OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

450-0092025-002

Agenda Item **No.8(a)**
Meeting of July 15, 2025

INFORMATIONAL MEMORANDUM

TO: Commission on Community Investment and Infrastructure

FROM: Thor Kaslofsky, Executive Director

SUBJECT: Notice of intent to issue a Request for Proposals seeking to engage a consultant for infrastructure coordination services in connection with the implementation of the Disposition and Development Agreements for Hunters Point Shipyard Phase 1 and Candlestick Point/Hunters Point Shipyard Phase 2; Hunters Point Shipyard Redevelopment Project Area and Bayview Hunters Point Redevelopment Area

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EXECUTIVE SUMMARY

Staff intends to issue a Request for Proposal ("RFP") to procure a consultant ("Contractor") for a contract to provide infrastructure engineering support services to the Office of Community Investment and Infrastructure ("OCII") for Hunters Point Shipyard Phase 1 ("Phase 1") and Candlestick Point/Hunters Point Shipyard Phase 2 ("Phase 2") project (the "Project"). The Contractor will support OCII with continued coordination between developers and the City and County of San Francisco ("City") regarding infrastructure planning and design, mapping, construction permitting, and acceptance of constructed public infrastructure and parks, and land transfers for the Project.

The services are currently performed by Hollins Consulting, Inc. ("Hollins") under their existing contract expiring on January 6, 2026. In accordance with OCII's Purchasing Policy, OCII is offering this business opportunity through an RFP and will inform qualified small and local business enterprises of the contracting opportunity ("Contract"). OCII will issue a RFP (**Attachment A**) on July 17, 2025, and return to the Commission with a recommended Contractor in Q4 2025.

This memorandum is to advise the Commission of the planned RFP.

One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

628 652 8500

www.sfocii.org

BACKGROUND

The Project includes two disposition and development agreements ("DDAs") for the planning and development of approximately 770 acres within the Hunters Point Shipyard and the Bayview Hunters Point Redevelopment Project Areas located along the southeastern waterfront of San Francisco. The first phase of development is governed by the Hunters Point Shipyard Phase 1 ("HPS1") DDA between OCII and HPS Development Co., LP ("Phase 1 Developer"), as amended. The second phase is governed by the Candlestick Point and Hunters Point Shipyard Phase 2 ("CP/HPS2") DDA between OCII and CP Development Co, LLC ("CP/HPS2 Developer"), as amended.

Both DDAs include provisions concerning coordination between OCII, the Phase 1 and CP/HPS2 Developers, as well the City departments regarding the design review and permitting for the Project ("Design Review and Document Approval Procedures or "DRDAP"). These coordination provisions and DRDAPs require timely design review and approval of infrastructure plans, permits, construction documents and coordinated efforts across different City departments to ensure the timely implementation of infrastructure improvements outlined in the two DDA's Infrastructure Plans. To accomplish this, OCII requires infrastructure coordination support from consultants.

DISCUSSION

The following summarizes components of the RFP and the procurement process:

Scope of Services:
The Scope of Services described in the RFP includes:

- *Conceptual Planning* – represent OCII in the review of Master Utility Plans and update, as required, entitlement documents.

- *Existing Street and Utility Systems* – coordination of power shutdowns, infrastructure relocations, and transitions of existing streets and utility systems. Also included are street and utility system design reviews.

- *Mapping* – assist in preparing and processing map applications, Conditions of Approval related to Tentative Maps and Final Maps, Public Improvement Agreements related to Final Maps, encroachments, lot line adjustment, merger and Final Map applications.

- *Land Transfers* – identify potential issues related to existing or planned infrastructure systems.

- *Infrastructure Improvements* – facilitate the City plan review process by the Interagency Cooperative Agreement and DRDAP. Collect and compile plan review responses from City departments for Major Phase, sub-phase improvement plans, and other permit applications. Assist OCII in convening special meetings with City departments as necessary to provide additional requested information or troubleshooting on individual issues as they relate to planning submittals.

- *Construction* – coordinate and assist in resolving field related changes, issues, and conflicts. Assist in preparing documents for acceptance and acquisition of completed improvements.

- *Vertical Construction* - coordinate and assist in resolving changes requested by vertical developers concerning horizontal improvements.

A more detailed description of services is in the attached RFP.

Term:
The new Contract will be for three (3) years, from January 7, 2026, through January 6, 2029.

Budget:
The budget for this Contract is not-to-exceed $1,500,000 for the three years and proposers to the RFP must submit competitive budgets. The final Contract budget will be negotiated upon selection of a Contractor. The fund for these services is listed on ROPS Line 25; Budget Line 381.

Outreach Plan:
The RFP will be advertised using the following methods:

- Small Business Exchange newspaper and newsletter
- Sun-Reporter newspaper
- San Francisco Bayview newspaper
- OCII Website
- City's "Bids and Contracts" website
- City's weekly bids newsletter
- HPS/CP Citizen's Advisory Committee website and distribution network

Evaluation Criteria:
The Contractor will be selected by OCII based on the following factors:

1) Expertise, experience, and professional technical qualifications of the Contractor's team in providing the services described in the Scope of Services. Applicants must have a minimum of 5 years of experience and comprehensive understanding and knowledge of the interrelationship of the categories of the Scope of Services. (30 points).

2) Overall expertise working with San Francisco development process, procedures and permitting processes and agencies related to the specific tasks in the Scope of Services. More specifically, applicants must have a demonstrated experience related to coordinating plan reviews amongst a variety of permitting entities and an ability to work well in high-pressure and dynamic environments and meet deadlines. (25 points).

3) The overall cost of the proposed staff and efficiency of the budget for providing the requested services, giving an hourly rate breakdown, consistent with industry standards. (15 points).

4) Demonstrated ability to work collaboratively with clients, public agencies, environmental resource agencies, and other project stakeholders, and the ability to cost-effectively, efficiently and promptly provide requested services in a useful manner as evidenced through reference checks. (15 points).

5) Completeness of the submittal and compliance with the requirements of the RFP. (15 points).

TOTAL: 100 POINTS POSSIBLE.

California Environmental Quality Act ("CEQA")

This RFP is an administrative activity of government that does not constitute a "project" as defined by the CEQA pursuant to CEQA Guidelines Section 15378(b)(5). It will not independently result in a physical change in the environment and is not subject to environmental review under CEQA.

NEXT STEPS

OCII intends to release the RFP on Thursday, July 17, 2025, with submissions due on Thursday, September 4, 2025 (**Table 1**).

TABLE 1. PROCUREMENT TIMELINE

RFP Process	Date
Commission Informational Memorandum	1:00 p.m., Tuesday, July 15, 2025
RFP Available	4:00 p.m., Thursday, July 17, 2025
Pre-submission meeting with OCII	10:00am Wednesday, July 30, 2025
Deadline for questions and requests for additional information (via email)	4:00 p.m., Wednesday, August 6, 2025
Submission deadline for proposals	4:00 p.m., Thursday, September 4, 2025
Applicant interviews (if held)	Week of September 15, 2025
Commission Approval	1:00 p.m., Tuesday, November 18, 2025

(Originated by Inder Grewal, Development Specialist)

DocuSigned by:

Thor Kaslofsky

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Thor Kaslofsky
Executive Director

Attachment A: Hunters Point Shipyard/Candlestick Point Engineering Support Services RFP

ATTACHMENT A

office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

Request for Proposals (RFP)

HUNTERS POINT SHIPYARD/CANDLESTICK POINT INFRASTRUCTURE ENGINEERING SUPPORT SERVICES

RFP Available
July 17, 2025

Deadline for Submission
September 4, 2025

Issued by:
Office of Community Investment and Infrastructure
1 South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

Contact: Inder Grewal
Email: inderbir.grewal@sfgov.org

TABLE OF CONTENTS

INFRASTRUCTURE ENGINEERING SUPPORT SERVICES

I. SUMMARY

The Office of Community Investment and Infrastructure ("OCII"), Successor Agency to the former San Francisco Redevelopment Agency ("SFRA"), in coordination with the San Francisco Department of Public Works ("SFPW"), is soliciting proposals from experienced firms ("Contractor") to provide technical support on an "as-needed" basis. The Contractor(s) shall facilitate the efficient review by OCII and all City departments for design, construction and acceptance of public infrastructure undertaken by private developers ("Infrastructure Mapping and Engineering Support Services") related to the development of Candlestick Point / Hunters Point Shipyard Phase 2 ("CP/HPS Phase 2") and Hunters Point Shipyard Phase 1 ("HPS Phase 1"), collectively referred to as the "Project". This solicitation is pursuant to the Interagency Cooperation Agreement ("ICA") between OCII and other City departments for both project areas that allows third party Contractors to be hired to assist OCII with fulfilling their obligation for expeditiously processing permits related to the implementation of the Project. OCII <u>may select more than one Contractor</u> ("Contractor") through this solicitation for a period of three years in an amount not to exceed $1,500,000.

In consultation with an Evaluation Panel (defined later in this Request for Proposal), OCII staff will recommend a Contractor to the OCII Commission ("Commission") for approval. The approved Contractor will then enter into a Personal Services Contract ("Contract") with OCII. This opportunity for a personal services contract for Infrastructure Engineering Support Services is open to all businesses, both for-profit and non-profit. Applicants are advised that OCII is committed to vigorous equal opportunity employment.

PROJECT OVERVIEW

The Project comprises of approximately 702 acres along the southeast waterfront of San Francisco. The approximately 466-acre Shipyard portion of the Project is a former base of the Navy. It was closed in 1974, and in 1991, under the Federal Base Realignment and Closure Act, the Shipyard was declared surplus, and preparation began for transfer to OCII.

The Project is being implemented in two phases by separate developers, under separate Development and Disposition Agreements ("DDA"). The first phase of development is governed by the HPS Phase 1 DDA is being implemented by HPS Development Co., LLC. HPS Phase 1 authorizes the development of up to 1,428 residential units and 26 acres of parks and open space.

The CP/HPS Phase 2 DDA provides Phase 2 Developer, CP Development Co., LLC, with the right to build approximately 10,672 housing units, 550,500 square feet of regional and neighborhood serving retail, 69,000 square feet of cultural facilities, 240,000 square feet of community uses, 255,000 square feet of artist studios, up to 4.9M square feet of office and research and development (R&D) space, and 336 acres of parks and open space.

Additional detail on the development program is available on the Hunters Point Shipyard page of OCII's website: https://sfocii.org/projects/hunters-point-shipyard/overview.

II. IMPORTANT DATES AND SUBMISSION PROCESS

Important Dates

Proposals are due by 4:00 p.m., **September 4, 2025**.

RFP available at OCII	**July 17, 2025**
Pre-submission meeting at OCII	**10:00 a.m., July 30, 2025**
Deadline for questions and requests for additional information	**August 6, 2025**
Submission deadline for Proposals	**4:00 p.m., September 4, 2025**
Applicant Interview (If Necessary	**Week of September 15, 2025**
Commission consideration	**November 2025**

***All dates subject to change**

Pre-Submission Meeting

A pre-submission meeting will be held at OCII offices, located at 1 South Van Ness Avenue in San Francisco on the fifth floor, on the date and time shown in Section II. A. The meeting will include an overview of the Infrastructure Engineering Support Services RFP and provide an opportunity to ask questions. Although attendance is not mandatory, it is highly recommended.

Questions and Requests for Additional Information

All questions and requests for additional information regarding this RFP must be received in writing by OCII, by hand, overnight delivery, mail, or e-mail on or before the date and time as shown in Section II. A. All addendums, responses and additional information will be distributed to all registered RFP holders. The OCII reserves the sole right to determine the timing and content of the response, if any, to all questions and requests for additional information. Questions and information requests should be submitted to:

Inder Grewal
Office of Community Investment and Infrastructure
1 South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103
Telephone: 415 749-2517
E-Mail: inderbir.grewal@sfgov.org

Registration

Although it is not necessary to register to receive a copy of the RFP or to submit a Proposal, it is strongly recommended as it will permit OCII to e-mail addenda information with responses to inquiries. Only registered RFP holders will receive responses to all written questions, addenda and any additional information distributed prior to the Proposal submission date. An RFP registration form is included as **Attachment #9**.

Submission Time, Place, Date, Contact

Submission of **seven (7) hard copies** and an electronic copy (on flash drive) of the proposal must be received by the staff identified below, or their designee, no later than:

September 4, 2025 at 4:00 p.m.
to
Office of Community Investment and Infrastructure
Attn: **Inder Grewal**
1 South Van Ness Avenue, Fifth Floor
San Francisco, California 94103
Contact: **Inderbir.Grewal@sfgov.org**

III. BACKGROUND

Below is a detailed description of how the development is structured and who the key parties are in ensuring the Project is delivered:

PARTY	ROLE IN DEVELOPMENT
Office of Community Investment & Infrastructure ("OCII")	RFP recipient will report directly to this agency. OCII manages the overall implementation of the redevelopment enforceable obligations, i.e. DDA, establishing authority, rights, powers and duties over land use, financing, and plan documents.
City and County of San Francisco ("City"); SFPW as the lead agency for the City for public infrastructure scope described herein	Assists OCII with the implementation of the Project through the Interagency Cooperative Agreement with respect to the review and approval of Project Applications for consistency with the Applicable City Regulations and applicable State and federal law including Mapping, Design, Permitting, Construction Inspection, Acquisition and Acceptance of the public infrastructure that The Developer has constructed for the Project.
U.S. Navy	Investigate and remediate hazardous substances within the Shipyard, in accordance with specified processes and schedules, for phased transfer of the lands to OCII.

Lennar-Urban. FivePoint Communities.	Constructs the Infrastructure and Develop and implement the Project, as private partners with OCII and contract for a full range of Contractor services including engineering, architecture, and construction.
Hunters Point Shipyard Citizens Advisory Committee ("CAC")	Provide community input on OCII and The Developer's efforts on the Project and advise the OCII Commission.

The Disposition and Development Agreements

The Disposition and Development Agreements (DDA's) are structured so that Phase 1 and Phase 2 Developers are responsible for the planning, investigation, exploration, design, engineering, and construction of the infrastructure needed for development of the Project. The Phase 1 and Phase 2 Developers also manage the schedule and the pace of development required to meet the Project's Schedule of Performance that is included in the DDAs.

The Phase 1 and 2 DDAs include conceptual frameworks for the infrastructure build-out called "Infrastructure Plans." The Infrastructure Plans establish the Developer's responsibility for public infrastructure within the Project, including site grading, street layouts and improvements, wet utilities (separated sanitary sewer, separated storm drainage, auxiliary water supply system, and low pressure water systems), dry utility layouts, sea level rise improvements, location and improvements for parks and open space, and storm drainage, and stormwater treatment. More design detail is provided when the developer submits Master Utility Plans ("MUPS") to ITF/DPW that implement the Infrastructure Plans.

The ICA for both Phase 1 and Phase 2 DDAs acknowledges SFPW's role as the City's lead agency to review and approve subdivision mapping, Street Vacations, MUPs, Public Improvement Agreements, Improvement Permits, Determination of Completeness ("DOC"), Acceptance submittals and acquisition of public infrastructure requests to the Board of Supervisors for their action (collectively, "Infrastructure Approvals").

OCII contracts directly with SFPW to act as the central department for processing of permits needed to construct the infrastructure improvements. In addition to this role, SFPW assists The Developer and OCII in obtaining regulatory approvals and other entitling approvals and agreements.

The ICA's Infrastructure Plan also establishes the design and construction standards, performance criteria and specifications regarding the Developer's responsibility for public infrastructure within the Project. The ICA is included with this RFP as **Attachment #10.**

To help implement the Project with respect to the ICA and Design Review and Document Approval Procedure ("DRDAP"), OCII contracts directly with SFPW, the customary city lead in processing subdivision mapping and infrastructure improvement plans, to act as the central department for processing of permits needed to construct the infrastructure improvements. In addition to this role, SFPW assists the Developer and OCII in obtaining regulatory approvals and other entitling approvals and agreements.

Finally, the DDAs also incorporate environmental mitigations made pursuant to the approved Environmental Impact Report for each phase complied with during the applicable stages of the project's development.

Basis for RFP

The basis for this RFP is from **Section 8.1 of the HPS Phase 1 DDA, Interagency Cooperation Agreement; Section 25.1 of the CP/HPS 2 DDA, Interagency Cooperation Agreement; and Section 3.4 of the ICA, Expeditious Processing of Approvals, (a) Expeditors, (i) SFPW and the Task Force**, where the Developer, OCII and/or the City retain third-party professionals to assist the City and OCII staff with efficiently fulfilling their respective obligations for expeditious processing of permits per the ICA and DRDAP.

Status of Development

Infrastructure development requires significant coordination and cooperation between the Developer, City departments, and utility companies that operate and maintain utility systems, roadways, open spaces, and streetscapes. The Developer is required, per the DDAs, to design and construct the horizontal infrastructure improvements with respect to the standards and specifications of the different City departments having jurisdiction as well as those of the utility companies for gas, electric, and telecommunications systems, and in conformance with all prior approvals.

In CP/Phase 2, the Developer is currently undertaking the preparation of various phases of the development for final mapping. These phases will include housing projects (market rate and affordable units) and various commercial developments. The final maps for these phases will require extensive utility design, mapping, and outfall designs in order to accommodate the proposed phase developments.

IV. SCOPE OF SERVICES

Overview and Expectations

The selected Contractor will be responsible for assisting OCII in the coordination of infrastructure approval submissions under the DRDAP and related review and approval matters with multiple City departments.

Infrastructure submittals are developed and submitted according to the process described in the DDAs and their DRDAPs, but must always be consistent with preceding and overarching entitlement documents, including but not limited to: the Hunters Point Shipyard and Bayview Hunters Point Redevelopment Plans; the certified Environmental Impact Reports ("EIRs") and addenda; the Infrastructure Plan; the Transportation Plan; the Subdivision Code; Master Utility Plans, and; Major Phase and Sub-Phase Plans.

While all submittals, plans, and drawings are completed by the Developer and their contractors, items in this task include representing OCII in the review of Master Utility Plans, as well as the intermittent requirement that entitlement documents be updated to address unforeseen design considerations. In general, the selected contractor is expected to do the following:

1. Become very familiar with the Project's entitlement documents.

2. Represent OCII in the planning of all infrastructure systems and be aware of and work to mitigate negative impacts of infrastructure system design on the Project as required by entitlement documents.
3. Understand and communicate how design will affect project schedule and provide solutions to mitigate negative impacts on the Project's schedule.
4. Provide technical support, support OCII with resolving conflicting positions from different City departments, and guide teams to consensus with the ultimate goal of gaining approval of infrastructure improvements. Contractor shall first advise OCII of any conflicting departmental positions before representing OCII's position to departments on the subject issue.
5. Provide technical input, guidance, and feedback on temporary utilities, systems, relocations, and other infrastructure planning.
6. Facilitate the development, modification, and acceptance of standards, regulations, codes, Master Utility Plans and other plan document updates as required.

Existing Street and Utility Systems

1. Review and assist in the coordination of power shutdowns, infrastructure relocation, and transitions of existing streets and utility systems.
2. Review and assist in the coordination of the timing and need for extensions, upgrades, re-design, and relocation of existing or new City owned utility systems or Third party owned systems.
3. Assist in developing any and all required easements or other agreements.
4. Review and assist in managing existing and new tenant utility and access needs in an emerging, transforming large scale development area.

Mapping

1. Assist in easements, encroachments, quiet title, and other title issues.
2. Represent OCII in the determination of boundaries and conditions of approval on all map related items, and participate in regular mapping meetings as required.
3. Assist in preparing and processing map applications, Conditions of Approval related to Tentative Maps, Vesting Tentative Maps, Final Maps, phased Final Maps, Transfer Maps, Parcel Maps, and Lot Line Adjustments. Assist in preparing Public Improvement Agreements, Acquisition Agreements, encroachments, and other map related services as needed.

Land Transfers

1. Represent OCII from a technical perspective in land transfers by attending any meetings as necessary and identifying any potential issues as they relate to existing or planned infrastructure systems.
2. Assist in the review Boundary Surveys, ALTA Surveys, Records of Survey, as needed.

Infrastructure Improvements

1. Support OCII in-house staff in their review of all submittals as required by the DRDAP, including but not limited to: Major Phase applications; Sub Phase applications; improvement Plans; Basis of Design, and; permit applications. Work with the SFPW Task Force in circulating these submissions to City departments for review.
2. Manage and monitor the City review process in accordance with the ICA/DRDAP and report status of review to OCII and SFPW Infrastructure Task Force staff. Collect and compile plan review responses from City departments.
3. Convene special meetings with City departments as necessary to provide additional requested information or troubleshoot on individual issues as they relate to plan submittals.
4. Review cost estimates as needed and recommend modifications to pricing.
5. Participate on behalf of OCII in technical meetings related to infrastructure systems supporting the submittals listed above, including pre-submittal conferences, and identify any inconsistencies with entitlement documents either being proposed, or offered as a comment by another City department.
6. Be aware of and identify any required off-site improvements consistent with the Project's entitlement documents.
7. Develop and maintain best practices based on previous plan applications.

