SPECIAL MEETING

OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE CITY OF SOUTH SAN FRANCISCO REDEVELOPMENT AGENCY

P.O. Box 711 (City Hall, 400 Grand Avenue)
South San Francisco, California 94083

CITY HALL
LARGE CONFERENCE ROOM, TOP FLOOR
400 GRAND AVENUE

TUESDAY, FEBRUARY 23, 2016
2:30 P.M.

NOTICE IS HEREBY GIVEN, pursuant to Section 54956 of the Government Code of the State of California, the Oversight Board for the Successor Agency to the City of South San Francisco Redevelopment Agency will hold a Special Meeting on Tuesday, the 23rd day of February, 2016, at 2:30 p.m., in the Large Conference Room, Top Floor at City Hall, 400 Grand Avenue, South San Francisco, California.

In accordance with California Government Code Section 54957.5, any writing or document that is a public record, relates to an open session agenda item, and is distributed less than 72 hours prior to a regular meeting will be made available for public inspection in the City Clerk's Office located at City Hall. If, however, the document or writing is not distributed until the regular meeting to which it relates, then the document or writing will be made available to the public at the location of the meeting, as listed on this agenda. The address of City Hall is 400 Grand Avenue, South San Francisco, California 94080.

In compliance with Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the South San Francisco City Clerk's Office at (650) 877-8518. Notification 48 hours in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Chairperson:	**Selected by:**
Neil Cullen	Largest Special District of the type in H&R Code Section 34188

Vice Chair:	**Selected by:**
Michael Krause Assistant Superintendent, Business Services South San Francisco Unified School District Alternate: Vacant Superintendent, South San Francisco Unified School District	San Mateo County Superintendent of Schools

Board Members:	**Selected by:**
Mark Addiego Councilmember, City of South San Francisco	Mayor of the City of South San Francisco
Barbara Christensen Director of Community/Government Relations, San Mateo County Community College District	Chancellor of California Community College
Reyna Farrales Deputy County Manager, San Mateo County	San Mateo County Board of Supervisors
Paul Scannell	San Mateo County Board of Supervisors (Public Member)
Billy Gross Senior Planner, City of South San Francisco	Mayor of the City of South San Francisco

Counsel

Craig Labadie

Advisory:

Marian Lee –Assistant City Manager, City of South San Francisco
Richard Lee – Finance Director, City of South San Francisco
Alex Greenwood – Director of Economic and Community Development, City of South San Francisco
Steve Mattas – Assistant City Attorney, City of South San Francisco
Krista Martinelli – City Clerk, City of South San Francisco
Armando Sanchez – Redevelopment Consultant, City of South San Francisco

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

AGENDA REVIEW

COMMUNICATIONS FROM STAFF

PUBLIC COMMENTS

Comments from members of the public on items not on this meeting agenda. The Chair may set time limit for speakers. Since these topics are non-agenda items, the Board may briefly respond to statements made or questions posed as allowed by the Brown Act (Government Code Section 54954.2). However, the Board may refer items to staff for attention, or have a matter placed on a future agenda for a more comprehensive action report.

PUBLIC HEARING

1. Resolution approving the form of a master agreement for taxing entity compensation for distribution of the net proceeds from the sale of properties conveyed to the City of South San Francisco consistent with the Long Range Property Management Plan between the City of South San Francisco and the County of San Mateo, South San Francisco Unified School District, San Mateo County Community College District, San Mateo County Flood Control District Colma Creek Flood Control Zone, Willow Gardens Parks and Parkways Maintenance District, San Mateo County Resource Conservation District, Bay Area Air Quality Management District, and San Mateo County Harbor District. (Ron Gerber, Housing Manager)

2. Resolution approving a Purchase and Sale Agreement between the Successor Agency to the Redevelopment Agency for the City of South San Francisco and Miller Cypress SSF, LLC for the acquisition of Successor Agency owned parcels at 315 Airport Blvd., 401-421 Airport Blvd., 405 Cypress Ave., and 216 Miller Ave., for the construction of a new multi-family residential development (the former Ford Properties). (Ron Gerber, Housing Manager).

FUTURE AGENDA ITEMS

ADJOURNMENT

Clerk, Oversight Board

Redevelopment Successor Agency Oversight Board

Staff Report

DATE: February 23, 2016

TO: South San Francisco Oversight Board

FROM: Mike Futrell, Agency Executive Director
Alex Greenwood, Director of Economic and Community Development

SUBJECT: A RESOLUTION APPROVING THE FORM OF A MASTER AGREEMENT FOR TAXING ENTITY COMPENSATION FOR DISTRIBUTION OF THE NET PROCEEDS FROM THE SALE OF PROPERTIES CONVEYED TO THE CITY OF SOUTH SAN FRANCISCO CONSISTENT WITH THE LONG RANGE PROPERTY MANAGEMENT PLAN BETWEEN THE CITY OF SOUTH SAN FRANCISCO AND THE COUNTY OF SAN MATEO, SOUTH SAN FRANCISCO UNIFIED SCHOOL DISTRICT, SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT, SAN MATEO COUNTY FLOOD CONTROL DISTRICT COLMA CREEK FLOOD CONTROL ZONE, WILLOW GARDENS PARKS AND PARKWAYS MAINTENANCE DISTRICT, SAN MATEO COUNTY RESOURCE CONSERVATION DISTRICT, BAY AREA AIR QUALITY MANAGEMENT DISTRICT, AND SAN MATEO COUNTY HARBOR DISTRICT

RECOMMENDATION

That the Oversight Board adopt resolution approving the form of a master agreement for Taxing Entity compensation for distribution of the net proceeds from the sale of properties conveyed to the City of South San Francisco consistent with the Long Range Property Management Plan between the City of South San Francisco and the County of San Mateo, South San Francisco Unified School District, San Mateo County Community College District, San Mateo County Flood Control District Colma Creek Flood Control Zone, Willow Gardens Parks and Parkways Maintenance District, San Mateo County Resource Conservation District, Bay Area Air Quality Management District, and San Mateo County Harbor District.

BACKGROUND

Pursuant to ABx1 26, effective February 1, 2012, as amended by AB 1484 in June 2012, (the "Dissolution Act"), the Redevelopment Agency of the City of South San Francisco ("Redevelopment Agency") was dissolved and pursuant to Health and Safety Code Section

34173, the City of South San Francisco elected to serve as the successor agency to the dissolved Redevelopment Agency (the "Successor Agency"). Pursuant to the Dissolution Act, the real property of the Redevelopment Agency was transferred to the ownership and control of the Successor Agency on September 10, 2013.

The Successor Agency then prepared a Long Range Property Management Plan dated November 19, 2013, and amended it on May 21, 2015 (as so amended, the "LRPMP"). The Oversight Board approved the LRPMP on May 21, 2015. It was subsequently submitted to the California Department of Finance (DOF) and approved by the DOF on October 1, 2015.

