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Request of the Redevelopment Agency  
of the City and County of San Francisco

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

San Francisco Redevelopment Agency  
770 Golden Gate Avenue  
San Francisco, CA 94102  
Attn: Development Services

CONFORMED COPY of dc 03/04/2004, 2004H669956  
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SAN FRANCISCO ASSESSOR RECORDER

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

**FIRST AMENDMENT TO MISSION BAY NORTH  
OWNER PARTICIPATION AGREEMENT**

**Dated February 17, 2004**

**by and between**

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

**and**

**US LAND AND DEVELOPMENT CORPORATION**

REC'T # 0002422103  
March 04, 2004 14:08:55

San Francisco Assessor-Recorder  
Mabel S. Teng, Assessor-Recorder

Document # 04-H669956-00  
REEL I587 IMAGE 0522

Account Number 26  
SFDC Redevelopment Agency  
Free Issue

Total fee ..... \$0.00  
Amount Tendered... \$0.00

Change ..... \$0.00  
0JL/JL/9

DUPLICATE

## **FIRST AMENDMENT TO MISSION BAY NORTH OWNER PARTICIPATION AGREEMENT**

This First Amendment to the Mission Bay North Owner Participation Agreement (this "First Amendment") dated for reference purposes only as of February 17, 2004 is by and between the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic established pursuant to the Community Redevelopment Law of the State of California, together with any successor public agency designated by or pursuant to law (the "Agency") and Catellus Land and Development Corporation, a Delaware corporation (the "Owner").

### **RECITALS**

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

A. The Agency and Catellus Development Corporation, a Delaware corporation ("CDC"), entered into that certain Mission Bay North Owner Participation Agreement dated as of November 16, 1998 and recorded December 3, 1998 as Document No. 98-G477257-00 in the Official Records of San Francisco County (the "North OPA"). Catellus Operating Limited Partnership, a Delaware limited partnership ("COLP"), successor by merger to CDC, and Owner entered into that certain Assignment, Assumption and Release Agreement dated as of December 31, 2003, pursuant to which Owner assumed COLP's rights and obligations under the North OPA including the right to consent to this First Amendment. The capitalized terms used herein shall have the meaning set forth in the North OPA, unless otherwise specifically provided herein.

B. The Owner and Agency wish to enter into this First Amendment for the purposes of achieving the further redevelopment within the North Plan Area and making certain amendments to the North OPA, all to further effectuate the program of development contemplated by the Mission Bay North Redevelopment Plan. The parties have entered into this Amendment to memorialize their understanding and commitments concerning the matters generally described above.

## AGREEMENT

**Accordingly**, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Owner and the Agency agree as follows:

1. Section 3.6(e) is hereby added at the end of Section 3.6 of the North OPA:

"(e) Subject to the Agency's approval, the Owner may elect to subdivide various components within a Project, and desires to be able to obtain a Certificate of Completion with respect to each such subdivided component, but prior to Completion of the Improvements for the entire Project. Acceptable subdivided components include: (i) each component containing a retail or other commercial use; (ii) each component containing a residential development (and up to 6 Certificates of Completion covering not fewer than 10 individual Residential Units therein); and (iii) each component containing parking facilities.

Prior to the Owner's initial request for a Certificate of Completion for a subdivided component, the Owner shall provide to the Agency for review, a schedule which sets forth in adequate detail the composition of all proposed subdivided components and stating the anticipated timeframe for completion of the remaining components within the Project. The Agency shall review the schedule and either approve or disapprove the proposal set forth therein within twenty (20) days of receipt from the Owner. Provided that the Agency approves the schedule submitted by the Owner and provided further that the conditions to approval of each such subdivided component are met, upon formal request, the Agency agrees to issue separate Certificates of Completion, prior to Completion of the Improvements for the entire Project, for each of the subdivided components when and if they are completed.

Each component shall be considered complete when (A) the following elements of the component are completed: (a) the core and shell; (b) the exterior building surfaces and finishes; (c) the utility surfaces in the core and shell; (d) the core and shell of the component's lobby; (e) any elevators serving the component; (f) all life safety systems serving the component, which must be fully operational; (g) the parking facilities serving the component; and (h) any other elements of the Project reasonably determined by the Agency to be necessary; and (B) the City and County of San Francisco has issued a temporary Certificate of Occupancy (except that for a Residential Unit a final Certificate of Occupancy is required) with respect to the component."

2. Section 14.6 is hereby added at the end of Section 14 of the North OPA:

"14.6 Sale of Individual Residential Condominium Units.

Notwithstanding any other provision of this North OPA, the provisions relating to Transfers shall not apply to buyers of completed individual Residential Units for which, on or prior to the date of sale, a Certificate of Occupancy has been issued; provided, however, that the Owner, as Transferor, remains fully obligated under this North OPA as to any remaining obligation to complete the Improvements of which the subject Residential Unit is a part, including without limitation any obligations enumerated in Section 14.1(a)(4), and Owner retains the exclusive right to request a Certificate of Completion and is not otherwise seeking a release from any obligations under Section 14.1(b).

The Agency will not (i) require notice or assumption of obligations for subsequent resales of any such Residential Units; (ii) require prior written notice under Section 14.1(e) or the assumption of the transferring Owner's obligations, if any, under Section 14.1(f) for the transfer of Residential Unit project condominium common areas to an owner's association for which a Certificate of Occupancy has been issued and shall not otherwise impose any obligations with respect to completion of Improvements on completed individual Residential Units; nor (iii) otherwise impose any obligations with respect to completion of the Improvements on completed individual Residential Units, so long as the above criteria of this Section 14.6 have been satisfied with respect to remaining Owner obligations.

This Section 14.6 is for the express benefit of the Owner, and nothing herein shall be construed to: (a) confer on an individual Residential Unit purchaser the status of Transferee or Owner; or (b) provide such purchaser, as opposed to the Owner, with the right to request a Certificate of Completion for an individual Residential Unit."

3. The Housing Program (Attachment C to the North OPA) is hereby amended to delete the phrase "shall not exceed thirty-five (35) units" in the first sentence of Section 4.5 and to insert the phrase "shall not exceed seventy-five (75) units" in lieu thereof.

4. Exhibit F to the Housing Program (Attachment C to the North OPA) is hereby amended (i) to delete the word "Affordable" in the title; (ii) to delete the phrase "for a minimum of twelve (12) continuous months" in Section II.1.13; and (iii) to delete the phrase "for a minimum of twelve (12) continuous months, and such individual(s) have actually worked in San Francisco for such 12-month period" in Section II.1.14.

5. The Design Review and Document Approval Procedure, Attachment G to the North OPA, is hereby amended to delete the phrase "No final subdivision map" in the first sentence of the second paragraph of Section I.B.1. and to insert the phrase "No tentative subdivision map" in lieu thereof

6. Except as otherwise amended hereby and as previously revised to reflect various non-material changes, all terms, covenants, conditions and provisions of the North OPA shall remain in full force and effect.

7. This First Amendment is binding upon and will inure to the benefit of the successors and assigns of the Agency, the Owner, and, as applicable, the City, subject to the limitations set forth in the North OPA.

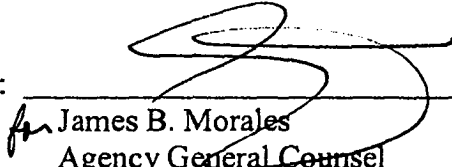
8. This First Amendment may be executed in any number of counterparts, all of which, together shall constitute the original agreement hereof.

