Executive Summary of
The Mission Bay Enforceable Obligations
April 10, 2012

This summary is made with reference to the enforceable obligations for the Mission Bay Project (sometimes referred to below as the "project" or "projects") as shown on the Recognized Obligation Payment Schedule ("ROPS") dated as of April 10, 2012, for the City and County of San Francisco (the "City"), as successor Agency to the Redevelopment Agency of the City and County of San Francisco (the "Agency"). More particularly, this description relates to items MB-1 to MB-9 on the ROPS.

The Project is one of San Francisco's three critical redevelopment legacy projects that the City, as successor agency to the Agency, must continue to implement under enforceable obligations consistent with ABX1 26. The Mission Bay Legacy Project is divided into two separate project areas, Mission Bay North and Mission Bay South, under redevelopment plans enacted in November 1998. In conjunction with the approval of the redevelopment plans, the Agency and the master developer and owner of most of the land in the project areas, Catellus Development Corporation, entered into Owner Participation Agreements (the "OPAs") for the Project.

The OPAs are binding enforceable obligations, pre-dating January 2011, that the City assumed as successor to the Agency. The OPAs, together with a number of related binding agreements attached to or referenced in the text of the OPAs (or that the Agency later entered into, all before January 2011), establish a comprehensive set of enforceable obligations that collectively govern the completion of this Legacy Project. While the agreements contemplate that the FOCIL-MB, LLC, as successor Catellus (the "Owner"), will develop the Project in discrete subphases over time as the market dictates, the enforceable obligations bind the Agency regarding all of the subphases and include an irrevocable pledge of tax increment from the Project area and the issuance of bonds secured by the pledge. Approximately 95% of Mission Bay North is complete and approximately 40% of the private development in Mission Bay South is complete. The OPAs remain in effect through the earlier of Project completion or the end of the applicable redevelopment plans (i.e., 30 years from commencement), provided that the Agency has the right and obligation thereafter to pay previously incurred indebtedness, including required Owner reimbursements under the OPAs until the earlier of repayment in full or forty-five (45) years from adoption of the redevelopment plans, to enforce all existing contracts and to complete the Agency's housing obligations.

The OPAs are the main binding agreements that establish the Owner's rights and obligations to develop private property in Mission Bay, to construct related public infrastructure and donate parcels for the development of affordable housing. The OPAs provide comprehensive development standards in numerous attachments that are part of the binding agreements, including the Scope of Development, Infrastructure Plan, Housing Program, and Financing Plan. While there are separate OPAs for Mission Bay North and Mission Bay South, the OPAs are substantially similar, particularly as to the enforceable obligations.

The OPAs require the City, as successor agency, to, among other things:
(1) form community facility districts (CFDs) within the project areas and issue debt secured by the CFD special taxes to finance infrastructure and the maintenance of parks and open spaces;

(2) build a specific amount of affordable housing on specified parcels in the project areas using property tax revenues (former tax increment);

(3) process land use approvals under the approved redevelopment plans and associated land use controls; and

(4) not amend the existing redevelopments plans and associated land use controls without the prior consent of the Owner, as master developer.

In addition to the OPAs, two other sets of binding contracts create the primary set of enforceable agreements that govern development of Mission Bay: the Interagency Cooperation Agreements and the Tax Allocation Pledge Agreements. The Owner is an express third party beneficiary of both of these agreements. The Interagency Cooperation Agreements require the City and Agency to work together to implement the development plans and limit the City's ability to change the land use regulations that govern development without the Owner's prior approval.

The Tax Increment Allocation Pledge Agreements, together with the Financing Plans of the OPAs, commit the Agency to establish CFDs and pledge, for the life of the projects, property tax increment (sometimes referred to below as property tax revenues or former tax increment) from the project areas to finance the construction of public infrastructure and affordable housing. These agreements further require the Agency to issue debt secured by the property tax revenues and CFD funds for these public purposes. As these agreements make clear, the Agency and the City made this pledge of property tax revenues, and the commitment to issue debt, for the Owner's benefit and the Owner relied on it to make significant upfront private investments in the Mission Bay Project and donate land to the State as described below.

The Agency, the City, the Owner and the State entered into binding agreements for the donation by the Owner and the City of 43 acres of land within the Project area to The Regents of the University of California for the UCSF medical research campus. Related property agreements provide for exchanges of title to real property and exchanges of public trust interests within Mission Bay. Among other things, these agreements are necessary to improve public access to the Bay and enjoyment of the waterfront for the people of the State, and to provide a system of parks, open space and roadways for the public's benefit.