The approved LRPMP provides for 19 properties to be conveyed by the Successor Agency to the City for redevelopment activities consistent with the Redevelopment Plan and the LRPMP. Eleven (11) of these properties, as described in Exhibit 1 (the "Properties") will be conveyed by the Successor Agency to the City for redevelopment activities consistent with the Redevelopment Plan and the LRPMP. Not include in Exhibit 1 are eight (8) properties slated for redevelopment activities that are currently under contract with private developers through Oversight Board-approved Disposition and Development Agreements (DDA), Purchase and Sale Agreements (PSA) or Exclusive Negotiating Rights Agreements (ENRA). The Oversight Board has or will consider final disposition of properties under DDAs, PSAs or ENRAs. The net proceeds from the sale of these eight properties will be remitted to the County Controller pursuant to provisions in the Oversight Board approved PSAs. These eight properties will be transferred from the Successor Agency to third-party purchasers pursuant to Oversight Board-approved agreements. Compensation for the 11 Properties transferred to the City will be paid to the taxing entities (the "Taxing Entities") in connection with the foregoing transfers as described in the Master Agreement for Taxing Entity Compensation and the applicable purchase and sale agreements.

The LRPMP also provides that nine (9) parcels formerly owned by the Redevelopment Agency will be transferred by the Successor Agency to the City for continued governmental use. No compensation will be paid to the Taxing Entities in connection with these properties. However, with respect to the public use properties at 306 Spruce Avenue, 468 Miller Avenue, and 356 Grand Avenue, the conveyance grant deeds will stipulate that in the event the grantee seeks to use the property, or any portion of the property, for non-governmental or public use, the grantee must enter into a compensation agreement with the San Mateo County Auditor-Controller, providing that all net revenue from such non-governmental/public use shall be distributed to the Taxing Entities in the same manner as property tax.

Master Agreement for Taxing Entity Compensation

The approved LRPMP requires that an approved compensation agreement (the "Tax-Sharing Compensation Agreement") be executed by the affected Taxing Entities and the City to allow for the transfer of the Properties to the City for ultimate disposition consistent with the Redevelopment Plan and the LRPMP. The Tax-Sharing Compensation Agreement sets forth how proceeds from the sale of the properties will be distributed to the Taxing Entities when the City

disposes of each property to a private developer for redevelopment in accordance with the Redevelopment Plan and the LRPMP. The net proceeds received by the City from the ultimate sale of the Properties to private developers will be remitted to the San Mateo County Auditor-Controller who will then distribute the net proceeds to the Taxing Entities in proportion to their normal property tax shares. For illustrative purposes, the current distribution pro-rata proportions are listed on the table below.

Tax Entity/Fund	% Total
County of San Mateo	25.77%
City of South San Francisco	16.73%
South San Francisco Unified School District	43.91%
San Mateo County Community College District	7.38%
San Mateo County Flood Control District Colma Creek Flood Control Zone and Subzones	1.64%
Willow Gardens Parks and Parkways Maintenance District	0.12%
Bay Area Air Quality Management District	0.23%
San Mateo County Harbor District	0.38%
San Mateo County Resource Conservation District	0.00%
San Mateo County Education Tax	3.84%

Property Transfer

In addition to providing for the distribution of net proceeds, the attached resolution authorizes the Successor Agency, upon full execution of the Tax-Sharing Compensation Agreement by the Taxing Entities and the City to convey the Properties to the City by grant deeds and to take any action and execute any documents as may be necessary to implement the conveyance of the Properties to the City, in accordance with the LRPMP, and pursuant to Health and Safety Code section 34181, subdivision (a).

CONCLUSION

That the Oversight Board adopt resolution approving the form of a master agreement for Taxing Entity compensation for distribution of the net proceeds from the sale of properties conveyed to the City of South San Francisco consistent with the Long Range Property Management Plan between the City of South San Francisco and the County of San Mateo, South San Francisco Unified School District, San Mateo County Community College District, San Mateo County Flood Control District Colma Creek Flood Control Zone, Willow Gardens Parks and Parkways Maintenance District, San Mateo County Resource Conservation District, Bay Area Air Quality Management District, and San Mateo County Harbor District.

The attached resolution authorizes the form of the Tax-Sharing Compensation Agreement for execution by the Taxing Entities, with only such non-substantive modifications as may be approved by the Agency Counsel.

By: _____
Alex Greenwood
Director of Economic and
Community Development

Approved: _____
Mike Futrell
Agency Executive Director

Attachments: Resolution
Master Agreement for Taxing Entity Compensation
Exhibit 1 – Properties Subject to Approved Redevelopment Project Plan

2604039.1

RESOLUTION NO. _____

OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SOUTH SAN FRANCISCO, STATE OF CALIFORNIA

RESOLUTION APPROVING THE FORM OF A MASTER AGREEMENT FOR TAXING ENTITY COMPENSATION FOR DISTRIBUTION OF THE NET PROCEEDS FROM THE SALE OF PROPERTIES CONVEYED TO THE CITY OF SOUTH SAN FRANCISCO CONSISTENT WITH THE LONG RANGE PROPERTY MANAGEMENT PLAN BETWEEN THE CITY OF SOUTH SAN FRANCISCO AND THE COUNTY OF SAN MATEO, SOUTH SAN FRANCISCO UNIFIED SCHOOL DISTRICT, SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT, SAN MATEO COUNTY FLOOD CONTROL DISTRICT COLMA CREEK FLOOD CONTROL ZONE, WILLOW GARDENS PARKS AND PARKWAYS MAINTENANCE DISTRICT, SAN MATEO COUNTY RESOURCE CONSERVATION DISTRICT, BAY AREA AIR QUALITY MANAGEMENT DISTRICT, AND SAN MATEO COUNTY HARBOR DISTRICT

WHEREAS, the Successor Agency to the Redevelopment Agency of the City of South San Francisco ("Successor Agency") is the owner of certain real property ("Agency Properties") located in the City of South San Francisco ("City"); and,

WHEREAS, on June 29, 2011, the Legislature of the State of California (the "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.); and,

WHEREAS, pursuant to AB 26 and the California Supreme Court decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, which upheld AB 26 (together with AB 1484, the "Dissolution Law"), the former Redevelopment Agency of the City of South San Francisco was dissolved on February 1, 2012; and,

WHEREAS, pursuant to the Dissolution Law, the Agency Properties were transferred to the Successor Agency; and,

WHEREAS, pursuant to the Dissolution Law, the Successor Agency prepared a Long Range Property Management Plan ("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 California Department of Finance ("DOF") on October 1, 2015; and,

WHEREAS, the approved LRPMP identifies nineteen (19) properties to be transferred from the Successor Agency for disposition and development consistent with the LRPMP ; and,

WHEREAS, eleven (11) of the nineteen (19) properties are to be conveyed by the Successor Agency to the City for the redevelopment activities consistent with the Redevelopment Plan and the LRPMP and the remaining eight (8) of the nineteen (19) properties are slated for redevelopment activities that are currently under contract with private developers through Oversight Board-approved Disposition and Development Agreements (DDA), Purchase and Sale Agreements (PSA) or Exclusive Negotiating Rights Agreements (ENRA) and will be conveyed by the Successor Agency to third-party purchasers pursuant to the Oversight Board-approved agreements; and ,