Infrastructure Construction

1. Represent OCII at construction project management meetings and identify and communicate issues as they arise.
2. Be aware of and communicate the project schedule on an ongoing basis.
3. Be aware of required or proposed changes in design and ensure that any change is consistent with the Project's entitlement documents and does not undermine the goals and public benefits of the project, increase costs beyond what is provided for in the executed Acquisition Agreement, create unreasonable burdens on the project schedule, or create unreasonable hardship on adjacent communities.
4. Advise OCII in the review of Instructional Bulletins and deferral requests.
5. Advise OCII in the determination of bond reductions.
6. Advise OCII in determining completeness of public infrastructure systems.
7. Advise OCII in preparing any required Acceptance by the City's Board of Supervisors.
8. Advise OCII in managing infrastructure reimbursements.

Vertical Construction

1. Represent OCII at construction project management meetings, in so far as there are issues related to Project-wide infrastructure, and identify and communicate issues as they arise.

Participate on behalf of OCII in any required alterations to Project-wide infrastructure to support vertical development and ensure that any change is consistent with the Project's entitlement documents and does not undermine the goals and public benefits of the project, increase costs beyond what is provided for in the executed Corporate Guaranty, create unreasonable burdens on the project schedule, or create unreasonable hardship on adjacent communities.

Reporting Priority

1. Contactor represents OCII at project management meetings with the developer and with other city departments. The Contactor also represents OCII during project/application design review or with other issues related to Project-wide infrastructure. Contractor shall identify and communicate issues to OCII as they arise and before communicating a position to the developer or to other city departments on the subject issue.
2. Contractor is expected to provide timely and complete responses to OCII inquiries.

Deliverables

1. Timely invoice submittals (Quarterly).

2. Facilitate a minimum two one-hour meetings between Contractor-OCII per week. Agenda for meetings to be provided in advance by Contractor.

3. Provide a weekly written report on the following items:

   a) Provide OCII with a list of action items resulting from the meetings in item #1.

   b) Provide OCII with a status report of tasks and projects.

   c) Provide OCII with a summary of meetings with other with list of for any necessary follow-up tasks.

6\. Disclosure to OCII of other projects Contractor is working on and how they impact OCII's schedule and milestones.

7\. Contractor shall advise OCII in advance of any city department or developer meeting and of any proposed action on a permit or a plan that OCII should take.

8\. Meet with Bureau of Streets and Mapping (BSM) on a weekly basis and report back to OCII on which projects or developer applications are incomplete, insufficient, denied, or otherwise not meeting the expected schedule, pursuant to the ICA.

V. SELECTION PROCESS AND EVALUATION CRITERIA

Selection Process

1. Submissions of proposals to OCII will be accepted at OCII's offices until the date and time shown in Section II.
2. Submissions shall be submitted in the form outlined in Section VI.
3. OCII staff may contact references.
4. All or some of the Applicants who have submitted complete and responsive Proposals may be interviewed. Interviews are scheduled to be held on the date(s) shown in Section II. A. *These dates are subject to change*. All Applicants should advise OCII staff of availability on these days. Interviews will be held at the OCII's offices located at 1 South Van Ness Avenue on the fifth floor.
5. Further written materials regarding qualifications or submittals may be requested prior to or following interviews.
6. An Evaluation Panel will make a recommendation to the Commission based on evaluation of the Proposals, interviews and other evaluation methods. First consideration will be given in awarding contracts in the following order: (1) Project Area Small Business Enterprises ("SBEs"), (2) Local SBEs (outside an OCII Project Area, but within San Francisco), and (3) all other SBEs (outside of San Francisco). Non-local SBEs would 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.
7. The Commission will approve a Personal Services Contract with the successful Applicant (see Attachment #8).

Evaluation Criteria

In order for a submission to be considered further, it will need to comply with the OCII SBE and other OCII policies. An Evaluation Panel will make the selection of the contractor based on the following factors:

1. Expertise, experience, and professional technical qualifications of the Contractor's team in providing the services described in the Scope of Services. Applicants must have a minimum of five years of experience and comprehensive understanding and knowledge of the interrelationship of the categories of the Scope of Services. (30 points)
2. Overall expertise working with San Francisco development process, procedures and permitting processes and departments related to the specific tasks in the Scope of Services. More specifically, demonstrated experience related coordinating plan reviews amongst a variety of permitting entities and an ability to work well in high-pressure and dynamic environments and meet deadlines. (25 points)
3. Overall cost of the proposed staff and efficiency of the budget for providing the requested services, giving an hourly rate breakdown, consistent with industry standards. (15 points)
4. Demonstrated ability to work collaboratively with clients, public agencies, environmental resource agencies, and other project stakeholders, and the ability to

cost-effectively, efficiently and promptly provide requested services in a useful manner**.** (15 points)

5. Completeness of the submittal and compliance with the requirements of the RFP. (15 points)

TOTAL: 100 POINTS POSSIBLE.

VI. SUBMISSION REQUIREMENTS

The Proposal must contain all of the below information. The most competitive proposals will present the below information in a clear and concise way, using actual examples and scenarios to demonstrate the Applicant's qualifications and capabilities.

Proposers shall submit the following packages:

1. **Seven (7) copies of the Proposal** (or Statement of Qualifications) in a sealed envelope clearly marked "**"Infrastructure Engineering Support Services."**
    a. Edge-bound using spiral coil binding (plastic or other wire edge-bindings);
    b. Do not use 3-ring binders;
    c. Minimum of 11-point size font, unjustified, one-inch margins all sides (excluding headers and footers);
    d. Printed double-sided on 8.5x11 recycled paper;
    e. Tabloid (11x17) sheets may be used for tables, organizational charts or other graphical information and will count as one page;
    f. Use clearly labeled tabs or other separators within the document.

2. **One (1) copy of Billing Rates Schedule.**

3. **Other Documents:**
    1. A maximum of five (5) references of previous/current clients should be provided.
    2. A signed Small Business Enterprise Agreement (**Attachment #1).**
    3. A signed Declaration of Nondiscrimination in Contracts and Benefits **(Attachment #3)**.
    4. A signed Minimum Compensation Policy Declaration **(Attachment #4)**.
    5. A signed Health Care Accountability Declaration **(Attachment #5)**.
    6. Complete responses to all Disclosure Questions in **Attachment #6**.
    7. A signed Statement of Compliance with Agency Policies & Certification of Applicant **(Attachment #7)**.
    8. Evidence of Compliance with the minimum OCII insurance requirements.

    A list of all current/past contract/clients on the **<u>Project</u>** (do not submit this for non-Project related work) so that a Duty of Loyalty review can be conducted. If the Applicant has or has had a contract/client on the Project, that contract's scope of services may be in conflict with this RFP's scope of services and the Applicant may not be eligible for a contract under this RFP. See more on Duty of Loyalty below under Section VII.B.

Content of Proposal

Firms interested in responding to this RFP must submit the following information, in the order specified below: Your proposal shall not exceed 27 pages (not including required forms and documents).

The Proposal (Statement of Qualifications - SOQ) shall be clear and concise, responsive to all RFP requirements, include a Table of Contents, and in a reader-friendly format separated by labeled tabs as follows:

1. Executive Summary
2. Project Approach
3. Prime Consultant Qualifications
4. Key/Lead Personnel Qualifications
5. Team Qualifications
6. References

Executive Summary (up to 2 pages)

Submit a letter of introduction and executive summary of the proposal. The letter must be signed by a person authorized by your firm to obligate your firm to perform the commitments contained in the proposal. Submission of the letter will constitute a representation by your firm that your firm is willing and able to perform the commitments contained in the proposal.

The letter must include the following:

a) Exact name of the firm (the legal entity) submitting the Proposal, business address, and name of its principals. In the event of a Joint Venture ("JV"), include the exact names of the firms, business addresses, and names of principals, and identify the lead partner.

b) A brief description of the firm, experience, and qualifications.

c) A statement identifying the Project Manager, Lead Professional Engineer, and Lead Land Surveyor, and that they are employees of your firm prior to the due date of the Proposals for this RFP.

d) A primary contact person for all communications pertaining to the Proposal, with office phone number, cellular phone number, e-mail address, and mailing address.

Project Approach (up to 5 pages)

Describe the services and activities that your firm proposes to provide to OCII. Include the following information:

a) Provide a clear statement of the Applicant's or JV Partners' understanding the nature and extent of the services required.

b) Overall approach to the services described in the RFP including a discussion of how your firm can support OCII based on your understanding of engineering issues that might be pertinent to the development projects at

c) Ability and experience completing work assignments involving multiple disciplines in a timely and cost-effective manner.

d) Approach to assignment of work within your firm's work team and how your team will complete tasks and deliverables to assure high quality end product.

e) State any constraints, problems and issues that should be anticipated during execution of the services to be provided and suggest approaches to resolving these constraints, problems and issues.

f) Other ideas for providing the services for this contract.

g) How your firm will provide for nearby office space or acceptable alternatives.

Applicant's Qualifications (up to 6 pages)

Provide information on your firm's background and qualifications which addresses the following:

a) Description of three projects similar in size and scope prepared by your firm including client, reference and telephone numbers, staff members who worked on each project, budget, schedule and project summary. Descriptions should be limited to one page for each project. If joint consultants or sub-consultants are proposed provide the above information for each.

b) A description and background of the Applicant, or each JV partner, if applicable, which shall include corporate qualifications, professional qualifications, expertise and experience, and technical capabilities to fulfill the services specified in the RFP and successfully complete the work.

c) Indicate number of years in business and a statement that the Applicant or each JV partner meets the qualification requirements specified in the RFP.

Key Personnel Qualifications (up to 3 pages)

a) The Applicant must clearly demonstrate that the Project Manager, or Lead Professional Engineer, or Lead Land Surveyor, or other lead personnel proposed for this RFP meets the minimum qualification identified in Section 4 of this RFP.

b) The Applicant must include all relevant information in this section for the Selection Panel to evaluate the ability and experience of the Lead Personnel to successfully fulfill their roles.

c) Indicate if the proposed Lead Personnel team have worked together before, and if they have worked successfully in conjunction with any government entity to manage and support projects.

Qualifications (Up to 10 pages)

Provide a list identifying: (1) lead personnel on the project team, (2) the project manager, (3) the role and responsibilities each will have in the project, and (4) a written assurance that the key individuals listed and identified will be performing the work and will not be substituted with other personnel or reassigned to another project without the City's prior approval.

Provide a description of the experience and qualifications of all lead personnel, including brief resumes if necessary.

References (Up to 2 Pages)

Reference checks, including, but not limited to prior clients as indicated RFP Section 3, are required and will be used to confirm the applicability of Proposer experience in providing the desired services, the quality of services and staffing provided to prior clients, as well as adherence to schedules/budgets, Proposer's problem-solving, project management and communication abilities, and performance on deliverables and outcomes.

Separate references will be required for the Project Manager. If reference checks result in a finding that information included in a Prior Project Description or elsewhere in the proposal is untruthful, then OCII will reject the proposal.

Price Proposal

OCII intends to award this contract to the firm that it considers will provide the best overall program services. OCII reserves the right to accept other than the lowest priced offer and to reject any proposals that are not responsive to this request.

Please provide a fee proposal in a separate electronic folder or sealed envelope that includes the following:

Total fee for each of the disciplines/deliverables identified in the Scope of Work with a not-to-exceed figure; and

Hourly rates for all team members. Hourly rates and itemized costs may be used to negotiate changes in the Scope of Work if necessary.

Seven copies of the Proposals and all required submission elements must be received at OCII's office no later than 4:00 p.m. **September 4, 2025**. Deliver proposals marked **"Infrastructure Engineering Support Services"** to the attention of:

Inder Grewal
Development Specialist
Office of Community Investment and Infrastructure
1 South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103
Email: inderbir.grewal@sfgov.org

OCII will disqualify from consideration any Proposals received with insufficient copies or lacking all or part of any required submission element.

Hand delivery is advised. Submissions delivered by facsimile or electronic mail will not be considered. Applicants may submit a Proposal at any time prior to the submission deadline.

VII. AGREEMENT TO COMPLY WITH AGENCY POLICIES

Each Applicant shall acknowledge receipt and understanding of the following OCII's contracting requirements and policies and state its ability and willingness to comply with each of them:

A. Small Business Enterprise Program

The Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency) (OCII) has a Small Business Enterprise (SBE) Program which is applicable to this project and has established the 50% SBE participation goal for Professional Service and Construction contracting. First consideration shall be given in the following order:

1) SBEs in the zip code areas 94124, 94107 and 94134

2) San Francisco-based SBEs

3) Non-San Francisco-based SBEs should be used to satisfy participation goals only if 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.

As of March 2012, the Office of Community Investment and Infrastructure (OCII) no longer directly certifies SBEs. However, OCII will honor firms certified with the City and County of San Francisco as a Local Disadvantaged Business Enterprises (LBEs) that are consistent with the SBE certification standards. In order to be recognized as an economically disadvantaged SBE, the business must have an average gross receipt income based on the three most recent tax returns that does not exceed $5 Million Dollars for professional services.

OCII will accept the information on documented small economically disadvantages businesses (SBE, MBE and WBE) certifications from the following jurisdictions: State of California--Small Business Enterprises (SBE), Federal and any other local jurisdiction. Staff will make the final determination on the consistency of the certification standards and acceptance or denial of certifications listed above.

The selected firm must sign the Small Business Agreement. See Attachment #1.

To search for certified LBEs, please visit the following site: https://sfcitypartner.sfgov.org/pages/LBESearch/supplier-search.aspx For more information on the LBE certification process with the City and County of San Francisco, please visit the following site: https://www.sf.gov/14b-local-business-enterprise-lbe-program

Please contact Maria Pecot, Contract Compliance Specialist III for additional information at maria.pecot@sfgov.org.

B. Applicant's Duty of Loyalty

Applicant for itself and its subcontractors, if any, agrees to abide by OCII's duty of loyalty, which appears at Section IX.H. (Prohibited Activities of Present and Former Employees, Commissioners and Contractors) of OCII's Personnel Policy and which states in part the following: "Unless approved in advance in writing by OCII, no present or former employee, Commissioner or Contractor of OCII shall knowingly act for anyone other than OCII in connection with any particular matter in which OCII is a party, or has a direct and substantial interest, and in which he or she participated personally and substantially as an OCII employee, Commissioner or Contractor whether through decisions, recommendations, advice, investigation or otherwise. Violation of this section by a present employee, Contractor or Commissioner may, in the case of an employee or Contractor, be grounds for discharge or termination of the Contractor contract, and in the case of a Commissioner, be considered misconduct in office pursuant of California Health and Safety Code Section 33115."

C. Limitations on Contributions

Through execution of this Agreement, Applicant acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the Agency for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by such individual, the board on which that individual serves, or a state agency on whose board an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such office holder or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Applicant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $100,000 or more. Applicant further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Applicant's board of directors; Applicant's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Applicant; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Applicant. Additionally, Applicant acknowledges that Applicant must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Applicant agrees to provide to OCII the names of each member of Applicant's board of directors; Applicant's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than

20 percent in Applicant; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Applicant.

D. Nondiscrimination in Contracts and Benefits

OCII has established a policy prohibiting discrimination in contracting, which includes a prohibition on discrimination in providing benefits between employees with spouses and employees with domestic partners.

The Applicant shall complete **Attachment #3**. Entities that have received certification from the San Francisco Contract Monitor Division (CMD) regarding their compliance with the Equal Benefits Ordinance of the City and County of San Francisco will be deemed in compliance with OCII's policy. For further information, see instructions contained in **Attachment #2** or contact maria.pecot@sfgov.org.

E. Minimum Compensation Policy and Health Care Accountability Policy

OCII has adopted a Minimum Compensation Policy ("MCP") for all contractors under personal services contracts that require the payment of a minimum level of compensation to employees (**Attachment #4**). In addition, the Health Care Accountability Policy ("HCAP") requires that contractors offer certain health plan benefits to their employees or participate in a health benefits program developed by the City's Department of Public Health, or make a payment in lieu of such benefits to the City's Department of Public Health **(Attachment #5)**.

The Applicant shall either submit a completed MCP Declaration Form and HCAP Declaration Form or state its intent to comply with these OCII policies.

F. **Insurance** (see **Attachment 8**, Personal Services Contract Section 10. for more detail)

The selected Applicant must procure and maintain insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work under the OCII contract by the contractor, its agents, representatives, employees or subcontractors.

Unless otherwise approved by OCII, the selected applicant must maintain insurance with an insurance company that has an A.M. Best rating of A:VII with the following coverages and limits:

Applicant must maintain limits no less than:

- General Liability: $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit ($4,000,000).

- Automobile Liability: $2,000,000 per accident for bodily injury and property damage
- Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of $1,000,000 for bodily injury by accident and $1,000,000 per person and in the annual aggregate for bodily injury by disease. (Required only if Contractor has employees).
- Professional Liability Insurance: $2,000,000 per claim and in the annual aggregate. If the Contractor's Professional Liability Insurance is "claims made" coverage, these minimum limits shall be maintained by the Contractor for no less than five (5) years beyond completion of the Scope of Services.

G. Indemnity

To the fullest extent allowable by law, selected Applicant will be required to hold harmless, defend at its own expense and indemnify OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees against any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, arising directly or indirectly from all acts or omissions to act of Applicant or its officers, agents or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages or expenses arising from Agency's gross negligence or willful acts and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its officers, agents or employees. In addition to Applicant's obligation to indemnify Agency, Applicant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Agency from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Applicant by Agency and continues at all times thereafter. This section does not apply to contracts for construction design services provided by a design professional, as defined in California Civil Code Section 2782.8.

H. Disclosure Questions

Each Applicant shall Complete **Attachment #6**, Disclosure Questions, and submit the completed form as part of its Proposals.

I. Certification of Applicant

The selected Applicant shall certify under penalty of perjury under the laws of the State of California that all the information provided in the Proposals is true and correct **(Attachment #7)**.

VIII. ADDITIONAL TERMS AND CONDITIONS

A. Personal Services Contract

The selected Applicant will be required to enter into a Personal Services Contract with the Agency **(Attachment #8)**. The contractor will be required to comply with all of the provisions of the personal services contract, including, but not limited to, OCII's policies and provisions regarding indemnification, insurance, small business enterprise requirements, and non-discrimination in employee benefits and hiring.

B. Contractor Expenses

Applicants responding to this RFP do so at their own expense. OCII will not consider any contractor costs related to this RFP or to negotiating a Personal Services Contract as reimbursable or as eligible costs under the contract.

C. Agency Right to Modify or Suspend RFP

OCII, through its Executive Director, reserves the right at any time and from time to time, and for its own convenience, in its sole and absolute discretion, to modify or suspend any and all aspects of the selection process, including, but not limited to this RFP, and all or any portion of the contractor selection process in or subsequent to the RFP; to obtain further information from any contractor, to waive any defects as to form or content of the RFP or any other step in the selection process; to reject any and all responses submitted; to reissue the RFP; procure the desired services by any other means or not proceed in procuring the services; to negotiate with any, all, or none of the respondents to this RFP as to fees, scope of services, or any other aspect of the RFP or services; to negotiate and modify any and all terms of an agreement; and to accept or reject any Applicant for entry into a Personal Services Contract.

D. Claims Against OCII

Each applicant by responding to this RFP, waives any claim, liability or expense whatsoever against OCII and its respective officers, commissioners, employees and agents by reason of any or all of the following: any aspect of this RFP, the selection process or any part thereof, any informalities or defects in the selection process, the failure to enter into any agreement, any statements, representations, acts or omissions of OCII, the exercise of any discretion set forth or concerning any of the foregoing, and any other matters arising out of all or any of the foregoing.

E. Conflict of Interest

Applicant understands that its professional responsibility is solely to OCII. Applicant warrants that it presently has no interest, and will not acquire any direct or indirect interest, that would conflict with its performance of this Agreement. Applicant shall not knowingly employ, and shall take reasonable steps to ensure that it does not employ, a person having such an interest in the performance of this Agreement. If after employment of a person, Applicant discovers that it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Applicant shall promptly remove that person from the performance of any and all aspects of this Agreement. Applicants already under contract with OCII or the City are encouraged to respond to this RFP provided that Applicant, if awarded the Agreement, can demonstrably ensure that persons performing in this Agreement do not possess a conflict. OCII reserves the right to exclusively determine whether a conflict exists.

IX. ATTACHMENTS

Attachment #1:	Small Business Enterprise Agreement
Attachment #2:	Small Business Enterprise Policy
Attachment #3	Declaration of Nondiscrimination in Contracts and Benefits and Instructions
Attachment #4:	Minimum Compensation Policy Declaration
Attachment #5:	Health Care Accountability Policy Declaration
Attachment #6:	Disclosure Questions
Attachment #7:	Statement of Compliance with OCII Policies & Certification of Applicant
Attachment #8:	Form of Personal Services Contract
Attachment #9:	RFP Registration Form
Attachment #10:	Interagency Cooperation Agreement

ATTACHMENT #1

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:

Trainees	Design Professional Fees
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 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 Industrial Triangle, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, 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	$20,000,000
Specialty Construction Contractors	$14,000,000
Suppliers (goods/materials/ equipment and general services)	$10,000,000
Professional Services	$2,500,000
Trucking	$3,500,000

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.