The Owner has invested substantial sums and performed significant work in reliance on the enforceable obligations. Development of the Project will produce numerous public benefits for the City, the region and the State. Those benefits include: the revitalization of the project sites; the substantial expansion of the City's supply of market rate and affordable housing; the creation of thousands of jobs; the provision of a variety of publicly accessible open space; the enhancement of public access to the trust properties on the waterfront; and the construction of an entire public infrastructure system. Also, the Project includes development of the new UCSF hospital facilities dedicated to cancer patients, women and children, and the new UCSF campus
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to house UCSF's world renowned faculty and research facilities. Finally, the Project provides significant commercial space for the City's growing biotechnology, internet and multimedia industries, which are vital to the broadening of the City's economic base and increasing tax revenues for the State and local taxing entities.
ENFORCEABLE OBLIGATIONS GOVERNING
SAN FRANCISCO LEGACY PROJECT MISSION BAY NORTH AND SOUTH

I. Introduction: AB 26 Protects Enforceable Obligations And Ongoing Pledges Of Tax Revenues (Former Increment) From Redevelopment Project Areas Under Such Obligations.

Chapter 5, Statutes of 2011, ABx1 26 ("AB 26") requires the City and County of San Francisco (the "City"), as successor agency to the Redevelopment Agency of the City and County of San Francisco (the "Agency"), to make payments under and perform the former Agency's "enforceable obligations", as defined in such act. (See California Health and Safety Code sections 34174(a), 34177(a), (b) and (c)); all section references are to the California Health and Safety Code section 33000 et. seq. (the "CRL") unless otherwise noted.) Under the act's express terms, nothing in AB 26 should be construed to give rise to an event of default under any of the documents governing the enforceable obligations. (See section 34174(a).) An underlying premise of these provisions is to avoid an unconstitutional impairment of contract rights.

AB 26 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", as well as certain other obligations. (See sections 34167(d)(5) and 34171(d)(1).) AB 26 excludes from that definition certain contracts solely between a redevelopment agency and the city or county that formed that redevelopment agency. (See section 34171(d)(2).)

AB 26 requires that successor agencies complete approved development projects that are subject to enforceable obligations by mandating that successor agencies perform those obligations and continue to oversee development until the contracted work has been completed. (See sections 34177(a), (b), (c) and (i).) Importantly, AB 26 expressly requires that pledges of increment associated with enforceable obligations of former redevelopment agencies be honored. (See sections 34175(a), 34172(c) and (d), and 34174(a).) And AB 26 provides for successor agencies to make new pledges of property tax revenues (former tax increment) under pre-existing agreements comprising enforceable obligations, subject to approval of their oversight boards and review by the State Controller and State Department of Finance. (See sections 34180(i) and 34178.)

On January 24, 2012 the City's Board of Supervisors unanimously adopted Resolution No. 11-12 (the "City Resolution"), and on January 26, 2012 the Mayor signed the City Resolution, regarding the dissolution of the Agency and the transfer of its assets and obligations. Consistent with AB 26, the City Resolution provided for the City to accept the Agency's housing assets (including the Low and Moderate Income Housing Fund) upon the Agency's dissolution. The City Resolution also provided for the City to accept all of the other assets of the former Agency and to perform the City's duties under AB 26 as successor agency, including making payments and performing enforceable obligations of the former Agency.

On February 1, 2012, the Agency ceased to exist by operation of law as a result of AB 26 and the California Supreme Court's decision in California Redevelopment Association v.
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Matosantos, No. S194861, which upheld AB 26 and extended AB26's implementation deadlines. The City, as, successor agency to the Agency under AB 26 and the City Resolution, assumed the assets and enforceable obligations of the Agency subject to the terms, conditions and limitations set forth in AB 26. The debt of the Agency has become the debt of the City as the Agency's successor agency, but such debt is payable only from the property tax revenues (former tax increment) or other revenue sources that originally secured such debt. AB 26 expressly limits the liabilities of a successor agency in performing duties under AB 26 to the amount of property tax revenues received by such successor agency under AB 26 (generally equal to the amount of former tax increment received by the former redevelopment agency) and the assets of the former redevelopment agency. AB 26 does not make any of the City's general funds responsible or available to pay or perform the former Agency's enforceable obligations. And AB 26 does not pledge any of the City's general fund revenues to pay any of the former Agency's debt, nor does AB 26 obligate the City's general fund to repay any such debt.

In the City Resolution, the Board of Supervisors identified three major integrated, multi-phase revitalization projects that are vital to the City's future and will achieve numerous public benefits for the City, region and the State. These "legacy" projects include (1) the Mission Bay North and the Mission Bay South Redevelopment Projects (collectively "Mission Bay"), (2) Phases One and Two of the Hunters Point Shipyard Redevelopment Project and Zone 1 of the Bayview Hunters Point Redevelopment Project (collectively, "Hunters Point Shipyard/ Candlestick Point"), and (3) parts of the Transbay Transit Center Redevelopment Project, including Zone 1 ("Transbay"), (including Zone 1) (collectively, the "Major Approved Development Projects"). The Board of Supervisors found that the enforceable obligations for the Major Approved Development Projects include the continuing pledge for the duration of those projects of property tax revenues generated in the project areas (former tax increment) for building public infrastructure, public facilities and affordable housing.

