

**SAN MATEO COUNTY
COUNTYWIDE OVERSIGHT BOARD MEETING**

REVISED AGENDA

Monday, November 26, 2018 at 9:00 a.m.
400 County Center, 1st Floor
County Board of Supervisors' Chambers
Redwood City, California 94063

1. Call to Order
2. Roll Call
3. Oral Communications and Public Comment
This is an opportunity for members of the public to address the Oversight Board on any Oversight Board-related topics that are not on the agenda. If your subject is not on the agenda, the individual chairing the meeting will recognize you at this time. Speakers are customarily limited to two minutes.
4. Action to Set the Agenda
5. Approval of the October 16, 2018 Countywide Oversight Board Meeting Minutes
6. Adopt a Resolution Approving the Amendment to the 2000 Reimbursement Agreement Between City of San Bruno and San Bruno Successor Agency
7. Redevelopment Agency Dissolution Status Update – Foster City (Discussion Only)
8. Redevelopment Agency Dissolution Status Update – East Palo Alto (Discussion Only)
9. Redevelopment Agency Dissolution Status Update – Redwood City (Discussion Only)
10. South San Francisco Successor Agency Update on Oyster Point Development Project (Discussion Only)

11. First Amendment to the Purchase and Sale Agreement Between South San Francisco Successor Agency and SSF Miller/Cypress Phase 2 LLC with Final Sale Price of \$1,118,538 (Discussion and Potential Action)

12. Closed Session

Conference with Legal Counsel - Anticipated Litigation

Significant exposure to litigation pursuant to subdivision (d)(2) of Gov't Code Section 54956.9

One case

Conference re Real Property Negotiation

Property: 216 Miller Ave., South San Francisco, California

Agency Negotiator: To Be Determined

Negotiating Parties: San Mateo County Countywide Oversight Board; South San Francisco Successor Agency; Miller Cypress SSF, LLC

Under Negotiation: Instruction to negotiator concerning price and terms of payment

13. Adjournment

A copy of the Countywide Oversight Board agenda packet is available for review from the Clerk of the Board of Supervisors, 400 County Center, 1st Floor, Monday through Thursday 7:30 a.m.-5:30 p.m. and Friday 8 a.m.-5 p.m.

Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation (including auxiliary aids or services) to participate in this meeting, or who have a disability and wish to request an alternative format for the agenda, meeting notice, agenda packet or other writings that may be distributed at the meeting, should contact Sukhmani Purewal, Assistant Clerk of the Board of Supervisors, at least two working days before the meeting at (650) 363-1802 and/or spurewal@smcgov.org. Notification in advance of the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it. Attendees to this meeting are reminded that other attendees may be sensitive to various chemical based products.

**San Mateo County Countywide Oversight Board Meeting
Tuesday, October 16, 2018, 1:00 p.m.**

400 County Center, 1st Floor, County of Board of Supervisors' Chambers, Redwood City, CA 94063

DRAFT MINUTES

1. Call to Order

The meeting was called to order by Chair Tom Casey at 1:03 p.m.

2. Roll Call

Present:

Board Members: Mark Addiego; Chuck Bernstein; Trish Blinstrub; Barbara Christensen; Denise Porterfield; Jim Saco; and Chair Tom Casey.

Staff: Shirley Tourel, Assistant Controller; Matthew Slaughter, Controller Division Manager; Brian Wong, Deputy County Counsel; Sukhmani S. Purewal, Assistant Clerk of the Board; and Sherry Golestan, Deputy Clerk of the Board.

3. Oral Communications and Public Comment

None

4. Action to Set the Agenda

RESULT: **Approved**
MOTION: Jim Saco
SECOND: Denise Porterfield
AYES [7]: Mark Addiego, Chuck Bernstein, Trish Blinstrub, Tom Casey, Barbara Christensen, Denise Porterfield, and Jim Saco.
NOES: None
ABSENT: None
ABSTENTIONS: None

5. Approval of the September 18, 2018 Countywide Oversight Board Meeting Minutes

Member Jim Saco asked that his name be included in the speaker's section for Item no. 7.

RESULT: **Approved**
MOTION: Mark Addiego
SECOND: Trish Blinstrub
AYES [7]: Mark Addiego, Chuck Bernstein, Trish Blinstrub, Tom Casey, Barbara Christensen, Denise Porterfield, and Jim Saco.
NOES: None
ABSENT: None
ABSTENTIONS: None

6. Adopt a Resolution Authorizing the Chairperson of the Countywide Oversight Board to Execute Agreements With Appraisers to Provide Services to the Board

RESULT: **Approved (Resolution No. 2018-07)**
MOTION: Barbara Christensen
SECOND: Mark Addiego

AYES [7]: Mark Addiego, Chuck Bernstein, Trish Blinstrub, Tom Casey, Barbara Christensen, Denise Porterfield, and Jim Saco.
NOES: None
ABSENT: None
ABSTENTIONS: None

7. Redevelopment Agency Dissolution Status Update – Belmont (Discussion Only)

Speakers:

Jennifer Rose, Management Analyst, City of Belmont

8. Redevelopment Agency Dissolution Status Update – Menlo Park (Discussion only)

Speakers:

Dan Jacobson, Finance and Budget Director, City of Menlo Park

9. Redevelopment Agency Dissolution Status Update – San Bruno (Discussion only)

Speakers:

Keith DeMartini, Director of Finance, City of San Bruno

10. Redevelopment Agency Dissolution Status Update – San Mateo (Discussion only)

Speakers:

Drew Corbett, Assistant City Manager/Finance Director, City of San Mateo

Kathy Kleinbaum, Deputy City Manager, City of San Mateo

11. First Amendment to the Purchase and Sale Agreement Between South San Francisco Successor Agency and SSF Miller/Cypress Phase 2 LLC (Discussion Only)

Speakers:

Shirley Tourel, Assistant Controller

Alex Greenwood, City of South San Francisco

Jason Rosenberg, City Attorney, South San Francisco

Rich Hedges, City of San Mateo

James Ruigomez, Foster City

Milo Trauss, San Mateo County Resident

Drew Hudacek, Sares Regis Group

Vathana Duong, Colliers International

Sean Heath, Colliers International

12. Adjournment

RESULT: **Approved**

MOTION: Jim Saco

SECOND: Denise Porterfield

AYES [7]: Mark Addiego, Chuck Bernstein, Trish Blinstrub, Tom Casey, Barbara Christensen, Denise Porterfield, and Jim Saco.

NOES: None

ABSENT: None

ABSTENTIONS: None

The meeting was adjourned at 2:36 p.m.

San Mateo County Countywide Oversight Board

Date: November 26, 2018 Agenda Item 6

To: San Mateo County Countywide Oversight Board

From: Shirley Tourel, Assistant Controller

Subject: Amendment to the 2000 Reimbursement Agreement Between the Former San Bruno Redevelopment Agency and the City of San Bruno.

Recommendation

Adopt a resolution approving the amendment of a Reimbursement Agreement between the Successor Agency to the San Bruno Redevelopment Agency and the City of San Bruno pursuant to Health and Safety (H&S) Section Code 34180(b).

Background

According to Health and Safety Section Code 34177.5 (a)(3) a successor agency may amend an existing enforceable obligation under which it is obligated to reimburse a political subdivision of the state for the payment of debt service on a bond or other obligation of the political subdivision, or to pay all or a portion of the debt service on the bond or other obligation of the political subdivision to provide savings to the successor agency.

Discussion

The obligation of the former RDA under the said Reimbursement Agreement constitutes an indebtedness of the former RDA which was approved as an enforceable obligation by the Department of Finance in a letter dated May 25, 2012 and as such is eligible for funding under the SA's Recognized Obligations Payment Schedule.

An approval by the Oversight Board of the amendment to the Reimbursement Agreement is required pursuant to H&S Code 34180(b).

Fiscal Impact

Approval of the amendment to the Reimbursement Agreement will result in an annual savings of \$128,000 which will be passed on to the affected taxing entities as an increase in residual.

Exhibits

- A – Department of Finance Letter dated May 25, 2012
- B - Successor Agency Staff Report of Former Redevelopment Agency of San Bruno



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

May 25, 2012

Kim Juran, Finance Director
City of San Bruno
567 El Camino Real
San Bruno, CA 94066

Dear Ms. Juran:

Subject: Recognized Obligation Payment Schedule Approval Letter

Pursuant to Health and Safety Code (HSC) section 34177 (l) (2) (C), the San Bruno Successor Agency submitted Recognized Obligation Payment Schedules (ROPS) to the California Department of Finance (Finance) on May 22, 2012 for the periods January to June 2012 and July to December 2012. Finance is assuming appropriate oversight board approval. Finance has completed its review of your ROPS, which may have included obtaining clarification for various items.

January through June 2012 ROPS

In Finance's letter dated April 26, 2012, we questioned the following items:

- Items 1 and 2, on page 1, totaling \$3.1 million.
- Administrative expenses totaling \$15,738. Items 11 through 13 on page 1 were considered administrative costs.

The Agency submitted a revised ROPS and additional information. Based on our review of the revised ROPS, the Agency reduced its administrative expenses to the allowed minimum amount of \$250,000. Therefore, we are no longer questioning this item. However, the following is an update to items that remain as reported in our April 26, 2012 letter:

- Items 1 and 2 on page 1. The loan agreement provided was signed in 1998. However, City Ordinance 1491 passed in 1988 established the RDA. HSC section 34171 (d) (2) states that loans between the City and the RDA are valid if entered into within two years of the creation of the RDA. Because the loan was entered into in 1998 and the Agency was created in 1988, these items remain as not EOs.

July through December 2012 ROPS

HSC section 34171 (d) lists enforceable obligation (EO) characteristics. Items previously questioned during our review of the January through June 2012 ROPS were reported as items on the July through December 2012 ROPS. Therefore, the following items do not qualify as EOs:

- Items 1 and 2 on page 1 for city advances totaling \$2.6 million. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency (RDA) and the former RDA are not EOs.

Ms. Juran
May 25, 2012
Page 2

Except for items disallowed in whole or in part as enforceable obligations noted above, Finance is approving the remaining items listed in your ROPS for both periods. This is our determination with respect to any items funded from the Redevelopment Property Tax Trust Fund (RPPTF) for the June 1, 2012 property tax allocations. If your oversight board disagrees with our determination with respect to any items not funded with property tax, any future resolution of the disputed issue may be accommodated by amending the ROPS for the appropriate time period. Items not questioned during this review are subject to a subsequent review, if they are included on a future ROPS. If an item included on a future ROPS is not an enforceable obligation, Finance reserves the right to remove that item from the future ROPS, even if it was not removed from the preceding ROPS.

Please refer to Exhibit 12 at http://www.dof.ca.gov/assembly_bills_26-27/view.php for the amount of RPTTF that was approved by Finance based on the schedule submitted.

As you are aware the amount of available RPTTF is the same as the property tax increment that was available prior to ABx1 26. This amount is not and never was an unlimited funding source. Therefore as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available in the RPTTF.

Please direct inquiries to Chikako Takagi-Galamba, Supervisor or Cindie Lor, Lead Analyst at (916) 322-2985.

Sincerely,



MARK HILL
Program Budget Manager

cc: Ms. Connie Jackson, City Manager, City of San Bruno
Mr. Marc Zafferano, City Attorney, City of San Bruno
Mr. Bob Adler, Auditor/Controller, County of San Mateo Controller's Office
Mr. Kenchan Charan, Deputy Controller, County of San Mateo Controller's Office
Ms. Shirley Tourel, Senior Internal Auditor, County of San Mateo Controller's Office

Name of Redevelopment Agency: San Bruno Redevelopment Agency
 Project Area(s): San Bruno Redevelopment Project Area

RECOGNIZED OBLIGATION PAYMENT SCHEDULE FY 2011-12
 Per AB 26 - Section 34169

Project Name / Debt Obligation	Payee	Description	Funding Source	Total Outstanding Debt or Obligation as of January 1, 2012	Total Due During Fiscal Year	Payments by Month (January - June estimated)						Total January - June	
						Jan	Feb	Mar	Apr	May	Jun		
1) City Advances to the Redevelopment Agency in accordance with Cooperation Agreement dated August 10, 1998	City of San Bruno	Loan for operating and admin costs	Redevelopment Tax Increment	\$ 2,977,033	0								
2) Interest Payment on City Advances to the Redevelopment Agency Per Resolution 1	City of San Bruno	Interest on loan for capital projects and admin costs set at an interest rate of LUF + 1%	Redevelopment Tax Increment	132,332	101,244	14,281							14,281
3) Redevelopment Agreement	Union Bank	Bonds issued for new police facilities	Redevelopment Tax Increment	12,059,713	649,638	444,805							444,805
4) 2000 Certificates of Participation Fiscal Agent fees	Union Bank	Fiscal Agent fees	Redevelopment Tax Increment	41,591	2,590								
5) Acquisitions II Owner Participation Agreement	ASN Taroan Crossing LLC	Tax increment reimbursement of affordable housing subsidy	Low and Moderate Income Housing Fund Balance	4,440,000	370,000								370,000
6) Acquisitions I Owner Participation Agreement	ASN Taroan Crossing LLC	Tax increment reimbursement of affordable housing subsidy	Low and Moderate Income Housing Fund Balance	9,019,001	311,000								311,000
7) Employee Costs	Employees of the Agency	Payroll for Employees	Redevelopment Fund Balance	75,564	393,152	75,564							75,564
8) City administrative support from various departments including City Attorney, Management Services, Human Resources, Finance, and IT	City of San Bruno	General Administrative costs	Redevelopment Fund Balance	66,987	468,909	66,987							66,987
9) Professional Services - Planning Services, Zoning Code Update, Five-Year Implementation Plan	Design Community Environment and RSG	Consulting services	Redevelopment Fund Balance	5,738	52,429	9,166							14,904
10) Redevelopment Audit	Vavrinek, Trina, Day & Co.	RDA Audit Services	Redevelopment Fund Balance	15,000	7,500	7,500							7,500
11) Administrative Costs	Successor Agency	Statutory 5% Administrative Fee	Administrative Cost Allowance	1,250,000	214,000	42,800	42,800	42,800	42,800	42,800	42,800	42,800	214,000
12) Legal Fees	Burke, Williams & Sorensen, LLP	Legal services for operation of RDA/Successor Agency	Redevelopment Fund Balance	28,800	33,700	2,000							28,800
13) Successor Agency/Oversight Board Support Costs	Craig Labadie/Successor Agency	Legal/Advisory services to Oversight Board and Successor Agency/Oversight Board Support Costs	Administrative Cost Allowance	25,000	10,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	10,000
14) Commercial Building Rehabilitation - Facade Improvement Grant Program	Various owners of commercial buildings in the Redevelopment Area	Provides grant funds to commercial property owners	Redevelopment Tax Increment	111,250	111,250								111,250
15) Transit Corridors Plan Study and Environmental Impact Report	MIG	Consulting services for Transit Corridors Study & EIR	Redevelopment Tax Increment	46,477	44,477	25,032							32,477
16) Project - Caltrain Grade Separation	PB Americas/Various	Construction management services contract for Caltrain Grade Separation	Redevelopment Tax Increment	338,209	293,000	11,000	12,000	20,000	20,000	20,000	20,000	20,000	228,000
Totals - This Page				\$ 30,631,894	\$ 3,052,799	\$ 631,238	\$ 87,622	\$ 128,800	\$ 91,800	\$ 75,568	\$ 913,495	\$ 1,928,746	
Totals - Other Obligations				\$ 30,631,894									

Footnote 1: In accordance with the Department of Finance's March 2, 2012 Guidance Letter, the City maintains that Line Items 1 and 2, which consists of the outstanding balance for the City's advances to the former Redevelopment Agency and the applicable interest on these advances, remain enforceable obligations owed to the City. No payments will be made during the covered period.
 All payment amounts are estimates.

Exhibit B

Date: November 2, 2018

To: San Mateo County Countywide Oversight Board

From: Keith DeMartini, Finance Director

Subject: Adopt a Resolution Approving the Refunding of 2000 Certificate of Participation (“COP”)

Former RDA: Oversight Board to the San Bruno Successor Agency

Recommendation

It is recommended that the Oversight Board adopt the following resolution, respectively:

1. A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SAN BRUNO SUCCESSOR AGENCY AUTHORIZING AND APPROVING AN AMENDMENT TO THE REIMBURSEMENT AGREEMENT BETWEEN THE SAN BRUNO SUCCESSOR AGENCY AND THE CITY OF SAN BRUNO, MAKING CERTAIN DETERMINATIONS WITH RESPECT TO THE AMENDMENT TO THE REIMBURSEMENT AGREEMENT, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

Background

In 2000, the City of San Bruno (“City”) issued \$9,600,000 City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) (the “2000 COPS”) to fund the construction of the Police Facility. The Police Facility is a 3-story building containing 25,163 Square feet owned by the City of San Bruno on land leased from BART. The City occupies 80% of the facility and subleases the other 20% to BART. The lease payments of approximately \$650,000 per year are an obligation of the City’s General Fund; however, they are paid by the Successor Agency, formerly the Redevelopment Agency, from tax revenues or formerly tax increment revenues that are included on the Successor Agency’s annual ROPs per the Reimbursement Agreement between the City and the Redevelopment Agency dated December 1, 2000.

Presently, the 2000 COPS remaining principal is \$5,995,000 that bears interest at a rate of 5.15% to 5.25%. The February 1, 2019 principal payment of \$335,000 will be paid from tax revenues from the FY2018-19 ROPs and the remaining principal of \$5,660,000 is proposed to be refunded.

It is estimated that the refunding of the 2000 COPS through the issuance of the Lease Revenue Bonds, Series 2019 (the “2019 LRBs”) based on market rates as of October 30, 2018 will produce net Present Value Savings of approximately 12.00% which is well over the GFOA best practices

benchmark of 5.00% and provide annual average reduction in debt service payments of approximately \$128,000 that will benefit the City and many other governmental agencies. The term of the COPs will remain the same with a final maturity in 2031. Closing costs, including municipal advisor, attorney and other professional services fees associated with the refunding, will be paid once the sales closes. All fees are estimated at approximately \$239,000. The City is not anticipating to pay any costs directly as a result of the COP refunding

ACTIONS REQUIRED TO REFUND 2000 COPs

City Council Action: (Approved on November 13, 2018): City Council Resolution approving the issuance of the Lease Revenue Bonds, Series 2019 and approving the form of the of the Indenture, Site Lease, Lease and any other required documents.

San Bruno Financing Authority Action: (Approved on November 13, 2018): Authority Resolution approving the issuance of the Lease Revenue Bonds, Series 2019 and approving the form of the Indenture, Site Lease, Lease, Assignment Agreement and any other required documents.

Successor Agency Action: (Approved on November 13, 2018): Successor Agency Resolution approving an amendment to the Reimbursement Agreement and requesting approval by the Oversight Board.

It is anticipated that the refunding of the 2000 COPs will produce an annual average reduction in the Successor Agency obligation under the Amended Reimbursement Agreement to make debt service payments of approximately \$128,000. This will result in an average annual increase of approximately \$19,000 property tax revenues to the City. This reduction in annual debt service will also generate additional property tax revenues for distribution to the other affected taxing entities, including San Mateo County, the San Bruno Park Elementary School District, San Mateo Union High School District, San Mateo Junior College, Colma CR Flood Control, San Bruno Creek Flood, Bay Area Air Pollution, Mosquito Abatement, Peninsula Hospital District, and County Education Tax. The Successor Agency's municipal advisor ("Municipal Advisor") has prepared a debt service savings analysis to demonstrate the debt service savings that can be achieved by the proposed refunding.

Issuance of refunding bonds requires approval by the Successor Agency's Oversight Board and the California Department of Finance ("DOF") with respect to the Successor Agency's obligations under the Reimbursement Agreement, which by its terms reimburses the City for the lease payments providing the source of payment of the 2000 COPS. The Reimbursement Agreement needs to be amended to reference a 2019 lease rather than the original 2000 lease and to reference the 2019 LRBs rather than the 2000 COPS. Because the Reimbursement Agreement is presently an enforceable obligation and the impact of the refunding would be to reduce the amount of property tax revenues required by the Successor Agency to pay debt service pursuant to the Reimbursement Agreement, it is anticipated that the DOF will not object to the action modifying the Reimbursement Agreement to apply to the refunding transaction. Successor agencies throughout the State have successfully allowed refunding of similar outstanding debt.

Since the passage of AB 1484 there have been a total of 384 redevelopment debts refunded, including 41 redevelopment debts in 2018.

Once the Oversight Board has acted, the Successor Agency resolution, the Oversight Board resolution, the proposed legal documents and the debt service savings report (“Debt Service Savings Analysis Report”) will be forwarded to the DOF, which has up to sixty days to approve the Oversight Board resolution.

ISSUES/ANALYSIS

Enforceable obligations of the Successor Agency are subject to the DOF approval. AB 1484 allows outstanding Tax Allocation Bonds to be refunded subject to review and approval of the DOF and the Successor Agency's obligation under the Reimbursement Agreement as a debt service obligation. Staff anticipate the review will be the same as conducted in connection with a refunding of bonds issued by any successor agency, which will meet a savings test set forth in the Dissolution Act. Staff has determined, in consultation with its Municipal Advisor, that the current bond market conditions are favorable for the issuance of the 2019 LRBs to refund the 2000 COPs and would meet the test.

The attached Debt Service Savings Analysis Report, based on market conditions as of October 30, 2018, shows the refinancing of the 2000 COPs is projected to generate net present value savings of approximately \$1.5 million over the life of the indebtedness. The average annual savings are projected to be \$128,000 beginning in 2020 and continuing through the Refunding Bonds’ final maturity in 2031. The term of the 2019 LRBs is the same as the original term of the 2000 COPS and will not be extended.

The dissolution law provides that such refinancings are subject to the approval of the Successor Agency, Oversight Board, and the DOF. The proposed action starts this process. If the 2000 COPs are refinanced, any savings accrued will increase the amount of residual property tax (previously known as tax increment) available for distribution to the taxing entities, including the City.

REFUNDING PROCESS

It is anticipated that the refunding will take approximately 4 months to complete, possibly shorter if the DOF doesn’t utilize the full 60 days to review. The key milestones to complete the refunding are identified below:

- City Council/Financing Authority/Successor Agency resolutions approving the refunding of the 2000 COPs and approving legal documents (**Approved on November 13, 2018**)
- Oversight Board’s approval of Successor Agency action in connection with the Refunding Bonds and make determination of savings (**Today’s Action**)
- Submission of resolutions of both the Successor Agency and Oversight Board and all the related documents to the DOF (Planned for November 28, 2018)
- Secure underlying credit rating (Planned for January 2019)
- Receive DOF’s Approval (Planned for January 2019)

- City Council/Financing Authority approval of the Preliminary Official Statement and remaining financing documents (Planned for February 12, 2019)
- Negotiated sale of Bonds (Planned for February 2019)
- Bond Closing (Anticipated in March 2019)

Financial Impact

The issuance of Refunding Bonds will result in an average annual reduction in debt service payments of approximately \$128,000. This reduction in annual debt service payments frees up additional property tax revenues for distribution to affected taxing entities starting in 2020 and continuing through the final maturity in 2031. These are estimated savings based on current market conditions as of October 30, 2018 and are subject to change. Closing costs of approximately \$239,000 will be paid from the proceeds of the bonds. The table below shows the estimated savings per taxing entity:

Taxing Entities Share of Average Annual Savings:	
San Mateo County	\$33,537.61
San Bruno General Taxing District	18,960.55
Millbrae Elementary General Purpose	2,226.51
San Bruno Park Elementary	30,973.71
San Mateo Union High School District	24,463.61
San Mateo Junior College General Purpose	9,596.44
Colma CR Flood Control Zone	152.64
Colma CR Flood Control Sub Zn 3	0.00
Colma CR Flood Control Sub Zn 2	909.99
San Bruno Creek Flood	553.08
Bay Area, Air Pollution	295.72
County Harbor District	498.87
Mosquito Abatement	29.60
Peninsula Hospital District	1,300.89
County Education Tax	4,994.13
Total	\$128,493.33

Conclusion

The Successor Agency recommends that the Oversight Board adopt the attached resolution approving the refunding of its 2000 Certificate of Participation.

ALTERNATIVE(S)

1. Direct staff to not proceed with refunding the COPs and continue making payments according to the FY2018-19 ROPs schedule through maturity in 2031.
2. Direct staff to consider refunding the COPs at a later time.

ATTACHMENT(S)

1. Debt Service Savings Analysis Report
2. Resolution of the Oversight Board
3. Resolution of the City Council
4. Resolution of the Public Financing Authority
5. Resolution of the Successor Agency
6. Indenture of Trust
7. Lease Agreement
8. Site Lease
9. Assignment Agreement
10. Amended Reimbursement Agreement
11. Power Point Presentation

Debt Service Savings Analysis

City of San Bruno

Lease Revenue Bonds, Series 2019

Tax-Exempt Current Refunding of 2000 Certificates of Participation ("COPs")

	2019 LRBs
	Refunding of 2000 COPs
	'AA+' Underlying ⁽¹⁾
Refunding Bond Amount	\$4,775,000.00
Par Refunded	5,660,000.00
Final Maturity	2/1/2031
Average Coupon of Refunded Bonds	5.25%
Average Coupon of Refunding Bonds	4.42%
True Interest Cost (effective rate)	2.78%
Net Present Value Savings (\$)	661,177.27
Present Value Savings (%)	11.68%
Nominal Savings (\$)	1,541,920.00
Average Annual Savings (\$) ⁽²⁾	128,493.33
Taxing Entities Share of Average Annual Savings:	
San Mateo County	\$33,537.61
San Bruno General Taxing District	18,960.55
Millbrae Elementary General Purpose	2,226.51
San Bruno Park Elementary	30,973.71
San Mateo Union High School District	24,463.61
San Mateo Junior College General Purpose	9,596.44
Colma CR Flood Control Zone	152.64
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Peninsula Hospital District	1,300.89
County Education Tax	4,994.13
Total	\$128,493.33

(1) Preliminary cash flows. Assumes Closing Date of 3/7/19 ; Market Conditions as of 10/30/18

(2) Average Annual Savings are calculated as "Nominal Savings divided by number of years with savings". Amount may not add up to the Total Average

SOURCES AND USES OF FUNDS

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Dated Date 03/07/2019
 Delivery Date 03/07/2019

Sources:

Bond Proceeds:	
Par Amount	4,775,000.00
Net Premium	<u>515,305.95</u>
	5,290,305.95
Other Sources of Funds:	
Prior Reserve	653,284.37
	<u>5,943,590.32</u>

Uses:

Refunding Escrow Deposits:	
Cash Deposit	1.00
SLGS Purchases	<u>5,704,479.00</u>
	5,704,480.00
Delivery Date Expenses:	
Cost of Issuance	200,000.00
Underwriter's Discount	<u>38,200.00</u>
	238,200.00
Other Uses of Funds:	
Additional Proceeds	910.32
	<u>5,943,590.32</u>

Notes:
 Assumes City of Seaside Joint Powers Financing Authority LRBs (AA-) sold 9.21.18
 Assumes Underwriter's Discount of \$8/Bond, COI: \$200,000
 Prior Reserve Balance as per MUFG Union Bank 10.30.18

SUMMARY OF REFUNDING RESULTS

CITY OF SAN BRUNO
Refunding of the 2000 Certificates of Participation - Public Sale
Assumes an 'AA+' Underlying Rating

Dated Date	03/07/2019
Delivery Date	03/07/2019
Arbitrage yield	2.633025%
Escrow yield	2.213349%
Value of Negative Arbitrage	2,036.50
Bond Par Amount	4,775,000.00
True Interest Cost	2.782484%
Net Interest Cost	2.971634%
Average Coupon	4.422797%
Average Life	6.885
Par amount of refunded bonds	5,660,000.00
Average coupon of refunded bonds	5.250000%
Average life of refunded bonds	7.004
PV of prior debt to 03/07/2019 @ 2.633025%	6,612,456.41
Net PV Savings	661,177.27
Percentage savings of refunded bonds	11.681577%
Percentage savings of refunding bonds	13.846644%

SAVINGS

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Date	Prior Debt Service	Refunding Debt Service	Savings	Present Value to 03/07/2019 @ 2.6330251%
02/01/2020	647,150.00	516,305.00	130,845.00	128,674.88
02/01/2021	648,775.00	521,400.00	127,375.00	121,746.34
02/01/2022	649,350.00	521,500.00	127,850.00	118,985.12
02/01/2023	648,875.00	521,300.00	127,575.00	115,603.61
02/01/2024	647,350.00	517,300.00	130,050.00	114,752.49
02/01/2025	644,775.00	517,900.00	126,875.00	109,022.62
02/01/2026	646,150.00	519,150.00	127,000.00	106,285.30
02/01/2027	646,212.50	519,400.00	126,812.50	103,360.82
02/01/2028	649,962.50	518,650.00	131,312.50	104,228.81
02/01/2029	647,137.50	516,900.00	130,237.50	100,677.09
02/01/2030	648,000.00	519,150.00	128,850.00	97,002.78
02/01/2031	647,287.50	520,150.00	127,137.50	93,211.46
	7,771,025.00	6,229,105.00	1,541,920.00	1,313,551.32

Savings Summary

PV of savings from cash flow	1,313,551.32
Less: Prior funds on hand	-653,284.37
Plus: Refunding funds on hand	910.32
Net PV Savings	661,177.27

SUMMARY OF BONDS REFUNDED

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
Certificates of Participation, Series 2000, 2000:					
SERIAL	02/01/2020	5.250%	350,000.00	04/08/2019	100.000
	02/01/2021	5.250%	370,000.00	04/08/2019	100.000
	02/01/2022	5.250%	390,000.00	04/08/2019	100.000
TERM27	02/01/2023	5.250%	410,000.00	04/08/2019	100.000
	02/01/2024	5.250%	430,000.00	04/08/2019	100.000
	02/01/2025	5.250%	450,000.00	04/08/2019	100.000
	02/01/2026	5.250%	475,000.00	04/08/2019	100.000
	02/01/2027	5.250%	500,000.00	04/08/2019	100.000
TERM31	02/01/2028	5.250%	530,000.00	04/08/2019	100.000
	02/01/2029	5.250%	555,000.00	04/08/2019	100.000
	02/01/2030	5.250%	585,000.00	04/08/2019	100.000
	02/01/2031	5.250%	615,000.00	04/08/2019	100.000
			5,660,000.00		

BOND SUMMARY STATISTICS

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Dated Date	03/07/2019
Delivery Date	03/07/2019
Last Maturity	02/01/2031
Arbitrage Yield	2.633025%
True Interest Cost (TIC)	2.782484%
Net Interest Cost (NIC)	2.971634%
All-In TIC	3.443167%
Average Coupon	4.422797%
Average Life (years)	6.885
Duration of Issue (years)	6.007
Par Amount	4,775,000.00
Bond Proceeds	5,290,305.95
Total Interest	1,454,105.00
Net Interest	976,999.05
Total Debt Service	6,229,105.00
Maximum Annual Debt Service	521,500.00
Average Annual Debt Service	523,454.20
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	8.000000
Total Underwriter's Discount	8.000000
Bid Price	109.991748

Bond Component	Par Value	Price	Average Coupon	Average Life	PV of 1 bp change
Serial Bond	4,775,000.00	110.792	4.423%	6.885	3,079.70
	4,775,000.00			6.885	3,079.70

	TIC	All-In TIC	Arbitrage Yield
Par Value	4,775,000.00	4,775,000.00	4,775,000.00
+ Accrued Interest			
+ Premium (Discount)	515,305.95	515,305.95	515,305.95
- Underwriter's Discount	-38,200.00	-38,200.00	
- Cost of Issuance Expense		-200,000.00	
- Other Amounts			
Target Value	5,252,105.95	5,052,105.95	5,290,305.95
Target Date	03/07/2019	03/07/2019	03/07/2019
Yield	2.782484%	3.443167%	2.633025%

BOND PRICING

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Yield to Maturity	Premium (-Discount)
Serial Bond:							
	02/01/2020	335,000	3.000%	1.880%	100.993		3,326.55
	02/01/2021	330,000	3.000%	1.960%	101.929		6,365.70
	02/01/2022	340,000	3.000%	2.040%	102.688		9,139.20
	02/01/2023	350,000	4.000%	2.100%	107.077		24,769.50
	02/01/2024	360,000	4.000%	2.220%	108.219		29,588.40
	02/01/2025	375,000	5.000%	2.340%	114.577		54,663.75
	02/01/2026	395,000	5.000%	2.450%	116.095		63,575.25
	02/01/2027	415,000	5.000%	2.550%	117.427		72,322.05
	02/01/2028	435,000	5.000%	2.630%	118.694		81,318.90
	02/01/2029	455,000	5.000%	2.710%	119.765		89,930.75
	02/01/2030	480,000	5.000%	2.800%	118.904 C	2.958%	90,739.20
	02/01/2031	505,000	3.000%	3.210%	97.934		-10,433.30
		4,775,000					515,305.95

Dated Date	03/07/2019	
Delivery Date	03/07/2019	
First Coupon	08/01/2019	
Par Amount	4,775,000.00	
Premium	515,305.95	
Production	5,290,305.95	110.791748%
Underwriter's Discount	-38,200.00	-0.800000%
Purchase Price	5,252,105.95	109.991748%
Accrued Interest		
Net Proceeds	5,252,105.95	

BOND DEBT SERVICE

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Period Ending	Principal	Coupon	Interest	Debt Service
02/01/2020	335,000	3.000%	181,305	516,305
02/01/2021	330,000	3.000%	191,400	521,400
02/01/2022	340,000	3.000%	181,500	521,500
02/01/2023	350,000	4.000%	171,300	521,300
02/01/2024	360,000	4.000%	157,300	517,300
02/01/2025	375,000	5.000%	142,900	517,900
02/01/2026	395,000	5.000%	124,150	519,150
02/01/2027	415,000	5.000%	104,400	519,400
02/01/2028	435,000	5.000%	83,650	518,650
02/01/2029	455,000	5.000%	61,900	516,900
02/01/2030	480,000	5.000%	39,150	519,150
02/01/2031	505,000	3.000%	15,150	520,150
	4,775,000		1,454,105	6,229,105

PRIOR BOND DEBT SERVICE

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
08/01/2019			148,575.00	148,575.00	
02/01/2020	350,000	5.250%	148,575.00	498,575.00	647,150.00
08/01/2020			139,387.50	139,387.50	
02/01/2021	370,000	5.250%	139,387.50	509,387.50	648,775.00
08/01/2021			129,675.00	129,675.00	
02/01/2022	390,000	5.250%	129,675.00	519,675.00	649,350.00
08/01/2022			119,437.50	119,437.50	
02/01/2023	410,000	5.250%	119,437.50	529,437.50	648,875.00
08/01/2023			108,675.00	108,675.00	
02/01/2024	430,000	5.250%	108,675.00	538,675.00	647,350.00
08/01/2024			97,387.50	97,387.50	
02/01/2025	450,000	5.250%	97,387.50	547,387.50	644,775.00
08/01/2025			85,575.00	85,575.00	
02/01/2026	475,000	5.250%	85,575.00	560,575.00	646,150.00
08/01/2026			73,106.25	73,106.25	
02/01/2027	500,000	5.250%	73,106.25	573,106.25	646,212.50
08/01/2027			59,981.25	59,981.25	
02/01/2028	530,000	5.250%	59,981.25	589,981.25	649,962.50
08/01/2028			46,068.75	46,068.75	
02/01/2029	555,000	5.250%	46,068.75	601,068.75	647,137.50
08/01/2029			31,500.00	31,500.00	
02/01/2030	585,000	5.250%	31,500.00	616,500.00	648,000.00
08/01/2030			16,143.75	16,143.75	
02/01/2031	615,000	5.250%	16,143.75	631,143.75	647,287.50
	5,660,000		2,111,025.00	7,771,025.00	7,771,025.00

ESCROW REQUIREMENTS

CITY OF SAN BRUNO
Refunding of the 2000 Certificates of Participation - Public Sale
Assumes an 'AA+' Underlying Rating

Period Ending	Interest	Principal Redeemed	Total
04/08/2019	55,302.92	5,660,000.00	5,715,302.92
	55,302.92	5,660,000.00	5,715,302.92

ESCROW DESCRIPTIONS

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Type of Security	Type of SLGS	Maturity Date	First Int Pmt Date	Par Amount	Rate	Max Rate
Mar 7, 2019:						
SLGS	Certificate	04/08/2019	04/08/2019	5,704,479	2.170%	2.170%
				5,704,479		

SLGS Summary

SLGS Rates File	30OCT18
Total Certificates of Indebtedness	5,704,479.00

ESCROW COST

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Type of Security	Maturity Date	Par Amount	Rate	Total Cost
SLGS	04/08/2019	5,704,479	2.170%	5,704,479.00
		5,704,479		5,704,479.00

Purchase Date	Cost of Securities	Cash Deposit	Total Escrow Cost
03/07/2019	5,704,479	1.00	5,704,480.00
	5,704,479	1.00	5,704,480.00

ESCROW CASH FLOW

CITY OF SAN BRUNO
Refunding of the 2000 Certificates of Participation - Public Sale
Assumes an 'AA+' Underlying Rating

Date	Principal	Interest	Net Escrow Receipts
04/08/2019	5,704,479.00	10,822.92	5,715,301.92
	5,704,479.00	10,822.92	5,715,301.92

Escrow Cost Summary

Purchase date	03/07/2019
Purchase cost of securities	5,704,479.00

ESCROW SUFFICIENCY

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Date	Escrow Requirement	Net Escrow Receipts	Excess Receipts	Excess Balance
03/07/2019		1.00	1.00	1.00
04/08/2019	5,715,302.92	5,715,301.92	-1.00	
	5,715,302.92	5,715,302.92	0.00	

ESCROW STATISTICS

CITY OF SAN BRUNO
 Refunding of the 2000 Certificates of Participation - Public Sale
 Assumes an 'AA+' Underlying Rating

Escrow	Total Escrow Cost	Modified Duration (years)	Yield to Receipt Date	Yield to Disbursement Date	Perfect Escrow Cost	Value of Negative Arbitrage	Cost of Dead Time
RF	653,284.37	0.085	2.213358%	2.213358%	653,051.15	233.22	
BP	5,051,195.63	0.085	2.213349%	2.213347%	5,049,392.35	1,803.28	
	5,704,480.00				5,702,443.50	2,036.50	0.00

Delivery date 03/07/2019
 Arbitrage yield 2.633025%

RESOLUTION NO. _____

RESOLUTION OF THE SAN MATEO COUNTY COUNTYWIDE OVERSIGHT BOARD APPROVING THE AMENDMENT OF A REIMBURSEMENT AGREEMENT BY THE SUCCESSOR AGENCY TO THE SAN BRUNO REDEVELOPMENT AGENCY IN ORDER TO REFUND CERTAIN OUTSTANDING OBLIGATIONS, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, the San Bruno Redevelopment Agency (the “Former Agency”) was a public body, corporate and politic, duly established and authorized to transact business and exercise powers under and pursuant to the provisions of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State (the “Law”);

WHEREAS, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, Section references hereinafter being to such Code), the Former Agency has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173, and the Successor Agency to the San Bruno Redevelopment Agency (the “Successor Agency”) has become the successor entity to the Former Agency;

WHEREAS, prior to the dissolution of the Former Agency, the Former Agency entered into a Reimbursement Agreement dated December 1, 2000 (the “Reimbursement Agreement”), under which the Former Agency incurred indebtedness in the form of an obligation to provide to the City of San Bruno (the “City”) certain Tax Increment Revenues (as defined in the Reimbursement Agreement) for payment of the obligation of the City to pay lease payments (the “Prior Lease Payments”) under a Lease Agreement dated as of December 1, 2000 (the “Prior Lease”) by and between the San Bruno Public Financing Authority (the “Authority”), as sub-lessor, and the City, as sub-sublessee;

WHEREAS, payments made under the Prior Lease are the security for and source of payment of the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) executed and delivered in 2000 in the aggregate initial principal amount of \$9,600,000 (the “Prior Obligations”) for the purpose of financing certain obligations of the City relating to the original construction of the City’s police facility (the “Project”), which Project was within and of benefit to the project area; and

WHEREAS, by implementation of California Assembly Bill X1 26, which amended provisions of the Law, and the California Supreme Court’s decision in *California Redevelopment Association v. Matosantos*, the Former Agency was dissolved on February 1, 2012 in accordance with California Assembly Bill X1 26 approved by the Governor of the State on June 28, 2011 (as amended, the “Dissolution Act”), and on February 1, 2012, the Successor Agency, in accordance with and pursuant to the Dissolution Act, assumed the duties and obligations of the Former Agency as provided in the Dissolution Act, including, without limitation, the obligations of the Former Agency under the Reimbursement Agreement;

WHEREAS, Section 34177.5(a)(1) of the California Health and Safety Code authorizes the Successor Agency to undertake proceedings for the refunding of outstanding bonds and other obligations of the Former Agency, subject to the conditions precedent contained in said Section 34177.5;

WHEREAS, the City and the Authority have determined that, based on current interest rates, cost savings can be achieved by refinancing the Prior Lease Payments and in turn causing the Prior Obligations to be refunded;

WHEREAS, in order to provide moneys to refinance the Prior Lease Payments, the Authority proposes to issue and sell Lease Revenue Bonds in the principal amount of not to exceed \$5,500,000 (the "2019 Bonds") under the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code secured by lease payments as described in a Lease Agreement (defined below);

WHEREAS, to facilitate the issuance of the 2019 Bonds, the City proposes leasing certain real property and improvements thereon, consisting of the City's interest in the land and improvements which is comprise the City's Police Station (the "Leased Property"), to the Authority under a Site Lease dated as of February 1, 2019 (the "Site Lease") between the City and the Authority, in consideration of the payment by the Authority of an upfront rental payment (the "Site Lease Payment"), the proceeds of which the City will use to prepay the Prior Lease Payments;

WHEREAS, in order to secure the payments of principal of and interest on the 2019 Bonds, the City proposes leasing back the Leased Property from the Authority under a Lease Agreement dated as of February 1, 2019 (the "Lease Agreement") between the City and the Authority, in consideration of the payment by the City of certain lease payments (the "Lease Payments") which will secure the repayment of the 2019 Bonds;

WHEREAS, upon entering into the Lease the Prior Lease will be terminated;

WHEREAS, the City desires to refinance the Prior Lease to realize savings which will accrue to the Successor Agency and the applicable taxing entities, which the City cannot do so without the continuation of the payment of indebtedness of the Successor Agency under the Reimbursement Agreement;

WHEREAS, Section 34177.5(a) grants the Successor Agency the authority, rights, and powers of the redevelopment agency to which it succeeded for the purpose of incurring indebtedness to refund indebtedness of its former redevelopment agency to provide savings to the successor agency, provided certain savings can be achieved as therein specified and provided the principal amount of the indebtedness does not exceed the amount required to defease the indebtedness, to establish customary debt service reserves, and to pay related costs of issuance;

WHEREAS, the Successor Agency desires to amend the Reimbursement Agreement as permitted by Section 34177.5(a) for the purpose of achieving debt service savings within the parameters set forth in Section 34177.5(a)(1) (the "Savings Parameters");

WHEREAS, to determine compliance with the Savings Parameters for purposes of amending the Reimbursement Agreement, the Successor Agency has caused Fieldman Rolapp & Associates, Inc., as Municipal Advisor, to prepare an analysis of the potential savings that will accrue to the Successor Agency and to applicable taxing entities as a result of the use of the proceeds of the 2019 Bonds to refund the Prior Obligations (the "Debt Service Savings Analysis");

WHEREAS, the Successor Agency, by its resolution adopted on November 13, 2018 (the "Successor Agency Resolution"), approved the indebtedness to be evidenced by the amendment

of the Reimbursement Agreement in the form of an Amended and Restated Reimbursement Agreement pursuant to Section 34177.5(a)(1); and

WHEREAS, Sections 34177.5(f) and 34180(b) require Oversight Board approval of the issuance of indebtedness.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

2. Determination of Savings. This Oversight Board acknowledges that the Debt Service Savings Analysis on file with the Clerk of the Oversight Board and which was attached to the Memo from the City's Finance Director to the Oversight Board which was submitted concurrently with this Resolution demonstrates that there are significant potential savings available to the Successor Agency and to applicable taxing entities in compliance with the Savings Parameters that would result from the execution and delivery by the Successor Agency of the Amended and Restated Reimbursement Agreement to facilitate the refunding and defeasance of the Prior Lease and Prior Obligations. The Oversight Board finds that the execution and delivery of the Amended and Restated Reimbursement Agreement is in the financial interests of the taxing entities provided that the limitations set forth in Section 34177.5(a)(1) are satisfied, and the Savings Parameters are achieved.

3. Direction and Approval of Amendment. As authorized by Sections 34177.5(f) and 34180(b), the Oversight Board hereby directs and authorizes the Successor Agency to undertake the amendment of the Reimbursement Agreement and the execution and delivery of the Amended and Restated Reimbursement Agreement in the aggregate principal amount not to exceed the amount set forth in the Successor Agency Resolution, pay issuance costs as permitted by applicable law, and establish required debt service reserves, provided that the principal and interest payable with respect to the Amended and Restated Reimbursement Agreement complies in all respects with the requirements of the Savings Parameters, as shall be certified by the Municipal Advisor upon delivery of the Amended and Restated Reimbursement Agreement.

4. Effective Date. Pursuant to Health and Safety Code Section 34177(f) and Section 34179(h), this Resolution shall be effective five (5) business days after proper notification hereof is given to the California Department of Finance unless the California Department of Finance requests a review of the actions taken in this Resolution, in which case this Resolution will be effective upon approval by the California Department of Finance.

5. Transmittal. Staff to the Oversight Board are hereby directed to transmit this Resolution to the California Department of Finance.

* * *

RESOLUTION NO. 2018 - 108

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO APPROVING A LEASE FINANCING AND THE ISSUANCE AND SALE OF LEASE REVENUE BONDS BY THE SAN BRUNO PUBLIC FINANCING AUTHORITY TO REFINANCE PRIOR OBLIGATIONS OF THE CITY OF SAN BRUNO, AND APPROVING RELATED DOCUMENTS AND OFFICIAL ACTIONS

WHEREAS, the City of San Bruno (the "City") in 2000 caused the execution and delivery of the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) in the aggregate initial principal amount of \$9,600,000 (the "Prior Obligations") for the purpose of financing certain obligations of the City relating to the original construction of the City's police facility (the "Project"); and

WHEREAS, in connection with the Prior Obligations, the City, as sub-lessee and the San Bruno Public Financing Authority (the "Authority"), as sub-lessor, entered into a Lease Agreement dated as of December 1, 2000 (the "Prior Lease") whereby the City is obligated to pay lease payments (the "Prior Lease Payments") for the use and occupancy of the leased property described therein; and

WHEREAS, the City has determined that, based on current interest rates, cost savings can be achieved by refinancing the Prior Lease Payments and in turn causing the Prior Obligations to be refunded and the Authority desires to assist the City in that regard; and

WHEREAS, in order to provide moneys to refinance the Prior Lease Payments, the Authority proposes to issue and sell Lease Revenue Bonds in a principal amount not to exceed \$5,500,000 (the "2019 Bonds") under the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code (the "Bond Law") secured by the lease payments described in a Lease Agreement (defined below); and

WHEREAS, to facilitate the issuance of the 2019 Bonds, the City proposes leasing certain real property and improvements thereon, consisting of the City's interest in the land and improvements comprising the City's Police Station (the "Leased Property"), to the Authority under a Site Lease dated as of February 1, 2019 (the "Site Lease") between the City and the Authority, in consideration of the payment by the Authority of an upfront rental payment (the "Site Lease Payment"), the proceeds of which the City will use to prepay the Prior Lease Payments; and

WHEREAS, in order to secure the payments of principal of and interest on the 2019 Bonds, the City proposes leasing back the Leased Property from the Authority under a Lease Agreement dated as of February 1, 2019 (the "Lease Agreement") between the City and the Authority, in consideration of the payment by the City of certain lease payments (the "Lease Payments") which will secure the repayment of the 2019 Bonds; and

WHEREAS, in accordance with Government Code Section 5852.1, the following information has been obtained and disclosed by the City Council: (i) the estimated true interest cost of the 2019 Bonds, (ii) the estimated finance charge of the 2019 Bonds, (iii) the estimated proceeds of the 2019 Bonds expected to be received, net of proceeds for finance charges in (ii) above to paid from the principal amount of the 2019 Bonds, and (iv) the estimated total payment amount of the 2019 Bonds; and

WHEREAS, the City will, with the assistance of Jones Hall, A Professional Law Corporation, as Disclosure Counsel, cause to be prepared a form of Official Statement for the 2019 Bonds describing the 2019 Bonds and containing material information relating to the City, the Authority and the 2019 Bonds, the preliminary form of which will be submitted to the City Council for approval at a later date, for distribution by Prager & Co., LLC, as underwriter of the 2019 Bonds, to persons and institutions interested in purchasing the 2019 Bonds, along with a Bond Purchase Agreement setting for the terms of sale of the 2019 Bonds to the underwriter; and

WHEREAS, the City Council wishes at this time to approve all proceedings and documents to which it is a party relating to the issuance and sale of the 2019 Bonds and the financing of a portion of the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Bruno as follows:

SECTION 1. Issuance of Bonds. The City Council hereby approves the issuance of the 2019 Bonds by the Authority under the Bond Law in the maximum principal amount of not to exceed \$5,500,000, for the purpose of providing funds to refinance the Prior Lease Payments and the Project.

SECTION 2. Approval of Related Financing Agreements. The City Council hereby approves each of the following agreements required for the issuance and sale of the 2019 Bonds, in substantially the respective forms on file with the City Clerk together with any changes therein or additions thereto deemed advisable by the City Manager, the Assistant City Manager or the Finance Director (each, an "Authorized Officer"), whose execution thereof shall be conclusive evidence of the approval of any such changes or additions. Such changes or additions may include, but is not limited to, providing that payment of the 2019 Bonds be insured by a financial guaranty policy from a bond insurance company and/or secured by a reserve surety policy, if in the judgment of an Authorized Officer such insurance and/or reserve surety policy is in the best interest of the City. An Authorized Officer is hereby authorized and directed for and on behalf of the City to execute, and the City Clerk is hereby authorized and directed to attest, the final form of each such agreement, as follows:

- Site Lease, between the City as lessor and the Authority as lessee, under which the City leases the Leased Property to the Authority in consideration of the payment of an upfront amount which will be applied by the City to refinance the Project; and
- Lease Agreement, between the Authority as lessor and the City as lessee, under which the Authority leases the Leased Property back to the City and the City agrees to pay semiannual lease payments to provide revenues with which to pay principal of and interest on the 2019 Bonds when due.

SECTION 4. Official Actions. The Authorized Officers, the City Attorney, the City Clerk and all other officers of the City are each authorized and directed on behalf of the City to take action with regard to any and all leases, assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance or termination, warrants and other documents (including amendments and/or supplements to any of the documents executed in connection with the Prior Obligations, including but not limited to the reimbursement agreement with the former redevelopment agency), including execution thereof, which they or any of them deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Whenever in this Resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

SECTION 5. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

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I hereby certify that foregoing **Resolution No. 2018 - 108**
was introduced and adopted by the San Bruno City Council at a regular meeting on
November 13, 2018, by the following vote:

AYES: Councilmembers: Davis, M. Medina, O'Connell, Salazar, Mayor R. Medina

NOES: Councilmembers: None

ABSENT: Councilmembers: None



Melissa Thurman, CMC
City Clerk

RESOLUTION NO. 2018 - 109

A RESOLUTION OF THE SAN BRUNO PUBLIC FINANCING AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF LEASE REVENUE BONDS TO REFINANCE PRIOR OBLIGATIONS OF THE CITY OF SAN BRUNO, AND APPROVING RELATED DOCUMENTS AND OFFICIAL ACTIONS

WHEREAS, the City of San Bruno (the "City") in 2000 caused the execution and delivery of the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) in the aggregate initial principal amount of \$9,600,000 (the "Prior Obligations") for the purpose of financing certain obligations of the City relating to the original construction of the City's police facility (the "Project"); and

WHEREAS, in connection with the Prior Obligations, the City, as sub-lessee and the San Bruno Public Financing Authority (the "Authority"), as sub-lessor, entered into a Lease Agreement dated as of December 1, 2000 (the "Prior Lease") whereby the City is obligated to pay lease payments (the "Prior Lease Payments") for the use and occupancy of the leased property described therein; and

WHEREAS, the City has determined that, based on current interest rates, cost savings can be achieved by refinancing the Prior Lease Payments and in turn causing the Prior Obligations to be refunded and the Authority desires to assist the City in that regard; and

WHEREAS, in order to provide moneys to refinance the Prior Lease Payments, the Authority proposes to issue and sell Lease Revenue Bonds in a principal amount not to exceed \$5,500,000 (the "2019 Bonds") under the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code (the "Bond Law") secured by the lease payments described in a Lease Agreement (defined below); and

WHEREAS, to facilitate the issuance of the 2019 Bonds, the City proposes leasing certain real property and improvements thereon, consisting of the City's interest in the land and improvements comprising the City's Police Station (the "Leased Property"), to the Authority under a Site Lease dated as of February 1, 2019 (the "Site Lease") between the City and the Authority, in consideration of the payment by the Authority of an upfront rental payment (the "Site Lease Payment"), the proceeds of which the City will use to prepay the Prior Lease Payments; and

WHEREAS, in order to secure the payments of principal of and interest on the 2019 Bonds, the City proposes leasing back the Leased Property from the Authority under a Lease Agreement dated as of February 1, 2019 (the "Lease Agreement") between the City and the Authority, in consideration of the payment by the City of certain lease payments (the "Lease Payments") which will secure the repayment of the 2019 Bonds; and

WHEREAS, in accordance with Government Code Section 5852.1, the following information has been obtained and disclosed by the Board of Directors: (i) the estimated true interest cost of the 2019 Bonds, (ii) the estimated finance charge of the 2019 Bonds, (iii) the estimated proceeds of the 2019 Bonds expected to be received, net of proceeds for finance charges in (ii) above to paid from the principal amount of the 2019 Bonds, and (iv) the estimated total payment amount of the 2019 Bonds; and

WHEREAS, the Authority will, with the assistance of Jones Hall, A Professional Law Corporation, as Disclosure Counsel, cause to be prepared a form of Official Statement for the 2019 Bonds describing the 2019 Bonds and containing material information relating to the City, the Authority and the 2019 Bonds, the preliminary form of which will be submitted to the Board of Directors for approval at a later date, for distribution by Prager & Co., LLC, as underwriter of the 2019 Bonds, to persons and institutions interested in purchasing the 2019 Bonds, along with a Bond Purchase Agreement setting for the terms of sale of the 2019 Bonds to the underwriter; and

WHEREAS, the Board of Directors wishes at this time to approve all documents and proceedings of the Authority relating to the issuance and sale of the 2019 Bonds in order to assist the City in refinancing of the Project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Bruno Public Financing Authority as follows:

SECTION 1. Issuance of Bonds. The Board of Directors hereby authorizes the issuance of the 2019 Bonds under the Bond Law in the maximum principal amount of not to exceed \$5,500,000, for the purpose of providing funds to refinance the Project. The 2019 Bonds shall be issued under the Bond Law and the Indenture of Trust that is approved below.

SECTION 2. Approval of Related Financing Agreements. The Board of Directors hereby approves each of the following agreements required for the issuance and sale of the 2019 Bonds, in substantially the respective forms on file with the Secretary together with any changes therein or additions thereto deemed advisable by the Director or the Treasurer or any of their designees (each, an "Authorized Officer"), whose execution thereof shall be conclusive evidence of the approval of any such changes or additions. An Authorized Officer is hereby authorized and directed for and on behalf of the Authority to execute, and the Secretary is hereby authorized and directed to attest, the final form of each such agreement, as follows:

- Indenture of Trust, between the Authority and MUFG Union Bank, N.A., as trustee (the "Trustee"), setting forth the terms and provisions relating to the 2019 Bonds;
- Site Lease, between the City as lessor and the Authority as lessee, under which the City leases the Leased Property to the Authority in consideration of the payment of an upfront amount which will be applied by the City to refinance the Project;
- Lease Agreement, between the Authority as lessor and the City as lessee, under which the Authority leases the Leased Property back to the City and the City agrees to pay semiannual lease payments to provide revenues with which to pay principal of and interest on the 2019 Bonds when due; and
- Assignment Agreement, between the Authority and the Trustee, whereby the Authority assigns certain of its rights under the Lease Agreement to the Trustee for the benefit of the 2019 Bond owners.

SECTION 4. Official Actions. The Authorized Officers, the General Counsel, the Secretary and all other officers of the Authority are each authorized and directed on behalf of the Authority to make any and all leases, assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance or termination, warrants and other documents (including amendments and/or supplements to any of the documents executed in connection with the Prior Obligations), which they or any of them deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Whenever in this resolution any officer of the Authority is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf if such officer is absent or unavailable.

SECTION 6. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

---oOo---

I hereby certify that foregoing **Resolution No. 2018 - 109** was introduced and adopted by the San Bruno Public Financing Authority at a meeting on November 13, 2018, by the following vote:

AYES: Councilmembers: Davis, M. Medina, O'Connell, Salazar, Mayor R. Medina

NOES: Councilmembers: None

ABSENT: Councilmembers: None



Melissa Thurman, CMC
Secretary

RESOLUTION NO. 2018 - 110

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE SAN BRUNO REDEVELOPMENT AGENCY APPROVING THE AMENDMENT OF A REIMBURSEMENT AGREEMENT IN ORDER TO REFUND CERTAIN OUTSTANDING OBLIGATIONS, REQUESTING SAN MATEO COUNTY COUNTYWIDE OVERSIGHT BOARD APPROVAL OF THE AMENDMENT, REQUESTING CERTAIN DETERMINATIONS BY THE SAN MATEO COUNTYWIDE OVERSIGHT BOARD, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, the San Bruno Redevelopment Agency (the "Former Agency") was a public body, corporate and politic, duly established and authorized to transact business and exercise powers under and pursuant to the provisions of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State (the "Law"); and

WHEREAS, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, Section references hereinafter being to such Code), the Former Agency has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173, and the Successor Agency to the San Bruno Redevelopment Agency (the "Successor Agency") has become the successor entity to the Former Agency; and

WHEREAS, prior to the dissolution of the Former Agency, the Former Agency entered into a Reimbursement Agreement dated December 1, 2000 (the "Reimbursement Agreement"), under which the Former Agency incurred indebtedness in the form of an obligation to provide to the City of San Bruno (the "City") certain Tax Increment Revenues (as defined in the Reimbursement Agreement) for payment of the obligation of the City to pay lease payments (the "Prior Lease Payments") under a Lease Agreement dated as of December 1, 2000 (the "Prior Lease") by and between the San Bruno Public Financing Authority (the "Authority"), as sub-lessor, and the City, as sub-lessee; and

WHEREAS, payments made under the Prior Lease are the security for and source of payment of the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) executed and delivered in 2000 in the aggregate initial principal amount of \$9,600,000 (the "Prior Obligations") for the purpose of financing certain obligations of the City relating to the original construction of the City's police facility (the "Project"), which Project was within and of benefit to the project area; and

WHEREAS, by implementation of California Assembly Bill X1 26, which amended provisions of the Law, and the California Supreme Court's decision in *California Redevelopment Association v. Matosantos*, the Former Agency was dissolved on February 1, 2012 in accordance with California Assembly Bill X1 26 approved by the Governor of the State on June 28, 2011 (as amended, the "Dissolution Act"), and on February 1, 2012, the Successor Agency, in accordance with and pursuant to the Dissolution Act, assumed the duties and obligations of the Former Agency as provided in the Dissolution Act, including, without limitation, the obligations of the Former Agency under the Reimbursement Agreement; and

WHEREAS, Section 34177.5(a)(1) of the California Health and Safety Code authorizes the Successor Agency to undertake proceedings for the refunding of outstanding bonds and other obligations of the Former Agency, subject to the conditions precedent contained in said Section 34177.5; and

WHEREAS, the City and the Authority have determined that, based on current interest rates, cost savings can be achieved by refinancing the Prior Lease Payments and in turn causing the Prior Obligations to be refunded; and

WHEREAS, in order to provide moneys to refinance the Prior Lease Payments, the Authority proposes to issue and sell Lease Revenue Bonds in the principal amount of not to exceed \$5,500,000 (the "2019 Bonds") under the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code secured by lease payments as described in a Lease Agreement (defined below); and

WHEREAS, to facilitate the issuance of the 2019 Bonds, the City proposes leasing certain real property and improvements thereon, consisting of the City's interest in the land and improvements which is comprised of the City's Police Station (the "Leased Property"), to the Authority under a Site Lease dated as of February 1, 2019 (the "Site Lease") between the City and the Authority, in consideration of the payment by the Authority of an upfront rental payment (the "Site Lease Payment"), the proceeds of which the City will use to prepay the Prior Lease Payments; and

WHEREAS, in order to secure the payments of principal of and interest on the 2019 Bonds, the City proposes leasing back the Leased Property from the Authority under a Lease Agreement dated as of February 1, 2019 (the "Lease Agreement") between the City and the Authority, in consideration of the payment by the City of certain lease payments (the "Lease Payments") which will secure the repayment of the 2019 Bonds; and

WHEREAS, upon entering into the Lease, the Prior Lease will be terminated; and

WHEREAS, the City desires to refinance the Prior Lease to realize savings which will accrue to the Successor Agency and the applicable taxing entities, which the City cannot do so without the continuation of the payment of indebtedness of the Successor Agency under the Reimbursement Agreement; and

WHEREAS, Section 34177.5(a) grants the Successor Agency the authority, rights, and powers of the redevelopment agency to which it succeeded for the purpose of incurring indebtedness to refund indebtedness of its former redevelopment agency to provide savings to the successor agency, provided certain savings can be achieved as therein specified and provided the principal amount of the indebtedness does not exceed the amount required to defease the indebtedness, to establish customary debt service reserves, and to pay related costs of issuance; and

WHEREAS, the Successor Agency desires to amend the Reimbursement Agreement as permitted by Section 34177.5(a) for the purpose of achieving debt service savings within the parameters set forth in Section 34177.5(a)(1) (the "Savings Parameters"); and

WHEREAS, to determine compliance with the Savings Parameters for purposes of amending the Reimbursement Agreement, the Successor Agency has caused Fieldman Rolapp & Associates, Inc., as Municipal Advisor, to prepare an analysis of the potential savings that will accrue to the Successor Agency and to applicable taxing entities as a result of the use of the proceeds of the 2019 Bonds to refund the Prior Obligations (the "Debt Service Savings Analysis"); and

WHEREAS, the Successor Agency desires at this time to approve the indebtedness evidenced by the amendment of the Reimbursement Agreement and to approve the form of an Amended and Restated Reimbursement Agreement and authorize the execution and delivery of the Amended and Restated Reimbursement Agreement; and

WHEREAS, pursuant to Section 34179, the San Mateo County Countywide Oversight Board (the "Oversight Board") has been established; and

WHEREAS, the Successor Agency is now requesting that the Oversight Board direct the Successor Agency to undertake the refunding proceedings and to approve the amendment of the Reimbursement Agreement as contemplated by the form of an Amended and Restated Reimbursement Agreement pursuant to this Resolution; and

WHEREAS, the Successor Agency further requests that the Oversight Board make certain determinations described below on which the Successor Agency will rely in undertaking the refunding proceedings and the issuance of the 2019 Bonds.

NOW, THEREFORE, the Successor Agency to the San Bruno Redevelopment Agency **RESOLVES** as follows:

1. Determination of Savings. The Successor Agency has determined that there are significant potential savings available to the Successor Agency and to applicable taxing entities in compliance with the Savings Parameters by the amendment of the indebtedness set forth in the Reimbursement Agreement as contemplated by the form of an Amended and Restated Reimbursement Agreement, to facilitate the refunding of the Prior Obligations and Prior Lease, all as evidenced by the Debt Service Savings Analysis on file with the Successor Agency, which Debt Service Savings Analysis is hereby approved.

2. Approval of Amendment. The Successor Agency hereby authorizes and approves the execution and delivery of the Amended and Restated Reimbursement Agreement to provide for an enforceable obligation of the Successor Agency in the aggregate principal amount of not to exceed \$5,500,000, provided that the obligation thereunder is in compliance with the Savings Parameters at the time of execution and delivery. Each of the Mayor, the City Manager, the Assistant City Manager and the Finance Director of the City, on behalf of the Successor Agency (each, an "Authorized Officer"), is hereby authorized and directed to execute and deliver, and the City Clerk of the City, on behalf of the Successor Agency, is hereby authorized and directed to attest to, the Amended and Restated Reimbursement Agreement for and in the name and on behalf of the Successor Agency, in substantially the form on file with the Successor Agency, with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery of the Amended and Restated Reimbursement Agreement. The Successor Agency hereby authorizes the delivery and performance of the Amended and Restated Reimbursement Agreement.

4. Oversight Board Approval of the Action. The Successor Agency hereby requests the Oversight Board, as authorized by Section 34177.5(f), to direct the Successor Agency to undertake the refunding proceedings and as authorized by Section 34177.5(f) and Section 34180 to approve the Amended and Restated Reimbursement Agreement pursuant to Section 34177.5(a)(1) and this Resolution.

5. Filing of Debt Service Savings Analysis and Resolution. The Successor Agency is hereby authorized and directed to file the Debt Service Savings Analysis, together with a certified copy of this Resolution, with the Oversight Board, and, as provided in Section 34180(j) with the San Mateo County Administrative Officer, the San Mateo County Auditor-Controller and the California Department of Finance.

6. Official Actions. The Authorized Officers and any and all other officers of the Successor Agency are hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to do any and all things and take any and all actions, which they, or any of them, may deem necessary or advisable in obtaining the requested approvals by the Oversight Board and the California Department of Finance and in the execution and delivery of the Amended and Restated Reimbursement Agreement. Whenever in this Resolution any officer of the Successor Agency is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

7. Effective Date. This Resolution shall take effect from and after the date of approval and adoption thereof.

---oOo---

I hereby certify that foregoing **Resolution No. 2018 - 110** was introduced and adopted by the San Bruno Successor Agency to the San Bruno Redevelopment Agency at a meeting on November 13, 2018, by the following vote:

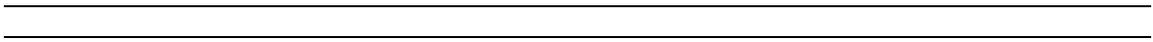
AYES: Councilmembers: Davis, M. Medina, O'Connell, Salazar, Mayor R. Medina

NOES: Councilmembers: None

ABSENT: Councilmembers: None



Melissa Thurman, CMC
Secretary



INDENTURE OF TRUST

Dated as of _____ 1, 2019

between

SAN BRUNO PUBLIC FINANCING AUTHORITY

and

MUFG UNION BANK, N.A.,
as Trustee

Relating to:

\$ _____
San Bruno Public Financing Authority
Lease Revenue Bonds, Series 2019

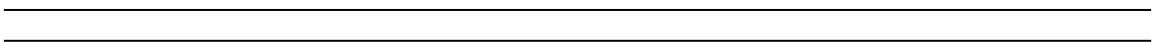


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APPENDIX A DEFINITIONS
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INDENTURE OF TRUST

This INDENTURE OF TRUST (this “**Indenture**”), dated for convenience as of _____ 1, 2019, is between the SAN BRUNO PUBLIC FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the “**Authority**”), and MUFU UNION BANK, N.A., a national banking association organized and existing under the laws of the United States of America, with a corporate trust office in San Francisco, California, being qualified to accept and administer the trusts hereby created (the “**Trustee**”).

BACKGROUND:

1. The City has previously caused the execution and delivery of the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) in the aggregate initial principal amount of \$9,600,000 in 2000 (the “**Prior Obligations**”) for the purpose of financing certain obligations of the City.

2. The City is proceeding to refinance the outstanding Prior Obligations for interest rate savings.

3. To that end, the City is leasing certain real property and improvements thereon owned by the City, consisting of the Police Station, as described in Appendix A attached hereto (the “**Leased Property**”), to the Authority under this Site Lease in consideration of the payment by the Authority of an upfront rental payment (the “**Site Lease Payment**”) to prepay the Prior Obligations.

4. The Authority has authorized the issuance of its San Bruno Public Financing Authority Lease Revenue Bonds, Series 2019 in the aggregate principal amount of \$_____ (the “**Bonds**”) under this Indenture for the purpose of providing the funds to enable the Authority to pay the Site Lease Payment to the City in accordance with the Site Lease.

5. In order to provide revenues to enable the Authority to pay debt service on the Bonds, the Authority is leasing the Leased Property back to the City under a Lease Agreement dated as of _____ 1, 2019 and recorded concurrently herewith (the “**Lease**”), under which the City has agreed to pay semiannual Lease Payments as the rental for the Leased Property thereunder.

6. The lease payments made by the City under the Lease have been assigned by the Authority to the Trustee for the security of the Bonds under an Assignment Agreement, dated as of _____ 1, 2019, between the Authority as assignor and the Trustee as assignee, and recorded concurrently herewith.

7. In order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and to secure the payment of the principal thereof, premium (if any) and interest thereon, the Authority has authorized the execution and delivery of this Indenture.

8. The Authority has found and determined, and hereby affirms, that all acts and proceedings required by law necessary to make the Bonds, when executed by the

Authority, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Indenture have been in all respects duly authorized.

A G R E E M E N T :

In order to secure the payment of the principal of and the interest and redemption premium (if any) on all the Outstanding Bonds under this Indenture according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt of which is hereby acknowledged, the Authority and the Trustee do hereby covenant and agree with one another, for the benefit of the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

SECTION 1.01. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms defined in Appendix A attached to this Indenture have the respective meanings specified in that Appendix when used in this Indenture.

SECTION 1.02. *Authorization.* Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Indenture, and has taken all actions necessary to authorize the execution hereof by the officers and persons signing it.

SECTION 1.03. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

THE BONDS

SECTION 2.01. *Authorization of Bonds.* The Authority has reviewed all proceedings heretofore taken and has found, as a result of such review, and hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now duly empowered, under each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture.

The Authority hereby authorizes the issuance of Bonds in the aggregate principal amount of \$_____ under the Bond Law for the purposes of providing funds to pay the Site Lease Payment to the City and thereby provide funds to prepay the Prior Obligations. The Bonds are authorized and issued under, and are subject to the terms of, this Indenture and the Bond Law. The Bonds are designated the "San Bruno Public Financing Authority Lease Revenue Bonds, Series 2019."

SECTION 2.02. *Terms of the Bonds.*

(a) Payment Provisions. The Bonds shall be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof, so long as no Bond has more than one maturity date.

The Bonds shall mature on March 1 in each of the years and in the amounts, and bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rates, as follows:

<u>Maturity Date</u> <u>(March 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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Interest on the Bonds is payable from the Interest Payment Date next preceding the date of authentication thereof unless:

- (a) a Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date, in which event it will bear interest from such Interest Payment Date,
- (b) a Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date, or

- (c) interest on any Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such Bond is registered on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than 10 days prior to such special record date.

The Trustee will pay interest on the Bonds by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the Bonds at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date. At the written request of the Owner of Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, the Trustee will pay interest on such Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which written request will remain in effect until rescinded in writing by the Owner. The Trustee will pay principal of the Bonds in lawful money of the United States of America by check of the Trustee upon presentation and surrender thereof at the Office of the Trustee.

SECTION 2.03. *Transfer and Exchange of Bonds.*

(a) Transfer. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. The Trustee shall require the Owner requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. Whenever any Bond or Bonds shall be surrendered for transfer, the Authority shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of like series, interest rate, maturity and aggregate principal amount. The Authority shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer of Bonds.

(b) Exchange. The Bonds may be exchanged at the Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of the same series, interest rate and maturity. The Trustee shall require the Owner requesting such exchange to pay any tax or other governmental charge required to be paid with respect to such exchange. The Authority shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange of Bonds.

(c) Limitations. The Trustee may refuse to transfer or exchange, under the provisions of this Section 2.03, any Bonds selected by the Trustee for redemption under Article IV, or any Bonds during the period established by the Trustee for the selection of Bonds for redemption.

SECTION 2.04. *Book-Entry System.*

(a) Original Delivery. The Bonds will be initially delivered in the form of a separate single fully registered bond (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the Trustee shall register the ownership of each Bond on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Bonds shall be registered in the name of the Nominee on the Registration Books.

With respect to Bonds the ownership of which shall be registered in the name of the Nominee, the Authority and the Trustee has no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Nominee holds an interest in the Bonds. Without limiting the generality of the immediately preceding sentence, the Authority and the Trustee has no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed if the Authority elects to redeem the Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest on the Bonds or (v) any consent given or other action taken by the Depository as Owner of the Bonds. The Authority and the Trustee may treat and consider the person in whose name each Bond is registered as the absolute owner of such Bond for the purpose of payment of principal of and premium, if any, and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers of ownership of such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and the interest and premium, if any, on the Bonds only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner shall receive a Bond evidencing the obligation of the Authority to make payments of principal, interest and premium, if any, under this Indenture. Upon delivery by the Depository to the Authority of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the Authority shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Bonds for the Depository's book-entry system, the Authority shall execute and deliver to such Depository a letter representing such matters as shall be necessary to so qualify the Bonds. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the Authority or the Trustee any obligation whatsoever

with respect to persons having interests in the Bonds other than the Bond Owners. Upon the written acceptance by the Trustee, the Trustee shall agree to take all action reasonably necessary for all representations of the Trustee in such letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of such letter, the Authority may take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. If either (i) the Depository determines not to continue to act as Depository for the Bonds, or (ii) the Authority determines to terminate the Depository as such, then the Authority shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the Authority and the Trustee in the issuance of replacement Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Bonds, and by surrendering the Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Bonds are to be issued. The Depository, by accepting delivery of the Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the Authority fails to identify another Securities Depository to replace the Depository, then the Bonds shall no longer be required to be registered in the Registration Books in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging Bonds shall designate, in accordance with the provisions hereof.

If the Authority determines that it is in the best interests of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Authority may notify the Depository System Participants of the availability of such certificated Bonds through the Depository. In such event, the Trustee will issue, transfer and exchange Bonds as required by the Depository and others in appropriate amounts; and whenever the Depository requests, the Trustee and the Authority shall cooperate with the Depository in taking appropriate action (y) to make available one or more separate certificates evidencing the Bonds to any Depository System Participant having Bonds credited to its account with the Depository, or (z) to arrange for another Securities Depository to maintain custody of a single certificate evidencing such Bonds, all at the Authority's expense.

(d) Payments to the Nominee. Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium, if any, on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

SECTION 2.05. *Registration Books*. The Trustee will keep or cause to be kept, at the Office of the Trustee, sufficient records for the registration and transfer of ownership of the Bonds, which shall upon reasonable notice as agreed to by the Trustee, be open to inspection during regular business hours by the Authority; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the Bonds as hereinbefore provided.

SECTION 2.06. *Form and Execution of Bonds*. The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, are set forth in Appendix B attached hereto and by this reference incorporated herein, with necessary

or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

The Chairman or the Executive Director of the Authority shall execute, and the Secretary of the Authority shall attest each Bond. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any Bond ceases to be such officer before the Closing Date, such signature will nevertheless be as effective as if the officer had remained in office until the Closing Date. Any Bond may be signed and attested on behalf of the Authority by such persons as at the actual date of the execution of such Bond are the proper officers of the Authority, duly authorized to execute debt instruments on behalf of the Authority, although on the date of such Bond any such person was not an officer of the Authority.

Only those Bonds bearing a certificate of authentication in the form set forth in Appendix B, manually executed and dated by the Trustee, are valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee is conclusive evidence that such Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

SECTION 2.07. *Bonds Mutilated, Lost, Destroyed or Stolen.* If any Bond is mutilated, the Authority, at the expense of the Owner of such Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. The Trustee shall cancel every mutilated Bond surrendered to it and deliver such mutilated Bond to, or upon the order of, the Authority. If any Bond is lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence is satisfactory and if indemnity satisfactory to the Trustee is given, the Authority, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen. The Trustee may require payment of a sum not exceeding the actual cost of preparing each new Bond issued under this Section and of the expenses which may be incurred by the Trustee in connection therewith. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen will constitute an original additional contractual obligation on the part of the Authority whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds issued under this Indenture.

