

ATTACHMENT C

MISSION BAY NORTH  
HOUSING PROGRAM

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ATTACHMENT C

MISSION BAY NORTH  
HOUSING PROGRAM

SUMMARY

This Housing Program for the Mission Bay North Plan Area describes the development of approximately three thousand (3,000) Market Rate and Affordable Housing Units in the North Plan Area.

Of the total number of Residential Units in the North Plan Area, the Owner may develop up to two thousand four hundred (2,400) Market Rate Residential Units and up to two hundred fifty-five (255) Owner Affordable Housing Units. The total number of Owner Affordable Housing Units is linked to the total amount of residential development in the North Plan Area. The Owner Affordable Housing Units will be allocated among affordability levels, as described in this Housing Program, such that the Owner Affordable Housing Units will be Affordable to very low income households earning up to fifty percent (50%) of Area Median Income, low income households earning up to seventy percent (70%) of Area Median Income, and moderate income households earning up to one hundred ten percent (110%) of Area Median Income. All of the Owner Affordable Housing Units will be subject to deed restrictions to ensure continued affordability at such levels for a seventy-five (75) year period.

The Agency will oversee the development by Qualified Housing Developers of up to three hundred forty-five (345) Agency Sponsored Affordable Housing Units in the North Plan Area, subject to the adjustments described in this Housing Program. The Owner will contribute to the Agency between two and one-half (2.5) and three and eight-tenths (3.8) acres of land in the North Plan Area for the development of such Residential Units. The Owner will remediate and provide Infrastructure on such land in accordance with the North OPA. The amount and timing of the Owner's land contributions is dependent on the amount and pace of the Owner's residential development in the North Plan Area. The Owner and the Agency have designated the location of Agency Affordable Housing Parcels, which are distributed throughout the North Plan Area. In addition, to facilitate the development of Agency Sponsored Affordable Housing Units, the Owner will establish a revolving loan fund of \$500,000 to provide predevelopment funding to the developers of such Residential Units.

Twenty percent (20%) of the total tax increment generated in the North Plan Area will be used for the development of the Agency Sponsored Affordable Housing Units in the North Plan Area. In addition, if during the term of the Mission Bay North Redevelopment Plan there is available tax increment from development in the North Plan Area that is not required to pay for Infrastructure, then such Excess Increment shall be made available to fund construction of the Owner Very Low Income Units and the Agency Sponsored Affordable Housing Units to the Owner and the Agency, in accordance with this Housing Program and the Financing Plan. Finally, the Agency may use its share of available tax increment or other funding sources to

further “buy down” the affordability levels of Owner Moderate Income Units, so that more Owner Low Income Units are provided.

The foregoing summary is provided for the convenience of the reader and for informational purposes only. In case of any conflict, the provisions of the Housing Program and North OPA shall control.

1. Definitions.

Initially capitalized terms unless separately defined in this Housing Program have the meanings and content set forth in the North OPA. Terms defined in the North OPA or the Financing Plan attached thereto and also set forth in this Housing Program are provided herein for convenience only.

1.1 Abandons or Abandonment has the meaning set forth in the North OPA, and is also set forth in Section 3.5 hereof.

1.2 Additional Land has the meaning set forth in Section 3.4 hereof.

1.3 Additional Land Formula has the meaning set forth in Section 3.4 hereof.

1.4 Affordable means, (a) with respect to a Rental Residential Unit, a monthly rental charge, including a utility allowance in an amount determined by the San Francisco Housing Authority, which does not exceed thirty percent (30%) of the maximum Area Median Income permitted for the applicable type of Residential Unit, based upon Household Size; and (b) with respect to a For-Sale Residential Unit, a purchase price based on a five percent (5%) down payment and a commercially reasonable thirty (30) year fixed mortgage with commercially reasonable rates, points and fees with a total of annual payments for principal, interest, taxes and homeowner’s association dues which does not exceed thirty three percent (33%) of the maximum Area Median Income permitted for the applicable type of Residential Unit, based upon Household Size.

1.5 Affordable Housing Land Contribution has the meaning set forth in Section 3.3 hereof.

1.6 Affordable Housing Parcel Deed has the meaning set forth in Section 4.4 hereof and is substantially in the form of Exhibit J hereto.

1.7 Affordable Housing Units means Residential Units constructed in the North Plan Area which shall consist of the Owner Very Low Income Units, the Owner Low Income Units, the Owner Moderate Income Units and the Agency Sponsored Affordable Housing Units.

1.8 Agency Affordable Housing Parcel means a parcel contributed to the Agency as part of the Affordable Housing Land Contribution, the Additional Land (if applicable) and the One-Half Acre Contribution.

1.9 Agency Buy-Down Commitment has the meaning set forth in Section 2.5.

1.10 Agency Buy-Down Subsidy has the meaning set forth in Section 2.5.

1.11 Agency Construction Date has the meaning set forth in Section 4.2(a) hereof.

1.12 Agency Costs has the meaning set forth in the North OPA as follows: The reasonable costs and expenses actually incurred and paid by the Agency not inconsistent with the purposes of the North OPA, including reasonable costs and fees of third-party professionals necessary for the Agency to perform its duties hereunder, costs incurred and paid by the Agency to City departments (excluding costs included in any City permit application or processing fees paid directly by Owner to City) excluding therefrom (i) general and administrative costs or overhead of the Agency except for costs directly attributable to staff time allocable to implementation of the development contemplated hereunder, (ii) any costs incurred prior to the Effective Date of the North OPA, (iii) fees or costs incurred in connection with an amendment of the Mission Bay North Redevelopment Plan or Plan Documents not consented to by Owner in accordance with the North OPA, and (iv) litigation costs otherwise potentially recoverable pursuant to the North OPA.

1.13 Agency Sponsored Affordable Housing Unit means a Residential Unit constructed by the Agency or a Qualified Housing Developer which is Affordable to households earning up to one hundred ten percent (110%) of Area Median Income and offered in accordance with this Housing Program and the North OPA.

1.14 Approved Sites has the meaning set forth in Section 3.1 hereof.

1.15 Approved Title Exceptions has the meaning set forth in Section 3.6 hereof and set forth in Exhibit E hereto.

1.16 Base Agency Buy-Down Subsidy has the meaning set forth in Section 2.5 hereof.

1.17 Commence Construction has the meaning set forth in the North OPA as follows: groundbreaking in connection with the commencement of physical construction of the Improvements.

1.18 Complete Construction or Completed Construction has the meaning set forth in the North OPA as follows: (i) with respect to Residential Units within a Residential Project, the issuance of a final Certificate of Occupancy for such development, and with respect to a non-residential Project, the issuance of a temporary certificate of occupancy, and (ii) as to either, the delivery of an Architect's certificate from the Owner's architect in the form of Attachment J to the North OPA.

1.19 Declaration of Restrictions has the meaning set forth in Section 2.6 hereof.

1.20 Development Notice has the meaning set forth in Section 4.2(b) hereof.

1.21 Excess Increment has the meaning set forth in the Financing Plan and is summarized herein as follows: Excess Increment is described as tax increment generated in the North Plan Area in any year (excluding amounts set aside for housing or statutory pass-throughs

to other taxing entities, or needed for Agency administration), in excess of amounts needed to pay debt service on bonds issued to support Infrastructure construction or to pay for Infrastructure directly, of which up to 50% shall be Owner Excess Increment available to support Owner's requirement to construct Owner Very Low Income Units as described in Section 2.4 hereof, with the remainder of Excess Increment to be made available to the Agency to assist in the production of Agency Sponsored Affordable Housing Units ("Agency Excess Increment").

1.22 Excess Rental Use Restriction Credits has the meaning set forth in Section 6.

1.23 For-Rent or Rental means a Residential Unit which is not a For-Sale Residential Unit.

1.24 For-Sale or Sale means a Residential Unit which is intended at the time of Complete Construction to be offered for sale, e.g., as a condominium for individual Residential Unit ownership.

1.25 Household Size means the total number of bedrooms in a Residential Unit plus one (1).

1.26 Major Phase Housing Data Table has the meaning set forth in Section 2.2 hereof.

1.27 Market Rate or Market Rate Residential Unit means a Residential Unit which has no restrictions under this Housing Program or the North OPA with respect to affordability levels or income restrictions for occupants.

1.28 Memorandum of Option has the meaning set forth in Section 3.6 and is substantially in the form of Exhibit H hereto.

1.29 Mid Block Walkways or Mid Block Lanes means a pedestrian-oriented walkway through a development project. On Parcels N3, N3a, N4 and N4a, a Mid-Block Lane shall be a minimum of 30 feet wide. Such walkway or lane may be for pedestrians only or may, in Owner's discretion, also provide vehicular access, additional building frontage and on-street parking. On Parcels N1 and N2 walkways or lanes shall be at least 20 feet wide at either ground or podium level. The location of walkways or lanes shall be determined at the time of approval of a Major Phase.

1.30 Minimum Acreage has the meaning set forth in Section 3.5(a) hereof.

1.31 Monetary Liens has the meaning set forth in Section 3.6(e).

1.32 North Affordable Housing Loan Fund has the meaning set forth in Article 5 hereof.

1.33 One-Half Acre Contribution has the meaning set forth in Section 3.3(a)(ii) hereof.

1.34 Owner Affordable Housing Unit means an Affordable Housing Unit to be constructed by the Owner pursuant to this Housing Program and the North OPA which shall be

either For-Rent or For-Sale housing offered in accordance with the terms of this Housing Program.

1.35 Owner Affordable Housing Unit Requirement has the meaning set forth in Section 2.1(a) hereof.

1.36 Owner Excess Increment has the meaning set forth in the Financing Plan and as generally set forth in the description of Excess Increment.

1.37 Owner Inclusionary Units has the meaning set forth in Section 2.1(c).

1.38 Owner Low Income Unit means an Owner Affordable Housing Unit which is Affordable to households earning up to seventy percent (70%) of the Area Median Income.

1.39 Owner Moderate Income Unit means an Owner Affordable Housing Unit which is Affordable to households earning up to one hundred and ten percent (110%) of Area Median Income.

1.40 Owner N5 Note has the meaning set forth in Section 3.3(c).

1.41 Owner Title Defects has the meaning set forth in Section 3.6(e) hereof.

1.42 Owner Very Low Income Unit means an Owner Affordable Housing Unit which is Affordable to households earning up to fifty percent (50%) of the Area Median Income.

1.43 Owner VLI Note has the meaning set forth in Section 2.4(e) hereof.

1.44 Preliminary Development Notice has the meaning set forth in Section 4.2(a) hereof.

1.45 Project Housing Data Table has the meaning set forth in Section 2.3 hereof.

1.46 Qualified Housing Developer has the meaning set forth in the North OPA as follows: non-profit organizations (including (i) governmental or quasi-governmental agencies or (ii) to the extent required to permit tax credit or similar financings, a limited partnership of which one of the general partners is a non-profit organization and the limited partnership's governing documents provide that the activities and purposes of the partnership are primarily to construct, develop, own, manage and operate Affordable Housing Units substantially in furtherance of the non-profit general partner organization's purposes and only incidentally to further the for-profit purposes of the for-profit partners, including providing for a reasonable rate of return) with the financial capacity and experience and a proven history of developing Affordable Housing Units consistent with the character and quality of the North Plan Area Residential Projects, the Mission Bay North Redevelopment Plan, Design for Development and Scope of Development

1.47 Quit Claim Deed has the meaning set forth in Section 3.6 hereof and substantially in the form of Exhibit I hereto.



1.48 Redevelopment Requirements has the meaning set forth in the North OPA as follows: (i) the Mission Bay North Redevelopment Plan, (ii) the Scope of Development, (iii) the Design for Development, and (iv) those elements of the Construction Documents for which approval is required pursuant to the Design Review and Document Approval Procedure.

1.49 Rental Use Restriction has the meaning set forth in Section 6.

1.50 Residential Project has the meaning set forth in the North OPA as follows: a Project containing Residential Units and possibly containing other uses permitted under the Mission Bay North Redevelopment Plan and this Housing Program.

1.51 Residential Unit has the meaning set forth in the North OPA as follows: a dwelling unit, as defined in the Mission Bay North Redevelopment Plan. A dwelling unit is defined in the Mission Bay North Redevelopment Plan as follows: a room or suite of two or more rooms that is designed for residential occupancy for 32 consecutive days or more, with or without shared living spaces, such as kitchens, dining facilities or bathrooms.

1.52 Site Selection Process has the meaning set forth in Section 3.2 hereof.

1.53 Start Construction means issuance of Building Permit, including a site permit and addendum for foundations or superstructure for a Residential Project and groundbreaking in connection with the commencement of physical construction in accordance therewith.

1.54 Title Defects has the meaning set forth in Section 3.6(e) hereof.

1.55 Total Owner Residential Units means the total of Owner Market Rate Residential Units and Owner Affordable Housing Units developed in the North Plan Area.

1.56 Total Residential Units has the meaning set forth in Article 2 hereof.

1.57 VLI Contribution has the meaning set forth in Section 2.4(e) hereof.

1.58 Work has the meaning set forth in Section 3.5(c).

## 2. Owner Housing Program.

The Owner and the Agency may develop up to three thousand (3,000) Residential Units in the North Plan Area ("Total Residential Units"), as further described in this Housing Program, plus such additional Agency Sponsored Affordable Housing Units as Agency may be permitted in accordance with Section 4.5 below. Of the Total Residential Units, the Owner may develop up to two thousand four hundred (2,400) Market Rate Residential Units and up to two hundred fifty five (255) Owner Affordable Housing Units, as further described below. Except as provided in Section 6 of this Housing Program and in the North OPA, there are no restrictions on Owner Market Rate For-Sale or For-Rent Residential Units. The average density of Total Residential Units for the North Plan Area will not exceed one hundred fifty (150) Residential Units per acre, as set forth in the Redevelopment Requirements. The parties acknowledge that the density on specific sites will range above and below the average density and may, on some

sites, significantly exceed the average density consistent with the Owner's right to construct certain Residential Projects to a maximum height of one hundred sixty (160) feet in accordance with the Redevelopment Requirements.

## 2.1 Owner Affordable Housing Unit Requirement.

(a) The Owner Affordable Housing Unit Requirement equals ten percent (10%) of the Total Residential Units actually constructed in the North Plan Area, including Residential Units attributable to Agency Affordable Housing Parcels, less forty-five (45) Residential Units, and shall in no event exceed two hundred and fifty-five (255) Owner Affordable Housing Units (the "Owner Affordable Housing Unit Requirement"). For example, subject to this Housing Program, if there are three thousand (3,000) Total Residential Units, the Owner Affordable Housing Unit Requirement shall be two hundred and fifty-five (255) Owner Affordable Housing Units (or approximately eight and one-half percent (8.5%) of the Total Residential Units). If, on the other hand, the Total Residential Units in the North Plan Area is fewer than three thousand (3,000), then the Owner Affordable Housing Unit Requirement will be less than 255 Owner Affordable Housing Units (and less than 8.5%). For the purposes of computing the Owner Affordable Housing Unit Requirement, the density of Agency Sponsored Affordable Housing Units on Agency Affordable Housing Parcels will be assumed to be 90 units per acre.

(b) Except to the extent provided in this Housing Program, including Section 2.4 hereof, each Major Phase which includes Residential Units shall contain a proportionate share (i.e., approximately eight and one-half percent (8.5%) of the total Residential Units in such Major Phase, including Residential Units attributable to Agency Affordable Housing Parcels) of the Owner Affordable Housing Unit Requirement, distributed among Residential Projects as provided in this Section 2.1. The number of Owner Affordable Housing Units included in the second through last Major Phase, inclusive, may as approved by the Agency for that Major Phase, be less than 8.5% to compensate for overages of the number of Owner Affordable Housing Units built in previous Major Phases in excess of the number required to ensure achievement of the Owner Affordable Housing Unit Requirement upon Complete Construction of all Owner Residential Projects in the North Plan Area.

(c) Except as provided in Sections 2.4 and 3.4, the Owner Affordable Housing Unit Requirement for the North Plan Area shall be allocated as follows: (i) forty-six percent (46%) shall be Owner Moderate Income Units, (ii) fourteen percent (14%) shall be Owner Low Income Units, and (iii) forty percent (40%) shall be Owner Very Low Income Units. The allocation percentages shall be rounded up or down to the nearest Residential Unit as appropriate. Owner Inclusionary Units means both Owner Moderate Income Units and Owner Low Income Units.

(d) The allocation of For-Rent Owner Inclusionary Units in Residential Projects shall be approximately forty nine percent (49%) Owner Moderate Income Units and fifty one percent (51%) Owner Low Income Units, rounded up or down as appropriate to the nearest Residential Unit.

(e) Owner Affordable Housing Units shall, in accordance with Section 2.1(j) hereof, consist of 32.5% For-Sale and 67.5% For-Rent Residential Units.

(f) Each Owner For-Rent Residential Project shall contain Owner Affordable Units which may be Owner Inclusionary Units or Owner Very Low Income Units.

(g) Until such time as Owner has satisfied the For-Rent Owner Affordable Housing Unit Requirement, each Owner For-Rent Residential Project shall include a minimum of six percent (6%) Owner Affordable Housing Units. Thereafter, Owner For-Rent Residential Projects shall not be required to include Owner Affordable Housing Units. Owner For-Rent Residential Projects shall include a maximum of twenty percent (20%) Owner Inclusionary Units. A For-Rent Residential Project in which Owner elects to include Owner Very Low Income Units shall include a maximum of forty percent (40%) Owner Affordable Housing Units.

(h) The percentage of Owner Affordable Housing Units, if any, in an Owner For-Sale Residential Project shall, subject to the requirements of Sections 2.1(j) and (k) hereof, be determined by Owner in the exercise of its discretion and may range from zero (0) to one hundred (100) percent.

(i) Except with respect to Owner Very Low Income Units provided under Sections 3.3(b)(ii)(2) or 3.3(c) hereof, For-Rent Owner Affordable Housing Units located in an Owner Residential Project shall be substantially equivalent in size, location, amenities and quality to reflect the mix of Residential Unit sizes and room configurations of, and be dispersed among, the Owner's Market Rate Residential Units in such Residential Project.

(j) Seventy-one percent (71%) of the Owner Moderate Income Units actually constructed by Owner in the North Plan Area shall be For-Sale Owner Moderate Income Units, provided that in no event shall For-Sale Owner Moderate Income Units exceed eighty-three (83) Residential Units. Purchasers of Owner Moderate Income Units will have access to public down payment assistance from other governmental programs available at the time on the same basis otherwise available to other such projects in the City. Owner may, in its discretion, identify the Owner Residential Project(s) which shall provide the Owner For-Sale Moderate Income Units required to satisfy the requirements of this Section 2.1(j), provided that Owner shall designate the site(s) for such For-Sale Owner Moderate Income Units in the North Plan Area prior to approval of the Major Phase(s) which include either parcel N4 or N4a as shown on the Land Use Plan. Such site(s) may be located in such Major Phase or in prior or subsequent Major Phases as determined by Owner.

(k) No Owner For-Sale Moderate Income Units shall be required to be located in high-rise (i.e., over eight (8) story) Residential Projects. Owner For-Sale Moderate Income Units shall be substantially equivalent in size, room configurations and reflect a similar mix of Residential Units as Owner Market Rate For-Sale Residential Units located in similar (i.e., non high-rise) types of Residential Project buildings.

## 2.2 Submissions for Major Phase Approvals.

Owner shall submit a Major Phase Housing Data Table as part of the application package for each Major Phase which includes Residential Units containing the information described in subsections (a) and (b) below. Such Major Phase Housing Data Table shall be substantially in the form attached hereto as Exhibit A. The Agency shall review and approve the Major Phase Housing Data Table in accordance with the procedures set forth in the Design Review and Document Approval Procedure, and development of such Major Phase shall proceed in accordance therewith.

(a) Major Phase Data. In each Major Phase submission which includes Residential Units, Owner shall identify the approximate range of the number of Owner Market Rate Residential Units and Owner Affordable Housing Units. The range of Owner Affordable Housing Units for the Major Phase shall be eight and one-half percent (8.5%) of the upper and lower limits of the ranges of Residential Units approved for the Major Phase rounded up or down as appropriate to the nearest unit.

The Major Phase Housing Data Table shall identify for the entire Major Phase:

- (i) The total acreage of Owner Residential Projects;
- (ii) The total acreage of Agency Affordable Housing Parcels;
- (iii) The range of the total number of Residential Units proposed;
- (iv) The range of Owner Inclusionary Units within the limitations set forth in Section 2.1(g);
- (v) The range of the total number of Owner Very Low Income Units, if any, proposed in accordance with Section 2.4 and within the limitations of Section 2.1(g), for the entire Major Phase; and
- (vi) The allocation of the Owner Affordable Housing Units among the affordability levels for the Major Phase consistent with the ranges of Owner Affordable Housing Units provided and the requirements of Section 2.1(c).

(b) Major Phase Parcel Data. For each parcel identified within a Major Phase, The Major Phase Housing Data Table shall identify the proposed:

- (i) Use (e.g., Owner Residential Project, retail, commercial or Agency Affordable Housing Parcel);
- (ii) Parcel acreage;
- (iii) Maximum building height;
- (iv) Range of the total number of Residential Units; and

(v) Range of Owner Inclusionary Units, if any.

(c) Major Phase Housing Data Tables for subsequent Major Phases submitted after the first Major Phase Housing Data Table shall include aggregate development data in relation to the total allowable building program, including the data described above for prior Major Phases adjusted for Residential Projects which have received Schematic Design approval, and shall indicate whether an Affordable Housing Land Contribution calculation is required in accordance with Section 3.3(b).

### 2.3 Submissions for Project Approvals.

Owner shall submit a Project Housing Data Table as part of the application package at the time each Residential Project is submitted for its Project Basic Concept Design approval, as described in the Design Review and Document Approval Procedure, containing the information described in subsections (a) and (b) below. Such Project Housing Data Table shall be substantially in the form attached hereto as Exhibit B. The Agency shall review and approve the Project Housing Data Table in accordance with the procedures set forth in the Design Review Document Approval Procedure and development of such Project shall proceed in accordance therewith.

(a) Major Phase Data. The Project Housing Data Table shall identify the following information with respect to the entire Major Phase in which such Residential Project is located:

(i) The total number of acres and the range of the number of Owner Market Rate Residential Units, including, for Residential Projects which have received Schematic Design approval, the number of Owner For-Sale and For-Rent Residential Units, and the range of the number of Owner Affordable Housing Units projected for the Major Phase, adjusted for Residential Projects which have received Schematic Design approval;

(ii) The allocation of Owner Affordable Housing Units by affordability levels;

(iii) The total number of Owner Residential Units which have received Schematic Design approval, including the allocation of Owner Affordable Housing Units by affordability levels for each Residential Project;

(iv) The total number of Owner Residential Units for which Building Permits have been issued;

(v) The total number of Owner Residential Units which have received Certificates of Occupancy;

(vi) The total number of Owner Residential Units for which applications for Schematic Design approval are pending;

- (vii) The total range of the remaining Owner Residential Units allowed for the Major Phase;
- (viii) The total range of allowed Residential Units for the Major Phase;
- (ix) Whether the applicable time periods described in Section 2.4(b), (c) and (d) for providing Owner Very Low Income Units have been met;
- (x) Whether an Owner Very Low Income Units Project site and/or Owner Very Low Income Units in a Residential Project have been approved;
- (xi) The total range of Owner Affordable Housing Units approved in the Major Phase; and
- (xii) The range of the remaining total number of Owner Affordable Housing Units to be constructed in the Major Phase.
- (xiii) The total number of For-Sale and For-Rent Owner Moderate Income Units which have received Certificates of Occupancy.