WHEREAS, the LRPMP also identifies nine (9) parcels to be transferred from the Successor Agency to the City for governmental uses; and,

WHEREAS, pursuant to the LRPMP, the Successor Agency's transfer of real property assets to the City for future development is subject to the City entering into an agreement with the relevant taxing entities ("Taxing Entities") that share in the property tax increment ("Tax Increment") for property located within the City of South San Francisco, South San Francisco Redevelopment Project area (the "Project Area") formerly administered by the Redevelopment Agency, for the distribution of net funds received, if any, from the sale of Agency Properties. Such agreement is entitled "Master Agreement for Taxing Entity Compensation" ("Tax-Sharing Compensation Agreement") and is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, Oversight Board-approved Purchase and Sale Agreements (PSA) for the conveyance of the nine (9) properties by the Successor Agency to third-party purchasers will provide for the distribution to the Taxing Entities of the net funds received, if any, from the sale of the nine (9) properties.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board for the Successor Agency to the Redevelopment Agency for the City of South San Francisco does hereby take the following actions:

(1) Finds and determines that the recitals are true and correct; and

(2) Approves the form of the Tax-Sharing Compensation Agreement in substantially the same form attached hereto as Exhibit A.

(3) Upon full execution of the Tax-Sharing Compensation Agreement by the Taxing Entities and the City, authorizes the Successor Agency to convey the Properties to the City by grant deeds and to take any action and execute any documents as may be necessary to implement the conveyance of the Properties to the City, in accordance with the LRPMP, and pursuant to Health and Safety Code section 34181, subdivision (a).

* * * * *

I hereby certify that the foregoing Resolution was regularly introduced and adopted by the Oversight Board for the Successor Agency to the Redevelopment Agency for the City of South San Francisco at a special meeting held on the 23rd day of February, 2016 by the following vote:

AYES: _____

_____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST: _____
Clerk

EXHIBIT A
Tax-Sharing Compensation Agreement

2603571.1

MASTER AGREEMENT
FOR TAXING ENTITY COMPENSATION

This MASTER AGREEMENT FOR TAXING ENTITY COMPENSATION (this "**Agreement**"), dated as of _____, 2016, is entered into by and among the City of South San Francisco, a municipal corporation (the "**City**"), and the following public agencies (each, a "**Taxing Entity**," collectively referred to herein as the "**Taxing Entities**," and together with the City the "**Parties**"):

County of San Mateo, a political subdivision of the State of California (**"County"**)
San Mateo County Community College District
San Mateo County Flood Control District Colma Creek Flood Control Zone and Subzones
San Mateo County Harbor District
San Mateo County Resource Conservation District
County Education Tax
South San Francisco Unified School District
Willow Gardens Parks and Parkways Maintenance District
Bay Area Air Quality Management District

RECITALS

A. The Successor Agency to the Redevelopment Agency of the City of South San Francisco ("Successor Agency") is the owner of certain real property ("Agency Properties") located in the City of South San Francisco ("City"); and,

B. On June 29, 2011, the Legislature of the State of California (the "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.); and,

C. Pursuant to AB 26 and the California Supreme Court decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, which upheld AB 26 (together with AB 1484, the "Dissolution Law"), the former Redevelopment Agency of the City of South San Francisco was dissolved on February 1, 2012; and,

D. Pursuant to the Dissolution Law, the Agency Properties were transferred to the Successor Agency; and,

E. Pursuant to the Dissolution Law, the Successor Agency prepared a Long Range Property Management Plan ("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 California Department of Finance ("DOF") on October 1, 2015; and,

F. The approved LRPMP identifies nineteen (19) properties to be transferred from the Successor Agency for disposition and development consistent with the LRPMP and

G. Eleven (11) of the nineteen (19) properties are to be conveyed by the Successor Agency to the City for the redevelopment activities consistent with the Redevelopment Plan and the LRPMP and the remaining eight (8).of the nineteen (19) properties are slated for redevelopment activities that are currently under contract with private developers through Oversight Board-approved Disposition and Development Agreements (DDA), Purchase and Sale Agreements (PSA) or Exclusive Negotiating Rights Agreements (ENRA) and will be conveyed by the Successor Agency to third-party purchasers pursuant to the Oversight Board-approved agreements; and ,

H. The LRPMP also identifies nine (9) parcels to be transferred from the Successor Agency to the City for governmental uses; and,

I. Pursuant to the LRPMP, the Successor Agency's transfer of real property assets to the City for future development is subject to entering into this Agreement with the Taxing Entities for the distribution of funds received, if any, from the sale of such properties; and,

J. The Oversight Board-approved Purchase and Sale Agreements (PSA) for the conveyance of the nine (9) properties by the Successor Agency to third-party purchasers will provide for the distribution to the Taxing Entities of the net funds received, if any, from the sale of the nine (9) properties

NOW THEREFORE, the Parties agree as follows:

1. Purpose. This Agreement is executed with reference to the facts set forth in the foregoing Recitals which are incorporated into this Agreement by this reference. The purpose of this Agreement is to address the allocation of certain prospective revenues among the Taxing Entities that share in the property tax increment ("**Tax Increment**") for property located within the City of South San Francisco, South San Francisco Redevelopment Project (the "**Project Area**") formerly administered by the Redevelopment Agency, a list of all of the Taxing Entities and the applicable tax rate apportioned to each individual entity is contained in Exhibit B, attached hereto.

1. Special Districts and Funds. The governing boards of certain of the Taxing Entities administer certain special districts and funds that receive allocations of property taxes from the Tax Increment, and are authorized to execute this Agreement on behalf of such special districts and funds as described below.

2. County Funds. The County administers the following special districts and funds, and in addition to entering into this Agreement for the County itself, the County is authorized to, and has entered into and executed this Agreement on behalf of the following:

County of San Mateo
San Mateo County Flood Control District Colma Creek Flood Control Zone and Subzones
San Mateo County Harbor District

San Mateo County Resource Conservation District
County Education Tax

3. Parcels to be Conveyed for Development Consistent with Plans. Pursuant to the LRPMP, eleven (11) parcels formerly owned by the Redevelopment Agency will be transferred by the Successor Agency to the City for disposition consistent with the Redevelopment Plan adopted for the Project Area, the Implementation Plans adopted in connection with the Redevelopment Plan, and the City of South San Francisco General Plan (all of the foregoing, collectively, the **"Plans").** These 11 parcels (collectively, the **Properties")** are more fully described in Exhibit A.

4. Parcels to be Conveyed to the City for Governmental Uses. The LRPMP also provides that nine (9) parcels formerly owned by the Redevelopment Agency will be transferred by the Successor Agency to the City for continued governmental uses. No compensation will be paid to the City or to the Taxing Entities in connection with the foregoing transfers. The properties and their uses are described in the LRPMP, a copy of which has been provided to each Taxing Entity.

5. Compensation to Taxing Entities. The City agrees that, consistent with the LRPMP, in connection with the conveyance of any of the parcels comprising the Properties, the City will remit the Net Unrestricted Proceeds (defined below) to the San Mateo County Auditor-Controller for distribution to the Taxing Entities in accordance with each Taxing Entity's pro-rata share of Tax Increment.

