credit union statutes.

- g. Any contribution voluntarily authorized by the employee for the American Red Cross, United Way and similar charitable organizations.
- h. Any payment of regular union initiation fees and membership dues, but not including fines or special assessments provided, that a collective bargaining agreement between the Contractor and representatives of its employees provides for such payment and the deductions are not otherwise prohibited by law.

6. **Apprentices and Trainees.** Apprentices and trainees will be permitted to work at less than the Mechanic's rate for the work they perform when they are employed pursuant to and are individually registered in an apprenticeship or trainee program approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any employee listed on a payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a Mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a Mechanic's hourly rate as specified in the Wage Determination. Apprentices or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the Wage Determination.

7. **Overtime.** No Contractor contracting for any part of the construction of the Project which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such construction to work in excess of eight hours in any calendar day or in excess of 40 hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, whichever is greater.

8. **Payrolls and Basic Records.**

- a. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of its construction of the Project and preserved for a period of one year thereafter for all Laborers and Mechanics it employed in the construction of the Project. Such records shall contain the name, address and social security number of each employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the wages of any Laborer or Mechanic

include the amount of any costs reasonably anticipated in providing benefits under a plan or program, the Contractor shall maintain records which show the costs anticipated or the actual costs incurred in providing such benefits and that the plan or program has been communicated in writing to the Laborers or Mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the Wage Determination.

- b. The Contractor shall submit to the Agency on each Wednesday at noon a copy of the payrolls for the week preceding the previous week in which any construction of the Project was performed. The payrolls submitted shall set out accurately and completely all of the information required by the Agency's Optional Form, an initial supply of which may be obtained from the Agency. The Contractor if a prime contractor or the Borrower acting as the Contractor is responsible for the submission of copies of certified payrolls by all subcontractors; otherwise each Contractor shall timely submit such payrolls.
 - c. Each weekly payroll shall be accompanied by the Statement of Compliance that accompanies the Agency's Optional Form and properly executed by the Contractor or his or her agent, who pays or supervises the payment of the employees.
 - d. The Contractor shall make the records required under this §8 available for inspection or copying by authorized representatives of the Agency, and shall permit such representatives to interview employees during working hours on the job. On request the Executive Director of the Agency shall advise the Contractor of the identity of such authorized representatives.
9. **Occupational Safety and Health.** No Laborer or Mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her safety and health as determined under construction safety and health standards promulgated by Cal-OSHA or if Cal-OSHA is terminated, then by the federal OSHA.
10. **Equal Opportunity Program.** The utilization of apprentices, trainees, Laborers and Mechanics under this part shall be in conformity with the equal opportunity program set forth in Exhibit E of the Agreement including Schedules A and B. Any conflicts between the language contained in these Labor Standards and Exhibit I shall be resolved in favor of the language set forth in Exhibit I, except that in no event shall less than the prevailing wage be paid.
11. **Nondiscrimination Against Employees for Complaints.** No Laborer or Mechanic to whom the wage, salary or other Labor Standards of this Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor because

such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to these Labor Standards.

12. **Posting of Notice to Employees.** A copy of the Wage Determination referred to in subsection (a) of §4 together with a copy of a “Notice to Employees,” in the form appearing on the last page of these Labor Standards, shall be given to the Borrower at the close of escrow. The Notice to Employees and the Wage Determination shall both be posted and maintained by the Contractor in a prominent place readily accessible to all applicants and employees performing construction of the Project before construction commences. If such Notice and Wage Determination is not so posted or maintained, the Agency may do so.

13. **Violation and Remedies.**

- a. **Liability to Employee for Unpaid Wages.** The Contractor shall be liable to the employee for unpaid wages, overtime wages and benefits in violation of these Labor Standards.
- b. **Stop Work--Contract Terms, Records and Payrolls.** If there is a violation of these Labor Standards by reason of the failure of any contract or subcontract for the construction of the Project to contain the Labor Standards as required by §2 (“Non-Conforming Contract”); or by reason of any failure to submit the payrolls or make records available as required by §8 (“Non-Complying Contractor”), the Executive Director of the Agency may, after written notice to the Borrower with a copy to the Contractor involved and failure to cure the violation within five working days after the date of such notice, stop the construction work under the Non-Conforming Contract or of the Non-Complying Contractor until the Non-Conforming Contract or the Non-Complying Contractor comes into compliance.
- c. **Stop Work and Other Violations.** For any violation of these Labor Standards the Executive Director of the Agency may give written notice to the Contractor, with a copy to the Contractor involved, which notice shall state the claimed violation and the amount of money, if any, involved in the violation. Within five working days from the date of said notice, the Contractor shall advise the Agency in writing whether or not the violation is disputed by the Contractor and a statement of reasons in support of such dispute (the “Notice of Dispute”). In addition to the foregoing, the Contractor, upon receipt of the notice of claimed violation from the Agency, shall with respect to any amount stated in the Agency notice withhold payment to the Contractor of the amount stated multiplied by 45 working days and shall with the Notice of Dispute, also advise the Agency that the moneys are being or will be withheld. If the Contractor fails to timely give a Notice of Dispute to the Agency or to advise of the withhold, then the Executive Director of the Agency may stop the construction of the improvements under the applicable contract or by the involved Contractor until such Notice of Dispute and written withhold advice has been received.

- d. Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Contractor shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14. Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Borrower shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14.
- e. Withholding Certificates of Completion. The Agency may withhold any or all certificates of completion of the Project provided for in this agreement, for any violations of these Labor Standards until such violation has been cured.
- f. General Remedies. In addition to all of the rights and remedies herein contained, but subject to arbitration, except as hereinafter provided, the Agency shall have all rights in law or equity to enforce these Labor Standards including, but not limited to, a prohibitory or mandatory injunction. Provided, however, the stop work remedy of the Agency provided above in subsection (b) and (c) is not subject to arbitration.

14. Arbitration of Disputes.

- a. Any dispute regarding these Labor Standards shall be determined by arbitration through the American Arbitration Association, San Francisco, California office (“AAA”) in accordance with the Commercial Rules of the AAA then applicable, but subject to the further provisions thereof.
- b. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made a party to the arbitration. Any such person or entity not made a party in the demand for arbitration may intervene as a party and in turn may name any such person or entity as a party.
- c. The arbitration shall take place in the City and County of San Francisco.
- d. Arbitration may be demanded by the Agency, the Borrower or the Contractor.
- e. With the demand for arbitration, there must be enclosed a copy of these Labor Standards, and a copy of the demand must be mailed to the Agency and the Borrower, or as appropriate to one or the other if the Borrower or the Agency is demanding arbitration. If the demand does not include the Labor Standards they are nevertheless deemed a part of the demand. With the demand if made by the Agency or within a reasonable time thereafter if not made by the Agency, the Agency shall transmit to the AAA a copy of the Wage Determination (referred to in §4) and copies of all notices sent or received by the Agency pursuant to §13. Such material shall be made part of the arbitration record.

- f. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators of the AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the parties fail to select an arbitrator, within seven (7) days from the receipt of the panel, the AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within 30 days from appointment.
 - g. Any party to the arbitration whether the party participates in the arbitration or not shall be bound by the decision of the arbitrator whose decision shall be final and binding on all of the parties and any and all rights of appeal from the decision are waived except a claim that the arbitrator's decision violates an applicable statute or regulation. The decision of the arbitrator shall be rendered on or before 30 days from appointment. The arbitrator shall schedule hearings as necessary to meet this 30 day decision requirement and the parties to the arbitration, whether they appear or not, shall be bound by such scheduling.
 - h. Any party to the arbitration may take any and all steps permitted by law to enforce the arbitrator's decision and if the arbitrator's decision requires the payment of money the Contractor shall make the required payments and the Borrower shall pay the Contractor from money withheld.
 - i. Costs and Expenses. Each party shall bear its own costs and expenses of the arbitration and the costs of the arbitration shall be shared equally among the parties.
15. **Non-liability of the Agency.** The Borrower and each Contractor acknowledge and agree that the procedures hereinafter set forth for dealing with violations of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for the construction of the Project, in determining the time for commencement and completion of construction and in proceeding with construction work. Accordingly the Borrower, and any Contractor, by proceeding with construction expressly waives and is deemed to have waived any and all claims against the Agency for damages, direct or indirect, arising out of these Labor Standards and their enforcement and including but not limited to claims relative to stop work orders, and the commencement, continuance or completion of construction.

SUCCESSOR AGENCY TO THE SAN FRANCISCO REDEVELOPMENT AGENCY

NOTICE TO EMPLOYEES

***EQUAL
OPPORTUNITY
NON-DISCRIMI-
NATION***

The contractor must take equal opportunity steps to provide employment opportunities to minority group persons and women and shall not discriminate on the basis of age, ancestry, color, creed, disability, gender, national origin, race, religion or sexual orientation.

***PREVAILING
WAGE***

You shall not be paid less than the wage rate attached to this Notice for the kind of work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 8 a day or 40 a week, whichever is greater.

APPRENTICES

Apprentice rates apply only to employees registered under an apprenticeship or trainee program approved by the Bureau of Apprenticeship and Training or the California Division of Apprenticeship Standards.

PROPER PAY

If you do not receive proper pay, write the Office of Community Investment and Infrastructure, OCII
1 South Van Ness Ave. 5th Floor
San Francisco, CA 94103
or call **(415) 749-2442** and ask for
Ms. Maria Pecot
Contract Compliance Specialist

EXHIBIT M
CONSTRUCTION WORKFORCE POLICY

I. PURPOSE. This Agreement is entered into between the Borrower (“Borrower or “Owner”) and the Office of Community Investment and Infrastructure (“OCII” or “Agency”), as successor agency to the San Francisco Redevelopment Agency for the purposes of ensuring participation of San Francisco residents and equal employment opportunities in the construction work force involved in constructing any of the phases upon the Site covered by the underlying agreement to which this Agreement is attached hereto.

II. DEFINITIONS.

The following definitions apply to this Agreement.

- A. “CityBuild” means the construction employment program of the Workforce Development Division of the San Francisco Office of Economic and Workforce Development (OEWD).
- B. "Contract" means any agreement in excess of \$10,000 between the Owner, its Contractors and a person to provide or procure labor, materials or services for the construction of the Owner Improvements, including a purchase order that requires installation of materials.
- C. "Contractor" means the Owner's general contractor, all prime contractors and all subcontractors (regardless of tier) having a Contract or subcontract in excess of \$10,000 and who employ persons in a Trade for construction of the Owner Improvements.
- D. "Owner Improvements" means improvements constructed by the Owner.
- E. “Project Area Resident” means a San Francisco Resident who resides in the Bay View Hunters Point Project Area or within the ZIP codes of 94124, 94107, or 94134.
- F. "San Francisco Resident" in the case of a new hire shall mean an individual who has lived in San Francisco for at least one week prior to submitting his/her initial application for employment to work on the Owner Improvements. In the case of a person employed by the Owner or its Contractor or Consultant prior to assignment to the Owner Improvements, this term shall mean a person who has lived in San Francisco for at least six months prior to the date he/she applied for a transfer to a position at the Owner Improvements or the date he/she was assigned to work on the Owner Improvements, whichever is earlier; or a person who establishes, to the satisfaction of the Agency, that he/she lived in San Francisco prior to applying for or being considered for a position with the Owner, Contractor or Consultant.

III. WORK FORCE GOALS.

The Owner agrees and will require each Contractor and all subcontractors to use good faith efforts to employ 50 percent of its construction workforce hires by trade and by hours from qualified San Francisco Residents with first consideration given to Project Area Residents. Owner and Contractors will be deemed in compliance with this Agreement and the Policy by meeting or exceeding the goal or by demonstrating good faith efforts toward compliance.

IV. GOOD FAITH EFFORTS.

A. Submission of Labor Force Projections and Other Data

The Contractor shall submit, to the extent available, labor force projections to the OCII Compliance Officer, or its agent, within two (2) weeks of contract award.

B. Submit Subcontractor Information Form

The Contractor shall submit to the Compliance Officer, or its agent, the Subcontractor Information Forms, twenty-four (24) hours prior to the preconstruction meeting. The Subcontractor Information Forms are available from the Compliance Officer upon request.

C. Preconstruction Meeting

The Contractor shall hold a preconstruction meeting which shall be attended by the Compliance Officer, CityBuild, all prime contractor(s) and all subcontractor(s). The preconstruction meeting shall be scheduled between two (2) days and thirty (30) days prior to the start of construction at a time and place convenient to all attendees. The purpose of the meeting is to discuss: the hiring goals, workforce composition, worker referral process, certified payroll reporting, procedure for termination and replacement of workers covered by this Agreement and to explore any anticipated problems in complying with the Agreement. All questions regarding how this Agreement applies to the Owner, Contractor, subcontractors and consultants should be answered at this meeting. Failure to hold or attend at least one (1) preconstruction meeting will be a breach of the Policy and this Agreement that may result in the Agency ordering a suspension of work until the breach has been cured. Suspension under this provision is not subject to arbitration.

D. Submit Construction Worker Request Form

For the Term of the Agreement, each time the Owner or Contractor seeks to hire workers for the construction or rehabilitation of improvements, they must first submit, by fax, email or hand delivery, an executed construction worker request form to CityBuild. Preferably this request will be submitted at least two (2) business days before the workers are needed. However, requests with less than two (2) business days notice will be accepted. The construction worker request form will indicate generally: the number of workers needed, duration needed, required skills or trade and date/time to report. The construction worker request form is available from the Compliance Officer upon request.

E. Response from CityBuild

CityBuild shall respond, in writing, via fax, email or hand delivery to each request for construction workers. The response shall state that CityBuild was able to satisfy the request in full, in part or was unable to satisfy the request. CityBuild shall look to their own referral lists, as well as confer with CBOs in an attempt to find qualified Project Area Residents and San Francisco Residents. If CityBuild is able to satisfy the request in full or in part, it shall direct the qualified Project Area Resident(s) or San Francisco Resident(s) to report to the Contractor on the date and time indicated in the request. If CityBuild is unable to satisfy the request, then CityBuild shall send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

F. Action by Contractor When Referrals Available

The Owner or Contractor whose request has been satisfied in full or in part shall make the final determination of whether the Project Area Residents or San Francisco Residents are qualified for the positions and the ultimate hiring decision. The Agency strongly encourages the Contractor to hire the qualified Project Area Residents or San Francisco Residents referred by CityBuild. However, if the Contractor finds the Project Area Residents or San Francisco Residents are not qualified, then the Contractor shall send the Project Area Residents or San Francisco Residents back to CityBuild. Before the close of business on the same day, the Contractor shall fax or email a statement addressed to CityBuild stating in detail the reason(s) the Project Area Residents or San Francisco Residents were not qualified or the reason(s) for not hiring the Project Area Residents or San Francisco Residents. CityBuild shall, within one (1) business day of receipt of the fax or email, send new qualified Project Area Residents or San Francisco Residents that meet the legitimate qualifications set by the Contractor or alternatively, send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

G. Action by Contractor When Referrals Unavailable

If a Contractor receives a response from CityBuild stating that no qualified Project Area Residents or San Francisco Residents are currently available, then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any additional new construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request.

H. Action by Contractor When No Response From CityBuild

If a Contractor has not received a response to its construction worker request from CityBuild within two (2) business days, then the Contractor should immediately advise the Compliance Officer by phone, fax or email. The Compliance Officer or

his/her designee shall cause a response to be sent to the Contractor within two (2) business days of being notified. If the Contractor does not receive a response from CityBuild within four (4) business days (the original two (2) business days plus the additional two (2) business days), then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request. This Policy is intended to provide qualified Project Area and San Francisco Residents with employment opportunities without causing undue delay in hiring needed construction workers.

I. Action by Contractor When No Response From Union

The Contractor should immediately advise the Compliance Officer by phone, fax or email when the Contractor has sent a qualified Project Area Resident or San Francisco Resident to a union hall for referral in accordance with a collective bargaining agreement and the union did not refer the qualified Project Area or San Francisco Resident back for employment or when the union referral process impedes the Contractor's ability to meet its obligations under this Policy. Nothing in this Policy shall be interpreted to interfere with or prohibit existing labor agreements or collective bargaining agreements.

J. Hiring Apprentices

A Contractor may meet part of the Construction Workforce Goal by hiring apprentices. However, hiring an apprentice does not satisfy or waive the trainee hiring obligation, if any, for design professionals. Unless otherwise permitted by law, apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training or the California Department of Industrial Relations, Division of Apprenticeship Standards. Credit towards compliance will only be given for paid apprentices actually working on the project. No credit is available for apprentices while receiving class room training. Under no circumstances shall the ratio of apprentices to journeymen in a particular trade or craft exceed 1:5.

K. Termination and Replacement of Referrals

If at any time it becomes necessary to terminate for cause a construction worker who was hired under this Policy, the Contractor shall notify CityBuild in writing via fax or email and submit a report of termination pursuant to Section (B)(4). If the Contractor intends to fill the vacant position, then the Contractor shall follow the process set forth in this Policy beginning at Section (A)(6).

V. REPORTING REQUIREMENTS.

A. Submission of Certified Payroll Reports

Each Contractor subject to this Policy shall submit to the Agency a certified payroll

report for the preceding work week on each of its employees. The Owner is ultimately responsible for the submission of these reports by the Contractors. The certified payroll report is due to the Agency by noon each Wednesday. To facilitate compliance, the Agency uses an online Project Reporting System (PRS) for submission of certified payroll reports. This system is available at no cost to the Contractor. Training and educational materials for PRS are available at no cost online and through the Compliance Officer. Contractors are required to report certified payroll using PRS. However, a waiver may be granted to any Contractors who do not have a computer or online access.

B. Additional Information

In order to prevent unlawful discrimination in the selection, hiring and termination of employees on the basis of race, ethnicity, gender or any other basis prohibited by law and to identify and correct such unlawful practices, the Agency will monitor and collect information on the ethnicity and gender of each construction worker and apprentice. If an identifiable pattern of apparent discrimination is revealed by this additional information, it will be treated as a breach of this Policy and may be addressed as set forth in the arbitration provisions included in Agency contracts.

C. Report on Terminations

In the event a Project Area Resident or San Francisco Resident hired pursuant to this Policy is terminated for cause, the responsible Contractor shall within two (2) days fax or email a termination report to CityBuild with a copy to the Compliance Officer stating in detail: (1) the name of the worker(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the Contractor replaced the construction worker(s); and (5) whether the replacement worker(s) were Project Area Resident(s) or San Francisco Resident(s).

D. Inspection of Records

The Owner and each Contractor shall make the records required under this Agreement available for inspection or copying by authorized representatives of the Agency and its designated Compliance Officer, and shall permit such representatives to interview construction workers and apprentices during working hours on the job.

E. Failure to Submit Reports

If a Contractor fails or refuses to provide the reports as required it will be treated as a breach of this Agreement and the Policy, and may be addressed under arbitration provisions pursuant to Article VII (Arbitration of Disputes) of this Agreement.

F. Submission of Good Faith Effort Documentation

If the Owner's or Contractor's good faith efforts are at issue, the Contractor shall provide the Agency or its designated Compliance Officer with the documentation of its efforts to comply with this Policy and the Agreement. The Owner or Contractor must maintain a current file of the names, addresses and telephone numbers of each Project Area Resident or San Francisco Resident applicant referral

(whether a self-referral or a referral from a union, CBO or CityBuild referral) and what action was taken with respect to each such individual.

G. Coding Certified Payrolls

Each Contractor shall include, on the weekly payroll submissions, the proper job classification (as approved by the California Department of Industrial Relations), apprentice's craft (if applicable), skill level, protected class status, and domicile of each construction worker.

VI. RECORDKEEPING REQUIREMENTS.

Contractor shall comply with the requirements of California Labor Code Section 1776, as amended, regarding the keeping, filing and furnishing of certified copies of payroll records of wages paid to its employees and to the employees of its subcontractors of all tiers.

In addition, each Contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of Owner Improvements, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Owner Improvements. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident or disadvantaged worker, and the referral source or method through which the Contractor hired or retained that worker for work on the Owner Improvements (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method). Contractor may verify that a worker is a local resident through the worker's possession of a valid SF City ID Card or other government-issued identification. OCII may require additional records to be kept with regard to Contractor's compliance with this Agreement. All records described in this section shall at all times be open to inspection and examination by the duly authorized officers and agents of OCII, including representatives of the OEWD.

VII. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this Construction Work Force Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Owner disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Owner shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Owner fails to file a timely

Demand for Arbitration, the Owner shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

- C. **Parties' Participation.** The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Owner made an initial timely Demand for Arbitration pursuant to Section VII.B. above.
- D. **Agency Request to AAA.** Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.
- E. **Selection of Arbitrator.** One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.
- F. **Setting of Arbitration Hearing.** A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.
- G. **Discovery.** In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.
- H. **Burden of Proof.** The burden of proof with respect to Construction Work Force compliance and/or Good Faith Efforts shall be on the Owner. The burden of proof as to all other alleged breaches by the Owner shall be on the Agency.
- I. **California Law Applies.** Except where expressly stated to the contrary in this Construction Work Force Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.
- J. **Arbitration Remedies and Sanctions.** The arbitrator may impose only the remedies and sanctions set forth below:
 - 1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any

non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Owner or this Construction Work Force Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Owner or this Construction Work Force Agreement, other than those minor modifications or extensions necessary to enable compliance with this Construction Work Force Agreement.
3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the Agency's Work Force policy requirements. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.
4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this Construction Work Force Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator

shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of this Construction Work Force Agreement or any other agreement between the Agency and Owner or to negotiate new agreements or provisions between the parties.

- N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.
- O. **Exculpatory Clause.** Owner expressly waives any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Owner acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this Construction Work Force Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.
- P. **Severability.** The provisions of this Construction Work Force Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Construction Work Force Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Construction Work Force Agreement or the validity of their application to other persons or circumstances.
- Q. **Arbitration Notice:** BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

**WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO
SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE
"ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.**

Agency

Owner

I, hereby certify that I have authority to execute this Construction Work Force Agreement on behalf of the Owner listed below and that Owner agrees to diligently exercise good faith efforts to comply with this Agreement to meet or exceed the construction work force participation goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name

Phone Number

Signature

Date

Print Your Name

Title

Company Name

Phone Number

EXHIBIT N
INTENTIONALLY OMITTED

EXHIBIT O

FORM OF ARCHITECT'S CERTIFICATE (ACCESSIBILITY FOR PERSONS WITH DISABILITIES)

TO:

Successor Agency to the Successor Agency to
the Redevelopment Agency of the City and
County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Dated: _____

Development: _____

FROM: Architect of Record

Location:

_____ 400 China Basin Street,
San Francisco, CA 94107

Note: This Declaration is being provided pursuant to Article 5.07 of this Disposition and Development Agreement between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, corporate and politic ("**Successor Agency**" or "**OCII**") and 350 CHINA BASIN PARTNERS, LLC, a California limited liability company, dated _____, 2022 ("**Agreement**"). Capitalized terms used herein have the meanings given them in the Agreement.

I observed the Improvements regarding Accessibility for Persons with Disabilities on _____ (date), and as Architect of Record for the construction of the Improvements, I hereby declare to the best of my knowledge and belief it is my professional opinion that:

1. Intentionally omitted. 2. The construction of the Improvements with respect to Accessibility for Persons with Disabilities has been and is being performed in accordance and complies with a reasonable interpretation of (based upon my professional judgment) all applicable local, state, federal building laws and regulations with respect to Accessibility for Persons with Disabilities.
3. The construction of the Improvements with respect to Accessibility for Persons with Disabilities has been done in a workmanlike manner, and the work, materials and fixtures are acceptable, except as may be noted on Schedule A attached hereto.
4. Construction of the Improvements has been completed satisfactorily in accordance with all applicable local, state, federal building laws and regulations with respect to Accessibility for Persons with Disabilities.

Date: _____

EXHIBIT P
FORM OF ARCHITECT'S CERTIFICATE FOR CODE COMPLIANCE

TO:

Successor Agency to the Successor Agency to
the Redevelopment Agency of the City and
County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Dated: _____

Development: _____

FROM: Architect of Record

Location:

400 China Basin Street,
San Francisco, CA 94107

Note: This Certification is being provided pursuant to Article 5.07 of this Disposition and Development Agreement between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, corporate and politic ("**Successor Agency**" or "**OCII**") and 350 CHINA BASIN PARTNERS, LLC, dated as of _____, 2022 ("**DDA**"). Capitalized terms used herein have the meanings given in the DDA.

I observed the improvements on _____ (date) and as Architect of Record for the construction of the improvements, I hereby declare to the best of my knowledge and belief, it is my professional opinion that:

- A. Intentionally omitted.
- B. Preliminary Construction Documents provide for construction of the improvements are in accordance with all applicable local building codes.
- C. Design of the improvements conform with all applicable local, state and federal laws.
- D. The construction of the improvements has been and is being performed in accordance and complies with a reasonable interpretation of (based upon my professional judgment) all applicable local and state building laws and regulations.
- E. The construction of the improvements has been done in a workmanlike manner, and the work, materials and fixtures are acceptable, except as may be noted on Schedule A attached hereto.
- F. Construction of the improvements has been completed satisfactorily in accordance with all applicable local and state building laws and regulations.

Date: _____

Architect:

EXHIBIT Q
FORM OF ARCHITECT'S CERTIFICATE
(CONSTRUCTION COMPLIES WITH APPROVED CONSTRUCTION DOCUMENTS)

TO:
Successor Agency to the Successor Agency to
the Redevelopment Agency of the City and
County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Dated: _____

Development: _____

FROM: Architect of Record

Location:

400 China Basin Street,
San Francisco, CA 94107

Note: This Certificate is being provided pursuant to Article 5.06(a) of this Disposition and Development Agreement between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, corporate and politic (“**Successor Agency**” or “**OCII**”) and 350 CHINA BASIN PARTNERS, LLC, a California limited liability company, dated _____, 2022 (the “**DDA**”). Capitalized terms used herein have the meanings given in the DDA.

I observed the Improvements on _____ (date), as Architect of Record for the design and construction of the Improvements, I hereby declare to the best of my knowledge and belief and it is my professional opinion that:

- A. Intentionally omitted.
- B. The construction of the improvements has been and is being performed in accordance with those elements of the Construction Documents for the improvements approved by OCII.
- C. The required certificates, approvals and permits of all governmental authorities having jurisdiction covering the work to date on the improvements have been issued and are in force, and there is not an undischarged violation of applicable laws, regulations or orders of any governmental authority having jurisdiction of which we have notice as of the date hereof, except as may be noted on Schedule A attached hereto.
- D. Construction of the improvements were completed in accordance with those elements of the Construction Documents for the improvements approved by OCII.

Date: _____

Architect:

EXHIBIT R

HOMEOWNERSHIP DEVELOPER FEE POLICY

November 2019

Consistent with the San Francisco Mayor's Office of Housing and Community Development's developer fee policy (most recently updated July 20, 2018) for affordable, tax credit rental projects receiving soft loans from the City, the homeownership developer fee will be subject to the same maximum as a tax credit rental project funded by MOHCD. Risks associated with the development of an affordable rental and homeownership project are assumed to be roughly equivalent.

The maximum developer fee for a homeownership development shall be \$2,200,000 ("Base Fee") plus \$10,000 per unit over 100 units, up to a maximum of \$4,000,000. For homeownership projects of 20 units or less, the developer fee shall be up to \$500,000.

The maximum developer fee shall be comprised of a Project Management Fee and an At-Risk Fee. The Project Management Fee shall be one-half (50%) of the Base Fee (i.e. \$1,100,000) and shall be distributed according to achievement of certain development milestones set out below. The At-Risk Fee shall consist of the remaining half of the Base Fee plus the \$10,000 per unit over 100 units, and shall cover any cost overruns that exceed the available contingency funds in the final project budget approved by OCII at construction loan closing. In the event of any cost overruns after OCII's construction funding commitment, the Developer will contribute up to half of the total maximum fee (e.g. $\$2,200,000 \times 50\% = \$1,100,000$) to cover the overruns. Cost overruns beyond that amount must be requested from OCII's Commission. The At-Risk fee shall be distributed according to milestones as set forth below.

The maximum allowable marketing & sales fee per unit is \$7,500 per unit and will not be based on a percentage of sales price. Additional commission payments to outside real estate brokers are not allowed. The marketing and sales fee is in addition to the Project Management Fee and At-Risk Fee.

Fee Category	Fee Policy	Calculation
Project Management Fee	One-half of Base Fee (\$2,200,000)	$\$2,200,000 \times 0.5 = \$1,100,000$
At-Risk Fee	One-half of Base Fee plus \$10,000 per unit over 100 units	$\$1,100,000 + (10,000 \times \# \text{ of units over } 100)$
Maximum Fee	Project Management Fee plus At-Risk Fee; \$2,200,000 plus \$10,000 per unit over 100 units	$\$2,200,000 + (10,000 \times \# \text{ of units over } 100)$ not to exceed \$4,000,000

Milestone	PM Fee Distribution	Total PM Fee: \$1,100,000
Predevelopment loan closing	15%	\$165,000
Upon approval by OCII of Schematic Design. With no more than 50% of the total Project Management Fee to be disbursed prior to construction closing	35%	\$385,000
At Construction Loan Closing	30%	\$330,000
Project Close-Out: upon close of escrow/sale of all units	20%	\$220,000
TOTAL PM FEE	100%	\$1,100,000

Milestone	At Risk Fee Distribution	Total At Risk Fee: \$1,100,000
At 50% of construction completion	30%	\$330,000
Issuance by BRE of Final Subdivision Report Condominium	20%	\$220,000
At receipt of Temporary Certificate of Completion	30%	\$330,000
Project Close-Out: upon close of escrow/sale of final unit	20%	\$220,000 (plus amount if project over 100 units)
TOTAL AT-RISK FEE		\$1,100,000 plus \$10,000/unit over 100 units (if applicable)
MAXIMUM DEVELOPER FEE		\$2,200,000 + \$10,000/unit over 100 Units

EXHIBIT S
FINAL FINANCIAL PLAN

EXHIBIT T
PROPOSED UNIT DETAIL SUMMARY

Unit Type	Net Sq. Ft.	Quantity	% Median Income (for pricing)	% Median Income (for qualifying)
1 Bedroom, 1 Ba	500-550	10	75%	80%
1 Bedroom, 1 Ba	500-550	14	85%	90%
1 Bedroom, 1 Ba	500-550	14	95%	100%
1 Bedroom, 1 Ba	500-550	12	105%	110%
Subtotal 1 Bdrms		50		
2 Bedroom, 2 Ba	800-850	11	75%	80%
2 Bedroom, 2 Ba	800-850	22	85%	90%
2 Bedroom, 2 Ba	800-850	19	95%	100%
2 Bedroom, 2 Ba	800-850	11	105%	110%
Subtotal 2 Bdrms		63		
3 Bedroom, 2 Ba	1,000-1,100	8	75%	80%
3 Bedroom, 2 Ba	1,000-1,100	12	85%	90%
3 Bedroom, 2 Ba	1,000-1,100	7	95%	100%
3 Bedroom, 2 Ba	1,000-1,100	8	105%	110%
Subtotal 3 Bdrms		35		
TOTAL		148	90% average	95% average

EXHIBIT U
FORM OF ASSIGNMENT OF ARCHITECT'S AND ENGINEER'S AGREEMENTS

FOR VALUE RECEIVED, 350 China Basin Partners, LLC, a California limited liability company, (“**Developer**”) does hereby sell, assign, pledge, transfer and set over to the Successor Agency to the San Francisco Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, corporate and politic (“**Successor Agency**” or “**OCII**”) all of its rights, title and interest in and to that certain architect’s agreement dated _____ (“**Agreement**”) entered into between Developer and Mithun Architects, Inc., and any other contracts entered into between Developer and any licensed design profession or engineer (“**Architect**” or “**Engineer**”), and those certain Plans and Specifications and all amendments, modifications, supplements, general conditions and addenda thereto (“**Plans**”) prepared by the Architects and Engineers for the account of Developer in connection with the development of 148 units of low- to moderate-income family, ownership housing at Mission Bay South Block 9a, Mission Bay South Redevelopment Project Area (“**Project**”). The Agreement and the Plans are assigned as collateral security for certain indebtedness of Developer to OCII evidenced by that certain Promissory Note of even date herewith in the principal amount of up to \$75,184,522.

Developer and Architect or Engineer, by executing the Consent to this assignment, agree that OCII does not assume any of Developer’s obligations or duties concerning the Agreement and the Plans, including, but not limited to, the obligation to pay for the preparation of the Agreement and the Plans, until and unless OCII shall exercise its right hereunder.

Developer hereby irrevocably constitutes and appoints OCII as its attorney-in-fact to demand, receive, and enforce Developer’s rights with respect to the Agreement and the Plans, to give appropriate receipts, releases and satisfactions for and on behalf of Developer and to do any and all acts in the name of Developer or in the name of OCII with the same force and effect as Developer could do if this Assignment had not been made.

Developer hereby represents and warrants to OCII that no previous assignment of its interest in the Agreement and the Plans has been made, and Developer agrees not to assign, sell, pledge, transfer, mortgage or otherwise encumber its interest in the Agreement and the Plans so long as this Assignment is in effect. This Assignment shall automatically terminate without further action required upon Grant closing.

This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, or successors in interest of the Developer and OCII.

IN WITNESS WHEREOF, Developer has caused this Assignment to be executed on

_____.

350 China Basin Partners, LLC
a California limited liability company

By: _____

Its: _____

EXHIBIT V
LIMITED EQUITY HOMEOWNERSHIP PROGRAM LOAN DISCLOSURE BOOK

***MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT AS HOUSING SUCCESSOR TO
THE REDEVELOPMENT AGENCY OF THE CITY & COUNTY OF SAN FRANCISCO***

**LIMITED EQUITY
HOMEOWNERSHIP PROGRAM**

Loan Disclosure Information
With Statement of Acceptance

May 2019

**I M P O R T A N T
NOTE TO THE READER**

In 2012, the San Francisco Redevelopment Agency ("SFRA") was dissolved pursuant to California state law. The San Francisco Office of Community Investment and Infrastructure ("OCII") then became responsible for completing certain affordable housing development obligations that had been the responsibility of the SFRA. Once these certain housing assets are completed, OCII transfers the assets to the San Francisco Mayor's Office of Housing and Community Development ("MOHCD") as the Housing Successor to the SFRA. MOHCD also provides services to OCII, such as marketing, lease up and sales of affordable housing units. Units developed are sold to buyers using OCII's Limited Equity Program. Upon sale, as Housing Successor, those units become part of MOHCD's portfolio of affordable homeownership assets.

The purpose of this document (the "Program Summary") is to explain the Limited Equity Homeownership Program ("Program"). Homes sold through this Program are subject to price controls at resale, as well as other terms and restrictions that affect your rights as a homeowner. Some of the terms and provisions are complex, and require that you thoroughly understand them prior to your purchase of a home. **IF YOU DESIRE TO PARTICIPATE IN THE PROGRAM AND PURCHASE A HOME, YOU MUST ATTEST TO YOUR FULL UNDERSTANDING OF AND AGREEMENT TO ALL THE PROGRAM'S TERMS AND CONDITIONS BY SIGNING BELOW PRIOR TO CLOSING ESCROW.**

This Program Summary has been provided to a prospective homeowner under the Program as a convenience only, but does not override any of the City Documents (defined below) associated with the Program. If any information in this this Program Summary conflicts in any way with any of the City Documents, the information in the City Documents override this Program Summary.

I, the undersigned, hereby acknowledge and accept all the terms and conditions contained in the Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement, the Promissory Note Secured by a Deed of Trust, the Deed of Trust and Assignment of Rents, and the Acknowledgment of the Declaration, Notice of Affordability Restrictions, and the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual effective October 11, 2018, as it may be updated and amended from time to time (the "Procedures Manual"), all of which ("City Documents") I have agreed to comply with in return for purchasing my home at a below-market-rate price. I acknowledge that a staff member of the Mayor's Office of Housing and Community Development ("MOHCD") of the City and County of San Francisco ("City") explained the terms and provisions of the City Documents to me, and that I have had a chance to review this Limited Equity Homeownership Program

Loan Disclosure Information document and the Procedures Manual, which further explain the City Documents. I have also been provided enough time to seek an independent legal opinion about the City Documents and my purchase of the home, if I so chose.

I understand that by my execution of the City Documents, I agree that the resale price of my home will be restricted to a price that is affordable to a household of a predetermined size, earning a pre-determined percentage of Area Median Income ("AMI"), based on figures published by MOHCD, based on data published by the U.S. Department of Housing and Urban Development (or any government agency subsequently assuming this responsibility). I understand that MOHCD will determine the resale affordable price applicable to my home when I notify the City of my intent to sell. I understand that fair market value will not determine the resale affordable price of my home.

I further understand that the MOHCD's calculation of the resale affordable purchase price for my home will consider, in addition to the current income for a pre-determined AMI level, an interest rate which is the 10-year rolling average of 30 years of interest rates as calculated by the MOHCD (or its successor) and based on data provided by Freddie Mac, as well as other current housing costs, such as insurance, HOA dues, and taxes. I know that any proceeds I receive from the sale of my home will be affected by the value of these factors, since they will be used to calculate the resale affordable purchase price of my home.

I understand that the MOHCD imposes resale restrictions on homes that it subsidizes so that it can provide homeownership opportunities to future generations of low- and moderate-income families over time and that the equity I will be able to build in my home will be limited so that the Program is available to the next purchaser of my home. I understand that my ability to purchase my home at an affordable price is contingent upon my agreement to comply with the resale controls and Program restrictions.

BMR Lien# LEPBMR191000

PROPERTY ADDRESS: 123 Sample Street, Unit 2, San Francisco, CA 94102

BUYER(S):

Mary Sample

John Sample

Ellen Sample

Jack Sample

PROGRAM SUMMARY

- The purpose of the City's Limited Equity Homeownership Program ("Program") is to provide homeownership opportunities to low- and moderate-income households ("Eligible Buyers") who otherwise would not be able to purchase a home in San Francisco.
- To make homes affordable to Eligible Buyers, the City may sell land to developers at below-market-rate prices and/or provide construction funding. In return for this assistance, developers agree to sell the homes to Eligible Buyers. Eligible Buyers, in turn, purchase their homes at affordable prices and agree to comply with Program requirements.
- The City is able to offer the benefits of homeownership to many generations of Eligible Buyers through restrictions on resale prices, which limit the amount of equity that an Eligible Buyer is able to build. By limiting Eligible Buyers' equity, a given home can be resold at affordable prices again and again. Market fluctuations, which often result in prices beyond the affordability of low- and moderate-income households, do not affect limited equity resale prices.

PROGRAM ELEMENTS

#1: Eligibility

To qualify as an Eligible Buyer, households must meet the following criteria:

- Household income (including income calculated from assets) within the AMI "target range" of low- to moderate-income buyers.
- Ability to qualify for a 30-year fixed mortgage, such as, sufficient income, manageable debt, sufficient savings to cover the minimum down payment, closing costs, and required reserves.
- A minimum of 3% down payment (the entire 3% may be gift funds).
- A minimum of 3 months of housing payments (principal, interest, property taxes, hazard insurance, HOA dues and other related costs).
- First-time homebuyer status.
- Commitment to use the property as the buyer's primary residence.
- Any other requirements as set forth in the Procedures Manual.

MOHCD publishes AMI levels for San Francisco annually, based on data published by the U.S. Department of Housing and Urban Development. The AMI target ranges that determine a household's eligibility to purchase will vary from development to development, based on the amount of subsidy provided by the City to the developer. MOHCD will qualify all first-time homebuyers for both initial sales and resales. Program qualification documentation is required and detailed in the Procedures Manual.

#2: Affordable Purchase Prices

When developers set affordable purchase prices for units they sell, they use very specific information, as described below:

- AMI level: Developers in contract with the City are obligated to sell their units at prices affordable to households within a certain AMI “target range.” For example, a developer in 2016 may be obligated to sell his/her units to households making between 80% and 100% of AMI. For a household of 3, this translates to incomes between \$77,550 and \$96,950.
- Household size: For the pricing calculation, the City assumes a household size is one person larger than the total number of bedrooms (except studio units which assume a one-person household; and SRO units which are calculated at $\frac{3}{4}$ of the price of a studio). For example, a household of one person is assumed for a studio, three people for a two-bedroom, four people for a three-bedroom, and so on. For occupancy, the City requires a minimum of one person per bedroom. For example, a single person can apply for a studio or one-bedroom unit only. A two-person household could apply for a studio, one-bedroom, or two-bedroom unit.
- 33% “PITI”: Principal, interest, taxes, homeowners’ insurance, homeowner’s association dues and any other related costs – total housing costs – are assumed to be 33% of a household’s gross monthly income.
- First mortgage interest rate: The City’s calculation assumes a fixed mortgage interest rate based on the 10-year rolling average of 30 years of interest rates as calculated by MOHCD (or its successor) based on data provided by Freddie Mac. The City will not permit a variable rate mortgage or an interest-only mortgage, as such financing instruments are contrary to the objectives of long-term affordability and stability of the first time homebuyer program.

- Owner down payment: The City assumes (and requires at a minimum) that the household will make a cash down payment of 3% of the affordable purchase price; and the entire 3% may be gift funds. Once MOHCD determines, for each unit, the applicable AMI level, the household size, the cost of taxes and insurance, and the interest rate, MOHCD can set the affordable purchase price. For example, a two-bedroom unit (which assumes a household of three) and the developer's obligation calls for pricing at an AMI level of 95% (with income eligibility up to a maximum of 100% of AMI), the three-person household's income would be \$92,103 in 2016. 33% of that income level is \$30,394, or \$2,533 per month. This figure, \$2,533, is the target total monthly payment for housing costs for all households buying at this income level. If the household's HOA dues were \$600 per month, taxes were \$350 per month, and property insurance was \$50 per month, the total monthly income available to pay the first mortgage would be \$1,533 per month (i.e., $\$2,533 - \$600 - \$350 - \$50 = \$1,533$). Using a 5% interest rate on a 30-year, fixed-rate first mortgage, the supportable mortgage would be \$285,539. Assuming a 5% down payment (since the first mortgage would cover 95% of the purchase price), the affordable purchase price would be \$300,567.

#3: Resale Affordable Purchase Prices

When a household decides to sell its home, it notifies the City, and the City calculates the resale affordable purchase price, using the same AMI percentage and household size that were used to calculate the seller's affordable purchase price. To follow the example given above, the family of 3 earning 95% of AMI that bought its home for \$300,567 in 2016 might decide to sell the home five years later. The City will determine the resale price by taking the income for a 3-person household at 95% of AMI in 2021 and limiting payments for PITI to 33% of gross monthly income. The calculation will use the then current 10-year rolling average of rates, and the then-current HOA, tax, and insurance costs, and it will assume a 5% down payment by the new Eligible Buyer. So, for example, if the ten-year average interest rate increased 0.5% between 2016 and 2021, AMI increased 15%, and taxes and insurance increased 5%, the resale affordable purchase price would be \$367,606. After subtracting the cost of necessary repairs (if any) and closing costs, the seller would be entitled to the difference

between the old affordable price and the new affordable price. The example is shown numerically below:

95% AMI, 3-person HH income, 2016 (2021 + 15%):	\$105,918
33% of gross income:	\$34,953
Per month:	\$2,913
Monthly HOA dues, taxes & insurance, 2016 (2021 + 5%)	(\$1,050)
Monthly income available for 1 st mortgage:	\$1,863
Mortgage (assuming 5.5% interest, 30-yr fixed)	\$328,072
5% Down payment:	\$17,267
Resale Affordable Base Price:	\$345,339
MLS Realtor Commission (up to 5% of Base Price):	\$17,267
Eligible Capital Improvements:	\$5,000
Resale Affordable Purchase Price:	\$367,606
Resale Affordable Purchase Price:	\$367,606
Closing costs (6% of Purchase Price)	(\$22,056)
Repayment of full 1 st mortgage + down payment:	(\$300,567)
Owner's new equity:	\$44,983
Plus principal paid on the mortgage:	\$23,332
Plus return of owner's down payment:	\$15,028
Net Return to Owner:	\$83,343

By transferring this property from one 95% AMI household to another under the Program, the home remains affordable, the benefits of homeownership are passed along, and all owners have a chance to earn limited equity!

#4: Capital Improvements; Maintenance

As shown above, AMI levels and current housing costs such as interest rates, HOA dues, property taxes and insurance costs determine affordable prices. Eligible Capital Improvements credit and Multiple Listing Service listing realtor commission fees (up to 5% of the resale base price) may be added to the resale affordable price as provided in Section 6.3 of the Declaration.

Owners may begin claiming capital improvements in their resale price that are made ten (10) years after the initial sale of the property. Owner must follow the Capital Improvements policies and procedures as set forth in the Procedures Manual.

#5: Minimum Resale Value

As described above, the resale affordable purchase price is subject to factors that fluctuate over time, such as mortgage interest rates, taxes, and insurance costs. Because of the variability of these factors,

owners assume some risk when they purchase their homes! For example, if the interest rate used in the pricing calculation increases from the time of initial purchase to time of resale, and increases in AMI over that same time do not compensate for the interest rate increase, a resale affordable purchase price could actually be lower than the original price an owner paid. The MOHCD's use of the 10-year rolling average of interest rates is intended to minimize the interest rate risk at resale, but there is no guarantee that the 10-year average will not increase over time.

Owners are solely responsible for:

- Home Maintenance. Owner may not destroy or damage the property, allow the property to deteriorate, or otherwise commit waste on the property. Owner must maintain the property in compliance with all applicable laws, ordinances, and regulations and in a good and clean condition and all appliances and fixtures must be in good working order. Any damage by abnormal or excessive wear and tear or because of neglect, abuse, or insufficient maintenance, must be repaired as provided in Section 7.5 of the Declaration.
- Inspection and Repairs upon Resale. Owner shall follow the MOHCD's Property Inspection and Repairs Policy as it exists at the time of the proposed resale as set forth in Section 7.5 of the Declaration, and as further detailed at <https://sfmohcd.org/property-inspection>.
- First Mortgage Balance. If the resale affordable purchase price is insufficient to pay off the first mortgage, the owner is solely responsible for his/her mortgage debt beyond that adjusted resale affordable purchase price. Please note that the first mortgage lender will not release its lien unless the mortgage is repaid in full. If the first lender does not release its lien because the owner has not or cannot fully repay it, then the sale will be cancelled or the owner will be in default.

#6: Owner Refinancing

To protect its investment and to preserve the intent of the Program, the City must approve all refinancing agreements.

Owners must obtain MOHCD's prior written approval of any refinancing of a loan and the addition of any lien on the property regardless of lien position. At all times, the City's lien position must be maintained and

will only be subordinated as specifically provided in the MOHCD Subordination Policy. Owners must follow the MOHCD Subordination Policy at <https://sfmohcd.org/subordination-refinance>.

#7: Permissible Transfers & Resales

Owners may transfer the property only to an Eligible Buyer under the Transfer Procedures in Section 7 of the Declaration.

#8: City Purchase Option

While the City may purchase the home as an Eligible Buyer (in a standard sale transaction), it retains an option to purchase the home in the event of owner default under either the City Documents or the first mortgage.

#9: Owner Default and City Remedies

An owner is in default of the City Documents if any of the following occur:

- A transfer of the property in violation of the Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement;
- Use of the property other than as owner's primary residence (owners must certify annually that they occupy the home at least 10 months out of every 12);
- Renting or subleasing any part of the property is not permitted without the prior written approval from the City. No part of a property can be rented or subleased as a short-term rental or listed on short-term rental or vacation rental sites at any time. Renting of a parking space or any other space purchased with the property is also prohibited.
- Failure to pay required housing costs, such as taxes, homeowners association dues, assessments, or insurance;
- Placement of any mortgages, liens, or encumbrances on the property that the City has not approved;
- Any other violation of the City Documents; or
- A default on the first mortgage.

If an owner is in default and doesn't or can't cure the default within the times specified in the City Documents or first mortgage documents, the City can exercise its purchase option, commence an action for specific

performance or an injunction to prevent an impermissible sale, foreclose on its deed of trust, and/or exercise any other remedy permitted by law.

#10: City Promissory Note and Deed of Trust

To protect its investment, the City requires that all owners execute a promissory note and deed of trust when they purchase their homes. Its purpose is to protect the City's investment if an owner defaults on the first mortgage or City obligations. An owner default "triggers" the promissory note and City deed of trust, which secures the promissory note against the property and is recorded to provide public notice of the owner's obligations under the Program. In the case of default, the promissory note states that the owner must pay the City the entire principal balance and the Appreciation of the Note, together with all accrued and unpaid interest thereon, if any. The Appreciation is calculated as the amount equal to the difference between (i) Unrestricted Price, and (ii) the appraised fair market value of the property at the time of resale without regard to the Property Restrictions.

Financing for the 3-person, 95% AMI household can again illustrate the issue. This household had an affordable purchase price of \$300,567 with a BMR Note of \$499,433 (calculated based on the fair market value at the time of purchase \$800,000). If they defaulted on their loan, and fair market value was, for example, \$1,000,000, they would owe the City \$699,433 (plus default-related costs) under the City's promissory note.

If an owner transfers his/her property according to the Program requirements and complies with all other City and first mortgage obligations, the City will simply terminate the promissory note and deed of trust at resale.

#11: Transfer by Marriage, Domestic Partnership, and Inheritance

If an owner marries or enters a domestic partnership, the spouse or partner can become a co-owner but no sooner than 12 months after the original purchase. If Owners enter into a dissolution of marriage or Domestic Partnership after purchasing the property, an Owner may be removed from the title of the property on Owners' mutual agreement but subject to the City's prior written consent.

Upon the death of a property owner or owners, the home can be transferred by inheritance, will, or any other function of law to the Owner's child, spouse, or Domestic Partner provided that transferee is an Eligible Buyer. See the Transfer requirements and procedures as set forth in the Procedures Manual for details.

#12: Term

The term of the City Documents –the period of time that resale restrictions and all other City obligations-- apply for the life of the Project. Notwithstanding the foregoing, the Declaration will terminate on: (i) a Transfer of the property in compliance with the terms of the Declaration, and (ii) execution and recordation of a declaration with the same form and substance as the Declaration by the Eligible Buyer.

EXHIBIT W INSURANCE REQUIREMENTS

Subject to approval by the OCII Risk Manager of the insurers and policy forms, Developer must obtain and maintain, or caused to be maintained, the insurance and bonds as set forth in this Exhibit W throughout the Compliance Term of this Agreement, or in accordance with the timeframes stated herein, at no expense to OCII.

- A. Overview of Coverage Requirements. The following table summarizes required insurance policies and documentation. Please see Section B of this Exhibit W for more detailed descriptions of policy requirements.

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Commercial General Liability (see Section B.1)	\$1,000,000 per occurrence/ \$2,000,000 aggregate*	Borrower's design and professional contractors; and Borrower (prior to start of construction)	Additional insured (see Section G)
	\$10,000,000 per occurrence/ \$10,000,000 aggregate*	Borrower (upon construction start), general contractor, and subcontractors to the general contractor	Completed Operations Coverage endorsement (on construction stage policy) (see Section G)
Automobile Liability (see Section B.2)	\$1,000,000 per accident*	Borrower and Borrower's contractors	Additional insured (see Section G)
	\$10,000,000 per accident*	Upon construction start – general contractor and subcontractors to the general contractor	
Worker's Compensation and Employer's Liability (see Section B.3)	As per statute for Workers Comp; \$1,000,000 per accident; \$1,000,000 per employee; and in aggregate for bodily injury by disease as respects Employers Liability*	Borrower and Borrower's contractors	Waiver of subrogation
Professional Liability (see Section B.4)	\$2,000,000 per claim/ \$2,000,000 aggregate	Borrower if engaged in any eligible design-related activities; and Borrower's design and professional contractors	None
Crime/Dishonesty (see Section B.5)	\$1,000,000 per loss	Borrower	Loss payee endorsement

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Pollution Liability/Asbestos – During Construction (see Section B.6)	\$1,000,000 per claim/ \$2,000,000 aggregate	Borrower or Borrower’s construction contractor(s)	Additional insured (see Section G)
Builder’s Risk – During Construction (see Section B.7a)	100% of replacement value	Borrower	Loss payee endorsement
Property Insurance – After Construction Completion (see Section B.7b)	100% of replacement value	Borrower or Borrower’s property manager	Loss payee endorsement
Performance and Payment Bonds (see Section B.8)	100% of contract value (excluding the Modular Work)	Borrower’s construction contractors	OCII and Borrower named as dual obligees
Modular Factory Performance Insurance (see Section B.9)	100% of Supply Agreement value	Modular manufacturer	General contractor named as loss payee

** Umbrella, excess liability policy, or owner controlled insurance program (OCIP) may be used to meet limits (see Section D)*

B. Minimum Scope and Limits of Insurance. Borrower and/or Borrower’s Contractors must maintain insurance with limits no less than:

1) Commercial General Liability coverage, under Insurance Services Office occurrence form CG 00 01 or other form approved by OCII, with additional insured endorsement (form CG 20 10 or equivalent) (see Section G). Limits set forth below. Coverage must be included for contractual liability; explosion, collapse and underground (XCU); products and completed operations. Umbrella, Excess Liability, or an Owner Controlled Insurance Policy may be used to meet the terms of this section.

a. Before the start of demolition/construction if the Site is unoccupied, Borrower and Borrower’s Contractors will maintain coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit. These limit requirements apply to Borrower’s design and professional contractors throughout the required coverage period;

b. During demolition/construction and occupancy of the Site and ongoing operations of the Project, Borrower and its Construction Contractors and/or Property Manager will maintain coverage of not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence and Ten Million Dollars (\$10,000,000) general aggregate limit. For subcontractors to the Construction General Contractor and the Property Manager, the Borrower, in consultation with the Construction General Contractor and the Property Manager, as appropriate, is required to assess the risks associated with such contractors and determine, authorize, and verify the appropriate level of coverage provided by the subcontractor or consultant;

- c. The construction period general liability policy must include completed operations coverage for a minimum of ten (10) years. Borrower must provide a completed operations coverage endorsement (form CG 20 37 or equivalent) and OCII must be named as an additional insured pursuant Section G below.
- 2) Automobile Liability coverage for all owned, non-owned, scheduled, and hired automobiles under Insurance Services Office form number CA 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). If Borrower does not own any automobiles, Borrower must provide OCII a written statement confirming that no automobiles are owned, and OCII will accept an Automobile Insurance policy providing coverage for Symbol 8 (hired autos) and Symbol 9 (non-owned autos), with additional insured endorsement. One Million Dollars (\$1,000,000) per accident for bodily injury and property damage, combined single limit.
- 3) Worker's Compensation and Employer's Liability as required by the State of California. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). Employer's Liability coverage must provide limits of One Million Dollars (\$1,000,000) for bodily injury each accident; and not less than One Million Dollars (\$1,000,000) per employee; and One Million Dollars (\$1,000,000) in the annual aggregate for bodily injury by disease. If the Borrower does not have any employees, then evidence of Workers' Compensation and Employers Liability coverage required herein must be provided by either the Project Sponsor(s) or the all general partners of the Partnership, in lieu of such coverage being provided by the Borrower. Additionally, the Borrower must provide a written statement confirming that the Borrower does not have employees.
- 4) Professional Liability (Errors and Omissions) insurance, applicable to the Borrower's licensed design and professional contractors (architects, engineers, surveyors and other eligible consultants) and to the Borrower only if the Borrower or Sponsor has any employees providing design or engineering services. Two Million Dollars (\$2,000,000) for each claim and in the annual aggregate limit covering negligent acts, errors or omissions in connection with professional services to be provided in connection with the Project. If the Professional Liability insurance is "claims made" coverage, these minimum limits shall be maintained for at least ten (10) years beyond completion of construction. Borrower shall provide evidence of such required insurance for ten (10) years after completion of construction, or a ten (10) year extended reporting period endorsement. Any deductible over One Hundred Thousand Dollars (\$100,000) each claim must be reviewed and approved by OCII Risk Management.

Design professionals who utilize the services of subcontractors or consultants to complete work in connection with this project are required to assess the risks associated with such contractors and, with the authorization of the Borrower, determine and verify the appropriate level of coverage provided by the subcontractor or consultant. The design professional and the Borrower shall assume costs and expenses that may be incurred in fulfilling any indemnity obligations as to itself or any subcontractors or consultants for whom the design professional and/or the Borrower are legally liable in the absence of adequate subcontractor or consultant coverage.

- 5) Crime Policy or Fidelity Bond (Employee Dishonesty Coverage) covering Borrower and Developer's officers and employees against employee dishonesty, forgery & alteration, theft of money & securities, and theft via electronic means, endorsed to cover third party fidelity, covering all officers and employees with respect to the Funding Amount. One Million Dollars (\$1,000,000) each loss, with any deductible not to exceed Fifty Thousand Dollars

(\$50,000). Borrower must provide an endorsement naming OCII as an additional obligee or loss payee.

Application of Crime Insurance Proceeds. Borrower shall promptly notify OCII of any claim under the required Crime Insurance Policy. OCII may retain from the proceeds of the required Crime Insurance Policy, a sufficient amount of the proceeds to pay the Funding Amount, if any, and shall pay the balance to Borrower. For the avoidance of doubt, OCII shall have no right or claim to the proceeds of the required Crime Insurance Policy in excess of the Funding Amount.

- 6) Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than One Million Dollars (\$1,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) aggregate per policy aggregate, this coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Borrower's construction contractor to maintain these minimum limits for no less than three (3) years beyond completion of the Project.
- 7) Property Insurance
 - a. Builder's Risk Insurance during the course of any construction, special form coverage, excluding earthquake and flood, for one hundred percent (100%) of the replacement value of all completed improvements and OCII property in the care, custody and control of Borrower or its contractor, including coverage in transit and storage off-site, with a deductible not to exceed Fifty Thousand Dollars (\$50,000) each loss, including OCII as loss payee. Builder's Risk must be maintained by the Borrower or the Borrower must cause its general contractor to maintain this insurance.
 - b. Property Insurance after completion of construction, special form coverage, excluding earthquake and flood, but including vandalism and malicious mischief, and including boiler and machinery insurance, for one hundred percent (100%) of the replacement value of all furnishings, fixtures, equipment, improvements, alterations and property of every kind located on or appurtenant to the Site, including coverage for loss of rental income due to an insured peril for twelve (12) months, with a deductible not to exceed Twenty Five Thousand Dollars (\$25,000) each loss, including OCII as a loss payee. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). Borrower will carry property insurance until the last unit is sold.
- 8) Performance and Payment Bonds for eligible construction contractors during construction and/or rehabilitation, each in the amount of one hundred percent (100%) of contract amounts (excluding the Modular Work), naming OCII and Borrower as dual obligees, or other completion security approved by OCII in its sole discretion. OCII has approved issuance of a Completion Guaranty by an affiliate of Borrower to Borrower's institutional lender as completion security. This requirement shall not apply to modular manufacturer.
- 9) Performance Insurance. Borrower shall require its general contractor to obtain performance insurance that insures against delay in delivery of modules, up to the amount of Borrower's or Borrower's general contractor's contract amount for the delivery of modules for the construction of the Project. Borrower shall limit general contractor's use of proceeds from the performance insurance policy to be used to solely to reduce cost overruns in the

construction of the Project related to or caused by delay in the delivery of modules, and Borrower shall, and shall require general contractor, to obtain OCII's approval prior to expending such proceeds.

OCIP General Liability Language

The Borrower may implement a General Liability Owner Controlled Insurance Program (OCIP) to meet the general liability requirements in Exhibit W. If an OCIP is implemented by the Borrower, the Borrower shall provide the OCIP in accordance with the requirements of this Exhibit W and as required by this provision. The Borrower shall provide evidence of insurance that satisfies all requirements prior to the start of work, throughout the duration of the project and for the ten (10) year completed operations period.

The Commercial General Liability Insurance shall have limits of not less than \$1,000,000 each occurrence, \$2,000,000 general aggregate, and \$2,000,000 products-completed operations aggregate. The combined Umbrella or Excess Liability Insurance limits for the OCIP shall be not less than \$10,000,000 each occurrence, \$10,000,000 general aggregate, and \$10,000,000 products-completed operations aggregate. The OCIP shall provide coverage for the entire duration of the Project plus a products-completed operations extension for ten (10) years beyond completion of the work.

The Borrower and all enrolled parties shall be Named Insureds under the OCIP policies. The policy shall provide for separation of insureds and shall not contain an insured vs. insured exclusion. The policy shall be endorsed naming OCII parties per Section G.3 as additional insureds on ISO form CG 20 10 for ongoing operations and CG 20 37 for completed operations, or on other forms as approved by OCII. The policy shall provide additional insured coverage for the ten (10) year completed operations period.

The OCIP excess policies will follow form. If excess policies contain specifically issued additional insured endorsements, the additional insured coverage shall follow form with the primary commercial general liability policy.

The Borrower shall provide 60 days prior written notice to the OCII if any OCIP coverage at any layer is cancelled, non-renewed, or of any material reduction in coverage.

The Borrower shall ensure that all parties excluded from the OCIP obtain the required insurance and collect and maintain evidence of insurance and endorsements from all parties excluded from the OCIP. The Borrower shall require and ensure that the parties in Section G.3 are named as additional insured as required by this Exhibit F.

The required OCIP insurance coverages and limits are solely for the protection of OCII and there is no assurance that the scope or limits of coverage required are sufficient to protect the interest of the Borrower, Enrolled Parties or other parties. Nothing contained herein shall limit the liability of the Borrower, Enrolled Parties or excluded parties to OCII, additional insureds or to claims by third parties.

EXHIBIT X MARKETING PLAN

For MOHCD Use Only

Marketing plan submitted on:

Status: ☐ Pending ☐ Approved

City and County of San Francisco San Francisco Mayor's Office of Housing and Community Development (MOHCD) Below Market Rate (BMR) Limited Equity Program (LEP) Marketing Plan for New Ownership Units

This marketing plan may be updated from time to time at the discretion of MOHCD.

You must complete the BMR LEP Pricing Request for New Ownership Units and receive pricing for your units before submitting this marketing plan. The final approved information in your pricing request is considered a part of this marketing plan submission. If you have changes to your pricing request, you must resubmit the request before submitting this marketing plan.

You must also review marketing requirements as set forth in (1) Disposition and Development Agreement (DDA) or Owner Participation Agreement (OPA) for your project; (2) [the LEP Loan Disclosure Book](#); (3) [the City and County of San Francisco Inclusionary Affordable Housing Monitoring and Procedures Manual as amended from time to time](#); and (4) [the MOHCD Housing Preferences and Lottery Procedures Manual](#) as amended from time to time before completing this form. In this marketing plan, you must indicate how you will market Units to persons with disabilities, and how will you implement a priority for persons with disabilities. Also, include your reasonable accommodation policy. Describe the Concierge Program tailored to COP holders, and the methods that will be used to shepherd other Occupancy Preference groups.

Special Note: LEP projects were initially approved by the Office of Community Investment and Infrastructure (OCII) and transferred to MOHCD for oversight.

This marketing plan is subject to City review within 15 business days from the date it is received and complete. **Please set all advertising dates in this plan with no date sooner than 45 calendar days before the date of your plan submission. Please do not commence with advertising until you receive a written approval from MOHCD.**

Please complete and return this form as a "Word" document so that our office may track changes directly onto the document. The approval process typically involves a back-and-forth process between MOHCD and the developer's representative.

Please do not submit incomplete plans. Submission of an incomplete plan will not be accepted, thus causing processing delay. Please submit this plan to Cissy Yin at cissy.yin@sfgov.org.

GENERAL BUILDING INFORMATION

(Suggestion: You may cut and paste Section I-IV from your approved pricing request form into this marketing plan template. This is the exact information requested in such.)

Today's Date	
Proposed Marketing Launch Date <i>(Must be no sooner than 45 days from date your submit your marketing plan)</i>	
Pre-Marketing Meeting with MOHCD <i>(Must be no sooner than 21 days prior to marketing plan submission)</i>	<i>Please list at least 2 dates/times to meet with MOHCD staff to discuss your marketing requirements</i>
Name of Building	
MOHCD Project ID (MOHCD can provide)	
Block/Lot (before subdividing)	
Property Address as Stated in Restriction Documents	
Property Address (Street address used for marketing and mailing to new owners)	
Address to Be Used in Official Closing Documents (address reported to Title Co.)	
Restriction Documents and Dates (DDA/OPA or other regulatory agreements)	
Name of City and Co. of SF Planner or OCII Staff Contact	
Date of Building Permit Issuance	
Temporary Certificate of Occupancy	☐ Expected or ☐ Actual Date:
Final Certificate of Occupancy	☐ Expected or ☐ Actual Date:
Date on Which BMR Unit(s) can be Occupied by Owner(s) <i>(Must be no later than 5 months from your proposed marketing launch date)</i>	

I. PROJECT AND BUILDING REPRESENTATION

Developer Information (for internal use only; please do not omit)

Name of LLC	
Name of Development Company (not LLC)	
Developer Contact Person	
Developer Address (including City/State/Zip)	

Developer Phone	
Developer Email	

Owner Information (internal use only; please do not omit. If same as developer, write “same as above”)

Name of Building Owner	
Building Owner Contact Person	
Building Owner Address (including City/State/Zip)	
Building Owner Phone	
Building Owner Email	
What year did the owner assume ownership of the building?	

Marketing Firm Information

Marketing Firms must have experience in marketing to and working with low- and moderate-income first time homebuyers; language capacity in all City official languages (Spanish, Chinese, Filipino, English); cultural sensitivity and demonstrated awareness of the needs of San Francisco’s diverse populations; and have experience with Microsoft Office Suite and similar technology.

Name of Marketing Firm	
Marketing Contact Person	
Marketing Agent Address (including City/State/Zip)	
Marketing Agent Phone	
Marketing Agent Email	

Title/Escrow Company Information

Title Company for Development	
Escrow Officer	
Address (including City/State/Zip)	
Escrow Officer Phone	
Escrow Officer Email	

II. BUILDING COMPOSITION

Number of Floors in the Building	Total Number of Floors	
	Residential Floors	
	Commercial Floors	

Total Unit Count in Building	Total Units (BMR and Market Rate)	
	Market Rate Only	
	BMR Only	

Please list the total number of units by bedroom size and price range of market rate units.

Unit Type	Total Number Units (Market Rate and BMR Combined)	Number of BMR Units	Number of Market Rate Units	Bath Count (in BMR Units)	Bath Count (in Market Rate Units)	Price Range of Market Rate Units
SRO						
Studio						
Jr. 1 Bedroom						
1 Bedroom						
1+ Bedroom						
2 Bedroom						
2+ Bedroom						
3 Bedroom						
3+ Bedroom						
4 Bedroom						
Other						
Total						

Please provide detailed description of BMR units by bedroom size. (Please indicate the accessible units.)

Unit No.	Block & Lot	Bedroom Count (0, 1, 2, 3 or 4)	Bath Count	Square Feet	Floor #	Building # (if applicable)	Monthly CFD/Special Assessment	Initial HOA Dues w/o Parking	Initial HOA Dues w/Parking

III. CAR AND BIKE PARKING

Car Parking Spaces in Building	Total	
	Commercial	
	Residential (Market Rate and BMR combined)	
	Residential (Market Rate Only)	
	Residential (BMR Only)	
	Car Share (if applicable)	
	Other:	

What is the total number of Bike Parking Spaces in the Building?	
Will Market Rate Parking Spaces be sold separately or Included in the Sales Price?	☐ Sold Separately ☐ Included in the Sales Price ☐ NA

(Note: 100% of parking spaces in the building must be sold separately from residential units in order for the development to be considered to have “unbundled” parking. Developments must be able to demonstrate through marketing efforts and through sales contracts that parking is an additional cost for all market rate units in the building in order to apply the unbundled parking policy to the BMR units.)

Please provide the following parking information for the Building.

(Market rate parking price per space information is for internal use only. Do not omit.)

Type of Parking Space	Check	Market Rate Parking Price Per Space
Surface/Above Ground Level	☐	
Below Ground	☐	
Stacker	☐	
Other:	☐	

The following sections are new information and not part of the Pricing Request Form.

IV. HOMEOWNER ASSOCIATION (HOA) INFORMATION

HOA Name	
HOA Management Company Name (if different from HOA name)	
HOA Management Company Address (including City/State/Zip)	
HOA Management Contact Person	
HOA Management Phone	
HOA Management Email	

V. AMENITIES AND FINISHES

I understand that the amenities, finishing and construction of the BMR units must be comparable to the market rate units in that they must be new and of good quality. I understand that formal language regarding this rule is outlined in the Disposition and Development Agreement (DDA) or Owner Participation Agreement (OPA).

Market Rate Units: Appliance and Maker/Model/Color (e.g. refrigerator – Maytag 2009 Ultimo Stainless Steel)	BMR Units: Appliance and Maker/Model/Color (e.g. refrigerator – Maytag 2009 Ultimo White)
Refrigerator:	Refrigerator:
Washer/Dryer:	Washer/Dryer:
Stove/Range:	Stove/Range:
Microwave:	Microwave:
Dishwasher:	Dishwasher:
Garbage Disposal:	Garbage Disposal:
Other:	Other:
Market Rate Units: Finishings and Type (e.g. flooring – oak)	BMR Units: Finishings and Type (e.g. flooring – pergo)
Flooring: Provide details unless the same flooring listed above is used throughout the unit. Kitchen Area: Living room: Bathroom(s): Bedroom(s): Other:	Flooring: Provide details unless the same flooring listed above is used throughout the unit. Kitchen Area: Living room: Bathroom(s): Bedroom(s): Other:
Cabinets:	Cabinets:
Countertops:	Countertops:
Other:	Other:

VI. LENDING CIRCUMSTANCES

Is there anything MOHCD should know about your building in terms of buyer's ability to secure loans (e.g. too many renters, insufficient reserves, a pending lawsuit, etc.)? Yes ☐ / No ☐

If yes, please explain below:

How many market rate units in the building are sold and conveyed or under executed contract to owner-occupants for use as a primary residence or second home? _____ (if none, enter "0")

Has a new parcel number been assigned to each BMR unit (i.e. mapped/subdivided)? Yes ☐ / No ☐

If no, please indicate the pending items from the final mapping (parcel subdivision), and the expected date to get the final map recorded.

Pending Items:

Expected Date:

I/We understand that a BMR unit may be required to be finally mapped and subdivided prior to closing. If a BMR unit were sold prior to final mapping and subdivision, the BMR owner's property taxes must be allocated based on the restricted BMR sales price. Yes ☐ / No ☐

VII. PREFERRED LENDERS

Please note that BMR buyers must be allowed to use any MOHCD-approved lender for their final loan regardless of the presence of preferred lenders in the building.

In order for your preferred lenders to provide loan pre-approvals to BMR applicants, they must already be approved by MOHCD with an "X" marked under BMR. Are your preferred lenders currently listed on the list of [MOHCD-approved BMR lenders](#)? Yes ☐ / No ☐

If yes, please name them below:

Bank/Brokerage Name	Loan Officer/Broker Name	Contact Information

VIII. BUYER REPRESENTATION

All realtors in a BMR transaction must: (i) be licensed by the California Bureau of Real Estate; (ii) represent a BMR buyer in all aspects of the transaction; and (iii) be compensated by the Project Sponsor at the same rate as fees paid to realtors of market rate units in the Project.

- **No Realtor Representation:** In the case where no buyer's realtor in a Project is provided commission for realtor representation and the Project Sponsor's realtor serves as the agent for all buyers in the Project, the Project Sponsor's agent must represent the BMR buyer.
- **Realtor Representation:** In the case where commission is being paid to the realtor of any buyer in a Project, the Project Sponsor must either: (1) pay commission to the realtors of all BMR buyers in the amount comparable to fees paid for non-BMR buyer representation; OR (2) work in partnership with a MOHCD-approved community-based non-profit agency to assist with additional homebuyer education, timely application submittals, and marketing and outreach activities. In such case, the Project Sponsor's realtor, with proper disclosure and authorization, must act as the dual agent and represent all parties in the transaction. For more information on this option, please contact Shannon Way at shannon@homeownershipsf.org.

For market rate units: Will you be providing commission for any market rate buyer's realtor in your building? Yes ☐ / No ☐

If yes, please explain the arrangement below, including commission percentage and rules for registering as a realtor for a market rate buyer:

For BMR units: I/we will be (select one):

- ☐ a) Providing commission for realtors representing the BMR buyers; or
☐ b) Working in partnership with a MOHCD-approved community-based non-profit agency

If a) above is selected, please explain the arrangement below, including the commission percentage and rules for registering as a realtor for a BMR buyer:

If b) above is selected, please attach a copy of the fee-for-service arrangement as a part of your marketing plan submission.

Will you represent buyers who do not have a realtor? Yes ☐ / No ☐

If no, please explain below:

IX. TRANSACTION FEES

I/We understand that the seller will pay all fees detailed in the 2018 Inclusionary Housing Program Monitoring and Procedures Manual, including the payment of the transfer tax and realtor's fee for all BMR units. Yes ☐ / No ☐

X. BUYER QUALIFICATIONS: MOHCD

In addition to other rules set forth in the Disposition and Development Agreement or Owner Participation Agreement, BMR buyers must also meet the qualification rules set forth in the City and County of San Francisco Affordable Housing Monitoring Procedures Manual 2018. I/We have read and understood the buyer qualification rules under the Limited Equity Homeownership Program. Yes ☐ / No ☐

XI. BUYER QUALIFICATIONS: YOUR BUILDING

I/We understand that no part of a BMR Unit can be rented or subleased as a short-term rental or listed on short-term rental or vacation rental sites at any time. Renting of a parking space or any other space purchased with the Unit is also prohibited. Yes ☐ / No ☐

I/We further understand that the BMR Sales Contract must contain at least a 45-day financing contingency period and at least a 60-day close of escrow period. BMR sales transactions are sometimes extended beyond the 60-day period to accommodate both the buyer and the seller. Yes ☐ / No ☐

Does the CC&R's of your building or any other restriction document dictate rules about: (1) who is eligible to purchase a unit; (2) what is the maximum allowable annual increase in HOA dues and assessments; or, (3) other? Yes ☐ / No ☐

If yes, please explain below:

Does the HOA establish a maximum household size by unit type by bedroom count? Yes ☐ / No ☐

If yes, please explain below:

Does your building have any additional buyer rules that would affect the qualifications of the BMR buyer? Yes ☐ / No ☐

If yes, please explain below:

XII. MARKETING STRATEGY

Advertising

I/We understand that BMR units must be advertised must be advertised in: (i) at least five (5) local newspapers that reach diverse low-, median-, and moderate-income communities in San Francisco for a continuous period of at least the first three (3) weeks of the required marketing period; and (ii) three (3) social media outlets like Facebook, Twitter, Next Door, Craig's List, throughout the required marketing period. Ads must appear in the "housing", "real estate" or "community" sections of the publications. I/We understand that I/we must save copies of our BMR ads and make them available to MOHCD at the culmination of our marketing period.

I/We will post in the following five (5) local venues throughout the first 3-week period at least one time each week:

Newspaper or publication (choose one)	Exact Advertisements Dates
<i>Suggestion: Bayview or Sun Reporter (African American audience)</i>	
<i>Suggestion: El Tecolote or La Opinion de la Bahia (Spanish language audience)</i>	
<i>Suggestion: Philippine News or Asian Journal (Filipino language audience)</i>	
<i>Suggestion: Singtao Daily or Asian Weekly (Chinese language audience)</i>	
<i>Suggestion: Bay Reporter or other publication (LGBT audience)</i>	
<i>Suggestion for Other: Choose a paper that is local to the building</i>	

I/We will announce the affordable housing opportunity in at least three (3) non-print electronic media outlets throughout the entire marketing period.

Social Media Activity (e.g. Facebook, Twitter, Next Door, Craig's List, Website)	Advertisement Period (Enter the entire marketing period)
1.	
2.	
3.	

Real Estate Search Engine Site (e.g. Zillow, Realtor.com, Redfin)

I/We will announce the affordable housing opportunity in at least one leading real estate search engine site at _____ throughout the entire marketing period. I/We will use the MOHCD-approved ad language in addition to any other details, with both internal and external photos of the BMR units. I/We will email MOHCD the link of the listing at least 24 hours before the MOHCD posting date.

Website

I/We will create a website for the BMR units or create a link for the units on our existing website at _____. (A BMR website is not a requirement, but it is recommended.)

Outreach to Board of Supervisors

I/We will announce the affordable housing opportunity at least twice to the Board of Supervisors District Office where the project is located by providing a copy of the marketing flyer. The contact information for the Board of Supervisors can be found at <https://sfbos.org/roster-members>.

Board of Supervisor's Name		
Board of Supervisor Staff Contact Person		
Staff Contact Phone Number(s)		
Staff Contact Person Email(s)		
1 st Notification Method (e.g., email, phone, in-person delivery)		Date:

2 nd Notification Method (e.g., email, phone, in-person delivery)		Date:

All newspaper ads and postings must state income maximums by household size; buyer qualifications; sales team contact information as the primary contact; and identify MOHCD as the monitor of the BMR program. Ads may refer applicants to the MOHCD website at www.sfmohcd.org but will not list MOHCD telephone numbers or email addresses. A copy of the wording to be used in all advertising will be sent to MOHCD for initial review. All postings will display an “Equal Housing Opportunity” symbol on all marketing materials, advertisements and notices at the sales office:



Sample Ad Language

6 new “Below Market Rate” homes for sale at 333 Birch Street

1 studio, 3 one-bedrooms and 2 two-bedroom homes priced from \$315,000 – \$330,000 with parking and \$260,000 – \$280,000 without parking.

Applicants must be first-time homebuyers and cannot exceed the following income levels:

100% of Area Median Income 2019

One person - \$86,200; 2 persons - \$98,500; 3 persons - \$110,850; 4 persons - \$123,150 etc.

[Use the following if you’re working in partnership with HomeownershipSF; **DELETE** this instruction and the below option]

Applications must be received by 5PM on Thursday, July 11, 2019. Apply online through DAHLIA, the SF Housing Portal at <https://housing.sfgov.org> or mail in a paper application with a self-addressed stamped envelope to BMR 333 Birch, P.O. Box 420847, San Francisco, CA 94142. Postmarks will not be considered. Paper applications can be downloaded from <https://housing.sfgov.org> or picked up from one of the 5 approved housing counseling agencies listed at <https://sfmohcd.org/homebuyer-counseling-agencies>. For more information or assistance with your application, contact HomeownershipSF at (415) 202-5464 or info@homeownershipsf.org. For questions about the building and units, contact the Green Company at (415) xxx-xxxx or 333birchbmr@green.com.

[Use the following if you’re not working in partnership with HomeownershipSF; **DELETE** this instruction and the above option]

Applications must be received by 5PM on Thursday, July 11, 2019. Apply online through DAHLIA, the SF Housing Portal at <https://housing.sfgov.org> or mail in a paper application with a self-addressed stamped envelope to BMR 333 Birch, P.O. Box 420847, San Francisco, CA 94142. Postmarks will not be considered. Paper applications can be downloaded from <https://housing.sfgov.org> or picked up from the Green Company at 333 Birch Street, San Francisco, CA 94115. For more information or assistance with your application, contact the Green Company at (415) xxx-xxxx or 333birchbmr@green.com.