The Agency shall cooperate with the Major Phase and Project approval applicants in providing the information required to complete the Major Phase Housing Data Tables and Project Housing Data Tables.

(b) Project and Parcel Data. For each parcel within the Major Phase, including the subject Residential Project, the Project Housing Data Table shall identify:

- (i) The current Owner;
- (ii) The current development status, including:
  - (A) Whether a Residential Project within this Major Phase has received Basic Concept Design and Schematic Design approval, and
  - (B) Whether a Building Permit, Certificate of Occupancy, and/or Certificate of Completion has or have been issued for a Residential Project and the dates thereof;
- (iii) The use, including whether it is retail, commercial, an Agency Affordable Housing Parcel or an Owner Residential Project and, if such Owner Residential Project has received Schematic Design approval, whether it is a For-Sale or For-Rent Residential Project;
- (iv) The parcel acreage;
- (v) The maximum (or, if a Residential Project has already been constructed in that Major Phase, its actual) building height;

(vi) The number of Total Owner Residential Units (for Projects which have received a Schematic Design approval) or the Major Phase approved range of Residential Units if the Project has not received Schematic Design approval;

(vii) The number of Owner Affordable Housing Units, including the number of For-Sale and For-Rent Owner Moderate Income Units, which have received Schematic Design approval, including the allocation of Owner Affordable Housing Units by affordability levels, or the range of Owner Affordable Housing Units for Residential Projects which have not received Schematic Design approval.

(c) Owner Inclusionary Units Allocation. The total number of Owner Inclusionary Units for a Residential Project shall be within the range indicated in the Major Phase Housing Data Table for that Residential Project approved by the Agency pursuant to Section 2.2.

(d) Owner Residential Units and Owner Affordable Housing Unit Allocation. Residential Projects shall be reviewed and approved in accordance with the Design Review and Document Approval Procedure. Without limiting the foregoing and consistent therewith, the Agency shall approve: (i) the number of Residential Units proposed for a Residential Project provided the number of Residential Units is within the range approved in the Major Phase Housing Data Table; and (ii) the Owner Affordable Housing Unit allocation for a Residential Project provided that the number of Owner Affordable Housing Units is within the range of Residential Units approved for the Major Phase for that parcel and provided further that the balance of the Owner Affordable Housing Unit Requirement for the Major Phase can be provided in Residential Projects for the remaining parcels within the Major Phase, based upon the Residential Projects and Major Phase ranges of Residential Units previously approved.

#### 2.4 Owner Very Low Income Units/Excess Increment.

(a) Except as otherwise provided in this Section 2.4 and in Section 3.4, the total number of Owner Very Low Income Units for each Major Phase shall equal the product of forty percent (40%) multiplied by the total number of Owner Affordable Housing Units for that Major Phase, rounded up or down to the nearest Residential Unit.

(b) Except as otherwise provided in this Housing Program, the Owner shall Complete Construction of the Owner Very Low Income Units required for the first Major Phase which includes Residential Units at the earlier of (i) Complete Construction of the Owner Residential Project which contains the five hundred and first (501st) Residential Unit to be constructed in the North Plan Area, or (ii) forty-eight (48) months after Owner Starts Construction of any Owner Residential Project in the first Major Phase.

(c) The Owner shall Complete Construction of all Owner Very Low Income Units required for each subsequent Major Phase which includes Residential Units upon the earlier of (i) forty-eight (48) months from the date on which Owner Starts Construction of an Owner Residential Project in the respective Major Phase or (ii) by the date of Complete Construction of all Projects and acceptance of all Infrastructure in the respective Major Phase.

(d) In the event that Owner has: (i) designated a Residential Project for construction of Owner Very Low Income Units; (ii) secured Schematic Design approvals for the Project in accordance with the Design Review and Document Approval Procedure; (iii) demonstrated to the Agency's reasonable satisfaction good faith efforts to obtain commercially reasonable mortgage financing secured by the Residential Project on a non-recourse basis, subject to commercially reasonable exceptions for the construction of Owner Very Low Income Units; and (iv) recorded a Declaration of Restrictions for the Project with respect to the proposed Owner Very Low Income Units, but Owner has been unable to actually obtain such financing, Owner's obligation to provide Owner Very Low Income Units in accordance with Sections 2.4(b) or (c) shall, to such extent, be extended for a reasonable period as requested by Owner in writing not to exceed twenty-four (24) months.

(e) For each Residential Project containing Owner Very Low Income Units, including, without limitation, Owner Very Low Income Units provided by Owner pursuant to Section 3.3(b)(ii)(2), the Agency shall, upon Owner's delivery to Agency of a Declaration of Restrictions for such Residential Project in accordance with Section 2.6 below, provide Owner with a fully executed promissory note in form and substance reasonably satisfactory to Agency and Owner, substantially in the form of Exhibit C hereto (each an "Owner VLI Note"). The Owner VLI Note shall provide for Agency to pay to Owner from Owner Excess Increment the "VLI Contribution," as hereinafter defined, multiplied by the number of Owner Very Low Income Units included in such Owner Residential Project, regardless of the size of the Owner Very Low Income Unit. From and after thirty (30) days following Owner's demand therefor, which Owner may give at any time after Complete Construction of each such Residential Project which includes Owner Very Low Income Units, the Agency shall repay the balance of each Owner VLI Note approximately semi-annually, within thirty (30) days of the Agency's receipt of Owner Excess Increment, until the earlier of repayment of the principal balance of the Owner VLI Note or forty-five (45) years from the Effective Date of the North OPA. Notwithstanding the foregoing, the Agency shall not be obligated in any single fiscal year to pay Owner the Owner Excess Increment except to the extent Owner Excess Increment is available as provided in the Financing Plan. The VLI Contribution means the product of sixty-three thousand dollars (\$63,000) multiplied by a fraction where the numerator is the most recently available figure for Area Median Income for a four (4) person household published by HUD as of the date of the Owner VLI Note and the denominator is sixty eight thousand six hundred dollars (\$68,600) (i.e., the 1998 Area Median Income for a four (4) person household). (If such index is no longer available, the Agency and Owner will agree upon a reasonable substitute index.) Repayment of the Owner VLI Notes shall be prioritized in the order made. Each Residential Project as to which Owner receives Owner Excess Increment hereunder shall comply with any applicable law in connection with the receipt and use of such funds for housing development.

(f) Notwithstanding that any portion of the Owner Excess Increment is not actually available as of the date of Complete Construction of Owner Very Low Income Units in the Residential Project, provided that the Agency has previously executed and delivered to Owner an Owner VLI Note for Owner Excess Increment for such Owner Very Low Income Units in accordance with subsection (e) above, Owner shall provide such Owner Very Low Income Units as required hereunder. If, however, and to the extent that, Agency failed for any



reason to execute and deliver the Owner VLI Note for such Owner Very Low Income Units in accordance with subsection (e) above, the number of Owner Very Low Income Units which Owner would otherwise have been required to provide shall be allocated entirely to Owner Inclusionary Units, any Declaration of Restrictions for the Project previously provided shall be automatically terminated and released and an amended or substituted Declaration of Restrictions shall be provided to reflect the change in affordability levels, and the allocation of affordability levels for the Owner Affordable Housing Unit Requirement as set forth in Section 2.1(c) shall thereby be revised accordingly.

(g) In the event Owner fails to provide Owner Very Low Income Units within the time periods provided in this Section 2.4, then Owner shall have no right to Owner Excess Increment with respect to such Owner Very Low Income Units, and in addition to the Affordable Housing Land Contribution described in Section 3.3, Owner shall contribute the Additional Land to the Agency as described in Section 3.4. Owner's failure to provide Owner Very Low Income Units within the time periods provided in this Section 2.4 shall not be a default or breach hereunder or under the North OPA, and Owner may proceed as if the failure to meet such time limits had not occurred. The Additional Land Contribution is the Agency's sole and exclusive remedy for Owner's failure for any reason (other than the Agency's failure to deliver any Owner VLI Note as required by Section 2.4(e)) to provide the Owner Very Low Income Units in accordance with this Housing Program. Upon contribution of the Additional Land, the number of Owner Very Low Income Units otherwise required under this Housing Program and the Affordable Housing Requirement will be reduced accordingly based upon the assumed density of Agency Sponsored Affordable Housing Units of 90 units per acre for such Additional Land.

## 2.5 Adjustments to Owner Moderate Income Unit Affordability Levels.

(a) The Agency may, in accordance with this Section 2.5, provide Owner with an Agency Buy-Down Subsidy, as defined below, to lower the affordability restrictions on any For-Rent Owner Moderate Income Unit to be provided by Owner to those applicable to Owner Low Income Units. The Agency may, in the exercise of its sole discretion, elect to exercise its rights in accordance with this Section 2.5, on up to thirty four (34) For-Rent Owner Moderate Income Units in the North Plan Area.

(b) To exercise its rights under this Section, the Agency shall provide an Agency Buy-Down Commitment in accordance with this Section 2.5(b). The Agency Buy-Down Commitment may be provided as part of any Owner Major Phase approval which includes a range of Owner Moderate Income Units. The "Agency Buy-Down Commitment" shall identify the number of For-Rent Owner Moderate Income Units in such Major Phase as to which Agency is ready, willing and able to commit to provide the applicable Agency Buy-Down Subsidy and shall be in a form and substance reasonably acceptable to the Agency and Owner.

(c) In addition to the Agency Buy-Down Commitment provided in accordance with Section 2.5(b) above, the Agency shall, as part of an Owner Residential Project Basic Concept Design approval for a Residential Project in such Major Phase which includes For-Rent Owner Moderate Income Units, identify the number and mix of studio, one-bedroom and two-bedroom For-Rent Owner Moderate Income Units as to which the Agency will, prior to

Completion of Construction, provide an Agency Buy-Down Subsidy consistent with the Agency Buy-Down Commitment. The mix and size of Residential Units to be bought down in each Residential Project shall reflect the mix and sizes of Residential Units in the proposed Residential Project.

(d) The Agency shall pay the applicable Agency Buy-Down Subsidy, as described below, to Owner, in full, prior to the Completion of Construction of such Residential Project. Upon payment of the Agency Buy-Down Subsidy, the Declaration of Restrictions restricting the For-Rent Owner Moderate Income Units being bought down which was previously recorded shall either be amended or cancelled and substituted with a Declaration of Restrictions for such Owner Affordable Housing Units consistent with requirements for Owner Low Income Units. The Base Agency Buy-Down Subsidy for For-Rent Owner Moderate Income Units is as follows: (i) for a studio, forty two thousand eight hundred dollars (\$42,800); (ii) for a one (1) bedroom, sixty one thousand dollars (\$61,000); and (iii) for a two (2) bedroom, seventy three thousand dollars (\$73,000). The applicable Agency Buy-Down Subsidy shall be the Base Agency Buy-Down Subsidy multiplied by a fraction where the numerator is the most recently available figure for a one (1) person household for a studio, a two (2) person household for a one (1) bedroom and, a three (3) person household for a two (2) bedroom Residential Unit, published by HUD as of the date of the Agency Buy-Down Commitment and the denominator is the median income for a 1, 2 or 3 person household, published by HUD, as applicable, for 1998. If such index is no longer available, the Agency and Owner will agree upon a reasonable substitute index. The median income published by HUD for 1998 for a one (1) person household is forty-eight thousand dollars (\$48,000), for a two (2) person household is fifty-eight thousand nine hundred dollars (\$58,900) and for a three (3) person household is sixty-one thousand seven hundred fifty dollars (\$61,750).

#### 2.6 Declaration of Restrictions for Continued Affordability of Owner Affordable Units.

All of the Owner Affordable Units shall be subjected to a recorded Declaration of Restrictions in substantially the form of Exhibit D1 or D2, as applicable for For-Rent or For-Sale Residential Projects respectively, and, as applicable, references on the condominium map for each applicable Owner For-Sale Residential Project or Owner For-Rent Residential Project, to ensure compliance with the Owner Affordable Housing Unit Requirement for a continuous period of seventy-five (75) years commencing upon Complete Construction of each Owner Residential Project containing an Owner Affordable Housing Unit. As a condition precedent to the City's issuance of a Building Permit for an Owner Residential Project, the Owner shall record the Declaration of Restriction as a lien against the real property in which any Owner Affordable Housing Unit is to be constructed, and at the time of such recordation, no matters then of record shall have priority over such Declaration, except Approved Title Exceptions as set forth in Exhibit E hereto. Each Declaration of Restrictions shall automatically terminate and expire and be released and be of no further force and effect whatsoever upon the expiration of its term. Upon Owner's written request at any time thereafter (or in accordance with Section 3.4), the Agency, or its successors or assigns, shall provide a release of the Declaration of Restrictions in a form reasonably acceptable to Owner.

## 2.7 Marketing and Operations Guidelines.

The Owner's obligations with respect to the marketing and operation of the Owner Affordable Housing Units, including but not limited to the rental rates of Rental Units, sales prices of For-Sale Units, tenant qualifications and reporting requirements; and the Owner's obligations with respect to marketing and occupancy preferences for the Owner Market Rate Residential Units are described in Exhibit F to this Housing Program.

## 3. Owner's Contributions of Land for Agency Affordable Housing.

In addition to the Owner Affordable Housing Unit Requirement described in Article 2, Owner will contribute land to the Agency, in accordance with this Article 3, on which the Agency or Qualified Housing Developers are to develop the Agency Sponsored Affordable Housing Units.

### 3.1 Approved Sites.

(a) The real property consisting of a total of approximately three and one-tenths (3.1) acres described in Exhibit G has been selected by Owner and the Agency and is hereby approved by the Agency as (i) the Affordable Housing Land Contribution (subject to Section 3.3), and (ii) the One-Half Acre Contribution (individually and collectively, the "Approved Sites"). Notwithstanding the foregoing, the Approved Site on Parcel N2 as shown on Exhibit G shall be deemed to be one (1) acre, and the additional approximately one tenth (0.1) acre shall not be included as part of the Affordable Housing Land Contribution, the Minimum Acreage or the One-Half Acre Contribution. Owner shall contribute each Approved Site to the Agency in accordance with the respective requirements of Section 3.3(a), for contribution of the Affordable Housing Land Contributions, Section 3.3(c), for the One-Half Acre Contribution, and Section 3.5 for the Minimum Acreage.

(b) Any request by either party to substitute alternate parcels for any of the Approved Sites, or to otherwise change or alter the property described in Exhibit G, shall require the mutual consent of both parties which consent may be granted or withheld in each party's sole and absolute discretion.

(c) At the time of submission of an application for a Major Phase approval in accordance with the Design Review and Document Approval Procedure, Owner shall deliver to Agency a legal description for the Approved Site to be located in such Major Phase. Said Approved Site shall be subdivided by Owner into a separate legal parcel in connection with the filing of the applicable final subdivision map prior to conveyance to the Agency in accordance with this Housing Program.

### 3.2 Other Agency Affordable Housing Parcel Selection.

The Agency and Owner shall comply with the following procedures (the "Site Selection Process") to determine the location or relocation of any Agency Affordable Housing Parcels other than the Approved Sites, including (i) Additional Land to be contributed pursuant to Section 3.4, (ii) Affordable Housing Land Contributions to be provided to complete Owner's

obligation pursuant to Section 3.3, or (iii) a substitute or alternative property to be selected pursuant to Section 3.1(b):

(a) All parcels (except as provided herein) proposed by Owner for contribution to the Agency as Agency Affordable Housing Parcels must meet the following criteria, unless explicitly waived in writing by the Agency.

(i) Size. Shall consist of one or more noncontiguous parcels each having a total area of not less than one-half (0.5) acre and a total area of not more than one and a half (1.50) acres. The Agency reserves the right to subdivide any Agency Affordable Housing Parcel and to transfer subdivided parcels to one or more Qualified Housing Developers. Acres are buildable net acres, defined as net of all public right-of-ways and Mid-Block Walkways. The Agency's obligations under this Housing Program shall not make the Agency responsible for the costs of construction or maintenance of such Mid-Block Walkways.

(ii) Dimensions. Shall have no dimension smaller than 125 feet and shall be generally rectangular in shape formed by four approximately 90-degree angles when sited on rectangular shaped blocks, or otherwise shall be reflective of the block configuration.

(iii) Frontages. Shall have a minimum of two (2) frontages, at least one (1) of which provides immediate access to a public street permitting vehicular access. The criteria in the preceding sentence shall not apply to Agency Affordable Housing Parcels, if any, on Parcel N5, which shall be only required to have one (1) frontage which provides immediate access to a public street permitting vehicular access. In addition to this general criteria, no more than one Agency Affordable Housing Parcel shall front on King Street and no less than one Agency Affordable Housing Parcel shall front on China Basin Channel. Frontage can be to a public or private right of way, including, without limitation, a Mid-Block Walkway, pedestrian walkway or connector.

(iv) Geotechnical Site Conditions. The Agency and Owner recognize that geotechnical site conditions vary over the North Plan Area. Agency Affordable Housing Parcels should have substantially similar geotechnical site conditions (i.e., thickness of bay mud and depth to bedrock) to adjacent Owner Residential Project sites. Owner shall make available to the Agency any geotechnical subsurface soil conditions reports or studies prepared since January, 1994 with respect to the proposed Agency Affordable Housing Parcels and adjacent Owner Residential Project sites which are at the time of the commencement of the Site Selection Process in Owner's or Owner's consultant's or other agent's actual possession provided that any such consultant reports or studies shall have been prepared on behalf of Owner. Agency acknowledges and agrees that Owner makes no representation or warranty as to such reports or studies, including, without limitation, their reliability and accuracy. Nothing herein shall require Owner to conduct or obtain any new or additional geotechnical subsurface soils conditions reports, studies, investigations, inspections, reviews or inquiries.

(v) Minimum Separation of Agency Sites. Shall be separated from other Agency Affordable Housing Parcels by a (A) street, (B) connector fifty (50) feet in width, or (C) one hundred (100) feet in the case where there is no intervening street or connector.

(vi) Minimum Distance from I-280. Shall not be located within two hundred (200) feet of any portion of I-280 or its off-ramps which are elevated more than fifty (50) feet above grade.

(vii) Minimum Distance from Other Structures. The minimum distance of Agency Affordable Housing Parcels as measured from structures ninety (90) feet or greater in height developed within the North Plan Area shall be fifty (50) feet.

(viii) Noise and Vibration. With respect to any Agency Affordable Housing Parcel proposed to be located on Parcel N5, the Community Noise Equivalent Level (CNEL), as measured at any point on an Agency Affordable Housing Parcel (including measurements at the roofline at maximum development), shall not exceed seventy-five (75) dBA at full build out of the Project Area as defined in the Mission Bay Subsequent Environmental Impact Report. If the noise and/or vibration data required to apply this criteria is not available, the Owner shall conduct a noise and/or vibration study prior to the completion of the Site Selection Process hereunder. The scope of such noise and/or vibration study shall be determined jointly by the Owner and Agency.

(b) Prior to the date on which Owner desires to obtain the Agency's approval of a Major Phase, Owner shall inform the Agency that Owner seeks to obtain the Agency's approval of a Major Phase, and shall identify a proposed Agency Affordable Housing Parcel and provide a site plan indicating the location and boundaries of the proposed Major Phase; and a general description of the type and location of Projects in the Major Phase, including parcelization, proposed uses, height and massing; locations of any towers; and the approximate range of the number of units of each proposed Residential Project.

(c) Within seven (7) days after Owner has provided the information in Subsection (b), the Agency and Owner shall meet and confer to attempt to select the Additional Land, the balance of Affordable Housing Land Contributions and/or alternative site, if any, to be provided in the applicable Major Phase.

(d) In the event the Agency and Owner are unable to agree on an Agency Affordable Housing Parcel, then within forty-five (45) days of the commencement of the meet and confer process in Subsection (c), Owner shall by notice delivered to the Agency designate two (2) or more properties for each Agency Affordable Housing Parcel required to be offered by Owner which meet the minimum criteria in Subsection (a). Within thirty (30) days after Owner has provided such notice, the Agency Commission shall select one of the two properties as the property to be contributed in that Major Phase, unless Owner elects to defer the Agency Commission's approval until the consideration of Owner's Major Phase application.

### 3.3 Affordable Housing Land Contribution.

The total amount of land Owner is required to convey to the Agency upon Completed Construction of the North Plan Area is the Total Residential Units multiplied by ten percent (10%), divided by ninety (90) (the "Affordable Housing Land Contribution"). If Owner develops For-Sale Residential Units, Owner shall also contribute the One-Half Acre Contribution

as described in Section 3.3(a)(ii). Owner shall convey to the Agency, at no cost (other than incidental out-of-pocket costs related to closing, including title insurance costs), the Agency Affordable Housing Parcels at the following times and in the following manner to satisfy the Affordable Housing Land Contribution and the One-Half Acre Contribution, calculated as described in Section 3.3(b) below:

(a) It is contemplated that the Affordable Housing Land Contribution will be satisfied on a phased basis in the Major Phases as provided in this Housing Program by conveyance of Approved Sites as described in this Subsection 3.3(a)(i) and that the One-Half Acre Contribution, described in Section 3.3(a)(ii), will be included in the Approved Sites contributed with Major Phases.

(i) The Affordable Housing Land Contribution for the first Major Phase shall be an Approved Site consisting of not less than one (1) acre. The Affordable Housing Land Contribution for subsequent Major Phases shall be an Approved Site located in such Major Phase, if any, provided that the second and third Approved Sites shall be included in a Major Phase not later than the Major Phases wherein the Total Owner Residential Units approved in connection with previous Major Phases (i.e., the sum of the actual number of Residential Units in each Residential Project which has received Schematic Design approval, and the maximum number of Residential Units in the approved range for each Residential Project which has not received Schematic Design approval) together with the maximum number of Residential Units in each proposed range for the currently proposed Major Phase exceed nine hundred (900) Residential Units as to the second Approved Site and one thousand eight hundred (1,800) Residential Units as to the third Approved Site. A Memorandum of Option for each Agency Affordable Housing Parcel shall be delivered by Owner in accordance with and subject to the terms and conditions of Section 3.6(a).

(ii) In addition to the Affordable Housing Land Contribution calculated in accordance with Subsection (a)(i) above, Owner shall contribute an additional one-half (1/2) acre of land to the Agency (the "One-Half Acre Contribution"). The Owner's obligation to contribute the One-Half Acre Contribution shall accrue when Owner Starts Construction of Owner's first Residential Project which includes For-Sale Residential Units, provided, however, that Owner shall not be required to contribute the One-Half Acre Contribution until the next Major Phase. Notwithstanding the foregoing, Owner may fulfill its obligation to contribute the One-Half Acre Contribution hereunder by delivering a Memorandum of Option in accordance with Section 3.6(b) for Approved Sites in accordance with Section 3.3(a) (or any substitute sites selected in accordance with Section 3.1(b)).