In the City Resolution, the Board of Supervisors also found that the terms of the enforceable obligations for the Major Approved Development Projects specifically oblige the issuance of bonds or other evidences of indebtedness, with such bonds to be repaid through such pledges of tax revenues. To fulfill the enforceable obligations with third parties under the Major Approved Development Projects, the City as successor agency must issue or otherwise ensure the issuance of new bonds secured by the pledges of property tax revenues from such areas or otherwise payable from such property tax revenues, subject to approval by the new oversight board and review by the State Department of Finance under the process contemplated by AB 26. Private developers and other third parties have acted in good faith reliance on these enforceable obligations and invested substantial private funds and state and federal grant monies, and donated land to the State, in the Major Approved Development Projects, which are underway and in various stages of development.

II. The Mission Bay Project.

A. Overview: Two Related Projects That Are Governed By Enforceable Obligations.

In November 1998, the City's Board of Supervisors approved Redevelopment Plans for Mission Bay North and for Mission Bay South (the "Redevelopment Plans"), establishing the
Mission Bay North and South Redevelopment Project Areas, which together cover approximately 300 acres. Mission Bay is a mixed-use, mixed-income transit-oriented development that is well in progress. At full build-out, it will contain up to 6,000 new residential units, including 1,900 affordable units. The project includes up to 4.4 million square feet of private commercial space, including office space for high tech companies and laboratory space for biotechnology and life science companies. Importantly, the project has at its center a 43-acre research campus for the University of California, San Francisco ("UCSF") and a new UCSF medical center serving children, women and cancer patients. It also includes neighborhood-serving retail, a new hotel, and other public facilities, such as a new public library, new local fire and police stations, and possibly a new public school.

Also in November 1998 in conjunction with the approval of the Redevelopment Plans, the Agency and the master developer and owner of most of the land in the project areas, Catellus Development Corporation, entered into the OPAs for the Mission Bay North and South projects. FOCIL-MB, LLC, an entity that Farallon Capital Management controls, is the successor in interest to Catellus and holds all of Catellus’ rights and obligations under the OPAs (the "Owner"). The Redevelopment Plans, OPAs, and Designs for Development, together with the other agreements described in this summary, govern development in the two project areas.

While planning for the Mission Bay North and Mission Bay South projects are closely intertwined, and the public's ability to realize the full benefits of each project depends on the successful development of both projects, development of Mission Bay North is not legally dependent on development of Mission Bay South, nor does development of Mission Bay South legally depend on development of Mission Bay North.

In addition to the OPAs between the Agency and the Owner, two other sets of binding contracts create the primary enforceable obligations that govern development of Mission Bay: the Interagency Cooperation Agreements and the Tax Allocation Pledge Agreements. The Interagency Cooperation Agreements, to which the Owner is an express third party beneficiary, commit City departments and the Agency to work together in implementing the plans for infrastructure and other improvements in Mission Bay and limit the City's ability to change the land use regulations that govern development without the Owner's approval. These commitments extend through the entire life of project sites, which are expected to be built out within 25 to 30 years from the date the Board of Supervisors ordinances approving the Redevelopment Plans became effective, that is, by between 2024 and 2029.

The Tax Increment Allocation Pledge Agreements for the Mission Bay North and South Project Areas ("the "Tax Allocation Pledge Agreements"), which are agreements between the City and the Agency, to which the Owner is an express third party beneficiary, together with the Financing Plans of the OPAs, commit the Agency (1) to establish Community Facilities Districts ("CFDs") to help pay to construct infrastructure and public facilities and pay for parks maintenance and operations and (2) for the life of the projects to pledge property tax increment from the projects areas to finance the construction of public infrastructure and affordable housing

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1 On November 22, 2004, FOCIL-MB, LLC became owner and successor in interest to the OPAS.
in Mission Bay. Those commitments include the express covenant to issue bonds secured by those special tax revenue pledges. Under the Infrastructure Plans (Attachment D to the OPAs), and consistent with the Interagency Cooperation Agreements, the Owner is obligated to construct all the streets, utilities and other public infrastructure, as well as approximately 41 acres of new public parks. The Housing Plans (Attachment C to the OPAs) obligate the Agency, using the minimum 20% of property tax increment set aside under the CRL for affordable housing (the "Housing Increment"), to construct affordable housing on the completed Mission Bay parcels that the Owner provides, with infrastructure to the parcel boundaries.

The Agency, the City, the Owner and the State also entered into binding agreements providing for the donation of 43 acres of land at the project's heart to The Regents of the University of California for the UCSF medical research campus. Related property agreements provide for exchanges of title to real property and exchanges of public trust interests within Mission Bay. Among other things, these agreements are necessary to improve public access to the Bay and enjoyment of the waterfront, and to provide a system of parks, open space and roadways for the public's benefit.

