MEMORANDUM

TO: Commission on Community Investment and Infrastructure

FROM: Tiffany Bohée
Executive Director

SUBJECT: Adopting environmental review findings pursuant to the California Environmental Quality Act and conditionally authorizing a Fourth Amendment to the Mission Bay South Owner Participation Agreement with FOCIL-MB, LLC, a Delaware limited liability company, to allow Family House, Inc., a nonprofit public benefit corporation to develop a 96,000 square foot facility on Block 7E that would include approximately 80 extended stay rooms and associated common areas and program space to support families of patients primarily receiving treatment at UCSF Mission Bay Medical Center; Mission Bay South Redevelopment Project Area

EXECUTIVE SUMMARY

Block 7 in the Mission Bay South Redevelopment Project Area (“Mission Bay South”) is comprised of two Agency Affordable Housing Parcels, Blocks 7W and 7E, as defined in the Mission Bay South Owner Participation Agreement (“South OPA”) between the former San Francisco Redevelopment Agency (“SFRA”) and FOCIL-MB, LLC (“FOCIL”). The Office of Community Investment and Infrastructure (“OCII”), as the Successor Agency to SFRA, holds options for the development of affordable housing on Block 7. On October 18, 2015 and March 2, 2010, the SFRA Commission authorized Disposition and Development Agreements (“DDAs”) with the University of California, San Francisco (“UCSF”) for Blocks 7W and 7E, respectively, to develop affordable housing. The DDAs require UCSF to develop the affordable housing by certain dates, or otherwise pay liquidated damages of $7.4 million to OCII. UCSF has determined that it will not be constructing affordable housing on Block 7E and will be paying $5 million in liquidated damages to be used for affordable housing in Mission Bay South.

UCSF requested that FOCIL transfer Block 7E to Family House, Inc., a nonprofit public benefit corporation (“Family House”), to develop a 96,000 square foot facility with approximately 80 extended stay rooms to support families of patients primarily receiving treatment at the UCSF Benioff Children’s Hospital at Mission Bay, which will be opening in 2015 (“Family House Project”). FOCIL is in support of providing space on Block 7E for the Family House Project as a supplement to the UCSF Benioff Children’s Hospital and has submitted a fourth amendment to the South OPA (“Fourth Amendment”) to allow the Family House Project. The Fourth Amendment would change the designation of Block 7E in the South OPA from an Approved Site for affordable housing development so that FOCIL may transfer Block 7E to Family House for the Family House Project or a project with a similar nonprofit use. However, under the restrictive covenants included as an Exhibit to the Fourth Amendment, and under OCII’s land use authority under the South OPA, the OCII Executive Director would approve any project that was a similar nonprofit use. The restrictive covenants will be in effect for 75 years.
Although the transfer of Block 7E to Family House would reduce the amount of land for affordable housing on Block 7 by 0.7 of an acre, OCII, in consultation with the Mayor's Office of Housing ("MOH"), has determined that the total number of Affordable Housing Units contemplated within the Housing Program of the South OPA can be accommodated on the remaining Approved Sites for affordable housing under the Housing Program. In addition, Family House would pay an affordable housing fee of $2,500,000 to OCII to be used for the development of affordable housing in Mission Bay South, with a priority for use of the fee on Block 7W. Family House will also be complying with the Mission Bay equal opportunity programs, including OCII's Small Business Enterprise policy.

Allowing for the Family House Project on Block 7E will: (1) result in the development of a site that no longer has a viable development program due to the termination of UCSF's DDA; (2) retain and promote UCSF's activities within Mission Bay; (3) strengthen the economic base of Mission Bay South and the community by adding to the diversity of uses; and (4) contribute substantial funds to the production of affordable housing in Mission Bay South, thereby reducing the need for the use of tax increment for the completion of existing obligations. Prior to the proposed Fourth Amendment becoming final, additional approvals are required by the Oversight Board and the California Department of Finance ("DOF").