For purposes of this Agreement, "**Net Unrestricted Proceeds**" means the sale proceeds received by the City for the sale of any parcel included in the Properties, less: (i) costs incurred by the City for expenses incurred in connection with the management and disposition of the Properties, including without limitation, costs incurred for property management, maintenance, insurance, marketing, appraisals, brokers' fees, escrow, closing costs, survey, title insurance, attorneys' and consultants' fees, and other reasonable costs incurred, including reasonable compensation for City staff performing functions associated with the management, maintenance and disposition of the Properties, 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 Properties. Upon request, the City shall deliver to the Taxing Entities an accounting of all such costs, expenses and restricted proceeds.

6. Sales Procedure and Proceeds. The Parties acknowledge that City is obligated to convey the Properties for development consistent with the Plans.

7. City as Taxing Entity. The Parties hereby acknowledge that the City is also a Taxing Entity for purposes of receiving funds pursuant to Section 5 of this Agreement.

8. Compensation Agreement. Health and Safety Code Section 34191.3 provides that once an LRPMP has been approved by DOF, the LRPMP supersedes all other provisions of the statute relating to the disposition and use of the former redevelopment agency's real property assets.

The Parties intend this Agreement to satisfy the foregoing provision of the LRPMP. If a court order, legislation or Department of Finance policy reverses this requirement, the Parties acknowledge that it will not be necessary for the City to enter into this Agreement with the Taxing Entities, and in such event, the City will be permitted to dispose of the Properties even if this

Agreement has not been executed by all Taxing Entities. Notwithstanding the foregoing, the City agrees that it will comply with the provisions of the LRPMP that require payment of Net Unrestricted Proceeds to the Taxing Entities upon sale of the Properties.

9. Miscellaneous Provisions.

9.1 Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified on the signature pages to this Agreement or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

9.2 Headings; Interpretation. The section headings and captions used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties agree that this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if all Parties had prepared it.

9.3 Action or Approval. Whenever action or approval by City is required under this Agreement, the City Manager or his or her designee may act on or approve such matter unless specifically provided otherwise, or unless the City Manager determines in his or her discretion that such action or approval requires referral to City Council for consideration.

9.4 Entire Agreement. This Agreement, including Exhibit A attached hereto and incorporated herein by this reference, contains the entire agreement among the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements between the Parties with respect to the subject matter hereof.

9.5 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Parties. Any executed counterpart of this Agreement may be delivered to the other Parties by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

9.6 Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

9.7 No Third Party Beneficiaries. Except as expressly set forth herein, nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

9.8 Parties Not Co-Venturers; Independent Contractor; No Agency Relationship. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of the Parties shall not be construed as a joint venture, equity venture, partnership or any other relationship.

9.9 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of San Mateo County, California or in the Federal District Court for the Northern District of California.

SIGNATURES ON FOLLOWING PAGES.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their authorized representatives as indicated below.

CITY OF SOUTH SAN FRANCISCO, A MUNICIPAL CORPORATION

By: _____
City Manager

Attest by: _____
City Clerk

Approved as to form: _____
City Attorney

Address for Notices:
City of South San Francisco
400 Grand Avenue
South San Francisco, California
Attention: City Manager

SIGNATURES CONTINUE ON FOLLOWING PAGES.

The undersigned authorized signatory hereby executes this Agreement on behalf of the County of San Mateo and the entities and funds set forth in Section 2 of this Agreement:

By: _____

Name: _____

Title: _____

Attest by: _____

Approved as to form:

_____
County Counsel

Address for Notices:

San Mateo County
400 County Center
Redwood City, CA 94063
Attention:

SIGNATURES CONTINUE ON FOLLOWING PAGES.

The undersigned authorized signatory hereby executes this Agreement on behalf of the San Mateo County Community College District:

By: _____

Name: _____

Title: _____

Attest by: _____

Approved as to form:

_____
County Counsel

Address for Notices:
Barbara Christensen
Director of Community/Government Relations
San Mateo Community College District
3401 CSM Drive
San Mateo, Ca 94402-3651

SIGNATURES CONTINUE ON FOLLOWING PAGES.

The undersigned authorized signatory hereby executes this Agreement on behalf of the South San Francisco Unified School District:

By: _____

Name: _____

Title: _____

Attest by: _____

Approved as to form:

_____
Counsel

Address for Notices:
Mr. Michael Krause
Assistant Superintendent, Business Services South San Francisco USD
398 B Street
South San Francisco, CA 94080

SIGNATURES CONTINUE ON FOLLOWING PAGES.

The undersigned authorized signatory hereby executes this Agreement on behalf of the Willow Parks and Parkways Maintenance District

By: _____

Name: _____

Title: _____

Attest by: _____

Approved as to form:

_____
_____ Counsel

Address for Notices:
Willow Parks and Parkways Maintenance District
_____
_____
_____

SIGNATURES CONTINUE ON FOLLOWING PAGES.

The undersigned authorized signatory hereby executes this Agreement on behalf of the Bay Area Air Quality Management District:

By: _____

Name: _____

Title: _____

Attest by: _____

Approved as to form:

_____
_____ Counsel

Address for Notices:
Bay Area Air Quality Management District
939 Ellis St.
San Francisco, CA 94109
Attention: Jack Broadbent

EXHIBIT A

PROPERTIES

Parcels to be conveyed consistent with the Plans:

Number	Disposition	Address	APN
1. 2. 3.	Future Development	Former PUC Properties	093-312-050 093-312-060 011-326-030
4.	Future Development	1 Chestnut Avenue	011-322-030
5.	Future Development	227 Grand Avenue	012-316-060
6.	Future Development	200 Linden	012-334-130
7.	Future Development	212 Baden Avenue	012-334-040
8.	Future Development	216 Baden Avenue	012-334-030
9.	Future Development	905 Linden Avenue	012-101-100
10.	Future Development	616 Linden Avenue	012-174-300
11.	Future Development	700 Linden Avenue	012-145-370
A. B.	Governmental Use	Former PUC Properties	093-331-050 093-331-060
C.	Governmental Use	80 Chestnut Avenue	011-324-190
D.	Governmental Use	480 N. Canal	014-061-110
E.	Governmental Use	296 Airport Blvd.	012-338-160
F.	Governmental Use	323 Miller Avenue	012-312-070
G.	Governmental Use	356 Grand Avenue	012-312-300
H.	Governmental Use	306 Spruce Avenue	012-302-140
I.	Governmental Use	468 Miller Avenue	012-301-020