Accordingly, the development of Mission Bay through its full build out is subject to enforceable obligations as defined in AB 26\(^2\). Those enforceable obligations consist of legally binding and enforceable agreements that the Agency entered into with, or for the express benefit of, third parties (i.e., parties other than the Agency and the City). Significantly, the Owner and the City have donated land to the State, and the Owner, other private parties and UCSF have invested substantial sums in construction in good faith reliance on these pre-existing contracts. The Mission Bay projects are well underway. In 2000, the Owner began construction in Mission Bay North and in 2001 in Mission Bay South. Under these agreements, the commencement of construction over a decade ago triggered continuing development obligations and established rights that the Owner holds to complete the project.

Since construction began, the Owner has diligently pursued development in Mission Bay. Indeed, about 95% of the private development of Mission Bay North and about 40% of the private development in Mission Bay South is complete. To date, about 3,126 of the project's 6,000 residential units have been constructed, of which nearly 700 are affordable housing units. About 450 residential units are under construction. Commercial space consisting of about 1.9 million square feet has been constructed, and UCSF has completed six of the 12 buildings on the research campus. Fourteen of the 41 acres of new public parks are complete. But there remains significant roadway and utility infrastructure in Mission Bay South to complete, and the Owner is entitled to be reimbursed from tax revenues (former increment) for its investment in this infrastructure under the enforceable agreements.

The Owner and other private parties continue to invest in particular Mission Bay projects in reliance on the OPAs and other binding agreements, which include the following: (1) the pledge of former tax increment from the Mission Bay project sites to finance the build out of infrastructure for the entire project and the construction of affordable housing, including the covenant to issue bonds or other indebtedness secured by the pledge of increment; (2) the

obligation to create CFDs and to finance the build out of infrastructure through such CFD special
tax revenues, including the issuance of bonds or other indebtedness secured by the tax revenues
under such districts, and to maintain park land and open spaces for public purposes under the
CFDs; and (3) the obligation to process land use approvals under the approved Redevelopment
Plans and designated land use controls. All of these enforceable obligations pre-date January 1,
2011 and all involve contract rights of third parties (other than simply the Agency and the City)
that further important public policies and are consistent with the laws governing debt limits.

The redevelopment of Mission Bay affords numerous public benefits for the City, the
region and the State. Those benefits include the revitalization of the project sites; the substantial
expansion of the City's supply of market rate and affordable housing; the creation of thousands
of jobs; the provision of a variety of publicly accessible open space; the enhancement of public
access to the trust properties on the waterfront; and the construction of an entire public
infrastructure system. Also, the redevelopment of the South Plan Area provides for development
of new UCSF hospital facilities dedicated to cancer patients, women and children, and the
establishment of a campus to house UCSF's world renowned faculty and research facilities.
Development of Mission Bay South also promotes the City's growing biotechnology, internet
and multimedia industries, which are vital to the broadening of the City's economic base and
increasing tax revenues for the State and local taxing entities.

III. The Mission Bay Agreements Are Enforceable Obligations.

A. The Mission Bay OPAs.

In furtherance of the implementation of the Redevelopment Plans, the Agency entered
into the OPAs with the Owner. The OPAs are the main binding agreements that establish the
Owner's rights and obligations to develop private property in Mission Bay, to construct related
public infrastructure and donate parcels for the development of affordable housing. The OPAs
provide comprehensive development standards in numerous programs and plans that are OPA
attachments (and made part of those binding agreements), including the Scope of Development,
Infrastructure Plan, Housing Program, and Financing Plan. There are separate OPAs for Mission
Bay North and Mission Bay South, but the OPAs are substantially similar, particularly as to the
enforceable obligations that are the subject of this analysis. The OPAs control all the private
development in Mission Bay (with the exception of a few parcels that the Owner does not own)
throughout the life of the Redevelopment Plans. As land is purchased from the Owner, the new
owners become parties to the OPA, rather than entering into separate agreements with the
Agency.

The OPAs provide for the horizontal and vertical development of "Major Phases" of the
project sites, including the completion of all infrastructure, buildings, and other structures. A
Major Phase roughly corresponds to a large urban block. In Mission Bay North, the Owner has

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3 Given the similarity of the language in the Redevelopment Plans, OPAs and related documents,
this summary refers to both Mission Bay North and Mission Bay South documents with one
citation unless the pagination or sections of the two documents are different. All references to
the "project" refer to both the Mission Bay North and South projects, unless otherwise noted.
the right to build up to 2,400 market-rate units and up to 500,000 square feet of retail uses; in Mission Bay South, the Owner has the right to construct up to 1,935 market-rate housing units, up to 5,000,000 square feet of commercial industrial uses, up to 230,000 square feet of retail uses, and an up to 500-room hotel.

Under the OPAs, both the Owner and Agency have construction obligations. The Owner has the primary obligation to construct infrastructure, including open space, streets, and related structures; it also has the obligation to provide inclusionary affordable housing units in its market-rate residential buildings in Mission Bay North. The Agency has the primary obligation to build affordable housing on parcels that the Owner has contributed and prepared for development, as the Owner builds out its private parcels.