IN WITNESS WHEREOF, the Agency has caused this First Amendment to be duly executed on its behalf and the Owner has signed or caused this First Amendment to be signed by duly authorized persons, all as of the day first above written.

Authorized by Agency Resolution No. 22-2004  
adopted February 17, 2004


Approved to Form:

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

  
James B. Morales  
Agency General Counsel

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

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

  
Ayisha J. Benham 02/20/04  
Deputy Executive Director


CATELLUS LAND AND DEVELOPMENT  
CORPORATION, a Delaware corporation

By: Catellus Urban Development Corporation,  
a Delaware corporation, its authorized  
agent

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

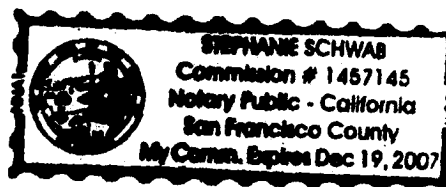
  
ERIC HARKON  
EXECUTIVE V.P.

STATE OF CALIFORNIA )  
 ) ss.  
CITY AND COUNTY OF SAN FRANCISCO )

On FEB 13, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared ERIC HARRISON, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Stephane Schwab  
Signature of Notary Public (Seal)

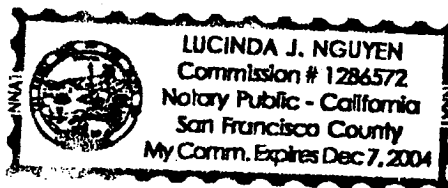


STATE OF CALIFORNIA )  
 ) ss.  
CITY AND COUNTY OF SAN FRANCISCO )

On FEB 20, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Ayisha J. Benham, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Lucinda J. Nguyen  
Signature of Notary Public (Seal)



## **RESOLUTION NO. 22-2004**

Adopted February 17, 2004

### **AUTHORIZING A FIRST AMENDMENT TO THE MISSION BAY NORTH OWNER PARTICIPATION AGREEMENT TO PROVIDE FOR AN ADDITIONAL 40 UNITS OF AGENCY SPONSORED AFFORDABLE HOUSING; TO BRING THE MARKETING GUIDELINES INTO CONFORMANCE WITH FEDERAL FAIR HOUSING LAWS; AND TO MAKE TECHNICAL CORRECTIONS TO THE CERTIFICATE OF COMPLETION, TRANSFER AND SUBDIVISION MAPPING PROVISIONS; MISSION BAY NORTH REDEVELOPMENT PROJECT AREA**

#### **BASIS FOR RESOLUTION**

1. On September 17, 1998, by Resolution No. 188-98, the San Francisco Redevelopment Agency Commission (the "Agency Commission") conditionally approved the Mission Bay North Owner Participation Agreement (the "North OPA") and related documents between Catellus Development Corporation (the "Owner") and the Redevelopment Agency of the City and County of San Francisco (the "Agency") for development in the Mission Bay North Redevelopment Project Area.
2. The conditions to the effectiveness of Resolution No. 188-98 were satisfied by the final adoption of the Board of Supervisors of the City and County of San Francisco adopting Ordinance No. 327-98 adopting the Mission Bay North Redevelopment Plan (the "Plan").
3. An amendment is proposed (a) to clarify the process regarding the sale of individual residential units including providing for the issuance of partial Certificates of Completion; (b) to revise the definitions of San Francisco Resident and San Francisco Worker to better comply with federal fair housing laws; (c) to provide for additional affordable housing units; and (d) to make a clarifying change in the subdivision procedural requirements that are predicates to Agency approval in the North Owner Participation Agreement (the "North OPA") Design Review and Document Approval Procedure, all as more particularly set forth in the proposed amendment (together these changes to the North OPA are collectively referred to as the "First Amendment").
4. The Agency Commission previously adopted by Resolution No. 21-2004 findings pursuant to CEQA and the CEQA Guidelines, which findings are hereby incorporated herein by this reference as if fully set forth.
5. Agency staff has reviewed and considered the items for amendment as well as the Final Subsequent Environmental Impact Report ("FSEIR"), the

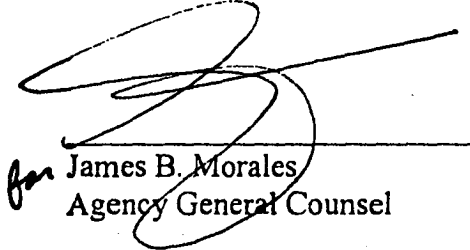


Addendum and other information contained in the Agency's files, finds them to be acceptable and recommends approving the First Amendment, which includes the above listed provisions.

## **RESOLUTION**

**ACCORDINGLY, IT IS HEREBY RESOLVED** by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized to execute a First Amendment to the Mission Bay North Owner Participation Agreement, substantially in the form lodged with the Agency General Counsel.

**APPROVED AS TO FORM:**



for James B. Morales  
Agency General Counsel

Free Recording Pursuant to  
Government Code Section 27383 at the  
Request of the Redevelopment Agency  
of the City and County of San Francisco

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

San Francisco Redevelopment Agency  
770 Golden Gate Avenue  
San Francisco, CA 94102  
Attn: Development Services

CONFORMED COPY of document recorded on \_\_\_\_\_  
at 03/30/2004, 2004H687625  
This document has not been compared with  
the original  
SAN FRANCISCO ASSESSOR RECORDER

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**SECOND AMENDMENT TO MISSION BAY NORTH  
OWNER PARTICIPATION AGREEMENT**

**Dated March 16, 2004**

**by and between**

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

**and**

**S LAND AND DEVELOPMENT CORPORATION**

REC'D # 0002442497  
March 30, 2004 12:52:17

San Francisco Assessor-Recorder  
Hazel S. Teng, Assessor-Recorder

Document # 04-H687625-00

REEL 1505 IMAGE 0775

Account Number 26

FDC Redevelopment Agency

Recording Fee \$12.00

Page Fee \$8.00

Micrograph Fee \$1.00

State Fees \$7.00

Total fee ..... \$28.00

Amount Tendered... \$28.00

Grange ..... \$0.00  
per JWC

DUPLICATE

## **SECOND AMENDMENT TO MISSION BAY NORTH OWNER PARTICIPATION AGREEMENT**

This Second Amendment to the Mission Bay North Owner Participation Agreement (this "Second Amendment") dated for reference purposes only as of March 16, 2004 is by and between the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic established pursuant to the Community Redevelopment Law of the State of California, together with any successor public agency designated by or pursuant to law (the "Agency") and Catellus Land and Development Corporation, a Delaware corporation (the "Owner").

### **RECITALS**

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

A. The Agency and Catellus Development Corporation, a Delaware corporation ("CDC"), entered into that certain Mission Bay North Owner Participation Agreement dated as of November 16, 1998 and recorded December 3, 1998 as Document No. 98-G477257-00 in the Official Records of San Francisco County (the "Official Records"), as amended by that certain First Amendment to Mission Bay North Owner Participation Agreement dated as of February 17, 2004 and recorded March 4, 2004 as Document No. 2004H669956 in the Official Records (collectively, the "North OPA"). Catellus Operating Limited Partnership, a Delaware limited partnership ("COLP"), successor by merger to CDC, and Owner entered into that certain Assignment, Assumption and Release Agreement dated as of December 31, 2003, pursuant to which Owner assumed COLP's rights and obligations under the North OPA, including the right to consent to the First Amendment to Mission Bay North Owner Participation Agreement and this Second Amendment. The capitalized terms used herein shall have the meaning set forth in the North OPA, unless otherwise specifically provided herein.