(b) In order to ensure Owner's compliance with the total Affordable Housing Land Contribution required under this Housing Program, Owner shall, as part of the Major Phase application submitted at the earlier of (i) a Major Phase which includes the third Approved Site, or (ii) the third Major Phase which includes Residential Units, and thereafter in connection with each remaining Major Phase application, calculate the amount of additional property, if any, required to satisfy the Affordable Housing Land Contribution as of that Major Phase described in Section 3.3(a) as follows:

(i) The total number of Agency Sponsored Affordable Housing Units for which land is to be contributed by Owner to the Agency under this Housing Program equals 45 Residential Units but only if For-Sale Residential Units are included in the previously approved Major Phase or Phases; plus ten percent (10%) multiplied by the sum of (A) the maximum number of Total Residential Units approved for the previous Major Phase(s) (i.e., the sum of the actual number of Residential Units in each Residential Project which has received Schematic Design approval, and the maximum number of Residential Units in the approved range for each Residential Project which has not received Schematic Design approval), and (B) the maximum number of total Residential Units proposed for the current Major Phase;

(ii) The difference between (A) total number of Agency Sponsored Affordable Housing Units calculated under subsection (b)(i) divided by ninety (90) Residential Units, and (B) the number of Agency Affordable Housing Parcel acres for which Memoranda of Option have previously been delivered to the Agency in accordance with Section 3.6 below and minus the acreage of Approved Sites in that Major Phase, if any, equals the number of acres of land which are required to be contributed by Owner to satisfy the Affordable Housing Land Contribution, and the One-Half Acre Contribution, if applicable, for that Major Phase and any prior Major Phases. If the total number of acres of such land required to complete Owner's Affordable Housing Land Contribution, including the One-Half Acre Contribution, if applicable, is determined in accordance with the foregoing to be one-half (0.5) of an acre or more, then such calculated remaining amount of land shall be required to be contributed in that Major Phase. If the total number of acres required to complete Owner's Affordable Housing Land Contribution (including the One-Half Acre Contribution, if applicable) is determined in accordance with the foregoing to be less than one-half (0.5) of an acre, then Owner shall elect, in the exercise of Owner's sole discretion, in that Major Phase (or in subsequent Major Phases) to: (1) include such calculated remaining amount of property in that Major Phase by adding such property to the property to be contributed in such Major Phase, (2) provide an additional number of Owner Very Low Income Units equal to ninety (90) times the fraction of an acre determined in accordance with this Section 3.3(b) (rounded up or down to the nearest Residential Unit), in which case no land shall be required to be contributed, or (3) contribute one-half (0.5) of an acre. The average type and size of the Owner Very Low Income Units provided by Owner under Section 3.3(b)(ii)(2) hereof will be generally equivalent to the average Agency Sponsored Affordable Housing Unit provided by the Agency to date in the North Plan Area with respect to the average number of bedrooms and average square footage.

(c) In the event that none of the sites proposed under Section 3.2(c) in Parcel N5 meet the criteria set forth in Subsection 3.2(a), then Owner shall designate properties, if any, through the process described in Section 3.2(d) which meet the maximum possible number of site selection criteria of Section 3.2(a). If no sites proposed by Owner meet all of the criteria of Subsection 3.2(a), then at the Agency's sole election it may either (A) waive any unmet criteria and accept a proposed site, or (B) require Owner to provide an additional number of Owner Very Low Income Units in the North Plan Area equal to the number of Agency Sponsored Affordable Housing Units which Agency would have provided on such site at an assumed density of ninety (90) units per acre. In such event, Owner will be entitled to receive a fully executed promissory note in form and substance satisfactory to Agency and Owner,

substantially in the form of Exhibit L hereto (an "Owner N5 Note"). The Owner's obligations with respect to each Owner Very Low Income Unit and the Agency's payment obligations with respect to each Owner N5 Note shall be in accordance with the procedures set forth in Sections 2.4(e) and (f); except that payment under each Owner N5 Note shall be made from Agency Excess Increment and shall be subject to the priorities for the use of Agency Excess Increment described in the Financing Plan. The average type and size Owner Very Low Income Unit of the Owner Very Low Income Units provided by Owner under this Section 3.3(c) will be generally equivalent to the average Agency Sponsored Affordable Housing Unit provided by the Agency to date in the North Plan Area with respect to the average number of bedrooms and average square footage.

(d) Owner shall receive a credit toward the Owner Affordable Housing Land Contribution and the One-Half Acre Contribution Requirement for the North Plan Area for land Owner contributes to Agency at the rate of ninety (90) units per acre, regardless of how many Residential Units are actually built on the contributed land.

#### 3.4 Additional Land Contribution.

As of the date of approval of the second and each subsequent Major Phase, the number of acres of Additional Land, if any, to be contributed by Owner to the Agency pursuant to Section 2.4(g) above shall be equal to the number of Owner Very Low Income Units required for each previously approved Major Phase for which Owner has not Completed Construction and for which the time periods in Sections 2.4(b) and (c), as applicable, and as may be extended by Section 2.4(d), have expired, divided by ninety (90) (the "Additional Land Formula"). Owner shall deliver a Memorandum of Option for the Additional Land in accordance with Section 3.6(a) upon approval of the next succeeding Major Phase, provided, however, that such Memorandum of Option shall provide, in such form and substance reasonably acceptable to Owner and Agency, for the termination and release of any Declaration of Restrictions previously provided by Owner with respect to such Very Low Income Units upon the delivery of a Memorandum of Option in accordance with Section 3.6(a). The Agency may construct Agency Sponsored Affordable Housing Units on the Additional Land in addition to the number of Affordable Housing Units described in Section 4.1.

#### 3.5 Minimum Acreage: Owner Abandons Construction.

(a) After Owner has Commenced Construction hereunder, by the time of Complete Construction of the final Major Phase, the Owner shall have delivered Memoranda of Option providing for the transfer of not less than two and one-half (2.5) acres of the Approved Sites to the Agency as described in Section 3.1, consisting of the Approved Sites located on parcels N2, N3 and the approximately one-half (0.5) acre Approved Site located on parcel N4 as described in Exhibit K (the "Minimum Acreage"), or such substitute parcel or parcels selected upon agreement of the Agency and Owner in accordance with the Site Selection Process.

(b) The Owner's obligation, if any, to deliver to the Agency the Minimum Acreage shall survive termination of the North OPA but only to the extent the obligation to contribute such property has actually accrued and Agency has a right to delivery of Agency



Affordable Housing Parcels hereunder. Neither the Agency's unilateral termination of the North OPA under Section 12.2(b)(1), the Owner's termination under Section 12.2(a) or either the Agency or Owner's termination under Section 12.2(c) shall constitute "Abandons" or "Abandonment" of construction or in any way accelerate any obligation of Owner to contribute Agency Affordable Housing Parcels or the Minimum Acreage described in Section 3.5(a).

(c) Subject to Section 3.5(b), if at any time after it has Commenced Construction in the North Plan Area the Owner Abandons construction of Improvements in the North Plan Area, the Owner will convey fee title by grant deed to the Minimum Acreage plus any Additional Land due pursuant to Section 3.4, less any land for which the Owner has already delivered Memoranda of Option to the Agency or to a Qualified Housing Developer designated by the Agency, provided, however, that the portion of the Approved Site located on parcel N4, as shown in Exhibit K, shall not be included as part of the Minimum Acreage for purposes of this Section 3.5(c) unless Owner has Commenced Construction of Improvements in parcel N3. If Owner has not so Commenced Construction in parcel N3, an alternative one-half (0.5) acre parcel shall be selected pursuant to the site selection process, if necessary, in the area proximate to previously approved Major Phases on available land proximate to real property already developed. All such property will be conveyed in "AS-IS" condition as set forth in the North OPA. For purposes of this Section 3.5, "Abandons" or "Abandonment" means six (6) continuous years during which no Work is performed in the North Plan Area by Owner. As used in this Section 3.5, "Work" includes (i) performance of substantial physical construction of Improvements; (ii) expenditure of a substantial sum of money for design activity within a reasonable period of time; or (iii) diligent efforts, including the expenditure of a substantial sum of money, to obtain or actually obtaining approval(s) necessary to Commence Construction for Improvements. Agency shall provide written notice to the Owner within a reasonable period of time but in no event later than four (4) years after a period of Abandonment has commenced. Such notice shall specify the date Abandonment commenced. Prior to delivery of such notice, the Agency's Commission shall reasonably determine whether an Abandonment has occurred. In the event Owner Abandons, the sole remedy available to the Agency under this Housing Program shall be the contribution of the real property described in Section 3.5(a).

(d) If Owner Abandons the North Plan Area and the North OPA is not otherwise terminated, and Owner subsequently recommences Work, then Owner's rights and obligations under this Housing Program, including its obligations under the North Environmental Investigation and Response Program, shall be reinstated as of the date Owner recommences Work. In that event Agency will within a reasonable period of time following receipt of a request delivered by and in the exercise of Owner's sole discretion re-convey by grant deed and Owner shall accept conveyances of any real property previously transferred to the Agency pursuant to Section 3.5(c), provided that such real property shall be in the same physical and environmental condition (including, without limitation, with respect to Hazardous Substances), and title shall be in the same condition and without any Title Defects except as existed when the real property was conveyed to the Agency. However, if Agency has commenced Work or has formally applied for Residential Project municipal or tax credit or other such governmental or other applicable financing in connection with the development of Agency Sponsored Affordable Housing Units on any such Agency Affordable Housing Parcel, Agency may elect in its sole

discretion to retain such real property which shall be credited to Owner's Affordable Housing Land Contribution hereunder.

(e) If Owner recommences Work, and the Agency has already performed any remediation of any real property delivered by Owner under Section 3.5(a), then Owner will reimburse the Agency within thirty (30) days of receipt of reasonably detailed documentation of reasonable Agency Costs and actual remediation costs incurred by the Agency for reasonable and necessary costs to remediate such land to the standards and subject to the limitations described in the North Environmental Investigation and Response Program. Owner shall provide such reimbursement regardless of whether Agency conveys such real property to Owner under Section 3.5(d). In addition, if Owner elects to allow the Agency to retain such real property, then the Owner shall reimburse the Agency for additional reasonable Agency Costs and actual remediation costs thereafter incurred by the Agency for reasonable and necessary costs to remediate such land to the standards and subject to the limitations described in the North Environmental Investigation and Response Program. The reasonableness of any such costs shall be measured in relation to reasonable, necessary and customary expenses to remediate similar Projects in the Project area with similar environmental conditions using the approach to remediation described in the North Environmental Investigation and Response Program. Upon Owner's payment of funds to the Agency under subsection (e), Owner shall be released from only those obligations under the North Environmental Investigation and Response Program with respect to any Agency Affordable Housing Parcel for which Owner has paid such funds. The Agency shall upon Owner's request record a notice of such release in a form reasonably acceptable to Owner.

### 3.6 Memorandum of Option/Conditions to Title.

(a) Within ten (10) days after approval of a Major Phase which includes an Approved Site or any other Agency Affordable Housing Parcel required hereunder, Owner shall deliver to a title company designated by Owner and the Agency a fully executed and recordable conditional Memorandum of Option for such Agency Affordable Housing Parcel. The Memorandum of Option shall be delivered subject to mutually agreed escrow instructions consistent herewith. Each Memorandum of Option shall (i) be in a form and substance reasonably satisfactory to the Agency and the Owner, (ii) substantially in the form of Exhibit H hereto, (iii) in recordable form in the opinion of the title company to permit its recordation in the Official Records of San Francisco County, and (iv) adequate in the opinion of the title company to grant such option. Each Memorandum of Option shall evidence the Agency's acceptance of the Agency Affordable Housing Parcel described therein as Owner's Affordable Housing Land Contribution for such Major Phase.

(b) Each Memorandum of Option may be recorded at Agency's direction only after satisfaction of the following conditions:

(i) Agency's delivery to Owner through the escrow established pursuant to Section 3.6(a) a fully executed and recordable Quit Claim Deed with respect to all property included in the Major Phase (other than the property which is described in the Memorandum of Option), and specifically including any previous and inconsistent descriptions

of the Approved Site or any other Agency Affordable Housing Parcels provided herein or in a Memorandum of Option, quitclaiming and releasing any interest of the Agency in all such property relating to or arising out of any Owner obligations for any Affordable Housing Land Contribution hereunder. The Quit Claim Deed shall be (A) in a form and substance reasonably satisfactory to the Agency and the Owner, (B) substantially in the form of Exhibit I hereto, (C) in recordable form, in the opinion of the title company to permit its recordation in the Official Records of San Francisco County, and (D) adequate, in the opinion of the title company to so release the Agency's interest; and

(ii) the recording of a final subdivision map for the Major Phase in which the property is located which creates a legal parcel of the property described in the Memorandum of Option.

(c) The Agency may exercise the option only when the following conditions are satisfied:

(i) the Agency has delivered a Quit Claim Deed and a final subdivision map has been recorded in accordance with Section 3.6(b); and

(ii) after the applicable City Agency's issuance of a Building Permit, (and if a site permit including appropriate addenda thereto) providing for construction of Project foundations for construction of the first Owner Project in the Major Phase in which the Agency Affordable Housing Parcel described in the Memorandum of Option is located, which permits are valid, binding and in full force and effect, and the period for challenging such permit has either passed without challenge, or the same has been upheld through and including all administrative proceedings or appeals without adverse effect.

(d) Upon satisfaction of the conditions precedent to exercise of the option described in Section 3.6(c), the Agency may exercise the option by delivering to Owner and the title company either a one hundred (100) day or a five (5) day written notice. The Agency will deliver a five (5) day notice where the Agency will accept title to the Agency Affordable Housing Parcel described in the Memorandum of Option, subject to any existing leases thereon that are consistent with Section 3.6(e) of this Housing Program, and Owner shall be responsible for tenant relocation costs in accordance with the North OPA. Otherwise the Agency will deliver a one hundred (100) day notice. The notice shall specify whether title to the Agency Affordable Housing Parcel is to be conveyed to the Agency or to a Qualified Housing Developer in accordance with this Housing Program. Within one hundred (100) or five (5) days of receipt of the Agency's notice hereunder, as applicable, exercising the option under the Memorandum of Option and satisfaction of all conditions precedent thereto, Owner shall deliver to the escrow established by Owner and Agency pursuant to Section 3.6(a) hereof an Affordable Housing Parcel Deed substantially in the form attached hereto as Exhibit J, conveying title to the Agency or to a Qualified Housing Developer designated by the Agency to receive title in accordance herewith. The Affordable Housing Parcel Deed shall be recorded in accordance with escrow instructions submitted by Owner and the Agency.

(e) As a condition to Agency's obligation to accept conveyance of an Agency Affordable Housing Parcel, the Agency Affordable Housing Parcel shall be free and clear of liens, encumbrances, leases or other rights or possession, actual possession by any person, covenants, easements, taxes, assessments and other limitations or title defects, and all claims to any of the foregoing (collectively, "Title Defects"), except only for "Approved Title Exceptions," set forth in Exhibit E hereto, and except for leases or other rights of possession in the event Agency delivered a five (5) day notice pursuant to Section 3.6(d) of this Housing Program. It is a condition precedent to conveyance to the Agency, but not a covenant of Owner (except for the covenants provided below in this subsection (e)), that prior to the conveyance to the Agency, Title Defects other than Approved Title Exceptions which encumber any Agency Affordable Housing Parcel, shall be cured and removed by Owner, endorsed against by the title company or Owner shall otherwise provide adequate security against any such Title Defects to the Agency's reasonable satisfaction prior to conveyance.

If, prior to conveyance of an Agency Affordable Housing Parcel to the Agency, the Agency first becomes aware of any Title Defects other than Approved Title Exceptions which may be removed upon the payment (or bonding for) a specified dollar amount ("Monetary Liens"), Agency shall provide Owner written notice thereof. Within fourteen (14) days of Owner's receipt of such written notification from the Agency or within thirty (30) days after Owner first has actual notice of any Monetary Liens, whichever occurs first, Owner shall inform the Agency in writing of which, if any, Monetary Liens Owner will commit to cause to be removed prior to conveyance. If Owner should fail to deliver such written notice within such period, Owner shall be deemed to have elected not to commit to cause any such Monetary Liens to be removed. Notwithstanding the foregoing, Owner shall in good faith, but without any obligation to incur any costs whatsoever above twenty-five percent (25%) of the value of the Affordable Housing Parcel to be conveyed, seek to cure or remove or otherwise cause the removal of any such Monetary Liens. If the Owner fails for any reason to cure, remove or otherwise provide adequate security against any Title Defect(s) or Monetary Liens to Agency's reasonable satisfaction or to cause the Title Company to insure over such Title Defects or Monetary Liens within the stated time, then, at the Agency's option, the Agency may elect to accept the Agency Affordable Housing Parcel with such Title Defect(s) or choose another Agency Affordable Housing Parcel through the Site Selection Process.

If, prior to the conveyance of an Agency Affordable Housing Parcel to the Agency, the Agency first becomes aware of any Owner Title Defects, the Agency shall promptly notify Owner in writing as to the existence of such Owner Title Defects. With respect to such Owner Title Defects, together with any Owner Title Defects which the Owner has actual knowledge, Owner shall cure, remove, bond or obtain a title company endorsement against such Owner Title Defects on or prior to conveyance. "Owner Title Defects" means, after Owner's delivery to escrow of a Memorandum of Option for an Agency Affordable Housing Parcel but prior to its conveyance to the Agency, any adverse new Title Defects or Monetary Liens caused, created, permitted or imposed by Owner (other than Approved Title Exceptions) on any Agency Affordable Housing Parcel, excepting therefrom any leases or other rights of possession, including extensions or modifications of existing leases, provided that such leases or extensions

or modifications of existing leases entered into after delivery to escrow of a Memorandum of Option shall be terminable upon not more than thirty (30) days notice.

(f) The Memorandum of Option and the Agency's option thereunder shall automatically expire and all rights and obligations thereunder shall be released and be of no further force and effect on the occurrence of any one or more of the following events:

(i) The recording of a notice of termination of the North OPA pursuant to Article 12 thereof, unless the conditions precedent to exercise of the option thereunder have been satisfied in accordance with Section 3.6 of this Housing Program prior to the recording of such notice of termination;

(ii) Thirty (30) years from the Effective Date of the North OPA; or

(iii) The execution of a Memorandum of Option for an alternative or substitute Agency Affordable Housing Parcel selected pursuant to the Site Selection Process substituting such Agency Affordable Housing Parcel for the Agency Affordable Housing Parcel described herein in accordance with Section 3.6(a), which Memorandum provides that upon the recording thereof the prior Memorandum of Option shall automatically terminate and all rights and obligations hereunder shall automatically be released and be of no further force and effect.

(g) After Owner's delivery of a Memorandum of Option and prior to the time of Agency's exercise of the option thereunder, Owner shall reasonably cooperate with Agency requests to be a co-applicant on any Agency tax credit financing application for the financing of Agency Sponsored Affordable Housing Units on the Agency Affordable Housing Parcel described in the Memorandum of Option, provided that such reasonable cooperation shall be at no cost to Owner and Owner shall assume no liability whatsoever relating to or arising out of Owner's being a co-applicant and Agency shall, in accordance with the North OPA, indemnify Owner for any Claims with respect thereto.

(h) Agency may only assign its right to take title under a Memorandum of Option to a Qualified Housing Developer designated by the Agency in accordance with this Housing Program and the North OPA. The Agency may not, at any time, directly or indirectly, without the prior written consent of the Owner, which consent may be withheld in Owner's sole discretion, assign its rights or obligations under the North Environmental Investigation and Response Program, or under Section 3.5(e), Section 3.7(b) or 4.3 hereof.

### 3.7 Physical Condition of Agency Affordable Housing Parcels.

(a) Except as provided in Section 3.5(c), as of the date the Agency Starts Construction of a Residential Project on an Agency Affordable Housing Parcel, as indicated in and subject to the Development Notice described in Section 4.2, each such parcel, except as provided in Section 3.5, shall be (i) in the environmental regulatory condition required by the North Environmental Investigation and Response Program, (ii) either served by Infrastructure as described in the Infrastructure Plan or such Infrastructure shall be covered by a subdivision improvement agreement for which subdivision improvement security for the installation of the

same has been provided, in which event Owner shall provide such Infrastructure in a timely manner by the time the Residential Project on an Agency Affordable Housing Parcel has Completed Construction and is available for occupancy, and (iii) with title in the condition described in Section 3.6(e) hereof. Following conveyance, the Agency shall maintain Agency Affordable Housing Parcels in a safe and orderly condition, including by fencing it to prevent entry by the public.

(b) At any time and for any reason, including, without limitation, because of any failure by the Agency to Start Construction of a Residential Project on an Agency Affordable Housing Parcel for ten (10) years after Owner has Completed Construction of the Infrastructure required for Projects in a Major Phase in which an Agency Affordable Housing Parcel is located, Owner has not performed its environmental investigation and remediation obligations under the North Environmental Investigation and Response Program with respect to any such Agency Affordable Housing Parcel, then the Owner may, in the exercise of its sole discretion, pay to the Agency a sum equal to one hundred twenty-five percent (125%) of: (i) the estimated cost as reasonably determined by the Agency and Owner, of the Owner's obligations under the North Environmental Investigation and Response Program, and (ii) a reasonable estimate of Agency Costs of contracting for and administering such contract as reasonably determined by the Agency, for any Agency Affordable Housing Parcel for which the Owner has not so satisfied its obligations under the North Environmental Investigation and Response Program. Such estimate shall, to the extent practicable, be based on reasonable, necessary and customary expenses to remediate similar environmental conditions for similar Projects in the Project area using the approach to remediation described in the North Environmental Investigation and Response Program. Upon the Owner's payment of the agreed upon amount to the Agency, the Owner shall be released from all obligations under the North Environmental Investigation and Response Program with respect to any Agency Affordable Housing Parcel for which Owner has paid such funds. The Agency shall upon Owner's request record a notice of such release in a form and substance reasonably acceptable to Owner.

#### 4. Agency Affordable Housing Development.

##### 4.1 Agency Affordable Housing Units.

The Agency may construct or cause to be constructed by a Qualified Housing Developer Agency Sponsored Affordable Housing Units consisting of approximately ten percent (10%) of the Total Residential Units in the North Plan Area plus forty-five (45) Residential Units, or up to a total of approximately three hundred forty five (345) Agency Sponsored Affordable Housing Units (plus any additional Agency Sponsored Affordable Housing Units permitted under Section 4.5 or Section 3.4) based on maximum build-out of the North Plan Area in accordance with the Redevelopment Requirements and applicable state law. The mix of For-Sale and For-Rent Residential Units and the allocation of Agency Sponsored Affordable Housing Units among affordability levels shall be determined by the Agency in the exercise of its sole and absolute discretion in accordance with applicable state law.

#### 4.2 Development Notice.

(a) At least twelve (12) months prior to the date by which the Agency or its Qualified Housing Developer intends to Start Construction on any Agency Affordable Housing Parcel (the "Agency Construction Date"), but in no event prior to the date of approval of the Major Phase in which the Agency Affordable Housing Parcel is located, the Agency shall deliver to the Owner a notice in writing (the "Preliminary Development Notice") containing (i) the Agency Construction Date; and (ii) a general written description of the planned Project, including, to the extent available, the general locations of buildings, parking areas, and access to the site. A Preliminary Development Notice under this Section 4.2(a) shall not be required after approval of both a Major Phase and the recording of a final Subdivision Map for the applicable parcels.

(b) At least three (3) months after delivery of the Preliminary Development Notice, if any, but in no event earlier than nine (9) months prior to the Agency Construction Date, the Agency shall deliver to the Owner a notice in writing (the "Development Notice") containing the following information: (1) the construction schedule including the Agency Construction Date (which shall not be sooner than the Agency Construction date contained in the Preliminary Development Notice) and anticipated completion date; (2) the dimensioned site plan showing the building footprint(s), parking and access; (3) uses proposed within the site; (4) to the extent available, the schematic utility design indicating power loads, wet utility demands and sanitary discharge loads; (5) the landscaping plan if ground level open space is proposed; (6) building square footage; and (7) conceptual excavation plan (trenches and foundations).

