File No. 260185 **Committee Item No.** 7
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Brent Jalipa **Date** March 12, 2026
Completed by: Brent Jalipa **Date** _____

[Project Agreement - PRG-Potrero Properties LLC - Potrero Yard Modernization Project - 2500 Mariposa Street - $1,396,433,595 - Approving Bond Issuance - $900,000,000]

Resolution approving Contract No. 1334, Infrastructure Facility Project Agreement ("Project Agreement"), with PRG - Potrero Properties LLC, for the design, construction, and financing of a bus storage and maintenance facility for the Potrero Yard Modernization Project, which Project Agreement provides for 1) a 30-year term commencing after substantial completion, scheduled for 2030, and expected to end in 2060, 2) two milestone payments of $65,000,000 at or around financial close and $250,000,000 during construction, 3) a $5,000,000 development fee payable after substantial completion, 4) annual availability payments commencing approximately one year after anticipated substantial completion and continuing through the end of the term, projected to start at approximately $33,000,000 with an estimated cumulative total of approximately $980,000,000 5) potential delay event or termination compensation, all as provided in the Project Agreement and for an estimated not to exceed amount of $1,396,433,595 expressed in nominal dollars and subject to adjustment on the terms of the Project Agreement; affirming the Planning Department's determination under the California Environmental Quality Act; and approving, for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, the issuance by the California Municipal Finance Authority of tax-exempt obligations in an aggregate principal amount not to exceed $900,000,000 to finance the costs of the Project, and making related findings and determinations related thereto.

WHEREAS, Under Charter, Section 8A.100, the San Francisco Municipal Transportation Agency ("SFMTA"), an enterprise department of the City and County of San Francisco ("City"), is responsible for managing the City's transportation system, including

planning, designing, financing, constructing, delivering, and operating and maintaining transportation infrastructure; and

WHEREAS, Under Charter, Section 9.118(b) any contracts or agreements having a term in excess of 10 years, or requiring anticipated expenditures by the City $10 million dollars, or the modification or amendments to such contract or agreement having an impact of more than $500,000 shall be subject to approval of the Board of Supervisors ("Board") by Resolution; and

WHEREAS, The SFMTA owns and operates the Potrero Division bus yard located at 2500 Mariposa Street, San Francisco (Assessor's Block No. 3971, Lot No. 001) ("Project Site"), which has been in continuous operation since 1915 but no longer meets the operational, safety, seismic, or environmental needs of a modern transit system; and

WHEREAS, The SFMTA is implementing the Potrero Yard Modernization Project ("Project") to replace the existing Potrero Division bus yard with a modern, resilient, and efficient bus storage and maintenance facility ("Infrastructure Facility") designed to support the SFMTA's transition to a zero-emission fleet and to improve reliability, safety, and efficiency of transit service; and

WHEREAS, The Project contemplates the potential for the joint development of a housing component adjacent to the Infrastructure Facility at the Project Site, if feasible; and

WHEREAS, On March 16, 2021, the Board adopted Ordinance No. 38-21,signed by the Mayor on March 26, 2021 ("Procurement Ordinance"), authorizing the SFMTA to procure and contract for all or any combinations of design, construction, financing, operations, asset management, and related services (collectively, "Joint Development Services") to deliver the Project using a joint development procurement delivery method; permitting best-value selection of a developer team; and exempting agreements for such services from certain provisions of San Francisco Administrative Code, Chapters 6, 14B, and 21, while requiring

compliance with prevailing wage, local business enterprise participation, and local hire policies; and

WHEREAS, The Procurement Ordinance further authorizes the SFMTA to enter into one or more agreements for Joint Development Services with the selected respondent, and any ancillary agreements appropriate to deliver the Project, without restriction on the form of agreement, but subject to any approval of the Board required under Charter, Section 9.118; and;

WHEREAS, Under the Procurement Ordinance, the SFMTA conducted a full and open competition and selected Potrero Neighborhood Collective LLC ("Lead Developer"), with Plenary Americas US Holdings Inc., a Delaware corporation ("Plenary"), as its lead equity member, as the preferred proposer and entered into a predevelopment agreement dated November 2, 2022, to advance design development, environmental review, regulatory approvals, financial analysis, and negotiation of agreements to deliver the Project ("Predevelopment Agreement"); and

WHEREAS, Based on financial and delivery analysis conducted under the Predevelopment Agreement, SFMTA staff determined that a design-build-finance structure for the Infrastructure Facility, without long-term operations and maintenance services, provides the best overall value to the SFMTA by reducing Project costs, largely preserving the SFMTA's preferred risk allocation for design and construction, while retaining public control over operations and maintenance; and

WHEREAS, To optimize the Infrastructure Facility's financing and delivery under this design-build-finance structure, the SFMTA and Lead Developer determined to incorporate a non-profit conduit borrower structure to facilitate tax-exempt financing for the Infrastructure Facility, with such entity serving as conduit borrower and counterparty to the SFMTA under the design-build-finance agreement, while the Lead Developer retains responsibility for

substantially all obligations and risks associated with the design and construction of the Infrastructure Facility, pursuant to a project implementation agreement with the non-profit entity; and the Board finds that this financing and contractual structure is authorized by and consistent with the Procurement Ordinance; and

WHEREAS, Given current market conditions, it is financially infeasible to develop housing above the Infrastructure Facility, but SFMTA staff and the Lead Developer have retained the option of developing a housing project with approximately 104 affordable residential units and two units of ground-level commercial space, collectively comprised of approximately 2,800 square feet adjacent to the Infrastructure Facility ("Housing Project"); and

WHEREAS, The SFMTA now proposes to enter (a) an Infrastructure Facility Project Agreement ("Project Agreement") for the design, construction, and financing of the Infrastructure Facility pursuant to a design-build-finance structure, and (b) a lease disposition and development agreement ("LDDA") to continue predevelopment work on the Housing Project, provided that neither the LDDA nor the Housing Project is approved by this Resolution; and

WHEREAS, Under the Project Agreement, the contract term would commence upon its execution by both parties ("Commercial Close") and continue until 30 years after substantial completion of the Infrastructure Facility ("Substantial Completion"), which is schedule for 2030, resulting in an expected end date of 2060; and