Units available through the San Francisco Mayor’s Office of Housing and Community Development and are subject to monitoring and other restrictions. Visit www.sfmohcd.org for program information.



I/We will use the following ad language when advertising the BMR units.

Your Proposed Ad Language

Building Signage (required for 2 or more BMR units)

I/We understand that I/we shall prominently display MOHCD prescribed and approved signage on the construction site of any project that will include two or more BMR units. The signage should be no smaller than 5' by 5' and indicate the number and type (for sale or for rent) of BMR unit in the project and include a web address and/or telephone number for interested applicants to learn more. I/We further understand that I/we must provide MOHCD with a picture of the signage at the culmination of our marketing period.

See a template of the signage attached to the end of the Marketing Plan (Attachment D).

Outreach Materials

I/We understand that our project must provide: 1) a flyer and (2) a COP postcard **as a part of this submission** for the BMR units available that includes the following information.

- Reference to MOHCD BMR program
- All applicable lottery preferences (must appear on flyer only, not COP postcard)
- Maximum Qualifying Incomes
- Sales Prices
- Description of Units
- Exterior and Interior (if available) Photo of the Development
- Information Sessions date, time and location (if applicable)
- Lottery date, time and location (indicate "attendance is optional")
- Open house dates
- Information on how to obtain an application
- Equal Housing Opportunity Logo

See sample COP Postcard and BMR flyer attached to the end of the Marketing Plan (Attachment B&C).

Outreach to Certificate of Preference Holders

I/We understand that we are responsible for marketing our BMR units to Certificate of Preference (COP) holders. COP holders are primarily households displaced in Redevelopment Project Areas during the 1960's and 1970's, but may also include other persons displaced by Agency action. For more information, applicants may contact 415-701-5526.

I/We understand that I/we shall provide postcards for the mailing of an affordable housing announcement to all Certificate of Preference holders. We are responsible for printing the post cards using the information provided by MOHCD. MOHCD shall coordinate the mailing and invoice the developer for the full cost of the first class mailing, including postage and labels.

Outreach to Residents of the Immediate Neighborhood

I/We understand I/we must present a strategy for reaching out to the local community surrounding the building. Suggestions include posting flyers in local community meeting places, posting the units in local papers, and reaching out to local community groups. This strategy is above and beyond your ad placements. At a minimum, list 10 local venues in which you will post your flyer or otherwise distribute your flyer.

Your Strategy for Marketing to Residents of the Immediate Neighborhood

Please provide flyers and proof of outreach to the organizations listed below (please include address, contact person, phone number and/or email address):

Strategy for Collaborating with First-time Homebuyer Counseling Agencies

MOHCD encourages BMR sales agents to work with the 5 City-approved nonprofit first-time homebuyer counseling agencies that are list on our website at www.sfmohcd.org and with www.homeownershipsf.org to market BMR units to eligible and prepared low to middle-income homebuyers in San Francisco.

Although not required, developers have the option of entering into a fee-for-service arrangement with HomeownershipSF to conduct marketing and outreach activities, provide additional homebuyer education, and assure timely application submittals. For more information on this option, please contact Shannon Way at shannon@homeownershipsf.org.

Your Strategy for Collaborating with First-time Homebuyer Agencies and HomeownershipSF

Please email a copy of your flyer to the HomeownershipSF staff member listed below:
catalina@homeownershipsf.org

More details about your plan here.

Strategy for Language Access

I/We understand that we must be able to provide assistance to applicants who may not speak English. More information about the Language Access Ordinance can be found here: <http://sfgov.org/oceia/language-access-services>. Please list the languages spoken by your office staff. Describe how language assistance in Cantonese, Spanish and Tagalog will be provided and include your strategy for reviewing applications submitted in these languages (i.e., translation service used, in house assistance available, etc.).

Throughout the marketing period, I/we understand that we must have copies of the SF Housing Resource Guide available in all four languages for applicants who require additional assistance or referrals to housing counseling. The SF Housing Resource Guide is available on the MOHCD website here: <http://sfmohcd.org/san-francisco-housing-resource-guide>.

Furthermore, I/we understand that assistance in these languages should be provided at the lottery/information session. Please indicate whether you have the capacity to provide this service.

Your Strategy for Providing Language Access

XIII. Review of Program Documents

We certify that all agents involved in the process of selling/buying BMR units have read and reviewed the following documents at www.sfmohcd.org:

- Disposition and Development Agreement (DDA) or Owner Participation Agreement (OPA)
- [Limited Equity Loan Disclosure Book](#)
- City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual 2018 - <https://sfmohcd.org/inclusionary-housing-program-manuals>
- MOHCD Housing Preferences and Lottery Procedures Manual - <https://sfmohcd.org/inclusionary-housing-program-manuals>
- LEP BMR Program Overview - <http://sfmohcd.org/homebuyer-program-eligibility>
- BMR Ownership Program Application - <http://sfmohcd.org/homeownership-application>

I have included the following documents with my request: (Please check)

- ☐ Attachment A: DAHLIA Web Posting
- ☐ Attachment B: COP Postcard
- ☐ Attachment C: Marketing Flyer
- ☐ Market Rate Pricing Sheet

☐ As a licensed Real Estate broker or sales representative for the seller, I understand that I will comply with all City, State and Federal laws affecting the sale of a housing unit. I will comply with all fair housing regulations. I certify that all necessary permits, public reports associated with the sale of the property are in place and have been approved by the governing body required to review and approve those documents.

Please complete the following except the signature and date.

Representative (signature) Do not sign until this plan is approved by MOHCD

Representative (print)

Title (print)

Company (print) _____

Date (print) _____ Do not date until this plan is approved by MOHCD

☐ As the seller, I have reviewed and approved the Marketing Plan and its related marketing documents.

Building Owner (signature) _____ Do not sign until this plan is approved by MOHCD

Building Owner (print) _____

Company (print) _____

Date (print) _____ Do not date until this plan is approved by MOHCD

Attachment A

DAHLIA Web Posting – Please Complete

I/We understand that BMR units must be posted on the MOHCD website for 45 calendar days prior to the application deadline. The following template will be posted on the MOHCD website under “Available Homeownership Listings” during the marketing period. The text in red and italics serves as instructions and shall be removed as you complete each field.

Please complete this template accurately and thoroughly.

Posting date	<i>Must be at least 45 days from the date of the submission of this marketing plan</i>																																													
Program	Limited Equity Home Ownership Program																																													
Type of unit	<i>Choose</i> Condo, Townhouse or Detached Single Family Home																																													
Name of building																																														
Address (including city/state/zip code)	<i>Address to be used in official closing documents</i>																																													
Unit Numbers																																														
Number of bedrooms	<i>e.g. 1 studio; 2 two-bedrooms; 3 two-bedrooms</i>																																													
Number of bathrooms	<i>e.g. 1 bathroom for studio and one-bedrooms, and 2 bathrooms for 2-bedrooms</i>																																													
Square footage	<i>e.g. 450-1,500</i>																																													
Year built																																														
Neighborhood Name	<i>Enter City Analysis Neighborhood Map to look up Neighborhood.</i>																																													
Supervisory District	<i>Use San Francisco Planning Information Map to look up Supervisory District. Enter Supervisory District #</i>																																													
Sales Price (for each BMR unit)	<i>List sales price range from lowest to highest with and without parking, e.g. \$220,755 - \$287,826 without parking \$298,216 - \$372,430 with parking</i> <table border="1" data-bbox="532 1268 1539 1524"> <thead> <tr> <th>Unit No.</th><th>Bedroom Count</th><th>Bath Count</th><th>Square Feet</th><th>Floor #</th><th>HOA Dues w/o Parking</th><th>HOA Dues w/Parking</th><th>Price w/o Parking</th><th>Price w/Parking</th></tr> </thead> <tbody> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>	Unit No.	Bedroom Count	Bath Count	Square Feet	Floor #	HOA Dues w/o Parking	HOA Dues w/Parking	Price w/o Parking	Price w/Parking																																				
Unit No.	Bedroom Count	Bath Count	Square Feet	Floor #	HOA Dues w/o Parking	HOA Dues w/Parking	Price w/o Parking	Price w/Parking																																						
Monthly Homeowner Association (HOA) Dues (for each BMR unit)	<i>List HOA dues range from lowest to highest with and without parking, e.g. \$520.39 - \$696.85 without parking \$578.39 - \$754.85 with parking</i>																																													
What the HOA dues cover																																														
Covenants, Conditions & Restrictions (“CC&R’s”) for the building	<i>Add a link to the following sentence.</i> To review the Covenants, Conditions & Restrictions for this building, please click here.																																													
Smoking Policy																																														
Pet Policy																																														

Parking	One parking space is included in the sale price of each unit. The parking space will be resold with the unit within the maximum resale price.																																
Area Median Income for Qualifying for Unit	75% of Area Median Income (AMI) <i>or</i> 95% of Area Median Income (AMI) <i>or</i> 80% of Area Median Income (AMI) <i>or</i> 100% of Area Median Income (AMI)																																
Maximum Allowable Income Levels	Maximum household income must not exceed the following amounts by household size: 80% of Maximum Income by Household Size derived from the Unadjusted Area Median Income (AMI) for HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco 2019 <table border="1"> <thead> <tr> <th>Household Size</th><th>Maximum Income at 80% of AMI</th></tr> </thead> <tbody> <tr><td>1</td><td>\$68,950</td></tr> <tr><td>2</td><td>\$78,800</td></tr> <tr><td>3</td><td>\$88,700</td></tr> <tr><td>4</td><td>\$98,500</td></tr> <tr><td>5</td><td>\$106,400</td></tr> <tr><td>6</td><td>\$114,300</td></tr> <tr><td>7</td><td>\$122,150</td></tr> </tbody> </table> <i>or</i> 100% of Maximum Income by Household Size derived from the Unadjusted Area Median Income (AMI) for HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco 2019 <table border="1"> <thead> <tr> <th>Household Size</th><th>Maximum Income at 100% of AMI</th></tr> </thead> <tbody> <tr><td>1</td><td>\$86,200</td></tr> <tr><td>2</td><td>\$98,500</td></tr> <tr><td>3</td><td>\$110,850</td></tr> <tr><td>4</td><td>\$123,150</td></tr> <tr><td>5</td><td>\$133,000</td></tr> <tr><td>6</td><td>\$142,850</td></tr> <tr><td>7</td><td>\$152,700</td></tr> </tbody> </table> (Households must be at least as many people as bedrooms in the unit. Please visit www.sfmohcd.org for larger households.)	Household Size	Maximum Income at 80% of AMI	1	\$68,950	2	\$78,800	3	\$88,700	4	\$98,500	5	\$106,400	6	\$114,300	7	\$122,150	Household Size	Maximum Income at 100% of AMI	1	\$86,200	2	\$98,500	3	\$110,850	4	\$123,150	5	\$133,000	6	\$142,850	7	\$152,700
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5	\$133,000																																
6	\$142,850																																
7	\$152,700																																
Appliances																																	
Amenities																																	
Date on which BMR unit(s) can be occupied by owner	<i>Must be no later than 5 months from your proposed marketing launch date</i>																																
Other qualification notes	All potential buyers must review the Limited Equity Loan Disclosure Book and																																

	2018 Inclusionary Affordable Housing Program Monitoring and Procedures Manual that governs this property. Buyers will sign an acknowledgement that they have read and understood this document when purchasing a BMR unit. Applicants must secure a loan preapproval and a final loan through a MOHCD Participating Lender who have an “X” marked under BMR. All titleholders must complete a first-time homebuyer workshop through one of the City’s 5 approved first-time homebuyer counseling agencies in order to apply. Please visit http://homeownershipsf.org/workshops for a schedule of upcoming classes. Verification of Homebuyer Education Completion from a MOHCD approved first-time homebuyer workshop is required. Verification of Homebuyer Education Completion is valid for 1 year from the date of issuance. A copy of the First Mortgage Pre-Approval and Verification of Homebuyer Education for every adult household member on loan and title to the BMR unit must be included with the BMR Lottery Application. Applicants with financial needs are encouraged to apply for down payment assistance. • BMR Downpayment Assistance Loan Program (BMR DALP): A deferred down payment assistance loan available to qualified households for up to 15% of the purchase price. • Teacher Next Door Program (TND): A loan assistance program for active educators serving the SFUSD. • Mortgage Credit Certificate (MCC): A certificate that allows first-time homebuyers to claim a tax credit for up to 15% of the annual mortgage interests paid. There is an application fee if applying for MCC. • Federal Home Loan Bank’s WISH program provides up to \$15,000 in matching funds for down payment assistance. Please ask your mortgage lender for more information. All MOHCD Participating Lenders should explore these options with BMR buyers. Households must be as many people (or more) as number of bedrooms in the unit to apply. See other qualification rules in the Limited Equity Loan Disclosure Book and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual.
Contact person (realtor/sales agent)	<i>Please include the sales agent’s California BRE license information.</i>
Company Name and Address (including city/state/zip code)	<i>Enter</i>

Office Hours (including any special message)	<i>Example:</i> Monday-Friday 10am-5pm. Please call, email, or text to schedule an appointment. <i>Enter</i>
Phone	<i>Enter</i>
Email	<i>Enter</i>
Website	
Realtor commission	Are buyers' realtors eligible for commission on these BMR units? Yes ☐ / No ☐ If yes, what percentage of the sales price will be offered to the buyer's realtor? If yes, how does a BMR buyer "register" his or her realtor in order for the realtor to obtain cooperating broker commission?
How to submit a lottery application	Applications must be submitted in either of the following ways: 1. Apply online through the SF Housing Portal at: https://housing.sfgov.org OR 2. Mail in paper application to the following address: BMR INSERT YOUR PROJECT NAME PO Box 420847 San Francisco, CA 94142 If you choose to mail in a paper application, you must also include a self-addressed stamped envelope with the application in order to receive your lottery ticket. Paper applications can be downloaded from https://housing.sfgov.org/ or picked up from [one of the 5 approved housing counseling agencies listed at https://sfmohcd.org/homebuyer-counseling-agencies .] OR [the Green Company at 333 Birch Street, San Francisco, CA 94115.] For more information & assistance with your application, contact [HomeownershipSF: (415) 202-5464 or info@homeownershipsf.org] OR [The Green Company: (415) xxx-xxxx or 333birchbmr@green.com.]
Application deadline	<i>Set the application deadline no sooner than 45 calendar days from the posting date</i> _____, 5pm Applications must be <u>received</u> in paper form (no faxes or emails) by 5pm on the date of the deadline. Postmarks will not be accepted. Applications received after the application deadline will not be accepted.
Open houses	<i>Please complete. Must hold at least 3 open houses, 1 on a weekday evening, 1 on a weekend day and another date/time of your choice. Open houses must be at least 2 hours long.</i>
Information session(s)	<i>Required for 10 or more BMR units only.</i> Weekday - Date: _____ Time: <i>(must be between 5pm and 7pm)</i>

	Location: Mayor's Office of Housing and Community Development 1 South Van Ness Avenue, 5th Floor San Francisco, CA 94103 <i>Please plan to send a member of your sales team to talk about the building.</i>
Lottery date, time and location	<i>All lotteries for new units will be held at the MOHCD office unless a larger space is needed. Please request a date no sooner than 21 calendar days after your application deadline for projects with 5 or more units. For projects with 5 or less units, please request a lottery date no sooner than 14 calendar days. MOHCD will contact you to confirm the lottery date/time.</i> <i>Enter date, time and location. Please do not hold lottery on a Monday or Friday.</i> Date: Time: Location: Mayor's Office of Housing and Community Development 1 South Van Ness Avenue, 5th Floor San Francisco, CA 94103 Applicants do not need to be present at the lottery. Lottery results will be posted here within one week of the lottery.
Date Lottery Results will be posted	<i>7 Calendar days from the date of the lottery</i>
Lottery preferences	<u>All</u> individuals and households may enter the lottery for a BMR unit. However, in accordance with the Developer's Marketing and Operating Obligations, the following lottery preferences will apply to this Redevelopment Project: 1. Certificate of Preference (COP) - Western Addition Residential A and C Certificate of Preference Holders. More information about the COP Program can be found here: http://sfmohcd.org/certificate-preference. 2. Certificate of Preference (COP) - Hunter's Point Residential A and C Certificate of Preference Holders. More information about the COP Program can be found here: http://sfmohcd.org/certificate-preference. 3. Displaced Tenant Housing Preference (DTHP) Households in which one member holds a DTHP Certificate from the Mayor's Office of Housing and Community Development will be given preference in the lottery ranking process, for up to 20% of the units in projects (<i>insert number of units here</i>). DTHP certificate holders will also be included in the live/work preference regardless of their current live/work location. More information about the DTHP Program can be found here: http://sfmohcd.org/displaced-tenant-housing-preference-program-0. 4. Neighborhood Resident Housing Preference (NRHP) Households that submit acceptable documentation that at least one member lives in the same supervisorial district or within a half-mile of the project will be given preference in the lottery ranking process under the Neighborhood Resident Housing Preference (NRHP). The NRHP applies to up to 40% of the units in projects (<i>insert</i>

	<i>number of units here</i>). The NRHP status of all applicants will be listed on this posting one week prior to the lottery. More information about the NRHP Program can be found here: http://sfmohcd.org/neighborhood-resident-housing-preference. <i>Note: The DTHP and NHRP only apply to projects with 5 or more BMR units. Please delete the DTHP and NHRP information listed above if your project has less than 5 BMR units.</i> 5. Live or Work in San Francisco Housing Preference Households that submit acceptable documentation that at least one member lives or works in San Francisco will be given preference in the lottery ranking process. If the number of units available exceeds the number of qualified applicants in the above listed preference, the units will become available to other qualified applicants outside of San Francisco. Applicants in each preference category must meet program requirements in order to complete the sale or rental. For more information about the lottery process and housing preferences, please refer to the MOHCD Housing Preferences and Lottery Procedures Manual.
Special note(s)	<i>Enter special notes here, such as great reasons to buy in this building!</i> Note here

Attachment B – COP Postcard Template

(Postcard must be at least 5x7 and have a matte finish on Side Two)

Side One:

New Affordable Homes for Sale in the Mission

Exterior Photo	Interior Photo

Homestead Village, 123 Jones Street, San Francisco

- **6 “Below Market Rate” homes for sale:** 1 studio, two-bedroom, and 3 three-bedroom homes priced from \$___ - \$_____ without parking, and \$___ - \$_____ with parking.
- Applicants must be a first-time homebuyer and earn no more than the income levels listed below:

Household Size	One Person	Two Person	Three Person	Four Person	Five Person
Maximum Annual Income	\$86,200	\$98,500	\$110,850	\$123,150	\$133,000



Please contact 415-701-5526 for more information about the COP Program.

(Please Make Room for Address Label and Postage)

Side Two:

Return Address:

Mayor's Office of Housing & Community Development
1 South Van Ness Ave., 5th Floor
San Francisco, CA 94103

Applications must be received by 5pm on Tuesday, June 11, 2019

Apply online to ensure your application is received on time at
<http://housing.sfgov.org> or mail a self-addressed stamped envelope to:
BMR-333 BIRCH, P.O. Box 420847, San Francisco, CA 94142.

Postmarks are not considered.

For more information & assistance with your application, contact

[HomeownershipSF: (415) 202-5464 or info@homeownershipsf.org] OR
[The Green Company: (415) xxx-xxxx or 333birchbmr@green.com.]

Reserved for address label

Information session

Friday, October 14, 2016, 5pm
Location: 1 South Van Ness Ave., 5th Floor

Open House Dates

Oct. 18, 6-8pm; Oct. 22, 11-1pm; Nov. 3, 12-2pm
Location:

Lottery (attendance is optional)

May 8, 2018 at 3:30pm
Location: 1 South Van Ness Ave., 5th Floor

SPACE RESERVED FOR USPS

Attachment C – Marketing Flyer Template

New Affordable Homes for Sale in the Mission

Exterior Photo	Interior Photo

Homestead Village, 123 Jones Street, San Francisco

- **6 “Below Market Rate” homes for sale:** 1 studio, two-bedroom, and 3 three-bedroom homes priced from \$___ - \$_____ without parking, and \$___ - \$_____ with parking.
- _____ Parking spaces will be made available to BMR buyers by lottery rank.
- Applicants must be first-time homebuyers and earn no more than the income levels listed below:

Household Size	One Person	Two Person	Three Person	Four Person	Five Person
Maximum Annual Income	\$86,200	\$98,500	\$110,850	\$123,150	\$133,000

Applications must be received by 5PM on Tuesday, June 11, 2019. Apply online through DAHLIA, the SF Housing Portal at <http://housing.sfgov.org> or mail in a paper application with a self-addressed stamped envelope to: BMR **333 BIRCH**, P.O. Box 420847, San Francisco, CA 94142. **Postmarks are not considered.**

Paper applications can be downloaded from <http://housing.sfgov.org> or picked up from [one of the 5 approved housing counseling agencies listed at <http://housing.sfgov.org/housing-counselors>] OR [the Green Company at 333 Birch Street, San Francisco, CA 94115.]

For more information and assistance with your application, contact [HomeownershipSF: (415) 202-5464 or info@homeownershipsf.org. For questions about the building and units, contact The Green Company: (415) xxx-xxxx or 333birchbmr@green.com.] **OR** [The Green Company: (415) xxx-xxxx or 333birchbmr@green.com.]

Units are monitored through the San Francisco Mayor’s Office of Housing and Community Development and are subject to owner occupancy and other restrictions. Visit www.sfmohcd.org for program information.

Information Session

Weekday, DATE, 5pm

San Francisco Mayor’s Office of Housing and Community Development
1 South Van Ness Ave., 5th Floor

Continued on Next Page

Homestead Village, 123 Jones Street, continued

Open House Dates

June 2, 5-6pm; June 12, 12-1pm; June 25, 5-6pm
123 Jones Street

Lottery Date

(Attendance is optional)

Weekday, DATE, TIME

San Francisco Mayor's Office of Housing and Community Development
1 S. Van Ness Avenue, 5th Floor

Units are monitored through the San Francisco Mayor's Office of Housing and Community Development and are subject to owner occupancy and other restrictions. Visit www.sfmohcd.org for program information.

All adult household members who will be on the title of the BMR unit must complete first-time homebuyer education through one of the City's 5 approved housing counselling agencies in order to apply. Applicants can visit www.homeownershipsf.org for upcoming program orientations and workshops. Please sign up right away, as classes tend to fill up quickly.

Applicants for **333 Birch Street** must obtain a loan pre-approval from one of the approved participating lenders listed at <http://sfmohcd.org/mohcd-authorized-lender-list> to apply.

Cooperating broker commission available at 2.5% for BMR buyer's realtors.

All applicants are encouraged to apply. Lottery preference will be given to: *Certificate of Preference, **Displaced Tenant Housing Preference holders, ***Neighborhood Residents and households that currently live or work in San Francisco.

**Certificate of Preference (COP) holders are primarily households displaced in Redevelopment Project Areas during the 1960's and 1970's.*

*** Displaced Tenant Housing Preference (DTHP) holders are tenants who were displaced by an Ellis Act eviction, Owner Move In eviction and tenants displaced by fire.*

****Neighborhood Resident Housing Preference (NRHP) are residents living in the same supervisorial district or within ½ mile buffer of the project.*

Please contact 415-701-5613 or visit www.sfmohcd.org for more information about lottery preferences.

BMR Unit	Bedroom Count	Bath Count	Square Feet	Floor	Price w/Parking	Price w/o Parking	Income Maximum	Monthly HOA Dues w/o Parking	Monthly HOA Dues w/Parking
113	Studio	1	448	1	\$225,000	\$175,000	100% of AMI	\$400	\$450
114	1	1	605	1	\$260,000	\$210,000	100% of AMI	\$450	\$500
105	2	1	846	1	\$300,000	\$250,000	100% of AMI	\$500	\$550



Attachment D – Building Signage Template

The building signage is required for any project that will include two or more BMR units. The signage should be no smaller than 5' by 5' and indicate the number and type of BMR unit in the project and include a web address and/or telephone number for interested applicants to learn more. The signage must be placed on the building or construction site throughout the entire marketing period. Please note that you will be required to provide MOHCD with a picture of the signage at the culmination of our marketing period.

ATTACHMENT B

FREE RECORDING PURSUANT TO GOVERNMENT
CODE §§ 27383 & 27388.1 AT THE REQUEST OF
THE SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE CITY AND
COUNTY OF SAN FRANCISCO

WHEN RECORDED RETURN TO:

Successor Agency to the Redevelopment
Agency of the City and County of
San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Attention: Housing Division, Jane Suskin

Assessor's Block 8719, Lot 005
400 China Basin Street

Space Above This Line for Recorder's Use

DISPOSITION AND DEVELOPMENT AGREEMENT

between the

**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
OF THE CITY AND COUNTY OF SAN FRANCISCO**

and

**350 CHINA BASIN PARTNERS, LLC,
a California limited liability company**

Dated and executed as of _____, 2022

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DISPOSITION AND DEVELOPMENT AGREEMENT

This DISPOSITION AND DEVELOPMENT AGREEMENT (“**DDA**” or “**Agreement**”) is entered into as of _____, (the “**Effective Date**”), between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic, commonly known as the Office of Community Investment and Infrastructure (“**OCII**” or the “**Successor Agency**”), and 350 China Basin Partners, LLC, a California limited liability company (“**Developer**”).

RECITALS

A. In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 et seq. the “**CRL**”), the former San Francisco Redevelopment Agency (“**Former Agency**”) and the City and County of San Francisco (the “**City**”) established the Mission Bay South Redevelopment Project Area (the “**Project Area**”).

B. In accordance with the CRL, the City and County of San Francisco (the “**City**”), acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay South Redevelopment Project Area (the “**Project Area**”) by Ordinance No. 335-98 adopted on November 2, 1998, and amended it by Ordinance Nos. 143-13 (July 9, 2013), 32-18 (March 6, 2018), 128-20 (July 31, 2020), 209-20 (Oct. 1, 2020), and 014-21 (Feb. 12, 2021). The Redevelopment Plan, as amended, is referred to as the “**Mission Bay South Redevelopment Plan**”.

C. Pursuant to California Health and Safety Code §§ 34170 et seq. (the “**Redevelopment Dissolution Law**”) and San Francisco Ordinance No. 215-12 (October 4, 2012) (establishing the Successor Agency Commission (“**Commission**”) and delegating to it state authority under the Redevelopment Dissolution Law), the Successor Agency is responsible for implementing the Redevelopment Plan and fulfilling enforceable obligations, including the Mission Bay South Owner Participation Agreement between the Former Agency (succeeded by OCII) and Catellus Development Corporation (succeeded by FOCIL-MB, LLC, the “**Owner**”) (November 16, 1998), as amended (the “**OPA**”).

D. The OPA includes the Mission Bay South Housing Program (Attachment C to the OPA), which (as currently amended) provides that the Owner will contribute parcels of land within the Project Area to OCII, at no cost, for the development of up to one thousand two hundred eighteen (1,218) affordable housing units (defined in the OPA as “**Agency Affordable Housing Parcels**”). OCII has designated the Developer as a “Qualified Housing Developer” under the OPA.v

E. On January 24, 2014, the California Department of Finance made a final and conclusive determination pursuant to Redevelopment Dissolution Law, Cal. Health & Safety Code § 34177.5 (i), that the OPA is an enforceable obligation that survives the dissolution of the Former Agency and requires OCII to complete development authorized under the OPA, including the obligation to fund construction of affordable housing on the Agency Affordable Housing Parcels.

F. In 2015, the State of California adopted amendments to the Redevelopment Dissolution Law, codified in Health and Safety Code Section 34177.7, which authorized OCII to incur indebtedness for the purpose of funding development of affordable housing, including the Agency Affordable Housing Parcel subject to this DDA.

G. On May 23, 2019, OCII issued a Request for Proposals (the “**RFP**”) to develop market, and sell affordable for-sale housing units for low- to moderate-income households on Mission Bay South Block 9a, on parcels identified as Block 8719, Lot 005 of that certain map entitled “Final Map Planned Development Mission Bay (9-9A and 10-10A)”, recorded on May 31, 2005 and filed on pages 6-10 in Book BB of the County’s Survey Maps (the “**Site**”). The OPA identifies the Site as an Agency Affordable Housing Parcel and the Owner recorded on July 28, 2011 a Declaration of Restrictions and Reservation of Easement as Document No. 2011-J221597-00 in the Official Records of San Francisco County (the “**Official Records**”) restricting the use of the Site to the construction and operation of Agency Affordable Housing Projects. On April 7, 2020, the Commission approved, by Resolution 1-2020, an Exclusive Negotiations Agreement (“**ENA**”) by and between OCII and the Developer. This DDA supersedes the ENA.

H. Developer has agreed to purchase and develop on the Site 148 units of affordable housing for low- and moderate-income families in a building with eight residential floors,

common areas, parking and open space (“**Project**”). The unit distribution shall be approximately 50 one-bedroom (33%), 63 two-bedroom (43%), 35 three-bedroom (24%) condominiums, priced to be affordable on average to households earning 95% of area median income.

I. OCII, on the basis of the foregoing, and the undertakings of Developer pursuant to this Agreement, is willing to acquire the Site from Owner by exercising its option pursuant to that certain Memorandum of Option (Block 8719, Lot 5, Former Block 9A) dated as of June 14, 2006, recorded on July 5, 2006 as Document #2006-I209320-00I4, and thereafter to sell the Site to Developer for the purpose of accomplishing its redevelopment in accordance with the provisions of the Redevelopment Plan and this Agreement.

J. Upon completion of the Project, OCII intends to assign any remaining rights and obligations that it may have in the Project, to the Mayor’s Office of Housing and Community Development (“MOHCD”) as the designated Housing Successor under Board of Supervisors Resolution 11-12 (Jan. 26, 2012) and Section 34176 of the California Health and Safety Code.

NOW, THEREFORE, each of the parties, in consideration of the mutual promises hereto, do hereby covenant and agree as follows:

AGREEMENT

ARTICLE 1: DEFINITIONS

Terms used herein have the meanings given them when first used or as set forth in this Article 1, unless the context clearly requires otherwise. Whenever an attachment or article is referenced, it means an Attachment or Article to this DDA unless otherwise specifically identified.

1.01 Affordability Restrictions has the meaning set forth in Section 6.04.

1.02 Agency means the Successor Agency to the Redevelopment Agency of the City and County of San Francisco.

1.03 OCII Equal Opportunity Program Documents are listed in Article 9.01(i).

1.04 Agreement means this Disposition and Development Agreement.

1.05 Approved Title Exceptions means the title exceptions that will be accepted by OCII and Developer, which are set forth in Attachment No. 8.

1.06 Area Median Income (or “AMI”) means the median under the table published by MOHCD for the HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco, adjusted for household size, but not for high cost.

1.07 Basic Concept Design is described in Article 5.09(a) and in Section V of the Scope of Development (Attachment No. 3).

1.08 Bona Fide Institutional Lender means a bank, a mortgage bank, a real estate investment trust, a savings and loan association, an insurance company, a pension fund, a governmental agency or a charitable organization legally engaged in making loans.

1.09 Budget has the meaning specified in Article 3.11(a).

1.10 Business Day means a calendar day other than a Saturday, Sunday or OCII holiday.

1.11 CC&Rs means a declaration of covenants, conditions and restrictions that governs how the Project’s homeowner’s association will operate.

1.12 City means the City and County of San Francisco.

1.13 Close of Escrow means the close of Escrow for the conveyance of the Site from the OCII to the Developer.

1.14 Construction Cost has the meaning specified in Article 5.02(a).

1.15 Construction Documents are described in Article 5.04 and in Section V of the Scope of Development (Attachment No. 3).

1.16 Core Benefits has the meaning specified in Article 12.05.

1.17 Delayed Party has the meaning specified in Article 10.01(a).

1.18 Developer means 350 China Basin Partners LLC, a California limited liability company (the “Developer”) and its authorized successors and assigns. Mission Bay 9A LLC, a California limited liability company, and Michael Simmons Property Development, Inc. (“MSPDI”), a California corporation, are members and co-managers of the Developer, and Young Community Developers, Inc. (“YCD”), a California nonprofit public benefit corporation, is a member of Developer.

1.19 Development Certificate of Completion is a document in the form of Attachment No. 10A, issued under the circumstances described in Article 5.21.

1.20 Effective Date means the date first set forth in the preamble to this DDA.

1.21 ENA means the exclusive negotiations agreement by and between OCII and the Developer approved by Resolution No. 1-2020 (April 7, 2020).

1.22 Environmental Law has the meaning specified in Article 4.04(c).

1.23 Escrow is described in Article 3.02.

1.24 Event of Default has the meaning specified in Article 9, and more specifically, on Developer’s part as described in Article 9.01 and on OCII’s part as described in Article 9.05.

1.25 Force Majeure is defined in Article 10.01(b).

1.26 Gap Loan Agreement means the amended and restated loan agreement between OCII and the Developer to be executed concurrently with the Developer’s acquisition of the Site from OCII evidencing a predevelopment and construction loan in the amount of up to \$70,184,522 (the “Gap Loan”)

1.27 Grant Deed is a document in the form of Attachment No. 11.

1.28 Hard Construction Cost or **Hard Cost** has the meaning specified in Article 5.02(b).

1.29 Hazardous Substance is defined in Article 4.04(b).

1.30 Holder is defined as any mortgagee or beneficiary of a Mortgage or deed of trust concerning all or any portion of the Site and, any insurer or guarantor of any obligation or condition secured by a Mortgage or deed of trust concerning all or any portion of the Site.

1.31 HUD means the U.S. Department of Housing and Urban Development.

1.32 Improvements means the construction of 148 units of low- and moderate-income, for-sale housing on the Site, including eight residential floors, common areas, parking and open space, in accordance with the Construction Documents.

1.33 Indemnified Party or Indemnified Parties has the meaning specified in Article 4.04(a).

1.34 Limited Equity Program is OCII's affordable homeownership program further described in Attachment No. 21.

1.35 Material Change when used with respect to Construction Documents, has the meaning specified in Article 5.10(b).

1.36 Mid-Block Easement means a nonexclusive easement over the Assessor's Block 8719, Lots 3 and 4, which is adjacent to Block 8719, Lot 5 for pedestrian and auto access ingress and egress, construction, installation and operation for utilities including storm drain, sanitary sewer, water, gas, electric, power and relocation of some existing public utility easements as referenced in the Declaration of Reservation of Easements for Mission Bay (Block 9 & 9a), dated May 2, 2005, Recorder's No. 2005-H963262-00.

1.37 Mortgage means any mortgage, deed of trust, sale/leaseback documentation, or similar security instrument.

1.38 OCII means the Office of Community Investment and Infrastructure as the Successor Agency to the Redevelopment Agency of the City and County of San Francisco.

1.39 Party or Parties means the parties to this Agreement, including their respective successors and assigns.

1.40 Performance Deposit has the meaning specified in Article 2.06.

1.41 Permit to Enter is described in Article 3.06(b).

1.42 Permitted Uses are described in Article 6.04.

1.43 Predevelopment Loan Agreement means the predevelopment loan agreement between OCII and the Developer dated April 7, 2020, as amended by the First Amendment to the Predevelopment Loan Agreement approved by Resolution No. 45-2021.

1.44 Project is defined in Recital H.

1.45 Project Area means the Mission Bay South Redevelopment Project Area, as defined in Recital B.

1.46 Proposed Transfer has the meaning specified in Article 7.07(a).

1.47 Redevelopment Plan is defined in Recital B.

1.48 Redevelopment Requirements is defined in Article 5.05.

1.49 Release has the meaning specified in Article 4.04(d).

1.50 Reversion Grant Deed means the document substantially in the form of Attachment No. 12.

1.51 Schedule of Performance means the time periods during which Developer must complete certain development tasks, as set forth in Attachment No. 4.

1.52 Schematic Design is described in Article 5.09(b) and in Section V of the Scope of Development.

1.53 Scope of Development is attached hereto as Attachment No. 3.

1.54 Site is defined in Recital D.

1.55 Soft Construction Cost or Soft Cost has the meaning specified in the Article 5.02(c).

1.56 Title Company is defined in Article 3.02(a).

1.57 Transfer is defined in Article 7.03(a).

1.58 Unit Certificate of Completion is a document in the form of Attachment No. 10B, issued under the circumstances described in Article 5.21(d).

ARTICLE 2: AGREEMENT TERMS

2.01 OCII

OCII's principal office is located at One South Van Ness Avenue, 5th Floor, San Francisco, California 94103.

2.02 Developer

The Developer is 350 China Basin Partners, LLC, a California limited liability company. Developer's principal office is located at 440 Molimo Drive, San Francisco, California 94127.

2.03 Site

The Site is the real property located at 400 China Basin Street, San Francisco, also known as Block 9a, Assessor's Block 8719, Lot 005, plus a nonexclusive easement interest in Lots 3 and 4 for emergency access and private utilities (the "Lots 3 and 4 Easement") and a nonexclusive easement interest in the Mid-Block Easement for pedestrian access ingress and egress, public utilities and relocation of public utilities (the "Mid-Block Easement"). The Site consists of the parcel shown on the Site Map, Attachment No. 1, plus the easement interests, both of which are described in the Site Legal Description, Attachment No. 2. The Block 8719, Lot 005 parcel measures approximately 29,939 square feet in total land area and is currently a lot being licensed by the Mission Bay South Block 9 development team for construction staging.

2.04 Purchase Price

The purchase price for the Site (the "**Purchase Price**") is \$1.00 in lawful money of the United States.

2.05 Permitted Uses

The approved Permitted Uses for the Site are as described in Article 6 of this Agreement. Developer must also comply with the affordability requirements set forth in Article 6.04 and the Limited Equity Program.

2.06 Performance Deposit

The total performance deposit (“**Performance Deposit**”) required under this Agreement is Nine Thousand Dollars (\$9,000), which sum has already been received by OCII from the Developer pursuant to the ENA, and which, under the ENA will now serve as the Performance Deposit under this DDA. The Performance Deposit will be retained by OCII as security for the successful completion of the Improvements in accordance with the provisions of this Agreement, and it will be refunded to Developer upon issuance of a Development Certificate of Completion in accordance with the terms of this Agreement. The Performance Deposit may be cash, a certificate of deposit in OCII’s name, or in such other form as OCII may permit. If made in cash, the Performance Deposit will be held in an interest-bearing account at a financial institution acceptable to OCII. During any period in which Developer is in default under the terms of this Agreement, the interest earned on the Performance Deposit will be retained by OCII and not be payable to Developer. However, following the cure of such default, subsequent interest earned will become payable to the Developer.

2.07 Term of Agreement

The term of this Agreement will be from the Effective Date until the earlier of: (1) termination in accordance with its terms; or (2) recordation of a Development Certificate of Completion by OCII as provided in Section 5.21 (the “**Term**”), subject to the surviving provisions set forth in Section 5.21.

2.08 Schedule of Performance

Developer shall make reasonable efforts to perform in accordance with the Schedule of Performance, Attachment No. 4, subject to Article 10. Failure to make reasonable efforts to perform substantially in accordance with the Schedule of Performance, based on OCII’s reasonable determination exercised in good faith, will constitute, after any applicable notice and

cure period, a default under the terms of this Agreement entitling OCII to retain the Performance Deposit and accrued interest.

ARTICLE 3: CONVEYANCE TERMS

3.01 Purchase and Development

Subject to all the terms, covenants and conditions of this Agreement, OCII agrees to sell and convey the Site to Developer for the Purchase Price and for the purpose of developing, constructing, creating a homeowners' association (and related CC&Rs), marketing for sale and conveying the Improvements thereon. Developer agrees to purchase the Site from OCII, pay the Purchase Price to OCII and in accordance with this Agreement shall develop, construct, create a homeowners' association (and related CC&Rs), market for sale and convey the Improvements thereon.

3.02 Escrow

(a) Opening of Escrow. On or before the date specified in the Schedule of Performance, Attachment No. 4, Developer must establish an escrow with a title company doing business in the City selected by Developer and approved by OCII ("**Title Company**") and provide written notice of the escrow to OCII. Pursuant to this requirement, Developer has selected Old Republic Title Company as the Title Company and OCII has approved such selection.

(b) Escrow Instructions. At least fifteen (15) days prior to the date specified for Close of Escrow in the Schedule of Performance, each Party agrees to furnish the Title Company with appropriate escrow instructions consistent with, and sufficient to implement the terms of, this Agreement, and shall contemporaneously furnish a copy of said instructions to the other Party. (Alternatively, the Parties may elect, by mutual consent, to file joint instructions.) At least two (2) days prior to such date specified for Close of Escrow, the Parties shall each deposit into Escrow all documents and instruments that such Party is obligated to deposit into Escrow in accordance with this Agreement. At least one (1) day prior to such date specified for Close of Escrow, the Parties shall each deposit into Escrow all funds that such Party is obligated to deposit into Escrow in accordance with this Agreement.

(c) Closing Costs. Developer must pay to the Title Company or the appropriate payee any and all costs related to the closing including, but not limited to: all preliminary title report costs; title insurance premiums and endorsement charges; all transfer taxes; recording fees; and any escrow fees in connection with the conveyance of the Site by OCII to the Developer. OCII will not incur any expense, other than staff time, in closing this Escrow, pursuant to this Agreement.

(d) Close of Escrow. At the Close of Escrow, provided that Developer is not then in default under the terms of this Agreement, the conditions to OCII's obligations and the conditions to Developer's obligations with respect to the Site have been satisfied or expressly waived, and Developer has paid to OCII all sums due hereunder at the times when due, then OCII shall convey to Developer good and marketable fee simple title to the Site, subject to the lien of general and special taxes and assessments, not delinquent, but free and clear of all other liens, encumbrances and other exceptions to title, other than the Approved Title Exceptions set forth on Attachment No. 8 hereto.

(e) OCII Unable to Deliver Clean Title. If on the date specified for Close of Escrow in the Performance Schedule, title to the Site is subject to a lien, encumbrance or other exception to title in addition to the Permitted Exceptions, or fee title to the Site is not vested in OCII, OCII shall use diligent, good faith efforts to cause such title exception to be removed or to obtain fee title within thirty (30) days thereafter. If OCII shall be unable to cause such title exception to be removed within such period of time, Developer shall have the right to cause such title exception to be removed, whether through the issuance of a bond therefore or otherwise. If despite its exercise of diligent, good faith efforts, OCII shall not be able to cause such title exception to be removed, and Developer shall not elect to cause such title exception to be removed through issuance of a bond or otherwise, or if OCII does not hold fee title to the Site, Developer shall have the right to: (1) terminate this Agreement and the Predevelopment Loan Agreement by written notice to OCII and receive reimbursement of the Performance Deposit and Developer's predevelopment costs associated with the Improvements, excluding costs funded and disbursed by OCII under the Predevelopment Loan Agreement and not repaid by the Developer to OCII; or (2) accept title to the Site subject to such title exception. Notwithstanding anything to the contrary contained in this Article 3.02(e), if at Close of Escrow, title to the Site is subject to a

lien, encumbrance or other exception to title in addition to the Permitted Exceptions or OCII does not hold fee title to the Site, OCII shall be deemed to be in default under this Agreement, and Developer shall be entitled to exercise the remedies provided therefor in Article 9.06 hereof.

3.03 Title Insurance

(a) The escrow instructions will provide that, upon the Close of Escrow, the Title Company must provide and deliver to Developer an owner's title insurance policy (which at Developer's option may be ALTA owner's policies) issued by the Title Company, with any reinsurance and direct access agreements that Developer reasonably requests, in amounts designated by Developer that are satisfactory to the Title Company, insuring that fee title interests to the Site and all easements appurtenant to it are vested in Developer, together with endorsements to title insurance policies that Developer requires, all at Developer's sole cost and expense. If required by the Title Company, OCII shall execute an owner's affidavit in the form reasonably requested by the Title Company.

(b) If Developer elects to secure ALTA owner's policies, and if requested to do so by Developer, OCII will cooperate with Developer by providing surveys and engineering studies in its possession or control that relate to or affect the condition of title or a geological condition, at no cost to OCII and without warranty of any kind. The responsibility of OCII assumed by this paragraph is limited to providing such surveys and engineering studies. Developer will be responsible for securing any and all other surveys and engineering studies at its sole cost and expense.

3.04 Payment of Purchase Price

The entire Purchase Price shall be paid to OCII no later than the Close of Escrow and shall be deposited by the Developer into escrow no later than twenty-four (24) hours prior to the scheduled date for Close of Escrow. OCII shall deposit the Grant Deed into Escrow no later than twenty-four (24) hours before the scheduled date for Close of Escrow.

3.05 Taxes and Assessments

Ad valorem taxes and assessments, if any, levied, assessed or imposed on the Site or the Improvements or any rights under this Agreement: (1) for any period prior to the Close of

Escrow shall be the responsibility of OCII; and (2) commencing from and after the Close of Escrow shall be the responsibility of the Developer.

3.06 Access and Entry by Developer to the Site

(a) Inspection Period. Between the Effective Date and the Close of Escrow, the Developer and its representatives will have the right of access to and entry upon the Site, from time to time and at all reasonable times, for the purpose of obtaining data and making surveys and tests, including site tests and soil borings, necessary to carry out the purposes of this Agreement, *provided, however*, that Developer must repair any damage to the Site caused by its access to and entry upon the Site to the extent reasonably possible, and must have obtained from OCII a Permit to Enter.

(b) Permit(s) to Enter. Developer must obtain a separate Permit to Enter for each separate period of activity undertaken by Developer pursuant to this Agreement; provided, however, if Developer has obtained a permit to enter from the Owner as required under the ENA, such permit shall continue in effect after the Effective Date and need not be replaced with a new Permit to Enter pursuant to this subsection. Each permit will grant Developer reasonable access and entry to complete the activities for which access and entry is authorized. Developer will be responsible for complying with indemnity and insurance requirements set forth in the Permit to Enter and in this Agreement. Developer's compliance with these requirements is a condition precedent to OCII's issuance of any Permit to Enter. Developer shall obtain a separate Permit to Enter for each separate period of activity undertaken by Developer pursuant to this Agreement, which permit shall be for a period of time which reasonably will permit Developer to complete the activities for which access and entry is authorized. OCII agrees to issue a Permit to Enter upon a request by Developer after the passage of such time as is reasonably necessary for OCII to ensure removal of people and property from the area of Developer's entry upon the Site. Developer shall be responsible for all *ad valorem* taxes, if any, assessed by reason of its entry upon the Site. Developer must comply with all indemnity and insurance requirements in any Permit to Enter.

(c) Developer's Right to Terminate Based Upon Inspection. If Developer determines that the results of any inspection, test or examination are unacceptable or unsatisfactory for

development of the Site in the manner contemplated by this Agreement, Developer may terminate this Agreement upon written notice to OCII, following a required meet and confer with OCII, consisting of a minimum of one meeting, unless additional meetings are agreed to by both OCII and the Developer, to be held within then (10) days of the OCII's receipt of the Developer's written notice, regarding the possible termination of the Agreement, and given at least thirty (30) days prior to the Close of Escrow. If Developer terminates this Agreement within the required time, the Performance Deposit will be reimbursed to the Developer.

3.07 OCII Representations and Warranties

OCII hereby covenants, warrants and represents to Developer as follows:

(a) OCII has full right, power and capacity to execute, deliver and perform this Agreement, and this Agreement constitutes a legal, valid and binding obligation of OCII enforceable in accordance with its terms.

(b) From the Effective Date through the Close of Escrow, OCII will give to Developer promptly copies of all notices received by OCII-relating to the Site, including those asserting a violation of, or otherwise given with respect to, any federal, state, city or municipal law, ordinance, regulation or order.

3.08 Developer Representations and Warranties

Developer hereby covenants, warrants and represents to OCII as follows:

(a) Developer has full right, power and capacity to execute, deliver and perform this Agreement, and this Agreement constitutes a legal, valid and binding obligation of Developer enforceable in accordance with its terms.

(b) From the Effective Date through the Close of Escrow, Developer will give to OCII promptly copies of all notices received by Developer relating to the Site, including those asserting a violation of, or otherwise given with respect to, any federal, state, city or municipal law, ordinance, regulation or order.

3.09 Conditions Precedent to Developer's Obligations

The following are conditions precedent to Developer's obligations with respect to the conveyance of the Site and the construction of the Improvements thereon, to the extent not expressly waived by Developer:

(a) OCII shall have performed all obligations hereunder required to be performed by OCII prior to the date specified for conveyance of the Site to Developer in the Schedule of Performance, including without limitation acquiring the Site from Owner;

(b) The Title Company is prepared to issue to Developer all title insurance required by Article 3.03 to be delivered to Developer;

(c) This Agreement shall not have been previously terminated pursuant to any other provision hereof; OCII shall have delivered to Developer and the Title Company all instructions and documents to be delivered by OCII at Close of Escrow pursuant to the terms and provisions hereof;

(d) On or before the Close of Escrow, Developer shall have executed, acknowledged and deposited with the Title Company the Reversion Grant Deed for the Site in the form of Attachment No. 12;

(e) A Site Permit for the Improvements on the Site, plus the excavation addendum to the Site Permit, have been issued.

(f) Developer has obtained a bank commitment for construction financing for the Improvements, in form and amount reasonably satisfactory to OCII.

(g) OCII shall have instructed the Title Company to consummate the Escrow as provided in the Escrow instructions.

(h) The Developer reasonably determines that: parties other than the Developer have provided binding agreements to construct the street improvements on the Lots 3 and 4 Easement, at no cost to Developer or Unit purchasers; and parties other than the Developer have provided binding agreements to maintain the street improvements on the Lots 3 and 4 Easement at no cost to the Developer or Unit purchasers.

(i) The Developer reasonably determines that parties other than the Developer have provided binding agreements to maintain the street improvements on the Mid-Block Easement, at no cost to the Developer or Unit purchasers.

3.10 Conditions Precedent to OCII's Obligations

The following are conditions precedent to the OCII's obligations with respect to the conveyance of the Site to the extent not expressly waived by OCII:

(a) Developer shall have performed all obligations hereunder required to be performed by Developer prior to the date of such conveyance;

(b) OCII shall have received and approved all items referred to in Article 3.11 to the extent required prior to the Close of Escrow;

(c) OCII shall have approved the Construction Documents for the Improvements on the Site which are required to be approved by OCII by the Close of Escrow as provided in the Schedule of Performance;

(d) A Site Permit for the Improvements on the Site has been issued;

(e) OCII shall have approved, as provided in Article 3.11, the evidence of all financing of the Improvements, no later than the time specified in the Schedule of Performance.

(f) Developer shall have prepared and submitted one or more Tentative Maps for the Site. All such maps must conform to City requirements for filing with the City's Department of Public Works, all at Developer's sole cost and expense;

(g) Developer shall have certified in writing to OCII that Developer is ready, willing and able in accordance with the terms and conditions of this Agreement to commence construction of the Improvements required for the Site by the time set forth in the Schedule of Performance and that all conditions precedent under this Agreement to such commencement have been fulfilled;

(h) Developer shall have instructed the Title Company to consummate the Escrow as provided in the Escrow instructions; and

(i) Developer shall have furnished to OCII certificates of insurance or duplicate originals of insurance policies required by this Agreement.

(j) There shall not be an ongoing Event of Default (as defined in Section 9.01) by Developer.

3.11 Submission of Evidence of Financing and Project Commitments

No later than the time specified in the Schedule of Performance for submission of evidence of all financing (unless the Parties agree in writing as to a different time), Developer shall submit the following to OCII for review and approval:

(a) A statement setting forth a budget of the total estimated Construction Costs of the Improvements, with the Hard Costs of Construction portion prepared by, or with the assistance of, a licensed, bondable general contractor (the “**Budget**”).

(b) A copy of a bona fide commitment or commitments without any provisions requiring acts of Developer prohibited herein or prohibiting acts of Developer required herein for the financing of the Construction Costs of the Improvements on the Site, as described in the Scope of Development, Attachment No. 3, certified by Developer to be a true and correct copy or copies thereof. If the lender under any such commitment or commitments is to receive a Mortgage on the Site, said lender shall be a Bona Fide Institutional Lender.

(c) Evidence satisfactory to OCII of additional commitments of funding to cover the difference, if any, between the Mortgage amount and the Budget. Evidence of mortgage financing to be utilized by individual purchasers of the Units shall not be required.

(d) A statement in form satisfactory to OCII sufficient to demonstrate that Developer has adequate funds or will have adequate funds upon the funding of the commitments referred to above and is committing such funds to the Construction Costs of the Improvements as set forth in the Budget.

(e) A construction contract, with a bondable general contractor reasonably satisfactory to OCII, for the construction of the Improvements in accordance with the estimated costs set forth

in the Budget. Pursuant to this requirement, Developer has selected Nibbi-Baines Joint Venture as the general contractor and OCII has approved such selection.

(f) A completion bond of an issuer satisfactory to OCII (which may be provided by the general contractor) or a completion guaranty of a person satisfactory to OCII for the construction of the Improvements.

(g) OCII will notify the Developer in writing of its approval or disapproval of any of the foregoing documents within fifteen (15) days of submission of such documents to OCII, unless some other time period is specified in the Schedule of Performance or by mutual written agreement. Failure of OCII to notify Developer of its approval or disapproval of a document or submission within said periods of time shall entitle the Developer to a time extension for the approval of such document or submission until the later of: (1) the date of approval by OCII; or (2) fifteen (15) days after OCII provides written reasons for such disapproval. If OCII fails to respond within the required time period, then the Developer shall provide a second notice to OCII requesting OCII's approval ("Second Notice"). In no event will OCII's failure to respond be deemed to be an approval.

ARTICLE 4: SITE CONDITION - HAZARDOUS MATERIALS INDEMNIFICATION

4.01 Prior to Conveyance/Site "As Is"

(a) Except as set forth in Articles 4.02 and 4.03 below, OCII shall convey the Site in its present, "**AS IS**" condition and shall not prepare the Site for any purpose whatsoever prior to conveyance to Developer, and Developer agrees to accept the Site in its condition on the date of conveyance, subject to the provisions of this Agreement.

(b) DEVELOPER ACKNOWLEDGES AND AGREES THAT, EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED HEREIN, SUCCESSOR AGENCY IS CONVEYING AND DEVELOPER IS ACCEPTING THE SITE ON AN "AS-IS WITH ALL FAULTS" BASIS SUBJECT TO ALL APPLICABLE LAWS, RULES AND ORDINANCES, INCLUDING WITHOUT LIMITATION, ANY ZONING ORDINANCES, OR OTHER REGULATIONS GOVERNING THE USE, OCCUPANCY OR POSSESSION OF THE SITE. DEVELOPER REPRESENTS AND WARRANTS THAT DEVELOPER IS RELYING SOLELY ON ITS INDEPENDENT

INVESTIGATION AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SUCCESSOR AGENCY OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE SITE, ITS SUITABILITY FOR DEVELOPER'S INTENDED USES OR ANY OF THE SITE'S CONDITIONS. SUCCESSOR AGENCY DOES NOT GUARANTEE THE LEGAL, PHYSICAL, GEOLOGICAL, ENVIRONMENTAL OR OTHER CONDITIONS OF THE SITE, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF THE SITE OR ITS USE WITH ANY STATUTE, RESOLUTION OR REGULATION. DEVELOPER AGREES THAT NEITHER SUCCESSOR AGENCY NOR ANY OF SUCCESSOR AGENCY'S AGENTS HAVE MADE, AND SUCCESSOR AGENCY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SITE'S CONDITIONS.

(c) Release.

Effective from and after the Closing Date, Developer hereby waives, releases, acquits, and forever discharges Successor Agency to the maximum extent permitted by law, of and from any and all claims, actions, causes of action, demands, rights, liabilities, damages, losses, costs, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, that it now has because of or in any way growing out or connected with this Agreement and the Site, including, without limitation, the condition of the Site (including any such claim which arose prior to the Closing Date, but is discovered thereafter), except (i) matters arising from the Successor Agency's fraud or intentional misrepresentation, or (ii) any breach of this Agreement by the Successor Agency prior to the Closing Date. **DEVELOPER EXPRESSLY WAIVES ITS RIGHTS GRANTED UNDER CALIFORNIA CIVIL CODE § 1542, AND ANY OTHER PROVISION OF LAW, THAT PROVIDES AS FOLLOWS:**

(i) A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

(ii) BY PLACING ITS INITIALS BELOW, DEVELOPER SPECIFICALLY ACKNOWLEDGES AND CONFIRMS THE VALIDITY OF THE RELEASES MADE ABOVE AND THE FACT THAT DEVELOPER WAS REPRESENTED BY COUNSEL WHO

EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THE ABOVE RELEASES.

SUCCESSOR AGENCY: _____ DEVELOPER: _____

(d) Developer has been and will continue to be given the opportunity to investigate the Site fully, using experts of its own choosing. In connection therewith, OCII, at no cost to OCII, shall reasonably cooperate with Developer and shall afford Developer access, upon not less than five (5) days' prior notice to OCII, and otherwise at all reasonable times to such books and records as OCII shall have in its possession or control or otherwise available to OCII and relating to the prior use and/or ownership of the Site. Except as otherwise set forth herein, Developer acknowledges that neither OCII nor any employee, representative or agent of OCII has made any representation or warranty, express or implied, with respect to the Site, and it is agreed that OCII makes no representations, warranties or covenants, express or implied, as to its physical condition; as to the condition of any improvements; as to the suitability or fitness of the land; as to any Environmental Law, or otherwise affecting the use, value, occupancy or enjoyment of the Site; or as to any other matter whatsoever; it being expressly understood that the Site is being sold in an "AS IS" condition. The provisions of this Article, as with the other provisions of this Agreement, shall survive the Close of Escrow and shall not merge into the Grant Deed delivered to Developer at Close of Escrow.

(e) Subject to any representations and warranties of OCII contained herein and except as set forth in Articles 4.02 and 4.03 below, after Close of Escrow, Developer, at its sole cost and expense, shall comply with all provisions of Environmental Law applicable to the Site and all uses, improvements and appurtenances of and to the Site, and shall perform all investigations, removal, remedial actions, cleanup and abatement, corrective action or other remediation that may be required pursuant to any Environmental Law. OCII and the City and their respective members, officers, agents and employees, shall have no responsibility or liability with respect thereto, except if due to gross negligence or intentional misconduct of OCII.

4.02 Agreement Regarding Environmental Costs.

OCII and the Developer acknowledge that OCII and the Owner entered into the Agreement Regarding Environmental Costs and that the Developer qualifies as OCII's Designee thereunder. The Agreement Regarding Environmental Costs sets forth procedures for the Owner to either remediate certain hazardous environmental conditions on the Site or to pay the incremental costs of such remediation, which obligations of the Owner create exceptions to the "as-is" conveyance of the Site to the Developer. OCII and the Developer agree to cooperate to obtain the maximum benefit available to the Site and the Developer from the Agreement Regarding Environmental Costs, to ensure compliance by the Owner of its obligations related to this Site under the Agreement Regarding Environmental Costs, and OCII agrees to act on behalf of the Developer to enforce such compliance by Owner. If OCII fails to make all reasonable efforts to timely enforce such compliance and performance by the Owner, OCII shall assign all rights against the Owner (as to this Site only) to the Developer.

4.03 Effect of OPA Environmental and Infrastructure Provisions.

The OPA requires the Owner to provide certain infrastructure to serve the Site and to remediate certain environmental conditions on the Site both prior to and after conveyance of the Site to OCII and the Developer, which create exceptions to the "as-is" conveyance of the Site to the Developer. OCII and the Developer agree to fully cooperate to ensure compliance by the Owner of its obligations related to this Site under the OPA, including Owner's indemnification obligations thereunder, and OCII agrees to act on behalf of the Developer to enforce such compliance by Owner. If OCII fails to make all reasonable efforts to timely enforce such compliance and performance by the Owner, OCII shall assign all rights against the Owner (as to this Site only) to the Developer.

4.04 Hazardous Substance Indemnification

(a) Developer shall indemnify, defend and hold OCII and the City, and their respective members, officers, agents and employees (individually, an “**Indemnified Party**” and collectively, the “**Indemnified Parties**”) harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in

response to, or in any manner relating to: (1) Developer's violation of any Environmental Law; or (2) any Release or threatened Release of a Hazardous Substance, or any condition of pollution, contamination or Hazardous Substance-related nuisance on, under or from the Site, occurring after the date of the conveyance of the Site to the Developer, except where such violation, Release or threatened Release, or condition was at any time caused by the gross negligence or intentional misconduct of any Indemnified Party. In the event that OCII exercises its right under Article 9.02 to terminate this Agreement due to a Release, the Developer's obligation to indemnify the Indemnified Parties pursuant to this Article 4.04 shall arise only as to Developer's violations of Environmental Law, and to Releases or threatened Releases of a Hazardous Substance caused by Developer.

(b) The term “**Hazardous Substance**” shall have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Agreement, 42 U.S.C. §9601(14), and in addition shall include, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls (“**PCBs**”), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code §§25316 and 25281(d), all chemicals listed pursuant to the California Health & Safety Code §25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition shall not include substances which occur naturally on the Site.

(c) The term “**Environmental Law**” shall include all federal, state and local laws, regulations and ordinances governing hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee or community right-to-know requirements related to the work being performed under this Agreement.

(d) The term “**Release**” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance).

- (e) Article 4.04 shall survive the termination of this Agreement.

ARTICLE 5: CONSTRUCTION OF THE IMPROVEMENTS

5.01 Developer's Construction Obligations

Developer shall construct, or cause to be constructed, the Improvements upon the Site, within the times and in the manner set forth in this Agreement.

5.02 Construction Cost

(a) **“Construction Costs”** means Developer's customary and reasonable costs that are directly related to construction of the Improvements on the Site and shall include all Hard Construction Costs, Soft Construction Costs and Additional Construction Costs, as defined below.

(b) Hard Construction Costs. The term **“Hard Construction Costs”** or **“Hard Costs”** shall include, but not be limited to:

(1) All payments for direct costs incurred for construction, whether on-site or off-site.

(2) All payments for contractor's general conditions; all premiums for builders' risk insurance and general liability insurance carried by any contractor; gross receipts taxes; sales and use taxes; all premiums paid for bonds payable under any contractor's construction contract, and all amounts for contractor's fees, including profit and overhead.

(3) All costs of on-site and off-site improvements including, without limitation, roads, sewers, utilities, sidewalks and landscaping. Such costs shall include, without limitation, all excavation, demolition, grading and other site work.

(c) Soft Construction Costs. The term **“Soft Construction Costs”** or **“Soft Costs”** shall include all costs of architectural, engineering and consulting services related to the design and construction of the Project or other soft costs as approved by OCII.

(d) Additional Construction Costs. The term **“Additional Construction Costs”** shall include, without limitation, the following:

(1) All construction-related losses and expenses, not compensated for by required insurance or otherwise, sustained by Developer in connection with the construction of the Improvements.

(2) Interest and other charges (including, without limitation, penalties and contingent payments) incurred by Developer in connection with the construction of the Improvements and any off-site improvements, including, without limitation, interest and other charges on secured or unsecured pre-construction or construction financing and lines of credit, “bridge” financing and other types of credit, contingency fees, administration fees, other loan fees and “points” and other fees and payments however denominated and commissions in connection with all such financing, all other costs in connection with such financing, including brokers’ fees, legal fees, appraisal fees and trustee’s fees and expenses in connection with any of the foregoing and imputed interest at a rate equal to the interest rate on the financing obtained for construction on all Construction Costs funded from actual equity advances by Developer.

(3) Cost of the Site.

(4) Additional Construction Costs shall be included in the term Construction Costs for all purposes.

5.03 Compliance with Construction Documents and Law

All of the Improvements to be constructed by Developer must be constructed in compliance with those elements of the Construction Documents for which OCII approval is required and in compliance with all applicable local, state and federal laws and regulations, including all laws relating to accessibility for persons with disabilities and the mitigations identified in the Mission Bay Final Subsequent Environmental Impact Report Mitigation Monitoring and Reporting Program, attached as Attachment A to Attachment 9.

5.04 Construction Documents

The Construction Documents to be submitted by Developer to OCII consist of:

- (a) the Basic Concept Design and Schematic Design (approved by OCII as of the date of this Agreement);
- (b) the Design Development Documents (approved by OCII as of the date of this Agreement); and

(c) the Final Construction Documents (which will mean all design and development documents including final plans and specifications).

Notwithstanding the above, the Basic Concept Design, the Schematic Design and the Design Development Documents have been approved by OCII prior to the date hereof.

5.05 Construction Document Compliance

The Construction Documents must comply with the Redevelopment Plan, the Mission Bay South Design for Development, the Schematic Design, and this Agreement, including the Scope of Development (sometimes referred to collectively as “**Redevelopment Requirements**”), subject to any exceptions approved in writing by OCII.

5.06 Preparation of Construction Documents / Approval of Architect

(a) An architect (or architects) licensed to practice architecture in and by the State of California must: (1) prepare or sign the Construction Documents; (2) coordinate the work of any associated design professions, including engineers and landscape architects; and (3) inspect all construction of Improvements and provide an Architect’s Certification that Construction Complies with Approved Construction Documents substantially in the form of Attachment No. 7 that the Improvements have been constructed in compliance with the Construction Documents approved by OCII. A California-licensed structural engineer must review and certify all final foundation and grading plans. All architectural firms or architects engaged by Developer or by or through architectural firms or architects (except those exclusively engaged in interior design) must be approved by OCII. Pursuant to this requirement, the Developer has selected Mithun Architects, Inc. and Y.A. Studio as its architectural firms and OCII has approved these architectural firms.

(b) Developer must include in all design professional contracts and authorizations entered into by Developer for services pertaining to the planning and design of the Improvements an express agreement by the person performing the services that OCII may use the person’s Construction Documents for the Project without compensation or payment by OCII in excess of that otherwise due under the person’s contract with Developer in the event the Construction Documents are delivered to OCII pursuant to this Agreement, *provided that* OCII agrees not to

remove the name of the preparer of the Construction Documents without the preparer's written permission, or to remove it at the preparer's written request.

5.07 Submission of Construction Documents

Developer must submit the Construction Documents to OCII for review and approval in accordance with the Scope of Development and at the times established in the Schedule of Performance. Upon Developer's submission of the Construction Documents to OCII, the architect must provide an Architect's Certificate (Accessibility for the Disabled) and Architects Certification for Code Compliance substantially in the form of Attachment No. 5 and Attachment No. 6, respectively, certifying that the Improvements have been designed in accordance with all local, state and federal laws and regulations relating to accessibility for the disabled and all applicable local building codes.

5.08 Scope of OCII Review and Approval of Developer's Construction Documents

- (a) OCII staff's review and approval of Developer's Construction Documents are limited to a determination of their compliance with the Redevelopment Requirements.
- (b) No OCII staff review is made or approval given as to the compliance of the Construction Documents with any building standards, including building engineering and structural matters, or compliance with building codes or regulations, or any other applicable state or federal law or regulation relating to construction standards or requirements, including without limitation, compliance with any local, state or federal law or regulation related to the suitability of the Improvements for use persons with disabilities.
- (c) OCII staff will approve or disapprove (or may approve conditionally) the Construction Documents in writing within fifteen (15) days of submittal. Failure by OCII staff to either approve or disapprove the Construction Documents within the times provided herein will entitle Developer to a day for day extension of time for the period of delay caused by OCII. In no event will failure of OCII staff to respond within the times provided herein be deemed to be an approval.
- (d) OCII staff's review and approval or disapproval of Construction Documents as provided in this Article 5.08 will be final and conclusive. OCII staff will act in good faith in its review

and approval process. OCII staff will not disapprove or require changes subsequently (except by mutual agreement) in a manner inconsistent with matters it has approved previously. If OCII staff and Developer disagree as to whether or not a matter contained in a particular submittal has been approved previously or whether OCII staff is acting in a manner inconsistent with matters that it approved previously, OCII staff's reasonable judgment will apply in resolving the disagreement.

(e) If OCII staff rejects the Construction Documents in whole or in part, the Developer shall make commercially reasonable efforts to submit new or corrected plans within thirty (30) days after OCII's written notification to Developer of rejection, and the provisions of this Article 5.08 relating to approval, rejection and resubmission of corrected Construction Documents will continue to apply until Construction Documents have been approved by OCII staff; *provided, however,* that in any event, Developer must have submitted satisfactory Construction Documents (*i.e.*, approved by OCII staff as in compliance with the Redevelopment Requirements) no later than the dates specified in the Schedule of Performance, subject to 5.08(c) and (d), above.

5.09 Scope of Developer Submission of Construction Documents

The following provisions will apply to all stages of Developer submissions of Construction Documents in accordance with the Mission Bay South Design Review and Document Approval Procedure, and with the timeframes established in the Schedule of Performance and the Scope of Development. Each of the Construction Document stages is intended to constitute a further development and refinement from the previous stage.

(a) Basic Concept Design. The Basic Concept Design is intended to set forth basic design concepts of the development and such drawings have been approved by OCII.

(b) Schematic Design. Schematic Design should present a further development of the Basic Concept Design and must incorporate any OCII conditions for approval of the Basic Concept Design and such drawings have been approved by OCII.

(c) Design Development Documents. The elements of the Design Development Documents requiring OCII approval must incorporate conditions, modifications and changes specified by OCII for the approval of the Schematic Design. Design Development Documents must be in

sufficient detail and completeness to show that the Improvements and the construction thereof will be in compliance with the Redevelopment Plan requirements and matters previously approved, and such documents have been approved by OCII.

(d) Construction Documents. The Construction Documents must be based upon and conform to the approved Design Development Documents with respect to the elements thereof requiring OCII approval and must incorporate OCII conditions, modifications and changes required by OCII for the approval of the Design Development Documents, including any revisions requested by OCII staff pursuant to issues related to conformance with the Redevelopment Requirements. The Construction Documents must include all drawings, specifications and documents necessary for the Improvements to be constructed and completed in accordance with this Agreement.

5.10 Changes in Construction Documents

(a) Developer may not, without OCII approval, make Material Changes in any OCII-approved Construction Documents as to elements requiring OCII approval.

(b) A “**Material Change**” means any changes to those elements approved by OCII as part of OCII's approval of the Construction Documents as related to any Mission Bay South Design for Development requirements or any requirements related to the allowable uses of the Improvements pursuant to this Agreement.

5.11 Site Permit Process

(a) Developer must submit to OCII in writing Developer's schedule for securing the site permit with excavation and foundation addenda, and each succeeding permit addendum necessary for the construction and completion of the Improvements, identifying each addendum and the expected time of issuance. OCII will review the schedule promptly and advise Developer in writing within ten (10) days thereafter whether or not the schedule is acceptable. If the schedule is not acceptable to OCII in the exercise of its reasonable discretion, Developer must consult with OCII and transmit a revised schedule satisfactory to OCII within fourteen (14) days of receipt of OCII's notice. Pursuant to this requirement, Developer has submitted its site permit to OCII with the excavation and foundation addenda, and OCII has approved such materials.

(b) Developer acknowledges that the City must approve a schedule of permit addenda. If the City-approved schedule is different from the OCII-approved schedule, Developer must immediately transmit the City-approved schedule to OCII, and Developer and OCII will accept the City schedule. Pursuant to this requirement, Developer has submitted such schedule to the City Department of Building Inspection and the City Department of Building Inspection has approved such selection.

(c) In the event that any permit addendum is not issued in accordance with the approved schedule, then, if OCII determines that: (1) the delay is due to a delay in processing the permit addendum by the City or any other governmental authority, OCII will cooperate with Developer, as appropriate, to expedite the issuance of the permit addendum; or (2) the delay is due primarily to Developer's acts or omissions, OCII will so advise Developer, and Developer must take any and all actions necessary or appropriate in order to cause the permit addendum to be issued on or before forty-five (45) days following the date for issuance of the permit addendum under the approved schedule.

5.12 Government-Required Changes

Without in any manner limiting any other provisions of this Agreement, OCII acknowledges and agrees that OCII may not withhold its approval of those elements of the Construction Documents and those changes in the Construction Documents that are required by any governmental authority; *provided, however*, that: (1) OCII must have been afforded a reasonable opportunity to discuss any element of, or change in, the Construction Documents with the governmental authority requiring the element or change and with Developer's architect; and (2) Developer's architect must have reasonably cooperated with OCII and the governmental authority in seeking reasonable modifications of the required element or change as OCII deems necessary or desirable. Developer and OCII each agree to use its diligent, good faith efforts to resolve OCII's request for reasonable modifications to the required elements or changes, as soon as reasonably possible.

5.13 Construction Document Review Procedures

(a) Role of OCII Staff. OCII review and approval of Construction Documents pursuant to the provisions of Article 5 means and requires review and approval by OCII staff.

(b) Method of OCII Action. OCII staff will approve or disapprove (or may approve conditionally) the Construction Documents in writing. Failure by OCII to either approve or disapprove the Construction Documents within the times provided herein will entitle Developer to an extension of time for the period of delay as to the submission and any subsequent submissions.

(c) OCII Disapproval / Conditional Approval / Developer Resubmission. If OCII staff disapproves the Construction Documents, in whole or in part, OCII in the written disapproval shall also recommend changes and make other recommendations and provide a written statement setting forth in adequate detail the basis for OCII staff's disapproval. If OCII staff conditionally approves the Construction Documents, in whole or in part, the conditions will be stated in writing and a time will be stated for meeting the conditions. A resubmission must be made as expeditiously as possible. Developer may continue making resubmissions until the submissions are approved, until the times specified in any conditional approval or until the last date for approval as specified in the Schedule of Performance, whichever is later.

5.14 Progress Meetings/Consultation

During the preparation of Construction Documents, OCII staff and Developer will hold periodic progress meetings as appropriate to coordinate the preparation of, and submission to, and review of Construction Documents by OCII. OCII staff and Developer will communicate and consult informally as frequently as is necessary to ensure that the formal submission of any Construction Documents to OCII so such submittals can receive prompt and speedy consideration.

5.15 Construction Schedule/Reports

(a) Developer must commence, prosecute and complete all construction and development within the times specified in the Schedule of Performance; provided, however, the Schedule of Performance may be amended by the mutual consent of the Parties.

(b) During periods of construction, the Developer must submit a written progress report to OCII every three (3) months in such detail as may reasonably be required by OCII, as to the actual progress of the Developer with respect to such construction. During such period, the work of the Developer shall be subject to inspection by representatives of OCII as set forth in Article

5.20. The reports must be in form and detail as reasonably required by OCII. A report in form and detail required by the Developer's senior construction lender shall fulfil the requirements of this section.

(c) Upon completion of construction, Developer shall deliver to OCII: (1) PDF (or other acceptable electronic format) of "as-built" plans; (2) a Request For Information ("RFI") binder and (3) a copy of the approved and recorded condominium map for the Project.

5.16 Cost of Developer Construction

The cost of developing the Site and construction of all Improvements thereon must be borne solely by Developer, except as otherwise provided in this Agreement, the Predevelopment Loan Agreement, and the Gap Loan Agreement. OCII and Developer will each pay their own costs necessary to administer and carry out their respective responsibilities and obligations under this Agreement.

5.17 Issuance of Building Permits

(a) Developer has the sole responsibility for obtaining all necessary Site and building addenda permits and will make application for permits directly to the Central Permit Bureau of the City. OCII will cooperate reasonably with Developer in its efforts to obtain permits, at no cost or expense to OCII. Prior to commencing construction of all or any portion of the Improvements, Developer must have obtained necessary permits. Developer must submit its application for a building permit (or in the case of Fast Track, a site permit and subsequent addenda) to the City within a period of time sufficient to allow issuance of the building permit before or concurrently with the date specified for commencement of construction in the Schedule of Performance. From and after the date of Developer's submission of any application, Developer must diligently prosecute the application. In addition, from and after submission of any application, and until issuance of the building permit, Developer must report permit status in writing every thirty (30) days to OCII, if this information is not conveyed at the Project Site meetings.

(b) Developer is advised that the Central Permit Bureau forwards all site and building permits to OCII for OCII approval of compliance with the Redevelopment Requirements.

OCII's review of the Construction Documents does not include any review of compliance with the requirements and standards referred to in Article 5.08 (b), and OCII will have no obligations or responsibilities for such compliance. OCII evidences its approval by signing the permit and returning the permit to the Central Permit Bureau for issuance directly to Developer. Approval of a site permit or any intermediate permit is not approval of compliance with all Redevelopment Requirements necessary for a building permit.

5.18 Times for Construction

Developer agrees promptly to begin and diligently prosecute to completion the redevelopment of the Site through the construction of the Improvements thereon in accordance with the provisions of this Agreement. Developer also agrees that construction in any event must commence, be pursued diligently and be completed no later than the dates specified in the Schedule of Performance, subject to any extensions permitted hereunder.

5.19 Construction Signs and Barriers

Developer must provide appropriate construction barriers and construction signs and post the signs on the Site during the period of construction. The size, design and location (but not the content; *provided, however*, that OCII's name must be included in signage where appropriate) of signs and the composition and appearance of any non-moveable construction barriers must be submitted to OCII for approval before installation, which approval will not be unreasonably withheld.

5.20 Access to Site – OCII

From and after delivery of possession of the Site to Developer under this Agreement, upon reasonable prior notice to Developer, OCII, the City and their respective representatives will have the right to enter upon the Site at reasonable times, with 24 hour prior notice, at no cost or expense to OCII or the City, during the period of construction of the Improvements to the extent necessary to carry out the purposes of this Agreement, including inspecting the work of construction of the Improvements. Developer will have the right to have an employee, agent or other representative of Developer accompany OCII, the City and their representatives at all times while they are present on the Site. OCII, the City and their respective representatives will exercise due care in entering upon and/or inspecting the Site, and will perform all entry and

inspection in a professional manner and so as to preclude any damage to the Site or Improvements, or any disruption to the work of construction of the Improvements. OCII, the City and their respective representatives will abide by any reasonable safety and security measures Developer imposes.

5.21 Development Certificate of Completion – Issuance

(a) From and after the date on which Developer has completed construction of the Improvements in accordance with the provisions of this Agreement, upon Developer's request, OCII will issue to Developer a Development Certificate of Completion in the form of Attachment No. 10A, provided that Developer has satisfied all conditions to OCII's obligations to issue the Development Certificate of Completion as set forth in this Agreement, including, but not limited to, the Schedule of Performance, the City's issuance of a Final Certificate of Occupancy, and OCII's Equal Opportunity Program. The Development Certificate of Completion will be a conclusive determination of completion of construction of the Improvements in accordance with this Agreement and the full performance of the agreements and covenants contained in this Agreement and in the Grant Deed with respect to the obligation of Developer, and its successors and assigns, to construct the Improvements in accordance with OCII-approved Construction Documents and the dates for the beginning and completion thereof, and Developer shall be released from any further obligations related to construction of the Improvements; provided, however, that neither the Development Certificate of Completion nor the determination will constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a Mortgage, or any insurer of a Mortgage. Following the issuance of the Development Certificate of Completion for all of the Improvements, this Agreement shall terminate and shall be of no further force or effect, except for those provisions that survive termination of this Agreement as provided in Section 6.08.