Survey Area means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include the Bayview Hunters Point Redevelopment Survey Area C.

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	

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE

SMALL BUSINESS ENTERPRISE POLICY

Adopted:	November 16, 2004
Amended and Restated:	July 21, 2009
Second Amendment:	July 7, 2015

Table of Contents

I. INTRODUCTION

The Agency is acutely aware of the many challenges that small businesses face when contracting with public entities. The mission of the Agency includes economic development in Project Areas and accordingly this Small Business Enterprise Policy ("**SBE Policy**") is to establish a set of Small Business Enterprise 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 Office of Community Investment and Infrastructure ("**OCII**" or "**Agency**") assisted projects. 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

This SBE Policy 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 as that term is defined in Article III - Definitions.

All Agency-Assisted Contracts, including contracts with both for profit and non-profit developers, shall contain a requirement that the developer and its general contractor and all subcontractors (regardless of tier) comply with this SBE Policy.

III. DEFINITIONS

"**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	$20,000,000
Specialty Construction Contractors	$14,000,000
Suppliers (goods/materials/ equipment and general services)	$10,000,000
Professional Services	$2,500,000
Trucking	$3,500,000

In addition, an economically disadvantaged business shall meet the other certification criteria described in Exhibit I 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).

"**Affiliates**" means an affiliation with another business concern 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 Development and Disposition Agreements, Land Disposition Agreements, Leases, Loan and Grant Agreements, and other similar contracts and agreements that the Agency executes with for-profit or non-profit entities.

"**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.

“**Association**” (as the term is used in the SBE Program) 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 IV.E below 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.

“**Joint Venture**” (as the term is used in the SBE Program) 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 OCII, as Section IV.E below and be subject to OCII approval.

“**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.

“**Person**” means one or more individuals, partnerships, associations, organizations, corporations, and cooperatives.

“**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 Industrial Triangle, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, and Transbay.

"**San Francisco-based 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 the City; (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.

"**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.

"**Survey Area**" means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include Bayview Hunters Point Redevelopment Survey Area C.

IV. SMALL BUSINESS ENTERPRISES CONTRACTING GOAL

A. In order to meet the mission of the Agency and promote economic development in Project Areas, the Agency intends to establish targets for SBE participation in Agency and Agency-Assisted Contracts. It also intends to provide Project Area Small Businesses with First Consideration to contracting opportunities with the Agency or through the prime contractors for Agency-Assisted Contracts.

B. The Agency's overall SBE participation goals (for prime contracts) shall be set at 50%. This means that the Agency or Agency-Assisted Contractor shall use its best efforts to award at least 50% of all Agency-Assisted Contracts covered by this policy to SBEs. The ability of the Agency or Agency-Assisted Contractor to meet this goal will depend, in part, on 1) the availability of qualified SBEs capable of providing the goods or services required by the contract; and 2) the availability of SBEs who provide price quotes that are reasonable and do not exceed competitive levels beyond amounts that can be attributed to the increased costs faced by small local businesses. Accordingly, the Agency may, at its discretion, change the participation goals, on a contract-by-contract basis, in its own contracts or in Agency-Assisted Contracts.

C. **Agency SBE Prime Contract Participation Goals are**:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

D. **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), and 3) All other 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.

E. **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.

F. **Certification**: Only firms certified as SBEs will be counted toward meeting the participation goals described above. The SBE firm must be certified by OCII or another governmental entity pursuant to the SBE Certification Criteria set forth in Exhibit I.

G. **Good Faith Efforts - Agency**: The goals established in Article IV.C above of this SBE Policy are targets the Agency or Agency-Assisted Contractor will make a good faith effort to achieve for prime contracts. Accordingly, good faith efforts must be taken to assure that these firms are utilized when possible as sources of supplies, equipment, construction, and services. Good faith efforts shall include the following:

1. Contract Size. Where appropriate, the Agency or Agency-Assisted Contractor will divide the work in order to encourage maximum SBE participation or, alternatively, SBEs will be encouraged to joint venture. Each responsible staff person, developer or prime contractor/consultant shall identify specific items of each contract that may be performed by subcontractors and, if necessary, provide a list of prospective SBEs for the bidder(s).

2. Advertise. For contracts procured using the Competitive Sealed Bids-Public Contract Code Procedure or the RFP/RFQ Procedure, unless there are special circumstances, the Agency or Agency-Assisted Contractor will advertise for 30 days prior to the opening of bids or proposals in media focused on small businesses including the Bid and Contract Opportunities website through the City's Purchasing Department and the Procurement Opportunities section of local publications.

3. Prepare List of SBEs. Each responsible staff person, developer or prime contractor/consultant shall request the Contract Compliance Office to assemble a list of all known SBEs in the pertinent field(s). This list will be made available to the public upon request. Compliance Staff will consult with other redevelopment agencies and government agencies to identify small businesses, particularly those in Project and Survey Areas, that have expertise in areas used by the Agency; the Contract Compliance Office will continue its present practice of regularly updating a variety of lists.

4. Public Solicitation. The Agency or Agency-Assisted Contractor will mail Requests for Qualifications (RFQs) or Requests for Proposals (RFPs) to SBEs. It will follow up initial solicitations of interest by contacting SBEs to

determine with certainty whether they are interested in performing specific items in a project. The Agency will also make contacts with SBE contractor associations or development centers, or any agencies that disseminate bid and contract information and provide technical assistance to SBEs.

5. Convene Pre-Bid or Pre-Solicitation Meetings. On consulting contracts that are $5,000 or more and construction contracts estimated to cost $5,000 or more, procured using the Competitive Sealed Bids ûPublic Contract Code Procedure or the RFP/RFQ Procedure, the Agency or Agency-Assisted Contractor will send written invitations to potential SBE candidates to attend pre-bid or pre-solicitation meetings for the purpose of answering questions about the process and the specifications and requirements. Representatives of the Contract Compliance Office will also participate.

6. Outreach and Other Assistance. The Agency or Agency-Assisted Contractor will a) provide SBEs with plans, specifications and requirements for all or part of the project; b) make contacts with SBE contractor associations or development centers, or any agencies that disseminate bid and contract information and provide technical assistance to SBEs; and c) follow up initial solicitations of interest by contacting SBE firms to determine with certainty whether they are interested in performing specific items in a project.

7. Insurance and Bonding. Where lines of credit, insurance and bonding are potential problems for small businesses, the Agency or Agency-Assisted contractor should contact staff to explain the Agency's insurance and bonding requirements, answer questions about them, and be prepared to suggest avenues of assistance.

8. Focused Meetings. The Agency or Agency-Assisted contractor shall participate in meetings convened by staff for SBEs focusing on opportunities for particular industries, e.g., a joint meeting of housing sponsors and small architectural firms based in a Project Area.

9. Monitoring. The Agency or Agency-Assisted Contractor will keep track of the date that each response, proposal or bid was received from SBEs, including the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the responsible staff person or bidder/proposer asserts that there were reasons other than the respective amounts bid for not awarding the contract to or selecting an SBE, he or she must be prepared to provide valid reasons(s) for any rejections.

V. SUBCONTRACTING - BY PRIME CONTRACTORS

A. **Subcontracting Goal** The Agency intends to establish a subcontracting participation goal for SBEs at 50%, but recognizes that this goal may vary depending on the extent of subcontracting opportunities presented by the contract and the availability of SBE subcontractors capable of providing goods or services required by the contract. Accordingly, the Agency, at its discretion, may change the participation goals on a contract-by-contract basis.

B. **First Consideration** will be given in the following order: 1) Project Area SBEs, 2) San Francisco-based SBEs (outside an Agency Project or Survey Area), and 3) All other SBEs.

C. **Good Faith Efforts - Subcontracting**. The Agency will continue its efforts to maximize the involvement of SBE subcontractors by having each responsible staff person:

1. Request the Contract Compliance Office to assemble for the prime, a list of all known SBEs, particularly those in Project or Survey Areas, in the pertinent field(s). This list will be made available to the public upon request.

2. Identify specific items of each contract that may be performed by subcontractors and, if necessary, provide a list of prospective SBEs for the bidder(s).

3. Send notices to appropriate organizations of the opportunities of SBEs to obtain subcontracts with the Agency.

4. Advise SBEs of its insurance requirements and offer SBEs advice on meeting the requirements.

D. **Contract Provision Requiring Good Faith Efforts**. Agency staff shall include in prime contracts provisions that require prospective contractors that will be utilizing subcontractors to make the following good faith efforts to subcontract to SBEs:

1. Consult with the Agency and other agencies, including government agencies to identify small businesses that have expertise in areas needed by the Agency.

2. Document efforts undertaken to encourage subbidder(s) to obtain SBE participation at a lower tier including identifying specific items of the contract that may be performed by SBE subcontractors and prospective SBEs to perform such items.

3. Make contacts with SBEs, associations or development centers, or any agencies, which disseminate bid and contract information to SBEs. Follow

up initial solicitations of interest by contacting small business enterprises to determine with certainty whether they are interested in performing specific items in a project. This provision includes making direct written solicitation with a complete scope of work to all Agency certified SBEs that provide any subcontract portion of the proposed work.

4. Keep track of the date that each response, proposal or bid was received from SBEs, including the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the bidder/proposer asserts that there were reasons other than the respective amounts bid for not awarding the contract to or selecting an SBE, he or she must be prepared to provide valid reasons(s) for any rejections.

5. Assist SBEs relative to obtaining and explaining plans, specifications and contract requirements.

6. Assist SBEs with respect to bonding, lines of credit, etc.

7. Extend negotiation efforts to SBEs or be prepared to explain the reasons for not negotiating with SBEs.

8. Prepare a report which shows for each private project and each public project (without an SBE Program) undertaken by the consultant in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars that were awarded to SBEs.

9. Document any other efforts undertaken to encourage participation by SBE.

E. **Technical Assistance**. As appropriate, Agency staff shall suggest various sources of assistance to SBEs such as U.S. Small Business Administration ("**SBA**"), U.S. Minority Business Development Agency, San Francisco Renaissance, SCORE (Service Corps of Retired Executives), Urban Solutions, as well as other local community based economic development organizations.

F. **Aid to Unsuccessful Bidders**. As an aid to unsuccessful bidders the Agency will make available upon reasonable request the following information within a reasonable time (usually within 30 days) after the selection of a contractor/consultant:

For construction contractors:

1. A summary of unit prices taken from the bid documents.
2. A list of subcontractors, nature of work, and bid dollar amount from the bid documents.

For professional consultants:

1. All submissions received in response to RFQs or RFPs and, upon request, an explanation of the Agency's insurance and bonding requirements, and brochures that describe any bonding program in effect.

VI. CONSTRUCTION CONTRACTORS

A. Construction contracts and subcontracts awarded for $5,000 or more shall contain a provision that requires contractors and subcontractors to comply with the Agency's Construction Work Force, Prevailing Wage Provision/Labor Standards, and Small Business Enterprise Program.

B. **Compliance with Prompt Payment Statute**:

1. Construction contracts and subcontracts awarded for $5,000 or more shall contain the following provision:

   i) "Amounts for work performed by a subcontractor shall be paid within seven (7) days of receipt of funds by the contractor, in accordance with 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."

2. 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.

VII. SUBMISSION OF ELECTRONIC CERTIFIED PAYROLLS

A. For any contract which requires the submission of certified payroll reports, each Contractor (which herein includes subcontractors regardless of tier) shall comply with the Agency's Construction Work Force and Prevailing Wage Provision/Labor Standards reporting requirements. Contractors are advised that the Agency will not be liable for interest, charges or costs arising out of or relating to any delay in making progress payments due to Contractor's failure to make a timely and accurate submittal of weekly certified payrolls.

B. In addition to the above, Contractor shall comply with the requirements of California Labor Code Section 1776, or as amended from time to time, 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.

C. The Contractor shall make the payroll records available to for inspection at all reasonable hours at the job site office of Contractor.

D. Contractor is solely responsible for compliance with Labor Code Section 1776 or this SBE Policy. The Agency shall not be liable for Contractor's failure to make timely or accurate submittals of certified payrolls.

VIII. AUTHORIZATION

A. When staff seeks contract authorization staff shall document and report to the Executive Director and/or the Commission:

1. Whether the Contract Compliance Office provided a list of potential SBEs to be invited for the scope of work being considered.

2. Where appropriate, how the potential work was divided into small contracts to ensure that the scope of work was not too large for an SBE to bid or submit a proposal or how potential SBEs were encouraged to joint venture.

3. That specific items of the contract that may be performed by SBE subcontractors were identified and prospective SBEs were identified for the bidder(s).

4. On consulting service contracts that are $5,000 or more and construction contracts estimated to cost $5,000 or more, that prospective SBEs were invited to a pre-bid and/or pre-solicitation meeting for the purpose of answering questions about the process, the bonding and insurance requirements, the specifications and other requirements.

5. All outreach efforts including advertisements or notifications to trade associations or other groups that were made as part of attempts to reach potential SBE candidates.

IX. APPEALS

Any bidder or proposer wishing to appeal a staff recommendation for awarding a contract will be notified of the proposed action and will have an opportunity to be heard by the full Commission when the item comes up on the Agenda.

X. 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. All waivers involving Agency contracts shall be reported to the Commission.

XI. SEVERABILITY

The provisions of this SBE Policy are declared to be separate and severable. The invalidity or unenforceability of one or more provisions of this SBE Policy shall in no way affect the validity of the remainder.

EXHIBIT I

SBE CERTIFICATION CRITERIA

A. The Agency will consider the certifications or denials of the Contract Monitoring Division (CMD) of the City and County of San Francisco and will accept those certifications or denials from CMD and other governmental entities that are consistent with the standards of the Agency.

B. The Agency shall make efforts to enter into reciprocal agreements with other agencies that have similar certification standards and policies.

C. In order to be certified as an SBE the business must meet all of the requirements contained in the SBE Policy, as applicable, and in this SBE Certification Criteria.

D. In order for a joint venture or association to be recognized as an SBE, the joint venture or association must be organized pursuant to the Agency's SBE Policy and be approved by the Agency.

E. The Agency will not recognize a subcontractor as an SBE if it sub-contracts more than 50 percent of its subcontract amount to non-SBEs.

F. A contractor may substitute the amount of a purchase order to a SBE supplier for up to 15 percent of the SBE subcontractor goals. In order to be recognized, a supplier must perform a commercially useful function in the supply process. However, if the supplier is acting as a mere conduit such as a manufacturer's representative or broker then only the amount of the commission or three percent (3%), whichever is greater, will be credited towards meeting the SBE goals. If none of the work is to be subcontracted, SBE suppliers may be utilized without limitation.

G. If a firm contends that it is an SBE, the owner must submit to the Agency an Application for Certification (Small Business Enterprise Affidavit) under penalty of perjury that swearing to the truth and accuracy of all statements made and material submitted to the Agency, including additional information. If certified by the HRC, a copy of a current HRC certification shall be submitted.

H. An eligible SBE shall be an independent business. In determining whether a business is independent, the Agency shall examine the adequacy of the business's resources for the scope of work under a proposed contract, its financial independence, the extent of its equipment leasing, and its relationships with non-SBEs. Relationships with non-SBE firms will be scrutinized as to whether the SBE firm:

    1. Is known in the industry or trade to be operated by a non-SBE;

    2. Is operated in tandem with a non-SBE;

3. Has multiple licenses, some of which are affiliated with non-SBEs;

4. Itself owns the equipment or trucks that are to be used on the job;

5. Is listed in the telephone book, preferably in the Yellow Pages under the class for which it is seeking Agency recognition;

6. Subcontracts back to, leases from, or is back-contracted or joint venturer(s) in an amount unrelated to shared risks and profits. Back contracting includes any agreement or other arrangement between a prime contractor and its subcontractor where the prime contractor performs or secures the performance of the subcontract in such a fashion and/or under such terms and conditions that the prime contractor enjoys the financial benefit of the subcontract. Said agreement or other arrangement includes, but is not limited to, situations where either a contractor or subcontractor agrees that any term, condition or obligation imposed upon the subcontractor by the subcontract shall be performed by or be the responsibility of the prime contractor.

7. Maintains a permanent office separate from that of its sources of vehicles, subcontractors, the general contractor or from any joint venturer(s); and

8. In the case of a supplier, carries the material being supplied as a regular part of its inventory.

I. A SBE firm shall not have any formal or informal restrictions which limit the customary discretion of the owner. The owner should have the authority to perform all of the below functions:

1. Manage either the marketing or production aspects of the business;

2. Be authorized to sign on all bank accounts, to draw against letters of credit, and to secure surety bonds and insurance; and

3. Control the profit sharing, pensions or stock option plans.

J. In order to be considered a Project Area SBE, the business must meet the definition of Project Area Small Business Enterprise in Article III, Definitions.

K. In order to be considered a San Francisco-based SBE, the business must meet the definition of San Francisco-based SBE in Article III, Definitions.

L. License Qualification Essential: If state or local law requires a person to have a particular license or other credential in order to own and/or control a certain type of firm, then the person(s) who owns and controls an SBE applicant firm of that type must possess the required license or credential. An owner of an SBE applicant firm who is employed by a non-SBE in a similar line of business of the applicant firm and who is used to qualify a professional business as an SBE does not meet the Agency's SBE requirements of having management and control of the business. Likewise, an owner of an SBE applicant firm who is employed by a non-SBE construction firm and who is used to qualify a construction business as an SBE cannot meet the Agency's SBE requirements of having management and control of the business. An owner who is certified by the Agency for one profession, e.g., electrical engineering, cannot attribute that certification to another profession, e.g., mechanical engineering, unless he or she is registered for more than one professional license. By extension a certified SBE plumbing business must also be certified to perform electrical work to be an eligible SBE electrical contractor. For businesses that do not require a license, the managing owner must have training, education and work experience in that type of business.

M. A business requesting to be certified as an SBE shall supply the Agency with all such additional information as the Agency may deem relevant in order to make a determination of such status. If such information is not supplied within 45 days of it being requested, the Agency may consider the Application for certification withdrawn.

N. A change in ownership of a firm will be carefully scrutinized. The following factors shall be considered:

1. The reason of the timing of the change in ownership of the business relative to the time that bids are opened or proposals are considered;

2. Whether the interest of a non-disadvantaged firm conflicts with the ownership and control requirements of this SBE Policy.

3. Whether an employee-owner who had previous or continuing employee-employer relationship between or among present owners has management responsibilities and capabilities.

O. Grandfather clause: Firms that were certified as Disadvantaged Minority-owned Business Enterprises (MBE) and Woman-owned Business Enterprises (WBE) in 2004 were automatically deemed certified as SBEs on the effective date of this policy so long as they continue to meet the economic and other standards for SBEs described in this SBE Policy.

P. In its sole and absolute discretion, the Agency, in interpreting the provisions of this SBE Policy, may rely on the provisions, rules, standards, and other guidance under the Local Business Enterprise Program of the City and County of San Francisco, S.F. Administrative Code Chapter 14B, to the extent that those provisions, rules, standards, and guidance are consistent with this SBE Policy.

Q. The SBE Agreement executed by the developer and/or contractor is the implementation document for the SBE Policy.

ATTACHMENT #3

OCII office of COMMUNITY INVESTMENT and INFRASTRUCTURE	**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 4

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 provide the following to their employees covered by the MCP on OCII contracts and subcontracts for services: for Commercial Business MCP the wage rate is $13.64 per hour effective January 1, 2017; for Nonprofit MCP the wage rate is $13.00 per hour effective July 1, 2016. The Minimum Compensation rate is adjusted on January 1 each year. In addition, the San Francisco minimum wage will increase to $14.00 on July 1, 2017. All contractors (both for-profit and non-profit) in San Francisco will need to comply with the minimum wage of July 1, 2017. Furthermore, 12 paid days off per year (or cash equivalent) and 10 days off without pay per year shall be offered.

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 (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 5

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 choose between offering health plan benefits to their employees or making payments to OCII or directly to their employees.

Specifically, contractors can either: (1) offer the employee minimum standard health plan benefits approved by the OCII Commission; (2) pay OCII $4.65 per hour for each hour the employee works on the covered contract or subcontract or on property covered by a lease (but not to exceed $186 in any week) and OCII will appropriate the money for staffing and other resources to provide medical care for the uninsured (rates and amounts effective July 1, 2016 and subject to annual change).

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.

Routing. Return this form to: Contact Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 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 #6

DISCLOSURE QUESTIONS

<u>Instructions</u>: Please respond completely to each question listed below using the space provided. Use a separate sheet of paper, if necessary. Please state "No" or "None" when appropriate. Do not leave a question blank or state "N/A". If the applicant[1] is an individual, then the information relative to that individual should be disclosed. If the applicant is a group or joint venture, then information relative to <u>each</u> member of the group or entities that comprise the joint venture should be disclosed. If the applicant is a corporation, then the information relative to the corporation should be disclosed.