The Family House Project is allowed on Block 7E as a secondary use under the Mission Bay South Redevelopment Plan ("South Redevelopment Plan"), pursuant to the Executive Director's approval of the required secondary use findings. The Mission Bay Citizens Advisory Committee discussed the Family House Project at its September 8, 2011 and May 16, 2013 meetings and was very supportive of the project.

As part of its actions on September 17, 1998, establishing the Mission Bay Redevelopment Project Areas, the SFRA Commission ("Former Agency Commission") certified the Final Subsequent Environmental Impact Report ("FSEIR") (Resolution No. 182-98) and adopted findings under the California Environmental Quality Act ("CEQA") (Resolution No. 183-98). This FSEIR includes by reference a number of addenda. In accordance with CEQA, OCII has prepared a ninth Addendum for the FSEIR that studies the possible environmental impacts of the proposed Fourth Amendment ("Addendum #9"). Addendum #9 concludes that the proposed actions will not create any significant environmental impacts not already studied in the FSEIR or cause a substantial increase in the severity of previously identified significant impacts. OCII staff has reviewed the Fourth Amendment and found it to be within the scope of the project analyzed in the FSEIR and addenda and no additional environmental review is needed.

Staff recommends approval of the Fourth Amendment to the Mission Bay South Owner Participation Agreement.
BACKGROUND

Mission Bay South Redevelopment Plan and Owner Participation Agreement

On September 17, 1998, by Resolution No. 190-98, the Former Agency Commission approved the South Redevelopment Plan. On the same date, the Former Agency Commission adopted related documents, including Resolution No. 193-98 authorizing execution of the South OPA and related documents between the former Mission Bay Master Developer, Catellus Development Corporation (“Catellus”), and the SFRA. The Board of Supervisors approved and adopted the South Redevelopment Plan by Ordinance No. 335-98 on November 2, 1998. FOCIL subsequently assumed the rights and responsibilities of the Mission Bay master developer from Catellus in 2004. The South OPA was amended by the Former Agency Commission on February 17, 2004 (Resolution No. 23-2004) and November 1, 2005 (Resolution No. 177-2005), and most recently by the Commission on Community Investment and Infrastructure (“CCII”) on May 21, 2013 (Resolution No. 16-2013).

With approval from a successor agency’s oversight board and DOF, a successor agency may continue to implement “enforceable obligations” — existing contracts, bonds, leases, etc. — which were executed prior to the suspension of redevelopment agencies’ activities on June 28, 2011, the date that AB 26 was approved. Redevelopment Dissolution Law defines “enforceable obligations” to include bonds, loans, judgments or settlements, and any “legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy,” (Cal. Health & Safety Code Section 34171(d)(1)(E)) as well as certain other obligations, including but not limited to requirements of state law and agreements made in reliance on pre-existing enforceable obligations. The South OPA meets the definition of “enforceable obligations” under Redevelopment Dissolution Law.

Process for Amending Existing Obligations

Redevelopment Dissolution Law authorizes the Oversight Board to approve amendments to enforceable obligations if it finds that the amendments would be in the best interest of the taxing entities. (Cal. Health & Safety Code Section 34181(e)). Therefore, the approval of the Fourth Amendment is conditioned upon the Oversight Board approval of the amendment and its determination that the Amendment is in the best interests of the taxing entities, and then DOF’s subsequent review and approval of Oversight Board’s action.

Block 7 Site

Block 7, which is currently owned by FOCIL, is bounded by China Basin Street to the north, Third Street to the east, Mission Bay Boulevard North to the south, and Fourth Street to the west (see Exhibit A). Under the South Redevelopment Plan, Block 7 has a land use designation of Residential. It is currently undeveloped and is used during baseball season as overflow parking for the nearby AT&T Park.
Block 7 in Mission Bay South is comprised of two Agency Affordable Housing Parcels, Blocks 7W and 7E, as defined in the South OPA. OCII, as the successor agency to the SFRA, holds an option for the development of Affordable Housing Units, as defined in the South OPA, on Blocks 7W and 7E.