(b) OCII's issuance of the Development Certificate of Completion does not relieve Developer or any other person or entity from any and all applicable City requirements or conditions to occupancy of any Improvements.

(c) Construction of the Improvements are complete for the purpose of this Article when Developer has completed all elements and components of the Improvements for which the

approval of OCII is required under this Agreement, including but not limited to close of escrow of the sale of every unit, and after the Developer's architect has provided an Architect's Certificate (Accessibility for Persons with a Disability) substantially in the form of Attachment No. 5 certifying that the Improvements have been constructed in accordance with all local, state and federal laws and regulations relating to accessibility for persons with a disability.

(d) If Developer is prepared to sell individual Units prior to issuance of a Development Certificate of Completion, OCII will issue (A) a Unit certificate of completion ("**Unit Certificate of Completion**") in the form shown in Attachment No. 10B and (B) a partial reconveyance of the deed of trust securing the Gap Loan in the form shown in Attachment No. 10C promptly following Developer's request with respect to individual Units upon satisfaction of the following conditions: (1) proper completion of the Improvements relating to the Unit as evidenced by the City's issuance of a temporary Certificate of Occupancy for such Unit; and (2) OCII has reasonably determined that the Unit will be sold in compliance with the Affordability Restrictions of Article 6.04 and the Limited Equity Program, as evidenced by OCII's execution of a Limited Equity Program Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement (a "Unit DOR") and deposit of such Unit DOR into the Unit sales escrow; provided however, that the Unit Completion Certificate will only be applicable to one or more specific Units and the Project will still be required to receive a Development Certificate of Completion for the Improvements as a whole. With respect to each Unit, the Unit Completion Certificate will mean:

(1) that the title to the Unit (including the purchaser's respective interest in the Project common area associated with the ownership of that Unit) shall be released from the encumbrance of this DDA and from the deed of trust securing the Gap Loan;

(2) that any party purchasing the Unit will not (because of the purchase) incur any obligation with respect to the construction of the Improvements relating to the Unit or to any other part, parcel or Unit of the Site;

(3) that neither OCII nor any other party thereafter will have or be entitled to exercise with respect to the Unit, any rights or remedies or controls that it may otherwise have or be entitled to exercise with respect to the Site as a result of a default in or breach of any provisions of this Agreement or the Grant Deed unless: (i) the default or breach is by the

purchaser or any successor in interest to or assign of the Unit with respect to the covenants contained the Limited Equity Homeownership Program Loan Disclosure Book (Attachment No. 21) in which event OCII shall have remedy against the purchaser or successor in interest pursuant to the Limited Equity Program documents or (ii) relate to the negligence of the Developer in selling the Unit in violation of the Affordability Restrictions; and

(4) that the purchaser of the Unit and his or her successors and assigns shall not be bound by this Agreement, except for the covenants contained in Articles 6.04 and 6.05 of this Agreement;

(5) that any Holder of a Mortgage encumbering the Unit will not be bound by this Agreement, except with respect to the covenants contained in Articles 6.04 and 6.05 of this Agreement.

5.22 Reasons for Non-Issuance of Certificate of Completion

(a) OCII will not unreasonably withhold a Development Certificate of Completion or a Unit Certificate of Completion. If OCII refuses or fails to issue a Development Certificate of Completion or a Unit Certificate of Completion within fifteen (15) days after Developer's written request, OCII must provide Developer with a written statement setting forth in adequate detail the bases for OCII's refusal or failure to issue the Development Certificate of Completion or Unit Certificate of Completion and the measures or acts that, in the opinion of OCII, Developer must undertake or perform in order to obtain such certificate of completion. Failure by OCII to either issue a certificate of completion or a written statement within the times provided herein will entitle Developer to a day for day extension of time for the period of delay caused by OCII. In no event will failure of OCII to respond be deemed to be an approval. OCII may elect to issue to Developer a Development Certificate of Completion if no Events of Default by Developer are then existing under this Agreement and Developer has completed the Improvements in accordance with this Agreement, except for: (1) "punch list" items; (2) landscaping and other outside areas of the Improvements; and (3) other items that do not adversely affect or impair Developer's use and occupancy of the Improvements for the purposes contemplated by this Agreement and that do not preclude the City's issuance of a certificate of occupancy or other certificate or authorization of Developer's use and occupancy of the Improvements. However, OCII will not be obligated to issue a Development Certificate of

Completion in these circumstances unless and until Developer has provided to OCII, at the OCII's request, a bond, letter of credit, certificate of deposit or other security reasonably acceptable to OCII in an amount equal to one hundred ten percent (110%) of the estimated cost of completing the items described in clauses 5.21(b)(1), (2) and (3) above, as reasonably determined by OCII.

5.23 Insurance Requirements

(a) Insurance. Subject to approval by OCII's Risk Manager of the insurers and policy forms, Developer must obtain and maintain, or cause to be maintained, the insurance bonds as set forth in Attachment 22 throughout the Term of this DDA at no expense to OCII.

5.24 Off-Site Infrastructure and Improvements Damage

In addition to the indemnification provisions contained in Article 12.01, Developer further agrees to repair fully and/or replace to the satisfaction of OCII, any and all damage to the off-site infrastructure and improvements within the Project Area, including streets, sidewalks, curbs, gutters, drainage ditches, fences and utility lines lying within or adjacent to the Site resulting from work performed by or for Developer in the development of the Site as set forth herein. Developer or its general contractor, before commencement of such off-site work, must secure this obligation with a \$500,000 bond or insurance in form acceptable to OCII. Developer expressly acknowledges and agrees that its liability under this provision is not limited to the amount of the bond or insurance.

5.25 Intentionally Deleted.

ARTICLE 6: COVENANTS AND RESTRICTIONS

6.01 Covenants

Developer expressly covenants and agrees for itself, its successors and assigns and all persons claiming under or through it, that as to the Site and any Improvements constructed or to be constructed thereon, or any part thereof, or alterations or changes thereto, and in addition to any other term, covenant and condition of this Agreement, Developer and all such successors and assigns and all persons claiming under or through it, shall use, devote, operate and maintain the

Site and the Improvements thereon, and every part thereof, only and in strict accordance with the provisions of this Article 6. The provisions surviving the recordation of the Certificate of Completion are also described in Section 6.08 of this Agreement, and in the *Form of Grant Deed*, Attachment No. 11 and/or the *Declaration of Site Restrictions*, Attachment No. 13, as applicable.

6.02 General Restrictions

The Site and the Improvements thereon must be devoted only to the uses permitted by the Redevelopment Plan, and this Agreement.

6.03 Affordability Restrictions Before Completion

Prior to OCII's issuance of the Development Certificate of Completion, subject to Section 7.07 of this Agreement, the Site may be used only for the construction of the Improvements thereon in accordance with this Agreement, including the Scope of Development.

6.04 Restrictions After Completion - Permitted Uses

Following OCII's issuance of the Development Certificate of Completion, the Site may be used only for one hundred forty-eight (148) units of affordable for-sale housing for low- and moderate-income families, including common areas, parking and open space. The unit distribution shall be approximately 50 one-bedroom (34%), 63 two-bedroom (42%), 35 three-bedroom (24%) condominiums, priced to be affordable on average to households earning 90% of area median income. The Units must be marketed and sold subject to the following affordability restrictions (collectively, the "**Affordability Restrictions**"):

(a) Twenty-nine units (ten 1-BR, eleven 2-BR, and eight 3-BR units) of the units affordable to households earning no more than 80% AMI. These units will be priced according to the formula (described in Attachment No. 20: Affordable Pricing Chart, as amended and approved by OCII to adjust for variables impacting the pricing) based on households earning 75% AMI.

(b) Forty-eight units (fourteen 1-BR, twenty-two 2-BR, and twelve 3-BR units) of the units affordable to households earning no more than 90% AMI. These units will be priced according to the formula (described in Attachment No. 20: Affordable Pricing Chart, as

amended and approved by OCII to adjust for variables impacting the pricing) based on households earning 85% AMI.

(c) Forty units (fourteen 1-BR, nineteen 2-BR, and seven 3-BR) of the units affordable to households earning no more than 100% AMI. These units will be priced according to the formula (described in Attachment No. 20: Affordable Pricing Chart, as amended and approved by OCII to adjust for variables impacting the pricing) based on households earning 95% AMI.

(d) Thirty-one units (twelve 1-BR, eleven 2-BR, and eight 3-BR) of the units affordable to households earning no more than 110% AMI. These units will be priced according to the formula (described in Attachment No. 20: Affordable Pricing Chart, as amended and approved by OCII to adjust for variables impacting the pricing) based on households earning 105% AMI.

(e) The Project is subject to the requirements of the Inclusionary Affordable Housing Program under the San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"), as amended from time to time. Each household shall execute and record a Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase in form and substance acceptable to MOHCD. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Procedures Manual and the LEP Program. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual and LEP Program. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units.

(f) All of the units shall be sold pursuant to OCII's Limited Equity Program ("LEP") Loan Disclosure Book, included as Attachment 21, to ensure the units will be permanently affordable for the life of the Project. Prior to each sale, a declaration in the form of the Unit DOR in the form contained in Attachment 21 (or such revised form of Declaration approved by OCII) shall be recorded. The Affordable Purchase Price (at initial sale and future resale), as defined in Attachment 20, will be set according to a formula based on the Unadjusted Area Median Income for the HUD Metro Fair Market Rent Area that contains San Francisco, as

published by MOHCD (“AMI”). The initial affordability AMI levels of the Affordable Housing Units will be as shown in Attachment 20, Unit Mix and Location of Units. At resale, the price will be set at the same affordability level that established the original Affordable Purchase Price, regardless of the current market value. When a homeowner sells, the homeowner’s equity will be based on a variety of factors, including, without limitation, the change in AMI over time, HOA dues, property taxes, and any other housing related costs, plus eligible capital improvements made by the homeowner. For purposes of this Section 6.04 (f), “sold” shall mean entering into a binding contract for the sale of such Affordable Housing Unit.

(g) .Article 6.04 shall survive the termination of the Agreement as documented in the LEP and Unit DOR.

6.05 Nondiscrimination

(a) There shall be no discrimination against or segregation of any person or group of persons on account of age, race, color, creed, sex, sexual orientation, gender identity, marital or domestic partner status, disabilities (including AIDS or HIV status), religion, national origin or ancestry by Developer or any occupant or user of the Site in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, or any part thereof, and Developer itself (or any person or entity claiming under or through it) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of the Site or any part thereof, nor shall Developer or any occupant or user of the Site or any transferee, successor, assign or holder of any interest in the Site or any person or entity claiming under or through such transferee, successor, assign or holder, establish or permit any such practice or practices of discrimination or segregation, including, without limitation, with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, vendees or others of the Site, *provided, however*, that Developer shall not be in default of its obligations under this Article 6.05 where there is a judicial action or arbitration involving a bona fide dispute over whether Developer is engaged in discriminatory practices and Developer promptly acts to satisfy any judgment or award against Developer.

(b) Developer itself (or any person or entity claiming under or through it) further agrees and covenants that there shall be no discrimination against or segregation of, any person or group of

persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site nor shall the Developer or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.

(c) Any transferee, successor, assign, or holder of any interest in the Site, or any occupant or user thereof, whether by contract, lease, rental, sublease, license, deed, mortgage or otherwise, and whether or not any written instrument or oral agreement contains the foregoing prohibitions against discrimination, shall be bound hereby and shall not violate in whole or in part, directly or indirectly, the nondiscrimination requirements set forth above.

(d) All advertising (including signs) for sale and/or rental of the whole or any part of the Site shall include the legend "An Equal Housing Opportunity" in type or lettering of easily legible size and design.

(e) Developer, its successors and assigns to or of the Site and any Improvements thereon or any part thereof or any interest therein, and any party in possession or occupancy of the Site or the Improvements thereon or any part thereof permit OCII or its successor to take all reasonable steps legally necessary or appropriate to remove restrictions against the Site, if any, that would violate any of the non-discrimination provisions of this Agreement, whether the restrictions are enforceable or not.

(f) Article 6.05 shall survive the termination of this Agreement.

6.06 No Transfers or Mortgages

There may be no sale, assignment, transfer, conveyance, encumbrance, mortgage or liens in violation of this Agreement.

6.07 Effect, Duration and Enforcement of Covenants

(a) It is intended and agreed, and the Grant Deed and/or the Declaration of Site Restrictions shall expressly provide, that the covenants provided in this Article 6 shall be covenants running with the land and that they shall be, in any event and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement itself, to the fullest extent permitted by law and equity: (1) binding for the benefit and in favor of OCII and the City, as beneficiary, as to all covenants set forth in this Article 6 (*Covenants and Restrictions*); and the owner of any other land or of any interest in any land in the Project Area (as long as such land remains subject to the land use requirements and restrictions of the Redevelopment Plan), as beneficiary, as to the covenants provided in Article 6.02 and Article 6.05; and their respective successors and assigns; and (2) binding against Developer, its successors and assigns to or of the Site and any Improvements thereon or any part thereof or any interest therein, and any party in possession or occupancy of the Site or the Improvements thereon or any part thereof. It is further intended and agreed that the covenants provided in this Article 6 (*Covenants and Restrictions*) shall remain in effect subject to the termination provisions of Article 6.07(c) without limitation as to time; *provided, however*, that such agreements and covenants shall be binding on Developer itself, each successor in interest or assign, and each party in possession or occupancy, respectively, only for such period as it shall have title to or an interest in or possession or occupancy of the Site or part thereof.

(b) In amplification, and not in restriction, of the provisions of the preceding Articles, it is intended and agreed that OCII and the City and their respective successors and assigns, as to the covenants provided in this Article 6 of which they are stated to be beneficiaries, shall be beneficiaries both for and in their own right and also for the purposes of protecting the interest of the community and other parties, public or private, and without regard to whether OCII or the City has at any time been, remains, or is an owner of any land or interest therein to which, or in favor of which, such covenants relate. OCII and the City and their respective successors and assigns shall have the right, in the event of any and all of such covenants of which they are stated to be beneficiaries, to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings, to enforce the curing of such breach of such covenants to which it or any other beneficiaries of such covenants may be entitled including, without limitation, restraining orders, injunctions and/or specific enforcement, judicial or

administrative. These rights and remedies are in addition to, and not in derogation of, the rights and remedies of OCII set forth in Article 6.07(d).

(c) As stated above, the covenants contained in this Article 6 shall remain in effect without limitation as to time; *provided, however*, that if OCII becomes the fee owner of the Site or any portion thereof, whether voluntarily or involuntarily, through the exercise of the Power of Termination pursuant to Article 9.02 (g) or by reason of the conditions subsequent contained in the Grant Deed to the Site (which conditions terminate upon issuance of the Development Certificate of Completion), then the covenants contained in this Article 6 (except those contained in Article 6.05, the Redevelopment Plan , if still in effect) shall terminate and be of no further force or effect as to the Site or the portion thereof of which OCII has become the fee owner.

(d) The conveyance of the Site by OCII to Developer is made and accepted upon the express covenants contained in Article 6 which also shall be conditions subsequent and which shall be provided for in the Grant Deed and/or the Declaration of Site Restrictions. In addition to any other remedies that OCII may have and at the option of OCII, the violation of such conditions subsequent shall, following expiration of all applicable notice and cure periods, cause title to the Site and any Improvements thereon to revert to OCII, which shall have the right of immediate re-entry onto the Site, in the event of any such breach; *provided, however*, that any such reentry shall be subject to the provisions of Article 9.

(e) Developer shall be entitled to notice and shall have the right to cure of any breach or violation of all or any of the foregoing in accordance with Article 9.

6.08 Provisions Surviving Completion of Construction.

The following provisions (together with any definitions or other general provisions necessary to implement the following provisions) shall survive OCII's issuance and recordation of the Development Certificate of Completion, and shall also be incorporated into the Declaration of Site Restrictions (Attachment 13) and/or the Grant Deed, as applicable (Attachment 11):

- (a) All requirements contained in Section 4.01;
- (b) All requirements contained in 4.04;
- (c) All requirements contained in Section 5.23;

- (d) All requirements contained in Section 6.02;
- (e) All requirements contained in Section 6.04;
- (f) All requirements contained in Section 6.05;
- (g) All requirements contained in Section 12.01
- (h) All requirements contained in Section 12.04

Notwithstanding the foregoing, Developer shall have no further obligations under this Agreement from and after the date when the final Unit at the Project is sold and the homeowners' association for the Project ("HOA") commences operation.

ARTICLE 7: ANTI-SPECULATION AND ASSIGNMENT PROVISIONS

7.01 Anti-Speculation Provision

Developer represents and agrees that its purchase of the Site and its other undertakings pursuant to this Agreement must be used for the purpose of redevelopment of the Site and Improvements and not for speculation in land holding.

7.02 Qualifications and Identity of Developer Consideration for Agreement

Developer acknowledges:

- (a) the importance of the redevelopment of the Site to the general welfare of the community;
- (b) the substantial subsidy and other public assistance that have been made available by law and by federal, state and local governments, as applicable, for the purpose of making redevelopment possible; and
- (c) the fact that a transfer of an ownership interest in Developer or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in the ownership or distribution of ownership interests or with respect to the identity of the parties in control of Developer or the degree thereof, is for practical purposes a transfer or disposition of the property then owned by Developer. Therefore, the qualifications and identity of Developer and its members are of particular concern to the community and OCII. Developer further

recognizes that OCII is entering into this Agreement with Developer because of its qualifications and identity.

7.03 Prohibition Against Transfer and Assignment

Developer represents and agrees for itself, its members, and any successor in interest of itself and its members:

(a) Subject to Section 5.21 above, until OCII issues the Development Certificate of Completion of the Improvements, no voluntary or involuntary sale, assignment, conveyance, lease, trust or power, or transfer in any other form with respect to this Agreement or any portion of or interest in the Site, or any contract or agreement to do any of the same (except for the contracts and agreements referred to in this Agreement) (any of the above, a “**Transfer**”) may be made without OCII’s prior written approval in its sole and absolute discretion. Notwithstanding the above, a "Transfer" shall not include the assignment or other transfers of interest in the Site to a Bona Fide Institutional Lender or Holder as approved pursuant to Article 8 of this Agreement,.

(b) . OCII will be entitled to require as conditions to any approval that:

(1) Any proposed transferee must have the qualifications and financial responsibility, as determined by OCII, necessary and adequate to fulfill the obligations undertaken in this Agreement by Developer;

(2) Any proposed transferee must assume expressly in a writing for OCII’s benefit and binding on the transferee, its successors and assigns, all of Developer’s obligations under this Agreement and agree to be subject to all of the conditions and restrictions to which Developer is subject; *provided, however*, that Article 12.10 will apply even if the transferee has not delivered the required assumption agreement;

(3) OCII must review and approve all instruments and other legal documents effecting the Transfer as further described in Article 7.07 of this Agreement;

(4) To preclude any Transfer for profit before the completion of the Improvements, the consideration payable to Developer or its designee for the Transfer may not exceed an amount representing the actual costs incurred (not merely imputed), including carrying

charges, to Developer for the Site and the Improvements thereon, if any, and OCII will be entitled to any consideration in excess of the amount authorized in this clause; and

(5) Developer and its transferee must comply with any other conditions OCII reasonably requires in order to achieve and safeguard the purposes of the Redevelopment Plan requirements.

7.04 Reports and Notices - Changes in Ownership

To assist in the effectuation of the purposes of this Article and the statutory objectives generally, Developer agrees that during the period between execution of this Agreement and prior to the issuance of the Development Certificate of Completion:

(a) Developer will notify OCII at least fifteen (15) days before any proposed changes in the legal or beneficial ownership, or any other act or transaction resulting in any change in the ownership or in the relative distribution thereof, or with respect to the identity of the parties in control of Developer or the degree thereof, of which it or any of its officers or members have been notified or otherwise have knowledge or information; and

(b) At OCII's request, Developer will furnish OCII with: (1) a complete statement, certified by Developer's manager, setting forth all of the members of Developer and the extent of their respective holdings, and in the event any other parties have a beneficial interest in membership interests, their names and the extent of their interests, all as determined or indicated by the records of Developer and to the actual knowledge of such manager; and (2) the most recent audited financial statement of Developer and each member or, if audited financial statements are not available, complete copies of tax returns as filed. All lists, data, and information must be furnished to OCII immediately before and as a condition precedent to the delivery of the Grant Deed to Developer.

7.05 Application to All Forms of Entities

The provisions of this Article 7 (*Anti-Speculation and Assignment Provisions*) relating to membership apply without exception to governmental entities and all forms of business organizations.

7.06 Effect of Violation

In the absence of specific written approval by OCII, a Transfer in violation of this Agreement will not relieve Developer or any other party from any obligations under this Agreement or deprive OCII of any of its rights and remedies under this Agreement or the Grant Deed.

7.07 OCII Review of Proposed Transfers and Nature of OCII Consent

(a) At any time before the issuance of the Development Certificate of Completion for the Improvements on the Site, Developer may submit a written request to OCII for the approval of a proposed Transfer (a “**Proposed Transfer**”) with all relevant written documents and data pertaining thereto and any additional documents and data OCII reasonably requests. Within sixty (60) days after its receipt of a request (or later receipt of all additional requested documents), OCII will notify Developer in writing of OCII’s decision with respect to the Proposed Transfer. If OCII approves, OCII will accept the Proposed Transfer, provided the Proposed Transfer occurs within ninety (90) days following the date of OCII’s written approval. If the Proposed Transfer will not occur within the ninety (90) day period, Developer will not be entitled to make the Proposed Transfer without first obtaining again OCII’s approval of the terms of the Proposed Transfer. If OCII disapproves the Proposed Transfer, it will specify with particularity the grounds for disapproval.

(b) Except as set forth above regarding permitted transfers by the Developer before the issuance of the Development Certificate of Completion for the Improvements on the Site, OCII may withhold approval in its sole discretion.

ARTICLE 8: MORTGAGE FINANCING: RIGHTS OF HOLDERS

8.01 No Mortgage Except as Set Forth Herein

(a) Except as permitted in this Article 8 (*Mortgage Financing: Rights Of Holders*), Developer shall not:

- (1) engage in any financing or any other transaction creating any mortgage or deed of trust upon the Site or upon Developer's interest therein; or
- (2) suffer any encumbrance or lien to be made on or attached to the Site or Developer's interest therein, except for a Mortgage and/or a Permitted Encumbrance.

(b) Any such mortgage, encumbrance or lien not permitted by this Article 8 shall be deemed to be a violation of this covenant on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

(c) In the event that Developer complies with the provisions of this Article 8 (*Mortgage Financing: Rights Of Holders*), Developer shall be authorized and entitled to create one or more Mortgages on the Site and Improvements.

(d) Developer shall be permitted to contest the validity or amount of any tax, assessment, encumbrance or lien and to pursue any remedies associated with such contest; *provided, however*, that such contest and pursuit of remedies does not subject the Site or any portion of it to forfeiture or sale.

8.02 Notice of Mortgage

Developer shall promptly notify OCII of any lien or encumbrance which has been created on or attached to the Site, whether a Mortgage, Permitted Encumbrance or otherwise and whether by act of Developer or otherwise.

8.03 Purpose of Mortgage

A Mortgage shall be made only for one or more of the following purposes:

- (a) to finance the costs of constructing the Improvements;
- (b) to finance the costs of repair, rebuilding or restoration of the Improvements; or
- (c) to refinance or “take-out” the loans or financing referred to in the foregoing subparagraphs (a) and/or (b).

8.04 Amount of Mortgage

(a) Notwithstanding anything herein to the contrary, the aggregate principal amounts of all loans and financing secured by Mortgages on the Site shall not exceed the greater of: (1) one hundred percent (100%) of the Construction Costs of the Improvements, or (2) the replacement cost of the Improvements.

(b) Notwithstanding the foregoing provisions of this Article 8.04, in the event of a default hereunder by Developer or under any Mortgage permitted under this Agreement, the Holder shall have the right at its option to advance such funds as are necessary in the Holder's reasonable judgment to protect its security or to cure or remedy or commence to cure or remedy such default, and any Mortgage authorized by this Agreement may secure such advance.

8.05 Interest Covered by Mortgage

The Mortgage shall cover no interest in any real property other than Developer's interest in the Site and the Improvements and any rights of Developer appurtenant to the Site and the Improvements, including but not limited to, Developer's personal property or other intangibles provided by Developer to secure the Mortgage.

8.06 Insurance and Condemnation Proceeds

Developer shall cause any Mortgage to contain provisions permitting the disposition and application of the insurance proceeds and condemnation awards in the manner provided in this Agreement as follows:

(a) Total Taking by Condemnation: Prior to OCII's issuance of a Development Certificate of Completion, if all of the Site is taken by condemnation, then the DDA shall terminate on the date the condemnor has the right to possession of the Site, except for those provisions that expressly survive the termination of the DDA.

(b) Distribution of Total Condemnation Award: Subject to the rights of any Bona Fide Institutional Lender, any compensation awarded, paid or received on a total condemnation of the Site or threat of total condemnation of the Site shall belong to and be distributed in the following order:

- (i) First, to pay the outstanding principal balance and accrued interest due on any outstanding Mortgages and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals;
- (ii) Second, to pay the outstanding principal balance and accrued interest on the loans made by OCII to the Developer; and

(iii) The remainder to the Developer.

(c) Partial Taking by Condemnation: Prior to OCII's issuance of a Development Certificate of Completion, if part of the Site is taken by condemnation, then the DDA shall remain in full force and effect as to that portion of the Site not condemned, except that the number of affordable housing Units shall be reduced proportionately.

(d) Distribution of Partial Condemnation Award: Subject to the rights of any Bona Fide Institutional Lender, any compensation awarded, paid or received on a partial condemnation of the Site or threat of partial condemnation shall be used by Developer to accomplish all necessary restoration and construction of the Improvements on the remainder of the Site.

(e) Insured Casualty: Prior to the OCII's issuance of a Development Certificate of Completion, if the Improvements or any part thereof are damaged or destroyed by any cause covered by any policy of insurance required to be maintained by Developer hereunder, then, subject to the consent of OCII and all Bona Fide Institutional Lenders and their release of the insurance proceeds to Developer, Developer shall promptly commence and diligently complete the restoration of the Improvements as nearly as possible to the condition thereof prior to such damage or destruction.

(f) Distribution of Insurance Proceeds: If the insurance proceeds are not utilized to rebuild the Improvements, the distribution of the proceeds of any insurance policy required to be maintained by Developer hereunder shall be as follows:

- (i) First, to pay the outstanding principal balance and accrued interest due on any outstanding Mortgages and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accrual;
- (ii) Second, to pay for the cost of removal of all debris from the Site or adjacent and underlying property, and for the cost of any work or service required by any statute, law, ordinance, rule, regulation or order of any federal, state or local government, or any agency or official thereof, for the protection of persons or property from any risk, or for the abatement of any nuisance, created by or arising from the casualty or the damage or destruction caused thereby;

- (iii) Third, to pay the outstanding principal balance and accrued interest on the loans made by OCII to the Developer and to compensate OCII for any diminution in the value (as of the date of the damage or destruction) of the Site as a raw development site caused by or arising from the damage or destruction; and
- (iv) The remainder to Developer.

(g) Uninsured or Underinsured Casualty: The Developer may, with the written consent of each Bona Fide Institutional Lender, terminate the DDA, (except for those provisions that expressly survive the termination of the DDA), upon ninety (90) days written notice to OCII, if all of the following exist:

- (i) More than 50% of the Improvements are damaged or destroyed;
- (ii) Ten percent (10%) or more of the cost of restoration is not covered by the insurance proceeds;
- (iii) In the reasonable opinion of Developer, the Improvements cannot be rebuilt or completed on an economically feasible basis; and
- (iv) There is not available to Developer any feasible source of third party financing for restoration reasonably acceptable to Developer.

8.07 Institutional Lender; Other Permitted Holders

Any Holder under a Mortgage permitted under this Article 8 shall be either (1) a Bona Fide Institutional Lender, or (2) any other lender which shall have been approved by OCII, which shall include any lender identified in the approved Project Budget. In any case in which OCII's approval is required, OCII shall be deemed to have approved such other lender if OCII shall fail to disapprove such lender by written notice given to Developer within thirty (30) days following OCII's receipt of the written notice from Developer of the identity of such other lender and specifying that no notification of disapproval within thirty (30) days after the receipt of such written notice constitutes approval. In the event that OCII disapproves such other lender, OCII's notice shall specify with particularity the reasons for such disapproval.

8.08 Rights Subject to Agreement

Subject to Section 12.14, below, all rights acquired by any Holder under a Mortgage, either before or after foreclosure or transfer in lieu thereof, or by a purchaser of the Site by means of a

foreclosure sale of the Site subject to the Mortgage, shall be subject to each and all of the terms, covenants, conditions and restrictions set forth in this Agreement, none of which terms, covenants, conditions and restrictions are or shall be waived by OCII by reason of the permitting of such Mortgage, except as specifically waived by OCII in writing. [Such terms, covenants, conditions and restrictions shall include, without limitation, the obligation to: (1) construct or complete the Improvements, subject to the limitations set forth in Article 8.11(b); (2) devote the Site or any part thereof to those uses provided or authorized in this Agreement; and (3) manage and operate the Site in accordance with the provisions of this Agreement, subject to the limitations set forth in Article 8.11(b) which must be satisfied within ninety (90) days following the date on which a Holder acquires fee title to the Site] For purposes of this Article 8, all references to the term “**Holder**” also shall mean any affiliate or participant of the mortgagee or beneficiary under a Mortgage or any other Holder, and any purchaser of the Site by means of a foreclosure sale of the Site or transfer in lieu thereof, and any successors and assigns of such parties.

8.09 Required Provisions of Any Mortgage

Developer agrees to have any Mortgage provide that the Holder shall give notice to OCII in writing by registered or certified mail of the occurrence of any default by Developer under the Mortgage, and that OCII shall be given notice at the time any Holder initiates any Mortgage foreclosure action. In the event of any such default, OCII shall have the right to cure such default, provided that Developer is given ten (10) days' prior notice of OCII's intention to cure such default. If OCII shall elect to cure such default, Developer shall pay the cost thereof to OCII upon demand, together with the interest thereon at the maximum interest rate permitted by law, unless: (1) Developer cures such default within such 10-day period, or (2) if curing the default requires more than ten (10) days and Developer shall have commenced cure within such ten (10) days after such notice, Developer shall have: (i) cured such default within thirty (30) days or such greater time period as may be allowed by Holder after commencing compliance, or (ii) obtained from the Holder (x) a written extension of time in which to cure such default, together with a separate written extension of time granting OCII reasonable additional time to cure such default if such default is not cured within such extension of time, or (y), a written waiver of such default and delivered in either case executed copies thereof to OCII. Following

the notice set forth above, Developer hereby authorizes OCII in OCII's name, without any obligation to do so, to perform any act required of Developer in order to prevent a default or acceleration under any Mortgage, or the taking of any foreclosure or other action to enforce the collection of the indebtedness secured by the Mortgage, and Developer agrees to indemnify, defend and hold OCII harmless from any losses, costs, claims, damages, liabilities and causes of action (including reasonable attorneys' fees) resulting from OCII exercising its rights under this Article. Developer also agrees to make reasonable good faith efforts to have any Mortgage provide that such Mortgage is subject to all of the terms and provisions of this Agreement.

8.10 Address of Holder

No Holder shall be entitled to exercise the rights set forth in this Article 8 unless and until written notice of the name and address of the Holder shall have been given to OCII, notwithstanding any other form of notice, actual or constructive.

8.11 Holder's Right to Cure

If Developer shall create a Mortgage on the Site in compliance with the provisions of this Article 8, then so long as any such Mortgage shall remain unsatisfied of record, the following provisions shall apply:

(a) OCII, upon serving Developer any notice of default or any other notice under the provisions of or with respect to this Agreement, shall also serve a copy of such notice upon any Holder at the address provided to OCII pursuant to Article 8.10, and no notice by OCII to Developer hereunder shall affect any rights of a Holder unless and until a copy thereof has been so served on such Holder; *provided, however*, that failure so to deliver any such notice shall in no way affect the validity of the notice sent to Developer as between Developer and OCII, unless cured by the Holder as hereinafter provided.

(b) Any Holder, in case Developer shall be in default hereunder, shall have the right to remedy, or cause to be remedied, such default within ninety (90) days after the expiration of the period provided herein for Developer to remedy or cure such default, and OCII shall accept such performance by or at the insistence of the Holder as if the same had been timely made by Developer.

(1) Notwithstanding the foregoing, if the default occurs prior to completion of construction of the Improvements or if the Holder becomes the fee owner of the Site prior to completion of construction of the Improvements, nothing contained in this Article 8.11 or any other article or provisions of this Agreement shall be deemed to permit or authorize such Holder, either before or after foreclosure or transfer in lieu thereof, to undertake or continue the construction or completion of the Improvements beyond the extent necessary to conserve or protect the Improvements or construction already made without: (i) the express assumption by Holder (or a third party procured by Holder and acceptable to OCII) by written agreement satisfactory to OCII of Developer's obligations to complete, in the manner provided in this Agreement, the Improvements on the Site, or the part thereof to which the lien of such Mortgage relates, and otherwise to perform all of Developer's obligations under this Agreement from and after the date of Holder's acquisition of the Site; (ii) the submittal of evidence satisfactory to OCII that such Holder (or a third party procured by the Holder and acceptable to OCII) has the financial capacity necessary to perform such obligations (provided, however, that any Lender approved by OCII (or its agent) hereunder shall be presumed to have such financial capacity); and (iii) the submittal of evidence satisfactory to OCII that such Holder (or a third party procured by the Holder and acceptable to OCII) has the construction expertise to complete Developer's construction obligations as set forth in this Agreement (provided, however, that any Lender approved by OCII hereunder shall be presumed to have such expertise). If the Holder fails to satisfy all of the requirements in the foregoing clauses (i), (ii) and (iii) within Holder's ninety (90) day cure period, then such failure shall constitute a default under this Agreement giving rise to OCII's right to terminate this Agreement and re-enter the Site as set forth in Article 8; *provided, however*, that any such reentry shall be subject to the Mortgage and Holder's rights thereunder.

(2) Upon assuming Developer's obligations, the Holder shall be required only to exercise due diligence in completion of the construction of the Improvements and shall not be required to complete construction of the Improvements within the dates set forth therefor in the Schedule of Performance. Any such assuming Holder properly completing such Improvements shall be entitled, upon written request made to OCII, to a Development Certificate of Completion from OCII with respect to such Improvements to the same extent and in the same manner as Developer would have been entitled if Developer had not defaulted. Upon transfer by any such

assuming Holder to any transferee, such Holder shall be relieved of any liability or further obligations hereunder arising after the transfer.

(3) Notwithstanding anything to the contrary contained herein, upon the occurrence of a default by Developer hereunder, OCII shall take no action to terminate this Agreement without first giving to any Holder written notice thereof and a reasonable time thereafter within which either (i) to obtain possession of the Site (including possession by a receiver) or (ii) to institute, prosecute and complete foreclosure proceedings with diligence or otherwise acquire the Site with diligence; provided that if such default is reasonably susceptible of being cured at any time, Holder shall commence and diligently prosecute such cure as a condition to the OCII's taking no action as set forth above. A Holder upon acquiring the Site shall be required promptly to cure all other defaults by Developer then reasonably susceptible of being cured by such Holder other than a default by Developer with respect to constructing the Improvements, subject to subparagraph (2) above; *provided, however*, that: (i) such Holder shall not be obligated to continue such possession or to continue such foreclosure proceedings after such defaults have been cured; (ii) nothing herein contained shall preclude OCII, subject to the provisions of this Article, from exercising any rights or remedies under this Agreement with respect to any other default by Developer during the pendency of such foreclosure proceedings; and (iii) such Holder shall agree with OCII in writing to comply during the period of such forbearance with such of the terms, conditions and covenants of this Agreement as are reasonably susceptible of being complied with by such Holder.

(4) Any notice or other communication which OCII shall desire or is required to give to or serve upon the Holder shall be in writing and shall be served by registered or certified mail or a nationally recognized private courier service, addressed to the Holder at the address provided for in Article 8.10.

(5) Any notice or other communication which Holder shall give to or serve upon OCII shall be deemed to have been duly given or served if sent by registered or certified mail or a nationally recognized private courier service addressed to OCII at OCII's address as set forth in Article 12.03 or at such other address as shall be designated by OCII by notice in writing given to the Holder by registered or certified mail or a nationally recognized private courier service.

(6) Notwithstanding anything to the contrary contained herein, the provisions of this Article 8 shall inure only to the benefit of the Holders under Mortgages which are permitted hereunder.

8.12 OCII's Purchase

Developer shall use its reasonable, good faith efforts to have any Holder agree that:

(a) If such Holder shall acquire title to the Site by foreclosure or by transfer in lieu of foreclosure, OCII may, at any time within ninety (90) days after such acquisition, purchase the Site from such Holder for the amount equal to the sum of: (1) the amount secured by such Mortgage and owing to such Holder at the time of the foreclosure, less all appropriate credits; (2) the costs and expenses incurred by such Holder in connection with such acquisition; (3) the cost of any improvements made by Holder; and (4) interest on the amounts in the foregoing clauses (1), (2) and (3) from the date of foreclosure to the date of closing such purchase at the rate set forth in the Mortgage, and the Mortgage between Developer and such Holder shall so provide.

(b) Prior to any sale of Holder's interest in the Site following a foreclosure, such Holder shall offer to sell such interest to OCII in writing stating the terms of such sale, and OCII shall have thirty (30) days within which to accept or decline such offer, and the Mortgage between Developer and such Holder shall so provide. If such offer is declined, such Holder may sell such interest to the extent permitted hereby within ninety (90) days thereafter, but only on terms not more favorable to its assignee than those offered to OCII; if such sale is not consummated within such ninety (90) day period, such Holder may not sell such interest without first offering such interest to OCII as provided in this clause, and the Mortgage between Developer and such Holder shall so provide.

(c) If upon foreclosure of a Mortgage on the Site or a transfer in lieu thereof, a party other than the Holder thereunder, or an affiliate or participant of such Holder, shall acquire title to the Site, OCII may, at any time within ninety (90) days after such foreclosure or transfer, purchase the Site for an amount equal to the sum of: (1) the amount paid by such party to acquire such interest; and (2) the other costs and charges described in clauses (2) through (4) of subparagraph (a) above paid or incurred by such party, and the Mortgage between Developer and such Holder shall so provide.

(d) Provided, however, the Developer's inability to cause any Holder (using good faith efforts) to agree to the provisions set forth above shall not constitute a default or breach by the Developer.

8.13 Mortgagee Protection Amendments

Provided Developer is not in default under the terms of this Agreement, OCII agrees to cooperate with Developer to include in this Agreement and/or in the Grant Deed by suitable amendment from time to time any provision acceptable to OCII which may be required by a proposed Holder in order to implement customary mortgagee protection provisions in this Agreement and/or the Grant Deed.

ARTICLE 9: DEFAULTS AND REMEDIES

9.01 Developer Default

The occurrence of any one of the following events or circumstances, if not cured within the specified cure or grace period, will constitute an event of default (“**Event of Default**”) by Developer under this Agreement, giving OCII the right to declare Developer in default and to exercise any or all of its remedies, at its sole election and in its sole discretion:

- (a) Developer suffers or permits a Transfer to occur without OCII’s prior written approval.
- (b) Developer allows any other person or entity (except Developer’s authorized representatives, the contractor and its subcontractors) to occupy or use all or any part of the Site in violation of the provisions of this Agreement, and such event or condition shall not have been cured within thirty (30) days following the date of written demand to cure by OCII to Developer.
- (c) Developer fails to pay real estate taxes or assessments on the Site prior to delinquency or places any mortgages, encumbrances or liens upon the Site or the Improvements or any part thereof (other than Mortgages or Permitted Encumbrances) in violation of this Agreement, and such event or condition shall not have been cured within thirty (30) days following the date of written demand to cure by OCII to Developer, subject to the contest rights specified in Article 8.01(d).

- (d) Developer fails to commence promptly, or after commencement fails to prosecute diligently to completion (as evidenced by a Development Certificate of Completion issued pursuant to this Agreement), the construction of the Improvements within the times set forth in the Schedule of Performance, Attachment No. 4, or abandons or substantially suspends construction of the Improvements for more than thirty (30) consecutive days, and such failure, abandonment or suspension continues for a period of thirty (30) days following the date of written notice thereof from OCII, but excluding any delay excused by Force Majeure.
- (e) Developer causes or permits a default as defined in and occurring under any other agreement between OCII and Developer and fails to cure the same in accordance with such other agreement, provided that OCII's remedies for a default under the other agreement between OCII and Developer shall be limited to the remedies respectively set forth therein. The foregoing notwithstanding, the Developer shall have a thirty (30) day notice and cure period for breaches of OCII's Equal Opportunity Program Documents as set forth in Article 9.01(i) below.
- (f) Intentionally deleted.
- (g) Developer fails to pay any other amount required to be paid hereunder, other than the Purchase Price for the Site, and such failure continues for a period of five (5) Business Days following the date of written notice thereof from OCII.
- (h) Developer does not accept conveyance of the Site in accordance with this Agreement upon tender by OCII pursuant to this Agreement and in accordance with the Escrow Instructions, and such failure continues for a period of three (3) Business Days following the date of written notice from OCII but excluding any delay excused by Force Majeure.
- (i) Subject to written notice and thirty day (30) cure period, Developer is in default under OCII Nondiscrimination in Contracts and Equal Benefits Policy (Attachment No. 14), Minimum Compensation Policy (Attachment No. 15), Health Care Accountability Policy (Attachment No. 16), Small Business Enterprise Agreement (Attachment No. 17) the Prevailing Wage Provisions (Labor Standards) (Attachment No. 18) or OCII's Construction Workforce Policy (Attachment No. 19) (collectively, **"OCII's Equal Opportunity Program Documents"**).

(j) Developer fails to obtain a Building Permit or Site Permit with foundation and excavation addenda, as the case may be, and all other necessary permits for the Improvements to be constructed on the Site within the periods of time specified in this Agreement or the *Schedule of Performance*, and such failure continues for a period of thirty (30) days following the date of written notice thereof from OCII, unless such failures are caused by the City's or OCII's failure to timely review adequate submissions by the Developer.

(k) Developer does not submit to the OCII all Construction Documents as required by this Agreement within the periods of time respectively provided therefor in this Agreement and the *Schedule of Performance* or by any permitted Fast Track, and Developer does not cure such default within thirty (30) days following the date of written demand from OCII but excluding any delay excused by Force Majeure.

(l) Developer fails to provide the insurance certificate(s) for the insurance required in Article 5.23 within the time prescribed in Article 5.23, and such failure shall continue for a period of five (5) Business Days following the date of written notice thereof from OCII.

(m) Developer fails to submit the documents required by this Agreement within the time prescribed and such failure continues for a period of five Business Days following the date of written notice thereof from OCII but excluding any delay excused by Force Majeure.

(n) Developer defaults in the performance of or violates any covenant, or any part thereof, set forth in Article 6 or in the Grant Deed to the Site, and such default or violation continues for a period of thirty (30) days after the date of written demand to cure from OCII to Developer but excluding any delay excused by Force Majeure.

(o) Developer fails to perform any other agreements or obligations on Developer's part to be performed under this Agreement, and such failure continues for the period of time for any cure or the expiration of any grace period specified in this Agreement therefor, or if no such time or grace period is specified, within thirty (30) days after the date of written demand by OCII to Developer to perform such agreement or obligation, or in the case of a default not susceptible of cure within thirty (30) days, Developer fails promptly to commence to cure such default and thereafter diligently to prosecute such cure to completion within a reasonable time.

(p) Developer fails to perform any other obligations on Developer's part to be performed under the Loan Documents (as this term is defined in the Gap Loan Agreement).

(q) Any representation or warranty made by Developer proves to have been materially incorrect or false when made.

9.02 Remedies of OCII

OCII's remedies for an Event of Default by Developer are set forth below.

(a) Termination. In the event of a default by Developer prior to conveyance of the Site to Developer, OCII shall have the right, in its sole and absolute discretion, to terminate this Agreement upon written notice to Developer; in such case, Developer shall forfeit any right to reimbursement of the Performance Deposit.

(b) Damages Offset. Whether before or after conveyance of the Site, OCII, in addition to all other rights and remedies it may have, including, but not limited to, the right to terminate this Agreement, may apply the Performance Deposit as an offset against any damages OCII may suffer or may have suffered arising out of this Agreement or the Developer's performance pursuant to the Agreement or lack thereof. OCII agrees to provide the Developer with ten (10) days' written notice prior to applying the Deposit in accordance with this Article; *provided, however*, that failure to provide such notice will not defeat OCII's right to such offset under any circumstances, and the only remedy for such failure will be the obligation of OCII to provide such notice.

Developer _____

OCII _____

(c) Specific Performance. Following Close of Escrow, OCII shall have the right to institute an action for specific performance of the terms of this Agreement or of the Grant Deed including, but not limited to, the right to institute any action for specific performance of Developer's obligations under this Agreement to construct the Improvements.

(d) All Remedies at Law or in Equity. OCII may take any action permitted at law, in equity or under this Agreement at its option to cure or remedy the default or breach, including: (1) following Close of Escrow, instituting proceedings to compel specific performance by Developer; (2)

applying the Performance Deposit to and in payment of any damages suffered by OCII, or by the City; and (3) terminating this Agreement and, with it, Developer's right to conveyance of the Units as provided this Agreement provided however, OCII shall not have any action for damages if the Site is not conveyed to the Developer.

(e) Limitation on Personal Liability of Developer. No owner, manager, partner, officer, director, member, official or employee of Developer shall be personally liable to the OCII, or any successor in interest, for any default by Developer or for any obligations under the terms of this Agreement.

(f) Reversion Grant Deed. As additional security and to facilitate and implement the OCII's rights under this Article in case of a default or failure of Developer to perform after conveyance of the Site, and as a condition precedent to the obligation of OCII to convey the Site to the Developer, the Developer shall have executed with signatures duly acknowledged and delivered to OCII a recordable grant deed in the form attached hereto as Attachment No. 12 (the "**Reversion Grant Deed**") conveying title to the Site from the Developer to OCII. The Reversion Grant Deed shall be held in escrow until: (1) OCII issues a Development Certificate of Completion; or (2) OCII records the Reversion Grant Deed in accordance with the terms of this Agreement as specified in more detail below.

(g) After conveyance of the Site to Developer and following an Event of Default and the expiration of any applicable cure periods, OCII shall have the right, in its sole discretion, to record the Reversion Grant Deed and re-enter and take possession of the Site conveyed to the Developer, with all Improvements thereon, and to terminate (and revest in OCII) the right, title, or interest conveyed by the Grant Deed to the Developer, at no cost to the Successor Agency (collectively, the "**Power of Termination**"); *provided, however*, that OCII agrees to provide ten (10) days' written notice to Developer prior to recordation. Any recordation of the Reversion Grant Deed by OCII shall not affect in any manner the right of Developer (whether before or after such recordation) to exercise any and all rights and remedies available to Developer to contest the rights of OCII to cause the recordation of such deed or from otherwise to assert some right, title or interest in or to the Site.

(i) If OCII exercises the Power of Termination, (i) the Developer shall have no further right, title or interest in or to the Site and (ii) OCII may record the Reversion Grant Deed and proceed with developing the Site in accordance with its obligations under the Mission Bay South Owner Participation Agreement.

(ii) Such rights to re-enter, repossess and revest title shall be subject to and be limited by and shall not defeat, render invalid or limit any Mortgage permitted by this Agreement or any rights or interests provided in this Agreement for the protection of the Holder under any such Mortgage.

(iii) The Grant Deed to the Site shall contain appropriate references and provisions, including conditions subsequent, to give effect to OCII's rights as set forth in this Article 9.03 to re-enter and take possession of the Site or any part thereof, with all Improvements thereon, and to cause title to the Site to revert to OCII.

(iv) Developer shall be liable to OCII for any and all reasonable costs and expenses of OCII actually incurred to obtain title to the Site free and clear of all liens (including, without limitation, contractor's, labor and materials liens), encumbrances, taxes, assessments or other charges to which the Site became subject during the period of ownership by Developer, other than Mortgages permitted hereunder and Permitted Encumbrances. OCII shall have an independent right to recover any such costs and expenses from the Developer.

(h) Plans and Data. If OCII exercises its Power of Termination and re-entry as to any portion of the Site before the Improvements have been completed and the Development Certificate of Completion issued and recorded, Developer shall promptly assign, subject to the rights of approved lenders and, and deliver to OCII any and all Construction Documents in possession of or prepared for Developer or OCII for the development of the Site. OCII may use the Construction Documents for their intended purpose to develop the Site, without cost or liability therefor to Developer.

(i) Return of Reversion Grant Deed. OCII will return the Reversion Grant Deed to the Developer within two (2) Business Days after recordation of the Development Certificate of Completion and, in any event, will not be entitled to record the Reversion Grant Deed after such recordation.

9.03 Additional Specific Remedies of OCII

OCII's remedies described above are in addition to and not in limitation of other remedies, permitted hereunder, at law or in equity, including: (1) remedies in the Deed and elsewhere for violation of the covenants in Article 6 (*Covenants and Restrictions*); and (2) remedies set forth in OCII's Equal Opportunity Program Documents.

9.04 OCII Default

The occurrence of any one of the following events or circumstances, if not cured within the specified cure or grace period, will constitute an event of default ("**Event of Default**") by OCII under this Agreement, giving the Developer the right to declare OCII in default and to exercise any or all of its remedies, at its sole election and in its sole discretion:

- (a) OCII shall fail to convey the Site to Developer in violation of this Agreement, and such failure shall continue for a period of ten (10) days following the date of written notice thereof from Developer.
- (b) OCII fails to perform any other agreements or obligations on OCII's part to be performed under this Agreement, and such failure shall continue for the period of time for any cure or the expiration of any grace period specified in this Agreement therefor, or if no such time or grace period is specified, within thirty (30) days after the date of written demand by Developer to OCII to perform such agreement or obligation, or, in the case of a default not susceptible of cure within thirty (30) days, OCII fails promptly to commence to cure such default and thereafter diligently to prosecute such cure to completion within a reasonable time.

9.05 Remedies of the Developer

Developer's remedies for an Event of Default by OCII are set forth below.

- (a) Termination. For an Event of Default by OCII prior to Close of Escrow, Developer shall have the right to terminate this Agreement upon written notice to OCII and obtain a prompt return of the Performance Deposit.
- (b) Damages. OCII shall not be liable to Developer for the damages caused by any default by OCII, including general, special, or consequential damages, or to expend money to cure a

default by OCII, except as provided in subparagraph (c) below, subject to the limitations contained in subparagraph (e) below.

(c) Return of Performance Deposit. OCII shall return the Performance Deposit to the Developer.

(d) Other Remedies. Subject to subparagraphs (a), (b), and (e), Developer shall be entitled to exercise all other remedies permitted by law or equity.

(e) Nonliability of OCII Members, Officials and Employees. No member, official or employee of OCII shall be personally liable to Developer, or any successor in interest, for any default by OCII or for any amount which may become due to Developer or any successor in interest under the terms of this Agreement.

9.06 General Enforcement of Remedies

(a) Subject to the limitations contained in this Agreement, either Party may institute legal action to cure, correct or remedy any default, to recover damages for any default or to obtain any other remedy consistent with the terms of this Agreement. Legal actions must be instituted in the Superior Court of the City and County of San Francisco, State of California, or any other appropriate court in the City and County or, if appropriate, in the Federal District Court in San Francisco, California.

(b) In the event that any legal action is commenced by Developer against OCII, service of process on OCII must be made by personal service upon the Executive Director of OCII, through the OCII General Counsel, or in any other manner as may be provided by law. In the event that any legal action is commenced by OCII against Developer, service of process on Developer must be made by personal service upon Developer at the address provided in Article 12.03 or at any other address Developer has designated pursuant to Article 12.03 of this Agreement, or in any other manner as may be provided by law, and will be valid whether made within or without the State of California.

(c) In the event that any Party brings a legal action to enforce rights under this Agreement, the prevailing Party in the proceeding will be entitled to recover its reasonable attorneys' fees and costs of the proceeding.

9.07 Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties to this Agreement, whether provided by law, in equity or by this Agreement, are cumulative, and the exercise by either Party of any one or more of its rights or remedies will not preclude the exercise by the Parties of any other or further rights or remedies for the same or any other default or breach by the other Party. No waiver made by either Party with respect to the performance, or manner or time thereof, of any obligation of the other Party or any condition to its own obligation under this Agreement will be effective beyond the particular obligation of the other Party or condition to its own obligation expressly waived and to the extent thereof, or a waiver in respect to any other rights of the Party making the waiver or any other obligations of the other Party.

ARTICLE 10: FORCE MAJEURE AND EXTENSIONS OF TIME

10.01 Force Majeure

(a) For the purposes of any of the provisions of this Agreement, and notwithstanding any provision herein to the contrary, neither OCII nor Developer, as the case may be (the “**Delayed Party**” as applicable), will be considered in breach of or default in any obligation or satisfaction of a condition to an obligation of another Party, and provided that the Delayed Party continues to diligently pursue the resumption or completion of construction or other milestone, as applicable, and otherwise complies with the applicable requirements of this Section 10,01, the time or times for performance of the obligations of OCII or Developer shall automatically be extended during an event of Force Majeure (defined below); *provided, however*, that the Party seeking the benefit of the provisions of this Article must notify the other Party in writing within thirty (30) days after the beginning of any Force Majeure event, and state the cause or causes of delay and provide an explanation of the delay sufficient for the other Party to verify the delay.

(b) “**Force Majeure**” means events that cause enforced delays in the Delayed Party’s performance of its obligations under this Agreement due to one or more of the following

causes, to the extent the cause is beyond the Delayed Party's reasonable control: acts of God or of a public enemy, acts of terrorism, acts of the government (but not those of OCII with regard to its own acts or other acts of the government relating to the delay or failure to issue building permits for cause), fires, floods, epidemics, pandemics, quarantine restrictions, freight embargoes, inability to obtain supplies or materials or reasonably acceptable substitute supplies or materials (provided that Developer has ordered the materials on a timely basis), unusually severe weather, archeological finds on the Site, substantial interruption of work because of labor disputes, administrative appeals, litigation and arbitration (provided that Developer proceeds with due diligence to resolve any dispute that is the subject of action), and delays of subcontractors due to any of these causes.

(c) If the delay caused by Force Majeure prior to Close of Escrow extends for more than twelve consecutive (12) months), then either OCII or Developer, by written notice to the other, may terminate this Agreement, whereupon the Performance Deposit shall promptly be returned to Developer and the Parties shall have no further liabilities or obligations under this Agreement arising or accruing following such termination.

10.02 Extensions of Time

(a) Extension by OCII. OCII may extend the time for Developer's performance of any term, covenant or conditions of this Agreement, or any other document referenced herein pursuant to which the Developer is required to perform, or permit the curing of any default upon terms and conditions OCII determines appropriate.

(b) Extension(s) by OCII Executive Director. The Executive Director of OCII may extend the date for Developer's performance of any item set forth in the Schedule of Performance without Commission approval, so long as the extensions do not in the aggregate exceed a total of six (6) months from the dates in the Schedule of Performance.

ARTICLE 11: ADDITIONAL TERMS, COVENANTS AND CONDITIONS

11.01 Developer's Compliance with Risk Management Plan

The Developer shall comply with and/or cause its general contractor to comply with all of the applicable provisions of the Risk Management Plan dated May 11, 1999, which is incorporated

herein by reference and also referenced in the CEQA Compliance Memo, attached as Attachment No. 9. If there is any conflict between the obligations and requirements in the Risk Management Plan and the Risk Management Plan Memo, the Risk Management Plan shall control.

ARTICLE 12: GENERAL PROVISIONS

12.01 Affordable Housing Requirements

The Project shall be subject to the Affordability Restrictions set forth in Section 6.04 above.

12.02 Parking

A total of 34 parking spaces will be available, unbundled and rented to homebuyers according to the Inclusionary Affordable Housing Program Monitoring and Procedures Manual, as amended from time to time. The Homeowners Association (“HOA”) will manage the parking structure as outlined in a parking management plan to be approved by OCII and MOHCD by the time of marketing approval and in the CC&Rs. The HOA is not precluded from retaining a third party operator or entity to manage the parking structure, so long as the parking management plan and CC&Rs are followed.

12.03 Marketing, Occupancy, and Sales

No later than thirty (30) days after the start of construction, the Developer shall submit to OCII and MOHCD for its review and approval an early outreach plan for initial marketing of the Project in compliance with the requirements set forth in Attachment 23 and in form and substance acceptable to OCII and MOHCD.

Then current preference at the time of the lottery shall apply. At the effective date of this Agreement, the preferences applicable for the Project are, in order of priority:

- **Certificate of Preference holders** (as part of the implementation of the COP holder preference), the Borrower will comply, as administered by MOHCD, with Assembly Bill 1584 and “prioritize descendants of displaced residents for affordable housing.”
- **Displaced Tenant Preference Program** for 20% of the lottery units.

- **Neighborhood Resident Housing Preference** for 40% of the lottery units if the Project does not include State funding sources, and 25% of the lottery units if the Project does include State funding sources.
- **San Francisco Residents or Workers**
- **Members of the General Public**

12.04 Indemnification

To the fullest extent allowable by law, from and after OCII's conveyance of the Site, or any portion thereof, to Developer, Developer shall defend, hold harmless and indemnify the Indemnified Parties of and from all claims, loss, damage, injury, actions, causes of action (including reasonable attorney's fees and court costs) and liability of every kind, nature and description arising from and after the date of OCII's conveyance of the Site to Developer and directly or indirectly arising out of or connected with Developer's performance of this Agreement and any of Developer's operation or activities related thereto, excluding the willful misconduct or the gross negligence of any Indemnified Party, provided that the OCII may require the Developer to defend the Indemnified Parties against claims pursuant to this section until it is established that such claims are not subject to this indemnity requirement. Article 12.01 shall survive the termination of this Agreement.

12.05 Conflict of Interest

Except for approved eligible administrative or personnel costs, no employee, agent, consultant, officer or official of OCII who exercises any functions or responsibilities with respect to this Project, or who is in a position to participate in a decision-making process or gain inside information with regard to it, may obtain a personal or financial interest in or benefit from the Project, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for two years thereafter.

12.06 Notices

Any notice, demand or other communication required or permitted to be given under this Agreement by either Party to the other Party will be sufficiently given or delivered if transmitted

Except as provided herein, all performance (including cure) dates expire at 5:00 p.m. Pacific Standard/Daylight Savings Time, as applicable, on the performance or cure date. Provisions in this Agreement relating to number of days will be calendar days, unless otherwise specified, *provided that* if the last day of any period to give notice, reply to a notice or to undertake any other action is not a Business Day, then the last day for undertaking the action or giving or replying to the notice will be the next succeeding Business Day. Time is of the essence in the performance of all the terms and conditions in this Agreement.

12.08 Non-Discrimination in Benefits

Developer does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or with respect to its operations under this Agreement elsewhere in the United States discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits (collectively “**Core Benefits**”) as well as any benefits other than the Core Benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership had been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in the OCII’s Non-Discrimination in Contracts and Benefits Policy, as set forth in Attachment No. 14.

12.09 Compliance with Minimum Compensation Policy and Health Care Accountability Policy

Contractor agrees, as of the date of this Agreement and during the term of this Agreement, to comply with the provisions of the OCII’s Minimum Compensation Policy and Health Care Accountability Policy (the “Policies”), adopted by Former Agency Resolution 168-2001, as such policies may be amended from time to time. Such compliance includes providing all “Covered Employees,” as defined under Section 2.7 of the Policies, a minimum level of compensation and offering health plan benefits to such employees or to make payments to the City’s Department of Public Health, or to participate in a health benefits program developed by the City’s Director of Health. (See Attachment 15 and Attachment 16).

12.10 Prevailing Wages (Labor Standards) and OCII’s Construction Workforce Policy

Developer agrees to pay or cause to be paid prevailing rates of wages in accordance with the requirements set forth in Attachment No.18 for construction work done in connection with the construction of the Improvements prior to the issuance of the Development Certificate of Completion. Developer further agrees to comply or cause its general contractors and subcontractors to comply with OCII's Construction Workforce Policy (Attachment 19).

12.11 Small Business Enterprise Program

Developer and OCII acknowledge that the Project will create substantial employment opportunities at all levels, including opportunities for qualified small economically disadvantaged individuals and San Francisco residents. In recognition of these opportunities, the Developer will comply with OCII's Small Business Enterprise ("SBE") Program, which provides first consideration in awarding contracts in the following order: (1) Project Area SBEs, (2) Local SBEs (outside a Project Area, but within San Francisco), and (3) all other SBEs (outside of San Francisco). Non-local SBEs should be used to satisfy participation goals only if Project Area SBEs or Local SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-local SBEs. OCII will honor firms certified with the City and County of San Francisco as Local Small Business Enterprises (LBEs) that are consistent with OCII's Certification Standards. Similarly OCII will honor certifications from other municipalities, including city state and federal jurisdictions, that comply with OCII's Certification Standards. . The Developer shall make good faith efforts to achieve the goals of the SBE Program, which are 50% SBE participation for professional, personal services, and construction contracts. Developer has executed a Small Business Enterprise Agreement which sets forth in greater detail the Developer's obligations under the SBE Program (See Attachment No. 17).

12.12 Non-Merger in Deed

None of the provisions of this Agreement are intended to, or will, be merged by reason of any deed transferring title to any portion of the Site from OCII to Developer, and no deed may be deemed to affect or impair the provisions and covenants of this Agreement.

12.13 Successors and Assigns

This Agreement will be binding upon and, subject to the provisions of Article 7 (Anti-Speculation and Assignment Provisions), will inure to the benefit of the successors and assigns of OCII and Developer. This Agreement is made and entered into only for the protection and benefit of the Parties and their successors and assigns. Except as expressly provided otherwise in this Agreement, as, for instance in regard to any Holder, no non-party has or acquires any right or action of any kind based upon the provisions of this Agreement.

12.14 Subordination of this Agreement

The Affordability Restrictions in this Agreement shall be subordinate to any Mortgage permitted under Article 8 securing Developer's construction loan to finance development of the Site only to the extent that OCII determines in its sole discretion that subordination is necessary to secure adequate financing. Additionally, OCII will subordinate this Agreement for purposes of financing for individual Units if such subordination is required for financing for such Units and such subordination will only be applicable to that Unit parcel with this Agreement remaining a priority lien for the remainder of the Site.

12.15 Counterparts

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, and all counterparts will constitute one and the same instrument.

12.16 Integration

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

12.17 Formal Amendment Required

Any modifications or waiver of any provisions of this Agreement or any amendment thereto must be in writing and signed by a person or persons having authority to do so, on behalf of both OCII and Developer.

12.18 Governing Law

This Agreement is governed by, and must be construed and enforced in accordance with, the laws of the State of California.

12.19 Further Assurances

Each Party will execute and deliver to the other Party additional documents and instruments that the other Party reasonably requests in order to more fully effectuate the purpose and intent of this Agreement.

12.20 Representation by Counsel

Developer and OCII each acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of its choice in connection with the rights and remedies of and waivers by it contained in this Agreement and after advice and consultation has presently and actually intended, with full knowledge of its rights and remedies otherwise available at law or in equity, to waive and relinquish those rights and remedies to the extent specified in this Agreement, and to rely solely on the remedies provided for in this Agreement with respect to any Event of Default by the other Party, or any other right that either Developer or OCII seeks to exercise. The language of this Agreement must be construed as a whole according to its fair meaning.

12.21 Interpretation

(a) Unless otherwise specified, whenever in this Agreement, including its Attachments, reference is made to the Table of Contents, any Article or Attachment, or any defined term, the reference will be deemed to refer to the Table of Contents, Article or Attachment, or defined term of this Agreement. Any reference to an Article includes all clauses, subsections and subparagraphs of that Article. The terms “Paragraph” and “Article” may be used interchangeably. Any titles of the several parts and sections of this Agreement are inserted for convenience of reference only and must be disregarded in construing or interpreting any of its provisions.

(b) The use in this Agreement of the words “including,” “such as” or words of similar import when following any general term, statement or matter, may not be construed to limit the statement, term or matter to the specific items or matters, whether or not language of non-

limitation, such as “without limitation” or “but not limited to,” or words of similar import, is used, but rather will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the statement, term or matter. No specific example limits the more general application of a provision.

(c) The masculine, feminine or neutral gender and the singular and plural forms include the others whenever the context requires. Defined terms and variants of them will have the same definition. References to days, months and years mean calendar days, months and years unless otherwise specified. Accounting terms and financial covenants will be determined, and financial information must be prepared, in compliance with Generally Accepted Accounting Principles (“GAAP”) as in effect on the date of performance.

(d) References to any law or document, specifically or generally, will mean the law as amended, supplemented or superseded from time to time.

(e) In the event of a conflict between the Recitals and the remaining provisions of the Agreement, the remaining provisions will prevail.

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// **Recordation**

OCII shall cause this Agreement to be recorded in the Recorder's Office of the City and County of San Francisco at the time of conveyance of the Site to the Developer.

IN WITNESS WHEREOF, the Developer and OCII have executed this DDA as of the day and year first above written.

Authorized by Agency Resolution No. ____-2022, adopted, _____, 2022

OCII:

Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body, organized and existing under the laws of the State of California:

By: _____
Thor Koslofsy
Executive Director

APPROVED AS TO FORM:

By: _____

Agency Counsel

MOHCD ACKNOWLEDGMENT:

**MAYOR'S OFFICE OF HOUSING AND
COMMUNITY DEVELOPMENT**

By: _____
Eric Shaw
Director

DEVELOPER:

350 China Basin Partners, LLC,
a California limited liability company

By: Mission Bay 9A LLC,
a California limited liability company,
Its co-managing member:

By: Curtis Development
a sole proprietorship

By: _____
Charmaine Curtis
Sole Member

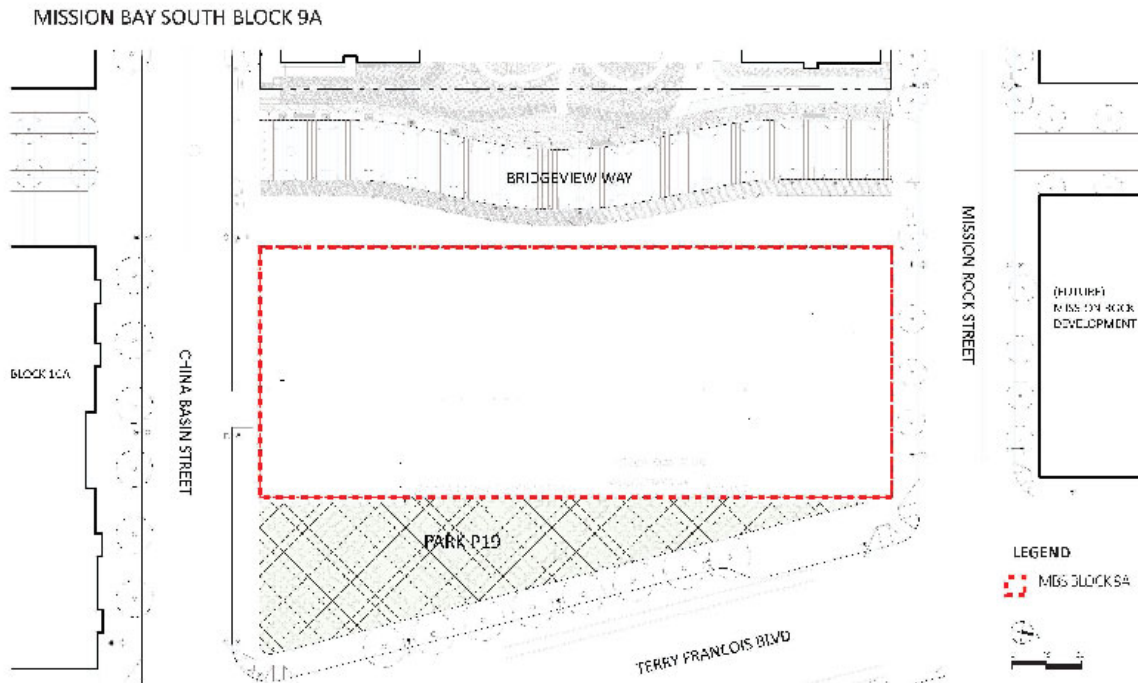
By: Michael Simmons Property
Development, Inc.,
a California corporation, its co-
managing member:

By: _____
Michael Simmons
President

LIST OF ATTACHMENTS TO AGREEMENT

1. Site Map
2. Site Legal Description
3. Scope of Development
4. Schedule of Performance
5. Form of Architect's Certificate (Accessibility for the Disabled)
6. Form of Architect's Certificate for Code Compliance
7. Form of Architect's Certificate that Construction Complies with Approved Construction Documents
8. Approved Title Exceptions
9. CEQA Compliance Memo
10. A. Form of Development Certificate of Completion
B. Form of Unit Certificate of Completion
11. Form of Grant Deed for the Site
12. Form of Reversion Grant Deed for the Site
13. Form of Declaration of Site Restrictions
14. OCII Nondiscrimination in Contracts and Benefits Policy
15. Minimum Compensation Policy (MCP) Declaration
16. Health Care Accountability Policy (HCAP) Declaration
17. Small Business Enterprise Agreement
18. Prevailing Wage Provisions (Labor Standards)
19. OCII's Construction Workforce Policy
20. Affordable Pricing Chart
21. Form of Limited Equity Home Ownership Program Loan Disclosure Book
Attachment A - Promissory Note Secured By Deed of Trust
Attachment B - Deed of Trust
Attachment C - Addendum to Deed of Trust
Attachment D - Form of Income Certification
Attachment E - Approved Title Exceptions
Attachment F - Loan Disclosure Information
22. Insurance Requirements
23. Marketing Plan

ATTACHMENT No. 1
SITE MAP



ATTACHMENT No. 2
SITE LEGAL DESCRIPTION

Real property in the City and County of San Francisco, State of California, described as follows:

BLOCK 8719, LOT 005 OF THAT CERTAIN MAP ENTITLED "FINAL MAP PLANNED DEVELOPMENT MISSION BAY (9-9A AND 10-10A)", RECORDED ON MAY 31, 2005 AND FILED ON PAGES 6-10 IN BOOK BB OF THE COUNTY'S SURVEY MAPS.

ATTACHMENT No. 3 SCOPE OF DEVELOPMENT

Capitalized terms not otherwise defined herein have the meanings given them in the Disposition and Development Agreement (“**DDA**” or “**Agreement**”) between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body, organized and existing under the laws of the State of California (the “**Successor Agency**” or “**OCII**”), and 350 China Basin Partners, LLC, a California limited liability company (“**Developer**”).

DESCRIPTION OF DEVELOPMENT

The Site consists of one parcel (MBS Block 9a) located in the Mission Bay South Redevelopment Project Area, at 400 China Basin Street, further described in Attachment No. 2, “Site Legal Description.” The development shall include the following: Construction of 148 units of affordable housing for low- and moderate-income families, including up to five residential floors, common areas, 34 parking spaces and open space (“**Project**”). The unit distribution shall be 50 one-bedroom (34%), 63 two-bedroom (43%), 35 three-bedroom (24%) condominiums, priced on the average to be affordable to households earning 90% of area median income, with none to exceed the price affordable at 105% of area median income. Affordability levels for all units must be approved by OCII and will be set pursuant to limits required by selected financing sources.

All as more particularly set forth in the Basic Concept and Schematic Designs approved on February 16, 2021, by Commission Resolution No. 07-2021, and as further set forth in Design Development Documents, approved by OCII on July 30, 2021, and as may be further revised in accordance with the Redevelopment Requirements.

ATTACHMENT No. 4
SCHEDULE OF PERFORMANCE

No.	Performance Milestone	Estimated or Actual (in bold)	LA and DDA Contract Deadline
A. <i>Entitlements</i>			
1	Phase I /Phase II and Negative Declaration under CEQA	September-20	N/A
2	OCII Schematic Design Complete	February-21	N/A
3	Submit Design Development plans & DD cost estimate	March-21	N/A
4	HazMat Investigation Complete	December 20	
5	Geotechnical Investigation Complete	February-21	N/A
6	Tentative Map to DPW	September 21	N/A
7	Submitted 50% Construction Design drawings to OCII	August-21	N/A
8	Site Permit Obtained	August-21	N/A
9	1st Building Permit Addendum (foundation) Obtained	December-21	December 21
10	2nd Building Permit Addendum (superstructure, arch, MEP) Obtained	April-22	May 22
B. <i>Financing Milestones</i>			
1	OCII Predevelopment Loan Committed	February-20	N/A
2	Bank Construction Loan Financing Committed	March 22	N/A
3	Early Outreach Marketing Plan Submitted	June-22	N/A
4	DDA Closed	March -22	April-22
5	IIG Loan Committed	December-21	December-21
6	Bank Construction Loan Closed	June 22	August 22
7	OCII Construction Loan Committed	March-22	April- 22
C. <i>Acquisition/Construction Milestones</i>			
1	Site Transfer from MBDG Complete	April-22	May-22
2	Construction Begins	May-22	June-22
3	Preliminary Public report to DRE	September-21	September-21
4	Preliminary Public Report Issued by DRE (pink)	October-21	October-21
5	Final Public Report Received from DRE (white)	March-24	June-24
6	Temporary Cert of Occupancy Obtained	June-24	July-24
7	Sale and Occupancy of 95% of Units	June-26	June-26

ATTACHMENT No. 5

FORM OF ARCHITECT'S CERTIFICATE (ACCESSIBILITY FOR PERSONS WITH DISABILITIES)

TO:

Successor Agency to the Successor Agency to
the Redevelopment Agency of the City and
County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Dated: _____

Development: _____

FROM: Architect of Record

Location:

400 China Basin Street,
San Francisco, CA 94107

Note: This Declaration is being provided pursuant to Article 5.07 of this Disposition and Development Agreement between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, corporate and politic (“**Successor Agency**” or “**OCII**”) and 350 CHINA BASIN PARTNERS, LLC, a California limited liability company, dated _____, 2022 (“**Agreement**”). Capitalized terms used herein have the meanings given them in the Agreement.

I observed the Improvements regarding Accessibility for Persons with Disabilities on _____ (date), and as Architect of Record for the construction of the Improvements, I hereby declare to the best of my knowledge and belief it is my professional opinion that:

1. Intentionally omitted.
2. The construction of the Improvements with respect to Accessibility for Persons with Disabilities has been and is being performed in accordance and complies with a reasonable interpretation of (based upon my professional judgment) all applicable local, state, federal building laws and regulations with respect to Accessibility for Persons with Disabilities.
3. The construction of the Improvements with respect to Accessibility for Persons with Disabilities has been done in a workmanlike manner, and the work, materials and fixtures are acceptable, except as may be noted on Schedule A attached hereto.
4. Construction of the Improvements has been completed satisfactorily in accordance with all applicable local, state, federal building laws and regulations with respect to Accessibility for Persons with Disabilities.

Date: _____

Architect:

ATTACHMENT No. 6
FORM OF ARCHITECT'S CERTIFICATE FOR CODE COMPLIANCE

TO:
Successor Agency to the Successor Agency to
the Redevelopment Agency of the City and
County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Dated: _____

Development: _____

FROM: Architect of Record

Location:

_____ 400 China Basin Street,
San Francisco, CA 94107

Note: This Certification is being provided pursuant to Article 5.07 of this Disposition and Development Agreement between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, corporate and politic ("**Successor Agency**" or "**OCII**") and 350 CHINA BASIN PARTNERS, LLC, dated as of _____, 2022 ("**DDA**"). Capitalized terms used herein have the meanings given in the DDA.

I observed the improvements on _____ (date) and as Architect of Record for the construction of the improvements, I hereby declare to the best of my knowledge and belief, it is my professional opinion that:

- A. Intentionally omitted.
- B. Preliminary Construction Documents provide for construction of the improvements are in accordance with all applicable local building codes.
- C. Design of the improvements conform with all applicable local, state and federal laws.
- D. The construction of the improvements has been and is being performed in accordance and complies with a reasonable interpretation of (based upon my professional judgment) all applicable local and state building laws and regulations.
- E. The construction of the improvements has been done in a workmanlike manner, and the work, materials and fixtures are acceptable, except as may be noted on Schedule A attached hereto.
- F. Construction of the improvements has been completed satisfactorily in accordance with all applicable local and state building laws and regulations.

Date: _____

Architect:

ATTACHMENT No. 7
FORM OF ARCHITECT'S CERTIFICATE
(CONSTRUCTION COMPLIES WITH APPROVED CONSTRUCTION DOCUMENTS)

TO:
Successor Agency to the Successor Agency to
the Redevelopment Agency of the City and
County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Dated: _____

Development: _____

FROM: Architect of Record

Location:

400 China Basin Street,
San Francisco, CA 94107

Note: This Certificate is being provided pursuant to Article 5.06(a) of this Disposition and Development Agreement between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, corporate and politic ("**Successor Agency**" or "**OCII**") and 350 CHINA BASIN PARTNERS, LLC, a California limited liability company, dated _____, 2022 (the "**DDA**"). Capitalized terms used herein have the meanings given in the DDA.

I observed the Improvements on _____ (date), as Architect of Record for the design and construction of the Improvements, I hereby declare to the best of my knowledge and belief and it is my professional opinion that:

A. Intentionally omitted.

B. The construction of the improvements has been and is being performed in accordance with those elements of the Construction Documents for the improvements approved by OCII.

C. The required certificates, approvals and permits of all governmental authorities having jurisdiction covering the work to date on the improvements have been issued and are in force, and there is not an undischarged violation of applicable laws, regulations or orders of any governmental authority having jurisdiction of which we have notice as of the date hereof, except as may be noted on Schedule A attached hereto.

D. Construction of the improvements were completed in accordance with those elements of the Construction Documents for the improvements approved by OCII.

Date: _____

Architect: _____

ATTACHMENT No. 8
APPROVED TITLE EXCEPTIONS

ATTACHMENT No. 9
CEQA COMPLIANCE MEMO

126-0032022-014

MEMORANDUM

TO: China Basin Partners, LLC

FROM: José Campos, Manager of Planning and Design Review

DATE: April 6, 2022

SUBJECT: Mission Bay South Block 9a Attachment 9 to DDA: CEQA Compliance Memo

The Basic Concept and Schematic Design for Mission Bay South Block 9a consisting of 148 for-sale permanently affordable units to be built on APN 8719/005 ("Project"), was conditionally approved, by Resolution No. 7-2021, by the Commission on Community Investment and Infrastructure on February 16, 2021.