1. Has applicant ever defaulted on a loan or other financial obligation? This includes all affiliate corporations and partnerships in which applicant is a general partner. If so, please describe the circumstances including dates and current status.

Answer: ____

2. Are there any prior or pending legal proceedings, actions, convictions or judgments that have been filed against applicant or its wholly owned subsidiaries, or any prior or pending arbitrations or mediations. If so, provide dates the complaints were filed and the present status of the litigation or the status of the arbitrations or mediations.

Answer: ____

3. Are there any prior or pending administrative complaint/hearing against or any debarment or suspension of or other administrative determination by any federal, state or local government entity relating to applicant, against any of applicant's affiliated corporations or partnerships in which applicant is a general partner, or other business entity. If so, please describe the circumstances including dates, agency or body conducting the investigation or inquiry and the current status.

Answer: ____

4. Has applicant or its wholly owned subsidiaries ever filed for bankruptcy. Please include dates and jurisdiction of filing, the reason, and current status.

Answer: ____

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[1] For the purposes of this RFQ, the term "applicant" shall mean and refer to the respondent to this RFQ regardless of legal form. Thus applicant applies to individuals, sole proprietorships, joint ventures, unincorporated associations, partnerships, LLCs, LLPs, corporations (whether for profit, nonprofit, California or out of state) and any other entity legally entitled to do business in the State of California.

5. Describe any business, property, gifts, loans, investments or other financial relationships applicant, its individual principals, corporation, LLC, LLP or any of applicant's affiliated corporations or partnerships in which applicant is a general partner, or other business entity, with any member of the Agency Commission or his/her immediate family which are financial interest as defined by Section 87103 of the Fair Political Practices Act.[2]

Answer: ____

Applicant(s) hereby certify under penalty of perjury under the laws of the State of California that all information provided in the Disclosure Questionnaire is true and correct.

Date: ______________ Signed: ____________________________

[2] In summary Government Code Section 87100 requires any public officials participating in making decisions to refrain from using their official position to influence a governmental decision in which they know or has reason to know they have a financial interest. Section 87103 defines a financial interest as one that has a material, financial effect on the official or a member of their immediate family as follows: business interest – over $2,000; real property interest – over $2,000; other source of income within 12 months before the decision – over $500; gift or intermediary for donor of gift within 12 months - $250; business entity in which the official is a director, officer, partner, trustee, employee or holds a position of management. See Government Code Section 87103 for the complete definition.

ATTACHMENT #7

STATEMENT OF COMPLIANCE WITH AGENCY POLICIES & CERTIFICATION OF APPLICANT

Applicant(s)______________________________agree(s) to comply with all of the Agency's policies, including but not limited to insurance and indemnification requirements found in this RFQ.

Date: _______________ Signed: ___________________________________

Applicant(s) hereby certify under penalty of perjury under the laws of the State of California that all information provided in the application is true and correct.

Date: _______________ Signed: ___________________________________

ATTACHMENT #8

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE/
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

PERSONAL SERVICES CONTRACT

This PERSONAL SERVICES CONTRACT ("Contract") is entered into as of [effective date] by and between the OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE/SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic ("OCII"), and [CONTRACTOR NAME], **["a California corporation" or "a sole proprietorship"]** ("Contractor").

RECITALS

A. **In paragraph style tell a brief story of the background, necessity and purpose of the Contract. This is the appropriate place to recite, (hence, the title 'recitals') any special circumstances of consideration related to the Contract.]**

B. **[For example, you may want to say that the Contractor is particularly well suited to undertake the work and state the reasons.]**

C. [Or, you may want to describe an emergency situation which gives rise to the need to enter into the Contract.]

D. **[Or, you may want to cite the program which the Contract is helping us implement; e.g., 'OCII is implementing its blah-blah for the Union Square Redevelopment Project Area'.]**

E. **[Provide a readable narrative which explains the Contract quickly to someone who picks it up and/or covers any external factors, which are important to it.]**

NOW, THEREFORE, OCII and the Contractor agree as follows:

1. <u>SCOPE OF SERVICES</u>

Contractor shall provide the services described on **Attachment A**, "Scope of Services".

[If the scope is short (3 or 4 lines) the appropriate language can be inserted here, otherwise use an attachment – the work required, including deliverable items, should be described clearly enough that someone else could administer the Contract without excessive guess work. Your expectations of the Contractor should be stated with as much particularity

as needed—arguments later about whether or not we got what we wanted will focus on what we asked for here.]

2. TIME OF COMPLETION
[Use one or an appropriate combination of the following]

The term of this Contract shall begin on [starting date] and end on [Contract ending date].

Contractor's Schedule of Performance is set forth on Attachment " ".

Contractor will begin work within ____ days after receipt of an OCII Notice to Proceed.

Time for completion for this Contract will be ____ days after receipt of an OCII Notice to Proceed to the Contractor.

[The start of work should be by a Notice to Proceed, but the Contract itself can serve as such notice by saying "The work under this Contract shall commence as of the effective date of the Contract". If there are interim dates for deliverables, or a time line for tasks, that should be called out here. If that is lengthy and likely to be amended often, use an attachment.]

3. COMPENSATION AND METHOD OF PAYMENT

A. Compensation. For example: "The maximum amount payable under this Contract is Twenty-Five Thousand Dollars ($25,000.00). Payment shall be made according to the schedule and terms described on Attachment __, "Payment Schedule". All expenses of Contractor are included in the amounts payable pursuant to **Attachment B,** "Budget", and no expenses shall be reimbursed separately. Contractor will submit monthly billing invoices to OCII. The invoices shall include the billing amount, total hours invoiced, hourly billing rate, description of services rendered, supporting documentation and Contractor's signature. OCII staff will review and approve these invoices for payment."

B. Taxes. No payroll or employment taxes of any kind will be withheld or paid by OCII on behalf of Contractor. OCII will not treat Contractor as an employee with respect to the Contract services for any purpose, including federal and state tax purposes. Contractor understands and agrees that it is Contractor's responsibility to pay all taxes required by law, including self-employment social security tax. OCII will issue an IRS 1099 Form, or other appropriate tax-reporting document, to Contractor for the Contract services.

C. Benefits. Contractor will not be eligible for, and will not participate in, any health, pension, or other benefit of OCII which exists solely for the benefit of OCII employees during the Contract Term.

4. NO PERSONAL LIABILITY

No member, official or employee of OCII shall be liable personally to Contractor or any successor in interest in the event of any default or breach by OCII or for any amount which may become due to Contractor or any successor or on any obligation under the terms of this Contract.

5. ASSIGNMENT OF CONTRACT

Contractor shall not assign this Contract, or any part thereof, without the prior express written consent of OCII.

[Important: Before completing this Contract, you must determine whether CDBG funds will be used to fund it. If you do not know, contact the Fiscal Division. Where CDBG funding is being used, you must use the following Section 6, attach the referenced attachments, AND route this Contract for review to Christina Garcia in the Contract Compliance Division.]

6. <u>TERMS AND CONDITIONS-CDBG FUNDED CONTRACTS</u>

This Contract is funded in whole or in part with CDBG funds and all CDBG requirements apply, including, but not limited to Section 3 Clause (see below). The Contractor must comply with the policies, guidelines and requirements of OMB Circulars No. A-122, A-133 and the portions of A-100 or the related CDBG provisions required by 24 CFR 570.502(b). Contractor is responsible for assuring compliance with the circulars as they may be amended from time to time. If the Contractor is subject to the single audit requirement by virtue of the dollar amount of the Contract, or Contractor's total amount of CDBG funded contracts during the term of this Contract, Contractor must provide OCII with such an audit when it is submitted to MOCI, or other applicable recipient entity.

<u>SECTION 3 CLAUSE</u>

Section 3 Clause (12 U.S.C. 1701u) (24 CFR Part 135)

A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the U.S. Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

B. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of the Department of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department of Housing and Urban Development issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The Contractor will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of the Department of Housing and Urban Development, 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department of Housing and Urban Development issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided under this Contract and shall be binding upon Contractor, its successors and assigns. Failure to fulfill these requirements shall subject the Contractor, its subcontractors, successors and assigns to those sanctions specified by 24 CFR Part 135.

[If no CDBG are to be used, insert "6. Intentionally Omitted" in place of the title of this section.]

7. <u>NON-FEDERAL LABOR STANDARDS</u>

Contractor agrees that any employees performing work or services for Contractor shall be subject to the State and local laws governing prevailing wage rates, hours and working conditions, and benefits applicable to similar work or services performed in San Francisco. Contractor further agrees that the inclusion of the above provision in this Contract shall not be construed to relieve Contractor or any subcontractor from the pertinent requirements of any applicable Federal labor standards provision. Where minimum rates of pay required under State or local law are higher than the minimum rates of pay required by or set forth in applicable Federal labor standards, said State or local minimum rates shall be the applicable minimum rates of pay for such classifications.

8a. INDEMNIFICATION

To the fullest extent allowable by law, Contractor shall hold harmless, defend at its own expense and indemnify OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees against any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, arising directly or indirectly from all acts or omissions to act of contractor or its officers, agents or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages or expenses arising from Agency's gross negligence or willful acts and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its officers, agents or employees. In addition to Contractor's obligation to indemnify Agency, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend Agency from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by Agency and continues at all times thereafter. This section does not apply to contracts for construction design services provided by a design professional, as defined in California Civil Code Section 2782.8.

8b. INDEMNIFICATION BY DESIGN PROFESSIONALS

This section applies to any design professional as defined in California Civil Code Section 2782.8 who is or will provide construction design services ("Design Professional") as part of, collateral to, or affecting this Agreement with the Contractor. Each Design Professional who will provide construction design services shall hold harmless, defend at his or her own expense and indemnify OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description, including reasonable attorney's fees, directly or indirectly that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Design Professional. It is expressly agreed and understood that the duty of indemnification pursuant to this section, including the duty to defend, is to be interpreted broadly, to the greatest extent permitted by law, including but not limited to California Civil Code Section 2782.8.

9. INDEPENDENT CONTRACTOR

Contractor hereby declares that it is engaged in an independent business and agrees to perform its services as an independent contractor and not as the agent or employee of OCII. Contractor has and hereby retains the right to exercise full control and supervision of the services and work to be provided under this Contract and full control over the employment, direction, compensation and discharge of all persons assisting it in the performance of the services and work hereunder. Contractor agrees to be solely responsible for all matters relating to payment of employees, including, but not limited to, compliance with all federal, state and local payroll tax and withholding requirements, workers' compensation requirements and all regulations governing such matters. Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of the Contract.

10. INSURANCE

A. Contractor must procure and maintain for the duration of the Contract, including any extensions, insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors. If the Contractor maintains additional coverages and/or higher limits than the minimums shown in this Article 10, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Contractor.

[Note: The following insurance requirements may be modified depending upon the nature of the Contract, the Scope of Services and an assessment of the potential risk to OCII. Contact the Administrative Services Manager if you have any questions. If a prospective Contractor is having difficulty with the insurance provisions, he or she may also be referred to the Administrative Services Manager for assistance.]

B. Minimum Scope of Insurance. Coverage must be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).

(2) Insurance Services Office Automobile Liability coverage, code 1 (form number CA 00 01- any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(4) Professional Liability Insurance appropriate to the Contractor's profession covering all negligent acts, errors and omissions.

C. Minimum Limits of Insurance. Contractor must maintain limits no less than:

(1) General Liability:

a. For contracts not involving demolition or construction, or during phases of contracts prior to demolition or construction: $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit ($4,000,000). Applicable Umbrella or Excess Liability limits may be used to meet the terms of this paragraph.

b. For contracts involving demolition or construction or during phases involving demolition or construction: $5,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial

General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit ($10,000,000). Applicable Umbrella or Excess Liability limits may be used to meet the terms of this paragraph.

(2) Automobile Liability: $2,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of $1,000,000 for bodily injury by accident and $1,000,000 per person and in the annual aggregate for bodily injury by disease. (Required only if Contractor has employees).

(4) Professional Liability Insurance: $2,000,000 per claim and in the annual aggregate. If the Contractor's Professional Liability Insurance is "claims made" coverage, these minimum limits shall be maintained by the Contractor for no less than five (5) years beyond completion of the Scope of Services.

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions 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 Contractor shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(1) The "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" are to be covered as additional insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and liability arising out of work or operations performed by or on behalf of the Contractor.

(2) For any claims related to this Contract, the Contractor's insurance coverage must be primary insurance 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 Contractor's insurance and shall not contribute with it.

(3) 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.

(4) Each insurance policy required by this clause must be endorsed 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 certified mail, return receipt requested, has been given to OCII.

(5) Contractor hereby grants to OCII a waiver of any right to subrogation which any insurer of said Contractor may acquire against OCII by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not OCII has received a waiver of subrogation endorsement from the insurer.

(6) If any of the required policies provide coverage on a claims-made basis:

a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the contract of work.

c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five years after completion of contract work.

F. <u>Acceptability of Insurers.</u> Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII, unless otherwise approved by OCII's Risk Manager.

G. <u>Verification of Coverage.</u> Contractor must furnish OCII with certificates of insurance and with original endorsements evidencing coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by OCII. 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.

H. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all the requirements stated herein.

11. RECORDS, REPORTS AND AUDITS

A. Records

(1) Records shall be established and maintained in accordance with Agency requirements, and U.S. Department of Housing and Urban Development ("HUD") requirements if the Contract is funded with HUD Community Development Block Grant ("CDBG") funds, with respect to all matters covered by this Contract. Except as otherwise authorized by OCII, such records shall be maintained for a period of four years from the date of the termination of the Contract; except that records that are the subject of audit findings shall be retained for four years or until such audit findings have been resolved, whichever is later.

(2) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

B. Reports and Information

At such times and in such forms as OCII, the City and County of San Francisco or HUD, if the Contract is funded with CDBG funds, may require, there shall be furnished to OCII or its designated representative such statements, records, reports, data and information as OCII, the City and County of San Francisco or HUD may request pertaining to matters covered by this Contract.

C. Audits and Inspections

At any time during normal business hours and as often as OCII, the City and County of San Francisco or HUD, and/or the Comptroller General of the United States, if the Contract is funded with CDBG funds, may deem necessary, there shall be made available to OCII or its representatives for examination all records with respect to all matters covered by this Contract and Contractor will permit OCII, the City and County of San Francisco, HUD and/or the Comptroller General of the United States to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract.

12. CONFLICTS

Except for approved eligible administrative or personnel costs, no employee, agent, contractor, officer or official of OCII who exercises any functions or responsibilities with respect to this Contract or who is in a position to participate in a decision making process or gain inside information with regard to it, shall obtain a personal or financial interest in or benefit from any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom they have family or business ties, during his or her tenure or for two years thereafter. The term "Contractor" also includes the employees, officers (including board members), agents and subcontractors of a Contractor under this Contract. In order to carry out the purposes of this Section, Contractor shall incorporate, or cause to be incorporated, in all contracts and subcontracts relating to activities pursuant to this Contract, a provision similar to that of this Section.

13. CONTRACTOR'S DUTY OF LOYALTY

Contractor for itself and subcontractors, if any, agrees to abide by OCII's duty of loyalty, which appears at Section IX.H. (Prohibited Activities of Present and Former Employees, Commissioners and Consultants) of OCII's Personnel Policy and which states in part the following: "Unless approved in advance in writing by OCII, no present or former employee, Commissioner or consultant of OCII shall knowingly act for anyone other than OCII in connection with any particular matter in which OCII is a party, or has a direct and substantial interest, and in which he or she participated personally and substantially as an Agency employee, Commissioner or consultant whether through decisions, recommendations, advice, investigation or otherwise. Violation of this section by a present employee, consultant or Commissioner may, in the case of an employee or consultant, be grounds for discharge or termination of the consultant contract, and in the case of a Commissioner, be considered misconduct in office pursuant of California Health and Safety Code Section 33115."

14. LIMITATIONS ON CONTRIBUTIONS

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with OCII for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) the Mayor or members of the Board of Supervisors, (2) a candidate for Mayor or Board of Supervisors, or (3) a committee controlled by such office holder or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Contractor agrees to provide to OCII the names of each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is not sponsored or controlled by Contractor.

15. CONFIDENTIALITY/PROPERTY OF AGENCY

All of the reports, information, data or other materials prepared or assembled by Contractor under this Contract, including Contractor's opinions and conclusions based upon such items, are confidential. Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without the prior written approval of OCII. Unless otherwise stated in the Scope of Services, all such reports, information, data or other materials and work product shall become the property of OCII, but are subject to disclosure under the Public Records Act, Cal. Gov't Code §§ 6250 et seq., and the Agency Public Records Policy, Agency Resolution No. 182-2005 (Nov. 1, 2005).

16. COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE

It is understood and agreed that Contractor shall comply with California Government Code Section 7550. California Government Code Section 7550 provides in part that when the total cost for work performed for a local agency by nonemployees of such agency exceeds $5,000.00, any document or written report prepared in whole or in part by nonemployees for such agency shall contain, in a separate section, the numbers and dollar amount of all contracts and subcontracts relating to the preparation of such document or written report.

17. NONDISCRIMINATION AND EQUAL BENEFITS

A. 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 this Contract. 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 to clients or the general public.

B. Contractor will, in all solicitations or advertisements for employees placed by it or on its behalf, state it is an equal opportunity employer.

C. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

D. Contractor agrees not to discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, and shall comply fully with all provisions of OCII's Nondiscrimination in Contracts Policy ("Policy"), adopted by Agency Resolution No. 175-97, as such Policy may be amended from time to time.

E. Contractor shall provide all services to the public under this Contract in facilities that are accessible to persons with disabilities as required by state and federal law and execute **Attachment C** "Nondiscrimination in Contracts and Benefits Form".

18. COMPLIANCE WITH SMALL BUSINESS ENTERPRISE PROGRAM

OCII implements a Small Business Enterprises ("SBE") Program that was adopted by Agency Resolution No. 43-2015 and that requires consideration in awarding contracts in the following order: 1) Project Area SBEs, 2) San Francisco-based SBEs (outside an Agency Project Area), and 3) All other 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 (see **Attachment D** "SBE Agreement").

Under the SBE Program, the Contractor, in awarding subcontracts, must make good faith efforts to achieve SBE participation of 50 % for professional, personal services, and construction contracts; provided, however, that this goal may vary depending on the extent of subcontracting opportunities under OCII contract and the availability of SBE subcontractors capable of providing goods or services required by the contract; and provided further, that OCII has the sole discretion to modify the 50 % SBE participation goal consistent with the SBE Program, as specified in the SBE Agreement.

OCII relies on the information that a business may have provided to qualify under another public entities' business certification program in determining whether that business qualifies as an SBE under OCII's SBE Program. Those other programs include: City and County of San Francisco Local Disadvantaged Business Enterprises (LBE) certification, *information available at* - http://sfgsa.org/index.aspx?page=5364; and State of California – Small Business Enterprises certification – http://www.dgs.ca.gov/pd/Programs/OSDS/GetCertified.aspx. OCII retains the discretion, however, to determine if the information provided for those other programs meets SBE eligibility under OCII's SBE Program.

19. COMPLIANCE WITH MINIMUM COMPENSATION POLICY AND HEALTH CARE ACCOUNTABILITY POLICY

Contractor agrees, as of the date of this Contract and during the term of this Contract, to comply with the provisions of OCII's Minimum Compensation Policy and Health Care Accountability Policy (the "Policies"), adopted by Agency Resolution 168-2001, as such policies may be amended from time to time (See **Attachment E** "Minimum Compensation Policy" and **Attachment F** "Health Care Accountability Policy"). 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 and County of San Francisco's Department of Public Health, or to participate in a health benefits program developed by the City and County of San Francisco's Director of Health.

20. TERMINATION

OCII may terminate this Contract at any time without cause upon written Notice of Termination to the Contractor; provided, however, that in the event of such termination, OCII shall compensate the Contractor for work completed to the satisfaction of OCII as of the date of such notice or the date of termination specified in and directed by such notice.

21. MISCELLANEOUS PROVISIONS

A. Notices

All notices, demands, consents or approvals required under this Contract shall be in writing and shall be deemed given when delivered personally or by facsimile transmission or three (3) business days after being deposited in the U.S. Mail, first class postage prepaid, return receipt requested, addressed as follows:

If to OCII: Office of Community Investment and Infrastructure/Successor Agency to the San Francisco Redevelopment Agency
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103
Attention: Executive Director

If to Contractor: **[name]**
[mailing address]
Attention: **[contact]**

or to such other addresses as the parties may designate by notice as set forth above.

B. Time of Performance

(1) Time is of the essence in the performance of all the terms and conditions of this Contract.

(2) All performance and cure periods expire at 5 p.m., San Francisco, California time, on the applicable date.