**UCSF Block 7 DDAs**

On October 18, 2005 and March 2, 2010, the SFRA Commission authorized DDAs with UCSF for Blocks 7W and 7E, respectively, to develop affordable housing. UCSF, a tax exempt entity, agreed to construct affordable housing on Block 7 to off-set the loss of tax increment available to SFRA, and now OCII, for the construction of affordable housing in Mission Bay South, resulting from the purchase of Blocks 36-39 and X-3 in Mission Bay South by UCSF for a new UCSF Medical Center, including a new children’s hospital. The DDAs require UCSF to develop the affordable housing by certain dates, or otherwise pay liquidated damages of a total of $7.4 million to OCII, $5 million for Block 7E and $2.4 million for Block 7W. The intent of the DDAs was that any liquidated damages received by SFRA would be used to support development of Affordable Housing Units in Mission Bay South. UCSF has advised OCII that it intends to pay the Block 7E liquidated damages in the amount of $5,000,000, which will terminate the DDA and any rights that UCSF has over Block 7E. UCSF decided to pay the liquidated damages since it determined that it was not financially feasible for UCSF to construct affordable housing for UCSF employees and students on Block 7E in a timeframe that met the schedule of performance in the Block 7E DDA. UCSF is planning on assigning the Block 7W DDA to an affordable housing developer to construct affordable housing on Block 7W, which will be the subject of a future Commission item. As part of that transaction, UCSF will pay the balance of the liquidated damages.

**DISCUSSION**

Family House provides subsidized temporary housing for families whose members are being treated for cancer and other life-threatening illnesses, primarily at UCSF. Family House currently has two locations adjacent to the existing UCSF Medical Center at Parnassus Heights. UCSF will open the UCSF Benioff Children’s Hospital at Mission Bay in 2015 – approximately one-fourth mile south of Block 7E. As a result, UCSF has requested that Family House be allowed to develop the Family House Project, a 96,000 square foot facility on Block 7E that will include approximately 80 extended stay rooms and associated common area and program space to support families of patients receiving treatment primarily at the UCSF Benioff Children’s Hospital at Mission Bay. The geographic proximity to the new UCSF hospital is important since many patients for whom Family House provides temporary housing are being treated as outpatients, and at the same time, are required to stay in a sanitary environment within close proximity to the hospital’s emergency room.

FOCIL, as the master developer for Mission Bay, is also in support of providing space on Block 7E for the Family House Project as a complement to the UCSF Benioff Children’s Hospital. However, under the South OPA, the Family House Project does not qualify as Affordable Housing Units and thus is not currently eligible to use Block 7E. Accordingly, FOCIL has
proposed a fourth amendment to the South OPA ("Fourth Amendment") so that it may transfer Block 7E to Family House for the Family House Project.

Proposed Fourth OPA Amendment

The Fourth Amendment (see Exhibit B) would remove the designation of an Approved Site for affordable housing from Block 7E and allow FOCIL to transfer the site to Family House to develop and operate the Family House Project. Although the transfer of Block 7E to Family House would reduce the amount of land for affordable housing in Mission Bay South by 0.7 of an acre, OCII, in consultation with MOH, has determined that the total number of Affordable Housing Units contemplated within the Housing Program of the South OPA can be accommodated on the remaining parcels designated for Affordable Housing Units under the Housing Program. To make this determination, OCII staff calculated the density required to locate OCII’s remaining obligation to build 958 affordable housing units within Mission Bay South on the remaining standalone sites (Blocks 3E, 4E, 6E and W, 7W, 9, 9a, and 12W). The resulting density was less than 100 units per acre and could easily be developed on the remaining sites with four stories of wood frame construction over one level Type I (concrete) podium, which is the standard construction type for OCII affordable housing projects.