WHEREAS, During the design and construction period, the SFMTA's payment obligations under the Project Agreement will include (a) two milestone payments ("Milestone Payments") of $65,000,000, payable on or around the close of the Infrastructure Facility financing ("Financial Close") as partial compensation for predevelopment, planning, and design work, and $250,000,000, payable during construction as partial payment and compensation for design and construction of the Infrastructure Facility; (b) a Substantial

Completion Development Fee payment of $5,000,000 as compensation for Lead Developer's successful completion of construction, payable after Substantial Completion; and (c) amounts payable for termination or delay events, if applicable, all in accordance with provisions of the Project Agreement; and

WHEREAS, Commencing approximately one year after anticipated Substantial Completion and continuing through the end of the contract term, the SFMTA will make annual availability payments payable on a quarterly basis ("Availability Payments") for purposes of repayment of the Project's debt financing and ongoing Project administrative costs; these Availability Payments are currently projected to start at approximately $33 million, with an estimated cumulative amount of $980 million; and

WHEREAS, These Availability Payments are subject to upward or downward adjustment between the amounts reflected in the Project Agreement at Commercial Close and those that will be incorporated as part of a subsequent amendment to the Project Agreement at Financial Close to account for interest rate and credit spread movements between the two dates, which will affect the portion of the Availability Payments used to service Project debt, a limited portion of the Availability Payments ($426,613 in Fiscal Year 2032) used to pay certain Project administration costs following Substantial Completion will be linked to inflation; and

WHEREAS, The Project Agreement includes negotiated affordability protections, including defined limits and mechanisms intended to ensure that Availability Payments remain within agreed parameters until Financial Close, and establishes an "Affordability Event" to identify circumstances at Financial Close under which changes to Availability Payments, such as adjustments resulting from interest rate or credit spread movements, would require additional SFMTA Board of Directors consideration, all as set forth in the Project Agreement; and

WHEREAS, All payments due from the SFMTA under the Project Agreement, including any termination compensation, will be paid solely from available monies of the SFMTA in the applicable fiscal year, and no SFMTA payment obligation shall constitute a debt of the City or a pledge of its credit or taxing power or any other resources or properties of the City beyond the fiscal year for which funds have been appropriated for the benefit of the SFMTA and certified by the Controller for the benefit of the SFMTA; and

WHEREAS, Provident Resources Group Inc. ("Provident") is a Georgia nonprofit corporation exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986, as amended ("Code"), organized under Section 501(c)(3) of the Code; and

WHEREAS, One of Provident's charitable purposes is to lessen the burdens of government and foster economic development, which may be accomplished through various means, including, without limitation, the development, construction, acquisition, ownership, management, maintenance, operation, and disposition of public facilities, public buildings, public works, essential housing, and infrastructure of various types that serve governmental purposes, as well as the provision of services and financial assistance that enable state and local governments to carry out their functions and responsibilities; and

WHEREAS, In furtherance of its charitable mission, Provident has been asked and is willing to partner with the SFMTA to facilitate the financing and delivery of the Infrastructure Facility for the exclusive public benefit of the SFMTA; and participation by Provident is intended solely to support the financing and delivery of the Infrastructure Facility for the exclusive benefit of the public, and not for any private or proprietary purpose; and

WHEREAS, To accomplish this purpose, Provident has formed a wholly-owned subsidiary, PRG – Potrero Properties LLC, a Delaware limited liability company ("Non-Profit Entity"), which for federal income tax purposes is treated as part of Provident rather than a

separate entity (a “disregarded” entity), and whose activities are deemed nonprofit activities of Provident; and

WHEREAS, Under the Project Agreement, the Non-Profit Entity will serve as the counterparty to the SFMTA primarily to facilitate the issuance of tax-exempt bonds as conduit borrower, while substantially all obligations and risks associated with the design and construction of the Infrastructure Facility will be borne by the Lead Developer (“Principal Project Company”), in accordance with that certain Project Implementation Agreement (as described below) between the Non-Profit Entity and the Principal Project Company; and

WHEREAS, The Non-Profit Entity will enter into a Project Implementation Agreement with the Principal Project Company that requires the Principal Project Company to deliver the Infrastructure Facility and assume responsibility and be accountable for performance of the design and construction obligations, consistent with the risk allocation negotiated under the Project Agreement; and

WHEREAS, Under the Project Agreement, the Non-Profit Entity will remain responsible for its obligations that are not assumed by the Principal Project Company, for enforcing its rights against Principal Project Company under the Project Implementation Agreement, and for complying with its obligations and reporting requirements under the Infrastructure Facility financing documents, with the SFMTA responsible for any possessory interest taxes assessed on the Non-Profit Entity’s interest under the Project Agreement; and

WHEREAS, Non-Profit Entity has requested that the California Municipal Finance Authority (“CMFA”) provide for the issuance on its behalf of one or more series of revenue bonds from time to time, pursuant to a plan of finance, in an aggregate principal amount not to exceed $900,000,000 (“Bonds”); and

WHEREAS, A portion of proceeds of the Bonds will be used to finance a portion of the costs of/or reimbursement for the design and construction of the Infrastructure Facility; and

WHEREAS, Pursuant to Section 147(f) of the Code, the issuance of the Bonds by the CMFA must be approved by the City and County of San Francisco because the Infrastructure Facility is located within the territorial limits of the City; and

WHEREAS, The Board is the elected legislative body of the City and is the applicable elected representative under Section 147(f) of the Code; and

WHEREAS, CMFA has requested that the Board approve the issuance of the Bonds by CMFA in order to satisfy the public approval requirement of Section 147(f) of the Code and the requirements of Section 4 of the Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 ("JPA Agreement"), among certain local agencies, including the City; and

WHEREAS, Pursuant to Section 147(f) of the Code, the Board has, through the Controller's Office of Public Finance, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by CMFA; and

WHEREAS, On February 17, 2026, the City caused a notice to appear on its website stating that a public hearing with respect to the issuance of the Bonds would be held by the Office of Public Finance on February 24, 2026, at 11:00 a.m.; and