(3) A performance or cure date which otherwise would be a Saturday, Sunday or Agency holiday shall be extended to the next Agency working day.

C. Successors and Assigns

This Contract shall be binding upon and inure to the benefit of the successors and assigns of OCII and the Contractor. Where the term "Contractor" or "Agency" is used in this Contract, it shall mean and include their respective successors and assigns; provided, however, that OCII shall have no obligation under this Contract to, nor shall any benefit of this Contract accrue to, any unapproved successor or assign of Contractor where Agency approval of a successor or assign is required by this Contract.

D. Modification, Waiver and Amendment

Any modification, waiver or amendment of any of the provisions of this Contract must be in writing and signed by both OCII and Contractor.

E. Entire Contract

This Contract represents the complete agreement between the parties as to the matters described herein, and there are no oral understandings between Contractor and OCII affecting this Contract not set forth herein. This Contract supersedes all previous negotiations, arrangements, agreements and understandings between Contractor and OCII with respect to the subject matter hereof.

F. Severability

If any provision of this Contract shall be determined to be illegal or unenforceable, such determination shall not affect any other provision and all such other provisions shall remain in full force and effect.

G. Governing Law

This Contract shall be governed by the laws of the State of California. It is the responsibility of Contractor to be informed of local, state and federal laws and requirements applicable to this Contract and to perform all work in compliance with those laws and requirements.

H. Headings

Titles of parts or sections of this Contract are inserted for convenience only and shall be disregarded in construing or interpreting its provisions.

I. Attorneys' Fees

In any action or proceeding arising out of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

J. Authority

The undersigned represents and warrants that he or she has full power and authority to enter into this Contract and to bind the Contractor in accordance with its terms.

K. Designated Representative

The initial designated representative for OCII for this Contract is ___________________, OCII representative's phone number is__________________ The initial Contractor designated representative for this Contract is ___________________, the Contractor's designated representative's phone number is ___________________.

IN WITNESS WHEREOF OCII and Contractor have executed this Contract as of the date first above written.

[CONTRACTOR] **["a California corporation" or "a sole proprietorship"]**

By:________________________________

[Signatory]
[Title]
Federal Tax Identification No. ______________

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic

By:________________________________

Nadia Sesay
Executive Director

APPROVED AS TO FORM:

By:___________________________

James B. Morales
Agency General Counsel

[The following is to be included only if the contract needs to be approved by the Commission]

Authorized by Resolution No. ______, adopted ________________.

ATTACHMENTS

Attachment A: Scope of Services

Attachment B: Budget

Attachment C: Nondiscrimination in Contracts and Benefits Form

Attachment D: Small Business Enterprise Agreement

Attachment E: Minimum Compensation Policy Declaration

Attachment F: Health Care Accountability Policy Declaration

RFP Registration Form

Submit by Email

ATTACHMENT #9

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1. The RFP for Infrastructure Engineering Support Services can be obtained by interested Consultants after registering for the documents.
2. Only registered consultants will receive addenda or updates.
3. Consultants must fill out this electronic request form in its entirety.
4. The information you provide will be compiled into a RFP holders list and made available to other RFP holders.
5. We will email you the RFP documents after we receive your completed registration form.

****

RFP REGISTRATION FORM

COMPANY:					
CONTACT PERSON:					
STREET ADDRESS:					
CITY:		***STATE:***		***ZIP:***	
TEL:					
EMAIL:					
FAX:					

****

Verify all your information is entered correctly.

To send your registration form and receive an electronic copy of the Bid Documents, click the "Submit by Email" button (top right corner of this page.)

(This electronic form will be sent to)

Phil Millenbah
Office of Community Investment and Infrastructure 1 South
Van Ness Avenue, 5th Floor
San Francisco, CA 94103
philip.millenbah@sfgov.org

INTERAGENCY COOPERATION AGREEMENT
(CANDLESTICK POINT AND PHASE 2 OF THE HUNTERS POINT SHIPYARD)

This INTERAGENCY COOPERATION AGREEMENT (CANDLESTICK POINT AND PHASE 2 OF THE HUNTERS POINT SHIPYARD) (as amended from time to time, this "**ICA**") dated for reference purposes as of June 3, 2010 (the "**Reference Date**") is between the CITY AND COUNTY OF SAN FRANCISCO, a charter city and county (the "**City**"), and the REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic, of the State of California (together with any successor public agency, the "**Agency**"), in reference to the Disposition and Development Agreement (Candlestick Point and Phase 2 of the Hunters Point Shipyard) dated for reference purposes as of June 3, 2010, by and between the Agency and CP DEVELOPMENT CO., LP, a Delaware limited partnership (together with its successors, "**Developer**") (including all attached and incorporated exhibits and as amended from time to time, the "**DDA**"). Capitalized terms used but not otherwise defined in this ICA shall have the meanings for such terms set forth in the DDA.

RECITALS

A. In accordance with the California Community Redevelopment Law (Health and Safety Code sections 33000 et seq.) (the "**CCRL**"), the City approved: (1) the Hunters Point Shipyard Redevelopment Plan by Ordinance No. 285-97, adopted by the Board of Supervisors of the City and County of San Francisco (the "**Board of Supervisors**") on July 14, 1997; and (2) an amendment to the Hunters Point Shipyard Redevelopment Plan by Ordinance No. 211-10, adopted August 3, 2010, providing for the Project (the "**Shipyard Plan Amendment**") (the Hunters Point Shipyard Redevelopment Plan, as amended by the Shipyard Plan Amendment and as amended from time to time to the extent permitted under the DDA, the "**Shipyard Redevelopment Plan**"). The Shipyard Redevelopment Plan provides for the redevelopment, rehabilitation, reuse, and revitalization of the former Hunters Point Naval Shipyard consisting of approximately 1,120 acres along the southeastern waterfront of San Francisco, as described in the Shipyard Redevelopment Plan (the "**Shipyard Redevelopment Plan Area**"). The Shipyard Redevelopment Plan Area includes Parcels A through G.

B. The City also approved, in accordance with the CCRL: (1) the Hunters Point Redevelopment Plan by Ordinance No. 25-69, adopted January 20, 1969; (2) an amendment to the Hunters Point Redevelopment Plan by Ordinance No. 280-70, adopted August 24, 1970; (3) an amendment to the Hunters Point Redevelopment Plan by Ordinance No. 475-86, adopted December 1, 1986; (4) an amendment to the Hunters Point Redevelopment Plan by Ordinance No. 417-94, adopted December 12, 1994; (5) an amendment to the Hunters Point Redevelopment Plan by Ordinance No. 113-06, adopted June 1, 2006, under which the Hunters Point Redevelopment Plan: (i) was renamed the Bayview Hunters Point Redevelopment Plan; (ii) the redevelopment project area was enlarged to add Project Area B (as defined in the BVHP Redevelopment Plan); and (iii) the financing plan for redevelopment was amended to provide for tax increment financing for Project Area B; and (6) an amendment to the Bayview Hunters Point Redevelopment Plan (the "**BVHP Plan Amendment**") by Ordinance No. 210-10, adopted August 3, 2010, under which Project Area B was split into two zones: Zone 1 corresponding to the Candlestick Point Activity Node, including the Alice Griffith Site, and Zone 2 consisting of the remainder of Project Area B (the Bayview Hunters Point Redevelopment Plan, as amended by the BVHP Plan Amendment and as amended from time to time to the extent permitted under the DDA, the "**BVHP Redevelopment Plan**"). The BVHP Redevelopment Plan provides for the redevelopment, rehabilitation, and revitalization of approximately 1,360 acres in the southeastern area of San Francisco north and west of the Shipyard Redevelopment Plan Area, as described in the BVHP Redevelopment Plan (the "**BVHP Redevelopment Plan Area**").

C. San Francisco voters passed Proposition G on June 3, 2008. Consistent with Proposition G:

1. City policy encourages a mixed-use development of the Project Site, which includes the Candlestick Site and the Shipyard Site. At full build-out, this development is anticipated to include: over 300 acres of public park and open space improvements; 10,500 homes for sale or rent; 885,000 square feet of retail uses; about 2,650,000 square feet of green office, science and technology, and research and development uses; a 150,000 square foot hotel; a 10,000-seat arena or other public performance site; a 300-slip marina; a site in the Shipyard Site for a new stadium if the 49ers and the City timely determine that the stadium is feasible; and up to 2,500,000 square feet of additional green office, science and technology, research and development, and industrial uses if the stadium is not built.

2. City policy mandates that the Project: produce tangible community benefits for BVHP and the City; reconnect the Project Site with BVHP and protect BVHP's character for existing residents; produce substantial new affordable and market-rate rental and for-sale housing and encourage rebuilding Alice Griffith; incorporate environmental sustainability; encourage the 49ers to remain in San Francisco by providing a new stadium site and supporting infrastructure; and require the project to be financially sound, all with or without a new stadium.

3. Under City Charter section 4.113, the voters authorized the City to transfer for non-recreational use any park land under Recreation and Park Commission jurisdiction within the Candlestick Site (the "**RecPark Property**") free of any park or recreational use restrictions if: the City's approval is conditioned on a binding obligation to create new public park or public open space areas in the Project Site at least equal in size to the transferred park land; and the Board of Supervisors finds that the proposed new public park or public open space areas are suitable and will be dedicated for those purposes and that the transfer will further the objectives for the Project as set forth in Proposition G.

4. The City, the Agency, and other public agencies with jurisdiction over aspects of the Project are to proceed as expeditiously as possible to implement Proposition G and take actions such as adopting land use controls for the Project Site consistent with Proposition G's objectives, subject to public review processes outlined in Proposition G. Finally, by adopting Proposition G, the voters "encourage the Board of Supervisors and other public agencies with applicable jurisdiction to approve such final development plans at the conclusion of the review process . . . so long as the Board of Supervisors and the Mayor then determine that such plans are generally consistent with [Proposition G's] objectives," even if the final development plan for and boundaries of the Project Site are materially different from those identified in Proposition G due to variables such as market changes, economic feasibility, and the

49ers' decision regarding a stadium. In approving this ICA and the RecPark Land Transfer Agreement, the Board of Supervisors finds that the new land areas contemplated under the DDA are suitable for public park or public open space and will be dedicated for such uses and the transfer of the RecPark Property as and when required under the DDA and the RecPark Land Transfer Agreement furthers development of the Project Site consistent with the objectives set forth in Proposition G.

D. The Planning Commission certified an environmental impact report for the Project on June 3, 2010, by Motion No. 18096, and the Board of Supervisors, by Resolution No. 347-10, adopted July 27, 2010, adopted findings and mitigation measures under the California Environmental Quality Act ("**CEQA**") that must be implemented to reduce the environmental impacts of the Project to less than significant (the "**Mitigation Measures**"). As amended, the Shipyard Redevelopment Plan and the BVHP Redevelopment Plan (sometimes referred to collectively as the "**Redevelopment Plans**") are consistent with and implement Proposition G.

E. To implement Proposition G and the Redevelopment Plans, the Agency and Developer have entered into the DDA. The DDA provides for Developer to construct and improve Infrastructure in accordance with the Infrastructure Plan attached to the DDA, a copy of which is also attached to this ICA as <u>Exhibit A</u>. Developer will construct Infrastructure in phases as described in the DDA. In addition, the DDA incorporates the Mitigation Measures that must be implemented at specified stages of development. Design controls governing the Project are set forth in the respective Design for Development for the Candlestick Site and the Shipyard Site attached to the DDA (as amended from time to time to the extent permitted under the DDA, individually or collectively as the context requires, the "**Design for Development**").

F. The Design Review and Document Approval Procedure attached to the DDA (the "**DRDAP**") and the Planning Cooperation Agreement provide for expedited review and approval of Major Phase Applications, Sub-Phase Applications, and Vertical Applications for the Infrastructure and other Improvements (the "**Agency Applications**"). The Parties desire to provide for expedited review by the City Agencies of the Agency Applications and to establish a process for expedited review by the Agency of applications to the City Agencies for the Project, including but not limited to subdivision maps, site permits, grading permits, and building permits (the "**City Applications**", together with Agency Applications, the "**Project Applications**"). In accordance with San Francisco Campaign and Governmental Conduct Code section 3.400(b), the City and the Agency find and agree that there is a compelling public policy basis to expedite the review and permitting process for Project Applications as contemplated by this ICA and the DRDAP.

G. As set forth in the CP/HPS Subdivision Code, the Department of Public Works ("**DPW**") has authority to process subdivision development including but not limited to subdivision mapping, street vacations, public improvement agreements, Infrastructure construction permits, determination that the construction of the Infrastructure is completed and ready for its intended use, and presentation to the Board of Supervisors for acceptance of the Infrastructure. In order to provide for expeditious processing of approvals for Project Applications, DPW will utilize the Task Force, as and to the extent described in <u>Section 3.4</u> below. DPW also has the ability to provide additional project management, scheduling, engineering, construction management and reimbursement audit services as requested by Agency or Developer.

H. To implement the Project, the City and the Agency are also entering into a Tax Increment Allocation Pledge Agreement (Candlestick Point and Phase 2 of the Hunters Point Shipyard) for the irrevocable pledge of net available tax increment to finance public improvements, affordable housing and other costs permitted by the CCRL (the "**Tax Allocation Agreement**"). As set forth in the Financing Plan attached to the DDA, tax increment from the Project Site and the proceeds of bonds secured by a pledge of tax increment will be used to make payments on indebtedness of the Agency incurred to pay or otherwise directly reimburse the costs of public infrastructure, other public improvements and other costs permitted by the CCRL. The Agency and the City have agreed that the Tax Allocation Agreement is a joint community facilities agreement under the Mello-Roos Community Facilities Act of 1982 (Cal. Gov't Code § 53311 et seq., as amended (the "**CFD Act**") for all of the Infrastructure and other Improvements to be financed by CFDs and owned or operated by the City.

I. The redevelopment of the Project Site shall be completed in accordance with the Redevelopment Plans, the Plan Documents, and the applicable Design for Development (collectively, the "**Redevelopment Documents**"). Developer's obligations for redevelopment of the Project Site are further set forth in the DDA and will be further defined in any future Agency Approvals given under the DRDAP (collectively, with the Redevelopment Documents, the "**Redevelopment Requirements**"). Development of the Project in accordance with the Redevelopment Requirements affords numerous public benefits for the City and its residents, which include: eliminating blighting influences from and revitalizing the blighted Project Site; constructing substantial new rental and for-sale affordable and market-rate housing; creating publicly accessible open space and new, enhanced public access to the waterfront; and generating new jobs, including employment opportunities for economically disadvantaged individuals.

J. Under CCRL section 33220(e), certain public bodies, including the City, are authorized to aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects. To promote development in accordance with the objectives and purposes of the Redevelopment Documents, the City and the Agency are entering into this ICA to provide for their cooperation in administering the control and approval of subdivisions, and all other applicable land use, development, construction, improvement, infrastructure, occupancy, and use requirements applicable to the Project.

AGREEMENT

ACCORDINGLY, in consideration of the matters described in the foregoing recitals, the covenants contained in this ICA and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the City and the Agency agree as follows:

1. PURPOSE OF THIS ICA.

1.1 ***City and Agency***. The purpose of this ICA is to facilitate the implementation of the Redevelopment Plans and Proposition G, and development of the Project in accordance with the Redevelopment Documents and this ICA. The City and the Agency agree that: (a) the development of the Project in accordance with the Redevelopment Documents is in the best interests of the City and the health, safety and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state and local laws; (b) they intend for this ICA to provide the framework for cooperation between the City and the Agency with respect to the review and approval of Project Applications; and (c) this ICA is for their mutual benefit.

1.2 ***Developer; Vertical Developer***. The City and the Agency agree that: (a) this ICA is for Developer's express benefit, subject to Developer's Consent, which is attached to and is a part of this ICA; (b) except as set forth in Section 10.4, Developer (and Transferees) and Vertical Developers are entitled to rely on, receive benefits conferred by, and enforce this ICA, but only on the condition that neither the Agency nor the City will be liable for any damages under this ICA; and (c) their intention is to provide mechanisms for Developer to develop the Project in accordance with this ICA and the Redevelopment Documents. Developer's burdens and benefits under this ICA and the Developer's Consent, and all limitations on those burdens and benefits, will accrue to Developer (and Transferees) and to Vertical Developers, as applicable. The DDA contemplates partial Transfers and partial terminations of the DDA, and Developer, Transferees and Vertical Developers will have third-party beneficiary rights under this ICA only to the extent it affects or relates to the land on which Developer, the Transferee or Vertical Developer, as applicable, has rights under the DDA.

2. EFFECTIVE DATE; TERM.

2.1 ***Effective Date***. This ICA will become effective on the date on which both the BVHP Plan Amendment and the Shipyard Plan Amendment are effective (the "**ICA Effective Date**").

2.2 ***Term***. The term of this ICA (the "**ICA Term**") begins on the ICA Effective Date and ends, with respect to any portion of the Project Site, on the date that the DDA terminates with respect to that portion of the Project Site.

2.3 ***City***. The City's approval of this ICA will be evidenced by the signatures of the Mayor, the Clerk of the Board of Supervisors, the Controller, the City Administrator, and the Director of Public Works. The Planning Department is entering into a separate Planning Cooperation Agreement with respect to the Project. Any other City Agency's approval will be evidenced by its written consent, which will be attached to and be a part of this ICA, but a City Agency's failure to consent to this ICA will not cause this ICA to be void or voidable. Each City Agency, including the SFMTA, the SFPUC, the Port, and SFFD, shall be bound by this ICA only if it approves this ICA and executes the attached consent form evidencing such approval.

3. COOPERATION.

3.1 ***Agreement to Cooperate***. The City agrees to aid the Agency, and the City and the Agency agree to cooperate with one another, to expeditiously implement the Project in accordance with the Redevelopment Documents (subject to Sections 3.4(e)(ii) and 11.2 below) and undertake and complete all actions or proceedings reasonably necessary or appropriate to ensure that the objectives of the Redevelopment Documents are fulfilled during the ICA Term.

Nothing in this ICA obligates the City or the Agency to spend any sums of money or incur any costs other than Agency Costs that Developer or Vertical Developers must reimburse under the DDA or administrative costs that Developer or Vertical Developers must reimburse through the payment of Administrative Fees.

3.2 ***No General Fund Commitment***. This ICA is not intended to, and does not, create any commitment of the City's General Fund in any manner that would violate the debt limitations under article XVI, section 18 of the State Constitution or the fiscal provisions of the City's Charter, including Charter section 3.105.

3.3 ***Environmental Review***. This ICA does not limit the City's or the Agency's obligation to comply with applicable environmental laws, including CEQA, before taking any discretionary action regarding the Project.

3.4 ***Expeditious Processing of Approvals***.

(a) Expeditors.

(i) DPW and the Task Force. Developer, the Agency, and/or the City may retain third-party professionals to assist City and Agency staff with efficiently fulfilling their respective obligations for expeditious processing of permits under this ICA and the DRDAP and DPW obligations under any Acquisition and Reimbursement Agreement (the "**Task Force**"), provided that (A) any such third-party professional does not pose a conflict between the interests of the Agency or City and Developer with respect to matters involving Developer, or the interests of the Agency or City and Vertical Developer with respect to matters involving Vertical Developer and (B) at least sixty (60) days before retaining or renewing the contract of any such third-party professional, DPW, Agency, and Developer staff shall meet and confer about the identity, cost, duration and scope of work of such third-party professional to ensure that such third-party professional is used in an efficient manner and avoids redundancies. Any contracts with any such third-party professionals shall provide for a maximum term of one (1) year and a maximum fee for the specified scope of work. Either Developer or the Agency may object to the renewal of any third-party professional's contract by delivering a written statement of the basis for its objections to the other Party no less than forty five (45) days before the contract expires. Upon receipt of an objection, the Parties shall meet and confer to resolve the issues raised in the objection, including whether a revised scope of work in a renewal contract would address the issues adequately and, if not, the procedures and for securing a contract with a satisfactory replacement third-party professional. In the event that services of the third-party professionals are terminated or the Task Force is disbanded, the Parties shall revise the timelines for Agency and City review of Project Applications under this ICA, the DRDAP, and the Planning Cooperation Agreement in light of available staffing.

(ii) Assessor's Office. Upon the request of Developer, the Agency and Developer shall meet and confer with the County Assessor regarding the use and retention of dedicated County Assessor staff (on a full or part-time basis) to facilitate the prompt annual assessment of real property in the Project Site. Upon the mutual agreement of Developer, the County Assessor and the Agency regarding the cost, duration and scope of such work to be paid by Developer, the County Assessor shall implement such agreement and make such staff available for property reassessments within the Project Site.

(iii) Task Force and Assessor Costs. The Parties agree that all of the City's costs of the Task Force, and the agreed costs of the County Assessor as set forth in clause (ii) above, will be Agency Costs, all subject to the limitations set forth in the DDA and this ICA.