(c) Delivery of the Development Notice and the Agency Construction Date identified therein for Agency Sponsored Affordable Housing Units shall determine the timing of the Owner's obligations to investigate and remediate environmental conditions and to construct Infrastructure to the perimeter of the Agency Affordable Housing Parcel, all as more specifically set forth in the Infrastructure Plan and the North Environmental Investigation and Response Program; provided however, that in addition to any other extensions permitted under the North OPA for Unavoidable Delay, that the time period for Owner to satisfy such obligations shall be extended to the extent that and for the time period that Owner is delayed in obtaining regulatory permits or approvals from City Agencies with respect thereto but only if Owner has proceeded with reasonable diligence and in good faith to obtain such regulatory permits and approvals. The Preliminary Development Notice and Development Notice shall not materially modify the nature, design or scope of or delay the Owner's obligation to provide Infrastructure as described in Section 3.7 hereof. Agency shall keep Owner reasonably informed with respect to any material extensions or delays of the Agency Construction Date and anticipated date to have Completed Construction. Notice of any such extensions or delays shall, to the extent thereof, extend the time for Owner to satisfy its obligations. An error by the Agency with respect to any such notice of extension or delay shall not be considered a default under the North OPA.

#### 4.3 Agency Affordable Housing Design.

The Agency shall submit proposed Basic Concept Design and Schematic Design Drawings for each proposed Agency Sponsored Affordable Housing Units Project to Owner for

review. Owner's review shall be reasonable and shall be limited to conformity with the Redevelopment Requirements. If Owner believes that any of such Construction Documents are not consistent with the Redevelopment Requirements, Owner shall provide a written statement of the differences or deviations and a statement of the changes which would cause the same to be consistent with the Redevelopment Requirements. Owner shall review and provide any statement of objections within thirty (30) days of submission or Owner shall be deemed to have waived objections to the plans as submitted. For purposes of this Section 4.3, Owner has the same meaning as Owner's Representative as defined in the Interagency Cooperation Agreement.

#### 4.4 Uses of Agency Affordable Housing Parcels.

The Agency Affordable Housing Parcels shall only be used for development of Agency Sponsored Affordable Housing Units consistent with the Redevelopment Requirements, provided that Agency Residential Projects may contain local-serving retail uses up to a cumulative total of the greater of five thousand (5,000) Leasable square feet or ten percent (10%) of the total square footage of local-serving retail use approved for the North Plan Area but in no event more than ten thousand (10,000) Leasable square feet, as well as related parking and loading. Such local-serving retail uses may also be in addition to local serving child care, tenant serving social services or related tenant serving uses to the extent that such uses are permitted uses under the Mission Bay North Redevelopment Plan on the Agency Affordable Housing Parcels and are permitted in Agency Sponsored Affordable Housing developments under California Law. Affordability restrictions in the Agency Affordable Housing Parcel Deed may, in accordance with the requirements of Health & Safety Code Section 33334.14, be subordinated to construction and permanent financing of such Residential Projects. Soil surcharging is prohibited on Agency Affordable Housing Parcels.

#### 4.5 Approvals for Additional Agency Sponsored Affordable Housing Units.

The Agency may construct or cause the construction of Agency Sponsored Affordable Housing Units in excess of the maximum number of Agency Sponsored Affordable Housing Units described in Section 4.1, provided that any such increase in the number of Agency Sponsored Affordable Housing Units shall not exceed thirty-five (35) units plus ten percent (10%) of the number of units attributable to the Additional Land, based on an assumed density of ninety (90) units per acre. The Agency shall obtain all necessary amendments to existing land use and environmental approvals for the North Plan Area and shall provide Owner with reasonable assurance that such additional Agency Sponsored Affordable Housing Units will not adversely affect Owner's development in the North Plan Area or South Plan Area as anticipated under the Mission Bay North and South Redevelopment Plans and Plan Documents with respect to the density and intensity of development, any requirements for or changes in Infrastructure or Infrastructure costs, the effects of any changes in traffic, cumulative development or other environmental considerations, including delays because of environmental review or compliance, or adversely affect the availability of Excess Increment or Owner Excess Increment. As used in this Section 4.5, "Owner" shall have the same meaning as "Owner's Representative" as set forth in the Interagency Cooperation Agreement.



5. North Affordable Housing Loan Fund.

To facilitate the design and construction of the Agency Sponsored Affordable Housing Units in the North Plan Area, the Owner shall make available to the Agency a revolving predevelopment loan fund in the amount of Five Hundred Thousand Dollars (\$500,000.00) to be administered either by the Agency or by a designee of the Agency approved by the Owner, which approval shall not be unreasonably withheld (the "North Affordable Housing Loan Fund"). The Agency shall maintain the North Affordable Housing Loan Fund in a segregated interest-bearing account, with interest earned to be retained in the account and added to the North Affordable Housing Loan Fund. The Owner will pay to the Agency One Hundred Thousand Dollars (\$100,000.00) of the North Affordable Housing Loan Fund upon the Effective Date of the North OPA. The Owner will fund the balance of the North Affordable Housing Loan Fund within thirty (30) days after issuance of the first Building Permit for a Project in the first Major Phase. The North Affordable Housing Loan Fund assets shall be prudently loaned to Qualified Affordable Housing Developers to aid their development activities and the Agency shall obtain appropriate security in connection therewith. Such loans are to be repaid and the funds restored to the North Affordable Housing Loan Fund when sufficient capital sources are available to finance the Agency Sponsored Affordable Housing Unit Projects. The Agency shall provide the Owner's Representative, as set forth in the Interagency Cooperation Agreement, with: written notice of the receipt and disbursement of any amount from the North Affordable Housing Loan Fund and annual reports of the North Affordable Housing Loan Fund's balances. North Affordable Housing Loan Fund lending standards shall be comparable to those applicable to loans of the Agency's own funds. It is the intention of the Owner and the Agency that the North Affordable Housing Loan Fund including interest earned will be returned to Catellus Development Corporation. When the Agency Commences Construction on the last Agency Affordable Housing Parcel in the North Plan Area, the North Affordable Housing Loan Fund will, in whatever amount exists, be returned to Catellus Development Corporation. The balance of the North Affordable Housing Loan Fund shall be returned to Catellus Development Corporation on a quarterly basis as such funds become available. The Agency shall not be responsible for any loan losses, write-offs or any other diminution in the balance of the North Affordable Housing Loan Fund.

6. Rental Use Restriction.

6.1 Rental Use Restriction. Owner shall record Rental Use Restrictions (as defined below) on 15% of the total number of Owner Rental Residential Units in the North Plan Area and shall use good faith efforts to provide Owner Rental Residential Units and to record Rental Use Restrictions as it develops the North Plan Area. Prior to the date Owner Completes Construction of all Residential Projects in the North Plan Area, Owner shall record or have recorded a declaration or declarations of restrictions each in form and substance reasonably satisfactory to the Agency and Owner and substantially in the form of Exhibit M attached hereto (the "Rental Use Restriction"), restricting the use of a total of fifteen percent (15%) of the total number of Owner Market Rate Residential Units in the North Plan Area to Rental Residential Units for a period of fifteen (15) years from the date of recordation of each such restriction.

6.2 Data Submissions. Owner shall keep Agency reasonably apprised of its progress in recording Rental Use Restrictions as follows:

(a) Prior to the issuance of a Building Permit for the Residential Project which includes the one thousandth (1,000), one thousand five hundredth (1,500), and one thousand eight hundredth (1,800) Market Rate Residential Unit in the North Plan Area, Owner shall provide the Agency with the following data which shall be provided for informational purposes only and not as a condition of approval of such Residential Project: (i) the total number of Market Rate Residential Units which have Completed Construction in the North Plan Area, (ii) the total number of Residential Units as to which Owner has recorded a Rental Use Restriction, if any, and (iii) if any Rental Use Restrictions have been recorded, the percentage of such Rental Use Restrictions of the total number of Market Rate Residential Units which have Completed Construction in the North and South Plan Areas.

(b) As part of the application for Schematic Design approval for each Rental Residential Project submitted after the Residential Project which includes the one thousand eight hundredth (1,800) Building Permit Owner shall (i) provide the data described in Section 6.2(a) above and a good faith estimate of the total number of Residential Units for the North Plan Area and anticipated plan for achieving the requirements of Section 6.1, and (ii) indicate whether Owner intends to record a Rental Use Restriction with respect to any Owner Rental Residential Units in such Residential Project. If Owner, in its discretion, indicates that it intends to record any Rental Use Restrictions, the Agency may condition issuance of a Certificate of Occupancy for such Residential Project on the recordation of such Restrictions.

6.3 Enforcement. Owner may elect, in the exercise of its sole discretion, which Owner Residential Projects shall be subject to a Residential Use Restriction. Owner may record Rental Use Restrictions at any time, before or after Completion of Construction of a Residential Project. Owner shall have no obligation to record any Rental Use Restrictions on any Rental Residential Units prior to Completion of Construction of eighty five percent (85%) of the total number of Market Rate Residential Units which Owner may develop in the North Plan Area. The Agency's sole remedy in the event Owner has failed to record Rental Use Restrictions as required by this Section is to require as a condition of approval that such Rental Use Restrictions be recorded with respect to remaining Residential Projects in the remaining Major Phase(s) in the North Plan Area. In no event shall such failure be considered a default with respect to any other Major Phases or Projects.

**EXHIBIT A**

**MISSION BAY NORTH HOUSING PROGRAM**

**MAJOR PHASE HOUSING DATA TABLE**

**EXHIBIT A**

Example: Major Phase 1, North Plan Area

**EXAMPLE ONLY**

(Data included for illustrative purposes only)

**MAJOR PHASE HOUSING DATA TABLE**

Summary	Use	Acres	Maximum Bldg. Height	Residential Units	
				Total Units (Range)	Owner Affordable Housing Units (Range)
<u>Block N1</u>	Residential	0.5	160'	100 - 150	
Parcel 1	Retail	2.1	110'	-	
Parcel 2	Retail	2.1	110'	-	
Parcel 3	Residential	0.5	160'	100 - 150	
Parcel 4		5.2		200 - 300	
	Subtotal				
<u>Block N2</u>	Agency Affordable Housing	1.0	65'	81 - 99	
Parcel 1	Retail	1.0	100'	-	
Parcel 2	Residential	1.3	100'	117 - 143	
Parcel 3		3.3		198 - 242	
	Subtotal				
<u>Block N3 (Portion)</u>	Agency Affordable Housing	1.0	65'	81 - 99	
Parcel 1	Residential	0.9	65'	81 - 99	
Parcel 2	Residential	0.9	65'	81 - 99	
Parcel 3	Residential	0.5	160'	100 - 150	
Parcel 4	Residential	0.6	65'	54 - 66	
Parcel 5		3.9		397 - 513	
	Subtotal				
	Owner Inclusionary Units				41 - 54
	Owner Very Low Income Units				27 - 36
	Major Phase Total	12.4		795 - 1,055	68 - 90

**EXHIBIT A**

Example: Major Phase 1, North Plan Area

EXAMPL. NLY

(Data included for illustrative purposes only)

**MAJOR PHASE HOUSING DATA TABLE**

	Acres	Owner Residential Units	
		Total Units (Range)	Affordable Housing (Range)
<u>Owner Major Phase Information (Residential)</u>			
Total Owner Residential Projects	5.2	633 - 857	68 - 90*
Agency Affordable Housing Parcels	2.0		
Total Owner/Agency Residential Acreage	7.2		
<u>Distribution of Owner Affordable Housing Units</u>			
Owner Moderate Income Units:			31 - 41
Owner Low Income Units:			10 - 13
Owner Very Low Income Units:			27 - 36
			<u>68 - 90</u>
		Total	

46%  
14%  
40%

Does this Major Phase include the 3<sup>rd</sup> Affordable Housing Parcel

No

Calculation/adjustment to determine if adjustment or additional land needed

No

\*Based on approximately 8.5% of total Residential Units North Plan Area (As future Major Phases are proposed cumulative residential data would be included)

**EXHIBIT B**

**MISSION BAY NORTH HOUSING PROGRAM**

**PROJECT HOUSING DATA TABLE**

(Data Included for illustrative purposes only)

EXHIBIT B

Example: Project 7, Major Phase 1

PROJECT HOUSING DATA TABLE

Object #	Block	Current Owner	Basic Concept Drawings Approved	Schematic Design Approved	Site Permit/Building Permit (Date)	Construction Complete Date (C.O./C.O)	Agency Certificate of Completion (Date)	Use For Sale Residential Retail For Sale Residential Subtotal	Parcel Acres	Max./Actual Bldg. Height	Residential Units (Range)	Total Affordable Housing	Approved Owner Affordable Units			Total
													Moderate Income	Low Income	Very Low Income	
1	Block N1	XYZ Developer	06/02/98	Yes	08/01/98	Yes	08/01/99	For Sale Residential	0.5	150'	120	14	11	3	0	14
2	Parcel 1	CDC	07/15/98	Yes	09/15/98	Yes	09/15/98	Retail	2.1	110'	-	-	-	-	-	-
2	Parcel 2	CDC	08/01/98	Yes	10/01/98	Yes	10/01/98	Retail	2.1	110'	-	-	-	-	-	-
1	Parcel 3	ABC Developer	09/15/98	Yes	11/15/98	Yes	11/15/98	For Sale Residential	0.5	160'	50	0	0	0	0	0
	Parcel 4							Subtotal	5.2		270					
4	Block N2	Agency	10/01/98	Yes	12/01/99	Yes	12/01/98	Agency Affordable Housing	1.0	65'	90	90	-	-	-	-
5	Parcel 1	CDC	11/15/99	Yes	01/15/00	Yes	01/15/99	Retail	1.0	100'	-	-	-	-	-	-
5	Parcel 2	CDC	12/01/00	Yes	02/01/99	Yes	02/01/99	Rental Residential	1.3	100'	120	13	10	3	-	13
	Parcel 3							Subtotal	3.3		220					
6	Block N3 (Portion)	Agency	02/15/01	Yes	03/15/99	No	03/15/99	Agency Affordable Housing	1.0	65'	90	90	-	-	-	-
7	Parcel 1	CDC		Pending		No		Rental Residential	0.9	65'	90	9	7	2	0	9
8	Parcel 2	CDC		Yes		No		Rental Residential	0.9	65'	99	31	-	-	31	31
	Parcel 3	CDC		No		No		Residential	0.5	160'	100-150					
	Parcel 4	CDC		No		No		Residential	0.6	65'	54-66					
	Parcel 5	CDC		No		No		Subtotal	3.9		433-495		28	8	31	67
Major Phase Totals									12.4		923-975		36-38	11-12	31-33	

(Including Owner Affordable Housing Units Requirement for Major Phase)

**EXHIBIT B**

Example: Project 7, Major Phase 1

(Data included for illustrative purposes only)

**PROJECT HOUSING DATA TABLE**

	Acres	Residential Units		Owner Affordable Units		
		Total Units (Range)	Affordable Housing (Range)	Moderate Income	Low Income	Very Low Income
<u>Owner Major Phase Information (Residential)</u>						
Owner Major Phase For Sale	5.2	743 - 805	78 - 83*	21	6	31
Owner Major Phase For Rent	1.5	370 - 420	0 - 34	21	6	0
	3.7	373 - 385	78 - 83	8-10	2	0
			36 - 38	5- 8	5-6	0-2
Owner Moderate Income Units:	46%			21	6	31
Owner Moderate For Sale Units	71%					
Owner Moderate Rental Units	29%					
Owner Low Income Units:	14%					
Owner Very Low Income Units:	40%					
Owner Units-Schematic Design Approved	589					
Owner Units Building Permit Issued	400					
Owner Units Completed (C.O.)	400					
Owner Units Pending-Schematic Design Approval	90					
Owner Remaining Units (including affordable)	154 - 216					
Owner Residential Units Total	743 - 805					
Application of VLI requirement-SEC-(2.4 (b), (c) or (d))						
VLI site and VLI units approved						
Owner Moderate Income For Sale Site Established						
Total No. of Owner Moderate Income Units which have received C. of O.				21	6	31
Moderate Income For Sale Units						68
Moderate Income Rental Units						3-56
Total Approved Owner Affordable Units in Major Phase						10- 16
Remaining Potential Owner Affordable Units in Major Phase						
Remaining Major Phase Owner Affordable Unit Requirement						

\* Based on 8.5% of the total number of residential units for Mission Bay North  
 \*\* The allocation of VLI units for this Major Phase was established in conjunction with the approval of project No. 8.



**EXHIBIT C**

**MISSION BAY NORTH HOUSING PROGRAM**

**OWNER VLI NOTE**

EXHIBIT C

MISSION BAY NORTH HOUSING PROGRAM

UNSECURED PROMISSORY NOTE  
MISSION BAY NORTH  
OWNER VERY LOW INCOME UNITS  
("Owner VLI Note")

RESIDENTIAL PROJECT LOCATION: \_\_\_\_\_

Principal Amount: \$ \_\_\_\_\_

San Francisco, California

Date: \_\_\_\_\_, \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned, the REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body corporate and politic of the State of California ("Agency"), hereby promises to pay to the order of

\_\_\_\_\_, a  
\_\_\_\_\_, ("Owner"), at

Attention: \_\_\_\_\_ (or such other place or to such other party as Owner may from time to time designate in writing upon at least ten (10) days advance notice) the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (the "Principal Amount"), on the terms and conditions set forth below.

1. North Owner Participation Agreement/Housing Program. This Owner VLI Note is given under the terms of the Mission Bay North Owner Participation Agreement between the Agency and the Owner dated as of \_\_\_\_\_, 1998, as the same has been or may be amended pursuant to its terms (the "North OPA"), including the Housing Program attached as Attachment C to the North OPA (the "Housing Program"). The rights and obligations of the Agency and the Owner with respect to this Owner VLI Note are governed by the North OPA and the Housing Program. Capitalized terms used in this Owner VLI Note and not defined herein shall have the meaning set forth in the North OPA and/or the Housing Program, as applicable.

2. Calculation of Principal.

(a) Principal Amount. The Principal Amount payable under this Owner VLI Note is equal to \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (the "VLI Contribution") multiplied by \_\_\_\_\_ (\_\_\_\_\_), which is the number of Owner Very Low Income Units to be included in the above referenced Residential Project located at block \_\_, for a total Principal Amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

(b) Adjustments to Principal Amount. In the event that as of the date of Completed Construction of the Owner Very Low Income Units in the Residential Project covered by this Owner VLI Note, the actual number of Owner Very Low Income Units in such Residential Project is less than the number of Owner Very Low Income Units specified in Section 2(a) of this Owner VLI Note, then in addition to any other remedies available to the Agency under the North OPA, the Principal Amount of this Owner VLI Note shall be reduced to an amount equal to the VLI Contribution multiplied by the actual number of Owner Very Low Income Units for which Owner has Completed Construction in such Residential Project.

3. Term of Owner VLI Note. The Principal Amount of this Owner VLI Note shall be due and payable on \_\_\_\_\_, \_\_\_\_ (the "Final Repayment Date") if not paid earlier in accordance with the terms of this Owner VLI Note.

4. No Interest. No interest shall accrue on the Principal Amount except as provided in Section 9(b) below.

5. No Security. This Owner VLI Note is not secured by any real or personal property.

6. Owner Very Low Income Unit Obligation.

(a) Following the Completed Construction of the Owner Very Low Income Units described in Section 2(a) or (b), as applicable, in the event Owner fails to maintain the affordability and occupancy requirements in the Declaration of Restrictions (the "Restrictions") applicable to such Owner Very Low Income Units and if such failure occurs prior to the Final Repayment Date, then without limiting the Agency's other rights or remedies under the North OPA or otherwise, the Agency's obligation to make any payments under this Owner VLI Note shall be suspended during the period of noncompliance with the Restrictions, such that the amount that would otherwise then be payable under this Owner VLI Note (the "Required Payment") shall be reduced to equal the Required Payment multiplied by a fraction, the numerator of which is number of Residential Units which comply with the Restrictions, and the denominator of which is the total number of Owner Very Low Income Units described in Section 2(a) or (b), as applicable.

(b) In the event the Agency's payment obligations are suspended under Subsection (a) above, the Agency's full payment obligations shall recommence on the next succeeding Repayment Date following the Owner's compliance with the Restrictions applicable to such Residential Units.

7. Repayment of Principal. From and after the Completed Construction of all Owner Very Low Income Units covered by this Owner VLI Note pursuant to the Housing Program, the Agency shall pay the principal balance of this Owner VLI Note, as more particularly described below, solely from the Owner Excess Increment, as defined in the Housing Program and Section 2.C.iii of the Financing Plan attached as Attachment E to the North OPA.

(a) The Agency shall make each payment within thirty (30) days of the Agency's receipt from the City's controller of an allocation of Excess Increment (each such date is a

“Repayment Date”). The Agency and the Owner anticipate that the Agency shall receive payments of Excess Increment at approximately six-month intervals. The Agency shall provide to the Owner a copy of each notice from the City’s Controller indicating the time and amount of each payment of Excess Increment from the City to the Agency.

(b) The amount of each payment shall be equal to the Owner Excess Increment received by the Agency under Subsection (a) as of the Repayment Date. In the event that there is no Owner Excess Increment available for a particular period, then there shall be no Repayment Date for that period and the Agency shall not be required to make any payments attributable to that period.

(c) The Agency shall be required to make payments only through the earlier of (i) the date of full repayment of the principal balance of this Owner VLI Note, or (ii) the next Repayment Date occurring within thirty (30) days after the Final Repayment Date. In the event that any portion of the principal balance of this Owner VLI Note remains unpaid as of date specified in clause (ii) above for any reason other than a default by Agency under this Owner VLI Note, then the Agency’s obligation to repay such amounts shall be forgiven as of such date.

(d) In the event that more than one Owner VLI Note is outstanding, the Owner will apply payments received by the Agency to each Owner VLI Note in the order in which it was executed relative to all other Owner VLI Notes, with the earliest in time being paid first.

8. Terms of Payment.

(a) All payments under this Owner VLI Note shall be paid in lawful currency of the United States of America, in immediately available funds, including Agency check, which at the time of payment is lawful for the payment of public and private debts, without presentment of payment, offset, demand or notice, except as otherwise specifically provided herein.

(b) All payments shall be made payable to Owner and mailed or delivered in person to Owner at place designated in the first paragraph of this Owner VLI Note.

9. Default.

(a) The Agency shall be in default under this Owner VLI Note only if it fails to make any required payments under this Owner VLI Note on any Repayment Date, provided that the Owner shall give the Agency written notice of any such default and the Agency shall have ten (10) days from receipt of such notice to cure the default identified in such notice. Following the expiration of such ten (10) day notice and cure period, the Owner may pursue any and all remedies available at law or in equity to enforce its rights under this Owner VLI Note, subject to any applicable limitations on remedies set forth in the North OPA.

(b) If any payment obligation under this Owner VLI Note is not paid when due, the Agency shall promptly pay all costs, including, without limitation, collection charges and Attorneys’ Fees and Costs (as defined below), incurred by the Owner in connection with the enforcement of its rights under this Owner VLI Note, whether or not suit is filed (collectively,

the "Reimbursement Amount"), and the Agency hereby waives to the fullest extent permitted by law all right to plead any statute of limitations as a defense to any action hereunder. The past due payment obligation and the Reimbursement Amount shall be accompanied by interest on such amounts at the rate of the lesser of ten percent (10%) per annum or the maximum rate permitted by law, from the date due (following the notice and cure period specified in Subsection (a) above) through and including the date of payment of such amounts (calculated on the basis of a 365-day year for the actual number of days elapsed).