Affordable Housing Fee

Consistent with the City’s Inclusionary Affordable Housing Program, the Fourth Amendment requires that the Family House Project pay an affordable housing in-lieu fee, and OCII and Family House have negotiated a payment in the amount of $2,500,000 ("Block 7E Affordable Housing Fee"). This fee is comparable to a fee that the developer of a 47 unit market rate housing project would pay under the formula in the City's Inclusionary Affordable Housing Ordinance, Planning Code § 415.5. Under this formula, the applicable percentage for the fee is 20% of the number of dwelling units that could be developed on the site. The Family House Project consists of 80 extended stay rooms, which are not full residential units in the traditional sense. Each of the extended stay rooms has one or two bedrooms and shares kitchen facilities with other extended stay rooms on the floor. However, assuming an approximate equivalency of 1.7 extended stay rooms per dwelling unit based on the 1998 Mission Bay FSEIR and Addendum # 9 assumptions of 1.7 bedrooms per dwelling unit, 80 extended stay rooms would be approximately equivalent to 47.1 dwelling units, and therefore 20% would be equal to 9.4 units. The fee is then calculated by determining the per unit subsidy based on the current affordable housing fee schedule produced by the City for its Inclusionary Affordable Housing Program (i.e. studio unit: $171,558, one-bedroom unit: $236,545, two-bedroom unit: $326,086).

For the purposes of applying this formula to the Block 7E development, the following assumption was used: 20% applied to seven studio units, 20 one-bedroom units, 20 two-bedroom units. The Block 7E Affordable Housing Fee will be prioritized for the affordable housing to be developed on the adjacent parcel on Block 7W, thereby reducing the need for tax increment funds for that site, or other affordable housing units in Mission Bay South should Block 7W not be ready to proceed prior to another Mission Bay South affordable housing parcel. The payment of the Block 7E Affordable Housing Fee is contingent upon Family House being ready to close on the Block 7E site, which must occur no later than January 1, 2015. However, Family House has agreed that they will provide the Block 7E Affordable Housing Fee as early as
January 2014 if they are ready to close on the site at that point and the funds are needed in order for the Block 7W developer to apply for tax credit or other State funding. Family House is actively working towards being able to close at that earlier date, however should the closing be delayed then the payment of the Block 7E Affordable Housing Fee would be similarly delayed.

**Effective Date**

The Fourth Amendment will not go into effect until the Block 7E Affordable Housing fee has been paid to OCII and the following documents have been deposited into an escrow account for execution: (1) the grant deed conveying Block 7E by FOCIL to Family House; (2) a restrictive covenant, which will restrict the use of Block 7E to the Family House Project for a period of 75 years; (3) an Assignment and Assumption Agreement between FOCIL and Family House, which will assign all of FOCIL’s rights and obligations to the development of Block 7E; and (4) a notice of termination and release of OCII’s option to build affordable housing on Block 7E. The Fourth Amendment will become null and void if these milestones are not met prior to January 1, 2015, unless OCII and FOCIL mutually agree to extend this deadline for a period of up to 12 months.

**Restrictive Covenants & Compliance With OCII Policies**

Family House will be limited to the use of the site for the Family House Project for a 75-year period, or with the approval of the OCII, a project with a similar nonprofit use. Family House will be required to comply with the Successor Agency’s Small Business Enterprise Policy, as adopted by Agency Resolution No. 82-2009 (July 27, 2009) ("SBE Policy").

**Findings – Compliance with Redevelopment Dissolution Law**

By allowing for development of the Family House Project, the Fourth Amendment will (1) result in the development of a site that no longer has a viable development program as a result of UCSF terminating its DDA for Block 7E; (2) retain and promote UCSF’s activities within the City and County of San Francisco by providing necessary services for families receiving treatment at the new Mission Bay Benioff Children’s Medical Center; (3) strengthen the economic base of Mission Bay South and the community by adding to the diversity of uses; and (4) contribute substantial funds for the production of affordable housing in Mission Bay South, thereby reducing the need for the use of tax increment for the completion of existing obligations. The Fourth Amendment does not propose any new capital expenditures by OCII or any change in OCII’s overall method of financing the redevelopment of Mission Bay South. Rather, the Fourth Amendment will reduce the amount of tax increment needed to finalize the existing Mission Bay South obligations through the collection of the Block 7E Affordable Housing Fee and will accelerate the completion of development under the South Redevelopment Plan and the South OPA.
Secondary Use Findings

The Family House Project is allowed on the site as a secondary use (institutional, small social service/philanthropic facility) under the South Redevelopment Plan, which requires a finding by the Executive Director prior to development that the use, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community. The Executive Director will make the required findings following the final approval of the Fourth Amendment.