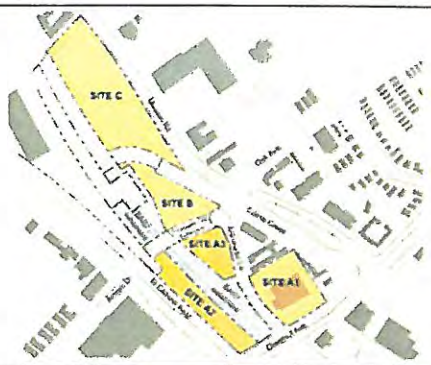
EXHIBIT B

TAXING ENTITIES AND TAX-ALLOCATION

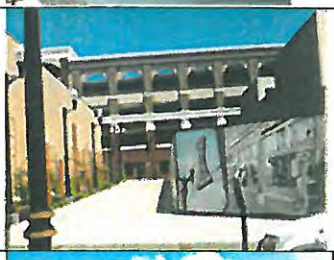
Tax Entity/Fund	% Total
County of San Mateo	25.77%
City of South San Francisco	16.73%
South San Francisco Unified School District	43.91%
San Mateo County Community College District	7.38%
San Mateo County Flood Control District Colma Creek Flood Control Zone and Subzones	1.64%
Willow Gardens Parks and Parkways Maintenance District	0.12%
Bay Area Air Quality Management District	0.23%
San Mateo County Harbor District	0.38%
San Mateo County Resource Conservation District	0.00%
San Mateo County Education Tax	3.84%
Total	**100.00%**

2604212.1

EXHIBIT 1

Permissible Use Category: Development Pursuant to Approved Redevelopment Project Plan		
1. 2. 3.	**Former PUC Properties** • Land Area: 7.85 Acres • APN 093-312-050 • APN 093-312-060 • APN 011-326-030	
4.	**1 Chestnut Avenue** • 1.65 Acres • APN 011-322-030	See Site A1 Above
5.	**227 Grand Avenue** • Land Area: 3,500 SF • APN 012-316-070	
6. 7. 8.	**200 Linden and 212-216 Baden Avenue** • Land Area: 31,404 SF (0.72 acre) • APN 012-334-130 • APN 012-334-040 • APN 012-334-030	
9.	**905 Linden Avenue** • Land Area: 15,000 SF • APN 012-101-100	
10.	**616 Linden Avenue** • Land Area: 14,387 SF • APN 012-174-300	
11.	**700 Linden Avenue** • Land Area: 14,387 SF • APN 012-145-370	

Permissible Use Category: Government Use

	Former PUC Properties • APN 093-.331-050 • APN 093-331-060	
A.	**80 Chestnut Avenue** • Land Area: 30,000 SF • APN 011-324-190	
B.	**480 N. Canal** • Land Area: 75,260 SF • APN 014-061-110	
C.	**296 Airport Blvd.** • Land Area: 34,325 SF (future Caltrain station entrance) • APN 012-338-160	
D.	**323 Miller Avenue** • Land Area: 3,500 SF • APN 012-312-070	
E.	**356 Grand Avenue** • Land Area: 7,000 SF • APN 012-312-300	
F.	**306 Spruce/468 Miller Avenue** • Land Area: 306 Spruce: 14,000 SF, 468 Miller 7,000 SF • APN 012-302-140 • APN 012-301-020	

Properties Under Contract for Disposition by Successor Agency

	Grand-Cypress Property Assemblage – 201, 207 and 217-219 Grand Avenue	
1.	• APN 012-316-110	
2.	• APN 012-316-100	
3.	• APN 012-316-080 and 012-316-090 (double lot)	
	Former Ford Properties – 315 Airport, 401-21 Airport, 405 Cypress and 216 Miller	
4.	• APN 012-318-080	
5.	• APN 012-317-110	
6.	• APN 012-317-100	
7.	• APN 012-317-090	
8.	• APN 012-314-100	
9.*	• APN 012-314-220*	

*APN 012-314-220 identified as a property to be sold in the LRPMP. All other properties identified for conveyance to City for future development but being sold directly by the Successor Agency.

Redevelopment Successor Agency Oversight Board

Staff Report

DATE: February 23, 2016

TO: South San Francisco Oversight Board

FROM: Mike Futrell, Agency Executive Director
Alex Greenwood, Director of Economic and Community Development

SUBJECT: A RESOLUTION OF THE SOUTH SAN FRANCISCO OVERSIGHT BOARD APPROVING A PURCHASE AND SALE AGREEMENT WITH MILLER CYPRESS SSF, LLC, FOR THE ACQUISITION OF SUCCESSOR AGENCY OWNED PARCELS AT 315, 401 – 421 AIRPORT BOULEVARD, 405 CYPRESS AVENUE AND 216 MILLER AVENUE, FOR A RESIDENTIAL DEVELOPMENT

RECOMMENDATION

It is recommended that the Oversight Board to the Successor Agency adopt a Resolution approving the Purchase and Sale Agreement with Miller Cypress SSF, LLC for the acquisition and development of Successor Agency-Owned parcels at 315, 401-421 Airport Boulevard, 405 Cypress Avenue and 216 Miller Avenue (also known as the "Ford Dealership Properties").

BACKGROUND

On February 10, 2016, the City Council adopted a Resolution approving the following entitlements: Use Permit (UP15-0027), Design Review (DR15-0032), Waiver and Modification (WM15-0001), and Parking Reduction (PE15-0004), and approving a Development Agreement (DA 15-0003) with Miller Cypress SSF, LLC to allow for the development of a 272 residential unit residential community ("Project"). At the same public hearing, the Successor Agency adopted a Resolution recommending that the Oversight Board approve the Purchase and Sale Agreement with Miller Cypress SSF, LLC for the acquisition and development of two Downtown area sites at 315, 401-421 Airport Boulevard, 405 Cypress Avenue and 216 Miller Avenue ("Ford Dealership Properties" or "Properties").

The Ford Dealership Properties were originally acquired by the South San Francisco Redevelopment Agency ("Redevelopment Agency") and the City. The Properties were assembled by the Redevelopment Agency to facilitate a major transit- oriented development in the Downtown for a City-selected commercial or residential developer. Upon the dissolution of redevelopment agencies by the State of California, the City transferred the Ford Dealership Properties to the

Successor Agency to the Redevelopment Agency for the City of South San Francisco ("Successor Agency"). The Successor Agency was then required to develop a Long Range Property Management Plan ("LRPMP") to govern the disposition and use of all former redevelopment agency properties. The LRPMP calls for the Ford Dealership Properties to be retained by the City for future development; the LRPMP has been approved by both the Oversight Board and the California Department of Finance ("DOF"). The Ford Dealership Properties are now owned by the Successor Agency to the City.

Figure 1 - Project Aerial

The Successor Agency, the Oversight Board and DOF have previously authorized an Exclusive Negotiating Rights Agreement ("ENRA") with Miller Cypress SSF LLC ("Sares Regis") to allow time to prepare a Purchase and Sale Agreement ("PSA") to acquire the Ford Dealership Properties and to prepare a Development Agreement ("DA) for the development of 315, 401-421 Airport Boulevard, 405 Cypress Avenue, and 216 Miller Avenue. The property at 309 Airport Avenue was separately acquired by Sares Regis (See Figure 1).

DISCUSSION

Project Overview

The project site consists of four parcels located in the western portion of the Downtown Station Area Specific Plan ("DSASP"). The Project is within a ¼ mile from the future South San Francisco Caltrain station and a block from the Grand Avenue commercial area. The Project is also adjacent

to US-101, a mixture of low-density mixed-use and commercial development along Airport Boulevard, and commercial uses on Miller Avenue.