WHEREAS, The Office of Public Finance held the public hearing described above on February 24, 2026, at 11:00 a.m., and an opportunity was provided for persons to comment on the issuance and sale of the Bonds and the plan of financing; and

WHEREAS, The Board understands that its actions in holding this public hearing and in approving this Resolution do not obligate the City in any manner or under any circumstances for payment of the principal, interest, fees or any other costs associated with the issuance of the Bonds, and said Board expressly conditions its approval of this Resolution with that understanding; and

WHEREAS, The Potrero Yard Modernization Project was described and analyzed in a Final Environmental Impact Report ("Final EIR") that the San Francisco Planning Commission certified as adequate, accurate, and complete by Motion No. 21482 on January 11, 2024, by Motion No. 21483, the Planning Commission, based on substantial evidence in the entire recording of proceedings, also made certain findings regarding the environmental impacts of the Potrero Yard Modernization Project, rejected alternatives as infeasible, adopted the proposed mitigation monitoring and reporting program ("MMRP"), and set forth a "Statement of Overriding Considerations" explaining why the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the Final EIR and that those adverse environmental effects are therefore acceptable; and

WHEREAS, By Ordinance No. 57-24 passed by the Board on March 12, 2024, and signed by the Mayor on March 22, 2024, the Board, having reviewed the Final EIR, concurred with the Planning Commission's conclusions and affirmed the Planning Commission's certification of the FEIR; in addition, in Ordinance No. 57-24, the Board adopted and incorporated by reference the CEQA findings that the Planning Commission adopted in Motion No. 21483 including the Statement of Overriding Considerations and the MMRP; and

WHEREAS, On October 25, 2024, the Planning Department issued a Memorandum to File, and issued a second Memorandum to File on February 4, 2026, which each reviewed proposed modifications to the Potrero Yard Modernization Project and found that the modified Project would not cause new significant impacts or result in a substantial increase in the severity of the impacts identified in the Final EIR, and no new or revised mitigation measures would be required; in the Memoranda to File, the Planning Department determined that no additional environmental review is necessary for the reasons set forth in the Memoranda to File; and

WHEREAS, Copies of the CEQA determinations, including the Final EIR and Memoranda to File, as well as the CEQA Findings contained in Motion No. 21482, Motion No. 21483, the Statement of Overriding Considerations, Ordinance No. 57-24, and the Memoranda to File, are on file with the Clerk of the Board in File No. 260185 and are incorporated herein by reference; the Board affirms these determinations; and

WHEREAS, The foregoing recitals are incorporated into this Resolution as findings of the Board; now, therefore, be it

RESOLVED, That the Board of Supervisors has reviewed and considered the Final EIR, the MMRP, the Memoranda to File, and the record as a whole, and by this reference incorporates and hereby adopts as its own the CEQA Findings contained in Motion No. 21482, Motion No. 21483, Ordinance No. 57-24, the Statement of Overriding Considerations, and the Memoranda to File. The Board of Supervisors finds that based on the record as a whole, including the Final EIR and the Memoranda to File for the Potrero Yard Modernization Project, the Final EIR reflects the independent judgment and analysis of the Planning Department and the Board of Supervisors, is adequate and complete, and there is no substantial evidence that the proposed Infrastructure Facility at the Potrero Yard Project, given the implementation of the mitigation measures as stated in the Final EIR and the adoption of the MMRP, could have a significant effect on the environment as shown in the analysis of the Final EIR, the Board of Supervisors hereby adopts the Final EIR and the MMRP; and, be it

FURTHER RESOLVED, That the Board hereby approves the issuance by CMFA of the Bonds for the purposes of financing the Project, and that this Resolution shall constitute approval of (a) the issuance of the Bonds by the CMFA for the purposes of Section 147(f) of the Code by the applicable elected representative of the governmental unit having jurisdiction

over the area in which the Project is located, and (b) the issuance of the Bonds for the purposes of Section 4 of the JPA Agreement; and, be it

FURTHER RESOLVED, That the Bonds shall not constitute a debt or obligation of the City and the City's full faith and credit, taxing power, or other resources are not pledged for the repayment of the Bonds; the payment of the principal, prepayment premium, if any, and interest on the Bonds shall be solely the responsibility of the Non-Profit Entity, and the Non-Profit Entity shall look only to appropriated funds of the SFMTA for repayment of the Bonds in accordance with the terms of the Project Agreement; and, be it

FURTHER RESOLVED, That the approval by the Board of the issuance and sale of the Bonds by CMFA is neither an approval of the underlying credit issues of the Infrastructure Facility nor an approval of the financial structure of the Bonds, and that the adoption of this Resolution shall not obligate the City to provide financing to the Non-Profit Entity for the construction, renovation, improvement, equipping and/or furnishing of the Project, or to issue the Bonds for purposes of such financing or obligate the City, or any department of the City, to approve any application or request for, or take any other action in connection with any environmental, General Plan, zoning or any other permit or other action necessary for the construction, renovation, improvement, equipping and/or furnishing of the Infrastructure Facility; and, be it

FURTHER RESOLVED, That the Director of Transportation, the Controller, and the Director of the Office of Public Finance and any other proper officers of the City, acting individually or collectively, in consultation with the City Attorney, are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts as may be necessary or advisable to effect the purposes of this Resolution; and, be it

FURTHER RESOLVED, That the Board hereby approves, pursuant to Charter, Section 9.118(b), Contract No. SFMTA 1334, Infrastructure Facility Project Agreement, with PRG - Potrero Properties LLC, for the design, construction, and financing of a bus storage and maintenance facility for the Potrero Yard Modernization Project, such agreement providing for: (a) a 30-year term commencing after Substantial Completion, scheduled for 2030, and expected to end in 2060; (b) two milestone payments of $65,000,000 at or around Financial Close and $250,000,000 during construction; (c) a $5,000,000 development fee, payable after Substantial Completion; annual availability payments commencing approximately one year after anticipated substantial completion and continuing through the end of the term, projected to start at approximately $33 million, with an estimated cumulative total of approximately $980 million; and (d) potential delay event or termination compensation, all as provided in the Project Agreement and for an estimated not-to-exceed amount of $1,396,433,595, expressed in nominal dollars and subject to adjustment on the terms of the Project Agreement; and, be it