(c) "Attorney's Fees and Costs" means any and all attorneys' fees, costs, expenses and disbursements, including, but not limited to: expert witness fees and costs, travel time and associated costs; transcript preparation fees and costs; document copying expenses; exhibit preparation costs; carrier expenses and postage and communications expenses; such amount as a court or other decision maker may adjudge to be reasonable attorneys' fees for the services rendered to the prevailing party in such action or proceeding; fees and costs associated with execution upon any judgment or order; and costs on appeal and any collection efforts. For purposes of this Owner VLI Note, the reasonable fees of attorneys and any in-house counsel for the Agency and the Owner shall be based on the fees regularly charged by private attorneys with the equivalent number of years of professional experience in the subject matter area of the law for which the Agency's or the Owner's in-house counsel's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Agency or, in the case of the Owner, as employed by outside counsel for the Owner.

#### 10. Miscellaneous Provisions.

(a) No renewal or extension of this Owner VLI Note, delay in enforcing any right of the Owner under this Owner VLI Note, or assignment by the Owner of this Owner VLI Note shall in any way affect the liability of the Agency. All rights and remedies of the Owner under this Owner VLI Note are cumulative and may be exercised independently or consecutively at the Owner's option. The rights and remedies provided under this Owner VLI Note are in addition to any rights or remedies provided under the North OPA or any agreements contemplated thereby.

(b) Any failure of the Owner to exercise any rights under this Owner VLI Note shall not constitute a waiver of the right to the later exercise thereof.

(c) This Owner VLI Note may not be changed, amended or modified orally, and may only be amended or modified by an instrument in writing which by its express terms refers to this Owner VLI Note and is duly executed by the Agency and accepted in writing by the Owner.

(d) Notice may be given to the Owner or to the Agency at the address for such parties and in the manner set forth in the North OPA.

(e) This Owner VLI Note shall be governed by and construed in accordance with the laws of the State of California.

(f) Time is of the essence with respect to each and every term and provision of this Owner VLI Note.

(g) The terms of this Owner VLI Note shall bind the Agency and inure to the benefit of the Owner and their respective successors and assigns.

(h) If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

(i) The captions and headings in this Owner VLI Note are for convenience of reference purposes only and shall not be deemed to affect the meaning or interpretation of any of the provisions of this Owner VLI Note.

MAKER

REDEVELOPMENT AGENCY OF THE CITY AND COUNTY  
OF SAN FRANCISCO, a public body corporate and politic of the  
State of California

By: \_\_\_\_\_  
[type name]  
Executive Director

Approved as to form:

By: \_\_\_\_\_  
[type name]  
General Counsel

**EXHIBIT D1**

**MISSION BAY NORTH HOUSING PROGRAM**

**DECLARATION OF RESTRICTIONS**

EXHIBIT D1

MISSION BAY NORTH HOUSING PROGRAM

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Redevelopment Agency of City and  
County of San Francisco  
770 Golden Gate Avenue  
San Francisco, California 94102

Attn: Executive Director

This document is exempt from payment  
of a recording fee pursuant to Government Code  
Section 27383.

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DECLARATION OF RENTAL RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS ("Declaration") is made this \_\_\_\_ day of \_\_\_\_\_, 1998, by [Insert the appropriate entity: Catellus Development Corporation, a Delaware corporation, or its agents, designees or successors; or insert name of a permitted Transferee under the North OPA or its agents, designees or successors] as declarant (the "Owner"), in favor of The Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, of the State of California (the "Agency"), with reference to the following:

A. Owner is fee owner of record of that certain real property located in the City and County of San Francisco, State of California legally described in the attached Exhibit "A" (the "Property"), which is comprised of \_\_\_\_\_ acres. Owner intends to construct on the Property \_\_\_\_\_ For-Rent Residential Units.

B. The Property is within the North Plan Area in the City and County of San Francisco and is subject to the provisions of the Mission Bay North Redevelopment Plan adopted by \_\_\_\_\_.

C. The Agency and Owner have entered into that certain Mission Bay North Owner Participation Agreement dated \_\_\_\_\_, 1998, and recorded on \_\_\_\_\_ as Document No. \_\_\_\_\_ (the "North OPA") including, without limitation, the Housing



Program which is attached thereto as Attachment C (the "Housing Program") concerning the development and use of the Property, which North OPA and Housing Program is on file with the Agency as a public record and is incorporated herein by reference and which North OPA and Housing Program provides for the execution and recordation of this Declaration. This Declaration is being executed and recorded for the benefit of the Agency in accordance with the Housing Program and to satisfy the conditions for provision of Owner Affordable Housing Units pursuant thereto.

NOW, THEREFORE, OWNER AGREES AND COVENANTS AS FOLLOWS:

1. RESTRICTED AFFORDABLE RESIDENTIAL UNITS.

1.1 For-Rent Owner Affordable Housing Units. The occupancy of \_\_\_\_\_  
( ) For-Rent Owner Affordable Housing Units in the Residential Project located on the Property shall be restricted to housing for very low, low and moderate income persons at Affordable Rents and shall be deemed to be Owner Affordable Housing Units as follows:  
\_\_\_\_\_ of the For-Rent Owner Affordable Housing Units shall be Owner Very Low Income Units, \_\_\_\_\_ of the For-Rent Owner Affordable Housing Units shall be Owner Low Income Units, and \_\_\_\_\_ of the For-Rent Owner Affordable Housing Units shall be Owner Moderate Income Units.

1.2 Term. Owner Affordable Housing Units shall remain available at Affordable Rent for a continuous period of seventy-five (75) years from the date of issuance of a Certificate of Occupancy for the Residential Project located on the Property, regardless of any termination of the North OPA. This Declaration shall automatically terminate and expire, without further action of Agency or Owner, and shall be released and be of no further force and effect whatsoever upon expiration of the above term.

2. DEFINITIONS.

All capitalized terms used in this Declaration which are not otherwise defined herein shall have the meanings given them in the North OPA, including the Housing Program which is Attachment C thereto. Terms defined in the North OPA or the Attachments thereto and also set forth in this Declaration are provided herein for convenience only.

2.1 Affordable means a monthly rental charge, including a utility allowance in an amount determined by the San Francisco Housing Authority, which does not exceed thirty percent (30%) of the Area Median Income permitted for the applicable type of Owner Affordable Housing Unit based upon Household Size.

2.2 Area Median Income means the median income for a household (based upon Household Size) residing in the City and County of San Francisco as determined pursuant to Section 50093 of the California Health and Safety Code.

2.3 Household Size means the total number of bedrooms in an Owner Affordable Housing Unit plus one (1).

2.4 Owner Low Income Unit means an Owner Affordable Housing Unit which is Affordable to households earning up to seventy percent (70%) of the Area Median Income.

2.5 Owner Moderate Income Unit means an Owner Affordable Housing Unit which is Affordable to households earning up to one hundred ten percent (110%) of the Area Median Income.

2.6 Owner Very Low Income Unit means an Owner Affordable Housing Unit which is Affordable to households earning up to fifty percent (50%) of the Area Median Income.

2.7 Rent or Rental Rate means, for each Owner Affordable Housing Unit, the total of monthly payments for (a) use and occupancy of the Residential Unit and land and facilities associated therewith; (b) any separately charged fees or services assessed by the Owner which are required of all tenants, other than security deposits; (c) a reasonable allowance for utilities which are paid by the tenant, not including telephone service (see definition of Utility Allowance); and (d) any taxes or fees charged for use of the land and facilities other than the Owner.

2.8 Utility Allowance means, if the cost of utilities (except telephone) and other services for an Owner Affordable Housing Unit is the responsibility of the occupying household, an amount equal to the estimate made by the San Francisco Housing Authority or, if not available, the U.S. Department of housing and Urban Development of the monthly costs of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of safe, sanitary and healthful living environment.

### 3. RENTAL RATES FOR OWNER AFFORDABLE HOUSING UNITS.

3.1 Initial Rents. The Rental Rate for each For-Rent Owner Affordable Housing Unit shall be determined based upon Household Size for that Owner Affordable Housing Unit, and then limiting the Rent as follows:

A. For Owner Moderate Income Units, the Rent shall not exceed thirty percent (30%) of one hundred and ten percent (110%) of Area Median Income, based upon Household Size, less the Utility Allowance.

B. For Owner Low Income Units, the Rent shall not exceed thirty percent (30%) of seventy percent (70%) of Area Median Income, based upon Household Size, less the Utility Allowance.

C. For Owner Very Low Income Units, the Rent shall not exceed thirty percent (30%) of fifty percent (50%) of Area Median Income, based upon Household Size, less the Utility Allowance.

3.2 Rent Increases. The Rent for Owner Affordable Housing Units may be increased once each year to reflect changes, if any, in the Area Median Income and the Utility Allowance.

No annual increase shall be greater than the percentage increase during the immediately preceding year, if any, in the Area Median Income, even if the Owner, due to an increase in the Area Median Income, was entitled to increase the Rent in prior years but elected not to do so.

4. INCOME CERTIFICATION FOR TENANTS OF OWNER AFFORDABLE UNITS.

4.1 Initial Income Certification. The Owner shall require all households applying for occupancy of Owner Affordable Housing Units to submit an income certification at the time of application and annually thereafter on the form attached hereto as Attachment A. The Owner shall make reasonable efforts to verify such income certifications. The initial rentals of Owner Affordable Housing Units for each household shall be as follows: (i) for Owner Very Low Income Units, to households whose income does not exceed fifty percent (50%) of Area Median Income; (ii) for Owner Low Income Units, to households whose income does not exceed seventy percent (70%) of Area Median Income; (iii) for Owner Moderate Income Units, to households whose income does not exceed one hundred ten percent (110%) of Area Median Income.

4.2 Household Income After Occupancy. Changes in incomes of households occupying Owner Affordable Housing Units shall not affect the classification of Residential Units as Owner Affordable Housing Units until the household income exceeds 120% of Area Median Income, in which case the Residential Unit shall no longer be considered an Owner Affordable Housing Unit and the Owner shall designate the next available Residential Unit of comparable size within the Residential Project as an Owner Affordable Housing Unit at the same original level of affordability as the de-designated Residential Unit, and shall restrict the Rent on such Residential Unit to the applicable level specified in Section 3.1 above. Upon designation of the next available Residential Unit, the Owner shall no longer be required to limit rental charges for the Residential Unit which is no longer considered an Affordable Housing Unit to the levels described in Section 3 above.

5. RECORDS AND REPORTING REQUIREMENTS FOR OWNER AFFORDABLE HOUSING UNITS.

5.1 Reports. The Owner shall provide reports to the Agency on a quarterly basis, commencing on the 15th of the month after issuance of a Certificate of Occupancy for the Residential Project, regarding the Owner Affordable Housing Units in the form attached hereto as Attachment B, and any additional reports or information reasonably requested by the Agency as to the operation of the Owner Affordable Housing Units.

5.2 Maintenance of Records. The Owner shall maintain and retain records of all applications, income certifications, income verifications, leases, management actions, and rent rolls relating to the Owner Affordable Housing Units for five (5) years. The Agency or its designee shall have the right to inspect such records upon reasonable notice during regular business hours.

6. COVENANTS.

6.1 Restrictions. The restrictions set forth in this Declaration shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each Owner thereof and their successors and assigns.

7. REMEDIES.

Notwithstanding any other provisions of the North OPA to the contrary, the Agency shall be entitled to all remedies in the event of any default in or breach of this Declaration which are available in law or equity.

8. GOVERNING LAW.

This Declaration shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, Owner has executed this instrument the day and year first hereinabove written.

“OWNER”

[CATELLUS DEVELOPMENT CORPORATION,  
a Delaware corporation; or if another party insert  
appropriate name of party]

By: \_\_\_\_\_  
Its: \_\_\_\_\_



Attachment "A"

**INCOME CERTIFICATION**

[To be provided for each Residential Project prior to recordation of Declaration.]

**Attachment "B"**

**OWNER AFFORDABLE HOUSING UNIT REPORT**

[To be provided for each Residential Project prior to recordation of Declaration.]

**EXHIBIT D2**

**MISSION BAY NORTH HOUSING PROGRAM  
DECLARATION OF RESTRICTIONS (FOR SALE)**



**EXHIBIT D2**

**MISSION BAY NORTH HOUSING PROGRAM**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Redevelopment Agency of City and  
County of San Francisco  
770 Golden Gate Avenue  
San Francisco, California 94102

Attn: Executive Director

This document is exempt from  
payment of a recording fee pursuant  
to Government Code Section 27383

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Dated: \_\_\_\_\_, \_\_\_\_\_

**DECLARATION OF FOR-SALE RESTRICTIONS**

THIS DECLARATION OF FOR-SALE RESTRICTIONS ("Declaration") is made this \_\_\_\_\_ day of \_\_\_\_\_, 1998, by [Insert the appropriate entity: Catellus Development Corporation, a Delaware corporation, or its agents, designees or successors; or insert name of a permitted Transferee under the North OPA or its agents, designees or successors] as declarant (the "Owner"), in favor of the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, of the State of California (the "Agency"), with reference to the following:

A. Owner is fee owner of record of that certain real property located in the City and County of San Francisco, State of California legally described in the attached Exhibit "A" (the "Property"), which is comprised of \_\_\_\_\_ acres. Owner intends to construct a Residential Project on the Property consisting of \_\_\_\_\_ For-Sale Residential Units.

B. The Property is within the North Plan Area in the City and County of San Francisco and is subject to the provisions of the Mission Bay North Redevelopment Plan adopted by \_\_\_\_\_.

C. The Agency and Owner have entered into that certain Mission Bay North Owner Participation Agreement dated \_\_\_\_\_, 1998, and recorded on \_\_\_\_\_ as Document No. \_\_\_\_\_ (the "North OPA") including, without limitation, the Housing Program which is attached thereto as Attachment C (the "Housing Program"), concerning the development and use of the Property, which North OPA and Housing Program is on file with the Agency as a public record and is incorporated herein by reference and which North OPA and the Housing Program provides for the execution and recordation of this Declaration. This Declaration is being executed and recorded for the benefit of the Agency in accordance with the Housing Program with respect to For-Sale Owner Affordable Units.

NOW, THEREFORE, OWNER AGREES AND COVENANTS AS FOLLOWS:

1. RESTRICTED AFFORDABLE RESIDENTIAL UNITS.

1.1 For-Sale Owner Affordable Housing Units. The sale of \_\_\_\_\_ ( ) For-Sale Owner Affordable Housing Units in the Residential Project on the Property shall be restricted to housing for very low, low and moderate income persons at an Affordable Purchase Price and shall be deemed to be Owner Affordable Housing Units as follows: \_\_\_\_\_ of the For-Sale Owner Affordable Housing Units shall be Owner Very Low Income Units, \_\_\_\_\_ of the For-Sale Owner Affordable Housing Units shall be Owner Low Income Units and \_\_\_\_\_ of the For-Sale Owner Affordable Housing Units shall be Owner Moderate Income Units.

1.2 Term. Owner Affordable Housing Units shall remain available at an Affordable Purchase Price and this Declaration shall remain in effect until the earlier of (a) seventy-five (75) years from the date of issuance of a Certificate of Occupancy for the Residential Project; or (b) such shorter period of time as required by the terms of any first mortgage financing for the purchase of the applicable Owner Affordable Housing Unit; but in no even less than forty (40) years from the date of the Certificate of Occupancy for the Residential Project, regardless of any termination of the North OPA. The exact term of this Declaration with respect to an Owner Affordable Housing Unit shall be specified in the restrictions executed by the purchaser as provided in Section 3.2 below. This Declaration shall automatically terminate and expire, without further action of Agency or Owner, and shall be released and be of no further force and effect whatsoever upon expiration of the above term.

2. DEFINITIONS.

All capitalized terms used in this Declaration which are not otherwise defined herein shall have the meanings given them in the North OPA, including the Housing Program thereto. Terms defined in the North OPA or the Attachments thereto and also set forth in this Declaration are provided herein for convenience only.

2.1 "Affordable" means a purchase price based on a five percent (5%) down payment and a commercially reasonable thirty (30) year fixed mortgage with commercially reasonable rates, points and fees, with a total of annual payment for principal, interest, taxes and homeowner's association dues which does not exceed thirty three percent (33%) of the maximum

Area Median Income permitted for the applicable type of Residential Unit, based upon Household Size.

2.2 “Affordable Purchase Price” means the purchase price for an Owner Affordable Housing Unit that is Affordable for an Owner Low Income Unit, Owner Moderate Income Unit, and Owner Very Low Income Unit, as applicable, based upon Household Size, as modified by Section 3.2 below following the initial sale of the Owner Affordable Housing Unit.

2.3 “Area Median Income” means the median income for a household (based upon Household Size) residing in the City and County of San Francisco as determined pursuant to Section 50093 of the California Health and Safety Code.

2.4 “Household Size” means the total number of bedrooms in an Owner Affordable Housing Unit plus one (1).

2.5 “Owner Low Income Unit” means an Owner Affordable Housing Unit that is Affordable to households earning up to seventy percent (70%) of the Area Median Income.

2.6 “Owner Moderate Income Unit” means an Owner Affordable Housing Unit which is Affordable to households earning up to one hundred ten percent (110%) of the Area Median Income.

2.7 “Owner Very Low Income Unit” means an Owner Affordable Housing Unit which is Affordable to households earning up to fifty percent (50%) of the Area Median Income.

### 3. PURCHASE PRICES FOR OWNER AFFORDABLE HOUSING UNITS.

3.1 Initial Affordable Purchase Prices. The initial Affordable Purchase Price for each Owner Affordable Housing Unit shall be based upon Household Size for that Owner Affordable Housing Unit, and then limiting the purchase price as follows:

A. For Owner Moderate Income Units, the average Affordable Purchase Price shall be a price which is Affordable to a purchaser earning up to one hundred percent (100%) of Area Median Income, based upon Household Size; and the maximum Affordable Purchase Price shall be a price which is Affordable to a purchaser earning up to one hundred and ten percent (110%) of Area Median Income, based upon Household Size.

B. For Owner Low Income Units, the average Affordable Purchase Price shall be the a price which is Affordable to a purchaser earning up to sixty five percent (65%) of Area Median Income, based upon Household Size; and the maximum Affordable Purchase Price shall be a price which is Affordable to a purchaser earning up to seventy percent (70%) of Area Median Income, based upon Household Size.

C. For Owner Very Low Income Units, the average Affordable Purchase Price shall be a price which is Affordable to a purchaser earning up to forty five percent (45%) of Area Median Income, based upon Household Size; and the maximum Affordable Purchase Price

shall be a price which is Affordable to a purchaser earning up to fifty percent (50%) of Area Median Income, based upon Household Size.

3.2 Subsequent Affordable Purchase Price. Following the initial sale of each Residential Unit covered by this Declaration, the Affordable Purchase Price on any subsequent sale of such Owner Affordable Housing Unit shall not exceed the sum of the following:

A. The existing Owner's purchase price for the Owner Affordable Housing Unit multiplied by the percentage change in the housing component of the Consumer Price Index for the San Francisco Standard Metropolitan Statistical Area from the date of purchase through the date of sale of the Owner Affordable Housing Unit;

B. The actual, verifiable cost of all approved capital improvements to the Owner Affordable Housing Unit made while the Owner owned the Owner Affordable Housing Unit; and

C. All reasonable and customary closing and title costs and sales commissions payable to a licensed real estate broker in connection with the sale.

4. INCOME CERTIFICATION AND DOCUMENTS FOR PURCHASERS OF OWNER AFFORDABLE HOUSING UNITS.

4.1 Income Certification. The Owner shall require all households offering to purchase an Owner Affordable Housing Unit to submit an income certification in connection with an offer for the Owner Affordable Housing Unit as a condition to close of the sale of the Owner Affordable Housing Unit. Each purchaser shall own and occupy the applicable Owner Affordable Housing Unit as the purchaser's primary residence.

4.2 Documents Relating to Resale Restrictions. In order to ensure compliance with the terms of this Declaration, each initial and subsequent purchaser of an Owner Affordable Housing Unit subject to this Declaration shall execute and deliver the following documents to the Agency in connection with any purchase or sale of an Owner Affordable Housing Unit:

A. A declaration of restrictions, including the resale restrictions set forth in Section 3.2 above, applicable to and recorded against the Owner Affordable Housing Unit;

B. A right of first refusal to be recorded against the Owner Affordable Housing Unit, granting the Agency the right to purchase the Owner Affordable Housing Unit on certain terms and conditions as set forth therein;

C. A promissory note executed by the purchaser to the order of the Agency in the original principal amount equal to the fair market value of the Owner Affordable Housing Unit as of the date of purchase, less the restricted Affordable Purchase Price of the Owner Affordable Housing Unit, as calculated pursuant to Section 3.2 of this Declaration; which promissory note shall be payable in the event the purchaser violates the resale restrictions applicable to the Owner Affordable Housing Unit; and

D. A deed of trust securing the purchaser's obligations under the promissory note for the benefit of the Agency.

Agency shall reconvey any existing resale restrictions against the Owner Affordable Housing Unit upon a resale of the Owner Affordable Housing Unit in compliance with the terms of this Declaration and the execution of the new resale restrictions and other documents required pursuant to this Section 4.2 by the new purchaser.

5. COVENANTS/SUBORDINATION.

5.1 Restrictions. The restrictions set forth in this Declaration shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each Owner thereof and their successors and assigns.

5.2 Subordination. This Declaration shall be subordinate to a lien securing first mortgage financing for a purchaser's acquisition of an Owner Affordable Housing Unit and Agency agrees to execute such documents as may be reasonably required to effect the subordination of this Declaration.

6. REMEDIES.

6.1 Agency Remedies. Notwithstanding any other provisions of the North OPA to the contrary, the Agency shall be entitled to all remedies in the event of any default in or breach of this Declaration which are available in law or equity.

7. GOVERNING LAW.

This Declaration shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, Owner has executed this instrument the day and year first hereinabove written.

Dated: \_\_\_\_\_, 1998

“OWNER”

[CATELLUS DEVELOPMENT CORPORATION,  
a Delaware corporation; or if another party insert  
appropriate name of party]

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 19\_\_ before me, the undersigned, a Notary Public in and for said State personally appeared \_\_\_\_\_, personally known to me (OR - proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

(Seal)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 19\_\_ before me, the undersigned, a Notary Public in and for said State personally appeared \_\_\_\_\_, personally known to me (OR - proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

(Seal)

**EXHIBIT A**

[LEGAL DESCRIPTION OF PROPERTY]



**EXHIBIT E**

**MISSION BAY NORTH HOUSING PROGRAM**

**APPROVED TITLE EXCEPTIONS**

**EXHIBIT E**

**MISSION BAY NORTH - HOUSING PROGRAM**  
**LIST OF APPROVED TITLE EXCEPTIONS**

1. Current taxes and taxes not yet due or payable.
2. Supplemental taxes, if any.
3. SFUSD Mello-Roos Community Facilities District (CFD).
4. Mission Bay Mello-Roos CFD's (future CFD's for infrastructure and maintenance), subject to the terms of the Financing Plan regarding Exempt Land.
5. Matters disclosed by the ALTA Survey, which (i) are permitted exceptions under the Amended and Restated City Land Transfer Agreement and the Amended and Restated Port Land Transfer Agreement, or would be considered permitted exceptions, applying the methodology of Section 9.3 of the Amended and Restated City Land Transfer Agreement, or (ii) do not materially increase the cost or feasibility of development of the Agency Affordable Housing Parcels in accordance with the Housing Program or unreasonably interfere with access to Infrastructure, including Open Space.
6. Matters disclosed by the Record of Survey Map of Mission Bay filed in Book Y of Survey Maps at Pages 62-82 and recorded on July 28, 1992 in Reel F679, Image 0620, as Instrument No. F162698, in the Official Records of the City and County of San Francisco.
7. The Amended and Restated City Land Transfer Agreement, the Amended and Restated Port Land Transfer Agreement, and the Amended and Restated Agreement Concerning the Public Trust ("Land Transfer Agreements") (Note: the Land Transfer Agreements will be recorded, but there may be recorded a termination of the agreements as they relate to specific property. The effect of the termination will be an approved title exception).
8. Any environmental restrictions and covenants required to be recorded by the Regional Water Quality Control Board consistent with the Environmental Investigation and Response Program, including without limitation any RMP contemplated thereby.
9. The Mission Bay North Redevelopment Plan.
10. The Mission Bay North Owner Participation Agreement.
11. In addition to any easements described in items 13 or 16 below, any easements or licenses for utilities or access in favor of the City and County of San Francisco, or in favor of any private utility or any other private party, entered into after the date hereof that do not materially increase the cost or feasibility of development of the Agency Affordable Housing Parcels in accordance with the Housing Program or unreasonably interfere with access to Infrastructure, including Open Space.