B. The Owner and Agency wish to enter into this Second Amendment for the purposes of achieving the further redevelopment within the North Plan Area and making certain amendments to the

North OPA, all to further effectuate the program of development contemplated by the Mission Bay North Redevelopment Plan. The parties have entered into this Second Amendment to memorialize their understanding and commitments concerning the matters generally described above.

## **AGREEMENT**

**Accordingly**, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Owner and the Agency agree as follows:

1. The Mission Bay North Scope of Development, Attachment B to the North OPA, is hereby amended to delete Section I.B.1 and to insert the following in lieu thereof:  
“1. Up to approximately 2,565 Dwelling Units as defined in the Mission Bay North Redevelopment Plan, including approximately 2,320 market-rate units, and 245 Affordable Housing Units; provided, however, that Owner may elect to construct additional units that the Agency would otherwise be permitted to construct pursuant to the terms and conditions of Section 3.4.3 of the North OPA.”
2. The Mission Bay North Scope of Development, Attachment B to the North OPA, is hereby further amended to delete Section I.B.2 and to insert the following in lieu thereof:  
“2. Up to approximately 200,000 Leasable square feet of Local-serving retail, City-serving retail, or other local-serving business uses, plus any additional Leasable square feet permitted under Section I.B.2(a)(ii) below, allocated as follows:  
  
a) BlockN1: 130,000 Leasable square feet and BlockN2/Parcel 1: 33,000 Leasable square feet, provided, however, that  
  
(i) such Leasable square footage is permitted only to the extent that it can be accommodated, consistent with the minimum parking requirements for the proposed use contained in the Mission Bay North Design for Development, by the existing 373 parking spaces (as to N1) and 59 parking spaces (as to N2); and/or from the difference between 2,900 and the actual number of residential parking spaces constructed, including residential parking spaces constructed in Agency Affordable Housing Parcels (collectively, "Available Parking Allocation");

- (ii) additional Leasable square footage is also permitted on Blocks N1 and N2 (beyond the 130,000 and 33,000 Leasable square feet, respectively) to the extent such use can be accommodated, consistent with the minimum parking requirements for retail uses contained in the Mission Bay North Design for Development, by any Available Parking Allocation.

b) Up to 37,000 Leasable square feet is permitted at the ground floor of residential buildings on Blocks N1-N5, allocated by Parcel as follows: N2, Parcel 3 (12,000 Leasable square feet); N3, Parcel 1 (10,000 Leasable square feet); N3, Parcel 2 (5,000 Leasable square feet); N3a, Parcel 2 (5,000 Leasable square feet) and N3a, Parcel 3 (5,000 Leasable square feet). The total parking for this up to 37,000 Leasable square feet shall not exceed 10 spaces.”

3. Except as otherwise amended hereby and as previously revised to reflect various non-material changes, all terms, covenants, conditions and provisions of the North OPA shall remain in full force and effect.

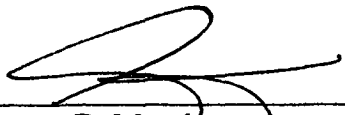
4. This Second Amendment is binding upon and will inure to the benefit of the successors and assigns of the Agency, the Owner, and, as applicable, the City, subject to the limitations set forth in the North OPA.

5. This Second Amendment may be executed in any number of counterparts, all of which, together shall constitute the original agreement hereof.


IN WITNESS WHEREOF, the Agency has caused this Second Amendment to be duly executed on its behalf and the Owner has signed or caused this Second Amendment to be signed by duly authorized persons, all as of the day first above written.

Authorized by Agency Resolution No. 35-2004  
adopted March 16, 2004

Approved to Form:

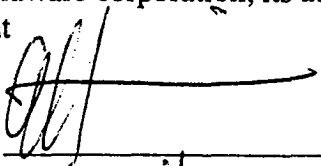
By:   
for James B. Morales  
Agency General Counsel

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

By:   
Ayisha J. Benham 03/23/04  
Deputy Executive Director

CATELLUS LAND AND DEVELOPMENT  
CORPORATION, a Delaware corporation

By: Catellus Urban Development Corporation,  
a Delaware corporation, its authorized  
agent

By:   
Name: Eric Harris  
Title: Ex. Vice President

STATE OF CALIFORNIA )  
 ) ss.  
CITY AND COUNTY OF SAN FRANCISCO )

On March 15, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared ERIC HEERSON, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

*Alvce Jones-Mcelroy*  
Signature of Notary Public (Seal)

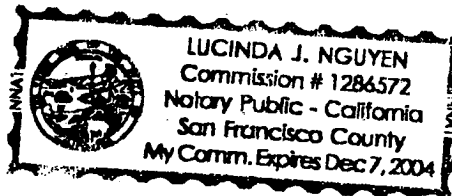


STATE OF CALIFORNIA )  
 ) ss.  
CITY AND COUNTY OF SAN FRANCISCO )

On March 23, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared AYISHA J. Benham, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

*Lucinda J. Nguyen*  
Signature of Notary Public (Seal)



## **RESOLUTION NO. 35-2004**

*Adopted March 16, 2004*

### **ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AUTHORIZING A SECOND AMENDMENT TO THE MISSION BAY NORTH OWNER PARTICIPATION AGREEMENT TO AMEND THE SCOPE OF DEVELOPMENT TO DECREASE ALLOWABLE RESIDENTIAL DEVELOPMENT FROM 3,000 TO 2,900 UNITS AND ALLOWABLE RETAIL DEVELOPMENT FROM 500,000 TO 200,000 LEASABLE SQUARE FEET; MISSION BAY NORTH REDEVELOPMENT PROJECT AREA**

#### **BASIS FOR RESOLUTION**

1. On September 17, 1998, by Resolution No. 188-98, the San Francisco Redevelopment Agency Commission (the "Agency Commission") conditionally approved the Mission Bay North Owner Participation Agreement (the "North OPA") and related documents between Catellus Development Corporation (the "Owner") and the Redevelopment Agency of the City and County of San Francisco (the "Agency") for development in the Mission Bay North Redevelopment Project Area (the "North Project Area").
2. The conditions to the effectiveness of Resolution No. 188-98 were satisfied by the final adoption of the Board of Supervisors of the City and County of San Francisco adopting Ordinance No. 327-98 adopting the Mission Bay North Redevelopment Plan (the "Plan").
3. On February 17, 2004, by Resolution No. 22-2004, the Agency Commission adopted a First Amendment to the North OPA.
4. An amendment is now proposed to the North OPA, Attachment B (Scope of Development) to decrease allowable residential development from 3,000 to 2,900 units and allowable retail development from 500,000 to 200,000 Leasable square feet in the North Project Area (the "Second Amendment").
5. The Agency Commission previously adopted by Resolution No. 34-2004 findings pursuant to the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, which findings are hereby incorporated herein by this reference as if fully set forth.




6. Agency staff have reviewed and considered the Second Amendment as well as the Final Subsequent Environmental Impact Report ("FSEIR"), the addendum to the FSEIR dated March 9, 2004 (the "Addendum"), and other information contained in the Agency's files, find them to be acceptable and recommend approving the Second Amendment, which includes the above listed provisions.

### **RESOLUTION**

**ACCORDINGLY, IT IS RESOLVED** by the Redevelopment Agency of the City and County of San Francisco (1) that it has reviewed and considered the FSEIR and the Addendum and hereby adopts the environmental findings set forth herein and in Resolution No. 34-2004 related thereto; and (2) that the Executive Director is authorized to execute a Second Amendment to the Mission Bay North Owner Participation Agreement, substantially in the form lodged with the Agency General Counsel.