Notwithstanding any other provision of this Section 2.07, in lieu of delivering a new Bond for which principal has become due for a Bond which has been mutilated, lost, destroyed or stolen, the Trustee may make payment of such Bond in accordance with its terms upon receipt of indemnity satisfactory to the Trustee.

ARTICLE III

ISSUANCE OF BONDS; APPLICATION OF PROCEEDS

SECTION 3.01. *Issuance of the Bonds.* At any time after the execution of this Indenture, the Authority may execute and the Trustee shall authenticate and, upon the Written Request of the Authority, deliver the Bonds to the Original Purchaser.

SECTION 3.02. *Application of Proceeds of Sale of Bonds.* Upon the receipt of payment for the purchase price of the Bonds in the amount of \$_____ (constituting the par amount of the Bonds, plus/less [net] original issue premium/discount in the amount of \$_____, less the discount of the Original Purchaser in the amount of \$_____), on the Closing Date, the Trustee shall deposit the proceeds thereof as follows:

- (a) The Trustee shall deposit the amount of \$_____ into the Costs of Issuance Fund.
- (b) The Trustee shall deposit the amount of \$_____ into the Refunding Fund.

SECTION 3.03. *Establishment and Application of Costs of Issuance Fund.* The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund" into which the Trustee shall deposit a portion of the proceeds of sale of the Bonds under Section 3.02(a). The Trustee shall disburse amounts in the Costs of Issuance Fund from time to time to pay the Costs of Issuance upon submission of a Written Requisition of the Authority stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. Each such Written Requisition of the Authority shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts. The Trustee may conclusively rely on such Written Requisitions and shall be fully protected in relying thereon. Any funds remaining in the Cost of Issuance Fund on _____ 1, 2019, shall be transferred by the Trustee to the Interest Account and used to pay interest on the Bonds. Following such transfer, the Cost of Issuance Fund shall be closed.

SECTION 3.04. *Establishment and Application of Refunding Fund.* The Trustee will establish, maintain and hold in trust the "Refunding Fund" and the moneys deposited in said fund pursuant to Section 3.02(b) will be disbursed and applied only as hereinafter authorized. On the Closing Date, amounts on deposit in the Refunding Fund shall be transferred to the 2000 Escrow Agent to be used as provided in the 2000 Escrow Agreement. Upon making such transfer, the Trustee shall close the Refunding Fund.

SECTION 3.05. *[Reserved].*

SECTION 3.06. *Validity of Bonds.* The recital contained in the Bonds that the same are issued under the Constitution and laws of the State of California shall be conclusive evidence of their validity and of compliance with the provisions of law in their issuance.

ARTICLE IV

REDEMPTION OF BONDS

SECTION 4.01. *Terms of Redemption.*

(a) Optional Redemption. The Bonds maturing on or before March 1, 20__ are not subject to optional redemption prior to their stated maturity. The Bonds maturing on or after March 1, 20__ are subject to redemption, as a whole or in part at the election of the Authority among maturities on such basis as designated by the Authority and by lot within a maturity, at the option of the Authority, on March 1, 20__ and on any date thereafter, at a redemption price equal to 100% of the principal amount of Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

The Authority must give the Trustee written notice of its intention to redeem Bonds under this subsection (a), and the manner of selecting such Bonds for redemption from among the maturities thereof, in sufficient time to enable the Trustee to give notice of such redemption in accordance with Section 4.03.

(b) Special Mandatory Redemption From Insurance or Condemnation Proceeds. The Bonds are subject to redemption as a whole, or in part on a pro rata basis among maturities and series of Bonds, on any date, from any Net Proceeds required to be used for such purpose as provided in Section 5.07, at a redemption price equal to 100% of the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

(c) Sinking Fund Redemption. The Term Bonds are subject to mandatory redemption in part by lot, at a redemption price equal to 100% of the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts and on March 1 in the respective years as set forth in the following table; provided, however, that if some but not all of the Term Bonds have been redeemed pursuant to an optional redemption or special mandatory redemption from insurance or condemnation proceeds, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of the Term Bonds so redeemed, to be allocated among such sinking fund payments on a pro rata basis in integral multiples of \$5,000 (as set forth in a schedule provided by the Authority to the Trustee).

Term Bonds Maturing March 1, 2__

Sinking Fund Redemption Date (March 1)	Principal Amount To Be Redeemed
<hr/>	

SECTION 4.02. *Selection of Bonds for Redemption.* Whenever provision is made in this Indenture for the redemption of less than all of the Bonds of a single maturity or series, the Trustee shall select the Bonds of that maturity or series to be redeemed by lot in any manner which the Trustee in its sole discretion deems appropriate. For purposes of such selection, the Trustee shall treat each Bond as consisting of separate \$5,000 portions and each such portion shall be subject to redemption as if such portion were a separate Bond.

SECTION 4.03. *Notice of Redemption; Rescission.* The Trustee shall mail notice of redemption of the Bonds by first class mail, postage prepaid, not less than 20 nor more than 60 days before any redemption date, to the respective Owners of any Bonds designated for redemption at their addresses appearing on the Registration Books and to one or more Securities Depositories and to the Municipal Securities Rulemaking Board as provided in the Continuing Disclosure Certificate. Each notice of redemption shall state the date of the notice, the redemption date, the place or places of redemption, whether less than all of the Bonds (or all Bonds of a single maturity) are to be redeemed, the CUSIP numbers and (in the event that not all Bonds within a maturity are called for redemption) Bond numbers of the Bonds to be redeemed and the maturity or maturities of the Bonds to be redeemed, and in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice shall also state that on the redemption date there will become due and payable on each of said Bonds the redemption price thereof, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered to the Trustee. Neither the failure to receive any notice nor any defect therein shall affect the sufficiency of the proceedings for such redemption or the cessation of accrual of interest from and after the redemption date. Notice of redemption of Bonds shall be given by the Trustee, at the expense of the Authority, for and on behalf of the Authority.

The Authority has the right to rescind any notice of the redemption of Bonds under Section 4.01(a) by written notice to the Trustee on or prior to the dated fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default. The Authority and the Trustee have no liability to the Bond Owners or any other party related to or arising from such rescission of redemption. The Trustee shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under this Section.

SECTION 4.04. *Partial Redemption of Bonds.* Upon surrender of any Bonds redeemed in part only, the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Bonds surrendered.

SECTION 4.05. *Effect of Redemption.* Notice of redemption having been duly given as aforesaid, and moneys for payment of the redemption price of, together with interest accrued to the date fixed for redemption on, including any applicable premium, the Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption shall become due and payable, interest on the Bonds so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture, and the Owners of said Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof.

All Bonds redeemed under the provisions of this Article shall be canceled by the Trustee upon surrender thereof and destroyed in accordance with the retention policy of the Trustee then in effect.

ARTICLE V

REVENUES; FUNDS AND ACCOUNTS; PAYMENT OF PRINCIPAL AND INTEREST

SECTION 5.01. *Security for the Bonds; Bond Fund.*

(a) Pledge of Revenues and Other Amounts. Subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, all of the Revenues and all amounts held in any fund or account established under this Indenture are hereby pledged to secure the payment of the principal of and interest and premium (if any) on the Bonds in accordance with their terms and the provisions of this Indenture. Said pledge constitutes a lien on and security interest in the Revenues and such amounts and shall attach, be perfected and be valid and binding from and after the Closing Date, without the need for any physical delivery thereof or further act.

(b) Assignment to Trustee. Under the Assignment Agreement, the Authority has transferred to the Trustee all of the rights of the Authority in the Lease (other than the rights of the Authority under Sections 4.5, 5.10, 7.3 and 8.4 thereof). The Trustee is entitled to collect and receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee. The Trustee is also entitled to and shall, subject to the provisions of Article VIII, take all steps, actions and proceedings which the Trustee determines to be reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Lease.

(c) Deposit of Revenues in Bond Fund. All Revenues shall be promptly deposited by the Trustee upon receipt thereof in a special fund designated as the "Bond Fund" which the Trustee shall establish, maintain and hold in trust; except that all moneys received by the Trustee and required hereunder or under the Lease to be deposited in the Redemption Fund or the Insurance and Condemnation Fund shall be promptly deposited in such funds. All Revenues deposited with the Trustee shall be held, disbursed, allocated

and applied by the Trustee only as provided in this Indenture. Any surplus remaining in the Bond Fund, after payment in full of (i) the principal of and interest on the Bonds or provision therefore under Article X, and (ii) any applicable fees and expenses to the Trustee, shall be withdrawn by the Trustee and remitted to the City.

SECTION 5.02. *Allocation of Revenues.* On or before each Interest Payment Date, the Trustee shall transfer from the Bond Fund and deposit into the following respective accounts (each of which the Trustee shall establish and maintain within the Bond Fund), the following amounts in the following order of priority:

- (a) Deposit to Interest Account. The Trustee shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to be at least equal to the amount of interest becoming due and payable on such Interest Payment Date on all Bonds then Outstanding.
- (b) Deposit to Principal Account. The Trustee shall deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of the Bonds coming due and payable on such Interest Payment Date.

SECTION 5.03. *Application of Interest Account.* All amounts in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it comes due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity), without any distinction between series of Bonds.

SECTION 5.04. *Application of Principal Account.* All amounts in the Principal Account shall be used and withdrawn by the Trustee solely to pay the principal amount of the Bonds at their respective maturity dates, without any distinction between series of Bonds.

SECTION 5.05. *[[Reserved]].*

SECTION 5.06. *Application of Redemption Fund.* The Trustee shall establish and maintain the Redemption Fund, into which the Trustee shall deposit a portion of the Revenues received, in accordance with a Written Request of the Authority, amounts in which shall be used and withdrawn by the Trustee solely for the purpose of paying the principal and premium (if any) of the Bonds to be redeemed under Section 4.01; *provided, however,* that at any time prior to the selection of Bonds for redemption, the Trustee may apply such amounts to the purchase of Bonds at public or private sale, when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as shall be directed under a Written Request of the Authority, except that the purchase price (exclusive of accrued interest) may not exceed the redemption price then applicable to the Bonds. The Trustee shall be entitled to conclusively rely on any Written Request of the Authority received under this Section 5.06, and shall be fully protected in relying thereon.

SECTION 5.07. *Insurance and Condemnation Fund.*

(a) Establishment of Fund. Upon the receipt of proceeds of insurance or eminent domain with respect to the Leased Property, the Trustee shall establish and maintain an

Insurance and Condemnation Fund, to be held and applied as hereinafter set forth in this Section 5.07.

(b) Application of Insurance Proceeds. Any Net Proceeds of insurance against accident to or destruction of the Leased Property collected by the City or the Authority in the event of any such accident or destruction shall be paid to the Trustee under Section 6.3 of the Lease and deposited by the Trustee promptly upon receipt thereof in the Insurance and Condemnation Fund. If the City fails to determine and notify the Trustee in writing of its determination, within 45 days following the date of such deposit, to replace, repair, restore, modify or improve the Leased Property which has been damaged or destroyed, then such Net Proceeds shall be promptly transferred by the Trustee to the Redemption Fund and applied to the redemption of Bonds under Section 4.01(b). Notwithstanding the foregoing sentence, however, if the Leased Property is damaged or destroyed in full, the Net Proceeds of such insurance shall be used by the City to rebuild or replace the Leased Property if such proceeds are not sufficient to redeem Outstanding Bonds equal in aggregate principal amount to the unpaid Lease Payments allocable to the Leased Property. All proceeds deposited in the Insurance and Condemnation Fund and not so transferred to the Redemption Fund shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Property by the City, upon receipt of a Written Request of the City which: (i) states with respect to each payment to be made (A) the requisition number, (B) the name and address of the person to whom payment is due, (C) the amount to be paid and (D) that each obligation mentioned therein has been properly incurred, is a proper charge against the Insurance and Condemnation Fund and has not been the basis of any previous withdrawal; and (ii) specifies in reasonable detail the nature of the obligation. Any balance of the proceeds remaining after such work has been completed as certified by the City under a Written Certificate to the Trustee shall be paid to the City. The Trustee shall be entitled to conclusively rely on any Written Request or Written Certificate received under this subsection (b) of this Section 5.07 and in each case, shall be fully protected in relying thereon.

(c) Application of Eminent Domain Proceeds. If all or any part of the Leased Property is taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Authority shall deposit or cause to be deposited with the Trustee the Net Proceeds therefrom, which the Trustee shall deposit in the Insurance and Condemnation Fund under Section 6.2(b) of the Lease and which shall be applied and disbursed by the Trustee as follows:

- (i) If the City has not given written notice to the Trustee, within 45 days following the date on which such Net Proceeds are deposited with the Trustee, of its determination that such Net Proceeds are needed for the replacement of the Leased Property or such portion thereof, the Trustee shall transfer such Net Proceeds to the Redemption Fund to be applied towards the redemption of the Bonds under Section 4.01(b).
- (ii) If the City has given written notice to the Trustee, within 45 days following the date on which such Net Proceeds are deposited with the Trustee, of its determination that such Net Proceeds are needed for replacement of the Leased Property or such portion thereof, the Trustee shall pay to the City, or to its order, from said proceeds such

amounts as the City may expend for such replacement, upon the filing of Written Requisitions of the City as agent for the Authority.

In each case, the Trustee may conclusively rely upon any notice received under this subsection (c)(ii) of this Section and is protected in relying thereon.

(d) Reliance on Independent Advice. In making any such determination whether to repair, replace or rehabilitate the Leased Property under this Section 5.07, the City may obtain, but is not required to obtain, at its expense, the report of an independent engineer or other independent professional consultant, a copy of which must be filed with the Trustee. The Trustee shall have no duty to review or examine such report. Any such determination by the City is final.

SECTION 5.08. *Investments*. All moneys in any of the funds or accounts established with the Trustee under this Indenture shall be invested by the Trustee solely in Permitted Investments. Such investments shall be directed by the Authority in a Written Request of the Authority filed with the Trustee at least two Business Days in advance of the making of such investments. In the absence of any such directions from the Authority, the Trustee shall hold funds uninvested. Permitted Investments purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account. To the extent Permitted Investments are registrable, such Permitted Investments must be registered in the name of the Trustee.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the Bond Fund. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee or any of its affiliates may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee shall incur no liability for losses arising from any investments made under this Section 5.08.

The Trustee may make any investments hereunder through its own bond or investment department or trust investment department, or those of its parent or any affiliate. The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder. The Trustee is hereby authorized, in making or disposing of any investment permitted by this Section, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or such affiliate is acting as an agent of the Trustee or for any third person or is dealing as a principal for its own account.

The Trustee shall furnish the Authority periodic cash transaction statements which shall include detail for all investment transactions effected by the Trustee. Upon the Authority's election, such statements will be delivered via the Trustee providing the Authority with online access to the Trustee's system with respect to this Indenture and upon electing such service, paper statements will be provided only upon request. The Authority waives the right to receive brokerage confirmations of security transactions effected by the Trustee as they occur, to the extent permitted by law. The Authority further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker.

SECTION 5.09. *Valuation and Disposition of Investments.*

(a) Except as otherwise provided in subsection (b) of this Section, the Authority covenants that all investments of amounts deposited in any fund or account created by or under this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Tax Code) shall be acquired, disposed of and valued at the Fair Market Value thereof as such term is defined in subsection (d) below. The Trustee shall have no duty in connection with the determination of Fair Market Value other than to follow the investment directions of the Authority in any Written Request of the Authority.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code; provided that the Authority shall inform the Trustee in writing which funds are subject to a yield restriction.

(c) For the purpose of determining the amount in any fund or account established hereunder, the value of Permitted Investments credited to such fund shall be valued by the Trustee at least annually on or before July 15. The Trustee may sell or present for redemption, any Permitted Investment so purchased by the Trustee whenever it is necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from any such Permitted Investment.

(d) For purposes of this Section 5.09, the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, or (iii) the investment is a United States Treasury Security -- State and Local Government Series which is acquired in accordance with applicable regulations of the United States Bureau of Public Debt.

(e) To the extent of any valuations made by the Trustee hereunder, the Trustee may utilize and rely upon computerized securities pricing services that may be available to it, including those available through its regular accounting system.

ARTICLE VI

COVENANTS OF THE AUTHORITY

SECTION 6.01. *Punctual Payment.* The Authority shall punctually pay or cause to be paid the principal of and interest and premium (if any) on all the Bonds in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of the Revenues and other amounts pledged for such payment as provided in this Indenture.

SECTION 6.02. *Extension of Payment of Bonds.* The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which have not been so extended. Nothing in this Section 6.02 limits the right of the Authority to issue Bonds for the purpose of refunding any Outstanding Bonds, and such issuance does not constitute an extension of maturity of the Bonds.

SECTION 6.03. *Against Encumbrances.* The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, and reserves the right to issue other obligations for such purposes.

SECTION 6.04. *Power to Issue Bonds and Make Pledge and Assignment.* The Authority is duly authorized under law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues and other amounts purported to be pledged and assigned, respectively, under this Indenture and under the Assignment Agreement in the manner and to the extent provided in this Indenture and the Assignment Agreement. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee shall at all times, subject to the provisions of Article VIII and to the extent permitted by law, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the Bond Owners under this Indenture against all claims and demands of all persons whomsoever.

The Authority shall take all actions necessary to assure the continued validity of the Bonds, including any actions that are necessary to maintain its existence. Without limiting the generality of the foregoing, in the event the existence of the Authority is impaired by any termination of the existence of the Successor Agency to the Redevelopment Agency of the City of San Bruno, the Authority shall take or cause to be taken all actions as may be necessary to substitute another public agency as a member of the Authority for the purpose of maintaining the Authority's legal existence.

SECTION 6.05. *Accounting Records.* The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate industry standards, in which complete and accurate entries shall be made of all transactions made by it relating to the proceeds of Bonds and all funds and accounts established under this Indenture. The Trustee shall make such books of record and account available for inspection by the Authority and the City, during business hours, upon reasonable notice, and under reasonable circumstances.

SECTION 6.06. *Limitation on Additional Obligations.* Except as otherwise provided in Section 7.5(b)(v) of the Lease, the Authority covenants that no additional bonds, notes or other indebtedness shall be issued or incurred which are payable out of the Revenues in whole or in part.

SECTION 6.07. *Tax Covenants.*

(a) Private Business Use Limitation. The Authority shall assure that the proceeds of the Bonds are not used in a manner which would cause the Bonds to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

(b) Federal Guarantee Prohibition. The Authority may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

(c) No Arbitrage. The Authority may not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Bonds or of any other obligations which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Tax Code.

(d) Maintenance of Tax Exemption. The Authority shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the Closing Date.

(e) Rebate of Excess Investment Earnings to United States. The Authority shall calculate or cause to be calculated all amounts of Excess Investment Earnings with respect to the Bonds which are required to be rebated to the United States of America under Section 148(f) of the Tax Code, at the times and in the manner required under the Tax Code. The Authority shall pay when due an amount equal to Excess Investment Earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code, such payments to be made from amounts paid by the City for that purpose under Section 4.5(d) of the Lease. The Authority shall keep or cause to be kept, and retain or cause to be retained for a period of six years following the retirement of the Bonds, records of the determinations made under this subsection (e).

SECTION 6.08. *Enforcement of Lease.* The Trustee shall promptly collect all amounts (to the extent any such amounts are available for collection) due from the City under the Lease. Subject to the provisions of Article VIII, the Trustee shall enforce, and take all steps, actions and proceedings which the Trustee determines to be reasonably

necessary for the enforcement of all of its rights thereunder as assignee of the Authority and for the enforcement of all of the obligations of the City under the Lease.

SECTION 6.09. *Waiver of Laws.* The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the Authority to the extent permitted by law.

SECTION 6.10. *Further Assurances.* The Authority will make, execute and deliver any and all such further indentures, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture and for the better assuring and confirming unto the Owners of the Bonds of the rights and benefits provided in this Indenture.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

SECTION 7.01. *Events of Default.* The following events constitute Events of Default hereunder:

- (a) Failure to pay any installment of the principal of any Bonds when due, whether at maturity as therein expressed, by proceedings for redemption, by acceleration, or otherwise.
- (b) Failure to pay any installment of interest on the Bonds when due.
- (c) Failure by the Authority to observe and perform any of the other covenants, agreements or conditions on its part contained in this Indenture or in the Bonds, if such failure has continued for a period of 30 days after written notice thereof, specifying such failure and requiring the same to be remedied, has been given to the Authority by the Trustee; provided, however, if in the reasonable opinion of the Authority the failure stated in the notice can be corrected, but not within such 30-day period, such failure shall not constitute an Event of Default if the Authority institutes corrective action within such 30-day period and thereafter diligently and in good faith cures the failure in a reasonable period of time.
- (d) The commencement by the Authority of a voluntary case under Title 11 of the United States Code or any substitute or successor statute.
- (e) The occurrence and continuation of an event of default under and as defined in the Lease.

SECTION 7.02. *Remedies Upon Event of Default.* If any Event of Default occurs, then, and in each and every such case during the continuance of such Event of Default,

the Trustee may, and at the written direction of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding shall, in each case, upon receipt of indemnification satisfactory to Trustee against the costs, expenses and liabilities to be incurred in connection with such action, upon notice in writing to the Authority, declare the principal of all of the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the Bonds contained to the contrary notwithstanding.

Any such declaration is subject to the condition that if, at any time after such declaration and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Authority deposits with the Trustee a sum sufficient to pay all the principal of and installments of interest on the Bonds payment of which is overdue, with interest on such overdue principal at the rate borne by the respective Bonds to the extent permitted by law, and the reasonable fees, charges and expenses (including those of its legal counsel, including the allocated costs of internal attorneys) of the Trustee, and any and all other Events of Default known to the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate has been made therefor, then, and in every such case, the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the Authority, the City and the Trustee, may, on behalf of the Owners of all of the Bonds, rescind and annul such declaration and its consequences and waive such Event of Default; but no such rescission and annulment shall extend to or shall affect any subsequent Event of Default, or shall impair or exhaust any right or power consequent thereon.

SECTION 7.03. *Application of Revenues and Other Funds After Default.* If an Event of Default occurs and is continuing, all Revenues and any other funds then held or thereafter received by the Trustee under any of the provisions of this Indenture shall be applied by the Trustee in the following order of priority:

- (a) To the payment of reasonable fees, charges and expenses of the Trustee (including reasonable fees and disbursements of its legal counsel including outside counsel and the allocated costs of internal attorneys) incurred in and about the performance of its powers and duties under this Indenture;
- (b) To the payment of the principal of and interest then due on the Bonds (upon presentation of the Bonds to be paid, and stamping or otherwise noting thereon of the payment if only partially paid, or surrender thereof if fully paid) in accordance with the provisions of this Indenture, as follows:

First: To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal of any Bonds which shall have become due, whether at maturity or by acceleration or redemption, with interest on the overdue principal at the rate borne by the respective Bonds (to the extent permitted by law), and, if the amount available shall not be sufficient to pay in full all the Bonds, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference.

SECTION 7.04. *Trustee to Represent Bond Owners.* The Trustee is hereby irrevocably appointed (and the successive respective Owners of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Owners of the Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Owners under the provisions of the Bonds, this Indenture and applicable provisions of any law. All rights of action under this Indenture or the Bonds may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Owners of such Bonds, subject to the provisions of this Indenture.

SECTION 7.05. *Limitation on Bond Owners' Right to Sue.* Notwithstanding any other provision hereof, no Owner of any Bonds has the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture, the Lease or any other applicable law with respect to such Bonds, unless (a) such Owner has given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of the Bonds then Outstanding have requested the Trustee in writing to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) such Owner or Owners have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; (d) the Trustee has failed to comply with such request for a period of 60 days after such written request has been received by, and said tender of indemnity has been made to, the Trustee; and (e) no direction inconsistent with such written request has been given to the Trustee during such 60 day period by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Bonds of any remedy hereunder or under law; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture or the rights of any other Owners of Bonds, or to enforce any right under the Bonds, this Indenture, the Lease or other applicable law with respect to the Bonds, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Owners of the Outstanding Bonds, subject to the provisions of this Indenture.

SECTION 7.06. *Absolute Obligation of Authority.* Nothing herein or in the Bonds contained affects or impairs the obligation of the Authority, which is absolute and unconditional, to pay the principal of and interest and premium (if any) on the Bonds to the respective Owners of the Bonds at their respective dates of maturity, or upon acceleration or call for redemption, as herein provided, but only out of the Revenues and other assets herein pledged therefor, or affect or impair the right of such Owners, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

SECTION 7.07. *Termination of Proceedings.* In case any proceedings taken by the Trustee or by any one or more Bond Owners on account of any Event of Default have been discontinued or abandoned for any reason or have been determined adversely to the Trustee or the Bond Owners, then in every such case the Authority, the Trustee and the Bond Owners, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the Authority, the Trustee and the Bond Owners shall continue as though no such proceedings had been taken.

SECTION 7.08. *Remedies Not Exclusive.* No remedy herein conferred upon or reserved to the Trustee, to the Owners of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

SECTION 7.09. *No Waiver of Default.* No delay or omission of the Trustee or any Owner of the Bonds to exercise any right or power arising upon the occurrence of any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or to the Owners of the Bonds may be exercised from time to time and as often as may be deemed expedient by the Trustee or the Bond Owners.

SECTION 7.10. *Notice to Bond Owners of Default.* Immediately upon becoming aware of the occurrence of an Event of Default, but in no event later than five Business Days following becoming aware of such occurrence, the Trustee shall promptly give written notice thereof by first class mail, postage prepaid, to the Owner of each Outstanding Bond, unless such Event of Default has been cured before the giving of such notice; *provided, however* that except in the case of an Event of Default described in Sections 7.01(a) or 7.01(b), the Trustee may elect not to give such notice to the Bond Owners if and so long as the Trustee in good faith determines that it is in the best interests of the Bond Owners not to give such notice.

ARTICLE VIII

THE TRUSTEE

SECTION 8.01. *Appointment of Trustee.* MUFJ Union Bank, N.A. is hereby appointed Trustee by the Authority for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The Authority will maintain a Trustee which is qualified under the provisions of the foregoing provisions of this Article VIII, so long as any Bonds are Outstanding.

SECTION 8.02. *Acceptance of Trusts; Removal and Resignation of Trustee.* The Trustee hereby accepts the express trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

- (a) The Trustee shall, prior to an Event of Default, and after the curing or waiver of all Events of Default which may have occurred, perform such duties and only such duties as are expressly and specifically set forth in this Indenture and no implied duties or covenants shall be read into this Indenture against the Trustee. If an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by hereunder, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.
- (b) The Authority may remove the Trustee at any time, unless an Event of Default has occurred and is then continuing, and shall remove the Trustee (a) if at any time requested to do so by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or (b) if at any time the Trustee ceases to be eligible in accordance with Section 8.02, or becomes incapable of acting, or is adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property is appointed, or any public officer takes control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation.
- (c) The Trustee may at any time resign by giving written notice of such resignation to the Authority and the City, and by giving the Bond Owners notice of such resignation by mail at the addresses shown on the Registration Books.
- (d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. In the event of the removal or resignation of the Trustee under subsections (b) or (d), respectively, the Authority shall promptly appoint a successor Trustee.

If no successor Trustee has been appointed and accepted appointment within 45 days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture, must signify its acceptance of such appointment by executing and delivering to the Authority, to its predecessor Trustee a written acceptance thereof, and after payment by the Authority of all unpaid fees and expenses of the predecessor Trustee, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Written Request of the Authority or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to the Leased Property held by such predecessor Trustee under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Authority shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Authority shall promptly mail or cause the successor trustee to mail a notice of the succession of such Trustee to the trusts hereunder to each rating agency which is then rating the Bonds and to the Bond Owners at the addresses shown on the Registration Books. If the Authority fails to mail such notice within 15 days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Authority.

- (e) Any Trustee appointed under this Indenture shall be a corporation or association organized and doing business under the laws of any state or the United States of America or the District of Columbia, shall be authorized under such laws to exercise corporate trust powers, shall have (or, in the case of a corporation or association that is a member of a bank holding company system, the related bank holding company has) a combined capital and surplus of at least \$50,000,000, and shall be subject to supervision or examination by a federal or state agency, so long as any Bonds are Outstanding. If such corporation or association publishes a report of condition at least annually under law or to the requirements of any supervising or examining agency above referred to, then for the purpose of this

subsection (e), the combined capital and surplus of such corporation or association shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If the Trustee at any time ceases to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

SECTION 8.03. *Merger or Consolidation.* Any bank, national banking association, federal savings association, or trust company into which the Trustee may be merged or converted or with which it may be consolidated or any bank, national banking association, federal savings association, or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank, national banking association, federal savings association, or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank, national banking association, federal savings association, or trust company shall be eligible under subsection (e) of Section 8.02 shall be the successor to such Trustee, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

SECTION 8.04. *Liability of Trustee.*

(a) The recitals of facts herein and in the Bonds contained shall be taken as statements of the Authority, and the Trustee shall not assume responsibility for the correctness of the same, or make any representations as to the validity or sufficiency of this Indenture, the Bonds or the Lease (including any right to receive moneys thereunder or the value of or title to the premises upon which the Leased Property is located), nor shall the Trustee incur any responsibility in respect thereof, other than as expressly stated herein in connection with the respective duties or obligations of Trustee herein or in the Bonds assigned to or imposed upon it. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence. The Trustee may become the Owner of Bonds with the same rights it would have if it were not Trustee, and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bond Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

(b) The Trustee is not liable for any error of judgment made by a responsible officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee is not liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture or assigned to it under the Assignment Agreement.

(d) The Trustee is not liable for any action taken by it and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be deemed to have knowledge of any Event of Default hereunder, or any other event which, with the passage of time, the giving of notice, or both, would constitute an Event of Default hereunder unless and until it shall have actual knowledge thereof, or a corporate trust officer shall have received written notice thereof at its Office from the City, the Authority or the Owners of at least 25% in aggregate principal amount of the Outstanding Bonds. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance by the Authority or the City of any of the terms, conditions, covenants or agreements herein, under the Lease or the Bonds or of any of the documents executed in connection with the Bonds, or as to the existence of a default or an Event of Default or an event which would, with the giving of notice, the passage of time, or both, constitute an Event of Default. The Trustee is not responsible for the validity, effectiveness or priority of any collateral given to or held by it. Without limiting the generality of the foregoing, the Trustee shall not be required to ascertain or inquire as to the performance or observance by the City or the Authority of the terms, conditions, covenants or agreements set forth in the Lease, other than the covenants of the City to make Lease Payments to the Trustee when due and to file with the Trustee when due, such reports and certifications as the City is required to file with the Trustee thereunder.

(f) No provision of this Indenture requires the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, receivers or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, receiver or attorney appointed with due care by it hereunder.

(h) The Trustee has no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of the Bond Owners under this Indenture, unless such Owners have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities (including but not limited to fees and expenses of its attorneys) which might be incurred by it in compliance with such request or direction. No permissive power, right or remedy conferred upon the Trustee hereunder shall be construed to impose a duty to exercise such power, right or remedy.

(i) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of Section 8.02(a), this Section 8.04 and Section 8.05, and shall be applicable to the assignment of any rights under the Lease to the Trustee under the Assignment Agreement.

(j) The Trustee is not accountable to anyone for the subsequent use or application of any moneys which are released or withdrawn in accordance with the provisions hereof.

(k) The Trustee makes no representation or warranty, expressed or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose for the use contemplated by the Authority or the City of the Leased Property. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in

connection with or arising from the Lease or this Indenture for the existence, furnishing or use of the Leased Property.

(l) The Trustee has no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

(m) The Trustee is authorized and directed to execute the Assignment Agreement in its capacity as Trustee hereunder.

(n) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail (provided, that for purposes of this Agreement, an e-mail does not constitute a notice, request or other communication hereunder but rather the portable document format or similar attachment attached to such e-mail shall constitute a notice, request or other communication hereunder), facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Authority or the City elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Authority and the City agree to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

(o) The Trustee shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure shall include, but not be limited to, acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

SECTION 8.05. *Right to Rely on Documents.* The Trustee shall be protected and shall incur no liability in acting or refraining from acting in reliance upon any notice, resolution, request, consent, order, certificate, report, opinion, bonds or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties. The Trustee is under no duty to make any investigation or inquiry as to any statements contained or matter referred to in any paper or document but may accept and conclusively rely upon the same as conclusive evidence of the truth and accuracy of any such statement or matter and shall be fully protected in relying thereon. The Trustee may consult with counsel, who may be counsel of or to the Authority, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

The Trustee may treat the Owners of the Bonds appearing in the Registration Books as the absolute owners of the Bonds for all purposes and the Trustee shall not be affected by any notice to the contrary.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate, Written Request or Written Requisition of the Authority or the City, and such Written Certificate, Written Request or Written Requisition shall be full warrant to the Trustee for any action taken or suffered under the provisions of this Indenture in reliance upon such Written Certificate, Written Request or Written Requisition, and the Trustee shall be fully protected in relying thereon, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

SECTION 8.06. *Preservation and Inspection of Documents.* All documents received by the Trustee under the provisions of this Indenture shall be retained in its respective possession and in accordance with its retention policy then in effect and shall, upon reasonable notice to Trustee, be subject to the inspection of the Authority, the City and any Bond Owner, and their agents and representatives duly authorized in writing, during business hours and under reasonable conditions as agreed to by the Trustee.

SECTION 8.07. *Compensation and Indemnification.* The Authority shall pay to the Trustee from time to time, on demand, the compensation for all services rendered under this Indenture and also all reasonable expenses, advances (including any interest on advances), charges, legal (including outside counsel and the allocated costs of internal attorneys) and consulting fees and other disbursements, incurred in and about the performance of its powers and duties under this Indenture.

The Authority shall indemnify the Trustee, its officers, directors, employees and agents against any cost, loss, liability or expense whatsoever (including but not limited to fees and expenses of its attorneys) incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this trust and this Indenture, including costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder or under the Assignment Agreement or the Lease. As security for the performance of the obligations of the Authority under this Section 8.07 and the obligation of the Authority to make Additional Rental Payments to the Trustee, the Trustee shall have a lien prior to the lien of the Bonds upon all property and funds held or collected by the Trustee as such. The rights of the Trustee and the obligations of the Authority under this Section 8.07 shall survive the resignation or removal of the Trustee or the discharge of the Bonds and this Indenture and the Lease.

ARTICLE IX

MODIFICATION OR AMENDMENT HEREOF

SECTION 9.01. *Amendments Permitted.*

(a) Amendments With Bond Owner Consent. This Indenture and the rights and obligations of the Authority and of the Owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time by Supplemental Indenture, which the Authority and the Trustee may enter into when the written consents of the Owners of a majority in aggregate principal amount of all Bonds then Outstanding are filed with the Trustee. No such modification or amendment may (i) extend the fixed maturity of any Bonds, or reduce the amount of principal thereof or extend the time of payment, or change the method of computing the rate of interest thereon, or extend the time of payment of interest thereon, without the consent of the Owner of each Bond so affected, or (ii) reduce the aforesaid percentage of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or permit the creation of any lien on the Revenues and other assets pledged under this Indenture prior to or on a parity with the lien created by this Indenture except as permitted herein, or deprive the Owners of the Bonds of the lien created by this Indenture on such Revenues and other assets (except as expressly provided in this Indenture), without the consent of the Owners of all of the Bonds then Outstanding. It is not necessary for the consent of the Bond Owners to approve the particular form of any Supplemental Indenture, but it is sufficient if such consent approves the substance thereof.

(b) Amendments Without Owner Consent. This Indenture and the rights and obligations of the Authority, of the Trustee and the Owners of the Bonds may also be modified or amended from time to time and at any time by a Supplemental Indenture, which the Authority and the Trustee may enter into without the consent of any Bond Owners, if the Trustee has been furnished an opinion of counsel that the provisions of such Supplemental Indenture shall not materially adversely affect the interests of the Owners of the Bonds, including, without limitation, for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the Authority in this Indenture contained, other covenants and agreements thereafter to be observed, to pledge or assign additional security for the Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the Authority;
- (ii) to cure any ambiguity, inconsistency or omission, or to cure or correct any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, as the Authority deems necessary or desirable, provided that such modification or amendment does not materially adversely affect the interests of the Bond Owners, in the opinion of Bond Counsel filed with the Trustee;
- (iii) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to

add such other terms, conditions and provisions as may be permitted by said act or similar federal statute;

- (iv) to modify, amend or supplement this Indenture in such manner as to assure that the interest on the Bonds remains excluded from gross income under the Tax Code; or
- (v) to facilitate the issuance of additional obligations for which additional amounts of rental are pledged or assigned under the Lease Agreement as provided in Section 7.5(b)(v) thereof.

(c) Limitation. The Trustee is not obligated to enter into any Supplemental Indenture authorized by subsections (a) or (b) of this Section 9.01 which materially adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

(d) Bond Counsel Opinion Requirement. Prior to the Trustee entering into any Supplemental Indenture hereunder, the Authority shall deliver to the Trustee an opinion of Bond Counsel stating, in substance, that such Supplemental Indenture has been adopted in compliance with the requirements of this Indenture and that the adoption of such Supplemental Indenture will not, in and of itself, adversely affect the exclusion from gross income for purposes of federal income taxes of interest on the Bonds.

(e) Notice of Amendments. The Authority shall deliver or cause to be delivered a draft of any Supplemental Indenture to each rating agency which then maintains a rating on the Bonds, at least 10 days prior to the effective date of such Supplemental Indenture under this Section 9.01.

SECTION 9.02. *Effect of Supplemental Indenture.* Upon the execution of any Supplemental Indenture under this Article IX, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Authority, the Trustee and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

SECTION 9.03. *Endorsement of Bonds; Preparation of New Bonds.* Bonds delivered after the execution of any Supplemental Indenture under this Article may, and if the Authority so determines shall, bear a notation by endorsement or otherwise in form approved by the Authority as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand on the Owner of any Bonds Outstanding at the time of such execution and presentation of his Bonds for the purpose at the Office of the Trustee or at such additional offices as the Trustee may select and designate for that purpose, a suitable notation shall be made on such Bonds. If the Supplemental Indenture shall so provide, new Bonds so modified as to conform, in the opinion of the Authority, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the Authority and authenticated by the Trustee, and upon demand on the Owners of any Bonds then Outstanding shall be exchanged at the Office of the Trustee, without cost to any Bond

Owner, for Bonds then Outstanding, upon surrender for cancellation of such Bonds, in equal aggregate principal amount of the same maturity.

SECTION 9.04. *Amendment of Particular Bonds.* The provisions of this Article IX do not prevent any Bond Owner from accepting any amendment as to the particular Bonds held by such Owner.

ARTICLE X

DEFEASANCE

SECTION 10.01. *Discharge of Indenture.* Any or all of the Outstanding Bonds may be paid by the Authority in any of the following ways, provided that the Authority also pays or causes to be paid any other sums payable hereunder by the Authority:

- (a) by paying or causing to be paid the principal of and interest and premium (if any) on such Bonds, as and when the same become due and payable;
- (b) by depositing with the Trustee, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem such Bonds; or
- (c) by delivering all of such Bonds to the Trustee for cancellation.

If the Authority also pays or causes to be paid all other sums payable hereunder by the Authority, then and in that case, at the election of the Authority (evidenced by a Written Certificate of the Authority, filed with the Trustee, signifying the intention of the Authority to discharge all such indebtedness and this Indenture), and notwithstanding that any of such Bonds shall not have been surrendered for payment, this Indenture and the pledge of Revenues and other assets made under this Indenture with respect to such Bonds and all covenants, agreements and other obligations of the Authority under this Indenture with respect to such Bonds shall cease, terminate, become void and be completely discharged and satisfied, subject to Section 10.02. In such event, upon the Written Request of the Authority, the Trustee shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign or deliver to the City all moneys or securities or other property held by it under this Indenture which are not required for the payment or redemption of any of such Bonds not theretofore surrendered for such payment or redemption. The Trustee is entitled to conclusively rely on any such Written Certificate or Written Request and, in each case, is fully protected in relying thereon.

SECTION 10.02. *Discharge of Liability on Bonds.* Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem any Outstanding Bonds (whether upon or prior to the maturity or the redemption date of such Bonds), provided that, if such Bonds are to be redeemed prior to maturity, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the

giving of such notice, then all liability of the Authority in respect of such Bonds shall cease, terminate and be completely discharged, and the Owners thereof shall thereafter be entitled only to payment out of such money or securities deposited with the Trustee as aforesaid for their payment, subject, however, to the provisions of Section 10.04.

The Authority may at any time surrender to the Trustee, for cancellation by the Trustee, any Bonds previously issued and delivered, which the Authority may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

SECTION 10.03. *Deposit of Money or Securities with Trustee.* Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held may include money or securities held by the Trustee in the funds and accounts established under this Indenture and shall be:

- (a) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of such Bonds, premium, if any, and all unpaid interest thereon to the redemption date; or
- (b) non-callable Federal Securities, the principal of and interest on which when due will, in the written opinion of an Independent Accountant filed with the City, the Authority and the Trustee, provide money sufficient to pay the principal of and interest and premium (if any) on the Bonds to be paid or redeemed, as such principal, interest and premium become due, provided that in the case of Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee has been made for the giving of such notice;

provided, in each case, that (i) the Trustee shall have been irrevocably instructed (by the terms of this Indenture or by Written Request of the Authority) to apply such money to the payment of such principal, interest and premium (if any) with respect to such Bonds, and (ii) the Authority shall have delivered to the Trustee an opinion of Bond Counsel to the effect that such Bonds have been discharged in accordance with this Indenture (which opinion may rely upon and assume the accuracy of the Independent Accountant's opinion referred to above). The Trustee shall be entitled to conclusively rely on such Written Request or opinion and shall be fully protected, in each case, in relying thereon.

SECTION 10.04. *Unclaimed Funds.* Notwithstanding any provisions of this Indenture, any moneys held by the Trustee in trust for the payment of the principal of, or interest on, any Bonds and remaining unclaimed for 2 years after the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption or by acceleration as provided in this Indenture), if such moneys were so held at such date,

or 2 years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall be repaid to the Authority free from the trusts created by this Indenture, and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the Authority as aforesaid, the Trustee shall (at the cost of the Authority) first mail to the Owners of Bonds which have not yet been paid, at the addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the Authority of the moneys held for the payment thereof.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. *Liability of Authority Limited to Revenues.* Notwithstanding anything in this Indenture or in the Bonds contained, the Authority is not required to advance any moneys derived from any source other than the Revenues, the Additional Rental Payments and other assets pledged under this Indenture for any of the purposes in this Indenture mentioned, whether for the payment of the principal of or interest on the Bonds or for any other purpose of this Indenture. Nevertheless, the Authority may, but is not required to, advance for any of the purposes hereof any funds of the Authority which may be made available to it for such purposes.

SECTION 11.02. *Limitation of Rights to Parties and Bond Owners.* Nothing in this Indenture or in the Bonds expressed or implied is intended or shall be construed to give to any person other than the Authority, the Trustee, the City and the Owners of the Bonds, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the Trustee, the City and the Owners of the Bonds.

SECTION 11.03. *Funds and Accounts.* Any fund or account required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with corporate industry standards to the extent practicable, and with due regard for the requirements of Section 6.05 and for the protection of the security of the Bonds and the rights of every Owner thereof. The Trustee may establish such funds and accounts as it deems necessary or appropriate to perform its obligations under this Indenture.

SECTION 11.04. *Waiver of Notice; Requirement of Mailed Notice.* Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. Whenever in this Indenture any notice is required to be given by mail, such requirement may be satisfied by the deposit of such notice in the United States mail, postage prepaid, by first class mail.

SECTION 11.05. *Destruction of Bonds.* Whenever in this Indenture provision is made for the cancellation by the Trustee, and the delivery to the Authority, of any Bonds, the Trustee shall destroy such Bonds as may be allowed by law and deliver a certificate of such destruction to the Authority.

SECTION 11.06. *Severability of Invalid Provisions.* If any one or more of the provisions contained in this Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Authority hereby declares that it would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

SECTION 11.07. *Notices.* All notices or communications to be given under this Indenture shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, confirmed by telephone, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

*If to the Authority
or the City:* City of San Bruno
567 El Camino Real
San Bruno, California 94066
Attention: Finance Director

If to the Trustee: MUFG Union Bank, N.A.,
350 California Street, 11th Floor
San Francisco, California 94014
Attention: Corporate Trust Department

SECTION 11.08. *Evidence of Rights of Bond Owners.* Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by Bond Owners may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Bond Owners in person or by an agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any person of Bonds transferable by delivery, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and the Authority if made in the manner provided in this Section 11.08.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of

deeds, certifying that the person signing such request, consent or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

The ownership of Bonds shall be proved by the Registration Books.

Any request, consent, or other instrument or writing of the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in accordance therewith or reliance thereon.

SECTION 11.09. *Disqualified Bonds.* In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are known by the Trustee to be owned or held by or for the account of the Authority or the City, or by any other obligor on the Bonds, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the City or any other obligor on the Bonds, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the City or any other obligor on the Bonds. In case of a dispute as to such right, the Trustee shall be entitled to rely upon the advice of counsel in any decision by Trustee and shall be fully protected in relying thereon.

Upon request, the Authority shall certify to the Trustee those Bonds disqualified under this Section 11.09, and the Trustee may conclusively rely on such certifications.

SECTION 11.10. *Money Held for Particular Bonds.* The money held by the Trustee for the payment of the interest, premium, if any, or principal due on any date with respect to particular Bonds (or portions of Bonds in the case of Bonds redeemed in part only) shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of the Bonds entitled thereto, *subject, however,* to the provisions of Section 10.04 but without any liability for interest thereon.

SECTION 11.11. *Waiver of Personal Liability.* No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal of or interest or premium (if any) on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by this Indenture.

SECTION 11.12. *Successor Is Deemed Included in All References to Predecessor.* Whenever in this Indenture either the Authority, the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Authority, the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

SECTION 11.13. *Execution in Several Counterparts.* This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

SECTION 11.14. *Payment on Non-Business Day.* In the event any payment is required to be made hereunder on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and with the same effect as if made on such preceding non-Business Day.

SECTION 11.15. *Governing Law.* This Indenture shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the SAN BRUNO PUBLIC FINANCING AUTHORITY has caused this Indenture to be signed in its name by its Executive Director and attested to by its Assistant Secretary, and MUFG UNION BANK, N.A., in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

**SAN BRUNO PUBLIC FINANCING
AUTHORITY**

By: _____
Director

Attest:

Assistant Secretary

MUFG UNION BANK, N.A., as Trustee

By _____
Authorized Officer

APPENDIX A

DEFINITIONS

“Additional Rental Payments” means the amounts of additional rental payments which are payable by the City under Section 4.5 of the Lease or which are otherwise identified as Additional Rental Payments under the Lease.

“Assignment Agreement” means the Assignment Agreement dated as of _____ 1, 2019, between the Authority as assignor and the Trustee as assignee, as originally executed or as thereafter amended.

“Authority” means the San Bruno Public Financing Authority, a joint exercise of powers authority duly organized and existing under the laws of the State of California.

“Authorized Representative” means: (a) with respect to the Authority, its Chairman, Vice Chairman, Executive Director, Treasurer, General Counsel or any other person designated as an Authorized Representative of the Authority by a Written Certificate of the Authority signed by its Executive Director and filed with the City and the Trustee; and (b) with respect to the City, its Mayor, Vice Mayor, City Manager, Assistant City Manager, Finance Director or any other person designated as an Authorized Representative of the City by a Written Certificate of the City signed by its City Manager and filed with the Authority and the Trustee.

“Bond Counsel” means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Authority of nationally-recognized experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes under the Tax Code.

“Bond Fund” means the fund by that name established and held by the Trustee under Section 5.01.

“Bond Law” means Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code.

“Bond Year” means each twelve-month period extending from March 2 in one calendar year to March 1 of the succeeding calendar year, both dates inclusive; except that the first Bond Year commences on the Closing Date and extends to and including [March 1, 2019].

“Bonds” means the \$_____ aggregate principal amount of San Bruno Financing Authority Lease Revenue Bonds, Series 2019, issued and at any time Outstanding under this Indenture.

“Business Day” means a day (other than a Saturday or a Sunday) on which banks are not required or authorized to remain closed in the city in which the Office of the Trustee is located.

“City” means the City of San Bruno, a municipal corporation and general law city organized and existing under the Constitution and laws of the State of California.

“Closing Date” means the date of delivery of the Bonds to the Original Purchaser.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City relating to the authorization, issuance, sale and delivery of the Bonds, the refunding of the Prior Obligations, including but not limited to: printing expenses; rating agency fees; filing and recording fees; initial fees, expenses and charges of the Trustee and their respective counsel, including the Trustee’s first annual administrative fee; fees, charges and disbursements of attorneys, financial advisors, accounting firms, consultants and other professionals; fees and charges for preparation, execution and safekeeping of the Bonds; and any other cost, charge or fee in connection with the original issuance of the Bonds for the purposes specified herein.

“Costs of Issuance Fund” means the fund by that name established and held by the Trustee under Section 3.03.

“Depository” means (a) initially, DTC, and (b) any other Securities Depositories acting as Depository under Section 2.04.

“Depository System Participant” means any participant in the Depository’s book-entry system.

“DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“Event of Default” means any of the events specified in Section 7.01.

“Excess Investment Earnings” means an amount required to be rebated to the United States of America under Section 148(f) of the Tax Code due to investment of gross proceeds of the Bonds at a yield in excess of the yield on the Bonds.

“Federal Securities” means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

“Fiscal Year” means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Authority as its official fiscal year period.

“Indenture” means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture under the provisions hereof.

“Independent Accountant” means any certified public accountant or firm of certified public accountants appointed and paid by the Authority or the City, and who, or each of whom (a) is in fact independent and not under domination of the Authority or the City; (b)

does not have any substantial interest, direct or indirect, in the Authority or the City; and (c) is not connected with the Authority or the City as an officer or employee of the Authority or the City but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

“Insurance and Condemnation Fund” means the fund by that name established and held by the Trustee under Section 5.07.

“Interest Account” means the account by that name established and held by the Trustee in the Bond Fund under Section 5.02.

“Interest Payment Date” means each March 1 and September 1, commencing [March 1, 2019], so long as any Bonds remain unpaid.

“Lease” means the Lease Agreement dated as of _____ 1, 2019, between the Authority as lessor and the City as lessee of the Leased Property, as originally executed and as it may from time to time be supplemented, modified or amended in accordance with the terms thereof and of this Indenture.

“Lease Payment Date” means, with respect to any Interest Payment Date, the sixth (6th) Business Day immediately preceding such Interest Payment Date.

“Lease Payments” means the amounts payable by the City under Section 4.3(a) of the Lease, including any prepayment thereof and including any amounts payable upon a delinquency in the payment thereof.

“Leased Property” means the real property described in Appendix A to the Lease, together with all improvements and facilities at any time situated thereon.

“Net Proceeds” means amounts derived from any policy of casualty insurance or title insurance with respect to the Leased Property, or the proceeds of any taking of the Leased Property or any portion thereof in eminent domain proceedings (including sale under threat of such proceedings), to the extent remaining after payment therefrom of all expenses incurred in the collection and administration thereof.

“Nominee” means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depository designated under Section 2.04(a).

“Office” means the corporate trust office of the Trustee in San Francisco, California, or such other or additional offices as the Trustee may designate in writing to the Authority from time to time as the corporate trust office for purposes of the Indenture; except that with respect to presentation of Bonds for payment or for registration of transfer and exchange such term means the office or agency of the Trustee at which, at any particular time, its corporate trust agency business is conducted, initially in San Francisco, California.

“Original Purchaser” means Stifel, Nicolaus & Company, Incorporated, as original purchaser of the Bonds upon their delivery by the Trustee on the Closing Date.

“Outstanding”, when used as of any particular time with reference to Bonds, means all Bonds theretofore, or thereupon being, authenticated and delivered by the Trustee

under this Indenture except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds with respect to which all liability of the Authority shall have been discharged in accordance with Section 10.02, including Bonds (or portions thereof) described in Section 11.09; and (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee under this Indenture.

“Owner”, whenever used herein with respect to a Bond, means the person in whose name the ownership of such Bond is registered on the Registration Books.

“Permitted Encumbrances” means, as of any time: (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may permit to remain unpaid under Article V of the Lease; (b) the Site Lease, the Lease and the Assignment Agreement; (c) any right or claim of any mechanic, laborer, material man, supplier or vendor not filed or perfected in the manner prescribed by law; (d) the exceptions disclosed in the title insurance policy with respect to the Leased Property issued as of the Closing Date by Stewart Title Guaranty Company; and (e) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the City certifies in writing will not materially impair the use of the Leased Property for its intended purposes.

“Permitted Investments” means any of the following:

- (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged.
- (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.
- (c) Any direct or indirect obligations of an agency or department of the United States of America whose obligations represent the full faith and credit of the United States of America, or which are rated A or better by S&P.
- (d) Interest-bearing deposit accounts (including certificates of deposit) in federal or State chartered savings and loan associations or in federal or State of California banks (including the Trustee), provided that: (i) the unsecured obligations of such commercial bank or savings and loan association are rated A or better by S&P; or (ii) such deposits are fully insured by the Federal Deposit Insurance Corporation or secured at all times by collateral described in (a) or (b) above.
- (e) Commercial paper rated “A-1+” or better by S&P.

- (f) Federal funds or bankers acceptances with a maximum term of one year of any bank which an unsecured, uninsured and unguaranteed obligation rating of “A-1+” or better by S&P.
- (g) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of at least AAAM-G, AAAM or AAM, which funds may include funds for which the Trustee, its affiliates, parent or subsidiaries provide investment advisory or other management services.
- (h) Obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by S&P, or (b) fully secured as to the payment of principal and interest by Permitted Investments described in clauses (a) or (b).
- (i) Obligations issued by any corporation organized and operating within the United States of America having assets in excess of \$500,000,000, which obligations are rated A or better by S&P.
- (j) Bonds or notes issued by any state or municipality which are rated A or better by S&P.
- (k) Any investment agreement with, or guaranteed by, a financial institution the long-term unsecured obligations or the claims paying ability of which are rated A or better by S&P at the time of initial investment, by the terms of which all amounts invested thereunder are required to be withdrawn and paid to the Trustee in the event either of such ratings at any time falls below A.
- (l) The Local Agency Investment Fund of the State of California, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name.
- (m) shares in a California common law trust established pursuant to Title 1, Division 7, Chapter 5 of the California Government Code which invests exclusively in investments permitted by Section 53635 of Title 5, Division 2, Chapter 4 of the Government Code of the State of California, provided the Trustee has access to, and control over withdrawals from and deposits to, such trust.

“Principal Account” means the account by that name established and held by the Trustee in the Bond Fund under Section 5.02.

“Prior Obligations” means the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing), originally executed and delivered in the principal amount of \$9,600,000 in 2000.

“Record Date” means, with respect to any Interest Payment Date, the 15th calendar day of the month preceding such Interest Payment Date, whether or not such day is a Business Day.

“Redemption Fund” means the fund by that name established and held by the Trustee under Section 5.06.

“Registration Books” means the records maintained by the Trustee under Section 2.05 for the registration and transfer of ownership of the Bonds.

“Revenues” means: (a) all amounts received by the Authority or the Trustee under or with respect to the Lease, including, without limiting the generality of the foregoing, all of the Lease Payments (including both timely and delinquent payments, any late charges, and whether paid from any source), but excluding (i) any amounts described in Section 7.5(b)(v) of the Lease, and (ii) any Additional Rental Payments; and (b) all interest, profits or other income derived from the investment of amounts in any fund or account established under this Indenture.

“Securities Depositories” means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other securities depositories as the Authority designates in written notice filed with the Trustee.

“Site Lease” means the Site Lease dated as of _____ 1, 2019, between the City as lessor and the Authority as lessee, as amended from time to time in accordance with its terms.

“Site Lease Payment” means the amount of \$11,170,264.57, which is payable by the Authority to the City on the Closing Date under Section 3 of the Site Lease.

“S&P” means S&P Global Ratings, its successors and assigns.

“Supplemental Indenture” means any indenture hereafter duly authorized and entered into between the Authority and the Trustee, supplementing, modifying or amending this Indenture; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

“Tax Code” means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under said Code.

“Term” means, with reference to the Lease, the time during which the Lease is in effect, as provided in Section 4.2 thereof.

“Term Bonds” means the Bonds maturing on March 1, 20__ and March 1, 20__.

“Trustee” means MUFG Union Bank, N.A., a national banking association organized and existing under the laws of United States of America, or its successor or successors, as Trustee hereunder as provided in Article VIII.

"2000 Escrow Agent" means MUFG Union Bank, N.A., as escrow agent.

"2000 Escrow Agreement" means the Escrow Agreement dated as of _____
1, 2019 by and between the City and the 2000 Escrow Agent.

"Written Certificate," "Written Request" and "Written Requisition" of the Authority or the City mean, respectively, a written certificate, request or requisition signed in the name of the Authority or the City by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

APPENDIX B

BOND FORM

NO. R-_____

\$_____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA

SAN BRUNO PUBLIC FINANCING AUTHORITY

LEASE REVENUE BOND, SERIES 2019

INTEREST RATE: _____% MATURITY DATE: March 1, 20__ ORIGINAL ISSUE DATE: _____, 2019 CUSIP:

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: *** ***

The SAN BRUNO PUBLIC FINANCING AUTHORITY, a public body corporate and politic duly organized and existing under the laws of the State of California (the "Authority"), for value received, hereby promises to pay to the Registered Owner specified above or registered assigns (the "Registered Owner"), on the Maturity Date specified above (subject to any right of prior redemption hereinafter provided for), the Principal Amount specified above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond unless (i) this Bond is authenticated on or before an Interest Payment Date and after the close of business on the 15th day of the month preceding such interest payment date, in which event it shall bear interest from such Interest Payment Date, or (ii) this Bond is authenticated on or before February 15, 2019, in which event it shall bear interest from the Original Issue Date specified above; *provided, however*, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on this Bond, at the Interest Rate per annum specified above, payable semiannually on March 1 and September 1 in each year, commencing March 1, 2019 (the "Interest Payment Dates"), calculated on the basis of a 360-day year composed of twelve 30-day months.

Principal hereof and premium, if any, upon early redemption hereof are payable upon presentation and surrender hereof at the corporate trust office of MUFG Union Bank, N.A., in San Francisco, California (the "Trust Office"), as trustee (the "Trustee"). Interest hereon is payable by check of the Trustee mailed to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books of the Trustee as of

the close of business on the fifteenth day of the month preceding each Interest Payment Date (a "Record Date"), or, upon written request filed with the Trustee as of such Record Date by a registered owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to an account in the United States designated by such registered owner in such written request.

This Bond is not a debt of the City of San Bruno (the "City"), the County of San Mateo, the State of California, or any of its political subdivisions, and neither the City, said County, said State, nor any of its political subdivisions, is liable hereon nor in any event shall this Bond be payable out of any funds or properties of the Authority other than the Revenues.

This Bond is one of a duly authorized issue of bonds of the Authority designated as the "San Bruno Public Financing Authority Lease Revenue Bonds, Series 2019" (the "Bonds"), in an aggregate principal amount of \$_____, all of like tenor and date (except for such variation, if any, as may be required to designate varying numbers, maturities, interest rates or redemption provisions) and all issued under the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code, and under an Indenture of Trust dated as of _____ 1, 2019, between the Authority and the Trustee (the "Indenture") and a resolution of the Authority adopted on _____, 2018 authorizing the issuance of the Bonds. The Bonds are being issued on a parity with bonds of the Authority designated as the "San Bruno Public Financing Authority Lease Revenue Bonds, Series 2019", which are also being issued under and pursuant to the Indenture. Reference is hereby made to the Indenture (copies of which are on file at the office of the Authority) and all supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Revenues, and the rights thereunder of the owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Authority thereunder, to all of the provisions of which the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the Authority to refinance certain outstanding obligations of the City. This Bond and the interest and premium, if any, hereon are special obligations of the Authority, payable from the Revenues, and secured by a charge and lien on the Revenues as defined in the Indenture, consisting principally of lease payments made by the City under a Lease Agreement dated as of _____ 1, 2019, between the Authority as lessor and the City as lessee (the "Lease"). As and to the extent set forth in the Indenture, all of the Revenues are exclusively and irrevocably pledged in accordance with the terms hereof and the provisions of the Indenture, to the payment of the principal of and interest and premium (if any) on the Bonds.

The rights and obligations of the Authority and the owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall extend the fixed maturity of any Bonds, or reduce the amount of principal thereof or premium (if any) thereon, or extend the time of payment, or change the method of computing the rate of interest thereon, or extend the time of payment of interest thereon, without the consent of the owner of each Bond so affected.

The Bonds maturing on or before March 1, 20___, are not subject to optional redemption prior to their respective stated maturity dates. The Bonds maturing on or after

March 1, 20___, are subject to redemption in whole, or in part at the request of the Authority among maturities on such basis as the Authority may designate and by lot within a maturity, at the option of the Authority, on any date on or after March 1, 20___, from any available source of funds, at a redemption price equal to 100% of the principal amount to be redeemed plus accrued interest to the date of redemption, without premium.

The Bonds maturing on March 1, 20___ (the "Term Bonds") are subject to mandatory redemption in part by lot, at a redemption price equal to 100% of the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts and on March 1 in the respective years as set forth in the following table; provided, however, that if some but not all of the Term Bonds have been redeemed pursuant to an optional redemption or special mandatory redemption from insurance or condemnation proceeds, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of the Term Bonds so redeemed, to be allocated among such sinking fund payments on a pro rata basis in integral multiples of \$5,000 (as set forth in a schedule provided by the Authority to the Trustee).

Term Bonds Maturing March 1, 20___

Sinking Fund Redemption Date (March 1)	Principal Amount To Be Redeemed
--	------------------------------------

20___ (Maturity)

The Bonds are subject to redemption as a whole, or in part by lot, on any date, to the extent of any net proceeds of hazard or title insurance with respect to the property which has been leased under the Lease (the "Leased Property") or any portion thereof which are not used to repair or replace the Leased Property pursuant to the Lease, or to the extent of any net proceeds arising from the disposition of the Leased Property or any portion thereof in eminent domain proceedings which the City elects to be used for such purpose pursuant to the Lease, at a redemption price equal to the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

As provided in the Indenture, notice of redemption will be mailed by the Trustee by first class mail not less than 20 nor more than 60 days prior to the redemption date to the respective owners of any Bonds designated for redemption at their addresses appearing on the registration books of the Trustee, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption or the cessation of accrual of interest thereon from and after the date fixed for redemption. Notice of any optional redemption of the Bonds may be rescinded under the circumstances set forth in the Indenture, upon notice to the owners of such Bonds.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Trust Office, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer, a new Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. This Bond may be exchanged at the Trust Office for Bonds of the same tenor, aggregate principal amount, interest rate and maturity, of other authorized denominations.

The Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary.

Unless this Bond is presented by an authorized representative of The Depository Trust Company to the Authority or the Trustee for registration of transfer, exchange or payment, and any Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

It is hereby certified by the Authority that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time, form and manner as required by the Ordinance and the laws of the State of California and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Ordinance or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the San Bruno Public Financing Authority has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its

Executive Director and attested to by the facsimile signature of its Secretary, all as of the Original Issue Date specified above.

**SAN BRUNO PUBLIC FINANCING
AUTHORITY**

By _____
Director

Attest:

Secretary

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture.

Dated:

MUFG UNION BANK, N.A., as Trustee

By _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto _____ whose address and social security or other tax identifying number is _____, the within-mentioned Bond and hereby irrevocably _____ constitute(s) _____ and _____ appoint(s) _____ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor institution.

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: David T. Fama, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX UNDER SECTION 11922 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES UNDER SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

LEASE AGREEMENT

Dated as of _____ 1, 2019

between the

SAN BRUNO PUBLIC FINANCING AUTHORITY,
as lessor

and the

CITY OF SAN BRUNO,
as lessee

Relating to:

\$ _____
San Bruno Public Financing Authority
Lease Revenue Bonds, Series 2019

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APPENDIX A	DESCRIPTION OF THE LEASED PROPERTY
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LEASE AGREEMENT

This LEASE AGREEMENT (this "**Lease**"), dated for convenience as of _____ 1, 2019, is between the SAN BRUNO PUBLIC FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California, as lessor (the "**Authority**"), and the CITY OF SAN BRUNO, a municipal corporation and general law city duly organized and existing under the Constitution and laws of the State of California, as lessee (the "**City**").

BACKGROUND:

1. The City has previously caused the execution and delivery of the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) in the aggregate initial principal amount of \$9,600,000 in 2000 (the "**Prior Obligations**") for the purpose of financing certain obligations of the City.

2. In connection with the Prior Obligations, the City, as sub-lessee and the Authority, as sub-lessor, entered into a Lease Agreement dated as of December 1, 2000 whereby the City is obligated to pay lease payments (the "**Prior Lease Payments**") for the use and occupancy of the leased property described therein, and thereby financing the construction of the City's police facility.

3. The City has determined that, based on current interest rates, cost savings can be achieved by refinancing the Prior Lease Payments and in turn causing the Prior Obligations to be refunded.

4. To that end, the City is leasing certain real property and improvements thereon owned by the City, consisting of the Police Station, as described in Appendix A attached hereto (the "**Leased Property**"), to the Authority under a Site Lease dated as of _____ 1, 2019, and recorded concurrently herewith (the "**Site Lease**"), in consideration of the payment by the Authority of an upfront rental payment (the "**Site Lease Payment**"), the proceeds of which will be used by the City to prepay the Prior Lease Payments.

5. The Authority has authorized the issuance of its San Bruno Public Financing Authority Lease Revenue Bonds, Series 2019 in the aggregate principal amount of \$_____ (the "**Bonds**") under an Indenture of Trust dated as of _____ 1, 2019 (the "**Indenture**") by and between the Authority and MUFG Union Bank, N.A., as trustee (the "**Trustee**"), for the purpose of providing the funds to enable the Authority to pay the Site Lease Payment to the City in accordance with the Site Lease.

6. In order to provide revenues to enable the Authority to pay debt service on the Bonds, the Authority is leasing the Leased Property back to the City under this Lease, under which the City has agreed to pay semiannual Lease Payments as the rental for the Leased Property hereunder.

7. The lease payments made by the City under this Lease have been assigned by the Authority to the Trustee for the security of the Bonds under an Assignment Agreement, dated as of _____ 1, 2019, between the Authority as assignor and the Trustee as assignee, and recorded concurrently herewith.

8. The City and the Authority have found and determined that all acts and proceedings required by law necessary to make this Lease, when executed by the City and the Authority, the valid, binding and legal obligations of the City and the Authority, and to constitute this Lease a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Lease have been in all respects duly authorized.

A G R E E M E N T :

In consideration of the material covenants contained in this Lease, the parties hereto hereby formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

SECTION 1.1. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Lease have the respective meanings given them in the Indenture.

SECTION 1.2. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular includes the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and includes the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Lease; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

SECTION 2.1. *Covenants, Representations and Warranties of the City.* The City makes the following covenants, representations and warranties to the Authority and the Trustee as of the date of the execution and delivery of this Lease:

- (a) Due Organization and Existence. The City is a municipal corporation and general law city duly organized and validly existing under the Constitution and laws of the State of California, has full legal right, power and authority under the laws of the State of California to enter into the Site Lease and this Lease and to carry out and consummate all transactions contemplated hereby, and by proper action the City has duly authorized the execution and delivery of the Site Lease and this Lease.
- (b) Due Execution. The representatives of the City executing the Site Lease and this Lease have been fully authorized to execute the same under a resolution duly adopted by the City Council of the City.
- (c) Valid, Binding and Enforceable Obligations. The Site Lease and this Lease have been duly authorized, executed and delivered by the City and constitute the legal, valid and binding obligations of the City enforceable against the City in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of the Site Lease and this Lease, the consummation of the transactions therein and herein contemplated and the fulfillment of or compliance with the terms and conditions thereof and hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site Lease and this Lease or the financial condition, assets, properties or operations of the City.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of the Site Lease and this Lease, or the consummation of any transaction therein and herein contemplated, except as have been obtained or made and as are in full force and effect.
- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental

authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of the Site Lease and this Lease, or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site Lease and this Lease or the financial conditions, assets, properties or operations of the City.

SECTION 2.2. *Covenants, Representations and Warranties of the Authority.* The Authority makes the following covenants, representations and warranties to the City and the Trustee as of the date of the execution and delivery of this Lease:

- (a) Due Organization and Existence. The Authority is a joint exercise of powers authority duly organized and existing under a joint powers agreement and the laws of the State of California; has power to enter into this Lease, the Site Lease, the Assignment Agreement and the Indenture; is possessed of full power to own and hold, improve and equip real and personal property, and to lease the same; and has duly authorized the execution and delivery of each of the aforesaid agreements and such agreements constitute the legal, valid and binding obligations of the Authority, enforceable against the Authority in accordance with their respective terms.
- (b) Due Execution. The representatives of the Authority executing this Lease, the Site Lease, the Assignment Agreement and the Indenture are fully authorized to execute the same pursuant to official action taken by the governing body of the Authority.
- (c) Valid, Binding and Enforceable Obligations. This Lease, the Site Lease, the Assignment Agreement and the Indenture have been duly authorized, executed and delivered by the Authority and constitute the legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of this Lease, the Site Lease, the Assignment Agreement and the Indenture, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would

materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease, the Assignment Agreement and the Indenture or the financial condition, assets, properties or operations of the Authority.

- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Lease, the Site Lease, the Assignment Agreement or the Indenture, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.
- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Authority after reasonable investigation, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease, the Site Lease, the Assignment Agreement or the Indenture, or upon the financial condition, assets, properties or operations of the Authority, and the Authority is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease, the Assignment Agreement or the Indenture or the financial conditions, assets, properties or operations of the Authority.

ARTICLE III

DEPOSIT AND APPLICATION OF FUNDS; SUBSTITUTION AND RELEASE OF PROPERTY

SECTION 3.1. *Deposit of Moneys.* On the Closing Date, the Authority will cause the proceeds of sale of the Bonds to be deposited with the Trustee. The Trustee shall deposit such proceeds in accordance with Section 3.02 of the Indenture.

SECTION 3.2. *Substitution of Property.* The City has the option at any time and from time to time, to substitute other real property (the "**Substitute Property**") for the Leased Property or any portion thereof (the "**Former Property**"), upon satisfaction of all of the following requirements which are hereby declared to be conditions precedent to such substitution:

- (a) No Event of Default has occurred and is continuing.
- (b) The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the San Mateo County Recorder sufficient memorialization of, an amendment hereof which adds the legal description

of the Substitute Property to Appendix A and deletes therefrom the legal description of the Former Property.

- (c) The City has obtained a CLTA or an ALTA policy of title insurance insuring the City's leasehold estate hereunder in the Substitute Property, subject only to Permitted Encumbrances.
- (d) The City has certified in writing to the Authority and the Trustee that the Substitute Property constitutes property which the City is permitted to lease under the laws of the State of California, and has been determined to be necessary to the operation of the City.
- (e) The Substitute Property does not cause the City to violate any of its covenants, representations and warranties made herein.
- (g) The City has filed with the Authority and the Trustee a written certificate of the City or other written evidencing stating that the useful life of the Substitute Property at least extends to the final maturity of the Bonds, that the estimated value of the Leased Property, after substitution of the Substitute Property and release of the Former Property, is at least equal to the aggregate Outstanding principal amount of the Bonds, and the fair rental value of the Leased Property, after substitution of the Substitute Property and release of the Former Property, is at least equal to the Lease Payments thereafter coming due and payable hereunder.
- (h) The City has mailed written notice of such substitution to each rating agency which then maintains a rating on the Bonds.
- (i) The City shall furnish to the Authority and the Trustee a written opinion of Bond Counsel stating that such substitution does not cause the interest on the Bonds to become included in gross income for purposes of federal income taxation or to become subject to personal income taxation by the State of California.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Former Property and commence as to the Substitute Property, and all references to the Former Property will apply with full force and effect to the Substitute Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of any substitution of property under this Section. The Authority and the City will execute, deliver and cause to be recorded all documents required to discharge the Site Lease, this Lease and the Assignment Agreement of record against the Former Property and to cause the Substitute Property to become subject to all of the terms and conditions of the Site Lease, this Lease and the Assignment Agreement.

SECTION 3.3. *Release of Property.* The City has the option at any time and from time to time to release any portion of the Leased Property from this Lease (the "**Released Property**") provided that the City has satisfied all of the following requirements which are hereby declared to be conditions precedent to such release:

- (a) No Event of Default has occurred and is continuing.

- (b) The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the San Mateo County Recorder sufficient memorialization of, an amendment hereof which removes the Released Property from the Site Lease and this Lease.
- (c) The City has certified in writing to the Authority and the Trustee that the value of the Leased Property which remains subject to this Lease following such release is at least equal to the aggregate Outstanding principal amount of the Bonds, and the fair rental value of the Leased Property which remains subject to this Lease following such release is at least equal to the Lease Payments thereafter coming due and payable hereunder.
- (d) The City has mailed written notice of such release to each rating agency which then maintains a rating on the Bonds.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Released Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such release. The Authority and the City shall execute, deliver and cause to be recorded all documents required to discharge the Site Lease, this Lease and the Assignment Agreement of record against the Released Property.

ARTICLE IV

LEASE OF LEASED PROPERTY; TERM OF THIS LEASE; LEASE PAYMENTS

SECTION 4.1. *Lease of Leased Property.* The Authority hereby leases the Leased Property to the City and the City hereby leases the Leased Property from the Authority, upon the terms and conditions set forth in this Lease. The City shall be entitled to, and shall, take possession of the Leased Property on the date of execution, delivery and recordation hereof. This Lease is subject and subordinate to the Ground Lease dated as of February 29, 2000 (the "Ground Lease") between San Francisco Bay Area Rapid Transit District, as lessor, and the City, as lessee.

SECTION 4.2. *Term.* The Term of this Lease commences on the Closing Date and ends on the date on which the Indenture is discharged in accordance with Section 10.03 thereof, but under any circumstances not later than March 1, 20____. The provisions of this Section are subject to the provisions of Section 6.2 relating to the taking in eminent domain of the Leased Property in whole or in part.

SECTION 4.3. *Lease Payments.*

(a) Obligation to Pay. Subject to the provisions of Sections 6.2 and 6.3 and the provisions of Article IX, the City agrees to pay to the Authority, its successors and assigns, the Lease Payments in the respective amounts specified in Appendix B attached to this Lease, to be due and payable in immediately available funds on the Interest Payment Dates immediately following each of the respective Lease Payment Dates specified in Appendix B, and to be deposited by the City with the Trustee on each of the Lease Payment Dates specified in Appendix B. Any amount held in the Bond Fund, the Interest Account and the Principal Account on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments

in part but not in whole under Article IX, and amounts required for payment of past due principal or interest on any Bonds not presented for payment) will be credited towards the Lease Payment then required to be paid hereunder. The City is not required to deposit any Lease Payment with the Trustee on any Lease Payment Date if the amounts then held in the Bond Fund, the Interest Account and the Principal Account are at least equal to the Lease Payment then required to be deposited with the Trustee. The Lease Payments payable in any Rental Period are for the use of the Leased Property during that Rental Period.

(b) Effect of Prepayment. If the City prepays all Lease Payments in full under Sections 9.1, 9.2 or 9.3, the City's obligations under this Section will thereupon cease and terminate. If the City prepays the Lease Payments in part but not in whole under Sections 9.1, 9.2 or 9.3, the principal components of the remaining Lease Payments will be reduced in integral multiples of \$5,000 among Lease Payment Dates on a basis which corresponds to the principal maturities of the Bonds which are redeemed thereby; and the interest component of each remaining Lease Payment will be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Bonds thereby redeemed under Section 4.01 of the Indenture.

(c) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section, the payment in default will continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay the same with interest thereon, from the date of default to the date of payment at the highest rate of interest on any Outstanding Bond.

(d) Fair Rental Value. The aggregate amount of the Lease Payments and Additional Rental Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and are payable by the City in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period. The parties hereto have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making that determination, consideration has been given to the estimated value of the Leased Property based on comparable properties, insurance appraisals and other records maintained by the City, other obligations of the City and the Authority under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public.

