

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 37-2022

AUTHORIZING A FIRST AMENDMENT TO THE PERSONAL SERVICES CONTRACT WITH PARKLAB OPEN SPACE MANAGEMENT, A CALIFORNIA LIMITED LIABILITY COMPANY, TO INCLUDE THE MANAGEMENT AND MAINTENANCE OF THE LANDSCAPING AND BIOSWALES IN THE PARK P2 PARKING LOT, ALLOW FOR THE MANAGEMENT AND MAINTENANCE OF PARK P3 PRIOR TO THE CITY AND COUNTY OF SAN FRANCISCO'S ACCEPTANCE OF PARK P3; AND INCREASE THE CONTRACT AMOUNT BY \$70, 960 FOR AN AGGREGATE TOTAL NOT TO EXCEED \$2,457,241; MISSION BAY NORTH AND SOUTH REDEVELOPMENT PROJECT AREAS

BASIS FOR RESOLUTION

- WHEREAS, The Successor Agency to the Redevelopment Agency of the City and County of San Francisco (commonly known as the Office of Community Investment and Infrastructure) (the "Successor Agency" or "OCII") is completing the enforceable obligations of the Redevelopment Agency of the City and County of San Francisco (the "Former Agency") in the Mission Bay North and Mission Bay South Project Areas (the "Project Areas") under the authority of the California Community Redevelopment Law, Cal. Health & Safety Code §§ 33000 et seq., as amended by the Redevelopment Dissolution Law, Cal. Health & Safety Code §§ 34170 et seq., and under San Francisco Ordinance No. 215-12 (Oct. 4, 2012) (establishing the Successor Agency Commission and delegating to it state authority under the Redevelopment Dissolution Law); and,
- WHEREAS, On October 26, 1998, the Board of Supervisors of the City and County of San Francisco approved and adopted the Redevelopment Plan for the Mission Bay North Redevelopment Project Area; on November 2, 1998, it approved and adopted the Redevelopment Plan for the Mission Bay South Redevelopment Project Area (collectively the "Plans"). The Plans and their implementing documents, as defined in the Plans, constitute the Plan Documents; and,
- WHEREAS, In November 1998, the Former Agency and Catellus Development Corporation entered into two owner participation agreements establishing development obligations within their respective Plan areas: one for Mission Bay North (the "North OPA") and one for Mission Bay South (the "South OPA") (collectively, the "OPAs"). Under the OPAs, the Owner (as defined therein) is required to finance and build 41 acres of public open space on parcels of land in the Plans' areas owned by the City and County of San Francisco ("City") or the Port of San Francisco ("Open Space Parcels"), which are to be leased to the Successor Agency at the time of improvement (once constructed and so leased, the "Mission Bay Open Space System"). The Open Space Parcels are constructed in phases together with associated residential and/or commercial development. Under the Plan Documents, the Successor Agency is responsible for managing and operating the Mission Bay Open Space System until 2046; and,

- WHEREAS, Acting under the Mello-Roos Community Facilities Act of 1982, Cal. Government Code § 53311 et seq., the Former Agency Commission formed, by Resolution No. 217-99 (Dec. 19, 1999), Community Facilities District No. 5 (“CFD No. 5”) and authorized, by Ordinance No. 2-99 (Jan. 11, 2000), the levy of special taxes. CFD No. 5 provides funds for maintenance and operation of the Mission Bay Open Space System, as authorized under Section 53313 of the California Government Code and the Local Goals and Policies for Community Facilities District (Agency Resolution No. 79-2008 (July 15, 2008)). The special taxes for park operations will remain in place for 45 years and pay for all costs relating to OCII’s operation and management of the Mission Bay Open Space System. As the successor in interest to the Former Agency, OCII is the administrator of CFD No. 5; and,
- WHEREAS, On February 1, 2012, the State of California dissolved all redevelopment agencies, including The Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, the (“Former Agency”), by operation of law pursuant to California Health and Safety Code Sections 34170 et seq. (“Redevelopment Dissolution Law”). Under the authority of the Redevelopment Dissolution Law and under San Francisco Ordinance No. 215-12 adopted on Oct. 4, 2012 (establishing the Successor Agency Commission (“Commission”) and delegating to it state authority under the Redevelopment Dissolution Law), OCII is administering the enforceable obligations of the Former Agency; and,
- WHEREAS, As a result of these legislative acts the Successor Agency (1) became a separate public entity from the City and County of San Francisco (the “City”), and (2) has leasehold interest of improved Open Space Parcels of land owned by the City and leased to the Former Agency by the City, acting through its Department of Real Estate or through the Port of San Francisco, under a ground lease (“Ground Lease”), located in the Mission Bay North Redevelopment Project Area and Mission Bay South Redevelopment Project Area through 2046, as amended from time to time to increase the premises as Open Space Parcels are improved; and,
- WHEREAS, All costs for the operation and management of the Open Space Parcels are funded by CFD No. 5. The Successor Agency has a continuing obligation to remain the administrator of CFD No. 5, which runs out in fiscal year 2043 – 2044; and,
- WHEREAS, The Redevelopment Dissolution Law requires OCII to dispose of any fee interests or leasehold interests it has in real property under a Long-Range Property Management Plan (“PMP”), which must be submitted to the State of California Department of Finance (“DOF”). DOF approved the Successor Agency’s PMP on December 7, 2015. The PMP proposes the early termination of the OCII’s Ground Lease for the Open Space Parcels in phases after completion. This termination is subject to the further review and consent of affected parties, including the Mission Bay master developer, FOCIL-MB, LLC, the successor-in-interest to Catellus Development Corporation, and subject to OCII’s continuing obligations as the CFD No. 5 administrator in compliance with the Mello-Roos Community Facilities Act of 1982. OCII seeks to terminate its leasehold interests in some or all of the Open Space Parcels and to transfer property management responsibilities to the City by July 1, 2023; and,