12. Any restrictions and covenants required to be recorded by the Bay Conservation and Development Commission against the Agency Affordable Housing Parcel, consistent with the Interagency Cooperation Agreement and the North Owner Participation Agreement; provided that any such restrictions and covenants in the Master Permit with respect to Land Use Parcels 3a and 4a shall be substantially similar to and impose substantially similar burdens upon adjacent property owned by Owner.

13. Any easements required or reserved by the City for the benefit of the City or another party pursuant to Sections 5.1.3 of the Amended and Restated City Land Transfer Agreement and the Amended and Restated Port Land Transfer Agreement or in connection with any street vacations. Nothing contained herein shall be deemed to alter Owner's obligations under the Housing Program with respect to removal or relocation of utilities.

14. Any other matters constituting Permitted Exceptions under the Amended and Restated City Land Transfer Agreement, the Amended and Restated Port Land Transfer Agreement or the Amended and Restated Agreement Concerning the Public Trust.

15. The Declarations and Acknowledgements recorded pursuant to Sections 11 of each of the Amended and Restated City Land Transfer Agreement and the Amended and Restated Port Land Transfer Agreement.

16. Any stipulations, licenses, easements or agreements required to be entered into, granted or recorded by the City and/or the Catellus McEnerney actions contemplated by the Land Transfer Agreements, and the recorded Judgements in said McEnerney actions.

17. The effect of the validating action(s) for the Land Transfer Agreements and the recorded judgement(s) in said action(s) described in Sections 3.1.1.1 of the Amended and Restated City Land Transfer Agreement and the Amended and Restated Port Land Transfer Agreements.

18. Final Subdivision map recorded for the property and all matters disclosed thereon.

19. Any existing leases to the extent permitted under the Housing Program.

20. Use restrictions as set forth in the Affordable Housing Parcel Deed or Declaration of Restrictions.

21. Declaration or agreement of covenants, conditions and restrictions binding on the Agency Affordable Housing Parcels and one or more pieces of adjacent property with respect to their common collective development consistent with the development contemplated by the Redevelopment Requirements, subject to the Agency's prior approval of the form of the declarations or covenants in its sole discretion.

22. Reservation of mineral rights by the State of California pursuant to the Burton Act; affects Blocks N2, N3, N4 and N4A.

**EXHIBIT F**

**MISSION BAY NORTH HOUSING PROGRAM  
OWNER AFFORDABLE HOUSING MARKETING  
AND OPERATIONS GUIDELINES**

## EXHIBIT F

### MISSION BAY NORTH HOUSING PROGRAM

#### OWNER'S MARKETING AND OPERATING OBLIGATIONS

##### **I. Purpose.**

A. The purpose of this Exhibit F is to set forth the Owner's marketing and operating obligations with respect to all Owner Residential Units in the North Plan Area, including For-Rent Owner Affordable Housing Units, For-Sale Owner Affordable Housing Units, For-Rent Owner Market Rate Residential Units and For-Sale Owner Market Rate Residential Units.

B. This Exhibit F first sets forth the nondiscrimination requirements applicable to all Owner Residential Units in the North Plan Area. It then sets forth the specific marketing and operating requirements applicable to each type of Owner Residential Unit. It then sets forth the reporting requirements applicable to each type of Owner Residential Unit.

C. In addition to this Exhibit F, there will be recorded against each Residential Project containing a For-Rent Owner Affordable Housing Unit and against each For-Sale Owner Affordable Housing Unit a "Declaration of Restrictions" in the form attached as Exhibit D-1 (for Rental Residential Units) or Exhibit D-2 (for Sales Residential Units) to the Housing Program. Each Declaration of Restrictions sets forth the income requirements and rental or sales price restrictions applicable to the Owner Affordable Housing Units in a particular Residential Project.

D. In the event of any inconsistency between the terms of this Exhibit F and the North OPA, including the Mission Bay North Housing Program attached as Attachment C to the North OPA (the "Housing Program"), the North OPA and Housing Program shall control.

##### **II. Definitions.**

Initially capitalized terms, unless separately defined in this Exhibit F, have the meanings set forth in the North OPA and the Housing Program attached as Attachment C to the North OPA. Terms defined in the North OPA and the attachments thereto, including the Housing Program, and also set forth in this Exhibit F, are provided in this Exhibit F for convenience purposes only.

1.1 Affordable Housing Units means Residential Units constructed in the North Plan Area which shall consist of the Owner Very Low Income Units, the Owner Low Income Units, the Owner Moderate Income Units and the Agency Sponsored Affordable Housing Units.

1.2 Certificate Holder means an owner or occupant of residential property who meets the following criteria:

- (a) The owner or occupant was displaced by either (i) the Agency's acquisition of such residential property, or (ii) the rehabilitation of such residential property where the owner of the property has entered into an owner participation agreement or other similar agreement with the Agency to perform such rehabilitation; and
- (b) The Agency has determined that such individual is eligible to receive a Certificate of Preference pursuant to the relocation and replacement housing responsibilities of the Agency pursuant to Article 9, beginning with Section 33410, et seq., of the California Health and Safety Code; and
- (c) The Agency has certified such individual as a holder of a Certificate of Preference pursuant to the Agency's Property Owner and Occupant Preference Program, established pursuant to Article 9, beginning with Section 33410 of the California Health and Safety Code, as such program currently exists or as may be amended within ninety (90) days of the Effective Date in accordance with the Plan and Plan Documents, and such future amendments as may be consented to by Owner in its sole discretion. Any person claiming to be a Certificate Holder who has not been certified by the Agency is not entitled to any of the preferences in this Exhibit F until such time as that person has been certified by the Agency as a Certificate Holder.

1.3 Certificate of Preference means a certificate issued by the Agency pursuant to the Agency's Property Owner and Occupant Preference Program, established pursuant to Article 9, beginning with Section 33410 of the California Health and Safety Code, to evidence the status of an owner or occupant of residential property as a Certificate Holder. For purposes of this Exhibit F, a Certificate of Preference may be either a "Residential A Certificate," or a certificate issued to other members of a Residential A Certificate household, a "Residential C Certificate," as described in the Agency's Property Owner and Occupant Preference Program, as such program currently exists or as may be amended within ninety (90) days of the Effective Date in accordance with the Plan and Plan Documents, and such future amendments as may be consented to by Owner in its sole discretion.

1.4 For-Rent or Rental means a Residential Unit which is not a For-Sale Residential Unit.

1.5 For-Sale or Sale means a Residential Unit which is intended at the time of Complete Construction to be offered for sale, e.g., as a condominium for individual Residential Unit ownership.

1.6 Market Rate Residential Unit means a Residential Unit which has no restrictions under the Housing Program or the North OPA with respect to affordability levels or income restrictions for occupants.

1.7 Owner Affordable Housing Unit means an Affordable Housing Unit to be constructed by the Owner pursuant to the Housing Program and the North OPA which shall be either

For-Rent or For-Sale housing offered in accordance with the terms of the Housing Program.

1.8 Income Verification Information means the information required by the United States Department of Housing and Urban Development (“HUD”) Handbook 4350.3 to determine eligibility for the rental of a For-Rent Owner Affordable Housing Unit, or the purchaser of a For-Sale Owner Affordable Housing Unit.

1.9 Marketing Information means the following with respect to each Residential Project:

- (a) A master Residential Unit list which indicates the following:
  - (i) The unit numbers of Residential Units to be offered for Rental or Sale;
  - (ii) The number of bedrooms and baths in each such Residential Unit;
  - (iii) The approximate net square footage of each such Residential Unit;
  - (iv) A list of amenities in each such Residential Unit (e.g., disposal, washer/dryer, etc.); and
  - (v) The initial rent or purchase price, as appropriate, for each such Residential Unit.
- (b) For each For-Rent Owner Affordable Housing Unit, the estimated itemized cost of utilities to be paid by each tenant household by Residential Unit size.
- (c) For For-Sale Owner Affordable Housing Units, the estimated cost of homeowner’s association dues to be paid by Residential Unit size.
- (d) A detailed description of Owner’s rules for tenants (or Covenants Conditions and Restrictions, as appropriate).
- (e) For For-Rent Owner Affordable Housing Units, the amount of any deposit required to reserve a Residential Unit, security deposit and all other fees related to the rental of such unit; and a policy for the deposit, use and return of any such amounts.
- (f) For For-Rent Residential Units, the proposed duration of rental agreement or lease.
- (g) The amount of application processing fee, if any.
- (h) A description of application process, the length of time needed by Owner to process applications.
- (i) For For-Rent Residential Units, copies of rental application and all forms to be used for Income Verification Information.

- 1.10 Rent-Up means the period of time from when the Residential Units in a Residential Project are first offered for lease until such time as rental agreements have been signed for all such Residential Units in the Residential Project.
- 1.11 Residential Project has the meaning set forth in the North OPA as follows: a Project containing Residential Units and possibly containing other uses permitted under the Mission Bay North Redevelopment Plan and this Housing Program.
- 1.12 Residential Unit has the meaning set forth in the North OPA as follows: a dwelling unit, as defined in the Mission Bay North Redevelopment Plan. A dwelling unit is defined in the Mission Bay North Redevelopment Plan as follows: a room or suite of two or more rooms that is designed for residential occupancy for 32 consecutive days or more, with or without shared living spaces, such as kitchens, dining facilities or bathrooms.
- 1.13 San Francisco Residents means a household in which there are one or more persons 18 years or older who have resided in San Francisco for a minimum of twelve (12) continuous months prior to the date of application or purchase offer.
- 1.14 San Francisco Worker means a household in which there are one or more persons 18 years or older who have been employed full time at a company or business located in San Francisco for a minimum of twelve (12) continuous months, and such individual(s) have actually worked in San Francisco for such 12-month period.
- 1.15 Second Lien Documents means those documents described in Section 4.2 of Exhibit D-2 to the Housing Program (“Declaration of For-Sale Restrictions”) to be executed by the purchaser of each For-Sale Owner Affordable Housing Unit.

### **III. Nondiscrimination Requirements**

The Owner acknowledges the goal of achieving a residential population in its Residential Projects developed in the North Plan Area which reflects the racial and ethnic diversity of San Francisco. To that end, the Owner will comply with the affirmative marketing obligations described in this Exhibit F. In addition, in the marketing, operation and rental or sale of the Owner Residential Units in the North Plan Area (including the initial and subsequent rentals and sales of all Owner Affordable Housing Units and all Owner Market Rate Residential Units), the Owner and any subsequent owner of any such Residential Units shall not discriminate based on race, religion, color, ancestry, national origin, age, sex, sexual orientation, marital status, gender identity, disability, lawful source of income (as defined in Section 3304 of the San Francisco Police Code) (including, but not limited to Section 8 or any equivalent rent subsidy), or any other basis prohibited by law. Nothing in this Section shall prohibit the Owner from applying other lawful standards for resident selection or from exercising its rights in managing property, so long as such standards and rights are equitably applied to prospective and actual residents of both Owner Affordable Housing Units and Owner Market Rate Residential Units.



#### IV. For-Rent Owner Affordable Housing Units.

##### A. Procedures for Initial Rentals of For-Rent Owner Affordable Housing Units.

##### 1. Affirmative Marketing Obligations.

- a. Prior to the initial rental of For-Rent Owner Affordable Housing Units, the Owner shall advertise in media directed to different ethnic groups in San Francisco including, but not limited to, Asian Week, Chinese Times, El Bohemio, El Mensajero, Hokubei, Mainichi, Horizontes, Korea Times, Metro Reporter Group, New Bayview, New Fillmore, Nichi Bei Times, and Phillipine News. The Agency reserves the right to modify this list from time to time to adequately reflect diverse ethnicities and to allow for media which no longer exist; provided, however, that the list of required advertising media shall not exceed fifteen (15) publications. Advertisements shall be published in the predominant language of the ethnic group served by each applicable publication.
- b. Print ads shall be published at least twice in each publication which has a weekly circulation, and at least once in all other publications. Ads must be published prior to the Owner's conducting the lottery described in Section IV.A.3 below for the initial rental of For-Rent Owner Affordable Housing Units in the applicable Residential Project.
- c. The Owner shall prepare and provide to the Agency for its review and approval a copy of the proposed advertisement described in Subsection (b) above at least sixty (60) days prior to conducting the lottery described in Section IV.A.3 below for the initial rental of For-Rent Owner Affordable Housing Units. The Agency's approval rights are limited to determining compliance with Subsection (d) below. The Agency will approve or disapprove the proposed advertisement within five (5) days of receipt. Failure by the Agency to either approve or disapprove the proposed advertisement within such five (5) day period shall be deemed approval.
- d. Print advertisements shall be no less than four inches (4") by six inches (6") in size. Each print advertisement shall include the U.S. Department of Housing and Urban Development Fair Housing logo and the words "Equal Housing Opportunity." The Owner shall include models of different races and ethnic background in all its pictorial advertising which includes models.

2. Occupancy Priorities.

- a. Certificate Holders. In the initial rental of For-Rent Owner Affordable Housing Units, the Owner shall give a first-priority preference to Certificate Holders of Residential A Certificates and a second-priority preference to Certificate Holders of Residential C Certificates, each in the manner described in Section IV.A.3.g below.
- b. San Francisco Residents. In the initial rental of For-Rent Owner Affordable Housing Units, the Owner shall give third-priority preference to San Francisco Residents in the manner described in Section IV.A.3.g below
- c. San Francisco Workers. In the initial rental of For-Rent Owner Affordable Housing Units, the Owner shall give a fourth-priority preference to San Francisco Workers in the manner described in Section IV.A.3.g below

3. Rental Procedures/Lottery.

- a. The Owner shall determine priority for occupancy of For-Rent Owner Affordable Housing Units according to the lottery system described in this Subsection 3.
- b. The Owner shall conduct a separate lottery for each Residential Project containing For-Rent Owner Affordable Housing Units.
- c. At least ninety (90) days prior to executing leases for For-Rent Owner Market Rate Residential Units in a Residential Project the Owner shall provide to the Agency the Marketing Information applicable to such Residential Units, together with a notice stating the date on which the Owner intends to start leasing such Residential Units.
- d. The Agency shall be solely responsible for notifying Certificate Holders of the availability of For-Rent Owner Affordable Housing Units. Within forty five (45) days of the Agency's receipt of the Owner's notice under Subsection (c), the Agency shall provide to the Owner a list of Certificate Holders to include in the lottery for the applicable Residential Project, together with completed rental applications and Income Verification Information for each such Certificate Holder.
- e. No later than the earlier of (i) fifteen (15) days from Owner's receipt of the Agency's list of Certificate Holders, or (ii) the

expiration of the time period for the Agency to provide the information described in Subsection (d) above, the Owner shall combine applications from all Certificate Holders, if any, San Francisco Residents, San Francisco Workers and applications from members of the general public into one lottery for each Residential Project.

- f. The Owner shall select potential tenants at random from the combined pool of applicants, and shall prioritize potential tenants in the order selected into an initial list of potential tenants (the "Lottery List").
- g. The Owner shall then prioritize names on the Lottery List in the following order:
  - (i) First, all Certificate Holders of Residential A Certificates on the Lottery List in the order in which their name was selected for the Lottery List;
  - (ii) Second, all Certificate Holders of Residential C Certificates on the Lottery List in the order in which their name was selected for the Lottery List;
  - (iii) Third, all San Francisco Residents on the Lottery List in the order in which their name was selected for the Lottery List;
  - (iv) Fourth, all San Francisco Workers on the Lottery List in the order in which their name was selected for the Lottery List; and
  - (v) All remaining names on the Lottery List in the order in which their name was selected for the Lottery List.

This prioritized list shall be referred to as the "Potential Tenant List." The Owner shall provide the Agency with the Potential Tenant List within three (3) days of its creation.

- h. Within thirty (30) days of the creation of the Potential Tenant List, unless otherwise mutually agreed by the Owner and the Agency, the Owner shall, to the extent of availability of enough households on the Potential Tenant List, determine the eligibility of enough households on the Potential Tenant List as there are available For-Rent Owner Affordable Housing Units in a particular Residential Project (i.e., one household per available For-Rent Owner Affordable Housing Unit) in the order of priority on the Potential Tenant List, taking into account income and household size

restrictions for the For-Rent Owner Affordable Housing Units in each Residential Project, and applying all such other Owner tenant selection criteria consistent with this Exhibit F so as to fill all of the For-Rent Owner Affordable Housing Units. The Owner shall then inform all eligible tenants so selected of the availability of For-Rent Owner Affordable Housing Units in the particular Residential Project.

- i. The Owner must provide to qualified Certificate Holders, San Francisco Workers and San Francisco Residents from the Potential Tenant List, as determined under Subsection (h) above, a reasonable opportunity to view either the actual Residential Unit for which the individual/household is qualified, or a model or other Residential Unit in that Residential Project which is substantially similar to the Residential Unit which the individual/household is qualified to occupy. The Owner may provide this opportunity at the same time for the entire group of such eligible individuals/households; provided that the duration and timing of such opportunity shall be not less than the opportunity given to individuals on the Potential Tenant List who are not Certificate Holders, San Francisco Residents or San Francisco Workers.
  - j. Certificate Holders, San Francisco Residents and San Francisco Workers qualified by the Owner from the Potential Tenant List, as described in Subsection (h) above, shall have at least three (3) days from and including the reasonable opportunity to view a Residential Unit under Subsection (i) above within which to notify the Owner of his/her intention to rent a For-Rent Owner Affordable Housing Unit and take all other steps necessary in accordance with the Marketing Information to secure such For-Rent Owner Affordable Housing Unit. The Owner is not required to provide a priority for the rental of such Residential Units among the qualified Certificate Holders, San Francisco Residents or San Francisco Workers.
4. Tenant Income Eligibility. The required tenant income levels for each For-Rent Owner Affordable Housing Unit in each applicable Residential Project shall be determined solely according to the requirements of Exhibit D-1 to the Housing Program. Exhibit D-1, indicating the income restrictions for For-Rent Owner Affordable Housing Units in a Residential Project, shall be recorded against each such Residential Project in accordance with the Housing Program.
5. Rental Charge Restrictions. The rental rates for For-Rent Owner Affordable Housing Units in each applicable Residential Project shall be determined solely according to the requirements of Exhibit D-1 to the

Housing Program. Exhibit D-1, indicating the rental charge restrictions for For-Rent Owner Affordable Housing Units in a Residential Project, shall be recorded against each such Residential Project in accordance with the Housing Program.

B. Procedures for Subsequent Rentals of Vacant For-Rent Owner Affordable Housing Units.

1. Affirmative Marketing Obligations. The Owner shall make good faith efforts to advertise the periodic vacancy of For-Rent Owner Affordable Housing Units in a manner designed to reach diverse ethnic populations.
2. Occupancy Priorities.
  - a. Certificate Holders. In the subsequent rental of vacant For-Rent Owner Affordable Housing Units, the Owner shall give a first priority preference (as described in Subsection 3 below) to Certificate Holders (first, holders of Residential A Certificates, and second, holders of Residential C Certificates) who were on the Potential Tenant List for such Residential Units, and then to Certificate Holders who request to be included on the waiting list following completion of Rent-Up of such Residential Units.
  - b. San Francisco Residents. In the subsequent rental of vacant For-Rent Owner Affordable Housing Units, the Owner shall give a third priority preference (as described in Subsection 3 below) to San Francisco Residents on the waiting list for such Residential Units.
  - c. San Francisco Workers. In the subsequent rental of vacant For-Rent Owner Affordable Housing Units, the Owner shall give a fourth priority preference (as described in Subsection 3 below) to San Francisco Workers on the waiting list for such Residential Units.
3. Rental Procedures.
  - a. The Owner shall maintain and select new tenants for vacant For-Rent Owner Affordable Housing Units from a waiting list for occupancy of For-Rent Owner Affordable Housing Units in each Residential Project based on the order listed on the Potential Tenant List.
  - b. A Certificate Holder, San Francisco Resident or San Francisco Worker on such waiting list shall no longer be entitled to maintain

the individual's/household's priority position on the waiting list upon occurrence of any of the following:

- i. The individual/household is offered a For-Rent Owner Affordable Housing Unit which the individual/household is eligible to occupy (based on income and Household Size), and the individual/household does not rent such Residential Unit;
  - ii. The income of the individual/household is too high for that individual/household to qualify for any For-Rent Affordable Housing Unit available in the particular Residential Project; or
  - iii. The individual/household fails to satisfy the Owner's tenant selection criteria applicable to the particular Residential Units consistent with all applicable local, state and federal fair housing laws.
4. Tenant Income Eligibility. The required tenant income levels for each For-Rent Owner Affordable Housing Unit in each applicable Residential Project shall be determined solely according to the requirements of Exhibit D-1 to the Housing Program. Exhibit D-1, indicating the income restrictions for For-Rent Owner Affordable Housing Units in a Residential Project, shall be recorded against each such Residential Project in accordance with the Housing Program.
5. Rental Charge Restrictions. The rental rates for each For-Rent Owner Affordable Housing Unit in each applicable Residential Project shall be determined solely according to the requirements of Exhibit D-1 to the Housing Program. Exhibit D-1, indicating the rental charge restrictions for For-Rent Owner Affordable Housing Units in a Residential Project, shall be recorded against each such Residential Project in accordance with the Housing Program.

## V. For-Sale Owner Affordable Housing Units.

### A. Procedures for the Initial Sales of For-Sale Owner Affordable Housing Units.

#### 1. Affirmative Marketing Obligations.

- a. Prior to the initial sale of For-Sale Owner Affordable Housing Units, the Owner shall advertise in media directed to different ethnic groups in San Francisco including, but not limited to, Asian Week, Chinese Times, El Bohemio, El Mensajero, Hokubei, Mainichi, Horizontes, Korea Times, Metro Reporter Group, New

Bayview, New Fillmore, Nichi Bei Times, and Phillipine News. The Agency reserves the right to modify this list from time to time to adequately reflect diverse ethnicities and to allow for media which no longer exist; provided, however, that the list of required advertising media shall not exceed fifteen (15) publications. Advertisements shall be published in the predominant language of the ethnic group served by each applicable publication.

- b. Print ads shall be published at least twice in each publication which has a weekly circulation, and at least once in all other publications. Ads must be published prior to the Owner's conducting the lottery described in Section V.A.3.e below for the initial sale of For-Sale Owner Affordable Housing Units in the applicable Residential Project.
- c. The Owner shall prepare and provide to the Agency for its review and approval a copy of the proposed advertisement described in Subsection (b) above at least sixty (60) days prior to accepting applications for the initial sale of For-Sale Owner Affordable Housing Units. The Agency's approval rights are limited to determining compliance with Section V.A.1.d below. The Agency will approve or disapprove the proposed advertisement within five (5) days of receipt. Failure by the Agency to either approve or disapprove the proposed advertisement within such five (5) day period shall be deemed approval.
- d. Print advertisements shall be no less than four inches (4") by six inches (6") in size. Each print advertisement shall include the U.S. Department of Housing and Urban Development Fair Housing logo and the words "Equal Housing Opportunity." The Owner shall include models of different races and ethnic background in all its pictorial advertising which includes models.