(e) Assignment. The City understands and agrees that all Lease Payments have been assigned by the Authority to the Trustee in trust, under the Assignment Agreement, for the benefit of the Owners of the Bonds, and the City hereby assents to such assignment. The Authority hereby directs the City, and the City hereby agrees to pay to the Trustee at its Office, all payments payable by the City under this Section and all amounts payable by the City under Article IX.

SECTION 4.4. *Source of Payments; Covenant to Budget and Appropriate.* The Lease Payments are payable from any source of available funds of the City, subject to the provisions of Sections 6.2 and 6.3. The City covenants to take all actions required to include the Lease Payments in each of its annual budgets during the Term of this Lease and to make the necessary appropriations for all Lease Payments and Additional Rental Payments. The foregoing covenant of the City constitutes a duty imposed by law and each and every public official of the City is required to take all actions required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

SECTION 4.5. *Additional Rental Payments.* In addition to the Lease Payments, the City shall pay when due the following amounts of Additional Rental Payments in consideration of the lease of the Leased Property by the City from the Authority hereunder:

- (a) all fees and expenses incurred by the Authority in connection with or by reason of its leasehold estate in the Leased Property, when due,
- (b) all reasonable compensation to the Trustee for all services rendered under the Indenture and for all reasonable expenses, charges, costs, liabilities, legal fees and other disbursements incurred in and about the performance of its powers and duties under the Indenture,
- (c) the reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Lease or the Indenture,
- (d) amounts coming due and payable as Excess Investment Earnings in accordance with Section 7.6(e), and
- (e) the reasonable out-of-pocket expenses of the Authority in connection with the execution and delivery of this Lease or the Indenture, or in connection with the issuance of the Bonds, including but not limited to any and all expenses incurred in connection with the authorization, sale and delivery of the Bonds, or incurred by the Authority in connection with any litigation which may at any time be instituted involving this Lease, the Bonds, the Indenture or any of the other documents contemplated hereby or thereby, or otherwise incurred in connection with the administration of this Lease.

SECTION 4.6. *Quiet Enjoyment.* Throughout the Term of this Lease, the Authority shall provide the City with quiet use and enjoyment of the Leased Property and the City will peaceably and quietly have and hold and enjoy the Leased Property, without suit, trouble or hindrance from the Authority, except as expressly set forth in this Lease. The Authority will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority has the right to inspect the Leased Property as provided in Section 7.2.

SECTION 4.7. *Title.* Upon the termination of this Lease (other than under Section 8.2(b) hereof), all right, title and interest of the Authority in and to the Leased Property transfers to and vests in the City. The Authority shall take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such transfer of title.

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

SECTION 5.1. *Maintenance, Utilities, Taxes and Assessments.* Throughout the Term of this Lease, as part of the consideration for the rental of the Leased Property, all improvement, repair and maintenance of the Leased Property are the responsibility of the City, and the City will pay for or otherwise arrange for the payment of all utility services supplied to the Leased Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and will pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Leased Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or sublessee thereof. In exchange for the Lease Payments herein provided, the Authority agrees to provide only the Leased Property. The City waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 1941 and 1942 of the California Civil Code, but such waiver does not limit any of the rights of the City under the terms of this Lease.

The City shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Authority or the City affecting the Leased Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

The City may, at its expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority notifies the City that, in its reasonable opinion, by nonpayment of any such items the interest of the Authority in the Leased Property will be materially endangered or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority and the Trustee.

SECTION 5.2. *Modification of Leased Property.* The City has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of this Lease. Such additions, modifications and improvements may not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under this Section, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements. The City will not permit any mechanic's or other lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City under this Section; except that if any such lien is established and the City first notifies or causes to be notified the Authority of the City's intention to do so, the City may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Authority with full security against any loss or forfeiture

which might arise from the nonpayment of any such item, in form satisfactory to the Authority. The Authority will cooperate fully in any such contest, upon the request and at the expense of the City.

SECTION 5.3. *Liability and Property Damage Insurance.* The City shall maintain or cause to be maintained throughout the Term of this Lease, but only if and to the extent available from reputable insurers at reasonable cost in the reasonable opinion of the City, a standard commercial general liability insurance policy or policies in protection of the Authority, the City, and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property. Such policy or policies shall provide coverage in such liability limits and be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City, subject to the provisions of Section 5.7, or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance. The proceeds of such liability insurance must be applied toward extinguishment or satisfaction of the liability with respect to which paid.

SECTION 5.4. *Casualty Insurance.* The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, casualty insurance against loss or damage to all buildings situated on the Leased Property, in an amount at least equal to the lesser of (a) 100% of the replacement value of the insured buildings, or (b) 100% of the aggregate principal amount of the Outstanding Bonds. Such insurance must, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, and must include earthquake insurance if available at reasonable cost from reputable insurers in the judgment of the City. Such insurance may be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance must be applied as provided in Section 6.1.

SECTION 5.5. *Rental Interruption Insurance.* The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of any portion of the Leased Property constituting buildings or other improvements as a result of any of the hazards covered in the insurance required by Section 5.4, in an amount at least equal to the maximum such Lease Payments coming due and payable during any consecutive two Fiscal Years during the term of the Lease. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance, if any, must be paid to the Trustee and deposited in the Bond Fund, to be applied as a credit towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

SECTION 5.6. *Recordation Hereof; Title Insurance.* On or before the Closing Date the City shall, at its expense, (a) cause the Site Lease, the Assignment Agreement and this Lease, or a memorandum hereof or thereof in form and substance approved by Bond Counsel, to be recorded

in the office of the San Mateo County Recorder, and (b) obtain a CLTA or ALTA title insurance policy insuring the City's leasehold estate hereunder in the Leased Property, subject only to Permitted Encumbrances, in an amount at least equal to the aggregate principal amount of the Bonds. All Net Proceeds received under any such title insurance policy must be deposited with the Trustee in the Bond Fund to be credited towards the prepayment of the remaining Lease Payments under Section 9.3.

SECTION 5.7. *Insurance Net Proceeds; Form of Policies.* Each policy of insurance maintained under Sections 5.4, 5.5 and 5.6 must name the Trustee as loss payee so as to provide that all proceeds thereunder are payable to the Trustee. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease. All such policies shall provide that the Trustee is given 30 days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The City must file with the Trustee annually, within 90 days following the close of each Fiscal Year, a certificate of the City stating that all policies of insurance required hereunder are then in full force and effect. The Trustee has no responsibility for the sufficiency, adequacy or amount of any insurance or self-insurance herein required and is fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss.

If any insurance maintained under Section 5.3 is provided in the form of self-insurance, the City must file with the Trustee annually, within 90 days following the close of each Fiscal Year, a statement of the risk manager of the City or an independent insurance adviser engaged by the City identifying the extent of such self-insurance and stating the determination that the City maintains sufficient reserves with respect thereto. If any such insurance is provided in the form of self-insurance by the City, the City has no obligation to make any payment with respect to any insured event except from those reserves.

SECTION 5.8. *Installation of City's Personal Property.* The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Leased Property. All such items shall remain the sole property of the City, in which neither the Authority nor the Trustee has any interest, and may be modified or removed by the City at any time, provided that the City must repair all damage to the Leased Property resulting from the installation, modification or removal of any such items. Nothing in this Lease prevents the City from purchasing or leasing items to be installed under this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, so long as no such lien or security interest attaches to any part of the Leased Property.

SECTION 5.9. *Liens.* The City may not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than as herein contemplated and except for such encumbrances as the City certifies in writing to the Trustee do not materially and adversely affect the leasehold estate of the City in the Leased Property hereunder. If any such mortgage, pledge, lien, charge, encumbrance or claim does materially and adversely affect the leasehold estate of the City in the Leased Property hereunder, the City will promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible; provided that the City is not required to do so prior to the time when such mortgage, pledge, lien, charge, encumbrance or claim actually causes such material adverse effect. The City will reimburse the Authority for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

SECTION 5.10. *Advances.* If the City fails to perform any of its obligations under this Article V, the Authority may (but is not required to) take such action as it deems necessary to cure such failure, including the advancement of money, and the City shall repay all such advances as Additional Rental Payments hereunder, with interest at the rate set forth in Section 4.3(c).

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

SECTION 6.1. *Application of Net Proceeds.* The Trustee, as assignee of the Authority under the Assignment Agreement, has the right to receive all Net Proceeds. As provided in the Indenture, the Trustee will deposit all Net Proceeds in the Insurance and Condemnation Fund to be applied as set forth in Section 5.07 of the Indenture.

SECTION 6.2. *Termination or Abatement Due to Eminent Domain.* If the Leased Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of this Lease thereupon ceases as of the day possession is taken. If less than all of the Leased Property is taken permanently, or if the Leased Property is taken temporarily, under the power of eminent domain, then:

- (a) this Lease shall continue in full force and effect with respect thereto and does not terminate by virtue of such taking, and the parties waive the benefit of any law to the contrary; and
- (b) the Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property.

Notwithstanding the foregoing, there shall be no abatement of the Lease Payments under this Section 6.2 in the event and to the extent that amounts in the Insurance and Condemnation Fund, the Bond Fund or the Reserve Fund are available to pay Lease Payments which would otherwise be abated, it being hereby declared that such proceeds and amounts constitute special funds for the payment of the Lease Payments.

SECTION 6.3. *Abatement Due to Damage or Destruction.* The Lease Payments are subject to abatement during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof. The Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property not damaged or destroyed. Such abatement will continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Lease continues in full force and effect and the City waives any right to terminate this Lease by virtue of any such damage and destruction.

Notwithstanding the foregoing, there shall be no abatement of the Lease Payments under this Section 6.3 in the event and to the extent that amounts in the Insurance and Condemnation Fund, the Bond Fund or the Reserve Fund are available to pay Lease Payments which would

otherwise be abated, it being hereby declared that such proceeds and amounts constitute special funds for the payment of the Lease Payments.

The abatement of Lease Payments hereunder in accordance with the terms hereof shall not constitute an Event of Default (as defined in Section 8.1) hereunder.

ARTICLE VII

OTHER COVENANTS OF THE CITY

SECTION 7.1. *Disclaimer of Warranties.* THE AUTHORITY AND THE TRUSTEE MAKE NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE LEASED PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE AUTHORITY IS NOT A MANUFACTURER OF ANY PORTION OF THE LEASED PROPERTY OR A DEALER THEREIN, THAT THE CITY LEASES THE LEASED PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. The Authority has no liability for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease for the existence, furnishing, functioning or use of the Leased Property by the City.

SECTION 7.2. *Access to the Leased Property.* The City agrees that the Authority, any Authorized Representative of the Authority, and the Authority's successors or assigns have the right at all reasonable times to enter upon and to examine and inspect the Leased Property or any part thereof. The City further agrees that the Authority, any Authorized Representative of the Authority, and the Authority's successors or assigns may have such rights of access to the Leased Property or any component thereof as reasonably necessary to cause the proper maintenance of the Leased Property if the City fails to perform its obligations hereunder; *provided, however*, that neither the Authority nor any of its assigns has any obligation to cause such proper maintenance.

SECTION 7.3. *Release and Indemnification Covenants.* The City agrees to indemnify the Authority, the Trustee and their respective officers, agents, successors and assigns, against all claims, losses and damages, including legal fees and expenses, arising out of any of the following:

- (a) the use, maintenance, condition or management of, or from any work or thing done on the Leased Property by the City,
- (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease,
- (c) any negligence or willful misconduct of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property,
- (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Leased Property,

- (e) the acquisition, construction, improvement and equipping of the Leased Property, or the authorization of payment of the costs thereof, or
- (f) the acceptance and performance of the duties of the Trustee under the Indenture and under this Lease.

No indemnification is made under this Section or elsewhere in this Lease for willful misconduct or negligence under this Lease by the Authority, the Trustee or their respective officers, agents, employees, successors or assigns.

SECTION 7.4. *Assignment and Subleasing by the City.* The City may sublease the Leased Property, or any portion thereof, subject to all of the following conditions:

- (a) this Lease and the obligation of the City to make Lease Payments hereunder must remain obligations of the City;
- (b) the City must, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority and the Trustee a true and complete copy of such sublease;
- (c) no such sublease by the City may cause the Leased Property to be used for a purpose which is not authorized under the provisions of the laws of the State of California; and
- (d) the City must furnish to the Authority and the Trustee a written opinion of Bond Counsel stating that such sublease does not cause the interest on the Bonds to become included in gross income for purposes of federal income taxation or on the Bonds to become subject to personal income taxation by the State of California.

SECTION 7.5. *Amendment Hereof.* The Authority and the City may at any time amend or modify any of the provisions of this Lease, but only: (a) with the prior written consents of the Owners of a majority in aggregate principal amount of the Outstanding Bonds; or (b) without the consent of the Trustee or any of the Bond Owners, but only if such amendment or modification is for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the City contained in this Lease, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City;
- (ii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained herein, to conform to the original intention of the City and the Authority;
- (iii) to modify, amend or supplement this Lease in such manner as to assure that the interest on the Bonds remains excluded from gross income under the Tax Code;
- (iv) to amend the description of the Leased Property to reflect accurately the property originally intended to be included therein, or in connection with any substitution or release of property under Sections 3.2 or 3.3;

- (v) to obligate the City to pay additional amounts of rental for the use and occupancy of the Leased Property, but only if (A) such additional amounts of rental are pledged or assigned for the payment of any bonds, notes, leases or other obligations the proceeds of which are applied to finance or refinance the acquisition or construction of any real or personal property for which the City is authorized to expend funds subject to its control, and (B) the City has obtained and filed with the Trustee an appraisal or other written evidence that the value of the Leased Property is at least equal to the aggregate principal amount of the Outstanding Bonds and all such other bonds, notes, leases or other obligations; or
- (vi) in any other respect whatsoever as the Authority and the City deem necessary or desirable, if in the opinion of Bond Counsel such modifications or amendments do not materially adversely affect the interests of the Owners of the Bonds.

No such modification or amendment may (a) extend or have the effect of extending any Lease Payment Date or reducing any Lease Payment or any premium payable upon the prepayment thereof, without the express consent of the Owners of the affected Bonds, or (b) modify any of the rights or obligations of the Trustee without its written assent thereto.

SECTION 7.6. *Tax Covenants.*

(a) Private Business Use Limitation. The City shall assure that the proceeds of the Bonds are not used in a manner which would cause the Bonds to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

(b) Federal Guarantee Prohibition. The City may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

(c) No Arbitrage. The City may not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Bonds or of any other obligations which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Tax Code.

(d) Maintenance of Tax Exemption. The City shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the Closing Date.

(e) Rebate of Excess Investment Earnings to United States. The City shall calculate or cause to be calculated the Excess Investment Earnings in all respects at the times and in the manner required under the Tax Code. The City shall pay the full amount of Excess Investment Earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code. Such payments shall be made by the City from any source of legally available funds of the City, and shall constitute Additional Rental Payments hereunder.

The City shall keep or cause to be kept, and retain or cause to be retained for a period of six years following the retirement of the Bonds, records of the determinations made under this subsection (e). In order to provide for the administration of this subsection (e), the City may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the City may deem appropriate. The Trustee has no duty or obligation to monitor or enforce compliance by the City of any of the requirements under this subsection (e).

SECTION 7.7. *Continuing Disclosure.* The City shall comply with and carry out all of the provisions of the Continuing Disclosure Certificate executed by the City as of the Closing Date, as originally executed and as it may be amended from time to time in accordance with its terms. Notwithstanding any other provision of this Lease, failure of the City to comply with such Continuing Disclosure Certificate will not constitute an Event of Default, although any Participating Underwriter (as that term is defined in such Continuing Disclosure Certificate) or any Owner or beneficial owner of the Bonds may take such actions as may be necessary and appropriate to compel performance by the City of its obligations under this Section, including seeking mandate or specific performance by court order.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1. *Events of Default Defined.* Any one or more of the following events constitute an Event of Default hereunder:

- (a) Failure by the City to pay any Lease Payment or other payment required to be paid hereunder at the time specified herein.
- (b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in the preceding subsection (a), for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority or the Trustee. If in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30-day period, the failure will not constitute an Event of Default if the City commences to cure the failure within such 30-day period and thereafter diligently and in good faith cures the failure in a reasonable period of time.
- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.
- (d) An event of default under the Ground Lease.

SECTION 8.2. *Remedies on Default.* Whenever any Event of Default has happened and is continuing, the Authority may exercise any and all remedies available under law or granted under this Lease. Notwithstanding anything herein or in the Indenture to the contrary, neither the Authority nor the Trustee may accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Authority may exercise any and all rights granted hereunder; except that no termination of this Lease may be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. Upon the occurrence and during the continuance of any Event of Default, the Authority may exercise each and every one of the following remedies, subject in all respects to the limitations set forth in Section 8.3.

- (a) Enforcement of Payments Without Termination. If the Authority does not elect to terminate this Lease in the manner hereinafter provided for in subparagraph (b) hereof, the City agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Authority for any deficiency arising out of the re-leasing of the Leased Property, or, if the Authority is unable to re-lease the Leased Property, then for the full amount of all Lease Payments to the end of the Term of this Lease, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Authority or any suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Leased Property or the exercise of any other remedy by the Authority. The City hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the City to enter upon and re-lease the Leased Property upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Leased Property, to place the Leased Property in storage or other suitable place in the County of San Mateo for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Leased Property and the removal and storage of the Leased Property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the Authority to re-lease the Leased Property in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Authority in effecting such re-leasing shall constitute a surrender or termination of this Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease shall vest in the Authority to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) hereof. The City agrees to surrender and quit possession of the Leased Property upon demand of the Authority for the purpose of enabling the Leased Property to be re-let under this paragraph, and the City further waives the right to any rental obtained by the Authority in excess of the Lease Payments and hereby conveys and releases such excess to the Authority as

compensation to the Authority for its services in re-leasing the Leased Property.

- (b) Termination of Lease. If an Event of Default occurs and is continuing hereunder, the Authority at its option may terminate this Lease and re-lease all or any portion of the Leased Property. If the Authority terminates this Lease at its option and in the manner hereinafter provided on account of default by the City (and notwithstanding any re-entry upon the Leased Property by the Authority in any manner whatsoever or the re-leasing of the Leased Property), the City nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments and Additional Rental Payments. Any surplus received by the Authority from such re-leasing shall be deposited in the Bond Fund. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the Authority shall of itself operate to terminate this Lease, and no termination of this Lease on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Authority shall have given written notice to the City of the election on the part of the Authority to terminate this Lease. The City covenants and agrees that no surrender of the Leased Property, or of the remainder of the Term hereof or any termination of this Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice.
- (c) Proceedings at Law or In Equity. If an Event of Default occurs and continues hereunder, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its rights hereunder.

SECTION 8.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy is cumulative and in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default impairs any such right or power or operates as a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VIII it is not necessary to give any notice, other than as expressly required in this Article VIII or by law.

SECTION 8.4. *Agreement to Pay Attorneys' Fees and Expenses.* If the Authority or the City defaults under any of the provisions of this Lease and the nondefaulting party employs attorneys or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party; *provided, however,* that the Trustee shall not be required to expend its own funds for any payment described in this Section.

SECTION 8.5. *No Additional Waiver Implied by One Waiver.* If the Authority or the City breaches any agreement in this Lease and thereafter the other party waives the breach, such

waiver is limited to the particular breach so waived and does not operate to waive any other breach hereunder.

SECTION 8.6. *Application of Proceeds.* All net proceeds received from the re-lease of the Leased Property under this Article VIII, and all other amounts derived by the Authority or the Trustee as a result of the occurrence of an Event of Default, must be paid to and applied by the Trustee in accordance with Section 7.03 of the Indenture.

SECTION 8.7. *Trustee and Bond Owners to Exercise Rights.* Such rights and remedies as are given to the Authority under this Article VIII have been assigned by the Authority to the Trustee under the Assignment Agreement for the benefit of the Bond Owners, to which assignment the City hereby consents. The Trustee and the Bond Owners shall exercise such rights and remedies in accordance with the Indenture.

SECTION 8.8. *Covenant to Comply with Ground Lease.* The City hereby covenants and agrees during the term of this Lease to comply with all terms and conditions of the Ground Lease.

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

SECTION 9.1. *Security Deposit.* Notwithstanding any other provision of this Lease, the City may on any date secure the payment of the Lease Payments allocable to the Leased Property in whole or in part by depositing with the Trustee an amount of cash which, together with other available amounts on deposit in the funds and accounts established under the Indenture, is either:

- (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Appendix B, or
- (b) invested in whole or in part in non-callable Federal Securities in such amount as will, in the opinion of an independent certified public accountant, (which opinion must be addressed and delivered to the Trustee), together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay such Lease Payments when due under Section 4.3(a), as the City instructs at the time of said deposit.

If the City makes a security deposit under this Section with respect to all unpaid Lease Payments, and notwithstanding the provisions of Section 4.2, (a) the Term of this Lease will continue, (b) all obligations of the City under this Lease, and all security provided by this Lease for said Lease Payments, will thereupon cease and terminate, excepting only the obligation of the City to make, or cause to be made all of said Lease Payments from such security deposit, and (c) under Section 4.7, title to the Leased Property will vest in the City on the date of said deposit automatically and without further action by the City or the Authority. Said security deposit constitutes a special fund for the payment of Lease Payments in accordance with the provisions of this Lease.

SECTION 9.2. *Optional Prepayment.* The City has the option to prepay the principal components of the Lease Payments in whole, or in part in any integral multiple of \$5,000, from any source of legally available funds, on any date on or after March 1, 20____, at a prepayment

price equal to the aggregate principal components of the Lease Payments to be prepaid, together with the interest component of the Lease Payment required to be paid on such Interest Payment Date, and together with a prepayment premium equal to the premium (if any) required to be paid on the resulting redemption of Bonds under Section 4.01(a) of the Indenture. Such prepayment price shall be deposited by the Trustee in the Redemption Fund to be applied to the redemption of Bonds under Section 4.01(a) of the Indenture. The City shall give written notice to the Trustee of its intention to prepay the Lease Payments under this Section in sufficient time to enable the Trustee to give notice of the corresponding redemption of Bonds in accordance with Section 4.03 of the Indenture.

SECTION 9.3. *Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.* The City shall prepay the principal components of the Lease Payments allocable to the Leased Property in whole or in part on any date, from and to the extent of any Net Proceeds of insurance award or eminent domain award with respect to the Leased Property theretofore deposited in the Redemption Fund for that purpose under Article VI hereof and Section 5.07 of the Indenture. Such Net Proceeds, to the extent remaining after payment of any delinquent Lease Payments, will be credited towards the City's obligations under this Section and applied to the corresponding redemption of Bonds under Section 4.01(b) of the Indenture.

SECTION 9.4. *Credit for Amounts on Deposit.* If the principal components of the Lease Payments are prepaid in full under this Article IX, such that the Indenture is discharged by its terms as a result of such prepayment, at the written election of the City filed with the Trustee any or all amounts then on deposit in the Bond Fund (and the accounts therein) or the Reserve Fund will be credited towards the amounts then required to be so prepaid.

ARTICLE X

MISCELLANEOUS

SECTION 10.1. *Notices.* Any notice, request, complaint, demand or other communication under this Lease shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by telecopy, email or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

*If to the Authority
or the City:*

City of San Bruno
567 El Camino Real
San Bruno, California 94066
Attention: Finance Director

If to the Trustee:

MUFG Union Bank, N.A.,
350 California Street, 11th Floor
San Francisco, California 94014
Attention: Corporate Trust Department

SECTION 10.2. *Binding Effect.* This Lease inures to the benefit of and binds the Authority, the City and their respective successors and assigns.

SECTION 10.3. *Severability.* If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

SECTION 10.4. *Net-net-net Lease.* This Lease is deemed and construed to be a “net-net-net lease” and the City hereby agrees that the Lease Payments are an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 10.5. *Third Party Beneficiary.* The Trustee is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary.

SECTION 10.6. *Further Assurances and Corrective Instruments.* The Authority and the City shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease.

SECTION 10.7. *Execution in Counterparts.* This Lease may be executed in several counterparts, each of which is an original and all of which constitute but one and the same instrument.

SECTION 10.8. *Applicable Law.* This Lease is governed by and construed in accordance with the laws of the State of California.

SECTION 10.9. *Authority and City Representatives.* Whenever under the provisions of this Lease the approval of the Authority or the City is required, or the Authority or the City is required to take some action at the request of the other, such approval or such request shall be given for the Authority and for the City by an Authorized Representative thereof, and any party hereto may conclusively rely upon any such approval or request.

SECTION 10.10. *Captions.* The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease.

IN WITNESS WHEREOF, the Authority and the City have caused this Lease to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**SAN BRUNO PUBLIC FINANCING
AUTHORITY, as lessor**

By: _____
Jovan Grogan
Director

Attest:

Secretary

CITY OF SAN BRUNO, as lessee

By: _____
Jovan Grogan
City Manager

Attest:

City Clerk

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain real property situated in the State of California, County of San Mateo, City of San Bruno and described as follows:

**APPENDIX B
SCHEDULE OF LEASE PAYMENTS**

* Lease Payment Dates are the sixth (6th) Business Day immediately preceding each date listed in the schedule.

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: David T. Fama, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX UNDER SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES UNDER SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

SITE LEASE

This SITE LEASE (this “**Site Lease**”), dated for convenience as of _____ 1, 2019, is between the CITY OF SAN BRUNO, a municipal corporation and general law city duly organized and existing under the Constitution and laws of the State of California, as lessor (the “**City**”), and the SAN BRUNO PUBLIC FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California, as lessee (the “**Authority**”).

BACKGROUND:

1. The City has previously caused the execution and delivery of the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) in the aggregate initial principal amount of \$9,600,000 in 2000 (the “**Prior Obligations**”) for the purpose of financing certain obligations of the City.
2. The City is proceeding to refinance the outstanding Prior Obligations for interest rate savings.
3. To that end, the City is leasing certain real property and improvements thereon owned by the City, consisting of the Police Station, as described in Appendix A attached hereto (the “**Leased Property**”), to the Authority under this Site Lease in consideration of the payment by the Authority of an upfront rental payment (the “**Site Lease Payment**”) to prepay the Prior Obligations.
4. The Authority has authorized the issuance of its San Bruno Public Financing Authority Lease Revenue Bonds, Series 2019 in the aggregate principal amount of \$_____ (the “**Bonds**”) under an Indenture of Trust dated as of _____ 1, 2019 (the “**Indenture**”) by and between the Authority and MUFJ Union Bank, N.A., as trustee (the “**Trustee**”), for the purpose of providing the funds to enable the Authority to pay the Site Lease Payment to the City in accordance with this Site Lease.
5. In order to provide revenues to enable the Authority to pay debt service on the Bonds, the Authority is leasing the Leased Property back to the City under a Lease

Agreement dated as of _____ 1, 2019 and recorded concurrently herewith (the “Lease”), under which the City has agreed to pay semiannual Lease Payments as the rental for the Leased Property thereunder.

6. The lease payments made by the City under the Lease have been assigned by the Authority to the Trustee for the security of the Bonds under an Assignment Agreement, dated as of _____ 1, 2019, between the Authority as assignor and the Trustee as assignee, and recorded concurrently herewith.

A G R E E M E N T :

In consideration of the above premises and of the mutual promises and covenants herein contained and for other valuable consideration, the parties hereto do hereby agree as follows:

SECTION 1. *Lease of Property to Authority.* The City hereby leases the Leased Property to the Authority and the Authority hereby leases the Leased Property from the City, on the terms and conditions hereinafter set forth. This Site Lease is subject and subordinate to the Ground Lease dated as of February 29, 2000 (the “Ground Lease”) between San Francisco Bay Area Rapid Transit District, as lessor, and the City, as lessee.

SECTION 2. *Term; Possession.* The term of this Site Lease commences on the Closing Date and ends on the date on which the Indenture is discharged in accordance with Section 10.03 thereof, but under any circumstances not later than March 1, 20___. The provisions of this Section 2 are subject in all respects to any other provisions of this Site Lease relating to the termination hereof.

SECTION 3. *Rental.* The Authority shall pay to the City as and for rental of the Leased Property hereunder, the sum of \$_____ (the “Site Lease Payment”). The Site Lease Payment is due and payable upon the issuance of the Bonds and the execution and delivery hereof, and will be paid from the proceeds of the Bonds. The Authority and the City hereby find and determine that the total amount of the Site Lease Payment does not exceed the fair market value of the leasehold interest in the Leased Property which is conveyed hereunder by the City to the Authority. No other amount of rental is due and payable by the Authority for the use and occupancy of the Leased Property under this Site Lease.

SECTION 4. *Leaseback to City.* The Authority shall lease the Leased Property back to the City under the Lease.

SECTION 5. *Assignments and Subleases.* Unless the City is in default under the Lease, the Authority may not assign its rights under this Site Lease or sublet all or any portion of the Leased Property, except as provided in the Assignment Agreement and in the Lease, without the prior written consent of the City.

SECTION 6. *Substitution or Release of Property.* If the City exercises its option under Section 3.2 of the Lease to substitute property for the Leased Property in whole or in part, such substitution shall also operate to substitute property for the Leased Property that is leased hereunder. If the City exercises its option under Section 3.3 of the Lease to release a portion of the Leased Property from the Lease, such substitution shall also

operate to release such portion of the Leased Property hereunder. The description of the Leased Property which is leased under the Lease shall conform at all times to the description of the Leased Property which is leased hereunder.

SECTION 7. *Right of Entry.* The City reserves the right for any of its duly authorized representatives to enter upon the Leased Property, or any portion thereof, at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 8. *Termination.* The Authority agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property in the same good order and condition as the Leased Property was in at the time of commencement of the term hereof, reasonable wear and tear excepted, and agrees that all buildings, improvements and structures then existing upon the Leased Property shall remain thereon and title thereto shall vest thereupon in the City for no additional consideration.

SECTION 9. *Default.* If the Authority defaults in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following notice and demand for correction thereof to the Authority, the City may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof and no such remedy may include termination hereof; *provided, however,* that so long as the Lease remains in effect, the Lease Payments payable by the City under the Lease shall continue to be paid to the Trustee.

SECTION 10. *Quiet Enjoyment.* The Authority at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Leased Property, subject to the provisions of the Lease and subject only to Permitted Encumbrances (as that term is defined in the Lease).

SECTION 11. *Waiver of Personal Liability.* All liabilities under this Site Lease on the part of the Authority are solely corporate liabilities of the Authority as a public entity, and the City hereby releases each and every member and officer of the Authority of and from any personal or individual liability under this Site Lease. No member or officer of the Authority or its governing board shall at any time or under any circumstances be individually or personally liable under this Site Lease for anything done or omitted to be done by the Authority hereunder.

SECTION 12. *Taxes.* The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Leased Property and any improvements thereon.

SECTION 13. *Eminent Domain.* If the whole or any part of the Leased Property or any improvements thereon is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of the then unpaid Lease Payments payable under the Lease and the balance of the award, if any, shall be paid to the City.

SECTION 14. *Partial Invalidity.* If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent

jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 15. *Notices.* Any notice, request, complaint, demand or other communication under this Site Lease shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopy, telex or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The City, the Authority and the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

*If to the Authority
or the City:*

City of San Bruno
567 El Camino Real
San Bruno, California 94066
Attention: Finance Director

If to the Trustee:

MUFG Union Bank, N.A.,
350 California Street, 11th Floor
San Francisco, California 94014
Attention: Corporate Trust Department

SECTION 16. *Amendment of this Site Lease.* The Authority and the City may at any time amend or modify any of the provisions of this Site Lease, but only (a) with the prior written consent of the Owners of a majority in aggregate principal amount of the Outstanding Bonds; or (b) without the consent of any of the Bond Owners, but only if such amendment or modification is for any one or more of the following purposes:

- (i) to make cure any ambiguity, or to cure, correct or supplement any defective provision contained herein, or in any other respect whatsoever as the Authority and the City may deem necessary or desirable, provided that, in the opinion of Bond Counsel, such modifications or amendments do not materially adversely affect the interests of the Owners of the Bonds;
- (ii) to amend any provision hereof relating to the Tax Code, to any extent whatsoever but only if and to the extent such amendment will not adversely affect the exclusion from gross income of interest on the Bonds under the Tax Code, in the opinion of Bond Counsel;
- (iii) to conform to any amendment of the Indenture which is made thereto in accordance with Section 9.01 of the Indenture or any amendment to the Lease which is made in accordance with Section 7.05 of the Lease, including without limitation to facilitate the issuance of additional obligations for which additional amounts of rental are pledged or assigned under the Lease as provided in Section 7.5(b)(v) thereof; or

- (iv) for the purpose of effectuating any substitution or release of property under Section 6.

SECTION 17. *Governing Law.* This Site Lease shall be construed in accordance with and governed by the Constitution and laws of the State of California.

SECTION 18. *Third Party Beneficiary.* The Trustee is hereby made a third-party beneficiary under this Site Lease with all rights of a third-party beneficiary.

SECTION 19. *Binding Effect.* This Site Lease inures to the benefit of and is binding upon the Authority, the City and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 20. *Section Headings.* All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

SECTION 21. *Execution in Counterparts.* This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same lease. It is also agreed that separate counterparts of this Site Lease may be separately executed by the Authority and the City, all with the same force and effect as though the same counterpart had been executed by both the Authority and the City.

SECTION 22. *Defined Terms.* All capitalized terms used herein and not otherwise defined have the respective meanings given those terms in the Indenture.

IN WITNESS WHEREOF, the City and the Authority have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF SAN BRUNO, *as lessor*

By: _____
Jovan Grogan
City Manager

Attest:

City Clerk

**SAN BRUNO PUBLIC FINANCING
AUTHORITY**, *as lessee*

By: _____
Jovan Grogan
Director

Attest:

Secretary

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain real property situated in the State of California, County of San Mateo, City of San Bruno and described as follows:

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: David T. Fama, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT (this “**Agreement**”), dated for convenience as of _____ 1, 2019, is between the SAN BRUNO PUBLIC FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the “**Authority**”), and MUFG UNION BANK, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the “**Trustee**”).

BACKGROUND:

1. The City has previously caused the execution and delivery of the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) in the aggregate initial principal amount of \$9,600,000 in 2000 (the “**Prior Obligations**”) for the purpose of financing certain obligations of the City.

2. The City is proceeding to refinance the outstanding Prior Obligations for interest rate savings.

3. To that end, the City is leasing certain real property and improvements thereon owned by the City, consisting of the Police Station, as described in Appendix A attached hereto (the “**Leased Property**”), to the Authority under a Site Lease dated as of _____ 1, 2019, and recorded concurrently herewith (the “**Site Lease**”), in consideration of the payment by the Authority of an upfront rental payment (the “**Site Lease Payment**”) to prepay the Prior Obligations.

4. The Authority has authorized the issuance of its San Bruno Public Financing Authority Lease Revenue Bonds, Series 2019 in the aggregate principal amount of \$_____ (the “**Bonds**”) under an Indenture of Trust dated as of _____ 1, 2019 (the “**Indenture**”) by and between the Authority and MUFG Union Bank, N.A., as trustee (the “**Trustee**”), for the purpose of providing the funds to enable the Authority to pay the Site Lease Payment to the City in accordance with the Site Lease.

5. In order to provide revenues to enable the Authority to pay debt service on the Bonds, the Authority is leasing the Leased Property back to the City under a Lease Agreement dated as of _____ 1, 2019 and recorded concurrently herewith (the “Lease”), under which the City has agreed to pay semiannual Lease Payments as the rental for the Leased Property thereunder.

6. The Authority has requested the Trustee to enter into this Agreement for the purpose of assigning certain of its rights under the Lease to the Trustee for the benefit of the Bond owners.

A G R E E M E N T :

In consideration of the material covenants contained in this Agreement, the parties hereto hereby formally covenant, agree and bind themselves as follows:

SECTION 1. *Defined Terms.* All capitalized terms not otherwise defined herein have the respective meanings given those terms in the Indenture.

SECTION 2. *Assignment.* The Authority hereby assigns to the Trustee, for the benefit of the Owners of all Bonds that are issued and Outstanding under the Indenture, all of the Authority’s rights under the Lease (excepting only the Authority’s rights under Sections 4.5, 5.10, 7.3 and 8.4 of the Lease), including but not limited to:

- (a) the right to receive and collect all of the Lease Payments from the City under the Lease;
- (b) the right to receive and collect any proceeds of any insurance maintained thereunder with respect to the Leased Property, or any eminent domain award (or proceeds of sale under threat of eminent domain) paid with respect to the Leased Property; and
- (c) the right to exercise such rights and remedies conferred on the Authority under the Lease as may be necessary or convenient (i) to enforce payment of the Lease Payments and any amounts required to be deposited in the Insurance and Condemnation Fund established under Section 5.07 of the Indenture, or (ii) otherwise to protect the interests of the Bond Owners in the event of a default by the City under the Lease.

The Trustee shall administer all of the rights assigned to it by the Authority under this Agreement in accordance with the provisions of the Indenture, for the benefit of the Owners of Bonds. The assignment made under this Section 2 is absolute and irrevocable, and without recourse to the Authority.

SECTION 3. *Acceptance.* The Trustee hereby accepts the assignments made herein for the purpose of securing the payments due under the Lease and Indenture to, and the rights under the Lease and Indenture of, the Owners of the Bonds, all subject to the provisions of the Indenture. The recitals contained herein are those of the Authority

and not of the Trustee, and the Trustee assumes no responsibility for the correctness thereof.

SECTION 4. *Conditions.* This Agreement confers no rights and imposes no duties upon the Trustee beyond those expressly provided in the Indenture. The assignment hereunder to the Trustee is solely in its capacity as Trustee under the Indenture.

SECTION 5. *Execution in Counterparts.* This Agreement may be executed in any number of counterparts, each of which is an original and all together constitute one and the same agreement. Separate counterparts of this Agreement may be separately executed by the Trustee and the Authority, both with the same force and effect as though the same counterpart had been executed by the Trustee and the Authority.

SECTION 6. *Binding Effect.* This Agreement inures to the benefit of and binds the Authority and the Trustee, and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 7. *Successor Trustee.* In the event that a successor Trustee is appointed pursuant to Section 8.02 of the Indenture or otherwise, this Agreement shall inure to the benefit of such successor Trustee, and shall no longer inure to the benefit of the Trustee that has resigned or been removed or otherwise replaced.

SECTION 8. *Governing Law.* This Agreement is governed by the Constitution and laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers as of the day and year first written above.

**SAN BRUNO PUBLIC FINANCING
AUTHORITY**

By: _____
Jovan Grogan
Director

Attest:

Secretary

**MUFG UNION BANK, N.A.,
*as Trustee***

By: _____

Authorized Officer

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain real property situated in the State of California, County of San Mateo, City of San Bruno and described as follows:

AMENDED AND RESTATED REIMBURSEMENT AGREEMENT

by and between the

SUCCESSOR AGENCY TO THE SAN BRUNO REDEVELOPMENT AGENCY

and the

CITY OF SAN BRUNO

Dated as of _____ 1, 2019

(San Bruno Redevelopment Project)

AMENDED AND RESTATED REIMBURSEMENT AGREEMENT

THIS AMENDED AND RESTATED REIMBURSEMENT AGREEMENT (“**Reimbursement Agreement**”), dated as of _____ 1, 2019, by and between the SUCCESSOR AGENCY TO THE SAN BRUNO REDEVELOPMENT AGENCY (the “**Successor Agency**”) and the CITY OF SAN BRUNO (the “**City**”);

WITNESSETH:

WHEREAS, the San Bruno Redevelopment Agency (the “**Former Agency**”) was a public body, corporate and politic, duly established and authorized to transact business and exercise powers under and pursuant to the provisions of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State (the “**Law**”);

WHEREAS, a redevelopment plan for the San Bruno Redevelopment Project Area (the “**Project Area**”) in the City of San Bruno (the “**City**”) was adopted in compliance with all requirements of the Law;

WHEREAS, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, Section references hereinafter being to such Code), the Former has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173, and the Successor Agency has become the successor entity to the Former Agency;

WHEREAS, the redevelopment plan for the Project Area provided for tax increment financing in accordance with the provisions of Chapter 6, Part 1 of Division 24 of the California Health and Safety Code and Section 16 of Article XVI of the Constitution of the State of California;

WHEREAS, the Former Agency was authorized, with the consent of the City Council of the City, to pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure or other improvements which was publicly owned within the Project Area, upon a determination by the Former Agency and said City Council that such buildings, facilities, structures or other improvements were of benefit to the Project Area;

WHEREAS, when the value of such land or the cost of the installation and construction of such building, facility, structure or other improvement, or both, was paid or provided for initially by the City, the Former Agency was authorized to enter into a contract with the City under which it agreed to reimburse the City for all or part of the value of such land or all or part of the cost of such building, facility, structure or other improvement, or both, by periodic payments over a period of years;

WHEREAS, the obligation of the Former Agency under such contract constituted an indebtedness of the Former Agency for the purpose of carrying out the redevelopment project for the Project Area, which indebtedness was authorized to be made payable out of taxes levied in the Project Area and allocated to the Former Agency under subdivision (b) of section 33670 of the California Health and Safety Code, or out of any other available funds;

WHEREAS, prior to the dissolution of the Former Agency, the Former Agency entered into a Reimbursement Agreement dated December 1, 2000 (the "Original Reimbursement Agreement"), under which the Former Agency incurred indebtedness in the form of an obligation to provide to the City certain Tax Increment Revenues (as defined in the Original Reimbursement Agreement) for payment of the obligation of the City to pay lease payments (the "Prior Lease Payments") under a Lease Agreement dated as of December 1, 2000 (the "Prior Lease") by and between the San Bruno Public Financing Authority (the "Authority"), as sub-lessor, and the City, as sub-lessee; and

WHEREAS, payments made under the Prior Lease are the security for and source of payment of the City of San Bruno Certificates of Participation, Series 2000 (Police Facility Financing) executed and delivered in 2000 in the aggregate initial principal amount of \$9,600,000 (the "Prior Obligations") for the purpose of financing certain obligations of the City relating to the original construction of the City's police facility (the "Project"), which Project was within and of benefit to the project area; and

WHEREAS, the City and the Authority have determined that, based on current interest rates, cost savings can be achieved by refinancing the Prior Lease Payments and in turn causing the Prior Obligations to be refunded;

WHEREAS, by implementation of California Assembly Bill X1 26, which amended provisions of the Law, and the California Supreme Court's decision in *California Redevelopment Association v. Matosantos*, the Former Agency was dissolved on February 1, 2012 in accordance with California Assembly Bill X1 26 approved by the Governor of the State on June 28, 2011 (as amended, the "Dissolution Act"), and on February 1, 2012, the Successor Agency, in accordance with and pursuant to the Dissolution Act, assumed the duties and obligations of the Former Agency as provided in the Dissolution Act, including, without limitation, the obligations of the Former Agency under the Original Reimbursement Agreement;

WHEREAS, the City and the Authority have determined that, based on current interest rates, cost savings can be achieved by refinancing the Prior Lease Payments and in turn causing the Prior Obligations to be refunded;

WHEREAS, in order to provide moneys to refinance the Prior Lease Payments, the Authority proposes to issue and sell Lease Revenue Bonds in the principal amount of not to exceed \$_____ (the "Bonds") under the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code secured by lease payments as described in a Lease Agreement (defined below);

WHEREAS, to facilitate the issuance of the Bonds, the City proposes leasing certain real property and improvements thereon, consisting of the City's interest in the land and improvements which is comprise the City's Police Station (the "Leased Property"), to the Authority under a Site Lease dated as of _____ 1, 2019 (the "Site Lease") between the City and the Authority, in consideration of the payment by the Authority of an upfront rental payment (the "Site Lease Payment"), the proceeds of which the City will use to prepay the Prior Lease Payments;

WHEREAS, in order to secure the payments of principal of and interest on the 2019 Bonds, the City proposes leasing back the Leased Property from the Authority under a Lease Agreement dated as of _____ 1, 2019 (the "Lease Agreement") between the City and the Authority, in consideration of the payment by the City of certain lease payments (the "Lease Payments") which will secure the repayment of the Bonds;

WHEREAS, the parties hereto in consideration of their mutual undertakings, past and present, herein and otherwise, desire to provide for repayment by the Successor Agency to the City of the moneys paid as Lease Payments under and as defined in the Lease Agreement, entered into between the Authority and the City providing for, among other things, the sub-lease by the City of the Project from the Authority, in the amounts specified in Exhibit A attached hereto and incorporated herein, by amending and restating the Original Reimbursement Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained it is agreed by and between the parties hereto as follows:

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of this Reimbursement Agreement and of any amendment hereto, and of any certificate, opinion, estimate or other document herein mentioned, have the meanings herein specified. Any capitalized term not defined herein shall have the meaning given to such term in the Lease Agreement.

“Bonds” means the \$_____ aggregate principal amount of Lease Revenue Bonds, Series 2019 to be issued by the Authority pursuant to the Indenture, which are secured by and payable from the Lease Payments, and any bonds, notes, certificates or other evidences of indebtedness issued to refund such bonds.

“Business Day” means any day of the year other than a Saturday, Sunday or a day on which banks are authorized or required to be closed in the city in which the Trustee is located.

“Fiscal Year” means each twelve-month period beginning on July 1 of any year and ending on June 30 of the succeeding year, or any other twelve-month period hereafter adopted by the City as its official fiscal year period.

“Indenture” means that certain Indenture of Trust, by and between the Authority and the Trustee, dated as of _____ 1, 2019.

“Lease Agreement” means that certain Lease Agreement by and between the Authority, as sub-lessor, and the City, as sub-lessee, dated as of _____ 1, 2019, as it may be amended and supplemented.

“Lease Payments” means all amounts paid by the City as lease payments pursuant to Section 4.4 of the Lease Agreement.

“Tax Revenues” means all taxes that were eligible for allocation to the Former Agency with respect to the Project Area and are allocated, or are available to be allocated, to the Successor Agency pursuant to Article 6 of Chapter 6 (commencing with Section 33670) of the Law and Section 16 of Article XVI of the Constitution of the State, or pursuant to other applicable State laws and that are deposited in the Redevelopment Property Tax Trust Fund and transferred to the Successor Agency for deposit into the Redevelopment Obligation Retirement Fund, excluding amounts required to be paid to taxing entities pursuant to Sections 33607.5, 33607.7, and 33676 of the Law unless such payments are subordinated to payments under this Reimbursement Agreement pursuant to Section 33607.5(e) of the Law and 34177.5(c) of the Dissolution Act.

“Trustee means MUFG Union Bank, N.A., its successors and assigns, acting as trustee under the Indenture, or any other entity then performing the function of Trustee under the Indenture.

Section 2. Reimbursement; Other Payments. Subject to pledges of Tax Revenues heretofore or hereafter made by the Successor Agency, the Successor Agency and the City agree that, to the extent necessary but only to the extent available, and not in excess of the amounts specified in Exhibit A attached hereto and incorporated herein, in any Fiscal Year, Tax Revenues shall be used and applied to repay the City for all current or previously unreimbursed Lease Payments made by the City to the Authority under the Lease Agreement. Any Lease Payments or portions of Lease Payments made from the proceeds of the Bonds shall be deemed to have been made by the City. Each payment due and payable by the Successor Agency to the City pursuant to this Reimbursement Agreement with respect to a current Lease Payment shall be made by the Successor Agency directly to the Trustee not less than one (1) business day prior to the due date of the applicable Lease Payment. Each payment due and payable by the Successor Agency to the City pursuant to this Reimbursement Agreement with respect to previously unreimbursed Lease Payment shall be made to the City when Tax Revenues become available and shall bear interest at the rate of twelve (12) percent per annum from the due date of the applicable Lease Payment. This Reimbursement Agreement may be amended from time to time by the parties hereto for any purpose and with any effect whatsoever.

Section 3. Default by Agency. If the Successor Agency has available Tax Revenues and shall fail to repay the City or shall fail to pay any other payment required to be paid hereunder at the time specified herein, and such failure shall continue for a period of ten (10) days, then the City or, if applicable, any assignee, shall be entitled to exercise any and all remedies available pursuant to law.

Section 4. Remedies Not Exclusive. No remedy herein conferred upon the City shall be exclusive of any other remedy and each and every remedy shall cumulative and shall be in addition to every other remedy given hereunder or hereafter conferred on the City.

IN WITNESS WHEREOF, the parties hereto have executed this Reimbursement Agreement as of the day and year first above written.

CITY OF SAN BRUNO

By: _____
Authorized Officer

Attest:

City Clerk

SUCCESSOR AGENCY TO THE SAN BRUNO REDEVELOPMENT AGENCY

By: _____
Authorized Officer

Attest:

Secretary

Approved As To Form:

City Attorney

EXHIBIT A
SCHEDULE OF LEASE PAYMENTS



San Mateo County Countywide Oversight Board



Lease Revenue Bonds, Series 2019

November 26, 2018

James V. Fabian, *Principal*
Fieldman, Rolapp & Associates
949.660.7307
jfabian@fieldman.com

Branden Kfoury, *Senior Associate*
Fieldman, Rolapp & Associates
949.660.7310
bkoury@fieldman.com

Agenda

- Background of 2000 COPs
- Debt Service Savings Analysis
- Lease Revenue Bond Refinancing
 - Debt Issuance Structure
 - Estimated Refunding Results
- Today's Actions
- Next Steps
- Finance Team Members
- Questions



Background

➤ In 2000, the City issued **\$9,600,000** Certificates of Participation, Series 2000 (the “2000 COPS”) to fund the construction of the Police Facility.

- The Police Facility is a 3-story building containing 25,163 Square feet owned by the City of San Bruno on land leased from BART.
- The City occupies 80% of the facility and subleases the other 20% to BART.



Background (continued)

- The debt service payments of approximately **\$650,000** per year are an obligation of the City's General Fund .
- Paid by the Successor Agency, formerly the Redevelopment Agency, from tax revenues, or formerly tax increment revenues, that are included on the Successor Agency's annual ROPs.
 - Recognized Obligation Payment Schedule (ROPs)
 - Reimbursement Agreement between the City and the Redevelopment Agency dated December 1, 2000.



Background (continued)

- Presently, the 2000 COPs remaining principal is **\$5,995,000** that bears interest at a rate of **5.15%** to **5.25%**.
- The February 1, 2019 principal payment of **\$335,000** will be paid from tax revenues from the FY2018-19 ROPs.
- The remaining principal of **\$5,660,000** is proposed to be refunded.



Background (continued)

- The Dissolution Act (ABx1 26, as amended by AB 1484) authorizes refunding bonds to pay off outstanding indebtedness.
- Current market conditions as of October 30, 2018 allow for the issuance of 2019 Lease Revenue Bonds to refinance the 2000 COPs to provide estimated average annual savings of approximately **\$128,000**.



Debt Service Savings Analysis

City of San Bruno
 Lease Revenue Bonds, Series 2019
 Tax-Exempt Current Refunding of 2000 Certificates of Participation ("COPs")

	2019 LRBs Refunding of 2000 COPs
	'AA+' Underlying ⁽¹⁾
Refunding Bond Amount	\$4,775,000.00
Par Refunded	5,660,000.00
Final Maturity	2/1/2031
Average Coupon of Refunded Bonds	5.25%
Average Coupon of Refunding Bonds	4.42%
True Interest Cost (effective rate)	2.78%
Net Present Value Savings (\$)	661,177.27
Present Value Savings (%)	11.68%
Nominal Savings (\$)	1,541,920.00
Average Annual Savings (\$) ⁽²⁾	128,493.33
Taxing Entities Share of Average Annual Savings:	
San Mateo County	\$33,537.61
San Bruno General Taxing District	18,960.55
Millbrae Elementary General Purpose	2,226.51
San Bruno Park Elementary	30,973.71
San Mateo Union High School District	24,463.61
San Mateo Junior College General Purpose	9,596.44
Colma CR Flood Control Zone	152.64
Colma CR Flood Control Sub Zn 3	0.00
Colma CR Flood Control Sub Zn 2	909.99
San Bruno Creek Flood	553.08
Bay Area, Air Pollution	295.72
County Harbor District	498.87
Mosquito Abatement	29.60
Peninsula Hospital District	1,300.89
County Education Tax	4,994.13
Total	\$128,493.33

(1) Preliminary cash flows. Assumes Closing Date of 3/7/19 ; Market Conditions as of 10/30/18

(2) Average Annual Savings are calculated as "Nominal Savings divided by number of years with savings". Amount may not add up to the Total Average



Lease Revenue Bonds, Series 2019

Debt Issuance Structure

- Recommended optimal financing structure:
- Issuance of 2019 **Lease Revenue Bonds** (LRBs) secured by the General Fund, but paid from Tax Revenues per the Amended Reimbursement Agreement.
 - 2019 LRBs will be paid at the same lien level as the 2000 COPs.
 - ✓ No Debt Service Reserve Fund
 - ✓ Fixed rate
 - ✓ A 12-year term – no change from current term
 - ✓ Level debt service



Lease Revenue Bonds, Series 2019

Estimated Refunding Results*

- It is estimated that the 2019 LRBs will produce net Present Value Savings of **12.0%**.
- Savings well over the GFOA best practices benchmark of 5.0%.
 - Based on market rates as of October 30, 2018.
 - The average annual reduction in debt service payments will be approximately **\$128,000**.
 - City's annual share is approximately **\$19,000**.
 - Estimated True Interest Cost will be **2.78%**.
 - Net Present Value savings over life of indebtedness of approximately **\$661,000**.
 - Estimated Financing costs of **\$239,110**.



*Preliminary, subject to change

Today's Actions

- The County Countywide Oversight Board will consider adopting a resolution approving the amendment of a reimbursement agreement in order to refund outstanding obligations and providing for other matters properly related thereto:
 - It acknowledges that the Debt Service Savings Analysis on file with the Clerk of the Oversight Board demonstrates that there are significant potential savings available to the Successor Agency and to applicable taxing entities in compliance with the Savings Parameters that would result from the execution and delivery by the Successor Agency of the Amended and Restated Reimbursement Agreement to facilitate the refunding and defeasance of the Prior Lease and Prior Obligations.



Today's Actions (Continued)

It finds that the execution and delivery of the Amended and Restated Reimbursement Agreement is in the financial interests of the taxing entities provided that the limitations set forth in Section 34177.5(a)(1) are satisfied, and the Savings Parameters are achieved.



Today's Actions (Continued)

- As authorized by Sections 34177.5(f) and 34180(b), it hereby directs and authorizes the Successor Agency to undertake the amendment of the Reimbursement Agreement and the execution and delivery of the Amended and Restated Reimbursement Agreement in the aggregate principal amount not to exceed the amount set forth in the Successor Agency Resolution, pay issuance costs as permitted by applicable law, and establish required debt service reserves, provided that the principal and interest payable with respect to the Amended and Restated Reimbursement Agreement complies in all respects with the requirements of the Savings Parameters, as shall be certified by the Municipal Advisor upon delivery of the Amended and Restated Reimbursement Agreement.



Next Steps

- ⇒ Submission of resolutions of both the Successor Agency and Oversight Board and all the related documents to the Department of Finance (**November, 2018**)
- ⇒ Receive Department of Finance's Approval (**Planned for January 2019**)
- ⇒ Secure underlying credit rating (**Planned for February 2019**)



Next Steps – (Continued)

- ⇒ City Council/Financing Authority approval of the Preliminary Official Statement and remaining financing documents (**Planned for February 2019**)
- ⇒ Negotiated sale of Refunding Bonds (**Planned for February 2019**)
- ⇒ Bond Closing (**Anticipated in March 2019**)



Finance Team Members

- ⇒ David Fama, **Jones Hall**, Bond/Disclosure Counsel
- ⇒ James Wawrzyniak, **Jones Hall**, Bond/Disclosure Counsel
- ⇒ Jim Fabian, **Fieldman, Rolapp & Associates**, Municipal Advisor
- ⇒ Keith DeMartini, **City of San Bruno**, Finance Director



Questions



San Mateo County Countywide Oversight Board

Date: November 20, 2018 Agenda Item No. 7
To: San Mateo County Countywide Oversight Board
From: Shirley Tourel, Assistant Controller
Subject: Report on Redevelopment Agency Dissolution Status Update – Foster City

Recommendation

This item is for information and discussion purposes only. No action is required by the Board.

Background and Discussion

The San Mateo County Countywide Oversight Board (the “Board”) was created pursuant to Health and Safety Code (HSC) 34179(j) to provide guidance and oversight to the successor agencies who are tasked with winding down the affairs of redevelopment agencies (RDAs).

This item is intended to inform the Board of the progress of the wind-down activities of the former Foster City Redevelopment Agency. The attachments to this memo were prepared by the Foster City Successor Agency and provide an overview of the remaining expenditures/obligations and disposition of assets status.

Edmund Suen, Foster City’s Finance Director will be presenting to the Board.

Fiscal Impact

None

Exhibit

- A. Successor Agency Staff Report - Redevelopment Agency Dissolution Status Update – Foster City

Exhibit A

Date: November 2, 2018

To: San Mateo County Countywide Oversight Board

From: Edmund Suen, Finance Director, City of Foster City

Subject: Dissolution Status Report from the Successor Agency

Former RDA: Foster City

Background

This agenda item summarizes the dissolution status of the former redevelopment agency (RDA). It includes a summary of the disposition of assets, remaining obligations, pending litigation, the status of the Last and Final Recognized Obligation Payment Schedule (ROPS), and any other items pertaining to the winding-down of the affairs of the former RDA.

Discussion

A. Disposition of Assets

The Successor Agency (Agency) did not have any real property assets. The California Department of Finance (DOF) approved the Long Range Property Management Plan (LRPMP) for the Foster City Successor Agency (Agency) on May 15, 2015 (see Attachment 2).

B. Outstanding Obligations

The Agency has approximately \$5.6 million in total outstanding obligations. They consist of the following:

1. Development and Disposition Agreement: An affordable housing subsidy under a Development and Disposition Agreement for the Marlin Cove Redevelopment Project with a termination date of January 2029. It has an outstanding balance of approximately \$2,482,400.
2. Development and Disposition Agreement: A utility subsidy under a Development and Disposition Agreement for the Marlin Cove Redevelopment Project with a termination date of January 2029. It has an outstanding balance of approximately \$602,600.
3. Reinstatement of Loan Agreement per H&S 34191.4(b): On November 10, 2014, the DOF approved the reinstatement of a City of Foster City loan to the former Foster City redevelopment agency. The principal balance is \$1,115,697 with interest accruing until the Loan and interest are repaid in full.

4. Administrative Cost Allowance: The Agency's administrative budget on ROPS 18-19 is \$70,000, which is less than the \$250,000 permitted. It consists primarily of Agency staff time and audit and legal services.

In considering on the possibility of prepaying or making a lump sum payment on any of the above obligations, staff believes that it's probably unlikely. A prepayment of the DDA obligations (Items 1 and 2) would require an agreement with the developer and since the affordable housing subsidy annual payment is calculated from net tax increment, it would require some type of negotiation on the lump sum amount. A lump sum payment of the utility subsidy can be calculated, but would also require an agreement with the developer. The reinstatement of Loan Agreement is subject to a calculation based on the repayment formula specified under HSC section 34191.4(b) (2) (1). Staff suspects a lump sum payment would require a calculation that would be conditioned on a DOF's approval. Lastly, the administrative cost allowance is tied to the administration of the SA, so it would be difficult to make an assumption a lump sum value.

C. Litigation

The Successor Agency is not aware of any matters currently in litigation. In the event that the Agency becomes aware of existing or potential litigation, the matter(s) would be brought forward to the Oversight Board, as appropriate.

D. Last and Final ROPS (LROPS)

The Agency submitted a Last and Final Recognized Obligation Payment Schedule (LROPS) to the DOF on August 29, 2017. On December 7, 2017, the DOF denied the Agency's LROPS, disallowing a portion of the affordable housing subsidy payment (see Attachments 3 and 4), contending that the subsidy calculation, being based on tax increment "no longer exists" based on their interpretation that Health and Safety Code (HSC) Section 34189 rendered HSC Section 33670(b) inoperative. The Agency and its former Oversight Board disagrees with the DOF and believes there is a legal and enforceable obligation for "full" affordable housing subsidy payments under the provisions of the Disposition and Development Agreement (DDA) with PWM Residential Ventures, LLC, successor to M.H. Podell Company. The Agency included the "full" affordable housing subsidy calculation in its ROPS 2018-19 and somewhat surprisingly, the DOF approved the "full" amount.

Conclusion

The Department of Finance denied the Agency's Last and Final ROPS on December 7, 2017. As a result, Agency staff anticipates bringing its ROPS to the Board annually.

Attachments

1. RDA Dissolution Status Detailed Report – Foster City
2. Foster City Successor Agency Long Range Property Management Plan Report and Department of Finance Approval Letter Dated May 15, 2015
3. Department of Finance Denial of Last and Final ROPS – Foster City
4. Department of Finance Last and Final ROPS E-mail Correspondence Dated December 27, 2017 – Foster City

San Mateo County Consolidated Successor Agency Oversight Board - ATTACHMENT 1
Dissolution Update - Outstanding Obligations
Foster City RDA

Obligation Type	Remaining Balance	Annual Payment	Projected Payoff	Comments
DDA- PWM Residential	2,482,400.00	204,000.00	1/31/2029	Annual affordable housing subsidy payment is based on a calculation of available tax increment
DDA- PWM Residential	602,600.00	49,500.00	1/31/2029	increases 2% per year
Reinstatement of Loan Agreement per H&S 34191.4(b) Principal	1,115,697.00	variable	12/31/2035	annual principal payment is dependent on available RPTTF and a repayment formula as defined in HSC section 34191.4(b)(2)(a)
Reinstatement of Loan Agreement per H&S 34191.4(b) Accrued Interest	875,856.00	variable	12/31/2035	annual principal payment is dependent on available RPTTF and a repayment formula as defined in HSC section 34191.4(b)(2)(a)
Administrative Cost Allowance	483,580.00	70,000.00	12/31/2035	estimated \$70,000 in FY 18/19 due to potential legal costs regarding the affordable housing subsidy issue with the DOF. Thereafter, \$23,800 annually and an additional \$8,000 in FY 35/36 to account for legal fees associated with the dissolution of the SA after all enforceable obligations have been paid.

Note

Remaining Balance amounts are from ROPS 18/19.

**San Mateo County Consolidated Successor Agency Oversight Board
Dissolution Update - Last and Final ROPS
Foster City RDA ATTACHMENT 1**

Is your SA eligible to submit a Last and Final ROPS?

The Foster City SA submitted a Last and Final ROPS (LROPS) with the CA Department of Finance (DOF) on August 29, 2017. On December 7, 2017, the DOF denied the LROPS, asserting that one element of our calculation for our housing subsidy obligation to PWM Residential Ventures, LLC no longer existed based on their interpretation of Health and Safety Section 34189. This is despite that fact that this enforceable obligation had previously been approved by our former Oversight Board and the DOF over each and every ROPS. Staff and the former Oversight Board strongly disagreed with the DOF. The SA included the "full" amount of PWM Affordable Housing in its ROPS 18-19 and received no inquiry or dispute from the DOF. The ROPS 18-19 was approved by the DOF on April 9, 2018. As a result of the denial of our LROPS, the SA plans to continue to submit an annual ROPS to the Oversight Board and DOF.

If yes, when do you anticipate filing a Last and Final ROPS (Month/Year)?

If your SA does not plan to file a Last and Final, explain why.



EDMUND G. BROWN JR. ■ GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

May 15, 2015

Mr. James C. Hardy, City Manager
City of Foster City
610 Foster City Boulevard
Foster City, CA 94404

Dear Mr. Hardy:

Subject: Long-Range Property Management Plan

Pursuant to Health and Safety Code (HSC) section 34191.5 (b), the City of Foster City Successor Agency (Agency) submitted a Long-Range Property Management Plan (LRPMP) to the California Department of Finance (Finance) on February 25, 2015. Finance has completed its review of the LRPMP, which may have included obtaining clarification for various items.

The Agency received a Finding of Completion on June 27, 2014. The LRPMP submitted to Finance did not include any properties. It is our understanding, the properties previously owned by the former redevelopment agency have been transferred as housing assets to the City of Foster City Housing Successor. These transfers were approved by the Agency's Oversight Board and Finance. Therefore, Finance is approving the Agency's LRPMP.

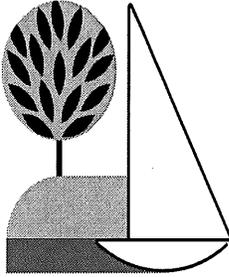
Please direct inquiries to Wendy Griffe, Supervisor, or Erika Santiago, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in blue ink, which appears to read "Justyn Howard", is written over a circular stamp. The signature is fluid and cursive.

JUSTYN HOWARD
Program Budget Manager

cc: Mr. Edmund Suen, Finance Director, City of Foster City
Mr. Bob Adler, Auditor-Controller, San Mateo County
California State Controller's Office



City of Foster City

ESTERO MUNICIPAL IMPROVEMENT DISTRICT

610 FOSTER CITY BOULEVARD
FOSTER CITY, CA 94404-2222
(650) 286-3200
FAX (650) 574-3483

February 11, 2015

Department of Finance
915 L Street
Sacramento, CA 95814

Dear Sir/Madam:

Subject: Long-Range Property Management Plan

The Successor Agency City of Foster City (Successor Agency) received a Notice of Completion from the Department of Finance (Finance) on June 27, 2014. Pursuant to Health and Safety Code (HSC) section 34191.5, there is a requirement to submit a Long-Range Property Management Plan (LRPMP) to Finance after the receipt of a Notice of Completion. However, the Successor Agency has no properties to report on the LRPMP. As a result, this letter serves as the Successor Agency's notice to Finance that we will not be filing a LRPMP. Please note that this letter was also approved by the Successor Agency's Oversight Board as evidenced by the attached resolution. Should you have any questions, please contact me at (650) 286-3265 or esuen@fostercity.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Suen', written in a cursive style.

Edmund Suen
Finance Director

RESOLUTION NO. 2015-003

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOSTER CITY APPROVING A LETTER FROM THE SUCCESSOR AGENCY TO THE STATE DEPARTMENT OF FINANCE INDICATING THERE ARE NO PROPERTIES TO REPORT ON THE LONG-RANGE PROPERTY MANAGEMENT PLAN

SUCCESSOR AGENCY CITY OF FOSTER CITY

WHEREAS, the State Legislature enacted through Assembly Bill 1484 amendments to the Health & Safety Code Sections dealing with dissolution of redevelopment agencies established under AB26 X1; and

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Foster City ("City") elected to become the successor agency to the Community Development Agency of the City of Foster City ("Successor Agency"); and

WHEREAS, Health and Safety Code Section 34191.5(b) requires the Successor Agency to prepare a Long-Range Property Management plan ("Property Management Plan") that addresses the disposition and use of the real properties of the former redevelopment agency; and

WHEREAS, the Successor Agency does not have any property that are subject to the Property Management Plan; and

WHEREAS, the Department of Finance has provided guidance that the Successor Agency provide an Oversight Board approved letter indicating there are no properties to report on the Long-Range Property Management Plan.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board of the Successor Agency of Foster City, as follows:

1. The Oversight Board approves the attached letter (Exhibit A) from the Successor Agency indicating there are no properties to report on the Long Range Property Management Plan.
2. The Oversight Board authorizes the Successor Agency to take any action necessary to transmit this resolution to the State Department of Finance and to convey that the Successor Agency will not be filing a Long-Range Property Management Plan.

PASSED AND ADOPTED as a resolution of the Oversight Board of the Successor Agency to the Community Development Agency of the City of Foster City at the regular meeting held on the 11th day of February, 2015, by the following vote:

AYES: CHAIR BENNETT, MEMBERS ACREE, CALLAGY, CHRISTENSEN,
KOELLING, McMANUS, WYKOFF

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE



DICK W. BENNETT, CHAIRPERSON

ATTEST:



EDMUND SUEN, SECRETARY



December 7, 2017

Mr. Edmund Suen, Finance Director
City of Foster City
610 Foster City Boulevard
Foster City, CA 94404

Dear Mr. Suen:

Subject: Last and Final Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34191.6 (b) the City of Foster City Successor Agency (Agency) submitted a Last and Final Recognized Obligation Payment Schedule (Last and Final ROPS) to the California Department of Finance (Finance) on August 29, 2017. Finance has completed its review of the Agency's Last and Final ROPS.

HSC section 34191.6 (c) authorizes Finance to make amendments or changes to the Last and Final ROPS if the changes are agreed to in writing by the Agency. Finance proposed certain amendments or changes; however, an agreement with the Agency could not be reached.

Therefore, pursuant to HSC section 34191.6 (c), Finance is required to deny the Agency's Last and Final ROPS at this time. The Dissolution Act does not allow a Meet and Confer for the Last and Final ROPS. To the extent the Agency agrees to the amendments and changes recommended by Finance or has additional information for Finance to consider, the Agency may submit a new Oversight Board approved Last and Final ROPS for Finance's review and approval in the future.

Without an approved Last and Final ROPS, the Agency's annual ROPS approved by Finance for the current annual ROPS period is still effective and the Agency must continue to prepare and submit an annual ROPS to Finance pursuant to HSC section 34177 (o).

Please direct inquiries to Kylie Oltmann, Supervisor, or Daisy Rose, Lead Analyst, at (916) 322-2985.

Sincerely,

ERIKA LI
Program Budget Manager

cc: Ms. Fiti Rusli, Assistant Finance Director, City of Foster City
Ms. Shirley Tourel, Senior Internal Auditor, San Mateo County

Edmund Suen

From: Oltmann, Kylie <Kylie.Oltmann@dof.ca.gov>
Sent: Wednesday, December 27, 2017 10:51 AM
To: Edmund Suen
Cc: Fomin, Sergey; Takagi-Galamba, Chikako
Subject: Last and Final ROPS - Item No. 3

This is in response to our conference call regarding Item No. 3 on the Agency's Last and Final Recognized Obligation Payment Schedule (Last and Final ROPS). As discussed on the call, in reviewing your request for a Last and Final, an issue was flagged which changes Finance's determination as to the scope of the obligation listed as Item No. 3.

The 1999 DDA obligated the former Redevelopment Agency to pay the Developer annual rental subsidies, which includes and annual calculation of 30 percent of the net tax increment generated from the project site plus \$110,000. However, in reviewing the DDA further during the consideration of a Last and Final ROPS, Finance noted that Section 604 of the DDA defines the net tax increment as gross tax increment revenue allocated to the Agency per HSC 33670 (b). Under dissolution law, HSC section 34189 specifically renders HSC section 33670 (b) inoperative. Therefore, the Agency's obligations to make the 30 percent of the net tax increment to the Developer no longer exists. The Agency's obligation under the DDA is only the \$110,000 set annual payment.

Consequently, on future ROPS, and any request for a Last and Final, only the \$110,000 should be requested for Item No. 3.

If you have further questions, please feel free to contact us at (916) 322-2985.

Thank you,

San Mateo County Countywide Oversight Board

Date: November 20, 2018 Agenda Item No. 8
To: San Mateo County Countywide Oversight Board
From: Shirley Tourel, Assistant Controller
Subject: Report on Redevelopment Agency Dissolution Status Update – East Palo Alto

Recommendation

This item is for information and discussion purposes only. No action is required by the Board.

Background and Discussion

The San Mateo County Countywide Oversight Board (the “Board”) was created pursuant to Health and Safety Code (HSC) 34179(j) to provide guidance and oversight to the successor agencies who are tasked with winding down the affairs of redevelopment agencies (RDAs).

This item is intended to inform the Board of the progress of the wind-down activities of the former East Palo Alto Redevelopment Agency. The attachments to this memo were prepared by the East Palo Alto Successor Agency and provide an overview of the remaining expenditures/obligations and disposition of assets status.

Brenda Olwin, East Palo Alto City’s Finance Director will be presenting to the Board.

Fiscal Impact

None

Exhibit

A. Successor Agency Staff Report - Redevelopment Agency Dissolution Status Update – East Palo Alto

EXHIBIT A

Date: November 5, 2018

To: San Mateo County Countywide Oversight Board

From: Brenda Olwin, Finance Director

Subject: Dissolution Status Report from the Successor Agency

Former RDA: Former East Palo Alto Redevelopment Agency

Background

This agenda item summarizes the dissolution status of the former redevelopment agency (RDA). It includes a summary of the disposition of assets, remaining obligations, pending litigation, the status of the Last and Final Recognized Obligation Payment Schedule (ROPS), and any other items pertaining to the winding-down of the affairs of the former RDA.

Discussion

A. Disposition of Assets

At the point of dissolution, the former RDA had 9 properties (See Attachment 1). Prior to July 1, 2018, 8 of the properties have been transferred to the City of East Palo Alto for approved public purposes. The remaining property (Property #8 APN 063-312-460) is a remnant right of way and should be classified as a "Highways & Street" site. It is unclear why this property has not been transferred and/or classified as a "Highways & Street"; however, staff is in contact with legal counsel in order to have the property properly transferred as it is clearly in use as a public right of way.

All properties are in use by the City of East Palo Alto for governmental public purposes.

B. Outstanding Obligations

The former RDA has the following outstanding obligations:

1. 2015 Tax Allocation Refunding Bonds Series A - \$16.9M. The approximate annual debt service is \$1.55M. Final debt service payment is October 1, 2032.
2. Sponsoring Entity Loans – Estimated \$1.0M annual repayment allocated total:
 - a. Ravenswood Repayment Agreement - \$5.4M. Current estimated projections reflect final payment on July 1, 2031.

- b. Gateway Repayment Agreement - \$5.3M. Current estimated projections reflect final payment on July 1, 2026.
 - c. Initial estimates are for a level payment of \$1.0M in annual repayments allocated across two loans. Staff could explore a more accelerated payment schedule; however, primarily seeking payment stability across economic cycles.
3. Bay Road Loan - \$0.48M. Developer loan agreement up to \$60,000 annual operating gap funding. This amount represents the maximum loan advance remaining through the term of the agreement expiring on January 31, 2026.
4. Bond Fiscal Agent Fees - \$0.15M. Represents annual trustee service and reporting fees of \$10,500 on the 2015 Tax Allocation Refunding Bonds. Fees expected to reduce due to pay-off of Series B bonds. Fees are due through final bond payment on October 1, 2032.
5. Administrative Costs - \$0.67M. Represents annual administrative repayment of \$50,000 through final debt payment.

C. Litigation

None.

D. Last and Final ROPS

The Successor Agency (SA) of the former East Palo Alto RDA has met all requirements to file a Last and Final ROPS; and intends to file a Last and Final ROPS for the ROPS period beginning FY 2020-21.

Conclusion

The Successor Agency is required to come before the Countywide Oversight Board prior to February 1, 2019 in order to obtain approval for ROPS 2019-2020. The Successor Agency plans to come before the Countywide Oversight Board in the spring of 2019 for approval of the LROPS.