B. The Enforceable Obligations For Infrastructure Financing Under The OPAs And Tax Allocation Pledge Agreements.

The Infrastructure Plans (Attachment D to both OPAs) describe all infrastructure improvements that the Owner must build and transfer to the City or the Agency (the "Infrastructure"). These improvements include the street system, open space, sewer and water systems, and other public improvements.

The Financing Plans (Attachment E to both OPAs) describe how these improvements are financed, which includes the use of special tax revenues from the CFDs and the pledge and allocation of property tax increment in accordance with the CRL. Specifically, the Financing Plans require the Agency to provide for the financing of the Infrastructure: (i) through the establishment of one or more CFDs and the issuance of bonds for such CFDs; and (ii) with respect to Infrastructure, through the use of net available increment (i.e., all tax increment net of (1) the Housing Increment, (2) required pass-through payments to other taxing agencies, and (3) Agency costs not otherwise paid from other sources; the "Net Available Increment") and the issuance of bonds secured by a pledge of, or otherwise payable from a contribution of, such funding sources as described in this Financing Plan and subject to applicable law. (See Section 2.A.i of Financing Plans at page 4.)

The Agency and the Owner expected that the annual levy of special taxes and the indebtedness of any CFDs (other than (i) special taxes and CFDs used for maintenance as described below and (ii) any portion of an indebtedness of a CFD that financed Infrastructure outside of, and not of primary benefit to, the redevelopment project area) would be reduced and

4 The Owner and the Agency also entered into acquisition agreements whereby the Agency acquires the Infrastructure that the Owner has constructed (the "Acquisition Agreements").

5 The Owner’s performance under the Infrastructure Plan is conditioned on the prior receipt of all requisite City and Agency approvals. The Interagency Cooperation Agreement between the City and the Agency, with the Owner as an express third-party beneficiary, provides that the Agency and City will cooperate to issue such approvals, permits, entitlements agreements, permits to enter, and subdivision acts and perform such other acts to permit the development of the Infrastructure Improvements. (See Section 5.1 of the Redevelopment Plans)
refunded, respectively, over time. This repayment would occur by using Net Available Increment and debt of the Agency secured by Net Available Increment ("Tax Allocation Debt") to pay directly or indirectly (for example, by servicing indebtedness) for Infrastructure constructed within or of primary benefit to the redevelopment project area, to the extent that sufficient Net Available Increment is generated during the term of the redevelopment plan. (See Section 2.B.ii, 3.D.iii and 4.B.i of the Financing Plans.) The City and the Agency entered into a tax increment administration agreements for Mission Bay North and Mission Bay South (the "Tax Increment Administration Agreements") to govern the administration and disposition of Net Available Increment consistent with the Financing Plans and the Tax Allocation Pledge Agreements.

The Financing Plans expressly state that they are intended to create an indebtedness of the Agency under Section 33670(b) of the Redevelopment Law, secured by an Agency pledge of Net Available Increment. (See Section 2.C.i. of the Financing Plans at page 5.) Under Section 4.A of the Financing Plans, the Agency pledged and agreed to use all of the Net Available Increment from the project area to pay or reimburse the costs of the Infrastructure and the affordable housing, and to take all actions necessary under the Tax Allocation Pledge Agreement to ensure that Net Available Increment will be available for the Project. "The Agency hereby agrees to use Net Available Increment to pay or reimburse the costs of the Infrastructure constructed or to be constructed" for the benefit of the project area. (See Section 4.A.i. of Financing Plans at p. 10.) Furthermore, "[a]ny Net Available Increment shall be used . . . to make payments on indebtedness of CFDs . . ., make payments on Tax Allocation Debt the proceeds of which are used to pay or reimburse the costs of Infrastructure . . . or to refund or defease such indebtedness of CFDs prior to maturity . . . or . . . to pay or reimburse directly the costs of such Infrastructure." (See Section 4A.ii. of Financing Plans at page 10.)

The Financing Plans oblige the Agency to issue Tax Allocation Debt (including bonds and loans) secured by Net Available Increment from the redevelopment project areas, to pay for Infrastructure and other permitted costs:

From time to time, so long as any of the Infrastructure has not been completed or the costs of Infrastructure have not been reimbursed to the Owner from the proceeds of Net Available Increment or Tax Allocation Debt, the Owner Representative may submit a written request that the Agency issue CFD debt or Tax Allocation Debt . . . Following the receipt of any such written request, Agency staff and appropriate Agency consultants shall meet and confer with the Owner Representative as to the amount and timing of the proposed bond issue, pursuant to the procedures set forth in Section 4.B.i.