FURTHER RESOLVED, That Board hereby authorizes the Director of Transportation ("Director"), at their discretion and in consultation with the City Attorney, to: (a) take all actions and execute any amendments, agreements, certificates, instruments, understandings, and documents contemplated by the Project Agreement or that the Director determines are necessary or appropriate to implement and carry out the transactions and purposes of the Project Agreement, including but not limited to lender direct agreements, continuing disclosure agreements, certificates, and other ancillary documents related to the financing and delivery of the Infrastructure Facility; and (b) execute any additions, amendments, or other modifications to the Project Agreement that the Director determines are in the best interests of the City or necessary or appropriate to implement and carry out the purposes and intent of the Project Agreement and this Resolution, provided that such additions, amendments, or

modifications do not materially increase the City's obligations or materially reduce the rights or benefits of the City, including materially changing the risk allocation in the Project Agreement the effect of which would cause the City or the SFMTA to assume materially more risks related to the Project; provided further that, for clarity, additions, amendments, or modifications that adjust the amount, timing, or calculation of Availability Payments that do not constitute an Affordability Event, including adjustments resulting from interest rate movements, credit spread movements, or other formula-based or risk-allocated mechanisms contemplated in the Project Agreement, are within the authority delegated to the Director of Transportation under this Resolution; and, be it

FURTHER RESOLVED, That this Resolution shall take effect upon its enactment; Enactment occurs when the Mayor signs the Resolution, the Mayor returns the Resolution unsigned or does not sign the Resolution within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the Resolution.

Item 7 File 26-0185	Department: Municipal Transportation Agency (SFMTA)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution approves: (a) an Infrastructure Facility Design-Build-Finance (DBF) Project Agreement between SFMTA and Potrero Properties LLC, for the design, construction, and financing of a bus storage and maintenance facility for an estimated term of 30-years following substantial completion and an estimated not to exceed amount of $1,396,433,595; and (b) issuance of Bonds and Refunding Bonds in an aggregate principal amount not to exceed $900,000,000 by the California Municipal Finance Authority (CMFA).

Key Points

- The Potrero Yard Modernization Project includes: i) a four-story bus maintenance and storage facility (Infrastructure Facility), and ii) a separately financed affordable housing component.
- In December 2024, the Board of Supervisors endorsed the form of a proposed project agreement to deliver the Infrastructure Facility, with the final agreement subject to Board of Supervisors approval. To preserve the financial viability of the bus facility, MTA and the Lead Developer have since (i) scaled back the Housing Project to approximately 104 affordable residential units (from 465 units) by removing the podium strengthening and other project elements associated with enabling the potential to develop future housing on top of the bus yard; (ii) and removed operations and maintenance services from the Lead Developer's scope. In addition, the SFMTA and Lead Developer agreed to change the financing approach to reduce costs.

Fiscal Impact

- The City would provide i) two Milestone Payments of $65 million at or near financial close and $250 million during construction, ii) a $5 million development fee, iii) quarterly availability payments for up to 30 years, totaling approximately $980 million to repay project debt and administrative costs.
- SFMTA has secured $70 million in one-time funding and will need to identify an additional $250 million in one-time funds to pay Milestone 2. SFTMA will fund availability payments totaling approximately $33.4 million annually from its capital budget.

Policy Consideration

- By no longer enabling the potential to construct housing above the Infrastructure Facility, the project achieves approximately $70 million in 2025 dollars as a one-time cost savings, which reduces total project costs by an estimated $161 million including debt service costs.

Recommendations

- Amend the proposed resolution to remove the word "estimated" from the cumulative not to exceed amount of $1,396,433,595, and to remove language stating that the not to exceed amount is subject to adjustment based on the terms of the Project Agreement and approve the proposed resolution as amended.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of $10 million or more, or (3) requires a modification of more than $500,000 is subject to Board of Supervisors approval.

BACKGROUND

Potrero Yard Modernization Project

Potrero Yard, a 4.4-acre site located at Bryant Street and Mariposa Street, is a 100-year-old facility that currently serves as a trolley bus storage yard and maintenance facility. The two-story structure is functionally obsolete, operating beyond capacity, and considered a seismic hazard.

The Potrero Yard Modernization Project (the Project) includes two components:

1. A modern four-story bus maintenance and storage facility (Infrastructure Facility).
2. An affordable housing component (approximately 104 housing units and one manager's unit) if financially feasible (Housing Project).

The Infrastructure Facility would replace the existing building with a modern, efficiently designed facility that supports SFMTA's electric bus fleet and enables a future transition to battery-electric vehicles, while increasing maintenance efficiency and storage capacity at the site by more than 60 percent.

The Lead Developer, Potrero Neighborhood Collective LLC, was selected through a full and open competitive procurement process, and predevelopment work for the project has been completed. Additionally, approximately 30 percent of the design is now complete.

Scope Refinement

In December 2024, the Board of Supervisors generally endorsed the form of a proposed project agreement to deliver the Infrastructure Facility, with the final terms of the agreement subject to Board of Supervisors approval (File 24-1136). Under that form agreement, the developer was responsible for designing and building the Infrastructure Facility, as well as financing, operating, and maintaining the facility for up to 30 years. Since the Project was last presented to the Board of Supervisors in late 2024, staff have refined the scope to ensure financial feasibility and deliverability. The Project was initially planned to include housing both adjacent to and above the Infrastructure Facility (IF), providing 465 housing units, with certain common systems and infrastructure. Additionally, the Project scope included long-term operations and maintenance services for the Infrastructure Facility (IFM Services). As predevelopment advanced, staff determined that constructing the Housing Project above the Infrastructure Facility with a substantially reinforced podium structure, as well as significant space within the Infrastructure Facility dedicated to utilities, programming for building support spaces, and circulation for the Housing Project, was unaffordable to the SFMTA under current market

conditions. Similarly, long-term operations and maintenance services further increased the overall contract cost.