Attachments

1. East Palo Alto RDA Dissolution Status Detailed Report
2. East Palo Alto RDA Dissolution Status Presentation – Power Point
3. East Palo Alto RDA Long Range Property Management Plan and DOF Approval Letter

San Mateo County Consolidated Successor Agency Oversight Board
 Dissolution Update - Assets
 Successor Agency to the East Palo Alto Redevelopment Agency

Attachment 1

LRPMP Item No.	Property Type ¹	Address/ Location of Property	County Assessor Parcel Number	Parcel Size	Named Owner ²	Purchase Price ³	Fair Market Value	Appraisal Value	Permissible Use per LRPMP		Current Use ⁶	Disposition Status ⁷	Deed Restrictions ⁸	Completion Date ⁹	Other Comments ¹⁰
									Category ⁴	Detail ⁵					
1	Land	No address	063-511-580	20,082 sq.ft.	City of East Palo Alto	\$ 537,430	\$ -	\$ 800,000	Gov't Use	Overpass Landing/Groundwater Well	Same	Not for sale	Yes	11/23/2015	Transferred
2	Land	No address	063-321-999	13,000 sq.ft.	City of East Palo Alto	\$ -	\$ -	\$ -	Gov't Use	Open Space Trail	Same	Not for sale	No	3/25/2011	Transferred
3	Land/Building	2100 Bay Rd., East Palo Alto, CA 94303	063-590-030	297,900 sq.ft.	City of East Palo Alto	\$ -	\$ -	\$ -	Gov't Use	Open Space Park (Facility)	Same	Not for sale	No	5/24/2016	Transferred
4	Land/Building	1960 Tate St. East Palo Alto, CA 94303	063-665-020	31,061 sq.ft.	City of East Palo Alto	\$ -	\$ -	\$ -	Gov't Use	Public Facility	Same	Not for sale	No	3/25/2011	Transferred
5	Land	NE Corner of Bay&University, East Palo Alto	063-111-230	7,840 sq.ft.	City of East Palo Alto	\$ -	\$ -	\$ -	Gov't Use	Streets & Highway	Vacant	Not for sale	No	3/25/2011	Transferred
6	Land/Imp	1798 Bay Road, East Palo Alto, CA 94303	063-231-250	55,321 sq.ft.	City of East Palo Alto	\$ -	\$ -	\$ 1,110,000	Gov't Use	Public Facility	Temp Emergency Homeless	Not for sale	Yes	3/25/2011	Transferred
7	Land	No address	N/A	501 sq.ft.	City of East Palo Alto	\$ -	\$ -	\$ -	Gov't Use	Public Right of Way	Same	Not for sale	No	5/24/2016	Transferred
8	Land	No address	063-312-460	1,918 sq.ft.	East Palo Alto RDA	\$ -	\$ -	\$ -	Gov't Use	Public Right of Way	Same	Not for sale	No	N/A	In Process
9	Other	No address			City of East Palo Alto	\$ 561,970	\$ -	\$ -	Gov't Use	Overpass Improvement Plans	N/A	Not for sale	No	N/A	No Use Value

**San Mateo County Consolidated Successor Agency Oversight Board
Dissolution Update - Last and Final ROPS
Successor Agency to the East Palo Alto RDA**

Is your SA eligible to submit a Last and Final ROPS?

Yes.

If yes, when do you anticipate filing a Last and Final ROPS (Month/Year)?

Upon confirmation of certain items, including Council planned use of
Sponsoring Entity Loan Repayments

If your SA does not plan to file a Last and Final, explain why.

We plan to file and complete prior to ROPS 2020-21.

SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY

City of East Palo Alto

November 26, 2018



Dissolution Status Update to San Mateo County Consolidated Successor Oversight Board



Major Milestones

- ▶ **Agreed Upon Procedures Audit** – October 2012
- ▶ **Finding of Completion** – July 2013
- ▶ **Long-Range Property Management Plan** – June 2015
- ▶ **Fifteen Recognized Obligation Payment Schedules (ROPS)**
- ▶ **2015 Bond Refunding** – October 2015
- ▶ **Agreement \$800,000 Excess Cash** – January 2016
- ▶ **Sponsoring Entity Loans Reinstated** – April 2016

Planned Steps

- ▶ File ROPS 2019-20

- ▶ Prepare Last and Final ROPS (LROPS)
 - *Conditions Met:*
 - Future obligations limited to administrative costs and obligations with defined payment schedules.
 - All remaining obligations previously listed and approved by DOF.
 - No outstanding/unresolved litigation.

- ▶ Oversight Board Approval LROPS– July 2019
- ▶ 100 day approval process – Department of Finance
- ▶ Successor Agency Ratify Approved LROPS – November 2019

Summary of Obligations

Obligation Type	Remaining Balance	Annual Payment	Projected Payoff	Comments
2015 Series A Tax Allocation Refunding Bond	16,905,000	Approx. \$1,550,000	2032-33	Total P&I: \$22.065M
Ravenswood Repayment Agreement	5,436,155	\$200,000 to \$1,000,000	2031-32	Estimated Total P&I: \$7.4M
Gateway Repayment Agreement	5,266,630	\$465,000 to \$800,000	2025-26	
Bay Road Loan Subsidy	480,000	60,000	2025-26	
Bond Fiscal Agent Fees	147,000	10,500	2032-33	Anticipate Cost Reduction
Administrative Costs	675,000	50,000	2032-33	

Questions?

Attachment 3:

Department of Finance Approved LRPMP – *Successor Agency of the Former East Palo Alto Redevelopment Agency*



June 9, 2015

Ms. Brenda Cooley-Olwin, Interim Finance Director
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

Dear Ms. Olwin:

Subject: Long-Range Property Management Plan

Pursuant to Health and Safety Code (HSC) section 34191.5 (b), the City of East Palo Alto Successor Agency (Agency) submitted a Long-Range Property Management Plan (LRPMP) to the California Department of Finance (Finance) on January 16, 2014. The Agency subsequently submitted a revised LRPMP to Finance on October 20, 2014. Finance has completed its review of the LRPMP, which may have included obtaining clarification for various items.

The Agency received a Finding of Completion on July 16, 2013. Further, based on our review and application of the law, we are approving the Agency's use or disposition of all of the properties listed on the revised LRPMP.

In accordance with HSC section 34191.4, upon receiving a Finding of Completion from Finance and approval of the LRPMP, all real property and interests in real property shall be transferred to the Community Redevelopment Property Trust Fund of the Agency, unless that property is subject to the requirements of an existing enforceable obligation. Pursuant to HSC section 34191.3, the approved LRPMP shall govern, and supersede all other provisions relating to the disposition and use of all the real property assets of the former redevelopment agency.

Agency actions taken pursuant to a Finance approved LRPMP which requires the Agency to enter into a new agreement are subject to Oversight Board (OB) approval per HSC section 34181 (f). Any OB action approving a new agreement in connection with the LRPMP should be submitted to Finance for approval.

Please direct all inquiries to Wendy Griffe, Supervisor, or Erika Santiago, Lead Analyst at (916) 445-1546.

Sincerely,

JUSTYN HOWARD
Program Budget Manager

cc: on the following page

Ms. Brenda Cooley-Olwin
June 9, 2015
Page 2

cc: Mr. Carlos Martinez, Economic Development Manager, City of East Palo Alto
Mr. Bob Adler, Auditor-Controller, County of San Mateo
California State Controller's Office

Successor Agency to the East Palo Alto Redevelopment Agency



Long Range Property Management Plan

The Successor Agency to the East Palo Alto Redevelopment Agency

November 19, 2013

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INTRODUCTION

On June 27, 2012, Governor Brown signed into law Assembly Bill 1484 (AB 1484), a budget trailer bill that makes substantial changes to the redevelopment agency dissolution process implemented by Assembly Bill 1X 26. One of the key components of AB 1484 is the requirement that all successor agencies develop a Long-Range Property Management Plan that governs the disposition and use of the former non-housing redevelopment agency properties. This document is the Long Range Property Management Plan for the Successor Agency to the former East Palo Alto Redevelopment Agency (RDA).

EXECUTIVE SUMMARY OF SUCCESSOR AGENCY OWNED PROPERTIES AND DISPOSITION PLANS

The former Redevelopment Agency acquired properties in an effort to revitalize blighted portions of the City. In March 2011 the Agency transferred all of its properties to the City, prior to adoption of ABx1 26 in the hopes of preserving the assets. The properties are in the ownership of the City but are subject to claw back to the Successor Agency pursuant to Section 34167.5 of the Dissolution Act. Thus, the properties are now owned by the Successor Agency. The Successor Agency is proposing to keep all properties for public use.

Pursuant to Health and Safety Code SEC.22. Section 34181, the Oversight Board shall direct the Successor Agency to do all of the following: “(a) Dispose of all assets and properties of the former redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset.

There are nine (9) properties or parcels owned and controlled by the Successor Agency. A summary table with a brief description of the property and the proposed public use is provided below. A more detailed analysis of every property follows, addressing all statutory requirements and questions of the State Department of Finance.

Deed restrictions will be recorded for both Pad “D” and 1798 Bay Road, restricting their use for public purposes, including, but not limited to those listed in the Table below. If Pad D or Tanklage are not used for public purposes, the Successor Agency will come back to the Oversight Board to seek approval to remove the deed restrictions, approve the sale of the properties, and distribute the proceeds to the taxing entities, according to each entity’s proportional tax share, as required by law.

PROPERTY	PROPOSED PUBLIC USE
1) Pad “D”	Landing ramp to US 101 pedestrian-bicycle overpass, and a 500 gpm groundwater well.
2) Rail Spur	Open space public pedestrian-bicycle trail
3) Cooley Landing	Open space public park.
4) 1960 Tate Street	Civic facility: Community Development Department.
5) NE Corner of Bay & University	Right turn lane into University from Bay Rd. Required traffic mitigation measure identified in the Specific Plan.
6) 1798 Bay Road (Tanklage)	Relocation of Police Station upon Ravenswood Health Center relocation after lease termination in 2016.
7) Remainder, APN 063-492-080	Part of public right of way at Pulgas and E. Bayshore Rd.
8) Remainder, APN 063-312-460	Part of public right of way on Donohoe St.
9) University Avenue Overpass Improvements Plans	Plans will be used to complete Stage 2A improvements on University Avenue overpass.

1) PAD "D"
PROPERTY TYPE

Description: Pad "D" is a Vacant Commercial Property of approximately 20,082 sq. ft. Ownership of this property by the public enables the public to have a place at the table with the other owners of the shopping center. So long as the Successor Agency or the City holds property in the shopping center, it is a Major Owner under the CC&Rs and has an equal vote with entities such as Nordstrom and Home Depot. This has been helpful in dealing with on-going maintenance issues. See Figures 1 & 2 below.

Figure 1

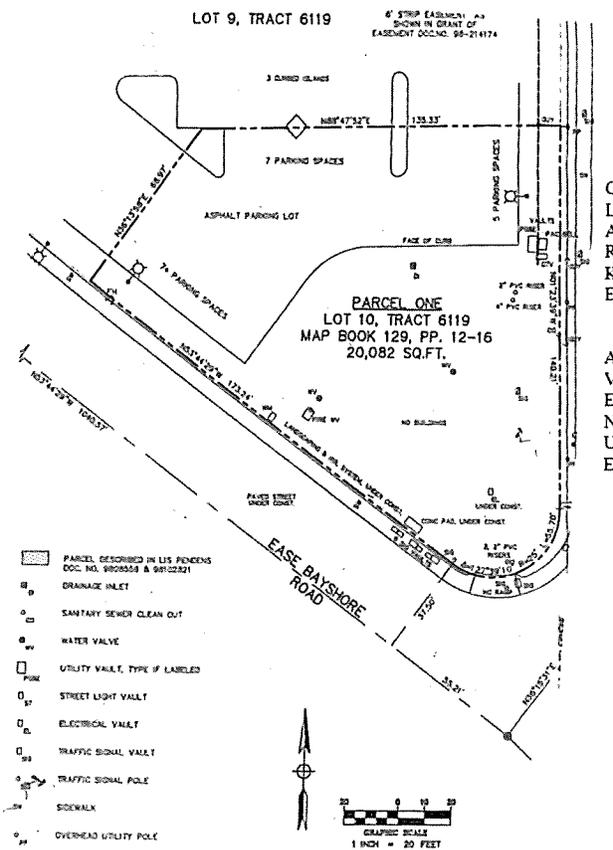


Figure 2



HSC 34191.5 (c) (2)

Permissible Use: "C-2" General Commercial District

Permissible Use Detail:

All commercial uses permitted in "C-1" Neighborhood Business District, and "C-2" General Commercial Districts. See "C-1" and "C-2" allowed uses in Addendum 1.

Pad "D" is part of the Gateway 101 Shopping Center, which has certain restrictions included in the Center's Covenants, Conditions and Restrictions (CC&R's). The CC&R's heavily restrict the uses to which the property may be put; all of the following are prohibited: manufacturing, assembling, distilling, refining, smelting or mining or for agricultural activities; a warehouse or self-storage units; a flea market or a business selling "second hand" goods, except for high quality antiques; a restaurant, a bar, tavern, cocktail lounge, or any other establishment that sells alcoholic beverage for on premises consumption, adult book or adult video or adult magazine store; a "head shop"; a mortuary; an automobile repair shop, service station, car wash, or gasoline station; a self-serve Laundromat, or a dry-cleaning facility, except facilities for drop-off and pick-up of clothing, an entertainment or recreational facility; a training or educational facility.

HSC 34191.5 (c) (1) (A)

Acquisition Date: Fiscal Year 95-96

Value at Time of Purchase: \$537,429

Estimated Current Value: \$800,000

Value Basis: \$800,000

Date of Estimated Current Value: 2002

SALE OF PROPERTY

Proposed Sale Value: Not Applicable – Proposed to be retained for Public Purposes

Proposed Sale Date: Not Applicable

HSC 34191.5 (c) (1) (B)

Purpose for which the property was acquired: The City purchased the site of the blighted and abandoned Ravenswood High School with CDBG funds. After the property was included in the redevelopment project area and became part of the shopping center project, the City transferred all of the property to the Redevelopment Agency pursuant to a purchase and sale agreement whereby the Agency agreed to pay the value of the property over time with a 12% interest rate. (This is one of the City/Agency loans that were nullified by the dissolution process.)"

HSC 34191.5 (c) (1) (C)

Address: No address, this is a vacant commercial property. See Figure 1 and 2 above.

APN: 063-511-580

Lot Size: 20,082 sq. ft.

Current Zoning: "C-2" General Commercial District

HSC 34191.5 (c) (1) (D)

Estimate of Current Parcel Value: \$800,000

HSC 34191.5 (c) (1) (E)

Estimate of Income/Revenue: None.

Contractual requirements for use of income/revenue: N.A.

HSC 34191.5 (c) (1) (F)

History of environmental contamination, studies, and/or remediation, and designation as a brownfield site: None

HSC 34191.5 (c) (1) (G)**Description of property's potential for Transit Oriented Development:**

Given its relatively isolated location, Pad "D" has very limited potential for a TOD.

Advancement of planning objectives of the successor agency:

The property is necessary for implementation of projects specified in the redevelopment plan and other City plans. The property is essential to keeping tabs on the RDA investment in the shopping center, and maintaining the quality of the center. Two specific uses for Pad "D" have been identified: 1) As a Northeast landing ramp for a pedestrian/bicycle overpass over US101, and 2) as an ideal site for a groundwater well. Both are public purposes and uses compatible with the shopping center.

1) Pad "D" as a pedestrian/bicycle overpass ramp landing

The City of East Palo Alto General Plan identifies the need to create safe and convenient bicycle and pedestrian connections, while the East Palo Alto Capital Improvement Plan specifically identifies the need for a dedicated pedestrian and bicycle crossing of US 101 in East Palo Alto.

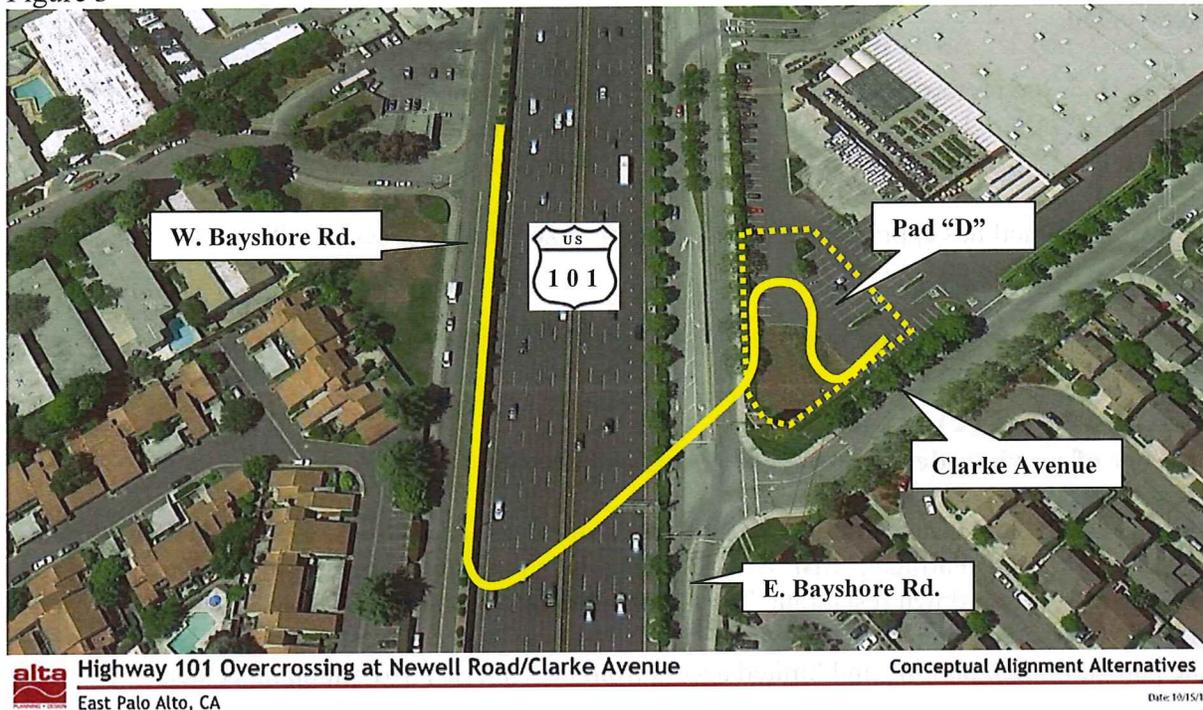
In 2011 the City decided to use \$300,000 from the voter approved Measure A to fund the design of an overpass over US 101. A series of community meetings were held, and a Draft Feasibility Study was completed in May 2013. As a result, Pad "D" emerged as the ideal landing location for a Class I Pedestrian / Bike Overcrossing Structure over US 101 that would provide a direct connection between the south side and north side of US 101 in East Palo Alto.

For more details, see Feasibility Study at:

http://eastpaloalto101.files.wordpress.com/2013/05/epa_hwy-101-feasibility-study_public-release-draft_may-1.pdf

Route 101 divides the City of East Palo Alto into two segments and creates a dividing wall that cuts off the south side of the City (Woodland Community Neighborhood) where approximately one third of the City population resides from the services, schools, parks, and shopping services on the north side of the City. Providing an independent pedestrian/ Bicycle overcrossing over 101 will enhance public safety, promote walking and bicycling, and reduce vehicular trips on University Avenue. See Figure 3, below; indicating the approved alternative overpass alignment.

Figure 3



2) Pad "D" as an ideal site for a groundwater well

The City of East Palo Alto has limited water supply. Currently, the City has a water supply guarantee of 1.96 million gallons a day (mgd), or 2,199 acre-feet (AF) annually from the San Francisco Public Utilities Commission (SFPUC). The City's 2010 Urban Water Management Plan (UWMP) shows a current demand of 2,200 AF, exceeding the supply guarantee. Furthermore, the UWMP shows that water demand will rise to 2,658 AF in 2015 and 3,400 AF by 2035. In sum, the City does not have adequate water supplies in case of an emergency, a drought, or to support further growth and economic development. Moreover, additional guaranteed water is not available from the SFPUC.

The Gloria Way Well Feasibility and Water Security Study (the Study), was commissioned to adequately support current water needs, and future growth. For details regarding the Study, see: (<http://www.ci.east-palo-alto.ca.us/DocumentCenter/View/36>).

The Study analyzed several alternatives to augment the City's water resources, concluding that the most practical method of increasing supply is development of local groundwater resources.

Furthermore, the Study identifies two sites to develop these resources:

- a. The City's existing Gloria Way well, which is operable but not in use because of high levels of iron and manganese in the groundwater. Because of the elevated iron and manganese, a treatment facility would be required; the existing site has adequate space to accommodate such a facility.

The approximate cost for the design and construction of an iron/manganese removal facility is \$2,000,000.

b. Pad D, as the preferred site for a second well. Development of a groundwater supply at Pad D (including an initial test well investigation, full-scale production well, and 500-gpm iron and manganese facility) would cost approximately \$3,400,000.

The City Council has appropriated funds and authorized staff to proceed with a test well at the site. Both uses can coexist on the site.

Thus, Pad “D” has been identified as a critical site for East Palo Alto water security.

HSC 34191.5 (c) (1) (H)

History of previous development proposals and activity:

In June 2010, the Agency entered into a 90 day Exclusive Negotiating Agreement (ENRA), with “Shuman Business Partners.” SBP was exploring the possibility of developing the property as an American-style, sit down restaurant. The development proposal failed due to a lack of interest from franchise restaurants to locate in Pad “D”. Issues of concern were the triangular shape of the parcel, limited parking and limited access from the Gateway 101 shopping center.

In October 2010, the Agency entered into an ENRA with For the Future Housing. FTFH explored the development of a mixed use project including: 4,000 sq. ft. of ground floor retail and up to 55 single resident occupancy (SRO) units in three levels over the retail area. The development proposal failed due to opposition from Home Depot to approve such development as part of the shopping center Covenants, Conditions and Restrictions (CC&R’s), and the inability of FTFH to raise funding for the proposed affordable housing.

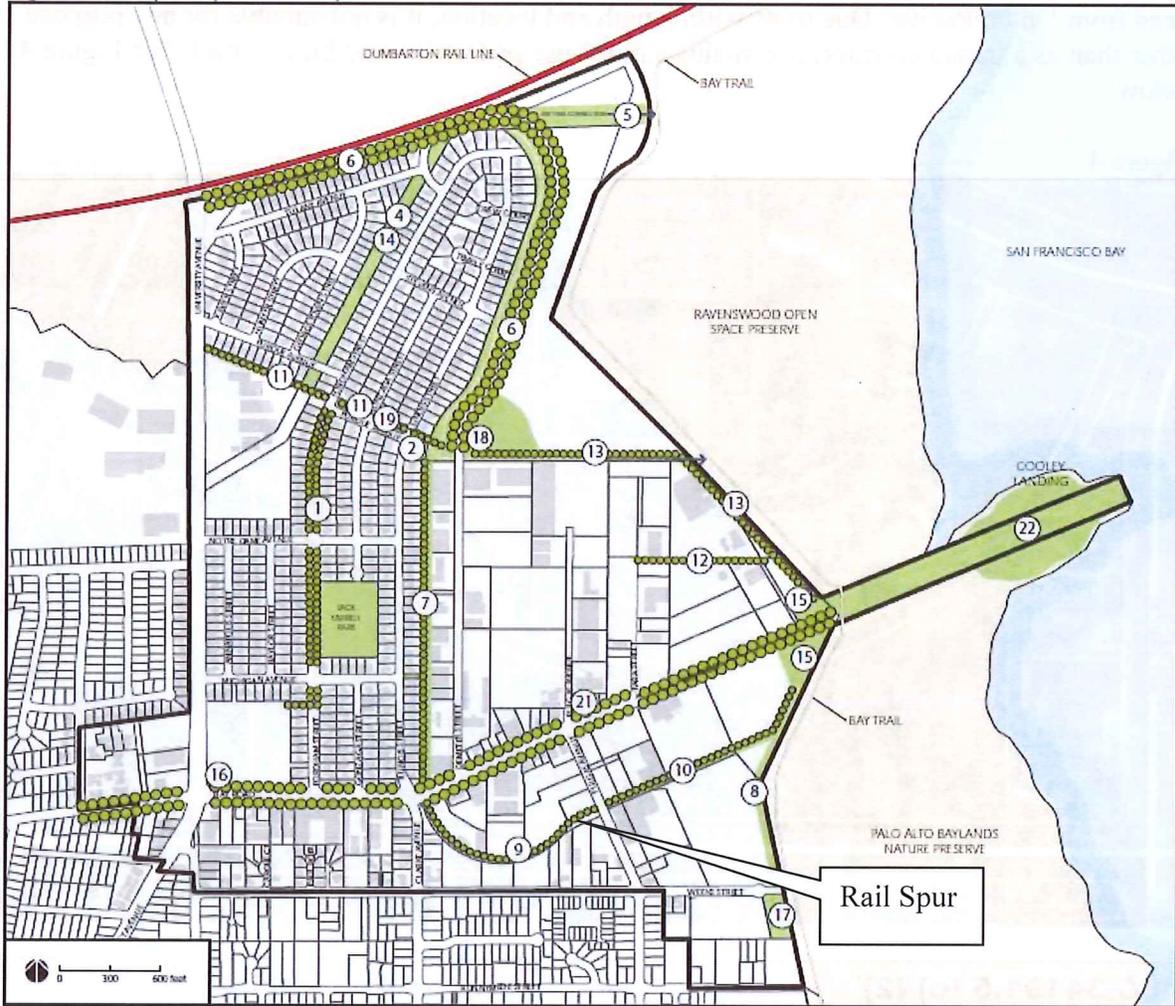
The commercial value of Pad “D” has proven to be very limited. A number of different alternative development proposals have failed due to a number of variables, including the irregular shape of the parcel, limited access, and poor visibility.

As mentioned earlier, the most feasible uses, and preferred community land use alternatives for Pad “D” have been as a landing for a critical pedestrian/bicycle overpass over US 101, and a groundwater well.

Preliminary Engineering analysis suggests that both uses are compatible and can be accommodated in the site.

community's vision. The Rail Spur site, which has approximately 1300 linear feet, in 0.3 acre, is one of those key open space components, envisioned to become a pedestrian and bicycle path. See Figure 5 below: Specific Plan Open Space Plan Concept.

Figure 5



HSC 34191.5 (c) (1) (A)

Acquisition Date: October 2006

Value at Time of Purchase: \$10,000

Estimated Current Value: \$0 – Open Space / Pedestrian & bicycle trail

Value Basis: None

Date of Estimated Current Value: 2013

SALE OF PROPERTY

Proposed Sale Value: Not Applicable – Proposed to be retained for Public Purposes

Proposed Sale Date: Not Applicable

HSC 34191.5 (c) (1) (B)

Purpose for which the property was acquired: The property was acquired to create a multi-use trail and open space as a strategy to revitalize the blighted Ravenswood Business District.

HSC 34191.5 (c) (1) (C)

Address: No address, this is public open space.
APN: 063-321-999
Lot Size: Approximately 13,000 sq. ft.
Current Zoning: Open Space

HSC 34191.5 (c) (1) (D)

Estimate of Current Parcel Value: \$0– Open Space / Pedestrian & bicycle trail

HSC 34191.5 (c) (1) (E)

Estimate of Income/Revenue: None.
Contractual requirements for use of income/revenue: N.A.

HSC 34191.5 (c) (1) (F)

History of environmental contamination, studies, and/or remediation, and designation as a brownfield site: Phase I and Phase II studies identified arsenic contamination in the site.

In June 2008, the City received a \$100,000 Transportation Development Act (TDA) Article 3 grant from the Metropolitan Transportation Commission (MTC) to pay for costs associated with converting the rail spur into a usable pedestrian/bicycle trail. In July 2011, Council approved a contract with J.J. Albanese to remediate the contaminated site. The site was graded and capped by the pedestrian and bike trail.

HSC 34191.5 (c) (1) (G)

Description of property’s potential for Transit Oriented Development:

The property itself, due to its configuration, has no potential for Transit Oriented Development. Its value is as a non-motorized vehicular transit corridor to support and enhance pedestrian and bicycle circulation as detailed in the Ravenswood/Four Corners Transit Oriented Development (TOD) Specific Plan.

Advancement of planning objectives of the successor agency:

The rail spur is part of the Successor Agency’s efforts to continue revitalizing the blighted Ravenswood area.

HSC 34191.5 (c) (1) (H)

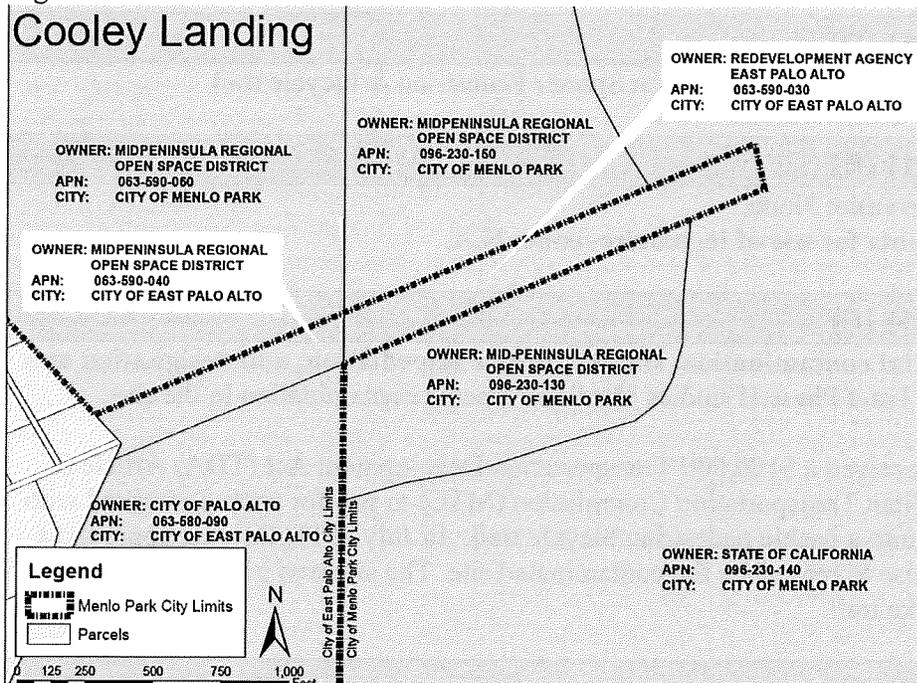
History of previous development proposals and activity: The site was previously used by the Union Pacific railroad. There has not been any previous development proposal for this site, other than the previously described efforts of the Agency to turn this contaminated site into an open space asset.

3) COOLEY LANDING PROPERTY TYPE

Description: Open Space / Passive Park / Capped Landfill

The site is approximately, 297,990 sq. ft., (6.84 acres), with about half of it under SF Bay. The parcels to the North and South of Cooley Landing are owned by Mid Peninsula Regional Open Space District (MPROSD). The parcel to the North is in the City of Menlo Park, the parcel to the South is in the City of East Palo Alto. See Figure 6 below.

Figure 6



The Peninsula Open Space Trust (POST) gifted Cooley Landing to the City of East Palo Alto in 2006. The terms of the deed limit the use of the property to environmental education and passive recreational activities. The City has for many years, planned to develop a public park with a nature and education center at Cooley Landing.

The first phase of developing Cooley Landing as open space was the environmental cleanup related to its previous use as the County waste dump. The first phase has been completed. The site was covered and capped with clean fill under the regulatory oversight of the San Francisco Bay Regional Water Quality Control Board and the County of San Mateo. The park is now open for the community's use from sunrise to sunset.

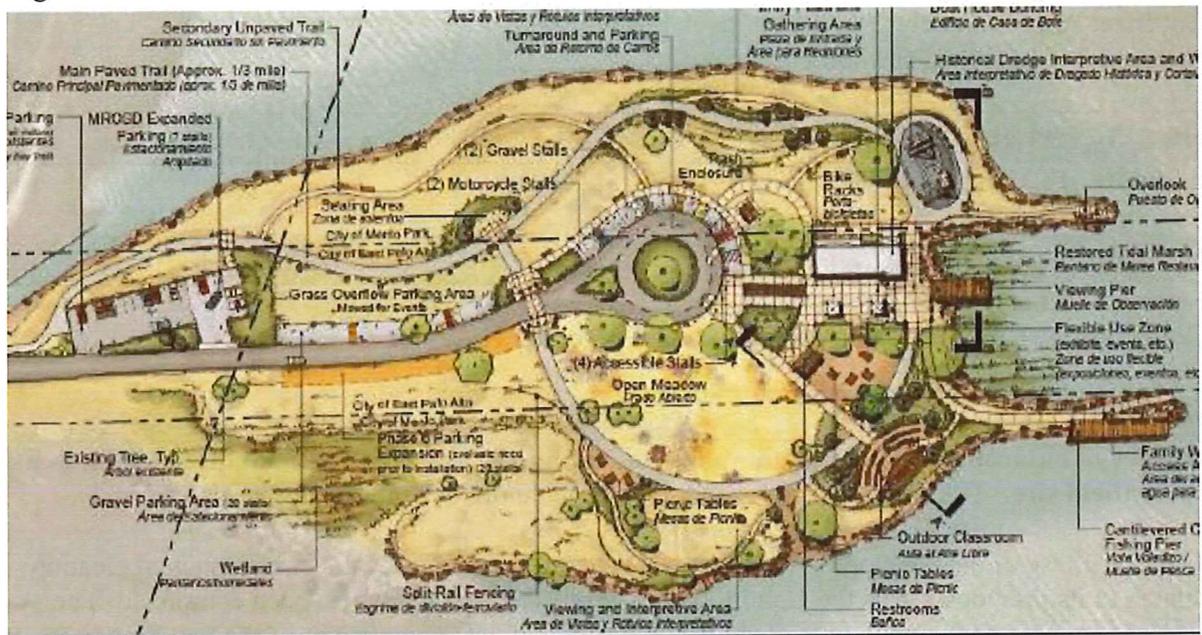
In March of 2012, the State of California Statewide Parks Program awarded \$5 million of Proposition 84 funds to the City of East Palo Alto for design and construction of Phases 2 – 5. The State Proposition 84 grant, which runs until June 30, 2041, prohibits sale of the property to a private party. The conceptual vision for the park includes a new Cooley Landing Education

Center with classroom, community room and exhibit space; landscape, trails and re-vegetation with native plants, restrooms; and an outdoor classroom.

In May of, 2013, the City Council provided direction to staff on a number of actions relating to the development of Cooley Landing Park and Education Center. On September 17, 2013, the City Council approved the selection of FOG Studio Architects for the Cooley Landing Park Phase III Education Center Project.

For details about this project, see: <http://www.ci.east-palo-alto.ca.us/index.aspx?nid=446>

Figure 7



HSC 34191.5 (c) (2)

Permissible Use: Ravenswood Open Space

Permissible Use Detail:

Cooley Landing is part of the previously mentioned Ravenswood/Four Corners Specific Plan Open Space Plan. In the Ravenswood Open Space District, permitted uses are limited to public parks, recreational facilities and open space conservancy.

HSC 34191.5 (c) (1) (A)

Acquisition Date: Gifted by POST to the City in 2006. Transferred to the Agency due to USEPA funding restrictions.

Value at Time of Purchase: \$0

Estimated Current Value: \$0 – Open Space Park

Value Basis: None

Date of Estimated Current Value: 2013

SALE OF PROPERTY

Proposed Sale Value: Not Applicable – Proposed to be retained for Public Purposes
Proposed Sale Date: Not Applicable

HSC 34191.5 (c) (1) (B)

Purpose for which the property was acquired: The property was gifted to the City with the specific stipulation that it be used for environmental education and passive recreational activities.

HSC 34191.5 (c) (1) (C)

Address: 2100 Bay Rd., East Palo Alto, CA 94303. This site is a public open space park.
APN: 063590030
Lot Size: Approximately 297,900 sq. ft.
Current Zoning: Ravenswood Open Space

HSC 34191.5 (c) (1) (D)

Estimate of Current Parcel Value: \$0– Open Space Park

HSC 34191.5 (c) (1) (E)

Estimate of Income/Revenue: None.
Contractual requirements for use of income/revenue: N.A.

HSC 34191.5 (c) (1) (F)

History of environmental contamination, studies, and/or remediation, and designation as a brownfield site: The site was used as a County burn dump, which was closed in 1957.

The first phase of the developing Cooley Landing as open space was the environmental cleanup related to its previous use as the County waste dump. The first phase has been completed. The site was covered and capped with clean fill under the regulatory oversight of the San Francisco Bay Regional Water Quality Control Board and the County of San Mateo.

HSC 34191.5 (c) (1) (G)

Description of property’s potential for Transit Oriented Development:
None.

Advancement of planning objectives of the successor agency:
East Palo Alto is deficient in park space and Cooley Landing is critical to the open space needs of the community.

HSC 34191.5 (c) (1) (H)

History of previous development proposals and activity:
There has not been any previous development proposal for this site, other than the previously described efforts of the Agency to turn this contaminated site into an open space asset.

4) 1960 TATE STREET PROPERTY TYPE

Description: Public Facility. 1960 Tate Street is a public facility, housing the City of East Palo Alto Permit Center and Community Development Department.

The site is approximately, 31,061 sq. ft., or 0.7 acre. See Figure 8 below.

Figure 8



HSC 34191.5 (c) (2)

Permissible Use: PUD, Public Facility

Permissible Use Detail: This site is a public facility that was part of a planned unit development. The PUD Section is in Chapter 9 of the City's Zoning Ordinance.

CHAPTER 9. "PUD" DISTRICT (PLANNED UNIT DEVELOPMENT DISTRICT) SECTION 6190. PURPOSES OF CHAPTER

The PUD District allows for planned coordination of mixed land uses and flexibility in design and it intended to provide for efficient uses of land so that public and private common areas and open space can be created. For details, see Addendum 1.

HSC 34191.5 (c) (1) (A)

Acquisition Date: December 2004

Value at Time of Purchase: \$0

Estimated Current Value: \$0 – Public Facility

Value Basis: None

Date of Estimated Current Value: 2013

SALE OF PROPERTY

Proposed Sale Value: Not Applicable – Proposed to be retained for Public Purposes
Proposed Sale Date: Not Applicable

HSC 34191.5 (c) (1) (B)

Purpose for which the property was acquired: The property was developed as part of the University Square housing development. As a community benefit, the developer created a public park and an adjacent building. Currently, the building houses the City’s Community Development Department and Permit Center. The City has no other facility for these important governmental functions.

HSC 34191.5 (c) (1) (C)

Address: 1960 Tate Street, East Palo Alto, CA 94303.
APN: 063665020
Lot Size: Approximately 7,841 sq. ft.
Current Zoning: PUD

HSC 34191.5 (c) (1) (D)

Estimate of Current Parcel Value: \$0– Public Facility

HSC 34191.5 (c) (1) (E)

Estimate of Income/Revenue: None.
Contractual requirements for use of income/revenue: N.A.

HSC 34191.5 (c) (1) (F)

History of environmental contamination, studies, and/or remediation, and designation as a brownfield site: N.A.

HSC 34191.5 (c) (1) (G)

Description of property’s potential for Transit Oriented Development:
The property is relatively isolated, in the middle of a single family neighborhood and adjacent to a park, with limited potential for TOD.

Advancement of planning objectives of the successor agency:
The park and building at 1960 Tate Street are community assets for the provision of open space and public services.

HSC 34191.5 (c) (1) (H)

History of previous development proposals and activity:

The 1960 Tate Street development, including the adjacent public park and building, was completed by Signature Properties as part of the University Square housing development in the Gateway 101 Redevelopment area, as a community benefit.

As part of the Development Agreement, in March 2002, the developer transferred the building and land to a non-profit, the East Palo Alto's Creative Montessori Learning Center. The transfer was pursuant to a grant deed that included a right of reentry allowing the City to obtain title to the center if CMLC did not operate the facility as a daycare within two years.

After two years, on December, 2004, CMLC signed over the deed to the City, given its inability to maintain the building, or improve it as a daycare center. The City moved the Community Development Department into 1960 Tate in October 2006 and has since, housed the City's Permit Center and Community Development Department.

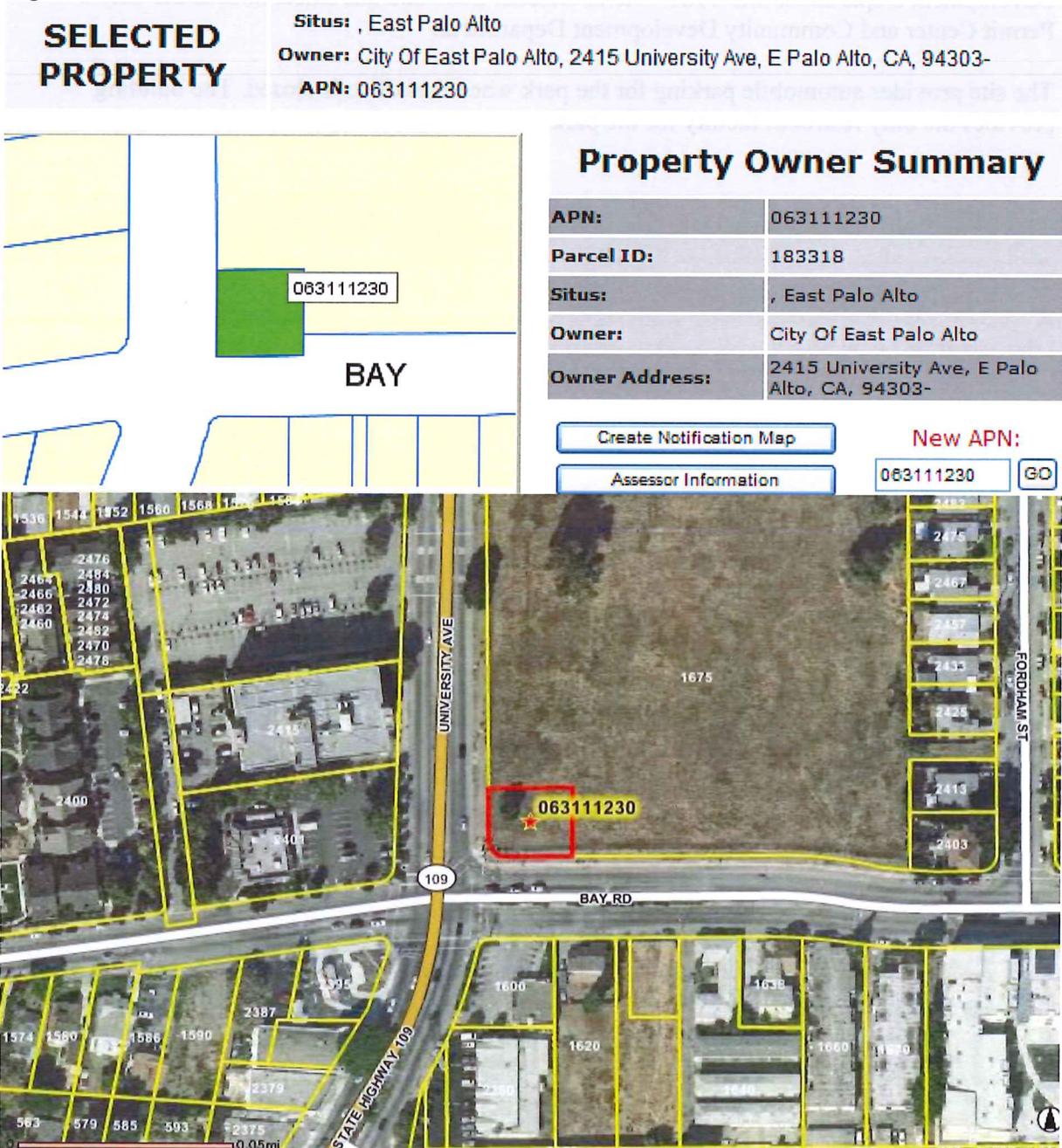
The site provides automobile parking for the park when the office is closed. The building provides the only restroom facility for the park.

**5) NORTHEAST CORNER OF BAY ROAD AND UNIVERSITY AVENUE
PROPERTY TYPE**

Description: Vacant parcel.

The site is approximately, 7,840 sq. ft., or 0.18 acre. See Figure 9 below.

Figure 9



HSC 34191.5 (c) (2)

Permissible Use: 4 Corners District

Permissible Use Detail: The zoning on this site allows mixed uses, however, the location at the intersection of Bay Road and University Avenue, is too small for commercial development. The site is designated to be used as a traffic mitigation measure as part of the Ravenswood/Four Corners Environmental Impact Report (EIR), approved and certified by the City Council in early 2013. The EIR identified the need for a right turn lane as a traffic mitigation measure (See Impact TRA-4 and Mitigation Measure TRA 4 below) at that intersection, which likely will require the entire site, as well as additional private property dedication in conjunction with the development of the six acre site adjacent to this parcel.

“Impact TRA-4 (University Avenue and Bay Road): This intersection currently operates at acceptable levels (LOS D or better) during the AM and PM peak hours. The addition of project-generated traffic is expected to cause the intersection to degrade to LOS F during the AM (94.7 seconds delay) and PM (109.8 seconds delay) peak hours. This constitutes a *significant adverse impact* according to the thresholds established by the City of East Palo Alto.

Mitigation Measure TRA-4: An exclusive northbound right-turn lane and a second westbound left-turn lane shall be built.”

For more details, see the Ravenswood/Four Corners Final EIR p.2-21, at:

<http://www.ci.east-palo-alto.ca.us/ArchiveCenter/ViewFile/Item/126>

HSC 34191.5 (c) (1) (A)

Acquisition Date: December 2005. Acquired with 2005 Revenue Bond proceeds.

Value at Time of Purchase: \$263,236

Estimated Current Value: \$0 – Public Facility, right turn lane traffic mitigation measure.

Value Basis: None

Date of Estimated Current Value: 2013

SALE OF PROPERTY

Proposed Sale Value: Not Applicable – Proposed to be retained for Public Purposes

Proposed Sale Date: Not Applicable

HSC 34191.5 (c) (1) (B)

Purpose for which the property was acquired: The property was acquired in December 2005, with 2005 RDA Bond proceeds, when the County of San Mateo sold the property to the Agency in conjunction with the transfer by the County to the City of East Palo Alto Drainage Maintenance District as provided for in the Streets and Highways Code Section 5851.

HSC 34191.5 (c) (1) (C)

Address: No address. Vacant Parcel.

APN: 063111230

Lot Size: Approximately 7,841 sq. ft.

Current Zoning: 4 Corners District

HSC 34191.5 (c) (1) (D)

Estimate of Current Parcel Value: \$0– Public Facility

HSC 34191.5 (c) (1) (E)

Estimate of Income/Revenue: None.

Contractual requirements for use of income/revenue: N.A.

HSC 34191.5 (c) (1) (F)

History of environmental contamination, studies, and/or remediation, and designation as a brownfield site: The County disclosed as part of the transfer that “ the University and Bay Property may have once been a gasoline service station. To the best of County’s knowledge, there are not now any toxic or hazardous materials or conditions at, on or under the Property.”

The Agency conducted a Phase I study and surveyed the site for Underground Storage Tanks, and found no evidence of UST’s.

HSC 34191.5 (c) (1) (G)

Description of property’s potential for Transit Oriented Development:

The property is within the Ravenswood/Four Corners TOD Specific Plan area and serves the public purpose of mitigating a significant adverse traffic impact.

Advancement of planning objectives of the successor agency:

The mitigation of traffic impacts resulting from the development of mixed uses as prescribed in the Specific Plan is a planning objective of the Successor Agency.

HSC 34191.5 (c) (1) (H)

History of previous development proposals and activity:

The site was a public asset owned by the County. Due to this fact and the relatively small size of this parcel to be developed for commercial use, there is no record of previous private development interest or proposals for this site.

**6) 1798 BAY ROAD (“THE TANKLAGE PROPERTY”)
PROPERTY TYPE**

Description: Property with site improvements, (water, sewer, drainage, lighting, surface parking, signage and fencing), and two portable modular buildings. Currently leased to a non-profit, the Ravenswood Health Center.

The site is approximately, 55,321 sq. ft., or 1.27 acres. It has an irregular configuration and an interior block location. A portion of the site near the street frontage is encumbered by an ingress/egress easement in favor of the adjacent property owner. This easement prohibits the development of the site near the Bay Road street frontage. See Figures 10, 11 and 12 below.

Figure 10



Figure 11

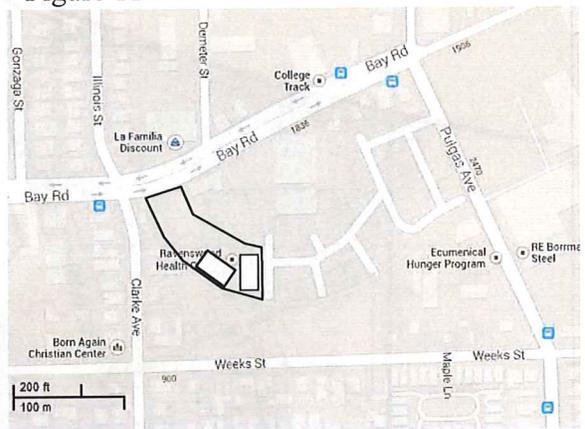
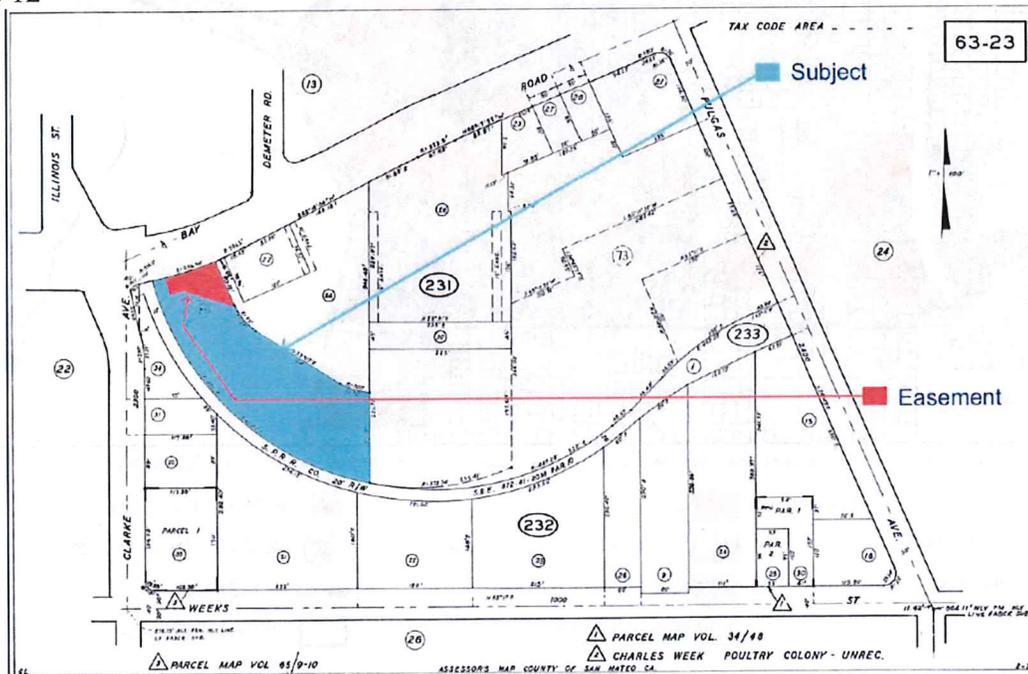


Figure 12



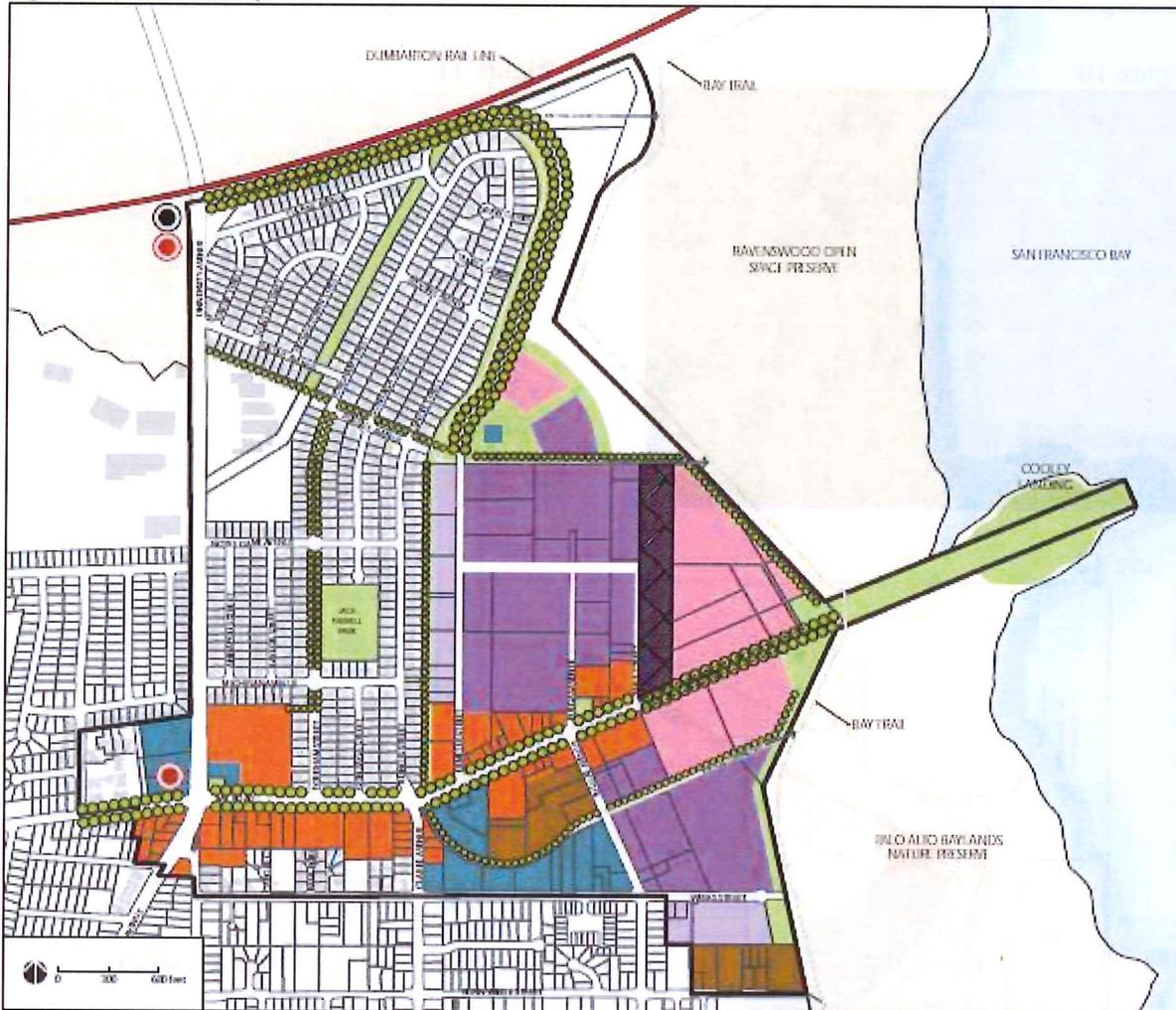
HSC 34191.5 (c) (2)

Permissible Use: The Specific Plan Concept identifies this area for Civic/Community Uses.

Permissible Use Detail: “The Plan Concept suggests several potential locations for civic/community uses within the Plan Area. Civic and community uses are anticipated to include both community space for special events or recreation, as well as space for nonprofits, health clinics, and social services, and other uses of this nature.” See: <http://www.ci.east-palo-alto.ca.us/ArchiveCenter/ViewFile/Item/125> Specific Plan, p.47. See Figure 13 below.

Figure 13

Figure 4-1: Plan Concept



* This Diagram shows a conceptual vision for future land uses in the Specific Plan area. Figure 4-1 does not represent zoning for the Specific Plan Area.

- | | | |
|-----------------------------------|-------------------------------|-------------------------|
| MIXED USE (OFFICE OR RESIDENTIAL) | OFFICE | RAPID BUS / BRT STATION |
| CIVIC / COMMUNITY | OFFICE/R&D/INDUSTRIAL OVERLAY | DUMBARTON RAIL STATION |
| R&D / INDUSTRIAL | RESIDENTIAL | ACTIVE FRONTAGE |
| LIGHT INDUSTRIAL | PARKS / OPEN SPACE | SPECIFIC PLAN AREA |

HSC 34191.5 (c) (1) (A)

Acquisition Date: February 1999.

Value at Time of Purchase: \$0 Donation to the City from the Tanklage family.

Estimated Current Value: The Tanklage site was appraised in 2012 for \$1,110,000.

Value Basis: \$1,110,000

Date of Estimated Current Value: 2012

SALE OF PROPERTY

Proposed Sale Value: Not Applicable – Proposed to be retained for Public Purposes

Proposed Sale Date: Not Applicable

HSC 34191.5 (c) (1) (B)

Purpose for which the property was acquired: The property was donated as a Gift Deed, by the Tanklage family, Donald and Carole Tanklage, to the City of East Palo Alto Redevelopment Agency via a Quitclaim Deed on February 17, 1999.

After it was donated to the Agency, the Agency cleaned it of debris, and leased it in May 2001 to a non-profit providing health services to families in San Mateo County, the Ravenswood Family Health Center (RFHC), for the nominal amount of a dollar a year. Site improvements were completed by the RFHC with a \$1.9M donation from the Silicon Valley Community Foundation. The RFHC opened in December 2001 and has renewed the lease several times under the same terms. For details regarding the RFHC, see: <http://www.ravenswoodfhc.org/>

By statutory authority and operation of law, the property is now considered to be owned by the Successor Agency. On April 18, 2013, the Oversight Board of the Successor Agency approved Resolution OB 2013-03 extending the RFHC ground lease. The lease will end on April 17, 2016.

After the lease expires in 2016, the RFHC is planning to move from its current location, in modular buildings, to a permanent facility to be built on Bay Road, in an approximately 3.15-acre project site that is composed of portions of four parcels: 1891 Bay Road (APN 063-131-310), 1885 Bay Road (APN 063-131-240, -230), and the southern half of the parcel at 2519 Pulgas Avenue (063-131-220).

After the RFHC moves to its new facility, the City is planning to move the City's Police Department (EPA PD) from its current portable building leased location at 141 Demeter to the permanent, appropriately sized and designed City owned facilities at 1798 Bay Rd. This relocation would be consistent with the community vision, expressed through a number of workshops had over a period of two years as part of the Specific Plan process. The vision is to have civic and community uses fronting Bay Rd., as expressed and memorialized in the Specific Plan and Environmental Impact Report.

See Figure 13 in previous page, and Figures 14-16 below.

Figure 14

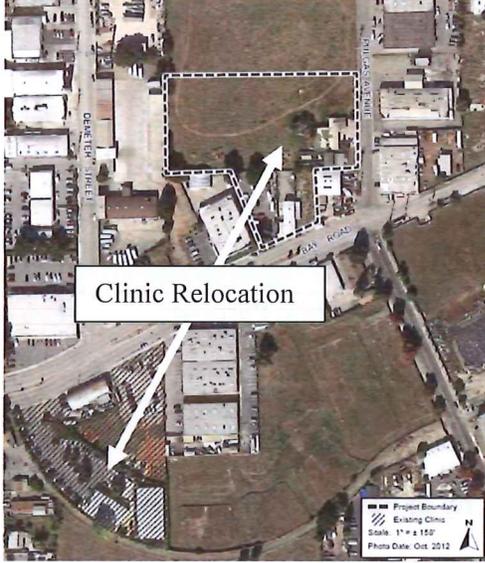


Figure 15

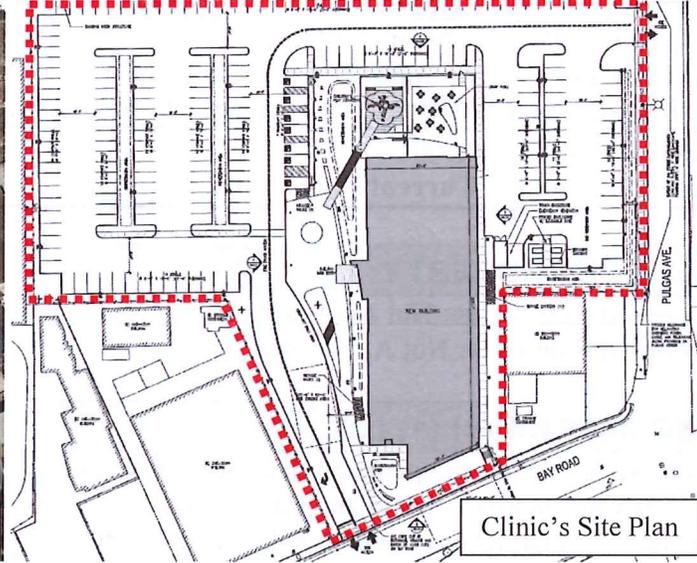


Figure 16



HSC 34191.5 (c) (1) (C)

Address: 1798 Bay Road, East Palo Alto, CA 94303.
APN: 063231250
Lot Size: Approximately 55,321 sq. ft., or 1.27 acre
Current Zoning: Bay Road Central District

HSC 34191.5 (c) (1) (D)

Estimate of Current Parcel Value: The Tanklage site was appraised in 2012 for \$1.11M

HSC 34191.5 (c) (1) (E)

Estimate of Income/Revenue: \$1 per year

Contractual requirements for use of income/revenue: None

HSC 34191.5 (c) (1) (F)

History of environmental contamination, studies, and/or remediation, and designation as a brownfield site:

In March 2001, the Agency cleared and leveled the site, removing debris, including a number of tires, concrete, rebar, and dirt, and disposed it all at an appropriate landfill. The Clinic made further site improvements, and the property is now believed to be free of environmental contamination.

HSC 34191.5 (c) (1) (G)

Description of property's potential for Transit Oriented Development:

The difficulty with using this site for a private TOD development is its extremely limited frontage on a public street. As noted in the introduction, the property has very limited access due to an existing easement; it is an irregular lot with an interior block location.

Advancement of planning objectives of the successor agency:

The property has very limited access due to an existing easement; it is an irregular lot with an interior block location. However, it is the ideal location for the City of East Palo Alto Police Department, consistent with the goals of the Successor Agency and the community vision of having Civic/community uses in this area, as expressed in the Specific Plan.

HSC 34191.5 (c) (1) (H)

History of previous development proposals and activity:

There is no record of previous private development interest or proposals for this site.

7) REMAINDER PROPERTY, APN: 063-492-080
PROPERTY TYPE

Description: Parcel 063-492-080 is a portion of land acquired by the Redevelopment Agency in July 2008. The site is approximately, 501 sq. ft. It is located at the intersection of East Bayshore Rd. and Pulgas Ave. See Figure 17, below.

The property was acquired to create a new and improved south bound right turn alignment from Pulgas Avenue, onto East Bayshore Rd. See Figures 17 & 18 below.

Figure 17

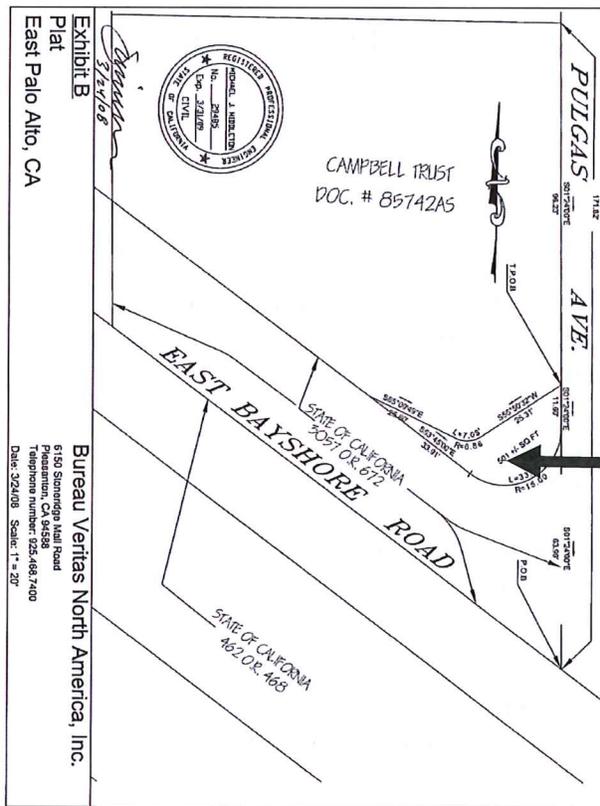
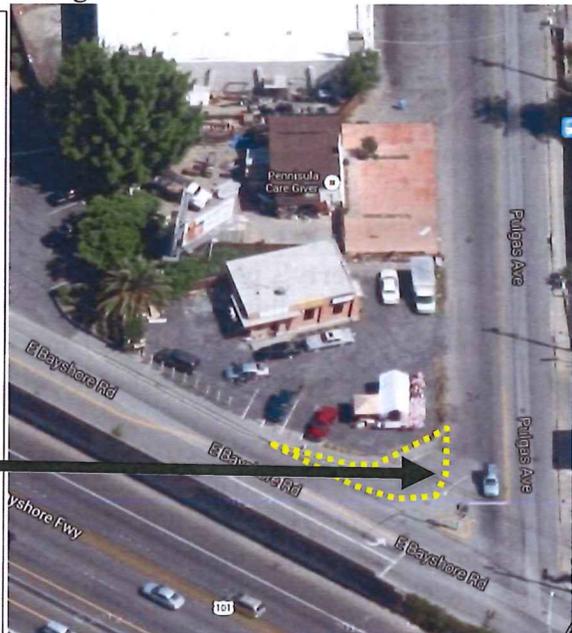


Figure 18



HSC 34191.5 (c) (2)

Permissible Use: None
Permissible Use Detail: None, part of public right of way.

HSC 34191.5 (c) (1) (A)

Acquisition Date: July 2008
Value at Time of Purchase: \$33,229.00
Estimated Current Value: \$0 – Part of the Public Right of Way.
Value Basis: None
Date of Estimated Current Value: N.A.

SALE OF PROPERTY

Proposed Sale Value: Not Applicable – Property used as public right of way
Proposed Sale Date: Not Applicable

HSC 34191.5 (c) (1) (B)

Purpose for which the property was acquired: This property was acquired from Mr. Campbell, as part of road improvements at that intersection. The property was acquired to improve the south bound right turn alignment from Pulgas onto East Bayshore Rd.

At the time of acquisition, the property was assigned the APN number: 063-492-080. It was later taken off the tax rolls after the tax assessor was informed of the parcel’s location.

HSC 34191.5 (c) (1) (C)

Address: No address.
APN: Originally assigned APN: 063-492-080. No longer a parcel.
Lot Size: Approximately 501 sq. ft.
Current Zoning: N.A.

HSC 34191.5 (c) (1) (D)

Estimate of Current Parcel Value: \$0– Public right of way

HSC 34191.5 (c) (1) (E)

Estimate of Income/Revenue: None.
Contractual requirements for use of income/revenue: N.A.

HSC 34191.5 (c) (1) (F)

History of environmental contamination, studies, and/or remediation, and designation as a brownfield site: None

HSC 34191.5 (c) (1) (G)

Description of property’s potential for Transit Oriented Development: N.A.

Advancement of planning objectives of the successor agency: N.A.

HSC 34191.5 (c) (1) (H)

History of previous development proposals and activity: None

8) REMAINDER PROPERTY, APN: 063-312-460

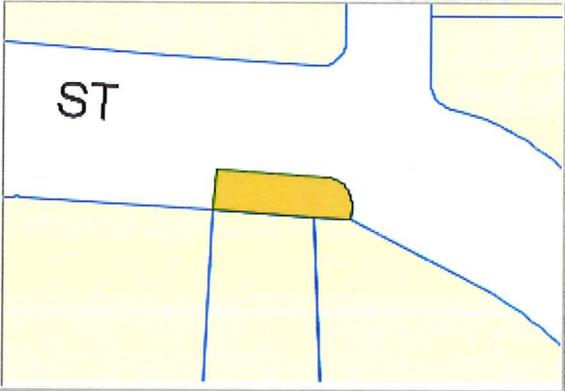
PROPERTY TYPE

Description: Parcel 063-312-460 is a portion of land whose title, is under the Redevelopment Agency. The site is approximately, 96' x 20', or 1,918 sq. ft. It is located at the intersection of Cooley Avenue and Donohoe St., on the public right of way. See Figures 19 and 20, below.

The property was acquired by the Agency to widen Donohoe St., as part of the off ramp improvements to access the Ravenswood Gateway 101 shopping Center in 1999.

Figure 19

SELECTED PROPERTY	Situs: 660 Donohoe St, East Palo Alto
	Owner: E Palo Alto City Redevelopment, 2415 University Ave, East Palo Alto, CA, 94303-
	APN: 063312460



Property Owner Summary	
APN:	063312460
Parcel ID:	4004261
Situs:	660 Donohoe St, East Palo Alto
Owner:	E Palo Alto City Redevelopment
Owner Address:	2415 University Ave, East Palo Alto, CA, 94303-

[Create Notification Map](#) **New APN:**

[Assessor Information](#)

Figure 20



HSC 34191.5 (c) (2)

Permissible Use: Public right of way

Permissible Use Detail: The SA will dedicate this parcel back as public right of way.

HSC 34191.5 (c) (1) (A)

Acquisition Date: 1999

Value at Time of Purchase: N.A.

Estimated Current Value: \$0 – Part of the Public Right of Way.

Value Basis: None.

Date of Estimated Current Value: N.A.

SALE OF PROPERTY

Proposed Sale Value: Not Applicable –

Proposed Sale Date: Not Applicable

HSC 34191.5 (c) (1) (B)

Purpose for which the property was acquired: The property was acquired by the Agency, to widen Donohoe St., as part of the off ramp improvements to access the Ravenswood Gateway 101 shopping Center in 1999. During the dissolution process, the Successor Agency discovered that this parcel was not properly dedicated back as part of the public right of way.

HSC 34191.5 (c) (1) (C)

Address: No address.

APN: 063-312-460

Lot Size: Approximately 1,918 sq. ft.

Current Zoning: N.A.

HSC 34191.5 (c) (1) (D)

Estimate of Current Parcel Value: \$0– Public right of way

HSC 34191.5 (c) (1) (E)

Estimate of Income/Revenue: None.

Contractual requirements for use of income/revenue: N.A.

HSC 34191.5 (c) (1) (F)

History of environmental contamination, studies, and/or remediation, and designation as a brownfield site: None

HSC 34191.5 (c) (1) (G)

Description of property’s potential for Transit Oriented Development: N.A.

Advancement of planning objectives of the successor agency: N.A.

HSC 34191.5 (c) (1) (H)

History of previous development proposals and activity: None

9) IMPROVEMENT PLANS FOR UNIVERSITY AVENUE OVERPASS PROPERTY TYPE

Description: Plans, Specifications and Estimates (PS&E's) for the University Avenue overpass (Stage 2A). See Figure 21.

On March 5, 2001 (Resolution 1851), the City of East Palo Alto issued a Request for Proposals to prepare plans, specifications, and estimates for the University Avenue overpass widening, Stage 2A project, and interchange modifications on state Route 101. A contract was awarded in July 2001 (Resolution 1912) to CCS Inc. Redevelopment Agency funds totaling \$561,970 were expended. The plans were completed in 2003, and approved by Caltrans in 2004. The PS&E's are now property of the Successor Agency.

Following the approval of the plans by Caltrans, the City of East Palo Alto in 2005, was awarded \$2M in SAFETEA LU funding, to construct a bicycle and pedestrian lane on the University Avenue Overpass. This project was included in Caltrans' High Priority Project (HPP), list in 2008, as HPP#3769: "University Avenue Overpass Construction of bicycle and pedestrian lanes East Palo Alto."

On October 2012 (Resolution 4362), the San Mateo County Transportation Authority Board (SMCTAB) approved the Measure A Highway Project list, including the City of East Palo Alto application for \$5.0 million for Stage 2A. Resolution 4362 accepted the \$5.0 million grant. As resolved by the City Council via Resolution 4362, the City is in the process of entering into a funding agreement with the SMCTAB and a Cooperative Agreement with Caltrans to complete any necessary design modifications to the project and complete its construction.

Figure 21



HSC 34191.5 (c) (2)

Permissible Use: Bidding and construction documents.

Permissible Use Detail: Construction documents.

HSC 34191.5 (c) (1) (A)

Acquisition Date: 2003

Value at Time of Purchase: \$537,429

Estimated Current Value: \$0

Value Basis: \$0

Date of Estimated Current Value: 2013

SALE OF PROPERTY

Proposed Sale Value: Construction documents, No resale value.

Proposed Sale Date: N.A.

HSC 34191.5 (c) (1) (B)

Purpose for which the property was acquired: University Ave., Overpass Improvement Plans.

HSC 34191.5 (c) (1) (C)

Address: N.A.

APN: N.A.

Lot Size: N.A.

Current Zoning: N.A.

HSC 34191.5 (c) (1) (D)

Estimate of Current Parcel Value: \$0

HSC 34191.5 (c) (1) (E)

Estimate of Income/Revenue: None.

Contractual requirements for use of income/revenue: N.A.

HSC 34191.5 (c) (1) (F)

History of environmental contamination, studies, and/or remediation, and designation as a brownfield site: N.A.

HSC 34191.5 (c) (1) (G)

Description of property's potential for Transit Oriented Development: N.A.

Advancement of planning objectives of the successor agency: N.A.

HSC 34191.5 (c) (1) (H)

History of previous development proposals and activity: N.A.

ADDENDUM 1

CHAPTER 16. "C-2" DISTRICTS **(GENERAL COMMERCIAL DISTRICTS)**

SECTION 6260. REGULATIONS FOR "C-2" DISTRICTS

The following regulations shall apply in all "C-2" Districts and shall be subject to the provisions of Chapter 22 of this Part.

SECTION 6261. USES PERMITTED

- (a) All uses permitted in "C-1" Districts without regard to any limitations specified in this Part for such uses in said "C-1" Districts and without regard to the securing of any use permits EXCEPT for any residential uses, which shall first obtain a use permit.
- (b) The following uses:
 - (1) Automobile repair garages, including storage facilities where all operations are conducted in a building enclosed on all sides.
 - (2) Billiard parlors or pool halls.
 - (3) Bowling alleys.
 - (4) Carpenter shops.
 - (5) Dance halls.
 - (6) Dancing academies.
 - (7) Electrical substations.
 - (8) Equipment and tool rental.
 - (9) Golf driving ranges and miniature golf courses.
 - (10) Laundries.
 - (11) Lumber yards – including the sale of lumber and wood products but not the milling and planing thereof.
 - (12) Paint, paper hanging and decorating shops.
 - (13) Plumbing shops where all operations are conducted in a building enclosed on all sides.
 - (14) Printing shops.
 - (15) Sign painting shops.
 - (16) Skating rinks.
 - (17) Small animal hospitals and pet shops, but not including the raising of animals.
 - (18) Storage of household goods.
 - (19) Stores and shops for the conduct of any wholesale business.
 - (20) Stores and shops for the sale of used merchandise where all operations are conducted in a building enclosed on all sides.
 - (21) Tinsmith shops where all operations are conducted in a building enclosed on all sides.
 - (22) Used car sales.
 - (23) Scaffold storage and rental where all operations are conducted in a building enclosed on all sides.
 - (24) Maintenance and operation of up to five electronic amusement devices, provided, however, no such amusement device or devices may be located, operated, or maintained

to or within three hundred (300) feet of the nearest entrance to or exit from any public or private school of elementary or high school grades.

- (c) The following uses subject to the securing of a use permit in each case as provided in Chapter 24 of this Part:
- (1) Trailer camps.
 - (2) Electroplating shops.
 - (3) Poultry slaughtering.
 - (4) Outdoor advertising structures or signs as defined in Sections 5202 and 5203 of the Business and Professions Code of the State of California.
 - (5) Children's amusement devices.
 - (6) Roofing contractor's establishments.
 - (7) Maintenance and operation of six or more electronic amusement devices, provided, however, no such amusement device or devices may be located, operated, or maintained within three hundred (300) feet of the nearest entrance to or exit from any public or private school of elementary or high school grades.
 - (8) Adult bookstores, adult movie houses or adult cabarets subject to the following limitations:
 - (a) No adult bookstore, adult movie house or adult cabaret shall be located within one thousand (1,000) feet of any other adult bookstore, adult movie house or adult cabaret.
 - (b) No adult bookstore, adult movie house or adult cabaret shall be located within two thousand (2,000) feet of any nursery school, elementary school, junior high school, high school, public playground or church.
 - (c) No adult bookstore, adult movie house or adult cabaret shall be located within five hundred (500) feet of any R-1, R-2, or R-M zoning district, or within five hundred (500) feet of any residential zoning district in any adjacent jurisdiction.
 - (9) Any establishment engaged in the sale of any alcoholic beverage for on-site or off-site consumption, subject to the regulations as set forth in Section 6506 of this Ordinance. Notwithstanding the foregoing, the requirement for a use permit shall not apply to any establishment lawfully operating and legally engaged in the sale of alcoholic beverages prior to December 21, 1987; provided, however, if any such establishment was licensed by the Department of Alcoholic Beverage Control as of December 21, 1987 to sell only beer and wine, a use permit shall be required for such establishment to engage in the sale of any other alcoholic beverages.
 - (10) Retail establishments offering firearms for sale.

CHAPTER 15. "C-1" DISTRICTS
(NEIGHBORHOOD BUSINESS DISTRICTS)

SECTION 6250. REGULATIONS FOR "C-1" DISTRICTS

The following regulations shall apply in all "C-1" Districts and shall be subject to the provisions of Chapter 22 of this Part.