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The Agency acknowledges that one of the costs of Infrastructure to be reimbursed to the Owner is the reasonable cost of construction financing for the Infrastructure (subject to the limitations contained in Section 6.A.v.) and that it is intended that Infrastructure Costs be fully reimbursed from Net Available Increment or proceeds of Tax Allocation Debt to the extent the Infrastructure is constructed within or of primary benefit to the North Plan Area.
At the same time that the Agency entered into the OPAs, the City and the Agency entered into the Tax Allocation Pledge Agreements, in which the City and the Agency irrevocably pledged all Net Available Increment from the project sites to finance the construction of Infrastructure and other qualified project costs, including affordable housing.

[T]he City recognizes and approves the assumption of indebtedness by the Agency under the Financing Plan for the purpose of financing or refinancing, in whole or in part, the construction of all Infrastructure required for the [project sites] in accordance with the terms and conditions of the Financing Plan, and the City agrees that all Net Available Increment . . . and any interest earnings thereon shall be irrevocably pledged by the Agency, as a first pledge, for the payment of principal of and interest on such indebtedness of the Agency.

(Section 2 of Tax Allocation Pledge Agreements at page 5.)

The Owner is a third party beneficiary of the Tax Allocation Pledge Agreements, with enforceable rights. Section 1 of the Tax Allocation Pledge Agreements at page 5 provides that the Owner "is entitled to rely on this Agreement, receive benefits conferred by this Agreement and enforce any provision of this Agreement against any party to this Agreement." The Owner also signed a separate consent form, attached to the Tax Allocation Pledge Agreement, stating that the Owner "consents to such Agreement, and further hereby specifically agrees to be bound by Section 12 of the Agreement relating to limitations on remedies (as between Owner and the City or the Agency)."

To date, the Agency and Owner have used CFD financing and tax increment financing, including the debt issuance secured by CFD special tax revenues and Net Available Increment, to complete nearly 65% of the total Mission Bay Infrastructure that is the Owner's obligation (at a total cost of approximately $700 million). The Owner has only been reimbursed for about 50% of those costs. Consequently, these financing mechanisms in the OPAs and the Tax Allocation Pledge Agreements will continue to be needed to complete the Project consistent with the OPAs. The Agency and the City made these enforceable obligations—the pledge of all of the Net Available Increment from the project area for the life of the projects, the promise to create CFDs, and the promise to issue Tax Allocation Debt and CFD bonds—to induce and enable the Owner to donate land to the State and to invest the substantial upfront private contributions required to begin, and that will be required to complete, the development. The Agency, the City and the Owner understood and agreed that the Project could not be completed without these revenues and debt issuances, and that the Owner would not have begun to undertake the development without those assurances. Similarly, UCSF would not have invested in the development of the new research campus or the new hospitals without those assurances.

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6 Mission Bay South Financing Plan at pages 13-14.
C. The Enforceable Obligations For Affordable Housing Under The OPAs And Tax Allocation Agreements.

Under the OPAs and the Housing Programs (Attachment C to the OPAs), the Owner must transfer up to 14 acres of "building ready" land that has been remediated (in terms of hazardous materials), graded, and served by Infrastructure, for the development of affordable housing within the project sites. The parties identified specific parcels for the affordable housing. The Agency may use these parcels only for Agency sponsored affordable housing units and ancillary uses consistent with "Redevelopment Requirements", which is defined to include the redevelopment plans, scope of development, design for development and Agency-approved constructions documents. (See Sections 3.4 of the Mission Bay South Housing Program at page 21 and Section 4.4 of the Mission Bay North Housing Program at page 29.)

The Owner's market rate residential developments, in Mission Bay North but not Mission Bay South, include inclusionary below market rate housing that will not receive any subsidies from the Housing Increment. The parties recognized the importance of integrating and simultaneously developing the market rate and affordable housing. Accordingly, the Agency and Owner selected affordable housing lots throughout the residential districts of the project sites. The Agency is obligated to develop the affordable housing lots as Housing Increment becomes available. The purpose of this deal structure is to limit the number of undeveloped parcels that could adversely affect the value of surrounding private properties. The Financing Plans require the Agency to use the Housing Increment generated within the project sites to finance the development of affordable housing. (See Section 4.B of the Financing Plans.) If there is any Net Available Increment that is not needed to pay debt service on Infrastructure financing or to reimburse the Owner for Infrastructure costs, then the Agency must use that increment (the "Excess Increment") for affordable housing development.

The Agency hereby agrees to use Housing Increment and Agency Excess Increment for the payment of the costs of predevelopment, development or construction of Affordable Housing Units developed or to be developed by the Agency or Qualifying Housing Developers within the North and South Plan Areas as provided herein and in the Tax Allocation Agreement, to the extent such Housing Increment and Agency Excess Increment is necessary to finance the development of such units in accordance with the Housing Program and to obtain the necessary appropriation from the Board of Supervisors under the Tax Allocation Agreement for such purposes.

(Section 4.B.iii of Mission Bay North Financing Plan at page 13 and Mission Bay South Financing Plan at pages 12-3.) (See also Section 2.C.v. of Mission Bay North Financing Plan at page 7, "[T]he Agency hereby covenants to expend or encumber Housing Increment in a

7 See Exhibit G, Approved Sites, to the Mission Bay North Housing Program; Exhibit F to the Mission Bay South Housing Program.