To preserve the financial viability of the Infrastructure Facility, staff and the Lead Developer (i) scaled back the Housing Project to approximately 104 affordable residential units by removing the podium strengthening and other provisions associated with enabling the potential to develop future housing on top of the bus yard; (ii) and removed operations and maintenance services from the Lead Developer's scope. In addition, the SFMTA and Lead Developer agreed to change the financing approach to reduce costs, as discussed below.

Procurement

The site is being developed through a joint development procurement approach, authorized by Ordinance No. 38-21 adopted in March 2021 (File 20-0947). Under the Ordinance, the Board of Supervisors granted SFMTA exemption from certain procurement and contracting requirements of Chapters 6, 14B, and 21 of the Administrative Code to allow for:[1]

- A single procurement process that reduces duplication, streamlines delivery, and allows for better coordination of the transit and non-transit components. In contrast, delivering the Project through conventional procurement methods would have required multiple procurements and contracts, including predevelopment services, design, construction, and financing.
- Shifting design, construction, and financing risks to the private partners, providing SFMTA with increased certainty regarding budget and schedule.
- The selection is based on overall best value, including design quality, life-cycle cost savings, and ability to meet project objectives, rather than lowest bid alone.

The SFMTA, in collaboration with San Francisco Public Works (DPW), launched a two-step full and open competitive process to select a private partner.

- Step 1: A Request for Qualifications (RFQ) issued in August 2020 resulted in three shortlisted teams. Three proposals were submitted by December 2021.
- Step 2: A Request for Proposals (RFP) followed in April 2021. After evaluation, two teams were selected to submit revised proposals.

[1] Chapter 6 of the Administrative Code contains policies for the City's public works procurements. Chapter 14B contains policies for Local Business Enterprise and non-discrimination in the City's contracting processes. Chapter 21 contains policies related to the City's contracting process for commodities and professional services. The Project is not exempt from certain prevailing wage, First Source Hiring, Local Business Enterprise, and State Apprenticeship Program requirements.

On July 26, 2022, the SFMTA received a single revised proposal from Potrero Neighborhood Collective (PNC). After a thorough evaluation, PNC was selected as Lead Developer on September 12, 2022.

Predevelopment Agreement

The SFMTA and Potrero Neighborhood Collective, the Lead Developer, entered into a Predevelopment Agreement on November 2, 2022, which was subsequently approved and amended by the Board of Supervisors (Files 24-0136 and 24-0937). The predevelopment work included, among other tasks:

- Preparing and obtaining design documents, due diligence materials, and other development analyses
- Developing the Project's commercial and financing structure
- Procuring contracts for design and construction of the Infrastructure Facility
- Negotiating separate agreements with the SFMTA to deliver the Project—the Project Agreement (to design, construct, and finance the Infrastructure Facility) and the Lease Disposition and Development Agreement (LDDA) (to continue development of the Housing Project).

The Predevelopment Agreement required the Lead Developer to perform the predevelopment work at its own expense. Compensation to the Lead Developer is contingent upon achieving specific milestones, such as obtaining project entitlements and reaching financial close for the Project Agreement. The Lead Developer received a $4,350,000 continuation payment once it secured environmental clearance and the entitlements needed to construct and operate the Project. If the City terminates the agreement without cause, or if the agreement expires without the execution of the Project Agreement, the City is obligated to provide a termination payment of up to $16,046,566[2] to the Lead Developer, provided the Lead Developer is not at fault. The Predevelopment Agreement expires on March 31, 2026, and MTA is planning to extend that agreement by two months, should it be needed, to allow for final approval of the Project Agreement to take place.

The predevelopment work for the Project has been completed, and the parties are now proposing to execute an Infrastructure Facility Project Agreement (Project Agreement), as well as a Lease Disposition and Development Agreement (LDDA) for the development of the Housing Project[3].

[2] Subsequent to the Board of Supervisors' approval of the second amendment to the Predevelopment Agreement, the SFMTA administratively approved the third agreement to the agreement to increase the termination payment by $500,000 and to extend the term of the agreement, as well as the dates for financial close and substantial facility of the infrastructure facility.

[3] The LDDA is a separate agreement and will be subject to Board of Supervisors' approval.

Joint Development Contractors and Roles

To facilitate the use of tax-exempt bonds for project financing, the Lead Developer needed to identify an existing 501(c)(3) organization to establish a Non-Profit Entity (NPE) that would serve as the counterparty to the proposed Project Agreement and act as the borrower under the financing documents. As a result, the Project Agreement is between SFMTA and Potrero Properties LLC, the designated NPE. All of the NPE's obligations under the Project Agreement will be delegated to the Lead Developer through a Project Implementation Agreement. Exhibit 1 identifies the main contractors and explains their respective roles. The Non-Profit entity will allow the project to borrow tax-exempt bonds to pay for all project costs, which reduces financing costs compared to other financing sources, such as taxable bonds, other credit, and developer equity.

Exhibit 1. Project's Contractors and Roles

Potrero Neighborhood Collective LLC (PNC)	***Principal Project Company***. *PNC is the "Lead Developer"* responsible for design and construction and was selected through a competitive procurement process.
Plenary Americas US Holdings Inc (Plenary)	***Sole owner of PNC***. Plenary selected a tax-exempt 501(c)(3) debt financing solution and needed to identify and select an existing 501(c)(3) entity that would be tasked with forming the non-profit entity (NPE) that would serve as counterparty to the project agreement and borrower under the finance documents.
Provident Resource Group Inc.	***Sole member and parent of PRG.*** A nonprofit corporation exempt from federal income tax whose purpose is to lessen the burdens of government and foster economic development. Provident formed the subsidiary, *PRG-Potrero Properties LLC*, to function as a conduit borrower for the project.
PRG – Potrero Properties LLC (Non-Profit Entity)	**Provident subsidiary.** PRG will be the SFMTA counterparty to facilitate the issuance of tax-exempt bonds as conduit borrower. The *Project Agreement* is between SFMTA and **PRG – Potrero Properties LLC**. Additionally, the Non-Profit Entity will enter into a *Project Implementation Agreement* with the Lead Developer requiring it to assume responsibility and be accountable for performance of the design and construction obligations, consistent with the risk allocation negotiated under the Project Agreement.
Webcor	**Subcontractor**. The Lead Developer will enter into a design-build subcontract (D&C Contract) with Webcor.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution approves an Infrastructure Facility Design-Build-Finance (DBF) Project Agreement between SFMTA and Potrero Properties LLC, for the design, construction, and financing of a bus storage and maintenance facility for the Potrero Yard Modernization Project for an estimated term of 30-years following substantial completion and an estimated not to exceed amount of $1,396,433,595, subject to adjustment (as discussed below).