The Project is an undertaking in furtherance of the Redevelopment Plan ("Implementing Action") and is within the scope of the Mission Bay Project analyzed in the Mission Bay Final Subsequent Environmental Impact Report ("FSEIR"). It requires no further environmental review beyond the FSEIR pursuant to the State CEQA Guidelines Section 15180, 15162 and 15163 for the following reasons:

(1) The Implementing Action is consistent with the project analyzed in the FSEIR and does not require major revisions to the FSEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant impacts; and,

(2) no substantial changes have occurred with respect to the circumstances under which the "Mission Bay Project" analyzed in the FSEIR will be undertaken that would require major revisions to the FSEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the FSEIR; and,

(3) no new information of substantial importance relating to the Implementing Action has become available, which would indicate that (i) the Implementing Action will have significant effects not discussed in the FSEIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (iv) mitigation measures or alternatives, which are considerably different from those in the FSEIR, will substantially reduce one or more significant effects on the environment that would change the conclusions set forth in the FSEIR.

London N. Breed
MAYOR

James B. Morales
INTERIM
EXECUTIVE DIRECTOR

Miguel Bustos
CHAIR

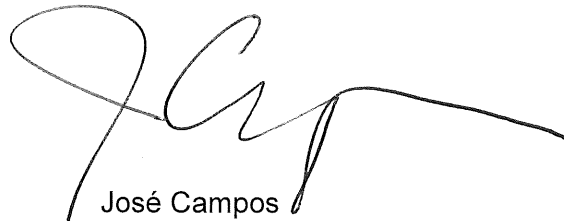
Mara Rosales
Bivett Brackett
Alex Ludlum
Dr. Carolyn Ransom-Scott
COMMISSIONERS

One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

415 749 2400

www.sfocii.org

The Mission Bay FSEIR states the potential environmental impacts for the project analyzed, as well as possible mitigation measures intended to reduce potential environmental impacts. Exhibit 1 of the Mission Bay FSEIR, "Mission Bay FSEIR Mitigation Monitoring and Reporting Program", lists identified and adopted FSEIR mitigation measures and provides a framework for monitoring. Throughout the course of its design, construction and operations, the Project will adhere to the mitigations identified in the Mission Bay FSEIR Mitigation Monitoring and Reporting Program, which are also attached here in Attachment A.

A handwritten signature in black ink, appearing to read 'JC' followed by a stylized flourish.

José Campos
Manager of Planning and Design Review

Attachment A: Mission Bay FSEIR Mitigation Monitoring and Reporting Program

ATTACHMENT A

EXHIBIT 1 MISSION BAY FSEIR MITIGATION MONITORING AND REPORTING PROGRAM

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	D VISUAL QUALITY AND URBAN DESIGN				
North/ South	D.1 <u>Lighting and Glare</u> Design parking structure lighting to minimize off-site glare. The design could include 45-degree cutoff angles on light fixtures to focus light within the site, and specifications that spill lighting from parking areas would be 0.25 foot-candle or less at 5 feet from the property line of the parking areas. Applies to individual sites within the Project Area.	Owner, other developers	Submit design specifications as part of plan review and site permit processes	Redevelopment Agency; DBI	Agency and DBI to review designs and specifications as part of Project-level plan review and site permit processes
	D.2 <u>Architectural Resources - Evaluation of Fire Station No. 30</u>				
South	D.2a. Retain an architectural historian to prepare an evaluation of the architectural integrity and historical importance of Fire Station No. 30 prior to development on this site. If the building is determined to be eligible for the National Register, preserve, rehabilitate, and reuse the building in a manner that is consistent with the Secretary of the Interior's guidelines for historic preservation.	Fire Department	Prior to alteration or demolition of structure	Redevelopment Agency; Planning Department, Environmental Review Officer (ERO); San Francisco Landmarks Preservation Advisory Board (LPAB), President	Agency to require evaluation as part of Project-level plan review prior to demolition or alteration of structure; Agency to consult with OER, LPAB regarding evaluation

* As indicated in the Project Approvals, the Agency's role is generally limited to oversight through the plan review process to confirm that any relevant measures have been implemented by other City Agencies and non-City agencies with jurisdiction over such measures. Where a measure is monitored through the site permit process, the measure is monitored primarily by DBI and/or DPW, depending on the nature of the improvement, but the Agency will maintain a general oversight role through its participation as a reviewing agency.

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	D.2b. If Fire Station No. 30 is found to be eligible for the National Register, require the following mitigation measures to reduce (though not eliminate) the significant impact prior to demolition of the structure: • Prepare a "Historical American Building Survey," including the precise recording of the structure through measurements, drawings, and photographs • Provide sufficient detail in the survey documentation so that after demolition the historical structure could be reconstructed from the survey data • File copies of the records and documents with the appropriate federal, state, and city agencies • Include salvage and selective re-use of building materials in the mitigation program once the survey has been completed • Upon completion, provide a copy of the report to the San Francisco Planning Department, the President of the San Francisco Landmarks Preservation Advisory Board, and the San Francisco Redevelopment Agency.	Fire Department	Prior to alteration or demolition of structure	Redevelopment Agency; Planning Department, ERO; LPAB President	Agency to require implementation of measures as part of Project-level plan review; Agency to consult with OER, LPAB

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North / South	<u>D.3 Archaeological Resources</u> Retain the services of an archaeologist, because of the strong possibility of encountering the remains of cultural or historic artifacts or features in the six historic resources areas. The Environmental Review Officer (ERO) in consultation with the President of the Landmarks Preservation Advisory Board (LPAB) and the archaeologist would determine: 1) whether the archaeologist should instruct all excavation and foundation crews on the project site of the potential for discovery of historic archaeological deposits and artifacts, and the procedures to be followed if such materials are uncovered; and 2) prior to the commencement of foundation excavation, a program of archaeological testing. Retain a qualified historic archaeologist to supervise a pre-foundation excavation testing program for each phase of Project Area development or each construction site, as appropriate, using a series of mechanical, exploratory borings or other testing methods determined by the archaeologist to be appropriate. A qualified historical archaeologist would supervise the testing in the six historic resource areas to determine the probability of finding cultural and historical remains. At the completion of the archaeological testing program, the archaeologist would submit a written report first and directly to the ERO and the President of the LPAB, with a copy to the project sponsor, which describes the findings, assesses their significance and proposes appropriate recommendations for any additional procedures necessary for the mitigation of adverse impacts to cultural resources determined to be significant. Retain a certified archaeologist to supervise a program of on-site monitoring during site excavation in the six historic resource areas, following site clearance and pre-excavation testing. The certified archaeologist would record observations in a permanent log. Should cultural or historic artifacts be found following commencement of excavation activities, the archaeologist would assess the significance of the find, and immediately report to the ERO and the President of LPAB. Upon receiving the advice of the consultant and the LPAB, the ERO would recommend specific mitigation measures, if necessary. The monitoring program, whether or not there are finds of significance, would result in a written report to be submitted first and directly to the ERO and the President of the LPAB, with a copy to the project sponsor. Suspend excavation or construction activities which might damage discovered cultural resources for a total maximum of four weeks over the course of construction at each site to permit inspection, recommendation and retrieval, if appropriate. Implement an appropriate security program to prevent looting or destruction, if cultural resources of potential significance are discovered. Any discovered cultural artifact assessed as significant by the archaeologist upon concurrence by the ERO and the President of the LPAB would be placed in a repository designated for such materials or possibly exhibited in a public display. Following approval of the archaeological testing and monitoring program reports by the ERO and the President of LPAB, a final report would be sent to the California Archaeological Site Survey Office at Sonoma State University, the Foundation for San Francisco's Architectural Heritage and the State Office of Historic Preservation. The Office of Environmental Review would receive three final copies of the final archaeological findings report. Archaeological testing could be coordinated with other site investigations for geotechnical and toxic waste purposes.	Owner, other developers	Prior to excavation; ongoing activities and reporting as required by measure	Redevelopment Agency; Planning Department, ERO; LPAB President	Agency to require retention of archaeologist prior to excavation as part of Project-level plan review; ongoing monitoring as required by measure

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	D.4 <u>Archaeological Exploration Program</u> Develop archaeological exploration programs, consistent with Measure D.3, above, for pre-identified sensitive historic archaeological areas that should include the following:	Owner, other developers	Prior to excavation; ongoing implementation as required by measure	Redevelopment Agency; Planning Department, ERO; LPAB President	Agency to require program prior to excavation as part of Project-level plan review; ongoing monitoring and consultation with LPAB and OER as required by measure
North / South	D.4a. Define specific research parameters and prepare a written study plan in consultation with the ERO and LPAB prior to subsurface exploration, with emphasis on National Register determination of historical significance and the maximum retrieval of archaeological data	Owner, other developers	Prior to excavation; ongoing implementation as required by measure	Redevelopment Agency; Planning Department, ERO; LPAB President	Agency to require program prior to excavation as part of Project-level plan review; ongoing monitoring and consultation with LPAB and OER as required by measure
North / South	D.4b. Examine large-scale exposure of soil profiles	Owner, other developers	Ongoing implementation as required by measure	Redevelopment Agency; Planning Department, ERO; LPAB President	Agency to require program prior to excavation as part of Project-level plan review; ongoing monitoring and consultation with LPAB and OER as required by measure
North / South	D.4c. Complete detailed field records, including photographs and drawings, to document subsurface soil profiles, archaeological deposits and integrity of such deposits	Owner, other developers	Ongoing implementation as required by measure	Redevelopment Agency; Planning Department, ERO; LPAB President	Agency to require program prior to excavation as part of Project-level plan review; ongoing monitoring and consultation with LPAB and OER as required by measure
North / South	D.4d. Complete a detailed report of findings to describe research and exploration methodologies, testing results, all archaeological findings and recommendations for resource management.	Owner, other developers	Ongoing implementation as required by measure	Redevelopment Agency; Planning Department, ERO; LPAB President	Agency to require program prior to excavation as part of Project-level plan review; ongoing monitoring and consultation with LPAB and OER as required by measure

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North / South	<u>D.5 Archaeological Monitoring at 19th Century City Dump</u> Archival review suggests that depositional integrity of the late 19th-century city dump has been lost because of scavenging while the dump was in operation; however, important historical artifacts may still be present. Pre-construction archaeological testing is therefore not recommended. Archaeological monitoring during construction would be the appropriate mitigation measure for that area. Therefore, retain the services of a qualified archaeologist. The ERO in consultation with the President of the LPAB and the archaeologist would determine whether the archaeologist should instruct all excavation and foundation crews in the area of the 19th-century city dump of the potential for discovery of cultural and historic artifacts or features. If such artifacts or features were uncovered, follow procedures described in Measure D.3 for suspension of construction activities, notification of the ERO and President of the LPAB, and development recovery measures, as appropriate.	Owner, other developers	During construction, ongoing implementation as required by measure	Redevelopment Agency; Planning Department, ERO; LPAB President	Agency to require prior to excavation as part of Project-level plan review; ongoing monitoring and consultation as required by measure
North / South	<u>D.6 Unknown Archaeological Remains</u> The entire Mission Bay Project Area has at least some sensitivity for the presence of unknown archaeological remains. Prehistoric cultural deposits could be encountered in three identified areas and unknown historical features, artifact caches and debris areas could be located anywhere in the Project Area. Follow procedures for instructing excavation crews, notifying the ERO and President of the LPAB, and developing recovery measures, as described in Measure D.3, above. In addition, in the event that prehistoric archaeological deposits are discovered, consult local Native American organizations. Dialogue with the ERO, LPAB and the archaeological consultant would take place in developing acceptable archaeological testing and excavation procedures, particularly in regard to the disposition of cultural materials and Native American burials.	Owner, other developers	Prior to excavation; ongoing implementation as required by measure	Redevelopment Agency; Planning Department, ERO; LPAB President	Agency to require prior to excavation as part of Project-level plan review; ongoing monitoring and consultation as required by measure
North / South	<u>D.7 Pedestrian-Level Winds</u> Require a qualified wind consultant to review specific designs for buildings 100 feet or more in height for potential wind effects. The Redevelopment Agency would conduct wind review of high-rise structures above 100 ft. Wind tunnel testing would also be required unless, upon review by a qualified wind consultant, and with concurrence by the Agency, it is determined that the exposure, massing and orientation of the buildings are such that impacts, based on a 26-mile-per-hour hazard for a single hour of the year criterion, will not occur. The purpose of the wind tunnel studies is to determine design-specific impacts and to provide a basis for design modifications to mitigate these impacts. Projects within Mission Bay, including UCSF, would be required to meet this standard or to mitigate exceedances through building design.	Owner, other developers	Conduct evaluation and provide any required documentation as part of Project-level submission	Redevelopment Agency	Agency to review as part of Project-level plan review
North / South	<u>D.8 Shadows</u> The Redevelopment Plan documents would require analysis of potential shadows on existing and proposed open spaces during the building design and review process when exceptions to certain standards governing the shape or locations of buildings are requested that would cause over 13% of Mission Creek Park (either North or South), 20% of Bayfront Park, 17% of Triangle Square or 11% of Mission Bay Commons to be in continuous shadow for a period of one hour from March to September between 10:00 a.m. and 4:00 p.m.	Owner, other developers	Provide any required documentation as part of Project-level submission	Redevelopment Agency	Agency to review as part of Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	E. TRANSPORTATION				
	E.1 <u>Third Street/King Street</u>				
North / South	E.1a. Widen the northbound approach to provide an additional through lane on the west side of Third Street.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; Department of Parking and Traffic ("DPT")	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North / South	E.1b. Reconfigure the existing traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North / South	E.1c. Install "Don't Block the Box" signs.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	E.2 <u>Third Street/Berry Street</u>				
North / South	E.2a. Restripe the northbound approach to provide an additional through lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North / South	E.2b. Reconfigure the existing traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North / South	E.2c. Install "Don't Block the Box" signs.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	E.3 <u>Third Street/Owens Street</u>				
South	E.3a. Install a new traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	E.4 <u>Third Street/The Common</u>				
South	E.4a. Install new traffic signals.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	E.5 <u>Third Street/South Street</u>				

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	E.5a. Install a new traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	E.6 <u>Third Street/16th Street</u>				
South	E.6a. Widen the northbound approach to provide two exclusive left-turn lanes.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.6b. Reconfigure the existing traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	E.7 <u>Third Street/Mariposa Street</u>				
South	E.7a. Widen the eastbound approach to provide an additional through lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	E.7b. Widen and restripe the westbound approach to provide an exclusive left-turn lane and an additional through lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.7c. Reconfigure the existing traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.8 Fourth Street/King Street</u>				
North	E.8a. Widen the eastbound approach to provide an exclusive right-turn lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North	E.8b. Reconfigure the existing traffic signal.	Owner; PTC, if PTC elects to commence service before Owner's obligation to construct is otherwise triggered	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North	E.8c. Install "Don't Block the Box" signs.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.9 Fourth Street/Berry Street</u>				
North	E.9a. Restripe the westbound approach to provide an additional lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North	E.9b. Restripe the northbound approach to provide an additional lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North	E.9c. Reconfigure the existing traffic signal.	Owner; PTC if PTC elects to commence service before Owner's obligation to construct is otherwise triggered	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North	E.9d. Install "Don't Block the Box" signs.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.10 Fourth Street/Owens Street</u>				
South	E.10a. Install a new traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.11 Fourth Street/UCSF private street</u>				
South	E.11a. Install a new traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.12 Fourth Street/16th Street</u>				
South	E.12a. Install a new traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.13 Fourth Street/Mariposa Street</u>				

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	E.13a. Widen the eastbound and westbound approaches to provide exclusive left-turn lanes.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.13b. Install a new traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.14 Seventh Street/16th Street</u>				
South	E.14a. Remove on-street parking on all approaches.	DPT	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.14b. Restripe the northbound and eastbound approaches to provide an additional through lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	E.14c. Restripe the southbound approach to provide an additional through lane and an exclusive left-turn lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.14d. Restripe the westbound approach to provide an additional through lane and a right-turn pocket.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.14e. Install a new traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.14f. Provide the appropriate traffic warning devices for the Caltrain track crossing.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; JPB; CPUC; Caltrain	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	E.15 Owens Street/16th Street				

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	E.15a. Install a new traffic signal.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrans	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.16 Owens Street/Mariposa Street/I-280 Off-ramp</u>				
South	E.16a. Widen the eastbound approach to provide an exclusive left-turn lane.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrans	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.16b. Reconfigure the existing traffic signal.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrans; Caltrain, JPB	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.17 I-280 On-ramp/Mariposa Street</u>				
South	E.17a. Widen the westbound approach to provide an exclusive left-turn lane.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrans	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	E.17b. Install a new traffic signal.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrans	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.18 Seventh Street/The Common</u>				
South	E.18a. Install a new traffic signal.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrain; CPUC; JPB	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.18b. Provide the appropriate traffic warning devices for the Caltrain railroad track at-grade crossing.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrain; CPUC; JPB	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.19 Fifth Street/King Street</u>				
North	E.19a. Narrow approximately 250 feet of the median on the westbound approach to provide an exclusive left-turn lane.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrans	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North	E.19b. Restripe the I-280 off-ramp touchdown and narrow the median on the south side of King Street for a distance of about 300 feet beginning at the intersection with Fifth Street, to increase the number of eastbound lanes from the existing two to three.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrans	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North	E.19c. Reconfigure the existing traffic signal.	Subject to regulatory approvals, Owner to construct	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrans	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.21 Third Street</u>				
North/ South	E.21a. Widen the west side of Third Street between Berry Street and King Street to accommodate the additional lanes described in Measure E.1.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North/ South	E.21b. Widen Third Street for approximately one-third the distance between Mariposa Street and 16th Street to accommodate the lane configuration described in Measure E.6.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North/ South	E.21c. In cooperation with the Public Transportation Commission ("PTC") and the Department of Public Works, reconfigure Third Street in the Project Area to accommodate the Third Street light rail transit median while maintaining two travel lanes in each direction and exclusive left-turn lanes at specific locations, as listed in Measures E.6 and E.7.	Owner, as allocated in Infrastructure Plans	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; PTC; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.22 Mariposa Street</u>				
South	E.22a. Widen Mariposa Street between Terry A. François Boulevard and Pennsylvania Street, including the bridge over the Caltrain tracks.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrain; CPUC; JPB	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.23 Fourth Street</u>				
North / South	E.23a. Widen Fourth Street between China Basin Channel and King Street to accommodate the Third Street light rail tracks and a MUNI station platform between Berry and King Streets.	Owner, PTC as allocated in Infrastructure Plans	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; PTC; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North / South	E.23b. Extend Fourth Street southward, parallel to Third Street, to intersect with Mariposa Street at the existing intersection with Minnesota Street.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.24 King Street</u>				

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North	E.24a. Widen eastbound King Street between Fifth and Fourth Streets to accommodate the lane configurations for the Fourth Street/King Street intersection in Measure E.8.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North	E.24b. Construct westbound King Street frontage road between Fifth Street and Berry Street.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.25 Owens Street</u>				
South	E.25a. Construct Owens Street between Third and Fourth Streets, providing a median approximately 24 feet wide to accommodate the MUNI Third Street light rail line, with no on-street parking.	Owner, PTC as allocated in Infrastructure Plans	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; PTC; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.25b. Construct Owens Street between Fourth Street and The Common, providing on-street parking on the north side of the street only.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	E.25c. Extend Owens Street northward from 16th Street to The Common, providing no on-street parking.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.25d. Construct Owens Street between 16th Street and Mariposa Street, providing no on-street parking.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.26 North Common and South Common Streets connection to Seventh Street</u>				
South	E.26a. Construct an "at-grade" connection to Seventh Street across Caltrain tracks, in conjunction with Measure E.18 for the new intersection.	Subject to regulatory approvals, Owner to construct; City to apply for approvals	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; Caltrain; JPB; CPUC	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.26b. Prohibit parking at trolleybus stops for the 22-Fillmore line east of Third Street where bus line is extended.	DPT, in consultation with PTC	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT; PTC	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	<u>E.27 MUNI Line 22-Fillmore</u> Reroute the MUNI 22-Fillmore trolleybus line to travel on 16th Street to Third Street, and then north on Third Street to The Common. If not already accomplished, install trolleybus wire support poles and/or eyebolts on buildings along the new route, and complete North Common Street and South Common Street east of Third Street. Prohibit parking on North Common and South Common Streets at trolleybus stops.	Owner, PTC, DPT as allocated in Infrastructure Plans	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; PTC; DPW	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	<u>E.28 MUNI Line 30-Stockton or 45-Union/Stockton</u> Extend about half of the 30-Stockton or the 45-Union/Stockton trolley buses south and east of the current terminus at the Caltrain terminal to the current terminus of the 22-Fillmore line, at the same time that the 22-Fillmore is rerouted as called for in Measure E.27. Route trolley buses to Connecticut Street via Townsend or Mission Bay Street, and then east to a new terminus near Third and 20th Streets. The coordination of Measure E.27 with E.28, to provide extended MUNI trolleybus service to Mission Bay by rerouting the 22-Fillmore and 30-Stockton or 30/45-Union/Stockton lines, shall be accomplished in phases, if necessary, to provide service as early in project development as MUNI service may be needed. The phases may include:	Owner, PTC as allocated in Infrastructure Plans	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; PTC	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.28.a. Construct Mission Bay Street, the Seventh Street Connector to North and South Common Streets and the Caltrain at-grade rail crossing, and the portion of North and South Common Streets east of Third Street, early enough in project development to accommodate MUNI trolleybus travel, including poles and eyebolts supporting trolley wires, and provide poles and/or eyebolts supporting trolley wires along 16th Street and a portion of Common Streets in the Project Area, as described in Measure E.27 and above in this Measure; or	Subject to regulatory approvals, Owner, PTC as allocated in Infrastructure Plans	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; PTC; Caltrain; CPUC; JPB	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.28.b. If item E.28a is not feasible sufficiently early in project development, for an interim period until the necessary streets and trolley wires have been constructed as part of adjacent development, construct the portion of North and South Common Streets east of Third Street and install poles and/or eyebolts supporting trolley wires along the new route for the 22-Fillmore, and extend some but not all of the trolleybuses, so that both Mission Bay and Lower Potrero areas continue to be served. This measure involves only limited service to Mission Bay; or	Owner, PTC as allocated in Infrastructure Plans	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; PTC	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	E.28.c. If item E.28a is not feasible sufficiently early in project development, for an interim period until the necessary streets and trolley wires have been constructed as part of adjacent development, provide service to Mission Bay temporarily using diesel buses on 16 th Street; or	PTC	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; PTC	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	E.28.d. Use a combination of items E.28b and E.28c to provide MUNI trolley bus service to both the Mission Bay and Lower Potrero areas until necessary streets and trolley wires have been constructed as part of adjacent development in the Project Area.	Owner, PTC; responsibility as allocated for E.28.b and E.28.c	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; PTC	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.29 Seventh Street/Brannan Street</u>				
South	E.29a. Restripe the northbound approach to provide three lanes.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.30 Seventh Street/Townsend Street</u>				
North	E.30.a. Restripe the southbound, eastbound, and westbound approaches to provide a left-turn lane, a through lane, and a right-turn lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North	E.30.b. Restripe the northbound approach to provide a left turn lane, a through lane, and a shared right-through lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	E.31 <u>Seventh Street/Berry Street</u>				
North	E.31.a. Restripe the eastbound approach to provide two lanes.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North	E.31.b. Restripe the northbound approach to provide a shared left-through lane and a through lane and restripe the southbound approach to provide a through lane and a shared right-through lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	E.32 <u>Seventh Street/North and South Common Streets</u>				
South	E.32a. Restripe the northbound approach to provide two through lanes, and a right-turn lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	E.32.b. Restripe the southbound approach to provide two through lanes, and a left-turn lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	<u>E.33 16th Street/Potrero Street</u> Restripe the eastbound and westbound approaches to provide a left-turn lane, a through lane and a shared right-through lane.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
South	<u>E.34 16th Street/Vermont Street</u> Install a new traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North	<u>E.35 Eighth Street/Townsend Street</u> E.35.a. Eliminate traffic circle and reconfigure intersection.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North	E.35.b. Install a new traffic signal.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.36 Third Street/Townsend Street</u>				
North	E.36.a. Remove the on-street parking on the westbound approach during the p.m. peak commute period.	DPT	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North	E.36.b. Provide an additional westbound through lane during the p.m. peak commute period.	DPT	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North	<u>E.38 Fourth Street/King Street</u> Widen the southbound approach to provide an additional lane, and restripe the intersection to provide one exclusive left-turn lane, one exclusive through lane, one shared right-through lane, and an exclusive right-turn lane for the southbound Fourth Street approach.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North	<u>E.41 Fourth Street</u> Widen the west side of Fourth Street for approximately half the distance between Townsend Street and King Street to provide the additional southbound lane noted in Mitigation Measure E.38, including providing additional right-of-way.	Owner	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPW; DPT	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North / South	<u>E.42 Seventh Street</u> Eliminate on-street parking on both sides of Seventh Street between Townsend and 16th Streets during the morning and afternoon peak commute periods to accommodate the lane configuration changes described in Mitigation Measures E.29, E.30, E.31, and E.32.	DPT	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; DPT; Caltrain; JPB; CPUC	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
North/ South	<u>E.45 Extend N-Judah MUNI Metro Line</u> Extend and operate the route of the N-Judah MUNI Metro line from the Embarcadero station to Mariposa Street, using the MMX and Third Street light rail tracks.	PTC	Provide trip generation calculations and Infrastructure adjacency information; identify any improvements based on cumulative or adjacency thresholds as part of Major Phase and/or Project-level plan review	Redevelopment Agency; PTC	Include in applicable subdivision improvement plans; review submissions and determine whether triggered by adjacency or project cumulative development thresholds at Major Phase and/or Project-level plan review
	<u>E.46 Transportation Management Organizations</u>				
North/ South	E.46.a Form a Mission Bay Transportation Management Association (TMA) to implement a Transportation System Management (TSM) Plan.	Owner	No later than first Major Phase approval	Redevelopment Agency	Confirm establishment as part of first Major Phase approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
North/ South	E.46.b Form a Transportation Coordinating Committee (TCC) including representatives of Project Area property owners, surrounding neighborhood organizations, UCSF, SFRA and appropriate City staff, including DPT, MUNI, and DPW, to address area-wide transportation planning issues and coordinate with other uses and neighborhoods in nearby areas.	Agency	No later than first Major Phase approval	Redevelopment Agency; DPW; DPT; PTC	Establish prior to first Major Phase approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North/ South	<u>E.47 Transportation System Management (TSM) Plan</u> Prepare a TSM Plan, which could include the following elements:	Owner (TMA), other developers	As identified by TMA; ongoing review with Agency	Redevelopment Agency; DPT; PTC	Confirm preparation of TSM Plan prior to first Major Phase approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
North/ South	<u>E.47.a. Shuttle Bus System</u> Operate shuttle bus service between Mission Bay and regional transit stops in San Francisco (e.g., BART, Caltrain, Ferry Terminal, Transbay Transit Terminal), and specific gathering points in major San Francisco residential neighborhoods (e.g., Richmond and Mission Districts).	Owner (TMA)	As identified by TMA; ongoing review with Agency	Redevelopment Agency; DPT; PTC	TMA to submit periodic status reports to Agency
North/ South	<u>E.47.b. Transit Pass Sales</u> Sell transit passes in neighborhood retail stores and commercial buildings in the Project Area.	Owner (TMA); other developers	As identified by TMA; ongoing review with Agency	Redevelopment Agency; DPT; PTC	TMA to submit periodic status reports to Agency
North/ South	<u>E.47.c. Employee Transportation Subsidies</u> Provide a system of employee transportation subsidies for major employers.	Owner (TMA); major employers	As identified by TMA; ongoing review with Agency	Redevelopment Agency; DPT; PTC	TMA to submit periodic status reports to Agency
South	<u>E.47.d. Pedestrian Signals at Owens Street Near the Pedestrian Bridge.</u> Pedestrian signals at this location will provide continuity between the pedestrian bridge near Fifth Street and the pedestrian path adjacent to Owens Street, and the residential units in the central subarea of Mission Bay South.	Owner (TMA)	As identified by TMA; ongoing review with Agency	Redevelopment Agency	TMA to submit periodic status reports to Agency
North/ South	<u>E.47.e. Secure Bicycle Parking</u> Provide secure bicycle parking areas in parking garages of residential buildings, office buildings, and research and development facilities. Provide secure bicycle parking areas by 1) constructing secure bicycle parking at a ratio of 1 bicycle parking space for every 20 automobile parking spaces, and 2) carrying out an annual survey program during project development to establish trends in bicycle use and to estimate demand for secure bicycle parking and for sidewalk bicycle racks, increasing the number of secure bicycle parking spaces or racks either in new buildings or in existing automobile parking facilities to meet the estimated demand. Provide secure bicycle racks throughout Mission Bay for the use of visitors.	Owner (TMA), other developers	As identified by TMA; ongoing review with Agency	Redevelopment Agency	TMA to submit periodic status reports to Agency, including annual bicycle survey
North/ South	<u>E.47.f. Appropriate Street Lighting.</u> Ensure that sidewalks in Mission Bay are sufficiently lit to provide pedestrians and bicyclists with a greater sense of safety, and thereby encourage Mission Bay employees, visitors, and residents to walk and bicycle to and from Mission Bay.	Owner (TMA)	As identified by TMA; ongoing review with Agency	Redevelopment Agency	TMA to submit periodic status reports to Agency

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North/ South	<u>E.47.g. Transit, Pedestrian and Bicycle Route Information</u> Provide maps of the local and citywide pedestrian and bicycle routes with transit maps and information on kiosks throughout the Project Area to promote multi-modal travel.	PTC, DPW to provide in connection with transit shelters and other transit signage	In conjunction with transit shelter and signage plans	PTC; DPW	In conjunction with transit shelter and signage planning process
North/ South	<u>E.47.h. Parking Management Guidelines</u> Establish parking management guidelines for the private operators of parking facilities in the Project Area.	Owner (TMA)	As identified by TMA; ongoing review with Agency	Redevelopment Agency	TMA to submit periodic status reports to Agency
South	<u>E.47.i Flexible Work Time/Telecommuting</u> Where feasible, offer employees in the Project Area the opportunity to work on flexible schedules and/or telecommute so they could avoid peak hour traffic conditions.	Owner (TMA); other major employers	As warranted by development; ongoing review with Agency	Redevelopment Agency	TMA to submit periodic status reports to Agency
North/ South	<u>E.49 Ferry Service</u> Make a good faith effort to assist the Port of San Francisco and others in ongoing studies of the feasibility of expanding regional ferry service. Make good faith efforts to assist in implementing feasible study recommendations.	Owner (TMA)	As identified by TMA; ongoing review with Agency	Redevelopment Agency; Port	TMA to submit periodic status reports to Agency
	F. AIR QUALITY				
North/ South	<u>F.1 TSM Measures</u> Implement measures to decrease vehicle trips, as described in Mitigation Measures E.46 through E.50 in Section VI.E, Mitigation Measures: Transportation	See Measures E.46-E.50	See Measures E.46-E.50	See Measures E.46-E.50	See Measures E.46-E.50
North/ South	<u>F.2 Construction PM₁₀</u> As conditions of construction contracts, require contractors to implement the following mitigation program, based on the instructions in the BAAQMD CEQA Guidelines, at all construction sites within the Project Area:	Owner, other developers	During construction	DPW; DBI	DPW/DBI to require evidence of compliance through site permit process
	F.2.a. Water all active construction areas at least twice a day, or as needed to prevent visible dust plumes from blowing off-site	Owner, other developers	During construction	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.b. Use tarpaulins or other effective covers for on-site storage piles and for haul trucks that travel on streets	Owner, other developers	During construction	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all <i>unpaved</i> parking areas and staging areas at construction sites	Owner, other developers	During construction	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.d. Sweep all <i>paved</i> access routes, parking areas, and staging areas daily (preferably with water sweepers)	Owner, other developers	During construction	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	F.2.e. Sweep streets daily (preferably with water sweepers) if visible amounts of soil material are carried onto public streets	Owner, other developers	During construction	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.f. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more)	Owner, other developers	During construction	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.g. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)	Owner, other developers	During construction	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.h. Limit traffic speeds on unpaved roads to 15 mph	Owner, other developers	Implement through site permit process	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways	Owner, other developers	Implement through site permit process	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.j. Replant vegetation in disturbed areas as quickly as possible	Owner, other developers	Implement through site permit process	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.k. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site	Owner, other developers	Implement through site permit process	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.l. Install wind breaks, or plant trees / vegetative wind breaks at windward side(s) of construction areas	Owner, other developers	Implement through site permit process	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.m. Suspend excavation and grading on large construction sites when winds (instantaneous gusts) exceed 25 mph	Owner, other developers	Implement through site permit process	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
	F.2.n. Limit the area subject to excavation, grading and other construction activity at any one time	Owner, other developers	Implement through site permit process	DPW; DBI	Agency, DPW/DBI to require evidence of compliance through site permit process
North/ South	F.3 Toxic Air Contaminants (TACs) Prior to issuing a certificate of occupancy for a facility containing potential toxic air contamination sources, obtain written verification from BAAQMD either that the facility has been issued a permit from BAAQMD, if required by law, or that permit requirements do not apply to the facility	Owner, other owners	Prior to issuance of Certificate of Occupancy for relevant facilities	DBI	Agency, DBI to require verification prior to issuance of Certificate of Occupancy in consultation with DPH

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
South	F.4 <u>Meteorology Station</u> As soon as possible, to provide reliable wind data for informational purposes, and where applicable, to facilitate the preparation of risk assessment studies, locate and maintain a meteorology station at an appropriate location within the Project Area.	Owner and/or UCSF	Implement through site planning process as part of first UCSF construction phase or other construction phase	Redevelopment Agency; BAAQMD; DPH	Review as part of site planning process for first construction phase; consult with Redevelopment Agency, BAAQMD, DPH
	F.4.a. Hire a contractor to select appropriate sites for location of the meteorology station to ensure accuracy of data. Preferably the site would be located at a first phase building at the UCSF site, which is centrally located in the Project Area	Owner and/or UCSF	Implement through site planning process as part of first UCSF construction phase or other construction phase	Redevelopment Agency; BAAQMD; DPH	Review as part of site planning process for first construction phase; consult with Redevelopment Agency, BAAQMD, DPH
	F.4.b. Once site selections are recommended, contact the BAAQMD for consultation and comment on the sites	Owner and/or UCSF	Implement through site planning process as part of first UCSF construction phase or other construction phase	Redevelopment Agency; BAAQMD; DPH	Review as part of site planning process for first construction phase; consult with Redevelopment Agency, BAAQMD, DPH
	F.4.c. Hire a contractor to select certified equipment and software	Owner and/or UCSF	Implement through site planning process as part of first UCSF construction phase or other construction phase	Redevelopment Agency; BAAQMD; DPH	Review as part of site planning process for first construction phase; consult with Redevelopment Agency, BAAQMD, DPH
	F.4.d. Consult the BAAQMD on the equipment and software that is selected prior to purchase	Owner and/or UCSF	Implement through site planning process as part of first UCSF construction phase or other construction phase	Redevelopment Agency; BAAQMD; DPH	Review as part of site planning process for first construction phase; consult with Redevelopment Agency, BAAQMD, DPH
	F.4.e. Construct and site the station according to BAAQMD standards (written guidelines may be obtained from the District)	Owner and/or UCSF	Implement through site planning process as part of first UCSF construction phase or other construction phase	Redevelopment Agency; BAAQMD; DPH	Review as part of site planning process for first construction phase; consult with Redevelopment Agency, BAAQMD, DPH
	F.4.f. Provide data from the station to the BAAQMD on a real-time basis	Owner and/or UCSF	Implement through site planning process as part of first UCSF construction phase or other construction phase	Redevelopment Agency; BAAQMD; DPH	Review as part of site planning process for first construction phase; consult with Redevelopment Agency, BAAQMD, DPH
	F.4.g. At a minimum, take continuous wind speed and direction measurements for a period of at least two years	Owner and/or UCSF	Implement through site planning process as part of first UCSF construction phase or other construction phase	Redevelopment Agency; BAAQMD; DPH	Review as part of site planning process for first construction phase; consult with Redevelopment Agency, BAAQMD, DPH

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North/ South	F.5 Dry Cleaning Facilities Prohibit dry cleaning facilities that conduct on-site dry cleaning operations in residential areas within the Project Area. For any dry cleaning operations with the Project Area, require vapor barriers in their design and construct so as to reduce exposure to perchloroethylene and any other toxic air contaminants handled at the facility.	Owner, other developers; Redevelopment Agency	Implement as part of Project-level review	Redevelopment Agency; DPH; BAAQMD	Agency to review land uses as part of Project-level review and consult with DPH, DBI and BAAQMB regarding any vapor barrier requirements
North/ South	F.6 Child-Care Buffer Zones Require preschool and childcare centers to notify BAAQMD and the San Francisco Department of Public Health regarding the locations of their operations, and require these centers to consult with these agencies regarding existing and possible future stationary and mobile sources of toxic air contaminants. The purpose of these consultations is to obtain information so that preschool and childcare centers can be located to minimize potential impacts from toxic air contaminants emissions sources.	Owner, other developers	Implement as part of Project-level review	Redevelopment Agency; DPH; BAAQMD	Agency to review land uses as part of Project-level review and require evidence of consultation prior to inclusion of such uses in a Major Phase or Project
	G. NOISE AND VIBRATION				
North/ South	G.1 Noise Reduction in Pile Driving Use noise-reducing pile driving techniques such as pre-drilling pile holes (if feasible, based on soils) to the maximum feasible depth, installing intake and exhaust mufflers on piledriving equipment, vibrating piles into place when feasible, installing shrouds around the piledriving hammer where feasible, and restricting the hours of operation.	Owner, other developers	Provide information regarding compliance prior to pile driving	Redevelopment Agency; DPW/DBI	DPW/DBI to review information prior to pile driving as part of site permit process
North	G.2 Analyze Potential Vibrations from Caltrain Analyze potential vibration from Caltrain on the western-most block of Mission Bay North at Berry and King Streets, adjacent to Caltrain tracks, based on information about localized soils, and, if the analysis shows vibration could be significant without mitigation, design and construct foundations of buildings proposed to be on that block with vibration-reducing features to reduce potential impacts from adjacent passenger trains.	Owner, other developers	Provide information regarding compliance prior to foundation construction	Redevelopment Agency; DPW/DBI	DPW/DBI to review information prior to issuance of site permit
	H. SEISMICITY				
North/ South	H.1 Heavy Equipment Storage During the build-out period, store heavy construction equipment in the Project Area during the buildout period that is capable of traveling on damaged roads, clearing debris, and opening access to, and within, the Project Area after a major earthquake.	Owner, other developers	Include in emergency response plan; update as necessary	Redevelopment Agency; Office of Emergency Services (OES)	Require emergency response plan prior to issuance of first Certificate of Occupancy; require periodic updates
North/ South	H.2 Emergency Preparedness and Emergency Response Following build-out, coordinate emergency response plans with the City regarding use of heavy equipment from the City storage yard in the vicinity of the Project Area	Owner, other developers	Include in emergency response plan; update as necessary	Redevelopment Agency; Office of Emergency Services (OES)	Require emergency response plan prior to issuance of first Certificate of Occupancy; require periodic updates

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	<u>H.3 Comprehensive Preparedness and Response Plan</u>				
North/ South	H.3.a. Require the formulation of a comprehensive preparedness and response plan for the entire Project Area (as opposed to the typical building-by-building plan), integrated with the City's emergency response plans and in coordination with the Mayor's Office of Emergency Services. An emergency response plan should include: • Community coordination and response • Coordination with government services • Outreach and training (not only for employees but also residents) • Food and water • Shelter • Sanitation • Consideration of need and potential locations for special facilities (operations, medical, etc.) in the context of the citywide Emergency Response Plan and the Project Area's location in Emergency Response District 3 • Organization of employees into response teams • Employee training in response procedures, including setting up a command post, communications, first aid, evacuation, security and clean-up	Owner	Include in emergency response plan; update as necessary	Redevelopment Agency; OES	Require emergency response plan prior to issuance of first Certificate of Occupancy; require periodic updates
North/ South	H.3.b. In addition to the Project Area-wide plan, require each building or complex in the Project Area to prepare an emergency response plan. Each plan would be the responsibility of the owner(s) of each building or complex, and would be reviewed by the City periodically to ensure it is kept up to date.	Owner, other developers	Include in Project-level response plan; update as necessary	Redevelopment Agency; OES	Require prior to issuance of Certificate of Occupancy for each Project; require periodic updates
South	<u>H.4 Fire Station No. 30</u> Provide seismic rehabilitation of Fire Station No. 30 in the Project Area, if the building is to be reused for human occupancy.	Fire Department	See Measures D.1-D.2	See Measures D.1-D.2	See Measures D.1-D.2
South	<u>H.5 New Fire Station</u> At the time the San Francisco Fire Department determines the population or building density is high enough to warrant it, provide a new fire station in Mission Bay South to reduce the effects of limited emergency access to and from the site following a major earthquake.	City; Fire Department; Owner as allocated in South Infrastructure Plan	Owner obligation to transfer site and make available certain funds and City obligation to fund the balance and construct as provided in South Owner Participation Agreement and Infrastructure Plan	Redevelopment Agency; City; Fire Department	As provided in South Owner Participation Agreement and Infrastructure Plan

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North/ South	<u>H.6 Facilitate Emergency Access Routes</u> As part of the comprehensive preparedness plan identified in Measure H.3, identify and implement feasible measures to facilitate and improve emergency access routes to the site, especially in the vicinity of Seventh and Owens Streets. Such measures could include design of open spaces to allow vehicle access following in a catastrophic event; designing underground utilities at the Owens and Seventh Streets connector to minimize severe damage or disconnection caused by earthquakes; constructing heavier pavement sections along critical routes if indicated through a geotechnical study; and siting buildings within the area bounded by Seventh Street, the Seventh Street connector, Owens Street, and 16th Street in a manner that would allow emergency vehicle access between these buildings in a catastrophic event.	Owner	Review as part of Major Phase	See Measure H.3	Review as part of Major Phase
North/ South	<u>H.7 Corrosivity</u> Test soils for sulfate and chloride content. If necessary, use admixtures in concrete so it would not be susceptible to attack by sulfates, and/or use coated metal pipes so that pipes would be more resistant to corrosion by chlorides.	Owner, other developers	Include in relevant Infrastructure improvement plans	DPW; DBI	DPW/DBI to review as part of subdivision improvement plan or site permit review process
	I. <u>HEALTH AND SAFETY</u>				
South	<u>I.1 Biohazardous Materials Handling Guidelines</u> Require businesses that handle biohazardous materials and do not receive federal funding to certify that they follow the guidelines published by the National Research Council and the United States Department of Health and Human Services Public Health Service, National Institutes of Health, and Centers for Disease Control, as set forth in <i>Biosafety in Microbiological and Biomedical Laboratories, Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines)</i>, and <i>Guide for the Care and Use of Laboratory Animals</i>, or their successors, as applicable.	Owner, other developers	As part of building permit process; provide annual certification thereafter	DPH; DBI	DBI to review through building permit process, as applicable; DPH to review submissions and monitor updating
South	<u>I.2 Use of HEPA Filters.</u> Require businesses handling biohazardous materials to certify that they use high efficiency particulate air (HEPA) filters or substantially equivalent devices on all exhaust from Biosafety Level 3 laboratories unless they demonstrate that exhaust from their Biosafety Level 3 laboratories would not pose substantial health or safety hazards to the public or the environment. Require such businesses to certify that they inspect or monitor the filters regularly to ensure proper functioning.	Owner, other developers	As part of building permit process; provide annual update certification thereafter	DPH; DBI	DBI to review through building permit process, as applicable; DPH to review submissions and monitor updating
South	<u>I.3 Handling of Biohazardous Materials</u> Require businesses handling biohazardous materials to certify that they do not handle or use biohazardous materials requiring Biosafety Level 4 containment (i.e., dangerous or exotic materials that pose high risks of life-threatening diseases or aerosol-transmitted infections, or unknown risks of transmission) in the Project Area.	Owner, other developers	As part of building permit process; provide annual update certification thereafter	DPH; DBI	DBI to review through building permit process, as applicable; DPH to review submissions and monitor updating

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	J. CONTAMINATED SOILS AND GROUNDWATER				
North/ South	J. 1 Risk Management Plan(s) Prior to any site development activities in the Project Area, develop and implement an RWQCB-approved Risk Management Plan or Plans (RMP). The RMP shall address all site development activities and post-development activities and shall include specific measures that would be protective of human health and the aquatic environment. The human health standards to be applied in the RMP are a cumulative cancer risk of 1×10^{-5} and Hazard Index of 1, or more stringent standards as may be required by the RWQCB. Amend the RMPs as required by the RWQCB to reflect new information regarding contamination, land use decisions, or as a result of Article 20 compliance.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	See measures J.1a-J.1o below	See measures J.1a-J.1o below
	RMP Enforcement J.1a Provide an enforcement structure for RMPs, to be in place and effective during construction and after project development, including: i. Develop and record a restrictive covenant as an Environmental Restriction and Covenant under California Civil Code Section 1471 that: a. Places limits on future uses in the Project Area consistent with the provisions in the RMP; b. Provides notice to current and future property owners that the RMP contains use restrictions and other requirements and obligates property owners to provide like notice to occupants; and c. Provides notice to current and future property owners that the RWQCB maintains residual regulatory enforcement authority over all portions of the Project Area sufficient to compel enforcement of the entire RMP. ii. As part of any future transfer of property title of any portion of the Project Area, require current property owners to provide a copy of the RMP to each of their future transferees.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; Redevelopment Agency	RWQCB to approve RMP prior to site development; Agency to ensure RWQCB approval

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	<u>Pre-Development</u> Include, at a minimum, the following elements in the RMP: J.1b Limit direct access to areas with exposed native soils (defined as soils that exist at the site prior to project approval) and perform inspections to verify that measures taken to limit direct access are maintained. Alternatively, for each location with exposed native soils, provide risk management procedures for those areas. If this alternative is chosen, for each exposed soil location that would remain vacant and undeveloped at the initiation of development, and for each site that becomes vacant and includes exposed native soil, evaluate and document potential health risks to the general public that could occur before site development using the following process: Evaluate sampling results to determine constituents that could pose a risk to the general public. Identify populations who could be exposed to the constituents in soils based on land uses within and adjacent to the Project Area. Exposed populations that would be considered would include adult and child visitors/trespassers, nearby residents (adults and children), and workers not involved in project construction within and adjacent to the Project Area. Using specific EPA- and DTSC-recommended exposure assumptions, identify the appropriate exposure pathways and assumptions in consultation with the RWQCB. Using the specific exposure assumptions identified above, adopt contaminant-specific interim target levels (ITLs) following regulatory risk assessment guidelines established by DTSC and EPA. Compare ITLs to the range of concentrations detected in exposed native soils to identify areas where ITLs are exceeded. No further action prior to development (other than that required under Article 20 or other applicable regulations) would be required in areas in which ITLs are not exceeded	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; Redevelopment Agency	RWQCB to approve RMP prior to site development and conduct any ongoing monitoring of its provisions; Agency to ensure RWQCB approval of RMP

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	J.1c For areas where ITLs are exceeded, identify specific Interim Risk Management (IRM) measures that would reduce potential contamination-related risks to Project Area occupants and visitors during site build-out. Based on the results of the ITL evaluation and need for site controls, general IRM measures could include measures such as: i. <u>Limit Direct Access to Uncovered Native Soil on Undeveloped Portions of the Project Area.</u> To effectively limit access, install fencing or other physical barriers around the identified areas, and post "no trespassing" signs. ii. <u>Hydroseed or Apply Other Vegetative or Other Cover to Uncovered Areas.</u> Hydroseed or apply other vegetative or other cover to the uncovered areas to reduce the potential for windblown dusts to be generated, and to reduce the potential for individuals to have direct contact with the native soils. iii. <u>Include Safety Notices in Leases.</u> Notify tenants of occupied portions of the Project Areas of the potential risks involved with the disturbance of existing cover (asphalt, concrete, vegetation) or exposed native soil. iv. <u>Conduct Periodic Inspections of Open Spaces.</u> Conduct periodic inspections of the Project Area to reduce the illegal occupancy of open areas by transient populations, and to reduce the illegal dumping by unauthorized occupants or off-site populations. Implement additional security measures such as fencing and/or the use of security guards, if inspections show a need. v. <u>Periodic Monitoring.</u> Perform inspections verifying that risk management measures remain effective by identifying disturbances to cover materials that could result in the exposure of underlying native soil and by identifying areas where temporary fencing or other physical barriers might need to be reinstalled. If the inspections identify areas where measures have been rendered ineffective, implement corrective action.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; Redevelopment Agency	RWQCB to approve RMP prior to site development and conduct any ongoing monitoring of its provisions; Agency to ensure RWQCB approval of RMP
	<u>Development</u> J.1d Include in the RMP, health and safety training and health protection objectives for workers who may directly contact contaminated soil during construction and/or maintenance, including Cal/OSHA worker safety regulations appropriate to the type of construction activity, location, and risk relative to the potential types of hazards associated with contaminated soil or groundwater, and where appropriate, compliance with Title 8, Group 16, requirements.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; DPH Redevelopment Agency	RWQCB to approve RMP prior to site development; DPH and, depending on the improvement, DBI or DWP, to ensure implementation of construction-related portions of any measures included in RMP through permit process

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	J.1e Identify site access controls to be implemented during construction, such as: i. Secure construction site to prevent unauthorized pedestrian/vehicular entry with fencing or other barrier of sufficient height and structural integrity to prevent entry and based upon the degree of control required. ii. Post "no trespassing" signs. iii. Provide on-site meetings with construction workers to inform them about security measures and reporting/contingency procedures.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; Redevelopment Agency	RWQCB to approve RMP prior to site development; DPH and, depending on the improvement, DBI or DWP, to ensure implementation of construction-related portions of any measures included in RMP through permit process
	J.1f Identify protocols for managing soil during construction, which will include at a minimum: i. The dust controls found in Measure F.2 in Section VI.F, Mitigation Measures: Air Quality. ii. Standards for imported fill (defined as fill brought onto the site from outside the Project Area) that are protective of human health and the aquatic environment and an identified minimum depth of fill to be required for landscaped areas. iii. A requirement that prior to placement, if native soil in the Project Area is to be used on site in any manner that could result in direct human exposure, characterization of the soil be conducted to confirm that it meets appropriate standards approved by the RWQCB and would be appropriate for the intended use. iv. Protocols for managing stockpiled and excavated soils. v. A program for off-site dust monitoring, consisting of real-time monitoring for PM₁₀ concentrations to demonstrate that the health and safety of all individuals not engaged in construction activities would not be adversely affected by chemicals that could be contained in dust generated by soil-disturbing activities. If monitoring shows dust levels exceeding 250 g/m³, implement additional dust control measures, such as continuous misting of exposed areas with water, until concentrations are reduced below the action level.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; Redevelopment Agency	RWQCB to approve RMP prior to site development; DPH and, depending on the improvement, DBI or DWP, to ensure implementation of construction-related portions of any measures included in RMP through permit process
	J.1g Identify protocols for managing groundwater, which will include at a minimum: i. Procedures to prevent unacceptable migration of contamination from defined plumes during dewatering, such as monitoring, counter-pumping, or installing sheetpiles down to Bay Mud before dewatering. ii. Procedures for the installation of subsurface pipelines and other utilities, where necessary, to prevent lateral transmission of chemicals in groundwater. Such procedures could include, but would not be limited to, selection of proper backfill materials and thickness and installation of clay plugs or barrier collars.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; DPH Redevelopment Agency	RWQCB to approve RMP prior to site development; DPH and, depending on the improvement, DBI or DWP, to ensure implementation of construction-related portions of any measures included in RMP through permit process

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	J.1h Include SWPPP requirements and BMPs as described in Mitigation Measure K.1 in Section VI.K, Mitigation Measures: Hydrology and Water Quality.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; DPH Redevelopment Agency	RWQCB to approve RMP prior to site development; DPH and, depending on the improvement, DBI or DWP, to ensure implementation of construction-related portions of any measures included in RMP through permit process
	J.1i Include a requirement that construction personnel be trained to recognize potential hazards associated with underground features that could contain hazardous materials, previously unidentified contamination, or buried hazardous debris.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; Redevelopment Agency; DPH	RWQCB to approve RMP prior to site development; DPH and, depending on the improvement, DBI or DWP, to ensure implementation of construction-related portions of any measures included in RMP through permit process
	J.1j Develop and describe procedures for implementing a contingency plan, including appropriate notification and control procedures, in the event unanticipated subsurface hazards are discovered during construction. Control procedures could include, but would not be limited to, further investigation and removal of USTs or other hazards.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; Redevelopment Agency; DPH	RWQCB to approve RMP prior to site development; DPH and, depending on the improvement, DBI or DWP, to ensure implementation of construction-related portions of any measures included in RMP through permit process
	J.1k Establish procedures, as necessary, so that construction activities avoid interfering with any RWQCB-required site investigation and remediation in the free product area.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; Redevelopment Agency; DPH	RWQCB to approve RMP prior to site development; DPH and, depending on the improvement, DBI or DWP, to ensure implementation of construction-related portions of any measures included in RMP through permit process
	<u>Post-Development</u> J.1l Except where testing demonstrates that native soils meet standards established by the RWQCB as being protective of human health and the aquatic environment, require that upon project completion, all native soils shall be capped, so as to preclude human contact by using buildings, paved surfaces (such as parking lots, sidewalks, or roadways), or fill of a kind and depth approved by the RWQCB.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; Redevelopment Agency	RWQCB to approve RMP prior to site development and conducting any ongoing monitoring; Agency to ensure RWQCB approval

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	J.1m Prohibit residences with unrestricted access to soils in front yards or backyards anywhere in the Project Area.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; Redevelopment Agency	RWQCB to approve RMP prior to site development and conducting any ongoing monitoring; Agency to ensure RWQCB approval
	J.1n Prohibit access to native soils for private use. If disturbance of native subsurface soils or groundwater dewatering is planned, carry out these activities in accordance with the elements of the RMP called for in Measures J.1d through J.1k. Following construction or excavation or soil disturbance, restore the cap in accordance with the provisions of the RMP as called for in Measure J.1l.	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; DBI; DPW; Redevelopment Agency	RWQCB to approve RMP prior to site development and conducting any ongoing monitoring; Agency to ensure RWQCB approval
	J.1o Prohibit the use of shallow groundwater within the Project Area for domestic, industrial, or irrigation purposes. Permit installation of groundwater wells within the Project Area only for environmental monitoring purposes. Secure and lock environmental wells installed within the Project Area to prevent unauthorized access to the groundwater. In the event the use of shallow groundwater is proposed, perform an assessment of the risks from direct exposure to the groundwater prior to use and obtain RWQCB or other appropriate regulatory agency approval of the results of the assessment and proposed uses	Owner, Agency, other developers	As provided in the EIRP or in RMPs	RWQCB; Redevelopment Agency	RWQCB to approve RMP prior to site development and conducting any ongoing monitoring; Agency to ensure RWQCB approval
North/ South	J.2 <u>Site Specific Risk Evaluation</u> Carry out a site-specific risk evaluation for each site in a non-residential area proposed to be used for a public school or child care facility; submit to RWQCB for review and approval. If cancer risks exceed 1×10^{-5} and/or non-cancer risk exceeds a Hazard Index of 1, carry out remediation designed to reduce risks to meet these standards or select another site that is shown to meet these standards.	Owner; other developers	RWQCB to review prior to site work	RWQCB; DBI; DPH, Redevelopment Agency; SFUSD	RWQCB to review and approve evaluations and monitor compliance; Agency, DBI and DPH to ensure RWQCB review and approval through permit process; SFUSD to ensure RWQCB review and approval through school siting process
	K. <u>HYDROLOGY AND WATER QUALITY</u>				
North/ South	K.1 <u>Stormwater Pollution Prevention Program (SWPPP)</u> Develop and implement a comprehensive Stormwater Pollution Prevention Plan (SWPPP) for all construction activities within the Project Area to avoid and minimize erosion and sedimentation in China Basin Channel and San Francisco Bay and to manage other aspects of the construction site. Include at least the following Best Management Practices, or substantially equivalent measures.	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI; San Francisco Public Utilities Commission (SFPUC)	Review as part of subdivision improvement plans approval
	K.1.a. Minimize dust during demolition, grading, and construction by lightly spraying exposed soil on a regular basis.	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI	Review as part of subdivision improvement plans approval

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	K.1.b. Minimize wind and water erosion on temporary soil stockpiles by spraying with water during dry weather and covering with plastic sheeting or other similar material during the rainy season (November to April).	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI	Review as part of subdivision improvement plans approval
	K.1.c. Minimize the area and length of time during which the site is cleared and graded.	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI	Review as part of subdivision improvement plans approval
	K.1.d. Prevent the release of construction pollutants such as cement, mortar, paints and solvents, fuel and lubricating oils, pesticides, and herbicides by storing such materials in a bermed, or otherwise secured, area.	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI	Review as part of subdivision improvement plans approval
	K.1.e. As needed, install filter fences around the perimeter of the construction site to prevent off-site sediment discharge. Prior to grading the bank slopes of China Basin Channel for the proposed channel-edge treatments, install silt or filter fences to slow water and remove sediment. As needed, properly trench and anchor in the silt or filter fences so that they stand up to the forces of tidal fluctuation and wave action, and do not allow sediment-laden water to escape underneath them.	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI	Review as part of subdivision improvement plans approval
	K.1.f. Follow design and construction standards found in the <i>Manual of Standards for Erosion and Sediment Control Measures</i> for placement of riprap and stone size.	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI	Review as part of subdivision improvement plans approval
	K.1.g. Install and maintain sediment and oil and grease traps in local stormwater intakes during the construction period, or otherwise properly control oil and grease discharges.	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI	Review as part of subdivision improvement plans approval
	K.1.h. Clean wheels and cover loads of trucks carrying excavated soils before they leave the construction site.	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI	Review as part of subdivision improvement plans approval
	K.1.i. Implement a hazardous material spill prevention, control, and clean-up program for the construction period. As needed, the program would include measures such as constructing swales and barriers that would direct any potential spills away from the Channel and the Bay and into containment basins to prevent the movement of any materials from the construction site into water.	Owner, other developers	Submit as part of subdivision improvement plans	DPW; DBI	Review as part of subdivision improvement plans approval
North/ South	K.2 <u>Changes in Sanitary Sewage Quality</u> In addition to developing and implementing a Stormwater Management Program for the Central/Bay Basin (see Mitigation Measure K.5), participate in the City's existing Water Pollution Prevention Program. Facilitate implementation of the City's Water Pollution Prevention Program by providing and installing wastewater sampling ports in any building anticipated to have a potentially significant discharge of pollutants to the sanitary sewer, as determined by the Water Pollution Prevention Program of the San Francisco Public Utilities Commission's Bureau of Environmental Regulation and Management, and in locations as determined by the Water Pollution Prevention Program.	Owner, other developers	Submit as part of subdivision improvement plans	Agency; DPW; SFPUC	Review as part of subdivision improvement plans approval

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North/ South	K.3 <u>Sewer Improvement Design</u> Design and construct sewer improvements such that potential flows to the City's combined sewer system from the project do not contribute to an increase in the annual overflow volume as projected by the Bayside Planning Model by providing increased storage in oversized pipes, centralized storage facilities, smaller dispersed storage facilities, or detention basins, or through other means to reduce or delay stormwater discharges to the City system.	Subject to regulatory approvals, Owner, other developers	Submit as part of subdivision improvement plans	Agency; DPW; SFPUC	Review as part of subdivision improvement plans approval
South	K.4 <u>Alternative Technologies to Improve Stormwater Discharge Quality</u> Implement alternative technologies or use other means to reduce settleable solids and floatable materials in stormwater discharges to China Basin Channel to levels equivalent to, or better than City-treated combined sewer overflows. Such alternative technologies could include one or more of the following: biofilter system, vortex sediment system, catch basin filters, and/or additional source control measures to remove particulates from streets and parking lots.	Subject to regulatory approvals, Owner, other developers	Submit as part of subdivision improvement plans	Agency; DPW; SFPUC	Review as part of subdivision improvement plans approval
South	K.5 <u>Central/Bay Basin Stormwater Management Program</u> Develop and implement a Stormwater Management Program for the Central/Bay Basin applicable to new and interim development under the Redevelopment Plan if any are contributing to direct discharges of stormwater to near-shore waters. Develop the plan in coordination with City and County of San Francisco agencies such as the Water Pollution Prevention Program of the City and County of San Francisco Public Utilities Commission's (SFPUC) Bureau of Environmental Regulation and Management, and the Clean Water Program. Develop the Stormwater Management Program according to guidelines contained in California Municipal Storm Water Best Management Practice Handbook and in California Industrial/Commercial Storm Water Best Management Practice Handbook. In addition, design the program with Best Management Practices consistent with the minimum control measures pursuant to the proposed Phase II stormwater regulations. Implement the Stormwater Management Program until a city-wide stormwater management program is developed that includes any area contributing to direct discharges of stormwater to near-shore waters. If the City and County of San Francisco develops a city-wide stormwater management program, such a program would supersede the stormwater management program for the Project Area. Periodically prepare and submit a monitoring report to the City detailing progress on implementation of Best Management Practices. Modify the Stormwater Management Program, as necessary, to respond to changes in conditions, and record any changes made (additions or deletions) in the monitoring report.	Subject to regulatory approvals, Owner, other developers	Submit as part of subdivision improvement plans	Agency; DPW; SFPUC	Review as part of subdivision improvement plans approval for the first submission that would contribute to direct discharges of stormwater to near-shore waters
North/ South	K.6 <u>Structure Placement and Design to Minimize Dangers of Flooding</u> Structures in the Project Area should be designed and located in such a way to assure the reasonable safety of structures and shoreline protective devices built in the Bay or in low-lying shoreline areas from the dangers of tidal flooding, including consideration of a rise in relative sea level. Detailed construction specifications to mitigate against impacts of a sea-level rise, however, would require specific flood protection engineering and building analysis by a licensed engineer where structures are proposed below a 99-foot elevation (Mission Bay Datum). Measures include:	Owner, other developers	Submit as part of site permit documentation	DBI; DPW	Review as part of site permit approval

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	K.6.a. Setback from the water's edge	Owner, other developers	Submit as part of site permit review	DBI; DPW	Review as part of site permit approval
	K.6.b. Install seawalls, dikes, and/or berms during construction of infrastructure	Owner, other developers	Submit as part of site permit review	DBI; DPW	Review as part of site permit approval
	K.6.c. Provide for dewatering basements	Owner, other developers	Submit as part of site permit review	DBI; DPW	Review as part of site permit approval
	K.6.d. Construct streets and sidewalks above existing grades by reducing the amount of excavation for utilities or basements	Owner, other developers	Submit as part of site permit review	DBI; DPW	Review as part of site permit approval
	K.6.e. Use topsoil to raise the level of public open spaces	Owner, other developers	Submit as part of site permit review	DBI; DPW	Review as part of site permit approval
	K.6.f. Use half-basements and partially depressed garage levels to minimize excavation	Owner, other developers	Submit as part of site permit review	DBI; DPW	Review as part of site permit approval
	L. CHINA BASIN CHANNEL VEGETATION AND WILDLIFE				
North/ South	L.1 Salt Marsh Wetland Habitat Mitigation Plan Prepare and implement a salt marsh wetland habitat mitigation plan in accordance with the San Francisco District, U.S. Army Corps of Engineers Habitat Mitigation Planning Guidelines. Determine the details of the plan through the Section 404 permit process. Nothing in this mitigation measure is intended to constrain the flexibility needed to meet permitting agency requirements, or adjust to variability in field conditions, new information or technology, or other factors. Similarly, this condition is not intended to conflict with or constrain use of more natural alternative Channel edge treatments that are determined feasible and consistent with adopted Redevelopment Agency standards and guidelines applicable to Mission Bay as contained in Design for Development documents.	Subject to regulatory approval, Owner	Prior to commencement of channel banks work involving wetlands	U.S. Army Corps; RWQCB; BCDC; DPW; Agency	U.S. Army Corps to review as part of Projects involving wetlands construction; DPW to review as part of subdivision improvement plans
North/ South	L.2 Wetland Habitat Avoidance Avoid salt marsh wetland habitat along the China Basin Channel shoreline during installation of suction inlets (and associated piping) used for fire-fighting water supply. Design the storm drain outfalls to minimize scouring and erosion of mudflats in coordination with relevant permitting agencies during the permitting process.	Subject to regulatory approval, Owner	Prior to commencement of channel banks work involving wetlands	Redevelopment Agency; U.S. Army Corps; RWQCB; BCDC; DPW	U.S. Army Corps to review as part of Projects involving wetlands construction; DPW to review as part of subdivision improvement plans
North/ South	L.3 Construction During Pacific Herring Spawning Season Do not conduct any construction activities (including movement of heavy equipment or structures by barge or tugboat) with the potential to cause turbidity in Channel or Bay waters during the spawning season of Pacific herring (December 1-March 1).	Owner, other developers	Prior to commencement of relevant work	DPW; DBI	DPW and/or DBI to review as part of subdivision improvement plans or site permit process

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
North / South	L.4 Turbidity Prevention Require the construction contractor to use shallow-draft tugboats, to prevent turbidity and sediment resuspension caused by tugboat activity in the Channel. Shallow-draft tugboats float higher in the water than deep-draft tugboats. Because they float higher, the tugboat propellers are not as deep under the water surface, and therefore are farther away from the bottom of the Channel. This arrangement has less potential to disturb bottom sediments because the local currents created by the propellers would not extend as deeply into the water column. Require the construction contractor to operate the tugboats at the minimum speed necessary to maintain maneuverability of the barges. Slower speeds would reduce the spin of tugboat propellers, thus minimizing turbidity and sediment resuspension.	Owner, other developers	Prior to water-side construction	DPW; DBI	DPW and/or DBI to review in connection with subdivision improvement plans or site permit process
North / South	L.5 Construction In Channel Confine resuspended sediments from construction activities in the Channel or Bay waters to the work site using submarine silt curtains around pile-driving or outfall construction sites, or silt fences properly anchored and trenched in place at the toe of slope below any grading or rubble-removing activities.	Owner	Prior to construction in or near the Bay or Channel	DPW; DBI	DPW to review in connection with subdivision improvement plans or site permit process
North / South	L.6 Removal and Disposal Plan Prepare a written plan for removal and disposal, including a description of any methods incorporated to avoid or minimize potential surface water contamination shall be prepared prior to removing existing support piles from China Basin Channel for the proposed Channel-edge treatments. Submit the plan to the San Francisco Bay Regional Water Quality Control Board for approval before implementation. Implement the plan during construction and have a qualified specialist monitored the plan to ensure adequate performance. Implement this plan during removal of pilings under the direction of a qualified specialist.	Subject to regulatory approval, Owner	Prior to support pile removal	RWQCB; DPW	DPW to review in connection with subdivision improvement plans or site permit process
	M. COMMUNITY SERVICES AND UTILITIES				
South	M.1 Transfer School Site Transfer the 2.2 acre school site to the San Francisco Unified School District in a developable condition prior to issuance of building permits for residential units that will make the total combined number of dwelling units in Mission Bay North and Mission Bay South equal to or greater than 3,200 dwelling units.	Owner, under the terms and conditions of South Infrastructure Plan and South OPA	As specified in measure	Redevelopment Agency; SFUSD	Review in connection with Major Phase and/or Project-level plan approval
North / South	M.2 Include Water Conservation in Buildings and Landscaping Include methods of water conservation in Mission Bay buildings and landscaping. Water conservation methods include the following:				
	M.2.a. Install water conserving dishwashers and washing machines in rental apartments and condominiums	Owner, other developers	Include in site permit plans	DPW; DBI	Review in connection with site permit process or subdivision improvement plans

	MITIGATION MEASURE	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING RESPONSIBILITY*	MONITORING ACTIONS/SCHEDULE
	M2.b. Install water conserving dishwashers and water efficient centralized cooling systems in office buildings	Owner, other developers	Include in site permit plans	DPW; DBI	Review in connection with site permit process or subdivision improvement plans
	M2.c. Incorporate water efficient laboratory techniques in research facilities where feasible	Owner, other developers	Include in site permit plans	DPW; DBI	Review in connection with site permit process or subdivision improvement plans
	M2.d. Provide information to residences and businesses advising methods to conserve water	Owner, other developers	Include in site permit plans	DPW; DBI	Review in connection with site permit process or subdivision improvement plans
	M2.e. Install water conserving irrigation systems (e.g., drip irrigation)	Owner, other developers	Include in site permit plans	DPW; DBI	Review in connection with site permit process or subdivision improvement plans
	M2.f. Design landscaping using drought resistant and other low-water use plants	Owner, other developers	Include in site permit plans	DPW; DBI	Review in connection with site permit process or subdivision improvement plans
North / South	M.3 <u>Extend Auxiliary Water Supply System</u> Extend the Auxiliary Water Supply System (High-Pressure System) through the interior of the Project Area. The routing, design and implementation of the AWSS extensions shall be determined by the Fire Department and the Department of Public Works.	Owner	Include in site permit plans	Redevelopment Agency; DPW	Review in connection with site permit process or subdivision improvement plans
South	M.4 <u>Sewers and Wastewater Treatment</u> Construct a fence around any interim surface detention basins.	Owner	During construction and operation of basins	Redevelopment Agency; DPW	Review as part of Project-level and/or site permit process
South	M.5 <u>Stormwater Runoff Control and Drainage</u> Drain stormwater runoff (up to a 5-year event) from newly constructed buildings and permanently covered surfaces in the Bay Basin into the City's combined sewer system until installation of a permanent sewer system.	Owner	Include in subdivision improvement plans	Redevelopment Agency; DPW	Review in connection with subdivision improvement plans and/or site permit process

ATTACHMENT No. 10a
FORM OF DEVELOPMENT CERTIFICATE OF COMPLETION

FREE RECORDING PURSUANT TO GOVERNMENT
CODE §§ 27383 & 27388.1 AT THE REQUEST OF
THE SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE CITY AND
COUNTY OF SAN FRANCISCO

WHEN RECORDED RETURN TO:

Successor to the Redevelopment Agency of
the City and County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Attention: Housing Division, Jane Suskin
(Assessor's Block 8719, Lot 005)

Space above for Recorder

By Grant Deed dated _____, recorded on _____ in the Official Records of the City and County of San Francisco, at Reel _____, Image _____ as Instrument No. _____ (the "**Deed**"), the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, corporate and politic ("**Successor Agency**" or "**OCII**"), conveyed a fee interest in certain real property in the City and County of San Francisco, which property is described in Exhibit A attached hereto (the "**Affordable Housing Parcel**"), to 350 China Basin Partners, LLC, a California limited liability company ("**Developer**"). Pursuant to that certain Disposition and Development Agreement between the Developer and OCII dated as of _____, 2022, and recorded on _____, in the Official Records of the City and County of San Francisco, as Instrument No. _____ (the "**DDA**"), Developer did undertake certain obligations to develop the Affordable Housing Parcel. Capitalized terms used herein and not defined shall have the meaning set forth in the DDA.

Pursuant to Article 5.21 of the DDA, Developer has completed construction of the Improvements and complied with certain other requirements of the DDA and OCII has conclusively determined that the Project improvements have been completed in accordance with the Completion of Construction standard, as defined in the DDA, and in accordance with the requirements of the DDA.

OCII's determination regarding such Completion of Construction is not directed to, and thus OCII assumes no responsibility for, engineering or structural matters or compliance with building codes and regulations or applicable local, State or Federal law relating to construction standards, including but not limited to any local State or Federal law relating to physical disability access.

ACCORDINGLY, as provided in the DDA, and subject to the foregoing provisions hereof, OCII does hereby acknowledge that the construction obligations of Developer under the DDA have been fully performed with respect to the Project and in accordance with the requirements of the DDA as set forth above, except with respect to those provisions of the DDA that expressly survive the termination of the DDA. Further, OCII hereby confirms that OCII's power of termination as set forth in the DDA and in the Reversion Grant Deed shall be of no further force or effect with respect to the Affordable Housing Project.

Except as expressly provided herein, nothing contained in this instrument shall modify in any other way any other provisions of the DDA, nor any other provision of any documents related to and/or incorporated in the DDA, including, but not limited to, any and all provisions related to the use and operation of the Project.

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IN WITNESS WHEREOF, OCII has duly executed this instrument this ____ day of _____, 202__.

OCII:

Successor Agency to the Redevelopment Agency
of the City and County of San Francisco, a public
body, organized and existing under the laws of the
State of California:

By: _____
James B. Morales
Interim Executive Director

APPROVED AS TO FORM:

By: _____

Agency Counsel

Authorized by OCII Resolution No. _____-202__, adopted _____, 202__.

ATTACHMENT No. 10b
FORM OF UNIT CERTIFICATE OF COMPLETION

FREE RECORDING PURSUANT TO
GOVERNMENT CODE §27383

WHEN RECORDED RETURN TO:
Successor to the Redevelopment Agency of
the City and County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Attention: Housing Division, Jane Suskin
(Assessor's Block 8719, Lot 005)

Space above for Recorder

By Grant Deed dated _____, recorded on _____ in the Official
Records of the City and County of San Francisco ("**Official Records**"), at Reel _____, Image
_____ as Instrument No. _____ (the "**Deed**"), the Successor Agency to the
Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office
of Community Investment and Infrastructure, a public body corporate and politic (the "**Successor
Agency**" or "**OCII**"), conveyed a _____ interest in certain real property in the City and
County of San Francisco, which property is described in Attachment 10B-1, Site Legal Description,
attached hereto (the "**Site**"), to 350 China Basin Partners, LLC, a California limited liability
company (the "**Developer**") pursuant to that certain Disposition and Development Agreement
between the Developer and OCII dated as of _____, 2022, and recorded on
_____, in the Official Records, as Instrument No. _____ (the "**DDA**").

As contemplated by the DDA, the Site has been subdivided into residential condominium
Units pursuant to that certain subdivision map and condominium plan entitled
_____ which map was attached as Exhibit A to the
_____ (the "**CC&Rs**"). The CC&Rs were recorded on _____ as
Document No. _____, Reel _____, Image _____ in the Official Records.

Pursuant to Article 5.21(d) of the DDA, OCII agreed to issue a separate Unit Certificate of
Completion for each completed Unit within the Site, prior to issuance of the Development
Certificate of Completion under Article 5.21(a) of the DDA. With respect to those Units listed in

Attachment 10B-2 hereto (“**Completed Condominium Units**”), OCII has conclusively determined that the portion of the Improvements relating to the Completed Condominium Units for the Site have been completed as defined in the DDA and in accordance with the requirements of the DDA. Furthermore, the Developer has provided OCII with a Temporary Certificate of Occupancy (“**TCO**”) dated _____ and expiring on _____ as issued by the Department of Building Inspection City and County of San Francisco for the Completed Condominium Units shown on Attachment 10B-2.

As stated in the DDA, OCII’s determination regarding such Completion is not directed to, and thus OCII assumes no responsibility for, engineering or structural matters or compliance with building codes and regulations or applicable local, State or Federal law relating to construction standards.

ACCORDINGLY, as provided in the DDA, and subject to the foregoing provisions hereof, OCII does hereby acknowledge that the obligations of Developer under the DDA have been fully performed with respect to the Completed Condominium Units and that the Completed Condominium Units have been completed as defined in the DDA and will be sold in accordance with the requirements of the DDA as set forth above. Further, OCII hereby confirms that OCII's power of termination as set forth in the DDA and in the Deed shall be of no further force or effect with respect to the Completed Condominium Units.

Except as expressly provided herein, nothing contained in this instrument shall modify in any other way any other provisions of the DDA nor any other provision of any documents related to and/or incorporated in the DDA, including the Developer's continuing obligations with respect to: (a) completion of the remaining portions of the Improvements other than the Completed Condominium Units; and (b) the survival provisions contained in the DDA and in any documents related to and/or incorporated by reference in the DDA, other than with respect to the Completed Condominium Units.

Upon recordation of this Unit Certificate Completion, the provisions of the DDA, with respect to the Completed Condominium Units, shall be deemed satisfied except with respect to those provisions of the DDA that expressly survive the termination of the DDA; provided, however, OCII agrees to look only to Developer with respect to any liability under such indemnification and

nondiscrimination obligations. No low- and moderate-income families who become a successor owner to Developer of any of the Completed Condominium Units shall have any liability to OCII whatsoever with respect to such indemnification and nondiscrimination obligations (except to the extent stated in the Limited Equity Program documents).

IN WITNESS WHEREOF, OCII has duly executed this instrument this _____ day of _____.

OCII:

Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body, organized and existing under the laws of the State of California:

By: _____
James B. Morales
Interim Executive Director

APPROVED AS TO FORM:

By: _____

Agency Counsel

Authorized by OCII Resolution No. _____-2021, adopted _____, 202__.

ATTACHMENT 10B-1

**FORM OF UNIT CERTIFICATE OF COMPLETION
SITE LEGAL DESCRIPTION**

Real property in the City and County of San Francisco, State of California, described as follows:

BLOCK 8719, LOT 005 OF THAT CERTAIN MAP ENTITLED "FINAL MAP PLANNED DEVELOPMENT MISSION BAY (9-9A AND 10-10A)", RECORDED ON MAY 31, 2005 AND FILED ON PAGES 6-10 IN BOOK BB OF THE COUNTY'S SURVEY MAPS.

ATTACHMENT 10B-2
LIST OF COMPLETED CONDOMINIUM UNITS

Unit Number	Floor	Block / Lot No.	Date Complete

ATTACHMENT No. 10c
FORM OF PARTIAL RECONVEYANCE OF GAP LOAN DEED OF TRUST

FREE RECORDING PURSUANT TO
GOVERNMENT CODE §27383

WHEN RECORDED RETURN TO:
Successor to the Redevelopment Agency of
the City and County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Attention: Housing Division, Jane Suskin
(Assessor's Block 8719, Lot 005)

Space above for Recorder

[use title company customary form; include same legal and unit table from 10b.]

ATTACHMENT No. 11
FORM OF GRANT DEED FOR THE SITE

FREE RECORDING PURSUANT TO
GOVERNMENT CODE §27383

WHEN RECORDED RETURN TO:

350 China Basin Partners, LLC
440 Molimo Drive
San Francisco, California 94127

Space above for Recorder

(Assessor's Block 8719, Lot 005)

G R A N T D E E D

The **SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO**, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, corporate and politic ("**Grantor**"), acting to carry out a redevelopment plan under the Community Redevelopment Law of California, hereby grants to **350 China Basin Partners, LLC**, a California limited liability company ("**Grantee**"), all that certain real property situated in the City and County of San Francisco, State of California, particularly described in Exhibit "A" Site Legal Description attached hereto and made a part hereof (the "**Housing Parcel**").