8 After the Fourth Amendment to the Mission Bay North OPA, all Excess Increment, not just Agency Excess Increment, became available for the Housing Programs.

9 Section 2.C.v. of Mission Bay South Financing Plan at page 6.
manner so as to avoid the sanctions [in the CRL relating to an agency's failure to spend housing funds in a timely manner].")

In sum, the OPAs, including the Housing Programs, create specific enforceable obligations relating to the completion of affordable housing on the project site, and the Agency and the Owner agreed to these obligations to satisfy the requirements of the CRL. AB 26 expressly includes within the definition of enforceable obligations "payments required by ...obligations imposed by state law." (See section 34170(d)(a)(C).) The Owner agreed to build all of the necessary Infrastructure and provide lots ready for the development of affordable housing. The Agency agreed to build approximately 1,445 Agency affordable housing units and pledged all of the Housing Increment and the Excess Increment for affordable housing development. The Agency further agreed to issue debt to finance these costs, as described in Section II.B above and supported by the Tax Allocation Pledge Agreements. To date, the Agency has used the Housing Increment to complete 674 units of affordable housing and to put another 350 units in the predevelopment or construction phase.

**D. The Enforceable Obligations to Create Mello Roos Community Facilities Districts to Finance Infrastructure and Maintain Parks and Open Space under the OPAs.**

Under the Financing Plans, the Agency agreed to establish CFDs under the Mello-Roos Community Facilities Act of 1982 (the "Act") at the Owner's request, to help finance the construction of required infrastructure. (See Sections 2.A and 3.A of the Financing Plans.) The Owner may begin the process by petitioning from time to time to establish one or more CFDs. (See Section 3.A.ii. of the Mission Bay North Financing Plan at page 8.) The Owner may propose boundaries for, and specific infrastructure to be financed by, any CFDs. (See Section 3.A.ii. of the Mission Bay North Financing Plan) Following the Owner's request, the Agency must adopt a resolution of intention to form the CFD, call for a public hearing, arrange for a vote on the CFD's formation and "take all actions necessary" to form the CFD after a vote in favor of the CFD formation. (See Section 3.A.ii of Mission Bay North Financing Plan at page 8, and see also Section 2.A.i of the Financing Plans at page 4, "The Agency will provide for the financing of the Infrastructure . . . through the establishment of one or more CFDs and the issuance of bonds for such CFD. . . .")

The CFDs, through the Agency, levy special taxes and issue CFD bonds to finance the acquisition of Infrastructure and other improvements described in the Financing Plans. Net Available Increment is used to reduce the special taxes levied on property in the CFDs or pay CFD indebtedness. (See Section 3.D.iii of Mission Bay North Financing Plan at page 10, and see also Section 4.B.i of the Mission Bay North Financing Plan at page 12). Owner contributions and CFD funds enabled the payment of project expenses, particularly Infrastructure, before the project generated enough property tax increment to pay for these expenses. But after the project

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10 Section 3.A.ii. of the Mission Bay South Financing Plan at page 7.
11 Section 3.A.ii. of Mission Bay South Financing Plan at page 7-8.
sites started to generate property tax, both property tax increment and CFD financing paid for or directly reimbursed the Owner for qualified project costs.

The project includes about 41 acres of parks and open spaces, as well as improved streetscapes with environmental sustainability features, and the parties agreed that ongoing maintenance of these "green" spaces would be financed through CFDs. "The Agency agrees to undertake proceedings to form and the [Owner] agrees to petition and vote in favor of, a CFD for the purpose of providing monies to pay for ongoing maintenance of Open Space Parcels, including but not limited to landscaping in public plazas and public parks within [the project area]." (See Section 7.A.i. of Mission Bay North Financing Plan at page 16.) Using the proceeds of the maintenance special taxes, the Agency is obligated, among other things, to remove debris, maintain, replace and repair all improvements and landscaping, maintain lighting, and provide security in the Open Space Parcels. (See Section 7.A.ii of the Mission Bay North Financing Plan at page 16 and Section 7.A.ii of the Mission Bay South Financing Plan at page 15.) All maintenance CFDs have a term of 45 years from the effective date of the applicable redevelopment plans.

The Agency and Owner understood and agreed that CFD financing, both for construction costs and for ongoing public park maintenance costs, was an integral part of the project. Like property tax increment financing, CFDs and debt secured by CFD funds were an essential component of financing structure under the OPAs, upon which the Owner and other third parties relied. For all these reasons, the Agency's obligation to create CFDs, levy special taxes and issue debt secured by CFD revenues, as well as Net Available Increment, is an enforceable obligation under the Financing Plans.