- WHEREAS, OCII, through a sole source selection process, negotiated a new personal services contract with a term of one year, ending on June 30, 2023 (“Contract”) with Parklab Open Space Management LLC (“POSM”). The Contract includes a Scope of Services, Fiscal Year 2022-23 Budget, and a maximum contract management fee; and,
- WHEREAS, On June 21, 2022, the Commission approved by Resolution No. 17-2022, a Personal Services Contract (the “Contract”) with Parklab Open Space Management (“POSM”) for property management of the Mission Bay Open Space System for a one year term; and,
- WHEREAS, POSM is as State-certified SBE and its subconsultants Robert W. Poyas DBA RWP Landscaping Inc. and Aim to Please Janitorial Services, are City-certified small business enterprises, and are well qualified to provide property management and maintenance services for the Facilities; and,
- WHEREAS, OCII staff proposes a First Amendment to the Contract (“First Amendment”) to increase the contract amount by \$70,960 and to make the following changes in the scope of services: 1) adding the maintenance of the bioswales and landscaping within Park P2 Parking Lot for the remainder of the fiscal year; 2) increasing the budget for insurance costs, which are \$25,000 higher than originally estimated; and 3) repairing the irrigation system damaged by rodents and increasing the repairs and maintenance budget for pest control to prevent further damage.
- WHEREAS, OCII staff also proposes that the First Amendment authorize POSM maintenance services for Park P3 prior to City acceptance of Park P3 but after the City has determined that Park P3 meets City standard; and,
- WHEREAS, The services performed and fees paid under the First Amendment are consistent with the Services authorized by Former Agency Commission Resolution No. 217-99 creating CFD No. 5; and,
- WHEREAS, The contract amount under the First Amendment is consistent with Commission Resolution No. 13-2022 approving the CFD budget for FY 2022-23; and,
- WHEREAS, At its October 13, 2022 meeting, the Mission Bay Citizens Advisory Committee will consider recommending to the Commission that OCII enter into the First Amendment; and,
- WHEREAS, Approval of the First Amendment is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15301 and 15304 because it authorizes the operation, repair, maintenance or minor alteration of existing facilities or topographical features with negligible or no expansion of existing uses and minor alterations to land; now, therefore, be it
- RESOLVED, That the Commission authorizes the Executive Director to execute, substantially in the form of Exhibit A to this Resolution, the First Amendment to the Contract with POSM for property management of the Mission Bay Open Space System to increase the contract amount by \$70, 960 and to include the management and maintenance of landscaping and bioswales in the City-accepted Park P2 and of Park P3 prior to City acceptance; and be it further
- RESOLVED, That the Commission authorizes the Executive Director to enter into any and all ancillary documents or take any additional actions necessary to effectuate the

purposes of the First Amendment and this Resolution, provided that any additional actions do not materially increase the obligations or liabilities of OCII and are in compliance with all applicable laws.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of October 18, 2022 .