SUBJECT, however, to the Disposition and Development Agreement between the Grantor and Grantee, dated as of _____ and recorded on _____, 20XX, in the Office of the Recorder of the City and County of San Francisco, as Instrument/File No. _____, Reel _____, Image _____ of the Official Records (the "**Agreement**"); and the following conditions, covenants and restrictions:

1. Grantee covenants and agrees for itself, and its transferees, successors, holders, and assigns to or of the Housing Parcel or any part thereof, and any occupant or user of the Property or any part thereof, that the Grantee, and such transferees, successors, holders, assigns, occupants, and users shall:

(a) Not discriminate against or segregate any person or group of persons on account of age, ancestry, color, creed, disability, gender, marital status, national origin, race, religion, or sexual orientation, in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Housing Parcel or any improvements erected or to be erected thereon, or any part thereof, nor shall the Grantee itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of home buyers or tenants, lessees, sublessees or vendees in the Housing Parcel or any improvements erected or to be erected thereon, or any part thereof; and

(b) Not discriminate against or segregate any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

2. (a) In the Event of Default by the Grantee prior to completion of the Improvements as certified by Grantor, the Grantor shall have the right to record a reversion grant deed, re-enter and take possession of the Property and to terminate (and revert in the Grantor) the right, title or interest conveyed by this Grant Deed to the Grantee at no cost to the Grantor (collectively, the **“Power of Termination”**), provided, however, Grantor shall provide Developer, Holders and Title Company with at least ten (10) business days prior written notice of its intention to instruct the Title Company to record Developer’s Reversion Grant Deed; it being the intent (i) that the conveyance of the Property to the Grantee is made upon a condition subsequent to the effect that if an Event of Default of Grantee specified above occurs, Grantor at its option may declare a termination in favor of the Grantor of the title, and of all the rights and interest, in the Property conveyed by this Grant Deed to the Grantee, (ii) that such title, and all rights and interest of the Grantee, and any assigns or successors in interest, in the Property, shall revert to the Grantor, and (iii) that Grantor shall have the right to proceed with developing the Property in accordance with its obligations under law.

(b) Subject to the terms and conditions of the Agreement, Grantor shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Section (2), including also the right to execute and record or file with the Office of the Recorder of the City and County of San Francisco a reversion grant deed terminating all rights and title of Grantee, and its successors in interest and assigns, in the Property, and the revesting of title thereto in the Grantor; provided that any delay by the Grantor in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section shall not operate as a waiver of such rights or deprive it of or limit such rights in any way (it being the intent of this provision that Grantor should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section (2) because of concepts of waiver, laches, or otherwise) to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved, nor shall any waiver in fact made by Grantor with respect to any specific default by Grantee under this Section (2) be considered or treated as a waiver of the rights of Grantor with respect to any other defaults by the Grantee under this Section or with respect to the particular default except to the extent specifically waived.

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If there is any conflict between the provisions of this Deed and the Agreement, this Deed shall control.

IN WITNESS WHEREOF, OCII has duly executed this instrument this ____ day of _____, 202__.

OCII:

Successor Agency to the Redevelopment Agency
of the City and County of San Francisco,
a public body, organized and existing under
the laws of the State of California:

By: _____
Sally Oerth
Interim Executive Director

APPROVED AS TO FORM:

By: _____
James B. Morales
General Counsel

Authorized by OCII Resolution No. _____-202__, adopted _____, 202__.

GRANTEE ACCEPTANCE:

Grantee hereby acknowledges and accepts the terms and conditions subject to which the Housing Parcel is conveyed by Grantor.

350 CHINA BASIN PARTNERS, LLC
a California limited liability company

By: Mission Bay 9A, LLC,
a California limited liability company,
its co-managing member

By: Curtis Development
A sole proprietorship

By: _____
Name: Charmaine Curtis
Title: Sole Member

By: Michael Simmons Property Development, Inc.,
a California corporation, its co-managing member:

By: _____
Name: Michael Simmons
Title: President

ATTACHMENT No. 12
FORM OF REVERSION GRANT DEED FOR THE SITE

FREE RECORDING PURSUANT TO
GOVERNMENT CODE §27383

WHEN RECORDED RETURN TO:

Successor Agency to the
Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Attention: Housing Division, Jane Suskin
(Assessor's Block 8719, Lot 005)

Space above for Recorder

REVERSION GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, 350 China Basin Partners, LLC, a California limited liability company (“**Grantor**”), hereby GRANTS to the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, commonly known as the Office of Community Investment and Infrastructure, a public body, corporate and politic (“**Grantee**”), all of its right, title and interest in the real property situated in the City and County of San Francisco, State of California, as more particularly described in Exhibit A hereto, made a part hereof and described as LOT 5 OF ASSESSOR’S BLOCK 8719 as shown and delineated upon that certain map entitled “_____” filed for record in the Office of the Recorder in and for the City and County of San Francisco on _____, 200__ in Book __ of Condominium Maps at Pages __ through __, inclusive.

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IN WITNESS WHEREOF, the Grantor has executed this instrument as of the _____ day of _____, 20XX.

DEVELOPER

350 CHINA BASIN PARTNERS, LLC
a California limited liability company

By: Mission Bay 9A, LLC,
a California limited liability company,
its co-managing member

By: Curtis Development
a sole proprietorship

By: _____
Name: Charmaine Curtis
Title: Sole Member

By: Michael Simmons Property Development, Inc.,
a California corporation, its co-managing member:

By: _____
Name: Michael Simmons
Title: President

[ALL SIGNATURES MUST BE NOTARIZED]

ATTACHMENT No. 13
FORM OF DECLARATION OF SITE RESTRICTIONS

Free Recording Requested Pursuant to Government Code
Section 27383 at the Request of the Successor Agency to
the Redevelopment Agency of the City and County
of San Francisco

WHEN RECORDED, MAIL TO:

Successor Agency to the Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103
Attention: Development Services

Assessor's Block 8719, Lot 005
400 China Basin Street

Space Above This Line Reserved for Recorder's Use

DECLARATION OF SITE RESTRICTIONS

The following are the Conditions, Covenants and Restrictions affecting the property of 350 China Basin Partners LLC, a California limited liability company that is commonly known as Mission Bay South Block 9A. Block 9A is about _____ square-foot parcel on _____ within the Mission Bay South Redevelopment Project Area in the City and County of San Francisco, State of California.

THIS DECLARATION OF SITE RESTRICTIONS ("Declaration") is made as of the _____ day of _____, 20__, by 350 China Basin Partners, LLC, hereinafter called the "Owner."

WITNESSETH:

WHEREAS, the Owner owns Lot 005 in Assessor Block 8719 (the "Site") in that certain Redevelopment Project Area in the City and County of San Francisco, State of California, covered by the Redevelopment Plan for the Mission Bay South Redevelopment Project Area. The Redevelopment Plan for the Mission Bay South Redevelopment Project Area, was approved and adopted by the Board of Supervisors of the City and County of San Francisco on November 2, 1998, by Ordinance No. 335-98, and amended it by Ordinance Nos. 143-13 (July 9, 2013), 32-18 (March 6, 2018), 128-20 (July 31, 2020), 209-20 (Oct. 1, 2020), and 014-21 (Feb. 12, 2021), copies of which have been filed in the Office of the Recorder of the City and County of San Francisco, State of California (together referred to as the "**Redevelopment Plan**"); and

WHEREAS, the former Redevelopment Agency of the City and County of San Francisco (the "**Former Agency**") and Catellus Development Corporation, a Delaware corporation ("**CDC**"), entered into that certain Mission Bay South Owner Participation Agreement dated as of November 16, 1998 (the "Original OPA") and recorded on December 3, 1998, as Document No. 98-G477258-00 in the Official Records of San Francisco County (the "Official Records"), which was subsequently amended. The Original OPA, as amended, shall be referred as the "South OPA". The South OPA and its Mission Bay South

Housing Program identify the Site as an Agency Affordable Housing Parcel for the development of an Agency Affordable Housing Project; and

WHEREAS, the Site is also subject to a Declaration of Restrictions and Reservations of Easement dated July 12, 2011, and recorded July 28, 2011, as Document No. 2011-J221597-00 in the Official Records that restricts the Site's use to the construction and operation of an Agency Affordable Housing Project; and

WHEREAS, the Owner and the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body, organized and existing under the laws of the State of California ("Successor Agency"), commonly known as the Office of Community Investment and Infrastructure ("OCII"), entered into that certain Disposition and Development Agreement dated as of _____ and recorded on _____, 2022, in the Office of the Recorder of the City and County of San Francisco, as Instrument/File No. ____ - _____ - __, Reel ____, Image ____ of the Official Records (the "DDA" or "Agreement"), for the transfer of fee title of the Site and the development of an affordable residential condominium project and related improvements on the Site. The Agreement is incorporated by reference in this Declaration as though fully set forth in this Declaration. Definitions and rules of interpretation set forth in the Agreement apply to this Declaration. All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the DDA.

WHEREAS, the residential condominium project and related improvements comply with the standards and requirements of the Mission Bay South Redevelopment Plan and Mission Bay South Design for Development ("Development Controls").

WHEREAS, the California Community Redevelopment Law requires that adequate safeguards be imposed so that the work of redevelopment will be carried out pursuant to the Redevelopment Plan, and provides for the retention of controls and the establishment of restrictions and covenants running with land sold or leased for private use; and

WHEREAS, for the purpose of providing adequate safeguards that the work of redevelopment will be carried out pursuant to the Redevelopment Plan and to ensure the best use and the most appropriate development and improvement of the property described in the Redevelopment Plan; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to guard against the erection thereon of poorly designed or proportioned structures; to ensure the long-term affordability of residential units developed on said property; to encourage and secure the erection of attractive structures thereon, with appropriate locations on building sites; to prevent haphazard and inharmonious improvement of building sites; to secure and maintain proper setbacks from streets and adequate free space between structures; and, in general, to provide adequately for a high type and quality of improvement on said property, and thereby to enhance the value of investments made by purchasers of building sites therein, the Owner is desirous of subjecting the real property hereinafter described to the covenants, conditions and restrictions hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof and shall inure to the benefit of said property and for each owner thereof and pass with said property and each and every parcel thereof and shall apply to and bind the successors in interest and any owner thereof.

NOW, THEREFORE, the Owner hereby declares that the real property described and referred to in Section 1 hereof, is and shall be held, transferred, sold, and conveyed, subject to the covenants, conditions and restrictions, hereinafter set forth and further described in Exhibit B, "Surviving Provisions of the DDA", attached hereto and made a part hereof:

1. Property Subject to This Declaration

The Site which is, and shall be, held, conveyed, transferred and sold, subject to the covenants, conditions and restrictions with respect to the various portions thereof set forth in the various sections and subdivisions of this Declaration is located in the City and County of San Francisco, State of California, and is more particularly described as all that certain real property situated in the City and County of San Francisco (the "City"), State of California, and is more particularly described in Exhibit A attached hereto and made a part hereof.

2. Incorporation of Redevelopment Plan and Development Controls by Reference

Each and every term, condition, and provision set forth in said Redevelopment Plan and Development Controls are hereby incorporated by reference in and made a part of this Declaration with the same force and effect as though set forth in full herein.

3. Review of Plans

All preliminary architectural and site plans and the final plans and specifications for the construction of buildings and improvements on the Site shall be submitted to the Successor Agency for review and approval. Those plans shall be in sufficient detail to enable the Successor Agency to make a determination as to the compliance of the plans with these restrictions and with the Redevelopment Plan.

4. Maintenance

All buildings and improvements constructed in the Mission Bay South Redevelopment Project Area ("Project Area") shall be maintained in compliance with the laws of the State of California and the Ordinances and Regulations of the City and County of San Francisco.

5. General Land Use Restrictions

Pursuant to Sections 6.01 and 6.02 of the DDA, as such is included in Exhibit B attached hereto, Owner shall devote the Site and the Improvements only to the uses permitted by (i) the Redevelopment Plan, (ii) the Project Area Declaration of Site Restrictions, (iii) the Development Controls, (iv) the DDA, and (v) this Declaration. The Site is zoned Mission Bay Residential in the Redevelopment Plan. The Owner intends to use the Site for development of the Project (the details of which are contained in the Scope of Development, Attachment 3 to the DDA). The uses contemplated in the Scope of Development are consistent with the requirements of the Redevelopment Plan and the Development Controls. This provision shall only apply after the Closing Date and in the event Successor Agency exercises the Power of Termination and regains title to the Site pursuant to Section 9.02 of the DDA, subsections (iii) and (iv) of this Section 5 shall be of no further force or effect.

6. Nondiscrimination Provisions

Pursuant to Section 6.05 of the DDA, as such is included in Exhibit B attached hereto, there shall be no discrimination against or segregation of any person or group of persons on account of age, race, color, creed, sex, sexual orientation, gender identity, marital or domestic partner status, disabilities (including AIDS or HIV status), religion, national origin or ancestry by Owner or any occupant or user of the Site in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property subject to this Declaration, or any part thereof, nor shall the Owner itself (or any person or entity claiming under or through it) establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of the Property or any part thereof, nor shall Owner or any occupant or user of the Property or any transferee, successor, assign or holder of any interest in the

Property or any person or entity claiming under or through such transferee, successor, assign or holder, establish or permit any such practice or practices of discrimination or segregation, including, without limitation, with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, vendees or others of the Site, *provided, however*, that Owner shall not be in default of its obligations under this Section 6 where there is a judicial action or arbitration involving a bona fide dispute over whether Owner is engaged in discriminatory practices and Owner promptly acts to satisfy any judgment or award against Owner.

There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the Owner or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees at the Property.

Any transferee, successor, assign, or holder of any interest in the Site, or any occupant or user thereof, whether by contract, lease, rental, sublease, license, deed, mortgage or otherwise, and whether or not any written instrument or oral agreement contains the foregoing prohibitions against discrimination, shall be bound hereby and shall not violate in whole or in part, directly or indirectly, the nondiscrimination requirements set forth above.

All advertising (including signs) for sale and/or rental of the whole or any part of the Site shall include the legend "An Equal Housing Opportunity" in type or lettering of easily legible size and design.

Owner, its successors and assigns to or of the Site and any Improvements thereon or any part thereof or any interest therein, and any party in possession or occupancy of the Site or the Improvements thereon or any part thereof shall permit OCII or its successor to take all reasonable steps legally necessary or appropriate to remove restrictions against the Site, if any, that would violate any of the non-discrimination provisions of this Agreement, whether the restrictions are enforceable or not.

The foregoing covenants shall run with the land. Unless an instrument, describing property in the Project Area has been recorded agreeing to change said covenants, the covenants contained in this Section 6 hereof shall run in perpetuity.

7. Restrictions on Affordable Housing Units

The Improvements shall include 148 for-sale Affordable Housing Units. Pursuant to Sections 6.04 of the DDA, the following requirements shall specifically apply to the Affordable Housing Units:

a. Level of Affordability. Pursuant to section 6.04 of the DDA, as such is included in Exhibit B attached hereto, the units shall be affordable to households earning on average 95 percent (95%) of the Unadjusted Area Median Income for the HUD Metro Fair Market Rent Area that contains San Francisco, as published by MOHCD ("AMI") rather than market values. To achieve this average, approximately twenty-nine units (ten 1-BR, eleven 2-BR, and eight 3-BR units) shall be affordable to households earning no more than seventy-five percent (80%) of AMI, approximately forty-eight units (fourteen 1-BR, twenty-two 2-BR, and twelve 3-BR units) shall be affordable to households earning no more than eighty-five percent (90%) of AMI, approximately forty units (fourteen 1-BR, nineteen 2-BR, and seven 3-BR) shall be affordable to households earning no more than ninety-five percent (100%) of AMI, and approximately

thirty-one units (twelve 1-BR, eleven 2-BR, and eight 3-BR) shall be affordable to households earning no more than 110% AMI.

b. Duration of Affordability Restrictions. Pursuant to Section 6.04 of the DDA, as such is included in Exhibit B attached hereto, the Affordable Housing Units must remain affordable for the life of the Project. For the purposes of this Declaration, the “life of the Project” shall mean the time during which the Project, including any future modification thereto, remains in existence.

c. Procedures In Effect. The Project is subject to the requirements of the Inclusionary Affordable Housing Program under the San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"), as amended from time to time. As provided in LEP Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or re-sale. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and, (v) procedures for inheritance apply and are set forth in the Procedures Manual and the LEP Program.

d. Sale of Affordable Housing Units. Pursuant to Section 6.04 of the DDA, as such is included in Exhibit B attached hereto, the Affordable Housing Units shall be sold, both at initial sale and subsequent resale, pursuant to the Successor Agency’s Limited Equity Program and the Procedures Manual, a form of which is included as Attachment 21 of the DDA, to ensure the units will be permanently affordable.

e. Unit Mix and Location. Pursuant to section 6.04 of the DDA, as such is included in Exhibit B attached hereto, the Project shall include a minimum of twenty-four percent (24%) three-bedroom units, forty-two percent (42%) two-bedroom units, and, thirty-four percent (34%) one-bedroom units, as shown on Attachment 17 to the DDA. One- and two-bedroom units shall include a minimum of one bathroom; three-bedroom units shall include a minimum of one- and one-half bathrooms. For the life of the Project, neither Owner nor any successor or assign may make or permit any material alteration, or modification, of the location of the affordable housing unit without the express prior written consent of OCII or MOHCD, as applicable, upon any terms and conditions OCII or MOHCD reasonably require. OCII’s approval may be granted or withheld in its reasonable discretion.

f. Parking. Pursuant to section _____ of the DDA, as such is included in Exhibit B attached hereto, parking for Project shall be provided in the Garage at a rate that is no less than one stall for every _____ residential units. In addition to the upfront purchase price for the Affordable Housing Units, parking spaces shall be made available to lease by the buyers of the Affordable Housing Units for ongoing costs at a below market cost that is the lesser of (1) the rates specified in the Procedures Manual as amended from time to time or (2) the operating cost of the garage; provided, however, such parking spaces shall not be deeded spaces. Marketing and Occupancy Preferences. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual and LEP Program. OCII and MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. Pursuant to section 12.3 of the DDA, as such is included in Exhibit B attached hereto, the initial and subsequent resale of all Affordable Housing Units will be subject to the then-current preferences established by California Redevelopment Law and the City’s Administrative Code, MOHCD’s Marketing, Housing Preferences and Lottery Procedures Manual as amended from time to time and the marketing obligations described in Attachment 23 of the DDA, which include occupancy preferences for, among others, Certificate of Preference holders and other targeted populations.

9. As-Is Conveyance and Release

Pursuant to Sections 4.01 of the DDA, as such are included in Exhibit B attached hereto, the Successor Agency conveyed the Site in “AS IS” condition and the Owner accepted the Site in “AS IS” condition. The Owner, at its sole cost and expense, shall comply with all provisions of Environmental Law applicable to the Site and shall perform all actions that may be required pursuant to any Environmental Law. Pursuant to Section 4.01 of the DDA, as such is included in Exhibit B attached hereto, the Owner shall release the Successor Agency from all claims that it has in connection with the DDA and the Site.

10. Hazardous Materials Indemnification

Pursuant to Section 4.04 of the DDA, as such is included in Exhibit B attached hereto, the Owner shall indemnify the Successor Agency from and against claims relating to the Owner’s violation of any Environmental Law, or any Release or threatened Release of a Hazardous Substance, or any condition of pollution, contamination or Hazardous Substance-related nuisance on, under or from the Site.

11. Insurance

A. Pursuant to Section 5.23 of the DDA, as such is included in Exhibit B attached hereto, Owner shall require its architects, engineers, surveyors and other design professionals to maintain professional liability insurance for no less than ten (10) years beyond the Completion of Construction of the Improvements.

12. No Changes to Site or Improvements Without Approval

Pursuant to Sections 6.02 of the DDA, as such is included in Exhibit B attached hereto, neither Owner nor any successor or assign may make or permit any change in the uses of the Site or any Change in the Improvements, unless the express prior written consent for the change in uses or any Change in the Improvements has been requested and obtained from the Successor Agency; and if obtained, upon any terms and conditions the Successor Agency reasonably requires.

13. Indemnification

Owner shall indemnify, defend, and hold harmless the Indemnified Parties as provided in Sections 12.04 of the DDA, as such is included in Exhibit B attached hereto.

14. General Provisions

a. Term

These covenants are to run with the land and shall be binding on all parties, successors and assigns of Owner and any Mortgagee, and all persons claiming under them as of the date this Declaration is executed and, unless a different term is specified herein, during the effective period of the Redevelopment Plan, which remains in effect for a period of time not to exceed 30 years from the adoption of the Redevelopment Plan, unless an instrument, describing property in the Project Area, has been recorded agreeing to change said covenants. These covenants shall be deemed automatically extended during the effective period of any extension of the Redevelopment Plan. For the avoidance of doubt, these covenants shall survive the Successor Agency’s recordation of Certificate of Completion for the Improvements or a Unit Certificate of Completion for specific residential units. After the expiration or termination of the Redevelopment Plan, the use and subsequent development or redevelopment of the Site will become subject to the City’s land use ordinances and policies, including but not limited to the City’s Planning Code.

b. Enforcement

In the event of any breach of any of the covenants contained herein, it shall be the duty of the Successor Agency or its successor to endeavor immediately to remedy such breach by conference, conciliation and persuasion. In the case of failure so to remedy such breach, or in advance thereof, if in the judgment of the Successor Agency circumstances so warrant, said breach shall be enjoined or abated by appropriate proceedings brought by the Successor Agency.

The Successor Agency, on its own behalf or on behalf of any owner or owners, singly or collectively, or any real property in the Project Area covered by these restrictions, or any such owner or owners may, at any time, prosecute any proceedings in law or in equity in case of any violation or attempt to violate any of the covenants contained herein.

c. The Declaration of Site Restrictions shall be in a first lien position and shall not be subordinated to any lien or other encumbrance during the term of the restrictions unless OCII or its successor determines in its sole discretion that subordination is necessary to secure adequate acquisition, construction, rehabilitation and/or permanent financing to ensure the viability of the Project.

d. Variation

Where, owing to special conditions, a literal enforcement of these restrictions in regard to the physical standards and requirements as referred to in Section 2 hereof would result in practical difficulties creating undue hardship for the property owner and constitute an unreasonable limitation beyond the spirit and purposes of these restrictions, the Successor Agency shall have the power upon appeal in specific cases to authorize such variation or modification of the terms of these restrictions as will not be contrary to the public interest and so that the spirit of these restrictions shall be observed and justice done, provided, however, that the adjustments are consistent with the standards for a variation under the Redevelopment Plan and in no instance will any adjustments be granted that will change the land use of the Redevelopment Plan. Other basic requirements of the Redevelopment Plan shall not be eliminated but adjustments thereof may be permitted, provided such adjustments are consistent with the general purposes and intent of the Redevelopment Plan.

e. Foreclosure and Enforcement of Liens

The provisions of this Declaration do not limit the rights of obligees to foreclose or otherwise enforce any mortgage, deed of trust, or other encumbrance upon the property, or the rights of such obligees to pursue any remedies for the enforcement of any pledge or lien upon the property; provided, however, that in the event of a foreclosure sale under any such mortgage, deed of trust, or other lien or encumbrance or a sale pursuant to any power of sale contained in any such mortgage or deed of trust, the purchaser or purchasers and their successors and assigns, and the property, shall be and shall continue to be, subject to all of the conditions, restrictions, and covenants herein provided for.

f. Amendment

If at any time the Redevelopment Plan is amended in any manner as is now or hereafter permitted by law, this Declaration may be amended accordingly.

g. Dissolution

In the event that the Successor Agency is dissolved, or its designation changed by or pursuant to law prior to carrying out the Redevelopment Plan, its powers, duties, rights, and functions under this Declaration shall be transferred pursuant to any applicable provisions of such laws.

h. Severability of Provisions

If any provision of this Declaration of Site Restrictions or the application of such provision to any owner or owners or parcel of land is held invalid, the validity of the remainder of this Declaration of Site Restrictions and the applicability of such provision to any other owner or owners or parcel of land shall not be affected thereby.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the day and year first written above.

OWNER:

350 CHINA BASIN PARTNERS LLC,
a California limited liability company

By _____

Its:

EXHIBIT “A”

Site Legal Description

Real property in the City and County of San Francisco, State of California, described as follows:
BLOCK 8719, LOT 005 OF THAT CERTAIN MAP ENTITLED “FINAL MAP PLANNED
DEVELOPMENT MISSION BAY (9-9A AND 10-10A)”, RECORDED ON MAY 31, 2005, AND
FILED ON PAGES 6-10 IN BOOK BB OF THE COUNTY’S SURVEY MAPS.

EXHIBIT B

Surviving Provisions of the DDA **(all sections noted refer to DDA Sections)**

- (a) All requirements contained in Section 4.01; Prior to Conveyance/Site “As Is”
- (b) All requirements contained in 4.04; Hazardous Substance Indemnification
- (c) All requirements contained in Section 5.23; Insurance Requirements
- (d) All requirements contained in Section 6.02; General Restrictions
- (e) All requirements contained in Section 6.04; Restrictions After Completion – Permitted Uses
- (f) All requirements contained in Section 6.05; Nondiscrimination
- (g) All requirements contained in Section 12.01; Affordable Housing Requirements
- (h) All requirements contained in Section 12.04; Indemnification

ATTACHMENT No. 14

	OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE (OCII) (SUCCESSOR TO THE SAN FRANCISCO REDEVELOPMENT AGENCY) DECLARATION FORM Nondiscrimination in Contracts and Benefits

Section A

Is your company/organization currently certified by the City and County of San Francisco in compliance with Administrative Code 12B Equal Benefits Ordinance and will your company/organization ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts? If yes, please indicate below, skip Section B, and execute the Declaration in Section C. If no, please skip Section A and complete Sections B and C.

- ☐ My company/organization is certified and compliant with the 12B Equal Benefits Ordinance of the City and County of San Francisco and there has been no change in our 12B Declaration since certification. My company/organization agrees to ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts. (Please check box to affirm, if applicable)

Section B

1. Nondiscrimination—Protected Classes

- a. Is it your company/organization's policy that you will not discriminate against your employees, applicants for employment, employees of the Office of Community Investment and Infrastructure (successor to the San Francisco Redevelopment Agency) (Agency), or City and County of San Francisco (City), or members of the public for the following reasons:
- | | | |
|---------------------------|------------------------------|-----------------------------|
| • Race | ☐ Yes | ☐ No |
| • color | ☐ Yes | ☐ No |
| • Creed | ☐ Yes | ☐ No |
| • Religion | ☐ Yes | ☐ No |
| • ancestry | ☐ Yes | ☐ No |
| • national origin | ☐ Yes | ☐ No |
| • Age | ☐ Yes | ☐ No |
| • sex | ☐ Yes | ☐ No |
| • sexual orientation | ☐ Yes | ☐ No |
| • gender identity | ☐ Yes | ☐ No |
| • marital status | ☐ Yes | ☐ No |
| • domestic partner status | ☐ Yes | ☐ No |
| • Disability | ☐ Yes | ☐ No |
| • AIDS or HIV status | ☐ Yes | ☐ No |
- b. Do you agree to insert a similar nondiscrimination provision in any subcontract you enter into for the performance of a substantial portion of the contract that you have with the Agency or the City?
- ☐ Yes ☐ No

If you answered "no" to any part of Question 1a or 1b, the Agency or the City cannot do business with you.

2. Nondiscrimination—Equal Benefits (Question 2 does not apply to subcontracts or subcontractors)

- a. Do you provide, or offer access to, any benefits to employees with spouses or to spouses of employees?
- ☐ Yes ☐ No
- b. Do you provide, or offer access to, any benefits to employees with domestic partners (Partners) or to domestic partners of employees?

☐ Yes ☐ No

If you answered "no" to both Questions 2a and 2b, skip 2c and 2d, and sign, date and return this form. If you answered "yes" to Question 2a or 2b, continue to 2c.

- c. If "yes," please indicate which ones. This list is not intended to be exhaustive. Please list any other benefits you provide (even if the employer does not pay for them).

Benefit	Yes, for Spouses	Yes, for Partners	No
• Medical (health, dental, vision)	☐	☐	☐
• Pension	☐	☐	☐
• Bereavement	☐	☐	☐
• Family leave	☐	☐	☐
• Parental leave	☐	☐	☐
• Employee assistance programs	☐	☐	☐
• Relocation and travel	☐	☐	☐
• Company discounts, facilities, events	☐	☐	☐
• Credit union	☐	☐	☐
• Child care	☐	☐	☐
• Other _____	☐	☐	☐
• Other _____	☐	☐	☐

- d. If you answered "yes" to Question 2a or 2b, and in 2c indicated that you do not provide equal benefits, you may still comply with the Policy if you have taken all reasonable measures to end discrimination in benefits, have been unable to do so, and now provide employees with a cash equivalent.

(1) Have you taken all reasonable measures? ☐ Yes ☐ No

(2) Do you provide a cash equivalent? ☐ Yes ☐ No

3. Documentation for Nondiscrimination in Benefits (Questions 2c and 2d only)

If you answered "yes" to any part of Question 2c or Question 2d, you must attach to this form those provisions of insurance policies, personnel policies, or other documents you have which verify your compliance with Question 2c or Question 2d. Please include the policy sections that list the benefits for which you indicated "yes" in Question 2c. If documentation does not exist, attach an explanation, e.g., some of your personnel policies are unwritten. If you answered "yes" to Question 2d(1) complete and attach form SFRA/CC-103, "Nondiscrimination in Benefits—Reasonable Measures Affidavit," which is available from the Agency. You need not document your "yes" answer to Question 1a or Question 1b.

Section C

I declare (or certify) under penalty of perjury that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this _____ day of _____, 20____, at _____, _____.
(City) (State)

Name of Company/Organization: _____

Doing Business As (DBA): _____

Also Known As (AKA): _____

General Address: _____
Remittance Address (if different from above): _____

Name of Signatory: _____ Title: _____
(Please Print)

Signature: _____

Phone Number: _____ Federal Tax Identification Number: _____

Approximate number of employees in the U.S.: _____ Vendor Number: _____
(if known)

- ☐ Check here if your address has changed.
- ☐ Check here if your organization is a non-profit.
- ☐ Check here if your organization is a governmental entity.

THIS FORM MUST BE RETURNED WITH THE ORIGINAL SIGNATURE

Please return this form to: Office of Community Investment and Infrastructure (successor to the San Francisco Redevelopment Agency), One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103

ATTACHMENT No. 15
MINIMUM COMPENSATION POLICY (MCP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (“OCII”) (Successor Agency to the San Francisco Redevelopment Agency) adopted the Minimum Compensation Policy (“MCP”), which became effective on September 25, 2001. The MCP requires contractors and subcontractors to pay Covered Employees a minimum hourly wage and to provide 12 compensated and 10 uncompensated days off per year. The Minimum Compensation rate adjusts automatically to match the wage rate required by the City and County of San Francisco’s Minimum Compensation Ordinance. Contractor is obligated to keep informed of the then-current requirements, which are published at <https://sfgov.org/olse/minimum-compensation-ordinance-mco>.

The OCII may require contractors to submit reports on the number of employees affected by the MCP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the MCP will have the following effect:

- in each contract, the contractor will agree to abide by the MCP and to provide its employees the minimum benefits the MCP requires, and to require its subcontractors subject to the MCP to do the same.
- if a contractor does not provide the MCP minimum benefits, OCII can award a contract to that contractor only if the contract is exempt under the MCP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII’s contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the MCP to your covered employees, and will ensure that your subcontractors also subject to the MCP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the MCP, available from the OCII Contract Compliance Department at (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 1 South Van Ness, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the MCP to our covered employees, and will ensure that our subcontractors also subject to the MCP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

ATTACHMENT No. 16

HEALTH CARE ACCOUNTABILITY POLICY (HCAP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (“OCII”) (as Successor Agency to the Redevelopment Agency) adopted the San Francisco Health Care Accountability Policy (the “HCAP”), which became effective on September 25, 2001. The HCAP requires contractors and subcontractors that provide services to OCII, contractors and subcontractors that enter into leases with OCII, and parties providing services to tenants and sub-tenants on OCII property to offer health plan benefits to their employees.

Specifically, contractors can either: (1) offer the employee minimum standard health plan benefits established by the San Francisco Department of Public Health (“SFDPH”), as approved by the OCII Commission; (2) pay OCII an amount equivalent to the current fee established by the SFDPH for each hour the employee works on the covered contract or subcontract or on property covered by a lease and OCII will appropriate the money for staffing and other resources to provide medical care for the uninsured; or (3) participate in a health benefits program developed and offered by SFDPH. The minimum health plan standards and fees established by SFDPH are published at <https://sfgov.org/olse/health-care-accountability-ordinance-hcao>.

OCII may require contractors to submit reports on the number of employees affected by the HCAP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the HCAP will have the following effect:

- in each contract, the contractor will agree to abide by the HCAP and to provide its employees the minimum benefits the HCAP requires, and to require its subcontractors to do the same.
- if a contractor does not provide the HCAP’s minimum benefits, OCII can award a contract to that contractor **only if** the contract is exempt under the HCAP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII’s contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII’s contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the HCAP to your covered employees, and will ensure that your subcontractors also subject to the HCAP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the HCAP, available from the OCII’s Contract Compliance Department at: (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure, 1 South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the HCAP to our covered employees, and will ensure that our subcontractors also subject to the HCAP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

ATTACHMENT No. 17
SMALL BUSINESS ENTERPRISE AGREEMENT

The company or entity executing this Small Business Enterprise Agreement, by and through its duly authorized representative, hereby agrees to use good faith efforts to comply with all of the following:

I. **PURPOSE.** The purpose of entering into this Small Business Enterprise Program agreement (“SBE Program”) is to establish a set of Small Business Enterprise (“SBE”) participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in contracts by or at the behest of the Successor Agency to the San Francisco Redevelopment Agency (“Agency”) and/or the Agency-Assisted Contractor. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco-based SBEs before looking outside of San Francisco.

II. **APPLICATION.** The SBE Program applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract.

III. **GOALS.** The Agency’s SBE Participation Goals are:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

IV. **TRAINEE HIRING GOAL.** In addition to the goals set forth above in Section III, there is a trainee hiring goal for all design professionals (architects, engineers, planners, and environmental consultants) on contracts or subcontracts over \$100,000. The trainee hiring goal requires architects, engineers and other design professionals only to hire qualified San Francisco residents as trainees. The trainee hiring goal is based upon the total amount of the design professional’s contract as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 – \$99,000
1	\$ 100,000 – \$249,999
2	\$ 250,000 – \$499,999
3	\$ 500,000 – \$999,999
4	\$1,000,000 – \$1,499,999
5	\$1,500,000 – \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 – or more

A. Procedures For Trainee Hires

1. Compliance with the Trainee Hiring Goal

Design professionals will be deemed in compliance with this Agreement by meeting or exceeding

the trainee hiring goal or by take the following steps in good faith towards compliance.

2. Execution and Incorporation of this Agreement to Sub-agreements

The Agency-Assisted Contractor shall execute this Agreement and shall incorporate by reference or attach this Agreement to its contract(s) with the architects, engineers and other design professionals. Thus, each design professional (regardless of tier) will be obligated to comply with the terms of this Agreement. The Agency-Assisted Contractor and/or the design professionals shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. Contact Educational Institutions

Each design professional shall call the City and County of San Francisco Office of Economic and Workforce Development (OEWD) or educational institution(s) and request referrals for the required trainee positions. The request will indicate generally: (1) the number of trainees sought; (2) the required skills set (keeping in mind that these are trainee positions); (3) a brief description of job duties; (4) the duration of the trainee period; and (5) any other information that would be helpful or necessary for the educational institution or OEWD to make the referral. The minimum duration of assignment is part-time for one semester. However, design professionals are strongly encouraged to offer longer trainee employment periods to allow a more meaningful learning experience. (For example, a half-time or full-time assignment over the summer.) Although the initial contact shall be made by phone, the educational institution(s) or OEWD may require the design professionals to send a confirming letter or complete its form(s). Each design professional is required to timely provide all of the information requested by the OEWD or educational institution(s) in order to get the referrals.

4. Response from Educational Institutions

Each educational institution may have a different way of referring applicants, such as: sending resumes directly to the design professional; having the applicant contact the design professional by phone; require design professionals to conduct on-campus interviews; or some other method. The timing and method of the response will normally be discussed with the design professional during the initial phone request. The design professional is required to follow the process set by the educational institution(s) in order to get the referrals.

5. Action by Design Professionals When Referrals Available

The design professional shall interview each applicant prior to making the decision to hire or not to hire. The design professional shall make the final determination whether the applicant is qualified for the trainee position and the ultimate hiring decision. The Agency strongly encourages the design professional to hire a qualified San Francisco resident referred by the educational institution(s). The design professional shall notify the educational institution in writing of the hiring decision.

6. Action by Design Professionals When Referrals Unavailable

If after contacting two or more educational institutions the design professional is informed that no San Francisco residents are currently available, then the design professional should wait thirty (30) days and contact the educational institutions a second time to inquire whether qualified San Francisco residents are currently available for hire as trainees. If no qualified San Francisco residents are currently available after the second request, then the design professional has fulfilled its obligation under this Agreement, provided that the design professional has acted in good faith. The design professional must retain its file on all of the steps it took to comply with this Section IV and submit a copy of its file to the Agency

Compliance Officer upon request.

7. Action by Design Professional When No Response From Educational Institutions

If a design professional has not received a response to its request for referrals from any of the educational institutions within five (5) business days after the design professional has fully complied with the procedures, if any, set by the educational institution(s) for obtaining referrals, then the design professional should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause the educational institution(s) to respond to the design professional within five (5) business days of the Agency Compliance Officer being notified. If the design professional still has not received a response from the educational institution(s) after this additional five (5) business day period has run, then the design professional has fulfilled its obligation under this Section IV, provided that the design professional has acted in good faith. Each design professional must retain its file on all of the steps it took to comply with this Agreement and submit a copy of its file to the Agency Compliance Officer upon request.

8. Termination of Trainee for Cause

If at any time during the Term, it becomes necessary to terminate for cause a trainee who was hired under this Agreement and the design professional has not met the minimum duration requirements under this policy, then the design professional shall hire a new trainee by following the process set forth above.

B. Reporting Requirements For Trainee Hires

1. Reporting

Upon completion of the Term of the Agreement or the term of the design professional's contract with the Agency-Assisted Contractor, whichever is less, the design professional (i.e. Employer) shall fax or email a report to the Agency Compliance Officer stating in detail: (1) the names of the San Francisco resident(s) interviewed for trainee positions; (2) the date(s) of each interview; (3) the reasons for not hiring the San Francisco resident(s) interviewed; (4) the name, address, gender and racial/ethnic background of the successful candidate for the trainee position; and (5) the number of San Francisco residents hired as trainees.

2. Report on Terminations

In the event a San Francisco resident hired pursuant to this Agreement is terminated for cause, the responsible design professional shall within five (5) days fax or email a termination report to the Agency Compliance Officer stating in detail: (1) the name of the trainee(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); and (4) whether the design professional replaced the trainee(s).

V. TERM. The obligations of the Agency-Assisted Contractor and/or Contractor(s) with respect to SBE Program shall remain in effect until completion of all work to be performed by the Agency-Assisted Contractor in connection with the original construction of the site and any tenant improvements on the site performed by or at the behest of the Agency-Assisted Contractor unless another term is specified in the Agency-Assisted Contract or Contract.

VI. FIRST CONSIDERATION. First consideration will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: (1) Project Area SBEs, (2) San Francisco-based SBEs (outside an Agency Project Area, but within San Francisco), and (3) Non-

San Francisco-based SBEs. Non-San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-San Francisco-based SBEs.

VII. ASSOCIATIONS AND JOINT VENTURES (JV). OCII will recognize JVs and Associations between non-SBE firms and SBE firms where the SBE partner performs at least 35% of the work defined in the JV or Association agreement, and receives at least 35% (or a proportionate share, whichever is higher) of the dollars to be earned by the JV or Association. Under this arrangement, OCII will deem the JV or Association to be an SBE for the purposes of meeting the SBE goal. Due to the technical nature of the disciplines and the various standards of each industry, OCII will not require a standardized agreement. However, each JV and Association agreement must be in writing and contain, at a minimum, the following terms:

- Define the management of the agreement between the parties;
- Define the technical and managerial responsibilities of each party;
- Define the scope of work to be performed by each party, and where possible identify the percentage and break-down of scope of work for each party;
- Identify any additional subcontractors or consultants that will perform the work under the agreement;
- Define the schedule, duration, and deliverable of the agreement;
- Detail the fee schedule, fee breakdown, or division of compensation;
- Specify insurance requirements and/or if each party shall maintain its own insurance;
- Specify how additional work or changes in scope shall be negotiated or determined and which party shall be responsible for notifying OCII of the changes;
- Specify how claims and disputes will be resolved.

A copy of the JV or Association agreement must be provided to OCII for approval in order for the JV or Association to be recognized.

VIII. CERTIFICATION. The Agency no longer certifies SBEs but instead relies on the information provided in other public entities' business certifications to establish eligibility for the Agency's program. Only businesses certified by the Agency as SBEs whose certification has not expired and economically disadvantaged businesses that meet the Agency's SBE Certification Criteria will be counted toward meeting the participation goals. The SBE Certification Criteria are set forth in the SBE Policy.

IX. INCORPORATION. Each contract between the Agency, Agency-Assisted Contractor or Contractor on the one hand, and any subcontractor on the other hand, shall physically incorporate as an attachment or exhibit and make binding on the parties to that contract, a true and correct copy of this SBE Agreement.

X. DEFINITIONS. Capitalized terms not otherwise specifically defined in this SBE Agreement have the meaning set forth in the Agency's SBE Policy adopted on November 16, 2004 and amended on July 21, 2009 ("**Policy**") or as defined in the Agency-Assisted Contract or Contract. In the event of a conflict in the meaning of a defined term, the SBE Policy shall govern over the Agency-Assisted Contract or Contract, which in turn shall govern over this SBE Agreement.

Affiliates means an affiliation with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business.

Agency-Assisted Contract means, as applicable, the Development and Disposition Agreement, Land Disposition Agreement, Lease, Loan and Grant Agreements, and other similar contracts, and agreement that the Agency executed with for-profit or non-profit entities.

Agency-Assisted Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed an Agency-Assisted Contract.

Agency Contract means personal services contracts, purchase requisitions, and other similar contracts and operations agreements that the Agency executes with for-profit or non-profit entities.

Amendment to a Pre-existing Contract means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy ("SBE Policy") takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

Annual Receipts means "total income" (or in the case of a sole proprietorship, "gross income") plus "cost of goods sold" as these terms are defined and reported on Internal Revenue Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

Arbitration Party means all persons and entities who attend the arbitration hearing pursuant to Section XIII, as well as those persons and entities who are subject to a default award provided that all of the requirements in Section XIII.L. have been met.

Association means an agreement between two parties established for the purpose of completing a specific task or project. The associate agreement shall provide the SBE associate a significant project management role and the SBE associate shall be recognized in marketing and collateral material. The Association shall be distinguished from traditional subcontracting arrangements via a written Association agreement that defines the management of the agreement, technical and managerial responsibilities of the parties, and defined scopes and percentages of work to be performed by each party with its own resources and labor force. Unlike the more formal Joint Venture, an Association does not require formation of a new business enterprise between the parties. The Associate agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Commercially Useful Function means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco (“City”) as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a “commercially useful function” unless the brokerage, referral or temporary employment services are required and sought by the Agency.

Contract means any agreement between the Agency and a person(s), firm, partnership, corporation, or combination thereof, to provide or procure labor, supplies or services to, for, or on behalf of the Agency.

Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed a Contract.

Joint Venture means an entity established between two parties for the purposes of completing a venture or project. The Joint Venture agreement typically creates a separate business entity and requires acquisition of additional insurance for the newly created joint business entity. The Joint Venture agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Non-San Francisco-based Small Business Enterprise means a SBE that has fixed offices located outside the geographical boundaries of the City.

Office” or “Offices means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an “office” under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an “office.” The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an “as needed” basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

Project Area Small Business Enterprise means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area or Survey Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms’ location in a Project Area or Survey Area.

Project Area means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), and Transbay.

San Francisco-based Small Business Enterprise means a SBE that: (a) has fixed offices located within the geographical boundaries of the City where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

Small Business Enterprise (SBE) means an economically disadvantaged business that: is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; has average gross annual receipts in the three years immediately preceding its application for certification as a SBE that do not exceed the following limits:

Industry	OCII SBE Size Standard
Construction Contractors	\$
Specialty Construction Contractors	\$14,000,000
Suppliers (goods/materials/ equipment and general services)	\$
Professional Services	\$
Trucking	\$

In addition, an economically disadvantaged business shall meet the other certification criteria described in Exhibit I of the SBE Policy in order to be considered an SBE by the Agency.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's three most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for Corporations) to calculate the firm's three year average annual gross receipts. In addition, the calculation of a firm's size shall include the receipts of all affiliates.

Once a business reaches the 3-year average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

Specialty Construction Contractor means a contractor licensed by the Contractors State License Board under the "C" classification license pursuant to California Business and Professions Code Section 7058.

XI. GOOD FAITH EFFORTS TO MEET SBE GOALS Compliance with the following steps will be the basis for determining if the Agency-Assisted Contractor and/or Consultant has made good faith efforts to meet the goals for SBEs:

- A. **Outreach.** Not less than 30 days prior to the opening of bids or the selection of contractors, the Agency-Assisted Contractor or Contractor shall:
1. **Advertise.** Advertise for SBEs interested in competing for the contract, in general circulation media, trade association publications, including timely use of the ***Bid and Contract Opportunities*** newsletter published by the City and County of San Francisco Purchasing Department and media focused specifically on SBE businesses such as the ***Small Business Exchange***, of the opportunity to submit bids or proposals and to attend a pre-bid meeting to learn about contracting opportunities.
 2. **Request List of SBEs.** Request from the Agency's Contract Compliance Department a list of all known SBEs in the pertinent field(s), particularly those in the Project and Survey Areas and provide written notice to all of them of the opportunity to bid for contracts and to attend a pre-bid or pre-solicitation meeting to learn about contracting opportunities.
- B. **Pre-Solicitation Meeting.** For construction contracts estimated to cost \$5,000 or more, hold a pre-bid meeting for all interested contractors not less than 15 days prior to the opening of bids or the selection of contractors for the purpose answering questions about the selection process and the specifications and requirements. Representatives of the Contract Compliance Department will also participate.
- C. **Follow-up.** Follow up initial solicitations of interest by contacting the SBEs to determine with certainty whether the enterprises are interested in performing specific items involved in work.
- D. **Subdivide Work.** Divide, to the greatest extent feasible, the contract work into small units to facilitate SBE participation, including, where feasible, offering items of the contract work which the Contractor would normally perform itself.
- E. **Provide Timely and Complete Information.** The Agency-Assisted Contractor or Contractor shall provide SBEs with complete, adequate and ongoing information about the plans, specifications and requirements of construction work, service work and material supply work. This paragraph does not require the Agency-Assisted Contractor or Contractor to give SBEs any information not provided to other contractors. This paragraph does require the Agency Assisted Contractor and Contractor to answer carefully and completely all reasonable questions asked by SBEs and to undertake every good faith effort to ensure that SBEs understand the nature and the scope of the work.
- F. **Good Faith Negotiations.** Negotiate with SBEs in good faith and demonstrate that SBEs were not rejected as unqualified without sound reasons based on a thorough investigation of their capacities.
- G. **Bid Shopping Prohibited.** Prohibit the shopping of the bids. Where the Agency-Assisted Contractor or Contractor learns that bid shopping has occurred, it shall treat such bid shopping as a material breach of contract.

- H. **Other Assistance.** Assist SBEs in their efforts to obtain bonds, lines of credit and insurance. (Note that the Agency has a Surety Bond Program that may assist SBEs in obtaining necessary bonding.) The Agency-Assisted Contractor or Contractor(s) shall require no more stringent bond or insurance standards of SBEs than required of other business enterprises.
- I. **Delivery Scheduling.** Establish delivery schedules that encourage participation of SBEs.
- J. **Utilize SBEs as Lower Tier Subcontractors.** The Agency-Assisted Contractor and its Contractor(s) shall encourage and assist higher tier subcontractors in undertaking good faith efforts to utilize SBEs as lower tier subcontractors.
- K. **Maximize Outreach Resources.** Use the services of SBE associations, federal, state and local SBE assistance offices and other organizations that provide assistance in the recruitment and placement of SBEs, including the Small Business Administration and the Business Development Agency of the Department of Commerce. However, only SBEs certified by the Agency shall count towards meeting the participation goal.
- L. **Replacement of SBE.** If during the term of this SBE Agreement, it becomes necessary to replace any subcontractor or supplier, the Agency's Contract Compliance Specialist should be notified prior to replacement due to the failure or inability of the subcontractor or supplier to perform the required services or timely delivery the required supplies, then First Consideration should be given to a certified SBE, if available, as a replacement.

XII. ADDITIONAL PROVISIONS

A. **No Retaliation.** No employee shall be discharged or in any other manner discriminated against by the Agency-Assisted Contractor or Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Agreement.

B. **No Discrimination.** There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of an Agency-Assisted Contract or Contract. The Agency-Assisted Contractor or Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

C. **Compliance with Prompt Payment Statute.** Construction contracts and subcontracts awarded for \$5,000 or more shall contain the following provision:

“Amounts for work performed by a subcontractor shall be paid within seven (7) days of receipt of funds by the contractor, pursuant to California Business and Professions Code Section 7108.5 *et seq.* Failure to include this provision in a subcontractor or failure to

comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity.”

In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 *et seq.*), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

D. Submission of Electronic Certified Payrolls. For any Agency-Assisted Contract which requires the submission of certified payroll reports, the requirements of Section VII of the Agency’s Small Business Enterprise Policy shall apply. Please see the Small Business Enterprise Policy for more details.

XIII. PROCEDURES

A. Notice to Agency. The Agency-Assisted Contractor or Contractor(s) shall provide the Agency with the following information within 10 days of awarding a contract or selecting subconsultant:

1. the nature of the contract, e.g. type and scope of work to be performed;
2. the dollar amount of the contract;
3. the name, address, license number, gender and ethnicity of the person to whom the contract was awarded; And
4. SBE status of each subcontractor or subconsultant.

B. Affidavit. If the Agency-Assisted Contractor or Contractor(s) contend that the contract has been awarded to a SBE, the Agency-Assisted Contractor or Contractor(s) shall, at the same time also submit to the Agency a SBE Application for Certification and its accompanying Affidavit completed by the SBE owner. However, a SBE that was previously certified by the Agency shall submit only the short SBE Eligibility Statement.

C. Good Faith Documentation. If the 50% SBE Participation Goals are not met in each category (Construction, Professional Services and Suppliers), the Agency-Assisted Contractor or Contractor(s) shall meet and confer with the Agency at a date and time set by the Agency. If the issue of the Agency-Assisted Contractor’s or Contractor’s good faith efforts is not resolved at this meeting, the Agency-Assisted Contractor or Contractor shall submit to the Agency within five (5) days, a declaration under penalty of perjury containing the following documentation with respect to the good faith efforts (“**Submission**”):

1. A report showing the responses, rejections, proposals and bids (including the amount of the bid) received from SBEs, including the date each response, proposal or bid was received. This report shall indicate the action taken by the Agency-Assisted Contractor or Contractor(s) in response to each proposal or bid received from SBEs, including the reasons(s) for any rejections.

2. A report showing the date that the bid was received, the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the non-SBE contractor who was selected submitted more than one bid, the amount of each bid and the date that each bid was received shall be shown in the report. If the bidder asserts that there were reasons other than the respective amounts bid for not awarding the contract to an SBE, the report shall also contain an explanation of these reasons.

3. Documentation of advertising for and contacts with SBEs, contractor associations or development centers, or any other agency which disseminates bid and contract information to small business enterprises.

4. Copies of initial and follow-up correspondence with SBEs, contractor associations and other agencies, which assist SBEs.

5. A description of the assistance provided SBE firms relative to obtaining and explaining plans, specifications and contract requirements.

6. A description of the assistance provided to SBEs with respect to bonding, lines of credit, etc.

7. A description of efforts to negotiate or a statement of the reasons for not negotiating with SBEs.

8. A description of any divisions of work undertaken to facilitate SBE participation.

9. Documentation of efforts undertaken to encourage subcontractors to obtain small business enterprise participation at a lower tier.

10. A report which shows for each private project and each public project (without a SBE program) undertaken by the bidder in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars awarded to SBEs and the percentage of contract dollars awarded to non-SBEs.

11. Documentation of any other efforts undertaken to encourage participation by small business enterprises.

D. Presumption of Good Faith Efforts. If the Agency-Assisted Contractor or Contractor(s) achieves the Participation Goals, it will not be required to submit Good Faith Effort documentation.

E. Waiver. Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price.

F. SBE Determination. The Agency shall exercise its reasonable judgment in determining whether a business, whose name is submitted by the Agency-Assisted Contractor or Contractor(s) as a SBE, is owned and controlled by a SBE. A firm's appearance in any of the Agency's current directories will be considered by the Agency as prima facie evidence that the firm is a SBE. Where the Agency-

Assisted Contractor or Contractor(s) makes a submission the Agency shall make a determination, as to whether or not a business which the Agency-Assisted Contractor or Contractor(s) claims is a SBE is in fact owned and controlled by San Francisco-based SBEs. If the Agency determines that the business is not a SBE, the Agency shall give the Agency-Assisted Contractor or Contractor a Notice of Non-Qualification and provide the Agency-Assisted Contractor or Contractor with a reasonable period (not to exceed 20 days) in which to meet with the Agency and if necessary make a Submission, concerning its good faith efforts. If the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to Section XIII.

G. Agency Investigation. Where the Agency-Assisted Contractor or Contractor makes a Submission and, as a result, the Agency has cause to believe that the Agency-Assisted Contractor or Contractor has failed to undertake good faith efforts, the Agency shall conduct an investigation, and after affording the Agency-Assisted Contractor or Contractor notice and an opportunity to be heard, shall recommend such remedies and sanctions as it deems necessary to correct any alleged violation(s). The Agency shall give the Agency-Assisted Contractor or Contractor a written Notice of Non-Compliance setting forth its findings and recommendations. If the Agency-Assisted Contractor or Contractor disagrees with the findings and recommendations of the Agency as set forth in the Notice of Non-Compliance, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to this SBE Agreement.

XIV. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this SBE Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Agency-Assisted Contractor or Contractor shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying any entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Agency-Assisted Contractor and Contractor fail to file a timely Demand for Arbitration, the Agency-Assisted Contractor and Contractor shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. Parties' Participation. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Agency-Assisted Contractor or Contractor made an initial timely Demand for Arbitration pursuant to Section XIII.B. above.

D. Agency Request to AAA. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. Selection of Arbitrator. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. Setting of Arbitration Hearing. A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. Discovery. In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

H. Burden of Proof. The burden of proof with respect to SBE status and/or Good Faith Efforts shall be on the Agency-Assisted Contractor and/or Contractor. The burden of proof as to all other alleged breaches by the Agency-Assisted Contractor and/or Contractor shall be on the Agency.

I. California Law Applies. Except where expressly stated to the contrary in this SBE Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. Arbitration Remedies and Sanctions. The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Agency-Assisted Contract or this SBE Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Agency-Assisted Contract or this SBE Agreement, other than those minor modifications or extensions necessary to enable compliance with this SBE Agreement.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the

arbitration to comply with any of the SBE Program requirements in the Agency-Assisted Contract or this SBE Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this SBE Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agency-Assisted Contract, this SBE Agreement or any other agreement between the Agency, the Agency-Assisted Contractor or Contractor or to negotiate new agreements or provisions between the parties.

N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. Exculpatory Clause. Agency-Assisted Contractor or Contractor (regardless of tier) expressly waive any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services (“the Work”). Agency-Assisted Contractor or Contractor (regardless of tier) acknowledge and agree that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this SBE Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. Severability. The provisions of this SBE Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this SBE Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this SBE Agreement or the validity of their application to other persons or circumstances.

Q. Arbitration Notice: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Agency-Assisted Contractor

XV. AGREEMENT EXECUTION

I, hereby certify that I have authority to execute this SBE Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency’s 50% SBE Participation Goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name and Phone Number

Signature

Date

Print Your Name

Title

Company Name and Phone Number

ATTACHMENT No. 18
PREVAILING WAGE PROVISIONS (LABOR STANDARDS)

1. **Applicability.** These Prevailing Wage Provisions (hereinafter referred to as “Labor Standards”) apply to any and all construction of the Project Improvements as defined in the underlying agreement between the Borrower and the Office of Community Investment and Infrastructure (OCII) “Successor Agency” of which this Attachment 18 and these Labor Standards are a part.
2. **All Contracts and Subcontracts shall contain the Labor Standards. Confirmation by Construction Lender.**
 - a. All specifications relating to the construction of the Project shall contain these Labor Standards and the Borrower shall have the responsibility to assure that all contracts and subcontracts, regardless of tier, incorporate by reference the specifications containing these Labor Standards. If for any reason said Labor Standards are not included, the Labor Standards shall nevertheless apply. The Borrower shall supply the Agency with true copies of each contract relating to the construction of the Project showing the specifications that contain these Labor Standards promptly after due and complete execution thereof and before any work under such contract commences. Failure to do shall be a violation of these Labor Standards.
 - b. Before close of escrow under the Agreement and as a condition to close of escrow, the Borrower shall also supply a written confirmation to the Agency from any construction lender for the Project that such construction lender is aware of these Labor Standards.
3. **Definitions.** The following definitions shall apply for purposes of this Attachment 18:
 - a. “Contractor” is the Borrower if permitted by law to act as a contractor, the general contractor, and any contractor as well as any subcontractor of any tier subcontractor having a contract or subcontract that exceeds \$10,000, and who employs Laborers, Mechanics, working foremen, and security guards to perform the construction on all or any part of the Project.
 - b. “Laborers” and “Mechanics” are all persons providing labor to perform the construction, including working foremen and security guards.
 - c. “Working foreman” is a person who, in addition to performing supervisory duties, performs the work of a Laborer or Mechanic during at least 20 percent of the workweek.
4. **Prevailing Wage.**
 - a. All Laborers and Mechanics employed in the construction of the Project will be paid unconditionally and not less often than once a week, and without subsequent

deduction or rebate on any account (except such payroll deductions as are permitted by §5) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination (hereinafter referred to as the "Wage Determination") made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, sections 1770, 1773 and 1773.1, regardless of any contractual relationship which may be alleged to exist between the Contractor and such Laborers and Mechanics. A copy of the applicable Wage Determination is on file in the offices of the Agency with the Development Services Manager. At the time of escrow closing the Agency shall provide the Borrower with a copy of the applicable Wage Determination.

- b. All Laborers and Mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or Mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the Contractor's payroll records accurately set forth the time spent in each classification in which work is performed.
- c. Whenever the wage rate prescribed in the Wage Determination for a class of Laborers or Mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.
- d. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any Laborer or Mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the Wage Determination, provided that the Executive Director of the Agency has found, upon the written request of the Contractor, made through the Borrower that the intent of the Labor Standards has been met. Records of such costs shall be maintained in the manner set forth in subsection (a) of §8. The Executive Director of the Agency may require the Borrower to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or program referred to above in subsection (b) of this §4. The interest shall be accumulated and shall be paid as determined by the Agency acting at its sole discretion.
- e. Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

5. **Permissible Payroll Deductions.** The following payroll deductions are permissible deductions. Any others require the approval of the Agency's Executive Director.
- a. Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.
 - b. Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when case or its equivalent has been advanced to the employee in such manner as to give him or her complete freedom of disposition of the advanced funds.
 - c. Any garnishment, unless it is in favor of the Contractor (or any affiliated person or entity), or when collusion or collaboration exists.
 - d. Any contribution on behalf of the employee, to funds established by the Contractor, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met:
 - (i) The deduction is not otherwise prohibited by law; and
 - (ii) It is either:
 - 1) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining or for the continuation of employment, or
 - 2) Provided for in a bona fide collective bargaining agreement between the Contractor and representatives of its employees; and
 - (iii) No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor (or any affiliated person or entity) in the form of commission, dividend or otherwise; and
 - (iv) The deduction shall serve the convenience and interest of the employee.
 - e. Any authorized purchase of United States Savings Bonds for the employee.
 - f. Any voluntarily authorized repayment of loans from or the purchase of shares in credit unions organized and operated in accordance with Federal and State credit union statutes.

- g. Any contribution voluntarily authorized by the employee for the American Red Cross, United Way and similar charitable organizations.
 - h. Any payment of regular union initiation fees and membership dues, but not including fines or special assessments provided, that a collective bargaining agreement between the Contractor and representatives of its employees provides for such payment and the deductions are not otherwise prohibited by law.
6. **Apprentices and Trainees.** Apprentices and trainees will be permitted to work at less than the Mechanic's rate for the work they perform when they are employed pursuant to and are individually registered in an apprenticeship or trainee program approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any employee listed on a payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a Mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a Mechanic's hourly rate as specified in the Wage Determination. Apprentices or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the Wage Determination.
7. **Overtime.** No Contractor contracting for any part of the construction of the Project which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such construction to work in excess of eight hours in any calendar day or in excess of 40 hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, whichever is greater.
8. **Payrolls and Basic Records.**
- a. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of its construction of the Project and preserved for a period of one year thereafter for all Laborers and Mechanics it employed in the construction of the Project. Such records shall contain the name, address and social security number of each employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions

made and actual wages paid. Whenever the wages of any Laborer or Mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program, the Contractor shall maintain records which show the costs anticipated or the actual costs incurred in providing such benefits and that the plan or program has been communicated in writing to the Laborers or Mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the Wage Determination.

- b. The Contractor shall submit to the Agency on each Wednesday at noon a copy of the payrolls for the week preceding the previous week in which any construction of the Project was performed. The payrolls submitted shall set out accurately and completely all of the information required by the Agency's Optional Form, an initial supply of which may be obtained from the Agency. The Contractor if a prime contractor or the Borrower acting as the Contractor is responsible for the submission of copies of certified payrolls by all subcontractors; otherwise each Contractor shall timely submit such payrolls.
 - c. Each weekly payroll shall be accompanied by the Statement of Compliance that accompanies the Agency's Optional Form and properly executed by the Contractor or his or her agent, who pays or supervises the payment of the employees.
 - d. The Contractor shall make the records required under this §8 available for inspection or copying by authorized representatives of the Agency, and shall permit such representatives to interview employees during working hours on the job. On request the Executive Director of the Agency shall advise the Contractor of the identity of such authorized representatives.
9. **Occupational Safety and Health.** No Laborer or Mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her safety and health as determined under construction safety and health standards promulgated by Cal-OSHA or if Cal-OSHA is terminated, then by the federal OSHA.
10. **Equal Opportunity Program.** The utilization of apprentices, trainees, Laborers and Mechanics under this part shall be in conformity with the equal opportunity program set forth in Exhibit E of the Agreement including Schedules A and B. Any conflicts between the language contained in these Labor Standards and Exhibit I shall be resolved in favor of the language set forth in Exhibit I, except that in no event shall less than the prevailing wage be paid.
11. **Nondiscrimination Against Employees for Complaints.** No Laborer or Mechanic to whom the wage, salary or other Labor Standards of this Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor because

such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to these Labor Standards.

12. **Posting of Notice to Employees.** A copy of the Wage Determination referred to in subsection (a) of §4 together with a copy of a “Notice to Employees,” in the form appearing on the last page of these Labor Standards, shall be given to the Borrower at the close of escrow. The Notice to Employees and the Wage Determination shall both be posted and maintained by the Contractor in a prominent place readily accessible to all applicants and employees performing construction of the Project before construction commences. If such Notice and Wage Determination is not so posted or maintained, the Agency may do so.

13. **Violation and Remedies.**

- a. **Liability to Employee for Unpaid Wages.** The Contractor shall be liable to the employee for unpaid wages, overtime wages and benefits in violation of these Labor Standards.
- b. **Stop Work--Contract Terms, Records and Payrolls.** If there is a violation of these Labor Standards by reason of the failure of any contract or subcontract for the construction of the Project to contain the Labor Standards as required by §2 (“Non-Conforming Contract”); or by reason of any failure to submit the payrolls or make records available as required by §8 (“Non-Complying Contractor”), the Executive Director of the Agency may, after written notice to the Borrower with a copy to the Contractor involved and failure to cure the violation within five working days after the date of such notice, stop the construction work under the Non-Conforming Contract or of the Non-Complying Contractor until the Non-Conforming Contract or the Non-Complying Contractor comes into compliance.
- c. **Stop Work and Other Violations.** For any violation of these Labor Standards the Executive Director of the Agency may give written notice to the Contractor, with a copy to the Contractor involved, which notice shall state the claimed violation and the amount of money, if any, involved in the violation. Within five working days from the date of said notice, the Contractor shall advise the Agency in writing whether or not the violation is disputed by the Contractor and a statement of reasons in support of such dispute (the “Notice of Dispute”). In addition to the foregoing, the Contractor, upon receipt of the notice of claimed violation from the Agency, shall with respect to any amount stated in the Agency notice withhold payment to the Contractor of the amount stated multiplied by 45 working days and shall with the Notice of Dispute, also advise the Agency that the moneys are being or will be withheld. If the Contractor fails to timely give a Notice of Dispute to the Agency or to advise of the withhold, then the Executive Director of the Agency may stop the construction of the improvements under the applicable contract or by the involved Contractor until such Notice of Dispute and written withhold advice has been received.

- d. Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Contractor shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14. Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Borrower shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14.
- e. Withholding Certificates of Completion. The Agency may withhold any or all certificates of completion of the Project provided for in this agreement, for any violations of these Labor Standards until such violation has been cured.
- f. General Remedies. In addition to all of the rights and remedies herein contained, but subject to arbitration, except as hereinafter provided, the Agency shall have all rights in law or equity to enforce these Labor Standards including, but not limited to, a prohibitory or mandatory injunction. Provided, however, the stop work remedy of the Agency provided above in subsection (b) and (c) is not subject to arbitration.

14. Arbitration of Disputes.

- a. Any dispute regarding these Labor Standards shall be determined by arbitration through the American Arbitration Association, San Francisco, California office (“AAA”) in accordance with the Commercial Rules of the AAA then applicable, but subject to the further provisions thereof.
- b. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made a party to the arbitration. Any such person or entity not made a party in the demand for arbitration may intervene as a party and in turn may name any such person or entity as a party.
- c. The arbitration shall take place in the City and County of San Francisco.
- d. Arbitration may be demanded by the Agency, the Borrower or the Contractor.
- e. With the demand for arbitration, there must be enclosed a copy of these Labor Standards, and a copy of the demand must be mailed to the Agency and the Borrower, or as appropriate to one or the other if the Borrower or the Agency is demanding arbitration. If the demand does not include the Labor Standards they are nevertheless deemed a part of the demand. With the demand if made by the Agency or within a reasonable time thereafter if not made by the Agency, the Agency shall transmit to the AAA a copy of the Wage Determination (referred to in §4) and copies of all notices sent or received by the Agency pursuant to §13. Such material shall be made part of the arbitration record.

- f. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators of the AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the parties fail to select an arbitrator, within seven (7) days from the receipt of the panel, the AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within 30 days from appointment.
 - g. Any party to the arbitration whether the party participates in the arbitration or not shall be bound by the decision of the arbitrator whose decision shall be final and binding on all of the parties and any and all rights of appeal from the decision are waived except a claim that the arbitrator's decision violates an applicable statute or regulation. The decision of the arbitrator shall be rendered on or before 30 days from appointment. The arbitrator shall schedule hearings as necessary to meet this 30 day decision requirement and the parties to the arbitration, whether they appear or not, shall be bound by such scheduling.
 - h. Any party to the arbitration may take any and all steps permitted by law to enforce the arbitrator's decision and if the arbitrator's decision requires the payment of money the Contractor shall make the required payments and the Borrower shall pay the Contractor from money withheld.
 - i. Costs and Expenses. Each party shall bear its own costs and expenses of the arbitration and the costs of the arbitration shall be shared equally among the parties.
15. **Non-liability of the Agency.** The Borrower and each Contractor acknowledge and agree that the procedures hereinafter set forth for dealing with violations of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for the construction of the Project, in determining the time for commencement and completion of construction and in proceeding with construction work. Accordingly the Borrower, and any Contractor, by proceeding with construction expressly waives and is deemed to have waived any and all claims against the Agency for damages, direct or indirect, arising out of these Labor Standards and their enforcement and including but not limited to claims relative to stop work orders, and the commencement, continuance or completion of construction.

SAN FRANCISCO REDEVELOPMENT AGENCY

NOTICE TO EMPLOYEES

***EQUAL
OPPORTUNITY
NON-DISCRIMI-
NATION***

The contractor must take equal opportunity steps to provide employment opportunities to minority group persons and women and shall not discriminate on the basis of age, ancestry, color, creed, disability, gender, national origin, race, religion or sexual orientation.

***PREVAILING
WAGE***

You shall not be paid less than the wage rate attached to this Notice for the kind of work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 8 a day or 40 a week, whichever is greater.

APPRENTICES

Apprentice rates apply only to employees registered under an apprenticeship or trainee program approved by the Bureau of Apprenticeship and Training or the California Division of Apprenticeship Standards.

PROPER PAY

If you do not receive proper pay, write the Office of Community Investment and Infrastructure, OCII
1 South Van Ness Ave. 5th Floor
San Francisco, CA 94103
or call **(415) 749-2422** and ask for
Ms. Maria Pecot
Contract Compliance Specialist

ATTACHMENT No. 19
OCII'S CONSTRUCTION WORKFORCE POLICY

- I. PURPOSE.** This Agreement is entered into between the Borrower (“Borrower or “Owner”) and the Office of Community Investment and Infrastructure (“OCII” or “Agency”), as successor agency to the San Francisco Redevelopment Agency for the purposes of ensuring participation of San Francisco residents and equal employment opportunities in the construction work force involved in constructing any of the phases upon the Site covered by the underlying agreement to which this Agreement is attached hereto.

II. DEFINITIONS.

The following definitions apply to this Agreement.

- A. “CityBuild” means the construction employment program of the Workforce Development Division of the San Francisco Office of Economic and Workforce Development (OEWD).
- B. "Contract" means any agreement in excess of \$10,000 between the Owner, its Contractors and a person to provide or procure labor, materials or services for the construction of the Owner Improvements, including a purchase order that requires installation of materials.
- C. "Contractor" means the Owner's general contractor, all prime contractors and all subcontractors (regardless of tier) having a Contract or subcontract in excess of \$10,000 and who employ persons in a Trade for construction of the Owner Improvements.
- D. "Owner Improvements" means improvements constructed by the Owner.
- E. “Project Area Resident” means a San Francisco Resident who resides in the Bay View Hunters Point Project Area or within the ZIP codes of 94124, 94107, or 94134.
- F. "San Francisco Resident" in the case of a new hire shall mean an individual who has lived in San Francisco for at least one week prior to submitting his/her initial application for employment to work on the Owner Improvements. In the case of a person employed by the Owner or its Contractor or Consultant prior to assignment to the Owner Improvements, this term shall mean a person who has lived in San Francisco for at least six months prior to the date he/she applied for a transfer to a position at the Owner Improvements or the date he/she was assigned to work on the Owner Improvements, whichever is earlier; or a person who establishes, to the satisfaction of the Agency, that he/she lived in San Francisco prior to applying for or being considered for a position with the Owner, Contractor or Consultant.

III. WORK FORCE GOALS.

The Owner agrees and will require each Contractor and all subcontractors to use good faith efforts to employ 50 percent of its construction workforce hires by trade and by hours from qualified San Francisco Residents with first consideration given to Project Area Residents. Owner and Contractors will be deemed in compliance with this Agreement and the Policy by meeting or exceeding the goal or by demonstrating good faith efforts toward compliance.

IV. GOOD FAITH EFFORTS.

A. Submission of Labor Force Projections and Other Data

The Contractor shall submit, to the extent available, labor force projections to the OCII Compliance Officer, or its agent, within two (2) weeks of contract award.

B. Submit Subcontractor Information Form

The Contractor shall submit to the Compliance Officer, or its agent, the Subcontractor Information Forms, twenty-four (24) hours prior to the preconstruction meeting. The Subcontractor Information Forms are available from the Compliance Officer upon request.

C. Preconstruction Meeting

The Contractor shall hold a preconstruction meeting which shall be attended by the Compliance Officer, CityBuild, all prime contractor(s) and all subcontractor(s). The preconstruction meeting shall be scheduled between two (2) days and thirty (30) days prior to the start of construction at a time and place convenient to all attendees. The purpose of the meeting is to discuss: the hiring goals, workforce composition, worker referral process, certified payroll reporting, procedure for termination and replacement of workers covered by this Agreement and to explore any anticipated problems in complying with the Agreement. All questions regarding how this Agreement applies to the Owner, Contractor, subcontractors and consultants should be answered at this meeting. Failure to hold or attend at least one (1) preconstruction meeting will be a breach of the Policy and this Agreement that may result in the Agency ordering a suspension of work until the breach has been cured. Suspension under this provision is not subject to arbitration.

D. Submit Construction Worker Request Form

For the Term of the Agreement, each time the Owner or Contractor seeks to hire workers for the construction or rehabilitation of improvements, they must first submit, by fax, email or hand delivery, an executed construction worker request form to CityBuild. Preferably this request will be submitted at least two (2) business days before the workers are needed. However, requests with less than two (2) business days notice will be accepted. The construction worker request form will indicate generally: the number of workers needed, duration needed, required skills or trade and date/time to report. The construction worker request form is available from the Compliance Officer upon request.

E. Response from CityBuild

CityBuild shall respond, in writing, via fax, email or hand delivery to each request

for construction workers. The response shall state that CityBuild was able to satisfy the request in full, in part or was unable to satisfy the request. CityBuild shall look to their own referral lists, as well as confer with CBOs in an attempt to find qualified Project Area Residents and San Francisco Residents. If CityBuild is able to satisfy the request in full or in part, it shall direct the qualified Project Area Resident(s) or San Francisco Resident(s) to report to the Contractor on the date and time indicated in the request. If CityBuild is unable to satisfy the request, then CityBuild shall send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

F. Action by Contractor When Referrals Available

The Owner or Contractor whose request has been satisfied in full or in part shall make the final determination of whether the Project Area Residents or San Francisco Residents are qualified for the positions and the ultimate hiring decision. The Agency strongly encourages the Contractor to hire the qualified Project Area Residents or San Francisco Residents referred by CityBuild. However, if the Contractor finds the Project Area Residents or San Francisco Residents are not qualified, then the Contractor shall send the Project Area Residents or San Francisco Residents back to CityBuild. Before the close of business on the same day, the Contractor shall fax or email a statement addressed to CityBuild stating in detail the reason(s) the Project Area Residents or San Francisco Residents were not qualified or the reason(s) for not hiring the Project Area Residents or San Francisco Residents. CityBuild shall, within one (1) business day of receipt of the fax or email, send new qualified Project Area Residents or San Francisco Residents that meet the legitimate qualifications set by the Contractor or alternatively, send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

G. Action by Contractor When Referrals Unavailable

If a Contractor receives a response from CityBuild stating that no qualified Project Area Residents or San Francisco Residents are currently available, then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any additional new construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request.

H. Action by Contractor When No Response From CityBuild

If a Contractor has not received a response to its construction worker request from CityBuild within two (2) business days, then the Contractor should immediately advise the Compliance Officer by phone, fax or email. The Compliance Officer or his/her designee shall cause a response to be sent to the Contractor within two (2) business days of being notified. If the Contractor does not receive a response from CityBuild within four (4) business days (the original two (2) business days plus the additional two (2) business days), then the Contractor may hire the number of

construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request. This Policy is intended to provide qualified Project Area and San Francisco Residents with employment opportunities without causing undue delay in hiring needed construction workers.

I. Action by Contractor When No Response From Union

The Contractor should immediately advise the Compliance Officer by phone, fax or email when the Contractor has sent a qualified Project Area Resident or San Francisco Resident to a union hall for referral in accordance with a collective bargaining agreement and the union did not refer the qualified Project Area or San Francisco Resident back for employment or when the union referral process impedes the Contractor's ability to meet its obligations under this Policy. Nothing in this Policy shall be interpreted to interfere with or prohibit existing labor agreements or collective bargaining agreements.

J. Hiring Apprentices

A Contractor may meet part of the Construction Workforce Goal by hiring apprentices. However, hiring an apprentice does not satisfy or waive the trainee hiring obligation, if any, for design professionals. Unless otherwise permitted by law, apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training or the California Department of Industrial Relations, Division of Apprenticeship Standards. Credit towards compliance will only be given for paid apprentices actually working on the project. No credit is available for apprentices while receiving class room training. Under no circumstances shall the ratio of apprentices to journeymen in a particular trade or craft exceed 1:5.

K. Termination and Replacement of Referrals

If at any time it becomes necessary to terminate for cause a construction worker who was hired under this Policy, the Contractor shall notify CityBuild in writing via fax or email and submit a report of termination pursuant to Section (B)(4). If the Contractor intends to fill the vacant position, then the Contractor shall follow the process set forth in this Policy beginning at Section (A)(6).

V. REPORTING REQUIREMENTS.

A. Submission of Certified Payroll Reports

Each Contractor subject to this Policy shall submit to the Agency a certified payroll report for the preceding work week on each of its employees. The Owner is ultimately responsible for the submission of these reports by the Contractors. The certified payroll report is due to the Agency by noon each Wednesday. To facilitate compliance, the Agency uses an online Project Reporting System (PRS) for submission of certified payroll reports. This system is available at no cost to the Contractor. Training and educational materials for PRS are available at no cost

online and through the Compliance Officer. Contractors are required to report certified payroll using PRS. However, a waiver may be granted to any Contractors who do not have a computer or online access.

B. Additional Information

In order to prevent unlawful discrimination in the selection, hiring and termination of employees on the basis of race, ethnicity, gender or any other basis prohibited by law and to identify and correct such unlawful practices, the Agency will monitor and collect information on the ethnicity and gender of each construction worker and apprentice. If an identifiable pattern of apparent discrimination is revealed by this additional information, it will be treated as a breach of this Policy and may be addressed as set forth in the arbitration provisions included in Agency contracts.

C. Report on Terminations

In the event a Project Area Resident or San Francisco Resident hired pursuant to this Policy is terminated for cause, the responsible Contractor shall within two (2) days fax or email a termination report to CityBuild with a copy to the Compliance Officer stating in detail: (1) the name of the worker(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the Contractor replaced the construction worker(s); and (5) whether the replacement worker(s) were Project Area Resident(s) or San Francisco Resident(s).

D. Inspection of Records

The Owner and each Contractor shall make the records required under this Agreement available for inspection or copying by authorized representatives of the Agency and its designated Compliance Officer, and shall permit such representatives to interview construction workers and apprentices during working hours on the job.