**APPROVED AS TO FORM:**

  
for James B. Morales  
Agency General Counsel

Free Recording Pursuant to Government Code Section 27383 at the Request of the Redevelopment Agency of the City and County of San Francisco

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

San Francisco Redevelopment Agency  
770 Golden Gate Avenue  
San Francisco, CA 94102  
Attn: Development Services

CONFORMED COPY of document recorded

as 02/16/2005, 2005H905201 at

This document has not been compared with the original  
SAN FRANCISCO ASSESSOR RECORDS

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

**THIRD AMENDMENT TO MISSION BAY NORTH OWNER PARTICIPATION  
AGREEMENT**

**Dated January 18, 2005**

**By and Between**

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

**and**

**FOCIL-MB, LLC**

**a Delaware Limited Liability Company**

**DUPLICATE**

## **THIRD AMENDMENT TO MISSION BAY NORTH OWNER PARTICIPATION AGREEMENT**

This Third Amendment to the Mission Bay North Owner Participation Agreement (this "Third Amendment") dated for reference purposes only as of January 18, 2005 is by and between the Redevelopment Agency of the City and County of San Francisco, a public body corporate and politic established pursuant to the Community Redevelopment Law of the State of California, together with any successor public agency designated by or pursuant to law (the "Agency") and FOCIL-MB, LLC, a Delaware limited liability company (the "Owner").

### **RECITALS**

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

A. The Agency and Catellus Development Corporation, a Delaware corporation ("CDC") entered into that certain Mission Bay North Owner Participation Agreement dated as of November 16, 1998 and recorded December 3, 1998 as Document No. 98-G477257-00 in the Official Records of San Francisco County (the "Official Records"), as amended by that certain First Amendment to Mission Bay North Owner Participation Agreement dated as of February 17, 2004 and recorded March 4, 2004 as Document No. 2004H669956 in the Official Records, and as further amended by that certain Second Amendment to Mission Bay North Owner Participation Agreement dated as of March 16, 2004 and recorded March 30, 2004 as Document 2004H687625 (collectively the "North OPA"). Catellus Operating Limited Partnership, a Delaware limited partnership ("COLP"), successor by merger to CDC, and Catellus Land and Development Corporation, a Delaware corporation ("CLDC"), entered into that certain Assignment, Assumption and Release Agreement dated as of December 31, 2003, pursuant to which CLDC assumed COLP's rights and obligations under the North OPA. CLDC and the Owner entered into that certain Assignment, Assumption and release Agreement dated as of November 22, 2004, pursuant to which the Owner assumed CLDC's rights and obligations under the North OPA including the right to consent to this Third Amendment. The capitalized terms used herein shall have the meaning set forth in the North OPA, unless otherwise specifically provided herein.

B. The Owner and Agency wish to enter into this Third Amendment for the purposes of achieving the further redevelopment within the North Plan Area and making certain amendments to the North OPA, all to further effectuate the program of development contemplated by the Mission Bay North Redevelopment Plan. The parties have entered into this Third Amendment to memorialize their understanding and commitments concerning the matters generally described above.

### **AGREEMENT**

**Accordingly**, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Owner and the Agency agree as follows:

1. Section 14.6 of the North OPA is hereby amended to add the following paragraph after the first paragraph in that Section:

The Agency will not require execution of a Tax Allocation Debt Promissory Note (as defined in the Financing Plan) by any buyers of completed individual Residential Units or by owner's associations in connection with the transfer of Residential Unit project condominium common areas for which, on or prior to the date of sale, a Certificate of Occupancy has been issued. Pursuant to the terms set forth in the Tax Allocation Debt Promissory Note executed by Owner, such Tax Allocation Debt Note shall terminate and be of no further force or effect as to the Residential Units and common areas so conveyed.

2. Section 2.1 of the Housing Program (Attachment C to the North OPA) is hereby amended as follows:

a. Section 2.1(e) is deleted in its entirety and the following is substituted in lieu thereof:

(e) Owner Affordable Housing Units shall, in accordance with Section 2.1(j) hereof, consist of 43.7% For-Sale and 56.3% For-Rent Residential Units.

b. In Section 2.1(j), in first line, delete the number "seventy-one percent (71%)", with reference to the percentage of For-Sale Owner Moderate Income Units, and substitute "eight-two and three-tenths percent (82.3%)"; and, in the third line, delete the number "eighty-three (83)", with reference to For-Sale Owner Moderate Income Units, and substitute the number "ninety-three (93)" in lieu thereof.

3. The "Declaration of For Sale-Restrictions", attached as Exhibit D2 to the Housing Program (Attachment C to the North OPA), is hereby deleted in its entirety and the "Declaration of For-Sale Restrictions (as Amended by the Third Amendment to the North OPA)" attached hereto, including Exhibits A, B and C thereto, is hereby substituted in lieu thereof.

4. The "Owner Housing Marketing and Operations Guidelines", attached as Exhibit F to the Housing Program (Attachment C to the North OPA), is hereby deleted in its entirety and the "Amended Owner Housing Marketing and Operations Guidelines" attached hereto is hereby substituted in lieu thereof..

5. The Mission Bay North Financing Plan (Attachment E to the North OPA) is hereby amended to add the following language to the end of the fourth sentence of Section 4.A.iv:

“, and such obligation shall additionally terminate upon Transfer of an individual Residential Unit of a condominium project (as defined in California Civil Code Sections 783 and 1351(f)) or of the common areas of such a condominium project pursuant to Section 14.6 of the North

OPA, except to the extent any such obligation has arisen and is not satisfied on the date of such Transfer.”

6. This Third Amendment constitutes a part of the North OPA and any reference in any document to the North OPA shall be deemed to include a reference to such North OPA as amended hereby.

7. Except as otherwise amended hereby, all terms, covenants, conditions and provisions of the North OPA shall remain in full force and effect.

8. This Third Amendment is binding upon and will inure to the benefit of the successors and assigns of the Agency, the Owner, and, as applicable, the City, subject to the limitations set forth in the North OPA.

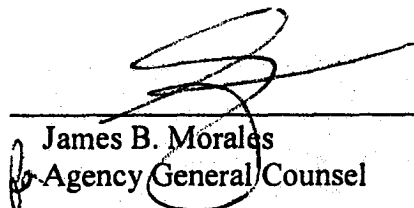
9. This Third Amendment may be executed in any number of counterparts, all of which, together shall constitute the original agreement hereof.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Agency has caused this Third Amendment to be duly executed on its behalf and the Owner has signed or caused this Third Amendment to be signed by duly authorized persons, all as of the day first above written and authorized by Agency Resolution No. 8 -2005 adopted January 18, 2005

Approved to Form:

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

  
James B. Morales  
Agency General Counsel

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

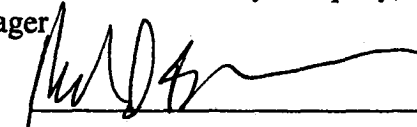
By: \_\_\_\_\_

  
Marcia Rosen  
Executive Director

FOCIL-MB, LLC, a Delaware limited liability  
company

By: Farallon Capital Management, L.L.C., a  
Delaware limited liability company, its  
Manager

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

  
Name: Richard B. Fried  
Managing Member

Title: \_\_\_\_\_

STATE OF CALIFORNIA

)

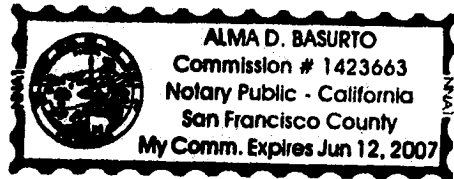
) ss.