SECTION 6250. REGULATIONS FOR "C-1" DISTRICTS

The following regulations shall apply in all "C-1" Districts and shall be subject to the provisions of Chapter 22 of this Part.

SECTION 6251. USES PERMITTED

(a) A use permit as provided in Chapter 24 of this Part shall be required for the following uses:

- (1) Hospitals, rest homes, sanitariums, clinics.
- (2) Philanthropic and charitable institutions.
- (3) Automobile courts.
- (4) Hotels.
- (5) Any residential use.

(b) The following retail stores, shops, or businesses:

- (1) Automobile service stations for only the sale of gasoline, oil, and new accessories, including washing and lubrication services. Used tires accepted in trade on the premises may be resold.
- (2) Bakeries but not including the wholesale baking or bakery goods to be sold off the premises.
- (3) Banks.
- (4) Bars.
- (5) Barber shops.
- (6) Beauty parlors.
- (7) Book or stationary stores.
- (8) Clothes cleaning agency or pressing establishment.
- (9) Confectionery stores.
- (10) Conservatories for instruction in music and the arts.
- (11) Dressmaking or millinery.
- (12) Drug store.
- (13) Dry goods or notion store.
- (14) Florist or gift shop.
- (15) Grocery, fruit or vegetable store.
- (16) Hardware or electric appliance store.
- (17) Jewelry store.
- (18) Laundry agency.
- (19) Meat market or delicatessen store.
- (20) Offices, business or professional.
- (21) Photographic or camera store.
- (22) Restaurant, tea room, or cafe.
- (23) Shoe store or shoe repair store.
- (24) Tailor, clothing or wearing apparel.

- (25) Theaters.
 - (26) Dry cleaning establishments using self-service coin operated machines.
 - (27) Bowling alleys.
 - (28) Massage establishments.
 - (29) Maintenance and operation of up to five electronic amusement devices, provided, however, no such amusement device or devices may be located, operated, or maintained within three hundred (300) feet of the nearest entrance to or exit from any public or private school of elementary or high school grades.
 - (30) Small collection facilities for recyclable materials, subject to obtaining a building permit, provided there is no additional mechanical processing equipment on site, that collection facilities shall not be located within thirty (30) feet of any property zoned or occupied for residential use unless there is a recognized service corridor and acoustical shielding between containers and residential use, that there is no decrease in traffic or pedestrian circulation or the required number of on-site parking spaces for the primary use, and all litter and loose debris shall be removed on a daily basis.
- (c) The following uses subject to securing a use permit as specified in Chapter 24 of this Part.
- (1) Mortuaries.
 - (2) Outdoor advertising structures or signs as defined in Sections 5202 and 5203 of the Business and Professions Code of the State of California.
 - (3) Retail dry cleaning establishments.
 - (4) Patio and garden supply sales.
 - (5) Bulk storage plants for liquefied petroleum gas and similar types of home fuels.
 - (6) Small animal hospitals, clinics, and grooming shops.
 - (7) The sale of used merchandise or vehicles.
 - (8) Retail auto supply sales and auto repair when floor area utilized for auto repair and/or auto storage does not exceed fifteen (15) percent of the total floor area of the business. The fifteen (15) percent floor area shall in no event exceed 1,500 square feet and a maximum of three (3) autobays will be allowed.
 - (9) Any establishment engaged in the sale of any alcoholic beverage for on-site or off-site consumption, subject to the regulations as set forth in Section 6506 of this Ordinance. Notwithstanding the foregoing, the requirement for a use permit shall not apply to any establishment lawfully operating and legally engaged in the sale of alcoholic beverages prior to December 21, 1987; provided, however, if any such establishment was licensed by the Department of Alcoholic Beverage Control as of December 21, 1987 to sell only beer and wine, a use permit shall be required for such establishment to engage in the sale of any other alcoholic beverages.

San Mateo County Countywide Oversight Board

Date: November 20, 2018 Agenda Item No. 9
To: San Mateo County Countywide Oversight Board
From: Shirley Tourel, Assistant Controller
Subject: Report on Redevelopment Agency Dissolution Status Update – Redwood City

Recommendation

This item is for information and discussion purposes only. No action is required by the Board.

Background and Discussion

The San Mateo County Countywide Oversight Board (the “Board”) was created pursuant to Health and Safety Code (HSC) 34179(j) to provide guidance and oversight to the successor agencies who are tasked with winding down the affairs of redevelopment agencies (RDAs).

This item is intended to inform the Board of the progress of the wind-down activities of the former Redwood City Redevelopment Agency. The attachments to this memo were prepared by the Redwood City Successor Agency and provide an overview of the remaining expenditures/obligations and disposition of assets status.

Aaron Aknin, Assistant City Manager and Community Development Director of Redwood City will be presenting to the Board.

Fiscal Impact

None

Exhibit

A. Successor Agency Staff Report - Redevelopment Agency Dissolution Status Update – Redwood City



Exhibit A

Date: November 6, 2018

To: San Mateo County Countywide Oversight Board

From: Aaron Akin, Assistant City Manager and Community Development Director

Subject: Dissolution Status Report from the Redwood City Successor Agency

Background

This agenda item summarizes the dissolution status of the former redevelopment agency (RDA). It includes a summary of the disposition of assets, remaining obligations, pending litigation, the status of the Last and Final Recognized Obligation Payment Schedule (ROPS), and any other items pertaining to the winding-down of the affairs of the former Redevelopment Agency (RDA).

Discussion

A. Disposition of Assets

Prior to Dissolution, the City's RDA had six properties, two easement interests, equipment, building improvements, and other assets. The table below describes the six properties in more detail.

	Address	APN	Description/ Current Use	Lot Size Sq. Ft	Acquisition Funding
1.	707 Bradford Street	052-372-200	Vacant Parcel / affordable housing	10,670	Housing
2.	777 Bradford Street	052-372-170	Vacant Parcel / affordable housing	13,500	Housing
3.	611 Heller Street	053-155-050	Vacant Parcel / affordable housing	5,006	Housing
4.	1012 Main Street	053-137-010	Library Parking Facility	20,200	Non-housing
5.	No Address (vacant lot corner of Lathrop and Elm)	053-147-040	Vacant Parcel with Creek Culvert	7,438	Non-housing
6.	No Address (vacant lot at corner of Lathrop and Maple)	053-182-030	Vacant Parcel with Creek Culvert	10,957	Non-housing

Parcels 1, 2, and 3 were transferred to the City Housing Successor in March 2011, as they were purchased with housing funds.

The City's Successor Agency (SA) submitted a Long Range Property Management Plan (Plan) after it received its Finding of Completion; however, the State Department of Finance (DOF) denied the Plan, as it was submitted after January 1, 2016. In May 2016, the SA Oversight Board approved resolutions to transfer properties that met the definition of a governmental purpose. The transfers of Parcels 4 and 5 were approved by the DOF in August 2016, please see the attached determination letter (Attachment 2).

Currently, the SA owns one parcel of land, number 6. This parcel has been used by the City to facilitate operation of, access to, and maintenance of a culvert, which runs through the parcel. The creek divides the Lathrop/Maple Parcel into two separate areas: a larger triangular-shaped upper area, lying between Maple Street and Lathrop Street, north of the creek, and a much smaller piece located south of the creek, between the creek and the adjacent auto dealership property. The entire parcel is estimated at 10,957 square feet of land, which includes 3,366 square feet for the creek itself that splits the parcel. The net area of the land excluding the creek would be 7,591 square feet.

The SA and OB have attempted to transfer this parcel for governmental use; however, the DOF denied OB actions to transfer. The DOF reasoned that there was insufficient evidence of maintenance activities, construction, or use as public parking lot or governmental use property at the time of dissolution. There are currently no plans to dispose of this property as the culvert is located on this parcel. In addition, this parcel provides access to the culvert that is needed for maintenance and improvement work staging. Attachment 3 to this report includes the DOF's review of the OB action OB-18-03, and Attachment 4 is an aerial photograph of the parcel.

As of June 30, 2018, assets other than land total \$14,833,204. Based on recommendation from DOF staff, the SA will bring a resolution to the OB to transfer these depreciable assets to the City of Redwood City with the submission of the FY 19-20 ROPS.

B. Outstanding Obligations

The current obligations of the Agency in FY 2018-19 total \$3,646,836; the majority of the obligations outstanding are related to the Tax Allocation Bonds, which were solely the debt of the former RDA and are now assumed by the SA. The total outstanding debt for the Tax Allocation Bonds is \$49,079,998. Payments of approximately \$3.5 million will continue annually until these bonds are retired in July 2032. The SA has researched the viability of calling or otherwise paying off this liability more quickly. The Agency's municipal finance advisor indicated that this is not possible due to the structure and the nature of the Capital Appreciation Bonds portion of the issue. Other outstanding obligations include administrative fees in connection with the bonds, legal fees, and the SA administrative costs.

As part of the financing arrangement for the Low and Moderate Income Housing project located at 1540 El Camino Real, funds were provided from three sources: the Redevelopment Agency Low and Moderate Income Housing fund (\$1,927,000), Community Development Block Grant funds (\$200,000), and the County of San Mateo (\$500,000). The loan agreement requires the developer to make payments to the Redevelopment Agency, which in turn is required to remit amounts due back to the County. Repayments are not expected until December 1, 2045.

C. Litigation

Prior to dissolution of the City's RDA, the RDA entered an agreement with San Mateo County to receive a cumulative \$25 million of the County's share of tax increment, and an agreement with the Legal Aid Society to deposit the first \$11.9 million of the \$25 million tax increment into the Low and Moderate Income Housing Asset Fund to be used for housing. As of June 30, 2011, the City's RDA had received and deposited \$10,272,916 into the Low and Moderate Income Housing Asset Fund. Pursuant to the agreement with the Legal Aid Society to restrict these funds to housing, after dissolution of the RDA, these funds were deposited into a new fund to be used for housing purposes. Although the Due Diligence Review (DDR) performed by an independent auditor identified those funds as encumbered, the DOF issued a determination letter on December 19, 2012 concluding that the agreement with the Legal Aid Society was not an enforceable obligation, and the \$10.3 million must be distributed to the taxing agencies. Therefore, on December 9, 2015, the Successor Agency paid \$10.3 million to the County Controller and the money was subsequently distributed to the taxing entities.

The City and the Legal Aid Society separately filed lawsuits against the State of California Department of Finance on this matter. The lawsuits were consolidated and in January 2014, the Superior Court Judge ruled in favor of the State. In April 2014, the City and the Legal Aid Society filed an appeal. The case is fully briefed and is awaiting a court date.

D. Last and Final ROPS

The SA does not plan to file a Last and Final ROPS until the litigation is resolved.

Conclusion

In FY 2018-19, the SA anticipates bringing to the Board a potential action related to transferring the non-land assets to the City. At some point in the future, the City anticipates needing Board action related to the Legal Aid Society fund litigation

The SA looks forward to working with the county Oversight Board to complete the disposition of the remaining SA assets and obligations.

Attachments

1. RDA Dissolution Status Detailed Report – *Redwood City Successor Agency*
2. Documents Supporting Transfer of Properties 4 & 5 – DOF Letter, OB Reso, Grant Deed Copies
3. DOF Letter – Disallowing Transfer of Parcel 053-182-030 to Redwood City
4. Aerial Map of Parcel 053-182-030

**San Mateo County Consolidated Successor Agency Oversight Board
Dissolution Update - Assets
City of Redwood City RDA - ATTACHMENT 1**

Attachment 1

Item No.	Property Type ¹	Address/ Location of Property	County Assessor Parcel Number	Parcel Size	Named Owner ²	Purchase Price ³	Fair Market Value	Appraisal Value	Proposed Disposition by SA		Current Use ⁶	Disposition Status ⁷	Deed Restrictions ⁸	Completion Date ⁹	Other Comments ¹⁰
										Detail ⁵					
1	Land	707 Bradford Street	052-372-200	10,670	City of Redwood City	1,420,544	NA	NA	Housing	Vacant Parcel / Affordable housing	Vacant Parcel / Affordable housing	Transferred to RWC		March 2011	
2	Land	777 Bradford Street	052-372-170	13,500	City of Redwood City	673,524	NA	NA	Housing	Vacant Parcel / Affordable housing	Vacant Parcel / Affordable housing	Transferred to RWC		March 2011	
3	Land	611 Heller Street	053-155-050	5,006	City of Redwood City	710,241	NA	NA	Housing	Vacant Parcel / Affordable housing	Vacant Parcel / Affordable housing	Transferred to RWC		March 2011	
4	Land	1012 Main Street Corner of Lathrop & Elm	053-137-010	20,200	City of Redwood City	560,000	NA	NA	Gov't Use	Library Parking Lot	Library Parking Lot	Transferred to RWC		5/9/2017	No appraisal completed.
5	Land	Corner of Lathrop & Elm	053-147-040	7,438	City of Redwood City	5,925	NA	NA	Gov't Use	Public flood control facility	Construction, operation and maintenance of the creek channel	Transferred to RWC		5/9/2017	No appraisal completed
6	Land	Corner of Lathrop and Maple	053-182-030	10,957	Successor Agency to the City of Redwood City	350,132	NA	NA	Denied Gov't Use	Public flood control facility	Construction, operation and maintenance of the creek channel	Denied transfer to the City due to use as restricted parking for car dealership	Terms pursuant to the Cooperative agreement between the County and City dated 5/3/2005 between 55 years to 95 years	TBD	No appraisal completed
7	Other	2200 Broadway Street	052-367-010	21,000	County of San Mateo	NA	NA	Gov't Use	Easement Interest in Courthouse Square	Easement interest in Concession Stands in Courthouse Square		Transferred to RWC		4/12/2017	
8	Other	855 Jefferson Avenue	053-131-190	10,500	United States Postal Service	-		Denied Gov't Use	Assignment of Lease of Pedestrian Paseo	Walkway between public parking and retail/USPS on Jefferson Ave		Denied by DOF due to partial use as outdoor dining facility	NA	NA	The City and Post Office have allowed the lease to expire.
9	Land & Building	Middlefield/Jefferson	NA	NA	Successor Agency to the City of Redwood City	2,210,607	NA	NA	NA	Jefferson Parking Garage	Parking	Not disposed / transferred		TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
10	Other	Jefferson Parking Garage, Marshall Parking Garage, Block 2 Parking Lot	NA	NA	Successor Agency to the City of Redwood City	393,454		NA	NA	Parking control equipment	NA	Not disposed / transferred		TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
11	Other	Staging	NA	NA	Successor Agency to the City of Redwood City	6,383		NA	NA	Staging equipment	Downtown events	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
12	Other	Courthouse Façade, Courthouse Square, 2200 Broadway	NA	NA	Successor Agency to the City of Redwood City	4,537,178		NA	NA	Reconstruction of historic courthouse - in downtown Courthouse Square	Downtown event venue	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
13	Other	Jefferson Avenue, near Post Office	NA	NA	Successor Agency to the City of Redwood City	365,171		NA	NA	Improvements to Jefferson Ave near Post Office - walkway & parking improvements, landscaping	Public access to Jefferson Avenue and parking lot	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
14	Other	Theater Way, Between Middlefield/Winslow	NA	NA	Successor Agency to the City of Redwood City	963,079		NA	NA	Improvements near Fox Theater Broadway - Lighting, pavement, sigNAls.	Public access - Downtown area	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
15	Other	Broadway	NA	NA	Successor Agency to the City of Redwood City	1,301,176		NA	NA	Streetscape Improvements and street modifications - Broadway	Public access - Downtown area	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
16	Other	Intersection Middlefield/Marshall	NA	NA	Successor Agency to the City of Redwood City	407,559		NA	NA	Architectural gateway arch, street lights, traffic signals	Public access - Downtown area	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
17	Other	Courthouse Plaza	NA	NA	Successor Agency to the City of Redwood City	1,741,536		NA	NA	Design & construction of Courthouse Square	Public access - Downtown area	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
18	Other	El Camino Real - Broadway to Brewster	NA	NA	Successor Agency to the City of Redwood City	182,923		NA	NA	Design and manage construction of "Grand Boulevard" Streetscape Plan	Public Access	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
19	Other	Downtown Culvert - Jefferson / Middlefield / Winslow / Broadway surrounding	NA	NA	Successor Agency to the City of Redwood City	2,614,577		NA	NA	Relocate culvert as part of building of Jefferson St parking garage	Public Parking	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS
20	Other	Downtown Area - major access routes	NA	NA	Successor Agency to the City of Redwood City	109,561		NA	NA	Signage to direct traffic flow in/out of Downtown area	Public Access	Not disposed / transferred	NA	TBD	Will bring Oversight Board Resolution with the 19-20 ROPS

Please include all assets of the former RDA at the point of dissolution, include those that have been disposed of prior to July 1, 2018.

1. Indicate if property is Vacant Land, Building or Land & Building. If neither of these, indicate Other and describe the property.
2. Enter name of recorded owner of property with County Assessor.
3. Enter book value if purchase price is not available.
4. Permissible use of asset as approved by the DOF (Government Use, Sale, Future Development, Fulfill an Obligation).
5. Indicate approved use per LRPMP.
6. Indicate purpose that property is currently used for (if different from #5).
7. Describe in detail ultimate disposition of property. If for sale, indicate projected sale date, or if sale is in process.
8. Indicate if there are any deed restrictions involved with an asset transfer.
9. Date on which the asset was, or is expected to be disposed. This field should TBD if the disposition date has not occurred or been determined.
10. Use this space for additional comments such as if property is under lease, if income is currently generating income - by how much annually, etc.

**San Mateo County Consolidated Successor Agency Oversight Board
 Dissolution Update - Pending Litigation
 City of Redwood City RDA - ATTACHMENT 1**

Is the former RDA a party to a lawsuit, currently or in the future?

Yes

If yes, please provide details and status of case.

Case No.	C076431, C076428
Which Court	Court of Appeal, Third Appellate District
Litigants	City of Redwood City v. Matosantos, et al.; Legal Aid Society of San Mateo County, real party in interest
	Legal Aid Society of San Mateo County v. California Department of Finance; Successor Agency to Redevelopment Agency of the City of Redwood City, real party in interest
Status of Case	Fully briefed as of 5/11/15

Additional comments:

As noted above, the case was fully briefed by all parties more than three years ago. To date, the Court of Appeals has not scheduled oral argument.

**San Mateo County Consolidated Successor Agency Oversight Board
Dissolution Update - Last and Final ROPS
City of Redwood City RDA - ATTACHMENT 1**

Is your SA eligible to submit a Last and Final ROPS?

No.

If yes, when do you anticipate filing a Last and Final ROPS (Month/Year)?

NA.

If your SA does not plan to file a Last and Final, explain why.

Until the pending litigation is resolved, the SA is not able to file the Last and Final ROPS.



August 12, 2016

Ms. Starla Jerome-Robinson, Interim Finance Director
City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063

Dear Ms. Jerome-Robinson:

Subject: Oversight Board Action Determinations

The City of Redwood City Successor Agency (Agency) notified the California Department of Finance (Finance) of its May 12, 2016 Oversight Board (OB) Resolutions on May 17, 2016. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB actions.

Based on our review and application of the law, Finance has made the following determinations:

OB Resolution Nos. 16-04 and 16-06

These OB Resolutions approving the transfer of the Library parking lot and easement interest of the Courthouse Square to the City of Redwood City (City) as governmental use, are approved.

HSC section 34181 (a) (1) gives the OB the authority to direct the Agency to transfer ownership of those assets that were constructed and used for a government purpose, such as roads, school buildings, parks, police and fire stations, libraries, and parking facilities and lots dedicated solely to public parking. Finance concurs that the parking lot located at 1012 Main Street and Courthouse Square located at 2200 Broadway Street (Assessor's Parcel Numbers (APN) 053-137-010 and 052-367-010, respectively) meet the definition of a government purpose asset and therefore are eligible for transfer to the City.

Parcel #4

Finance notes the OB action incorrectly referenced 054-137-010 as the APN for the Library parking lot; however, the correct APN is 053-137-010.

OB Resolution No. 16-05

This OB Resolution approving the transfer of the culvert parcels to the City as governmental use, is partially approved.

Parcel #5

Finance concurs that the creek culvert parcel located at the corner of Maple Street and Elm Street (APN 053-147-040) meets the definition of a government purpose asset and is therefore eligible for transfer to the City. However, the parcel located at the intersection of Lathrop Street and Maple Street (APN 053-147-030) is currently used as restricted parking by the car dealership employees with a 'no public parking sign' and as a community open space on

The DOF referenced the wrong parcel #. This should be 053-182-030 (Parcel #6) per Redwood City SA. The Controller verified and confirms that the incorrectly referenced parcel is NOT owned by the former Redwood City RDA.

evenings and Sundays. Because the parking is restricted and not open to the public, this parcel cannot be transferred to the City as governmental use.

OB Resolution No. 16-07

This OB Resolution approving the transfer of interest of the Jefferson Avenue Pedestrian Paseo and approving an assignment of lease to the City as governmental use, is not approved.

It is our understanding this property interest is currently used as a public pedestrian walkway including an outdoor dining facility for the adjoining restaurant. Because a majority of the walkway is used as an outdoor dining facility, it does not meet the definition of governmental purpose and cannot be transferred to the City as governmental use.

OB Resolution No. 16-08

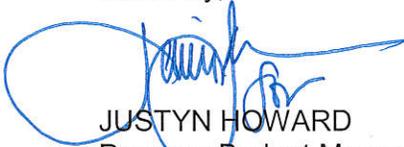
This OB Resolution approving a Long-Range Property Management Plan (LRPMP) that addresses the disposition and use of the real properties as well as the conveyance of the Agency's interest in properties of the former redevelopment agency is no longer subject to Finance's review.

HSC section 34191.3 (a) requires Finance to approve LRPMPs prior to January 1, 2016 in order for the LRPMP to be effective. Since the Agency does not have a Finance approved LRPMP prior to January 1, 2016, Finance no longer has the authority to approve, deny or amend a LRPMP. Therefore the Agency should dispose of all its properties and interest in properties pursuant to HSC sections 34177 (e) and HSC section 34181 (a).

In the event the OB desires to amend the portion of the resolutions not approved by Finance, Finance is returning it to the board for reconsideration. However, the Agency can move forward with the portion of the resolutions approved by Finance.

Please direct inquiries to Kylie Oltmann, Supervisor, or Zuber Tejani, Lead Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Ms. Alison Freeman, Financial Services Manager, City of Redwood City
Mr. Juan Raigoza, Auditor-Controller, San Mateo County

RESOLUTION NO. OB-16-05**RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE REDWOOD CITY REDEVELOPMENT AGENCY APPROVING THE CONVEYANCE OF THE CULVERT PARCELS TO THE CITY OF REDWOOD CITY**

WHEREAS, under AB X1 26, enacted by the California State Legislature and signed by the Governor as part of the 2011-2012 State budget, a new Part 1.85 was added to Division 24 of the California Health and Safety Code (Health and Safety Code Section 34170 et seq., as may be amended, the "Dissolution Act") and, in accordance therewith, all redevelopment agencies in the State of California, including the Redwood City Redevelopment Agency ("Redevelopment Agency"), were dissolved as of February 1, 2012; and

WHEREAS, in compliance with the Dissolution Act, the City of Redwood City ("City") determined it would serve as the Successor Agency to the Redwood City Redevelopment Agency ("Successor Agency") effective February 1, 2012; and

WHEREAS, the Oversight Board of the Successor Agency to the Redwood City Redevelopment Agency ("Oversight Board") has been established pursuant to Section 34179 of the Dissolution Act to oversee the Successor Agency's actions in winding down the affairs of the Redevelopment Agency in accordance with the Dissolution Act; and

WHEREAS, pursuant to Health and Safety Code Section 34181(a) and 34181(f), the Oversight Board is required to direct the Successor Agency to dispose of the property of the former redevelopment agency; provided however, the Oversight Board may direct the Successor Agency to transfer ownership of assets that were constructed and used for governmental purposes to the City; and

WHEREAS, the property located in the City at the intersection of Lathrop, Maple and Elm Streets, designated as San Mateo County Assessor's Parcel Nos. 053-147-040 and 053-182-030, and more particularly described in Exhibit A attached hereto (the "Culvert Parcels") was acquired for the purposes of construction and maintenance of a creek culvert, has been maintained in public ownership to facilitate operation of, access to, and maintenance of the culvert, subject to revocable license agreements permitting its temporary use for parking and open space; and

WHEREAS, following publication of the notice required by law, the Oversight Board held a public meeting on May 12, 2016 to consider the conveyance of the Culvert Parcels to the City.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE REDWOOD CITY REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The recitals set forth above are true and correct and incorporated herein.

Section 2. The Oversight Board hereby finds and determines that the Culvert Parcels qualify as governmental purpose property eligible for transfer to the City pursuant to Health and Safety Code Section 34181(a).

Section 3. The Oversight Board hereby approves the conveyance of the Culvert Parcels to the City pursuant to Health and Safety Code Section 34181(a).

Section 4. The Oversight Board hereby approves the Grant Deed attached hereto as Exhibit A and incorporated herein by this reference (the "Grant Deed").

Section 5. The Oversight Board hereby authorizes and directs the Successor Agency to submit this Resolution to the Department of Finance for approval.

Section 6. Upon approval of this Resolution by the Department of Finance, the Oversight Board hereby authorizes and directs the Successor Agency to undertake such actions and to execute such instruments as may be necessary to implement the intent of this Resolution, including without limitation, the execution, delivery and recordation of the Grant Deed and such other instruments as may be necessary to convey the Culvert Parcels to the City.

* * *

Passed and adopted by the Oversight Board of the City of Redwood City at an Oversight Board Meeting of the City of Redwood City Meeting held on the 12th day of May, 2016 by the following votes:

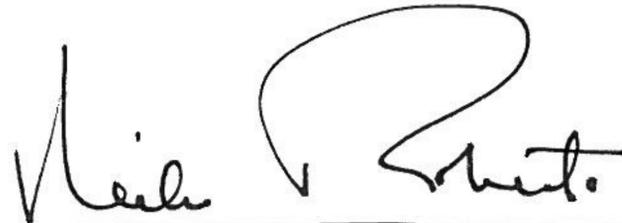
A YES, and in favor of the passage and adoption of the foregoing resolution,

Board Members: Abbors, Aguirre, Christensen, La Croix, Navas and Chair Roberts

NOES: None

ABSTAIN: None

ABSENT: Callagy



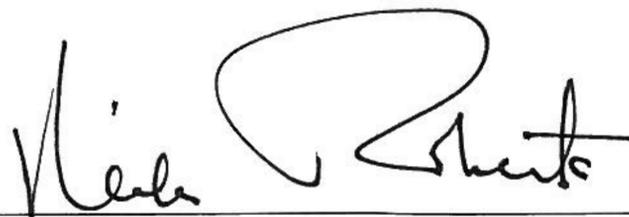
Mike Roberts
Chair, Oversight Board

Attest:



Silvia Vonderfinden
City Clerk of Redwood City

I hereby approve the foregoing resolution this 12th day of May 2016.



Mike Roberts
Chair, Oversight Board

RESO OB-16-05

Exhibit A
Grant Deed (Culvert Parcels)

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

CITY OF REDWOOD CITY
1017 MIDDLEFIELD ROAD
REDWOOD CITY, CA 94063
ATTN: CITY CLERK

EXEMPT FROM RECORDING FEES AND
DOCUMENTARY TRANSFER TAX
GOVERNMENT CODE §27383; REVENUE
AND TAXATION CODE §11922

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

APN: 053-147-040 and 053-182-030

GRANT DEED
(Culvert Parcels)

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Successor Agency to the Redwood City Redevelopment Agency, a public body, corporate and politic (the "**Grantor**" or "**Successor Agency**"), hereby grants to the City of Redwood City, a charter city and municipal corporation (the "**Grantee**" or "**City**"), the real property (the "**Property**") located in the City of Redwood City adjacent to the Redwood Creek culvert at Lathrop, Elm and Maple Streets, designated as San Mateo County Assessor's Parcel Nos. 053-147-040 and 053-182-030, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

1. The Property was previously conveyed by the former Redwood City Redevelopment Agency, a public body, corporate and politic (the "**Redevelopment Agency**") to City by grant deed dated March 8, 2011 and recorded in the Official Records of San Mateo County ("**Official Records**") on March 9, 2011 as Instrument No. 2011-028362 and by grant deed dated March 8, 2011 and recorded in the Official Records on March 9, 2011 as Instrument No. 2011-028361 (collectively, the "**Prior Conveyance Grant Deeds**").

2. Pursuant to Assembly Bill x1 26 (Chapter 5, Statutes of 2011-12 First Ex. Session), enacted in late June 2011, as amended by Assembly Bill 1484 (Chapter 26, Statutes of 2012), enacted on June 27, 2012, and as further amended by Senate Bill 107 (Chapter 325, Statutes of 2015) enacted on September 22, 2015 (collectively, the "**Redevelopment Dissolution Act**"), the Redevelopment Agency was dissolved as of February 1, 2012, and the Successor Agency succeeded to the interests of the Redevelopment Agency. California Health and Safety Code Section 34167.5 retroactively invalidated transfers of assets from redevelopment agencies to their sponsoring jurisdictions occurring after January 1, 2011, and directed the State Controller to order assets that were not committed to a third party to be returned to the former redevelopment agency or to the successor agency, if established. Consistent with the foregoing, on November 19, 2012, the City Council of the City of Redwood City adopted Resolution No. 15230, and the governing board of the Successor Agency adopted Resolution No. SA 12-12, each acknowledging the invalidation of the Prior Conveyance and

authorizing the execution, delivery and recordation of such instruments as necessary to effectuate the return of the Property from the City to the Successor Agency. The Property was returned to the Successor Agency pursuant to a grant deed dated as of November 20, 2012, executed by City as grantor, and recorded in the Official Records on November 20, 2012 as Instrument No. 2012-173259 and a grant deed dated as of November 20, 2012, executed by City as grantor, and recorded in the Official Records on November 20, 2012 as Instrument No. 2012-173258 (collectively, the “**City-Successor Agency Grant Deeds**”).

3. The Property qualifies as a “governmental purpose” asset as defined in Health and Safety Code Section 34181(a), and therefore is eligible for transfer to the City. In accordance with Health and Safety Code Sections 34181(a) and 34181(f), the Oversight Board to the Successor Agency and the State of California Department of Finance (“DOF”) have approved the conveyance of the Property to the City for transfer to the City as a “governmental purpose” asset. This Grant Deed has been prepared and executed to implement such approvals.

4. The Property is conveyed to City subject to all matters of record; provided however, Grantor (as successor in interest to the Redevelopment Agency) and Grantee hereby mutually agree that the covenants set forth in Paragraphs 1, 2, and 5 of the Prior Conveyance Grant Deeds and in Paragraphs 1, 2, and 5 of the City-Successor Agency Grant Deeds pertaining to conformity to the Redevelopment Plan, are hereby terminated.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, Grantor and Grantee have each caused this instrument to be executed on its behalf by its respective duly authorized officer as of _____, 2016.

GRANTOR:

SUCCESSOR AGENCY TO THE REDWOOD CITY REDEVELOPMENT AGENCY,
a public body, corporate and politic

By: _____
Melissa Stevenson Diaz, Executive Director

ATTEST:

, Successor Agency Secretary

APPROVED AS TO FORM:

, Successor Agency Counsel

GRANTEE:

CITY OF REDWOOD CITY, a charter city and municipal corporation

By: _____
John Seybert, Mayor

ATTEST:

By: _____
Silvia Vonderlinden, City Clerk

APPROVED AS TO FORM:

By: _____
Michelle Marchetta Kenyon, Acting City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that certain real property situate in the City of Redwood City, County of San Mateo, State of California, being a portion of that certain Grant Deed filed for record on March 24, 1993 as documents number 93046356 of Official records in the Office of the Recorder for the County of San Mateo and being a portion of Maple Street (60 feet wide) as shown on that certain final map entitled "ONE MAPLE STREET SUBDIVISION" filed for record on June 21, 2000 in Volume 130 of maps at pages 54 through 56, inclusive, in the Office of the Recorder for the County of San Mateo and being a portion of Lathrop Street as shown on that certain map entitled "HANCOCK'S ADDITION TO REDWOOD CITY", filed for record on February 21, 1862 in Book "E" of Maps at page 43, and copied into Book 1 of Maps at page 80 in the Office of the Recorder for the County of San Mateo, State of California being more particularly described as follows:

Beginning at the intersection of the centerline of Franklin Street as shown on said final map entitled "ONE MAPLE STREET SUBDIVISION" with centerline of said Maple Street; thence along said centerline of Maple Street, North 08° 46' 11" East, a distance of 57.60 feet to the intersection of the said centerline of Maple Street with the centerline of said Lathrop Street; thence along said centerline of Lathrop Street, South 26° 19' 10" East, a distance of 259.51 feet; thence leaving said centerline, South 63° 40' 50" West, a distance of 30.00 feet to a point on the Southwesterly right-of-way of said Lathrop Street; thence leaving said right-of-way of Lathrop street, South 51° 04' 23" West, a distance of 105.29 feet; thence North 49° 36' 46" West, a distance of 37.15 feet to a point on the Easterly right-of-way of said Maple Street; thence leaving said right-of-way, North 67° 32' 37" West, a distance of 30.00 feet to a point on said centerline of Maple Street; thence along said centerline of Maple Street, North 22° 27' 23" East, a distance of 29.62 feet; thence continuing along said centerline of Maple Street, North 08° 46' 11" East, a distance of 194.51 feet to the POINT OF BEGINNING.

A.P. No.: 053-182-030

AND

All that certain real property situate in the City of Redwood City, County of San Mateo, State of California, being a portion of Parcel 2 of that certain Grant Deed filed for record on July 3, 1995 as Document No. 95067262 of Official Records, in the office of the Recorder for the County of San Mateo and being a portion of Lathrop Street as shown on that certain map entitled "HANCOCK'S ADDITION TO REDWOOD CITY" filed for record on February 21, 1862 in Book "E" of Maps at page 43, and copied into Book 1 of Maps at page 80 in the Office of the Recorder for the County of San Mateo, State of California and being more particularly described as follows:

Beginning at the intersection of the centerline of Franklin Street as shown on said final map entitled "ONE MAPLE STREET SUBDIVISION", with centerline of said Maple Street; thence

along centerline of Maple Street, North 08° 46' 11" East, a distance of 57.60 feet to the intersection of the said centerline of Maple Street with the centerline of said Lathrop Street; thence along the said centerline of Lathrop Street, South 26° 19' 10" East, a distance of 99.64 feet to the True Point of Beginning; thence leaving said centerline, North 63° 02' 14" East, a distance of 30.00 feet to a point on the Northeasterly right-of-way line of said Lathrop Street same point being the Westerly corner of said Parcel 2; thence along the Northwesterly boundary line of said Parcel 2 being 121.10 feet Northwesterly and parallel with the Northwesterly right-of-way line of Elm Street (60 feet wide) as shown on said map entitled "HANCOCK'S ADDITION TO REDWOOD CITY", North 63° 02' 14" East, a distance of 44.16 feet; thence leaving said Northwesterly boundary line, South 20° 12' 53" East, a distance of 26.86 feet; thence South 15° 49' 36" East, a distance of 17.18 feet; thence South 02° 49' 09" West, a distance of 33.11 feet; thence South 16° 55' 45" West, a distance of 20.02 feet; thence South 19° 38' 06" West, a distance of 11.59 feet to the Southwesterly boundary line of said Parcel 2 common with said Northeasterly right-of-way of Lathrop Street; thence along said common line, South 26° 19' 10" East, a distance of 26.45 feet; to the intersection of said Northeasterly right-of-way Lathrop Street with said Northwesterly right of way of Elm Street; thence continuing South 26° 19' 10" East, a distance of 30.00 feet to the centerline of said Elm Street; thence along said centerline of Elm Street, South 63° 02' 14" West, a distance of 30.00 feet to the intersection of said centerline of Lathrop Street with said centerline of Elm Street; thence along said centerline of Lathrop Street North 26° 19' 10" West, a distance of 151.11 feet to the True Point of Beginning.

PTN OF A.P. NO.: 053-147-040

CERTIFICATE OF ACCEPTANCE
(California Government Code §27281)

This is to certify that the interest in real property conveyed by the Grant Deed dated _____, 2016, from the Successor Agency to the Redwood City Redevelopment Agency (“Successor Agency”) to the City of Redwood City, a charter city and municipal corporation (“City”), is hereby accepted on behalf of the City by the undersigned officer pursuant to authority conferred by City Council Resolution No. _____, adopted on _____, 2016, and that the City consents to recordation of the Grant Deed in the Official Records of San Mateo County.

Dated: _____, 2016

CITY OF REDWOOD CITY, a charter city and municipal corporation

By: _____
Jonh Seybert, Mayor

ATTEST:

By: _____
Silvia Vonderlinden, City Clerk

APPROVED AS TO FORM:

By: _____
Michelle Marchetta Kenyon, Acting City Attorney

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF REDWOOD CITY
1017 MIDDLEFIELD ROAD
REDWOOD CITY, CA 94063
ATTN: CITY CLERK

EXEMPT FROM RECORDING FEES AND
DOCUMENTARY TRANSFER TAX
GOVERNMENT CODE §27383; REVENUE
AND TAXATION CODE §11922

2017-039955

9:44 am 05/09/17 DE Fee: NO FEE

Count of Pages 8
Recorded in Official Records
County of San Mateo
Mark Church

Assessor-County Clerk-Recorder



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

APN: 053-147-040

*on Lathrop,
near Elm*

GRANT DEED

(Lathrop Culvert Parcel)

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Successor Agency to the Redwood City Redevelopment Agency, a public body, corporate and politic (the "Grantor" or "Successor Agency"), hereby grants to the City of Redwood City, a charter city and municipal corporation (the "Grantee" or "City"), the real property (the "Property") located in the City of Redwood City adjacent to the Redwood Creek culvert at Lathrop, Elm and Maple Streets, designated as San Mateo County Assessor's Parcel No. 053-147-040, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

1. The Property was previously conveyed by the former Redwood City Redevelopment Agency, a public body, corporate and politic (the "Redevelopment Agency") to City by grant deed dated March 8, 2011 and recorded in the Official Records of San Mateo County ("Official Records") on March 9, 2011 as Instrument No. 2011-028361 (collectively, the "Prior Conveyance Grant Deed").

2. Pursuant to Assembly Bill x1 26 (Chapter 5, Statutes of 2011-12 First Ex. Session), enacted in late June 2011, as amended by Assembly Bill 1484 (Chapter 26, Statutes of 2012), enacted on June 27, 2012, and as further amended by Senate Bill 107 (Chapter 325, Statutes of 2015) enacted on September 22, 2015 (collectively, the "Redevelopment Dissolution Act"), the Redevelopment Agency was dissolved as of February 1, 2012, and the Successor Agency succeeded to the interests of the Redevelopment Agency. California Health and Safety Code Section 34167.5 retroactively invalidated transfers of assets from redevelopment agencies to their sponsoring jurisdictions occurring after January 1, 2011, and directed the State Controller to order assets that were not committed to a third party to be returned to the former redevelopment agency or to the successor agency, if established. Consistent with the foregoing, on November 19, 2012, the City Council of the City of Redwood City adopted Resolution No. 15230, and the governing board of the Successor Agency adopted Resolution No. SA 12-12, each acknowledging the invalidation of the Prior Conveyance and authorizing the execution, delivery and recordation of such instruments as necessary to effectuate the return of the Property from the City to the Successor Agency. The Property was

ATTY/AGR/2017.026/RWC- CULVERT PARCEL - GRANT DEED SA TO CITY
REV: 02-03-17 VR

returned to the Successor Agency pursuant to a grant deed dated as of November 20, 2012, executed by City as grantor, and recorded in the Official Records on November 20, 2012 as Instrument No. 2012-173258 (collectively, the "City-Successor Agency Grant Deed").

3. The Property qualifies as a "governmental purpose" asset as defined in Health and Safety Code Section 34181(a), and therefore is eligible for transfer to the City. In accordance with Health and Safety Code Sections 34181(a) and 34181(f), the Oversight Board to the Successor Agency and the State of California Department of Finance ("DOF") have approved the conveyance of the Property to the City for transfer to the City as a "governmental purpose" asset. This Grant Deed has been prepared and executed to implement such approvals.

4. The Property is conveyed to City subject to all matters of record; provided however, Grantor (as successor in interest to the Redevelopment Agency) and Grantee hereby mutually agree that the covenants set forth in Paragraphs 1, 2, and 5 of the Prior Conveyance Grant Deed and in Paragraphs 1, 2, and 5 of the City-Successor Agency Grant Deed pertaining to conformity to the Redevelopment Plan, are hereby terminated.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, Grantor and Grantee have each caused this instrument to be executed on its behalf by its respective duly authorized officer as of April 10, 2017.

GRANTOR:

SUCCESSOR AGENCY TO THE REDWOOD CITY REDEVELOPMENT AGENCY,
a public body, corporate and politic

By: Melissa Stevenson Diaz
Melissa Stevenson Diaz, Executive Director

ATTEST:

Silvia Voncken
Silvia Voncken, Agency Secretary

APPROVED AS TO FORM:

Veronica Ramirez
Veronica Ramirez, Agency Counsel

GRANTEE:

CITY OF REDWOOD CITY, a charter city and municipal corporation

By: John Seybert
John Seybert, Mayor

ATTEST:

Silvia Voncken
Silvia Voncken, City Clerk

APPROVED AS TO FORM:

Veronica Ramirez
Veronica Ramirez, City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Mateo)
On April 7, 2017 before me, Julie M.S. Rosas, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Melissa Stevenson DIAZ
Name(s) of Signer(s)

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Julie M.S. Rosas
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Grant Deed - Lathrop Culvert Parcel
Document Date: April 7, 2017 Number of Pages: 7
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of San Mateo)

On May 3 2017, before me, Kristen Mees, Notary Public
(Name of Notary)

notary public, personally appeared John David Seywert
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Kristen Mees
(Notary Signature)



EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that certain real property situate in the City of Redwood City, County of San Mateo, State of California, being a portion of Parcel 2 of that certain Grant Deed filed for record on July 3, 1995 as Document No. 95067262 of Official Records, in the office of the Recorder for the County of San Mateo and being a portion of Lathrop Street as shown on that certain map entitled "HANCOCK'S ADDITION TO REDWOOD CITY" filed for record on February 21, 1862 in Book "E" of Maps at page 43, and copied into Book 1 of Maps at page 80 in the Office of the Recorder for the County of San Mateo, State of California and being more particularly described as follows:

Beginning at the intersection of the centerline of Franklin Street as shown on said final map entitled "ONE MAPLE STREET SUBDIVISION", with centerline of said Maple Street; thence along centerline of Maple Street, North 08° 46' 11" East, a distance of 57.60 feet to the intersection of the said centerline of Maple Street with the centerline of said Lathrop Street; thence along the said centerline of Lathrop Street, South 26° 19' 10" East, a distance of 99.64 feet to the True Point of Beginning; thence leaving said centerline, North 63° 02' 14" East, a distance of 30.00 feet to a point on the Northeasterly right-of-way line of said Lathrop Street same point being the Westerly corner of said Parcel 2; thence along the Northwesterly boundary line of said Parcel 2 being 121.10 feet Northwesterly and parallel with the Northwesterly right-of-way line of Elm Street (60 feet wide) as shown on said map entitled "HANCOCK'S ADDITION TO REDWOOD CITY", North 63° 02' 14" East, a distance of 44.16 feet; thence leaving said Northwesterly boundary line, South 20° 12' 53" East, a distance of 26.86 feet; thence South 15° 49' 36" East, a distance of 17.18 feet; thence South 02° 49' 09" West, a distance of 33.11 feet; thence South 16° 55' 45" West, a distance of 20.02 feet; thence South 19° 38' 06" West, a distance of 11.59 feet to the Southwesterly boundary line of said Parcel 2 common with said Northeasterly right-of-way of Lathrop Street; thence along said common line, South 26° 19' 10" East, a distance of 26.45 feet; to the intersection of said Northeasterly right-of-way Lathrop Street with said Northwesterly right of way of Elm Street; thence continuing South 26° 19' 10" East, a distance of 30.00 feet to the centerline of said Elm Street; thence along said centerline of Elm Street, South 63° 02' 14" West, a distance of 30.00 feet to the intersection of said centerline of Lathrop Street with said centerline of Elm Street; thence along said centerline of Lathrop Street North 26° 19' 10" West, a distance of 151.11 feet to the True Point of Beginning.

PTN OF A.P. NO.: 053-147-040

CERTIFICATE OF ACCEPTANCE
(California Government Code §27281)

This is to certify that the interest in real property conveyed by the Grant Deed dated April 10, 2017, from the Successor Agency to the Redwood City Redevelopment Agency ("Successor Agency") to the City of Redwood City, a charter city and municipal corporation ("City"), is hereby accepted on behalf of the City by the undersigned officer pursuant to authority conferred by City Council Motion No. 17-038 adopted on Feb. 27, 2017, and that the City consents to recordation of the Grant Deed in the Official Records of San Mateo County.

Dated: April 10, 2017

CITY OF REDWOOD CITY, a charter city and municipal corporation

By: [Signature]
John Seybert, Mayor

ATTEST:
By: [Signature]
Silvia Vonderhinden, City Clerk

APPROVED AS TO FORM:
By: [Signature]
Veronica Ramirez, City Attorney

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF REDWOOD CITY
1017 MIDDLEFIELD ROAD
REDWOOD CITY, CA 94063
ATTN: CITY CLERK

EXEMPT FROM RECORDING FEES AND
DOCUMENTARY TRANSFER TAX
GOVERNMENT CODE §27383; REVENUE
AND TAXATION CODE §11922

2017-039954

9:44 am 05/09/17 DE Fee: NO FEE
Count of Pages 8

Recorded in Official Records
County of San Mateo
Mark Church

Assessor-County Clerk-Recorder



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

APN: 053-137-010

GRANT DEED

(Library Parking Lot)

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Successor Agency to the Redwood City Redevelopment Agency, a public body, corporate and politic (the "Grantor" or "Successor Agency") hereby grants to the City of Redwood City, a charter city and municipal corporation (the "Grantee" or "City"), the real property (the "Property") located in the City of Redwood City at 1012 Main Street, known as the "Library Parking Lot," designated as San Mateo County Assessor's Parcel No. 054-137-010, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

1. The Property was previously conveyed by the former Redwood City Redevelopment Agency, a public body, corporate and politic (the "Redevelopment Agency") to City by grant deed dated March 8, 2011 and recorded in the Official Records of San Mateo County on March 9, 2011 as Instrument No. 2011-028357 (the "Prior Conveyance Grant Deed").

2. Pursuant to Assembly Bill x1 26 (Chapter 5, Statutes of 2011-12 First Ex. Session), enacted in late June 2011, as amended by Assembly Bill 1484 (Chapter 26, Statutes of 2012), enacted on June 27, 2012, and as further amended by Senate Bill 107 (Chapter 325, Statutes of 2015) enacted on September 22, 2015 (collectively, the "Redevelopment Dissolution Act"), the Redevelopment Agency was dissolved as of February 1, 2012, and the Successor Agency succeeded to the interests of the Redevelopment Agency. California Health and Safety Code Section 34167.5 retroactively invalidated transfers of assets from redevelopment agencies to their sponsoring jurisdictions occurring after January 1, 2011, and directed the State Controller to order assets that were not committed to a third party to be returned to the former redevelopment agency or to the successor agency, if established. Consistent with the foregoing, on November 19, 2012, the City Council of the City of Redwood City adopted Resolution No. 15230, and the governing board of the Successor Agency adopted Resolution No. SA 12-12, each acknowledging the invalidation of the Prior Conveyance and authorizing the execution, delivery and recordation of such instruments as necessary to effectuate the return of the Property from the City to the Successor Agency. The Property was

ATTY/AGR/2016.090/RWC-LIBRARY PARKING - GRANT DEED SA TO CITY
REV: 02-03-17 VR

returned to the Successor Agency pursuant to a Grant Deed dated as of November 27, 2012, executed by City as grantor, and recorded in the Official Records of San Mateo County on November 28, 2012 as Instrument No. 2012-177008 (the "City-Successor Agency Grant Deed").

3. The Property qualifies as a parking lot that is "dedicated solely to public parking" as defined in Health and Safety Code Section 34181(a), and therefore is eligible for transfer to the City as a "governmental purpose" asset. In accordance with Health and Safety Code Sections 34181(a) and 34181(f), the Oversight Board to the Successor Agency and the State of California Department of Finance ("DOF") have approved the conveyance of the Property to the City for transfer to the City as a "governmental purpose" asset. This Grant Deed has been prepared and executed to implement such approvals.

4. The Property is conveyed to City subject to all matters of record; provided however, Grantor (as successor in interest to the Redevelopment Agency) and Grantee hereby mutually agree that the covenants set forth in Paragraphs 1, 2, and 5 of the Prior Conveyance Grant Deed and in Paragraphs 1, 2, and 5 of the City-Successor Agency Grant Deed pertaining to conformity to the Redevelopment Plan, are hereby terminated.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, Grantor and Grantee have each caused this instrument to be executed on its behalf by its respective duly authorized officer as of April 10, 2017.

GRANTOR:

SUCCESSOR AGENCY TO THE REDWOOD CITY REDEVELOPMENT AGENCY,
a public body, corporate and politic

By: Melissa Stevenson Diaz
Melissa Stevenson Diaz, Executive Director

ATTEST:

Silvia Vonderlinden
Silvia Vonderlinden, Agency Secretary

APPROVED AS TO FORM:

Veronica Ramirez
Veronica Ramirez, Agency Counsel

GRANTEE:

CITY OF REDWOOD CITY, a charter city and municipal corporation

By: John Seybert
John Seybert, Mayor

ATTEST:

Silvia Vonderlinden
Silvia Vonderlinden, City Clerk

APPROVED AS TO FORM:

Veronica Ramirez
Veronica Ramirez, City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Mateo)

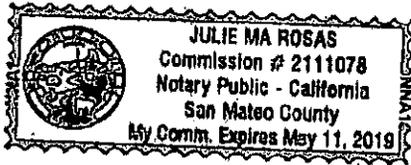
On April 7, 2017 before me, Julie Ma Rosas, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Melissa Stevenson Diaz
Name(s) of Signer(s)

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Julie Ma Rosas
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Grant Deed - Library Parking Lot
Document Date: April 7, 2017 Number of Pages: 7
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer -- Title(s): _____
 Partner -- Limited General
 Individual Attorney In Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer -- Title(s): _____
 Partner -- Limited General
 Individual Attorney In Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

- ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Mateo) ss

On May 3, 2017, before me, Kristen Mees, Notary Public,
(Name of Notary)

notary public, personally appeared John David Seybert
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Kristen Mees
(Notary Signature)



Exhibit A

LEGAL DESCRIPTION OF PROPERTY

ALL THAT CERTAIN PROPERTY SITUATED IN THE CITY OF REDWOOD CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING:

Library Parking Legal Description APN- 053-137-010

All that Certain real property located at 1012 Main Street, Redwood City, San Mateo County, California, more particularly described as follows:

The Northerly 40.00 feet of Lot 44 and all of the Lot 45 of Main Street Lots as shown on that certain map entitled "Town of Mezesville, situate upon the Redwood Embarcadero Creek, Rancho de Las Pulgas, San Francisco County, Cal, with adjacent Villa lots", which map was filed in the office of the County Recorder, San Mateo County, on August 1, 1856 in Volume 1 of Maps at page 789.

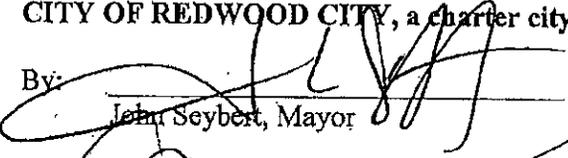
Assessor's Parcel No. 054-137-010

CERTIFICATE OF ACCEPTANCE
(California Government Code §27281)

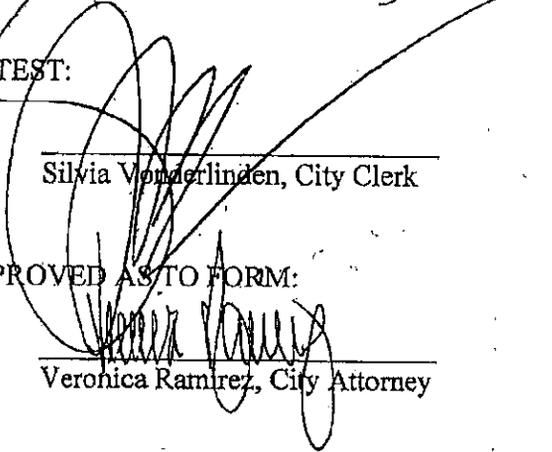
This is to certify that the interest in real property conveyed by the Grant Deed dated April 10, 2017, from the Successor Agency to the Redwood City Redevelopment Agency ("Successor Agency") to the City of Redwood City, a charter city and municipal corporation ("City"), is hereby accepted on behalf of the City by the undersigned officer pursuant to authority conferred by City Council Motion No. 17-038, adopted on Feb. 27, 2017, and that the City consents to recordation of the Grant Deed in the Official Records of San Mateo County.

Dated: April 10, 2017

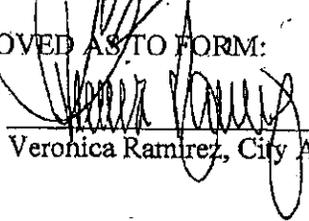
CITY OF REDWOOD CITY, a charter city and municipal corporation

By: 
John Seybert, Mayor

ATTEST:

By: 
Silvia Vonderlinden, City Clerk

APPROVED AS TO FORM:

By: 
Veronica Ramirez, City Attorney



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. ■ GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

May 7, 2018

Ms. Kimbra McCarthy, Assistant City Manager
Redwood City
1017 Middlefield Road
Redwood City, CA 94063

Dear Ms. McCarthy:

Subject: Objection of Oversight Board Action

The Redwood City Successor Agency (Agency) notified the California Department of Finance (Finance) of its January 11, 2018 Oversight Board (OB) Resolution on January 26, 2018. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB action.

Based on our review and application of the law, OB Resolution No. OB-18-03, authorizing and directing the transfer of certain property, identified as Assessors' Parcel Number 053-182-030, to Redwood City (City) for governmental use, is not approved.

HSC section 34181 (a), authorizes agencies to transfer ownership of assets constructed and used for governmental purposes, such as roads, school buildings, parks, police and fire stations, libraries, parking facilities and lots dedicated solely to public parking, and local agency administrative buildings, to the appropriate jurisdiction.

It is our understanding the City uses the property to park vehicles and equipment during the maintenance of a nearby culvert. When not in use by the City, the property is essentially open space and available for public parking. The Agency provided a list of maintenance activities and a Baseline Trash Load and Short-Term Trash Load Reduction Plan (Plan) dated February 1, 2012 to support the governmental use of the property.

However, these documents do not provide evidence of the construction and use of a public parking lot or governmental use property at the time of dissolution. According to the list, the City performed maintenance two times in fiscal years 2013-14 and 2016-17, respectively. Additionally, both the maintenance activities and the Plan occurred after dissolution. Therefore, the property does not meet the definition of governmental use pursuant to HSC 34181 (a) and is ineligible for transfer to the City. To the extent the Agency can provide support for the governmental use of the property prior to dissolution, this property may be eligible for transfer to the City in the future.

As authorized by HSC section 34179 (h), Finance is returning your OB action to the board for reconsideration.

Ms. Kimbra McCarthy
May 7, 2018
Page 2



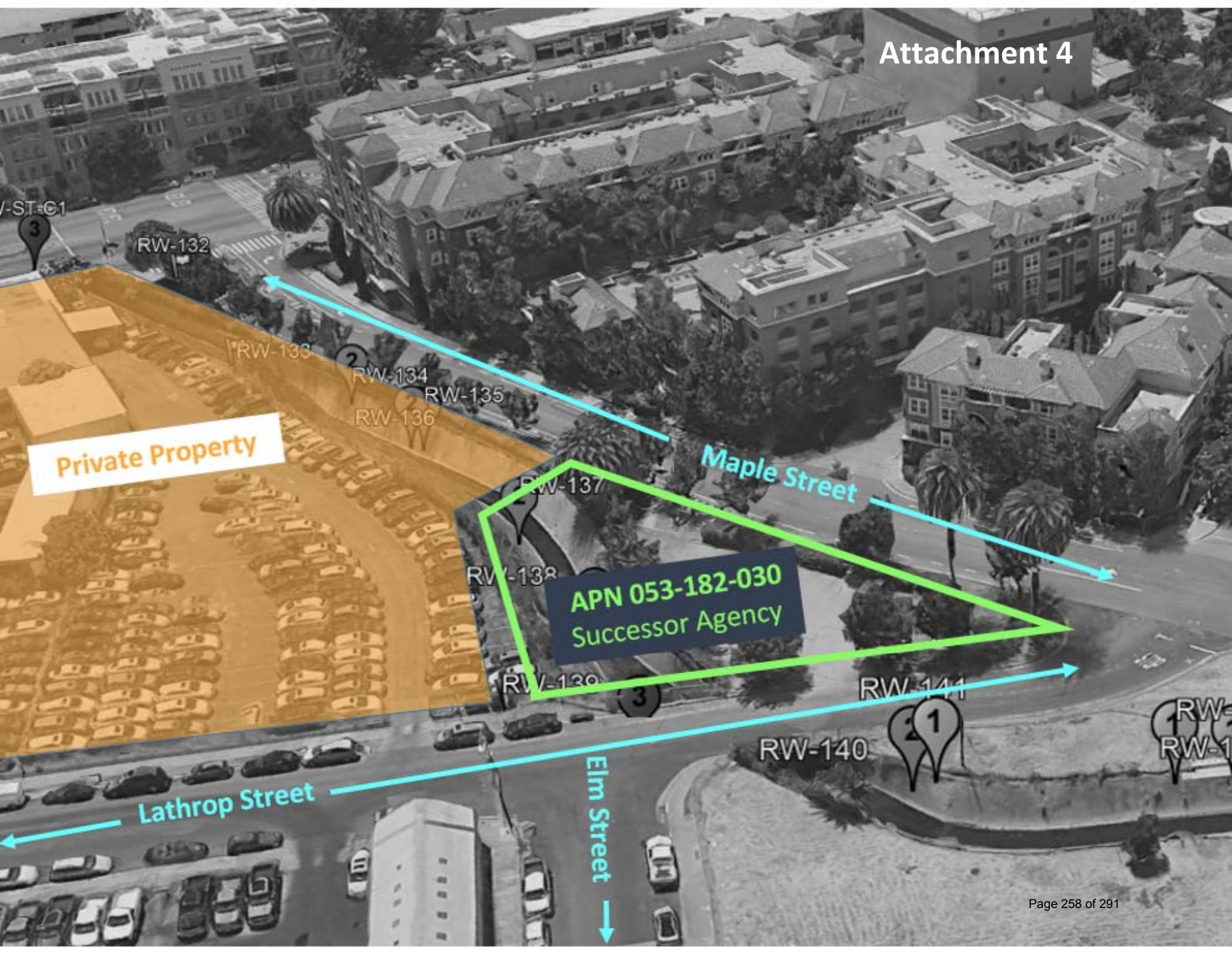
Please direct inquiries to Nichelle Jackson, Supervisor, or Cole Chev, Analyst, at (916) 322-2985.

Sincerely,

A handwritten signature in blue ink, appearing to read "Erika Li for". The signature is written in a cursive style with a large initial "E" and a horizontal line extending to the right.

ERIKA LI
Program Budget Manager

cc: Mr. Derek Rampone, Financial Services Manager, City of Redwood City
Mr. Matthew Slaughter, Property Tax Manager, San Mateo County
Ms. Shirley Tourel, Senior Internal Auditor, San Mateo County



Private Property

APN 053-182-030
Successor Agency

Lathrop Street

Maple Street

Elm Street

RW-132

RW-133

RW-134

RW-135

RW-136

RW-137

RW-138

RW-139

RW-141

RW-140

RW-142

RW-143

3

2

3

2

1

1

San Mateo County Countywide Oversight Board

Date: November 20, 2018 Agenda Item 10
To: San Mateo County Countywide Oversight Board
From: Shirley Tourel, Assistant Controller
Subject: Update on Oyster Point Development Project

Recommendation

This item is for information and discussion only. No action is required by the Board.

Background and Discussion

The Oyster Point Development Project is a public/private partnership venture that includes the former South San Francisco Redevelopment Agency. The joint venture aims to undertake a major development of an 80+ acre area located along South San Francisco's waterfront, at the terminus of Oyster Point Boulevard.

In 2011, the partners entered into a Disposition and Development Agreement ("DDA") which the former South San Francisco Successor Agency Oversight Board and the Department of Finance approved as an enforceable obligation under the redevelopment dissolution laws. The attached report is intended to brief the Board on the background, recent progress and current status of the development project.

The attachments were prepared by the South San Francisco Successor Agency. Alex Greenwood, Economic & Community Development Director of the City of South San Francisco will be presenting to the Board.

Fiscal Impact

None

Exhibit

- A. Successor Agency to the Former South San Francisco RDA Nov 2018 Staff Report – Disposition and Development Agreement Oyster Point
- B. Attachment 1 – Power Point Presentation
- C. Attachment 2 – Development Cost Summary

EXHIBIT A

Date: November 1, 2018

To: San Mateo County Countywide Oversight Board

From: Alex Greenwood, Economic and Community Development Director
South San Francisco Successor Agency

Subject: Study Session on the Oyster Point Development Project

Former RDA: South San Francisco

In March 2011, the City and former South San Francisco Redevelopment Agency approved the Oyster Point Development Project – a major public/private venture that envisioned office/R&D, hotel, open space, retail/commercial, and other improvements to an 80+ acre area located along South San Francisco’s waterfront, at the terminus of Oyster Point Blvd. As part of the project approvals in 2011, the developer, the former redevelopment agency and the City entered into a Disposition and Development Agreement (“DDA”). The Oversight Board and the Department of Finance have previously recognized the DDA as an enforceable obligation under the redevelopment dissolution laws. In order to brief the Oversight Board on the background, recent progress, and current status of the Oyster Point Project, staff has prepared the attached presentation (see Attachment 1).

Background

1. Site History

Oyster Point is an 80-acre waterfront area, located at the end of Oyster Point Blvd. About 40 acres are privately owned, with the other 40 acres owned by the City of South San Francisco.

Oyster Point has a very strategic location, visible from across the Bay and adjacent to the South San Francisco Ferry Terminal, Oyster Point Marina, and several biotechnology uses, such as the Genentech campus.



Source: maps4news.com/©HERE

Todd Trumbull / The Chronicle

Until the mid-20th Century, this area consisted of coastal marshland. Beginning in the 1950s, the South San Francisco Scavenger Company operated the site as a municipal waste disposal site. From 1956 to 1970, SSF Scavenger deposited municipal solid waste to a depth of 45 feet in an unlined landfill. Initially, waste was burned on site. Later, the company began depositing waste directly into the Bay, using a wire fence to stabilize the fill.

By 1970, when landfill operations ceased, 1.4 million tons of waste had been dumped on the site. In the two decades after closure of the land fill, multiple Federal, State, and regional regulatory agencies were involved in addressing the environmental impacts of the site; and “clay cap” infrastructure was installed that included bentonite-cement trenches, a gas barrier trench, compacted soil, and a PVC liner.

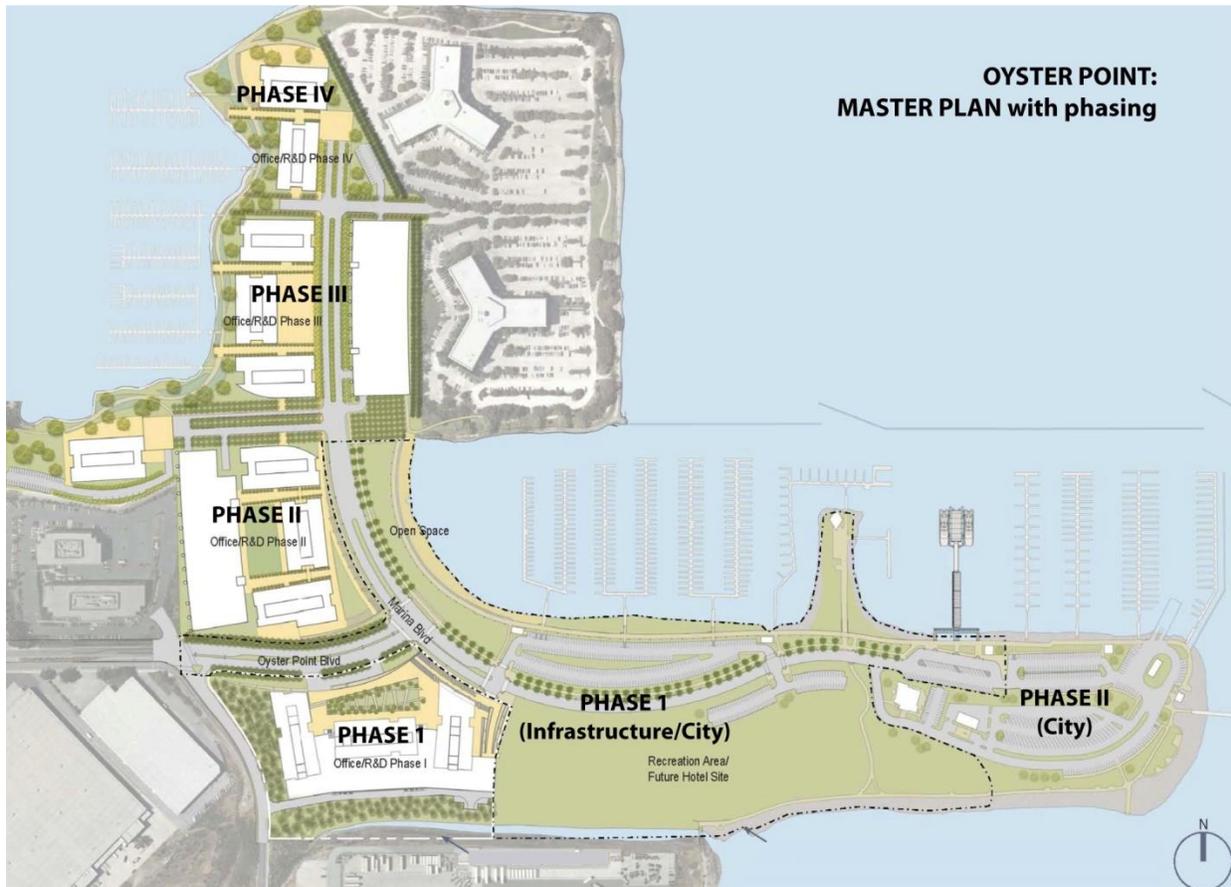


In 1977, the San Mateo County Harbor District assumed control of the site through a joint powers agreement between the City and Harbor District. A municipal marina was built along with a small park and several maritime industrial uses. The marina currently suffers from more than \$50 million of deferred maintenance and has never been able to reach its full potential as an attractive, economically self-sustaining coastal use.

2. *Redevelopment Project*

As mentioned above, in 2011, a new public-private partnership was approved that put forth an ambitious new vision for the site. This partnership included agreements between the City of South San Francisco, South San Francisco Redevelopment Agency, South San Francisco Harbor District, and a developer team known as “Oyster Point Ventures, LLC” led by Shorestein Realty Investors and SKS Partners. As part of the partnership, a Disposition and Development Agreement (DDA) was approved that:

- Articulated a new, exciting vision that would convert an environmentally risky, blighted, underused site into a vibrant 80-acre waterfront area.
- Resolve a tangle of property ownership issues that had impeded development.
- Catalyze investment with a mixed-use development including: 2.25 million sq. ft. of office/R&D space, a hotel, retail and maritime commercial uses, a major waterfront park, a public beach, Bay Trail improvements, and other amenities.
- Provide the financial mechanism for extensive new infrastructure, including: environmental remediation, clay cap repair, grading, landscaping, all new streets and utilities, and other key infrastructure to allow development to occur. The costs of these improvements were allocated between the developer and the former redevelopment agency.



3. Recent Progress

Between 2011 and 2016, the Oyster Point Project became stalled, due to the ongoing financial recession and a downturn in the biotechnology industry. The project was sold and assigned to a new developer in 2016, and to yet another new developer in 2018. The new developer, Kilroy Realty, has established itself as one of the most highly regarded office developers on the West Coast, with notable developments including Salesforce Headquarters (50 Fremont), the LinkedIn Headquarters Campus, and many other high end office developments.

As noted above, the project is a public private partnership with funding provided by Developer and the former redevelopment agency (now successor agency). Attachment 2 shows a summary of the funding obligations associated with the project. These funding obligations have been previously funded through prior ROPS which have been approved by the Oversight Board and the Department of Finance.

In November 2017, construction began on Phase 1 of the project, which includes 508,000 sq. ft. of biotechnology R&D space. Construction is on schedule to be completed in 2021.

In addition to funding the infrastructure and site preparation mentioned above, the developer is also privately funding the construction of the buildings that at built-out (i.e., Phases 1-4) will include 2.25 million sq. ft. of office and R&D space. Thus, the project in total has an estimated

valuation in excess of \$2 billion. An estimated \$23,230,000 per year in property tax revenue is anticipated upon completion of all four phases of the project.

Conclusion

The purpose of this study session is to update the Oversight Board on the background and current progress of the Oyster Point Project.

Attachments:

1. PowerPoint Presentation
2. Development Cost Summary

Informational Overview: Oyster Point Development Project



*Presented to: San Mateo County Oversight Board
November 26, 2018*



South San Francisco Successor Agency

Oyster Point – South San Francisco



Source: maps4news.com/©HERE

Todd Trumbull / The Chronicle

Oyster Point – South San Francisco

HUNDREDS OF THOUSANDS OF WILD DUCK HAUNT THE MARSHY SHORELINE OF SOME PARTS OF SAN FRANCISCO BAY, AFFORDING THE FINEST SPORT DURING THE SEASON



Oyster Point – South San Francisco

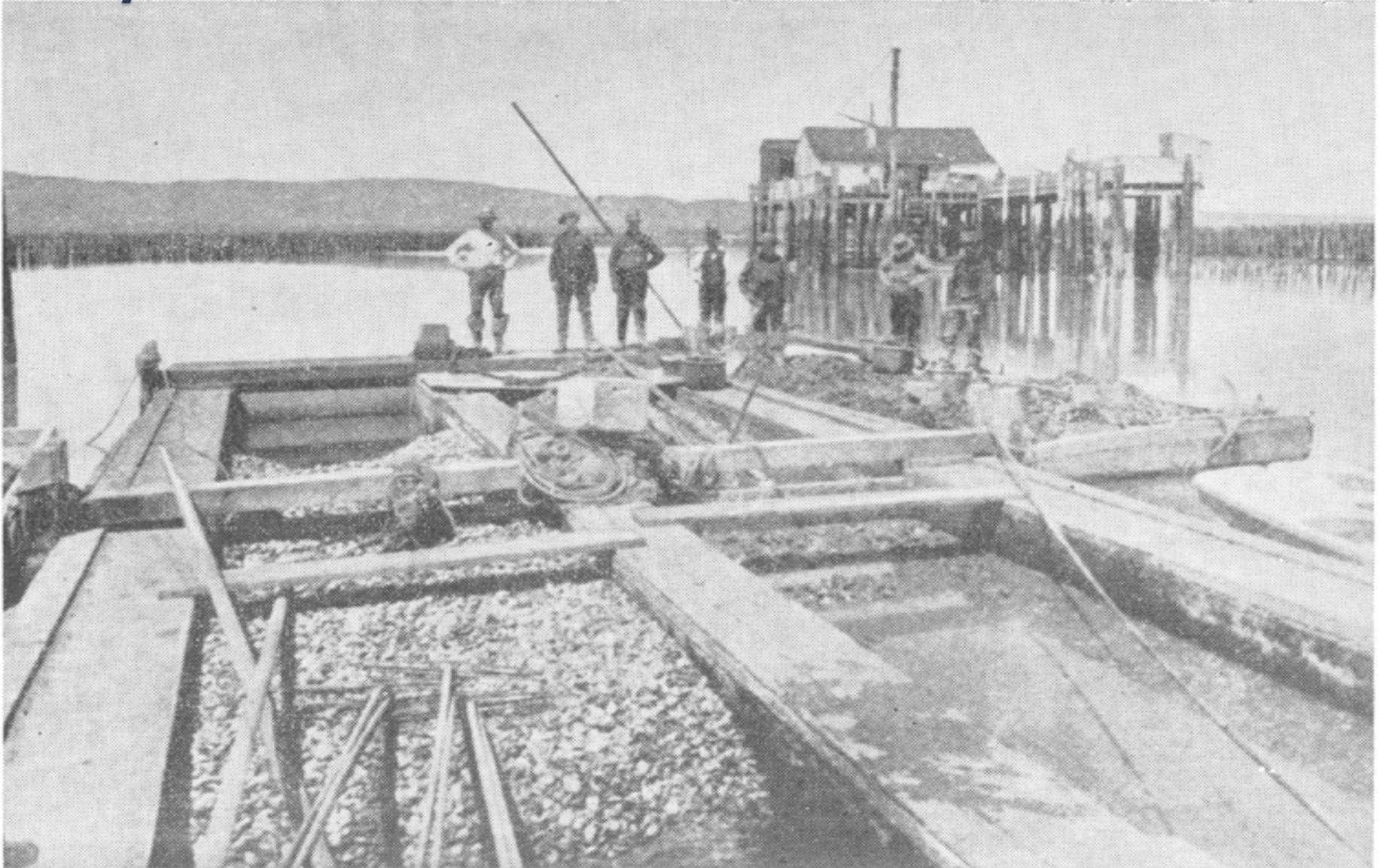


FIGURE 23. Oyster house and holding barges, south San Francisco Bay.
From Townsend, 1893.

Oyster Point – South San Francisco



FIGURE 30. Diked, gravelled bed under construction, south San Francisco Bay, 1933.
California Department of Fish and Game photograph.