(b) Role of DPW. The City and the Agency agree that, for the Project: (i) except as provided in Section 7.1, DPW will act as the City's lead agency to facilitate coordinated review of Project Applications; and (ii) DPW staff and the Task Force will: (x) work with Developer to ensure that Project Applications are technically sufficient and constitute Complete Project Applications, as required under the DRDAP, the Applicable City Regulations, and applicable State and federal law; (y) interface with City and Agency staff responsible for reviewing Project Applications to ensure that City and Agency review of the Project Applications is concurrent and that the approval process is efficient and orderly and avoids redundancies; and (z) take such actions as are required in accordance with any Acquisition and Reimbursement Agreement.

(c) Priority Project. The City and the Agency agree that the development of the Project as contemplated by the Redevelopment Documents is a priority project for which they will act as expeditiously as is reasonably feasible to review and process Complete Project Applications, as more particularly described in the DRDAP and this ICA.

(d) Pre-Submission of Applications. The Agency, with the Task Force's assistance, will advise applicable City Agencies of, and invite them to participate in, any pre-submission conference for an Agency Application. The Agency will require Developer to provide any City Agencies choosing to participate in any pre-submission conference with a copy of Developer's submission in accordance with the DRDAP.

(e) City and Agency Review of Agency Applications. As set forth in the DRDAP, the Agency will review and consider Agency Applications to determine whether such Agency Applications are Complete Applications and for consistency with the Redevelopment Requirements, subject to the following:

(i) City Agencies. The Agency will submit each Complete Agency Application, or applicable portions thereof, to applicable City Agencies. Each City Agency will review submittals made to them under this ICA for consistency with the Applicable City Regulations and applicable State and federal law, and will make recommendations to the Agency within thirty (30) days of the City Agency's receipt of such Complete Agency Application. The City Agencies will not make recommendations or impose requirements that are inconsistent with the Redevelopment Documents, Applicable City Regulations, or applicable State and federal law, and will not deny an Approval of any Agency Application based on items that are consistent with the Redevelopment Documents, Applicable City Regulations, a prior Approval by the City Agency, and applicable State and federal law. Any City Agency denial of an Approval shall include a statement of the reasons for such denial.

(ii) Board of Supervisors. The Non-Stadium Alternative of the Project includes an approximately 41 foot wide bridge spanning the Yosemite Slough which is limited to bike, pedestrian and transit use. However, in the event the San Francisco 49ers elect to build a new stadium on the Shipyard Site, the Project will include a bridge spanning Yosemite Slough that is wider than 41 feet across to accommodate game-day traffic (the "**Stadium Bridge**"), subject to the provisions of this Section 3.4(e)(ii). Following the review and Approval by applicable City Agencies of the first Application that includes a conceptual design for the Stadium Bridge, but before the Agency's Approval of such conceptual design, the Agency shall refer the conceptual design to the Board of Supervisors for its review and Approval.

The Board of Supervisors shall, within ninety (90) days following the Agency's referral of the conceptual design for the Stadium Bridge, notify the Agency of its Approval or of any objections to the conceptual design. If the Board objects to the conceptual designs, then the Agency, working with Developer, shall resubmit the conceptual designs to correct the stated deficiencies. The Agency shall not Approve the conceptual design until the design has been Approved by the Board of Supervisors.

The non-stadium (i.e., 41 foot-wide) bridge may be used for bicycles, pedestrian, buses and emergency vehicles only, and shall not be used for private automobiles. A wider bridge, which may be constructed if a stadium is constructed at the Shipyard, shall not be used by private automobiles except on game days or other stadium events and shall not be used by private automobiles more than twenty (20) days per calendar year without the prior approval of the Board of Supervisors.

(iii) Port. If the Port then has jurisdiction of land (including submerged land) within the Project Site because certain Trust Exchanges between the Agency and the Port, authorized under Senate Bill 792 (Ch. 203, Stats. 2009) have not closed, then, by this ICA, the Port delegates to the Agency the authority to conduct design review for Major Phases, Sub-Phases, and Lots on land under Port jurisdiction. Consistent with the Port Consent and Section 7.1(c), the Port delegates to DPW the authority to grant any Approvals required for construction of Improvements on open space or Infrastructure on land then under Port jurisdiction, subject to consultation with the Port's Chief Harbor Engineer.

(iv) SFMTA. Before the Agency Approves any Agency Application that includes or should include (1) future Infrastructure that will be under SFMTA jurisdiction upon City acceptance (the "**SFMTA Infrastructure**"), or (2) certain transportation-related Mitigation Measures, the implementation of which will be within SFMTA jurisdiction (the "**Transportation-Related Mitigation Measures**"), the Agency shall submit each such Complete Agency Application to the SFMTA for review and comment to ensure that SFMTA requirements are satisfied, including any requirements for start-up testing protocols and warranties. The SFMTA will review each such Complete Agency Application, or applicable portions thereof, and provide comments to the Agency within thirty (30) days of the SFMTA's receipt of such Complete Agency Application. In addition, the Agency, Developer, and Vertical Developers, as applicable, will work collaboratively with the SFMTA to ensure that SFMTA Infrastructure and Transportation-Related Mitigation Measures are discussed as early in the review process as possible and that the Agency and the SFMTA act in concert with respect to these matters. The

Agency shall not Approve any Agency Application that includes plans and specifications for SFMTA Infrastructure or that amends the Transportation-Related Mitigation Measures without the prior Approval of the SFMTA.

(v) SFPUC. Before the Agency approves any Agency Application that includes or should include (1) future Infrastructure that will be under SFPUC jurisdiction upon City acceptance (the "**SFPUC Infrastructure**"), or (2) certain utility-related Mitigation Measures, the implementation of which will be within SFPUC jurisdiction (the "**SFPUC-Related Mitigation Measures**"), the Agency shall submit each such Complete Agency Application to the SFPUC for review and comment to ensure that SFPUC requirements are satisfied, including any requirements for start-up testing protocols and warranties. The SFPUC will review each such Complete Agency Application, or applicable portions thereof, and provide comments to the Agency within thirty (30) days of the SFPUC's receipt of such Complete Agency Application. In addition, the Agency, Developer, and Vertical Developers, as applicable, will work collaboratively with the SFPUC to ensure that SFPUC Infrastructure and SFPUC-Related Mitigation Measures are discussed as early in the review process as possible and that the Agency and the SFPUC act in concert with respect to these matters. The Agency shall not Approve any Agency Application that includes plans and specifications for SFPUC Infrastructure or that amends the SFPUC-Related Mitigation Measures without the prior Approval of the SFPUC.

(vi) SFFD. Before the Agency approves any Agency Application that includes or should include future Infrastructure that will be under SFFD jurisdiction upon City acceptance (the "**SFFD Infrastructure**"), the Agency shall submit each such Complete Agency Application to the SFFD for review and comment to ensure that SFFD requirements are satisfied, including any requirements for start-up testing protocols and warranties. The SFFD will review each such Complete Agency Application, or applicable portions thereof, and provide comments to the Agency within thirty (30) days of SFFD's receipt of such Complete Agency Application. In addition, the Agency, Developer, and Vertical Developers, as applicable, will work collaboratively with the SFFD to ensure that SFFD Infrastructure is discussed as early in the review process as possible and that the Agency and the SFFD act in concert with respect to these matters. The Agency shall not Approve any Agency Application that includes plans and specifications for SFFD Infrastructure without the prior Approval of the SFFD.

(f) Agency and City Review of City Applications. Within five (5) days of its determination that a City Application is a Complete Application, City staff shall submit a copy of such Complete City Application to the Agency. Within thirty (30) days of its receipt of a Complete City Application, the Agency will review such City Application and advise the City if the City Application complies and is consistent with the applicable Redevelopment Documents. No City Application will be approved and no City permit will be issued until the Agency has made a favorable compliance and consistency determination. The City shall not deny a City Application based on an item or element that is required by and consistent with the Redevelopment Documents. The City shall review and approve or deny each City Application in accordance with the Applicable City Regulations and applicable State and federal law, including the Permit Streamlining Act (Cal. Gov't Code §§ 65920 et seq.).

3.5 ***Specific Actions by the City***. City actions and proceedings subject to this ICA shall be through the Mayor or his or her designee, as well as affected City Agencies, and shall include:

(a) Trust Exchanges. Assisting the Agency in closing the Trust Exchanges as contemplated by the Public Trust Exchange Agreement.

(b) Alice Griffith. Assisting the Agency in negotiating the Alice Griffith DDA.

(c) Street Vacation, Dedication, Acceptance, and other Street Related Actions. Instituting and completing proceedings for opening, closing, vacating, widening, or changing the grades of streets, roads, alleys, sidewalks, and other public rights-of-way and for other necessary modifications of the streets, the street layout, and other public rights-of-way in the Project Site, including any requirement to abandon, remove, and relocate public utilities (and, when applicable, city utilities) within the public rights-of-way as necessary to carry out the Project and the Redevelopment Documents.

(d) Cooperation. Assisting the Agency as set forth in this ICA and in any memoranda of understanding or other agreements among the City Agencies or between the City and the Agency in furtherance of this ICA and the Project.

(e) Planning. Assisting in the planning and implementation of the Project consistent with the Redevelopment Documents as well as providing General Plan referrals.

(f) Acquisition. Expeditiously acquiring land and Infrastructure or other Improvements from Developer, the Agency or any CFD (or similar financing device) by accepting Developer's dedication of property and Infrastructure and Improvements that have been constructed to City standards in accordance with the DDA and any Acquisition and Reimbursement Agreement, and taking any additional City actions as required under any Acquisition and Reimbursement Agreement.

(g) Release of Security. Releasing security as expeditiously as possible following the Completion of Infrastructure, but in no event before the applicable date for release under the Map Act and the CP/HPS Subdivision Code.

(h) State and Federal Assistance. Assisting the Agency in pursuing, and reasonably considering requests from Developer to pursue, state or federal grants on behalf of the Project, below market rate loans or other financial assistance or funding to assist in paying for environmental remediation of the Project Site, transportation and other Infrastructure improvements, and other community benefits. The City shall make any Project Grant obtained by the City for the Project available to the Agency for use in accordance with the Financing Plan.

(i) Environmental Review. Complying with and implementing Mitigation Measures for which the City is responsible, whether as the municipal corporation or as a landowner.

(j) Tax Credits. Using its good faith efforts to prioritize any application for Tax Credits related to the Alice Griffith Replacement Projects, including at least two (2) nine percent (9%) tax credit allocations.

(k) Project Management, Scheduling, Engineering, Construction Management and Reimbursement Audit Services. Upon request of the Agency and subject to Developer's consent, DPW assisting with project management, scheduling, engineering, construction management and reimbursement audit services.

3.6 ***Public Power***. The SFPUC prepared a study confirming the feasibility of providing electric service to the Shipyard Site in accordance with San Francisco Administrative Code Chapter 99. Prior to the Agency's approval of the first Major Phase Application, the Agency shall, in conjunction with the SFPUC and Developer, update this study for the Project and include the Candlestick Site and, at the request of the SFPUC, include an analysis of the feasibility of providing natural gas to the Project Site. The costs of such update with respect to electric service shall be Agency Costs subject to requirements and limitations in Article 19 of the DDA. Subject to the agreement of the SFPUC to provide electricity and/or natural gas service following completion of this update, Developer understands and agrees that all electricity and/or natural gas for the Project Site will be provided by Hetch Hetchy Water and Power or other City sources, so long as the updated feasibility analysis shows that: (i) the applicable service will be reasonably available for the Project's needs, (ii) the level of service will be substantially equivalent or better than that available on the open market, (iii) the applicable service can be separately metered and implemented at comparable business terms and without additional delay (including delivery of service to construction sites), and (iv) the projected price for the applicable service is comparable to or less than the prevailing market rates for comparable types of loads. If the SFPUC does not provide electricity and/or natural gas to the Project Site as set forth above, and the City offers Community Choice Aggregation service in the City, then the City's Community Choice Aggregation service will extend to and include the Project Site. In addition, the Parties agree future owners and users of property within the Project Site have the ability to participate in any such Community Choice Aggregation service available to City residents.

3.7 ***Parcel E-2***. The Agency covenants and agrees that the Agency shall not accept ownership of Parcel E-2 from the Navy unless and until Parcel E-2 has been remediated to the highest practicable level of cleanup.

3.8 ***Workforce Development.*** During the development of the Project, the Agency, the City's Office of Economic and Workforce Development, and Developer, shall prepare an annual report to the Board of Supervisors regarding the status of all workforce development related to the Project and the jobs created and offered to City residents in accordance with the Bayview Hunters Point Employment and Contracting Policy. Upon the request of one or more members of the Board of Supervisors, staff from the Agency, the City's Office of Economic and Workforce Development and Developer shall attend meetings to review the status workforce development for the Project and develop strategies to ensure that the benefits of the Bayview Hunters Point Employment and Contracting Policy are maximized to the greatest extent possible.

3.9 ***No Fossil Fuel Power Plants***. The City and the Agency agree that (i) new fossil fuel power plants would cause unnecessary human health impacts, (ii) alternatives such as passive heating and cooling and solar electricity and solar water heat generation can be achieved at comparable cost, and (iii) it is City and County of San Francisco policy to dismantle rather than build fossil fuel power plants. Accordingly, no fossil fuel power plants shall be included in the Project plans or approvals.

3.10 ***Procedures Required Under Applicable Laws***. All City actions under this ICA will be taken subject to the limitations in Article 4.

4. APPLICABLE CITY REGULATIONS; CITY'S DUTY TO PROTECT PUBLIC HEALTH AND SAFETY.

4.1 ***Applicable City Regulations***. Regardless of any future action by the City or the Agency, whether by ordinance, resolution, initiative, or otherwise, the rules, regulations, and official City and Agency policies applicable to and governing the overall design, construction, fees, use, or other aspects of the Project are: (1) the Redevelopment Documents; (2) to the extent consistent therewith and not superseded by the applicable Redevelopment Plan, the Existing City Regulations (which include all provisions of the Building Construction Codes, i.e., the Parties understand and agree that no provision of the Building Construction Codes is inconsistent with or superseded by the Redevelopment Plans); (3) New City Regulations to the extent permitted in the Redevelopment Plans; (4) new or changed Development Fees and Exactions to the extent permitted in the Redevelopment Plans; (5) the Mitigation Measures; and (6) the DDA (items (1) through (5) above are collectively referred to as the "**Applicable City Regulations**"). Except for emergency measures, the City or the Agency, as applicable, will meet and confer with Developer to the extent feasible before adopting New City Regulations. The obligation to meet and confer with Developer will not affect the City's authority or the Agency's authority as described in the Redevelopment Plans.

4.2 ***BVHP ECP***. Notwithstanding anything in this ICA or in the Plan Documents to the contrary, if the City changes its local hiring or first source hiring policies City-wide to require local hire mandates instead of "good faith efforts" to meet hiring goals, then the Parties agree that (i) the Agency shall have the right to make conforming changes to the BVHP ECP without the approval of Developer or any Vertical Developer, (ii) such changes do not and shall not be deemed to conflict with the development permitted by the Redevelopment Plans, the Plan Documents or the DDA and (iii) such changes shall not be subject to the restrictions set forth in the Redevelopment Plans regarding New City Regulations or New Construction Requirements. Nothing in this Section 4.2 would require the Agency or the Developer to make or impose changes to the BVHP ECP that would violate the terms of a then-existing project labor agreement. The Agency and Developer agree that the DDA is consistent with this Section 4.2.

5. SUBDIVISION MAP REQUIREMENTS AND INFRASTRUCTURE CONSTRUCTION.

5.1 ***Subdivision Maps Generally***. Consistent with and in accordance with the California Subdivision Map Act (Cal. Gov't Code §§ 66410 et seq.) (the "**Map Act**") and the CP/HPS Subdivision Code: (a) the Director of Public Works, in consultation with the Agency and other reviewing City Agencies, shall review and shall approve or conditionally approve parcel maps, tentative transfer maps, tentative subdivision maps, vesting tentative transfer maps, vesting tentative subdivision maps, improvement agreements, improvement plans and condominium maps to the extent they comply with the Map Act, the CP/HPS Subdivision Code and applicable State and federal law and are consistent with the Applicable City Regulations; and (b) the Director of Public Works shall review and recommend approval or conditional approval to the Board of Supervisors of improvement agreements and improvement plans and shall recommend approval to the Board of Supervisors of final maps, to the extent they comply with the Map Act, the CP/HPS Subdivision Code, and applicable State and federal law and are consistent with the Applicable City Regulations. Consistent with and in accordance with the Map Act and the CP/HPS Subdivision Code, the Board of Supervisors, upon the recommendation of the Director of Public Works, shall approve or conditionally approve improvement agreements and improvement plans to the extent they comply with the Map Act, the CP/HPS Subdivision Code, and applicable State and federal law and are consistent with the Applicable City Regulations. The Director of Public Works and the Board of Supervisors shall take such actions expeditiously in accordance with this ICA, and in accordance with the applicable times set forth in the Map Act, the CP/HPS Subdivision Code, and the Permit Streamlining Act.

5.2 ***Vesting Tentative Maps***. The Director of Public Works shall waive the submittal requirements for a vesting tentative transfer map set forth in section 1333.2(a)(2) through (5) of the City's Subdivision Code (incorporated by reference in section 1633.1(a) of the CP/HPS Subdivision Code), provided the vesting tentative transfer map application is otherwise complete and conforms to and is consistent with the Redevelopment Documents. The Director of Public Works may also waive, in his or her sole discretion, one or more of the submittal requirements for a vesting tentative subdivision map set forth in section 1333.2(a)(2) through (5) of the City's Subdivision Code (incorporated by reference in section 1633.1(a) of the CP/HPS Subdivision Code), provided: (i) the vesting tentative subdivision map application is otherwise complete and conforms to and is consistent with the Redevelopment Documents, and (ii) a Major Phase Approval has been granted for the property that is the subject of such map.

5.3 ***Extensions of Life of Tentative Maps***. Developer may apply for discretionary extensions of the life of any tentative map, transfer map, vesting tentative map, or vesting tentative transfer map up to the maximum cumulative time permitted for such extensions by the Map Act. Developer, at its option, may apply for the maximum extension time permitted under the Map Act at one time or may apply for multiple extensions that cumulate to the maximum extension time. Developer may apply for such extensions at the time it applies for a tentative map, transfer map, vesting tentative map, or vesting tentative transfer map or at any time prior to expiration of such map. The Director of Public Works shall expeditiously review and approve or conditionally approve any extension applied for by Developer pursuant to this Section 5.3.

5.4 ***Processing Requirements***. Developer must comply with the CP/HPS Subdivision Code, including requirements for public improvement agreements if the Infrastructure is not complete when the final map is approved, such as providing adequate security to guarantee completion of the public open space and other required Infrastructure or other Improvements.

5.5 ***Construction Requirements***. Subject to changes permitted under Article 4, construction requirements for Infrastructure and other Improvements must be consistent with the Infrastructure Plan and the Transportation Plan.

6. FEES AND EXACTIONS.

6.1 ***Administrative Fees***. Nothing in this ICA precludes or constrains any City Agency from charging or collecting any Administrative Fee, provided the City will not charge or collect amounts greater than the Administrative Fee in effect at the time the City Agency service is rendered.

6.2 ***Development Fees and Exactions***. During their terms, the applicable Redevelopment Plans will control which Development Fees and Exactions apply to development in the Project Site.

6.3 ***Taxes and Assessments***. Nothing in this ICA, the Redevelopment Plans, or the other Redevelopment Requirements limits the City's ability to impose new or increased taxes or special assessments, or any equivalent or substitute tax or assessment, provided (i) the City shall not institute on its own initiative proceedings for, or vote in support of, any new or increased special tax or special assessment for a land-secured financing district (including the special taxes under the CFD Act) that includes the Project Site unless the new district is City-Wide or Developer gives its prior written consent to such proceedings, and (ii) Developer's written consent under clause (i) above shall be required only with respect to such property that Developer owns or has the right to acquire under the DDA and that has not yet been developed.

6.4 ***City's Cost Recovery***. The DDA requires Developer to pay or cause to be paid Agency Costs, which include reimbursement for specified City and Agency costs related to the Project. City Agency costs that are covered by Administrative Fees paid directly by Developer or Vertical Developers to the City Agency are not Agency Costs. Each City Agency shall submit to the Agency quarterly invoices for all Agency Costs incurred by the City Agency for reimbursement under the DDA; provided, for subdivision, mapping and Infrastructure review matters coordinated by DPW, applicable City Agencies shall submit their invoices to DPW and DPW shall combine these invoices with DPW costs to submit one combined invoice to the Agency for reimbursement. Any Agency Cost incurred by the City shall be invoiced to the Agency within six (6) months of the date the Agency Cost is incurred. To the extent that a City Agency fails to submit such invoices, the Mayor's Office or its designee shall request and gather such billing information and forward the same to the Agency. Any Agency Cost of a City Agency that is not invoiced to the Agency within twelve (12) months from the date the Agency Cost was incurred, shall not be recoverable. The Agency shall submit all invoiced Agency Costs to Developer in accordance with the DDA, and upon receipt of funds from Developer or Vertical Developers for such invoices, the Agency shall promptly forward such invoiced amounts to the applicable City Agency.