CITY AND COUNTY OF SAN FRANCISCO

)

On January 21, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Marcia Rosen, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that ~~he~~<sup>she</sup> executed the same in ~~his~~<sup>her</sup> authorized capacity, and that by ~~his~~<sup>her</sup> signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Alma D. Basurto  
Signature of Notary Public

(Seal)

STATE OF CALIFORNIA

)

) ss.

CITY AND COUNTY OF SAN FRANCISCO

)

On January 13, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard B. Fried, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Ann T. Golden  
Signature of Notary Public

(Seal)

**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

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

**DECLARATION OF FOR-SALE RESTRICTIONS**  
**(as Amended by the Third Amendment to the North OPA)**

THIS AMENDED AND RESTATED DECLARATION OF FOR-SALE RESTRICTIONS ("Declaration") is made this \_\_\_ day of \_\_\_\_\_, by [insert the appropriate entity: FOCIL-MB, LLC, a Delaware limited liability company, 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 the fee owner of record of that certain real property [and the improvements thereon] located in the City and County of San Francisco, State of California [commonly known as Mission Bay Block \_\_\_\_] 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 the San Francisco Board of Supervisors by Ordinance No. 327-98.

C. The Agency and Owner are parties to that certain Mission Bay North Owner Participation Agreement originally adopted by the San Francisco Redevelopment Agency by



Resolution No. 188-98 (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. The North OPA, including the 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, including any amendments thereto, 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-Sale Owner Affordable Housing Units. The sale of \_\_\_\_\_  
( ) For-Sale Owner Affordable Housing Units in the Residential Property on the Property shall be restricted to housing for 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 Low Income Units and \_\_\_\_\_ ( ) of the For-Sale Owner Affordable Housing Units shall be Owner Moderate Income Units, [as more particularly described on Exhibit B attached hereto.]

1.2 Term. Owner Affordable Housing Units located on the Property 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 Property 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 the applicable Owner Affordable Housing Unit; but in no event less than forty-five (45) years from the date of the Certificate of Occupancy for the Residential Property located on the Property, 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 which is affordable to a household earning the targeted percentage of Area Median Income, adjusted for a Household Size of one person per bedroom plus one, using a five percent (5%) down payment and a thirty (30)-year fixed mortgage with commercially reasonable points and fees, and with a total annual payment for principal, interest, taxes, insurance and homeowner's association dues which does not exceed 33% of the targeted Area Median Income permitted for the type of residential unit. The

mortgage interest rate used in the calculation shall be the higher of 1) the ten-year rolling average of interest rates, as calculated by the Agency (or its successor) based on data provided by Fannie Mae, Freddie Mac, or an equivalent, nationally recognized mortgage lending institution, or 2) the current, commercially reasonable rate available through an Agency-approved lender.

2.2 "Affordable Purchase Price" means the purchase price for an Owner Affordable Housing Unit that is Affordable for an Owner Low Income Unit or Owner Moderate 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 Housing 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.

### 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.

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 be calculated in the same manner as the original Affordable Price (Section 2.1), based on the data in use at the time of resale.

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 the form attached hereto as Exhibit C 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.

*[The remainder of this page has been left blank intentionally]*

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

Dated: \_\_\_\_\_, 200\_\_

"OWNER"

[FOCIL-MB, LLC,  
a Delaware limited liability company; if  
another party insert appropriate name of  
party]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

On \_\_\_\_\_, 20\_\_ 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]**

**Exhibit B**

**Description of Owner Affordable Housing Units**  
**[If applicable]**



**Exhibit C**

**Form of Income Certification**

**INCOME CERTIFICATION FORM**

See reverse for more information and examples.

Effective Date: / /

Completed by:

**PART I: DEVELOPMENT DATA**

Development Name:	Redevelopment Area:
Address:	Unit #: # of Bedrooms:

**PART II: HOUSEHOLD COMPOSITION**

HH Mbr #	Last Name	First Name and Middle Initial	Household Member	Date of Birth (mm/dd/yyyy)	Full-Time Student (Y or N)	Social Security or Alien Reg. #
1			Adult	/ /		
2				/ /		
3				/ /		
4				/ /		
5				/ /		
6				/ /		

**PART III: GROSS ANNUAL INCOME**

HH Mbr #	Wages	Social Security/Pensions	Public Assistance	Other Income
Totals	\$ (a)	\$ (b)	\$ (c)	\$ (d)
<b>TOTAL GROSS ANNUAL INCOME</b> Add (a) through (d)				\$ (e)

**PART IV: INCOME FROM ASSETS**

HH Mbr #	Type of Asset	Cash Value of Asset	Annual Income from Asset
Totals		\$ (f)	\$ (g)

**Imputed Income** (See example on reverse)

Enter (f) less \$15,000 to a maximum of \$100,000.	\$	x 10%	= \$ (h)
Enter (f) less \$115,000. Enter zero if (f) is less than or equal to \$115,000.	\$	x 35%	= \$ (i)

**TOTAL IMPUTED INCOME** Add (h) and (i) \$ (j)**TOTAL INCOME FROM ASSETS** Enter the greater: (g) or (j) \$ (k)**PART V: TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES**

Add (e) and (k) \$ (l)

**PART VI: DETERMINATION OF INCOME ELIGIBILITY**

Area Median Income for Family Size from Income Limits for San Francisco PMSA determined by HUD annually	\$ (m)	Household Percentage of Area Median Income Divide (l) by (m), then multiply by 100	%
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**PART VII: HOUSEHOLD CERTIFICATION & SIGNATURES**

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current annual income. Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Applicant's Signature

Applicant's Printed Name

Date

Co-signee's Signature

Co-signee's Printed Name

Date

# ADDITIONAL INFORMATION FOR COMPLETING INCOME CERTIFICATION FORM

**Part I: Development Data** - Enter the property information.

**Part II: Household Composition** - Enter the full name of all intended occupants of the unit. If there are more than six occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification form. State each household member's status using one of the following:

- Adult - Adult household member
- Child - Applicant's child or unrelated minor
- Other - Please specify (e.g., "Other - Niece")

Enter the date of birth, full-time student status, and social security number or alien registration number for each occupant.

**Part III: Annual Income** - See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

Complete a separate line for each income-earning member. List the respective household member number from Part II. If there is not enough room to list all sources of income for each household member, use an additional sheet of paper to list the remaining income sources and attach it to the certification form. In the event of a person with documented disability and documented ongoing medical expenses, such expenses may be deducted from gross income for purposes of this calculation.

Wages	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Social Security/ Pensions	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Public Assistance	Enter the annual amount of income received from public assistance (e.g., TANF, general assistance, disability, etc.).
Other Income	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.

**Part IV: Income from Assets** - See HUD Handbook 4350.3 for complete instructions on verifying income from assets, including acceptable forms of verification.

List the respective household member number from Part II and complete a separate line for each member. If there is not enough room to list all assets for each household member, use an additional sheet of paper to list the remaining household members and attach it to the certification form.

Type of Asset	List the type of asset (e.g., checking account, savings account, etc.)
Cash Value of Asset	Enter cash value of the respective asset
Annual Income from Asset	Enter the anticipated annual income from the asset (e.g., savings account balance multiplied by the annual interest rate).