The use of CFD special tax revenues is not subject to the requirements of AB 26, including approval by the oversight board or review by the Department of Finance or the State Controller, because their expenditure on project costs has already been approved by the Agency and the City in the OPAs, the Financing Plans, and the Tax Allocation Pledge Agreements, and CFD special tax revenues are revenues of the CFDs (under Government Code Section 53317(b)) rather than the Agency. Each CFD is a separate legally constituted governmental entity, with a fiscal agent agreement and related documents governing initial bond issuance and subsequent parity bond issuance, and the pledge and allocation priority of tax revenues.

Also, as to existing CFD bonds and issuing new CFD bonds in Mission Bay: (i) the Agency already approved the issuance of bonds, including not only an initial series but also multiple series of subsequent parity bonds (approximately $154 million to date, with additional issuances to occur in the future), under a fiscal agent agreement for each CFD; (ii) the City already approved the issuance of those bonds, under the Tax Allocation Pledge Agreements (Section 4); (iii) the Agency already pledged the CFD special taxes and tax increment to pay for those bonds, under the fiscal agent agreements; and (iv) the Agency already provided for the deposit of the pledged increment in an account held by a trustee and directed the manner in which the funds would be allocated and disbursed by the trustee, under the Tax Increment

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12 Section 7.A.i. of Mission Bay South Financing Plan at page 15.
Exhibit B-1

Administration Agreements (i.e., first, to pay specified Agency debt; second, to pay debt service on any CFD bonds; and third, to pay project costs).

In sum, no aspect of the CFD financing in Mission Bay is subject to approval by the oversight board or review by the Department of Finance or the State Controller under AB 26 except solely for the use and allocation of pledged increment to pay CFD debt.

E. **The Enforceable Obligations To Process Entitlements In Accordance With Specific Land Use Controls – Including the Redevelopment Plans - Under The OPAs.**

Under the OPAs, the development of Mission Bay occurs in phases that the Owner deems appropriate. (See Section 3.1 of the OPAs.) "[T]he Owner shall determine in its sole and absolute discretion the area to be developed in each Major Phase, the sequence and mix of commercial and residential development within each Major Phase . . . and the Individual Projects within each Major Phase." (See Section 3.1 of the OPAs at Page 11.) The development of each phase, however, must comply with the Redevelopment Requirements of the Plans, OPAs, and related plan documents.

The Design Review and Document Approval Procedure (the "DRDAP"; Attachment G to the OPAs) provides that the Agency, working with the City's Planning Department and other City departments, will review all development within the project areas, including Major Phases consisting of the specific plan for each block, with related infrastructure and open space improvements, and individual building projects. The submission of design plans and documents for any specific building must be consistent with the requirements established for each Major Phase.

The DRDAP sets forth the review and approval process for Major Phases and all horizontal and vertical development within the project area, and provides for the Agency's review and approval of design and construction documents (including basic concept designs, schematic design, design development documents and final construction documents) before the start of construction of any permanent improvements in Mission Bay. The DRDAP provides for a timely review process by the Agency, including the timing of the Agency's review for each stage of submittals, and for a process to allow coordination with City agencies, including the Port and the Planning Department.

The Agency may reject applications and submittals only to the extent that they do not conform to prior project approvals and the Redevelopment Requirements. As set forth in the DRDAP, the Agency shall not disapprove any Major Phase submittal, also referred to as "Concept Plans", require changes from or impose conditions inconsistent with the redevelopment plans or the plan documents, or with matters it has previously approved. (See Section II.A. of DRDAP at page 3.\textsuperscript{13}) This basic rule, disallowing rejections of items that conform to or are consistent with the OPAs and the Redevelopment Requirements, is repeated throughout the OPAs and the DRDAP for the discretionary approvals by the Agency. (See also Section III.A. of 12270.002.2003729v4 15

\textsuperscript{13} Section II.A. of Mission Bay South DRDAP at page 4.
DRDAP at page 6 regarding review and approval of design plans and construction documents, "[t]he Agency shall not disapprove, require changes from or impose conditions inconsistent with [the Plans] or Plan Documents or matters it has previously approved. . . .")

At this stage of OPA implementation, where the Owner has not only commenced construction but also completed substantial portions of the project (and in Mission Bay North nearly all of the project), the Agency has no right under the OPAs to terminate those agreements unless the Owner abandons construction for a period of 10 years. Furthermore, the Redevelopment Plans limit the authority of the Agency and City to impose new City Regulations, including new City zoning, or to impose changes to the Existing City Regulations that conflict with (including materially increasing cost of) the development allowed under the Redevelopment Plans. (See Section 304.9 C.iv. of the Mission Bay North Redevelopment Plan. 14)

In summary, the Agency agreed, through long-standing binding agreements with the Owner — the OPAs — and the City and the Agency agreed through the related binding Interagency Cooperation Agreements (that were also attached to each of the OPAs and to which the Owner consented and was an express third party beneficiary) — that the Agency and the City would not take any action that limits or reduces the development, adversely affects the development, or that makes the development more expensive.

14 Mission Bay South Redevelopment Plan at page 24.