Commission Secretary

Exhibit A: Parklab Open Space Management, LLC Personal Services Contract

Exhibit A

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

FIRST AMENDMENT TO PERSONAL SERVICES CONTRACT
(Property Management Services – Mission Bay Open Space System)

This FIRST AMENDMENT TO THE PERSONAL SERVICES CONTRACT (the “First Amendment”) is entered into as of the _____ day of _____, 2022 (“Effective Date”) by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body established and existing pursuant to state law (commonly referred to as the Office of Community Investment and Infrastructure, or “OCII”), and Parklab Open Space Management, a California limited liability company (“Contractor”).

RECITALS

This First Amendment is made with reference to the following facts and circumstances:

A. On June 21, 2022, the Successor Agency Commission authorized, by Resolution No. 17-2022, the Successor Agency and the Contractor to enter into a one-year personal services contract for property management services for the Mission Bay Open Space Parcels with Parklab Open Space Management (“POSM”) for a maximum contract amount not to exceed \$2,386,281, including a maximum Contractor compensation amount not to exceed \$223,580 (the “Contract”).

B. The Contract did not include maintenance of the P2 Parking Lot, which had been scheduled for completion after the termination of the Contract. The Port has recently requested that OCII begin maintaining the Open Space P2 Parking Lot, which contains the landscaping and bioswales bordering the P2 parking lot. Maintenance costs are estimated at \$3,000 per month or \$24,000 for the remaining eight months of the contract. Management Fees are estimated at \$245 per month or \$1,960 for the remaining eight months of the contract. Both costs are part of the Operating Budget.

C. Under the Contract, actual insurance costs are \$25,000 higher than originally budgeted and approved by the Commission. Insurance costs are part of the Operating Budget.

D. Rodents have caused unanticipated damage to the irrigation system. Repairs are estimated \$15,000 and would increase the landscaping budget. Additionally, POSM recommends the pest control budget be increased by \$5,000 to enhance current pest control efforts and prevent further damage. Both costs are part of the Operating Budget.

E. Under the Contract, OCII and POSM contemplated that the Open Space Parcel, P3, would be included as part of the Contractor’s management obligation during the term of the Contract, but only after P3 was accepted by the City and County of San Francisco (the “City”),

and incorporated into the Ground Lease. The City now intends to open P3 for public use under a license with FOCIL-MB, LLC, prior to City acceptance of the Improvements (as defined by Section 1.39 of the Mission Bay South Owner Participation Agreement), but after it has determined that the Improvements are complete and meet City standards. The City now desires that Contractor provide property management services for P3 pending its final acceptance and OCII has agreed to cooperate in providing those services, through this Contract, to the City.

F. Funding maintenance of the P2 parking lot, accommodating unanticipated insurance costs, funding higher than estimated pest control and landscaping costs requires a First Amendment to the contract with POSM for \$70,960. The source of funds for this additional amount is the Community Facilities District No. 5 (Mission Bay (North and South) Maintenance District).

G. OCII and the Contractor therefore seek to enter into this First Amendment upon the basis of the terms, covenants and conditions set forth below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, OCII and the Contractor agree as follows:

1. Unless otherwise specifically provided herein, all provisions of this Amendment shall be effective as of the Effective Date set forth above.
2. Completed and Phase-In Open Space Parcels, The second paragraph of Section 1.A., Phase-in Parcel, is deleted in its entirety and replaced with the following:

“Phase-in Parcel. Additional Open Space Parcels, P3 and P2 Parking Lot (landscaping and bioswales only), will be completed and included in the Mission Bay Open Space System during the term of this Contract and will be included in this Contract and subject to Contractor’s management obligation (“Phase-in Parcel”). P3 may be deemed to be a Phase-in Parcel prior to acceptance by the City and County of San Francisco of the Improvements in P3. The Phase-In Parcels are depicted in Attachment H and in Attachment 2 of the Mission Bay South Redevelopment Plan. OCII will provide the Contractor with a fifteen (15) day prior written notice specifying the date on which the Phase-in Parcel will be included within the Contractor’s obligations under this Contract.”

3. Contract Amount, Section 3 is deleted in its entirety and replaced with the following:

“The maximum amount payable under this Contract for the Contract Term is Two Million Four Hundred Fifty-Seven Thousand, Two Hundred Forty-One Dollars (\$2,457,241) (“Approved Budget”), comprised of the following:

Exhibit A

Year	Operating Expenses (including Contractor Compensation)	Capital Expenses	Approved Operations Budget
FY 2022-23	\$2,382,241	\$75,000	\$2,457,241

”

4. Approved Budget, Section 4.A of the Contract is hereby deleted in its entirety and replaced with the following:

“Approved Budget. The Contractor will provide the services and produce the deliverables described in Attachment A, “Scope of Services”, and Attachment G, “Reporting Requirements” in accordance with Attachment B, “Approved Amended Budget FY 2022-2023”. The Approved Budget is \$2,457,241 in total, comprised of projected operating expenses, capital expenses, and Contractor Compensation. The operating and capital amounts shall not exceed the foregoing amounts without amendment to the Approved Budget, as described in Section 4.B.”