*Example of Imputed Income if Total Current Value of Assets (f) is \$145,000:*

Imputed Income					
Enter (f) less \$15,000 to a maximum of \$100,000.	\$100,000	x 10%	= \$10,000	(h)	
Enter (f) less \$115,000. Enter zero if (f) is less than or equal to \$115,000.	\$30,000	x 35%	= \$10,500	(i)	
TOTAL IMPUTED INCOME Add (h) and (i)					\$20,500 (j)

## **EXHIBIT F**

### **MISSION BAY NORTH HOUSING PROGRAM**

#### **AMENDED OWNER HOUSING MARKETING AND OPERATIONS GUIDELINES**

##### **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 Occupancy Priorities** means the priorities established in this document for occupancy of For-Sale and For Rent Residential Units.

- 1.11 Potential Purchaser List means those applicants selected in the Lottery by the Owner to establish the application processing order for For-Sale Residential Units.
- 1.12 Potential Tenant List means those applications selected in the Lottery by the Owner to establish the application processing order for For-Rent Residential Units.
- 1.13 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.
- 1.14 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.
- 1.15 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.
- 1.16 San Francisco Residents means a household in which there are one or more persons 18 years or older who are residing in San Francisco at the time of submittal of the housing application or purchase offer.
- 1.17 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. In the initial rental of For Rent Owner Affordable Housing Units, the Owner shall give the following occupancy priorities (the "Occupancy Priorities"), listed in order of priority:
  - a. Certificate Holders. The Owner shall give a first-priority preference to Certificate Holders of Residential A Certificates and Certificate Holders of Residential C Certificates, each in the manner described in Section IV.A.3.g below.
  - b. San Francisco Residents. The Owner shall give second-priority preference to San Francisco Residents in the manner described in Section IV.A.3.g below.
  - c. Members of the general public.
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 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 by selecting all applicants submitting to the lottery. Each applicant will be assigned a number in the order selected (the "Lottery List").
- g. The Owner shall then identify any applicants entitled to an Occupancy Priority and rank all applicants on the Lottery List according to the preference categories in Section IV.A.2 above, and within each category 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." :

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 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 or San Francisco Residents.

- j. Certificate Holders and San Francisco Residents 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.

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. In the subsequent rental of vacant For Rent Affordable Housing Units, the Owner shall give Occupancy Priorities in the order listed in Section IV.A.2 above, first to persons in each category on the Potential Tenant List and then to persons in each category who request to be included on the waiting list following completion of Rent-Up of such Residential Units.
3. Disqualification of Persons on the Potential Tenant List
  - a. A Certificate Holder or San Francisco Resident 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. The Owner shall use the Occupancy Priorities in Section IV.A.2 in the initial sale of For-Sale Owner Affordable Housing Units, except that in the case of a conversion of For-Rent Owner Affordable Housing Units to For-Sale Owner Affordable Housing Units, any existing tenant who is income-qualified and programmatically eligible, as determined by the Agency, shall have a Right of First Refusal with respect to purchasing the Affordable Housing Unit in which such tenant resides at the time of conversion. Any such tenant who is income-qualified and programmatically eligible at the time of conversion, and who wishes to purchase the Affordable Housing Unit in which he or she resides will be permitted to exercise a Right of First Refusal, bypassing the lottery process outlined in Section V.A.3.(f) below. Any Affordable Housing Units not purchased by an existing tenant pursuant to this section shall be part of the lottery process outlined below.

3. Sales Procedures.

- a. At least One Hundred Eighty (120) 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. In the event of conversion of For-Rent to For-Sale Residential Units, existing tenants shall be given a Right of First Refusal pursuant to Section V.A.2 above. Owner and Agency shall mutually agree upon the terms of such offer to existing tenant, including the timeframe, noticing requirements and any incentives.
- c. The Agency shall be solely responsible for informing Certificate Holders of the availability of For-Sale Owner Affordable Housing Units.
- d. 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.
- e. 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.**

- f. 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 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 according to the Occupancy Priorities in Section IV.A.2 above.**

**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 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 on the preview day.
- vii. Certificate Holders and San Francisco 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.

Certificate Holders.

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 or San Francisco Resident 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 quarterly 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 Residents:
  - (i) The names of current Certificate Holders and San Francisco 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 Residents who leased Residential Units during the preceding one-month period; and
  - (iii) If applicable, the reason why any Certificate Holder or San Francisco 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 following the end of each quarter, 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 annual 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 year;
    - 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 year.
  - d. The number of names added to and removed from each waiting list during the preceding year.

**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.

## **RESOLUTION NO. 8-2005**

*Adopted January 18, 2005*

### **ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AUTHORIZING A THIRD AMENDMENT TO THE MISSION BAY NORTH OWNER PARTICIPATION AGREEMENT WITH FOCIL-MB, LLC; MISSION BAY NORTH REDEVELOPMENT PROJECT AREA**

#### **BASIS FOR RESOLUTION**

1. On September 17, 1998, by Resolution No. 188-98, the San Francisco Redevelopment Agency Commission (the "Agency Commission") conditionally approved the Mission Bay North Owner Participation Agreement (the "North OPA") and related documents between Catellus Development Corporation and the Redevelopment Agency of the City and County of San Francisco (the "Agency") for development in the Mission Bay North Redevelopment Project Area (the "North Project Area").
2. The conditions to the effectiveness of Resolution No. 188-98 were satisfied by the final adoption of the Board of Supervisors of the City and County of San Francisco adopting Ordinance No. 327-98 adopting the Mission Bay North Redevelopment Plan (the "Plan").
3. On February 17, 2004, by Resolution No. 22-2004, the Agency Commission adopted a First Amendment to the North OPA.
4. On March 16, 2004, by Resolution No. 35-2004, the Agency Commission adopted a Second Amendment to the North OPA.
5. On November 22, 2004, Catellus Land and Development Corporation, the successor in interest to Catellus Development Corporation, assigned its interests in the North OPA to FOCIL-MB, LLC, a Delaware limited liability company.
6. An amendment is now proposed to the North OPA to increase the percentage of Owner Affordable For-Sale Units, to amend Exhibits D2 and F to the Housing Program (North OPA Attachment C), and to clarify issues regarding the Additional Payments required under the Financing Plan (Attachment F to the North OPA) (the "Third Amendment").
7. The Agency Commission previously adopted on March 16, 2004, Resolution No. 34-2004 which included findings pursuant to the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, which findings are hereby incorporated herein by this reference as if fully set forth.




8. Agency staff have reviewed and considered the Third Amendment as well as the Final Subsequent Environmental Impact Report ("FSEIR"), the addendum to the FSEIR dated March 9, 2004 (the "Addendum"), and other information contained in the Agency's files, find them to be acceptable and recommend approving the Third Amendment, which includes the above listed provisions.

### **RESOLUTION**

**ACCORDINGLY, IT IS RESOLVED** by the Redevelopment Agency of the City and County of San Francisco (1) that it has reviewed and considered the FSEIR and the Addendum and hereby adopts the environmental findings set forth herein and in Resolution No. 34-2004 related thereto; and (2) that the Executive Director is authorized to execute a Third Amendment to the Mission Bay North Owner Participation Agreement with FOCIL-MB, LLC, a Delaware limited liability company, substantially in the form lodged with the Agency General Counsel.