E. Failure to Submit Reports

If a Contractor fails or refuses to provide the reports as required it will be treated as a breach of this Agreement and the Policy, and may be addressed under arbitration provisions pursuant to Article VII (Arbitration of Disputes) of this Agreement.

F. Submission of Good Faith Effort Documentation

If the Owner's or Contractor's good faith efforts are at issue, the Contractor shall provide the Agency or its designated Compliance Officer with the documentation of its efforts to comply with this Policy and the Agreement. The Owner or Contractor must maintain a current file of the names, addresses and telephone numbers of each Project Area Resident or San Francisco Resident applicant referral (whether a self-referral or a referral from a union, CBO or CityBuild referral) and what action was taken with respect to each such individual.

G. Coding Certified Payrolls

Each Contractor shall include, on the weekly payroll submissions, the proper job classification (as approved by the California Department of Industrial Relations), apprentice's craft (if applicable), skill level, protected class status, and domicile of each construction worker.

VI. RECORDKEEPING REQUIREMENTS.

Contractor shall comply with the requirements of California Labor Code Section 1776, as amended, regarding the keeping, filing and furnishing of certified copies of payroll records of wages paid to its employees and to the employees of its subcontractors of all tiers.

In addition, each Contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of Owner Improvements, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Owner Improvements. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident or disadvantaged worker, and the referral source or method through which the Contractor hired or retained that worker for work on the Owner Improvements (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method). Contractor may verify that a worker is a local resident through the worker's possession of a valid SF City ID Card or other government-issued identification. OCII may require additional records to be kept with regard to Contractor's compliance with this Agreement. All records described in this section shall at all times be open to inspection and examination by the duly authorized officers and agents of OCII, including representatives of the OEWD.

VII. ARBITRATION OF DISPUTES.

- A. **Arbitration by AAA.** Any dispute regarding this Construction Work Force Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.
- B. **Demand for Arbitration.** Where the Owner disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Owner shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Owner fails to file a timely Demand for Arbitration, the Owner shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.
- C. **Parties' Participation.** The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for

Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Owner made an initial timely Demand for Arbitration pursuant to Section VII.B. above.

- D. **Agency Request to AAA.** Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.
- E. **Selection of Arbitrator.** One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.
- F. **Setting of Arbitration Hearing.** A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.
- G. **Discovery.** In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.
- H. **Burden of Proof.** The burden of proof with respect to Construction Work Force compliance and/or Good Faith Efforts shall be on the Owner. The burden of proof as to all other alleged breaches by the Owner shall be on the Agency.
- I. **California Law Applies.** Except where expressly stated to the contrary in this Construction Work Force Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.
- J. **Arbitration Remedies and Sanctions.** The arbitrator may impose only the remedies and sanctions set forth below:
 - 1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.
 - 2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Owner or this Construction Work Force

Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Owner or this Construction Work Force Agreement, other than those minor modifications or extensions necessary to enable compliance with this Construction Work Force Agreement.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the Agency's Work Force policy requirements. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.
 4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this Construction Work Force Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
 5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.
- K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.
- L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.
- M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter

the terms of this Construction Work Force Agreement or any other agreement between the Agency and Owner or to negotiate new agreements or provisions between the parties.

- N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.
- O. **Exculpatory Clause.** Owner expressly waives any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Owner acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this Construction Work Force Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.
- P. **Severability.** The provisions of this Construction Work Force Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Construction Work Force Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Construction Work Force Agreement or the validity of their application to other persons or circumstances.
- Q. **Arbitration Notice:** BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE

AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

_____	_____
Agency	Owner

I, hereby certify that I have authority to execute this Construction Work Force Agreement on behalf of the Owner listed below and that Owner agrees to diligently exercise good faith efforts to comply with this Agreement to meet or exceed the construction work force participation goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

_____ Signature	_____ Date
_____ Print Your Name	_____ Title
_____ Company Name	_____ Phone Number

_____ Signature	_____ Date
_____ Print Your Name	_____ Title
_____ Company Name	_____ Phone Number

ATTACHMENT No. 20
AFFORDABLE PRICING CHART

Unit Type	Average Sq. Ft.	Quantity	AMI Pricing levels	Affordable Purchase Price
1 Bedroom	500-550	10	75%	
1 Bedroom	500-550	14	85%	
1 Bedroom	500-550	14	95%	
1 Bedroom	500-550	<u>12</u>	105%	
<i>Subtotal 1 BRs</i>		<i>50</i>		
2 Bedroom	800-850	11	75%	
2 Bedroom	800-850	22	85%	
2 Bedroom	800-850	19	95%	
2 Bedroom	800-850	<u>11</u>	105%	
<i>Subtotal 2 BRs</i>		<i>63</i>		
3 Bedroom	1,000-1,100	8	75%	
3 Bedroom	1,000-1,100	12	85%	
3 Bedroom	1,000-1,100	7	95%	
3 Bedroom	1,000-1,100	<u>8</u>	105%	
<i>Subtotal 3 BRs</i>		<i>35</i>		
TOTAL		148	90%	

Affordable Purchase Price based on 2021 area median income. Units will be priced base on the applicable, current year AMI.

ATTACHMENT No. 21
FORM OF LIMITED EQUITY HOME OWNERSHIP PROGRAM

***MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT AS HOUSING SUCCESSOR
TO THE REDEVELOPMENT AGENCY OF THE CITY & COUNTY OF SAN FRANCISCO***

**LIMITED EQUITY
HOMEOWNERSHIP PROGRAM**

Loan Disclosure Information
With Statement of Acceptance

May 2019

**IMPORTANT
NOTE TO THE READER**

In 2012, the San Francisco Redevelopment Agency ("SFRA") was dissolved pursuant to California state law. The San Francisco Office of Community Investment and Infrastructure ("OCII") then became responsible for completing certain affordable housing development obligations that had been the responsibility of the SFRA. Once these certain housing assets are completed, OCII transfers the assets to the San Francisco Mayor's Office of Housing and Community Development ("MOHCD") as the Housing Successor to the SFRA. MOHCD also provides services to OCII, such as marketing, lease up and sales of affordable housing units. Units developed are sold to buyers using OCII's Limited Equity Program. Upon sale, as Housing Successor, those units become part of MOHCD's portfolio of affordable homeownership assets.

The purpose of this document (the "Program Summary") is to explain the Limited Equity Homeownership Program ("Program"). Homes sold through this Program are subject to price controls at resale, as well as other terms and restrictions that affect your rights as a homeowner. Some of the terms and provisions are complex, and require that you thoroughly understand them prior to your purchase of a home. **IF YOU DESIRE TO PARTICIPATE IN THE PROGRAM AND PURCHASE A HOME, YOU MUST ATTEST TO YOUR FULL UNDERSTANDING OF AND AGREEMENT TO ALL THE PROGRAM'S TERMS AND CONDITIONS BY SIGNING BELOW PRIOR TO CLOSING ESCROW.**

This Program Summary has been provided to a prospective homeowner under the Program as a convenience only, but does not override any of the City Documents (defined below) associated with the Program. If any information in this this Program Summary conflicts in any way with any of the City Documents, the information in the City Documents override this Program Summary.

I, the undersigned, hereby acknowledge and accept all the terms and conditions contained in the Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement, the Promissory Note Secured by a Deed of Trust, the Deed of Trust and Assignment of Rents, and the Acknowledgment of the Declaration, Notice of Affordability Restrictions, and the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual effective October 11, 2018, as it may be updated and amended from time to time (the "Procedures Manual"), all of which ("City Documents") I have agreed to comply with in return for purchasing my home at a below-market-rate price. I acknowledge that a staff member of the Mayor's Office of Housing and Community Development ("MOHCD") of the City and County of San Francisco ("City") explained the terms and provisions of the City Documents to me, and that I have had a chance to review this Limited Equity Homeownership Program Loan Disclosure Information document and the Procedures Manual, which further explain the City

Documents. I have also been provided enough time to seek an independent legal opinion about the City Documents and my purchase of the home, if I so chose.

I understand that by my execution of the City Documents, I agree that the resale price of my home will be restricted to a price that is affordable to a household of a predetermined size, earning a pre-determined percentage of Area Median Income ("AMI"), based on figures published by MOHCD, based on data published by the U.S. Department of Housing and Urban Development (or any government agency subsequently assuming this responsibility). I understand that MOHCD will determine the resale affordable price applicable to my home when I notify the City of my intent to sell. I understand that fair market value will not determine the resale affordable price of my home.

I further understand that the MOHCD's calculation of the resale affordable purchase price for my home will consider, in addition to the current income for a pre-determined AMI level, an interest rate which is the 10-year rolling average of 30 years of interest rates as calculated by the MOHCD (or its successor) and based on data provided by Freddie Mac, as well as other current housing costs, such as insurance, HOA dues, and taxes. I know that any proceeds I receive from the sale of my home will be affected by the value of these factors, since they will be used to calculate the resale affordable purchase price of my home.

I understand that the MOHCD imposes resale restrictions on homes that it subsidizes so that it can provide homeownership opportunities to future generations of low- and moderate-income families over time and that the equity I will be able to build in my home will be limited so that the Program is available to the next purchaser of my home. I understand that my ability to purchase my home at an affordable price is contingent upon my agreement to comply with the resale controls and Program restrictions.

BMR Lien# LEPBMR191000

PROPERTY ADDRESS: 123 Sample Street, Unit 2, San Francisco, CA 94102

BUYER(S):

Mary Sample

John Sample

Ellen Sample

Jack Sample

PROGRAM SUMMARY

- The purpose of the City's Limited Equity Homeownership Program ("Program") is to provide homeownership opportunities to low- and moderate-income households ("Eligible Buyers") who otherwise would not be able to purchase a home in San Francisco.
- To make homes affordable to Eligible Buyers, the City may sell land to developers at below-market-rate prices and/or provide construction funding. In return for this assistance, developers agree to sell the homes to Eligible Buyers. Eligible Buyers, in turn, purchase their homes at affordable prices and agree to comply with Program requirements.
- The City is able to offer the benefits of homeownership to many generations of Eligible Buyers through restrictions on resale prices, which limit the amount of equity that an Eligible Buyer is able to build. By limiting Eligible Buyers' equity, a given home can be resold at affordable prices again and again. Market fluctuations, which often result in prices beyond the affordability of low- and moderate-income households, do not affect limited equity resale prices.

PROGRAM ELEMENTS

#1: Eligibility

To qualify as an Eligible Buyer, households must meet the following criteria:

- Household income (including income calculated from assets) within the AMI "target range" of low- to moderate-income buyers.
- Ability to qualify for a 30-year fixed mortgage, such as, sufficient income, manageable debt, sufficient savings to cover the minimum down payment, closing costs, and required reserves.
- A minimum of 3% down payment (the entire 3% may be gift funds).
- A minimum of 3 months of housing payments (principal, interest, property taxes, hazard insurance, HOA dues and other related costs).
- First-time homebuyer status.
- Commitment to use the property as the buyer's primary residence.
- Any other requirements as set forth in the Procedures Manual.

MOHCD publishes AMI levels for San Francisco annually, based on data published by the U.S. Department of Housing and Urban Development. The AMI target ranges that determine a household's eligibility to purchase will vary from development to development, based on the amount of subsidy

provided by the City to the developer. MOHCD will qualify all first-time homebuyers for both initial sales and resales. Program qualification documentation is required and detailed in the Procedures Manual.

#2: Affordable Purchase Prices

When developers set affordable purchase prices for units they sell, they use very specific information, as described below:

- AMI level: Developers in contract with the City are obligated to sell their units at prices affordable to households within a certain AMI “target range.” For example, a developer in 2016 may be obligated to sell his/her units to households making between 80% and 100% of AMI. For a household of 3, this translates to incomes between \$77,550 and \$96,950.
- Household size: For the pricing calculation, the City assumes a household size is one person larger than the total number of bedrooms (except studio units which assume a one-person household; and SRO units which are calculated at $\frac{3}{4}$ of the price of a studio). For example, a household of one person is assumed for a studio, three people for a two-bedroom, four people for a three-bedroom, and so on. For occupancy, the City requires a minimum of one person per bedroom. For example, a single person can apply for a studio or one-bedroom unit only. A two-person household could apply for a studio, one-bedroom, or two-bedroom unit.
- 33% “PITI”: Principal, interest, taxes, homeowners’ insurance, homeowner’s association dues and any other related costs – total housing costs – are assumed to be 33% of a household’s gross monthly income.
- First mortgage interest rate: The City’s calculation assumes a fixed mortgage interest rate based on the 10-year rolling average of 30 years of interest rates as calculated by MOHCD (or its successor) based on data provided by Freddie Mac. The City will not permit a variable rate mortgage or an interest-only mortgage, as such financing instruments are contrary to the objectives of long-term affordability and stability of the first time homebuyer program.
- Owner down payment: The City assumes (and requires at a minimum) that the household will make a cash down payment of 3% of the affordable purchase price; and the entire 3% may be gift funds.

Once MOHCD determines, for each unit, the applicable AMI level, the household size, the cost of taxes and insurance, and the interest rate, MOHCD can set the affordable purchase price. For example, a

two-bedroom unit (which assumes a household of three) and the developer's obligation calls for pricing at an AMI level of 95% (with income eligibility up to a maximum of 100% of AMI), the three-person household's income would be \$92,103 in 2016. 33% of that income level is \$30,394, or \$2,533 per month. This figure, \$2,533, is the target total monthly payment for housing costs for all households buying at this income level. If the household's HOA dues were \$600 per month, taxes were \$350 per month, and property insurance was \$50 per month, the total monthly income available to pay the first mortgage would be \$1,533 per month (i.e., \$2,533 - \$600 - \$350 - \$50 = \$1,533). Using a 5% interest rate on a 30-year, fixed-rate first mortgage, the supportable mortgage would be \$285,539. Assuming a 5% down payment (since the first mortgage would cover 95% of the purchase price), the affordable purchase price would be \$300,567.

#3: Resale Affordable Purchase Prices

When a household decides to sell its home, it notifies the City, and the City calculates the resale affordable purchase price, using the same AMI percentage and household size that were used to calculate the seller's affordable purchase price. To follow the example given above, the family of 3 earning 95% of AMI that bought its home for \$300,567 in 2016 might decide to sell the home five years later. The City will determine the resale price by taking the income for a 3-person household at 95% of AMI in 2021 and limiting payments for PITI to 33% of gross monthly income. The calculation will use the then current 10-year rolling average of rates, and the then-current HOA, tax, and insurance costs, and it will assume a 5% down payment by the new Eligible Buyer. So, for example, if the ten-year average interest rate increased 0.5% between 2016 and 2021, AMI increased 15%, and taxes and insurance increased 5%, the resale affordable purchase price would be \$367,606. After subtracting the cost of necessary repairs (if any) and closing costs, the seller would be entitled to the difference between the old affordable price and the new affordable price. The example is shown numerically below:

95% AMI, 3-person HH income, 2016 (2021 + 15%):	\$105,918
33% of gross income:	\$34,953
Per month:	\$2,913
Monthly HOA dues, taxes & insurance, 2016 (2021 + 5%)	(\$1,050)
Monthly income available for 1 st mortgage:	\$1,863
Mortgage (assuming 5.5% interest, 30-yr fixed)	\$328,072
5% Down payment:	\$17,267
Resale Affordable Base Price:	\$345,339

MLS Realtor Commission (up to 5% of Base Price):	\$17,267
Eligible Capital Improvements:	\$5,000
Resale Affordable Purchase Price:	\$367,606
Resale Affordable Purchase Price:	\$367,606
Closing costs (6% of Purchase Price)	(\$22,056)
Repayment of full 1 st mortgage + down payment:	(\$300,567)
Owner's new equity:	\$44,983
Plus principal paid on the mortgage:	\$23,332
Plus return of owner's down payment:	\$15,028
Net Return to Owner:	\$83,343

By transferring this property from one 95% AMI household to another under the Program, the home remains affordable, the benefits of homeownership are passed along, and all owners have a chance to earn limited equity!

#4: Capital Improvements; Maintenance

As shown above, AMI levels and current housing costs such as interest rates, HOA dues, property taxes and insurance costs determine affordable prices. Eligible Capital Improvements credit and Multiple Listing Service listing realtor commission fees (up to 5% of the resale base price) may be added to the resale affordable price as provided in Section 6.3 of the Declaration.

Owners may begin claiming capital improvements in their resale price that are made ten (10) years after the initial sale of the property. Owner must follow the Capital Improvements policies and procedures as set forth in the Procedures Manual.

#5: Minimum Resale Value

As described above, the resale affordable purchase price is subject to factors that fluctuate over time, such as mortgage interest rates, taxes, and insurance costs. Because of the variability of these factors, **owners assume some risk when they purchase their homes!** For example, if the interest rate used in the pricing calculation increases from the time of initial purchase to time of resale, and increases in AMI over that same time do not compensate for the interest rate increase, a resale affordable purchase price could actually be lower than the original price an owner paid. The MOHCD's use of the 10-year rolling average of interest rates is intended to minimize the interest rate risk at resale, but there is no guarantee that the 10-year average will not increase over time.

Owners are solely responsible for:

- Home Maintenance. Owner may not destroy or damage the property, allow the property to deteriorate, or otherwise commit waste on the property. Owner must maintain the property in compliance with all applicable laws, ordinances, and regulations and in a good and clean condition and all appliances and fixtures must be in good working order. Any damage by abnormal or excessive wear and tear or because of neglect, abuse, or insufficient maintenance, must be repaired as provided in Section 7.5 of the Declaration.
- Inspection and Repairs upon Resale. Owner shall follow the MOHCD's Property Inspection and Repairs Policy as it exists at the time of the proposed resale as set forth in Section 7.5 of the Declaration, and as further detailed at <https://sfmohcd.org/property-inspection>.
- First Mortgage Balance. If the resale affordable purchase price is insufficient to pay off the first mortgage, the owner is solely responsible for his/her mortgage debt beyond that adjusted resale affordable purchase price. Please note that the first mortgage lender will not release its lien unless the mortgage is repaid in full. If the first lender does not release its lien because the owner has not or cannot fully repay it, then the sale will be cancelled or the owner will be in default.

#6: Owner Refinancing

To protect its investment and to preserve the intent of the Program, the City must approve all refinancing agreements.

Owners must obtain MOHCD's prior written approval of any refinancing of a loan and the addition of any lien on the property regardless of lien position. At all times, the City's lien position must be maintained and will only be subordinated as specifically provided in the MOHCD Subordination Policy. Owners must follow the MOHCD Subordination Policy at <https://sfmohcd.org/subordination-refinance>.

#7: Permissible Transfers & Resales

Owners may transfer the property only to an Eligible Buyer under the Transfer Procedures in Section 7 of the Declaration.

#8: City Purchase Option

While the City may purchase the home as an Eligible Buyer (in a standard sale transaction), it retains an option to purchase the home in the event of owner default under either the City Documents or the first mortgage.

#9: Owner Default and City Remedies

An owner is in default of the City Documents if any of the following occur:

- A transfer of the property in violation of the Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement;
- Use of the property other than as owner's primary residence (owners must certify annually that they occupy the home at least 10 months out of every 12);
- Renting or subleasing any part of the property is not permitted without the prior written approval from the City. No part of a property can be rented or subleased as a short-term rental or listed on short-term rental or vacation rental sites at any time. Renting of a parking space or any other space purchased with the property is also prohibited.
- Failure to pay required housing costs, such as taxes, homeowners association dues, assessments, or insurance;
- Placement of any mortgages, liens, or encumbrances on the property that the City has not approved;
- Any other violation of the City Documents; or
- A default on the first mortgage.

If an owner is in default and doesn't or can't cure the default within the times specified in the City Documents or first mortgage documents, the City can exercise its purchase option, commence an action for specific performance or an injunction to prevent an impermissible sale, foreclose on its deed of trust, and/or exercise any other remedy permitted by law.

#10: City Promissory Note and Deed of Trust

To protect its investment, the City requires that all owners execute a promissory note and deed of trust when they purchase their homes. Its purpose is to protect the City's investment if an owner defaults on the first mortgage or City obligations. An owner default "triggers" the promissory note and City deed of trust,

which secures the promissory note against the property and is recorded to provide public notice of the owner's obligations under the Program. In the case of default, the promissory note states that the owner must pay the City the entire principal balance and the Appreciation of the Note, together with all accrued and unpaid interest thereon, if any. The Appreciation is calculated as the amount equal to the difference between (i) Unrestricted Price, and (ii) the appraised fair market value of the property at the time of resale without regard to the Property Restrictions.

Financing for the 3-person, 95% AMI household can again illustrate the issue. This household had an affordable purchase price of \$300,567 with a BMR Note of \$499,433 (calculated based on the fair market value at the time of purchase \$800,000). If they defaulted on their loan, and fair market value was, for example, \$1,000,000, they would owe the City \$699,433 (plus default-related costs) under the City's promissory note.

If an owner transfers his/her property according to the Program requirements and complies with all other City and first mortgage obligations, the City will simply terminate the promissory note and deed of trust at resale.

#11: Transfer by Marriage, Domestic Partnership, and Inheritance

If an owner marries or enters a domestic partnership, the spouse or partner can become a co-owner but no sooner than 12 months after the original purchase. If Owners enter into a dissolution of marriage or Domestic Partnership after purchasing the property, an Owner may be removed from the title of the property on Owners' mutual agreement but subject to the City's prior written consent.

Upon the death of a property owner or owners, the home can be transferred by inheritance, will, or any other function of law to the Owner's child, spouse, or Domestic Partner provided that transferee is an Eligible Buyer. See the Transfer requirements and procedures as set forth in the Procedures Manual for details.

#12: Term

The term of the City Documents –the period of time that resale restrictions and all other City obligations-- apply for the life of the Project. Notwithstanding the foregoing, the Declaration will terminate on: (i) a Transfer of the property in compliance with the terms of the Declaration, and (ii) execution and recordation of a declaration with the same form and substance as the Declaration by the Eligible Buyer.

ATTACHMENT No. 22

INSURANCE REQUIREMENTS

Subject to approval by the OCII Risk Manager of the insurers and policy forms, Developer must obtain and maintain, or caused to be maintained, the insurance and bonds as set forth in this Attachment 22 throughout the Term of the DDA Agreement, or in accordance with the timeframes stated herein, at no expense to OCII.

- A. Overview of Coverage Requirements. The following table summarizes required insurance policies and documentation. Please see Section B of this Attachment 22 for more detailed descriptions of policy requirements.

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Commercial General Liability (see Section B.1)	\$1,000,000 per occurrence/ \$2,000,000 aggregate*	Developer's design and professional contractors; and Developer (prior to start of construction)	Additional insured (see Section G)
	\$10,000,000 per occurrence/ \$10,000,000 aggregate*	Developer (upon construction start), general contractor, and subcontractors to the general contractor	Completed Operations Coverage endorsement (on construction stage policy) (see Section G)
Automobile Liability (see Section B.2)	\$1,000,000 per accident*	Developer and Developer's contractors	Additional insured (see Section G)
	\$10,000,000 per accident*	Upon construction start – general contractor and subcontractors to the general contractor	
Worker's Compensation and Employer's Liability (see Section B.3)	As per statute for Workers Comp; \$1,000,000 per accident; \$1,000,000 per employee; and in aggregate for bodily injury by disease as respects Employers Liability*	Developer and Developer's contractors	Waiver of subrogation
Professional Liability (see Section B.4)	\$2,000,000 per claim/ \$2,000,000 aggregate	Developer if engaged in any eligible design-related activities; and Developer's design and professional contractors. Insurance must be maintained for 10 years.	None
Crime/Dishonesty (see Section B.5)	\$1,000,000 per loss	Developer	Loss payee endorsement
Pollution Liability/Asbestos –	\$1,000,000 per claim/ \$2,000,000 aggregate	Developer or Developer's construction contractor(s)	Additional insured (see Section G)

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
During Construction (see Section B.6)			
Builder's Risk – During Construction (see Section B.7a)	100% of replacement value	Developer	Loss payee endorsement
Property Insurance – After Construction Completion (see Section B.7b)	100% of replacement value	Developer or Developer's property manager	Loss payee endorsement
Performance and Payment Bonds (see Section B.8)	100% of contract value	Developer's construction contractors	OCII and Developer named as dual obligees

** Umbrella, excess liability policy, or owner controlled insurance program (OCIP) may be used to meet limits (see Section D)*

B. Minimum Scope and Limits of Insurance. Developer and/or Developer's Contractors must maintain insurance with limits no less than:

- 1) Commercial General Liability coverage, under Insurance Services Office occurrence form CG 00 01 or other form approved by OCII, with additional insured endorsement (form CG 20 10 or equivalent) (see Section G). Limits set forth below. Coverage must be included for contractual liability; explosion, collapse and underground (XCU); products and completed operations. Umbrella, Excess Liability, or an Owner Controlled Insurance Policy may be used to meet the terms of this section.
 - a. Before the start of demolition/construction if the Site is unoccupied, Developer and Developer's Contractors will maintain coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit. These limit requirements apply to Developer's design and professional contractors throughout the required coverage period;
 - b. During demolition/construction and occupancy of the Site and ongoing operations of the Project, Developer and its Construction Contractors and/or Property Manager will maintain coverage of not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence and Ten Million Dollars (\$10,000,000) general aggregate limit. For subcontractors to the Construction General Contractor and the Property Manager, the Developer, in consultation with the Construction General Contractor and the Property Manager, as appropriate, is required to assess the risks associated with such contractors and determine, authorize, and verify the appropriate level of coverage provided by the subcontractor or consultant;
 - c. The construction period general liability policy must include completed operations coverage for a minimum of ten (10) years. Developer must provide a completed operations coverage endorsement (form CG 20 37 or equivalent) and OCII must be named as an additional insured pursuant Section G below.
- 2) Automobile Liability coverage for all owned, non-owned, scheduled, and hired automobiles under Insurance Services Office form number CA 00 01 or other form approved by OCII,

with additional insured endorsement (see Section G). If Developer does not own any automobiles, Developer must provide OCII a written statement confirming that no automobiles are owned, and OCII will accept an Automobile Insurance policy providing coverage for Symbol 8 (hired autos) and Symbol 9 (non-owned autos), with additional insured endorsement. One Million Dollars (\$1,000,000) per accident for bodily injury and property damage, combined single limit.

For construction operations, Developer's Contractor will maintain coverage of not less than Ten Million Dollars (\$10,000,000) per accident for bodily injury and property damage, combined single limit. For subcontractors to the Construction General Contractor and the Developer, the Construction General Contractor, is required to assess the risks associated with such contractors and, with the authorization of the Developer, determine and verify the appropriate level of automobile liability coverage provided by the subcontractor or consultant.

- 3) Worker's Compensation and Employer's Liability as required by the State of California. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). Employer's Liability coverage must provide limits of One Million Dollars (\$1,000,000) for bodily injury each accident; and not less than One Million Dollars (\$1,000,000) per employee; and One Million Dollars (\$1,000,000) in the annual aggregate for bodily injury by disease. If the Developer does not have any employees, then evidence of Workers' Compensation and Employers Liability coverage required herein must be provided by either the Project Sponsor(s) or the all general partners of the Partnership, in lieu of such coverage being provided by the Developer. Additionally, the Developer must provide a written statement confirming that the Developer does not have employees.
- 4) Professional Liability (Errors and Omissions) insurance, applicable to the Developer's licensed design and professional contractors (architects, engineers, surveyors and other eligible consultants) and to the Developer only if the Developer or Sponsor has any employees providing design or engineering services. Two Million Dollars (\$2,000,000) for each claim and in the annual aggregate limit covering negligent acts, errors or omissions in connection with professional services to be provided in connection with the Project. If the Professional Liability insurance is "claims made" coverage, these minimum limits shall be maintained for at least ten (10) years beyond completion of construction. Developer shall provide evidence of such required insurance for ten (10) years after completion of construction, or a ten (10) year extended reporting period endorsement. Any deductible over One Hundred Thousand Dollars (\$100,000) each claim must be reviewed and approved by OCII Risk Management.

Design professionals who utilize the services of subcontractors or consultants to complete work in connection with this project are required to assess the risks associated with such contractors and, with the authorization of the Developer, determine and verify the appropriate level of coverage provided by the subcontractor or consultant. The design professional and the Developer shall assume costs and expenses that may be incurred in fulfilling any indemnity obligations as to itself or any subcontractors or consultants for whom the design professional and/or the Developer are legally liable in the absence of adequate subcontractor or consultant coverage.

- 5) Crime Policy or Fidelity Bond (Employee Dishonesty Coverage) covering Developer and Developer's officers and employees against employee dishonesty, forgery & alteration, theft of money & securities, and theft via electronic means, endorsed to cover third party fidelity, covering all officers and employees with respect to the Funding Amount. One Million Dollars (\$1,000,000) each loss, with any deductible not to exceed Ten Thousand Dollars

(\$10,000). Developer must provide an endorsement naming OCII as an additional obligee or loss payee.

Application of Crime Insurance Proceeds. Developer shall promptly notify OCII of any claim under the required Crime Insurance Policy. OCII may retain from the proceeds of the required Crime Insurance Policy, a sufficient amount of the proceeds to pay the Funding Amount, if any, and shall pay the balance to Developer. For the avoidance of doubt, OCII shall have no right or claim to the proceeds of the required Crime Insurance Policy in excess of the Funding Amount.

- 6) Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than One Million Dollars (\$1,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) aggregate per policy aggregate, this coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Developer's construction contractor to maintain these minimum limits for no less than three (3) years beyond completion of the Project.

7) Property Insurance

- a. Builder's Risk Insurance during the course of any construction, special form coverage, excluding earthquake and flood, for one hundred percent (100%) of the replacement value of all completed improvements and OCII property in the care, custody and control of Developer or its contractor, including coverage in transit and storage off-site, with a deductible not to exceed Fifty Thousand Dollars (\$50,000) each loss, including OCII as loss payee. Builder's Risk must be maintained by the Developer or the Developer must cause its general contractor to maintain this insurance.
- b. Property Insurance after completion of construction, special form coverage, excluding earthquake and flood, but including vandalism and malicious mischief, and including boiler and machinery insurance, for one hundred percent (100%) of the replacement value of all furnishings, fixtures, equipment, improvements, alterations and property of every kind located on or appurtenant to the Site, including coverage for loss of rental income due to an insured peril for twelve (12) months, with a deductible not to exceed One Hundred Thousand Dollars (\$100,000) each loss, including OCII as a loss payee. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). The Developer will carry property insurance until the last unit is sold.

- 8) Performance and Payment Bonds for eligible construction contractors during construction and/or rehabilitation, each in the amount of one hundred percent (100%) of contract amounts, naming OCII and Developer as dual obligees, or other completion security approved by OCII in its sole discretion. OCII has approved issuance of a Completion Guaranty by an affiliate of Developer to Developer's institutional lender as completion security.

- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of those required for policies stated herein must be declared to and approved by OCII. At the option of OCII, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees; or Developer shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- D. Umbrella, Excess Liability, and Owner Controlled Insurance Policies (OCIP). An Umbrella and/or Excess Liability policy(ies) or an OCIP may be used to reach the Commercial General Liability, Workers' Compensation, and/or Automobile Liability coverage limits required herein. The Umbrella/Excess Liability/OCIP policy(ies) must appropriately schedule any such underlying policy(ies).
- E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise approved by OCII's Risk Manager.
- F. General Requirements.
- 1) If the Developer maintains additional coverages and/or higher limits than the minimums shown in this Exhibit F, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Developer.
 - 2) The policies required herein, with the exception of Professional Liability and Workers Compensation, shall be primary insurance and non-contributory as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees shall be in excess of Developer's insurance and shall not contribute with it.
 - 3) Each insurance policy required herein must be endorsed (if endorsement is available) to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by mail has been given to OCII. Should the insurance carrier not be able to provide such notice, then the responsibility to provide the notice to OCII shall be borne by the policyholder.
 - 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees.
 - 5) Approval of Developer's insurance by OCII will not relieve or decrease the liability of Developer under this Agreement.
 - 6) OCII and its officers, agents and employees will not be liable for any required premium under any policy maintained by Developer.
 - 7) All claims based on acts, omissions, injury or damage occurring or arising in whole or in part during the policy period must be covered. If any required insurance is provided under a claims-made policy, coverage must be maintained continuously for a period ending no less than five (5) years after recordation of a notice of completion for builder's risk or the Compliance Term for general liability and property insurance.
- G. Verification of Coverage. Developer must furnish OCII with certificates of insurance and original endorsements evidencing coverage required by this clause. The certificates and applicable endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by OCII before work commences. OCII reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these

specifications at any time. Developer shall require and verify that its contractors and consultants maintain the required policies as stated herein. Developer must furnish OCII with copies of certificates and endorsements upon request. All certificates shall include the following:

- 1) Identify the following as the certificate holder:
Successor Agency to the Redevelopment Agency of the City and County of San Francisco
Office of Community Investment and Infrastructure
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
- 2) Identify the name of the insurance policy holder (Developer, or Contractor), the Project name, and the Project address.
- 3) For policies in which OCII is required to be named as an additional insured, loss payee, dual obligee, or named on a waiver of subrogation, the policy shall name "Office of Community Investment and Infrastructure/Successor Agency to the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees" on the certificate and on the attached endorsement or certificate.

H. Review. OCII reserves the right to modify the insurance coverage under this Section, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances consistent with OCII's Risk Management Policy. The insurance coverage required under this Section shall be evaluated by OCII for adequacy from time to time. OCII may require Developer to increase the insurance limits and/or forms of coverage in its reasonable discretion provided that such limits and/or coverage is generally available at commercially reasonable rates.

Owner Controlled Insurance Policies (OCIP)

The Developer may implement a General Liability Owner Controlled Insurance Program (OCIP) to meet the general liability requirements in Exhibit F. If an OCIP is implemented by the Developer, the Developer shall provide the OCIP in accordance with the requirements of this Exhibit F and as required by this provision. The Developer shall provide evidence of insurance that satisfies all requirements prior to the start of work, throughout the duration of the project and for the ten (10) year completed operations period.

The Commercial General Liability Insurance shall have limits of not less than \$1,000,000 each occurrence, \$2,000,000 general aggregate, and \$2,000,000 products-completed operations aggregate. The combined Umbrella or Excess Liability Insurance limits for the OCIP shall be not less than \$10,000,000 each occurrence, \$10,000,000 general aggregate, and \$10,000,000 products-completed operations aggregate. The OCIP shall provide coverage for the entire duration of the Project plus a products-completed operations extension for ten (10) years beyond completion of the work.

The Developer and all enrolled parties shall be Named Insureds under the OCIP policies. The policy shall provide for separation of insureds and shall not contain an insured vs. insured exclusion. The policy shall be endorsed naming OCII parties per Section G.3 as additional insureds on ISO form CG 20 10 for ongoing operations and CG 20 37 for completed operations, or on other forms as approved by OCII. The policy shall provide additional insured coverage for the ten (10) year completed operations period.

The OCIP excess policies will follow form. If excess policies contain specifically issued additional insured endorsements, the additional insured coverage shall follow form with the primary commercial

general liability policy.

The Developer shall provide 60 days prior written notice to the OCII if any OCIP coverage at any layer is cancelled, non-renewed, or of any material reduction in coverage.

The Developer shall ensure that all parties excluded from the OCIP obtain the required insurance as describe and collect and maintain evidence of insurance and endorsements from all parties excluded from the OCIP. The Developer shall require and ensure that the parties in Section G.3 are named as additional insured as required by this Exhibit F.

The required OCIP insurance coverages and limits are solely for the protection of OCII and there is no assurance that the scope or limits of coverage required are sufficient to protect the interest of the Developer, Enrolled Parties or other parties. Nothing contained herein shall limit the liability of the Developer, Enrolled Parties or excluded parties to OCII, additional insureds or to claims by third parties.

ATTACHMENT No. 23
MARKETING PLAN

For MOHCD Use Only

Marketing plan submitted on:

Status: ☐ Pending ☐ Approved

Date approved:

City and County of San Francisco
San Francisco Mayor's Office of Housing and Community Development (MOHCD)
Below Market Rate (BMR) Limited Equity Program (LEP)
Marketing Plan for New Ownership Units

This marketing plan may be updated from time to time at the discretion of MOHCD.

You must complete the BMR LEP Pricing Request for New Ownership Units and receive pricing for your units before submitting this marketing plan. The final approved information in your pricing request is considered a part of this marketing plan submission. If you have changes to your pricing request, you must resubmit the request before submitting this marketing plan.

You must also review marketing requirements as set forth in (1) Disposition and Development Agreement (DDA) or Owner Participation Agreement (OPA) for your project; (2) [the LEP Loan Disclosure Book](#); (3) [the City and County of San Francisco Inclusionary Affordable Housing Monitoring and Procedures Manual 2018](#); and (4) [the MOHCD Housing Preferences and Lottery Procedures Manual](#) before completing this form. In this marketing plan, you must indicate how you will market Units to persons with disabilities, and how will you implement a priority for persons with disabilities. Also, include your reasonable accommodation policy. Describe the Concierge Program tailored to COP holders, and the methods that will be used to shepherd other Occupancy Preference groups.

Special Note: LEP projects were initially approved by the Office of Community Investment and Infrastructure (OCII) and transferred to MOHCD for oversight.

This marketing plan is subject to City review within 15 business days from the date it is received and complete. **Please set all advertising dates in this plan with no date sooner than 45 calendar days before the date of your plan submission. Please do not commence with advertising until you receive a written approval from MOHCD.**

Please complete and return this form as a "Word" document so that our office may track changes directly onto the document. The approval process typically involves a back-and-forth process between MOHCD and the developer's representative.

Please do not submit incomplete plans. Submission of an incomplete plan will not be accepted, thus causing processing delay. Please submit this plan to Cissy Yin at cissy.yin@sfgov.org.

I. GENERAL BUILDING INFORMATION

(Suggestion: You may cut and paste Section I-IV from your approved pricing request form into this marketing plan template. This is the exact information requested in such.)

Today's Date	
Proposed Marketing Launch Date <i>(Must be no sooner than 45 days from date your submit your marketing plan)</i>	
Pre-Marketing Meeting with MOHCD <i>(Must be no sooner than 21 days prior to marketing plan submission)</i>	<i>Please list at least 2 dates/times to meet with MOHCD staff to discuss your marketing requirements</i>
Name of Building	
MOHCD Project ID (MOHCD can provide)	
Block/Lot (before subdividing)	
Property Address as Stated in Restriction Documents	
Property Address (Street address used for marketing and mailing to new owners)	
Address to Be Used in Official Closing Documents (address reported to Title Co.)	
Restriction Documents and Dates (DDA/OPA or other regulatory agreements)	
Name of City and Co. of SF Planner or OCII Staff Contact	
Date of Building Permit Issuance	
Temporary Certificate of Occupancy	☐ Expected or ☐ Actual Date:
Final Certificate of Occupancy	☐ Expected or ☐ Actual Date:
Date on Which BMR Unit(s) can be Occupied by Owner(s) <i>(Must be no later than 5 months from your proposed marketing launch date)</i>	

II. PROJECT AND BUILDING REPRESENTATION

Developer Information (for internal use only; please do not omit)

Name of LLC	
Name of Development Company (not LLC)	
Developer Contact Person	
Developer Address (including City/State/Zip)	
Developer Phone	
Developer Email	

Owner Information (internal use only; please do not omit. If same as developer, write “same as above”)

Name of Building Owner	
Building Owner Contact Person	
Building Owner Address (including City/State/Zip)	
Building Owner Phone	
Building Owner Email	
What year did the owner assume ownership of the building?	

Marketing Firm Information

Marketing Firms must have experience in marketing to and working with low- and moderate-income first time homebuyers; language capacity in all City official languages (Spanish, Chinese, Filipino, English); cultural sensitivity and demonstrated awareness of the needs of San Francisco’s diverse populations; and have experience with Microsoft Office Suite and similar technology.

Name of Marketing Firm	
Marketing Contact Person	
Marketing Agent Address (including City/State/Zip)	
Marketing Agent Phone	
Marketing Agent Email	

Title/Escrow Company Information

Title Company for Development	
Escrow Officer	
Address (including City/State/Zip)	
Escrow Officer Phone	
Escrow Officer Email	

III. BUILDING COMPOSITION

Number of Floors in the Building	Total Number of Floors	
	Residential Floors	
	Commercial Floors	
Total Unit Count in Building	Total Units (BMR and Market Rate)	
	Market Rate Only	
	BMR Only	

Please list the total number of units by bedroom size and price range of market rate units.

Unit Type	Total Number Units (Market Rate and BMR Combined)	Number of BMR Units	Number of Market Rate Units	Bath Count (in BMR Units)	Bath Count (in Market Rate Units)	Price Range of Market Rate Units
SRO						
Studio						
Jr. 1 Bedroom						
1 Bedroom						
1+ Bedroom						
2 Bedroom						
2+ Bedroom						
3 Bedroom						
3+ Bedroom						
4 Bedroom						
Other						
Total						

Please provide detailed description of BMR units by bedroom size. (Please indicate the accessible units.)

Unit No.	Block & Lot	Bedroom Count (0, 1, 2, 3 or 4)	Bath Count	Square Feet	Floor #	Building # (if applicable)	Monthly CFD/Special Assessment	Initial HOA Dues w/o Parking	Initial HOA Dues w/Parking

IV. CAR AND BIKE PARKING

Car Parking Spaces in Building	Total	
	Commercial	
	Residential (Market Rate and BMR combined)	
	Residential (Market Rate Only)	
	Residential (BMR Only)	
	Car Share (if applicable)	
	Other:	
What is the total number of Bike Parking Spaces in the Building?		
Will Market Rate Parking Spaces be sold separately or Included in the Sales Price?	☐ Sold Separately ☐ Included in the Sales Price ☐ NA	

(Note: 100% of parking spaces in the building must be sold separately from residential units in order for the development to be considered to have “unbundled” parking. Developments must be able to

demonstrate through marketing efforts and through sales contracts that parking is an additional cost for all market rate units in the building in order to apply the unbundled parking policy to the BMR units.)

Please provide the following parking information for the Building.

(Market rate parking price per space information is for internal use only. Do not omit.)

Type of Parking Space	Check	Market Rate Parking Price Per Space
Surface/Above Ground Level	☐	
Below Ground	☐	
Stacker	☐	
Other:	☐	

The following sections are new information and not part of the Pricing Request Form.

V. HOMEOWNER ASSOCIATION (HOA) INFORMATION

HOA Name	
HOA Management Company Name (if different from HOA name)	
HOA Management Company Address (including City/State/Zip)	
HOA Management Contact Person	
HOA Management Phone	
HOA Management Email	

VI. AMENITIES AND FINISHES

I understand that the amenities, finishing and construction of the BMR units must be comparable to the market rate units in that they must be new and of good quality. I understand that formal language regarding this rule is outlined in the Disposition and Development Agreement (DDA) or Owner Participation Agreement (OPA).

Market Rate Units: Appliance and Maker/Model/Color (e.g. refrigerator – Maytag 2009 Ultimo Stainless Steel)	BMR Units: Appliance and Maker/Model/Color (e.g. refrigerator – Maytag 2009 Ultimo White)
Refrigerator:	Refrigerator:
Washer/Dryer:	Washer/Dryer:
Stove/Range:	Stove/Range:
Microwave:	Microwave:
Dishwasher:	Dishwasher:
Garbage Disposal:	Garbage Disposal:
Other:	Other:

Market Rate Units: Finishings and Type (e.g. flooring – oak)	BMR Units: Finishings and Type (e.g. flooring – pergo)
Flooring: Provide details unless the same flooring listed above is used throughout the unit. Kitchen Area: Living room: Bathroom(s): Bedroom(s): Other:	Flooring: Provide details unless the same flooring listed above is used throughout the unit. Kitchen Area: Living room: Bathroom(s): Bedroom(s): Other:
Cabinets:	Cabinets:
Countertops:	Countertops:
Other:	Other:

VII. LENDING CIRCUMSTANCES

Is there anything MOHCD should know about your building in terms of buyer's ability to secure loans (e.g. too many renters, insufficient reserves, a pending lawsuit, etc.)? Yes ☐ / No ☐

If yes, please explain below:

B.

How many market rate units in the building are sold and conveyed or under executed contract to owner-occupants for use as a primary residence or second home? _____ (if none, enter "0")

Has a new parcel number been assigned to each BMR unit (i.e. mapped/subdivided)? Yes ☐ / No ☐

If no, please indicate the pending items from the final mapping (parcel subdivision), and the expected date to get the final map recorded.

Pending Items:

Expected Date:

I/We understand that a BMR unit may be required to be finally mapped and subdivided prior to closing. If a BMR unit were sold prior to final mapping and subdivision, the BMR owner's property taxes must be allocated based on the restricted BMR sales price. Yes ☐ / No ☐

VIII. PREFERRED LENDERS

C.

D. Please note that BMR buyers must be allowed to use any MOHCD-approved lender for their final loan regardless of the presence of preferred lenders in the building.

In order for your preferred lenders to provide loan pre-approvals to BMR applicants, they must already be approved by MOHCD with an "X" marked under BMR. Are your preferred lenders currently listed on the list of [MOHCD-approved BMR lenders](#)? Yes ☐ / No ☐

If yes, please name them below:

Bank/Brokerage Name	Loan Officer/Broker Name	Contact Information

IX. BUYER REPRESENTATION

All realtors in a BMR transaction must: (i) be licensed by the California Bureau of Real Estate; (ii) represent a BMR buyer in all aspects of the transaction; and (iii) be compensated by the Project Sponsor at the same rate as fees paid to realtors of market rate units in the Project.

- **No Realtor Representation:** In the case where no buyer's realtor in a Project is provided commission for realtor representation and the Project Sponsor's realtor serves as the agent for all buyers in the Project, the Project Sponsor's agent must represent the BMR buyer.
- **Realtor Representation:** In the case where commission is being paid to the realtor of any buyer in a Project, the Project Sponsor must **either**: (1) pay commission to the realtors of all BMR buyers in the amount comparable to fees paid for non-BMR buyer representation; **OR** (2) work in partnership with a MOHCD-approved community-based non-profit agency to assist with additional homebuyer education, timely application submittals, and marketing and outreach activities. In such case, the Project Sponsor's realtor, with proper disclosure and authorization, must act as the dual agent and represent all parties in the transaction. For more information on this option, please contact Shannon Way at shannon@homeownerships.org.

For market rate units: Will you be providing commission for any market rate buyer's realtor in your building? Yes ☐ / No ☐

If yes, please explain the arrangement below, including commission percentage and rules for registering as a realtor for a market rate buyer:

For BMR units: I/we will be (select one):

- ☐ a) Providing commission for realtors representing the BMR buyers; or
- ☐ b) Working in partnership with a MOHCD-approved community-based non-profit agency

If a) above is selected, please explain the arrangement below, including the commission percentage and rules for registering as a realtor for a BMR buyer:

If b) above is selected, please attach a copy of the fee-for-service arrangement as a part of your marketing plan submission.

Will you represent buyers who do not have a realtor? Yes ☐ / No ☐

If no, please explain below:

X. TRANSACTION FEES

I/We understand that the seller will pay all fees detailed in the 2018 Inclusionary Housing Program Monitoring and Procedures Manual, including the payment of the transfer tax and realtor's fee for all BMR units. Yes ☐ / No ☐

XI. BUYER QUALIFICATIONS: MOHCD

In addition to other rules set forth in the Disposition and Development Agreement or Owner Participation Agreement, BMR buyers must also meet the qualification rules set forth in the City and County of San Francisco Affordable Housing Monitoring Procedures Manual 2018. I/We have read and understood the buyer qualification rules under the Limited Equity Homeownership Program. Yes ☐ / No ☐

XII. BUYER QUALIFICATIONS: YOUR BUILDING

I/We understand that no part of a BMR Unit can be rented or subleased as a short-term rental or listed on short-term rental or vacation rental sites at any time. Renting of a parking space or any other space purchased with the Unit is also prohibited. Yes ☐ / No ☐

I/We further understand that the BMR Sales Contract must contain at least a 45-day financing contingency period and at least a 60-day close of escrow period. BMR sales transactions are sometimes extended beyond the 60-day period to accommodate both the buyer and the seller. Yes ☐ / No ☐

Does the CC&R's of your building or any other restriction document dictate rules about: (1) who is eligible to purchase a unit; (2) what is the maximum allowable annual increase in HOA dues and assessments; or, (3) other? Yes ☐ / No ☐

If yes, please explain below:

Does the HOA establish a maximum household size by unit type by bedroom count? Yes ☐ / No ☐

If yes, please explain below:

Does your building have any additional buyer rules that would affect the qualifications of the BMR buyer? Yes ☐ / No ☐

If yes, please explain below:

XIII. MARKETING STRATEGY

E.

F. Advertising

I/We understand that BMR units must be advertised must be advertised in: (i) at least five (5) local newspapers that reach diverse low-, median-, and moderate-income communities in San Francisco for a continuous period of at least the first three (3) weeks of the required marketing period; and (ii) three (3) social media outlets like Facebook, Twitter, Next Door, Craig’s List, throughout the required marketing period. Ads must appear in the “housing”, “real estate” or “community” sections of the publications. I/We understand that I/we must save copies of our BMR ads and make them available to MOHCD at the culmination of our marketing period.

G. *I/We will post in the following five (5) local venues throughout the first 3-week period at least one time each week:*

Newspaper or publication (choose one)	Exact Advertisements Dates
<i>Suggestion: Bayview or Sun Reporter (African American audience)</i>	
<i>Suggestion: El Tecolote or La Opinion de la Bahia (Spanish language audience)</i>	
<i>Suggestion: Philippine News or Asian Journal (Filipino language audience)</i>	
<i>Suggestion: Singtao Daily or Asian Weekly (Chinese language audience)</i>	
<i>Suggestion: Bay Reporter or other publication (LGBT audience)</i>	
<i>Suggestion for Other: Choose a paper that is local to the building</i>	

H.

I. *I/We will announce the affordable housing opportunity in at least three (3) non-print electronic media outlets throughout the entire marketing period.*

Social Media Activity (e.g. Facebook, Twitter, Next Door, Craig’s List, Website)	Advertisement Period (Enter the entire marketing period)
1.	
2.	
3.	

Real Estate Search Engine Site (e.g. Zillow, Realtor.com, Redfin)

J. I/We will announce the affordable housing opportunity in at least one leading real estate search engine site at _____ throughout the entire marketing period. I/We will use the MOHCD-approved ad language in addition to any other details, with both internal and external photos of the BMR units. I/We will email MOHCD the link of the listing at least 24 hours before the MOHCD posting date.

Website

I/We will create a website for the BMR units or create a link for the units on our existing website at _____. (A BMR website is not a requirement, but it is recommended.)

Outreach to Board of Supervisors

I/We will announce the affordable housing opportunity at least twice to the Board of Supervisors District Office where the project is located by providing a copy of the marketing flyer. The contact information for the Board of Supervisors can be found at <https://sfbos.org/roster-members>.

Board of Supervisor's Name		
Board of Supervisor Staff Contact Person		
Staff Contact Phone Number(s)		
Staff Contact Person Email(s)		
1 st Notification Method (e.g., email, phone, in-person delivery)		Date:
2 nd Notification Method (e.g., email, phone, in-person delivery)		Date:

All newspaper ads and postings must state income maximums by household size; buyer qualifications; sales team contact information as the primary contact; and identify MOHCD as the monitor of the BMR program. Ads may refer applicants to the MOHCD website at www.sfmohcd.org but will not list MOHCD telephone numbers or email addresses. A copy of the wording to be used in all advertising will be sent to MOHCD for initial review. All postings will display an "Equal Housing Opportunity" symbol on all marketing materials, advertisements and notices at the sales office:



Sample Ad Language

6 new "Below Market Rate" homes for sale at 333 Birch Street

1 studio, 3 one-bedrooms and 2 two-bedroom homes priced from \$315,000 – \$330,000 with parking and \$260,000 – \$280,000 without parking.

Applicants must be first-time homebuyers and cannot exceed the following income levels:

100% of Area Median Income 2019

One person - \$86,200; 2 persons - \$98,500; 3 persons - \$110,850; 4 persons - \$123,150 etc.

[Use the following if you're working in partnership with HomeownershipSF; **DELETE** this instruction and the below option]

Applications must be received by 5PM on Thursday, July 11, 2019. Apply online through DAHLIA, the SF Housing Portal at <https://housing.sfgov.org> or mail in a paper application with a self-addressed stamped envelope to BMR 333 Birch, P.O. Box 420847, San Francisco, CA 94142. Postmarks will not be considered. Paper applications can be downloaded from <https://housing.sfgov.org> or picked up from one of the 5 approved housing counseling agencies listed at <https://sfmohcd.org/homebuyer-counseling-agencies>. For more information or assistance with your application, contact HomeownershipSF at (415) 202-5464 or info@homeownershipsf.org. For questions about the building and units, contact the Green Company at (415) xxx-xxxx or 333birchbmr@green.com.

[Use the following if you're not working in partnership with HomeownershipSF; **DELETE** this instruction and the above option]

Applications must be received by 5PM on Thursday, July 11, 2019. Apply online through DAHLIA, the SF Housing Portal at <https://housing.sfgov.org> or mail in a paper application with a self-addressed stamped envelope to BMR 333 Birch, P.O. Box 420847, San Francisco, CA 94142. Postmarks will not be considered. Paper applications can be downloaded from <https://housing.sfgov.org> or picked up from the Green Company at 333 Birch Street, San Francisco, CA 94115. For more information or assistance with your application, contact the Green Company at (415) xxx-xxxx or 333birchbmr@green.com.

Units available through the San Francisco Mayor's Office of Housing and Community Development and are subject to monitoring and other restrictions. Visit www.sfmohcd.org for program information.



I/We will use the following ad language when advertising the BMR units.

Your Proposed Ad Language

Building Signage (required for 2 or more BMR units)

I/We understand that I/we shall prominently display MOHCD prescribed and approved signage on the construction site of any project that will include two or more BMR units. The signage should be no smaller than 5' by 5' and indicate the number and type (for sale or for rent) of BMR unit in the project and include a web address and/or telephone number for interested applicants to learn more. I/We further understand that I/we must provide MOHCD with a picture of the signage at the culmination of our marketing period.

See a template of the signage attached to the end of the Marketing Plan (Attachment D).

Outreach Materials

I/We understand that our project must provide: 1) a flyer and (2) a COP postcard **as a part of this submission** for the BMR units available that includes the following information.

- Reference to MOHCD BMR program
- All applicable lottery preferences (must appear on flyer only, not COP postcard)
- Maximum Qualifying Incomes
- Sales Prices

- Description of Units
- Exterior and Interior (if available) Photo of the Development
- Information Sessions date, time and location (if applicable)
- Lottery date, time and location (indicate “attendance is optional”)
- Open house dates
- Information on how to obtain an application
- Equal Housing Opportunity Logo

See sample COP Postcard and BMR flyer attached to the end of the Marketing Plan (Attachment B&C).

Outreach to Certificate of Preference Holders

I/We understand that we are responsible for marketing our BMR units to Certificate of Preference (COP) holders. COP holders are primarily households displaced in Redevelopment Project Areas during the 1960's and 1970's, but may also include other persons displaced by Agency action. For more information, applicants may contact 415-701-5526.

I/We understand that I/we shall provide postcards for the mailing of an affordable housing announcement to all Certificate of Preference holders. We are responsible for printing the post cards using the information provided by MOHCD. MOHCD shall coordinate the mailing and invoice the developer for the full cost of the first class mailing, including postage and labels.

Outreach to Residents of the Immediate Neighborhood

I/We understand I/we must present a strategy for reaching out to the local community surrounding the building. Suggestions include posting flyers in local community meeting places, posting the units in local papers, and reaching out to local community groups. This strategy is above and beyond your ad placements. At a minimum, list 10 local venues in which you will post your flyer or otherwise distribute your flyer.

K.

L. *Your Strategy for Marketing to Residents of the Immediate Neighborhood*

Please provide flyers and proof of outreach to the organizations listed below (please include address, contact person, phone number and/or email address):

M. Strategy for Collaborating with First-time Homebuyer Counseling Agencies

MOHCD encourages BMR sales agents to work with the 5 City-approved nonprofit first-time homebuyer counseling agencies that are list on our website at www.sfmohcd.org and with www.homeownershipsf.org to market BMR units to eligible and prepared low to middle-income homebuyers in San Francisco.

Although not required, developers have the option of entering into a fee-for-service arrangement with HomeownershipSF to conduct marketing and outreach activities, provide additional homebuyer education, and assure timely application submittals. For more information on this option, please contact Shannon Way at shannon@homeownershipsf.org.

N. *Your Strategy for Collaborating with First-time Homebuyer Agencies and HomeownershipSF*

O. Please email a copy of your flyer to the HomeownershipSF staff member listed below.
catalina@homeownershipsf.org

More details about your plan here.

P. Strategy for Language Access

I/We understand that we must be able to provide assistance to applicants who may not speak English. More information about the Language Access Ordinance can be found here:

<http://sfgov.org/oceia/language-access-services>. Please list the languages spoken by your office staff. Describe how language assistance in Cantonese, Spanish and Tagalog will be provided and include your strategy for reviewing applications submitted in these languages (i.e., translation service used, in house assistance available, etc.).

Throughout the marketing period, I/we understand that we must have copies of the SF Housing Resource Guide available in all four languages for applicants who require additional assistance or referrals to housing counseling. The SF Housing Resource Guide is available on the MOHCD website here: <http://sfmohcd.org/san-francisco-housing-resource-guide>.

Furthermore, I/we understand that assistance in these languages should be provided at the lottery/information session. Please indicate whether you have the capacity to provide this service.

Q. *Your Strategy for Providing Language Access*

XIV. Review of Program Documents

We certify that all agents involved in the process of selling/buying BMR units have read and reviewed the following documents at www.sfmohcd.org:

- Disposition and Development Agreement (DDA) or Owner Participation Agreement (OPA)
- [Limited Equity Loan Disclosure Book](#)
- City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual 2018 - <https://sfmohcd.org/inclusionary-housing-program-manuals>
- MOHCD Housing Preferences and Lottery Procedures Manual 2018 - <https://sfmohcd.org/inclusionary-housing-program-manuals>
- LEP BMR Program Overview - <http://sfmohcd.org/homebuyer-program-eligibility>
- BMR Ownership Program Application - <http://sfmohcd.org/homeownership-application>

I have included the following documents with my request: (Please check)

- ☐ Attachment A: DAHLIA Web Posting
- ☐ Attachment B: COP Postcard
- ☐ Attachment C: Marketing Flyer
- ☐ Market Rate Pricing Sheet

☐ As a licensed Real Estate broker or sales representative for the seller, I understand that I will comply with all City, State and Federal laws affecting the sale of a housing unit. I will comply with all fair housing regulations. I certify that all necessary permits, public reports associated with the sale of the property are in place and have been approved by the governing body required to review and approve those documents.

Please complete the following except the signature and date.

Representative (signature)	Do not sign until this plan is approved by MOHCD
Representative (print)	_____
Title (print)	_____
Company (print)	_____
Date (print)	Do not date until this plan is approved by MOHCD

☐ As the seller, I have reviewed and approved the Marketing Plan and its related marketing documents.

Building Owner (signature)	Do not sign until this plan is approved by MOHCD
Building Owner (print)	_____
Company (print)	_____
Date (print)	Do not date until this plan is approved by MOHCD

R. **Attachment A**

S. **DAHLIA Web Posting – Please Complete**

I/We understand that BMR units must be posted on the MOHCD website for 45 calendar days prior to the application deadline. The following template will be posted on the MOHCD website under “*Available Homeownership Listings*” during the marketing period. The text in red and italics serves as instructions and shall be removed as you complete each field.

Please complete this template accurately and thoroughly.

Posting date	<i>Must be at least 45 days from the date of the submission of this marketing plan</i>																																																					
Program	Limited Equity Home Ownership Program																																																					
Type of unit	<i>Choose</i> Condo, Townhouse or Detached Single Family Home																																																					
Name of building																																																						
Address (including city/state/zip code)	<i>Address to be used in official closing documents</i>																																																					
Unit Numbers																																																						
Number of bedrooms	<i>e.g. 1 studio; 2 two-bedrooms; 3 two-bedrooms</i>																																																					
Number of bathrooms	<i>e.g. 1 bathroom for studio and one-bedrooms, and 2 bathrooms for 2-bedrooms</i>																																																					
Square footage	<i>e.g. 450-1,500</i>																																																					
Year built																																																						
Neighborhood Name	<i>Enter City Analysis Neighborhood Map to look up Neighborhood.</i>																																																					
Supervisory District	<i>Use San Francisco Planning Information Map to look up Supervisory District. Enter Supervisory District #</i>																																																					
Sales Price (for each BMR unit)	<i>List sales price range from lowest to highest with and without parking, e.g. \$220,755 - \$287,826 without parking \$298,216 - \$372,430 with parking</i> <table border="1" data-bbox="532 1228 1539 1486"> <thead> <tr> <th>Unit No.</th><th>Bedroom Count</th><th>Bath Count</th><th>Square Feet</th><th>Floor #</th><th>HOA Dues w/o Parking</th><th>HOA Dues w/Parking</th><th>Price w/o Parking</th><th>Price w/Parking</th></tr> </thead> <tbody> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>									Unit No.	Bedroom Count	Bath Count	Square Feet	Floor #	HOA Dues w/o Parking	HOA Dues w/Parking	Price w/o Parking	Price w/Parking																																				
Unit No.	Bedroom Count	Bath Count	Square Feet	Floor #	HOA Dues w/o Parking	HOA Dues w/Parking	Price w/o Parking	Price w/Parking																																														
Monthly Homeowner Association (HOA) Dues (for each BMR unit)	<i>List HOA dues range from lowest to highest with and without parking, e.g. \$520.39 - \$696.85 without parking \$578.39 - \$754.85 with parking</i>																																																					
What the HOA dues cover																																																						
Covenants, Conditions & Restrictions (“CC&R’s”) for the building	<i>Add a link to the following sentence.</i> To review the Covenants, Conditions & Restrictions for this building, please click here.																																																					
Smoking Policy																																																						
Pet Policy																																																						
Parking	One parking space is included in the sale price of each unit. The parking space will be resold with the unit within the maximum resale price.																																																					

Area Median Income for Qualifying for Unit	75% of Area Median Income (AMI) <i>or</i> 95% of Area Median Income (AMI) <i>or</i> 80% of Area Median Income (AMI) <i>or</i> 100% of Area Median Income (AMI)																																
Maximum Allowable Income Levels	Maximum household income must not exceed the following amounts by household size: 80% of Maximum Income by Household Size derived from the Unadjusted Area Median Income (AMI) for HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco 2019 <table border="1"> <thead> <tr> <th>Household Size</th><th>Maximum Income at 80% of AMI</th></tr> </thead> <tbody> <tr><td>1</td><td>\$68,950</td></tr> <tr><td>2</td><td>\$78,800</td></tr> <tr><td>3</td><td>\$88,700</td></tr> <tr><td>4</td><td>\$98,500</td></tr> <tr><td>5</td><td>\$106,400</td></tr> <tr><td>6</td><td>\$114,300</td></tr> <tr><td>7</td><td>\$122,150</td></tr> </tbody> </table> <i>or</i> 100% of Maximum Income by Household Size derived from the Unadjusted Area Median Income (AMI) for HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco 2019 <table border="1"> <thead> <tr> <th>Household Size</th><th>Maximum Income at 100% of AMI</th></tr> </thead> <tbody> <tr><td>1</td><td>\$86,200</td></tr> <tr><td>2</td><td>\$98,500</td></tr> <tr><td>3</td><td>\$110,850</td></tr> <tr><td>4</td><td>\$123,150</td></tr> <tr><td>5</td><td>\$133,000</td></tr> <tr><td>6</td><td>\$142,850</td></tr> <tr><td>7</td><td>\$152,700</td></tr> </tbody> </table> (Households must be at least as many people as bedrooms in the unit. Please visit www.sfmohcd.org for larger households.)	Household Size	Maximum Income at 80% of AMI	1	\$68,950	2	\$78,800	3	\$88,700	4	\$98,500	5	\$106,400	6	\$114,300	7	\$122,150	Household Size	Maximum Income at 100% of AMI	1	\$86,200	2	\$98,500	3	\$110,850	4	\$123,150	5	\$133,000	6	\$142,850	7	\$152,700
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6	\$142,850																																
7	\$152,700																																
Appliances																																	
Amenities																																	
Date on which BMR unit(s) can be occupied by owner	<i>Must be no later than 5 months from your proposed marketing launch date</i>																																
Other qualification notes	All potential buyers must review the Limited Equity Loan Disclosure Book and 2018 Inclusionary Affordable Housing Program Monitoring and Procedures Manual that governs this property. Buyers will sign an acknowledgement that they have read and understood this document when purchasing a BMR unit. Applicants must secure a loan preapproval and a final loan through a MOHCD Participating Lender who have an "X" marked under BMR.																																

	All titleholders must complete a first-time homebuyer workshop through one of the City's 5 approved first-time homebuyer counseling agencies in order to apply. Please visit http://homeownershipsf.org/workshops for a schedule of upcoming classes. Verification of Homebuyer Education Completion from a MOHCD approved first-time homebuyer workshop is required. Verification of Homebuyer Education Completion is valid for 1 year from the date of issuance. A copy of the First Mortgage Pre-Approval and Verification of Homebuyer Education for every adult household member on loan and title to the BMR unit must be included with the BMR Lottery Application. Applicants with financial needs are encouraged to apply for down payment assistance. • BMR Downpayment Assistance Loan Program (BMR DALP): A deferred down payment assistance loan available to qualified households for up to 15% of the purchase price. • Teacher Next Door Program (TND): A loan assistance program for active educators serving the SFUSD. • Mortgage Credit Certificate (MCC): A certificate that allows first-time homebuyers to claim a tax credit for up to 15% of the annual mortgage interests paid. There is an application fee if applying for MCC. • Federal Home Loan Bank's WISH program provides up to \$15,000 in matching funds for down payment assistance. Please ask your mortgage lender for more information. All MOHCD Participating Lenders should explore these options with BMR buyers. Households must be as many people (or more) as number of bedrooms in the unit to apply. See other qualification rules in the Limited Equity Loan Disclosure Book and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual 2018.
Contact person (realtor/sales agent)	<i>Please include the sales agent's California BRE license information.</i>
Company Name and Address (including city/state/zip code)	<i>Enter</i>
Office Hours (including any special message)	<i>Example:</i> Monday-Friday 10am-5pm. Please call, email, or text to schedule an appointment. <i>Enter</i>
Phone	<i>Enter</i>
Email	<i>Enter</i>
Website	
Realtor commission	Are buyers' realtors eligible for commission on these BMR units? Yes ☐ / No ☐ If yes, what percentage of the sales price will be offered to the buyer's realtor?

	If yes, how does a BMR buyer “register” his or her realtor in order for the realtor to obtain cooperating broker commission?
How to submit a lottery application	Applications must be submitted in either of the following ways: 1. Apply online through the SF Housing Portal at: https://housing.sfgov.org OR 2. Mail in paper application to the following address: BMR INSERT YOUR PROJECT NAME PO Box 420847 San Francisco, CA 94142 If you choose to mail in a paper application, you must also include a self – addressed stamped envelope with the application in order to receive your lottery ticket. T. Paper applications can be downloaded from https://housing.sfgov.org/ or picked up from [one of the 5 approved housing counseling agencies listed at https://sfmohcd.org/homebuyer-counseling-agencies.] OR [the Green Company at 333 Birch Street, San Francisco, CA 94115.] For more information & assistance with your application, contact [HomeownershipSF: (415) 202-5464 or info@homeownershipsf.org] OR [The Green Company: (415) xxx-xxxx or 333birchbmr@green.com.]
Application deadline	<i>Set the application deadline no sooner than 45 calendar days from the posting date</i> _____, 5pm Applications must be <u>received</u> in paper form (no faxes or emails) by 5pm on the date of the deadline. Postmarks will not be accepted. Applications received after the application deadline will not be accepted.
Open houses	<i>Please complete. Must hold at least 3 open houses, 1 on a weekday evening, 1 on a weekend day and another date/time of your choice. Open houses must be at least 2 hours long.</i>
Information session(s)	<i>Required for 10 or more BMR units only.</i> Weekday - Date: _____ Time: <i>(must be between 5pm and 7pm)</i> Location: Mayor’s Office of Housing and Community Development 1 South Van Ness Avenue, 5th Floor San Francisco, CA 94103 <i>Please plan to send a member of your sales team to talk about the building.</i>
Lottery date, time and location	<i>All lotteries for new units will be held at the MOHCD office unless a larger space is needed. Please request a date no sooner than 21 calendar days after your application deadline for projects with 5 or more units. For projects with 5 or less units, please request a lottery date no sooner than 14 calendar days. MOHCD will contact you to confirm the lottery date/time.</i>

	<i>Enter date, time and location. Please do not hold lottery on a Monday or Friday.</i> Date: Time: Location: Mayor's Office of Housing and Community Development 1 South Van Ness Avenue, 5th Floor San Francisco, CA 94103 Applicants do not need to be present at the lottery. Lottery results will be posted here within one week of the lottery.
Date Lottery Results will be posted	<i>7 Calendar days from the date of the lottery</i>
Lottery preferences	<u>All</u> individuals and households may enter the lottery for a BMR unit. However, in accordance with the Developer's Marketing and Operating Obligations, the following lottery preferences will apply to this Redevelopment Project: 1. Certificate of Preference (COP) - Western Addition Residential A and C Certificate of Preference Holders. More information about the COP Program can be found here: http://sfmohcd.org/certificate-preference. 2. Certificate of Preference (COP) - Hunter's Point Residential A and C Certificate of Preference Holders. More information about the COP Program can be found here: http://sfmohcd.org/certificate-preference. 3. Displaced Tenant Housing Preference (DTHP) Households in which one member holds a DTHP Certificate from the Mayor's Office of Housing and Community Development will be given preference in the lottery ranking process, for up to 20% of the units in projects (<i>insert number of units here</i>). DTHP certificate holders will also be included in the live/work preference regardless of their current live/work location. More information about the DTHP Program can be found here: http://sfmohcd.org/displaced-tenant-housing-preference-program-0. 4. Neighborhood Resident Housing Preference (NRHP) Households that submit acceptable documentation that at least one member lives in the same supervisorial district or within a half-mile of the project will be given preference in the lottery ranking process under the Neighborhood Resident Housing Preference (NRHP). The NRHP applies to up to 40% of the units in projects (<i>insert number of units here</i>). The NRHP status of all applicants will be listed on this posting one week prior to the lottery. More information about the NRHP Program can be found here: http://sfmohcd.org/neighborhood-resident-housing-preference. <i>Note: The DTHP and NHRP only apply to projects with 5 or more BMR units. Please delete the DTHP and NHRP information listed above if your project has less than 5 BMR units.</i> 5. Live or Work in San Francisco Housing Preference Households that submit acceptable documentation that at least one member lives or works in San Francisco will be given preference in the lottery ranking process.

	If the number of units available exceeds the number of qualified applicants in the above listed preference, the units will become available to other qualified applicants outside of San Francisco. Applicants in each preference category must meet program requirements in order to complete the sale or rental. For more information about the lottery process and housing preferences, please refer to the MOHCD Housing Preferences and Lottery Procedures Manual.
Special note(s)	<i>Enter special notes here, such as great reasons to buy in this building!</i> Note here

Attachment B – COP Postcard Template

(Postcard must be at least 5x7 and have a matte finish on Side Two)

Side One:

New Affordable Homes for Sale in the Mission

Exterior Photo	Interior Photo

Homestead Village, 123 Jones Street, San Francisco

- **6 “Below Market Rate” homes for sale:** 1 studio, two-bedroom, and 3 three-bedroom homes priced from \$___ - \$___ without parking, and \$___ - \$___ with parking.
- Applicants must be a first-time homebuyer and earn no more than the income levels listed below:

Household Size	One Person	Two Person	Three Person	Four Person	Five Person
Maximum Annual Income	\$86,200	\$98,500	\$110,850	\$123,150	\$133,000



Please contact 415-701-5526 for more information about the COP Program.

(Please Make Room for Address Label and Postage)

Side Two:

Return Address:

Mayor's Office of Housing & Community Development
1 South Van Ness Ave., 5th Floor
San Francisco, CA 94103

Reserved for
Postage

Applications must be received by 5pm on Tuesday, June 11, 2019

Apply online to ensure your application is received on time at
<http://housing.sfgov.org> or mail a self-addressed stamped envelope to:
BMR-333 BIRCH, P.O. Box 420847, San Francisco, CA 94142.

Postmarks are not considered.

For more information & assistance with your application, contact
[HomeownershipSF: (415) 202-5464 or info@homeownershipsf.org] OR
[The Green Company: (415) xxx-xxxx or 333birchbmr@green.com.]

Reserved for address label

Information session

Friday, October 14, 2016, 5pm
Location: 1 South Van Ness Ave., 5th Floor

Open House Dates

Oct. 18, 6-8pm; Oct. 22, 11-1pm; Nov. 3, 12-2pm
Location:

Lottery (attendance is optional)

May 8, 2018 at 3:30pm
Location: 1 South Van Ness Ave., 5th Floor

SPACE RESERVED FOR USPS

Attachment C – Marketing Flyer Template

New Affordable Homes for Sale in the Mission

Exterior Photo	Interior Photo

Homestead Village, 123 Jones Street, San Francisco

- **6 “Below Market Rate” homes for sale:** 1 studio, two-bedroom, and 3 three-bedroom homes priced from \$____ - \$____ without parking, and \$____ - \$____ with parking.
- ____ Parking spaces will be made available to BMR buyers by lottery rank.
- Applicants must be first-time homebuyers and earn no more than the income levels listed below:

Household Size	One Person	Two Person	Three Person	Four Person	Five Person
Maximum Annual Income	\$86,200	\$98,500	\$110,850	\$123,150	\$133,000

Applications must be received by 5PM on Tuesday, June 11, 2019. Apply online through DAHLIA, the SF Housing Portal at <http://housing.sfgov.org> or mail in a paper application with a self-addressed stamped envelope to: BMR **333 BIRCH**, P.O. Box 420847, San Francisco, CA 94142. **Postmarks are not considered.**

Paper applications can be downloaded from <http://housing.sfgov.org> or picked up from [one of the 5 approved housing counseling agencies listed at <http://housing.sfgov.org/housing-counselors>] OR [the Green Company at 333 Birch Street, San Francisco, CA 94115.]

For more information and assistance with your application, contact [HomeownershipSF: (415) 202-5464 or info@homeownershipsf.org. For questions about the building and units, contact The Green Company: (415) xxx-xxxx or 333birchbmr@green.com.] **OR** [The Green Company: (415) xxx-xxxx or 333birchbmr@green.com.]

Units are monitored through the San Francisco Mayor’s Office of Housing and Community Development and are subject to owner occupancy and other restrictions. Visit www.sfmohcd.org for program information.

Information Session

Weekday, DATE, 5pm

San Francisco Mayor’s Office of Housing and Community Development
1 South Van Ness Ave., 5th Floor

Continued on Next Page

Homestead Village, 123 Jones Street, continued

Open House Dates

June 2, 5-6pm; June 12, 12-1pm; June 25, 5-6pm
123 Jones Street

Lottery Date

(Attendance is optional)

Weekday, DATE, TIME

San Francisco Mayor's Office of Housing and Community Development
1 S. Van Ness Avenue, 5th Floor

• Units are monitored through the San Francisco Mayor's Office of Housing and Community Development and are subject to owner occupancy and other restrictions. Visit www.sfmohcd.org for program information.

All adult household members who will be on the title of the BMR unit must complete first-time homebuyer education through one of the City's 5 approved housing counselling agencies in order to apply. Applicants can visit www.homeownershipsf.org for upcoming program orientations and workshops. Please sign up right away, as classes tend to fill up quickly.

Applicants for **333 Birch Street** must obtain a loan pre-approval from one of the approved participating lenders listed at <http://sfmohcd.org/mohcd-authorized-lender-list> to apply.

Cooperating broker commission available at 2.5% for BMR buyer's realtors.

All applicants are encouraged to apply. Lottery preference will be given to: *Certificate of Preference, **Displaced Tenant Housing Preference holders, ***Neighborhood Residents and households that currently live or work in San Francisco.

**Certificate of Preference (COP) holders are primarily households displaced in Redevelopment Project Areas during the 1960's and 1970's.*

*** Displaced Tenant Housing Preference (DTHP) holders are tenants who were displaced by an Ellis Act eviction, Owner Move In eviction and tenants displaced by fire.*

****Neighborhood Resident Housing Preference (NRHP) are residents living in the same supervisorial district or within ½ mile buffer of the project.*

Please contact 415-701-5613 or visit www.sfmohcd.org for more information about lottery preferences.

BMR Unit	Bedroom Count	Bath Count	Square Feet	Floor	Price w/Parking	Price w/o Parking	Income Maximum	Monthly HOA Dues w/o Parking	Monthly HOA Dues w/Parking
113	Studio	1	448	1	\$225,000	\$175,000	100% of AMI	\$400	\$450
114	1	1	605	1	\$260,000	\$210,000	100% of AMI	\$450	\$500
105	2	1	846	1	\$300,000	\$250,000	100% of AMI	\$500	\$550



Attachment D – Building Signage Template

The building signage is required for any project that will include two or more BMR units. The signage should be no smaller than 5' by 5' and indicate the number and type of BMR unit in the project and include a web address and/or telephone number for interested applicants to learn more. The signage must be placed on the building or construction site throughout the entire marketing period. Please note that you will be required to provide MOHCD with a picture of the signage at the culmination of our marketing period.