Citizens Advisory Committee

The Mission Bay Citizens Advisory Committee ("CAC") discussed the Family House Project at its September 8, 2011 and May 16, 2013 meetings. At both meetings, the CAC responded positively to the overall Family House Project, specifically recognizing the important service that Family House plays in the community and the importance of having it near the new Mission Bay UCSF Benioff Children’s Hospital.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

As part of its actions on September 17, 1998 establishing the Mission Bay North and South Redevelopment Project Areas, the Former Agency Commission certified the FSEIR, adopted CEQA findings, adopted a series of mitigation measures, and established a comprehensive system for mitigation monitoring. The Board of Supervisors, the Planning Commission, and various City departments adopted similar findings and mitigation monitoring plans.

Copies of the full four-volume FSEIR were distributed to the Former Agency Commission prior to the 1998 certification and adoption of the environmental findings, and have subsequently been made available to members of CCII. The FSEIR includes by reference the following addenda:

- Addendum #1 - Analyzed the ballpark parking lots (dated March 21, 2000).
- Addendum #2 – Addressed Infrastructure Plan revisions related to 7th Street bike lanes and relocation of a storm drain outfall (dated June 20, 2001).
- Addendum #3 – Analyzed revisions to the South Design for Development related to the maximum allowable number of towers, tower separation and required step-backs (dated February 10, 2004).
- Addendum #4 – Analyzed revisions to parking requirements (dated March 9, 2004).
- Addendum #5 – Analyzed the UCSF proposal to establish a 400-bed hospital in Mission Bay South (dated October 4, 2005).
• Addendum #6 - Addressed revisions of the UCSF Medical Center at Mission Bay (dated September 10, 2008).

• Addendum #7 – Analyzed the Public Safety Building proposed for Block 8 in Mission Bay South (dated January 7, 2010).

• Addendum #8 – Analyzed amendments to the South Redevelopment Plan and South OPA to allow a mixture of hotel, residential, and retail use on Block 1 (dated May 15, 2013).

In preparation for approval of the Fourth Amendment, Addendum #9, dated May 30, 2013, has been prepared to analyze the Fourth Amendment (see Exhibit C). Addendum #9 concludes that the Fourth Amendment will not create any significant environmental impacts not already studied in the FSEIR nor cause a substantial increase in the severity of previously identified significant impacts. Therefore, no additional mitigation measures are required for the Fourth Amendment.

OCII staff has reviewed the proposed Fourth Amendment and has considered and reviewed the FSEIR and addenda, specifically Addendum #9. OCII staff finds the Fourth Amendment to be within the scope of the project analyzed in the FSEIR and subsequent addenda and no additional environmental review is required pursuant to State CEQA Guidelines Sections 15180, 15162, and 15163.

NEXT STEPS

The Fourth Amendment is scheduled to be presented to the Oversight Board for approval on June 10, 2013, after which it will be referred to DOF for approval. DOF has a 5 day period to request a review of an Oversight Board action, and then 40 days from the date of that request to either approve the Oversight Board’s action or return it to the Oversight Board for reconsideration. Assuming that the Oversight Board approves the Fourth Amendment in early June, DOF’s review period would be concluded by mid-July.

Once the Fourth Amendment is approved by all regulatory bodies, development of Block 7E will be able to proceed pursuant to the process outlined in the existing South OPA and associated documents. The first step for development of Block 7E will be a Combined Basic Concept and Schematic Design for the Family House Project, which will be subject to Commission approval.
STAFF RECOMMENDATION

Staff recommends approval of the Fourth Amendment to the Mission Bay South Owner Participation Agreement, conditioned upon the final approval by the Oversight Board and California Department of Finance.

(Originated by Christine Maher, Development Specialist, and Catherine Reilly, Project Manager)

Tiffany Bohee
Executive Director

Exhibit A: Mission Bay Location Map
Exhibit B: Fourth Amendment to the Mission Bay South Owner Participation Agreement
Exhibit C: Addendum #9 to the Mission Bay Final Subsequent Environmental Impact Report