2. Occupancy Priorities.

- a. Certificate Holders. In the initial sale of For-Sale Owner Affordable Housing Units, the Owner shall give a first-priority preference to Certificate Holders of Residential A Certificates and a second-priority preference to Certificate Holders of Residential C Certificates in the manner described in Section V.A.3.e below
- b. San Francisco Residents. In the initial sale of For-Sale Owner Affordable Housing Units, the Owner shall give third-priority preference to San Francisco Residents in the manner described in Section V.A.3.e below

- c. San Francisco Workers. In the initial sale of For-Sale Owner Affordable Housing Units, the Owner shall give a fourth-priority preference to San Francisco Residents in the manner described in Section V.A.3.e below

3. Sales Procedures.

- a. At least One Hundred Eighty (180) days prior to the initial sale of a For-Sale Owner Affordable Housing Unit, the Owner shall provide to the Agency the Marketing Information applicable to such Residential Units.
- b. The Agency shall be solely responsible for informing Certificate Holders of the availability of For-Sale Owner Affordable Housing Units.
- c. The Owner, in cooperation with the Agency, shall conduct at least two (2) public informational meetings regarding the sale of For-Sale Owner Affordable Housing Units in each Residential Project. Each meeting shall be advertised in conjunction with the advertising required under Section V.A.1. Each meeting shall be open to persons potentially interested in the purchase of a For-Sale Owner Affordable Housing Unit. At each meeting, the Owner and the Agency shall describe the following:
  - i. The number and type of For-Sale Owner Affordable Housing Units to be offered;
  - ii. The income and purchase price restrictions applicable to each available Residential Unit;
  - iii. The resale restrictions applicable to each available Residential Unit, including the Second Lien Documents to be executed by each purchaser;
  - iv. The anticipated schedule for marketing and selling such Residential Units; and
  - v. Information on covenants, conditions and restrictions; homeowner's association dues; and proposed rules of the homeowners' association applicable to such Residential Units.
- d. The Owner may, at its discretion, accept pre-applications from interested purchasers and may pre-qualify purchasers of For-Sale Owner Affordable Housing Units according to the occupancy



restrictions applicable to a particular Residential Unit and the application of such other tenant selection criteria permitted under this Exhibit F.

- e. The Owner shall conduct a lottery of all interested purchasers, including any potential purchasers which have been pre-qualified by the Owner, as follows:
  - i. The Owner shall conduct a separate lottery for each Residential Project containing For-Sale Owner Affordable Housing Units.
  - ii. The Owner shall combine all Certificate Holders, San Francisco Residents, San Francisco Workers and applications from members of the general public into one lottery for each Residential Project.
  - iii. The Owner shall select potential purchasers at random from the combined pool of applicants, and shall prioritize potential purchasers in the order selected into an initial list of potential purchasers (the "Lottery List").
  - iv. The Owner shall then prioritize names on the Lottery List in the following order:
    - (1) First, all Certificate Holders of Residential A Certificates on the Lottery List in the order in which their name was selected for the Lottery List;
    - (2) Second, all Certificate Holders of Residential C Certificates on the Lottery List in the order in which their name was selected for the Lottery List;
    - (3) Third, all San Francisco Residents on the Lottery List in the order in which their name was selected for the Lottery List;
    - (4) Fourth, all San Francisco Workers on the Lottery List in the order in which their name was selected for the Lottery List; and
    - (5) All remaining names on the Lottery List in the order in which their name was selected for the Lottery List.

This newly prioritized list shall be referred to as the "Potential Purchaser List." The Owner shall provide the Agency with the Potential Purchaser List within three (3) days of its creation.

- v. Within thirty (30) days of the creation of the Potential Purchaser List, unless otherwise mutually agreed by the Owner and the Agency, the Owner shall determine the eligibility of enough households on the Potential Purchaser List as there are available For-Sale Owner Affordable Housing Units in a particular Residential Project (i.e., one household per available For-Sale Owner Affordable Housing Unit) in the order of priority on that list, taking into account income and household size restrictions for the For-Sale Owner Affordable Housing Units in each Residential Project, and applying such other purchaser selection criteria consistent with this Exhibit F. The Owner shall then inform that number of eligible purchasers so selected of the availability of Residential Units in the particular Residential Project. The Owner's determination of Purchaser Eligibility is subject to a mortgage lender's approval of each potential purchaser.
- vi. The Owner must provide to qualified Certificate Holders, San Francisco Workers and San Francisco Residents from the Potential Tenant List, as determined under Subsection (v) above, a reasonable opportunity to view either the actual Residential Unit for which the individual/household is qualified, or a model or other Residential Unit in that Residential Project which is substantially similar to the Residential Unit which the individual/household is qualified to occupy. The Owner may provide this opportunity for the entire group of such eligible individuals/households on a single preview day provided that Owner must provide at least seven (7) days advance written notice of the preview date and provided further that Certificate Holders will be provided with a reasonable opportunity to view such Residential Units in advance of San Francisco Residents and San Francisco Workers on the preview day.
- vii. Certificate Holders, San Francisco Residents and San Francisco Workers qualified by the Owner from the Potential Purchaser List, as described in Subsection (v) above, shall have during their designated preview period as described in subsection (vi) and thereafter for five (5) days from and including the reasonable opportunity to preview a

Residential Unit under Subsection (vi) above within which to notify the Owner of his/her intention to purchase a For-Sale Owner Affordable Housing Unit and take all other steps necessary in accordance with the Marketing Information to secure such For-Sale Owner Affordable Housing Unit, including but not limited to executing a purchase and sale agreement and providing the required deposit applicable to such Residential Unit.

4. Purchaser Income Eligibility. The income levels for purchasers of each For-Sale Owner Affordable Housing Unit in each Residential Project shall be determined solely according to the requirements of Exhibit D-2 to the Housing Program. Exhibit D-2, indicating the types of For-Sale Owner Affordable Housing Units in each applicable Residential Project, shall be recorded against each Residential Project containing For-Sale Owner Affordable Housing Units in accordance with the Housing Program.
  5. Sales Price Restrictions The sales prices for each For-Sale Owner Affordable Housing Unit in each Residential Project shall be determined solely according to the requirements of Exhibit D-2 to the Housing Program. Exhibit D-2, indicating the types of For-Sale Owner Affordable Housing Units in each applicable Residential Project, shall be recorded against each Residential Project containing For-Sale Owner Affordable Housing Units in accordance with the Housing Program.
- B. Procedures for Resales of For-Sale Owner Affordable Housing Units. All obligations of the owners of For-Sale Owner Affordable Housing Units with respect to the resale of For-Sale Owner Affordable Housing Units, including occupancy priorities and resale procedures, are contained in the Second Lien Documents. Purchaser income eligibility and sales price restrictions applicable to the resale of For-Sale Owner Affordable Housing Units shall be determined solely according to the requirements of Exhibit D-2 to the Housing Program. Exhibit D-2, indicating the types of For-Sale Owner Affordable Housing Units in each applicable Residential Project, shall be recorded against each applicable Residential Project containing For-Sale Owner Affordable Housing Units as provided in the Housing Program.

## VI. For-Rent Owner Market Rate Residential Units

- A. Procedures for the Initial Rental of For-Rent Owner Market Rate Residential Units.
  1. Affirmative Marketing Obligations.
    - a. Prior to the initial rental of For-Rent Owner Market Rate Residential Units, the Owner shall advertise in media directed to

different ethnic groups in San Francisco including, but not limited to, Asian Week, Chinese Times, El Bohemio, El Mensajero, Hokubei, Mainichi, Horizontes, Korea Times, Metro Reporter Group, New Bayview, New Fillmore, Nichi Bei Times, and Phillipine News. The Agency reserves the right to modify this list from time to time to adequately reflect diverse ethnicities and to allow for media which no longer exist; provided, however, that the list of required advertising media shall not exceed fifteen (15) publications. Advertisements shall be published in the predominant language of the ethnic group served by each applicable publication.

- b. Print ads shall be published at least twice in each publication which has a weekly circulation, and at least once in all other publications. Ads must be published at least ten (10) days prior to the Owner's ceasing to accept applications for the initial rental of For-Rent Owner Market Rate Residential Units in the applicable Residential Project.
- c. The Owner shall prepare and provide to the Agency for its review and comment only a copy of the proposed advertisement described in Subsection (b) above at least thirty (30) days prior to accepting applications for the initial rental of For-Rent Owner Market Rate Residential Units. The Agency's review and comment rights are limited to those items in Subsection (d) below.
- d. Print advertisements shall be no less than four inches (4") by six inches (6") in size. Each print advertisement shall include the U.S. Department of Housing and Urban Development Fair Housing logo and the words "Equal Housing Opportunity." The Owner shall include models of different races and ethnic background in all its pictorial advertising which includes models.

2. Occupancy Priorities.

- a. Certificate Holders. In the initial rental of For-Rent Owner Market Rate Residential Units, the Owner shall give a first-priority preference to Certificate Holders, as further described in Section VI.A.3, below.

3. Rental Procedures.

- a. At least ninety (90) days prior to accepting applications for For-Rent Owner Market Rate Residential Units, the Owner shall provide to the Agency the Marketing Information applicable to such Residential Units.

- b. The Agency shall be solely responsible for notifying Certificate Holders of the availability of For-Rent Owner Affordable Housing Units. Within forty five (45) days of the Agency's receipt of the Owner's Marketing Information under Subsection (a), the Agency shall provide to the Owner a list of Certificate Holders, together with completed rental applications and Income Verification Information for each such Certificate Holder.
- c. No later than the earlier of (i) thirty (30) days from the Owner's receipt of the Agency's notice under Subsection (b), or (ii) the expiration of the period described in Subsection (b) for providing such information, the Owner shall inform both the Agency and Certificate Holders as to which Certificate Holders from the list provided by the Agency are eligible to occupy the applicable For-Rent Owner Market Rate Residential Units. The Owner must provide to each qualified Certificate Holder at least three (3) days within which to (i) to view either the actual Residential Unit for which the individual/household is qualified, or a model or other Residential Unit in that Residential Project which is substantially similar to the Residential Unit which the individual/household is qualified to occupy; and (ii) notify the Owner of his/her intention to rent a For-Rent Owner Market Rate Residential Unit and take all other steps necessary in accordance with the Marketing Information to secure such For-Rent Owner Market Rate Residential Unit.

B. Procedures for Subsequent Rentals of Vacant For-Rent Owner Market Rate Residential Units.

- 1. Affirmative Marketing Obligations. The Owner shall make good faith efforts to advertise the periodic vacancy of For-Rent Owner Market Rate Residential Units in a manner designed to reach diverse ethnic populations.
- 2. Occupancy Priorities.
  - a. Certificate Holders.
    - i. Certificate Holders shall be entitled to preference on the waiting list for the subsequent rentals of vacant of For-Rent Owner Market Rate Rental Units, as described in Subsection 3 below.

3. Rental Procedures.

- a. The Owner shall maintain a waiting list for occupancy of For-Rent Owner Affordable Housing Units in each Residential Project containing such Residential Units. The waiting list shall provide a priority for Certificate Holders who expressed an interest in renting a For-Rent Owner Market Rate Residential Unit prior to the Rent-Up of such Residential Units, and a second priority for Certificate Holders who express an interest in such Residential Units subsequent to the Rent-Up of such Residential Units.
- b. A Certificate Holder, San Francisco Resident or San Francisco Worker on such waiting list shall no longer be entitled to maintain the individual's/household's priority position on the waiting list upon occurrence of either of the following:
  - i. The individual/household is offered a For-Rent Owner Market Rate Residential Unit which the individual/household is eligible to occupy (based on Household Size), and the individual/household does not rent such Residential Unit; or
  - ii. The individual/household fails to satisfy the Owner's tenant selection criteria applicable to the particular Residential Units consistent with all applicable local, state and federal fair housing laws.

**VII. For-Sale Owner Market Rate Residential Units.**

A. Procedures for Initial Sales of For-Sale Owner Market Rate Residential Units.

1. Affirmative Marketing.

- a. Prior to the initial sale of For-Sale Owner Market Rate Residential Units, the Owner shall advertise in media directed to different ethnic groups in San Francisco including, but not limited to, Asian Week, Chinese Times, El Bohemio, El Mensajero, Hokubei, Mainichi, Horizontes, Korea Times, Metro Reporter Group, New Bayview, New Fillmore, Nichi Bei Times, and Phillipine News. The Agency reserves the right to modify this list from time to time to adequately reflect diverse ethnicities and to allow for media which no longer exist; provided, however, that the list of required advertising media shall not exceed fifteen (15) publications. Advertisements shall be published in the predominant language of the ethnic group served by each applicable publication.

- b. Print ads shall be published at least twice in each publication which has a weekly circulation, and at least once in all other publications. Ads must be published prior to the Owner's acceptance of any applications for the initial rental of For-Sale Owner Market Rate Residential Units in the applicable Residential Project.
- c. The Owner shall prepare and provide to the Agency for its review and comment only a copy of the proposed advertisement described in Subsection (b) above at least thirty (30) days prior to accepting applications for the initial rental of For-Sale Owner Market Rate Residential Units. The Agency's review and comment rights are limited to those items in Subsection (d) below.
- d. Print advertisements shall be no less than four inches (4") by six inches (6") in size. Each print advertisement shall include the U.S. Department of Housing and Urban Development Fair Housing logo and the words "Equal Housing Opportunity." The Owner shall include models of different races and ethnic background in all its pictorial advertising which includes models.

2. Occupancy Priorities.

- a. Certificate Holders. In the initial sale of For-Sale Owner Market Rate Residential Units, the Owner shall give a first-priority preference to Certificate Holders, as further described in Section 3(c).

3. Sales Procedures.

- a. The Owner shall notify the Agency at least ninety (90) days prior to accepting applications for the sale of For-Sale Owner Market Rate Residential Units in a particular Residential Project.
- b. The Agency shall be solely responsible for notifying Certificate Holders of the availability of For-Sale Owner Market Rate Residential Units. Each Certificate Holder shall be responsible for notifying the Owner of a desire to purchase a For-Sale Owner Market Rate Residential Unit.
- c. The Owner shall provide the following preference to Certificate Holders in the initial sale of For-Sale Owner Market Rate Residential Units: The Owner must provide to each Certificate Holder at least one (1) day (the "Preview and Selection Date") within which to (i) to view the actual available Residential Unit or a model or other Residential Unit in that Residential Project which

is substantially similar to such Residential Unit; and (ii) notify the Owner of his/her intention to purchase a For-Sale Owner Market Rate Residential Unit and take all other steps necessary in accordance with the Marketing Information to secure such For-Sale Owner Market Rate Residential Unit, including but not limited to executing a purchase and sale agreement and providing the required deposit applicable to such Residential Unit. The Owner must provide to each Certificate Holder at least seven (7) days' advance written notice of the Preview and Selection Date.

- B. Procedures for Subsequent Sales of For-Sale Owner Market Rate Residential Units. This Exhibit F does not impose any restrictions on the subsequent sales of For-Sale Owner Market Rate Residential Units.

### VIII. Reporting Requirements.

The Owner shall comply with the following reporting requirements, in addition to any other requirements imposed by the funding source for the development of Owner Market Rate Residential Units or Owner Affordable Housing Units.

- A. For-Rent Owner Affordable Housing Units.
1. Within ten (10) days after the execution of a rental agreement for the last For-Rent Owner Affordable Housing Units in a particular Residential Project, the Owner shall provide to the Agency a report on the status of each Certificate Holder on the Potential Tenant List, and a rent roll specifying each Residential Unit number, Residential Unit size, number of occupants, affordability designation, and rent.
  2. The Owner shall provide to the Agency monthly reports, no later than the 15th day of each month, which indicate the following information for the preceding month:
    - (a) The number of individuals/households on the waiting list for a particular Residential Project containing For-Rent Owner Affordable Housing Units;
    - (b) With respect to Certificate Holders and San Francisco Workers/Residents:
      - (i) The names of current Certificate Holders and San Francisco Workers/Residents on the waiting list for each such Residential Project and the date on which each such name was added to the waiting list;



- (ii) The names of Certificate Holders and San Francisco Workers/Residents who leased Residential Units during the preceding one-month period; and
  - (iii) If applicable, the reason why any Certificate Holder or San Francisco Worker/Resident on the waiting list did not rent an available For-Rent Affordable Housing Residential Unit (e.g., not income-eligible, household size not appropriate for the Residential Unit).
  - (c) The Residential Unit number and date of leasing of each Residential Unit rented during the preceding one-month period.
  - (d) The number of names added to and removed from each waiting list during the preceding one month period
3. The Owner shall provide to the Agency, on or before the 15<sup>th</sup> day of each month, a current waiting list for each such Residential Project, together with a narrative summary of each case in which a Certificate was denied occupancy of a For-Rent Owner Affordable Housing Unit, and the grounds for such denial (e.g., not income eligible, household size not appropriate for the available Residential Unit size).
- B. For-Sale Owner Affordable Housing Units. Within ten (10) days following the close of escrow of all For-Sale Owner Affordable Housing Units in a particular Residential Project, the Owner shall provide to the Agency a report on the status of each Certificate Holder on the Potential Purchaser List, and a sales roll specifying each Residential Unit number, Residential Unit size, number of occupants, affordability designation, and sales price.
- C. For-Rent Owner Market Rate Residential Units.
- 1. Within ten (10) days after the execution of a rental agreements for ninety percent (90%) of the total number For-Rent Owner Market Rate Residential Units in a particular Residential Project, the Owner shall provide to the Agency a report on the status of each Certificate Holder who has applied to rent such Residential Units
  - 2. The Owner shall provide to the Agency quarterly reports which indicate the following:
    - a. A copy of the current waiting list for each Residential Project containing For-Rent Owner Market Rate Residential Units, together with a narrative summary of any Certificate Holders which were denied occupancy of a For-Rent Owner Market Rate Housing Unit, and the grounds for such denial (e.g., not income

eligible, household size not appropriate for the available Residential Unit size).

- b. With respect to Certificate Holders:
  - i. The names of current Certificate Holders on the waiting list for each such Residential Project and the date on which each Certificate Holder's name was added to the waiting list;
  - ii. The names of Certificate Holders who leased Residential Units during the preceding three-month period;
  - iii. If applicable, the reason why any Certificate Holder on the waiting list did not rent an available For-Rent Market Rate Residential Unit (e.g., household size not appropriate for the Residential Unit).
- c. The Residential Unit number and date of leasing of each Residential Unit rented during the preceding three-month period.
- d. The number of names added to and removed from each waiting list during the preceding three month period

D. For-Sale Owner Market Rate Residential Units.

- 1. Within ten (10) days after execution of a purchase agreement for ninety percent (90%) of For-Sale Owner Market Rate Residential Units in a particular Residential Project, the Owner shall provide to the Agency a report regarding the status of each Certificate Holder who applied for the purchase of any such Residential Unit.

**EXHIBIT G**

**MISSION BAY NORTH HOUSING PROGRAM**

**APPROVED SITES**



**EXHIBIT H**

**MISSION BAY NORTH HOUSING PROGRAM**

**MEMORANDUM OF OPTION**

EXHIBIT H

MISSION BAY NORTH HOUSING PROGRAM

Recording Requested By, and  
When Recorded, Return to:

San Francisco Redevelopment Agency  
770 Golden Gate Ave.  
San Francisco, CA 94102  
Attention: David Madway, Esq.

THIS INSTRUMENT EXEMPT FROM  
RECORDING FEES UNDER SECTION 27383  
OF THE CALIFORNIA GOVERNMENT CODE.

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

MEMORANDUM OF OPTION

This Memorandum of Option ("Memorandum") is entered into as of \_\_\_\_\_, \_\_\_\_\_, by and between the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic of the State of California, established pursuant to the Community Redevelopment Law of the State of California (the "Agency"), and [Insert the appropriate entity: Catellus Development Corporation, a Delaware corporation, or its agents, designees or successors; or insert name of a permitted Transferee under the North OPA, or its agents, designees or successors] (the "Owner").

RECITALS

A. The Agency and Owner are the parties to that certain Mission Bay North Owner Participation Agreement dated \_\_\_\_\_ (the "North OPA") recorded at \_\_\_\_\_. The North OPA provides for the redevelopment of certain real property owned by the Owner which is located in the North Plan Area (as more particularly described in the North OPA).

B. Pursuant to the North OPA including the Housing Program, the Owner is required from time to time to designate certain property as Agency Affordable Housing Parcels, and to grant to the Agency an option, on specified terms and conditions, to acquire such Agency Affordable Housing Parcels for the development and construction of Agency Sponsored Affordable Housing Units upon the terms and conditions therein set forth.

This Memorandum is being recorded to evidence such designation and grant of option as to the real property described herein.

NOW THEREFORE, the Agency and the Owner agree as follows:

1. Defined Terms. All capitalized terms used in this Memorandum which are not otherwise defined herein shall have the meanings given them in the North OPA, including the Housing Program, which is Attachment C thereto.

2. Designation and Grant of Option. The Owner hereby designates and Agency hereby accepts the designation of the real property described in Exhibit A hereto as an Agency Affordable Housing Parcel, and Owner grants to Agency an option to acquire fee title to such Property upon the terms and conditions contained herein and in the Housing Program.

3. Owner's Right to Reserve Easements and Adopt Restrictions. Subject to the terms and conditions set forth in the Housing Program, Owner from time to time prior to the time it conveys the Agency Affordable Housing Parcel hereunder reserves the right to: (a) declare and/or reserve easements over, under and through the Agency Affordable Housing Parcel for the benefit of one or more adjacent parcels for Infrastructure consistent with the Infrastructure Plan, for support, construction staging, and ingress/egress for construction purposes; and (b) declare and/or adopt agreements creating covenants, conditions and/or restrictions binding upon the Agency Affordable Housing Parcel and one or more parcels of adjacent property with respect to their common or collective development consistent with the development contemplated by the Redevelopment Requirements.

4. Restrictions on Transfer. The Agency may not sell, assign or transfer its rights or delegate its duties and obligations hereunder except as permitted in the North OPA, including the Housing Program.

5. Successors and Assigns. This Memorandum shall run with the land and shall bind and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

6. Purpose of Memorandum. This Memorandum is prepared for the purpose of providing notice of the rights and obligations of the parties under the Housing Program with respect to the option to acquire the Property. All of the terms and conditions of the North OPA, including the Housing Program, with respect to such matters are incorporated herein by reference as if the same were fully set forth herein, and this Memorandum shall in no way modify the provisions of the North OPA.

7. Governing Law. The laws of the State of California shall govern the interpretation and enforcement of this Memorandum.

IN WITNESS WHEREOF, this Memorandum has been duly executed by the undersigned parties.

OWNER:

CATELLUS DEVELOPMENT CORPORATION,  
a Delaware corporation  
[or if another party, insert name of other party]

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

AGENCY:

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

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_



STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 19\_\_ before me, the undersigned, a Notary Public in and for said State personally appeared \_\_\_\_\_, personally known to me (**OR** - proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary (Seal)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 19\_\_ before me, the undersigned, a Notary Public in and for said State personally appeared \_\_\_\_\_, personally known to me (**OR** - proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary (Seal)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 19\_\_ before me, the undersigned, a Notary Public in and for said State personally appeared \_\_\_\_\_, personally known to me (OR - proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

(Seal)

EXHIBIT A

LEGAL DESCRIPTION

[Description of Affordable Housing Parcel — to be substituted by legal parcel description prior to recording Memorandum.]