The Project consists of 272 units on 2.34 acres that would be constructed in two phases. Phase 1 at Parcels A and D includes the redevelopment of the property containing the former Ford Vehicle dealership and supporting buildings, as well as an acquired single-room occupancy hotel. The two residential apartment buildings proposed to be built on the sites would be seven stories in height. Each building will have five residential stories over two garage levels. The building at Parcel A (401-421 Airport Boulevard) will have 160 apartment homes and the building at Parcel D (309/315 Airport Boulevard) will have 100 apartment homes. The vacant Parcel B at 405 Cypress Avenue would be converted into a private residential parking lot to support the apartment community. Phase 2 of the project would develop the vacant Parcel C (216 Miller) into twelve (12) for-sale townhomes. The Project includes:

- 15,259 sq. ft. of Courtyard space;
- 802 sq. ft. of rooftop decking;
- 5,510 sq. ft. in private apartment decks;
- A club/fitness room, measuring nearly 5,200 sq. ft.; and
- A lounge area of 1,000 sq. ft.

Figure 2 – Parcels A, C, & D Rendering View from Cypress Avenue

PURCHASE AND SALE AGREEMENT

The Project reflects the good faith efforts and ongoing negotiations between the Successor Agency and Sares Regis that have been occurring since the execution of the ENRA in September 2014. Impacts of the proposed Project include:

- 260 units of market rate multi-family rental housing and 12 for-sale townhomes (of which two are affordable units) revitalizing four non-contiguous, underutilized Downtown properties.
- Generating $140 Million in private reinvestment.
- Generating approximately $1.4 million in annual property taxes for the taxing agencies.

Key Business Points and Deal Structure

The PSA between the Successor Agency and Sares Regis includes the business terms of the sale. The major business terms are summarized below:

Financial

Upon approval of the Successor Agency and Oversight Board the purchase price for the properties is $4 million, which is based on the residual land value appraisal of $7 million less the required $3 million Community Benefits payment. In addition to the $4 million purchase price, the PSA provides for a supplemental purchase price for Parcel C. The PSA requires an initial non-refundable deposit of $200,000 once the time period for a legal challenge or referendum has expired. In addition, another $200,000 deposit is required following completion of the due diligence period. The deposits will either be applied to the purchase price at close of escrow or retained by the Successor Agency in the event that Sares Regis either withdraws during the due initial period or fails to close escrow, provided that the City and Successor Agency have complied with their obligations under the PSA and the separate development agreement between the City and Sares Regis and that a force majeure event has not prevented Sares Regis from complying with its obligations.

Residual Value Appraisal

The residual land value appraisal of $7 million is based on residual valuation verified by Kaiser Marston and Associates ("KMA") as being reasonable based on analysis of the Sares Regis' pro forma, as well as current market conditions and construction costs. Residual land value ("RLV") is the value of land determined by deducting from the value of an improved property, the costs of development and a market rate of profit. This methodology is often used where direct land sale comparable information is not available without substantial adjustment for the use and development conditions.

The $7,000,000 residual land value appraisal did not account for the $3,000,000 Community Benefits payment that Sares Regis is required to pay the City in order to obtain an increase in the maximum floor area ratio ("FAR") for the development. Pursuant to the City's Municipal Code, an increase to the maximum FAR for a development may be permitted with approval of a conditional

use permit and the provision of a public benefits package. Consequently, as stated above, the $4 million purchase price for the properties is derived by subtracting the $3 million Community Benefits payment from the $7 million residual land value appraisal.

Additional Annual Tax Value to the Taxing Agencies

As noted in the Project Overview, Sares Regis is proposing to construct 272 units, which is 44 more units than allowed without the provision of a Community Benefits packages. In order to achieve the proposed density, Sares Regis is proposing to provide Community Benefits consisting of park-in-lieu fees of $10,000 per unit and streetscape improvements lining the Project to the future Caltrain station, which are valued at a minimum of $280,000. The additional 44 units will raise the assessed value of the Properties by an estimated $35 million. This means that the taxing agencies will receive an additional $350,000 annually. Over the next 25 years the property tax accruing from the 44 units will be equal $11.21 million ($7.57 million in net present value). Therefore, as demonstrated below, adjusting the price of the Properties to account for the Community Benefits payment to allow for increased FAR will result in a total of $11.57 million, a net gain of $4.57 million over the assed value of $7 million.

Additional Tax Value Resulting from 44 Additional Units

Residual land value appraisal	$ 7,000,000
Less Community Benefits payment	$ (3,000,000)
Plus NPV of property tax resulting from additional 44 units	$ 7,575,000
Net gain to the taxing agencies	$ 11,575,000

Environmental Remediation

Upon successful completion of the due diligence period, Sares Regis will take title to the property in an "as-is" condition with no environmental remediation work required by the Agency. In addition, Sares Regis will indemnify the Successor Agency and City for environmental remediation issues on the site.

Below Market Rate For Sale Homes

Of the 12 for-sale townhomes, one will be sold at 70% of the Area Median Income ("AMI") and one at 80% of the AMI

Schedule-

- Prior to June 30, 2016—Sares Regis will prepare and submit construction documents, including building permit submittal documents for the 260 multi-family residential rental units.
- Prior to December 31, 2016—Sares Regis will apply for and obtain demolition, foundation and building permits for Parcels A, B and D and the property adjacent to Parcel D acquired separately by Sares Regis.

- Prior to December 31, 2016--The close of escrow for the Properties, including Parcels A, B, C, and D, will occur.
- Prior to March 31, 2017—Sares Regis will complete demolition of the existing structures on the Project site and will commence construction of the 260 multi-family residential rental units on Parcels A, B and D and the property separately acquired by the Sares Regis.
- Prior to March 31, 2019 – Sares Regis shall substantially complete development of the 260 multi-family residential rental units on Parcels A and D and the parcel adjacent to Parcel D separately acquired by Sares Regis, open the leasing center and commence construction of the twelve for-sale townhomes.

OVERSIGHT BOARD

State dissolution laws govern the Oversight Board's approval of the disposition of property owned by the Successor Agency. The Ford Dealership Properties fall within the category of property retained for future development pursuant to the classification set forth in the LRPMP. The LRPMP contains the following development objectives for the site:

- *The subject properties sit at the gateway to Downtown South San Francisco. The properties are an important component of the City's and the former Agency's efforts to create a vibrant, transit- oriented and diverse downtown. Development of these properties and other sites owned by the Successor Agency will craft a vision for the Downtown core that provide transit supported housing and easy connectivity to the downtown South San Francisco Caltrain station.*

- *The Agency acquired these properties over the years to create a lot assemblage that would be ideal for a major transit oriented development.*

- *The highest and best use of these parcels is to develop a project with high intensity uses. Therefore, to ensure this type of development occurs, the Successor Agency and/or the City will use these parcels to develop a single project.*

The development plans for the site that have been approved by the City and which govern the development of the site, achieve all of these objectives. The four parcels will create a stronger development site, the density of the Project meets the higher density objectives of the LRPMP, and the site is within ¼ mile of the Caltrain Station.