Attachment C: Site Transit and Amenities Maps



- Completed Open Space
- Future Open Space
- Bay Area Bike Share Station
- Bicycle Lane (striped or marked)
- Bicycle Route (shared travel lane)
- TMA Shuttle Caltrain Route
- TMA Shuttle Transbay Route
- TMA Shuttle Loop Route
- TMA Shuttle East Route
- TMA Shuttle West Route
- Project Location
- Muni T-Line
- Muni 55-Line

MISSION BAY BLOCK 9a TRANSIT

FEBRUARY 2017

0 200 800
100 400



Attachment C: Site Transit and Amenities Map



Professional Services Contracting Summary

MBS Block 9A Professional Services Budget (incl. SBE participation) December 22, 2021 Discipline	Consultant Names	SBE Goal Credit*			For Informational Purposes Only		WBE	WMBE
		Fees	SBE - SF	MBE	Ethnicity**			
Lead Architect/Architect of Record	Mithun	\$1,778,640.00	\$1,778,640.00	\$1,778,640.00	\$1,778,640.00	JV Credit		
Associate Architect	YA Studios	\$804,600.00	\$804,600.00	\$804,600.00	\$804,600.00	African American		
Structural Engineer	KPFF	\$325,000.00						
Landscape Architect/Irrigation	GLS Landscape/Arch.	\$185,000.00	\$185,000.00	\$185,000.00				
Mechanical and Electrical Engineering Consultant (ex lighting)	Engineering 350	\$448,400.00	\$448,400.00	\$448,400.00				
Civil Engineer	LUK	\$64,000.00	\$64,000.00			Asian		\$ 64,000.00
Civil Surveyor	LUK	\$23,000.00	\$23,000.00			Asian		\$ 23,000.00
Joint Trench Consultant	UDCE	\$38,500.00	\$38,500.00	\$38,500.00	\$38,500.00	Asian/Chinese		
Environmental Engineering Consultant	AEW	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	Asian/Chinese		
Geotechnical Engineer	Langan	\$320,000.00	\$ -	\$ -				
Permit Expeditor	3S LLC	\$75,000.00	\$75,000.00	\$ -			\$75,000.00	
Acoustical Consultant	CSDA	\$25,500.00						
Lighting Design Consultant	Weller Design Architectural Lighting	\$64,400.00	\$64,400.00	\$64,400.00			\$64,400.00	
Waterproofing Consultant	Simpson Gumpertz+Heger	\$172,500.00						
Corrosive Soils Consultant	JDH Corrosion Consultants	\$14,500.00	\$14,500.00					
Methane Mitigation Consultant	JSS Construction	\$55,000.00						
Green Building Consultant	Bright Green Strategies	\$55,000.00	\$55,000.00			Asian		\$ 55,000.00
Trash Consultant	American Trash Management	\$20,000.00						
Commissioning Consultant	Red Car Analytic	\$40,000.00						
HOA Budget	John Beatty + Associates	\$8,550.00						
Condominium Mapping	Frederick Seher & Associates	\$32,000.00	\$32,000.00	\$32,000.00				
Construction Management	Waypoint Consulting	\$280,000.00						
PaleoWest	Archaeological Services	\$22,055.00						
Consolidated Engineering Labs	Materials Testing & Inspections	\$183,783.00						
SBE Outreach Consultant	Monica Wilson	\$50,000.00	\$50,000.00	\$50,000.00		Latina		\$ 50,000.00
Totals		\$5,110,428.00	\$3,658,040.00	\$3,426,540.00	\$2,646,740.00		\$139,400.00	\$ 192,000.00
Percent of Total Fees			71.58%	67.0%	51.8%		2.7%	3.76%

* Full SBE credit is granted to joint ventures and associations where the SBE partner performs at least 35% of the joint venture or association agreement.
** Please note: ethnicity and/or gender data were gathered from third-party sources and presented for informational purposes only. Such data have not been verified.

Attachment E

Professional Service Firm Biographies

Associate Architect: YA Studio (with Mithun) (SF LBE, MBE)

Y.A. studio is an African-American owned architectural design firm committed to bringing an innovative and modern approach to the field. Yakuh Askew, a San Francisco native, established the firm in 2004 with an eye towards socially responsible growth, environmental responsibility, and community. The firm embraces a diverse portfolio that includes custom single-family homes, affordable housing, large multi-family developments, restaurants, office and retail spaces. Y.A. studio is a certified MBE and LBE. OCII projects include Alice Griffith, Hunter Point Shipyard Block 10A, Hunters Point Shipyard Block 48, and Mission Bay Block 9.

Mechanical, Electrical, Plumbing(MEP): Engineering 350 (SF LBE)

Engineering 350 is a collaborative, interdisciplinary firm that offers innovative building services through a diverse team of engineers and consultants. The firm places a high value on sustainability, and strives to provide client solutions that balance environmental benefit, social well-being and financial viability. Engineering 350 was established 2010 in San Francisco and is a certified LBE. Past OCII projects include Mission Bay Block 6E and the Uber Headquarters in Mission Bay.

Landscape Architect: GLS Landscape Architecture (SF LBE)

GLS Landscape Architecture was established in San Francisco in 1993, and specializes in the integration of traditional architecture, landscape architecture, urban design and infrastructure. Located in the heart of the Mission District, GLS employs 18 multi-disciplinary staff members, and the firm has extensive experience designing complex urban landscapes for both institutional and residential buildings. Past OCII projects, include Hunters View Redevelopment Phases 1 and 2, Broadway-Sansome Affordable Housing, Renee Cazenave Apartments at Transbay Block 11A, Transbay Block 9, Mission Bay Block 7, and 1110-1190 4th Street (in Mission Bay), and Mission Bay Block 6W.

Attachment F: Loan Evaluation

Citywide Affordable Housing Loan Committee

San Francisco Mayor's Office of Housing and Community Development
Department of Homelessness and Supportive Housing
Office of Community Investment and Infrastructure
Controller's Office of Public Finance

400 China Basin Street

Mission Bay South Block 9a

\$71,684,522 Permanent Funding including
\$1,500,000 in Additional Predevelopment Funding

Evaluation of Request for:

Permanent Forgivable Loan including
Additional Predevelopment funds

Loan Committee Date:

November 5, 2021

Prepared By:

Pam Sims, Senior Development Specialist

Sources and Amounts of New Funds
Recommended:

\$71,684,522 OCII Bond Proceeds (this
amount includes \$1,500,000 in Additional
Predevelopment funds)

Sources and Amounts of Previous City Funds
Committed:

\$3,500,000 OCII Bond Proceeds

Total Funding Recommended

\$71,684,522 OCII Bond Proceeds

ROPS Line

ROPS 21/22 Line 419

NOFA/PROGRAM/RFP:

Mission Bay South Block 9a RFP May 2019

Applicant/Sponsor(s) Name:

Michael Simmons Property Development
(MSPDI)
Curtis Development (CD)
Young Community Developers (YCD)

EXECUTIVE SUMMARY

Sponsor Information:

Project Name:	Mission Bay South Block 9a	Sponsor(s):	MSPDI, CD, and YCD
Project Address (w/ cross St):	400 China Basin Street (bordered by Mission Rock St to the north, Terry A Francois Blvd to the east, and Bridgeview Way to the west)	Ultimate Borrower Entity:	350 China Basin Partners, LLC

Project Summary:

Michael Simmons Property Development ("MSPDI"), Curtis Development ("CD"), and Young Community Developers ("YCD"), (collectively, the "Sponsors"), are requesting \$1,500,000 in additional predevelopment financing for Mission Bay South Block 9a ("Block 9a") to fund design, engineering (\$970,000), and indicator pile program (\$534,000) work during the predevelopment period, and \$70,184,522 in gap financing. The total contract amount to their architect, Mithun, will not change. As a result of the expedited permit processing occurring under the Housing Executive Directive, Sponsors have already received the Site Permit, and therefore are incurring more of the architecture and engineering fee earlier than was originally budgeted for during the predevelopment period in order to submit the first two DBI addenda and complete bidding and negotiations for a construction closing in April 2022.

Block 9a will be a 148-unit affordable for-sale housing development on an almost 30,000 square foot parcel for low- to moderate-income households earning between 80-110% of area median income as defined by the San Francisco Mayor's Office of Housing and Community Development (the "Project"). The Project will be comprised of 50 one-bedrooms, 63 two-bedrooms, and 35 three-bedrooms. To ensure the units remain permanently affordable, these units will be sold as part of the OCII's Limited Equity Program, as further explained in Section 7.7 Proposed Unit Mix and Affordability Table and Narrative.

Anticipated permanent sources for the Project include: a forgivable OCII loan, unit sales proceeds, and an IIG grant from the State of California Department of Housing and Community Development ("HCD"). The final financial plan ("FFP"), including a final forgivable loan amount that may be reduced based on the final sources and uses for this Project, will be approved by the OCII Executive Director and MOHCD Director closer to the start of construction of the Project. The only funds available to the Developer prior to the approval and execution of the Disposition and Development Agreement (DDA) and close of construction financing will be the remaining predevelopment funds from the Predevelopment Loan plus \$1,500,000 in Additional Predevelopment Funding described in this evaluation and the attached Predevelopment Budget. If awarded, the Project will begin construction in May 2022 with a target completion by May 2024.

Project Description:

Construction Type:	Type I	Project Type:	New Construction
Number of Stories:	Both Blocks: 5 (4 over podium)	Lot Size (acres and sf):	0.69 acres/29,939 sf
Number of Units:	148	Architect:	Mithun YA Studio
Total Residential Area:	129,712 sf	General Contractor:	Nibbi Baines
Total Commercial Area:	NA	Property Manager:	N/A
Total Building Area:	180,063 sf	Supervisor and District:	Sup. Haney – D6
Land Owner:	OCII		
Total Development Cost (TDC):	\$134,220,472	Total Acquisition Cost:	\$0
TDC/unit:	\$906,895	TDC less land cost/unit:	\$906,895
Loan Amount <u>Requested</u> :	\$1,500,000 (additional predevelopment) \$70,184,522 (gap financing)	Request Amount / unit:	\$10,135 (addl predev) \$474,220 (gap financing)
HOME Funds?	N	Parking?	Y: 34 spaces .23 1 ratio

PRINCIPAL DEVELOPMENT ISSUES

- **Additional Pre-development Funding.** Typically, an initial predevelopment loan is sized to take a project fully through the predevelopment period prior to starting construction. The Sponsor team, however, is requesting an additional \$1.5M to cover predevelopment expenditures to the start of construction for: architectural and related costs (including \$80,000 for an extended schematic design period); additional geotechnical studies; owner's representative; and, the indicator pile program (as described below). In the past, OCII has funded additional predevelopment funding requests in the Mission Bay Project Area. For more details see Section 6.4 Proposed Additional Predevelopment Financing.
- **Indicator Pile Program.** Funds for the requested indicator pile program will facilitate start of construction two months earlier than would otherwise be possible, thus condensing the construction period and saving costs. To ensure compliance with construction lender requirements, the Sponsor clarified that the general contractor will indemnify the title company against any potential mechanic liens related to the indicator pile program. The indemnification allows the title company to provide insurance to the construction lender, and therefore, addresses concerns that may arise from the indicator pile program. For more details See Section 2.5 Environmental Issues.
- **Permanent Financing Sources.** As this Project is a 100% affordable homeownership development, the available sources of permanent funding are extremely limited. The current permanent budget includes three sources: OCII funding, sales proceeds, and HCD IIG funding. Currently, it appears the Project is well-placed to receive an IIG award in the Fall 2021. The Sponsor was prepared to apply for CalHome funding, however, the funding guidelines were released in early August and these funds are being targeted towards communities that have been negatively impacted from the fires throughout California (see Section 6.3 Fulfillment of Loan Conditions). Also, while the September 2021 NOFA has broadened the funding availability, the Sponsors would not meet the eligibility requirements because the non-profit has not developed two-like projects in the past four years. Therefore, this source is not currently a likely source for this Project. Should the eligibility guidelines change in a subsequent funding round, the Sponsor will apply for these funds as stated in Section 9.2 Recommended Loan Conditions.

- Unit Absorption Rate.** A condition of the predevelopment loan was to complete a market study to determine the anticipated absorption rate, or how quickly the units are likely to sell. The study was completed in July 2021, and determined an absorption rate of 10 units/month on average, or about 15 months to complete sales, considering the affordable pricing and the inventory of comparable market rate ownership projects. On September 28, 2021, MOHCD met with the Sponsor to discuss the Below Market Rate (BMR) application process and MOHCD's timeline from pricing to closing of BMR units. At that meeting MOHCD staff informed the Sponsor that they anticipate 4-5-unit closures/month for a total of approximately 30 months. The unit closing schedule is conditioned in Section 9.2. As the project continues through the predevelopment and construction phases of development, the Sponsor will update the study to reconfirm the absorption rate. OCII is focused on this rate because it ultimately determines adequacy of the marketing and sales team budget, as well as minimizing construction loan interest during the absorption period. To achieve the absorption period closer to that indicated by the market, the Sponsors have increased the marketing budget to include funding for a temporary MOHCD staff person to be dedicated to the Block 9a sales process. For more details see Section 7.1 Market Study.
- Per Unit OCII Subsidy.** Anticipated per unit OCII subsidy is high at \$508K per unit. This is due primarily to the fact that this is a homeownership project, and there are minimal non-OCII funding sources for this housing type. However, if other sources become available (such as the Affordable Housing Program (AHP) or CalHome), the Sponsor will apply, and if secured, the OCII subsidy will be reduced. Also adding to the higher subsidy is reducing the average pricing Area Median Income ("AMI") from 95% to 90% (which reduces the sales proceeds and increases the OCII subsidy). Both items are discussed in Section 6.5. See also Attachment H Comparison of City Investment in Other Housing Developments. Finally, the budget currently includes maximum contingencies and an escalation factor of 5%. These line items may be reduced as the Project proceeds towards a construction start.

SOURCES AND USES SUMMARY

Predevelopment Sources	Amount	Terms	Status
OCII Loan	\$3,500,000	The Repayment Term began on execution loan date and end at either (1) the close of construction financing for the Project or, (2) the Developer and OCII execute a construction/permanent loan agreement that incorporates the predevelopment and permanent loan amounts. @3%	Committed
Additional OCII Loan Amount	\$1,500,000	Same as above	This request
Total	\$5,000,000		

Permanent Sources	Amount	Terms	Status
OCII Loan	\$75,184,522	36 months, forgiven upon issuance of Project Certificate of Completion @ 0-3%	This request (includes predevelopment)
Sales Proceeds	\$55,717,121	N/A	Not committed
Infill/Infra Grant (IIG)	\$4,243,993	55 yrs @ 0%/forgivable	Not committed
Total	\$135,145,636		

Uses	Amount	Per Unit	Per SF
Acquisition	\$0	\$0	\$0

Hard Costs	\$105,199,208	\$710,805	\$584
Soft Costs	\$27,266,428	\$184,233	\$151
Developer Fee	\$2,680,000	\$18,108	\$15
Total	\$135,145,636	\$913,146	\$751

1. BACKGROUND

1.1. Project History Leading to This Request.

Housing Production in the Mission Bay Project Area

Block 9a is part of the 303-acre Mission Bay redevelopment district that was administered by the former San Francisco Redevelopment Agency ("SFRA" or "Agency"). Pursuant to state law redevelopment agencies throughout the State of California were eliminated on February 1, 2012 under California Health and Safety Code §§34161 et seq (the "Redevelopment Dissolution Law"). OCII is the Successor Agency to SFRA and is responsible for implementing SFRA's enforceable obligations. On January 24, 2014, the California Department of Finance ("DOF") determined "finally and conclusively" that the Mission Bay South OPA and tax allocation pledge agreement are enforceable obligations under AB 26 and AB 1484. FOCIL-MB, LLC ("FOCIL") is the Master Developer of the Mission Bay redevelopment district.

The Project will be the seventh Agency Affordable Housing Parcel in the Mission Bay South Redevelopment Project Area, and the eleventh affordable housing development in the overall Mission Bay Project Area. The Project will be the first and only affordable homeownership project in Mission Bay South, and the second overall in Mission Bay after Mission Walk in Mission Bay North:

Location	Site	Project Name	# of Units	Housing Type	Year Completed
Mission Bay North	Block N2-2	Rich Sorro Commons	100	Family rental	2002
	Block N3A-1	Mission Creek Senior Community	140	Senior rental (including 49 units for homeless seniors)	2006
	Block N5	Crescent Cove	36 ¹	Family rental	2007
	Blocks N4-A, N4-A2	Mission Walk	131	Family for-sale	2009
Mission Bay South	Block 13 East	1180 4th Street	150	Family rental (including 50 units for homeless families)	2014
	Block 7 West	Five 88	200	Family rental	2017
	Block 6 East	626 Mission Bay Boulevard North	143	Family rental (including 29 units for homeless families)	2018

¹ 36 units out of total 234 restricted units built at the Crescent Cove development were OCII-sponsored. The remaining 198 restricted units are Master Developer inclusionary units.

	Block 3 East	1150 Third Street	119	Homeless Veterans (62 units) and Family rental (57 units)	2021
	Block 6 West	691 China Basin Street	152	Family rental (including 38 units for HOPE SF)	2021
	Block 9	410 China Basin Street	141	Homeless adult rental units	2022 (Under Construction)
	Block 9a	400 China Basin	148	Family for-sale	2024 (Subject property)
Total			1,460		

The Mission Bay North and South project area includes the development of 6,514 housing units, with 1,916 units (29%) set aside as affordable. To date, 1,456 of those affordable units have been completed in both inclusionary and OCII-funded projects, leaving approximately 452 affordable units to be developed. The majority of the 1,916 affordable units will be developed on OCII Affordable Housing Parcels contributed by the Master Developer to OCII pursuant to the Mission Bay OPA. The Project site is part of this land contribution.

In the Spring of 2019, a Request for Proposals (RFP) was released looking for development teams to develop affordable homeownership housing opportunities in Mission Bay South on Block 9a, with average unit prices at 95% AMI and affordable to households averaging 100% AMI. The Sponsor submitted a response by the July 22, 2019, deadline. The Loan Committee previously considered predevelopment funding at its January 17, 2020, meeting, where \$3.5M was approved by the Committee.

- 1.2. Applicable NOFA/RFQ/RFP. Mission Bay South Block 9a RFP May 2019. For more information see Attachment E. The proposal from MSPDI, CD, and YCD was the only submittal and received an average score of 90.6 out of 100 possible points. The proposal scored particularly well in the massing, developer experience, and workforce and contracting categories. Based on the scoring results, the evaluation panel recommended that MSPDI, CD and YCD be selected to develop the Project.
- 1.3. Borrower/Grantee Profile. (See Attachment B for Borrower Org Chart; See Attachment C for Developer Resume and Attachment D for Asset Management Analysis)
 - 1.3.1. Borrower. 350 China Basin Partners, LLC
 - 1.3.2. Joint Venture Partnership. The Borrower entity, 350 China Basin Partners LLC, is a limited liability company, formed by Mission Bay 9a LLC, whose sole member is Curtis Development ("CD"), Michael Simmons Property Development ("MSPDI"), and Young Community Developers ("YCD") to develop, own and sell the Project. Mission Bay 9a LLC and MSPDI are co-managing members and YCD is a member of the Borrower entity.

The development team has over sixty years of combined development experience developing affordable and market rate housing in SF including both homeownership and rental. Michael Simmons of MSPDI developed four of the City's subsidized homeownership projects and Charmaine Curtis of CD has developed market rate condominium projects in San Francisco and the East Bay, including the City's first loft condominiums. Charmaine and Michael are long time colleagues having worked together on several projects. They bring deep experience in affordable homeownership through the City's Limited Equity Program; buyer outreach, preparation and marketing; HOA creation, project and buyer financing; and San Francisco public approvals.

Implementation of the Developer's Workforce and Contracting Action Plan will be led by YCD which has a proven track record of successfully providing employment preparation and placement for young people, getting unemployed San Franciscans back to work, and fostering economic development in the communities it serves. YCD will partner with Construction Industry Workforce Initiative (CIWI) to expand and enhance opportunities and resources to disadvantaged communities.

1.3.3. Demographics of Board of Directors and Staff. Both Charmaine Curtis and Michael Simmons are African American, and 350 China Basin Partners, LLC does not have a Board of Directors or a staff. The Developers have partnered with YCD, as a development associate. Founded in 1973, YCD is a long-time training organization operating in the Bayview Hunters Point neighborhood. Historically seen as an African American organization, YCD has 11 leadership positions and of these: African American - 7; Asian American – 1; Latinx – 2; and unknown – 1. The Board of Directors is comprised of 12 members: African American – 7; Asian American – 2; White – 1; and unknown – 2.

1.3.4. Racial Equity Vision. The developers do not have a Racial Equity Vision however, Michael Simmons has spent his 30-year career working in the historic African American neighborhoods in San Francisco: Western Addition; Bayview Hunters Point; and Visitation Valley. As a developer and project manager Mr. Simmons continues to work to improve the lives of African Americans through new and renovation of existing affordable housing, and community facilities. He often works with Boards of Directors of community organizations and churches to help realize their vision. Most recently, he worked in the Bayview with Providence Baptist Church and Mercy Housing to develop Bayview Hill Gardens, a 73-unit affordable housing project for homeless families after the church found that families were not able to leave the shelter because of the lack of affordable housing opportunities. He also worked with College Trak to build a new center to support District 10 high schoolers prepare to attend College. In the Western Addition neighborhood, he has worked with Bethel AME church to renovate their existing affordable housing stock, and, with Ella Hill Hutch Community Center to renovate the center and upgrade the preschool. Currently, Mr. Simmons is working with the boards of Third Baptist Church to renovate a 104-unit family housing project and, Thelma Arms to renovate its 142-unit senior housing project. He also developed the Kapor Center for Social Justice in Oakland which is focused on diversifying technology to allow more black and brown people to participate.

As an African American woman working in the Bay Area, Ms. Curtis has held many leadership positions and continues to develop projects. She sits on several Boards and works to mentor and promote young women of color in the development field.

Since 1973, YCD has considered its work with young people in the D10 community. During the pandemic, YCD has continued working to assist young people in graduating high school, assisting with personal and professional development, have trained the community to work for the Environmental Protection Agency (EPA), and has provided an "Essential Services Hub" for the Bayview Hunters Point community, and all of San Francisco. YCD's participation in the partnership totals 1%. YCD plays a vital role in the project by having their interns work on the project and exposing them to the process of housing development. YCD also brings its deep expertise in community development and local hiring and training.

1.3.5. Relevant Experience. Both Ms. Curtis and Mr. Simmons have 30 years of experience working in development as developers and project managers. For this project, Charmaine and Michael will split duties. Charmaine has extensive experience developing market rate condominiums and apartments in the Bay Area and Michael has developed, marketed, and sold four affordable condominium projects under the

Agency's Limited Equity Program (LEP). At Fillmore Park, which is located in the Western Addition at 1345 Turk Street, Michael was successful in outreaching to Certificate of Preference (COP) holders with a successful purchase. Prior to initiating the marketing program, Michael spent a year engaging with community leaders, providing workshops and presentations at local community events to encourage African American residents in the community to purchase an affordable housing unit. For over 10 years, YCD has been an active partner in development projects in San Francisco including projects with AMCAL and CCDC. YCD is currently partner on three projects it successfully won through an MOHCD multi-site RFP. YCD brings integral and valuable experience with community development, training and local hiring. YCD has an experienced development staff who participates at every level of the development process.

- 1.3.6. Project Management Capacity. In addition to sharing the responsibility of project manager, 400 China Basin Condominiums is the primary project for MSPDI allocating 50% of his time to manage this project.

- 1.3.7. Past Performance. N/A

- 1.3.7.1. City audits/performance plans. N/A

- 1.3.7.2. Marketing/sales/operations. MSPDI's marketing and outreach efforts at Fillmore Park (completed in 2012-13) were laudable, as Michael was outreaching to African Americans in the Western Addition community prior to MOHCD's or OCII's current concentrated effort to retain and bring-back the African American community to San Francisco. Special workshops were held to assist individuals with credit repair. Mr. Simmons and his team (all African Americans) literally held interested homebuyers' hands through the process. Ms. Lisa Fitts worked extensively with five COP certificate holder households, and ultimately assisted one household through the entire process. Fillmore Park is a very diverse and inclusive development, with African, African American, Latino, Asian and White families in the development. At 400 China Basin, the team's goal is to have as much, or greater success with all interested homebuyers, and especially African American individuals and households.

2. SITE (See Attachment F for Site map with amenities)

Site Description	
Zoning:	Zoning for the site is form-based and is governed by the Redevelopment Plan for the Mission Bay South Redevelopment Project and the Design for Development (D4D) for the Mission Bay South Project Area. Height limits are calculated as averaged by block (not parcel) and are as follows: the maximum building height for buildings facing China Basin and Bridgeview Way shall be 90' and a mid-rise height of up to 90' is allowed. 100% lot coverage is allowed up to a maximum height of 40'; above 40', 75% lot coverage is allowed. The Commission for Community Investment and Infrastructure approved the Project's Basic Concept and Schematic Designs ("BCSD") and associated D4D amendments on February 16, 2021; the Project is now fully entitled.
Maximum units allowed by current zoning (N/A if rehab):	The maximum number of units on the site is based on form-based zoning, so while there is no set number, the number of units is limited by what can fit within the site's height and bulk restrictions per the D4D.

Number of units added or removed (rehab only, if applicable):	N/A
Seismic (if applicable):	Seismic Zone 4
Soil type:	According to the Mission Bay Subsequent Environmental Impact Report ("SEIR"), Block 9a was submerged in shallow water in Mission Bay before it was filled. Existing data in the vicinity indicate there is about 15 to 36 feet of fill. The fill is underlain by weak compressible clay known as Bay Mud with thicknesses of 80 to 120 feet. The development team has engaged Langan Engineering to perform a geotechnical analysis and the report dated February 8, 2021 showed that the site has challenging soil conditions similar to other Mission Bay sites with fill consisting of Bay Mud and corrosive soils, requiring driving approx. 200 ft long piles to bedrock.
Environmental Review:	As part of its actions on September 17, 1998 establishing the Mission Bay Redevelopment Project Areas, the Redevelopment and Planning Commissions certified the Final Subsequent Environmental Impact Report ("FSEIR"), adopted findings under the California Environmental Quality Act ("CEQA"), adopted a series of mitigation measures, and established a comprehensive system for mitigation monitoring. The Board of Supervisors and other City departments adopted similar findings and mitigation monitoring plans. The Sponsors will work with OCII staff to ensure that the mitigation monitoring measures for Block 9a are appropriately documented and implemented. Mission Bay Development Group completed a full environmental analysis of the site and did not find any issues of environmental significance. The environmental analysis was reviewed under the Maher Ordinance and a Site Mitigation Plan dated April 24, 2019 was approved by the Department of Public Health. The entirety of Mission Bay is subject to the Risk Management Plan submitted to the California Regional Quality Water Board and the California Department of Toxic Substances Control dated May 11, 1999.
Adjacent uses (North):	Currently a surface parking lot, planned for a multi-story housing or office development serving the Mission Rock development.
Adjacent uses (South):	Block 10a (to the south of the Site) is a 99-unit mid-rise condominium building known as "Radiance" that was completed in 2008. Block 10 (to the southwest of the Site) is a 329-unit mid-rise condominium building known as "Madrone" that was completed in 2012.

Adjacent uses (East):	P19 bioswale area immediately adjacent to the Site and bordered by Terry Francois Boulevard.
Adjacent uses (West):	Mission Bay South Block 9, currently under construction and using portions of the Site for staging. The Block 9 project will provide 141 units of affordable rental housing with supportive services for formerly homeless adults.
Neighborhood Amenities within 0.5 miles:	Supermarkets: Gus's Community Market is 0.3 mile from the site, and a Safeway supermarket located at 4th and King Streets, 0.6 mile from the site. Additionally, there is a supermarket located at 4th and Harrison Streets, 1 mile away from the site. Pharmacy: 2 Pharmacies are located just over half mile from the site – one Walgreens at 4th and Townsend Streets and Safeway at 4th and King Streets. Library: The Mission Bay Public Library is located 0.5 mile from the site. Parks: Mission Creek Park is 1 block from the site; Mission Creek Park is 2 blocks from the site; and Bay Front Park is 2 blocks away (the San Francisco Bay Trail can be accessed from this park).
Public Transportation within 0.5 miles:	The site is located 1.5 blocks from the Muni Third Street Mission Rock Light Rail station and approximately 0.5 mile from the San Francisco Caltrain station on 4th Street between King and Townsend streets. A stop for the Muni 55-16th street bus line is located 2.5 blocks from the site.
Article 34:	Exempt. Project is homeownership.
Article 38:	Exempt. Project is new construction and is outside the exposure zone map area.
Accessibility:	The Project will provide 5% of mobility units and 2% of communications units in compliance with the California Department of Real Estate's accessibility requirements for condominium projects.
Green Building:	Per the RFP, the building must either achieve a Green Point Rating of 125 or above, or LEED Gold rating. The OCII design team continues to work with the Sponsors to ensure the Project meets one of these two thresholds.
Recycled Water:	Not exempt. The project does fall within the boundaries of the designated recycled water use area, and therefore it will be required to comply with the City's Recycled Water Ordinance. As such, the Sponsors will be required to install purple pipe to recycle grey water within the project.
Storm Water Management:	Developments that disturb 5,000 square feet or more of the ground surface must comply with the Storm Water Design Guidelines which includes the submission of a Storm Water Control Plan to the SFPUC for review. The development team initially met with SFPUC on October 6, 2020, and presented the preliminary stormwater management approach. The Preliminary Stormwater Control Plan was submitted on April 2, 2021, and was approved (with comments) on June 11,

	2021. The Final Stormwater Control Plan was submitted on August 18, 2021.

- 2.1. Description. Block 9a is a relatively level site bounded by Mission Rock Street to the north; the proposed Bridgeview Way to the west; China Basin Street to the south; and, the proposed Park P19 and Terry Francois Boulevard to the east. The site is rectangular in shape with plan dimensions of about 110 feet by 275 feet.
- 2.2. Zoning. The Project is fully entitled. The OCII Commission approved the Project's BCSD and associated D4D amendments on February 16, 2021.
- 2.3. Probable Maximum Loss. N/A
- 2.4. Local/Federal Environmental Review. CEQA clearance was obtained through the Mission Bay EIR. It is not currently anticipated that NEPA clearance will be necessary because no federal funds are anticipated.
- 2.5. Environmental Issues.
 - Phase I/II Site Assessment Status and Results. Mission Bay Development Group completed a full environmental analysis of the site and did not find any issues of environmental significance. The environmental analysis was reviewed under the Maher Ordinance and a Site Mitigation Plan has been approved by the Department of Public Health. Also, the Sponsor had a Phase I Assessment completed specifically for this site (Phase 1 ESA prepared by AEW Engineering, Inc. dated December 4, 2020).
 - Potential/Known Hazards. Soil contaminants currently exist in the Project Area and are assumed to exist at the Site. The principal chemicals that have been detected in the Project Area are petroleum hydrocarbons and inorganic compounds (e.g. heavy metals). Additionally, asbestos was detected in the soil primarily from serpentine rock, which was imported to fill Mission Bay. No significant concentrations of Volatile Organic Compounds were detected in soil or groundwater. Limited concentrations of select volatiles such as benzene were found around the former petroleum storage facilities in the Mission Bay South Redevelopment Project Area, but are not expected to affect the Site. None of the chemicals detected at the Site in the environmental studies prepared on behalf of MBDG are at concentrations that would pose a threat to human health following the completion of the planned development in the Project Area. All applicable mitigation measures set forth in the Site Mitigation Plan approved by DPH will be implemented.
 - Foundation Requirements. In addition to this preconstruction work, the design and construction team has recommended an "indicator pile program" that would involve placing test piles on the site 2-3 months prior to construction start. Not only will this allow testing of the pile performance but also further refinement of the design and depth of the piles prior to ordering all of the piles. The team is planning to start both the stone column and indicator pile program in February 2022. That work will be completed under a smaller contract with Nibbi Brothers prior to construction loan closing and the formal Notice To Proceed with construction.
- 2.6. Adjacent uses and neighborhood amenities. See table above.
- 2.7. Green Building. The project will exceed the requirements of the RFP with a Green Point rating of 195.
3. COMMUNITY SUPPORT
 - 3.1. Prior Outreach. The Mission Bay Citizens Advisory Committee ("CAC") of the San Francisco Redevelopment Agency is comprised of 15 members who represent neighboring residents, property owners, and Citywide interests. The CAC is charged with providing advice to OCII on all matters pertaining to the planning and implementation of the Mission Bay North and South Redevelopment Project Areas.

Staff presented the RFP to the CAC in April 2019 prior to Commission approval and issuance of the RFP. A member of the CAC participated in the interview and evaluation panel for the RFP developer selection. Staff presented an update on the selection process and the selected developer to the CAC on October 10, 2019 in advance of the anticipated January 2020 OCII Commission action on the Predevelopment Loan and Exclusive Negotiations Agreement. On January 14, 2021, OCII and the Sponsors and architect presented the BCSD to the CAC, who took an action to recommend and forward the design to Commission for review and approval. At each meeting, the CAC members were supportive of the Project.

3.2. Future Outreach. As the Project progresses toward construction closing, Sponsors will continue to engage the CAC on major updates, including start of the indicator pile program and any construction-related activities.

3.3. Proposition I. Not required

4. DEVELOPMENT PLAN

4.1. Site Control. FOCIL-MB, LLC ("FOCIL"), the master developer of Mission Bay South, currently owns the site. Pursuant to the Mission Bay Owner's Participation Agreement ("OPA"), the site will be transferred at no cost to OCII for the development of affordable housing. The OPA requires a 100-day notice to FOCIL to express OCII's intent to exercise a Memorandum of Option transferring ownership of the site to OCII.

4.1.1. Proposed Property Ownership Structure. After FOCIL transfers the site to OCII (typically concurrently with the close of construction financing), OCII will immediately transfer the land to 350 China Basin Partners, LLC. As this is a homeownership development, there will be no ground lease, but the land transfer will be governed by a Disposition and Development Agreement ("DDA") by and between OCII and the development entity. After construction is complete, individual units will be transferred to homebuyers pursuant to the Limited Equity Program and OCII's assets related to the site, which are the surviving provisions of the DDA (including, but not limited to, the Grant Deed, insurance requirements, covenants and restrictions) and individual unit deed restrictions, will be transferred to MOHCD as the designated Housing Successor under Redevelopment Dissolution Law. Following the sale of the individual units, MOHCD's obligations will be limited to monitoring and resale to ensure the permanent affordability of the units by qualified households.

4.2. Proposed Design.

The proposed massing takes advantage of the site's location at the edge of San Francisco Bay. The U-shaped eight-story building form wraps a podium level outdoor space with views across the water toward the East Bay, forming an open space for residents to enjoy outdoor amenities and the adjacent community room. A large rooftop deck will offer 360-degree views of the City and the Bay. A focal point entry at the corner of China Basin and Bridgeview Way will provide private access to the building lobby for residents as well as a "front porch" where residents can interact informally.

The most public, east-facing façade includes articulation with subtle references in its massing to the heritage of the busy port activities. Along the west side the building steps up in massing to create a scale and rhythm that relates to both the lower 4-5 story neighboring buildings and the taller forms proposed to the north at Mission Rock. The projecting roof line tilts up toward the main building entrance to the south, creating the identifiable entry.

Resiliency is a primary driver of the design. The entire ground floor is raised up to protect the residents' and city's investment from the effects of future sea level rise. Residences at

the lowest level are raised +4' by raised stoops and planters along Bridgeview. The main entrance and lobby are raised, but fully accessible.

Over 12,000 square feet of open space is provided on the second level courtyard and a roof deck. Community spaces are located adjacent to the podium level open space to maximize opportunities for resident interaction and community building. Open spaces have been carefully programmed to allow for various activities to take place at the same time. A parking garage with approximately 34 spaces provides an up to parking ratio of .25:1, which is consistent with the RFP. Estimated area square footages are as follows:

Avg Unit SF by type:	Average unit net square footage (paint-to-paint): 1-brdm avg sf: 500-550 sf 2-brdm avg sf: 800-850 sf 3-brdm avg sf: 1,000-1,100 sf
Residential SF:	129,712
Circulation SF:	21,094
Parking Garage SF:	12,376
Common Area SF:	6,376
Building Total SF:	180,063
Maintenance/Back of House SF:	10,505

The building is currently proposed to be Type I construction set on steel piles. Cost containment strategies will continue to be pursued during the predevelopment period. Two elevators and two sets of stairs will reach all levels and the roof deck. Exterior materials will include stucco, metal, and cement board panels with accents of wood used for screens. High-quality aluminum windows and doors will be used. A high-performance building envelope will be developed for energy efficiency and the roof will have a large area available for photovoltaic panels. <https://400chinabasin.com/>

- 4.3. Construction Supervisor/Construction Representative's evaluation Mission Bay Block 9a's massing study proposes an eight story, Type-1 concrete building. The 148-unit development is scheduled to break ground in early 2022, with a 24-month construction period. Based on lessons learned in Mission Bay South, the Sponsor is using several strategies to address settlement issues including: below-slab conduits; and, piping and sand interceptors which must be supported by (or hung from) the building structure. All utility laterals will require flexible settlement connections as they exit from the pile-supported building footprint to the public right of way. Thus, there are a variety of ramps, stairs, double slabs and sand-set unit pavers. These added features to address settlement issues add approximately \$1.2M to the construction costs. Additionally, the Sponsor has included a \$250k sidewalk reserve to address additional settlement issues. Mithun, the architect of record, and the Sponsor worked with two contractors who have built in the neighborhood to provide preliminary estimates for the Response to Request for Proposals dated July 22, 2019.

The projected hard costs of \$710,873 per unit is a bit higher than other similar type buildings with the exception of 730 Stanyan. However, the per-bedroom costs and per-square foot are comparable with the average of all projects. The majority of other like-type buildings are significantly smaller with a greater number of one-bedroom units. In comparison, 730 Stanyan has significantly higher construction costs, and the Project's TDC is comparable with 730 Stanyan. In conclusion, the Project is comparable to other type-like

projects or projects with a similar unit and bedroom count. Please see the Comparison of City Investment in Other Housing Development Chart (Attachment H).

In addition to addressing settlement issues through added construction features, the higher hard costs, are also related to: the type of construction; the number, type, size and depth of the piles; the proximity to the Bay (which required the ground floor lobby and units to be 4' above the low point of the site); longer ramps, elevated stoops, a stepped ground floor structure, structural foam fill) which all make the foundation and level one slab much more complicated; and, the higher number of 2- and 3-bedroom units in the development. The additional costs to address these features is approximately \$5M. Moreover, the project does include 5% escalation, plus 15% of bid, plan check, and hard cost contingencies in accordance with MOHCD underwriting guidelines. At eight-stories, Type I construction is necessary because the typical wood-frame over concrete construction that is used for mid-rise residential buildings is limited to 7 stories (i.e., a maximum of 5 stories of Type III-A over 2 stories of Type-I podium). In order to maximize the site density per the stated goals of the RFP, Mithun has designed up to the 90' height limit on a slim parcel and fit 148 units of housing within eight-stories. The eighth story pushes the construction type from Type III-A to Type-I throughout the upper stories of the building.

Additionally, due to the Site's soil conditions, topography, and the proposed building height and type, the foundation will include 200-foot below ground surface piles for the unconsolidated soil in Mission Bay. The site's Bayfront location also necessitates a design that will accommodate sea level rise, and thus portions of the ground floor will be raised 4-5 ft above grade, which further adds to costs. The Project costs include the cost of building a parking garage for about 34 spaces as well as additional FF&E, such as in-unit washer and dryer and dishwasher. It should be noted that the project falls slightly below the .25:1 parking requirement because the Sponsor added units in order to keep the overall development costs at a comparable amount per unit.

The cost of this project will continue to be refined as the development team moves through the Construction Documents (CDs) process.

4.4. Commercial Space. N/A

4.5. Service Space. N/A

4.6. Interim Use. The Mission Bay Development Group owns the site, and is currently in a license agreement with the developers of Block 9. The northern portion of the site is currently used as a construction staging area for Block 9, while the southern portion of the site is occupied by a paved lot and construction equipment.

4.7. Infrastructure. To address the infrastructure needs of this project, the Sponsors have applied for HCD IIG funding. All related infrastructure costs (including environmental remediation, onsite improvements, offsite improvements and parking) are eligible under the IIG Program.

4.7.1. N/A

4.8. Marketing, Occupancy, and Sales. The OCII Commission has authorized staff to apply the preferences in City Affordable Housing Programs, as amended from time to time, to affordable housing approved by OCII, to the extent that those preferences are consistent with redevelopment plans, enforceable obligations, and applicable law. The preferences applicable for the Project are:

1. Certificate of Preference holders (As part of the implementation of the COP holder preference, the Sponsors will comply, as administered by MOHCD, with Assembly Bill 1584 and "prioritize descendants of displaced residents for affordable housing.")
2. Displaced Tenant Preference Program
3. Neighborhood Resident Housing Preference for 40% of the lottery units if project does not include State funding sources, and 25% of the lottery

units if project does include State funding sources (if such preference does not conflict with other financing sources)

4. San Francisco Residents or Workers
5. Members of the General Public

Any authorized preference shall be permitted only to the extent that such preference: (a) does not have the purpose or effect of delaying or otherwise denying access to a housing development or unit based on race, color, ethnic origin, gender, religion, disability, age, sexual orientation, or other protected characteristic of any member of an applicant household; and (b) is not based on how long an applicant has resided or worked in the area. OCII will work with the selected developer teams to resolve potential occupancy conflicts and determine additional occupancy preferences and marketing requirements and to ensure adherence to OCII occupancy preferences and marketing requirements as further described in the Inclusionary Affordable Housing Program Monitoring and Procedures Manual (Procedures Manual), as amended from time to time.

4.9. Relocation. N/A

5. DEVELOPMENT TEAM

Development Team			
Consultant Type	Name	SBE/LBE	Outstanding Procurement Issues
Project Executive	Charmaine Curtis, CD	Y	N
Project Manager	Michael Simmons, MSPDI	Y	N
Project Manager	Divali Magnus, YCD	Y	N
Architect	Mithun Architects	N	N
Landscape Architect	GLS	Y	N
JV/other Architect	YA Studio	Y	N
General Contractor	Nibbi Construction/Baines Group	N/Y	N
Owner's Rep/Construction Manager	Waypoint Consulting	N	N
WCAP Consultant	Monica Wilson	Y	N
Other Consultant	Engineering 350	Y	N
Legal	Lubin Olson	N	N
1 st Time Homebuyer Consultant	Lisa Fitts	Y	N

5.1. Procurement Plan.

The development team, led by Monica Wilson, has been working with OCII's Contract Compliance team throughout the predevelopment period. To date the project has achieved 74% participation on soft cost consultants. Ms. Wilson will work with the general contractor to ensure maximum exposure to LBE/SBE/MBE/BIPOC subcontractors with a goal of achieving 50% participation.

Opportunities for BIPOC-Led Organizations. The development team is committed to providing opportunities for BIPOC-Led organizations and individuals for the project. Two significant examples of their commitment are selecting a JV of Baines-Nibbi JV for the construction of the development, and engaging an associate architect that was founded and led by Yakuh Askew, a native San Franciscan of African American heritage.

6. FINANCING PLAN (See Attachment H for Cost Comparison of City Investment in Other Housing Developments; See Attachment I and J for Sources and Uses and Additional Predevelopment)

6.1. Prior MOHCD/OCII Funding:

Loan Type/ Program	Loan Date	Loan Amount	Interest Rate	Maturity Date	Repayment Terms	Outstanding Principal Balance
OCII Bond Proceeds	April 17, 2020	\$3,500,000	3%	The earliest date of either: the close of construction financing, or the date construction /permanent loan agreement (which incorporates loan amount and interest) is executed.	Began on execution loan date and ends at either (1) the close of construction financing or, (2) execution of a construction/permanent loan agreement that incorporates the predevelopment and permanent loan amounts. @3%	\$103,021
Total:		\$3,500,000				\$103,021

6.2. Disbursement Status. Total funds disbursed to date is \$3,396,979 with \$103,021 available to disburse. However, the gap loan proceeds (\$70,184,164) may not be drawn prior to the close of construction financing and execution of the Disposition and Development Agreement (DDA). The \$1,500,000 in additional predevelopment and funding recommended in this evaluation is for eligible expenses relating to architecture and the pile indicator program.

6.3. Fulfillment of Loan Conditions. Below is the status of Loan Conditions since this project was last at Loan Committee for Predevelopment Financing on January 17, 2020:

- Sponsor will issue an RFQ for a general contractor in accordance with OCII's Contract Compliance specifications, will obtain cost estimates from the selected contractor, and will work with their architectural team to ensure that the site's development costs are managed to OCII's approval. Sponsors will cooperate with OCII and competitively solicit a general contractor with the intent of creating a joint venture or similar partnership opportunity, to the extent practicable and economically feasible, between a general contractor and an OCII-recognized SBE contractor. Furthermore, Sponsors will cooperate and require the general contractor to exercise good faith efforts to select subcontractors who either are SBEs or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs. **Status: Completed. Nibbi/Baines selected.**
- Sponsor must evaluate the likelihood of securing CalHome, IIG, Federal Home Loan Bank of San Francisco's Access to Housing and Economic Assistance for Development (AHEAD), and any public or private downpayment assistance program funds for the Project and will work with OCII staff to determine the most appropriate financial plan with the goal of adding alternative permanent subsidy sources and minimizing OCII subsidy. Sponsor will provide an analysis of potential sources and strategies and provide a revised financing plan by June 1, 2020. **Status: Completed. The AHEAD Program funds are not applicable for this project because they are only available for very low-income individuals, also the August 2021 CalHome funding availability is for Disaster Assistance, and only available for the six counties impacted by the 2020 Federal Disaster Declarations. The September 2021 NOFA, broadens the areas of eligibility however, the Sponsor does not meet the threshold eligibility requirements. The Sponsor has applied for IIG funding, and the applicant has received information that the Project is very competitive. Finally, the Sponsor will evaluate applying for AHP funds.**

- Sponsor will commission, with OCII review and approval of the scope of work, a market study for this Project and will adjust the assumed absorption rate and sales period as appropriate. The market study firm will be directed to provide drafts of the marketing study contemporaneously to the Sponsor and OCII for review and finalization. **Status: Completed**
- Sponsor will solicit, with OCII review and approval of the scope of work, a marketing & sales team, that may include non-commercial brokers, for OCII review and approval prior to soliciting bids for the same. **Status: On-going. The development team will begin the process of securing a marketing and sales team in the Fall 2021. MOHCD staff will be included in the planning process prior to proceeding.**
- Sponsor will provide all responses to the RFQ/P for a marketing & sales team for OCII review and approval prior to selection of the same. **Status: On-going.**
- Sponsor will work with staff at OCII and MOHCD to review the marketing & sales budget, including the sales fee assumptions, and will adjust, as appropriate, based on data from the market study and marketing & sales team bids. **Status: On-going. OCII met with the development team to discuss the marketing and sales budget in early August 2021, and met with MOHCD in mid-August, and again in late September. Additional meetings will be held with MOHCD BMR staff to determine the roles, responsibilities and budget for each party.**
- Sponsor will provide drafts of the RFQ/P for a HOA budgeting and reserve consultant(s) for OCII review and approval prior to soliciting bids for the same. **Status: Completed.**
- Sponsor will provide responses to the RFQ/P for a HOA budgeting and reserve consultant(s) for OCII review and approval prior to selection of the same. **Status: Completed. John Beatty & Associates was selected earlier last year as part of the comprehensive “small consultants” RFP.**
- Sponsor will work with staff at OCII and MOHCD to review HOA fees and reserve assumptions and will adjust, as appropriate, based on data from existing affordable homeownership housing sites. **Status: On-going.**
- Sponsor will conduct ongoing outreach to the Mission Bay community to solicit input, address concerns, and educate community members on various aspects of the Project. **Status: On-going.**

6.4. Proposed Additional Predevelopment Financing

6.4.1. Additional Predevelopment Sources Evaluation Narrative. OCII is providing all predevelopment funding to the Project which is not sufficient to bring the Project to the start of construction. The Developer has requested an additional \$1,500,000 during predevelopment, which will come from this request for funding. See description below.

6.4.2. Additional Predevelopment Uses Evaluation: The Sponsors are seeking an additional predevelopment loan of \$1,500,000. The budget includes costs \$970,000 related to design through construction documents, and \$564,000 for the indicator pile program. As stated above, the Sponsor is requesting funding for the indicator pile program two months ahead of construction close to condense the construction schedule and save on costs. The additional predevelopment funds are needed to get the project through to the start of construction. In addition to the architectural additional services, the added architectural design and the design subcontractors funding is all for work needed to get the project through to construction start. Finally, the Owners Rep line item budget increased due to the extended schematic design period. It is important to note; the perceived increased architectural category costs are *actual* costs for architectural and engineering services because the architect provided estimates and

when the bids came in the predevelopment loan amount was already finalized. The Sponsors budgeted well to this point, and now the additional \$1.5M is needed to continue the momentum to a Spring 2022 construction start.

- 6.5. Proposed Permanent Financing. No funding, other than the OCII Predevelopment Loan, has been secured for this Project, although an IIG funding application was submitted to the State. The Developer is researching if it is competitive for an AHP award. A final financial plan ("FFP") will be developed by staff, and approved by the OCII Executive Director and MOHCD Director. Permanent financing is also being sought at this time as the project has received sign-off on design development drawings, and construction drawings are 50% complete.

6.5.1. Permanent Sources Evaluation Narrative: The

Borrower proposes to use the following sources to permanently finance the project:

- OCII Loan: The current budget assumes an OCII subsidy of \$75,184,522 or \$508,003 a unit and represents approximately 53% of total development costs. This higher subsidy amount is typical of a homeownership project where the availability of alternative funding sources is very limited. The OCII subsidy will be used during predevelopment and construction and will be structured as a loan with 0-3% interest; upon the completion of sales of all the units and OCII's issuance of a certificate of completion under the DDA, the loan will be forgiven.
- Sales Proceeds: Although the RFP requested that units be priced at a 95% AMI average affordability at 95% AMI, COP holder data that 90% AMI average pricing is more attractive to some COP homebuyers. Therefore, sales prices are calculated per OCII guidelines with average affordability at 90% AMI and sales prices calculated based on the unadjusted 2021 AMIs published by MOHCD and applying the maximum 33% housing costs to income. Reducing the average AMI by 5% added approximately \$4.5M (\$30,400/unit) to the OCII subsidy however, this reduction does allow for additional units to be available at the lower AMIs. The assumed mortgage interest rate of approximately 4% represents the ten-year rolling average for a 30-year fixed-rate mortgage at the time of the attached proforma, per RFP guidelines. HOA dues were estimated based the recently completed market study. Sales proceeds are subject to variables such as changes in AMI's published at the time of unit sales, and interest rates. This source may also be increased if additional down payment assistance sources are identified and committed to the Project. Sponsors are required as a condition of this loan to pursue such funds and lower OCII subsidy as a result.
- IIG: Sponsors have assumed a grant of \$4.2M from HCD's IIG program. The application for this grant was submitted in July 2021 with awards announced in October 2021. Recently, the Sponsor received notification from HCD that the project has received all eligible points on their IIG application.
- Construction Loan: The Sponsors are projecting a construction loan based on net sales proceeds of \$59M with a 30-month term and an assumed interest rate of 6% (Prime plus .5%) based on the current lending market and information provided by a financing broker and a prospective lender.

Sponsors are unlikely to be able to provide the guarantees that commercial banks typically require for a construction loan. However, based on Sponsor's preliminary discussions with prospective lenders, a commercial bank has indicated that they are willing to provide a construction loan without the guarantees if OCII agrees to subordinate its interests relative to the bank during construction. Since OCII/MOHCD typically subordinates its interests to

the construction lender on rental projects, OCII may be willing to do so here so long as the terms and conditions of said loan are subject to OCII review and approval.

As an on-going condition, the development team will be required to submit draft RFQ/PS for a construction lender to OCII for review and approval prior to soliciting bids. They will also be required to submit all responses and letters of interests for review and approval prior to construction lender selection.

6.5.3. Permanent Uses Evaluation:

Development Budget		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Soft Costs	N/A	The soft costs/bedroom are \$106,571, and for the project are higher to other construction-like projects. This is due to increasing the sales commission percentage from 1.5% to 3% per discussions with MOHCD staff. Additionally, the Sponsor has added \$500k for MOHCD staffing during the sales process.
Hard Cost per unit are within standards	N	Hard costs are \$710,873/ unit (includes \$11.3M in contingencies and \$4M (or 5%) in escalation). These costs are higher than other like developments included in the Construction Cost Comp chart, however, the Project is much larger than other Type I developments. Additionally, (as described in Section 4.3, the Project is including features to address the soils conditions, sidewalk settlement issues, and its proximity to the Bay. Adding to the costs is the 5% escalation that has been included in the budget.
Construction Hard Cost Contingency is at least 5% (new construction) or 15% (rehab)	Y	Hard cost contingency is 5%. Bid, plan check, and hard cost contingencies total approximately 7.5%. 5% escalation has been included.
Architecture and Engineering Fees are within standards	Y	A&E fee (inclusive of reimbursables & additional services) is \$3,954,790, which is 3.8% of hard costs (including contingencies).
Construction Management Fees are within standards	Y	The construction management fee of \$280K is within the maximum allowable per MOHCD's underwriting guidelines for a large project.
Developer Fee is within standards, see also disbursement chart below	Y	Total Dev Fee is \$2,680,000 (\$2.2 million as the base fee + \$480,000 as compensation for a large development), per OCII Homeownership Developer Fee. (See further details below.) Total At-Risk Dev Fee is \$1,580,000.
Soft Cost Contingency is 10% per standards	Y	Soft Cost Contingency is at 10% (not including construction loan interest).

Capitalized Operating Reserves are a minimum of 3 months	N/A	Budget includes: unit warranty and self-insured retention reserves of \$1.48M; capitalized HOA reserves at \$1.1M to cover \$815k in HOA fees that need to be paid until all units are sold plus \$250k for sidewalk maintenance reserve, as discussed in Section 4.3. Sponsors will work with OCII and MOHCD to establish whether this amount is adequate.
Capitalized Replacement Reserves are a minimum of \$1,000 per unit (Rehab only)	N/A	N/A

6.5.4 Developer Fee Evaluation:

As the Project is an affordable for-sale development and therefore not tax credit eligible, MOHCD's Tax Credit Developer Fee Policy does not apply. Instead Sponsor was directed to follow OCII's Homeownership Developer Fee Policy (March 2019) that was included as an attachment to the RFP and reads largely as follows:

Consistent with MOHCD's developer fee policy (most recently updated July 20, 2018) for affordable, tax credit rental projects receiving soft loans from the City, the OCII homeownership developer fee will be subject to the same maximum as a tax credit rental project funded by MOHCD. Risks associated with the development of an affordable rental and homeownership project are assumed to be roughly equivalent.

The minimum developer fee for a homeownership development shall be \$2,200,000 ("Base Fee") plus \$10,000 per unit over 100 units, up to a maximum of \$4,000,000. In this case, Sponsor is requesting the Base Fee plus \$480,000 for the 48 units over 100, for a grand total of \$2.68M in developer fee, which is in line with this policy.

The maximum developer fee shall be comprised of a Project Management Fee and an At-Risk Fee. The Project Management Fee shall be one-half (50%) of the Base Fee (i.e. \$1,100,000) and shall be distributed according to achievement of certain development milestones set out below. The At-Risk Fee shall consist of the remaining half of the Base Fee plus the \$10,000 per unit over 100 units, and shall cover any cost overruns that exceed the available contingency funds in the final project budget approved by OCII at construction loan closing. In the event of any cost overruns after OCII's construction funding commitment, the Developer will contribute up to half of the total maximum fee (e.g. \$2,200,000 * 50% = \$1,100,000) to cover the overruns. Cost overruns beyond that amount can only be requested from OCII's Commission if no other funding sources are available and the availability of OCII funds are not guaranteed. The At-Risk fee shall be distributed according to milestones as set forth below.

The milestones for the payment of the developer fee to the sponsor are specified below

Total Developer Fee:	\$2,680,000	
Project Management Fee Paid to Date:	\$385,000	
Amount of Remaining Project Management Fee:	\$715,000	
Amount of Fee at Risk (the "At Risk Fee"):	\$1,500,000	

Milestones for Disbursement of that portion of Developer Fee remaining and payable for Project Management	Amount Paid at Milestone	Percentage Project Management Fee
Upon receipt of 50% CDs & cost estimate	\$165,000	15%
Construction close	\$330,000	30%
Project close-out	\$220,000	20%
Milestones for Disbursement of that portion of Developer Fee defined as At Risk Fee		Percentage At Risk Fee
At 50% construction completion	\$474,000	30%
Issuance by BRE of Final Subdivision Condominium Report	\$316,000	20%
Receipt of Temporary Certificate of Occupancy	\$474,000	30%
Project close-out – upon close of escrow/sale of final unit	\$316,000	20%

7. PROJECT MARKETING & OPERATIONS (See Attachment K for Unit Sales Analysis)

7.1 Marketing Plan & Sales Schedule

The Sponsor will comply with the Procedures Manual for marketing and selling the units. In addition, the Sponsor plans to offer a concierge program to Certificate of Preference Holders as well as provide hands-on support for other Occupancy Preference groups. They plan to hold monthly information sessions and make presentations at neighborhood and employment groups in order to encourage potential buyers to start early working with a homeownership readiness group. Several months prior to the lottery, Sponsor will work with potential buyers to get them ready for applications, explain the DAHLIA system and Limited Equity Program and the lottery in order to achieve a goal of at least 600 lottery participants. Post lottery, the sales, buyer interface, counseling and move in team will work with lottery winners to guide them through the purchase, closing and move-in process.

Sales Schedule

Unit sales will commence 6 months before construction completion with a lottery. The results of the lottery will also create a substantial applicant list to replace buyers who fall-out. The Sponsor has presented a unit sales closings and occupancy plan that anticipates 20 units closing in the first month after completion and continue at 7 units per month over the following 17 months, and 1 unit in the 18-month. (This schedule is supported by a recently completed market study for this project, anticipates absorption of 10 units/month on average.) As stated earlier, MOHCD anticipates 4-5-unit closings/month for an approximate 30-month sales period. The Sponsor, MOHCD, and OCII staff will work together to create an agreed upon unit sales closings and occupancy schedule as stated in Section 9.2.

7.2 Marketing & Sales Budget

Item	Budget
Website designer, branding, logo design, printing, advertising placement, multi-language services	\$140,000
COP Liaison	\$20,000
Social Media Manager	\$100,000
MOHCD Processing Support	\$550,000
Buyer Coordinator	\$444,000
Homeownership Counseling	\$40,000

Sales Center Costs	\$50,000
Move-in coordinator	\$70,000
Model unit furnishings	\$50,000
Misc (materials, move-in packages)	\$30,000
Total	\$1,494,000

Because the Sponsor has included funding for MOHCD staff in the permanent budget, now the Marketing line item budget is over the OCII Homeownership Developer Fee Policy (Attachment M), of \$7,500 per unit. The budget is now \$1,494,000 or \$10,094 per unit, which assumes \$500k for MOHCD staff services. When the Sponsor met with MOHCD in September 2021, the Sponsor was informed by MOHCD that its current capacity for application processing and the time necessary to qualify applicants after the lottery would result in 4–5-unit closings per month, for an approximate sales closing period of 2.5 years. As a result of that conversation, the Sponsor has added \$500k to the marketing budget, which will allow the Sponsor to fund a temporary underwriter and/or applicant intake staff member at MOHCD dedicated to the Block 9a development. The Sponsor will work with OCII and MOHCD staff to confirm that adding \$500k for MOHCD staffing will provide the capacity to handle 8 closings per month (see Section 9.2) reducing the sales period accordingly.

The marketing & sales budget also assumes \$350,000 (\$2,500 per unit) to a first-time homebuyer liaison, Lisa Fitts (a consultant who was included in the Sponsor's RFP response), to help shepherd COP holders and lottery applicants through the homebuying process. This role is envisioned as a warm hand-off service that provides COP holders and prospective buyers with the support they need to navigate the often confusing and layered process to home-buying. Sponsors represent that Ms. Fitts' involvement will ensure a smooth sales process and enable the team to meet their projected absorption period. In addition, the marketing & sales budget assumes \$200,000 for branding, advertisements, collateral material, website and social media.

As a condition to this loan, Sponsors will work with OCII and MOHCD staff to refine the marketing and sales budget to accurately reflect the internal and external costs associated with this task.

7.3 Homeowners Association, Fees, and Reserves

Sponsor will set up an HOA for the development. Sponsor or Sponsor-affiliated development entity will control the Board of Directors until 50% of the units are sold, at which time, control is transferred to the homeowners via their elected Board members. The HOA is responsible for the operation and management of the property, typically carried out through a property management agent. Included in operation and management of the common areas of the property, the HOA will manage the parking structure, and parking is unbundled from the units. OCII will review and approve the creation of an HOA by the Sponsors. Budgeted HOA fees are \$520, \$660, and \$840 per month for the 1-, 2- and 3-bedrooms respectively and are based on a market study conducted by the Concord Group in July 2021.

John Beatty & Associates will develop the HOA budget and reserve per DRE guidelines. The selected property manager will work with the developer and OCII to confirm the appropriateness of the budget and reserves.

7.4 Parking

Parking will be unbundled and rented to homebuyers according to the Procedures Manual, as amended from time to time, unless otherwise agreed upon by the Sponsor, OCII and MOHCD, or the OCII Commission adopts a different policy prior to the marketing of the units. The lack of on-site parking may affect interested homebuyers. The development team has engaged with

Common Interest to help determine the fee schedule, subject to the approval of the Sponsor, OCII and MOHCD. (These fees are used to reduce the total HOA budget prior to assessing fees on a per unit basis.)

7.5 Capital Needs Assessment & Replacement Reserve Analysis. N/A

7.6 Income Restrictions for All Sources. N/A

7.7 Proposed Unit Mix and Affordability Table and Narrative.

The 148 units include 50 one-bedroom (34%), 63 two-bedroom (43%), and 35 three-bedroom (23%) condominiums. The unit mix and affordability levels were established based on OCII goals established for this development. The units will be sold pursuant to OCII's Limited Equity Program, see Attachment N for the Limited Equity Homeownership Program Disclosure Book, in order to ensure the units will be permanently affordable.

For this Project, units will be affordable to households at four income tiers: 80%, 90%, 100%, and 110% of AMI, and average 95% AMI overall. In order to create bands of affordability for these income tiers, the units will be priced at 75%, 85%, 95%, and 105% of AMI respectively. Units for this Project will have average sales prices affordable to households earning 90% AMI.

Unit Type	Net Sq. Ft.	Quantity	% Median Income (for pricing)	% Median Income (for qualifying)
1 Bedroom, 1 Ba	500-550	10	75%	80%
1 Bedroom, 1 Ba	500-550	14	85%	90%
1 Bedroom, 1 Ba	500-550	14	95%	100%
1 Bedroom, 1 Ba	500-550	<u>12</u>	105%	110%
Subtotal 1 Bdrms		50		
2 Bedroom, 2 Ba	800-850	11	75%	80%
2 Bedroom, 2 Ba	800-850	22	85%	90%
2 Bedroom, 2 Ba	800-850	19	95%	100%
2 Bedroom, 2 Ba	800-850	<u>11</u>	105%	110%
Subtotal 2 Bdrms		63		
3 Bedroom, 2 Ba	1,000-1,100	8	75%	80%
3 Bedroom, 2 Ba	1,000-1,100	12	85%	90%
3 Bedroom, 2 Ba	1,000-1,100	7	95%	100%
3 Bedroom, 2 Ba	1,000-1,100	<u>8</u>	105%	110%
Subtotal 3 Bdrms		35		
TOTAL		148	90% average	95% average

8 SUPPORT SERVICES

8.1 Services Plan. N/A

8.2 Service Budget. N/A

9 STAFF RECOMMENDATIONS

9.1 Proposed Forgivable Loan Terms

Financial Description of Proposed Loan (Addl. Predevelopment)	
Loan Amount:	\$1,500,000 will be rolled into existing predevelopment loan of \$3,500,000 for a total loan amount of \$5,000,000.
Loan Term:	The Repayment Term will begin on the date of execution of the loan and end at either (1) the close of construction financing for the Project or, (2) the Developer and OCII execute a construction/permanent loan agreement that incorporates the predevelopment and permanent loan amounts. The permanent loan will be forgivable upon completion of the project in compliance w/OCII terms and therefore, so will the predevelopment loan.
Loan Maturity Date:	3 years from date of execution of the loan agreement.
Loan Repayment Type:	Construction/permanent loan proceeds
Loan Interest Rate:	3%

Financial Description of Proposed Gap Funding	
Loan Amount:	\$70,184,522
Loan Term:	36 months
Loan Maturity Date:	Upon issuance of Project Certificate of Completion
Loan Repayment Type:	Forgivable
Loan Interest Rate:	0%

9.2 Recommended Loan Conditions

Prior to Construction Closing:

- a) Prior to the close of gap financing, Sponsor (in coordination with MOHCD and OCII) will finalize the appropriate staffing plan and budget (with detail by staff person, roles, and hours to support the budget amount), for marketing and sales contract services, as well as, MOHCD staffing/services. MOHCD will provide appropriate information and materials to Sponsor to help facilitate this plan. MOHCD must attest that the sales timeline is realistic and staffing/services are adequate.
- b) Sponsor will inform Mission Bay Development Group (MBDG) staff of the area needed and length of time required to stage on Bridgeview Way.
- c) Sponsor will seek OCII's approval for any amount in excess of \$4.3M amount for the architecture and design budget.
- d) Sponsor will explore the possibility of obtaining AHP Funding for the 29 units at 80% Area Median Income (AMI). Sponsor will provide self-score to OCII staff. If this funding is secured then the OCII loan amount will be reduced.

- e) Sponsor will apply for CalHome funding, if the funding guidelines allow for this Project to be competitive for an award. If funding is secured, then the OCII loan amount will be reduced.
- f) Sponsor will provide drafts of the RFQ/P for a construction lender for OCII review and approval prior to soliciting bids for the same. OCII will review the RFQ/P for indemnification language.
- g) To determine the impact (if any) of the indicator pile program, Sponsor will provide responses to the RFQ/P for a construction lender for OCII review and approval prior to selection of the same.
- h) YCD will provide a draft Workforce and Contracting Action Plan (WCAP) and schedule of implementation.
- i) Sponsor must provide operating and development budgets (including contractor budgets) that meet MOHCD underwriting guidelines.
- j) Sponsor will obtain cost estimates from the selected contractor and will work with their architectural team to ensure that the site's development costs are managed to OCII's approval. Furthermore, Borrower shall cooperate with OCII and continue to require the general contractor to exercise good faith efforts to select subcontractors who either are SBEs or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs.
- k) Sponsor must provide OCII with an information memo outlining cost containment, efficiencies and innovation strategies to reduce overall project costs and maximize efficiency of OCII gap funding.
- l) Sponsor will update the sales proceeds projections with updated pricing inputs such as the interest rate assumption and HOA dues assumption for OCII and MOHCD review.
- m) Sponsor must provide a parking management plan, subject to approval by OCII and MOHCD. The parking management plan must include the fee schedule, projected revenues to cover parking maintenance costs, any contracted services to manage the parking garage, waitlist management and so forth. OCII and MOHCD will provide feedback during their review of the draft CC&Rs.
- n) Sponsor must provide an Early Outreach Plan 1 month after the start of construction and initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps they will take to market the project to OCII' preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents.
- o) Sponsor must provide quarterly updated responses to any letters requesting corrective action.

Post-Closing:

- a) Sponsor will submit to OCII for review and approval all the organizational documents (including, Covenants, Conditions and Restrictions, a Tentative Map, and a Reciprocal Easement Agreement) required for issuance of a Final Public Report by the California Bureau of Real Estate (BRE).
- b) Sponsor will submit a copy of the Preliminary Public Report application; a copy of the Conditional Public Report application; and, a copy of any revisions or resubmittals of any of these items.
- c) Sponsor will work with MOHCD and OCII to proactively identify and assess possible additional support for BMR homeowners, given it is a 100% affordable development, including targeting excess revenues to a fund to assist with escalating HOA costs and special assessments and post-purchase education about

HOA management, expected repairs and maintenance and legitimate construction defaults.

10 LOAN COMMITTEE MODIFICATIONS

LOAN COMMITTEE RECOMMENDATION

Approval indicates approval with modifications, when so determined by the Committee.

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Eric D. Shaw, Director
Mayor's Office of Housing

Date: _____

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Salvador Menjivar, Director of Housing
Department of Homelessness and Supportive Housing

Date: _____

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Sally Oerth, Interim Executive Director
Office of Community Investment and Infrastructure

Date: _____

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Anna Van Degna, Director
Controller's Office of Public Finance

Date: _____

Attachments: A. Project Milestones/Schedule
B. Borrower Org Chart
C. Developer Resumes including Experience and Capacity
D. Asset Management Analysis of Sponsor
E. Threshold Eligibility Requirements and Ranking Criteria
F. Site Map with amenities
G. Elevations and Floor Plans, if available
H. Comparison of City Investment in Other Housing Developments
I. Sources and Uses
J. Additional Predevelopment Budget
K. Unit Sales Analysis
L. CD, MSPDI, & YCD Memorandum of Understanding
M. OCII Homeownership Developer Fee Policy
N. Limited Equity Homeownership Program Disclosure Book

Chavez, Rosanna (MYR)

From: Ely, Lydia (MYR)
Sent: Tuesday, November 9, 2021 4:31 PM
To: Chavez, Rosanna (MYR)
Subject: 11/5/21 Loan Committee -- Mission Bay 9a homeownership project

Hi Rosie,

I approve of the funding request for gap and additional predevelopment funds for the homeownership project at Mission Bay Block 9a, which was at Loan Committee 11/5/21.

Thank you,
Lydia

Lydia Ely
Deputy Director for Housing
SF Mayor's Office of Housing and Community Development
Work from home: (415) 225-2936

Chavez, Rosanna (MYR)

From: Menjivar, Salvador (HOM)
Sent: Monday, November 8, 2021 2:30 PM
To: Shaw, Eric (MYR)
Cc: Chavez, Rosanna (MYR)
Subject: PREDEVELOPMENT AND GAP FUNDING FOR MISSION BAY SOUTH BLOCK 9a

I approve the request from Curtis Development, Michael Simmons Property Development, Inc., and Young Community Developers for \$1.5M in additional predevelopment loan funding and a gap funding loan amount of \$70,184,522 for a 148-unit homeownership new construction project in the Mission Bay South project area.



Salvador Menjivar
Director of Housing
Pronouns: He/Him
San Francisco Department of Homelessness and Supportive Housing
salvador.menjivar1@sfgov.org | 415-308-2843

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Chavez, Rosanna (MYR)

From: Oerth, Sally (CII)
Sent: Friday, November 5, 2021 11:58 AM
To: Chavez, Rosanna (MYR)
Cc: Sims, Pamela (CII)
Subject: MBS 9a predev and gap request - 11.5.21 Loan Committee

I approve the predevelopment and gap funding request for the Mission Bay Block 9a project, as presented at the 11.5.21 Loan Committee



Sally Oerth
Interim Executive Director

📍 One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
📞 415.749.2588
🏠 www.sfocii.org

Chavez, Rosanna (MYR)

From: Katz, Bridget (CON)
Sent: Friday, November 5, 2021 11:58 AM
To: Chavez, Rosanna (MYR)
Subject: Mission Bay South Block 9a

Approve

Bridget Katz

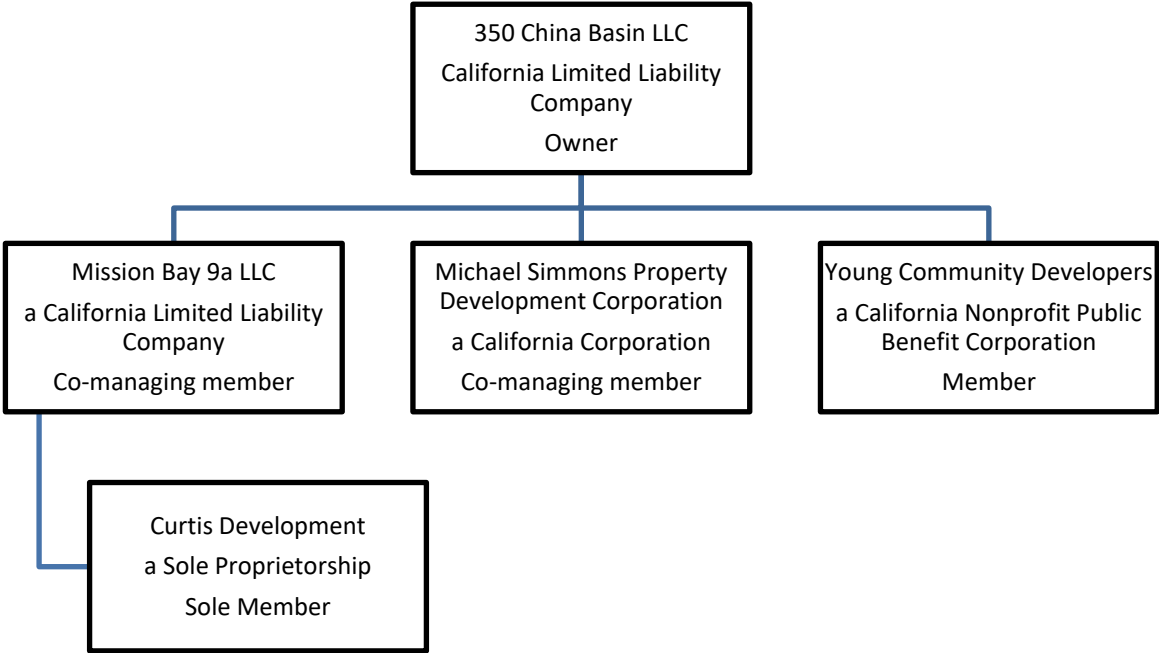
Development Finance Specialist, Office of Public Finance
Controller's Office | City & County of San Francisco
Office Phone: (415) 554-6240
Cell Phone: (858) 442-7059
E-mail: bridget.katz@sfgov.org

Attachment A: Project Milestones and Schedule

No.	Performance Milestone	Estimated or Actual Date	Contractual Deadline
A.	Prop I Noticing (if applicable)		
1	Acquisition/Predev Financing Commitment	<u>completed</u>	
2.	Site Acquisition	<u>2/2022</u>	<u>1/2022</u>
3.	Development Team Selection		
a.	Associate Architect	<u>completed</u>	
b.	General Contractor	<u>completed</u>	
c.	Owner's Representative	<u>completed</u>	
d.	Property Manager	<u>completed</u>	
e.	Service Provider	<u>n/a</u>	
4.	Design		
a.	Submittal of Basic Concept/50% SD & Cost Estimate	<u>completed</u>	
b.	Submittal of Schematic Design & Cost Estimate	<u>completed</u>	
c.	Submittal of Design Development & Cost Estimate	<u>completed</u>	
d.	Submittal of 50% CD Set & Cost Estimate	<u>8/2021</u>	
e.	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	<u>10/2021</u>	
5.	Environ Review/Land-Use Entitlements/Mapping		
a.	Phase I/Phase II and Negative Declaration under CEQA	<u>completed</u>	
b.	Maher Ordinance Compliance completed	<u>completed</u>	
c.	Geotechnical Investigations Complete	<u>completed</u>	
d.	Tentative Map application to DPW	<u>9/2021</u>	
e.	Preliminary Public Report Application to DRE	<u>9/2021</u>	
6.	Permits		
a.	Building / Site Permit Application Submitted	<u>completed</u>	
b.	Addendum #1 Submitted	<u>8/2021</u>	
c.	Addendum #2 Submitted	<u>11/2021</u>	
d.	Addendum #3 Submitted		
7.	Request for Bids Issued	<u>11/2021</u>	
9.	City Financing		

a.	Predevelopment Financing Committed	<u>2/2020</u>	
b.	Additional Predevelopment Funding Committed	<u>12/2021</u>	
c.	Gap Financing Committed	<u>12/2021</u>	
10.	Other Financing		
a.	Bank Construction Financing RFP	<u>11/2021</u>	
b.	CalHOME Financing Application	<u>N/A</u>	
c.	IIG Application	<u>completed</u>	
d.	Bank Construction Loan Close	<u>5/2022</u>	
e.	CalHOME Loan/Grant Close	<u>N/A</u>	
f.	IIG Committed	<u>10/2021</u>	
g.	Other Financing Application	<u>_____</u>	
h.	Other Financing Close	<u>_____</u>	
11.	Closing		
a.	Construction Closing	<u>4/2022</u>	
b.	Permanent Financing Closing	<u>n/a</u>	
12.	Construction		
a.	Notice to Proceed	<u>5/2022</u>	
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>5/2024</u>	<u>7/2024</u>
13.	Marketing/Rent-up		
a.	Early Outreach Plan Submission	<u>6/2022</u>	
b.	Marketing Plan Submission	<u>6/2023</u>	
c.	Commence Marketing	<u>9/2023</u>	
d.	Preliminary Public Report Issued by DRE (pink)	<u>11/2021</u>	
e.	Final Public Report Received from DRE (white)	<u>3/2024</u>	
f.	95% Sale & Occupancy	<u>5/2025</u>	
15.	Close Out MOH/OCII Loan(s)	<u>7/2025</u>	

Attachment B: Borrower Org Chart



Attachment C: Developer Resumes

CHARMAINE D. CURTIS

415-609-4996 | charmaine@curtis-development.com

- 1/09 – Current
San Francisco, CA
- PRINCIPAL, Curtis Development**
Curtis Development develops strategic urban infill multi-family and mixed-use projects, provides comprehensive development consulting services to profit motivated, non-profit and government clients. Highlighted work:
- Co-developed recently completed, fully leased 162-unit market rate rental project in Oakland, CA.
 - Crafting a feasible plan to develop a 432-unit mixed-income high-rise in San Francisco's South of Market with local non-profit developer.
 - Developing 68 units of privately financed homeless housing in Oakland.
 - Obtained first SB 35 approval in San Francisco.
 - Oversaw master planning and entitlements for the redevelopment of 600-unit Potrero Terrace & Annex public housing into an approximately 1,700 unit mixed-income development.
- 1/04 – 12/08
San Francisco, CA
- PRESIDENT, Curtis + Partners Development, LLC**
Founder of company that developed high quality, infill residential and mixed-use projects in emerging neighborhoods in the San Francisco Bay Area. Completed two condominium projects in the East Bay and assembled, entitled and sold a high-profile development site in Seattle, WA.
- 9/97 – 12/03
San Francisco, CA
- PRESIDENT, A. F. Evans Development, Inc.**
Oversaw multi-family development activities throughout California and Washington for mid-sized development company supervising a staff of 9 project managers and 2 assistant project managers in San Francisco and Seattle. Projects included mixed-use infill housing both for rent and for sale, garden style apartments, and acquisition and rehabilitation of affordable and market rate income properties. Oversaw the development of about 4,000 units in multi-family and mixed-use projects throughout California and Washington with a value of nearly \$300 Million.
- 5/95 - 9/97
San Francisco, CA
- PRINCIPAL, Charmaine Curtis Housing Development Consulting**
Provided project management services primarily to non-profit housing developers and social service agencies. Identified development opportunities and performed due diligence activities for property acquisition. Assessed project feasibility including land use and building analysis.
- 8/91 - 5/95
San Francisco, CA
- DIRECTOR OF HOUSING DEVELOPMENT, Mercy Housing California**
Coordinated and oversaw affordable housing development projects throughout California including identifying new development opportunities, assessing project feasibility, and supervising seven project managers in four cities. Set annual housing production goals and assessed available financial and staff resources.
- 1/88 - 5/91
San Francisco, CA
- PROJECT MANAGER, McKenzie, Rose & Holliday Development, Inc.**
Instrumental in start-up of real estate development company. Managed several projects including pioneering live/work loft condominium projects in San Francisco's South of Market neighborhood.