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**EXHIBIT I**

**MISSION BAY NORTH HOUSING PROGRAM**

**QUIT CLAIM DEED**

EXHIBIT I

MISSION BAY NORTH HOUSING PROGRAM

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

[Insert the name of appropriate entity:

Catellus Development Corporation  
201 Mission Street, Second Floor  
San Francisco, CA 94105

Attention: Mission Bay Development  
Office and General Counsel;

or insert name of a permitted Transferee under the North OPA]

Documentary Transfer Tax is \$0. This  
instrument is exempt from Documentary  
Transfer Tax.

(Space above this line reserved for Recorder's use only)

QUITCLAIM DEED

(Mission Bay/Catellus Quitclaim Land)

FOR VALUABLE CONSIDERATION, receipt and adequacy of which are hereby acknowledged, The Redevelopment Agency of the City and County of San Francisco, a public body corporate and politic ("Agency"), hereby RELEASES, REMISES AND QUITCLAIMS to [Insert the appropriate entity: Catellus Development Corporation, a Delaware corporation, or its agents, designees or successors; or insert name of permitted Transferee under the North OPA or its agents, designees or successors] ("Owner"), any and all right, title and interest Agency may have under the Mission Bay North Owner Participation Agreement dated as of \_\_\_\_\_, \_\_\_\_\_ between Agency and Owner, which was recorded on \_\_\_\_\_, in the Official Records of the City and County of San Francisco as Document No. \_\_\_\_\_, (the "North OPA") including, without limitation, the Housing Program which is attached thereto as Attachment C ("Housing Program"), to request or require that any of the real property located in the City and County of San Francisco, State of California and described in Exhibit A attached hereto and made a part hereof, be designated, selected, contributed, transferred, or conveyed as an Agency Affordable Housing Parcel, or in any manner encumbered as, or used to satisfy any obligation for, an Affordable Housing Parcel thereunder. Capitalized terms used herein and not separately defined herein shall have the meanings set forth in the North OPA and the Housing Program.

Saving and excepting unto Agency, its successors and assigns, forever:

- (1) Any and other right, title or interest of Agency contained in or arising from the North OPA.

(2) Any and all right, title and interest Agency may have pursuant to that certain Memorandum of Option dated \_\_\_\_\_ by and between Agency and Owner, with respect to the real property described therein.

Executed as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

Authorized by Agency  
Resolution No. \_\_\_\_\_,  
adopted \_\_\_\_\_.

By: \_\_\_\_\_  
[Type Name] \_\_\_\_\_  
Executive Director

Approved as to Form:

By: \_\_\_\_\_  
[Type Name] \_\_\_\_\_  
Assistant Secretary

By: \_\_\_\_\_  
[Type Name]  
Agency General Counsel

EXHIBIT A

REAL PROPERTY DESCRIPTION  
(Mission Bay Quitclaim Land)

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**EXHIBIT J**

**MISSION BAY NORTH HOUSING PROGRAM**

**AFFORDABLE HOUSING PARCEL DEED OR DECLARATION**



**EXHIBIT J**

**MISSION BAY NORTH HOUSING PROGRAM**

RECORDING REQUESTED BY AND WHEN  
RECORDED RETURN TO:

San Francisco Redevelopment Agency  
770 Golden Gate Avenue  
San Francisco, California 94102

OR

[name and address of Qualified Housing  
Developer]

This transfer is exempt from Documentary  
Transfer Tax pursuant to Section 1105 of the Real  
Property Transfer Tax Ordinance (San Francisco  
Municipal Code Part III, Section 1105)

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Space Above This Line For Recorder's Use

**AFFORDABLE HOUSING PARCEL DEED**

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, [Insert the appropriate entity: Catellus Development Corporation, a Delaware Corporation, or its agents, designees or successors; or insert name of permitted Transferee under the North OPA or its agents, designees or successors] ("Grantor") hereby grants to [The Redevelopment Agency of the City and County of San Francisco, a public body corporate and politic] OR [name of Qualified Housing Developer] ("Grantee") the real property located in the City and County of San Francisco, State of California, more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property").

This Affordable Housing Parcel Deed ("Deed") is given in accordance with the Mission Bay North Owner Participation Agreement between Grantor and Grantee, dated as of \_\_\_\_\_ and recorded on \_\_\_\_\_ in the Official Records of San Francisco County on \_\_\_\_\_ (the "North OPA"), including, without limitation, the Mission Bay North Housing Program attached as Attachment C to the North OPA ("Housing Program"). Capitalized terms used in this Deed and not otherwise defined shall have the meanings set forth in the North OPA and the Housing Program.

For a continuous period of (a) seventy-five (75) years from the date of issuance of a Certificate of Occupancy for the Residential Project located on the Property; or (b) such shorter period of time as required by the terms of any first mortgage financing for the purchase of an Agency Sponsored Affordable Housing Unit, but in no event less than forty (40) years from the date of the Certificate of Occupancy for the Residential Project located on the Property in which such Residential Unit is located, regardless of any termination of the North OPA (collectively the "Term"), the Grantee may use the Property solely in accordance with the requirements of the North OPA and the Housing Program, including but not limited to compliance with the use restrictions described in the Housing Program and the Redevelopment Requirements, as defined in the North OPA, as such documents may be amended from time to time. Grantee covenants that the restrictions in this Affordable Housing Parcel Deed shall be binding on Grantee and its successors and assigns for the Term, and that upon expiration of the Term, Grantee or its successors or assigns may utilize the Property without regard to the restrictions contained in the North OPA. The restrictions in this Affordable Housing Parcel Deed may, in accordance with the requirements of Health and Safety Code Section 33334.14, be subordinated to construction and permanent financing related to the development of Agency Affordable Housing Projects on the Property.

GRANTEE:

---

GRANTOR:

---

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 19\_\_ before me, the undersigned, a Notary Public in and for said State personally appeared \_\_\_\_\_, personally known to me (OR - proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary (Seal)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 19\_\_ before me, the undersigned, a Notary Public in and for said State personally appeared \_\_\_\_\_, personally known to me (OR - proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary (Seal)

EXHIBIT A  
Legal Description of the Property

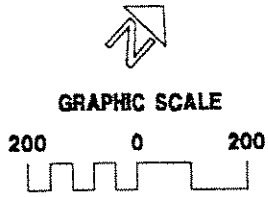
P:\wd\4814820\985B Affordable Housing Deed.doc

**EXHIBIT K**

**MISSION BAY NORTH HOUSING PROGRAM**

**MINIMUM ACREAGE**

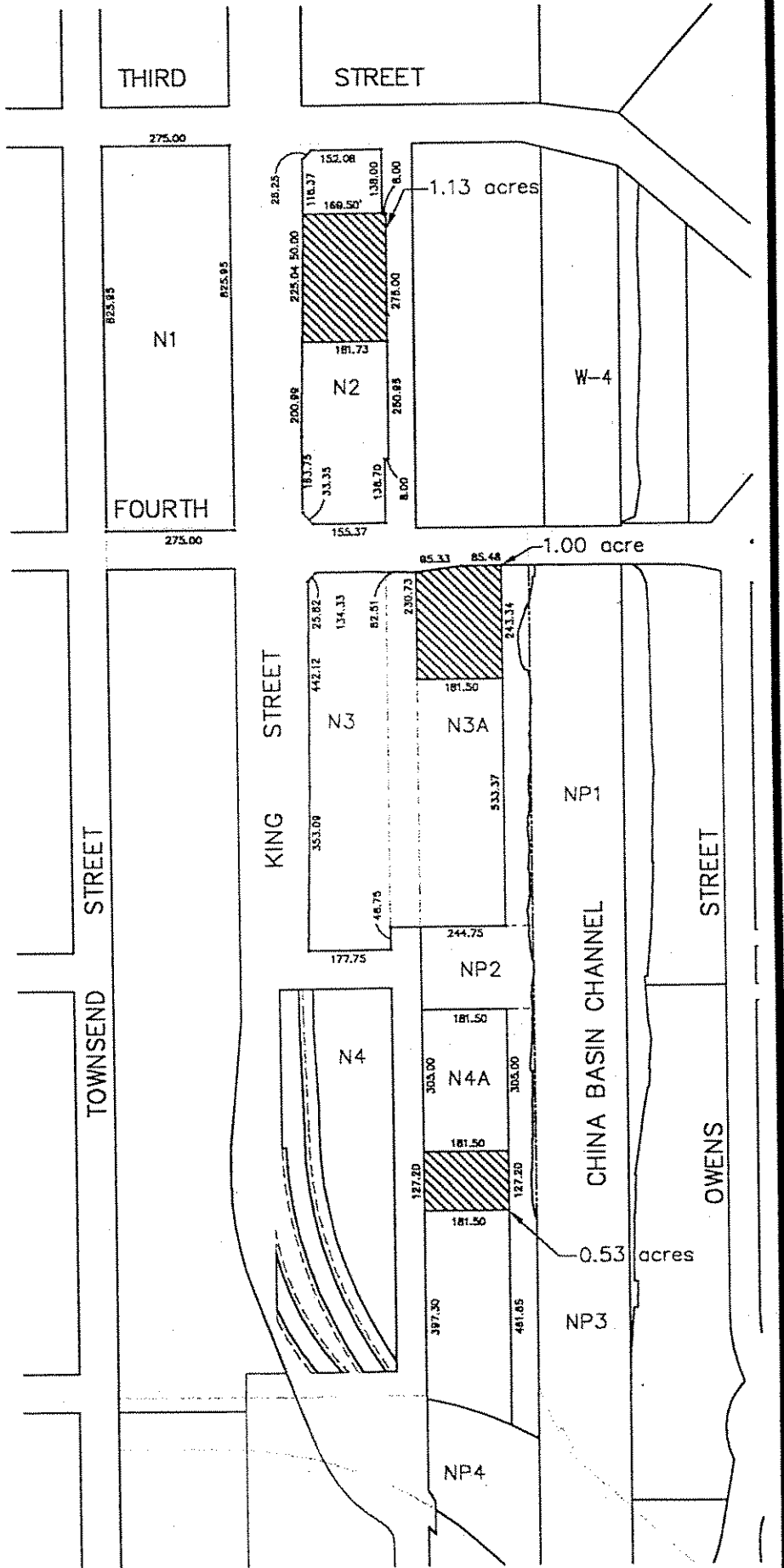
**EXHIBIT K**  
**MINIMUM ACREAGES**



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8/27/98



**EXHIBIT L**

**MISSION BAY NORTH HOUSING PROGRAM**

**OWNER N5 NOTE**

EXHIBIT L

MISSION BAY NORTH HOUSING PROGRAM

UNSECURED PROMISSORY NOTE  
MISSION BAY NORTH  
OWNER VERY LOW INCOME UNITS  
("Owner N5 Note")

RESIDENTIAL PROJECT LOCATION: \_\_\_\_\_

Principal Amount: \$ \_\_\_\_\_

San Francisco, California

Date: \_\_\_\_\_, \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned, the REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body corporate and politic of the State of California ("Agency"), hereby promises to pay to the order of

\_\_\_\_\_, a  
\_\_\_\_\_, ("Owner"), at  
\_\_\_\_\_, Attention:

\_\_\_\_\_ (or such other place or to such other party as Owner may from time to time designate in writing upon at least ten (10) days advance notice) the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (the "Principal Amount"), on the terms and conditions set forth below.

1. North Owner Participation Agreement/Housing Program. This Owner N5 Note is given under the terms of the Mission Bay North Owner Participation Agreement between the Agency and the Owner dated as of \_\_\_\_\_, 1998, as the same has been or may be amended pursuant to its terms (the "North OPA"), including the Housing Program attached as Attachment C to the North OPA (the "Housing Program"). The rights and obligations of the Agency and the Owner with respect to this Owner N5 Note are governed by the North OPA and the Housing Program. Capitalized terms used in this Owner N5 Note and not defined herein shall have the meaning set forth in the North OPA and/or the Housing Program, as applicable.

2. Calculation of Principal.

(a) Principal Amount. The Principal Amount payable under this Owner N5 Note is equal to \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (the "VLI Contribution") multiplied by \_\_\_\_\_ (\_\_\_\_), which is the number of Owner Very Low Income Units to be included in the above referenced Residential Project located at block N5, for a total Principal Amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).



(b) Adjustments to Principal Amount. In the event that as of the date of Completed Construction of the Owner Very Low Income Units in the Residential Project covered by this Owner N5 Note, the actual number of Owner Very Low Income Units in such Residential Project is less than the number of Owner Very Low Income Units specified in Section 2(a) of this Owner N5 Note, then in addition to any other remedies available to the Agency under the North OPA, the Principal Amount of this Owner N5 Note shall be reduced to an amount equal to the VLI Contribution multiplied by the actual number of Owner Very Low Income Units for which Owner has Completed Construction in such Residential Project.

3. Term of Owner N5 Note. The Principal Amount of this Owner N5 Note shall be due and payable on \_\_\_\_\_, \_\_\_\_ (the "Final Repayment Date") if not paid earlier in accordance with the terms of this Owner N5 Note.

4. No Interest. No interest shall accrue on the Principal Amount except as provided in Section 9(b) below.

5. No Security. This Owner N5 Note is not secured by any real or personal property.

6. Owner Very Low Income Unit Obligation.

(a) Following the Completed Construction of the Owner Very Low Income Units described in Section 2(a) or (b), as applicable, in the event Owner fails to maintain the affordability and occupancy requirements in the Declaration of Restrictions (the "Restrictions") applicable to such Owner Very Low Income Units and if such failure occurs prior to the Final Repayment Date, then without limiting the Agency's other rights or remedies under the North OPA or otherwise, the Agency's obligation to make any payments under this Owner N5 Note shall be suspended during the period of noncompliance with the Restrictions, such that the amount that would otherwise then be payable under this Owner N5 Note (the "Required Payment") shall be reduced to equal the Required Payment multiplied by a fraction, the numerator of which is number of Residential Units which comply with the Restrictions, and the denominator of which is the total number of Owner Very Low Income Units described in Section 2(a) or (b), as applicable.

(b) In the event the Agency's payment obligations are suspended under Subsection (a) above, the Agency's full payment obligations shall recommence on the next succeeding Repayment Date following the Owner's compliance with the Restrictions applicable to such Residential Units.

7. Repayment of Principal. From and after the Completed Construction of all Owner Very Low Income Units covered by this Owner N5 Note pursuant to the Housing Program, the Agency shall pay the principal balance of this Owner N5 Note, as more particularly described below, solely from the Agency Excess Increment, as defined in the Housing Program and Section 2.C.iii of the Financing Plan attached as Attachment E to the North OPA, and subject to the provisions of Section 2.C.iii. of the Financing Plan relating to payment on outstanding Agency debt.

(a) The Agency shall make each payment within thirty (30) days of the Agency's receipt from the City's controller of an allocation of Excess Increment (each such date is a "Repayment Date"). The Agency and the Owner anticipate that the Agency shall receive payments of Excess Increment at approximately six-month intervals. The Agency shall provide to the Owner a copy of each notice from the City's Controller indicating the time and amount of each payment of Excess Increment from the City to the Agency.

(b) The amount of each payment shall be equal to the Owner Excess Increment received by the Agency under Subsection (a) as of the Repayment Date. In the event that there is no Owner Excess Increment available for a particular period, then there shall be no Repayment Date for that period and the Agency shall not be required to make any payments attributable to that period.

(c) The Agency shall be required to make payments only through the earlier of (i) the date of full repayment of the principal balance of this Owner N5 Note, or (ii) the next Repayment Date occurring within thirty (30) days after the Final Repayment Date. In the event that any portion of the principal balance of this Owner N5 Note remains unpaid as of date specified in clause (ii) above for any reason other than a default by Agency under this Owner N5 Note, then the Agency's obligation to repay such amounts shall be forgiven as of such date.

#### 8. Terms of Payment.

(a) All payments under this Owner N5 Note shall be paid in lawful currency of the United States of America, in immediately available funds, including Agency check, which at the time of payment is lawful for the payment of public and private debts, without presentment of payment, offset, demand or notice, except as otherwise specifically provided herein.

(b) All payments shall be made payable to Owner and mailed or delivered in person to Owner at place designated in the first paragraph of this Owner N5 Note.

#### 9. Default.

(a) The Agency shall be in default under this Owner N5 Note only if it fails to make any required payments under this Owner N5 Note on any Repayment Date, provided that the Owner shall give the Agency written notice of any such default and the Agency shall have ten (10) days from receipt of such notice to cure the default identified in such notice. Following the expiration of such ten (10) day notice and cure period, the Owner may pursue any and all remedies available at law or in equity to enforce its rights under this Owner N5 Note, subject to any applicable limitations on remedies set forth in the North OPA.

(b) If any payment obligation under this Owner N5 Note is not paid when due, the Agency shall promptly pay all costs, including, without limitation, collection charges and Attorneys' Fees and Costs (as defined below), incurred by the Owner in connection with the enforcement of its rights under this Owner N5 Note, whether or not suit is filed (collectively, the "Reimbursement Amount"), and the Agency hereby waives to the fullest extent permitted by law all right to plead any statute of limitations as a defense to any action hereunder. The past due

payment obligation and the Reimbursement Amount shall be accompanied by interest on such amounts at the rate of the lesser of ten percent (10%) per annum or the maximum rate permitted by law, from the date due (following the notice and cure period specified in Subsection (a) above) through and including the date of payment of such amounts (calculated on the basis of a 365-day year for the actual number of days elapsed).

(c) "Attorney's Fees and Costs" means any and all attorneys' fees, costs, expenses and disbursements, including, but not limited to: expert witness fees and costs, travel time and associated costs; transcript preparation fees and costs; document copying expenses; exhibit preparation costs; carrier expenses and postage and communications expenses; such amount as a court or other decision maker may adjudge to be reasonable attorneys' fees for the services rendered to the prevailing party in such action or proceeding; fees and costs associated with execution upon any judgment or order; and costs on appeal and any collection efforts. For purposes of this Owner N5 Note, the reasonable fees of attorneys and any in-house counsel for the Agency and the Owner shall be based on the fees regularly charged by private attorneys with the equivalent number of years of professional experience in the subject matter area of the law for which the Agency's or the Owner's in-house counsel's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Agency or, in the case of the Owner, as employed by outside counsel for the Owner.

#### 10. Miscellaneous Provisions.

(a) No renewal or extension of this Owner N5 Note, delay in enforcing any right of the Owner under this Owner N5 Note, or assignment by the Owner of this Owner N5 Note shall in any way affect the liability of the Agency. All rights and remedies of the Owner under this Owner N5 Note are cumulative and may be exercised independently or consecutively at the Owner's option. The rights and remedies provided under this Owner N5 Note are in addition to any rights or remedies provided under the North OPA or any agreements contemplated thereby.

(b) Any failure of the Owner to exercise any rights under this Owner N5 Note shall not constitute a waiver of the right to the later exercise thereof.

(c) This Owner N5 Note may not be changed, amended or modified orally, and may only be amended or modified by an instrument in writing which by its express terms refers to this Owner N5 Note and is duly executed by the Agency and accepted in writing by the Owner.

(d) Notice may be given to the Owner or to the Agency at the address for such parties and in the manner set forth in the North OPA.

(e) This Owner N5 Note shall be governed by and construed in accordance with the laws of the State of California.

(f) Time is of the essence with respect to each and every term and provision of this Owner N5 Note.

(g) The terms of this Owner N5 Note shall bind the Agency and inure to the benefit of the Owner and their respective successors and assigns.

(h) If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

(i) The captions and headings in this Owner N5 Note are for convenience of reference purposes only and shall not be deemed to affect the meaning or interpretation of any of the provisions of this Owner N5 Note.

MAKER

REDEVELOPMENT AGENCY OF THE CITY AND COUNTY  
OF SAN FRANCISCO, a public body corporate and politic of the  
State of California

By: \_\_\_\_\_  
[type name]  
Executive Director

Approved as to form:

By: \_\_\_\_\_  
[type name]  
General Counsel

**EXHIBIT M**

**MISSION BAY NORTH HOUSING PROGRAM**

**RENTAL USE RESTRICTION**

EXHIBIT M

MISSION BAY NORTH HOUSING PROGRAM

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Redevelopment Agency of City and  
County of San Francisco  
770 Golden Gate Avenue  
San Francisco, California 94102

Attn: Executive Director

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This document is exempt from payment of a  
recording fee pursuant to Government Code  
Section 6103.

**REDEVELOPMENT AGENCY OF CITY AND  
COUNTY OF SAN FRANCISCO**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_

**RENTAL USE RESTRICTION DECLARATION**

THIS DECLARATION OF USE RESTRICTIONS ("Declaration") is made this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_, by [Insert the appropriate entity: CATELLUS  
DEVELOPMENT CORPORATION, a Delaware corporation, or its agents, designees or  
successors; or insert name of a permitted Transferee under the North OPA or its agents,  
designees or successors] as declarant (the "Owner"), in favor of The Redevelopment Agency of  
the City and County of San Francisco, a public body, corporate and politic, of the State of  
California (the "Agency"), with reference to the following:

A. Owner is fee owner of record of that certain real property located in the City and  
County of San Francisco, State of California legally described in the attached Exhibit "A" (the

"Property"), which is comprised of \_\_\_\_\_ acres. Owner intends to construct on the Property a Residential Project consisting of \_\_\_\_\_ Market Rate Residential Units.

B. The Property is within the North Plan Area in the City and County of San Francisco and is subject to the provisions of the Mission Bay North Redevelopment Plan adopted by \_\_\_\_\_.

C. The Agency and Owner have entered into that certain Mission Bay North Owner Participation Agreement dated \_\_\_\_\_, 1998, and recorded on \_\_\_\_\_ as Document No. \_\_\_\_\_ (the "North OPA"), including, without limitation, the Housing Program attached thereto as Attachment C (the "Housing Program"), concerning the development and use of the Property, which North OPA and Housing Program is on file with the Agency as a public record and is incorporated herein by reference and which North OPA and Housing Program provides for the execution and recordation of this Declaration. This Declaration is being executed and recorded for the benefit of the Agency and to satisfy the conditions for provision of certain Market Rate Rental Residential Units (as set forth herein) pursuant to the North OPA and Housing Program.

NOW, THEREFORE, OWNER AGREES AND COVENANTS AS FOLLOWS:

1. RENTAL USE RESTRICTION.

1.1. Residential Units/Term. The occupancy of \_\_\_\_\_ ( ) of the Market Rate Residential Units in the Residential Project shall be restricted to use and occupancy as Rental Residential Units for a continuous period of fifteen (15) years from the date of issuance of a Certificate of Occupancy for the Residential Project. This Declaration shall automatically terminate and expire, without further action of Agency or Owner, and shall be released and be of no further force and effect whatsoever upon expiration of the above term.

2. DEFINITIONS.

All capitalized terms used in this Declaration which are not otherwise defined herein shall have the meanings given them in the North OPA, including the Housing Program which is Attachment C thereto. Terms defined in the North OPA or the Attachments thereto and also set forth in this Declaration are provided herein for convenience only.

3. COVENANTS.

3.1. Restrictions. The restrictions set forth in this Declaration shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each Owner thereof and their successors and assigns.

4. REMEDIES.

4.1. Agency Remedies. Notwithstanding any other provision of the North OPA to the contrary, the Agency shall be entitled to all remedies in the event of any default in or breach of this Declaration which are available in law or equity.

5. GOVERNING LAW.

This Declaration shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, Owner has executed this instrument the day and year first hereinabove written.

Dated: \_\_\_\_\_, 1998

"OWNER"

[CATELLUS DEVELOPMENT CORPORATION,  
a Delaware corporation; or if another party insert  
appropriate name of party]

By: \_\_\_\_\_

Its: \_\_\_\_\_





**Exhibit A**

[Legal Description of the Property]