Oyster Point Landfill – Opened 1956



**Oyster Point Landfill - S. San Francisco
Jun 17, 1958**

Oyster Point Landfill – Closed 1970

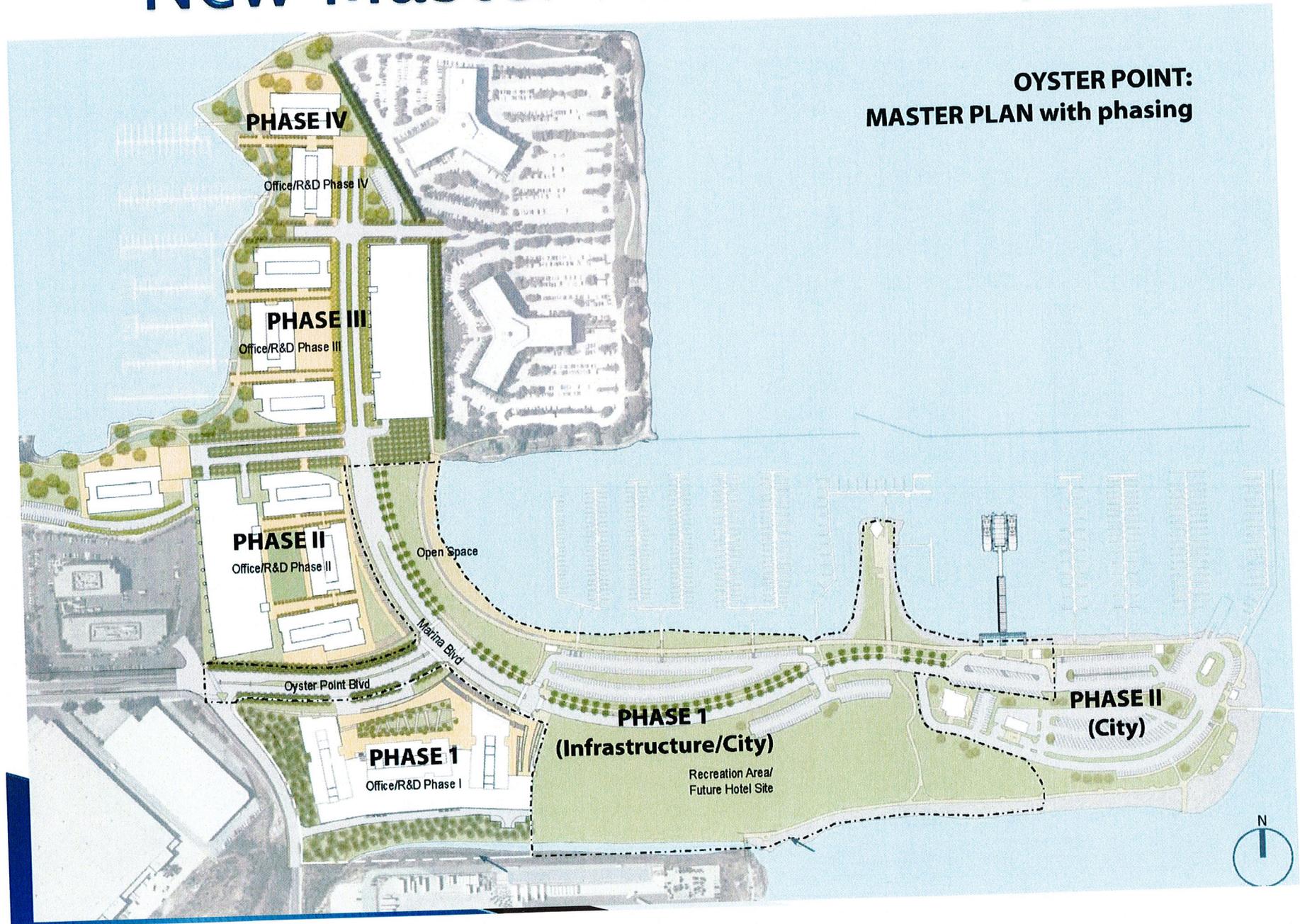


Oyster Point Marina - 1977

Operated by San Mateo County Harbor District

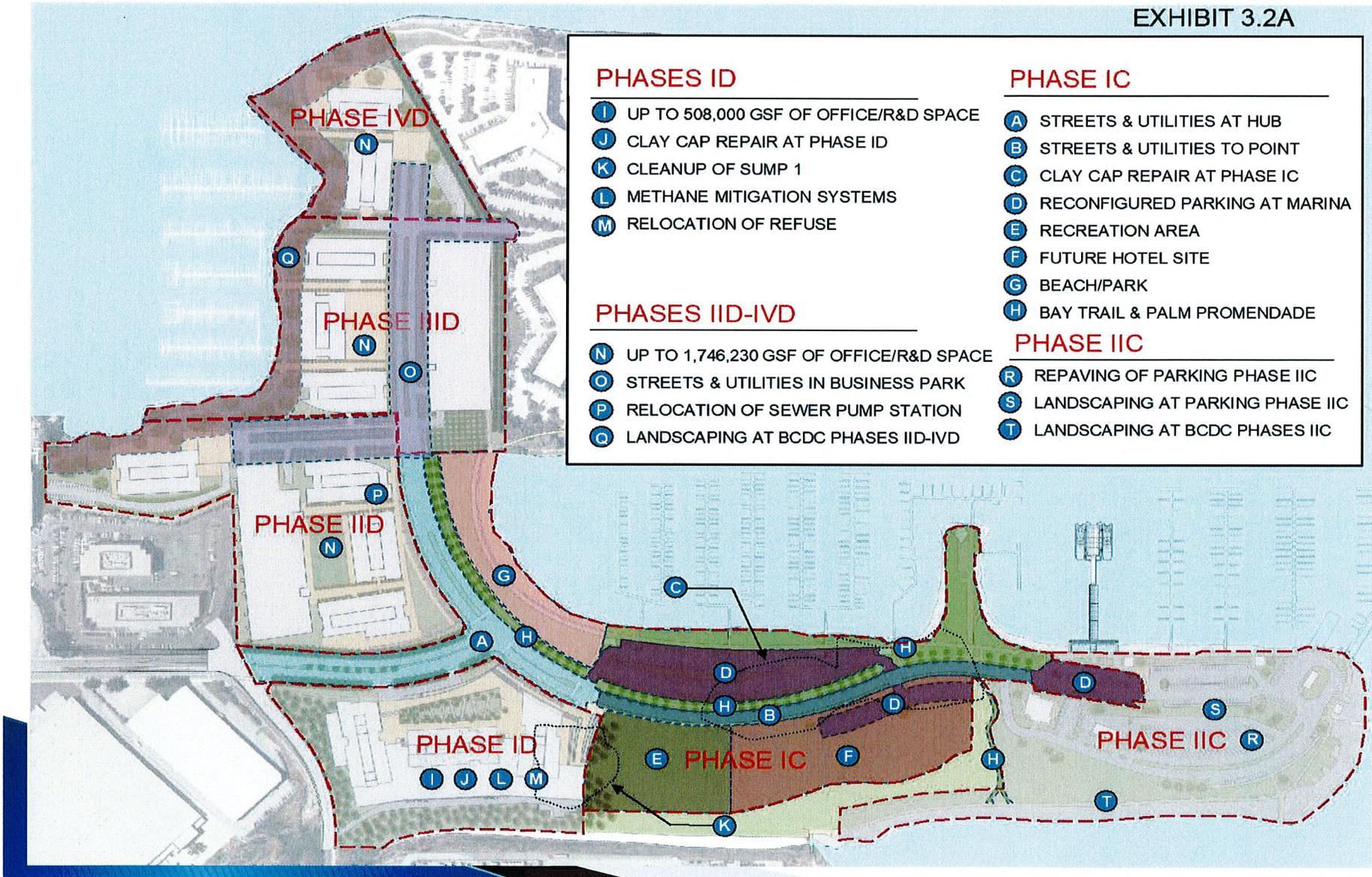


New Master Plan Developed



2011 Disposition & Development Agreement Developer (OPV, LLC)/RDA/City

EXHIBIT 3.2A



Key Documents

- ▶ **Disposition and Development Agreement (2011)**

RDA & Oyster Point Ventures & City

- ▶ **Harbor District Agreement (2011)**

City & RDA & San Mateo County Harbor District

- ▶ **Escrow Deposit and Trust Agreement (2013)**

Successor Agency to the RDA & Bank of New York

*All Contracts Approved by CA Department of Finance (DOF)
as Enforceable Obligations of the Successor Agency to the RDA*

2011 *to* 2015: Project Lays Dormant

2016: OPV, LLC Sells to Greenland

2017: Greenland Breaks Ground!



2018: Greenland Sells to Kilroy Realty *Construction Continues*



Vision for Oyster Point : Kilroy Realty



Vision for Oyster Point : Kilroy Realty



Vision for Oyster Point : Kilroy Realty



Vision for Oyster Point : Kilroy Realty



Vision for Oyster Point : Kilroy Realty



Vision for Oyster Point : Kilroy Realty



Landfill Construction Underway



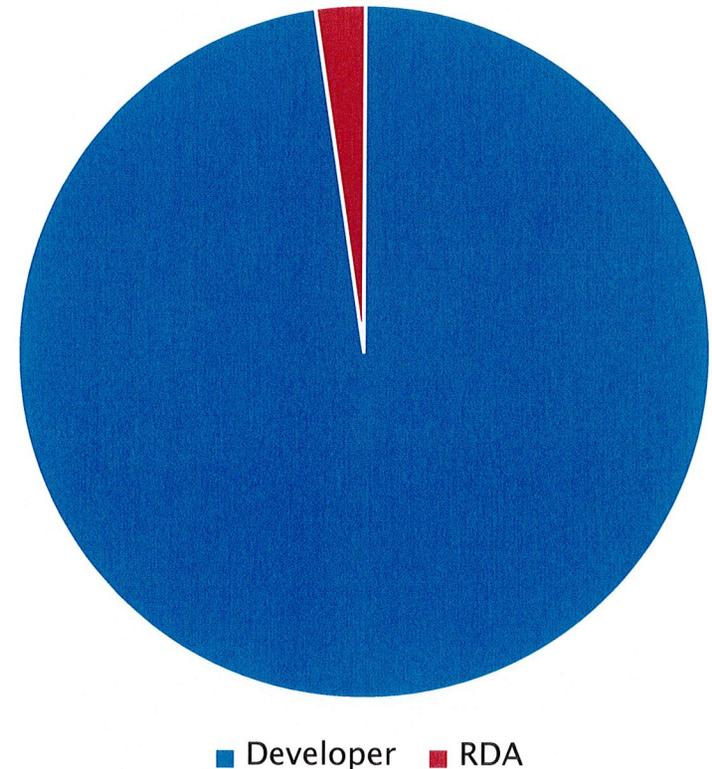
Costs of Development

▶ Developer Cost : \$2 Billion

- Buildings
- Land Cost
- Landfill Work & Cap Repair
- Streets/Utilities
- Sewer Work
- Landscaping

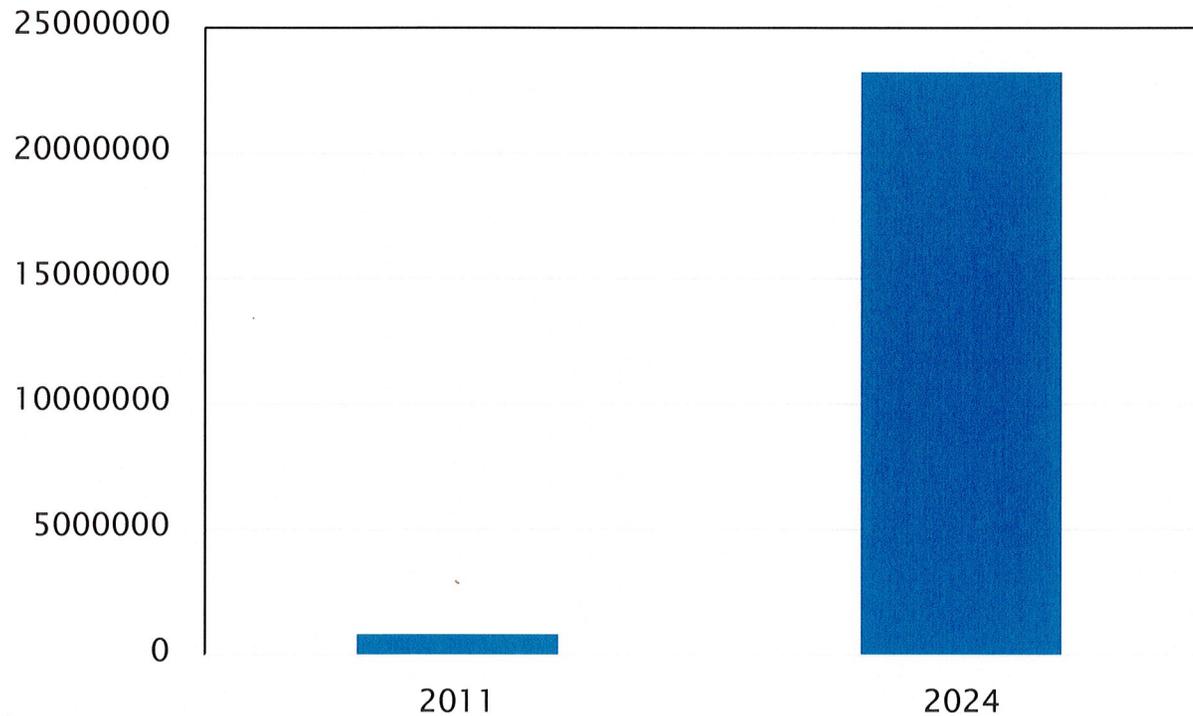
▶ RDA Cost : \$48 Million

- Streets/Utilities
- Landscaping
- Grading
- Parking
- Landfill Cap Repair



Property Tax Impact

- ▶ 2011 Property Taxes: \$ 840,000
- ▶ 2024 Property Taxes: \$23,230,000 (est.)



Visionary Transformation – Landfill to

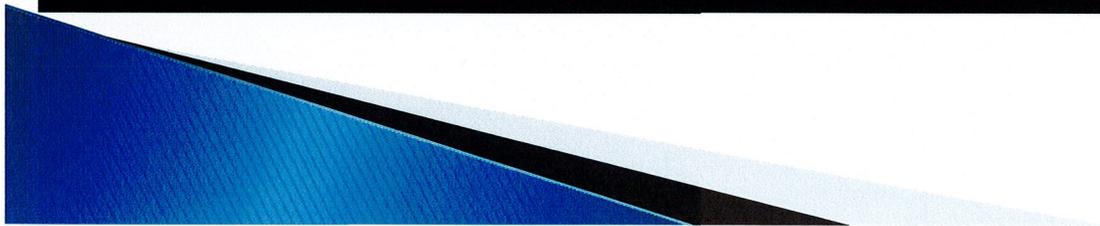


Economic & Environmental Success Story

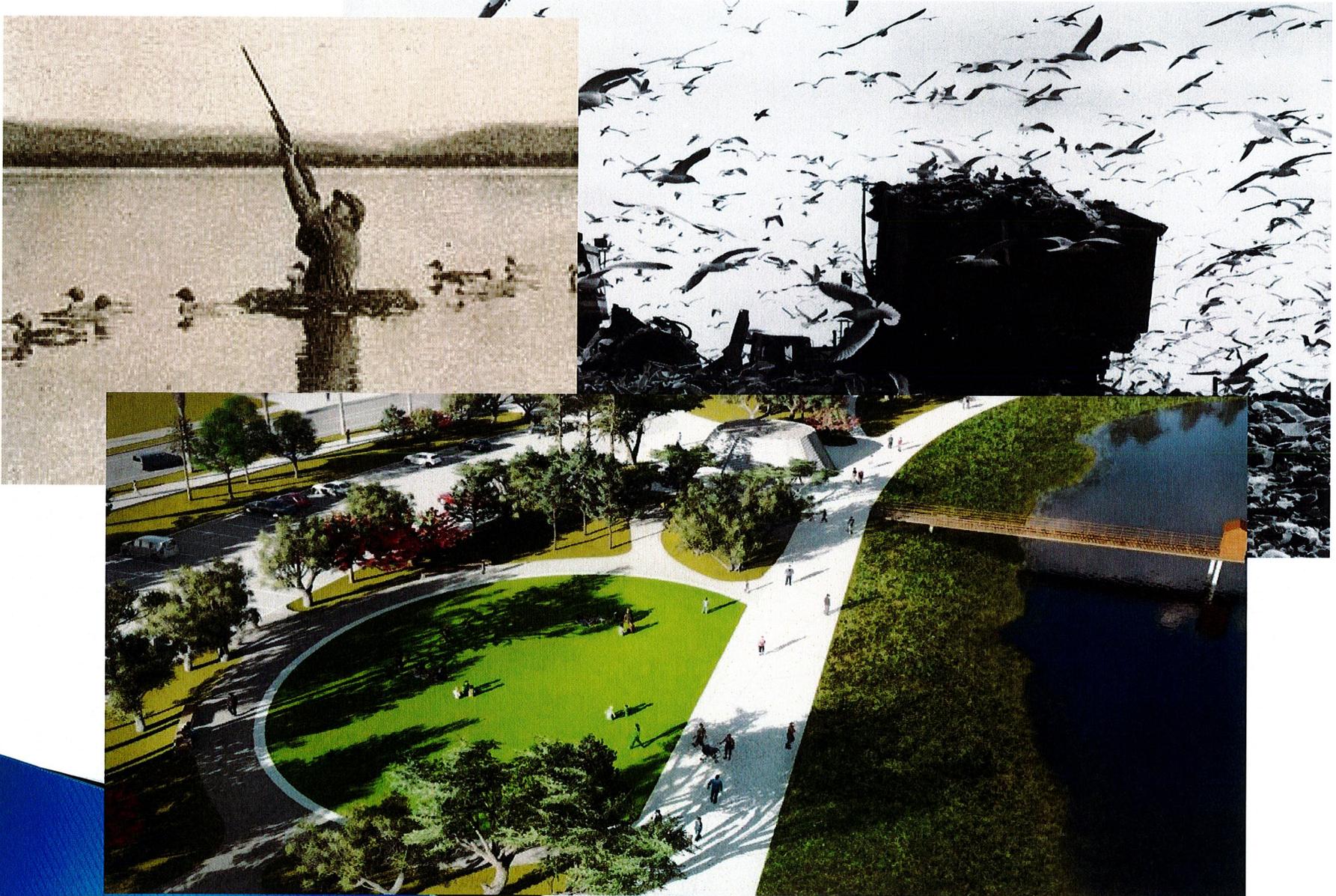


Close Landfill Q1 2019
Start Vertical Construction Q1 2019
Finish all Infrastructure Work 2020
Open Phase One 2021
Complete All Phases ~ 2024

Transforming Oyster Point



Questions & Discussion



Attachment 2 - Development Cost Summary for Oyster Point Project

Oyster Point Development
 South San Francisco, CA
 PHASE IC & IIC CAP REPAIR - BUDGET

PHASE IC 2011 BUDGET ADJUSTED ESCALATION FROM 2011 TO DEC 2017		DDA Budget (2011 \$'s) Ref. Exhibit 3.4.1			ROPS Approval (May'18)	2017 Revised Budget ROPS Approval (2017 \$'s)		
		Agency Share	OPD Share	Total		Agency Share	OPD Share	Total
DDA Cost Categories		A	B	C = A + B	Phase IC	E	F	G = E + F
1	Streets and Utilities at Hub	\$ 1,919,198	\$ 7,676,794	\$ 9,595,992		\$ 4,059,685	\$ 16,238,739	\$ 20,298,424
2	Streets and Utilities at Point	\$ 5,434,533	\$ -	\$ 5,434,533		\$ 11,030,136	\$ -	\$ 11,030,136
3	Clay Cap Repair at City Parcels - Phase IC	\$ 539,516	\$ -	\$ 539,516		\$ 612,900	\$ -	\$ 612,900
4	Reconfiguration Parking Lot at Marina & Open space Landscape	\$ 4,247,756	\$ -	\$ 4,247,756		\$ 8,238,145	\$ -	\$ 8,238,145
5	Recreation Fields	\$ 1,969,117	\$ -	\$ 1,969,117		\$ 2,723,232	\$ -	\$ 2,723,232
6	Future Hotel Site	\$ 792,931	\$ -	\$ 792,931		\$ 1,219,574	\$ -	\$ 1,219,574
7	Landscaping at Beach / Park	\$ 3,496,408	\$ -	\$ 3,496,408		\$ 4,837,618	\$ -	\$ 4,837,618
8	Landscaping at BCDC Area in City Parcels and Palm Promenade	\$ -	\$ 9,533,859	\$ 9,533,859		\$ 3,658,435	\$ 9,533,859	\$ 13,192,294
TOTAL		\$ 18,399,459	\$ 17,210,653	\$ 35,610,112		\$ 17,980,266	\$ 36,379,725	\$ 25,772,598

PHASE IIC CAP REPAIR 2011 BUDGET ADJUSTED ESCALATION FROM 2011 TO DEC 2017		DDA Budget (2011 \$'s) Ref. Exhibit 3.4.1			ROPS Approval (May'18)	2017 Revised Budget ROPS Approval (2017 \$'s)		
		Agency Share	OPD Share	Total		Agency Share	OPD Share	Total
DDA Cost Categories		A	B	C = A + B	Phase IIC Cap Repair	E	F	G = E + F
1	Clay Cap Repair	\$ 572,366	\$ -	\$ 572,366		\$ 1,460,052	\$ -	\$ 1,460,052
Adjustment for Difference in Requested and DOF ROPS Approval in May'18 (\$798,374) [Notes A and B]						\$ (89,312.00)	\$ -	\$ (89,312.00)
TOTAL		\$ 572,366	\$ -	\$ 572,366	\$ 798,374	\$ -	\$ 1,370,740	

Note A: Requested ROPS \$18.0M for Phase IC and \$0.89M for IIC Cap Repair for total \$18.89M (OB and SA) in Dec'17.

Note B: Final DOF ROPS approval May'18 of \$18,778,640: \$17,980,266 for Ph. IC and \$798,374 for IIC Cap Repair.

San Mateo County Countywide Oversight Board

Date: November 21, 2018 Agenda Item No. 11

To: San Mateo County Countywide Oversight Board

From: Shirley Tourel, San Mateo County Assistant Controller

Subject: First Amendment to the Purchase and Sale Agreement Between South San Francisco Successor Agency and SSF Miller/Cypress Phase 2 LLC with Final Sale Price of \$1,118,538

Background

The San Mateo County Countywide Oversight Board (the “Board”) was created pursuant to Health and Safety Code (HSC) Section 34179(j) to provide guidance and oversight to the successor agencies who are tasked with winding down the affairs of the former redevelopment agencies (RDAs). Pursuant to Health and Safety Code Section 34181(a)(1), the Board shall direct the successor agencies to dispose of all assets and properties of the former redevelopment agency (RDA) expeditiously and in a manner aimed at maximizing value.

Discussion

At the September 18, 2018 Board meeting, the South San Francisco Successor Agency (“Agency”) submitted a first amendment to the Purchase and Sales Agreement between the Agency and SSF Miller/Cypress Phase 2, LLC, amending the sale price of 216 Miller Avenue to \$1,118,538 for the Board’s approval (the “First Amendment”). Subsequently, the Board created a subcommittee and authorized the subcommittee to retain an appraiser to review the appraisal report submitted by the Agency.

The Agency is now requesting that the Board approve the First Amendment including the \$1,118,538 sale price. This item has been placed on the agenda for discussion and potential approval.

Financial Impact

If the \$1,118,538 sale price is approved, the net proceeds from the sale of the 216 Miller Avenue property will be distributed to the taxing agencies that reside within the former redevelopment agency’s boundary.

Exhibits

Staff Report – Successor Agency to the Former South San Francisco RDA with Attachments 1-3
First Amendment to Purchase and Sales Agreement between the Agency and SSF Miller/Cypress Phase 2, LLC
Saris Regis PSA Amendment Presentation

Date: October 18, 2018

To: San Mateo County Countywide Oversight Board

From: Alex Greenwood, Economic and Community Development Director

Subject: Resolution approving the final sale price of \$1,118,538, as stated in the first amendment to the Purchase and Sale Agreement between the South San Francisco Successor Agency and SSF Miller/Cypress Phase 2, LLC

Former RDA: South San Francisco

Background

Site History

In 2011, the City of South San Francisco's Redevelopment Agency purchased a group of vacant, blighted parcels in the vicinity of Airport Blvd. & Miller Ave., which previously had been the site of the South City Motors Ford dealership. These parcels occupy a highly visible, strategic location within the City's Downtown, and they offer an enormous opportunity to spearhead a new wave of Downtown development and investment. For purposes of development planning and marketing, the parcels were grouped in to Parcels A, B, C and D, and shown on Map 1:

Map 1: Downtown South San Francisco



Disposition Process

In 2014, the South San Francisco Successor Agency (“Successor Agency” or “Agency”) went through a competitive process to select a developer for the former Ford properties. Ultimately, the Agency selected Sares Regis Group of Northern California (“Sares Regis”), which proposed to build market rate rental housing on all four parcels.

The Agency and Sares Regis entered into an Exclusive Negotiating Rights Agreement (“ENRA”). The ENRA was approved on August 19, 2014, by the Oversight Board to the South San Francisco Redevelopment Agency (“SSF Oversight Board”); and it was approved on September 8, 2014, by the State Department of Finance (“DOF”). The ENRA resulted in the successful negotiation and execution of a Purchase and Sale Agreement (“PSA”), included in Attachment 1.

The PSA called for the parcels to be developed in two phases. Phase 1 would be a 260-unit rental housing project involving Parcels A, B and D; and Phase 2 would be a housing project including Parcel C with its scope to be clarified in the future (as discussed below).

On February 23, 2016, the SSF Oversight Board adopted Resolution 04-2016 approving the transfer of all parcels to Sares Regis pursuant to the terms of the PSA. As set forth in the PSA, Sares Regis paid \$4,000,000 for Parcels A, B, and D to Sares Regis. Escrow closed and all of the properties (including Parcel C) was transferred to the developer in December of the same year.

For Phase 1 of the project, Parcels A and D were entitled for 260 market rate rental apartments, which are currently under construction. Parcel B was entitled as a parking lot to help fulfill the parking requirements associated with Phase 1.

The PSA contemplated that the remaining parcel – Parcel C, located at 216 Miller Avenue – could be part of a second phase of development, either as a 12-townhome project or as part of a larger land assemblage. In order to allow Sares Regis to maintain site control and complete negotiations with other property owners, the PSA allowed Parcel C to be transferred to Sares Regis at the same time as the other three parcels, but with its final purchase price to be determined at a later date (as discussed below). After extensive negotiations, Sares Regis was able to gain control of the three remaining privately-held lots adjacent to Parcel C, and thus decided to proceed with the larger land assemblage option for Phase 2.

Adoption of Downtown Station Area Specific Plan

In 2015, after three years of intensive planning work and community involvement, the City approved the Downtown Station Area Specific Plan (“Downtown Plan”). The Sares Regis project was viewed as the very first development project under the new Downtown Plan, and thus would play a critical role in implementing the Plan’s vision by “proving” Downtown South San Francisco as a viable new market for investment and housing development. To date, Phase 1 has indeed served as a catalyst for new development in the Downtown; and today there are 957 housing units in the development pipeline generating more than \$550 million of new construction.

The City has continued to make a strong, consistent commitment implementation of the Downtown Plan, and has taken several policy actions to facilitate the successful development of the Downtown (including Parcels A, B, C and D). In November 2017, the City began construction of a \$61 million project to modernize and expand the South San Francisco Caltrain Station. In February 2018, the City approved further changes to the Downtown Zoning to allow up to 180 housing units per acre in certain areas close to the Caltrain Station.

Phased Approach to Development

As noted above, Phase 1 consists of residential construction on Parcels A and D and is under construction for 260 market-rate rental units. It is expected that Phase 1 construction will be complete in 2019. The estimated valuation of the completed Phase 1 project is \$140 million, which will generate an estimated \$1.4 million in property taxes per year. Under the approved PSA, two development options were contemplated for Parcel C in a second phase (“Phase 2”) of project development. These options included the aforementioned 12-unit townhomes or a land assemblage.

As mentioned, the developer worked diligently to assemble the site. This required negotiations with private property owners controlling three parcels, located between Parcel B and Parcel C. Options to purchase these sites were obtained and, the developer pursued designs for the assembled property, for the construction of one large building comprising of 195 multifamily residential project in Phase 2. The designs were approved by the Planning Commission in September 2018. Concurrently, Agency staff reached final negotiations with the developer and presented Developer’s best and final purchase price to the Agency in August. The Agency approved this revised purchase price and, the project is now poised for final project approvals, pending the outcome of the approval of the final sale price by the County Oversight Board.

Appraisal

Pursuant to the PSA, an appraisal was required to determine the supplemental purchase price of Parcel C. The relevant section of the PSA appears below.

2.3 Supplemental Purchase Price for Parcel C. If the Buyer constructs Parcel C (whether as (i) a 12 unit town home development consistent with the Project Approvals (“12 Unit Project”) or (ii) as part of a revised development under the potential Land Assembly Option defined in Section 5.6), the additional land value payable to the Seller for Parcel C will be determined either by (X) a residual land value appraisal for Parcel C or, at Seller’s discretion, (Y) on a comparison sales based appraisal both of which will be prepared by a certified appraiser mutually selected by the Seller and Buyer within sixty (60) days of the date Buyer provides written notice of either its intent to pursue the Revised Parcel C Entitlements its intent to abandon the Revised Parcel C Entitlements and proceed with construction of the 12 Unit Project (“**Supplemental Purchase Price**”). In the event that the parties do not agree on an appraiser, the Seller shall identify three certified appraisers with experience appraising properties in San Mateo County and each Party shall strike one appraiser and the remaining appraiser shall be retained to conduct the appraisal. The costs of the appraisal shall be shared equally between the Seller and Buyer. Buyer shall pay Seller the Supplemental Purchase Price prior to the earlier of ninety (90) days after completion of the appraisal or issuance of the first building permit by the City for Parcel C. This provision shall not

apply if Buyer re-conveys Parcel C to Seller pursuant to Section 5.6(e)(v).

The PSA established a process to mutually select the appraiser, but did not determine the approach to the appraisal. The language simply allowed for a comparison sales based appraisal or a Residual Land Value (“RLV”) appraisal, at the discretion of the Agency. Following discussions with Developer, the Agency established that a reconciled comparison sales and RLV approach would be the most appropriate appraisal method for establishing the supplemental purchase price for Parcel C.

Assembled Site

Pursuant to Section 2.3 of the PSA, the Agency and Sares Regis mutually selected Vathana Duong of Colliers International Valuation and Advisory Services to conduct the appraisal. The appraisal methodology looked at comparable sales, as well as the RLV of an assumed 195-unit development to determine an unentitled land value for the property. Finally, costs associated with soil remediation and liquefiable soil abatement were deducted to arrive at a reconciled “as-is” value. The appraisal valued Parcel C at \$3,700,000.

Stand-alone Site

At the September 19, 2018 meeting, the Oversight Board directed Agency staff to pursue an addendum to the appraisal that considered the value of Parcel C as a stand-alone site. The purpose of this variation of the appraisal confirms what the site may be worth to another developer should the site not be sold to Sares Regis for the land assemblage project. Agency staff worked with the appraiser, Vathana Duong, on an addendum to the original proposal.

The appraisal used the same construction costs, and other information that was used in the previous appraisal. The difference in methodology between the two appraisals is that the revised appraisal assumes that the site is a standalone development site with no consideration for assemblage. It further assumes that although the site is entitled for 12 townhomes, this is not the highest and best use of the site. Since the parcel can accommodate 49 units, this was the assumption driving the assessed value of the site.

As mentioned above, the appraisal, see Attachment 2, tested the value of Parcel C to determine its highest and best use. It was determined that if developed alone, rather than as part of the larger land assemblage, Parcel C could accommodate just 49 units. As part of the land assemblage, it can accommodate 72 units. The outcome of the appraisal was that the stand alone site, with the assumption that the highest and best use is achieved, resulted in a \$1,830,000 valuation. The loss in appraised value between the assembled site and the stand alone site is \$1,870,000.

Staff Negotiations and Land Price Offer

During the appraisal process, Sares Regis made an initial offer of \$0 for the land. This offer was immediately rejected by Agency staff. Agency Staff continued to negotiate with the developer and, using the final appraised value (\$3,700,000), were successful in increasing the purchase price offer from \$0 to \$1,118,538.

Sares Regis has contested the \$3.7 million appraised value of Parcel C arguing against the methodology used. They outline their concerns in their Offer Letter, see Attachment 3. Sares Regis has offered \$1,118,538 for Parcel C, stating the cost of assembling the larger development site affects their ability to offer more for the property and justifying their offer by estimating a price for the property if sold as a stand-alone site.

Property Tax Revenues

Per the County of San Mateo Tax Collector, the sites that comprise the full land assemblage for the 195 units contemplated by the Phase 2 development are currently generating the following tax revenues (for the 2018 tax year):

216 Miller (APN 012-314-220):	\$19,477
212-214 Miller (APN 012-314-190):	\$7,608
208 Miller (APN 012-314-180):	\$14,600
204 Miller (APN 012-314-110):	\$11,800
405 Cypress (APN 012-314-110):	<u>\$5,000</u>
TOTAL:	\$58,485

If the Sares Regis offer is not accepted, and Parcel C reverts to the City, the \$19,477 in tax revenue for Parcel C would no longer be collected. Should this be the case, the tax revenue for the next one to three years would be approximately \$39,008.

Finally, Agency staff evaluated the property tax implications over the next ten years of selling Parcel C to Sares Regis for \$1.1 million versus selling the property as a stand-alone site. If Sares Regis' offer is accepted, the taxing entities could expect to begin receiving new, higher property taxes on the 195-unit development three years from now. Whereas, going back out to bid, selecting a new developer, and proceeding through the Exclusive Negotiating Right Agreement process to arrive at a Purchase and Sale Agreement, followed by construction of the project, would delay new, property tax payments on the 49-unit development until five years from now. Agency staff conservatively estimates that the property taxes the taxing entities could expect to receive over the next ten years to be \$7,805,274 if Parcel C is sold to Sares Regis and just \$2,260,036 if it is sold as a stand-alone site.

	Assembled Site 195 Units Value: \$90m	Parcel C plus other sites (Stand-alone developed site) Value: \$22m	Parcel C plus other sites Straight Sale Value: \$1.83m
	Annual	Annual	Annual
SSFUSD (43.9%)	\$399,254	\$102,332	\$25,962
SMC (25.7%)	\$233,732	\$59,907	\$15,198
SSF (16.7%)	\$151,880	\$38,928	\$9,876
SMC CCD (7.3%)	\$66,391	\$17,016	\$4,317
Other	\$58,206	\$10,348	\$3,785
TOTAL	\$909,462	\$267,540	\$59,138

Impact of accepting Sale Price

Although the proposed sale price in the First Amendment to the PSA is lower than the current appraised value, the sales price payment is one-time non-recurring revenue. Worth factoring in to the consideration is that, a completed project will achieve a development with an assessed value of \$90 million. Accordingly, the property tax generated as an assembled site is estimated to be \$900,000 per year, once the development is complete. As outlined above, this is significantly more than the \$260,000 annual property tax generated as a stand-alone site, or the \$1,830,000 million generated as a straight sale. As discussed in further detail below, it is unlikely that the parcels between Parcel B and C, would be developed if they are not developed as part of an assembled site.

Accepting the current offer, allows the for a continued development momentum in South San Francisco’s downtown to be maintained. The City is experiencing significant public and private developer, however this is not guaranteed to continue and the City would like to capitalize on the current thriving economy.

The developer has committed to using union labor and paying prevailing wage. Since prevailing wage is not a requirement, negotiations with a different developer may not render the same result with respect to its labor force.

Finally, by allowing for a development that is higher density (195 units vs 49 units) more developer fees, such as fire/life safety, school impact fees and childcare impact fees, are generated.

Impact of Rejecting Sale Price

Per the LRPMP, should Parcel C (216 Miller) not be sold as an assemblage with other properties, the approach to the sale of the site would be a straight sale. That is, the City would hire a broker to market and sell the site to the highest bidder. Some of the properties that have sold in the

downtown since the beginning of 2016 include the following (for reference Parcel C is 17,500 sq.ft.):

1. 219 Miller Avenue: \$500,000 (4,500 sq.ft.) – site remediation unlikely
2. 221 Miller Avenue: \$500,000 (3,000 sq.ft.) – site remediation unlikely
3. 201 – 219 Grand Avenue: \$1,200,000 (21,000 sq.ft.) – no site remediation

If the Agency were to proceed with the sale of the site as a redevelopment approach, the sale price would likely be dependent on a number of factors: the developer’s ability to assemble a new site, the type of development that would occur on the site, whether Below Market Rate (“BMR”) units were required, site remediation, and construction costs.

It is unlikely that a different developer would be able to pursue a land assemblage at the same size because Sares Regis owns Parcel B and it presently is required to satisfy the parking requirements for Parcels A and D that are under construction now. Further, it is unlikely that the private property owners that own the sites between Parcel B and Parcel C would accept a lower price offer from a different developer, and therefore the cost of assembling the site would be the same, if not more expensive.

Further, in September 2018, the City of South San Francisco adopted a new Inclusionary Housing Ordinance. This ordinance requires any new residential rental development to include 10% BMR units between November 1, 2018 and November 1, 2019, after which the requirement increases to 15%. The requirement for new condominium development is 15%. The entitlements Sares Regis is currently pursuing are exempt from this requirement, as their application for development was deemed complete well before the ordinance effective date (November 1, 2018).

Although the stand-alone appraisal values the site at \$1,830,000 million there are no guarantees that an offer of this amount would be made. It is possible that offers lower than this would be made.

Finally, the disposition of the site is also time sensitive because construction costs escalate continually, roughly one percent every eight weeks. If the sale of the site is delayed considerably this would impact a future development’s financial feasibility and diminish the City’s ability to secure a development that would further the redevelopment goals codified in the LRPMP.

Next Steps

Sares Regis has indicated that they have made their best and final offer of \$1,118,538. The Successor Agency has approved the first amendment to the PSA and accepted the offered price. The Oversight Board’s acceptance of the price offer will allow the developer to proceed to the next step in their entitlement process and for the first amendment to the PSA to be executed.

Conclusion

It is recommended that the County of San Mateo Oversight Board adopt a resolution approving the final sale price of \$1,118,538, as stated in the first amendment to the Purchase and Sale Agreement between the South San Francisco Successor Agency and SSF Miller/Cypress Phase 2, LLC.

Attachments:

1. South San Francisco Successor Agency and Miller Cypress SSF, LLC – Purchase and Sale Agreement
2. Executive Summary – Colliers Appraisal Executive Summary (stand-alone site) (Oct 4, 2018)
3. Sares Regis 216 Miller Offer Letter (July 26, 2018)

**PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (“this **Agreement**”) is made and entered into as of February 23, 2016 (the “**Date of Agreement**”), by and between the South San Francisco Successor Agency, a public agency (“**Seller**” or “**Agency**”) and Miller Cypress SSF, LLC, (“**Buyer**”), which is the date this Agreement was approved by the South San Francisco Oversight Board (“**Oversight Board**”). Seller and Buyer are each individually referred to herein as a “**Party**” and, collectively, as the “**Parties**.”

RECITALS

A. WHEREAS, Seller is the owner of certain real property located in the City of South San Francisco, County of San Mateo, California, known as County Assessor’s Parcel Numbers 012-317-110 (401 Airport Boulevard)(“**Parcel A.1**”), 012-317-100 (411 Airport Boulevard) (“**Parcel A.2**”), 012-317-090 (421 Airport Boulevard) (“**Parcel A.3**”), 012-318-030 (315 Airport Boulevard) (“**Parcel D**”), 012-314-100 (405 Cypress Avenue) (“**Parcel B**”), and 012-314-220 (216 Miller Avenue parking lot) (“**Parcel C**”), each as more particularly described in Exhibit A attached hereto and incorporated herein by this reference. Parcel A.1, Parcel A.2 and Parcel A.3 are collectively, “**Parcel A.**” Parcel A, Parcel B, Parcel C, and Parcel D are collectively the “**Property**.” The Buyer has also entered a separate and private purchase and sale agreement to acquire a property located at 309 Airport Boulevard from an unrelated third party adjacent to Parcel D (“**Parcel D Prime**”).

B. WHEREAS, on June 29, 2011 the legislature of the State of California adopted Assembly Bill x1 26 (“**AB 26**”), which amended provisions of the Redevelopment Law, which together with the California Supreme Court decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, which upheld AB 26 (together with AB 1484 and SB 107, the “**Dissolution Law**”), the South San Francisco Redevelopment Agency was dissolved on February 1, 2012.

C. WHEREAS, in August, 2014, the Agency and Buyer entered into an Exclusive Negotiation Rights Agreement (“**ENRA**”) that established a mutual understanding among the City, Agency, and the Buyer regarding the potential development of the Property.

D. WHEREAS, pursuant to the Dissolution Law, the Agency prepared a Long Range Property Management Plan (“**LRPMP**”), which the Oversight Board to the Former South San Francisco Redevelopment Agency (“**Oversight Board**”) approved on May 21, 2015, and the Department of Finance (“**DOF**”) approved on October 1, 2015.

E. WHEREAS, the LRPMP includes development plans for the Property, which are consistent with this Agreement.

F. WHEREAS, consistent with the approved LRPMP, and subject to the terms of this Agreement, Seller is interested in selling the Property to Buyer contingent upon Buyer paying the Purchase Price required in Section 2.2 and obtaining land use entitlements from the City of South San Francisco (“**City**”), and if such entitlements are granted, and requiring the

Buyer to construct (a) 260 multi-family residential rental units on Parcel A, Parcel D and Parcel D Prime, (b) 12 townhomes on Parcel C (or as Project may be revised for Parcel C as provided in this Agreement), and (c) 25 guest parking spaces on Parcel B (“Project”).

G. WHEREAS, on January 28, 2015, the City Council (i) certified an Environmental Impact Report (“EIR”) (State Clearinghouse number 2013102001) in accordance with the provisions of the California Environmental Quality Act, (Public Resources Code, §§ 21000, et seq., (“CEQA”) and CEQA Guidelines, which analyzed the potential environmental impacts of the development of the Downtown Station Area Specific Plan (the “DSASP”), and (ii) approved the DSASP which includes the Property and Parcel D Prime.

H. WHEREAS, on January 28, 2015, the City Council also adopted a Statement of Overriding Considerations (“SOC”) in accordance with the provisions of CEQA and CEQA Guidelines, which carefully considered each significant and unavoidable impact identified in the EIR and found that the significant environmental impacts are acceptable in light of the DSASP’s economic, legal, social, technological and other benefits and City Council found the Project consistent with the DSASP.

I. WHEREAS, on February 10, 2016 by Resolution Nos. 16-2016 and 17-2016, and the City Council (i) adopted an Environmental Consistency Analysis for the Project prepared by the City and certified that the Project would not result in any new significant environmental effects or a substantial increase in the severity of any previously identified effects beyond those disclosed and analyzed in the DSASP EIR certified by City Council, or require any new mitigation measures (“**Environmental Consistency Analysis**”), (2) approved the following entitlements for the Project Conditional Use Permit (“UP”) 15-0027, Design Review (“DR”) 15-0032, Waiver and Modification (“WM”) 15-0001, and Parking Exemption (“PE”) 15-0004, and (ii) introduced Ordinance No. 1512-2016 approving a Development Agreement (“DA”) 15-0003 (collectively, the “**Project Approvals**”). On February 24, 2016, by City Council adopted Ordinance No. 1512-2016 approving the DA.

J. WHEREAS, in compliance with Section 6.10 of the DA between the City and Buyer, the Buyer has agreed to pay prevailing wages pursuant to Labor Code Section 1720 *et seq.* for the Project. In addition, Buyer has stated in public its intent to use union labor for the construction of the Project.

K. WHEREAS, pursuant to Health and Safety Code Section 34181(a)(1), the Seller on February 10, 2016 and the Oversight Board on February 23, 2016 held duly noticed public meetings to consider the sale of the Property to the Buyer pursuant to this Agreement.

L. WHEREAS, pursuant to Resolution No. 03-2106 dated February 10, 2016, the Seller found that the sale of the Property is consistent with the disposition provisions of the LRPMP and recommended that the Oversight Board approve this Agreement.

M. WHEREAS, pursuant to Resolution No. 04-2016 dated February 23, 2016, the Oversight Board found that (i) the sale of the Property is consistent with the disposition provisions of the LRPMP and (ii) pursuant to Health and Safety Code Sections 34179(h)(1)(D) and 34195(f), as a transfer of governmental property pursuant to the approved LRPMP, the

Oversight Board is not required to submit approval of this Agreement to DOF for approval and approved this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the parties, Seller and Buyer hereby agree as follows:

1. **INCORPORATION OF RECITALS AND EXHIBITS.** The Recitals set forth above and the Exhibits attached to this Agreement are each incorporated into the body of this Agreement as if set forth in full.

2. **PURCHASE AND SALE.**

2.1 **Agreement to Buy and Sell.** Subject to the terms and conditions set forth herein, Seller agrees to sell the Property to Buyer, and Buyer hereby agrees to acquire the Property from Seller.

2.2 **Purchase Price.** The purchase price for the Property to be paid by Buyer to Seller (the "**Purchase Price**") is Four Million and 00/100 Dollars (\$4,000,000). The Purchase Price shall be paid in cash at the Closing.

2.3 **Supplemental Purchase Price for Parcel C.** If the Buyer constructs Parcel C (whether as (i) a 12 unit town home development consistent with the Project Approvals ("**12 Unit Project**") or (ii) as part of a revised development under the potential Land Assembly Option defined in Section 5.6), the additional land value payable to the Seller for Parcel C will be determined either by (X) a residual land value appraisal for Parcel C or, at Seller's discretion, (Y) on a comparison sales based appraisal. Such appraisal will be prepared by a certified appraiser mutually selected by the Seller and Buyer within sixty (60) days of the date Buyer provides written notice of either its intent to pursue the Revised Parcel C Entitlements its intent to abandon the Revised Parcel C Entitlements and proceed with construction of the 12 Unit Project ("**Supplemental Purchase Price**"). In the event that the parties do not agree on an appraiser, the Seller shall identify three certified appraisers with experience appraising properties in San Mateo County and each Party shall strike one appraiser and the remaining appraiser shall be retained to conduct the appraisal. The costs of the appraisal shall be shared equally between the Seller and Buyer. Buyer shall pay Seller the Supplemental Purchase Price prior to the earlier of ninety (90) days after completion of the appraisal or issuance of the first building permit by the City for Parcel C. This provision shall not apply if Buyer re-conveys Parcel C to Seller pursuant to Section 5.6(e)(v).

3. **ESCROW.**

3.1 **Escrow Account.** Seller has opened an interest-bearing escrow account (the "**Escrow**") maintained by First American Title Insurance Company at the address noted in Section 13.8 (the "**Escrow Holder**"), with interest accruing to the benefit of Buyer. Escrow Holder shall perform all escrow and title services in connection with this Agreement.

3.2 Opening of Escrow. Within ten (10) business days after the Effective Date, the Parties will deposit into Escrow the fully executed Agreement, or executed counterparts thereto. The date such fully executed Agreement is received by Escrow Holder will be deemed the “**Opening of Escrow.**”

3.3 Buyer’s Deposit. Upon the Opening of Escrow, the Buyer shall deposit two hundred thousand dollars (\$200,000) in Escrow (“**Buyer’s Initial Deposit**”). The Buyer’s Initial Deposit shall be non-refundable. Unless Buyer has delivered written notice to Seller terminating this Agreement in accordance with Section 3.4 below, then upon expiration of Buyer’s Due Diligence Contingency Period, as set forth in Section 5.2 below, Buyer shall deposit an additional two hundred thousand dollars in Escrow (“**Buyer’s Second Deposit**”). In the event of a failure to Close based on any of the following Buyer’s Conditions to Closing, the Buyer shall be entitled to a refund of the Buyer’s Second Deposit: 5.2(b), 5.2(c), 5.2(e), 5.2(l), and 5.2(m).

3.4 Satisfaction of Due Diligence Contingency. Buyer shall have the right, in its sole discretion, to terminate this Agreement if Buyer disapproves of its inspection of and due diligence pertaining to the Property as set forth in Section 5.2 (a) prior to the expiration of the Due Diligence Period (also as defined in Section 5.2(a) below). Buyer hereby agrees to provide written notice to Seller prior to the expiration of the Due Diligence Period if Buyer disapproves any due diligence items and to identify with reasonable specificity such disapproval. Upon provision of such notice to Seller, this Agreement shall terminate, and, except as provided in Section 5.2(a), all amounts deposited by Buyer into escrow (except the expended ENRA Deposit, the Buyer’s Initial Deposit and the ENRA Extension Deposit as provided in Section 3.5 below), together with interest thereon, if any, will be returned to Buyer, and neither Party shall have any further rights or obligations under this Agreement except those which expressly survive the termination hereof. If Buyer fails to notify Seller in writing of the disapproval of any due diligence items, it will be conclusively presumed that Buyer has approved all such items, matters or documents and this Agreement shall continue in full force and effect.

3.5 Application of Prior ENRA Deposit. Pursuant to Section 5 of the ENRA, Buyer has already submitted directly to Seller a deposit in the amount of Fifty Thousand Dollars (\$50,000) to cover the actual costs that the Seller has incurred and will incur in furtherance of this Agreement (“**ENRA Deposit**”), and an additional Twenty Five Thousand (\$25,000) Dollars related to the ENRA extension (“**ENRA Extension Deposit**”). Seller has deposited the ENRA Deposit and the ENRA Extension Deposit in an interest bearing account and any interest, when received by Seller, will become part of the ENRA Deposit. On or before expiration of this Agreement, the Seller may, draw on the ENRA Deposit to reimburse the Seller’s cost for third-party assistance and staff time in the negotiations for and preparation of this Agreement. Upon Closing, the Seller will apply any unused portion of the ENRA Deposit to the Purchase Price. In the event that Buyer terminates this Agreement in accordance with Section 3.4 above, Buyer shall only be entitled to the unused portion of the ENRA Deposit and the Seller shall be entitled to the ENRA Extension Deposit.

3.6 Environmental Remediation Regulatory Approval Successor Agency Assistance. At Closing, the Buyer agrees to take title of the Property in AS IS WHERE IS condition with no environmental remediation work required by or indemnities from the Seller or the City. Seller, at Buyer’s expense, agrees to cooperate with Buyer to obtain regulatory approval of the necessary

environmental work for the Property (including but not limited to the California Land Reuse and Revitalization Act) to be suitable for unrestricted residential use consistent with the uses proposed in the Project Approvals prior to and as a Buyer condition to Closing. Buyer will then manage and complete the remediation work necessary to make the Property suitable for unrestricted residential use consistent with the uses proposed in the Project Approvals after Closing. After Closing, Seller shall have no further obligations with respect to environmental and/or natural hazards remediation costs (except in the event Parcel C is re-conveyed to the Seller pursuant to the applicable provisions of Section 5.6).

4. PROPERTY DISCLOSURE REQUIREMENTS.

4.1 Condition of Title/Preliminary Title Report. Buyer hereby approves the following exceptions which shall be referred to herein as the “**Pre-Approved Exceptions**”: (a) the lien of any non-delinquent property taxes and assessments (which, if any exist, shall be prorated by the Title Company at Closing); (b) the Memorandum of Agreement, (c) the covenants, conditions and restrictions set forth in the Grant Deed, (d) standard printed exceptions in the Preliminary Report; and (e) the exceptions shown on Exhibit C attached hereto. Within five (5) business days of Opening of Escrow, Escrow Holder will deliver an updated Preliminary Title Report for the Property (the “**Preliminary Report**”) to Buyer. Buyer will have ten (10) business days from receipt to review the Preliminary Report and deliver to Seller a written notice indicating any disapproved exceptions (“**Disapproved Exceptions**”). The Pre-Approved Exceptions and any other exceptions otherwise accepted by Buyer as provided herein are hereinafter referred to as the “**Condition of Title.**” Subject to the Seller’s covenant in Section 6.1(b) to neither cause nor voluntarily permit, any new lien, encumbrance or any other matter that changes the condition of title to the Property, if any exceptions other than the Pre-Approved Exceptions are reported by the Title Company, then any such new exception shall be Disapproved Exceptions unless the new exceptions (i) arise from the acts or omissions of Buyer, or (ii) are consented to or waived in writing by Buyer in its sole discretion. The Seller agrees that the “Required Disapproved Exceptions” set forth on Exhibit C are critical to the Project and agrees that if such Required Disapproved Exceptions are not removed by date that the Seller’s Conditions to Closing and Buyer’s Conditions to Closing are otherwise satisfied (or waived by Buyer), then the Buyer shall have the right, in its sole discretion, to terminate this Agreement and the Buyer shall right to full refund of the Buyer’s Second Deposit.

4.2 Environmental and Natural Hazards Disclosure. California Health & Safety Code section 25359.7 requires owners of non-residential real property who know, or have reasonable cause to believe, that any release of hazardous substances are located on or beneath the real property to provide written notice of same to the buyer of real property. Other applicable laws require Seller to provide certain disclosures regarding natural hazards affecting the Property. Seller warrants that as of the Date of Agreement, it has provided to Buyer all reports of potential hazardous substances located on or beneath the Property that Seller possesses. Seller further agrees to make all necessary disclosures required by law.

5. CLOSING, PAYMENT OF PURCHASE PRICE AND POST CLOSING OBLIGATIONS OF BUYER.

5.1 **Closing.** The closing (the “**Closing**” or “**Close of Escrow**”) will occur for the Property including Parcels A, B, C and D no later than the date set forth in Section 5.6(b), unless such date for Closing is extended by Force Majeure Delay or as provided on in Sections 5.6.1, 5.6.2 or 5.6.3 herein (“**Closing Date**”). In addition to the extensions of the Closing Date in Section 5.6.1, 5.6.2 and 5.6.3, the Closing Date shall be extended where a Party’s Conditions to Closing under Section 5.2 (Buyer) and 5.3 (Seller) have not been satisfied as a result of a Force Majeure Event.

5.2 **Buyer’s Conditions to Closing.** Buyer’s obligation to purchase the Property is subject to the satisfaction of each and all of the following conditions precedent (“**Buyer Conditions Precedent**”) or Buyer’s written waiver thereof (each in Buyer’s sole discretion) on or before the Closing Date:

(a) **Due Diligence.** Buyer has approved the condition of the Property in Buyer’s sole and absolute discretion. Consistent with Section 3.6 above Buyer acknowledges the existence of Underground Storage Tanks on Parcels A and D and lead on Parcels B and C, as evidenced in the Phase I Environmental Site Assessment, Airport Boulevard Properties, South San Francisco, California dated January 2016 prepared by WEST Environmental Services and Technology (“**Environmental Report**”) prepared for Buyer and Buyer agrees that the existence of such conditions as described in the Environmental Report shall not be the sole grounds upon which Buyer denies approval of the condition of the Property under Section 3.4 above. Buyer will have forty-five (45) calendar days from Opening of Escrow (the “**Due Diligence Period**”) to complete physical inspections of the Property and due diligence related to the purchase of the Property. Seller shall provide to Buyer copies of all reasonably available and known documents relating to the ownership and operation of the Property, including but not limited to plans, permits and reports (environmental, structural, mechanical, engineering and land surveys) that Seller has in its possession not later than two (2) business days following the execution and delivery of this Agreement. All physical access to the Property must be coordinated with Seller’s representative and subject to Section 13.17.

(b) **No Default by Seller or City.** Seller is not in default and has performed all obligations to be performed by Seller pursuant to this Agreement, and the City is not in default under the Development Agreement.

(c) **Representations and Warranties.** Seller’s representations and warranties herein are true and correct in all material respects as of the Closing Date.

(d) **Title Policy.** The Title Company shall, upon payment of Title Company’s regularly scheduled premium, be irrevocably committed to issue an ALTA Extended Title Policy to Buyer upon recordation of the Grant Deed and effective as of the Closing Date, insuring title to Buyer in the full amount of the Purchase Price and subject only to the Pre-Approved Exceptions or the Condition of Title.

(e) Absence of Proceedings. There shall be an absence of any condemnation, environmental or other pending governmental or any type of administrative or legal proceedings with respect to the Property or this Agreement which would materially and adversely affect Buyer's intended uses of the Property or the value of the Property.

(f) No Material Adverse Change. There shall not have occurred between the Date of Agreement and the Closing a material adverse change to the physical condition of the Property.

(g) Financing Commitments. Buyer shall have financing commitments that are not materially different than Buyer's financing term sheet as of the Date of Agreement that is sufficient for the acquisition of the Property and construction of 260 residential rental units on Parcels A, Parcel D and Parcel D Prime for the Project and Buyer's construction loan, if any, shall have closed or shall be ready to close concurrently with the Closing.

(h) Project Approvals. The Project Approvals shall be final and non-appealable, and if any appeals, legal challenges, requests for rehearing, or referenda have been filed or instituted, such appeals, legal challenges, requests for rehearing, or referenda shall have been fully and finally resolved in a manner acceptable to Buyer in its sole and absolute discretion and such that no further appeals, legal challenges, requests for rehearing, or referenda are possible.

(i) Permits. Subject to payment of the applicable fees, the City shall be ready and willing to issue the ministerial demolition, grading, foundation permit and building permit(s) necessary for the Buyer to meet its obligations in Section 5.6(b)(1) and Section 5.6(c)(i) and (c)(ii).

(j) No Leases or Parties in Possession. Seller shall have demonstrated the ability to deliver fee title to the Property to Buyer free and clear of any tenants, lessees, licensees or any third party occupants or parties in possession.

(k) Remediation Plan Approval. Buyer shall, in the Buyer's reasonable business judgment, have obtained regulatory approval of the necessary environmental work for the Property (including but not limited to the California Land Reuse and Revitalization Act) to be suitable for unrestricted residential use consistent with the uses proposed in the Project Approvals and that such regulatory approval would not cause or result in a material adverse delay in the time to commence or construct the Project, a substantial increase (defined as an increase of \$100,000) in the costs assumptions for the Project in the pro forma previously provided by Buyer related to environmental conditions as of the Date of Agreement, or a material adverse impact to the Project or the use of the Project.

(l) Compliance with Dissolution Law. Seller shall have complied with all requirements and obtained any and all approvals required under the Dissolution Law with respect to Closing.

(m) Execution and Delivery of Documents by Seller. Seller shall have executed and acknowledged the Grant Deed and Memorandum of Agreement, and Seller shall

have executed (and, where appropriate, acknowledged) and delivered into escrow all other documents that Seller is required to deliver into escrow pursuant to Section 5.5.1(a).

5.3 Seller's Conditions to Closing. Seller's obligation to sell the Property is subject to the satisfaction of each and all of the following conditions precedent ("**Seller Conditions Precedent**") or Seller's written waiver thereof (each in Seller's sole discretion) on or before the Closing Date:

(a) No Default by Buyer or City. Buyer is not in default and has performed all obligations to be performed by Buyer pursuant to this Agreement, and neither the Buyer or City is in default under the Development Agreement.

(b) Development Agreement. The City Council approves a Development Agreement with the Buyer in a form substantially similar to the Development Agreement attached hereto as Exhibit D, and such Development Agreement is executed and will be recorded concurrently with the Close of Escrow as provided in Section 5.5.

(c) Representations and Warranties. Buyer's representations and warranties set forth herein are true and correct in all material respects as of the Closing Date.

(d) Buyer's Financing Commitments. Buyer has provided Seller written confirmation, acceptable to Seller, which approval shall not be unreasonably withheld, that Buyer has obtained financing commitments for the acquisition and construction financing for the acquisition of the Property and the construction of 260 residential rental units on Parcel A, Parcel D and Parcel D Prime.

(e) Permits. The Buyer shall have submitted applications to the City pursuant to Section 5.6(a), and subject to payment of the applicable fees, the City shall be ready and willing to issue the ministerial demolition, grading and foundation permit(s) necessary for the Buyer to Commence of Construction as defined in Section 5.6(c)(i) and (ii).

(f) Compliance with Dissolution Law. Seller shall have complied with all requirements and obtained any and all approvals required under the Dissolution Law with respect to Closing.

(g) Execution and Delivery of Documents by Buyer. Buyer shall have executed and acknowledged the Grant Deed and Memorandum of Agreement, and Buyer shall have executed (and, where appropriate, acknowledged) and delivered into escrow all other documents that Buyer is required to deliver into escrow pursuant to Section 5.5.1(b).

(h) Delivery of Funds. Buyer shall have delivered through escrow the Purchase Price and such other funds, including escrow costs, recording fees and other closing costs as are necessary to comply with Buyer's obligations under this Agreement.

5.4 Conveyance of Title. Seller will deliver marketable fee simple title to Buyer at the Closing, subject only to the Condition of Title pursuant to Section 4.1. The Property will be conveyed by Seller to Buyer in an "as is" condition, with no warranty, express or implied, by Seller as to the physical condition including, but not limited to, the soil, its geology, or the

presence of known or unknown faults or Hazardous Materials or hazardous waste (as defined by Section 12); provided, however, that the foregoing shall not relieve Seller from disclosure of any such conditions of which Seller has actual knowledge or its obligation to cooperate with Buyer pursuant to Section 2.6.

5.5 Closing.

5.5.1 Delivery of Documents and Closing Funds. At or prior to Closing, Seller and Buyer shall each deposit such other instruments as are reasonably required by the Title Company or otherwise required to close the escrow and consummate the conveyance of the Property in accordance with the terms hereof, including but not limited to the following:

(a) Deliveries by Seller. At or before Closing, Seller shall deposit the following into escrow:

A. one (1) original executed and acknowledged Grant Deed substantially in the form attached hereto as Exhibit B (“**Grant Deed**”);

B. one (1) original executed and acknowledged Memorandum of Agreement, substantially in the form attached hereto as Exhibit D (“**Memorandum of Agreement**”);

C. one (1) duly executed non-foreign certification for the Property in accordance with the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended; and

D. one (1) duly executed California Form 593-W Certificate for the Property or comparable non-foreign person affidavit to satisfy the requirements of California Revenue and Taxation Code Section 18805(b) and 26131.

(b) Deliveries by Buyer. At or prior to Closing, Buyer shall deposit the following into escrow:

A. immediately available funds in the amount, which together with the Buyer’s Deposit plus interest thereon, if any, is equal to an amount necessary to consummate the Closing, including the Purchase Price, escrow and Title Policy costs set forth in Section 5.5.5;

B. one (1) original executed and acknowledged Grant Deed;

C. one (1) original executed and acknowledged Memorandum of Agreement; and

D. one (1) original executed Preliminary Change of Ownership Report for the Property.

E. one (1) fully executed Development Agreement in a form substantially similar to the Development Agreement attached hereto as Exhibit D.

5.5.2 Escrow Instructions. This Agreement constitutes the joint escrow instructions of Seller and Buyer with respect to the conveyance of the Property to Buyer, and the Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties shall use reasonable good faith efforts to close the escrow for the conveyance of the Property in the shortest possible time. Insurance policies for fire or casualty are not to be transferred, and each Party will cancel its own policies, if any, as of the Closing. All funds received in the escrow shall be deposited in interest-bearing accounts for the benefit of the depositing Party in any state or national bank doing business in the State of California. All disbursements shall be made by check or wire transfer from such accounts. If, in the opinion of either Party, it is necessary or convenient in order to accomplish the Closing, such Party may provide supplemental escrow instructions; provided that if there is any inconsistency between this Agreement and the supplemental escrow instructions, then the provisions of this Agreement shall control. The Closing shall take place as set forth in Section 5.5.4 below. Escrow Agent is instructed to release Seller's and Buyer's escrow closing statements to the respective parties.

5.5.3 Authority of Escrow Agent. Escrow Agent is authorized to, and shall:

(a) Pay and charge Buyer for the premium of the Title Policy, including any endorsements requested by Buyer.

(b) Pay and charge Buyer for escrow fees, charges, and costs as provided in Section 5.5.5.

(c) Disburse to Seller the Purchase Price, less Seller's share of any escrow fees, costs and expenses, and record the Grant Deed when both the Buyer Conditions Precedent and Seller Conditions Precedent have been fulfilled or waived in writing by Buyer and Seller, as applicable. Immediately following recordation of the Grant Deed, Escrow Agent shall record the Memorandum of Agreement, Development Agreement and all other recordable documents delivered into escrow for the Closing.

(d) Do such other actions as necessary, including obtaining and issuing the Title Policy, to fulfill its obligations under this Agreement.

(e) Direct Seller and Buyer to execute and deliver any instrument, affidavit, and statement, and to perform any act, reasonably necessary to comply with the provisions of FIRPTA, if applicable, and any similar state act and regulations promulgated thereunder.

(f) Prepare and file with all appropriate governmental or taxing authorities uniform settlement statements, closing statements, tax withholding forms including IRS 1099-S forms, and be responsible for withholding taxes, if any such forms are provided for or required by law.

5.5.4 Closing. The escrow for conveyance of the Property shall close ("**Close of Escrow**") within thirty (30) days after the satisfaction, or waiver by the appropriate Party, of all of the Buyer Conditions Precedent and all of the Seller Conditions Precedent. For purposes of this Agreement, the "Closing" shall mean the time and day the Grant Deed is recorded with the San Mateo County recorder.

5.5.5 Closing Costs. Buyer will pay all escrow fees (including the costs of preparing documents and instruments), and recording fees. Buyer will also pay title insurance, title report costs and all transfer taxes. Seller will pay all governmental conveyance fees, where applicable.

5.5.6 Pro-Rations. At the Close of Escrow, the Escrow Agent shall make the following prorations: (i) property taxes and assessments will be prorated as of the close of escrow based upon the most recent tax bill available, including any property taxes which may be assessed after the close of escrow but which pertain to the period prior to the transfer of title to the Property to Buyer, regardless of when or to whom notice thereof is delivered; and (ii) any bond or assessment (other than assessments allocable to the period of time prior to Close of Escrow) that constitutes a lien on the Property at the close of escrow will be assumed by Buyer. Seller does not pay ad valorem taxes.

5.6 Buyer's Post Closing Obligations. Subject to Force Majeure Delay as set forth in Section 7.4 and the extensions provided in Sections 5.6.1, 5.6.2, and 5.6.3, as applicable, Buyer shall complete the following in the time set forth below.

Deadline	Buyer Post-Closing Obligation
Prior to June 30, 2016	5.6 (a) Buyer shall prepare and submit complete construction documents including building permit submittal documents which satisfy all submission requirements for 260 multi-family residential rental units approved as in the Project Approvals. Seller's exclusive remedies for a Buyer Default for this Section 5.6(a) are (1) termination of the Agreement under Section 7.3 and (2) liquidated damages under Section 7.2.2.
Prior to December 31, 2016	<p>5.6 (b) Buyer shall:</p> <ul style="list-style-type: none"> (i) Obtain demolition and foundation permits for Parcels A, B and D and D Prime, as applicable consistent with the Project Approvals. (ii) Close escrow on Parcels A, B, C and D pursuant to Section 5.1. (iii) Buyer to either (A) prepare and submit to the City Manager Buyer's land assembly and proposed development options for Buyer's potential acquisition of some or all properties on the north side of Miller Avenue between Parcels B and C ("Land Assembly Option"), or (B) submit written notice of intent not to proceed with the Land Assembly Option. <p>Seller's exclusive remedies for a Buyer Default for Section 5.6(b)(i) and (ii) are (1) termination of the Agreement under Section 7.3 and (2) liquidated damages under Section 7.2.2. Buyer shall not be in Default under Section 5.6(b)(iii), but Seller shall withhold conveyance of Parcel C from Closing if Buyer either does not submit</p>

Deadline	Buyer Post-Closing Obligation
	<p>a timely written notice to proceed with the Land Assembly Option or if Buyer submits a notice of intent not to proceed with the Land Assembly Option. If Parcel C is not conveyed to Seller, Buyer shall also assign all of its rights in the land use entitlements, the development, engineering, construction and building plans (“Parcel C Plans”) to the Seller, or Seller’s designee, and shall deliver a complete set of the Parcel C Plans to the Seller, or designated recipient within the City.</p>
<p>Prior to March 31, 2017</p>	<p>5.6(c) The Buyer shall:</p> <p>(i) Commence and complete demolition of existing structures on the Parcel A, Parcel D and Parcel D Prime. The existing parking lot on Parcel B is intended to be used for construction staging so will not be subject to demolition and commencement of construction of the replacement parking lot until near completion of construction on Parcel A, Parcel D and Parcel D Prime.</p> <p>(ii) Commence Construction of 260 multi-family residential rental units approved as part of City issued permits consistent with the Project Approvals on Parcels A, B and D and Parcel D Prime. “Commence Construction” shall be deemed to have occurred when Buyer has obtained grading and foundation permits and has commenced work on the grading and foundations for Parcels A and D.</p> <p>(iii) If Buyer has submitted a notice to proceed with the Land Assembly Option then either (i) file complete application, pursuant to City land use application requirements, for revised land use entitlements for Parcel C including adjacent land provided that Buyer has acquired or has an enforceable option to acquire all properties adjacent to the north side of Miller Avenue that are located between Parcels B and C (“Revised Parcel C Entitlements Application”), or (ii) submit written notice of intent not to proceed with the Revised Parcel C Entitlements Application. The Revised Parcel C Entitlements Application shall be subject to any applicable CEQA requirements and all applicable City land use entitlementment processes.</p> <p>Seller’s exclusive remedies for a Buyer Default for Section 5.6(c)(i) and (ii) is specific performance under this Agreement.</p> <p>Buyer shall not be in Default under Section 5.6(c)(iii), but Seller has the right to cause the Buyer to re-convey of Parcel C if Buyer either does not submit a timely written notice to proceed with the Revised Parcel C Entitlements Application or if Buyer submits a notice of</p>

Deadline	Buyer Post-Closing Obligation
	<p>intent not to proceed with the Revised Parcel C Entitlements Application. If Parcel C is re-conveyed to Seller, Buyer shall also assign all of its rights in the Parcel C Plans to the Seller, or Seller's designee, and shall deliver a complete set of the Parcel C Plans to the Seller, or designated recipient within the City. In the event Buyer submits a notice of intent not to proceed, Seller and Buyer agree to take all actions necessary to re-convey Parcel C to the Seller and Seller shall accept re-conveyance of Parcel C and the Parcel C Plans.</p>
<p>Prior to March 31, 2018</p>	<p>5.6 (d)</p> <p>(i) If Buyer has submitted a notice to proceed with the Land Assembly Option and a notice to proceed with the Revised Parcel C Entitlements Application, then the Buyer shall either (A) provide written confirmation to the Seller that Buyer has acquired or has an enforceable option to acquire, on terms that are acceptable to Buyer in sole discretion the property subject to the Land Assembly Option (the written confirmation shall include either a copy of the purchase or option agreement or written confirmation from the sellers of the properties that Buyer has an enforceable option to acquire the properties), or (B) provide written notice of intent to abandon its Land Assembly Option.</p> <p>(ii) If the Buyer has not delivered a notice of intent to abandon its Land Assembly Option, then Buyer shall diligently pursue and take all actions necessary for the City to conduct all required public hearings and consider the Revised Parcel C Entitlements.</p> <p>Buyer shall not be in Default under Section 5.6(d)(i) and (i), but Seller has the right to cause the Buyer to re-convey of Parcel C if Buyer either does proceed as provided under Section 5.6(d)(i) or (ii). If Parcel C is re-conveyed to Seller, Buyer shall also assign all of its rights in the Parcel C Plans to the Seller, or Seller's designee, and shall deliver a complete set of the Parcel C Plans to the Seller, or designated recipient within South San Francisco. In the event Buyer submits a notice of intent not to proceed, Seller and Buyer agree to take all actions necessary to re-convey Parcel C to the Seller and Seller shall accept re-conveyance of Parcel C and the Parcel C Plans.</p>
<p>Prior to March 31, 2019</p>	<p>5.6 (e) The Buyer shall:</p> <p>(i) Substantially Complete development of the 260 multi-family residential rental properties on Parcel A, Parcel D and Parcel D Prime. As used herein "Substantially Complete" or "Substantial Completion" shall be deemed to have occurred when (i) Buyer has provided written evidence to the City Manager that eighty five (85)</p>

Deadline	Buyer Post-Closing Obligation
	<p>percent of the contract price for the construction of the 260 multi-family residential rental units (including all change orders and all amounts due and payable to the contractor under the construction contract for work performed but being held as retention by Buyer under the terms of the construction contract) has been expended, (ii) all exterior building improvements and all interior building improvements are complete with the exception of finish work defined as flooring, counters, countertops, appliances, finish mechanical, electrical, plumbing, and carpentry, paint, landscaping, and interior of elevators, and (iii) the City Manager determines, in his or her reasonable discretion that the life safety systems, including but not limited to all required sprinkler systems, within the applicable portion have been installed and are fully functional.</p> <p>(ii) open a leasing center for the 260 multi-family residential rental units on the Property or within the Downtown Station Area Specific Plan Area.</p> <p>(iii) Complete construction and obtain a certificate of occupancy for the parking lot improvements required for Parcel B, provided that if Buyer has obtained Revised Parcel C Entitlements and those land use entitlements modify development on Parcel B, then Buyer shall develop Parcel B pursuant to the Revised Parcel C Entitlements.</p> <p>(iv) Commence Construction of development of twelve townhomes approved consistent with the Project Approvals, or if Revised Parcel C Entitlements have been approved by the City then Commence Construction of the project approved as part of the Revised Parcel C Entitlements. “Commence Construction” shall be deemed to have occurred when Buyer has obtained grading and foundation permits and has commenced work on the grading and foundations.</p> <p>(v) If Buyer has not commenced construction as required in subsection (iv) above, and if Buyer has obtained Revised Parcel C Entitlements and has provided written confirmation that Buyer has acquired or has an enforceable option to acquire the property as set forth in Section 5.6(d)(i) above, Buyer upon payment of \$100,000 to the Seller prior to the Commence Construction deadline may extend the deadline to Commence Construction on Parcel C for one year.</p> <p>Seller’s exclusive remedies for a Buyer Default for Section 5.6(e)(i), (ii) and (iii) is specific performance under this Agreement. Buyer shall not be in Default under Section 5.6(e)(iv), but Seller has the right to cause the Buyer to re-convey Parcel C if Buyer does not timely</p>

Deadline	Buyer Post-Closing Obligation
	Commence Construction on Parcel C. If Parcel C is re-conveyed to Seller, Buyer shall also assign all of its rights in the Parcel C Plans to the Seller, or Seller's designee, and shall deliver a complete set of the Parcel C Plans to the Seller, or designated recipient within the City and Seller and Buyer agree to take all actions necessary to re-convey Parcel C to the Seller and Seller shall accept re-conveyance of Parcel C and the Parcel C Plans.

5.6.1 Seller's Extension: The deadlines set forth in Section 5.6, subsections (a) through (e) shall each be subject to a ninety (90) day extension, provided (1) that the Buyer submits a written request for an extension prior to the deadline which shall include the rationale for the request and summary of the actions Buyer has taken to satisfy the obligation prior to the deadline and (2) the extension request is approved by the Executive Director or South San Francisco City Manager, which such approval shall not be unreasonably withheld.

5.6.2 Buyer's Extension. The deadlines set forth in Section 5.6 (a) shall be subject to a maximum of two extensions of 30 days (no more than 60 days for 5.6(a)) and a maximum of four extensions of 30 days (no more than 120 days for 5.6(b)) upon written notice to Seller and Buyer's payment to Seller of \$25,000 for each such 30-day extension.

5.6.3 City Review: The deadlines set forth in Section 5.6, subsections (b), (c) and (e)(iv) are each contingent upon the City reviewing and providing comments or approving the grading and building plans submitted by Buyer within twenty one (21) days of submission of complete grading or building plans. This 21 day period shall commence anew each time that Buyer submits revised plans in response to City comments on the prior version of the grading or building plans. Buyer shall be solely responsible for submitting complete grading or building plans that satisfy all code and City requirements. Buyer shall be responsible for payment of all required City building permit fees including costs for City to retain contract plan check services. In the event that City review exceeds 21 days, the deadline set forth herein shall be extended one day for each day the City review exceeds 21 days.

5.6.4 Community Enhancements Payments. In the event that Buyer fails to pay the City when due any portion of the Community Enhancements Payment as set forth in Section 2.4 of Exhibit C to the DA between Buyer and City, Buyer shall, upon written notice from Seller and upon completion of a thirty (30) day cure period, pay Seller the amount payable under Section 2.4 of Exhibit C the DA not previously paid to City by the Buyer.

5.6.5 Allocation of Net Proceeds to Taxing Entities. Upon disbursement to Seller of the Purchase Price, Seller will remit the Net Unrestricted Proceeds (defined below) to the San Mateo County Auditor-Controller for distribution to the taxing entities. This obligation survives Closing.

For purposes of this Agreement, "**Net Unrestricted Proceeds**" means the sale proceeds received by the Seller/City for the sale of the Property, less: (i) costs incurred by the Seller for expenses

incurred in connection with the management and disposition of the Property, including reasonable and actual costs incurred for property management, maintenance, insurance, marketing, appraisals, brokers' fees, escrow, closing costs, survey, attorneys' and consultants' fees, and other reasonable costs incurred, including reasonable compensation for Agency staff performing functions associated with the management, maintenance and disposition of the Property provided that Agency shall first apply any revenue generated from license or lease agreements (of less than one year) received by the City to offset the management, insurance and maintenance costs of the Property, and (ii) any proceeds of sale that are restricted by virtue of the source of funds (e.g. grant funds or the proceeds of bonds) that were used for the original acquisition of the Property. The Seller shall deliver to the taxing entities an accounting of all such costs, expenses and restricted proceeds.

6. REPRESENTATIONS, WARRANTIES AND COVENANTS.

6.1 Seller's Representations, Warranties and Covenants. In addition to the representations, warranties and covenants of Seller contained in other sections of this Agreement, Seller hereby represents, warrants and covenants to Buyer that the statements below in this Section 6.1 are each true and correct as of the Closing Date provided however, if to Seller's actual knowledge any such statement becomes untrue prior to Closing, Seller will notify Buyer in writing and Buyer will have three (3) business days thereafter to determine if Buyer wishes to proceed with Closing. If Buyer determines it does not wish to proceed, then the terms of Section 7.3 will apply.

(a) Authority. Seller is a public agency, lawfully formed, in existence and in good standing under the laws of the State of California. Seller has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement. This Agreement has been duly executed by Seller, and upon delivery to and execution by Buyer is a valid and binding agreement of Seller.