The LRPMP and ENRA call for the Properties to be sold pursuant to a Successor Agency disposition agreement that results in a new development, rather than a simple as-is sale. The rationale is that the development of the parcels pursuant to the City's land use policies will produce significantly more property tax revenues over time to all of the taxing entities than a sale as-is. This is demonstrated in projections that are part of the LRPMP.

Pursuant to the LRPMP, the City and the taxing entities ("Taxing Entities") that share in the property tax increment ("Tax Increment") must enter into a compensation agreement ("Tax-Sharing Compensation Agreement") whereby the net unrestricted proceeds from the sale of the Properties to a private developer in accordance with the Redevelopment Plan and the LRPMP shall be distributed to the Taxing Entities. Pursuant to the LRPMP and the Tax-Sharing Compensation Agreement, the net unrestricted proceeds of the sale of the Properties will be conveyed to the San Mateo County Auditor-Controller for distribution to the Taxing Entities in accordance with each Taxing Entity's pro-rate share of the Tax Increment. For illustrative purposes, the current distribution pro-rata proportions are listed on the table below.

Tax Entity/Fund	% Total
County of San Mateo	25.77%
City of South San Francisco	16.73%
South San Francisco Unified School District	43.91%
San Mateo County Community College District	7.38%
San Mateo County Flood Control District Colma Creek Flood Control Zone and Subzones	1.64%
Willow Gardens Parks and Parkways Maintenance District	0.12%
Bay Area Air Quality Management District	0.23%
San Mateo County Harbor District	0.38%
San Mateo County Resource Conservation District	0.00%
County Education Tax	3.84%
Total	**100.00%**

If the Oversight Board finds the disposition of the four parcels is consistent with the approved LRPMP, then there will be no DOF approval required, per recent legislation amending the redevelopment dissolutions laws (Health & Safety Code Section 34191.5(f)) . Adoption of the attached resolution accomplishes the Oversight Board approval and finding of consistency.

ENVIRONMENTAL DETERMINATION

On January 28, 2015, a program Environmental Impact Report ("EIR") for the DSASP was certified by the City Council. (Final Environmental Impact Report for the South San Francisco Downtown Station Area Specific Plan (DSASP), State Clearinghouse #2013102001.) The program EIR assessed the potential environmental impacts resulting from implementation of the DSASP. The DSASP established new land use, development, and urban design regulations for the area for a 20-year planning period.

The California Environmental Quality Act ("CEQA") allows for limited environmental review of subsequent projects under a program EIR when certain conditions are met (CEQA Guidelines section 15168.) Subsequent activities in a proposed project must be examined in light of the

program EIR to determine whether an additional environmental document must be prepared. The CEQA Guidelines require agencies to use checklists or similar mechanisms to conduct this analysis (CEQA Guidelines section 15168(c)(4).). City staff prepared an Environmental Consistency Analysis ("ECA") to satisfy the CEQA Guidelines.

The ECA was prepared to consider whether any new environmental effects not identified in the DSASP program EIR might be created by construction and operation of the proposed Project and concludes that all environmental effects were previously analyzed and no additional environmental review is required. The analysis established that the proposed Project complies with all applicable DSASP regulations, is subject to the DSASP MMRP, and would not create any additional environmental impacts in excess of those analyzed and addressed by the DSASP program EIR and Statement of Overriding Considerations.

In addition, the Project entitlements include a Condition of Approval requiring that the Project comply with all applicable Mitigation Measures identified in the MMRP. The Conditions of Approval and requirements that the Project comply with existing MMRP mitigation measures do not constitute implementation of new mitigation. Therefore, pursuant to CEQA Guidelines section 15168 (c)(2) the Project remains consistent with the analysis of the DSASP program EIR and no additional environmental review is required.

On February 10, 2016, the City Council and the Successor Agency passed a Joint Resolution making findings and approving the ECA and making a determination that the Project complies with CEQA.

CONCLUSION

The sale of the Ford Dealership Properties is consistent with and will implement the objectives of the LRPMP. It will return Redevelopment Agency acquired properties to private ownership and the tax roll. It will accomplish State, regional and local land use objectives for high density, transit-oriented residential development. It will provide new annual revenues to the taxing entities. Finally, it will bring the Oversight Board one step closer to completing the disposition of redevelopment assets per the dissolution laws.

On February 10, 2016, the City Council adopted a Resolution approving the following entitlements: Use Permit (UP15-0027), Design Review (DR15-0032), Waiver and Modification (WM15-0001), and Parking Reduction (PE15-0004) and approving a Development Agreement (DA 15-0003) with Miller Cypress SSF, LLC to allow the development of the Project. At the same public hearing, the Successor Agency adopted a Resolution recommending that the Oversight Board approve the PSA with Miller Cypress SSF, LLC for the acquisition and development of two downtown area sites at 315, 401-421 Airport Boulevard, 405 Cypress Avenue and 216 Miller Avenue. Consequently, it is recommended that the Oversight Board adopt a Resolution approving the PSA with Miller Cypress SSF, LLC for the acquisition and development of the Downtown sites and also authorize the

Successor Agency to transfer the Properties to the City contingent upon the City transferring the Properties to Sares Regis pursuant to the terms of the PSA, if necessary.

By: _____
Alex Greenwood
Director of Economic and
Community Development

Approved: _____
Mike Futrell
Agency Executive Director

Attachments: *Click on the links below to move forward in the e-version of the Staff Report:*

1. Resolution Approving the Purchase and Sale Agreement with Exhibits

RESOLUTION NO. ____

OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SOUTH SAN FRANCISCO, STATE OF CALIFORNIA

A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT WITH MILLER CYPRESS SSF, LLC FOR 315 AIRPORT BLVD., 401-421 AIRPORT BLVD., 405 CYPRESS AVE., AND 216 MILLER AVE.

WHEREAS, the Successor Agency to the Redevelopment Agency of the City of South San Francisco ("Successor Agency") is 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"), 012-317-100 ("411 Airport Boulevard"), 012-317-090 ("421 Airport Boulevard"), 012-314-100 ("405 Cypress Avenue"), 012-314-220 ("216 Miller Avenue"), 012-318-080 ("315 Airport Boulevard") and collectively referred to as the "Agency Property"; and,

WHEREAS, on June 29, 2011 the legislature of the State of California (the "State") adopted Assembly Billy x1 26 ("AB 26"), which amended provisions of the Redevelopment Law; and,

WHEREAS, pursuant to AB 26 and the California Supreme Court decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, which upheld AB 26 (together with AB 1484, the "Dissolution Law"), the former Redevelopment Agency of the City of South San Francisco was dissolved on February 1, 2012; and,

WHEREAS, pursuant to the Dissolution Law, the Agency Property was transferred to the Successor Agency; and,

WHEREAS, pursuant to the Dissolution Law, the Successor Agency prepared a Long Range Property Management Plan ("LRPMP"), which has been approved by the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of South San Francisco ("Oversight Board") and the California Department of Finance ("DOF"); and,

WHEREAS, the approved LRPMP includes the Agency Property and highlights the potential development of the sites as residential, mixed use and/or transit-oriented projects consistent with Downtown Station Area Plan adopted by the City; and,