**APPROVED AS TO FORM:**

  
for James B. Morales  
Agency General Counsel

Free Recording Pursuant to Government Code Section  
27383 at the Request of the Redevelopment Agency of  
the City and County of San Francisco

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

San Francisco Redevelopment Agency  
770 Golden Gate Avenue  
San Francisco, CA 94102  
Attn: Development Services

CONFIRMED COPY of Document recorded on

04/07/2005, 2005H933682

This document has not been compared with the original.  
SAN FRANCISCO ASSESSOR RECORDS

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

**FOURTH AMENDMENT TO MISSION BAY NORTH OWNER PARTICIPATION  
AGREEMENT**

**Dated March 15, 2005**

**By and Between**

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

**and**

**FOCIL-MB, LLC**

**a Delaware Limited Liability Company**

**DUPLICATE**

**ETACUQUO**

## **FOURTH AMENDMENT TO MISSION BAY NORTH OWNER PARTICIPATION AGREEMENT**

This Fourth Amendment to the Mission Bay North Owner Participation Agreement (this "Fourth Amendment") dated for reference purposes only as of March 15, 2005 is by and between the Redevelopment Agency of the City and County of San Francisco, a public body corporate and politic established pursuant to the Community Redevelopment Law of the State of California, together with any successor public agency designated by or pursuant to law (the "Agency") and FOCIL-MB, LLC, a Delaware limited liability company (the "Owner").

### **RECITALS**

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

A. The Agency and Catellus Development Corporation, a Delaware corporation ("CDC") entered into that certain Mission Bay North Owner Participation Agreement dated as of November 16, 1998 and recorded December 3, 1998 as Document No. 98-G477257-00 in the Official Records of San Francisco County (the "Official Records"), as amended by (i) that certain First Amendment to Mission Bay North Owner Participation Agreement dated as of February 17, 2004 and recorded March 4, 2004 as Document No. 2004H669956 in the Official Records; (ii) that certain Second Amendment to Mission Bay North Owner Participation Agreement dated as of March 16, 2004 and recorded March 30, 2004 as Document 2004H687625; and (iii) that certain Third Amendment to Mission Bay North Owner Participation Agreement dated as of January 18, 2005 and recorded February 16, 2005 as Document 2005H905201 (collectively the "North OPA").

B. Catellus Operating Limited Partnership, a Delaware limited partnership ("COLP"), successor by merger to CDC, and Catellus Land and Development Corporation, a Delaware corporation ("CLDC"), entered into that certain Assignment, Assumption and Release Agreement dated as of December 31, 2003, pursuant to which CLDC assumed COLP's rights and obligations under the North OPA.

C. CLDC and the Owner entered into that certain Assignment, Assumption and release Agreement dated as of November 22, 2004, pursuant to which the Owner assumed CLDC's rights and obligations under the North OPA including the right to consent to this Fourth Amendment.

D. The capitalized terms used herein shall have the meaning set forth in the North OPA, unless otherwise specifically provided herein. The Housing Program referred to herein is Attachment C to the North OPA, and the Financing Plan referred to herein is Attachment E to the North OPA, which attachments are each a part of the North OPA.

E. The Owner and Agency wish to enter into this Fourth Amendment for the purposes of achieving the further redevelopment within the North Plan Area and making certain amendments to the North OPA, all to further effectuate the program of development contemplated by the Mission Bay North Redevelopment Plan. The parties have entered into this Fourth Amendment to memorialize their understanding and commitments concerning the matters generally described above.

## **AGREEMENT**

**Accordingly**, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Owner and the Agency agree as follows:

1. Notwithstanding the requirements of Section 2.4 (a) and (b) of the Housing Program, Owner and Agency agree that Owner shall Complete Construction of all Owner Very Low Income Units required for all Major Phases, along with any Owner Very Low Income Units to be built by Owner pursuant to Section 3.3(c) of the Housing Program ("Owner N5 VLI Units") no later than December 31, 2008.

2. The Agency shall authorize and disburse certain funds to Owner to assist in the development of the Parcel N5 Project ("N5 Development Funding"). Owner and the Agency agree that in consideration of the provision of the N5 Development Funding:

(i) All Owner Very Low Income units shall be provided within a project on Parcel N5 in the North Plan Area ("Parcel N5 Project"), which project shall include 134 Owner Very Low Income Units including 36 Owner N5 VLI Units; and

(ii) Owner shall waive any and all rights and claims to any VLI Contribution, Owner Excess Increment, or VLI Notes as described in Section 2.4(e) of the Housing Program, and to any Agency Excess Increment or Owner N5 Note as described in Section 3.3(c) of the Housing Program; and

(iii) The Agency shall have no obligation to provide Owner with such Owner VLI Notes or Owner N5 Notes, or to pay any portion of Excess Increment (as defined and described in Section 2(c)(iii) of the Financing Plan) to Owner; and

(iv) All Excess Increment shall be retained by Agency as Agency Excess Increment to be used in the manner described in Section 2(c)(iii) of the Financing Plan.

3. Except as expressly modified herein, nothing contained in this Fourth Amendment shall in any way release or relieve Owner from its obligations to construct Owner Very Low Income Units under the Housing Program.

4. The N5 Development Funding described in Paragraph 2 above shall be provided by the Agency pursuant to the terms of a Tax Increment Loan Agreement for the Parcel N5 Project between the Agency and Owner or Owners' designee, as approved by the Agency Commission ("Tax Increment Loan Agreement").

5. Sections 2 and 4 of this Fourth Amendment shall be null and void if the Agency does not disburse the N5 Development Funding prior to June 30, 2008 pursuant to the Tax Increment Loan Agreement. If the N5 Development Funding has not been provided by the June 30, 2008 deadline, the Agency shall cause to be recorded in the Official Records an addendum to this Fourth Amendment indicating that fact and verifying that Sections 2 and 4 of this Fourth Amendment shall be null and void. If no addendum is recorded in the Official Records, it shall be assumed that all provisions of this Fourth Amendment remain in full force and effect.

6. This Fourth Amendment constitutes a part of the North OPA and any reference in any document to the North OPA shall be deemed to include a reference to such North OPA as amended hereby.

7. Except as otherwise amended hereby, all terms, covenants, conditions and provisions of the North OPA shall remain in full force and effect.

8. This Fourth Amendment is binding upon and will inure to the benefit of the successors and assigns of the Agency, the Owner, and, as applicable, the City, subject to the limitations set forth in the North OPA.

9. This Fourth Amendment may be executed in any number of counterparts, all of which, together shall constitute the original agreement hereof.

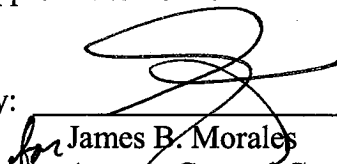
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IN WITNESS WHEREOF, the Agency has caused this Fourth Amendment to be duly executed on its behalf and the Owner has signed or caused this Fourth Amendment to be signed by duly authorized persons, all as of the day first above written and authorized by Agency Resolution No. 47 -2005 adopted Mar 15, 2005.