(b) Encumbrances. Other than the Mural License Agreement related to the mural "Transporting Oneself" located at 415 Airport Boulevard and the exceptions set forth in the Preliminary Title Report, Seller has not alienated, encumbered, transferred, mortgaged, assigned, pledged, or otherwise conveyed its interest in the Property or any portion thereof, nor entered into any agreement to do so, and there are no liens, encumbrances, mortgages, covenants, conditions, reservations, restrictions, easements or other matters affecting the Property, except as disclosed in the Preliminary Report. Seller shall not, directly or indirectly, alienate, encumber, transfer, mortgage, assign, pledge, or otherwise convey its interest prior to the Close of Escrow, as long as this Agreement is in force. Seller shall cooperate with Buyer, at no out of pocket cost to the Seller, to comply with the requirements of the Project Approvals Planning Condition of Approval No. 9 that the Parties acknowledge is required to be satisfied prior to the issuance of a demolition or building permit for the Project.

(c) No Right of Possession. Other than the Mural License Agreement related to the mural "Transporting Oneself" located at 415 Airport Boulevard, there are no agreements, including any leases, licenses and occupancy agreements, affecting the Property. There are no agreements which will be binding on the Buyer or the Property after the Close of Escrow. Other than the utility easements set forth on the Preliminary Title Report, no person or entity other than Seller has the right to use, occupy, or possess the Property or any portion thereof. Seller will not enter into any lease or other agreement affecting the Property or any portion thereof without the written consent of Buyer.

(d) No Conflict. Seller's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Seller is a party or by which Seller is bound.

(e) No Litigation or Other Proceeding. To Seller's current actual knowledge, no litigation or other proceeding (whether administrative or otherwise) is outstanding or has been threatened which would prevent, hinder or delay the ability of Seller to perform its obligations under this Agreement, or that would adversely affect the Property.

(f) No Seller Bankruptcy. Seller is not the subject of any bankruptcy proceeding, and no general assignment or general arrangement for the benefit of creditors or the appointment of a trustee or receiver to take possession of all or substantially all of Seller's assets has been made.

(g) Condition of Property. Seller has no notice of any pending or threatened action or proceeding arising out of the condition of the Property or any alleged violation of any Environmental Laws. Except as otherwise disclosed by City and provided in Section 3.6, to Seller's actual current knowledge, the Property is in compliance with all Environmental Laws. The Seller will not make or allow any material adverse change to the condition of the Property.

The truth and accuracy of each of the representations and warranties, and the performance of all covenants of Seller contained in this Agreement are conditions precedent to Buyer's obligation to proceed with the Closing hereunder. The foregoing representations and warranties shall not be deemed merged into the deed upon closing and shall survive the Close of Escrow until the satisfaction of the Buyer's Post-Closing Obligations under Section 5.6 and shall survive any earlier expiration or termination of this Agreement for a period of twelve (12) months.

6.2 Buyer's Representations and Warranties. In addition to the representations, warranties and covenants of Buyer contained in other sections of this Agreement, Buyer hereby represents, warrants and covenants to Seller that the statements below in this Section 6.2 are each true as of the Date of Agreement, and, if to Buyer's actual knowledge any such statement becomes untrue prior to Closing, Buyer shall so notify Seller in writing and Seller shall have at least three (3) business days thereafter to determine if Seller wishes to proceed with Closing. If Seller determines it does not wish to proceed, then the terms of Section 7.2 will apply.

(a) Authority. Buyer is a limited liability company. Buyer has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement. This Agreement has been duly executed by Buyer, and upon delivery to and execution by Seller shall be a valid and binding agreement of Buyer.

(b) No Bankruptcy. Buyer is not bankrupt or insolvent under any applicable federal or state standard, has not filed for protection or relief under any applicable bankruptcy or creditor protection statute, and has not been threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute.

The truth and accuracy of each of the representations and warranties, and the performance of all covenants of Buyer contained in this Agreement are conditions precedent to Seller's obligation to proceed with the Closing hereunder. The foregoing representations and warranties shall survive the Closing and continue until satisfaction of the Buyer's Post-Closing Obligations under Section 5.6.

7. DEFAULT, REMEDIES, TERMINATION.

7.1 Default Remedies - General. Failure by either Party to perform any action or covenant required by this Agreement within sixty (60) days following receipt of written Notice from the other Party specifying the failure shall constitute a "Default" under this Agreement; provided, however, that if the failure to perform cannot be reasonably cured within such sixty (60) day period, a Party shall be allowed additional time as is reasonably necessary to cure the failure so long as such Party commences to cure the failure within the sixty (60) day period and thereafter diligently prosecutes the cure to completion. Subject to the limitations of Section 7.2 below, any default by the Buyer under the Development Agreement which is not cured following notice and expiration of any applicable cure periods thereunder shall also constitute a Default under this Agreement, and upon occurrence of such Default and without any right to further notice or additional cure period, the Seller shall have all remedies available to it under this Agreement, including the right to terminate this Agreement as set forth in Section 7.3 below.

7.2 Legal Actions.

7.2.1 Institution of Legal Actions and Remedies. Upon the occurrence of a Default under this Agreement, the non-defaulting Party shall have the right to institute any action at law or in equity to cure, correct, prevent or remedy such Default, subject to the express limitations on remedies provided in this Section 7.2.1. Neither Party shall have the right to recover any punitive, consequential, or special damages. Such legal actions must be instituted in the Superior Court of the County of San Mateo, State of California, or in the Federal District Court for the Northern District of the State of California.

7.2.1.1 Default by Buyer; Seller's Remedies. The Seller's remedies shall be expressly limited as follows:

a. Pre-Closing. Upon the occurrence of a Default by Buyer that occurs before Closing under Section 5.2, Section 5.5, Section 5.6(a), 5.6 (b)(1) and (b)(ii), and Section 6.2, the Seller's remedies shall be limited to (i) liquidated damages pursuant to Section 7.2.2 and (ii) termination of this Agreement pursuant to Section 7.3.

b. Post-Closing. Upon the occurrence of a Default by Buyer that occurs after Closing under Section 5.6 (b), 5.6(c), 5.6(d) and 5.6(e), the Seller's remedies shall be limited to the remedies expressly provided with respect to each obligation set forth in Sections under each of Section 5.6 (b), 5.6(c), 5.6(d) and 5.6(e), as applicable.

7.2.1.2 Default by Seller; Buyer's Remedies. Upon the occurrence of a Default by Seller under this Agreement, Buyer's remedies shall be limited to obtaining specific performance or injunctive relief, or terminating this Agreement.

7.2.2 Liquidated Damages. SUBJECT TO NOTICE AND EXPIRATION OF APPLICABLE CURE PERIODS AND ANY PERMITTED EXTENSIONS OF TIME AS PROVIDED IN THIS AGREEMENT, IF IN THE EVENT OF A BUYER DEFAULT AS SET FORTH IN 7.2.1.1, THE SELLER WILL SUFFER DAMAGES AND THAT IT IS IMPRACTICABLE AND INFEASIBLE TO FIX THE ACTUAL AMOUNT OF SUCH DAMAGES. THEREFORE, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, IN THE EVENT OF A CLOSING DEFAULT, BUYER, WITHIN THIRTY (30) DAYS FOLLOWING SELLER'S WRITTEN DEMAND THEREFOR, SHALL TURN OVER ALL REPORTS AND PLANS IN THE BUYER'S ACTUAL OR CONSTRUCTIVE POSSESSION THAT HAVE BEEN PREPARED BY AND FOR BUYER RELATED TO THE PROJECT AND THE PROPERTY (WITH THE EXCEPTION OF BUYER'S INTELLECTUAL PROPERTY, CONFIDENTIAL FINANCIAL INFORMATION, AND ANY INFORMATION SUBJECT TO LEGAL PRIVILEGE) (THE "MATERIALS.") THE BUYER'S INITIAL DEPOSIT, AND WHERE APPLICABLE UNDER THIS AGREEMENT, BUYER'S SECOND DEPOSIT, AND MATERIALS SHALL SERVE AS LIQUIDATED DAMAGES TO THE SELLER FOR A DEFAULT SPECIFIED IN SECTION 7.2.1.1(a). THE VALUE OF THE BUYER'S INITIAL DEPOSIT, AND WHERE APPLICABLE BUYER'S SECOND DEPOSIT, AND MATERIALS CONSTITUTES A REASONABLE ESTIMATE OF THE DAMAGES THAT THE SELLER WOULD INCUR IN THE EVENT OF A CLOSING DEFAULT. RETENTION OF THE BUYER'S INITIAL DEPOSIT, AND WHERE APPLICABLE BUYER'S SECOND DEPOSIT, AND MATERIALS SHALL BE THE SELLER'S SOLE AND EXCLUSIVE REMEDY AGAINST BUYER IN THE EVENT OF A DEFAULT A DEFAULT SPECIFIED IN SECTION 7.2.1.1(a), AND THE SELLER WAIVES ANY AND ALL RIGHT TO SEEK OTHER RIGHTS OR REMEDIES AGAINST BUYER, INCLUDING WITHOUT LIMITATION, SPECIFIC PERFORMANCE. THE LIQUIDATED DAMAGES PROVIDED FOR HEREIN IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF SECTIONS 3275 OR 3369 OF THE CALIFORNIA CIVIL CODE, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO THE SELLER PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE. SELLER WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. BY PLACING ITS INITIALS BELOW, BUYER AND SELLER SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE, THE REASONABLENESS OF THE AMOUNT OF LIQUIDATED DAMAGES AGREED UPON, AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

INITIALS: CMR

ML

SELLER

BUYER

7.2.3 Acceptance of Service of Process. In the event that any legal action is commenced by Buyer against Seller, service of process on Seller shall be made by personal service upon the Executive Director at the address provided in Section 13.8 or in such other manner as may be provided by law. In the event that any legal action is commenced by Seller against Buyer, service of process on Buyer shall be made by personal service upon W-K Ventures, Inc., a California corporation, Buyer's registered agent for service of process in California, at 901 Mariner's Island Boulevard, 7th Floor, San Mateo, CA 94404 or in such other manner as may be provided by law.

7.3 Termination. In addition to termination upon satisfaction of all material terms of this Agreement, this Agreement may be terminated by the Party for whom a condition is intended to benefit: (i) if there is an uncured Default, after notice from the Party not in default and expiration of all cure periods, (ii) if there is a failure of an express Buyer Condition Precedent or Seller Condition Precedent (which is not waived by the Party whom the condition benefits) by timely notice from the Party whom the condition benefits, (iii) a representation or warranty of a Party becomes untrue prior to Closing under Section 6.1 or 6.2 (which is not waived by the Party whom the condition benefits), (iv) upon mutual written consent of the Parties, each in its sole discretion. Upon termination, the Parties will also cooperate to record a notice of termination.

7.4 Force Majeure Delay. All obligations in this Agreement shall not be deemed to be in default, all performance and other dates specified in those sections shall be extended, where delays are due to: war; insurrection; strikes and labor disputes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; litigation and arbitration, including court delays; legal challenges to this Agreement, legal challenges to the Project Approvals, or legal challenges to any other approval required from any public agency other than the City for the Project, or any initiatives or referenda regarding the same; environmental conditions, pre-existing or discovered, delaying the construction or development of the Property or any portion thereof; unusually severe weather but only to the extent that such weather or its effects (including, without limitation, dry out time) result in delays that cumulatively exceed thirty (30) days for every winter season occurring after commencement of construction of the Project; acts or omissions of the other Party; or acts or failures to act of any public or governmental agency or entity (except that acts or failures to act of Seller shall not excuse performance by Seller); moratorium; any delay caused by compliance with the requirements of Project Approval Planning Condition of Approval 9 or the termination of the Mural License Agreement related to the mural "Transporting Oneself" located at 415 Airport Boulevard, so long as the Buyer is acting diligently and in good faith; or a Severe Economic Recession (each a "**Force Majeure Delay**"). An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within sixty (60) days of the commencement of the cause. If notice is sent after such sixty (60) day period, then the extension shall commence to run no sooner than sixty (60) days prior to the giving of such notice. Buyer's inability or failure to obtain financing or otherwise timely satisfy shall not be deemed to be a cause outside the reasonable control of the Buyer and shall not be the basis for an excused delay unless such inability, failure or delay is a direct result of a

Severe Economic Recession. “**Severe Economic Recession**” means a decline in the monetary value of all finished goods and services produced in the United States, as measured by initial quarterly estimates of United States Gross Domestic Product (“**GDP**”) published by the United States Department of Commerce Bureau of Economic Analysis (and not subsequent monthly revisions), lasting more than four (4) consecutive calendar quarters. Any quarter of flat or positive GDP growth shall end the period of such Severe Economic Recession.

8. **BROKERS**. Seller represents that no real estate broker has been retained by Seller in the sale of the Property or the negotiation of this Agreement. With the exception of a broker agreement with Roger Stuhlmuller, Buyer represents that no real estate broker has been retained by Buyer in the procurement of the Property or negotiation of this Agreement. Buyer shall be solely responsible for payment of any broker fee to Roger Stuhlmuller. Buyer and Seller shall indemnify, hold harmless and defend the other Party from any and all claims, actions and liability for any breach of the preceding sentence, and any commission, finder’s fee, or similar charges arising out the other Party’s conduct.

9. **ASSIGNMENT**. Prior to satisfactory completion of the Buyer’s Post Closing Obligations under Section 5.6, neither Seller nor Buyer may assign its rights or delegate its duties under this Agreement, except for Buyer Permitted Transfers as defined below, without (i) the express written consent of the other Party, which consent will not be unreasonably withheld or delayed and (ii) a concurrent assignment of the Development Agreement in accordance with Section 8.1 of the Development Agreement. If Buyer proposes an assignment, Buyer will seek Seller’s prior written consent to any transfer, which consent will not be unreasonably withheld or delayed. Seller may refuse to give consent only if, in light of the proposed transferee’s reputation and financial resources, such transferee would not, in Seller’s reasonable opinion, be able to perform the obligations proposed to be assumed by such transferee. Such determination will be made by the Executive Director of the Agency and will be appealable by Buyer to the Board of the Successor Agency. Notwithstanding any other provision of this Agreement to the contrary, each of following transfers are permitted and shall not require Seller consent under this Section 9 (each a “**Buyer Permitted Transfer**”):

- (a) Any transfer for financing purposes to secure the funds necessary for construction and/or permanent financing of the Project;
- (b) An assignment of this Agreement to an Affiliate of Buyer;
- (c) The sale of one or more of the completed residential units to an occupant thereof;
- (d) Transfers of common area to a homeowners or property owners association; or
- (e) Dedications and grants of easements and rights of way required in accordance with the Project Approvals.

For the purposes of this Section 9, “**Affiliate of Buyer**” means an entity or person that is directly or indirectly controlling, controlled by, or under common control with Buyer. For the purposes of this definition, “**control**” means the possession, direct or indirect, of the power to direct or

cause the direction of the management and policies of an entity or a person, whether through the ownership of voting securities, by contract, or otherwise, and the terms “controlling” and “controlled” have the meanings correlative to the foregoing. No permitted assignment of any of the rights or obligations under this Agreement shall result in a novation or in any other way release the assignor from its obligations under this Agreement unless a release is provided in the form of assignment and assumption agreement approved by the reviewing Party.

10. ENVIRONMENTAL INDEMNITY. Effective upon Close of Escrow, and subject to Section 3.6, to the fullest extent allowed by law, Buyer agrees to unconditionally and fully indemnify, protect, defend (with counsel satisfactory to Buyer in Buyer’s sole discretion), and hold Seller and the City, and their respective elected and appointed officers, officials, employees, and agents, (“**Seller Indemnified Parties**”) harmless from and against any and all claims (including without limitation third party claims for personal injury, real or personal property damage, or damages to natural resources), actions, administrative proceedings (including without limitation both formal and informal proceedings), judgments, damages, punitive damages, penalties, fines, costs (including without limitation any and all costs relating to investigation, assessment, analysis or clean-up of the Property), liabilities (including without limitation sums paid in settlements of claims), interest, or losses, including reasonable attorneys’ and paralegals’ fees and expenses (including without limitation any such fees and expenses incurred in enforcing this Agreement or collecting any sums due hereunder), together with all other costs and expenses of any kind or nature (collectively, the “**Claims**”) that arise directly or indirectly from or in connection with the presence, suspected presence, release, or suspected release, of any Hazardous Materials in, on or under the Property or to the extent emanating from the Property, in or into the air, soil, soil gas, groundwater, or surface water at, on, about, around, above, under or within the Property, or any portion thereof that are existing as of the Close of Escrow or are caused to exist during the period of ownership of the Property by Buyer, except those Costs that arise solely as a result of actions by Seller, the City (including their consultants and contractors) or Seller Indemnified Parties. Upon receipt of any Claim, the Seller Indemnified Parties shall promptly notify and tender such Claim to the Buyer. Any failure to timely tender such Claim to Buyer to allow Buyer to defend such Claim shall be deemed a waiver of such Seller Indemnified Party’s rights under this Section 10. Buyer shall resolve such Claim in its sole and absolute discretion so long as the Seller Indemnified Party is not subject to any costs or liability. The indemnification provided pursuant to this Section shall specifically apply to and include claims or actions brought by or on behalf of employees of Buyer or any of its predecessors in interest and Buyer hereby expressly waives any immunity to which Buyer may otherwise be entitled under any industrial or worker’s compensation laws. The indemnification provided pursuant to this Section shall include, without limitation, all loss or damage sustained by the Seller due to any Hazardous Materials: (a) that are present or suspected by a governmental agency having jurisdiction to be present in the Property or in the air, soil, soil gas, groundwater, or surface water at, on, about, above, under, or within the Property (or any portion thereof) or to have emanated from the Property, or (b) to the extent emanating from the Property that migrate, flow, percolate, diffuse, or in any way move onto, into, or under the air, soil, soil gas, groundwater, or surface water at, on, about, around, above, under, or within the Property (or any portion thereof) after the date of this Agreement as a result of Seller’s activities on the Property prior to Close of Escrow. The obligations of this Section 10 shall not apply to Parcel C if Parcel C is re-conveyed to the City pursuant to Section 5.6(c), except to the extent that Hazardous Materials have been placed on Parcel C by Buyer or its agents, contractors or consultants. The provisions of this Section 10

shall survive the termination of this Agreement and the Close of Escrow. If Buyer purchases an environmental pollution legal liability policy for the Property, the policy shall include the City and Agency as additional insureds.

11. **RELEASE BY BUYER.** Effective upon the Close of Escrow, Buyer waives, releases, remises, acquits and forever discharges Seller and the City, and its officers, directors, board members, managers, employees and agents, and any other person acting on behalf of Seller from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses and compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Buyer now has or which may arise in the future on account of or in any way arising from or in connection with the physical condition of the Property or any law or regulation applicable thereto including, without limiting the generality of the foregoing, any federal, state or local law, ordinance or regulation pertaining to Hazardous Materials. This Section 11 shall not apply to the City for any portion of the Property that is, after Closing, dedicated for public use (e.g. public sidewalks) and is under the direct management and maintenance of the City. This Section 11 shall survive the termination of this Agreement and the Close of Escrow.

BUYER ACKNOWLEDGES THAT BUYER IS FAMILIAR WITH SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH PROVIDES AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

BY INITIALING BELOW, BUYER EXPRESSLY WAIVES THE BENEFITS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE WITH RESPECT TO THE FOREGOING RELEASE:

Buyer's initials: MRM

12. **HAZARDOUS MATERIALS; DEFINITIONS.**

12.1 **Hazardous Materials.** As used in this Agreement, "**Hazardous Materials**" means any chemical, compound, material, mixture, or substance that is now or may in the future be defined or listed in, or otherwise classified pursuant to any Environmental Laws (defined below) as a "hazardous substance", "hazardous material", "hazardous waste", "extremely hazardous waste", "infectious waste", "toxic substance", "toxic pollutant", or any other formulation intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, or toxicity. The term "Hazardous Materials" shall also include asbestos or asbestos-containing materials, radon, chrome and/or chromium, polychlorinated biphenyls, petroleum, petroleum products or by-products, petroleum components, oil, mineral spirits, natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable as fuel, perchlorate, and methyl tert butyl ether, whether or not defined as a hazardous waste or hazardous substance in the Environmental Laws.

12.2 **Environmental Laws.** As used in this Agreement, "**Environmental Laws**" means any and all federal, state and local statutes, ordinances, orders, rules, regulations, guidance documents, judgments, governmental authorizations or directives, or any other requirements of

governmental authorities, as may presently exist, or as may be amended or supplemented, or hereafter enacted, relating to the presence, release, generation, use, handling, treatment, storage, transportation or disposal of Hazardous Materials, or the protection of the environment or human, plant or animal health, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. § 9601), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Toxic Substances Control Act (15 U.S.C. § 2601 *et seq.*), the Oil Pollution Act (33 U.S.C. § 2701 *et seq.*), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 *et seq.*), the Porter-Cologne Water Quality Control Act (Cal. Water Code § 13000 *et seq.*), the Toxic Mold Protection Act (Cal. Health & Safety Code § 26100, *et seq.*), the Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal. Health & Safety Code § 25249.5 *et seq.*), the Hazardous Waste Control Act (Cal. Health & Safety Code § 25100 *et seq.*), the Hazardous Materials Release Response Plans & Inventory Act (Cal. Health & Safety Code § 25500 *et seq.*), and the Carpenter-Presley-Tanner Hazardous Substances Account Act (Cal. Health and Safety Code, Section 25300 *et seq.*).

13. MISCELLANEOUS.

13.1 Attorneys' Fees. If any Party employs counsel to enforce or interpret this Agreement, including the commencement of any legal proceeding whatsoever (including insolvency, bankruptcy, arbitration, mediation, declaratory relief or other litigation), the prevailing Party shall be entitled to recover its reasonable attorneys' fees and court costs (including the service of process, filing fees, court and court reporter costs, investigative fees, expert witness fees, and the costs of any bonds, whether taxable or not) and shall include the right to recover such fees and costs incurred in any appeal or efforts to collect or otherwise enforce any judgment in its favor in addition to any other remedy it may obtain or be awarded. Any judgment or final order issued in any legal proceeding shall include reimbursement for all such attorneys' fees and costs. In any legal proceeding, the "prevailing party" shall mean the Party determined by the court to most nearly prevail and not necessarily the Party in whose favor a judgment is rendered.

13.2 Interpretation. This Agreement has been negotiated at arm's length and each party has been represented by independent legal counsel in this transaction and this Agreement has been reviewed and revised by counsel to each of the Parties. Accordingly, each Party hereby waives any benefit under any rule of law (including Section 1654 of the California Civil Code) or legal decision that would require interpretation of any ambiguities in this Agreement against the drafting Party.

13.3 Survival. All indemnities, covenants, representations and warranties contained in Section 5.6, 5.6.1, 6.1, Section 6.2, Section 10, and Section 11 of this Agreement shall survive Close of Escrow as expressly provided in each such section.

13.4 Successors. Except as provided to the contrary in this Agreement, this Agreement shall be binding on and inure to the benefit of the Parties and their successors and assigns.

13.5 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

13.6 Integrated Agreement; Modifications. This Agreement contains all the agreements of the Parties concerning the subject hereof any cannot be amended or modified except by a written instrument executed and delivered by the parties. There are no representations, agreements, arrangements or understandings, either oral or written, between or among the parties hereto relating to the subject matter of this Agreement that are not fully expressed herein. In addition there are no representations, agreements, arrangements or understandings, either oral or written, between or among the Parties upon which any Party is relying upon in entering this Agreement that are not fully expressed herein.

13.7 Severability. If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, any such provision shall not be affected by the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this section, then the stricken provision shall be replaced, to the extent possible, with a legal, enforceable and valid provision this is in keeping with the intent of the Parties as expressed herein.

13.8 Notices. Any delivery of this Agreement, notice, modification of this Agreement, collateral or additional agreement, demand, disclosure, request, consent, approval, waiver, declaration or other communication that either Party desires or is required to give to the other Party or any other person shall be in writing. Any such communication may be served personally, or by nationally recognized overnight delivery service (i.e., Federal Express) which provides a receipt of delivery, or sent by prepaid, first class mail, return receipt requested to the Party's address as set forth below:

To Buyer: Sares-Regis Group of Northern California
901 Mariner's Island Boulevard, 7th Floor
San Mateo, CA 94404
Attention: Ken Busch and Mark Kroll
Telephone: (650) 377-5805
Email: kbusch@srgnc.com

with a copy to: Holland & Knight LLP
50 California Street, Suite 2500
San Francisco, CA 94109
Attn: Tamsen Plume
Telephone: (415) 743-6900
Fax: (415) 743-6910
Email: tamsen.plume@hklaw.com

To Seller: South San Francisco Successor Agency
400 Grand Avenue
South San Francisco, CA 94080
Attn: Executive Director
Tel (650) 877-8501
Fax (650) 829-6609
Email: Mike.Futrell@ssf.net

with a copy to: Meyers Nave
575 Market Street, Suite 2080
San Francisco, CA 94105
Attn: Jason Rosenberg
Tel (415) 421-3711
Fax (415) 421-3767

If to Escrow Holder: First American Title Insurance Company
1737 North First St., Suite 500
San Jose, CA 95112
Attn: Carol Herrera
Tel: Tel: (408) 451-7829
Fax: (408) 451-7836
Email: CMHerrera@firstam.com

Any such communication shall be deemed effective upon personal delivery or on the date of first refusal to accept delivery as reflected on the receipt of delivery or return receipt, as applicable. Any Party may change its address by notice to the other Party. Each Party shall make an ordinary, good faith effort to ensure that it will accept or receive notices that are given in accordance with this section and that any person to be given notice actually receives such notice.

13.9 Time. Time is of the essence to the performance of each and every obligation under this Agreement.

13.10 Days of Week. If any date for exercise of any right, giving of any notice, or performance of any provision of this Agreement falls on a Saturday, Sunday or holiday, the time for performance will be extended to 5:00 p.m. on the next business day.

13.11 Reasonable Consent and Approval. Except as otherwise provided in this Agreement, whenever a Party is required or permitted to give its consent or approval under this Agreement, such consent or approval shall not be unreasonably withheld or delayed. If a Party is required or permitted to give its consent or approval in its sole and absolute discretion or if such consent or approval may be unreasonably withheld, such consent or approval may be unreasonably withheld but shall not be unreasonably delayed.

13.12 Cooperation and Further Assurances. Each Party agrees to cooperate with the other in this transaction and, in that regard, shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Agreement.

13.13 Waivers. Any waiver by any Party shall be in writing and shall not be construed as a continuing waiver. No waiver will be implied from any delay or failure to take action on account of any default by any Party. Consent by any Party to any act or omission by another Party shall not be construed to be consent to any other subsequent act or omission or to waive the requirement for consent to be obtained in any future or other instance.

13.14 Signatures/Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

13.15 Date and Delivery of Agreement. Notwithstanding anything to the contrary contained in this Agreement, the parties intend that this Agreement shall be deemed effective, and delivered for all purposes under this Agreement, and for the calculation of any statutory time periods based on the date an agreement between parties is effective, executed, or delivered, as of the Effective Date.

13.16 Representation on Authority of Parties. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

13.17 Access to Property. Prior to the Closing, Seller shall cooperate to enable representatives of Buyer to obtain the right of access to all portions of the Property for the purposes of implementing this Agreement. Buyer agrees to provide written notice to Seller at least twenty four (24) hours prior to undertaking any studies or work upon the Property. Buyer shall indemnify, defend, protect and hold Seller and Seller Parties harmless from any Claims arising out of the acts, omissions, negligence or willful misconduct of Buyer or its employees, agents, contractors, subcontractors or representatives (each a "**Buyer Party**" and, collectively, the "**Buyer Parties**") in connection with such studies and investigations, except for Claims arising from or related to any pre-existing condition on or of the Property or Claims to the extent caused by the active negligence or willful misconduct of Seller or its employees, agents, contractors or representatives. In addition, in the event Buyer or any Buyer Party causes any damage to any portion of the Property, Buyer shall promptly restore the Property as nearly as possible to the physical condition existing immediately prior to Buyer's entry onto the Property.

13.18 Memorandum of Agreement. A Memorandum of Agreement in substantially the form of Exhibit E attached hereto and incorporated herein by this reference shall be executed and recorded against the Property immediately following recordation of the Grant Deed.

13.19 Relationship Between Seller and Buyer. It is hereby acknowledged that the relationship between Seller and Buyer is not that of a partnership or joint venture and that Seller and Buyer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein or in the exhibits hereto, Seller shall have no

rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Project.

13.20 Seller Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by Seller, the Executive Officer of the Agency or his or her designee is authorized to act on behalf of Seller.

13.21 Estoppel Certificates. A Party may, at any time during the term of this Agreement, and from time to time, deliver written notice to another Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended or modified either orally or in writing, or if amended; identifying the amendments, (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults, and (iv) any other information reasonably requested. The requesting Party shall be responsible for all reasonable costs incurred by the Party from which such certification is requested and shall reimburse such costs within thirty (30) days of receiving the certifying Party's request for reimbursement. The Party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within twenty (20) days following the receipt thereof. The failure of either Party to provide the requested certificate within such twenty (20) day period shall constitute a confirmation that this Agreement is in full force and effect and no modification or default exists. Seller acknowledges that a certificate hereunder may be relied upon by transferees and mortgagees.

13.22 Mortgagee Protection. After Close of Escrow, no violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument; provided, however, that any successor of Buyer to the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, of this Agreement whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

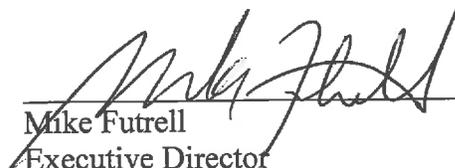
13.23 Effective Date. This Agreement shall be deemed effective upon the last to occur of all of the following: (i) this Agreement is signed by the Parties, and (ii) the Project Approvals shall have been approved by the City and shall be effective, (iii) the applicable statute of limitations period under CEQA for all of the Project Approvals shall have concluded with no challenge having been filed or, if any legal challenges is filed or instituted, such legal challenge shall have been fully and finally resolved in a manner acceptable to the Parties, each in its reasonable discretion, and such that no further legal challenge under CEQA is possible.

SIGNATURES ON FOLLOWING PAGES

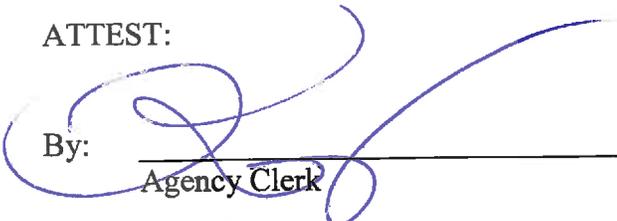
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

SELLER:

**SOUTH SAN FRANCISCO
SUCCESSOR AGENCY**

By: 
Mike Futrell
Executive Director

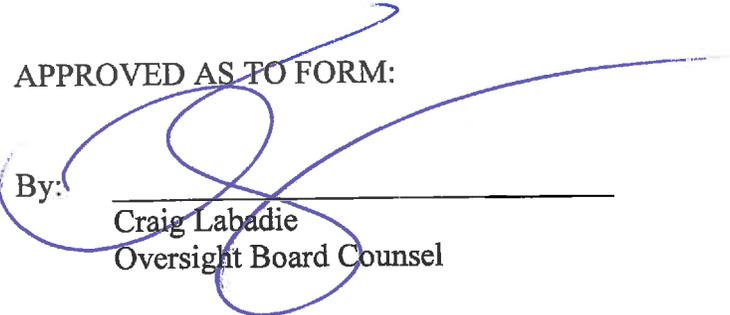
ATTEST:

By: 
Agency Clerk

APPROVED AS TO FORM:

By: 
Jason Rosenberg
Agency Counsel

APPROVED AS TO FORM:

By: 
Craig Labadie
Oversight Board Counsel

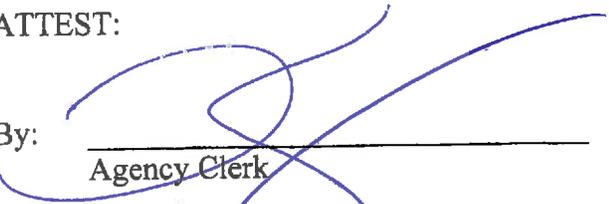
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

SELLER:

**SOUTH SAN FRANCISCO
SUCCESSOR AGENCY**

By: 
Mike Futrell
Executive Director

ATTEST:

By: 
Agency Clerk

APPROVED AS TO FORM:

By: _____
Jason Rosenberg
Agency Counsel

APPROVED AS TO FORM:

By: 
Craig Labadie
Oversight Board Counsel

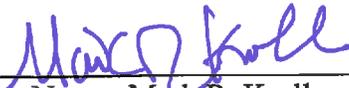
BUYER:

MILLER CYPRESS SSF, LLC

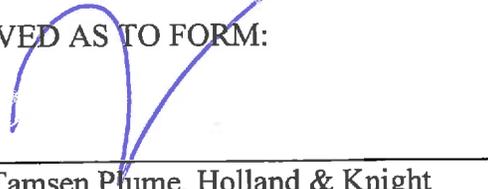
a Delaware limited liability company

By: SRGNC Miller Cypress SSF, LLC,
a Delaware limited liability company,

By: SRGNC MF, LLC,
a Delaware limited liability company,

By: 
Name: Mark R. Kroll
Title: President

APPROVED AS TO FORM:

By: 
Tamsen Plume, Holland & Knight
Counsel for Buyer

LIST OF EXHIBITS

Exhibit A	Legal Description
Exhibit B	Form of Grant Deed
Exhibit C	Pre-Approved Exceptions
Exhibit D	Form of Development Agreement
Exhibit E	Form of Memorandum of Agreement

EXHIBIT A

LEGAL DESCRIPTION

REAL PROPERTY IN THE CITY OF SOUTH SAN FRANCISCO, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL ONE:

LOTS 7, 8, 9, 10, 11 AND 12 IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-318-080 JPN: 012-031-318-03A and 012-031-318-07A

PARCEL TWO:

LOTS 13, 14 AND THE SOUTHERLY 22 FEET, FRONT AND REAR MEASUREMENTS OF LOT 15, IN BLOCK 148, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA PLAT NO. 1", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

PARCEL THREE:

PORTION OF LOTS 15 AND 16 IN BLOCK 148, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA PLAT NO. 1", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF AIRPORT BOULEVARD (ORIGINALLY SAN BRUNO ROAD AND FORMERLY BAYSHORE BOULEVARD) AT ITS INTERSECTION WITH THE LINE DIVIDING SAID LOTS 15 AND 16, AS SAID LOTS AND BOULEVARD ARE SHOWN ON THE ABOVE MENTIONED MAP; THENCE SOUTH 22° 14' 50" WEST, 3.02 FEET, ALONG SAID LINE OF AIRPORT BOULEVARD, TO A POINT IN A LINE DISTANT 3 FEET MEASURED AT RIGHT ANGLES SOUTHWESTERLY FROM SAID DIVIDING LINE; THENCE NORTH 74° 27' WEST, ALONG SAID PARALLEL LINE, 60 FEET; THENCE NORTH 22° 14' 50" EAST, 28.19 FEET, MORE OR LESS, TO THE NORTHEASTERLY LINE OF LOT 16; THENCE SOUTH 74° 27' EAST, 60 FEET, ALONG SAID LINE OF LOT 16 TO SAID NORTHWESTERLY LINE OF AIRPORT BOULEVARD; THENCE SOUTH 22° 14' 50"

WEST, ALONG SAID LINE, 25.17 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING ALL OIL, GAS AND OTHER HYDROCARBONS; NON-HYDROCARBON GASES OR GASEOUS SUBSTANCES; ALL OTHER MINERALS OF WHATSOEVER NATURE, WITHOUT REGARD TO SIMILARITY TO THE ABOVE MENTIONED SUBSTANCES; AND ALL SUBSTANCES THAT MAY BE PRODUCED THEREWITH FROM THE PROPERTY.

ALSO EXCEPTING ALL GEOTHERMAL RESOURCES, EMBRACING; INDIGENOUS STEAM, HOT WATER AND HOT BRINES; STEAM AND OTHER GASES, HOT WATER AND HOT BRINES RESULTING FROM WATER, GAS OR OTHER FLUIDS ARTIFICIALLY INTRODUCED INTO SUBSURFACE FORMATIONS; HEAT OR OTHER ASSOCIATED ENERGY FOUND BENEATH THE SURFACE OF THE EARTH; AND BYPRODUCTS OF ANY OF THE FOREGOING SUCH AS MINERALS (EXCLUSIVE OF OIL OR HYDROCARBON GAS THAT CAN BE SEPARATELY PRODUCED) WHICH ARE FOUND IN SOLUTION OR ASSOCIATION WITH OR DERIVED FROM ANY OF THE FOREGOING.

ALSO EXCEPTING THE SOLE AND EXCLUSIVE RIGHT FROM TIME TO TIME TO BORE OR DRILL AND MAINTAIN WELLS AND OTHER WORKS INTO AND THROUGH THE PROPERTY AND ADJOINING STREETS, ROADS AND HIGHWAYS BELOW A DEPTH OF FIVE HUNDRED (500) FEET FROM THE SURFACE THEREOF FOR THE PURPOSE OF EXPLORING FOR AND PRODUCING ENERGY RESOURCES: THE RIGHT TO PRODUCTS, INJECT, STORE AND REMOVE FROM AND THROUGH SAID BORES, WELLS OR WORKS, OIL, GAS, WATER, AND OTHER SUBSTANCES OF WHATEVER NATURE, INCLUDING THE RIGHT TO PERFORM BELOW SAID DEPTH ANY AND ALL OPERATIONS DEEMED BY GRANTOR NECESSARY OR CONVENIENT FOR THE EXERCISE OF SUCH RIGHTS.

THE RIGHTS HEREINABOVE EXCEPTED AND RESERVED TO GRANTOR DO NOT INCLUDE AND DO NOT EXCEPT OR RESERVE TO GRANTOR ANY RIGHT OF GRANTOR TO USE THE SURFACE OF THE PROPERTY OR THE FIRST FIVE HUNDRED (500) FEET BELOW SAID SURFACE OR TO CONDUCT ANY OPERATIONS THEREON OR THEREIN. UNLESS HEREINAFTER SPECIFICALLY EXCEPTED AND RESERVED, ALL RIGHTS AND INTERESTS IN THE SURFACE OF THE PROPERTY ARE HEREBY CONVEYED.

AS THE ABOVE EXCEPTING WERE RESERVED IN THE DEED FROM CHEVRON U.S.A., INC., A CORPORATION IN THE DEED RECORDED MARCH 8, 1988 AS INSTRUMENT NO. 88027407.

APN: 012-317-110 JPN: 012-031-317-07A AND 012-031-317-08A

PARCEL FOUR:

NORTHERLY 3 FEET OF LOT 15, AND ALL OF LOT 16, IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

EXCEPTING THEREFROM THE LANDS DESCRIBED IN THE DEED FROM RHODA L. RAUDEBAUGH, TRUSTEE TO LEONARD M. ROWE AND WIFE, DATED JUNE 24, 1948, AND RECORDED JULY 09, 1948, IN BOOK 1548 OF OFFICIAL RECORDS OF SAN MATEO COUNTY, AT PAGE 554 (40420-H).

PARCEL FIVE:

LOTS 17 AND 18, IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-317-100 JPN: 012-031-317-10A

PARCEL SIX:

LOTS 19, 20, 21, 22, 23 AND 24, IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-317-090 JPN: 012-031-317-09A

PARCEL SEVEN:

LOT 1 IN BLOCK 138, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-314-100 JPN: 012-031-314-10A

PARCEL EIGHT:

THE EASTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 5, BLOCK 138, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", WHICH MAP WAS FILED IN THE OFFICE OF THE

RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

PARCEL NINE:

THE WESTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 5, BLOCK 138, AND THE EASTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 6, BLOCK 138, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

PARCEL TEN:

THE EASTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 7 AND THE WESTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 6 IN BLOCK 138, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

EXHIBIT B

FORM OF GRANT DEED

Recording Requested by

and when Recorded, return to:

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

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

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged, South San Francisco Successor Agency, a public agency, (the "**Grantor**") hereby grants to Miller Cypress SSF, LLC, (the "**Grantee**") all that real property located in the City of South San Francisco, County of San Mateo, State of California at _____, designated as San Mateo County Assessor's Parcel Nos. _____ and more particularly described in Exhibit A attached hereto and incorporated in this grant deed ("**Grant Deed**") by this reference.

1. Development Agreement. The Property is conveyed subject to the LRPMP and that certain Development Agreement dated as of _____, entered into by and between Grantee and the City of South San Francisco, a public body, corporate and politic, acting to carry out the LRPMP (the "**Development Agreement**").

2. Use Restrictions. The Grantee hereby covenants and agrees, for itself and its successors and assigns, that the Property shall be used and developed solely for purposes consistent with the requirements of the City of South San Francisco General Plan, as it presently exists or may be amended.

3. Nondiscrimination. Grantee shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Grantee covenants for itself and all persons claiming under or through it, and this Grant Deed is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or part thereof, nor shall Grantee or any person claiming under or through Grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or

occupancy of tenants, lessees, subtenants, sub lessees or vendees in, of, or for the Property or part thereof.

All deeds, leases or contracts made or entered into by Grantee, its successors or assigns, as to any portion of the Property or the Improvements shall contain the following language:

(a) In Deeds, the following language shall appear:

“(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of a person or of a group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed nor shall the grantee or any person claiming under or through the grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub lessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

“(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).”

(b) In Leases, the following language shall appear:

“(1) The lessee herein covenants by and for the lessee and lessee’s heirs, personal representatives and assigns, and all persons claiming under the lessee or through the lessee, that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sub lessees, subtenants, or vendees in the property herein leased.

“(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and

subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).”

(c) In Contracts, the following language shall appear:

“There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sub lessees or vendees of the land.”

4. Term of Restrictions. The covenants contained in Section 1 and Section 2 regarding use of the Property shall remain in effect until the date which is the expiration date of the Development Agreement. The covenants against discrimination contained in Sections 3 shall remain in effect in perpetuity.

5. Mortgagee Protection. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument permitted by the Development Agreement; provided, however, that any successor of Grantee to the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

6. Binding On Successors. The covenants contained in Sections 2 and 3 of this Grant Deed, without regard to technical or legal classification or designation specified in this Grant Deed or otherwise, shall to the fullest extent permitted by law and equity, be binding upon Grantee and any successor in interest to the Property or any part thereof, for the benefit of Grantor, and its successors and assigns, for such period of time of applicable ownership, and such covenants shall run in favor of and be enforceable by the Grantor and its successors and assigns for the entire period during which such covenants shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. In the event of any breach of any of such covenants, the Grantor and its successors and assigns shall have the right to exercise all rights and remedies available under law or in equity to enforce the curing of such breach.

7. Enforcement. The Grantor shall have the right to institute such actions or proceedings as it may deem desirable to enforce the provisions set forth herein. Any delay by the Grantor in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights hereunder shall not operate as a waiver of or limitation on such rights, nor operate to deprive Grantor of such rights, nor shall any waiver made by the Grantor with respect to any specific default by the Grantee, its successors and assigns, be considered or treated as a waiver of

Grantor's rights with respect to any other default by the Grantee, its successors and assigns, or with respect to the particular default except to the extent specifically waived.

8. Amendment. Only the Grantor, its successors and assigns, and the Grantee and the successors and assigns of the Grantee in and to all or any part of the fee title to the Property shall have the right to consent and agree to changes or to eliminate in whole or in part any of the covenants contained in this Grant Deed. For purposes of this Section, successors and assigns of the Grantee shall be defined to include only those parties who hold all or any part of the Property in fee title, and not to include a tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under deed of trust, or any other person or entity having an interest less than a fee in the Property and Improvements.

9. Conflict. In the event there is a conflict between the provisions of this Grant Deed and the Agreement, it is the intent of the parties that the Agreement shall control.

10. Counterparts. This Grant Deed may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

SIGNATURES ON FOLLOWING PAGES.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of _____, 2016.

GRANTOR

**SOUTH SAN FRANCISCO
SUCCESSOR AGENCY**

By: _____
Mike Futrell
Executive Director

ATTEST:

By: _____
Clerk

APPROVED AS TO FORM:

By: _____
Jason Rosenberg
Agency Counsel

GRANTEE:

FORM – DO NOT SIGN

MILLER CYPRESS SSF, LLC
a Delaware limited liability company

By: SRGNC Miller Cypress SSF, LLC,
a Delaware limited liability company,

By: SRGNC MF, LLC,
a Delaware limited liability company,

By: _____
Name: Mark R. Kroll
Title: President

APPROVED AS TO FORM:

By: _____
Tamsen Plume, Holland & Knight

Counsel for Buyer

EXHIBIT A to Grant Deed

(Attach legal description)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss.
County of San Mateo)

On _____, 20____ before me, _____, a Notary Public, in and for said State and County, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

NOTARY PUBLIC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss.
County of San Mateo)

On _____, 20__ before me, _____, a Notary Public, in and for said State and County, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

NOTARY PUBLIC

EXHIBIT C

PRE-APPROVED EXCEPTIONS

**First American Title Company Preliminary Title Report dated May 19, 2015 Order
Number NCS-677875-SC**

Exceptions Nos: 1, 2, 3, 26, 31 and 32

Mural License Agreement referenced in Section 6.1

REQUIRED DISAPPROVED EXCEPTIONS

**First American Title Company Preliminary Title Report dated May 19, 2015 Order
Number NCS-677875-SC:**

Exceptions Nos: 4 through 15, 17 through 25, and 27 through 30.

EXHIBIT D

FORM OF DEVELOPMENT AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of South San Francisco
P.O. Box 711
South San Francisco, CA 94083

(Space Above This Line Reserved For Recorder's Use)

This instrument is exempt from recording fees pursuant to Government Code section 27383.

Documentary Transfer Tax is \$0.00 (exempt per Revenue & Taxation Code section 11922, Transfer to Municipality).

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
CITY OF SOUTH SAN FRANCISCO
AND
MILLER CYPRESS SSF, LLC**

**309 AIRPORT BOULEVARD
315 AIRPORT BOULEVARD
401-421 AIRPORT BOULEVARD
405 CYPRESS AVENUE
216 MILLER AVENUE
SOUTH SAN FRANCISCO, CALIFORNIA**

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“**Agreement**”) is entered into as of _____, 2016 by and between Miller Cypress SSF, LLC, a Delaware limited liability company (“**Developer**”), and the City of South San Francisco (“**City**”), pursuant to California Government Code (“**Government Code**”) sections 65864 et seq. Miller Cypress SSF, LLC and the City are sometimes collectively referred to herein as “**Parties.**”

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California enacted California Government Code sections 65864 et seq. (the “**Development Agreements Statute**”), which authorizes the City to enter into an agreement with any person having a legal or equitable interest in real property for the development of such property.

B. Pursuant to Government Code section 65865, City has adopted procedures and requirements for the consideration of development agreements (South San Francisco Municipal Code (“**SSFMC**”) Chapter 19.60). This Agreement has been processed, considered, and executed in accordance with such procedures and requirements.

C. Developer has, or will acquire pursuant to a purchase and sale agreement, a legal and/or equitable interest in certain real property located on six parcels in the downtown area of the City of South San Francisco, west of US 101 at 309 Airport Boulevard, 315 Airport Boulevard, 401 Airport Boulevard, 411 Airport Boulevard, 421 Airport Boulevard, 405 Cypress Avenue, and 216 Miller Avenue, in the central part of the Downtown Station Area Specific Plan District, and specifically within the Downtown Transit Core and Grand Avenue Core zoning sub-districts, consisting of 2.36 total acres with frontages on Airport Boulevard, Cypress Avenue, and Miller Avenue, and as more particularly described and depicted in **Exhibit A (“Project Site”)**.

D. The proposed Project (“**Project**”) consists of removal of existing buildings and construction at full build out of two (2) new seven-story multi-unit residential buildings, a private residential parking lot, and twelve (12) townhome units. The building at 401–421 Airport Boulevard will contain 160 apartment homes in five residential levels over two garage levels (up to 85 feet in height). The building at 309–315 Cypress Avenue will contain 100 apartment homes in five residential levels over two garage levels (up to 72 feet in height). A private residential parking lot will be built at 405 Cypress Avenue to support the apartment communities. After the two apartment buildings are complete and fully leased, twelve for-sale townhomes will be built at 216 Miller Avenue. The total proposed building area is approximately 300,000 square feet. A total of approximately 347 parking spaces will provide parking for the commercial and residential components of the project. Additionally, 26 short-term bicycle parking spaces and 73 secure bike rack spaces will be provided throughout the Project Site.

E. Development of the Project requires that the Developer obtain from the City the following land use entitlements: Conditional Use Permit; Design Review; Modification to

Private Storage and Building Height Zoning Standards; Parking Exemption to Reduce Provided Parking by 25%; and a Development Agreement. The entitlements listed in this Recital E are collectively referred to herein as the “**Project Approvals.**” The Project Approvals are shown in **Exhibit B.** The Project Site is located in the Downtown Transit Core (DTC) and Grand Avenue Core (GAC) Zoning Sub-Districts and the Conditional Use Permit, Design Review, Waiver and Modification, and Parking Exemption requests are in accordance with SSFMC Chapters 20.280, 20.330, 20.480, 20.490 & 20.510.

F. City has determined that the Project presents certain public benefits and opportunities which are advanced by City and Developer entering into this Agreement. This Agreement will, among other things, (1) reduce uncertainties in planning and provide for the orderly development of the Project; (2) provide needed residential development along the Airport Boulevard corridor; (3) mitigate any significant environmental impacts; (4) provide for and generate substantial revenues for the City in the form of one time and annual fees and exactions and other fiscal benefits; and (5) otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.

G. In exchange for the benefits to City described in the preceding Recital, together with the other public benefits that will result from the development of the Project, Developer will receive by this Agreement assurance that it may proceed with the Project in accordance with the “**Applicable Law**” (defined in section 6.3 below), and therefore desires to enter into this Agreement.

H. On January 21, 2016, following a duly noticed public hearing, the Planning Commission adopted Resolution No. 2782-2016 recommending that the City Council approve this Agreement.

I. The City Council, after conducting a duly noticed public hearing, has found that this Agreement is consistent with the General Plan and Zoning Ordinance and has conducted all necessary proceedings in accordance with the City’s rules and regulations for the approval of this Agreement. In accordance with SSFMC section 19.60.120, the City Council, at a duly noticed public hearing, adopted Ordinance No. 1512-2016, approving and authorizing the execution of this Agreement.

AGREEMENT

NOW, THEREFORE, the Parties, pursuant to the authority contained in Government Code sections 65864 through 65869.5 and Chapter 19.60 of the South San Francisco Municipal Code and in consideration of the mutual covenants and agreements contained herein, agree as follows:

ARTICLE 1 DEFINITIONS

1.1 “**Administrative Project Amendment**” shall have that meaning set forth in Section 7.1 of this Agreement.

- 1.2 “**Administrative Agreement Amendment**” shall have that meaning set forth in Section 7.2 of this Agreement.
- 1.3 “**Affiliate of Developer**” shall have that meaning set forth in Section 8.1 of this Agreement.
- 1.4 “**Agreement**” shall mean this Development Agreement.
- 1.5 “**Applicable Law**” shall have that meaning set forth in Section 6.3 of this Agreement.
- 1.6 “**Assessments**” shall have that meaning set forth in Exhibit C.
- 1.7 “**CEQA**” shall have that meaning set forth in Section 3.3 of this Agreement.
- 1.8 “**City**” shall mean the City of South San Francisco.
- 1.9 “**City Law**” shall have that meaning set forth in Section 6.5 of this Agreement.
- 1.10 “**Claims**” shall have that meaning set forth in Section 6.10 of this Agreement.
- 1.11 “**Control**” shall have that meaning set forth in Section 8.1 of this Agreement.
- 1.12 “**Controlled**” shall have that meaning set forth in Section 8.1 of this Agreement.
- 1.13 “**Controlling**” shall have that meaning set forth in Section 8.1 of this Agreement.
- 1.14 “**Deficiencies**” shall have that meaning set forth in Section 9.2 of this Agreement.
- 1.15 “**Developer**” shall mean Miller Cypress SSF, LLC.
- 1.16 “**Development Agreements Statute**” shall have that meaning set forth in Recital A of this Agreement.
- 1.17 “**Development Fees**” shall have that meaning set forth in Section 3.2 of this Agreement.
- 1.18 “**DSASP**” shall have that meaning set forth in Section 3.1 of this Agreement.
- 1.19 “**ECA**” shall have that meaning set forth in Section 3.3 of this Agreement.
- 1.20 “**Effective Date**” shall have that meaning set forth in Section 2.1 of this Agreement.
- 1.21 “**EIR**” shall have that meaning set forth in Section 3.1.
- 1.22 “**Force Majeure Delay**” shall have that meaning set forth in Section 10.3
- 1.23 “**GDP**” shall have that meaning set forth in Section 10.3

1.24 “**Indemnitees**” shall have that meaning set forth in Section 6.10 of this Agreement.

1.25 “**Judgment**” shall have that meaning set forth in Section 9.2 of this Agreement.

1.26 “**Parties**” shall mean the Developer and City, collectively.

1.27 “**Park In-Lieu Payment**” shall have that meaning set forth in Exhibit C.

1.28 “**Periodic Review**” shall have that meaning set forth in Section 10.5 of this Agreement.

1.29 “**Prevailing Wage Laws**” shall have that meaning set forth in Section 6.10 of this Agreement.

1.30 “**Project**” shall have that meaning set forth in Recital D of this Agreement.

1.31 “**Project Approvals**” shall have that meaning set forth in Recital E of this Agreement.

1.32 “**Project Site**” shall have that meaning set forth in Recital C of this Agreement.

1.33 “**Purchase and Sale Agreement and Joint Escrow Instructions Between South San Francisco Successor Agency and Miller Cypress SSF, LLC**” or “**PSA**” is defined as the “Purchase and Sale Agreement and Joint Escrow Instructions between the South San Francisco Successor Agency and Miller Cypress SSF, LLC dated February 23, 2016 and approved pursuant to South San Francisco Oversight Board Resolution No. 04-2016.

1.34 “**Severe Economic Recession**” shall have that meaning set forth in Section 10.3

1.35 “**SSFMC**” shall have the meaning set forth in Recital B of this Agreement.

1.36 “**Subsequent Approvals**” shall mean those certain other land use approvals, entitlements, and permits in addition to the Project Approvals that are necessary or desirable for the Project. In particular, for example, the parties contemplate that Developer may, at its election, seek approvals for the following: amendments of the Project Approvals, design review approvals, unless determined not required pursuant to the further provisions of this Agreement, improvement agreements, grading permits, building permits, lot line adjustments, sewer and water connection permits, certificates of occupancy, subdivision maps, rezonings, development agreements, use permits, sign permits and any amendments to, or repealing of, any of the foregoing.

1.37 “**Tax**” and “**Taxes**” shall not include any generally applicable City Business License Tax or locally imposed Sales Tax.

1.38 “**Term**” shall have that meaning set forth in Section 2.2 of this Agreement.

**ARTICLE 2
EFFECTIVE DATE AND TERM**

2.1 Effective Date. This Agreement shall become effective upon the later of the date the ordinance approving this Agreement becomes effective or the date upon which the Purchase and Sale Agreement and Joint Escrow Instructions between the South San Francisco Successor Agency and Developer becomes effective. (“**Effective Date**”). In the event the PSA is not effective by March 31, 2016, this Agreement shall terminate and have no further force of effect unless the Developer and City Manager have mutually agreed in writing to extend the date.

2.2 Term. The term of this Agreement (“**Term**”) shall commence upon the Effective Date and continue for a period of ten (10) years.

**ARTICLE 3
OBLIGATIONS OF DEVELOPER**

3.1 Obligations of Developer Generally. The Parties acknowledge and agree that the City’s agreement to perform and abide by the covenants and obligations of City set forth in this Agreement is a material consideration for Developer’s agreement to perform and abide by its long term covenants and obligations, as set forth herein. The parties acknowledge that many of Developer’s long term obligations set forth in this Agreement are in addition to Developer’s agreement to perform all the applicable mitigation measures identified in the Downtown Station Area Specific Plan (“**DSASP**”) Environmental Impact Report (“**EIR**”).

3.2 City Fees.

(a) Developer shall pay those processing, inspection and plan checking fees and charges required by the City for processing applications and requests for Subsequent Approvals under the applicable non-discriminatory regulations in effect at the time such applications and requests are submitted to the City.

(b) Consistent with the terms of the Agreement, City shall have the right to impose only such development fees (“**Development Fees**”) as have been adopted by City as of the Effective Date of this Agreement, or as to which City has initiated formal studies and proposals pursuant to City Council action, and which are identified in **Exhibit C**. This shall not prohibit City from imposing on Developer any fee or obligation that is imposed by a regional agency in accordance with state or federal obligations and required to be implemented by City. Development Fees shall be due upon issuance of building permits or certificates of occupancy for the Project, as may be required under the adopting ordinance for such Development Fees, except as otherwise provided under the Agreement or the Project Approvals.

3.3 Mitigation Measures. Developer shall comply with the Mitigation Measures identified and approved in the Downtown Station Area Plan EIR (see also the Environmental Consistency Analysis (“**ECA**”) for the Project), in accordance with the California Environmental Quality Act (“**CEQA**”) or other law.

3.4 Compliance with Terms of the Purchase and Sale Agreement. Developer shall comply with all terms of the Purchase and Sale Agreement and Joint Escrow Instructions Between South San Francisco Successor Agency and Miller Cypress SSF, LLC. A material default by Developer under the PSA shall be a material default under this Agreement. In the event the PSA is terminated under its terms prior to the transfer of real property to the Developer, this Agreement shall terminate and have no further force or effect.

3.5 Electric Charging Stations. Developer shall provide electric charging stations in a minimum of two percent of the total parking spaces provided in the parking garages constructed on Parcels A and D and shall also install all necessary conduit for 35 additional electric vehicle charging stations, with the final location of the installed stations and conduit subject to approval by the Chief Planner.

ARTICLE 4 OBLIGATIONS OF CITY

4.1 Obligations of City Generally. The parties acknowledge and agree that Developer's agreement to perform and abide by its covenants and obligations set forth in this Agreement, including Developer's decision to process the siting of the Project in the City, is a material consideration for City's agreement to perform and abide by the long term covenants and obligations of City, as set forth herein.

4.2 Protection of Vested Rights. To the maximum extent permitted by law, City shall take any and all actions as may be necessary or appropriate to ensure that the vested rights provided by this Agreement can be enjoyed by Developer and to prevent any City Law, as defined above, from invalidating or prevailing over all or any part of this Agreement. City shall cooperate with Developer and shall undertake such actions as may be necessary to ensure this Agreement remains in full force and effect. Except as authorized in Section 6.9, City shall not support, adopt, or enact any City Law, or take any other action which would violate the express provisions or intent of the Project Approvals or the Subsequent Approvals.

4.3 Availability of Public Services. To the maximum extent permitted by law and consistent with its authority, City shall assist Developer in reserving such capacity for sewer and water services as may be necessary to serve the Project.

4.4 Developer's Right to Rebuild. City agrees that Developer may renovate or rebuild all or any part of the Project within the Term of this Agreement should it become necessary due to damage or destruction. Any such renovation or rebuilding shall be subject to the square footage and height limitations vested by this Agreement, and shall comply with the Project Approvals, the building codes existing at the time of such rebuilding or reconstruction, and the requirements of CEQA.

4.5 Expedited Plan Check Process. The City agrees to provide an expedited plan check process for the approval of Project drawings consistent with its existing practices for expedited plan checks. The City shall use reasonable efforts to provide such plan checks within 3 weeks of a submittal that meets the requirements of Section 5.2. The City acknowledges that the

City's timely processing of Subsequent Approvals and plan checks is essential to the Developer's ability to achieve the schedule under the PSA.

ARTICLE 5 COOPERATION - IMPLEMENTATION

5.1 Processing Application for Subsequent Approvals. By approving the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its discretionary authority in considering any application for a Subsequent Approval to change the policy decisions reflected by the Project Approvals or otherwise to prevent or delay development of the Project as set forth in the Project Approvals. Instead, the Subsequent Approvals shall be deemed to be tools to implement those final policy decisions.

5.2 Timely Submittals By Developer. Developer acknowledges that City cannot expedite processing Subsequent Approvals until Developer submits complete applications on a timely basis. Developer shall use its best efforts to (i) provide to City in a timely manner any and all documents, applications, plans, and other information necessary for City to carry out its obligations hereunder; and (ii) cause Developer's planners, engineers, and all other consultants to provide to City in a timely manner all such documents, applications, plans and other necessary required materials as set forth in the Applicable Law. It is the express intent of Developer and City to cooperate and diligently work to obtain any and all Subsequent Approvals.

5.3 Timely Processing By City. Upon submission by Developer of all appropriate applications and processing fees for any Subsequent Approval, City shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Approval application including, without limitation: (i) providing at Developer's expense and subject to Developer's request and prior approval, reasonable overtime staff assistance and/or staff consultants for planning and processing of each Subsequent Approval application; (ii) if legally required, providing notice and holding public hearings; and (iii) acting on any such Subsequent Approval application. City shall ensure that adequate staff is available, and shall authorize overtime staff assistance as may be necessary, to timely process such Subsequent Approval application.

5.4 Denial of Subsequent Approval Application. The City may deny an application for a Subsequent Approval only if such application does not comply with the Agreement or Applicable Law (as defined below) or with any state or federal law, regulations, plans, or policies as set forth in Section 6.9.

5.5 Other Government Permits. At Developer's sole discretion and in accordance with Developer's construction schedule, Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Project. City shall cooperate with Developer in its efforts to obtain such permits and approvals and shall, from time to time, at the request of Developer, use its reasonable efforts to assist Developer to ensure the timely availability of such permits and approvals.

5.6 Assessment Districts or Other Funding Mechanisms.

(a) Existing Fees. The Parties understand and agree that as of the Effective Date the fees, exactions, and payments listed in **Exhibit C** are the only City fees and exactions. Except for those fees and exactions listed in **Exhibit C**, City is unaware of any pending efforts to initiate, or consider applications for new or increased fees, exactions, or assessments covering the Project Site, or any portion thereof.

(b) Future Fees, Taxes, and Assessments. City understands that long term assurances by City concerning fees, taxes and assessments were a material consideration for Developer agreeing to enter this Agreement and to pay long term fees, taxes and assessments described in this Agreement. City shall retain the ability to initiate or process applications for the formation of new assessment districts covering all or any portion of the Project Site. Notwithstanding the foregoing, Developer retains all its rights to oppose the formation or proposed assessment of any new assessment district or increased assessment. In the event an assessment district is lawfully formed to provide funding for services, improvements, maintenance or facilities which are substantially the same as those services, improvements, maintenance or facilities being funded by the fees or assessments to be paid by Developer under the Project Approvals or this Agreement, such fees or assessments to be paid by Developer shall be subject to reduction/credit in an amount equal to Developer's new or increased assessment under the assessment district. Alternatively, the new assessment district shall reduce/credit Developer's new assessment in an amount equal to such fees or assessments to be paid by Developer under the Project Approvals or this Agreement.

ARTICLE 6

STANDARDS, LAWS AND PROCEDURES GOVERNING THE PROJECT

6.1 Vested Right to Develop. Developer shall have a vested right to develop the Project on the Project Site in accordance with the terms and conditions of this Agreement. Nothing in this section shall be deemed to eliminate or diminish the requirement of Developer to obtain any required Subsequent Approvals.

6.2 Permitted Uses Vested by This Agreement. The permitted uses of the Project Site; the density and intensity of use of the Project Site; the maximum height, bulk, and size of proposed buildings; provisions for reservation or dedication of land for public purposes and the location of public improvements; the general location of public utilities; and other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and, as and when they are issued (but not in limitation of any right to develop as set forth in the Project Approvals), the Subsequent Approvals, provided, however, that no further design review or other discretionary approvals or public hearings shall be required except for review of minor changes to the Project Approvals by the Chief Planner as provided in this Agreement.

Permitted uses for all Project parcels, with the exception of the parcel located at 309 Airport Boulevard, shall include, without limitation, those uses listed as "permitted" in the Downtown Transit Core zoning sub-district. Permitted uses for the parcel located at 309 Airport Boulevard shall include, without limitation those uses listed as "permitted" in the Grand Avenue Core zoning sub-district.

6.3 Applicable Law. The rules, regulations, official policies, standards and specifications applicable to the Project (the “**Applicable Law**”) shall be those set forth in this Agreement and the Project Approvals, and, with respect to matters not addressed by this Agreement or the Project Approvals, those rules, regulations, official policies, standards and specifications (including City ordinances and resolutions) governing permitted uses, building locations, timing of construction, densities, design, heights, fees, exactions, and taxes in force and effect on the Effective Date of this Agreement.

6.4 Uniform Codes. City may apply to the Project Site, at any time during the Term, then current Uniform Building Code and other uniform construction codes, and City’s then current design and construction standards for road and storm drain facilities, provided any such uniform code or standard has been adopted and uniformly applied by City on a citywide basis and provided that no such code or standard is adopted for the purpose of preventing or otherwise limiting construction of all or any part of the Project.

6.5 No Conflicting Enactments. Except as authorized in Section 6.9, City shall not impose on the Project (whether by action of the City Council or by initiative, referendum or other means) any ordinance, resolution, rule, regulation, standard, directive, condition or other measure (each individually, a “**City Law**”) that is in conflict with Applicable Law or this Agreement or that reduces the development rights or assurances provided by this Agreement. Without limiting the generality of the foregoing, any City Law shall be deemed to conflict with Applicable Law or this Agreement or reduce the development rights provided hereby if it would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which applies to or affects the Project:

- (a) Change any land use designation or permitted use of the Project Site;
- (b) Limit or control the availability of public utilities, services, or facilities, or any privileges or rights to public utilities, services, or facilities (for example, water rights, water connections or sewage capacity rights, sewer connections, etc.) for the Project;
- (c) Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations included in the Project Approvals or the Subsequent Approvals (as and when they are issued);
- (d) Limit or control the rate, timing, phasing, or sequencing of the approval, development or construction of all or any part of the Project in any manner;
- (e) Result in Developer having to substantially delay construction of the Project or require the issuance of additional permits or approvals by the City other than those required by Applicable Law;
- (f) Establish, enact, increase, or impose against the Project or Project Site any fees, taxes (including without limitation general, special and excise taxes but excluding any increased local sales tax or increases city business license tax), assessments, liens or other monetary obligations (including generating demolition permit fees, encroachment permit and

grading permit fees) other than those specifically permitted by this Agreement or other connection fees imposed by third party utilities;

(g) Impose against the Project any condition, dedication or other exaction not specifically authorized by Applicable Law; or

(h) Limit the processing or procuring of applications and approvals of Subsequent Approvals.

6.6 Initiatives and Referenda.

(a) If any City Law is enacted or imposed by initiative or referendum, or by the City Council directly or indirectly in connection with any proposed initiative or referendum, which City Law would conflict with Applicable Law or this Agreement or reduce the development rights provided by this Agreement, such Law shall not apply to the Project.

(b) Except as authorized in Section 6.9, without limiting the generality of any of the foregoing, no moratorium or other limitation (whether relating to the rate, timing, phasing or sequencing of development) affecting subdivision maps, building permits or other entitlements to use that are approved or to be approved, issued or granted within the City, or portions of the City, shall apply to the Project.

(c) To the maximum extent permitted by law, City shall prevent any City Law from invalidating or prevailing over all or any part of this Agreement, and City shall cooperate with Developer and shall undertake such actions as may be necessary to ensure this Agreement remains in full force and effect.

(d) Developer reserves the right to challenge in court any City Law that would conflict with Applicable Law or this Agreement or reduce the development rights provided by this Agreement.

6.7 Environmental Mitigation. The parties understand that the DSASP EIR and the ECA were intended to be used in connection with each of the Project Approvals and Subsequent Approvals needed for the Project. Consistent with the CEQA policies and requirements applicable to the DSASP EIR and the ECA, City agrees to use the DSASP EIR and ECA in connection with the processing of any Subsequent Approval to the maximum extent allowed by law and not to impose on the Project any mitigation measures or conditions of approval other than those specifically imposed by the Project Approvals, ECA, and DSASP EIR, or specifically required by CEQA or other Applicable Law.

6.8 Life of Subdivision Maps, Development Approvals, and Permits. The term of any subdivision map or any other map, permit, rezoning, or other land use entitlement approved as a Project Approval or Subsequent Approval shall automatically be extended for the longer of the duration of this Agreement (including any extensions) or the term otherwise applicable to such Project Approval or Subsequent Approval if this Agreement is no longer in effect. The term

of this Agreement and any subdivision map or other Project Approval or Subsequent Approval shall not include any period of time during which a development moratorium (including, but not limited to, a water or sewer moratorium or water and sewer moratorium) or the actions of other public agencies that regulate land use, development or the provision of services to the land, prevents, prohibits or delays the construction of the Project or a lawsuit involving any such development approvals or permits is pending.

6.9 State and Federal Law. As provided in Government Code section 65869.5, this Agreement shall not preclude the application to the Project of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations. Not in limitation of the foregoing, nothing in this Agreement shall preclude City from imposing on Developer any fee specifically mandated and required by state or federal laws and regulations.

6.10 Prevailing Wage. To the full extent required by all applicable state and federal laws, rules and regulations, Developer and its contractors and agents shall comply with California Labor Code Section 1720 et seq. and the regulations adopted pursuant thereto (“**Prevailing Wage Laws**”), and shall be responsible for carrying out the requirements of such provisions. If applicable, Developer shall submit to City a plan for monitoring payment of prevailing wages and shall implement such plan at Developer’s expense.

To the fullest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City) and hold the City, and their respective elected and appointed officers, officials, employees, agents, consultants, and contractors (collectively, the “**Indemnitees**”) harmless from and against all liability, loss, cost, expense (including without limitation attorneys’ fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively “**Claims**”) which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code Sections 1726 and 1781), the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Developer related to this Agreement with respect to the payment or requirement of payment of prevailing wages, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that the City does not and shall not waive any rights against Developer which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by the City, or Developer’s deposit with the City of any of the insurance policies described in this Agreement. The provisions of this Section 6.10 shall survive the expiration or earlier termination of this Agreement and the issuance of a Certificate of Completion for the Project. Developer’s indemnification obligations set forth in this section shall not apply to Claims arising solely from the gross negligence or willful misconduct of the Indemnitees.

6.11 Timing and Review of Project Construction and Completion.

(a) The Project consists of two phases. Phasing will occur in such a manner as to always preserve the potential for 272 residential units on the site during the term of the Agreement.

(i) Phase 1 shall include:

- Two seven-story residential buildings on Parcels A & D, with a minimum of 260 apartment units between them and two levels of parking garages in each building.
- A parking lot on Parcel B at 405 Cypress Avenue.
- All site improvements and design features as shown on the Project Approvals for Phase 1.

(ii) Phase 2 shall include:

- Twelve (12) for-sale townhomes at 216 Miller Avenue.
- All site improvements and design features as shown on the Project Approvals for Phase 2.

6.12 No Housing Restrictions on Rental Residential Component. City acknowledges and agrees that the residential component of the Project, other than the twelve townhomes, is proposed for, approved as, and will be constructed as market-rate rental housing. City represents and warrants that no inclusionary housing, occupancy limitation or control, and no rent control requirement applies to the Project so long as the residential component is comprised solely of rental housing. City covenants that it will not adopt or attempt to apply any such restrictions, requirements or controls to the Project, other than the twelve townhomes, so long as the residential component is solely comprised of rental housing.

ARTICLE 7 AMENDMENT

7.1 To the extent permitted by state and federal law, any Project Approval or Subsequent Approval may, from time to time, be amended or modified in the following manner:

(a) Administrative Project Amendments. Upon the written request of Developer for an amendment or modification to a Project Approval or Subsequent Approval, the Chief Planner or his/her designee shall determine: (i) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (ii) whether the requested amendment or modification is consistent with this Agreement and Applicable Law. If the Chief Planner or his/her designee finds that the proposed amendment or modification is minor, consistent with this Agreement and Applicable Law, and will result in no new significant impacts not addressed and mitigated in the ECA or DSASP EIR, the amendment shall be determined to be an “**Administrative Project Amendment**” and the Chief Planner or his designee may, except to the extent otherwise required by law, approve the Administrative Project Amendment without notice and public hearing. Without limiting the generality of the foregoing,

lot line adjustments, minor alterations in vehicle circulation patterns or vehicle access points, location of parking stalls on the site, number of required parking stalls if city development standards allow, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location of structures that do not substantially alter the design concepts of the Project, variations in the residential unit mix (number of one, two or three bedroom units), location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project Site diagram or Project Site legal description shall be treated as Administrative Project Amendments.

(b) Non-Administrative Project Amendments. Any request by Developer for an amendment or modification to a Project Approval or Subsequent Approval which is determined not to be an Administrative Project Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Law and this Agreement.

7.2 Amendment of this Agreement. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, as follows:

(a) Administrative Agreement Amendments. Any amendment to this Agreement which does not substantially affect (i) the Term of this Agreement, (ii) permitted uses of the Project Site, (iii) provisions for the reservation or dedication of land, (iv) conditions, terms, restrictions, or requirements for subsequent discretionary actions, (v) the density or intensity of use of the Project Site or the maximum height or size of proposed buildings or (vi) monetary contributions by Developer, shall be considered an “**Administrative Agreement Amendment**” and shall not, except to the extent otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. Such amendment may be approved by City resolution.

(b) Other Agreement Amendments. Any amendment to this Agreement other than an Administrative Agreement Amendment shall be subject to recommendation by the Planning Commission (by advisory resolution) and approval by the City Council (by ordinance) following a duly noticed public hearing before the Planning Commission and City Council, consistent with Government Code sections 65867 and 65867.5.

(c) Amendment Exemptions. No amendment of a Project Approval or Subsequent Approval, or a Subsequent Approval shall require an amendment to this Agreement. Instead, any such matter automatically shall be deemed to be incorporated into the Project and vested under this Agreement.

ARTICLE 8 ASSIGNMENT, TRANSFER AND NOTICE

8.1 Assignment and Transfer. Developer may transfer or assign all or any portion of its interests, rights, or obligations under the Agreement and the Project approvals to third parties acquiring an interest or estate in the Project or any portion thereof including, without limitation, purchasers or lessees of lots, parcels, or facilities. Prior to the issuance of a certificate of

occupancy for all or any portion of the Property, Developer will seek City's prior written consent to any transfer, which consent will not be unreasonably withheld or delayed. City may refuse to give consent only if, in light of the proposed transferee's reputation and financial resources, such transferee would not, in City's reasonable opinion, be able to perform the obligations proposed to be assumed by such transferee. Such determination will be made by the City Manager and will be appealable by Developer to the City Council.

Notwithstanding any other provision of this Agreement to the contrary, each of following Transfers are permitted and shall not require City consent under this Section 8.1:

- (a) Any transfer for financing purposes to secure the funds necessary for construction and/or permanent financing of the Project;
- (b) An assignment of this Agreement to an Affiliate of Developer;
- (c) The sale of one or more of the completed residential units to an occupant thereof;
- (d) Transfers of common area to a homeowners or property owners association; or
- (e) Dedications and grants of easements and rights of way required in accordance with the Project Approvals.

For the purposes of this Section 8.1, "**Affiliate of Developer**" means an entity or person that is directly or indirectly controlling, controlled by, or under common control with Developer. For the purposes of this definition, "**control**" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity or a person, whether through the ownership of voting securities, by contract, or otherwise, and the terms "**controlling**" and "**controlled**" have the meanings correlative to the foregoing.

ARTICLE 9

COOPERATION IN THE EVENT OF LEGAL CHALLENGE

9.1 Cooperation. In the event of any administrative, legal, or equitable action or other proceeding instituted by any person not a party to the Agreement challenging the validity of any provision of the Agreement or any Project approval, the parties will cooperate in defending such action or proceeding. City shall promptly notify Developer of any such action against City. If City fails promptly to notify Developer of any legal action against City or if City fails to cooperate in the defense, Developer will not thereafter be responsible for City's defense. The parties will use best efforts to select mutually agreeable legal counsel to defend such action, and Developer will pay compensation for such legal counsel (including City Attorney time and overhead for the defense of such action), but will exclude other City staff overhead costs and normal day-to-day business expenses incurred by City. Developer's obligation to pay for legal counsel will extend to fees incurred on appeal. In the event City and Developer are unable to select mutually agreeable legal counsel to defend such action or proceeding, each party may select its own legal counsel and Developer will pay its and the City's legal fees and costs.