7. BUILDING PERMITS.

7.1 ***Applicable Codes***. Any application for a building permit that Developer submits for construction of the Project during the ICA Term must be consistent with the Redevelopment Requirements and the Applicable City Regulations at the time of the building permit application and shall be subject to the following requirements:

(a) DBI. The Department of Building Inspection ("**DBI**") will process and coordinate all City review of building permit applications and issue all building permits for the Project.

(b) Agency. The Agency will review and approve each building permit application for consistency with the Redevelopment Requirements before the permit is issued.

(c) Port. Through this ICA, the Port delegates to DBI the authority to issue any building permits required for buildings and delegates to DPW the authority to approve any permits required for construction of parks and open space or Infrastructure on land then under Port jurisdiction, in each case after appropriate consultation with the Port's Chief Harbor Engineer.

8. PERMITS TO ENTER ON CITY PROPERTY.

8.1 ***Permits Generally***. Subject to the rights of any third party and the City's reasonable agreement on the scope of the proposed work, the City will grant permits to enter on commercially reasonable terms in order to permit Developer to enter onto, investigate, undertake environmental response programs, construct Infrastructure or other Improvements upon, or otherwise use property owned by the City, including the Port, in furtherance of the implementation of the Redevelopment Plans and in accordance with the Redevelopment Documents. Permits will include indemnification and security provisions in keeping with the City's standard practices. Permits to enter will include permits as required to undertake Mitigation Measures in accordance with the Redevelopment Requirements, and permits to enter to construct Infrastructure on, in, or under any street or other right-of-way or land owned by the City, in accordance with the Infrastructure Plan and the other Redevelopment Documents.

9. OTHER GOVERNMENTAL AUTHORIZATIONS.

9.1 ***Cooperation by the City; Permit Conditions***.

(a) Cooperation to Obtain Permits. Subject to this ICA and the Mitigation Measures, the City will cooperate with the Agency and with reasonable requests by Developer to obtain permits, agreements, or entitlements from any State, federal, regional, or local agency (excluding the Agency or any City Agency) having or claiming jurisdiction over all or portions of the Project Site or aspects of its development (an "**Other Regulatory Approval**"), as may be necessary or desirable to effectuate and implement development of the Project in accordance with the Redevelopment Documents. The City's commitment to Developer under this ICA is subject to the following conditions:

(i) Throughout the permit process for any Other Regulatory Approval, Developer will consult and coordinate with the affected City Agency in Developer's efforts to obtain the permit, and the City will cooperate reasonably with Developer and, if applicable, the Agency, in Developer's efforts to obtain the permit.

(ii) Developer may not agree to conditions or restrictions to any Other Regulatory Approval that could create: (1) any obligations on the part of any City Agency that is required to be a co-applicant or co-permittee, unless the obligation is specifically the City's responsibility under this ICA, the Redevelopment Documents, or the City Approvals; or (2) any restrictions on City property, unless in each instance the affected City Agency has previously approved the conditions or restrictions in writing and in its reasonable discretion.

(b) Costs. Developer will bear all costs associated with applying for and obtaining any necessary Other Regulatory Approval. Developer, at no cost to the City that is not an Agency Cost, will be solely responsible for complying with any and all conditions or restrictions imposed as part of an Other Regulatory Approval for the construction of the Improvements, whether the conditions are on the site of a Major Phase, Sub-Phase, or Lot or require off-site improvements. Developer will not be responsible for complying with conditions or restrictions required for Vertical Improvements within Agency Lots, except for Developer's obligations (i) under the Infrastructure Plan, and (ii) to obtain any Other Regulatory Approvals with respect to Mitigation Measures for which it is responsible under the DDA. Developer will have the right to appeal or contest any condition in any manner permitted by law imposed under any Other Regulatory Approval, but only with the prior consent of the affected City Agency if the City is a co-applicant or co-permittee. If Developer can demonstrate to the City's reasonable satisfaction that an appeal would not affect the City's responsibility or liability for any conditions that are or could be the responsibility of any City Agency under the Other Regulatory Approval, the City will not unreasonably withhold or delay its consent. In all other cases, the affected City Agencies will have the right to give or withhold their consent in their sole and absolute discretion. Developer must pay or otherwise discharge any fines, penalties, or corrective actions imposed as a result of Developer's failure to comply with any Other Regulatory Approval.

(c) Continuing City Obligations. Certain Other Regulatory Approvals may include conditions that entail maintenance by or other obligations of the permittee or co-permittees that continue after the City accepts the dedication of completed Infrastructure. Upon the City's acceptance of any Infrastructure that has continuing obligations under an Other Regulatory Approval, at Developer's request, the City will take reasonably necessary steps to remove Developer as the named permittee or co-permittee from the Other Regulatory Approval if either: (i) the continuing obligations are designated as the City's responsibility under this ICA, the Redevelopment Documents, or related City Approvals; or (ii) the City otherwise has agreed, in its sole discretion, to accept sole responsibility for the conditions in accordance with this Subsection (c).

10. REMEDIES.

10.1 *General*.

(a) Notice of Default. If any Party defaults in the performance of this ICA (each an "**ICA Default**"), the non-defaulting Party may deliver a written notice of default to the other. The notice of default must state with reasonable specificity the nature of the alleged ICA Default, the provision(s) under which the ICA Default is claimed to arise, and the manner in which the ICA Default may be cured.

(b) Meet and Confer. After notice of an ICA Default is delivered, the City and the Agency, together with Developer, will meet promptly to discuss the ICA Default and the manner in which the defaulting Party can cure the same so as to satisfy the noticing Party's concerns. The City, the Agency, and Developer will continue meeting regularly, discussing, investigating, and considering alternatives for up to sixty (60) days from the delivery of the notice of an ICA Default. After the sixty (60) day meet and confer period, if the noticing Party no longer holds the view that the other Party is in default, the noticing Party will rescind the notice of an ICA Default.

(c) Cure. No later than the end of the sixty (60) day meet and confer period, the defaulting Party must begin to cure the noticed ICA Default, and proceed diligently to cure the ICA Default. If: (i) the defaulting Party does not commence within sixty (60) days after the end of the meet and confer period and diligently pursue a cure, or the ICA Default is not cured within a reasonable time, not to exceed sixty (60) days after the end of the sixty (60) day meet and confer period; or (ii) the defaulting Party refuses to meet and confer regarding the noticed ICA Default, then, subject to Section 10.2, the noticing Party or any affected Developer Party may institute proceedings to obtain a cure and remedy for the ICA Default, including proceedings to compel specific performance by the defaulting Party. Nothing in this Section 10.1(c) requires a Party to postpone instituting any injunctive proceeding if it believes in good faith that postponement will cause it irreparable harm. The Parties acknowledge that termination of this ICA is a remedy only if the Redevelopment Documents terminate, as further provided in this ICA.

(d) Developer's Legal Rights. Subject to Section 10.2, nothing in this ICA limits Developer's or Vertical Developer's rights or remedies under any applicable law governing the application, review, processing, or permitting of Improvements, including the Permit Streamlining Act (Cal. Gov't Code §§ 65920 *et seq.*).

10.2 ***No Monetary Damages***. The Parties have determined that monetary damages are inappropriate and that it would be extremely difficult and impractical to fix or determine the actual damages to a Party as a result of an ICA Default and that equitable remedies including specific performance but not including damages are the appropriate remedies for enforcement of this ICA. The Parties would not have entered into this ICA if either of them were liable to the other or to any Developer Party (as defined in the Developer's Consent), for damages under or with respect to this ICA. Consequently, the Parties have agreed that neither Party will be liable in damages to the other, or to any Developer Party, and each Party and Developer Party covenants not to sue for or claim any damages and expressly waives its right to do so: (a) for any ICA Default; or (b) arising from or connected with any dispute, controversy, or issue regarding the application, interpretation, or effect of this ICA.

10.3 ***Attorneys' Fees***. In the event of any dispute or any legal action or other dispute resolution mechanism to enforce or interpret any provision of this ICA, each Party will bear its own attorneys' fees, whether or not one Party prevails.

10.4 ***Developer Default***. If a Developer Party commits an Event of Default of its obligations under the DDA, including failure to pay Agency Costs (following expiration of any notice and cure periods), any City or Agency obligations under this ICA with respect to the Developer Party will be suspended and will not be reinstated unless and until the Developer Party cures the Event of Default. For purposes of this ICA, an Event of Default under the DDA will not relieve the City or Agency of any obligation under this ICA that arose before the Event of Default (except with respect to terminated portions of the DDA). This Section 10.4 does not limit any other Agency rights or remedies under the DDA, or any other City rights or remedies under the Applicable City Regulations or applicable State or federal laws.

10.5 ***Agency Indemnification***. The Agency agrees to indemnify the SFMTA for claims related to the distribution of resources throughout the transit service network arising in whole or in part from the SFMTA's provision of transit services to the Project Area as required by the Transit Operating Plan and/or the Transportation-Related Mitigation Measures, and any challenge to the environmental review performed under section 18.3 of the DDA.

11. GENERAL PROVISIONS.

11.1 ***Notices***. All notices, requests for consent or approval, and responses to requests under this ICA by either Party to the other must be delivered by hand or by registered or certified mail, postage prepaid, addressed as follows:

To the Agency:	San Francisco Redevelopment Agency One South Van Ness Avenue, 5th Floor San Francisco, California 94102 Attn: Executive Director Re: CP/HPS ICA
With a copy to:	San Francisco Redevelopment Agency One South Van Ness Avenue, 5th Floor San Francisco, California 94102 Attn: General Counsel Re: CP/HPS ICA
To the City:	Office of Economic and Workforce Development City and County of San Francisco City Hall, Room 448 1 Dr. Carlton B. Goodlett Place, Third Floor San Francisco, California 94102 Attn: Director Re: CP/HPS ICA
With a copy to:	Office of the Controller City and County of San Francisco 875 Stevenson Street, Room 235 San Francisco, California 94103 Attn: Controller Re: CP/HPS ICA

And to:	Department of Public Works 30 Van Ness Avenue, Suite 4200 San Francisco, California 94102 Attn: Director Re: CP/HPS ICA
And to:	Office of the City Attorney City Hall 1 Dr. Carlton B. Goodlett Place, Room 232 San Francisco, California 94102 Attn: Real Estate/Finance Re: CP/HPS ICA
And copies of all notices to:	CP Development Co., LP c/o Lennar Urban One California Street, Suite 2700 San Francisco, California 94111 Attn: Kofi Bonner Re: CP/HPS ICA
And to:	Paul Hastings LLP 55 Second Street, 24th Floor San Francisco, California 94105 Attn: Charles V. Thornton David A. Hamsher Re: CP/HPS ICA

Every notice given to a Party under this ICA must be in writing and must state (or must be accompanied by a cover letter that states) substantially the following:

(a) the Section of this ICA under which the notice is given and the action or response required, if any;

(b) if applicable, the period of time within which the recipient of the notice must respond;

(c) if appropriate, "Request for Approval under the Interagency Cooperation Agreement"; and

(d) the specific reasons for disapproval or objection, if the notice conveys disapproval or an objection for which reasonableness is required.

Any mailing address may be changed at any time by giving written notice of the change in the manner provided above at least ten (10) days before the effective date of the change. All notices under this ICA will be deemed given, received, made, or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

11.2 ***Amendments***.

(a) This Agreement. Except as otherwise provided in this ICA, this ICA may be amended or modified only by a written instrument executed by the City and the Agency, with the written consent of Developer Representative, which may not be unreasonably withheld, conditioned, or delayed. The Mayor and the Director of Public Works (or any successor City officer as designated by law) are authorized to consent to any amendment to this ICA after consultation with the directors or general managers of any affected City Agencies unless the amendment would increase the risk of a negative impact on the City's General Fund, as determined by the Controller; provided, the Mayor cannot make any amendment (i) that affects the SFMTA Infrastructure or the SFMTA-Related Mitigation Measures without the prior approval of the SFMTA, (ii) that affects the SFPUC Infrastructure or the SFPUC-Related Mitigation Measures without the prior approval of the SFPUC, and (iii) that affects the SFFD Infrastructure without the prior approval of the SFFD.

(b) Plan Documents. The Agency agrees not to make any material modification to: (i) the Infrastructure Plan, the Open Space Plan, or the DRDAP in a manner that increases any obligations of or lessens the primary benefits accruing to the City (including the development of Open Space Parcels), without obtaining the City's prior written consent, which will not be unreasonably withheld; or (ii) Developer's or the Agency's obligations under the Below-Market Rate Housing Plan so as to lessen the primary benefits accruing to the City from the affordable housing elements of the Below-Market Rate Housing Plan, or under the Mitigation Measures, in each case without obtaining the City's prior written consent, which the City may give or withhold in its sole discretion. Subject to the limitations set forth in Section 11.2(a) above for required approvals of the SFMTA, the SFPUC and the SFFD, any determination of materiality under this Section 11.2(b) shall be made by the Mayor, and any consent of the City under this Section 11.2(b) shall be given by the Mayor and any affected City Agency.

(c) Board Approval. Notwithstanding anything in this ICA or in the Plan Documents to the contrary, any material amendment to the Below-Market Rate Housing Plan, the Infrastructure Plan, the Open Space Plan, the Transportation Plan, or the Design for Development for the Project shall be subject to the prior review and approval of the City's Board of Supervisors, which the Board of Supervisors may give or withhold in its sole discretion. The proposed amendment shall be deemed approved by the Board of Supervisors unless the Board takes action by resolution to reject the proposed amendment within sixty (60) days following the date that the proposed amendment is submitted to the Clerk of the Board of Supervisors. The Agency agrees that it will not make any such material amendment without the Board of Supervisors prior approval as set forth above, and by consenting to this ICA, Developer agrees and consents to this requirement.

11.3 ***Invalidity***.

(a) Invalid Provision. If a final court order finds any provision of this ICA invalid or inapplicable to any Person or circumstance, then the invalid or inapplicable provision will not affect any other provision of this ICA or its application to any other Person or circumstance, and the remaining portions of this ICA will continue in full force and effect.

(b) Countervailing Law. If any applicable State or federal law prevents or precludes compliance with any material provision of this ICA, the Parties agree to modify, amend, or suspend this ICA to the extent necessary to comply with law in a manner that preserves to the greatest extent possible the intended benefits of this ICA to each of the Parties and to Developer.

(c) Right to Terminate. Either Party may terminate this ICA upon written notice to the other Party if this ICA as amended, modified, or suspended under Subsection (a) or (b) would: (i) be unreasonable or grossly inequitable under all of the circumstances or would frustrate its fundamental purposes; or (ii) deprive the City or the Agency of the substantial benefits derived from this ICA or make performance unreasonably difficult or expensive. Following termination, neither Party nor Developer will have any further rights or obligations under this ICA.

11.4 ***Non-Waiver***. A Party's (or Developer's) delay or failure to exercise any right under this ICA may not be deemed a waiver of that or any other right contained in this ICA.

11.5 ***Successors and Assigns; Third Party Beneficiary***. This ICA inures to the benefit of and binds the City's and the Agency's respective successors and assigns. Developer (and its Transferees) and Vertical Developers are intended third party beneficiaries of this ICA. Except for Developer (and its Transferees) and Vertical Developers, this ICA is for the exclusive benefit of the Parties and not for the benefit of any other Person and may not be deemed to have conferred any rights, express or implied, upon any other Person.

11.6 ***Consents by Developer Representative***. Any Developer approvals or consents required under this ICA will be given by the Developer Representative. The attached Developer's Consent is incorporated in this ICA by this reference.

11.7 ***Governing Law***. This ICA is governed by and must be construed in accordance with the laws of the State of California.

11.8 ***Counterparts***. This ICA may be executed in counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument.

11.9 ***Interpretation of Agreement***.

(a) Exhibit. Whenever an "**Exhibit**" is referenced, it means an attachment to this ICA unless otherwise specifically identified. The following Exhibit is attached to this ICA for reference purposes only:

EXHIBIT A Infrastructure Plan

(b) Captions. Whenever an Article, a Section, a Subsection, or paragraph is referenced in this ICA, it refers to an Article, a Section, a Subsection, or a paragraph of this ICA unless otherwise specifically identified. The captions preceding the Articles and Sections of this ICA have been inserted for convenience of reference only and do not define or limit the scope or intent of any provision of this ICA.

(c) Words of Inclusion. The words "including", "such as" or words of similar import when following any general term may not be construed to limit the general term to the specific terms that follow, whether or not language of non-limitation is used in the reference. Rather, these terms will be deemed to refer to all other terms that could reasonably fall within the broadest possible scope of the term.

(d) References. Wherever reference is made to any provision, term or matter "in this ICA", "herein" or "hereof" or words of similar import, the reference will be deemed to refer to any and all provisions of this ICA reasonably related to the provision, term or matter in the context of the reference, unless the reference refers solely to a specific numbered or lettered Section, paragraph, or subdivision of this ICA.

(e) Recitals. If the recitals conflict or are inconsistent with any of the remaining provisions of this ICA, the remaining provisions of this ICA will prevail.

11.10 ***Entire Agreement***. This ICA (including the Developer's Consent and all Exhibits) contains all the representations and the entire agreement between the Parties with respect to the subject matter of this ICA. Any prior correspondence, memoranda, agreements, warranties, or representations relating to such subject matter are superseded in total by this ICA. No prior drafts of this ICA or changes from those drafts to the executed version of this ICA may be introduced as evidence in any litigation or other dispute resolution proceeding by either Party or any other Person, and no court or other body may consider those drafts in interpreting this ICA.

11.11 ***Further Assurances***. The Agency and the City each agree to take all actions and do all things, and execute, with acknowledgment or affidavit if required, any and all documents that may be necessary or appropriate to achieve the purposes of this ICA.

11.12 ***Definitions***. The following terms have the meanings given to them below or are defined where indicated.

"**Acquisition and Reimbursement Agreement**" is defined in the Financing Plan.

"**Administrative Fee**" is defined in the Redevelopment Plans.

"**Agency**" is defined in the introductory paragraph.

"**Agency Applications**" is defined in Recital F.

"**Applicable City Regulations**" is defined in Section 4.1.

"**Board of Supervisors**" is defined in Recital A.

"**Building Construction Codes**" is defined in the Redevelopment Plans.

"**BVHP Plan Amendment**" is defined in Recital B.

"**BVHP Plan Documents**" is defined in the DDA.

"**BVHP Redevelopment Plan**" is defined in Recital B.

"**BVHP Redevelopment Plan Area**" is defined in Recital B.

"**CCRL**" is defined in Recital A.

"**CEQA**" is defined in Recital D.

"**CFD Act**" is defined in Recital H.

"**City**" is defined in the introductory paragraph.

"**City Agency**" or "**City Agencies**" means, where appropriate, all City departments, agencies, boards, commissions, and bureaus that execute or consent to this ICA and that have subdivision or other permit, entitlement or approval authority or jurisdiction over any Major Phase, Sub-Phase, or individual Lot in any part of the Project Site, including the Port, the City Administrator, DPW, SFMTA, and SFFD, together with any successor City agency, department, board, commission, or bureau.

"**City Applications**" is defined in Recital F.

"**City Approval**" means any approval by a City Agency of a City Application relating to the Project.

"**City-Wide**" means all privately-owned property within (1) the jurisdictional limits of the City or (2) any designated use district or use classification of the City so long as (a) any such use district or use classification includes a substantial amount of affected private property other than affected private property within the Project Site, (b) the use district or use classification includes all private property that receives the general or special benefits of, or causes the burdens that occasion the need for, the new or increased tax or special assessment, and (c) the new or increased tax or special assessment applicable to land uses within the Project Site applies equally to the same land uses outside of the Project Site.

"**Complete Application**" is defined in the DRDAP.

"**CP/HPS Subdivision Code**" is the Candlestick Point/Hunters Point Shipyard Subdivision Code of the City.

"**DBI**" is defined in Section 7.1(a).

"**DDA**" is defined in the introductory paragraph.

"**Design for Development**" is defined in Recital E.

"**Developer**" is defined in the introductory paragraph.

"**Developer's Consent**" means the Developer's Consent to ICA and Agreement attached to this ICA.

"**Development Fees and Exactions**" is defined in the Redevelopment Plans.

"**DPW**" is defined in Recital G.

"**DRDAP**" is defined in Recital F.

"**Exhibit**" is defined in Section 11.9(a).

"**Existing City Regulations**" is defined in the Redevelopment Plans.

"**ICA**" is defined in the introductory paragraph.

"**ICA Default**" is defined in Section 10.1(a).

"**ICA Effective Date**" is defined in Section 2.1.

"**ICA Term**" is defined in Section 2.2.

"**Indemnified City Parties**" is defined in the Developer's Consent.

"**Indemnify**" means indemnify, defend, reimburse, and hold harmless.

"**Losses**" is defined in the Developer's Consent.

"**Map Act**" is defined in Section 5.1.

"**Mitigation Measures**" is defined in Recital D.