WHEREAS, in August, 2014, the Successor Agency and Miller Cypress SSF, LLC ("Developer") entered into an Exclusive Negotiation Rights Agreement ("ENRA") that established a mutual understanding among the City, the Successor Agency, and the Developer regarding the potential development of the Agency Properties; and,

WHEREAS, the ENRA was approved by the Oversight Board in August, 2014 and the DOF on December 5, 2014; and,

WHEREAS, the Developer has proposed construction of a high-density residential development, consisting of 260 residential apartments in Phase 1, 12 for-sale residential townhomes in Phase 2, and 342 total vehicle parking spaces ("Project"), which is consistent with both the LRPMP and the ENRA; and,

WHEREAS, pursuant to the LRPMP, the Successor Agency's transfer of real property assets for future development is subject to the City entering into an agreement with the relevant taxing entities ("Taxing Entities") that share in the property tax increment ("Tax Increment") for property located within the City of South San Francisco, South San Francisco Redevelopment Project area (the "Project Area") formerly administered by the Redevelopment Agency, for the distribution of net funds received, if any, from the sale of Successor Agency-owned properties ("Tax-Sharing Compensation Agreement"); and,

WHEREAS, pursuant to the LRPMP and the Tax-Sharing Compensation Agreement, the Net Unrestricted Proceeds of the sale of the Agency Properties will be conveyed to the San Mateo County Auditor-Controller for distribution to the Taxing Entities in accordance with each Taxing Entity's pro-rate share of the Tax Increment; and,

WHEREAS, the Successor Agency is interested in selling the Agency Property to Developer, as contemplated in the LRPMP and ENRA, contingent upon approval of a Development Agreement by the City, Developer securing all funding for the Project, and obtaining all applicable land use entitlements from the City necessary to construct the Project on the Agency Property; and,

WHEREAS, the Successor Agency and the Developer now wish to enter into a Purchase and Sale Agreement ("PSA"), attached hereto and incorporated herein as Exhibit A; and,

WHEREAS, approval of the Developer's proposal is considered a "project" for purposes of the California Environmental Quality Act, Pub. Resources Code § 21000, et seq. ("CEQA"); and,

WHEREAS, on January 28, 2015, the City Council 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; and,

WHEREAS, on January 28, 2015, the City Council also adopted a Statement of Overriding Considerations ("SOC") in accordance with the provisions of the California Environmental Quality Act (Public Resources Code, §§ 21000, et seq., "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 project's economic, legal, social, technological and other benefits; and,

WHEREAS, CEQA allows for limited environmental review of subsequent projects under a program EIR when an agency finds that a project would not create any new environmental effects beyond those previously analyzed under a program EIR and would not require any new mitigation measures (CEQA Guidelines § 15168 (c)(2)); and,

WHEREAS, the City prepared an Environmental Consistency Analysis for the Project and the City by Resolution No._____ and the Successor Agency by Resolution No. _____concluded 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 Downtown Station Area Specific Plan Program EIR certified by City Council nor would any new mitigation measures be required.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of South San Francisco does hereby take the following actions:

(1) Finds and determines that the recitals are true and correct;

(2) Approves the PSA in substantially the same form attached hereto as Exhibit A;

(3) Authorizes the Executive Director to enter into and execute the PSA on behalf of the Successor Agency, in substantially the same form as attached hereto as Exhibit A; to make any revisions, amendments, or modifications, subject to review and approval of Successor Agency Counsel, deemed necessary to carry out the intent of this Resolution and which do not materially alter or increase the Successor Agency's obligations thereunder.

BE IT FURTHER RESOLVED that the Oversight Board also approves of and authorizes the transfer of the Agency Property from the Successor Agency to the City contingent upon the City's subsequent transfer of the Agency Property to the Developer pursuant to the terms of the PSA.

* * * * *

I hereby certify that the foregoing Resolution was regularly introduced and adopted by the Oversight Board for the Successor Agency of the City of South San Francisco Redevelopment Agency at a special meeting held on the 16th day of February, 2016 by the following vote:

AYES: _____

_____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST:_____
Clerk

EXHIBIT A
Purchase and Sale Agreement

2601599.1

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 _____ 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 (the "**State**") 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, 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 November 19, 201_, 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. _____ and _____ , 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. _____ approving a Development Agreement (**"DA"**) 15-0003 (collectively, the **"Project Approvals"**). On February 24, 2016, by City Council adopted Ordinance No. _____ 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 16, 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. ____ 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. ____dated _____, 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 Section 34179(h)(1)(D), 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 ($4,000,000.00). 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 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).

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 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 of South San Francisco. 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 ("**Dis-Approved 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 Dis-Approved Exceptions" set forth on Exhibit C are critical to the Project and agrees that if such Required Dis-Approved 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 13.16.

(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 this 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(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. Seller is not in default and has performed all obligations to be performed by Seller 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(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	5.6 (b) Buyer shall: (i) Obtain demolition and foundation permits for Parcels A, B and D

Deadline	Buyer Post-Closing Obligation
	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. 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 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 South San Francisco.
Prior to March 31, 2017	5.6(c) The Buyer shall: (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. (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. (iii) If Buyer has submitted a notice to proceed with the Land

Deadline	Buyer Post-Closing Obligation
	Assembly Option then either (i) file complete application, pursuant to City of South San Francisco 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 entitlement processes. Seller's exclusive remedies for a Buyer Default for Section 5.6(c)(i) and (ii) is specific performance under this Agreement. 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 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 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.
Prior to March 31, 2018	5.6 (d) (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 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. (ii) If the Buyer has not delivered a notice of intent to abandon its

Deadline	Buyer Post-Closing Obligation
	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. 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.
Prior to March 31, 2019	5.6 (e) The Buyer shall: (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) 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. (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. (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

Deadline	Buyer Post-Closing Obligation
	develop Parcel B pursuant to the Revised Parcel C Entitlements. (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. (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. 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)(v), but Seller has the right to cause the Buyer to re-convey 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 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 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.

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) 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: This 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 E 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 the DA not previously paid by the Buyer.

5.6.5 Allocation of Net Proceeds to Taxing Entities. Upon disbursal 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.

For purposes of this Agreement, "Net Unrestricted Proceeds" means the sale proceeds received by the Seller 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 without limitation, costs incurred for property management, maintenance, insurance, marketing, appraisals, brokers' fees, escrow, closing costs, survey, title insurance, 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, 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. Upon request, 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 7.2 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 issuance of a 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: _____ _____

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 US Gross Domestic Project ("**GDP**") published by the US Department of Commerce Bureau of Economic Analysis (and not BEA's 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 may be will not be unreasonably withheld or delayed and (ii) an 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: _____

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 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.

13.16 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.

13.17 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.

13.18 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.

13.19 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.

13.20 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.

13.21 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.

13.22 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, 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

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

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 of 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

By: _____

APPROVED AS TO FORM:

By: _____
Tamsen Plume, Holland & Knight, Counsel for Buyer

SIGNATURES MUST BE NOTARIZED

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 DIS-APPROVED 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

DEVELOPMENT AGREEMENT

EXHIBIT E

FORM OF MEMORANDUM OF AGREEMENT

2599486.2