Developer shall reimburse the City for all reasonable court costs and attorneys' fees expended by the City in defense of any such action or other proceeding or payable to any prevailing plaintiff/petitioner.

9.2 Reapproval. If, as a result of any administrative, legal, or equitable action or other proceeding, all or any portion of the Agreement or the Project approvals are set aside or otherwise made ineffective by any judgment in such action or proceeding (“**Judgment**”), based on procedural, substantive or other deficiencies (“**Deficiencies**”), the parties will use their respective best efforts to sustain and reenact or readopt the Agreement, and/or the Project approvals, that the Deficiencies related to, unless the Parties mutually agree in writing to act otherwise:

(a) If any Judgment requires reconsideration or consideration by City of the Agreement or any Project approval, then the City will consider or reconsider that matter in a manner consistent with the intent of the Agreement and with Applicable Law. If any such Judgment invalidates or otherwise makes ineffective all or any portion of the Agreement or Project approval, then the parties will cooperate and will cure any Deficiencies identified in the Judgment or upon which the Judgment is based in a manner consistent with the intent of the Agreement and with Applicable Law. City will then consider readopting or reenacting the Agreement, or the Project approval, or any portion thereof, to which the Deficiencies related.

(b) Acting in a manner consistent with the intent of the Agreement includes, but is not limited to, recognizing that the parties intend that Developer may develop the Project as described in the Agreement, and adopting such ordinances, resolutions, and other enactments as are necessary to readopt or reenact all or any portion of the Agreement or Project approvals without contravening the Judgment.

ARTICLE 10 DEFAULT; REMEDIES; TERMINATION

10.1 Defaults. Any failure by either party to perform any term or provision of the Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party (unless such period is extended by mutual written consent), will constitute a default under the Agreement. Any notice given will specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, will be deemed to be a cure within such 30-day period. Upon the occurrence of a default under the Agreement, the non-defaulting party may institute legal proceedings to enforce the terms of the Agreement or, in the event of a material default, terminate the Agreement. If the default is cured, then no default will exist and the noticing party shall take no further action.

10.2 Termination. If City elects to consider terminating the Agreement due to a material default of Developer, then City will give a notice of intent to terminate the Agreement and the matter will be scheduled for consideration and review by the City Council at a duly noticed and conducted public hearing. Developer will have the right to offer written and oral

evidence prior to or at the time of said public hearings. If the City Council determines that a material default has occurred and is continuing, and elects to terminate the Agreement, City will give written notice of termination of the Agreement to Developer by certified mail and the Agreement will thereby be terminated sixty (60) days thereafter.

10.3 Enforced Delay; Extension of Time of Performance. Subject to the limitations set forth below, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays are due to: war; insurrection; strikes and labor disputes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation and arbitration, including court delays; legal challenges to this Agreement, the PSA, the Project Approvals, or any other approval required for the Project or any initiatives or referenda regarding the same; environmental conditions, pre-existing or discovered, delaying the construction or development of the Property or any portion thereof; unusually severe weather but only to the extent that such weather or its effects (including, without limitation, dry out time) result in delays that cumulatively exceed thirty (30) days for every winter season occurring after commencement of construction of the Project; acts or omissions of the other party; or acts or failures to act of any public or governmental agency or entity (except that acts or failures to act of City shall not excuse performance by City); moratorium; or a Severe Economic Recession (each a “**Force Majeure Delay**”). An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if Notice by the party claiming such extension is sent to the other party within sixty (60) days of the commencement of the cause. If Notice is sent after such sixty (60) day period, then the extension shall commence to run no sooner than sixty (60) days prior to the giving of such Notice. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Developer. Developer’s inability or failure to obtain financing or otherwise timely satisfy shall not be deemed to be a cause outside the reasonable control of the Developer and shall not be the basis for an excused delay unless such inability, failure or delay is a direct result of a Severe Economic Recession. “**Severe Economic Recession**” means a decline in the monetary value of all finished goods and services produced in the United States, as measured by initial quarterly estimates of United States Gross Domestic Product (“**GDP**”) published by the United States Department of Commerce Bureau of Economic Analysis (and not subsequent monthly revisions), lasting more than four (4) consecutive calendar quarters. Any quarter of flat or positive GDP growth shall end the period of such Severe Economic Recession

10.4 Legal Action. Either party may institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement in the Agreement, enjoin any threatened or attempted violation thereof, and enforce by specific performance the obligations and rights of the parties thereto. The sole and exclusive remedy for any default or violation of the Agreement will be specific performance. In any proceeding brought to enforce the Agreement, the prevailing party will be entitled to recover from the unsuccessful party all costs, expenses and reasonable attorney’s fees incurred by the prevailing party in the enforcement proceeding.

10.5 Periodic Review.

(a) Conducting the Periodic Review. Throughout the Term of this Agreement, at least once every twelve (12) months following the execution of this Agreement, City shall review the extent of good-faith compliance by Developer with the terms of this Agreement. This review (“**Periodic Review**”) shall be conducted by the Chief Planner or his/her designee and shall be limited in scope to compliance with the terms of this Agreement pursuant to Government Code section 65865.1.

(b) Notice. At least five (5) days prior to the Periodic Review, and in the manner prescribed in Section 11.9 of this Agreement, City shall deposit in the mail to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review and, to the extent practical, related exhibits concerning Developer’s performance hereunder. Developer shall be permitted an opportunity to respond to City’s evaluation of Developer’s performance, either orally at a public hearing or in a written statement, at Developer’s election. Such response shall be made to the Chief Planner.

(c) Good Faith Compliance. During the Periodic Review, the Chief Planner shall review Developer’s good-faith compliance with the terms of this Agreement. At the conclusion of the Periodic Review, the Chief Planner shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. The decision of the Chief Planner shall be appealable to the City Council. If the Chief Planner finds and determines that Developer has not complied with such terms and conditions, the Chief Planner may recommend to the City Council that it terminate or modify this Agreement by giving notice of its intention to do so, in the manner set forth in Government Code sections 65867 and 65868. The costs incurred by City in connection with the Periodic Review process described herein shall be borne by Developer.

(d) Failure to Properly Conduct Periodic Review. If City fails, during any calendar year, to either: (i) conduct the Periodic Review or (ii) notify Developer in writing of City’s determination, pursuant to a Periodic Review, as to Developer’s compliance with the terms of this Agreement and such failure remains uncured as of December 31 of any year during the term of this Agreement, such failure shall be conclusively deemed an approval by City of Developer’s compliance with the terms of this Agreement.

(e) Written Notice of Compliance. With respect to any year for which Developer has been determined or deemed to have complied with this Agreement, City shall, within thirty (30) days following request by Developer, provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City. Developer shall have the right, in Developer’s sole discretion, to record such notice of compliance.

10.6 California Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of San Mateo County, California.

10.7 Resolution of Disputes. With regard to any dispute involving development of the Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer shall, at City’s request, meet with City. The parties to any such meetings shall attempt in good faith to resolve any such disputes. Nothing in this section shall in any way be interpreted

as requiring that Developer and City and/or City's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on City or Developer unless expressly agreed to by the parties to such meetings.

10.8 Attorneys' Fees. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, the prevailing party is entitled to reasonable attorneys' fees and any other costs incurred in that proceeding in addition to any other relief to which it is entitled.

10.9 Hold Harmless. Developer shall hold City and its elected and appointed officers, agents, employees, and representatives harmless from claims, costs, and liabilities for any personal injury, death, or property damage which is a result of, or alleged to be the result of, the construction of the Project, or of operations performed under this Agreement by Developer or by Developer's contractors, subcontractors, agents or employees, whether such operations were performed by Developer or any of Developer's contractors, subcontractors, agents or employees. Nothing in this section shall be construed to mean that Developer shall hold City harmless from any claims of personal injury, death or property damage arising from, or alleged to arise from, any gross negligence or willful misconduct on the part of City, its elected and appointed representatives, offices, agents and employees.

ARTICLE 11 MISCELLANEOUS

11.1 Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

11.2 No Agency. It is specifically understood and agreed to by and between the parties hereto that: (i) the subject development is a private development; (ii) City has no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that City accepts the same pursuant to the provisions of this Agreement or in connection with the various Project Approvals or Subsequent Approvals; (iii) Developer shall have full power over and exclusive control of the Project herein described, subject only to the limitations and obligations of Developer under this Agreement, the Project Approvals, Subsequent Approvals, and Applicable Law; and (iv) City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and Developer.

11.3 Enforceability. City and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter enacted or adopted (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or building ordinance, resolution or other rule, regulation or policy adopted by City that changes, alters or amends the rules, regulations, and policies applicable to the development of the Project Site at the time of the approval of this Agreement as provided by Government Code section 65866.

11.4 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Developer may (in their sole and absolute discretion) terminate this Agreement by providing written notice of such termination to the other party.

11.5 Other Necessary Acts. Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Project Approvals, Subsequent Approvals and this Agreement and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

11.6 Construction. Each reference in this Agreement or any of the Project Approvals or Subsequent Approvals shall be deemed to refer to the Agreement, Project Approval, or Subsequent Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

11.7 Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.

11.8 Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Project, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, Civil Code section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Project Site, and is binding upon the owner of all or a portion of the Project Site and each successive owner during its ownership of such property.

11.9 Notices. Any notice or communication required hereunder between City or Developer must be in writing, and may be given either personally, by telefacsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday, or holiday shall be deemed to have been given and received on the next

normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of: (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to City, to: City of South San Francisco
400 Grand Avenue
Attn: City Manager
South San Francisco, CA 94080
Phone: (650) 877-8500
Fax: (650) 829-6609

to: With a Copy Meyers, Nave, Riback, Silver & Wilson
575 Market Street, Suite 2080
San Francisco, CA 94105
Attn: Jason S. Rosenberg, City Attorney
Phone: (415) 421-3711
Fax: (415) 421-3767

If Developer, to: to Miller Cypress SSF, LLC
Sares-Regis Group of Northern California
901 Mariners Island Blvd., 7th Floor
Attn: Ken Busch
San Mateo, CA 94404
Phone: (650) 377-5805
Email: kbusch@srgnc.com

to: With Copies Holland & Knight
50 California Street, #2500
San Francisco, CA 94111
Attn: Tamsen Plume
Phone: (415) 743-9461
Email: tamsen.plume@hklaw.com

11.10 Entire Agreement, Counterparts And Exhibits. This Agreement is executed in two (2) duplicate counterparts; each of which is deemed to be an original. This Agreement consists of 22 pages and three (3) exhibits which constitute in full, the final and exclusive understanding and agreement of the parties and supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities

of City and the Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit A: Description and Diagram of Project Site

Exhibit B: List of Project Approvals

Exhibit C: Applicable Laws & City Fees, Exactions, and Payments

11.11 Recordation Of Development Agreement. Pursuant to Government Code section 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement in the Official Records of the County of San Mateo.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and City as of the day and year first above written.

CITY

**CITY OF SOUTH SAN FRANCISCO,
a municipal corporation**

By: _____

Name: _____
City Manager

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

DEVELOPER

**MILLER CYPRESS SSF, LLC,
a Delaware limited liability company**

By: SRGNC Miller Cypress SSF, LLC,
a Delaware limited liability company,

By: SRGNC MF, LLC,
a Delaware limited liability company,

By: _____
Name: Mark R. Kroll
Title: President

APPROVED AS TO FORM:

By: _____
Tamsen Plume, Holland & Knight
Counsel for Developer

Exhibit A

Description and Diagram of Project Site

REAL PROPERTY IN THE CITY OF SOUTH SAN FRANCISCO, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 5 AND 6 IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 1, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND COPIED INTO BOOK 2 OF MAPS AT PAGE 52.

APN: 012-318-040

PARCEL ONE:

LOTS 7, 8, 9, 10, 11 AND 12 IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-318-080 JPN: 012-031-318-03A and 012-031-318-07A

PARCEL TWO:

LOTS 13, 14 AND THE SOUTHERLY 22 FEET, FRONT AND REAR MEASUREMENTS OF LOT 15, IN BLOCK 148, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA PLAT NO. 1", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

PARCEL THREE:

PORTION OF LOTS 15 AND 16 IN BLOCK 148, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA PLAT NO. 1", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF AIRPORT BOULEVARD (ORIGINALLY SAN BRUNO ROAD AND FORMERLY BAYSHORE BOULEVARD) AT ITS INTERSECTION WITH THE LINE DIVIDING SAID LOTS 15 AND 16, AS SAID LOTS AND BOULEVARD ARE SHOWN ON THE ABOVE MENTIONED

MAP; THENCE SOUTH 22° 14' 50" WEST, 3.02 FEET, ALONG SAID LINE OF AIRPORT BOULEVARD, TO A POINT IN A LINE DISTANT 3 FEET MEASURED AT RIGHT ANGLES SOUTHWESTERLY FROM SAID DIVIDING LINE; THENCE NORTH 74° 27' WEST, ALONG SAID PARALLEL LINE, 60 FEET; THENCE NORTH 22° 14' 50" EAST, 28.19 FEET, MORE OR LESS, TO THE NORTHEASTERLY LINE OF LOT 16; THENCE SOUTH 74° 27' EAST, 60 FEET, ALONG SAID LINE OF LOT 16 TO SAID NORTHWESTERLY LINE OF AIRPORT BOULEVARD; THENCE SOUTH 22° 14' 50" WEST, ALONG SAID LINE, 25.17 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING ALL OIL, GAS AND OTHER HYDROCARBONS; NON-HYDROCARBON GASES OR GASEOUS SUBSTANCES; ALL OTHER MINERALS OF WHATSOEVER NATURE, WITHOUT REGARD TO SIMILARITY TO THE ABOVE MENTIONED SUBSTANCES; AND ALL SUBSTANCES THAT MAY BE PRODUCED THEREWITH FROM THE PROPERTY.

ALSO EXCEPTING ALL GEOTHERMAL RESOURCES, EMBRACING; INDIGENOUS STEAM, HOT WATER AND HOT BRINES; STEAM AND OTHER GASES, HOT WATER AND HOT BRINES RESULTING FROM WATER, GAS OR OTHER FLUIDS ARTIFICIALLY INTRODUCED INTO SUBSURFACE FORMATIONS; HEAT OR OTHER ASSOCIATED ENERGY FOUND BENEATH THE SURFACE OF THE EARTH; AND BYPRODUCTS OF ANY OF THE FOREGOING SUCH AS MINERALS (EXCLUSIVE OF OIL OR HYDROCARBON GAS THAT CAN BE SEPARATELY PRODUCED) WHICH ARE FOUND IN SOLUTION OR ASSOCIATION WITH OR DERIVED FROM ANY OF THE FOREGOING.

ALSO EXCEPTING THE SOLE AND EXCLUSIVE RIGHT FROM TIME TO TIME TO BORE OR DRILL AND MAINTAIN WELLS AND OTHER WORKS INTO AND THROUGH THE PROPERTY AND ADJOINING STREETS, ROADS AND HIGHWAYS BELOW A DEPTH OF FIVE HUNDRED (500) FEET FROM THE SURFACE THEREOF FOR THE PURPOSE OF EXPLORING FOR AND PRODUCING ENERGY RESOURCES: THE RIGHT TO PRODUCTS, INJECT, STORE AND REMOVE FROM AND THROUGH SAID BORES, WELLS OR WORKS, OIL, GAS, WATER, AND OTHER SUBSTANCES OF WHATEVER NATURE, INCLUDING THE RIGHT TO PERFORM BELOW SAID DEPTH ANY AND ALL OPERATIONS DEEMED BY GRANTOR NECESSARY OR CONVENIENT FOR THE EXERCISE OF SUCH RIGHTS.

THE RIGHTS HEREINABOVE EXCEPTED AND RESERVED TO GRANTOR DO NOT INCLUDE AND DO NOT EXCEPT OR RESERVE TO GRANTOR ANY RIGHT OF GRANTOR TO USE THE SURFACE OF THE PROPERTY OR THE FIRST FIVE HUNDRED (500) FEET BELOW SAID SURFACE OR TO CONDUCT ANY OPERATIONS THEREON OR THEREIN. UNLESS HEREINAFTER SPECIFICALLY EXCEPTED AND RESERVED, ALL RIGHTS AND INTERESTS IN THE SURFACE OF THE PROPERTY ARE HEREBY CONVEYED.

AS THE ABOVE EXCEPTING WERE RESERVED IN THE DEED FROM CHEVRON U.S.A., INC., A CORPORATION IN THE DEED RECORDED MARCH 8, 1988 AS INSTRUMENT NO. 88027407.

APN: 012-317-110 JPN: 012-031-317-07A AND 012-031-317-08A

PARCEL FOUR:

NORTHERLY 3 FEET OF LOT 15, AND ALL OF LOT 16, IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

EXCEPTING THEREFROM THE LANDS DESCRIBED IN THE DEED FROM RHODA L. RAUDEBAUGH, TRUSTEE TO LEONARD M. ROWE AND WIFE, DATED JUNE 24, 1948, AND RECORDED JULY 09, 1948, IN BOOK 1548 OF OFFICIAL RECORDS OF SAN MATEO COUNTY, AT PAGE 554 (40420-H).

PARCEL FIVE:

LOTS 17 AND 18, IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-317-100 JPN: 012-031-317-10A

PARCEL SIX:

LOTS 19, 20, 21, 22, 23 AND 24, IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-317-090 JPN: 012-031-317-09A

PARCEL SEVEN:

LOT 1 IN BLOCK 138, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-314-100 JPN: 012-031-314-10A

PARCEL EIGHT:

THE EASTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 5, BLOCK 138, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

PARCEL NINE:

THE WESTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 5, BLOCK 138, AND THE EASTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 6, BLOCK 138, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

PARCEL TEN:

THE EASTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 7 AND THE WESTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 6 IN BLOCK 138, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

T:\918-SARES REGIS\16-026 Ford Properties\Survey\Master Survey Drawings\Boundary Drawings\PLATT-FORD PROPERTIES.dwg 2-16-16 03:49:49 PM PEUSINGER



LEGEND

- (X) PARCEL
- 112-317-110 ASSESSOR'S PARCEL NUMBER
- 13 LOTS PER BOOK 2 MAPS 52

PARCELS

PARCEL A.1	012-317-110	401 AIRPORT BLVD.
PARCEL A.2	012-317-100	411 AIRPORT BLVD.
PARCEL A.3	012-317-090	421 AIRPORT BLVD.
PARCEL B	012-314-100	405 CYPRESS AVE.
PARCEL C	012-314-220	216 MILLER AVE.
PARCEL D	012-318-080	315 AIRPORT BLVD.
PARCEL D PRIME	012-318-040	309 AIRPORT BLVD.



WILSEY ■ HAM

3130 La Selva Street, Suite 100, San Mateo, CA 94403
 Phone 650-349-2151 Fax 650-345-4921

PROJECT NUMBER: 818-026	SARES REGIS FORD PROPERTIES	DATE:03/16/16
EXHIBIT		NOT TO SCALE
		SHEET 1 OF 1

Exhibit B:

List of Project Approvals

- Environmental Consistency Analysis approved by the City Council on February 10, 2016 by Resolution No. 02-2016.
- Conditional Use Permit (15-0027) approved by the City Council on February 10, 2016 by Resolution No. 17-2016.
- Design Review (15-0032) approved by the City Council on February 10, 2016 by Resolution No. 17-2016.
- Waiver and Modification regarding Height (15-0001) approved by the City Council on February 10, 2016 by Resolution No. 17-2016.
- Parking Exemption (15-0004) approved by the City Council on February 10, 2016 by Resolution No. 17-2016
- Development Agreement (15-0003) approved by the City Council on February 24, 2016 by Ordinance No. 1512-2016.

Exhibit C

Applicable Laws & City Fees, Exactions, and Payments

CURRENT SOUTH SAN FRANCISCO LAWS

Developer shall comply with the following City regulations and provisions applicable to the Property as of the Effective Date (except as modified by this Agreement and the Project Approvals).

- 1.1. South San Francisco General Plan. The Developer will develop the Project in a manner consistent with the objectives, policies, general land uses and programs specified in the South San Francisco General Plan, as adopted on October 13, 1999 and as amended from time to time.
- 1.2. Downtown Station Area Specific Plan. The Developer will develop the Project in a manner consistent with the objectives, policies, general land uses and programs specified in the South San Francisco Downtown Station Area Specific Plan, as adopted in January 2015.
- 1.3. Downtown Station Area Specific Plan Zoning District. The Developer shall construct the Project in a manner consistent with the Downtown Station Area Specific Plan Zoning District applicable to the Project as of the Effective Date (except as modified by this Agreement).
- 1.4. South San Francisco Municipal Code. The Developer shall construct the Project in a manner consistent with the South San Francisco Municipal Code provisions, as applicable to the Project as of the Effective Date (except as modified by this Agreement).

FEES, EXACTIONS, & PAYMENTS

Subject to the terms of Section 5.6(b) of this Agreement, Developer agrees that Developer shall be responsible for the payment of the following fees, charges, exactions, taxes, and assessments (collectively, "Assessments"). From time to time, the City may update, revise, or change its Assessments. Further, nothing herein shall be construed to relieve the Property from common benefit assessments levied against it and similarly situated properties by the City pursuant to and in accordance with any statutory procedure for the assessment of property to pay for infrastructure and/or services that benefit the Property. Except as indicated below, the amount paid for a particular Assessment, shall be the amount owed, based on the calculation or formula in place at the time payment is due, as specified below.

- 2.1. Administrative/Processing Fees. The Developer shall pay the applicable application, processing, administrative, legal and inspection fees and charges, as currently adopted pursuant to City's Master Fee Schedule and required by the City for processing of land use entitlements, including without limitation, General Plan amendments, zoning changes, precise plans, development agreements, conditional use permits, variances, transportation demand management plans, tentative

subdivision maps, parcel maps, lot line adjustments, general plan maintenance fee, demolition permits, and building permits.

2.2. Impact Fees (Existing Fees). Except as modified below and as set forth in Section 3.2(b) of this Agreement, the following existing impact fees shall be paid for net new square footage at the rates and at the times prescribed in the resolution(s) or ordinance(s) adopting and implementing the fees.

- (a) Child Care Impact Fee. (SSFMC Chapter 20.310; Ordinance 1432-2001).
- (b) Public Safety Impact Fee. (Resolution 97-2012) Prior to receiving a building permit for the Project, the Developer shall pay the Public Safety Impact Fee, as set forth in Resolution No. 97-2012, adopted on December 10, 2012, to assist the City's Fire Department and Police Department with funding the acquisition and maintenance of Police and Fire Department vehicles, apparatus, equipment, and similar needs for the provision of public safety services.
- (c) Sewer Capacity Charge. (Resolution 39-2010) Prior to receiving a building permit for tenant improvements for the Project, the Developer shall pay the Sewer Capacity Charge, as set forth in Resolution No. 39-2010.
- (d) General Plan Maintenance Fee. (Resolution 74-2007).

2.3 User Fees.

- (a) Sewer Service Charges. (assessed as part of property tax bill)
- (b) Stormwater Charges. (assessed as part of property tax bill)

2.4 Community Enhancement Payments.

- (a) Public Art Commitment. Developer agrees to (i) either install public art as part of the Project worth a minimum of \$25,000 or, if such public art is not installed by the certificate of occupancy, then (ii) pay twenty-five thousand dollars (\$25,000.00) to the City in order to support the development of public art in the City.
- (b) Community Benefit Payment. At issuance of the first building permit, Developer agrees to pay five hundred thousand dollars (\$500,000.00) to the City to support increased pedestrian connectivity to the South San Francisco Caltrain station.
- (c) Park In-Lieu Payment. Developer agrees to pay ten thousand dollars (\$10,000.00) per residential unit constructed, to the City, in order to support the development of parks and open space areas in the City ("**Park In-Lieu Payment**"). Developer agrees to pay this fee for all of each

parcel's residential units prior to issuance of the first certificate of occupancy for such parcel. For example, the Park In-Lieu Payment for all units on Parcel A shall be paid at the issuance of the first certificate of occupancy for Parcel A.

- 2.5 Business License Tax Modifications. In the event that the City's business license tax is modified and duly approved by voters, and any subsequent tax modifications become applicable to the properties on the Project during the term of this Agreement, Developer shall be responsible to pay the applicable business license tax amounts, as modified.

2629387.1

EXHIBIT E

FORM OF MEMORANDUM OF AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of South San Francisco
P.O. Box 711
South San Francisco, CA 94083

(Space Above This Line Reserved For Recorder's Use)

This instrument is exempt from recording fees pursuant to Government Code section 27383.

NOTICE OF AGREEMENT

This Notice of Agreement (this "Notice"), dated as of _____, 2016, is entered into by and between the South San Francisco Successor Agency, a public agency ("Seller" or "Agency") and Miller Cypress SSF, LLC, ("Buyer").

A. On _____, 2016, Seller and Buyer entered into that certain Purchase and Sale Agreement and Joint Escrow Instructions ("PSA") with respect to real property owned by Seller, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference ("Property").

B. The PSA sets forth certain agreements made by the parties with respect to their the Property.

C. This Notice is prepared for the purpose of recordation only, and it in no way modifies the provisions of the PSA.

D. This Notice shall extend to and be binding upon the parties hereto and their legal representatives, heirs, successors, and assigns.

E. This Notice may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, Seller and Buyer have executed this Notice as of the date first written above.

SELLER:

**SOUTH SAN FRANCISCO
SUCCESSOR AGENCY**

By: _____
Mike Futrell
Executive Director

ATTEST:

By: _____
Agency Clerk

APPROVED AS TO FORM:

By: _____
Jason Rosenberg
Agency Counsel

FORM – DO NOT SIGN

BUYER:

MILLER CYPRESS SSF, LLC

a Delaware limited liability company

By: SRGNC Miller Cypress SSF, LLC,
a Delaware limited liability company,

By: SRGNC MF, LLC,
a Delaware limited liability company,

By: _____
Name: Mark R. Kroll
Title: President

APPROVED AS TO FORM:

By: _____
Tamsen Plume, Holland & Knight
Counsel for Buyer

FORM – DO NOT SIGN

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____,

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT A
TO
NOTICE OF AGREEMENT**

LEGAL DESCRIPTION OF PROPERTY

REAL PROPERTY IN THE CITY OF SOUTH SAN FRANCISCO, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL ONE:

LOTS 7, 8, 9, 10, 11 AND 12 IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-318-080 JPN: 012-031-318-03A and 012-031-318-07A

PARCEL TWO:

LOTS 13, 14 AND THE SOUTHERLY 22 FEET, FRONT AND REAR MEASUREMENTS OF LOT 15, IN BLOCK 148, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA PLAT NO. 1", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

PARCEL THREE:

PORTION OF LOTS 15 AND 16 IN BLOCK 148, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA PLAT NO. 1", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF AIRPORT BOULEVARD (ORIGINALLY SAN BRUNO ROAD AND FORMERLY BAYSHORE BOULEVARD) AT ITS INTERSECTION WITH THE LINE DIVIDING SAID LOTS 15 AND 16, AS SAID LOTS AND BOULEVARD ARE SHOWN ON THE ABOVE MENTIONED MAP; THENCE SOUTH 22° 14' 50" WEST, 3.02 FEET, ALONG SAID LINE OF AIRPORT BOULEVARD, TO A POINT IN A LINE DISTANT 3 FEET MEASURED AT RIGHT ANGLES SOUTHWESTERLY FROM SAID DIVIDING LINE; THENCE NORTH 74° 27' WEST, ALONG SAID PARALLEL LINE, 60 FEET; THENCE NORTH 22° 14' 50" EAST,

28.19 FEET, MORE OR LESS, TO THE NORTHEASTERLY LINE OF LOT 16; THENCE SOUTH 74° 27' EAST, 60 FEET, ALONG SAID LINE OF LOT 16 TO SAID NORTHWESTERLY LINE OF AIRPORT BOULEVARD; THENCE SOUTH 22° 14' 50" WEST, ALONG SAID LINE, 25.17 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING ALL OIL, GAS AND OTHER HYDROCARBONS; NON-HYDROCARBON GASES OR GASEOUS SUBSTANCES; ALL OTHER MINERALS OF WHATSOEVER NATURE, WITHOUT REGARD TO SIMILARITY TO THE ABOVE MENTIONED SUBSTANCES; AND ALL SUBSTANCES THAT MAY BE PRODUCED THEREWITH FROM THE PROPERTY.

ALSO EXCEPTING ALL GEOTHERMAL RESOURCES, EMBRACING; INDIGENOUS STEAM, HOT WATER AND HOT BRINES; STEAM AND OTHER GASES, HOT WATER AND HOT BRINES RESULTING FROM WATER, GAS OR OTHER FLUIDS ARTIFICIALLY INTRODUCED INTO SUBSURFACE FORMATIONS; HEAT OR OTHER ASSOCIATED ENERGY FOUND BENEATH THE SURFACE OF THE EARTH; AND BYPRODUCTS OF ANY OF THE FOREGOING SUCH AS MINERALS (EXCLUSIVE OF OIL OR HYDROCARBON GAS THAT CAN BE SEPARATELY PRODUCED) WHICH ARE FOUND IN SOLUTION OR ASSOCIATION WITH OR DERIVED FROM ANY OF THE FOREGOING.

ALSO EXCEPTING THE SOLE AND EXCLUSIVE RIGHT FROM TIME TO TIME TO BORE OR DRILL AND MAINTAIN WELLS AND OTHER WORKS INTO AND THROUGH THE PROPERTY AND ADJOINING STREETS, ROADS AND HIGHWAYS BELOW A DEPTH OF FIVE HUNDRED (500) FEET FROM THE SURFACE THEREOF FOR THE PURPOSE OF EXPLORING FOR AND PRODUCING ENERGY RESOURCES: THE RIGHT TO PRODUCTS, INJECT, STORE AND REMOVE FROM AND THROUGH SAID BORES, WELLS OR WORKS, OIL, GAS, WATER, AND OTHER SUBSTANCES OF WHATEVER NATURE, INCLUDING THE RIGHT TO PERFORM BELOW SAID DEPTH ANY AND ALL OPERATIONS DEEMED BY GRANTOR NECESSARY OR CONVENIENT FOR THE EXERCISE OF SUCH RIGHTS.

THE RIGHTS HEREINABOVE EXCEPTED AND RESERVED TO GRANTOR DO NOT INCLUDE AND DO NOT EXCEPT OR RESERVE TO GRANTOR ANY RIGHT OF GRANTOR TO USE THE SURFACE OF THE PROPERTY OR THE FIRST FIVE HUNDRED (500) FEET BELOW SAID SURFACE OR TO CONDUCT ANY OPERATIONS THEREON OR THEREIN. UNLESS HEREINAFTER SPECIFICALLY EXCEPTED AND RESERVED, ALL RIGHTS AND INTERESTS IN THE SURFACE OF THE PROPERTY ARE HEREBY CONVEYED.

AS THE ABOVE EXCEPTING WERE RESERVED IN THE DEED FROM CHEVRON U.S.A., INC., A CORPORATION IN THE DEED RECORDED MARCH 8, 1988 AS INSTRUMENT NO. 88027407.

APN: 012-317-110 JPN: 012-031-317-07A AND 012-031-317-08A

PARCEL FOUR:

NORTHERLY 3 FEET OF LOT 15, AND ALL OF LOT 16, IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

EXCEPTING THEREFROM THE LANDS DESCRIBED IN THE DEED FROM RHODA L. RAUDEBAUGH, TRUSTEE TO LEONARD M. ROWE AND WIFE, DATED JUNE 24, 1948, AND RECORDED JULY 09, 1948, IN BOOK 1548 OF OFFICIAL RECORDS OF SAN MATEO COUNTY, AT PAGE 554 (40420-H).

PARCEL FIVE:

LOTS 17 AND 18, IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-317-100 JPN: 012-031-317-10A

PARCEL SIX:

LOTS 19, 20, 21, 22, 23 AND 24, IN BLOCK 148, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6, AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-317-090 JPN: 012-031-317-09A

PARCEL SEVEN:

LOT 1 IN BLOCK 138, AS SHOWN ON THAT CERTAIN MAP ENTITLED "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

APN: 012-314-100 JPN: 012-031-314-10A

PARCEL EIGHT:

THE EASTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 5, BLOCK 138, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

PARCEL NINE:

THE WESTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 5, BLOCK 138, AND THE EASTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 6, BLOCK 138, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

PARCEL TEN:

THE EASTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 7 AND THE WESTERLY 25 FEET, FRONT AND REAR MEASUREMENTS OF LOT 6 IN BLOCK 138, AS DESIGNATED ON THE MAP ENTITLED, "SOUTH SAN FRANCISCO, SAN MATEO CO. CAL. PLAT NO. 1", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON MARCH 01, 1892 IN BOOK "B" OF MAPS AT PAGE(S) 6 AND A COPY ENTERED IN BOOK 2 OF MAPS AT PAGE 52.

2629281.1

MULTI-FAMILY DEVELOPMENT SITE

216 Miller Avenue
South San Francisco, California 94080

APPRAISAL REPORT

Date of Report: October 5, 2018

Colliers File #: SFO180097



PREPARED FOR
Julie Barnard
City of South San Francisco
400 Grand Avenue
Suite 2900
South San Francisco, CA 94080

PREPARED BY
COLLIERS INTERNATIONAL
VALUATION & ADVISORY SERVICES

October 5, 2018

City of South San Francisco

c/o Ms. Julie Barnard
400 Grand Avenue, Suite 2900
South San Francisco, CA 94080

RE: Multi-Family Development Site

216 Miller Avenue
South San Francisco, California 94080

Colliers File #: SFO180097

Ms. Barnard:

This appraisal report satisfies the scope of work and requirements agreed upon by City of South San Francisco and Colliers International Valuation & Advisory Services. At the request of the client, this appraisal is presented in an Appraisal Report format as defined by *USPAP* Standards Rule 2-2(a). Our appraisal format provides a detailed description of the appraisal process, subject and market data and valuation analyses.

The subject consists of a 17,678-square-foot, existing asphalt-paved parking lot on an interior parcel on the north side of Miller Avenue in downtown South San Francisco. It is owned by a multi-family developer (Miller Cypress SSF, LLC, aka Sares Regis Group), who intends to assemble this site with four adjoining lots to form a single 1.0958-acre development site. *(Note): We previously appraised the subject parcel for the client based on the developer's proposal and assuming that assemblage was already completed. The date of that report was July 16, 2018.*

However, the purpose of this appraisal is to determine the market value for the subject lot by itself, exclusive of any assemblage proposal. As of the date of this report, the subject is entitled for 12 townhome units.

In a Purchase and Sale Agreement between the City of South San Francisco (the South San Francisco Successor Agency) and Miller Cypress SSF, LLC dated February 23, 2016, there was a condition for a supplemental purchase price to be paid for 216 Miller Avenue (which was referred to as Parcel C in the Agreement). The text of this condition is summarized below.

“Supplemental Purchase Price for Parcel C. If the Buyer constructs Parcel C (whether as (i) a 12-unit townhome development consistent with the Project Approvals or (ii) as part of a revised development under the potential Land Assembly Option defined in Section 5.6), the additional land value payable to the Seller for Parcel C will be determined either by (X) a residual land-value appraisal for Parcel C, or, at Seller’s discretion, (Y) on a comparison sales-based appraisal. Buyer shall pay Seller the Supplemental Purchase Price prior to the earlier of ninety (90) days after completion of the appraisal or issuance of the first building permit by the City for Parcel C. This provision shall not apply if Buyer re-conveys Parcel C to Seller pursuant to Section 5.6(v).”

The subject parcel (at 17,678 square feet) could be developed to a maximum unit density of one unit per 363 square feet as a stand-alone site, according to the City of South San Francisco’s zoning ordinance. This translates to a maximum unit density of 120 units per acre, or a maximum yield of approximately 49 units. As will be discussed later in our report, the existing entitlements for 12 townhomes do not represent the highest and best use of the subject parcel at this time. Therefore, our land valuation will be based on the subject’s potential as a 49-unit apartment site.

VALUATION METHODOLOGIES

The purpose of this appraisal is to develop an opinion of the As-Is value of this 17,678-square-foot parcel. To accomplish this, the following valuation methods were used.

- **Sales Comparison Approach**
 - Sales of multi-family development land were located and compared to the subject’s site. Adjustments were applied accordingly for differences in transactional and property characteristics.
- **Residual Land Analysis**
 - This is a simple method used by developers to price land by estimating the value of a proposed property when construction is stabilized and complete. The costs associated with leasing up the proposed improvements are deducted along with overall development costs. The result represents the residual value of the proposed project that would be attributed to the land.
 - As part of this method, an As-Stabilized Market Value (using a direct-capitalization calculation) was developed based on the hypothetical condition that the proposed project is complete and has achieved stabilized operations as of the date of this report. From this value, lease-up costs were deducted to arrive at an As-Complete Market Value. Then, construction and entitlement costs were deducted to ultimately arrive at a residual unentitled land value.

The two land estimates are reconciled into a single value conclusion at the end of the report. Then, soil-remediation costs will be subtracted to arrive at a final “as is” land value. *(Note): See Extraordinary Assumption section on the next page.*

Our value conclusions have been summarized below.

ANALYSIS OF VALUE CONCLUSIONS		
VALUATION INDICES	RAW, UNENTITLED MARKET VALUE	
INTEREST APPRAISED	FEE SIMPLE	
DATE OF VALUE	APRIL 25, 2018	
	<u>VALUE</u>	<u>\$/UNIT</u>
SALES COMPARISON APPROACH	\$2,940,000	\$60,000
RESIDUAL-LAND METHOD	\$2,824,000	\$58,000
RECONCILED UNENTITLED LAND VALUE BEFORE REMEDIATION	\$2,890,000	\$59,000

ANALYSIS OF VALUE CONCLUSIONS

VALUATION INDICES "AS IS" VALUE OF SUBJECT PARCEL

INTEREST APPRAISED	FEE SIMPLE	
DATE OF VALUE	April 25, 2018	
	VALUE	\$/UNIT
RECONCILED UNENTITLED LAND VALUE BEFORE REMEDIATION	\$2,890,000	\$59,000
Total # of Proposed Units	49	

LESS ENTITLEMENT AND SOIL-REMEDICATION COSTS

	LOW	\$/UNIT	HIGH	\$/UNIT
Less Soil-Remediation Costs	(\$870,000)	(\$17,755)	(\$1,250,000)	(\$25,510)
Unentitled Land Value	\$2,020,000	\$41,224	\$1,640,000	\$33,469
"As Is" Value of Subject Parcel	\$1,830,000	\$37,347		
Reconciled "As Is" Value of Subject Parcel	\$1,830,000	\$37,347		

The analyses, opinions and conclusions communicated within this appraisal report were developed based upon the requirements and guidelines of the current Uniform Standards of Professional Appraisal Practice (USPAP), the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute. The report is intended to conform to the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) standards and the appraisal guidelines of City of South San Francisco.

The report, in its entirety, including all assumptions and limiting conditions, is an integral part of, and inseparable from, this letter. *USPAP* defines an Extraordinary Assumption as, "an assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinions or conclusions". *USPAP* defines a Hypothetical Condition as, "that which is contrary to what is known by the appraiser to exist on the effective date of the assignment results but is used for the purpose of analysis".

EXTRAORDINARY ASSUMPTIONS

A detailed soils analysis was available for review. Based on a report prepared by West Environmental Services & Technology, the subject's soil has higher-than-average lead concentrations due to 2 former gas stations along Airport Boulevard (which have since been removed). The cost to mitigate this ranges from \$870,000 to \$1,250,000. We have made an extraordinary assumption that the total soil-remediation cost will not exceed West Environmental's estimate, and that it applies only to the 216 Miller parcel. This cost range will be incorporated as part of our determination of the subject's "as is" value at the end of our report.

HYPOTHETICAL CONDITIONS

No hypothetical conditions were employed for this assignment.

RELIANCE LANGUAGE

Colliers International Valuation & Advisory Services hereby expressly grants to Client the right to copy the Appraisal and distribute it to other parties in the transaction for which the Appraisal has been prepared, including employees of Client, other lenders in the transaction, and the borrower, if any.

Our opinion of value reflects current conditions and the likely actions of market participants as of the date of value. It is based on the available information gathered and provided to us, as presented in this report, and does not predict future performance. Changing market or property conditions can and likely will have an effect on the subject's value. The signatures below indicate our assurance to the client that the development process and extent of analysis for this assignment adhere to the scope requirements and intended use of the appraisal. If you have any specific questions or concerns regarding the attached appraisal report, or if Colliers International Valuation & Advisory Services can be of additional assistance, please contact the individuals listed below.

Sincerely,

COLLIERS INTERNATIONAL VALUATION & ADVISORY SERVICES



Sean Heath, MAI, AI-GRS
Valuation Services Director
Certified General Real Estate Appraiser
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Vathana Duong, MAI
Managing Director
Certified General Real Estate Appraiser
State of California License #AG 038248
+1 415 288 7854
vathana.duong@colliers.com



July 26, 2018

VIA E-MAIL

South San Francisco Successor Agency
C/o Julie Barnard,
Economic and Community Development
City of South San Francisco

RE: Request to Amend Purchase and Sale Agreement Section 2.3 of the Former Ford Properties/Vacant Miller Avenue Parking Lots Purchase And Sale Agreement (Supplemental Purchase Price)

Dear Julie,

As you know, Sares-Regis Group of Northern California ("Sares Regis") is well under construction on Cadence Phase 1 (260 apartment units), which is expected to be completed and open to new residents in the first quarter of 2019. The next phase of the overall project, Cadence Phase 2 ("Project"), includes Parcel B (405 Cypress Ave) and Parcel C (216 Miller Ave) of the Former Ford Properties as contemplated under the "Revised Parcel C Entitlements Application" defined in Section 5.6 of the Purchase and Sale Agreement and Joint Escrow Instructions dated February 23, 2016 ("PSA"), as well as three privately assembled parcels between those two sites addressed as 204, 208, and 212/214 Miller Avenue.

Sares Regis closed on Parcel C in April 2017 (through its joint venture entity with the AFL-CIO Building Investment Trust (BIT), SSF Miller Cypress Phase 2, LLC), submitted its planning applications in December 12, 2017 and has been working diligently to assemble the remaining private properties necessary for the 195-unit Cadence Phase 2 Project and complete the planning application. We anticipate receiving the necessary entitlements from the City this fall, proceeding with pre-construction planning, and commencing construction upon receipt of permits.

Under Section 2.3 of the PSA, the City and Sares Regis selected an appraiser to develop a "Supplemental Purchase Price" for Parcel C, but as discussed, Section 2.3 does not provide a clear process for us, as the buyer, to provide comments on or dispute the appraisal methodology, analysis or conclusions. Although we provided a number of comments on the Appraisal, one comment clearly impacts any valuation of a stand-alone project on Parcel C - the construction cost premium associated with loss of efficiencies in scale when compared to the 195-unit assembled project which could range from at least 5% and up to 10% of construction costs. As described below, the proposed purchase price

for Parcel C is based on a more appropriate stand-alone value of Parcel C, which will facilitate the Cadence Phase 2 Project and result in a near term sales price distribution and substantial long-term property tax increase benefiting the taxing entities, among other public benefits, as described below.

1. Proposed Supplemental Purchase Price

Now that the Appraisal¹ has been completed, we request the Successor Agency amend Section 2.3 of the PSA to set a fixed Supplemental Purchase Price of \$1,118,538 to be paid in full at the issuance of the first building permit for the Cadence Phase 2 Project.

As we have discussed, the Appraisal was based on a residual value analysis based on all the Cadence Phase 2 properties, including the three properties that we have privately assembled. It has taken an extraordinary amount of effort and expense to assemble the other private properties under binding contract. A stand-alone value, reduced by the required environmental remediation costs, is a more appropriate approach to the Supplemental Purchase Price since that reflects more accurately the circumstance if the property would be sold if it were to be returned to the Successor Agency for re-sale on the open market, not taking into account the additional time delay, administrative costs and required remediation this would require - or the reduced property tax benefits long term as described in Section 2, below.

As described in Appraisal, if Parcel C were to be developed on a stand-alone basis (maximum 49 units), the difference in value compared to the assembled property would be \$1,518,000 (72 units – 49 units = 23 unit difference multiplied by the Appraisal per unit value of \$66,000). And, as noted above, there would be a construction cost premium of 5% to 10% if Parcel C were to be developed as smaller, stand-alone project due to loss of efficiencies of scale. Based on our contractor’s construction cost estimates that have been shared with City staff and confirmed by the Appraisal, the average contractor budget is \$530,769 per unit for a 195 unit project, and adjusting for the loss of efficiency of a 49 unit project (assuming lowest end 5% cost premium per unit or \$26,500/unit) for a total of \$1,300,362.² This value would then be reduced by required environmental remediation costs that relate only to Parcel C. As confirmed by the Appraisal, the required remediation costs are estimated to range between \$825,000 to \$1,250,000. After subtracting the lowest (most conservative) of this estimated range of remediation costs (\$825,000), the value of Parcel C is \$1,118,538, calculated as follows:

Appraised Value of Parcel C Assembled Property, Before Environmental Remediation, minus	\$4,761,900
Appraised Value of 23 Unit Difference in Stand Alone (49) vs Assembled Project (72) @ \$66,000 per Unit, minus	(\$1,518,000)
Construction Cost Adjustment Due to Loss of Efficiency from 195 Unit Assemblage to 49 Unit Stand Alone Project (5%), minus	(\$1,300,362)
Required Environmental Remediation Costs, equals	(\$825,000)
Total Stand Alone Value of Parcel C	\$1,118,538

¹ Colliers International, Parcel C Appraisal Report, July 16, 2018.

² \$103,500,000/195 = \$530,769 per unit x 0.05 = \$26,538 per unit x 49 = \$1,300,362 cost premium.

2. Increased Property Tax Revenue Benefiting the Taxing Entities

The proposed 195-unit Cadence Phase 2 Project will substantially increase the real estate property taxes for all of the assembled properties in the near term, not just Parcel C, over **46 times** from the 2018 tax year from \$27,709 per year to more than \$1,300,000 during the first year of operation. Over the first ten years, this will generate over \$15,000,000 of property tax revenue. By contrast, as shown on the chart below, in the current vacant state, Parcel C will generate less than one half a million dollars over 10 years, and a stand-alone (49 unit) residential project would less than four million in property tax revenue, not taking into account any discount in the time delay that would be required to market, entitle and build a stand-alone project.



3. Public Benefits of Cadence Phase 2 Project

The Cadence Phase 2 Project provides high quality and much needed housing within 1/4 mile of the relocated CalTrain station and near the Oyster Point employment hub, which helps the housing needs of South San Francisco and the Bay Area. The Cadence Phase 2 Project also provides over \$27,000,000 of community benefits to the area by implementing a Union Local Hire Program paying area standard wages, providing public art, state of the art TDM measures and green building measures, and streetscape enhancements and improved utilities that will catalyze other property redevelopment activities that will also generate benefits to the taxing entities. The creation of 195 new high-quality apartment homes within one block from the Linden Street and Grand Avenue corridor will provide the businesses additional customers and increase the quality of business, tax generated by business and promote additional development, all of which results in increases tax revenue.

We are very excited to proceed with this next phase of Cadence, and if you have any questions or need additional information, please contact me at 415-250-5515 or kbusch@srgnc.com

Sincerely

A handwritten signature in blue ink that reads "K. Busch". To the right of the signature, there is a small, stylized monogram or initials "KMB". A long horizontal line extends from the end of the signature to the right.

Ken Busch

Senior Vice President

RESOLUTION NO. _____

Resolution Approving the First Amendment to the Purchase and Sale Agreement between the South San Francisco Successor Agency and SSF Miller/Cypress Phase 2, LLC. with a Final Sale Price of \$1,118,538 for the Property Located at 216 Miller Avenue (APN 012-314-220) ("Parcel C")

WHEREAS, on June 29, 2011, the Legislature of the State of California ("State") adopted Assembly Bill x1 26 ("AB 26"), which amended provisions of the State's Community Redevelopment Law (Health and Safety Code sections 33000 et seq.) ("Dissolution Law"), pursuant to which the former Redevelopment Agency of the City of South San Francisco ("City") was dissolved on February 1, 2012; and

WHEREAS, the City elected to become the Successor Agency to the Redevelopment Agency of the City of South San Francisco ("Successor Agency"); and

WHEREAS, pursuant to Health and Safety Code Section 34191.5(c)(2)(C), property shall not be transferred to a successor agency, city, county or city and county, unless a Long Range Property Management Plan ("LRPMP") has been approved by the Oversight Board and the California Department of Finance ("DOF"); and

WHEREAS, in accordance with the Dissolution Law, the Successor Agency prepared a LRPMP, which was approved by a resolution of the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of South San Francisco ("Oversight Board") on May 21, 2015, and was approved by the DOF on October 1, 2015; and

WHEREAS, consistent with the Dissolution Law and the LRPMP, certain real properties located in the City of South San Francisco, that were previously owned by the former Redevelopment Agency, were transferred to the Successor Agency ("Agency Properties"); and

WHEREAS, on October 18, 2016, the City entered into an Amended and Restated Master Agreement for Taxing Entity Compensation ("Compensation Agreement") with the various local agencies who receive shares of property tax revenues from the former redevelopment project area ("Taxing Entities"), which provides that upon approval by the Oversight Board of the sale price, and consistent with the LRPMP, the proceeds from the sale of any of the Agency Properties will be distributed to the Taxing Entities in accordance with their proportionate contributions to the Real Property Tax Trust Fund for the former Redevelopment Agency; and

WHEREAS, consistent with the LRPMP and the Oversight Board resolution, the Successor Agency and City executed and recorded grant deeds transferring the Agency Properties to the City; and

WHEREAS, the Successor Agency was the owner of certain real property located in the City of South San Francisco ("City"), California, known as County Assessor's Parcel Number 012-317-110

("401 Airport Boulevard") and 012-317-100 ("411 Airport Boulevard") (collectively "Parcel A"), 012-317-090 ("421 Airport Boulevard"), 012-314- 100 ("405 Cypress Avenue") (collectively "Parcel B"), 012-314-220 ("216 Miller Avenue" or "Parcel C"), 012-318-080 ("315 Airport Boulevard" or "Parcel D") and collectively referred to as the "Properties"; and,

WHEREAS, on February 10, 2016, the Agency adopted Resolution number 03-2016 approving the Purchase and Sale Agreement ("PSA") with Miller Cypress SSF, LLC ("Developer") for the acquisition and development of the Properties; and

WHEREAS, the PSA was executed and became effective on February 23, 2016; and

WHEREAS, the Properties were conveyed to the Developer on December 12, 2016; and

WHEREAS, on February 10, 2016, entitlements were approved by the City Council for 260 market rate rental apartments on two assembled sites, Parcel A and D, a parking lot on Parcel B, and 12 townhomes on Parcel C; and

WHEREAS, the Developer purchased six sites, comprising Parcel A, B, C and D, from the Successor Agency/City of South San Francisco ("City") for \$4,000,000; and

WHEREAS, pursuant to the terms of the PSA, Parcel C was transferred to Developer, but was not included in the \$4,000,000 sale price; and

WHEREAS, Developer has indicated it is pursuing the Land Assembly Option, as contemplated in the PSA; and

WHEREAS, the appraisal, dated July 3, 2018, valued Parcel C at \$3,700,000 as part of a larger development; and

WHEREAS, due to increases in construction costs, the cost to assemble neighboring properties for the development, and slow growth in rental revenues Developer has informed the Successor Agency that it is unable to pay the appraised value and has requested an amendment to the PSA to set a fixed supplemental purchase price of \$1,118,538 for Parcel C; and

WHEREAS, the above-referenced amendment (the "First Amendment to the Purchase and Sale Agreement between the South San Francisco Successor Agency and SSF Miller/Cypress Phase 2, LLC") has been submitted herewith for the Board's approval; and

WHEREAS, upon issuance of a building permit for Phase 2 of the Cadence project, the taxing entities will receive sale proceeds consistent with the Compensation Agreement; and

WHEREAS, on July 1, 2018, the San Mateo Countywide Oversight Board ("Countywide Oversight Board") was established, in accordance with Health and Safety Code § 34179(j), as the official body providing oversight for the Successor Agency; and

WHEREAS, pursuant to the terms of the Compensation Agreement, the Countywide Oversight Board must approve the final sale price as proposed in the First Amendment to the Purchase and Sale Agreement between the South San Francisco Successor Agency and SSF Miller/Cypress Phase 2, LLC.

NOW, THEREFORE, BE IT RESOLVED that the Countywide Oversight Board does hereby resolve as follows:

1. The foregoing recitals are true and correct and made a part of this Resolution.
2. The proposed actions in this Resolution are consistent with the Long Range Property Management Plan.
3. The final sale price of \$1,118,538, as set forth in the First Amendment to the Purchase and Sale Agreement between the South San Francisco Successor Agency and SSF Miller/Cypress Phase 2, LLC, is hereby approved.
4. The Executive Director, or his designee, is authorized to execute the First Amendment to the Purchase and Sale Agreement, a draft of which is attached hereto as Exhibit A and incorporated herein, subject to minor amendments that do not materially increase the Agency's obligations.
5. The Executive Director, or his designee, is authorized take any and all other actions necessary to implement this intent of this Resolution, subject to approval as to form by Agency Counsel.
6. Finds that the adoption of this Resolution itself does not commit the Successor Agency or Oversight Board to any action that may have a significant effect on the environment and thus does not constitute a "project" subject to the requirements of the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines section 15061(b)(3).

* * * * *

Exhibit A: First Amendment to the Purchase and Sale Agreement with Miller Cypress LLC.

**FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

This First Amendment to the Purchase and Sale Agreement and Joint Escrow Instructions (this “**First Amendment**”) is made effective as of _____, 2018 (“Effective Date”) by and between the South San Francisco Successor Agency, a public agency (“**Seller**” or “**Agency**”) and SSF Miller Cypress Phase 2, LLC (“**Buyer**”), successor-in-interest to Miller Cypress SSF, LLC, which is the date this Agreement was approved by the South San Francisco Oversight Board (“**Oversight Board**”). Seller and Buyer are each individually referred to herein as a “**Party**” and, collectively, as the “**Parties.**”

RECITALS

A. WHEREAS, Seller and Miller Cypress SSF, LLC entered into that certain Purchase and Sale Agreement dated August 23, 2016 (the “**Agreement**”) with respect to that certain real property located at known as County Assessor’s Parcel Numbers 012-317-110 (401 Airport Boulevard) (“**Parcel A.1**”), 012-317-100 (411 Airport Boulevard) (“**Parcel A.2**”), 012-317-090 (421 Airport Boulevard) (“**Parcel A.3**”), 012-318-030 (315 Airport Boulevard) (“**Parcel D**”), 012-314-100 (405 Cypress Avenue) (“**Parcel B**”), and 012-314-220 (216 Miller Avenue parking lot) (“**Parcel C**”). Parcel A.1, Parcel A.2 and Parcel A.3 are collectively, “**Parcel A.**” Parcel A, Parcel B, Parcel C, and Parcel D are collectively the “**Property.**”

B. WHEREAS, the Agreement was approved by the Oversight Board by Resolution 4-2016 which also authorized the transfer of the property to the City of South San Francisco (“**City**”) for subsequent conveyance to Miller Cypress SSF, LLC pursuant to the terms of the Agreement.

C. WHEREAS, Miller Cypress SSF, LLC subsequently assigned its interest and obligations under the Agreement and the related development agreement to Miller Cypress PRI, LLC.

D. WHEREAS, at a joint meeting of the City Council and the Agency held on November 30, 2016, the City Council and the Agency approved, by motion, a Memorandum of Understanding between the City and the Agency whereby the Agency agreed to convey the Property to the City as part of the Close of Escrow as set forth in Section 5 of the Agreement and the City agreed that it would subsequently convey the Property to SSF Miller Cypress PRI, LLC pursuant to the terms and at the times set forth in the Agreement as part of the Close of Escrow.

E. WHEREAS, the Agency and City entered into a grant deed to convey the Property to the City as part of the Close of Escrow as set forth in Section 5 of the Agreement solely for the purpose of allowing the City to thereafter convey the applicable Property to SSF Miller Cypress PRI, LLC pursuant to the terms and at the times set forth in the Agreement.

F. WHEREAS, SSF Miller Cypress PRI LLC changed its name to BIT SSF Miller Cypress, LLC.

G. WHEREAS, BIT SSF Miller Cypress, LLC subsequently assigned its interest and obligations under the Agreement and the related development agreement to Buyer for the portion of the Property known as Parcel C (also known as 216 Miller Avenue).

H. WHEREAS, pursuant to the grant deed between the Successor Agency and the City, the Parties agree that the City conveyed the property in accordance with the above-described Memorandum of Understanding and did not assume any obligations or liabilities of the Agency as set forth in the Agreement and that such obligations and liabilities remain the obligations and liabilities of the Agency.

I. WHEREAS, Buyer has notified the City and the Agency of its intent to pursue the Land Assembly Option, as defined in Section 5.6 of the Agreement.

J. Seller and Buyer now desire to amend certain provisions of the Agreement, as set forth herein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and incorporating all of the above as though set forth in full herein and in consideration of all the recitals, conditions and agreements contained herein, **the parties agree to amend the Agreement as follows:**

1. Section 2.3 of the Agreement is hereby deleted in its entirety and replaced with the following:

2.3 Supplemental Purchase Price for Parcel C. If the Buyer constructs Parcel C (whether as (i) a 12-unit town home development consistent with the Project Approvals (“**12 Unit Project**”) or (ii) as part of a revised development under the potential Land Assembly Option defined in Section 5.6 (“**Cadence Phase 2 Project**”)), Buyer shall pay Seller a fixed Supplemental Purchase Price of One Million One Hundred Eighteen Thousand Five Hundred Thirty-Eight Dollars (\$1,118,538) (the “**Supplemental Purchase Price**”), which amount shall be paid in full at the issuance of the first building permit for the Cadence Phase 2 Project. ~~the additional land value payable to the Seller for Parcel C shall be One Million Dollars will be determined either by (X) a residual land value appraisal for Parcel C or, at Seller’s discretion, (Y) on a comparison sales based appraisal both of which will be prepared by a certified appraiser mutually selected by the Seller and Buyer within sixty (60) days of the date Buyer provides written notice of either its intent to pursue the Revised Parcel C Entitlements its intent to abandon the Revised Parcel C Entitlements and proceed with construction of the 12 Unit Project (“**Supplemental Purchase Price**”).~~ In the event that the parties

~~do not agree on an appraiser, the Seller shall identify three certified appraisers with experience appraising properties in San Mateo County and each Party shall strike one appraiser and the remaining appraiser shall be retained to conduct the appraisal. The costs of the appraisal shall be shared equally between the Seller and Buyer. Buyer shall pay Seller the Supplemental Purchase Price prior to the earlier of ninety (90) days after completion of the appraisal or issuance of the first building permit by the City for Parcel C. This provision shall not apply if Buyer re-conveys Parcel C to Seller pursuant to Section 5.6(e)(v).~~

2. **General Provisions.** Each party hereto has received independent legal advice from its attorneys with respect to the advisability of executing this First Amendment and the meaning of the provisions hereof. The provisions of this First Amendment shall be construed as to the fair meaning and not for or against any party based upon any attribution of such party as the sole source of the language in question. Except as expressly amended pursuant to this First Amendment, the terms and provisions of the Agreement shall remain unmodified and shall continue in full force and effect, and Buyer and Seller hereby ratify and affirm all their respective rights and obligations under the Agreement. Any capitalized terms not defined herein shall have the meaning ascribed to them in the Agreement. In the event of any conflict between this First Amendment and the Agreement, this First Amendment shall govern. The terms and provisions of this First Amendment, together with the Agreement, shall constitute all of the terms and provisions to which Buyer and Seller have agreed with respect to the transaction governed hereby, and there are no other terms and provisions, oral or written, that apply to the Agreement and/or the Property other than as set forth in the Agreement as modified by this First Amendment. The provisions of this First Amendment shall apply to, be binding upon, and inure to the benefit of the parties hereto and to their respective successors and assigns. This First Amendment may be executed in multiple counterparts, all of which shall constitute an original, and all of which together shall constitute a single instrument. Counterparts of this First Amendment executed and delivered by facsimile, email or other means of electronic delivery shall constitute originals for all purposes.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the Effective Date.

SIGNATURES ON FOLLOWING PAGES.

SELLER

SOUTH SAN FRANCISCO SUCCESSOR AGENCY

By: _____
Mike Futrell
Executive Director

ATTEST:

By: _____
Agency Clerk

APPROVED AS TO FORM:

By: _____
Jason Rosenberg
Agency Counsel

BUYER:

SSF MILLER CYPRESS PHASE 2, LLC
a Delaware limited liability company

By: SRGNC MF Miller Cypress Phase 2, LLC,
a Delaware limited liability company
Sole Member

By: SRGNC MF, LLC
a Delaware limited liability company
Sole Member

By: _____
Mark R. Kroll
President

1st Amendment to Purchase & Sale Agreement with *SSF Miller/Cypress Phase 2, LLC*



*Presented to: San Mateo County Oversight Board
October 16, 2018*



**CITY OF SOUTH SAN FRANCISCO
ECONOMIC & COMMUNITY DEVELOPMENT**

Site Context





Site History

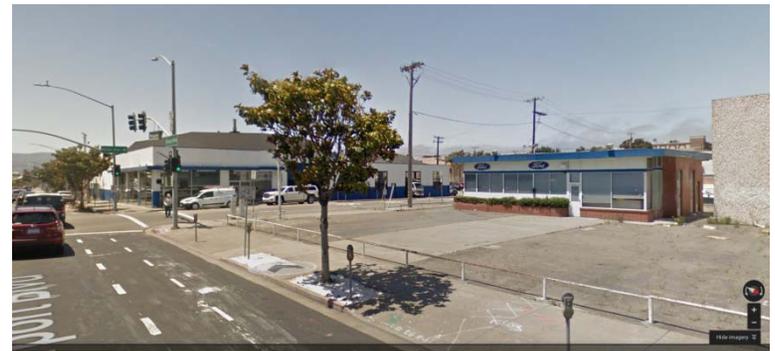
2009 Auto dealership closes – site left vacant & blighted

2011 Agency purchases site

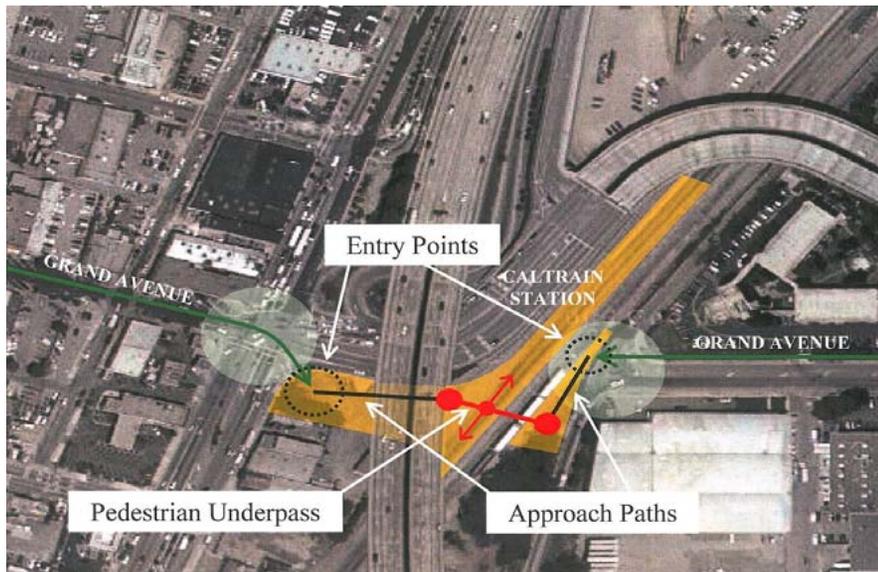
2013 Developer selection process

2014 Agency, OB & DOF approve negotiating agreement with Sares Regis

2016 Agency & OB approve purchase & sale agreement



Site's Role in Downtown Strategy



Purchase & Sale Agreement

- Approved by Oversight Board in February 2016
- At time of PSA, land assembly had not been completed
- Necessary to split project into:
 - Phase 1 (parcels A, B & D)
 - Possible Phase 2 (Parcel C) in the future



Phase 1 Underway

- 260 rental units
- Developer obtained permits & began construction in 2017
- Construction issues (remediation, etc.)
- On schedule to complete in 2019
- \$1.4 million/year in property taxes



Phase 2 Site



PSA contemplated 2 options for Phase 2

**Option 1: Standalone
(12 Townhomes)**



MILLER ELEVATION

**Option 2: Part of Land
Assembly Project**

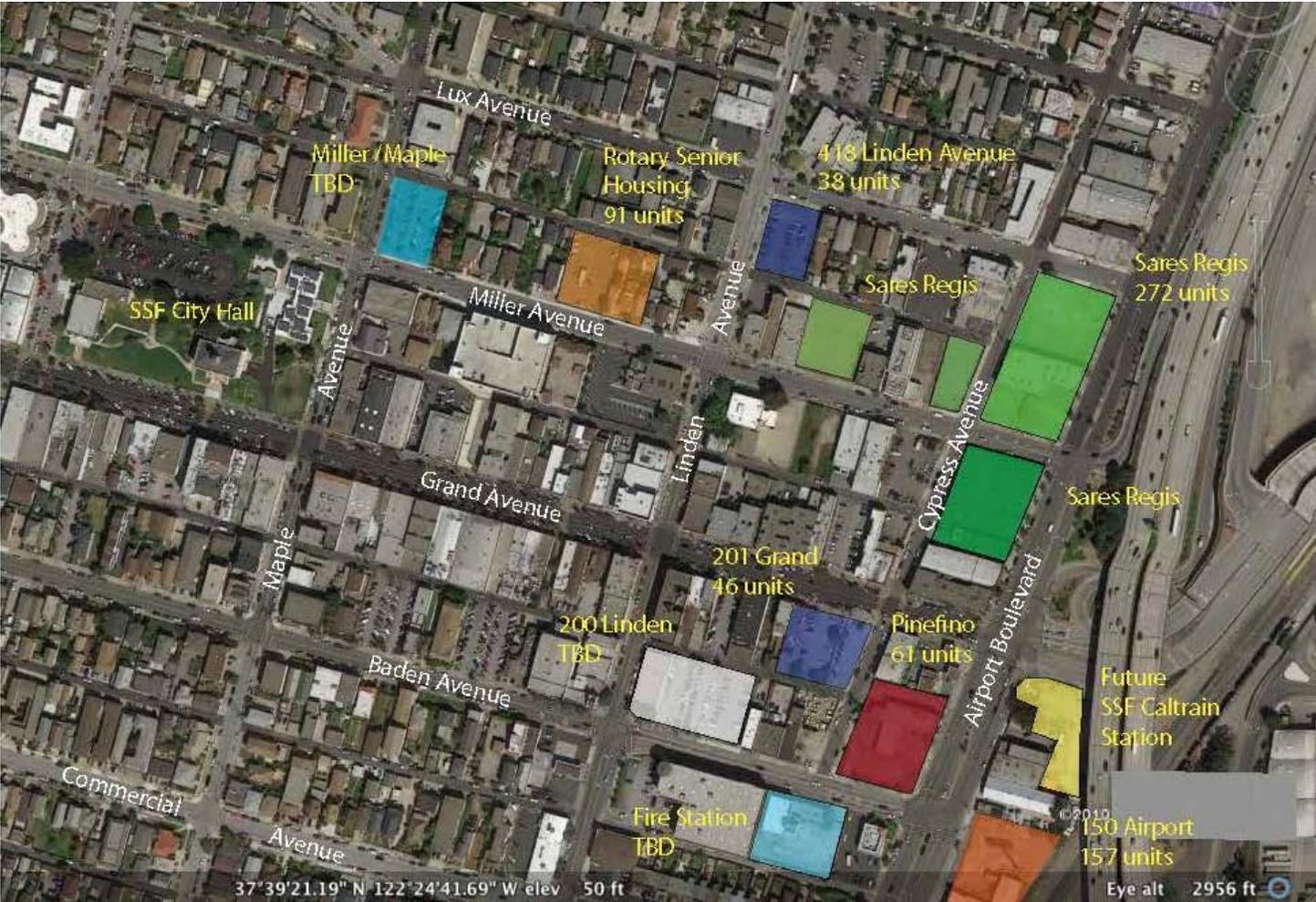


Progress on Phase 2 (land assembly) Project

- Options secured for the 3 “hold out” parcels
- Designs complete
- Planning Commission approved entitlements (Aug. 2018)
- 1st Amendment to PSA approved (Aug. 2018)
- Ready for final City approval



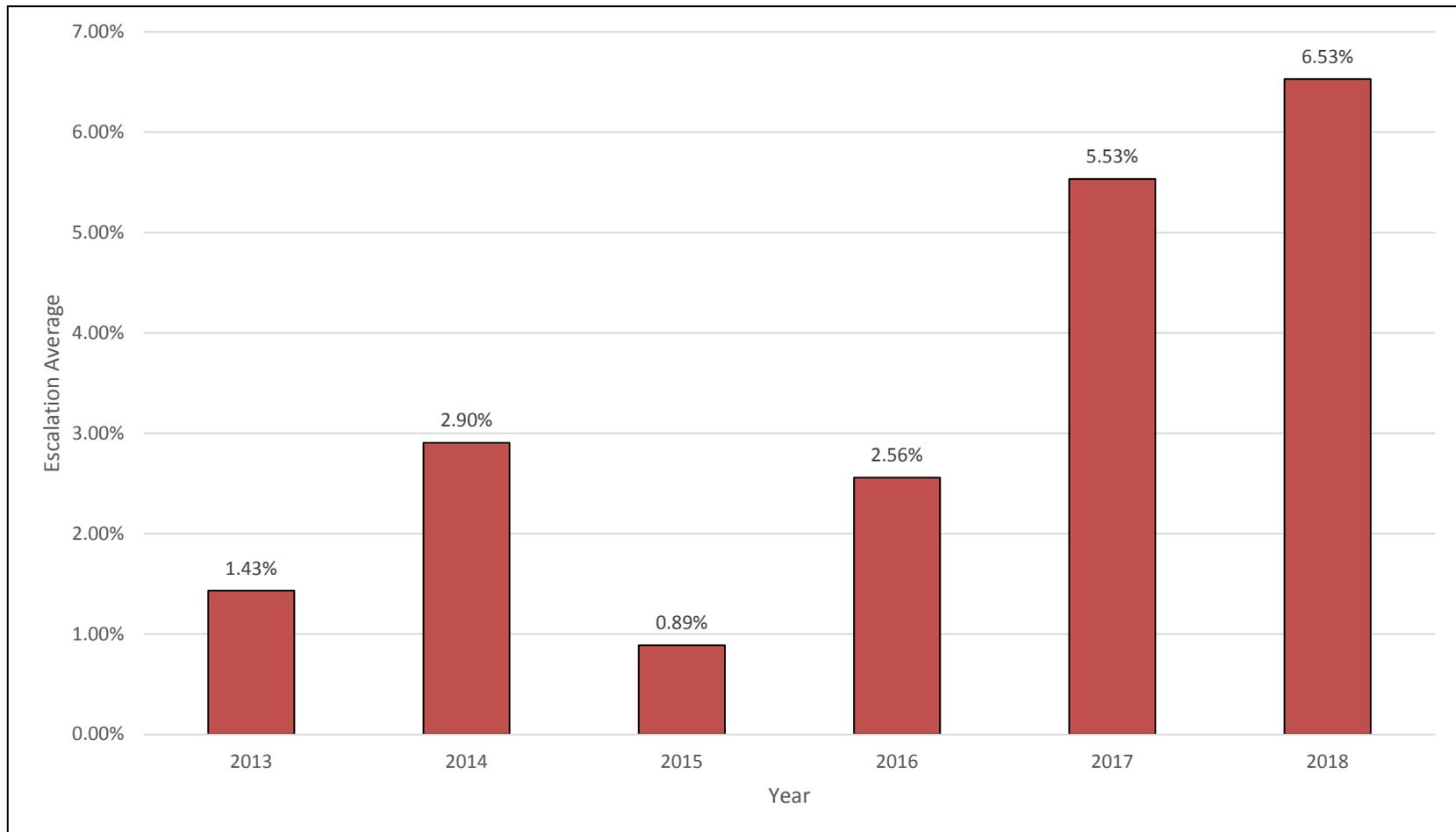
Phase 1 & 2 has helped catalyze \$526M (957 units) of Downtown Housing



Parcel C appraisal

- Per the PSA, Developer and City/Agency must agree on appraisal to value Parcel C
- Appraisal conducted by Colliers International
- Appraisal used a reconciled sales comparison and residual land value (RLV) approach:
 - Assumes 195-unit development
 - Deducted remediation costs
 - \$3.7 million appraised value

Construction Cost Escalation



Sources: Turner & Townsend (2018), Rider Levett Bucknall (2018), U.C. Berkeley Turner Center for Housing Innovation

Land Price Negotiations

- Developer disputed the appraisal (due to higher land assembly costs & other factors)
- Developer offered \$0 price (negative land value)
- Staff used highest & best use value (\$3.7 million) to negotiate higher offer from Sares Regis
- Developer responded with “best & final” offer of \$1,118,538

Appraisal of Parcel C as Standalone

- Preliminary values range from **\$1.6 to \$2.0 MM**
- Value premise/methodology is similar to the previous appraisal but the major difference is that we are treating the site as a standalone development site with no consideration for assemblage
- Although the subject site is currently entitled for 12 townhomes, that is not considered to be the highest and best use of the site

Issues for OB Consideration

- 1) Highest achievable sale price?
- 2) Does it set the right precedent?
- 3) Was price negotiated?
- 4) Minimize public's risk?
- 5) Maximize property tax revenue?
- 6) Supports LRPMP goals & requirements?
- 7) Is it a good deal for the public?

Analysis of property tax revenue for the Phase 2 Block

	Current Tax Revenue	Parcel C (straight sale) + other sites on the block	Only Parcel C Developed Value: \$23m + other sites on the block	Assembled Project Value: \$91m
TOTAL	\$34,487	\$56,608	\$267,540	\$909,462

Advantages of approving \$1.1M Offer



- \$1.1M one-time revenue
- Achieves \$90M project
- \$900k/year property tax
- Developer accepts remediation risks
- Avoids delays, maintains momentum
- Catalyst for investment
- Developer Fees

Alternative: Reject \$1.1M Offer

- Parcel C would be put up for sale
- Sale in 2019, Design/Permits in 2020, Built 2021-2023
- Only Parcel C developed, all other parcels remain as-is
- 49 units (\$23M project = \$228k/year tax revenue)



Impacts & Risks

- 2-3 year delay
- Loss of design & entitlement work
- Risk factors:
 - ✓ Construction cost escalation
 - ✓ New fees & requirements (e.g., 15% inclusionary housing)
 - ✓ Remediation risks
- Conclusion: Sale process would be unlikely to yield higher price



Recommendation & Next steps

- Staff recommends the Oversight Board approve (by resolution) the final sale price of \$1,118,538 for Parcel C
- Subject to OB approval of price, Phase 2 can proceed immediately to City for final project approval.
- Under the projected timeline, construction would begin in Q1 of 2019

Thank you...
SSF Economic & Community Development



Analysis of property tax revenue

	Assembled Project Value: \$91m*		Separate Parcels Value: \$23m**	
	Annual	10 year projection	Annual	10 year projection
SSF USD (43.9%)	\$399,254	\$3,992,540	\$102,332	\$1,023,319
SMC (25.7%)	\$233,732	\$2,337,318	\$59,907	\$599,073
SSF (16.7%)	\$151,880	\$1,518,802	\$38,928	\$389,281
SMC CCD (7.3%)	\$66,391	\$663,908	\$17,016	\$170,165
Other	\$58,206	\$582,056	\$10,348	\$103,479
TOTAL	\$909,462	\$9,094,625	\$228,532	\$2,285,316

* Assumes 195 units.

** Assumes only Parcel C developed (49 units)