"**New City Regulation**" is defined in the Redevelopment Plans.

"**Other Regulatory Approval**" is defined in Section 9.1(a).

"**Parties**" or "**Party**" means the Agency or the City, or both, as the context requires.

"**Plan Documents**" means, individually or collectively as the context requires, the BVHP Plan Documents and the Shipyard Plan Documents.

"**Planning Cooperation Agreement**" means the Planning Cooperation Agreement entered into in connection with the Project by the Agency and the Planning Commission, as amended from time to time.

"**Port**" means the Port Commission of the City and County of San Francisco.

"**Port Consent**" means the Port's Consent to Public Trust Land Exchanges and ICA attached to this ICA.

"**Project Applications**" is defined in Recital F.

"**RecPark Property**" is defined in Recital C.

"**Redevelopment Documents**" is defined in Recital I.

"**Redevelopment Plans**" is defined in Recital D.

"**Redevelopment Requirements**" is defined in Recital I.

"**Reference Date**" is defined in the introductory paragraph.

"**SFFD**" means the Fire Department of the City and County of San Francisco.

"**SFFD Consent**" means SFFD's Consent to Infrastructure Plan and ICA attached to this ICA.

"**SFFD Infrastructure**" is defined in Section 3.4(e)(vi).

"**SFMTA**" means the Board of Directors of the Municipal Transportation Agency of the City and County of San Francisco.

"**SFMTA Consent**" means SFMTA's Consent to Infrastructure Plan and ICA attached to this ICA.

"**SFMTA Infrastructure**" is defined in Section 3.4(e)(iv).

"**SFPUC**" means the Public Utilities Commission of the City and County of San Francisco.

"**SFPUC Consent**" means SFPUC's Consent to Infrastructure Plan and ICA attached to this ICA.

"**SFPUC Infrastructure**" is defined in Section 3.4(e)(v).

"**SFPUC-Related Mitigation Measures**" is defined in Section 3.4(e)(v).

"**Shipyard Plan Amendment**" is defined in Recital A.

"**Shipyard Plan Documents**" is defined in the DDA.

"**Shipyard Redevelopment Plan**" is defined in Recital A.

"**Shipyard Redevelopment Plan Area**" is defined in Recital A.

"**Stadium Bridge**" is defined in Section 3.4(e)(ii).

"**Task Force**" is defined in Section 3.4(a)(i).

"**Tax Allocation Agreement**" is defined in Recital H.

"**Transportation-Related Mitigation Measures**" is defined in Section 3.4(e)(iv).

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This ICA as executed and delivered as of the Reference Date.

CITY AND COUNTY OF SAN FRANCISCO

By____________________
Gavin Newsom, Mayor

By____________________
Angela Calvillo
Clerk of the Board of Supervisors

By____________________
Ben Rosenfield, Controller

By____________________
Edwin Lee, City Administrator

By____________________
Ed Reiskin, Director of Public Works

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By____________________
Deputy City Attorney

Ordinance Nos. 210-10 and 211-10

This CA was executed and delivered as of the Reference Date.

CITY AND COUNTY OF SAN FRANCISCO

By______________________________
Gavin Newsom, Mayor

....

By· £"" ' C>Q Q
d1a Calvillo
Cler of the Board of Supervisors

By______________________________
Ben Rosenfield, Controller

By______________________________
Edwin Lee, City Administrator

By
Ed Reiskin, Director of Public Works

APPROVED AS TO FORM:

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City Attorney

By______________________________
Deputy City Attorney

Ordinance Nos. 210-10 and 211-10

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By____________________________________
Angela Calvillo
Clerk of the Board of Supervisors

By____________________________________
Ben Rosenfield, Controller

By____________________________________
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Ed Reiskin, Director of Public Works

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By____________________________________
Deputy City Attorney

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Clerk of the Board of Supervisors

By__________________________________
Ben Rosenfield, Controller

By __________________________________
Edwin Lee, City Aem
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By__________________________________
Ed Reiskin, Director of Public Works

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By__________________________________

Deputy City Attorney

Ordinance Nos. 210-10 and 211-10

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CITY AND COUNTY OF SAN FRANCISCO

By____________________________________
Gavin Newsom, Mayor

By____________________________________
Angela Calvillo
Clerk of the Board of Supervisors

By____________________________________
Ben Rosenfield, Controller

By____________________________________
Edwin Lee, City Administrator

Ed Reiskin, Director of Public Works

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By____________________________________
Deputy City Attorney

Ordinance Nos. 210-10 and 211-10

REDEVELOPMENT AGENCY OF THE CITY
AND COUNTY OF SAN FRANCISCO

By

>"" Fred Blackwell
Executive Director

APPROVED AS TO FORM:

/1¥nes B. Morales
(peneral Counsel

V Agency Resolution No. 69-2010

DEVELOPER’S CONSENT TO ICA AND AGREEMENT

By signing below, Developer, on behalf of itself, its Transferees, and all Vertical Developers (each, a “**Developer Party**”), acknowledges that the Developer Parties are intended third-party beneficiaries of the Interagency Cooperation Agreement (Candlestick Point and Phase 2 of the Hunters Point Shipyard) dated for reference purposes as of June 3, 2010 (the “**ICA**”), to which this Developer’s Consent to ICA and Agreement (this “**Developer’s Consent**”) is attached and incorporated. Capitalized terms used but not otherwise defined in this Developer’s Consent shall have the meanings for such terms set forth in the ICA. By recording the DDA and the ICA, the Parties acknowledge and agree that the ICA and this Developer’s Consent shall apply to, and burden and benefit, the Agency and the Developer Parties whether or not this ICA or Developer’s Consent is specifically referenced in any Assignment and Assumption Agreement.

1. **Consent and Agreement**. On behalf of the Developer Parties, Developer (i) consents to the ICA, understanding that the City and the Agency have entered into it for the express benefit of the City, the Agency, and the Developer Parties; and (ii) agrees that the ICA and this Developer’s Consent will be binding on the Developer Parties and agrees to cause each of the other Developer Parties to accept the ICA and this Developer’s Consent as a condition to any Transfer.

2. **Indemnity**.

(a) Indemnified Losses. In addition to Developer’s indemnities in the DDA, each Developer Party shall Indemnify the City, the Agency, and each of the City Agencies, together with their respective commissioners, directors, officers, employees, agents, successors, and assigns (collectively, the “**Indemnified City Parties**”), from and against any and all claims, demands, losses, liabilities, damages (including consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments, and awards and costs (including reasonable attorneys’ fees and costs and consultants’ fees and costs and court costs) of whatever kind or nature, known or unknown, contingent or otherwise (including the reasonable costs of complying with any judgments, settlements, consent decrees, stipulated judgments, or other partial or complete terminations of any actions or proceedings that require any of the Indemnified City Parties to take any action) (collectively, “**Losses**”) arising from or in connection with:

(i) the failure of Infrastructure or other Improvements constructed by such Developer Party to comply at the time of construction with any of the Applicable City Regulations or any applicable State or federal laws or regulations (except for obligations the City accepts under ICA Section 9.1(c)), including those related to disabled access;

(ii) the death of any Person, or any accident, injury, loss, or damage caused to any Person or to any Person’s property in the Project Site (except any Public Property on which the Developer Party has not constructed Improvements) and that is directly or indirectly caused by the negligent act or omission of the Developer Party or its agents, servants, employees, or contractors;

(iii) a claim by any tenant or other occupant of the Project Site for relocation assistance or payments to the extent that the Developer Party is required to but has not reimbursed the Agency or the City under the DDA for such relocation assistance or payments;

(iv) the failure by the Developer Party to obtain an Other Regulatory Approval when needed, or to comply with (1) any Other Regulatory Approval obtained by such Developer Party or to which such Developer Party is subject or (2) the final decree on any appeal or contest of any conditions of any such Other Regulatory Approval;

(v) any dispute between such Developer Party and any other Developer Party regarding their respective rights or obligations vis-à-vis one another; and

(vi) any dispute under third-party contracts or agreements entered into by such Developer Party in connection with its performance under the DDA (except obligations of such Developer Party's tenants to the Agency or any City Agency).

(b) Exclusions. The indemnification obligation under Subsection (a) excludes Losses to the extent:

(i) directly or indirectly caused by the negligent or willful act or omission of an Indemnified City Party;

(ii) caused by the gross negligence or other actionable misconduct of any City Agency acting (or failing to act) in its governmental capacity in the exercise of its police power;

(iii) caused by the failure of any conditions either: (1) that are the City's responsibility under the ICA, the Redevelopment Documents, or under City Approvals; or (2) for which the City otherwise in its sole discretion has agreed to accept responsibility as provided in ICA Section 9.1(c);

(iv) arising from any Other Regulatory Approvals relating to the construction of Vertical Improvements within the Agency Lots, except for any Other Regulatory Approvals relating to the applicable Developer Party's obligations to implement certain Mitigation Measures or to construct Infrastructure for or within the Agency Lots;

(v) originating after the date the City accepts title to any Infrastructure in accordance with the Acquisition and Reimbursement Agreement (or otherwise accepts title consistent with the applicable Redevelopment Documents), excluding latent defects and any noncompliance with laws in effect as of the date of the City's acceptance;

(vi) originating from a change in applicable laws that occurs after the date City accepts title to any Infrastructure under the Acquisition and Reimbursement Agreement (or otherwise accepts title consistent with the applicable Redevelopment Documents);

(vii) arising from the City's failure to comply with the conditions of any Other Regulatory Approval either: (1) that are the City's responsibility under the ICA, any other

Redevelopment Documents, or City Approvals; or (2) for which the City otherwise, in its sole discretion, has agreed to accept responsibility as provided in Section 9.1(c) of the ICA; or

(viii) arising from any Other Regulatory Approvals relating to the construction of Improvements within the Agency Lots except for Other Regulatory Approvals relating to the applicable Developer Party's obligations to implement certain Mitigation Measures.

(c) Obligation to Defend. Each Developer Party agrees to defend the Indemnified City Parties against any claims that are actually or likely to be within the scope of such Developer Party's indemnity in this Developer's Consent, even if the claims may be groundless, fraudulent, or false. The Indemnified City Parties agree to give prompt notice to the applicable Developer Party with respect to any lawsuit or claim initiated or threatened against the Indemnified City Parties, at the address for notices to the applicable Developer Party set forth in the DDA or its Assignment and Assumption Agreement, and no later than the earlier of: (i) ten (10) days after valid service of process as to any suit; or (ii) fifteen (15) days after receiving written notification of a claim or lawsuit that the Indemnified City Party has reason to believe is likely to give rise to a claim for indemnity under this Developer's Consent. An Indemnified City Party's failure to give the foregoing notice will not affect the Indemnified City Party's rights or the obligations of the applicable Developer Party under this Developer's Consent unless such Developer Party is prejudiced by the lack of notice, and then only to the extent of prejudice. The applicable Developer Party, at its option but subject to the Indemnified City Party's reasonable consent and approval, will be entitled to control the defense, compromise, or settlement of any such matter through counsel of its own choice, but in all cases the Indemnified City Party will be entitled to participate in the defense, compromise, or settlement. To the extent such costs are reasonable and are incurred only to participate as requested or reasonably required in the matter, they shall be deemed to be Agency Costs. If the applicable Developer Party fails to take reasonable and appropriate action to defend, compromise, or settle the lawsuit or claim within a reasonable time following notice from the Indemnified City Party alleging such failure in the Indemnified City Party's reasonable judgment, the Indemnified City Party will have the right to hire counsel at the sole cost of the applicable Developer Party to carry out the defense, compromise, or settlement, which cost will be immediately due and payable to the Indemnified City Party upon receipt by the applicable Developer Party of a properly detailed invoice.

(d) No Effect on Other Indemnities. The agreement to indemnify the Indemnified City Parties in this Developer's Consent is in addition to, and may not be construed to limit or replace, any other obligations or liabilities that any Developer Party may have under the Redevelopment Requirements, at common law, or otherwise. The contractual obligations and indemnities of any Developer Party regarding Hazardous Substances will be governed by the DDA and Permits to Enter, as applicable, and not this Article 2.

(e) Survival. The indemnities contained in this Article 2 will survive any termination or expiration of the ICA as to matters that arise during the ICA Term.

3. **Limitations on Liability**. Developer, on behalf if itself and the other Developer Parties, understands and agrees that no commissioners, members, officers, agents, or employees of the Agency or the City Agencies (or any of their successors or assigns) will be personally

liable to the other or to any other Person, nor will any officers, directors, shareholders, agents, partners, members, or employees of any Developer Party (or of its successors or assigns) be personally liable to the Agency, the City Agencies, or any other Person in the event of any default or breach of the ICA by the Agency or the City Agencies or of this Developer's Consent, as the case may be, or for any amount that may become due or any obligations under the ICA or this Developer's Consent, provided, that the foregoing shall not release obligations of a Person that otherwise has liability for such obligations, such as (i) the general partner of a partnership that, itself, has liability for the obligation or (ii) the issuer of a Guaranty covering such obligation. Neither the Agency nor the City will be liable to any Developer Party for damages under the ICA for any reason.

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This Developer's Consent was executed and delivered as of If' t 3 , 2010.

CP DEVELOPMENT CO,, LP,
a Delaware limited partnership

By CP/HPS Development Co. GP, LLC,
a Delaware limited liability company,
its General Partner

By: _;£ ,,_=-_______________
Name: Kofi Bonner
Its: Authorized Representative

CONSENT TO PUBLIC TRUST LAND EXCHANGES AND ICA
Port of San Francisco

The Port has reviewed the ICA to which this Consent to Public Trust Land Exchanges and ICA (this **"Port Consent")** is attached and incorporated. Except as otherwise defined in this Port Consent, initially capitalized terms have the meanings given in the ICA.

By executing this Port Consent, the undersigned confirms that the Port Commission took the following actions at a duly noticed public hearing:

1. . consented to certain Trust Exchanges between the Agency, the State of California, and the City, which were authorized under Senate Bill 792 (Ch. 203, Stats. 2009), and authorized City officials including the Port Director and the City's Director of Property to take such actions.as may be necessary or appropriate to implement the Trust Exchanges;

2. agreed that, if the Port has jurisdiction of land (including submerged land) within the Project Site at any time after the ICA Effective Date solely because the Trust Exchanges have not closed, then, conditioned in each case on appropriate consultation with the Port's Chief Harbor Engineer, the Port delegates to:

   a.. the Agency the authority to conduct design review for Agency Applications for land under Port jurisdiction;

   b. DPW the authority to grant any approvals under the CP/HPS Subdivision Code and other permits required for construction of open space or Infrastructure on land then under Port jurisdiction; and

   c. DBI the authority to issue any building permits required for buildings.

By authorizing this Port Consent, the Port does not intend to in any way limit its exclusive authority under the Article 3.B of the City Charter or the Burton Act (stats. 1968, ch. 1333).

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through the SAN FRANCISCO PORT COMMISSION

By: Monique Moyer
MONIQUE MOYER,
Executive Director

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: ______________________________
Deputy City Attorney

Port Resolution No. 10-40
Approved June 8, 2010. ______________________

CONSENT TO INFRASTRUCTURE PLAN AND ICA
San Francisco Municipal Transportation Agency

The Municipal Transportation Agency of the City and County of San Francisco ("**SFMTA**") has reviewed the ICA between the City and the Redevelopment Agency related to the Candlestick Point and Phase 2 of the Hunters Point Shipyard Project, to which this SFMTA Consent to Infrastructure Plan and ICA (this "**SFMTA Consent**") is attached and incorporated. Except as otherwise defined in this SFMTA Consent, initially capitalized terms have the meanings given in the ICA.

By executing this SFMTA Consent, the undersigned confirms that the SFMTA Board of Directors, after considering at a duly noticed public hearing the Project Infrastructure Plan, the Transportation Plan, and the CEQA Findings, including the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program, consented to the following, provided that by executing this SFMTA Consent, the SFMTA does not intend to in any way limit, waive or delegate the exclusive authority of the SFMTA as set forth in Article VIIIA of the City's Charter:

1. the ICA as it relates to matters under SFMTA jurisdiction, including the SFMTA Infrastructure and the Transportation-Related Mitigation Measures;

2. subject to Developer satisfying SFMTA requirements and the Transportation-Related Mitigation Measures for design, construction, testing, performance, training, documentation, warranties and guarantees, that are consistent with the Applicable City Regulations and applicable State and federal law, SFMTA accepting the transportation-related infrastructure described in the Infrastructure Plan that will be under SFMTA jurisdiction;

3. subject to identification of resources and appropriation of funds, SFMTA procuring, operating, and maintaining transit systems described by the Infrastructure Plan, the Transportation Plan, and the Transportation-Related Mitigation Measures;

4. subject to identification of resources and appropriation of funds, SFMTA satisfying the construction required of the SFMTA by the Infrastructure Plan, the Transportation Plan, and Transportation-Related Mitigation Measures, and to the extent practicable given fiscal and operational considerations, cooperating with Developer in phasing any required SFMTA construction; and

5. segregating and using all street parking revenues from streets in the Project Site that are subject to the Public Trust only for allowed uses.

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through the SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

By: ______________________
NATHANIEL P. FORD, SR.
Executive Director / CEO

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: ______________________
Deputy City Attorney

San Francisco Municipal Transportation Agency Resolution No. 10-091
Approved June 15, 2010.

CONSENT TO INFRASTRUCTURE PLAN AND ICA
San Francisco Public Utilities Commission

The Public Utilities Commission of the City and County of San Francisco (the **"SFPUC")** has reviewed the ICA to which this Consent to Infrastructure Plan and ICA (this **"SFPUC Consent")** is attached and incorporated. Except as otherwise defined in this SFPUC Consent, initially capitalized terms have the meanings given in the ICA.

By executing this SFPUC Consent, the undersigned confirms that the SFPUC, after considering the Infrastructure Plan and Utility-Related Mitigation Measures at a duly noticed public hearing, consented to:

1. the ICA as it relates to matters under SFPUC jurisdiction, including the SFPUC-Related Infrastructure and the SFPUC-Related Mitigation Measures;

2. subject to Developer satisfying the SFPUC requirements for construction, warranties and guarantees, operations and maintenance manuals, testing, and training that are consistent with the Applicable City Regulations and applicable State and federal law, and meeting the SFPUC-Related Mitigation Measures, the SFPUC accepting and then, subject to appropriation, operating and maintaining SFPUC-Related Infrastructure;

3. subject to Developer providing an on-site recycled water distribution system that is to be charged with low-pressure water unless and until the SFPUC provides recycled water to the Project Site (the timing of which shall be at the SFPUC's sole discretion), the SFPUC's acceptance of the recycled water distribution system that is reviewed and Approved by the SFPUC in accordance with the process set forth in this ICA and the Infrastructure Plan; and

4. delegating to the SFPUC General Manager or his or her designee any future Approvals of the SFPUC under this ICA, including Approvals of Agency Applications, subject to applicable law including the City's Charter.

By authorizing this SFPUC Consent, the SFPUC does not intend to in any way limit the exclusive authority of the SFPUC as set forth in Article XIIIB of the City's Charter.

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through the SAN FRANCISCO PUBLIC UTILITY COMMISSION

By: ______________________
EDWARD HARRINGTON,
General Manager

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: ______________________________
Deputy City Attorney

San Francisco Public Utility Commission Resolution No. 10-0092
Approved June 8, 2010.

CONSENT TO INFRASTRUCTURE PLAN AND ICA
San Francisco Fire Department

The Fire Chief and the Fire Marshall of the City and County of San Francisco have reviewed the ICA to which this Consent to Infrastructure Plan and ICA (this "**SFFD Consent**") is attached and incorporated. Except as otherwise defined in this SFFD Consent, initially capitalized terms have the meanings given in the ICA.

By executing this SFFD Consent, the undersigned confirm that, after considering the Infrastructure Plan, they have consented to:

1. the JCA as it relates to matters under SFFD jurisdiction, including the SFFD Infrastructure;

2. subject to Developer satisfying the SFFD requirements for construction, warranties and guarantees, operations and maintenance manuals, testing, and training that are consistent with the Applicable City Regulations and applicable State and federal law, the SFFD's acceptance of the SFFD Infrastructure;

3. subject to the appropriation of funds, the SFFD operating and maintaining the SFFD Infrastructure;

4. subject to the appropriation of funds, the SFFD satisfying the requirements of the Infrastructure Plan for construction, operations, and maintenance of a fire station on the Fire Station Parcel (as defined in the DDA) on the Shipyard Site; and

5. making any future Approvals of the SFFD under this ICA, including Approvals of Agency Applications, subject to applicable law including the City's Charter.

By authorizing this SFFD Consent, the SFFD Fire Chief and Fire Marshall not intend to in any way limit the authority of the SFFD as set forth in Section 4.108 and 4.128 of the City's Charter.

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through
the SAN FRANCISCO FIRE CHIEF AND
FIRE MARSHALL

By:

By: Thomas E. Harvey 9/7/11

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: ______________________________
Deputy Cit