Under the Agreement, the SFMTA would make the following payments to Potrero Properties LLC: a) two Milestone Payments of $65 million at or near Financial Close and $250 million during construction, b) Development Fee of $5 million payable upon Substantial Completion, c) Termination, and Delay Event payments, only in the event of an actual termination or delay event, as provided in the Agreement, d) Quarterly Availability Payments for up to 30 years totaling approximately $980 million to repay project debt and administrative costs.

In addition, the proposed resolution approves the following actions:

- Approval of the issuance of Bonds and Refunding Bonds in an aggregate principal amount not to exceed $900,000,000 by the California Municipal Finance Authority (CMFA) to finance and/or refinance the Infrastructure Facility, with the clarification that the Bonds are not a debt or obligation of the City, and that repayment is solely the responsibility of the Nonprofit Entity.
- Adoption of the Final Environmental Impact Report (EIR), the Mitigation Monitoring and Reporting Program (MMRP), the Memorandum to File, and all related CEQA Findings.
- Authorization for the Controller, Director of Public Finance, and other City officers to execute documents and take all actions necessary to implement the Resolution.
- Authorization for the Director of Transportation, in consultation with the City Attorney, to execute all agreements, certificates, and documents necessary to implement the Project Agreement, including any amendments or modifications determined to be appropriate and consistent with the intent of the Agreement and the Resolution.

Delegation of Authority

Under the proposed Project Agreement, the SFMTA absorbs financing risks, including the risks associated with changes in interest rates and credit spreads[4] between the start of the agreement and the date of financial close. The Director of Transportation can approve an increase in the

[4] Credit spread risk refers to the potential increase in borrowing costs due to changes in the difference between project-specific interest rates and benchmark rates, such as government bonds. Under the agreement, if credit spreads rise before Financial Close, the City may need to adjust availability payments to account for higher financing costs incurred by the Principal Project Company.

capital portion of the availability payment of up to 10 percent without seeking approval from the SFMTA Board of Directors or the Board of Supervisors.

The proposed resolution includes an "estimated" not to exceed amount of $1,396,433,595, but states that it is subject to adjustment on the terms of the Project Agreement. Specifically, the resolution delegates the authority to approve changes to the amount, timing or calculation of Availability Payments that are not considered an "Affordability Event", including adjustments due to changes in credit spread, interest rates, or "other formula-based or risk-allocated mechanisms contemplated in the Project Agreement."

Under the terms of the draft Project Agreement, Board of Supervisors' approval would be required if the availability payment exceeds estimates by 10 percent or more due to changes in interest rates or if other costs increase by more than $500,000.

Because the not to exceed amount of $1,396,433,595 already includes a 10 percent contingency for changes in interest rates and credit spread (as discussed below), we recommend that the Board of Supervisors amend the proposed resolution to remove the word "estimated" from the cumulative not to exceed amount, and to remove language stating that the not to exceed amount is subject to adjustment based on the terms of the Project Agreement.

Project Timeline

- **Financial Close:** Marks the completion of all financing agreements and preconditions, ensuring the Principal Project Company (PPC) has secured necessary funds without City debt. This milestone is critical because construction cannot begin until Financial Close is achieved. Financial Close is estimated for April 2026.
- **Construction Start:** Construction begins after Financial Close and issuance of Notice to Proceed 2 (NTP 2)[5].
- **Substantial Completion**: This milestone is reached when construction meets all technical and performance standards, allowing the bus yard to be placed into operational use. At this point, as the 30-year term begins, the City starts making quarterly Availability Payments, and the Substantial Completion Development Fee is paid. Substantial Completion is anticipated by June 2030.
- **Final Acceptance and Move-In:** Final Acceptance occurs within 180 days after Substantial Completion. During this period, the Non-Profit Entity (NPE) coordinates the Move-In of City operations into the new facility. A Move-In Subcommittee oversees the process, and a Move-In Resource must be selected 18 months before Substantial Completion to ensure a smooth transition.
- **Certifications and Warranty Period**: The project must achieve LEED BD+C Gold Certification[6] within 12 months after Substantial Completion, with documentation

[5] NTP 1 authorizes non-construction work such as design and planning. While NTP 2 requires regulatory approvals, insurance, bonds, and site readiness before construction can start.

[6] LEED Gold Certification is a sustainability rating awarded by the U.S. Green Building Council.

submitted within 6 months. Additionally, a two-year warranty period begins at Substantial Completion, requiring NPE to correct any defects or nonconforming work during this time.

- **Close-Out and Transition Duties:** After the 30-year term, NPE must deliver all project records, intellectual property, and warranties to the City.

Scope of Work

The Potrero Yard Design-Build-Finance (DBF) Agreement focuses on the design and construction of a modernized bus yard facility. The agreement specifies the development of a four-story bus maintenance, storage, and training facility to serve the all-electric trolley bus transit fleet and support future battery-electric transit needs. The Lead Developer, or Principal Project Company (PPC), is responsible for the substantial completion of the construction by 2030. The PPC and SFMTA have defined responsibilities under the DBF agreement. Below is a detailed breakdown of the responsibilities outlined in the DBF agreement, followed by a clarification of elements excluded from the agreement:

Design and Build Responsibilities

The Project will demolish the existing transit facility and replace it with a three-story bus maintenance, storage, and training facility. The Infrastructure Facility will consist of a multi-level structure for bus storage, maintenance functions, administrative offices, and a training center. The Bus Yard Component will provide storage for up to 246 buses, a more than 60 percent increase in current capacity.