Approved to Form:

By:

  
for James B. Morales  
Agency General Counsel

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

By:

  
Ayisha J. Benham  
Deputy Executive Director

FOCIL-MB, LLC, a Delaware limited liability  
company

By: Farallon Capital Management, L.L.C., a  
Delaware limited liability company, its  
Manager

By:

  
Name: Richard B. Fried

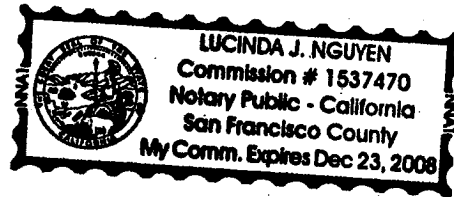
Title: Managing Member



STATE OF CALIFORNIA )  
 ) ss.  
CITY AND COUNTY OF SAN FRANCISCO )

On March 15, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard B. Fried, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

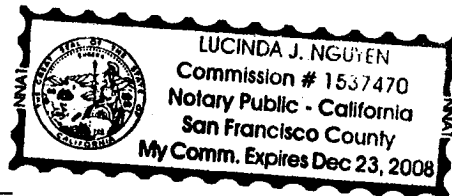


Lucinda J. Nguyen  
Signature of Notary Public (Seal)

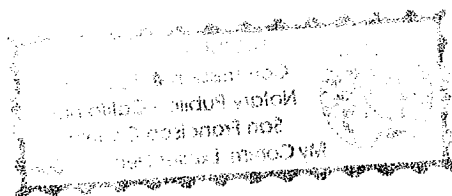
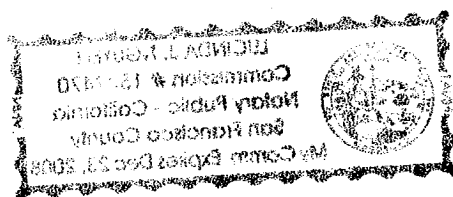
STATE OF CALIFORNIA )  
 ) ss.  
CITY AND COUNTY OF SAN FRANCISCO )

On March 30, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Ayisha J. Benham, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Lucinda J. Nguyen  
Signature of Notary Public (Seal)



## **RESOLUTION NO. 47-2005**

*Adopted March 15, 2005*

### **ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY AUTHORIZING A FOURTH AMENDMENT TO THE MISSION BAY NORTH OWNER PARTICIPATION AGREEMENT WITH FOCIL-MB, LLC; MISSION BAY NORTH REDEVELOPMENT PROJECT AREA**

#### **BASIS FOR RESOLUTION**

1. On September 17, 1998, by Resolution No. 188-98, the San Francisco Redevelopment Agency Commission (the "Agency Commission") conditionally approved the Mission Bay North Owner Participation Agreement (the "North OPA") and related documents between Catellus Development Corporation and the Redevelopment Agency of the City and County of San Francisco (the "Agency") for development in the Mission Bay North Redevelopment Project Area (the "North Project Area").
2. The conditions to the effectiveness of Resolution No. 188-98 were satisfied by the final adoption by the Board of Supervisors of the City and County of San Francisco of Ordinance No. 327-98 adopting the Mission Bay North Redevelopment Plan (the "Plan").
3. The Agency and the San Francisco Planning Department, together acting as co-lead agencies for conducting environmental review for the Plan, the North OPA and other permits, approvals and related and collateral actions (the "Project"), prepared and certified a Final Subsequent Environmental Impact Report ("FSEIR"). On September 17, 1998, the Agency Commission adopted Resolution No. 182-98 which certified the FSEIR for the Project, and adopted Resolution No. 183-98, which adopted environmental findings (and a statement of overriding considerations), pursuant to the California Environmental Quality Act ("CEQA") and state CEQA Guidelines in connection with the approval of the Plan, the North OPA, and other Project approvals.
4. The San Francisco Planning Commission certified the FSEIR by Resolution No. 14696 on September 17, 1998.
5. On October 19, 1998, the Board of Supervisors adopted Motion No. 98-132 affirming certification of the FSEIR by the San Francisco Planning Commission and the Agency Commission, and Resolution No. 854-98 adopting environmental findings (and a statement of overriding considerations).
6. On February 17, 2004, by Resolution No. 22-2004, the Agency Commission adopted a First Amendment to the North OPA.

7. An Addendum to the FSEIR dated March 9, 2004 (the "Addendum") was prepared in relation to an amendment to the Mission Bay South Design for Development which was approved by the Agency Commission on March 16, 2004 by Resolution No. 34-2004.
8. On March 16, 2004, by Resolution No. 35-2004, the Agency Commission adopted a Second Amendment to the North OPA.
9. On November 22, 2004, Catellus Land and Development Corporation, the successor-in-interest to Catellus Development Corporation, assigned its interests in the North OPA to FOCIL-MB, LLC, a Delaware limited liability company (the "Owner").
10. On January 18, 2005, by Resolution No. 8-2005, the Agency Commission adopted a Third Amendment to the North OPA.
11. An amendment is now proposed to the North OPA to extend the schedule for construction of Owner Very Low Income Units ("VLI"); to remove the Agency's obligation to provide, and the Owners' right to receive, any VLI Contribution, Owner Excess Increment, or VLI Notes as described in Section 2.4(e) of the Housing Program (Attachment C to the North OPA), and any Agency Excess Increment or Owner N5 Note as described in Section 3.3(c) of the Housing Program; and to provide that no Excess Increment, as defined and described in Section 2(c)(iii) of the Financing Plan (Attachment E to the North OPA), shall be paid to Owner, and all Excess Increment shall be retained by Agency as Agency Excess Increment to be used in the manner described in said section.
12. The Agency Commission's approval of the Fourth Amendment to the North OPA is conditioned upon approval of a tax increment loan agreement between the Agency and Owner or Owner's designee for the development to be located on land use Block N5 in the North Project Area.
13. The FSEIR is a program EIR under state CEQA Guidelines Section 15168 and a redevelopment plan EIR under state CEQA Guidelines Section 15180. Approval of the Fourth Amendment is an undertaking pursuant to and in furtherance of the Plan in conformance with Section 15180 (the "Implementing Action").
14. Agency staff has reviewed and considered the Fourth Amendment as well as the FSEIR, the Addendum, and other information contained in the Agency's files, finds them to be acceptable and recommends approving the Fourth Amendment, which includes the above listed provisions.

## FINDINGS

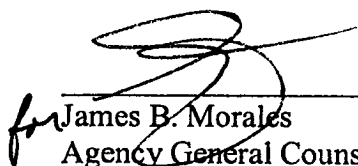
The Agency finds and determines that the Implementing Action is within the scope of the Project analyzed in the FSEIR and is exempt from additional environmental review requirements pursuant to state CEQA Guidelines Sections 15180, 15162 and 15163 for the following reasons:

- A. The Implementing Action is within the scope of the Project analyzed in the FSEIR, and no FSEIR revisions are required due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
- B. No substantial changes have occurred with respect to the circumstances under which the Project analyzed in the FSEIR was undertaken which would require major revisions to the FSEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of effects identified in the FSEIR.
- C. No new information of substantial importance to the Project analyzed in the FSEIR has become available which would indicate any of the following: (i) the Implementing Action will have significant effects not discussed in the FSEIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible which would reduce one or more significant effects have become feasible; or (iv) mitigation measures or alternatives which are considerably different from those in the FSEIR will substantially reduce one or more significant effects on the environment.

## RESOLUTION

**ACCORDINGLY, IT IS RESOLVED** by the Redevelopment Agency of the City and County of San Francisco (1) that it has reviewed and considered the FSEIR and the Addendum and hereby adopts the environmental findings set forth herein; and (2) that the Executive Director is authorized to execute a Fourth Amendment to the Mission Bay North Owner Participation Agreement with FOCIL-MB, LLC, a Delaware limited liability company, substantially in the form lodged with the Agency General Counsel, conditioned, however, upon the Agency Commission's prior approval of a tax increment loan agreement between the Agency and owner of the development to be located on land use Block N5 in the Mission Bay North Redevelopment Project Area.

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
for James B. Morales  
Agency General Counsel

REC'T # 0002719390  
April 07, 2005 ----- 15:50:15

San Francisco Assessor-Recorder  
Habel S. Teng, Assessor-Recorder

Document # 05-H933682-00  
REEL 1863 IMAGE 0626  
Account Number 26  
SFCC Redevelopment Agency  
Free Issue

Total fee .....	\$0.00
Amount Tendered...	\$0.00

Change .....	\$0.00
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