EDUCATION University of California, Berkeley; Master of City Planning, May 1985
Dartmouth College; Bachelor of Arts, Major - Government/Economics, June 1981

AFFILIATIONS Lambda Alpha
Board of Directors, SPUR (Executive Board and Co-Chair, Project Review
Committee)
Board of Directors, Homeless Prenatal Program

M I C H A E L S I M M O N S

2370 Market Street #458 • San Francisco, CA 94114
425-845-5527 • 415-358-8842 fax MichaelS@mspdi.com

MANAGEMENT EXPERIENCE

MICHAEL SIMMONS PROPERTY DEVELOPMENT, San Francisco, CA
Real Estate Consulting and Development (1997 - Present)

Real Estate Developer, Project Manager and Development consulting firm with a focus on affordable housing and community facilities. Projects include new construction and renovation including homeownership for first time homebuyers and rental apartments for families, seniors and individuals.

Project management experience includes initial project planning and programming, site and team selection, entitlements, design management, community outreach and approvals, HOA creation and DRE approvals, budgeting and financing, permitting, construction management and project close out and sales.

SAN FRANCISCO HOUSING DEVELOPMENT CORP., San Francisco, CA
Executive Director. Nonprofit real estate development and homeownership counseling organization. Responsible for all aspects of organization leadership including program oversight, planning and strategy, personnel management, fundraising, budgeting, and Board interaction (1993 - 1997)

RELATED BOARD MEMBER ACTIVITIES

Market Octavia Citizens Advisory Committee – (2011 – 2013)

Tides Real Estate Committee – (2007 – 2011)

Global Citizen Center – (2006 – 2008)

Episcopal Community Services – (1999 - 2001)

Mission Bay Citizen's Advisory Committee (1996 - 1997)

The NAMES Project Foundation - (1993 - 1995)

THE SUN REPORTER & THE NEW BAYVIEW - Wrote articles on housing issues.

KPOO Radio - Guest commentator on housing issues. (1994 – 1997)

EDUCATION

UNIVERSITY OF CALIFORNIA AT BERKELEY • MBA

BOSTON UNIVERSITY • B.S.

HOMEOWNERSHIP PROJECT MANAGEMENT EXPERIENCE

Fillmore Park Condominiums –

Developer - 32 unit family condominium project for first time homebuyers. Won an award to develop through the former SF Redevelopment Agency Limited Equity program. Developed project from initial site acquisition through design, construction and sales. Completed 2012

Bay Oaks Condominiums –

Project Management Consultant – 18-unit family condominium project for first time homebuyers with retail component. Developed through former SF Redevelopment Agency Limited Equity Program. Responsible for all aspect of development from initial site acquisition through design, construction and sales and retail build out. Completed 2009

Bell Mews –	Executive Director of Nonprofit Housing Developer and Project Executive – 10 unit affordable condominium through SF Redevelopment Agency Limited Equity program. Responsible for all aspects of development from building acquisition through design, construction and sales. Completed 1997
Garnett Terrace –	Executive Director of Nonprofit Housing Developer and Project Executive – 28 unit affordable condominium through SF Redevelopment Agency Limited Equity program. Responsible for all aspects of development from building acquisition through design, construction and sales. Completed 1995

OTHER KEY PROJECT EXPERIENCE

Kapor Center for Social Investment-	Project Management Consultant. Managed the development of a 40,000 square foot mixed use building with offices, meeting center and retail restaurant. Worked with principals to guide them through the development process including programming, entitlements, design, financing and construction. Received LEED Gold (2012 - 2016)
Bayview Hill Gardens-	Project Management Consultant. Managed the development of 73 units of housing for homeless families. Responsible for site and team selection through design, entitlements, construction and close out. Financed using 9% low income housing tax credits, bank loan and State MHP funds. Completed 2013
College Track –	Project Management Consultant. Managed the development of a 13,500 square foot conversion of an unreinforced masonry warehouse into a college preparatory center for underprivileged high school students. Worked with key staff and Board members to guide them through the development process including programming, entitlements, community outreach, design, financing and construction. (2009 - 2012)

DIVALI MAGNUS

HOUSING AND COMMUNITY DEVELOPMENT SPECIALIST

AFFORDABLE HOUSING ● PROJECT MANAGEMENT ● COMMUNITY DEVELOPMENT

EDUCATION

MASTERS OF CITY AND REGIONAL PLANNING, COMMUNITY DEVELOPMENT
THESIS: BALANCE OF CULTURAL IDENTITY IN THE FACE OF REDEVELOPMENT
UNIVERSITY OF CALIFORNIA, BERKELEY ● 2008

BACHELOR OF ARTS
MAJOR IN POLITICAL SCIENCE, CONCENTRATION IN POLITICAL THEORY
MINOR IN PUBLIC POLICY, CONCENTRATION IN URBAN PLANNING
UNIVERSITY OF CALIFORNIA, LOS ANGELES ● 2006

PROFESSIONAL EXPERIENCE

DIRECTOR OF HOUSING DEVELOPMENT AND ANTI-DISPLACEMENT POLICY – YOUNG COMMUNITY DEVELOPERS ● San Francisco, CA ● San Mateo, CA ● 2016 - Current

- Develop and oversee the strategic plan for capacity building of the affordable housing team
- Build partnerships to support the development and preservation of affordable housing in District 10
- Collaborate with various entities throughout San Francisco to propose strategies and policies to advance the work
- Assist in the project management of pipeline projects

HOUSING SPECIALIST - SAN MATEO COUNTY, DEPARTMENT OF HOUSING ● San Mateo, CA ● 2014-2016

- Program lead/underwriter of county's first time homebuyers and down payment assistance programs
- Program and contract administration and monitoring of CDBG, HOME and county funded affordable housing and community development projects and programs
- Design and implement asset management system for departments portfolio
- Conduct a LEAN review among colleagues to streamline the workflow and create a set of internal policy and procedures
- Collaborating on county specific housing policy needs to create work plans, determine resources and developing manageable schedules for project completion for various housing policy directives

INTERN - SAN MATEO COUNTY, DEPARTMENT OF HOUSING ● San Mateo, CA ● Summer 2014

- Created a work plan for the development of an asset management system
- Lead application for the San Mateo County Saves grant resulting in a \$250,000 award
- Developed a draft policy and procedures manual based on HOME and CDBG federal requirements

INTERN - GREENMARKET, COUNCIL ON THE ENVIRONMENT OF NYC ● New York, NY ● Summer 2009

- Evaluated Healthbucks and EBT project at farmers markets across the five boroughs
- Developed surveys and analyzed final report with the NYC Department of Health and Mental Hygiene

INTERN - DUMBO IMPROVEMENT DISTRICT ● Brooklyn, NY ● Summer 2007

- Calculated statistics to quantify the changing dynamics of the neighborhood from residential rezoning and becoming a Business Improvement District
- Developed information packets in line with PlaNYC encouraging stakeholders to initiate greener practices

INTERN - NATIONAL LOW INCOME HOUSING COALITION ● Washington, DC ● Winter 2006

- Facilitated grassroots efforts for the National Housing Trust Fund Campaign
- Created database to track local advocates of campaign and wrote field articles for weekly memos to members

SKILLS

GIS Arch, Excel, PowerPoint, Microsoft Outlook

Dion-Jay L. Brookter, MBA

<http://www.linkedin.com/in/djbrookter>

1 Crescent Way #1207, San Francisco, CA 94134

415.471.0105 C

dionjaybrookter@gmail.com

OBJECTIVE:

To obtain an innovative position with a multifaceted organization like Young Community Developers whose values are built upon the blocks of authenticity, trust, and to make a meaningful difference within today's society, where I will be allowed to utilize my strong interpersonal skills, organizational abilities, professional experience, computer knowledge and leadership ability to strengthen and support growth to its existing and prospective constituents.

QUALIFICATIONS:

Excellent communication and leadership skills as well as the ability to relate well in multicultural environments

Highly organized with the ability to multi-task effectively while efficiently managing time and resources

Quick learner who is able to take direction very well

Computer literate in Mac & PC Platforms, Microsoft Office Suite capable, MS Project

Enthusiastic, strong interpersonal skills and highly self motivated

EDUCATION:

Utah State University, Logan, UT 84341

B.S. Speech Communications with an emphasis in Business, May – 2006

University of Phoenix, Fresno CA 93722

M.B.A. Emphasis in Business Management, October – 2009

ACHIEVEMENTS & SPECIAL INTERESTS:

Eastern Neighborhoods Democratic Club – Eboard Member - Current

OurWiseMen – Alliance Member – 2016

Citizens' General Obligation Bond Oversight Committee – BOS Appointee, 2015

Black Young Democrats of San Francisco – VP of External Affairs, 2015

Omega Psi Phi Fraternity, Inc., 2013- Current Vice Basileus

Jeffery Gittomer "Yes Attitude" Certified, 2010

Fresno's Leading Young Professionals (Board Member), 2009

Full Athletic Scholarship, Utah State University football team, 2001-2005

EXPERIENCE:

Deputy Director

Young Community Developers Inc., San Francisco CA

01/18-Present

Working alongside our Controller and leadership team, I am responsible for managing and overseeing our financial and business planning activities, including: review and analyzing our financial reports, support and advise our Executive Director in decision making, lead and support organizational budgeting. I am also responsible for managing and overseeing the human resource function of our agency including: recruitment, hiring, compensation benefits, administration and oversight. Responsible for staff developmental, training, including new employee orientation, retention strategies, regulatory oversight and legal compliance, ensuring that the human resource function is properly resourced and represented within the senior management team. In charge of risk management and legal activities: letters of agreement, contracts, leases, and other legal documents and agreements. Information technology -

working as the manager of information technology, ensure the ongoing maintenance and updating of information systems and infrastructure, including hardware, software. Organizational reporting and monitoring: provide guidance and leadership through management of our agency metrics and measurement reporting process. Office management: oversee administrative functions for the entire agency, ensuring smooth daily operations.

Executive Director of the Southeast Community Facility Commission

SF Public Utilities Commission, San Francisco CA

05/16-01/18

As the SECF Executive Director I was responsible for all day-to-day support of the Southeast Community Facility Commission as well as programming, activities and revitalization efforts of the Southeast Community Facility and Greenhouses. These responsibilities included but are not limited to: planning, developing and implementing the vision and activities of the Southeast Community Facility Commission in order to fulfill its legislative mandate; managing all day-to-day activities of the SECF and Greenhouses not delegated to tenant partners; developing and implementing a long-range strategic plan for the SECF and greenhouse mitigation requirements; ensuring the Community Center and Greenhouse programs function as thriving community efforts and have measurable, positive impact on residents; in partnership with the SFPUC Real Estate Division, ensuring Commission-approved performance metrics are included in future lease agreements; leveraging outside partnerships to support programming; identifying and managing relationships with an outside fiscal sponsor; operating with a high level of emotional intelligence and cultural competency; building bridges across diverse communities for the greater good of Southeast residents; advancing diplomacy and tact with all community relationships; managing all commission-requested projects including research and analytical requests, writing, event planning, documentation, data management and evaluation; managing assigned staff; developing and managing budget and contracts-related matters for the SECF Commission.

Deputy Director

Young Community Developers Inc., San Francisco CA

12/10-05/16

Working alongside our Controller, I was responsible for managing and overseeing our financial and business planning activities, including: review and analyzing our financial reports, support and advise our Executive Director in decision making, lead and support organizational budgeting. I was also responsible for managing and overseeing the human resource function of our agency including: recruitment, hiring, compensation benefits, administration and oversight. Responsible for staff developmental, training, including new employee orientation, retention strategies, regulatory oversight and legal compliance, ensuring that the human resource function is properly resourced and represented within the senior management team. In charge of risk management and legal activities: letters of agreement, contracts, leases, and other legal documents and agreements. Information technology – working as the manager of information technology, ensure the ongoing maintenance and updating of information systems and infrastructure, including hardware, software. Organizational reporting and monitoring: provide guidance and leadership through management of our agency metrics and measurement reporting process. Office management: oversee administrative functions for the entire agency, ensuring smooth daily operations.

REFERENCES:

Program Manager, Derek L. Toliver, 415.373.2923 – Felton Institute - Senior Community Service Employment Program & Economic Security Initiative Center, 1500 Franklin St, San Francisco, CA 94109

Executive Director/Commissioner, Shamann Walton, MPA, 707.332.3225 - Young Community Developers Inc., 1715 Yosemite Ave. – San Francisco, Ca. 94124

Former Associate Dean of Instruction, Dr. Carolyn C. Drake, 559.273.5991, Fresno City College - 1101 East University Avenue, Fresno, Ca. 93741

Attachment D: Asset Management Evaluation of Project Sponsor

YCD

YCD currently has 3 projects, 1 completed (Pacific Point) and 2 in the pipeline (CP 10A and MB 9a).

YCD currently has no asset management staff.

The asset management of YCD's projects is currently taken on by their development partners.

MSPDI

As a development consultant and developer of affordable ownership housing, MSPDI does not hold projects after completion. Therefore, it does not serve an asset management function.

CD

As a development consultant and developer of affordable ownership housing, CD does not hold projects after completion. Therefore, it does not serve an asset management function.

Attachment E: Threshold Eligibility Requirements and Ranking Criteria

RFP and Developer Selection Process

On May 23, 2019 OCII staff released the RFP for Mission Bay South Block 9a. The RFP established the following program requirements:

Block 9a Program Requirement Summary	
Number of Units	Approximately 135 units of high quality livable design, subject to a future amendment to the Design for Development to allow a height of 90' across the entire site.
Unit types	Family Units with a target mix of: • 25% 1 Bedrooms • 50% 2 Bedrooms • 25% 3 Bedrooms
Area median income (AMI) and sale price restrictions	• OCII will restrict sale prices to rates affordable to households ranging from 80-110% of AMI as defined annually by MOHCD. • Project must average 95% of AMI overall
Target population	Low and moderate income individuals and families meeting the AMI eligibility criteria listed above.
Parking	• Resident parking at a ratio of up to 0.25 cars per unit • Parking will be unbundled

The deadline for submitting proposals was July 22, 2019 and by that date OCII received one proposal from Michael Simmons Property Development (MSPDI), Curtis Development (CD), and Young Community Developers (YCD) with Mithun as architects, Monica Wilson as WCAP consultant, and Lisa Fitts as a homebuyer counselor consultant.

Ranking Criteria

An evaluation panel interviewed the team and scored the proposal. The panel consisted of representatives from MOHCD, OCII (design, project area management, and housing), as well as a member of the Mission Bay Community Advisory Committee. The panel used the following scoring criteria:

Maximum Points	Criteria
60	Proposed Development Concept
25	Proposed Massing Concept: strength and cost efficiency of proposed massing concept, number of units, conformance with the Redevelopment Plan and the Design for Development, design precedents and inspirations provided for the massing concept, and philosophy of design specific to Project.
25	Proposed Funding and Program Concept; including financial feasibility, level of OCII subsidy, and unique program elements
10	Proposed Homeownership Outreach and Marketing Plan
40	Team Experience and Capacity
10	Developer experience in developing and marketing for-sale affordable housing <u>comparable</u> to the housing proposed in this RFP and in accordance and in good standing with current OCII/MOHCD standards related to marketing and homebuyer selection; experience with HOA documentation and budget creation, including obtaining approvals from the California Bureau of Real Estate; experience with OCII/MOHCD marketing

	policies and conducting lotteries through MOHCD's electronic DAHLIA portal. Developer Workload Capacity
10	Developer experience with government assisted affordable housing programs and homeownership financing sources. Developer experience delivering affordable housing on budget (defined as maintaining or reducing a project's per unit cost between RFP response, approval of a predevelopment loan/schematic design approval and construction loan closing).
10	Workforce and Contracting Action Plan
10	Architect experience & capacity; Architect experience delivering affordable housing on budget (defined as maintaining or reducing a project's per unit cost between RFP response, approval of a predevelopment loan/schematic design approval and construction loan closing).
100	Maximum Total Points

The proposal from MSPDI, CD, and YCD received an average score of 90.6 out of 100 possible points. The proposal scored particularly well in the massing, developer experience, and workforce and contracting categories.

Based on the scoring results, the evaluation panel recommended that MSPDI, CD and YCD be selected to develop the Project. OCII presented the results on the evaluation panel to the Mission Bay Citizens Advisory Committee at their monthly meeting on October 10, 2019. Since that time, the development team has settled on a construction type, refined the project schedule, selected the full design consultant team, applied for IIG funding, completed SDs and DD's, received SD approval from the OCII Commission, and submitted the site permit application, which has been fully reviewed by DBI and is ready to be issued, pending sign off by OCII staff.

Attachment F: Site Map with amenities



Attachment G: Elevations and Floor Plans

SOUTHEAST AERIAL VIEW



NORTHEAST VIEW

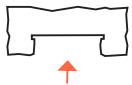


MISSION BAY BLOCK 9A

EAST VIEW



MISSION BAY BLOCK 9A



MITHŪN Y.A. studio

SOUTHWEST VIEW



NORTHWEST VIEW



Attachment H: Comparison of City Investment in Other Housing Developments

Affordable Multifamily Housing New Construction Cost Comparison																
Updated		10/22/2021														
PROJECTS COMPLETED						Building Square Footage			Total Project Costs							
Project Name	Address	Lot sq.ft	Compl. Date	# of Units	# of BR ¹	Res. ²	Non-Res.	Total	Acq. Cost3	Constr. Cost4	Soft Cost	Total Dev. Cost w/land	Local Subsidy5	Total Dev. Cost w/o land	Notes on Financing	Comments
Transbay 7 - Natalie Gubb Comm	222 Beale Street	29,209	Oct-18	120	208	118,251	5,000	123,251	\$ 35,000	\$ 68,041,196	\$ 16,314,468	\$ 84,390,664	\$ 25,560,000	\$ 84,355,664	HCD AHSC Loan	3 Buildings - Type I Podium, 4-8 stories (Pueblo structural system), plus Childcare shell
Mission Bay Bl 6 East	626 Mission Bay Blvd. No.	63,250	Nov-18	143	276	162,080	9,719	171,799	\$ 148,125	\$ 89,064,265	\$ 15,222,907	\$ 104,435,297	\$ 35,750,000	\$ 104,287,172	HCD AHSC Loan	Type IIIA & V over Type I podium, 41 pkg spaces, Mission Bay soils and infrastructure
Eddy and Taylor Family Housing	222 Taylor	22,344	Jun-19	113	211	108,440	21,086	129,526	\$ 9,300,000	\$ 63,457,831	\$ 14,837,459	\$ 87,595,290	\$ 22,187,436	\$ 78,295,290	2 HCD Loans (MHP & TOD)	Type IB - 8 story, extensive PG&E regional switch required
490 South Van Ness	490 S. Van Ness Avenue	14,250	Apr-21	81	121	51,639	28,985	80,624	\$ 18,500,000	\$ 52,506,177	\$ 13,393,811	\$ 84,399,988	\$ 28,892,030	\$ 65,899,988		Type IA - 7 stories over partial basement
1950 Mission Street	1950 Mission Street	36,590	Mar-21	157	262	113,432	48,142	161,574	\$ 9,775,000	\$ 101,221,008	\$ 15,171,496	\$ 126,167,504	\$ 44,945,740	\$ 116,392,504	HCD AHSC Loan	Type IA - 9 stories with significant (30% of sf) art and PDR spaces and Paseo Des Artes
2060 Folsom Street	2060 Folsom	29,075	May-21	127	252	155,648	11,810	167,458	\$ 134,931	\$ 81,408,114	\$ 20,100,172	\$ 101,643,217	\$ 31,697,110	\$ 101,508,286	HCD AHSC Loan	9 Story Type IB - TAY, Childcare, Community Hub w/AHSC Improvements of \$6MM
Completed Projects:	Average:	32,453		124	222	118,248	20,790	139,039	6,315,509	75,949,765	15,840,052	98,105,327	31,505,386	91,789,817		
PROJECTS UNDER CONSTRUCTION						Building Square Footage			Total Project Costs							
Project Name	Address	Lot sq.ft	Compl. Date	# of Units	# of BR ¹	Res. ²	Non-Res.	Total	Acq. Cost3	Constr. Cost4	Soft Cost	Total Dev. Cost w/land	Local Subsidy5	Total Dev. Cost w/o land	Notes on Financing	Comments
1990 Folsom Street	1990 Folsom	29,047	Sep-21	143	226	138,824	15,063	153,887	\$ 8,407,380	\$ 73,760,332	\$ 25,616,512	\$ 107,784,224	\$ 46,711,496	\$ 99,376,844		Mixed type - Type VA (townhomes) and 8 story Type I
500 Turk Street (555 Larkin)	500 Turk Street	18,906	Dec-21	108	186	82,805	26,586	109,391	\$ 1,853,895	\$ 54,251,461	\$ 29,815,020	\$ 85,920,376	\$ 32,400,000	\$ 84,066,481	HCD AHSC Loan	Type I 8 stories on constrained site
681 Florida	681 Florida Street	19,000	Sep-22	130	199	126,830	9,250	136,080	\$ 125,091	\$ 69,184,293	\$ 20,545,793	\$ 89,855,177	\$ 33,826,507	\$ 89,730,086	HCD MHP Loan	Type IB 9 stories, 8,400+/- PDR
4840 Mission	4840 Mission	64,033	Apr-23	137	232	181,711	14,384	120,861	\$ 14,169,802	\$ 83,789,393	\$ 23,931,086	\$ 121,890,281	\$ 51,614,447	\$ 107,720,479	HCD MHP Loan	Type V over Type I Podium + retail + 39 spaces pkg + Health Clinic + POPO (11/20 Eval)
BPUY	2430 San Jose Ave	30,699	Dec-22	131	217	164,636	10,741	175,377	\$ -	\$ 91,871,410	\$ 25,523,152	\$ 117,394,562	\$ 30,493,722	\$ 117,394,562	4% Credits; HCD IIG & AHSC	Type IB - 8-9 story adjacent to BART. Early Childhood Ed Center. MOHCD Land not incl. (GMP Dr
Under Construction:	Average:	32,337		130	212	138,961	15,205	139,119	4,911,234	74,571,378	25,086,313	104,568,924	39,009,234	99,657,690		
PROJECTS IN PREDEVELOPMENT						Building Square Footage			Total Project Costs							
Project Name	Address	Lot sq.ft	Start Date (anticipated)	# of Units	# of BR ¹	Res. ²	Non-Res.	Total	Acq. Cost3	Constr. Cost4	Soft Cost	Total Dev. Cost w/land	Local Subsidy	Total Dev. Cost w/o land	Notes on Financing	Comments
TI Parcel C3.1	Treasure Island C3.1	49,497	Jul-22	138	319	140,803	52,000	192,803	\$ 25,000	\$ 95,399,362	\$ 21,841,279	\$ 123,422,727	\$ 33,014,900	\$ 123,397,727	HCD AHSC Loan	Type IIIA and VB over Type I in 3 to 7 stories stepped + 26 pkg and Youth Activity (50% CD est.)
Potrero Block B	25th and Connecticut	74,311	Feb-22	157	348	274,371	10,473	284,844	\$ 11,919,500	\$ 127,851,223	\$ 49,467,028	\$ 189,237,751	\$ 11,991,620	\$ 177,318,251	4% Credits; HCD IIG & AHSC	Type IIIA over Type IA 5-6 stepped, 65 pkg + childcare & park. (per 75% CD est. 3/28/21 incl VE) e
600 7th Street (fmly. 801 Brannan)	600 7th Street	37,800	Mar-22	221	334	181,534	4,223	185,757	\$ 10,000	\$ 111,943,100	\$ 29,117,734	\$ 141,070,834	\$ 72,050,000	\$ 141,060,834	4% Credits; HCD IIG & NPLH	Type I, 8 stories (50% CD pricing updated 8/30/21 incl. Type I concrete and VE)
730 Stanyan	730 Stanyan Street	37,813	Oct-22	160	282	173,030	19,728	192,758	\$ -	\$ 113,319,647	\$ 13,958,549	\$ 98,121,310	\$ 34,325,853	\$ 98,121,310	4% Credits; HCD MHP	Type I 8 stories, passive house design, multiple services spaces, urban farm (Revised concept pri
2550 Irving	2550 Irving Street	19,125	Apr-23	98	187	105,390	2,228	107,618	\$ 9,426,500	\$ 62,022,139	\$ 15,972,611	\$ 94,019,992	\$ 25,573,912	\$ 84,593,492	4% LIHTC; HCD - IIG, MHP, AHP	Type I, 7 stories, TI space, 11 parking spaces
Reservoir Buiding E	Lee Avenue	31,008	Mar-23	124	192	138,150	1,000	139,150	\$ 1,777,707	\$ 73,866,869	\$ 30,807,599	\$ 106,452,175	\$ 13,628,128	\$ 104,674,468		Type IIIA over Type IA 7 stories
In Predevelopment	Average:	41,592		150	277	168,880	14,942	183,822	\$ 3,859,785	\$ 97,400,390	\$ 26,860,800	\$ 125,387,465	\$ 31,764,069	\$ 121,527,680		
ALL PROJECTS	Average:	35,461		134	237	142,030	16,979	153,993	\$ 5,028,842	\$ 82,640,511	\$ 22,595,722	\$ 109,353,905	\$ 34,092,896	\$ 104,325,063		
SUBJECT PROJECT	MB Block 9A	29,939	May-22	148	281	129,712	50,351	180,063	\$ -	\$ 105,209,208	\$ 29,936,428	\$ 135,145,636	\$ 75,184,522	\$ 135,145,636	OCII, IIG	Type I, 8 story Homeownership, (Loan Eval August 2021 data)
PROJECTS COMPLETED		Acquisition by Unit/Bed/SF			Construction by Unit/Bed/SF			Soft Costs By Unit/Bed/SF			Total Development Cost (Incl. Land)			Subsidy		
Project Name	Compl. Date	Acq/unit	Acq/BR	Acq/lot sq.ft	Const/unit	Const/BR	Const/sq.ft ⁶	Soft/unit	Soft/BR	Soft/sq.ft6	Gross TDC/unit	Gross TDC/BR	Gross TDC/sq.ft6	Subsidy / unit	Leveraging ⁷	
Natalie Gubb Commons (TB7)	Oct-18	292	168	1	\$ 567,010	\$ 327,121	\$ 552	\$ 135,954	\$ 78,435	\$ 132	\$ 703,256	\$ 405,724	\$ 685	\$ 213,000	69.7%	
Mission Bay S6E	Nov-18	1,036	537	2	\$ 622,827	\$ 322,697	\$ 518	\$ 106,454	\$ 55,155	\$ 89	\$ 730,317	\$ 378,389	\$ 608	\$ 250,000	65.8%	
Eddy & Taylor Family Housing	Jun-19	82,301	44,076	416	\$ 561,574	\$ 300,748	\$ 490	\$ 131,305	\$ 70,320	\$ 115	\$ 775,180	\$ 415,144	\$ 676	\$ 196,349	74.7%	
490 South Van Ness	Apr-21	228,395	152,893	1,298	\$ 648,224	\$ 433,935	\$ 651	\$ 165,356	\$ 110,693	\$ 560	\$ 1,041,975	\$ 697,521	\$ 1,047	\$ 356,692	65.8%	
1950 Mission Street	Mar-21	62,261	37,309	267	\$ 644,720	\$ 386,340	\$ 626	\$ 96,634	\$ 57,906	\$ 396	\$ 803,615	\$ 481,555	\$ 781	\$ 286,279	64.4%	
2060 Folsom Street	May-21	1,062	535	5	\$ 641,009	\$ 323,048	\$ 486	\$ 158,269	\$ 79,763	\$ 204	\$ 800,340	\$ 403,346	\$ 607	\$ 249,584	68.8%	
Completed Projects:	Average:	62,558	39,253	332	\$ 614,227	\$ 348,981	\$ 554	\$ 132,329	\$ 75,379	\$ 249	\$ 809,114	\$ 463,613	\$ 734	\$ 258,650	68%	
PROJECTS UNDER CONSTRUCTION		Acquisition			Construction			Soft Costs			Total Development Cost (Incl. Land)			Subsidy		
Project Name	Compl. Date	Acq/unit	Acq/BR	Acq/lot sq.ft	Const/unit	Const/BR	Const/sq.ft ⁶	Soft/unit	Soft/BR	Soft/sq.ft6	Gross TDC/unit	Gross TDC/BR	Gross TDC/sq.ft6	Subsidy / unit	Leveraging ⁷	
1990 Folsom Street	Sep-21	58,793	37,201	289	\$ 515,807	\$ 326,373	\$ 479	\$ 179,136	\$ 113,347	\$ 166	\$ 753,736	\$ 476,921	\$ 700	\$ 326,654	56.7%	
500 Turk Street (555 Larkin)	Dec-21	17,166	9,967	98	\$ 502,328	\$ 291,675	\$ 496	\$ 276,065	\$ 160,296	\$ 273	\$ 795,559	\$ 461,938	\$ 785	\$ 300,000	62.3%	
681 Florida	Sep-22	962	629	7	\$ 532,187	\$ 347,660	\$ 508	\$ 158,045	\$ 103,245	\$ 151	\$ 691,194	\$ 451,534	\$ 660	\$ 260,204	62.4%	
4840 Mission Street	Apr-23	103,429	61,077	221	\$ 611,601	\$ 361,161	\$ 693	\$ 174,679	\$ 103,151	\$ 198	\$ 889,710	\$ 525,389	\$ 1,009	\$ 376,748	57.7%	
BPUY	Dec-22	-	-	-	\$ 701,308	\$ 423,371	\$ 524	\$ 194,833	\$ 117,618	\$ 146	\$ 896,142	\$ 540,989	\$ 669	\$ 232,777	74.0%	
Under Construction:	Average:	45,088	27,218	154	\$ 572,646	\$ 350,048	\$ 540	\$ 196,552	\$ 119,532	\$ 187	\$ 805,268	\$ 491,354	\$ 765	\$ 299,276	63%	
PROJECTS IN PREDEVELOPMENT		Acquisition			Construction			Soft Costs			Total Development Cost (Incl. Land)			Subsidy		
Project Name	Start Date (anticipated)	Acq/unit	Acq/BR	Acq/lot sq.ft	Const/unit	Const/BR	Const/sq.ft ⁶	Soft/unit	Soft/BR	Soft/sq.ft6	Gross TDC/unit	Gross TDC/BR	Gross TDC/sq.ft6	Subsidy / unit	Leveraging ⁷	
TI Parcel C3.1	Jul-22	181	78	1	\$ 691,300	\$ 299,058	\$ 495	\$ 158,270	\$ 68,468	\$ 113	\$ 894,368	\$ 386,905	\$ 640	\$ 239,238	73.3%	
Potrero Block B	Feb-22	75,920	34,251	160	\$ 814,339	\$ 367,389	\$ 449	\$ 315,077	\$ 142,147	\$ 174	\$ 1,205,336	\$ 543,787	\$ 664	\$ 76,380	93.7%	
600 7th Street	Mar-22	45	30	0	\$ 506,530	\$ 335,159	\$ 603	\$ 131,754	\$ 87,179	\$ 157	\$ 638,330	\$ 422,368	\$ 759	\$ 326,018	48.9%	
730 Stanyan	Oct-22	-	-	-	\$ 708,248	\$ 401,843	\$ 588	\$ 87,241	\$ 49,498	\$ 72	\$ 613,258	\$ 347,948	\$ 509	\$ 214,537	65.0%	
2550 Irving	Apr-23	96,189	50,409	493	\$ 632,879	\$ 331,669	\$ 576	\$ 162,986	\$ 85,415	\$ 148	\$ 959,388	\$ 502,781	\$ 874	\$ 260,958	72.8%	
Reservoir Buiding E	Mar-23	14,336	9,259	57	\$ 595,701	\$ 384,723	\$ 531	\$ 248,448	\$ 160,456	\$ 221	\$ 858,485	\$ 554,438	\$ 765	\$ 109,904	87.2%	
In Predevelopment	Average:	37,334	18,806	142	\$ 658,166	\$ 353,307	\$ 540	\$ 183,963	\$ 98,861	\$ 148	\$ 861,527	\$ 459,704	\$ 702	\$ 204,506	73%	
All Projects:	AVERAGE	48,327	28,426	209	\$ 615,013	\$ 350,779	\$ 545	\$ 170,948	\$ 97,924	\$ 195	\$ 825,303	\$ 471,557	\$ 734	\$ 254,144	68.1%	

Attachment I: Sources and Uses

Application Date:8/20/2021
Project Name:Mission Bay Block 9A
Project Address:China Basin N/A Street
Project Sponsor:Curtis Development, Michael Simmons Property Development, Young Community

Units:148
Bedrooms:
Beds:

Don't forget to fill in D135:D138!

Total Sources							Comments
SOURCES	75,184,522	55,717,121	-	4,243,993	-	-	135,145,636
		Sales		Infill			
		Proceeds		Infrastructure			
				Grant			

USES

ACQUISITION

Acquisition cost or value							0	
Legal / Closing costs / Broker's Fee							0	Miscellaneous costs related to OCII loan
Holding Costs							0	
Transfer Tax							0	assumed to be \$0
TOTAL ACQUISITION	0	0	0	0	0	0	0	

CONSTRUCTION (HARD COSTS)

Unit Construction/Rehab	41,922,078	39,855,226					81,777,304	Includes 5% for escalation
Commercial Shell Construction							0	
Demolition							0	
Environmental Remediation				1,050,000			1,050,000	Includes BOE Toxic Generator Fee
Onsight Improvements/Landscaping				800,000			800,000	
Offsite Improvements							0	
Infrastructure Improvements				513,993			513,993	HOPE SF/OCII costs for streets etc.
Parking				1,530,000			1,530,000	
GC Bond Premium/GC Insurance/GC Taxes	2,027,260						2,027,260	
GC Overhead & Profit	1,760,558	1,173,705					2,934,263	
CG General Conditions	1,939,138	1,292,759					3,231,897	
Sub-total Construction Costs	47,649,034	42,321,690	0	3,893,993	0	0	93,864,717	
Design Contingency (remove at DD)							0	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+
Bid Contingency (remove at bid)	3,432,134						3,432,134	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+
Plan Check Contingency (remove/reduce during Plan Rev	3,432,134						3,432,134	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+
Hard Cost Construction Contingency	2,235,112	2,235,112					4,470,223	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+
Sub-total Construction Contingencies	9,099,380	2,235,112	0	0	0	0	11,334,491	
TOTAL CONSTRUCTION COSTS	56,748,414	44,556,802	0	3,893,993	0	0	105,199,208	

Construction
line item costs
as a % of hard
costs

SOFT COSTS

Architecture & Design								
Architect design fees	1,385,280	400,000					1,785,280	See MOHCD A&E Fee Guidelines: http://sfmohcd.org/documents-reports-and-forms
Design Subconsultants to the Architect (incl. Fees)	1,149,730	300,000					1,449,730	
Architect Construction Admin	314,780	275,000					589,780	
Reimbursables	50,000						50,000	
Additional Services	80,000						80,000	
Sub-total Architect Contract	2,979,790	975,000	0	0	0	0	3,954,790	
Other Third Party design consultants (not included under Architect contract)	150,000			175,000			325,000	Interiors, blow test, commissioning, building maintenance, window testing
Total Architecture & Design	3,129,790	975,000	0	175,000	0	0	4,279,790	
Engineering & Environmental Studies								
Survey	25,000						25,000	
Geotechnical studies	350,000						350,000	Per proposal-Includes geotech during construction
Phase I & II Reports	50,000						50,000	
CEQA / Environmental Review consultants	0						0	
NEPA / 106 Review	0						0	
CNA/PNA (rehab only)							0	
Other environmental consultants	150,000	50,000		175,000			375,000	methane mitigation, toxic off-haul and/or remediation+ construction testing and inspection.
Total Engineering & Environmental Studies	575,000	50,000	0	175,000	0	0	800,000	
Financing Costs								
Construction Financing Costs								
Construction Loan Origination Fee		600,000					600,000	
Construction Loan Interest		4,370,000					4,370,000	
Title & Recording		60,000					60,000	
CDLAC & CDIAC fees							0	
Bond Issuer Fees							0	
Other Bond Cost of Issuance							0	
Other Lender Costs (specify)							0	included in origination fee
Sub-total Const. Financing Costs	0	5,030,000	0	0	0	0	5,030,000	
Permanent Financing Costs								
Permanent Loan Origination Fee							0	
Credit Enhance. & Appl. Fee							0	
Title & Recording							0	
Sub-total Perm. Financing Costs	0	0	0	0	0	0	0	
Total Financing Costs	0	5,030,000	0	0	0	0	5,030,000	
Legal Costs								
Borrower Legal fees	75,000	25,000					100,000	predev and construction loan closings
Land Use / CEQA Attorney fees							0	
Tax Credit Counsel							0	
Bond Counsel							0	
Construction Lender Counsel							0	included in lender fee
Permanent Lender Counsel							0	
Other Legal (specify): Predev Loan Interest	25,000						25,000	
Total Legal Costs	100,000	25,000	0	0	0	0	125,000	
Other Development Costs								
Appraisal	10,000						10,000	
Market Study	10,000						10,000	
Insurance	3,650,000						3,650,000	incl. Builder's risk and OCIP
Property Taxes	2,085,000	325,000					2,410,000	taxes paid on unsold units once condo map is recorded
Accounting / Audit	25,000						25,000	
Organizational Costs	20,000						20,000	
Entitlement / Permit Fees	1,000,000	370,000					1,370,000	
Marketing / Rent-up	1,270,000	224,000					1,494,000	See backup+added \$500K for MOHCD
Furnishings		370,000					370,000	\$2,000/unit. See MOHCD UWW Guidelines on: http://sfmohcd.org/documents-reports-and-forms
PGE / Utility Fees	555,000						555,000	
TCAC App / Alloc / Monitor Fees							0	
Financial Consultant fees							0	
Construction Management fees / Owner's Rep	170,000	110,000					280,000	per revised proposal
Security during Construction							0	
Relocation							0	
Condo mapping/CC&R's, Bureau of Real Estate Costs	175,000	25,000					200,000	
WCAP Consultant	50,000						50,000	
Total Other Development Costs	9,020,000	1,424,000	0	0	0	0	10,444,000	
Soft Cost Contingency								
Contingency (Arch, Eng, Fin, Legal & Other Dev)	1,061,859	562,800			0	0	1,624,659	
TOTAL SOFT COSTS	13,886,649	8,066,800	0	350,000	0	0	22,303,449	7.9%

RESERVES

Operating Reserves							0	
Replacement Reserves							0	
Tenant Improvements Reserves							0	
HOA Reserve	705,459	409,541					1,115,000	HOA fees paid until all units are sold plus \$250K sidewalk reserve
Sales Commissions		1,671,514					1,671,514	1.50%
Unit Closing Costs		696,464					696,464	transfer tax, escrow, buyer warranties
TOTAL RESERVES	705,459	2,777,519	0	0	0	0	3,482,978	

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	1,100,000						1,100,000	
Developer Fee - Cash-out At Risk	1,264,000	316,000					1,580,000	
Developer Fee - GP Equity (also show as source)							0	
Developer Fee - Deferred (also show as source)							0	
Development Consultant Fees							0	
Other (Warranty and SIR Reserve)	1,480,000						1,480,000	
TOTAL DEVELOPER COSTS	3,844,000	316,000	0	0	0	0	4,160,000	

TOTAL DEVELOPMENT COST

75,184,522	55,717,121	0	4,243,993	0	0	135,145,636	
508,004	376,467	0	28,676	0	0	913,146	
55.6%	41.2%	0.0%	3.1%	0.0%	0.0%	100.0%	

Acquisition Cost/Unit by Source

0	0	0	0	0	0	0	

Construction Cost (inc Const Contingency)/Unit By Source

383,435	301,059	0	26,311	0	0	710,805	

Construction Cost (inc Const Contingency)/SF

276.82	217.35	0.00	19.00	0.00	0.00	513.17	

City Subsidy/Unit

508,004

Tax Credit Equity Pricing:

Fill in with value or 'N/A' if not applicable.

Construction Bond Amount:

Fill in with value or 'N/A' if not applicable.

Construction Loan Term (in months):

Fill in with value or 'N/A' if not applicable.

Construction Loan Interest Rate (as %):

Fill in with value or 'N/A' if not applicable.

Attachment J: Additional Predevelopment Budget

Application Date:8/20/2021

Project Name:Mission Bay Block 9A

Project Address:China Basin N/A Street

Project Sponsor:Curtis Development, Michael Simmons Property Development, Young Community

Units:148

Bedrooms:

Beds:

Don't forget to fill in D135:D138!

SOURCES	Total Sources						Comments
	5,000,000	-	-	-	-	5,000,000	
Name of Sources: MOHCD/OCII							

USES

ACQUISITION

Acquisition cost or value							0	
Legal / Closing costs / Broker's Fee							0	
Holding Costs							0	
Transfer Tax							0	
TOTAL ACQUISITION	0	0	0	0	0	0	0	

CONSTRUCTION (HARD COSTS)

Unit Construction/Rehab	564,000						564,000	Include FF&E	
Commercial Shell Construction							0		
Demolition							0		
Environmental Remediation							0		
Onsight Improvements/Landscaping							0		
Offsite Improvements							0		
Infrastructure Improvements							0	HOPE SF/OCII costs for streets etc.	
Parking							0		
GC Bond Premium/GC Insurance/GC Taxes							0		0.0%
GC Overhead & Profit							0		0.0%
CG General Conditions							0		0.0%
Sub-total Construction Costs	564,000	0	0	0	0	0	564,000		
Design Contingency (remove at DD)							0	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+	0.0%
Bid Contingency (remove at bid)							0	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+	0.0%
Plan Check Contingency (remove/reduce during Plan Review)							0	4% up to \$30MM HC, 3% \$30-\$45MM, 2% \$45MM+	0.0%
Hard Cost Construction Contingency							0	5% new construction / 15% rehab	0.0%
Sub-total Construction Contingencies	0	0	0	0	0	0	0		
TOTAL CONSTRUCTION COSTS	564,000	0	0	0	0	0	564,000		

SOFT COSTS

Architecture & Design

Architect design fees	2,087,445						2,087,445	See MOHCD A&E Fee Guidelines: http://sfmohcd.org/documents-reports-and-forms	
Design Subconsultants to the Architect (incl. Fees)	832,555						832,555		
Architect Construction Admin	0						0		
Reimbursables	10,000						10,000		
Additional Services	80,000						80,000		
Sub-total Architect Contract	3,010,000	0	0	0	0	0	3,010,000		
Other Third Party design consultants (not included under Architect contract)	30,000						30,000	Green Point consultant	
Total Architecture & Design	3,040,000	0	0	0	0	0	3,040,000		

Engineering & Environmental Studies

Survey	25,000						25,000		
Geotechnical studies	133,655						133,655		
Phase I & II Reports	50,000						50,000		
CEQA / Environmental Review consultants	0						0		
NEPA / 106 Review	0						0		
CNA/PNA (rehab only)							0		
Other environmental consultants	76,818						76,818	Consultant for toxic off-haul and/or remediation	
Total Engineering & Environmental Studies	285,473	0	0	0	0	0	285,473		

Financing Costs

Construction Financing Costs

Construction Loan Origination Fee							0		
Construction Loan Interest							0		
Title & Recording							0		
CDLAC & CDIAC fees							0		
Bond Issuer Fees							0		
Other Bond Cost of Issuance							0		
Other Lender Costs (specify)							0		
Sub-total Const. Financing Costs	0	0	0	0	0	0	0		

Permanent Financing Costs

Permanent Loan Origination Fee							0		
Credit Enhance. & Appl. Fee							0		
Title & Recording							0		
Sub-total Perm. Financing Costs	0	0	0	0	0	0	0		
Total Financing Costs	0	0	0	0	0	0	0		

Legal Costs

Borrower Legal fees	35,000						35,000	predev and construction loan closings	
Land Use / CEQA Attorney fees							0		
Tax Credit Counsel							0		
Bond Counsel							0		
Construction Lender Counsel							0		
Permanent Lender Counsel							0		
Other Legal (specify)							0		
Total Legal Costs	35,000	0	0	0	0	0	35,000		

Other Development Costs

Appraisal	10,000						10,000		
Market Study	10,000						10,000		
Insurance	36,692						36,692		
Property Taxes	0						0		
Accounting / Audit	500						500		
Organizational Costs	10,000						10,000		
Entitlement / Permit Fees	40,000						40,000		
Marketing / Rent-up	5,000						5,000	initial work on marketing plan	
Furnishings							0	\$2,000/Unit: See MOHCD U/W Guidelines: http://sfmohcd.org/documents-reports-and-forms	
PGE / Utility Fees	25,000						25,000		
TCAC App / Alloc / Monitor Fees							0		
Financial Consultant fees							0		
Construction Management fees / Owner's Rep	91,000						91,000		
Security during Construction							0		
Relocation							0		
Buyer Liaison + Buyer Prep	20,000						20,000		
Condo mapping/CC&Rs, Bureau of Real Estate Costs	50,000						50,000		
WCAP Consultant	40,000						40,000		
Total Other Development Costs	338,192	0	0	0	0	0	338,192		

Soft Cost Contingency

Contingency (Arch, Eng, Fin, Legal & Other Dev)	187,335	0	0	0	0	0	187,335	Should be either 10% or 5% of total soft costs.	
TOTAL SOFT COSTS	3,886,000	0	0	0	0	0	3,886,000		Total Soft Cost Contingency as % of Total Soft Costs 5.1%

RESERVES

Operating Reserves							0		
Replacement Reserves							0		
Tenant Improvements Reserves							0		
HOA Reserve							0		
Sales Commissions							0		
Unit Closing Costs							0		
TOTAL RESERVES	0	0	0	0	0	0	0		

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	550,000						550,000		
Developer Fee - Cash-out At Risk							0		
Developer Fee - GP Equity (also show as source)							0		
Developer Fee - Deferred (also show as source)							0		
Development Consultant Fees							0	Need MOHCD approval for this cost, N/A for most projects	
Other (specify)							0		
TOTAL DEVELOPER COSTS	550,000	0	0	0	0	0	550,000		

TOTAL DEVELOPMENT COST

Development Cost/Unit by Source	5,000,000	0	0	0	0	0	5,000,000		
Development Cost/Unit as % of TDC by Source	33.784	0	0	0	0	0	33.784		
	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%		

Acquisition Cost/Unit by Source

	0	0	0	0	0	0	0		

Construction Cost (inc Const Contingency)/Unit By Source

	3,811	0	0	0	0	0	3,811		

Construction Cost (inc Const Contingency)/SF

	2.75	0.00	0.00	0.00	0.00	0.00	2.75		

City Subsidy/Unit

	33,784								

Tax Credit Equity Pricing:

Construction Bond Amount: Fill in with value or 'N/A' if not applicable.

Construction Loan Term (in months): Fill in with value or 'N/A' if not applicable.

Construction Loan Interest Rate (as %): Fill in with value or 'N/A' if not applicable.

Attachment K: Unit Sales Analysis

Mission Bay Block 9A
October 2021

[illegible]

Attachment L: CD, MSPDI, YCD Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING
Between CD, MSPDI, and YCD
For the Development of Mission Bay Block 9A

This Memorandum of Understanding ("MOU") is entered into as of September 9, 2019, by and between Young Community Developers ("YCD") Michael Simmons Property Development, Inc. ("MSPDI"), and Curtis Development (CD).

RECITALS

- A. In June 2019, the Office of Community Investment and Infrastructure ("OCII") issued a Request for Proposals ("RFP") to develop an OCII-controlled parcel as affordable family ownership housing (the "Project"). Parcel 8719-5 is located at 350 China Basin Street and will be developed with up to 140 units of low- to moderate-income family ownership housing on what is commonly referred to as Mission Bay Block 9A ("MB9A"). The Parties to this MOU submitted a proposal in response to the RFP on or before July 22, 2019.
- B. Per the RFP, sales prices shall be restricted to households earning up to 105% of area median income, as defined by MOHCD and units shall be sold subject to San Francisco's Limited Equity Program.
- C. Respondents to the RFP can be a partnership between a for-profit entity and a nonprofit organization. Members of the Respondent will be evaluated according to their experience with comparable projects, capacity, and the ability to deliver an excellent Project. The Parties acknowledge that YCD has special knowledge of OCII's workforce programs and requirements, experience providing employment preparation and placement for young people age 14-24, getting unemployed San Franciscans back to work, and fostering economic development in the communities it serves. YCD has demonstrated the ability to connect developers and general contractors with local workers trained in the building and construction trades. The Parties acknowledge that MSPDI and CD have special knowledge of developing and managing affordable multi-family housing, including affordable homeownership.
- D. The Project will be funded in part by funds administered by the Office of Community Investment and Infrastructure ("OCII".)
- E. The Parties intend to form a Limited Liability Company to develop the Project (the "Company"). CD and MSPDI will serve as Co-Managing Members ("Managers") with an 80% interest and YCD to serve as an additional Member with a 20% interest.
- F. The Parties wish to enter into this MOU outlining their respective rights and obligations for the development of the Project. In the event that the Parties are successful in obtaining development rights, this MOU will be superseded by an Operating Agreement.

AGREEMENT

1. PARTIES.

The Parties to this MOU are YCD, CD, and MSPDI. The Co-Managing Members will manage the business of the Company. Only the signature of the Managers shall be required to bind the Company. The Managers shall have the right, power, authority and obligation to do (or cause to be done) any and all things necessary, proper, or advisable to implement the Project, including expending Company funds, subject to the limitations of the Operating Agreement (including receipt of any necessary approvals).

2. ROLES IN THE DEVELOPMENT PROCESS

The Parties' roles and responsibilities are outlined in the attached detailed matrix. MSPDI and CD will have primary responsibility for developing the Project with MSPDI responsible for day-to-day project management, marketing and sales, and CD overseeing scheduling, budgeting, and financing, among other things. YCD will provide assistance and meaningful input on all key decisions and activities throughout the development process and will assign a Project Manager who will gain additional experience by assisting MSPDI and CD. YCD will also oversee the Workforce and Contracting Action Plan (WCAP), resident and local hiring, and employment preparation and training for youth.

The Parties shall strive for consensus on all key decisions, with the Managers having final decision making authority on any areas where consensus is not reached. After a request for approval from another party, the Parties shall have five (5) business days to provide a response, or to request up to five (5) additional business days in which to respond. If either party does not respond to a request for approval within this time frame, or should there be a disagreement on a decision that is not resolved within this time frame, and the delay would have a material adverse effect on the Project time frame, the Parties agree that the Managers, as the financial obligors for the Project, shall have the authority to make final decisions in order to maintain the Project schedule and/or Project budget. Either party may not request that the other provide its approval within a time frame shorter than five (5) business days unless such approval is required within a shorter time frame in order to avoid a material delay in the Project schedule or an adverse effect on the Project budget. The Managers shall inform YCD and discuss with it any final decisions made in the absence of consensus or response and will work with YCD, at YCD's request, to identify and mitigate concerns that arise as a result of such decisions.

3. REPRESENTATIONS

Each organization will represent that they have no past or current defaults, bankruptcy or foreclosures, and will provide the other with current financial statements.

4. INDEMNIFICATIONS

A. Indemnification. Each party agrees to indemnify, defend, and hold harmless the other from and against any and all claims, demands, losses, liabilities, actions, lawsuits and other proceedings, judgments and awards, and costs and expenses (including reasonable attorney's fees), arising directly or indirectly, in whole or in part, out of the gross negligence or any willful misconduct of the indemnifying party in connection with this MOU and services or

work provided hereunder, except to the extent caused by the negligence or misconduct of the indemnified party. The provisions of this paragraph shall survive termination of this MOU.

B. Notice of Claim and Demand. A party with notice of any claim or demand made of the other party with respect to any matter covered by this MOU shall immediately communicate details of the claim or demand to the other party by certified or express mail.

5. AUTHORIZED REPRESENTATIVES, NO EMPLOYEES

The Partnership shall not have any employees of its own. The Parties shall each supply the services of their respective staffs to the Company as needed for the Company to be able to carry on its activities and as described in this MOU.

6. SUCCESSORS, ASSIGNMENT

None of the Parties may assign its rights or obligations under this Agreement without the prior written consent of all other Parties, which consent may be given or withheld in the other Parties' sole discretion.

7. APPROVAL

Except as otherwise specifically provided in this MOU, wherever the consent or approval of a party is required under this MOU, such consent or approval shall not be unreasonably withheld or delayed.

8. AUTHORITY

Each of the Parties has the right, power and authority to enter into this MOU and perform its respective obligations hereunder. Without the prior written consent of the other Parties, which the other Parties may give or withhold in its sole discretion, none of the Parties shall have the authority to:

- A. Perform any act in contravention of this MOU;
- B. Assign their rights under this agreement;
- C. Transfer or assign their rights in the MOU;
- D. Commingle or permit the commingling of Project funds with the funds of any other person or entity;
- E. Terminate this MOU other than pursuant to Section 15 below; and
- F. Incur debts or liabilities on behalf of the Parties, except as provided in this MOU.

9. EFFECT OF MOU

This MOU is binding on the Parties and their permitted successors and assigns.

10. TERM

This MOU shall be effective as of the date set forth above, and shall continue thereafter until the occurrence of the earliest of the following events:

- A. Mutual agreement of the Parties;
- B. Full execution of an Operating Agreement;
- C. Upon notice of any of the Parties, if the other Parties shall fail to perform their obligations under this MOU and such failure shall continue for a period of at least thirty (30) days after written notice thereof from the party claiming such default, or such longer period as reasonably necessary to cure such default, provided that the defaulting party is proceeding diligently with such cure; and
- D. The Parties are not selected as developer of the Project by OCII.

11. MISCELLANEOUS

A. Notices. All notices under this MOU shall be in writing, shall be effective upon delivery by certified or express U.S. Mail or an express delivery service which shall show the location and the delivery date and shall be addressed as follows;

MSPDI:
Michael Simmons Property Development
425 Fell Street
San Francisco, CA
Attn: Michael Simmons 94102

CD:
Curtis Development
440 Molimo Drive
San Francisco, CA 94127
Attn: Charmaine Curtis

YCD:
Young Community Developers, Inc.
1715 Yosemite Avenue
San Francisco, CA 94124
Attn: Executive Director

B. Binding Effect. This MOU shall inure to and bind the Parties, their respective representatives, successors and assigns.

C. Legal Actions. In the event any legal action is commenced to interpret or enforce the terms of this MOU or to collect damages as a result of any default, the party prevailing in any such action shall be entitled to reasonable attorney's fees and costs incurred in such action against the party not prevailing. Each party shall pay its own fees and costs for mediation proceedings pursuant to this MOU.

D. Counterparts. This MOU may be executed in counterparts, all of which taken together shall be deemed one original agreement.

E. Captions. Section, titles, or captions in no way define, limit, extend or describe the scope of this MOU to the intent of any of its provisions, and are for convenience of reference only.

F. Governing Law. This MOU shall be construed in accordance with and be governed by the provisions of the laws of the State of California.

G. Waiver. No waiver of any right under this MOU shall be deemed effective unless contained in writing signed by the party charged with the waiver. No waiver of any breach or any failure to perform shall be deemed to be a waiver of any future breach or failure to perform or of any other right arising under this MOU.

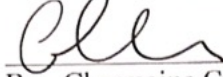
H. Entire Agreement. This MOU sets forth the entire agreement of the Parties. This MOU may not be modified except in writing signed by authorized signatories of each of the Parties.

I. Mediation. In the event of a conflict between the Parties, they shall use their best efforts to resolve the conflict in a manner that is in the best interests of the Project. In the event such conflict cannot be resolved in a timely manner, the Parties shall try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to some other dispute resolution procedure. Either party may request mediation by giving notice to the other party and by filing its applicable submission or request for mediation as required by the American Arbitration Association under its Commercial Mediation Procedures within thirty (30) days of the date of such notice.

J. Other Activities. None of the Parties shall be bound to devote all of its business time to the development of the Project and the Parties acknowledge that each are and will continue to be engaged in other activities, some of which may be connected with business investments and other enterprises which may be in competition with the Project, including but not limited to other projects which may be located in the same geographic area as the Project.

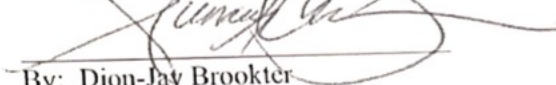
In witness whereof, the Parties have executed this MOU as of the date first written above.

Curtis Development



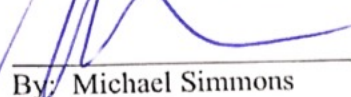
By: Charmaine Curtis
Its: Principal

Young Community Developers, Inc.



By: Dion-Jay Brooker
Its: Executive Director

Michael Simmons Property Development



By: Michael Simmons
Its: President

PROJECT RESPONSIBILITY MATRIX

	CD	MSPD	YCD
PROJECT MANAGEMENT			
Executive Oversight	lead		
Lead Project Management		lead	
Project Management/Assist			lead
OCII Development			
OCII Development Agreement	lead	assist	P&A
PROCUREMENT			
OCII LEAD		lead	assist
Consultant and contractor selection	P&A	lead	assist
DUE DILIGENCE			
Consultant management		lead	
Due diligence management		lead	
DEVELOPMENT PROGRAMMING			
Development program design	assist	lead	P&A
Development program management	P&A	lead	P&A
ENTITLEMENTS - D4D			
OCII Lead	lead		
Consultant selection	lead		
Entitlement management	lead		
DESIGN			
Architect and consultant contract negotiations	lead	P&A	
Design review (incl.managing OCII review)	P&A	lead	P&A
Design process management		lead	assist
Design team management		lead	
Design approval	P&A	lead	P&A
PERMITTING			
Expediter management (if any)	lead	assist	
BUDGETING			
Predevelopment	lead	assist	
Development	lead	assist	
FINANCING			
Pro Forma	lead	assist	
Financing structuring	lead	assist	
Securing financing	lead	assist	
Predevelopment (OCII)	lead	assist	
Construction Loan	lead	assist	assist
CAL Home State Subsidy	assist	assist	lead

OUTREACH

Community outreach		assist	lead
Mission Bay Advisory Committee		assist	lead
General community		assist	lead
Political outreach		assist	lead

HOA ORGANIZATION

HOA Formation	lead		
HOA Budgeting and Association Dues	lead	assist	
DRE Public Report	lead		
CC&Rs	lead	assist	

MARKETING/SALES

Project Branding	assist	lead	P&A
Broker Selection and Oversight	P&A	lead	assist
Market Planning		lead	assist
Buyer Outreach/			
Application Preparation		lead	assist
Lottery Management with MOH		lead	assist
Mortgage Lender selection and Relationship management		lead	assist
Buyer Mortgages/Packaging/Oversight		lead	assist
Buyer Closing		lead	assist
Buyer Move In		lead	assist
HOA Board President		lead	assist

CONSTRUCTION

Construction manager selection		lead	
General contractor selection	P&A	lead	P&A
Preconstruction services management		lead	
Value engineering management	assist	lead	
Construction contract negotiations	lead	assist	
Bidding management		lead	
Construction oversight + management	assist	lead	
Attend Draw Meetings	assist	lead	P&A
Change Order Sign off	P&A	lead	P&A

MISCELLANEOUS

Project accounting	assist	lead	

P&A = participate and approve

freeze

Attachment M: OCII Homeownership Developer Fee Policy

OCII Homeownership Developer Fee

November 2019

Consistent with the San Francisco Mayor's Office of Housing and Community Development's developer fee policy (most recently updated July 20, 2018) for affordable, tax credit rental projects receiving soft loans from the City, the homeownership developer fee will be subject to the same maximum as a tax credit rental project funded by MOHCD. Risks associated with the development of an affordable rental and homeownership project are assumed to be roughly equivalent.

The maximum developer fee for a homeownership development shall be \$2,200,000 ("Base Fee") plus \$10,000 per unit over 100 units, up to a maximum of \$4,000,000. For homeownership projects of 20 units or less, the developer fee shall be up to \$500,000.

The maximum developer fee shall be comprised of a Project Management Fee and an At-Risk Fee. The Project Management Fee shall be one-half (50%) of the Base Fee (i.e. \$1,100,000) and shall be distributed according to achievement of certain development milestones set out below. The At-Risk Fee shall consist of the remaining half of the Base Fee plus the \$10,000 per unit over 100 units, and shall cover any cost overruns that exceed the available contingency funds in the final project budget approved by OCII at construction loan closing. In the event of any cost overruns after OCII's construction funding commitment, the Developer will contribute up to half of the total maximum fee (e.g. $\$2,200,000 \times 50\% = \$1,100,000$) to cover the overruns. Cost overruns beyond that amount must be requested from OCII's Commission. The At-Risk fee shall be distributed according to milestones as set forth below.

The maximum allowable marketing & sales fee per unit is \$7,500 per unit and will not be based on a percentage of sales price. Additional commission payments to outside real estate brokers are not allowed. The marketing and sales fee is in addition to the Project Management Fee and At-Risk Fee.

Fee Category	Fee Policy	Calculation
Project Management Fee	One-half of Base Fee (\$2,200,000)	$\$2,200,000 \times 0.5 = \$1,100,000$
At-Risk Fee	One-half of Base Fee plus \$10,000 per unit over 100 units	$\$1,100,000 + (10,000 \times \# \text{ of units over } 100)$
Maximum Fee	Project Management Fee plus At-Risk Fee; \$2,200,000 plus \$10,000 per unit over 100 units	$\$2,200,000 + (10,000 \times \# \text{ of units over } 100)$ not to exceed \$4,000,000

Milestone	PM Fee Distribution	Total PM Fee: \$1,100,000
Predevelopment loan closing	15%	\$165,000
Upon approval by OCII of Schematic Design. With no more than 50% of the total Project Management Fee to be disbursed prior to construction closing	35%	\$385,000
At Construction Loan Closing	30%	\$330,000
Project Close-Out: upon close of escrow/sale of all units	20%	\$220,000
TOTAL PM FEE	100%	\$1,100,000

Milestone	At Risk Fee Distribution	Total At Risk Fee: \$1,100,000
At 50% of construction completion	30%	\$330,000
Issuance by BRE of Final Subdivision Report Condominium	20%	\$220,000
At receipt of Temporary Certificate of Completion	30%	\$330,000
Project Close-Out: upon close of escrow/sale of final unit	20%	\$220,000 (plus amount if project over 100 units)
TOTAL AT-RISK FEE		\$1,100,000 plus \$10,000/unit over 100 units (if applicable)
MAXIMUM DEVELOPER FEE		\$2,200,000 + \$10,000/unit over 100 Units

Attachment N: Limited Equity Homeownership Program Disclosure Book

*MAYOR'S OFFICE OF HOUSING AND COMMUNITY
DEVELOPMENT*

**LIMITED EQUITY
HOMEOWNERSHIP
PROGRAM**

**Loan Disclosure Information
With Statement of Acceptance**

May 2019

**I M P O R T A N T
NOTE TO THE
READER**

In 2012, the San Francisco Redevelopment Agency (“SFRA”) was dissolved pursuant to California law. The Successor Agency to the Redevelopment Agency of the City and County of San Francisco, commonly known as the Office of Community Investment and Infrastructure (“OCII”), then became responsible for completing certain affordable housing obligations of the SFRA, including residential units to be sold under the Limited Equity Homeownership Program. The San Francisco Mayor’s Office of Housing and Community Development (“MOHCD”) implements the Limited Equity Homeownership Program on behalf of OCII.

The purpose of this Program Summary is to explain the Limited Equity Homeownership Program (“Limited Equity Program” or “Program”). Homes sold through this Program are subject to price controls at resale, as well as other terms and restrictions that affect your rights as a homeowner. Some of the terms and provisions are complex, and require that you thoroughly understand them prior to your purchase of a home. **IF YOU DESIRE TO PARTICIPATE IN THE PROGRAM AND PURCHASE A HOME, YOU MUST ATTEST TO YOUR FULL UNDERSTANDING OF AND AGREEMENT TO ALL THE PROGRAM’S TERMS AND CONDITIONS BY SIGNING BELOW PRIOR TO CLOSING ESCROW.**

This Program Summary has been provided to a prospective homeowner under the Limited Equity Program as a convenience only, but does not override any of the City Documents (defined below) associated with the Program. If any information in this Program Summary conflicts in any way with any of the City Documents, the information in the City Documents override this Program Summary.

I, the undersigned, hereby acknowledge and accept all the terms and conditions contained in the Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement, the Promissory Note Secured by a Deed of Trust, the Deed of Trust and Assignment of Rents, and the Acknowledgment of the Declaration, Notice of Affordability Restrictions, and the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual effective October 11, 2018, as it may be updated and amended from time to

time (the "Procedures Manual"), all of which ("City Documents") I have agreed to comply with in return for purchasing my home at a below-market-rate price. I acknowledge that a staff member of the Mayor's Office of Housing and Community Development ("MOHCD") of the City and County of San Francisco ("City") explained the terms and provisions of the City Documents to me, and that I have had a chance to review this Limited Equity Homeownership Program Loan Disclosure Information document and the Procedures Manual, which further explain the City Documents. I have also been provided enough time to seek an independent legal opinion about the City Documents and my purchase of the home, if I so chose.

I understand that by my execution of the City Documents, I agree that the resale price of my home will be restricted to a price that is affordable to a household of a predetermined size, earning a predetermined percentage of Area Median Income ("AMI"), based on figures published by MOHCD, based on data published by the U.S. Department of Housing and Urban Development (or any government agency subsequently assuming this responsibility). I understand that MOHCD will determine the resale affordable price applicable to my home when I notify the City of my intent to sell. I understand that fair market value will not determine the resale affordable price of my home.

I further understand that the MOHCD's calculation of the resale affordable purchase price for my home will consider, in addition to the current income for a pre-determined AMI level, an interest rate which is the 10-year rolling average of 30 years of interest rates as calculated by the MOHCD (or its successor) and based on data provided by Freddie Mac, as well as other current housing costs, such as insurance, HOA dues, and taxes. I know that any proceeds I receive from the sale of my home will be affected by the value of these factors, since they will be used to calculate the resale affordable purchase price of my home.

I understand that the MOHCD imposes resale restrictions on homes that it subsidizes so that it can provide homeownership opportunities to future generations of low- and moderate-income families over time and that the equity I will be able to build in my home will be limited so that the Program is available to the next purchaser of my home. I understand that my ability to purchase my home at an affordable price is contingent on my agreement to comply with the resale controls and Program restrictions.

BMR Lien# LEPBMR191000

PROPERTY ADDRESS: 123 Sample Street, Unit 2, San Francisco, CA 94102

BUYER(S):

Mary Sample

John Sample

Ellen Sample

Jack Sample

PROGRAM SUMMARY

- The purpose of the City's Limited Equity Homeownership Program ("Program") is to provide homeownership opportunities to low- and moderate-income households ("Eligible Buyers") who otherwise would not be able to purchase a home in San Francisco.
- To make homes affordable to Eligible Buyers, the City may sell land to developers at below-market- rate prices and/or provide construction funding. In return for this assistance, developers agree to sell the homes to Eligible Buyers. Eligible Buyers, in turn, purchase their homes at affordable prices and agree to comply with Program requirements.
- The City is able to offer the benefits of homeownership to many generations of Eligible Buyers through restrictions on resale prices, which limit the amount of equity that an Eligible Buyer is able to build. By limiting Eligible Buyers' equity, a given home can be resold at affordable prices again and again. Market fluctuations, which often result in prices beyond the affordability of low- and moderate-income households, do not affect limited equity resale prices.

PROGRAM ELEMENTS

#1: **Eligibility**

To qualify as an Eligible Buyer, households must meet the following criteria:

- Household income (including income calculated from assets) within the AMI "target range" of low-to moderate-income buyers.
- Ability to qualify for a 30-year fixed mortgage, such as, sufficient income, manageable debt, sufficient savings to cover the minimum down

payment, closing costs, and required reserves.

- A minimum of 3% down payment (the entire 3% may be gift funds).
- A minimum of 3 months of housing payments (principal, interest, property taxes, hazard insurance, HOA dues and other related costs).
- First-time homebuyer status.
- Commitment to use the property as the buyer's primary residence.
- Any other requirements as set forth in the Procedures Manual.

MOHCD publishes AMI levels for San Francisco annually, based on data published by the U.S. Department of Housing and Urban Development. The AMI target ranges that determine a household's eligibility to purchase will vary from development to development, based on the amount of subsidy provided by the City to the developer. MOHCD will qualify all first-time homebuyers for both initial sales and resales. Program qualification documentation is required and detailed in the Procedures Manual.

#2: Affordable Purchase Prices

When developers set affordable purchase prices for units they sell, they use very specific information, as described below:

- AMI level: Developers in contract with the City are obligated to sell their units at prices affordable

to households within a certain AMI "target range." For example, a developer in 2016 may be obligated to sell his/her units to households making between

80% and 100% of AMI. For a household of 3, this translates to incomes between \$77,550 and \$96,950.

- Household size: For the pricing calculation, the City assumes a household size is one person larger

than the total number of bedrooms (except studio units which assume a one-person household; and SRO units which are calculated at $\frac{3}{4}$ of the price of a studio). For example, a household of one person is assumed for a studio, three people for a two-bedroom, four people for a three-bedroom, and so on. For occupancy, the City requires a minimum of one person per bedroom. For example, a single person can apply for a studio or one-bedroom unit only. A two-person household could apply for a studio, one-bedroom, or two-bedroom unit.

- 33% "PITI": Principal, interest, taxes, homeowners' insurance, homeowner's association dues and any other related costs – total housing costs – are assumed to be 33% of a household's gross monthly income.
- First mortgage interest rate: The City's calculation assumes a fixed mortgage interest rate based

on the 10-year rolling average of 30 years of interest rates as calculated by MOHCD (or its successor) based on data provided by Freddie Mac. The City will not permit a variable rate mortgage or an interest-only mortgage, as such financing instruments are contrary to the objectives of long-term affordability and stability of the first time homebuyer program.

- Owner down payment: The City assumes (and requires at a minimum) that the household will make

a cash down payment of 3% of the affordable purchase price; and the entire 3% may be gift funds.

Once MOHCD determines, for each unit, the applicable AMI level, the household size, the cost of taxes and insurance, and the interest rate, MOHCD can set the affordable purchase price. For example, a two-bedroom unit (which assumes a household of three) and the developer's obligation calls for pricing at an AMI level of 95% (with income eligibility up to a maximum of 100% of AMI), the three-person household's income would be \$92,103 in 2016. 33% of that income level is \$30,394, or \$2,533 per month. This figure, \$2,533, is the target total monthly payment for housing costs for all households buying at this income level. If the household's HOA dues were \$600 per month, taxes were \$350 per month, and property insurance was \$50 per month, the total monthly income available to pay the first mortgage would be \$1,533 per month (i.e., $\$2,533 - \$600 - \$350 - \$50 = \$1,533$). Using a 5% interest rate on a 30-year, fixed-rate first mortgage, the supportable mortgage would be \$285,539. Assuming a 5% down payment (since the first mortgage would cover 95% of the purchase price), the affordable purchase price would be \$300,567.

#3: Resale Affordable Purchase Prices

When a household decides to sell its home, it notifies the City, and the City calculates the resale affordable purchase price, using the same AMI percentage and household size that were used to calculate the seller's affordable purchase price. To follow the example given above, the family of 3 earning 95% of AMI that bought its home for \$300,567 in 2016 might decide to sell the home five years

later. The City will determine the resale price by taking the income for a 3-person household at 95% of AMI in 2021 and limiting payments for PITI to 33% of gross monthly income. The calculation will use the then current 10-year rolling average of rates, and the then-current HOA, tax, and insurance costs, and it will assume a 5% down payment by the new Eligible Buyer. So, for example, if the ten-year average interest rate increased 0.5% between 2016 and 2021, AMI increased 15%, and taxes and insurance increased 5%, the resale affordable purchase price would be \$367,606. After subtracting the cost of necessary repairs (if any) and closing costs, the seller would be entitled to the difference between the old affordable price and the new affordable price. The example is shown numerically below:

95% AMI, 3-person HH income, 2016 (2021 + 15%):	\$105,918
33% of gross income:	\$34,953
Per month:	\$2,913
Monthly HOA dues, taxes & insurance, 2016 (2021 + 5%)	(\$1,050)
Monthly income available for 1 st mortgage:	\$1,863
Mortgage (assuming 5.5% interest, 30-yr fixed)	\$328,072
5% Down payment:	\$17,267
Resale Affordable Base Price:	\$345,339
MLS Realtor Commission (up to 5% of Base Price):	\$17,267
Eligible Capital Improvements:	\$5,000
Resale Affordable Purchase Price:	\$367,606
Resale Affordable Purchase Price:	\$367,606
Closing costs (6% of Purchase Price)	(\$22,056)
Repayment of full 1 st mortgage + down payment:	(\$300,567)
Owner's new equity:	\$44,983
Plus principal paid on the mortgage:	\$23,332
Plus return of owner's down payment:	\$15,028
Net Return to Owner:	\$83,343

By transferring this property from one 95% AMI household to another under the Program, the home remains affordable, the benefits of homeownership are passed along, and all owners have a chance to earn limited equity!

#4: Capital Improvements; Maintenance

As shown above, AMI levels and current housing costs such as interest rates, HOA dues, property taxes and insurance costs determine affordable prices. Eligible Capital Improvements credit and Multiple Listing Service listing realtor commission fees (up to 5% of the resale base price) may be added to the resale affordable price as provided in Section 6.3 of the Declaration.

Owners may begin claiming capital improvements in their resale price that are made ten (10) years after the initial sale of the property. Owner must follow the Capital Improvements policies and procedures as set forth in the Procedures Manual.

#5: Minimum Resale Value

As described above, the resale affordable purchase price is subject to factors that fluctuate over time, such as mortgage interest rates, taxes, and insurance costs.

Because of the variability of these factors, ***owners assume some risk when they purchase their homes!*** For example, if the interest rate used in the pricing calculation increases from the time of initial purchase to time of resale, and increases in AMI over that same time do not compensate for the interest rate increase, a resale affordable purchase price could actually be lower than the original price an owner paid. The MOHCD's use of the 10-year rolling average of interest rates is intended to minimize the interest rate risk at resale, but there is no guarantee that the 10-year average will not increase over time.

Owners are solely responsible for:

- Home Maintenance. Owner may not destroy or damage the property, allow

the property to

deteriorate, or otherwise commit waste on the property. Owner must maintain the property in compliance with all applicable laws, ordinances, and regulations and in a good and clean condition and all appliances and fixtures must be in good working order. Any damage by abnormal or excessive wear and tear or because of neglect, abuse, or insufficient maintenance, must be repaired as provided in Section 7.5 of the Declaration.

- Inspection and Repairs upon Resale. Owner shall follow the MOHCD's Property Inspection and

Repairs Policy as it exists at the time of the proposed resale as set forth in Section 7.5 of the Declaration, and as further detailed at

<https://sfmohcd.org/property-inspection>.

- First Mortgage Balance. If the resale affordable purchase price is insufficient to pay off the first

mortgage, the owner is solely responsible for his/her mortgage debt beyond that adjusted resale affordable purchase price. Please note that the first mortgage lender will not release its lien unless the mortgage is repaid in full. If the first lender does not release its lien because the owner has not or cannot fully repay it, then the sale will be cancelled or the owner will be in default.

#6: Owner Refinancing

To protect its investment and to preserve the intent of the Program, the City must approve all refinancing agreements.

Owners must obtain MOHCD's prior written approval of any refinancing of a loan and the addition of any lien on the property regardless of lien position. At all times, the City's lien position must be maintained and will only be subordinated as specifically provided in the MOHCD Subordination Policy. Owners must follow the MOHCD Subordination Policy at <https://sfmohcd.org/subordination-refinance>.

#7: Permissible Transfers & Resales

Owners may transfer the property only to an Eligible Buyer under the Transfer Procedures in Section 7 of the Declaration.

#8: City Purchase Option

While the City may purchase the home as an Eligible Buyer (in a standard sale transaction), it retains an option to purchase the home in the event of owner default under either the City Documents or the first mortgage.

#9: Owner Default and City Remedies

An owner is in default of the City Documents if any of the following occur:

- A transfer of the property in violation of the Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement;
- Use of the property other than as owner's primary residence (owners must certify annually that they occupy the home at least 10 months out of every 12);
- Renting or subleasing any part of the property is not permitted without the prior written approval from the City. No part of a property can be rented or subleased as a short-term rental or listed on short-term rental or vacation rental sites at any time. Renting of a parking space or any other space purchased with

the property is also prohibited.

- Failure to pay required housing costs, such as taxes, homeowners association dues, assessments, or insurance;
- Placement of any mortgages, liens, or encumbrances on the property that the City has not approved;
- Any other violation of the City Documents; or
- A default on the first mortgage.

If an owner is in default and doesn't or can't cure the default within the times specified in the City Documents or first mortgage documents, the City can exercise its purchase option, commence an action for specific performance or an injunction to prevent an impermissible sale, foreclose on its deed of trust, and/or exercise any other remedy permitted by law.

#10: City Promissory Note and Deed of Trust

To protect its investment, the City requires that all owners execute a promissory note and deed of trust when they purchase their homes. Its purpose is to protect the City's investment if an owner defaults on the first mortgage or City obligations. An owner default "triggers" the promissory note and City deed of trust, which secures the promissory note against the property and is recorded to provide public notice of the owner's obligations under the Program. In the case of default, the promissory note states that the owner must pay the City the entire principal balance and the Appreciation of the Note, together with all accrued and unpaid interest thereon, if any. The Appreciation is calculated as the amount equal to the difference between (i)

Unrestricted Price, and (ii) the appraised fair market value of the property at the time of resale without regard to the Property Restrictions.

Financing for the 3-person, 95% AMI household can again illustrate the issue. This household had an affordable purchase price of \$300,567 with a BMR Note of \$499,433 (calculated based on the fair market value at the time of purchase \$800,000). If they defaulted on their loan, and fair market value was, for example, \$1,000,000, they would owe the City \$699,433 (plus default-related costs) under the City's promissory note.

If an owner transfers his/her property according to the Program requirements and complies with all other City and first mortgage obligations, the City will simply terminate the promissory note and deed of trust at resale.

#11: Transfer by Marriage, Domestic Partnership, and Inheritance

If an owner marries or enters a domestic partnership, the spouse or partner can become a co-owner but no sooner than 12 months after the original purchase. If Owners enter into a dissolution of marriage or

Domestic Partnership after purchasing the property, an Owner may be removed from the title of the property on Owners' mutual agreement but subject to the City's prior written consent.

Upon the death of a property owner or owners, the home can be transferred by inheritance, will, or any other function of law to the Owner's child, spouse, or Domestic Partner provided that transferee is an Eligible Buyer. See the Transfer requirements and procedures as set forth in the Procedures Manual for details.

#12: Term

The term of the City Documents –the period of time that resale restrictions and all other City obligations-- apply for the life of the Project. Notwithstanding the foregoing, the Declaration will terminate on: (i) a Transfer of the property in compliance with the terms of the Declaration, and (ii) execution and recordation of a declaration with the same form and substance as the Declaration by the Eligible Buyer.