Under the Project Agreement, the NPE must design and construct the facility in full compliance with the technical requirements, applicable codes, and Good Industry Practice. The facility must meet all structural and seismic standards, exceed minimum code requirements, comply with the San Francisco Green Building Code, and achieve a LEED Gold rating. The NPE is responsible for all design development, utility adjustments, hazardous materials management, quality assurance, testing, commissioning, and procurement and installation of NPE-furnished furniture, fixtures, and equipment. The NPE must deliver a fully functional facility that satisfies all conditions for Substantial Completion and Final Acceptance.

Finance Responsibilities

The PPC is required to secure and manage private financing to cover the design, construction, and operational phases of the project. This involves preparing financial models, managing risks, and ensuring budgetary compliance throughout the project lifecycle. The PPC must also report on financial performance to SFMTA at regular intervals, maintaining transparency and accountability. To recover its upfront costs, the PPC is reimbursed by the City through a combination of milestone payments and availability payments:

- **Milestone Payments:** These payments are tied to the successful completion of specific project milestones during the design and construction phases. They cover a portion of

direct costs, such as labor, materials, and equipment, while providing partial recovery of the PPC's initial investment.

- **Development Fee:** The fee will be paid in four installments following Substantial Completion and completion of certain post-construction milestones.
- **Availability Payments:** Starting after Substantial Completion, these quarterly payments compensate the PPC for project debt.

The second Milestone Payment may be deducted if certain design, construction, and operating metrics are not met. The City's financial obligations under the agreement are limited to Milestone Payments and Availability Payments, as defined in the contract. The Principal Project Company is solely responsible for obtaining and repaying all project financing, including debt, equity, or other funding sources, with no recourse to the City for any portion of the developer's financial obligations. However, as discussed below, if the City terminates the agreement, it will be responsible for repaying project debt and any work completed up to the termination date. If the City terminates the agreement because the developer defaults, MTA will be able to deduct its losses from its repayment obligations.

Operation and Maintenance Responsibilities

Under this DBF agreement, the NPE is not responsible for ongoing maintenance or operations after Substantial Completion. After Substantial Completion, the City has "full charge and care" of the facility and bears the risk of loss and damage. The NPE remains responsible only for completing any project close-out items prior to Final Acceptance and for performing warranty work to correct defects during the two-year warranty period. We note that certain components of the bus yard will be under warranty beyond the two-year warranty period of the Project Agreement, but the SFMTA will be responsible for facilitating repairs of those and any other components.

Assignment of Risk for Cost and Schedule Changes

Under the Project Agreement, the contract price may increase if the City issues a Change Order. The City may introduce changes to the work at any time, including additions to the scope of the D&C Work, and would be responsible for the associated cost. Cost increases may also occur due to delays. If the City causes a delay, the NPE may seek additional compensation, a time extension, and/or other relief. However, if delays are caused by the NPE, the NPE bears the cost, although the SFMTA must still cover the financing costs attributable to the delay according to SFMTA staff.

According to SFMTA staff, the Agreement adopts a shared-risk structure that is more favorable to the City than typical design-build contracts, including shared cost responsibility for discovery of unidentified utilities, PG&E-related delays, limited building permit approvals, and differing underground site conditions. These risks are traditionally borne entirely by the owner. However, the NPE may qualify for relief if the Department of Building Inspection takes more than nine months to issue approvals for a limited subset of building permits, provided the NPE meets all required conditions. Otherwise, the NPE bears the risk of securing approvals for required building permits.

If the developer fails to meet its obligations, the NPE is responsible for any associated costs. The Agreement protects the City from performance-related risk through deductions assessed on a per-day basis for delays beyond remedial periods. The deductions would be applied against Milestone Payment 2.

Finally, the Project Agreement may be terminated under several circumstances, including City convenience, NPE default, or insurance unavailability, and either party may terminate in the event of a force majeure that results in a full work stoppage for more than eight months. In the event of termination, the City would reimburse the NPE for allowable incurred costs, project debt, and terminate costs; if the NPE terminates the Agreement, the City may deduct its own losses from the termination payment.

Exclusions from the Agreement

The agreement explicitly requires the design and construction of the bus yard and does not mandate the development of the Housing Component. The Housing Component is not included in this agreement and would be subject to a separate ground lease agreement following the Lease Development and Disposition Agreement, which was approved by the SFMTA Board of Directors on March 3, 2026.

FISCAL IMPACT

The proposed resolution approves a Design-Build-Finance (DBF) Agreement between the City and Potrero Properties LLC, with the following key components:

- A milestone payment of $65 million at financial close.
- A milestone payment of up to $250 million due at Substantial Completion of the Infrastructure Facility.
- A $5 million development fee in four installments on or after Substantial Completion.
- Annual availability payments, paid on a quarterly basis, over a term not to exceed 30 years after the scheduled Substantial Completion date, anticipated in June 2030. The annual availability portion includes a fixed capital portion (approximately $32.9 million) and an operating portion linked to CPI (starting at approximately $427,000) for administrative costs associated with the debt issuance.

The Project's total cost is $1.3 billion in nominal dollars over 30 years under the revised Design-Build-Finance (DBF) Agreement, representing a significant reduction from the $2.2 billion cost under the former Design-Build-Finance-Operate-Maintain (DBFOM) structure. Exhibit 2 compares the City's financial obligations under the DBFOM and DBF approaches, showing how the payment structure has been redesigned. Milestone Payment 1 has decreased from $75 million to $65 million. Milestone Payment 2, previously $200 million payable no later than 2033, is now $250 million, due no later than Substantial Completion, which is currently scheduled for June 2030. In addition, the revised Agreement includes a $5 million development fee and eliminates the prior relocation payment.