5. Compensation, Section 5.F and 5.F.1 of the Contract is hereby deleted in its entirety and replaced with the following:

“Compensation. Contractor shall receive (1) a management services fee (“Management Fee”) which shall be a monthly fee paid on a per-parcel basis for the management of Completed and Phase-In Parcels then under management by the Contractor (2) an accounting fee (“Accounting Fee”), which shall be a monthly fee paid to compensate for accounting services provided, and (3) a Contract closeout services fee (“Closeout Fee”), which shall be a one-time fee paid for services performed to close out this Contract (collectively “Contractor Compensation”). The maximum Contractor Compensation amount payable under this Contract shall not exceed Two Hundred Twenty-Five Thousand Five Hundred Forty Dollars (\$225,540) and is incorporated into the Approved Budget. The actual Contractor Compensation payable may be less, depending on the completion of the Phase-In Parcel and inclusion into the Contract:

1. Management Fee. The Management Fee payable for the Completed Parcels upon the commencement of Contract Term is \$15,242. In addition, upon inclusion of the Phase-In Parcels, the Monthly Management Fee shall include an additional fee of \$693.00 per month for Open Space Parcel P3 and \$245.00 per month for Open Space Parcel P2 Parking Lot. The Phase-in Parcels are not payable until the Contractor assumes property management responsibility over the parcel pursuant to OCII's written notification to the Contractor under Section 1.B. Contractor warrants that it will provide the services and produce the deliverables described in Attachment A, “Scope of Services,” and Attachment G, “Reporting Requirements,” with no additional Management Fee paid based on a per monthly management fee for each Open Space Parcel then under management by the Contractor.”
6. Compliance with Mission Bay Plan Documents. Section 18 A. is hereby deleted and replaced with the following:

Exhibit A

“In assuming property management responsibilities for completed open space parcels under this contract, the Contractor agrees to comply with:

- A. All requirements of the Ground Lease and, prior to the City’s acceptance of the Improvements for P3, the License between FOCIL-MB, LLC and the City for the temporary use of P3.”
7. Attachment B: Approved Budget FY 2022-2023. Attachment B of the Agreement is hereby deleted and replaced with Attachment B: Approved Amended Budget FY 2022-2023 attached herein as Exhibit A.
8. Miscellaneous. The following miscellaneous provisions apply to this First Amendment:
- a. Incorporation. This First Amendment constitutes a part of the Contract and any reference in any document to the Contract as amended hereby.
 - b. Ratification. To the extent of any inconsistency between this First Amendment and the Contract, the provisions contained in this First Amendment shall control. Except as otherwise amended hereby, all terms, covenants, conditions and provisions of the Contract shall remain in full force and effect.
 - c. Successors and Assigns. This First Amendment shall be binding upon and inure to the benefit of the successors and assigns of OCII (including the City or its assignee) and Contractor, subject to the limitations set forth in the Contract.
 - d. Counterparts. This First Amendment may be executed in any number of counterparts, all of which, together, shall constitute the original agreement.
 - e. Governing Law; Venue. This First Amendment shall be governed by and construed in accordance with the laws of the State of California. The parties agree that all actions or proceedings arising directly or indirectly under this First Amendment shall be litigated in courts located within the County of San Francisco, State of California.
 - f. Integration. This First Amendment contains the entire agreement between the parties with respect to the subject matter of this First Amendment. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded by this First Amendment. No prior drafts of this First Amendment or changes from those drafts to the executed version of this First Amendment shall 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 shall consider those drafts in interpreting this First Amendment.

Exhibit A

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Exhibit A

IN WITNESS WHEREOF the parties have executed this First Amendment to the Contract as of the date first above written.

OFFICE OF COMMUNITY
INVESTMENT AND
INFRASTRUCTURE, Successor Agency
to the San Francisco Redevelopment
Agency, a public body, corporate and
politic

PARKLAB OPEN SPACE
MANAGEMENT, a California limited
liability company

By: _____
Thor Kaslofsky
Executive Director

By: _____
Cathy Hickey
Principal

APPROVED AS TO FORM:

By: _____
James B. Morales
General Counsel

Authorized by OCII Resolution No. ____ -2022 adopted on _____, 2022.