Exhibit 2: Fiscal Impact Under DBFOM and DBF Agreements

	2024 Form Agreement (DBFOM)	Proposed Agreement (DBF)	Change
Milestone Payments & Fees			
Milestone Payment 1	$75,000,000	$65,000,000	($10,000,000)
Milestone Payment 2	200,000,000	250,000,000	50,000,000
Relocation Payment	500,000	-	(500,000)
Development Fee	-	5,000,000	5,000,000
Subtotal, Milestone Payments	275,500,000	320,000,000	44,500,000
Availability Payments			
Capital Portion	1,269,493,222	960,820,442	(308,672,780)
Operating Portion	695,463,759	19,531,108	(675,932,651)
Subtotal, Availability Payments	1,964,956,981	980,351,550	(984,605,431)
Total City Cost	**$2,240,456,981**	**$1,300,351,550**	**($940,105,431)**

Source: PNC IF Financial Model

The most substantial change is the reduction and restructuring of Availability Payments, which have decreased from nearly $2 billion to approximately $980 million due to: (a) the increase in milestone payments and change to a level-debt structure that increases the availability payments in the early years of the agreement, resulting in a reduction in interest costs; (b) a change in financing approach that now includes a 501(c)(3) tax-exempt bond issuance financing structure compared to the prior approach which included a potential tax-exempt Private Activity Bonds ("PABs") financing structure that relied on a USDOT allocation, resulting in a reduction in interest costs; and (c) removal of the operations and maintenance component from the scope of work, as discussed below.

The Availability Payments, which are expected to begin one year after substantial completion, will continue to be used for debt service and certain finance administration costs. However, instead of the prior approach, where payments increased by one percent annually, the revised structure establishes flat annual payments. Under the prior DBFOM proposal, both the capital and operating portions of Availability Payments were subject to interest rate and credit-spread fluctuations, CPI adjustments between commercial and financial close, and annual CPI changes throughout the operating period. Under the revised DBF structure, the capital portion is flat but subject to interest rate and credit-spread fluctuations, while the operating portion is linked to changes in CPI. The operating portion will fund finance and administrative costs incurred by NPE associated with the debt issuance.

The City may request a refinancing of project debt, which could lower Availability Payments, however it would be responsible for all refinancing transaction costs.

Not to Exceed Amount

The not to exceed amount in the proposed resolution of $1,396,433,595, includes the estimated project cost of $1.3 billion as shown in Exhibit 2 above, plus a 10 percent contingency on the

availability payments to account for potential changes in interest rates and credit-spread between the date of the agreement and financial close.

Independent Cost Estimate

The City prepared an initial Owner's Cost Estimate for the design-build scope that established a total design and construction value of $560 million, was developed prior to receiving subcontractor bids. In February 2025, Webcor submitted its initial design-build pricing proposal of $722 million. The difference between the City's estimate and Webcor's submission initiated a significant reconciliation effort. During the initial reconciliation in March 2025, the City's estimate increased from $560 million to $603 million, while Webcor's price decreased from $722 million to $699 million. After several rounds of value engineering and cost refinement to preserve financial viability, the City's estimate of the final total construction cost has been established at $584 million, which is within five percent of the development team's design-build fixed final price.

Cost Savings Associated with Reductions in the Project Scope

The project scope initially contemplated the potential to enable housing units adjacent to and above the bus facility, sharing certain common systems and infrastructure. The Lead Developer's scope also included long-term operations and maintenance services for bus facility. However, as predevelopment progressed, staff determined that retaining these elements would make delivery of the bus facility financially infeasible.

As a result, the project scope was revised, and staff made changes to operations and maintenance responsibilities, building components, and the project's financial structure, as shown in Exhibit 3. Operations and maintenance were removed from the developer's scope, eliminating responsibilities previously estimated at $14 million per year and resulting in approximately $676 million in savings over 30 years according to SFMTA estimates. Instead, the MTA will assume responsibility for maintaining the bus facility at an estimated annual cost of $1.5 million.

Additionally, constructing housing above the bus facility would have required a substantially reinforced podium structure, as well as significant space within the facility for utilities, building support functions, and circulation for the housing development. Eliminating these components avoids major costs, resulting in one-time savings of $70 million and approximately $161 million in savings over 30 years, including associated debt service costs.

Finally, the tax-exempt financing structure provides an estimated $42 million in savings over 30 years, and the restructuring of milestone and availability payments results in an additional $371 million in savings over the same period.

Exhibit 3. Project's scope changes and cost savings

Type of Change	Scope Change	Cost Savings	Savings over 30 years
Maintenance and Operations	Removal of long-term operations and maintenance for 30 years following construction	$14,000,000 annually	$676,000,000
Design-Build Cost Reduction	Removal of podium strengthening (foundations and superstructure), removal of basement, removal of roof deck, and consolidation at the ground floor	70,000,000 one-time	161,000,000
	Reducing the Mezzanine floor plate	3,400,000 one-time	8,000,000
Financial Structuring	Tax-exempt borrowing	1,400,000 annually	42,000,000
	Milestone Payment 1 and 2 modifications	2,900,000 annually	85,000,000
	Leveling annual availability payments: capital portion set at a fixed amount for 30 years, and operational cost linked to CPI 3% increase p.a.	$6,800,000 annually	$286,000,000

Source: SFMTA Staff

Financing Costs Assessment

The design-build fixed final price contained in PNC's financial model reflects design and construction costs for the Bus Yard Component at $612 million, excluding financing expenses. Adding approximately $65 million in predevelopment costs brings the total project cost to $677.1 million. As shown in Exhibit 4 below, SFMTA has secured funding to make the Milestone 1 payment to the NPE for the $65 million in predevelopment costs. If the City were to issue its own debt to finance and build the facility (excluding predevelopment costs), we estimate the total debt service would be approximately $1.33 billion for a $612 million-project, assuming a six percent interest rate and a thirty-year term. This suggests the City would save roughly $33.7 million under the proposed agreement compared to using conventional public financing sources.

Funding Sources

As shown in Exhibit 4, SFMTA has secured $70 million out of the total project payments in the amount of $1.3 billion. This portion would cover Milestone Payment 1 and the Substantial Completion Development Fee. Milestone Payment 2 will be primarily funded through General Obligation Bonds, pending voter approval in June 2026, with the remaining $50 million through SFMTA's Capital Budget as a top payment priority and capital obligation, including the allocation of project savings from other projects.

Availability Payments would also be funded through the SFMTA's capital budget. According to SFMTA staff, these payments would be supported by external capital funding sources, such as

federal, state, and regional funds, as well as other eligible local capital revenues programmed through the agency's Capital Improvement Program (CIP). The Availability Payments will be prioritized and funded from the capital budget before allocating resources to new discretionary capital projects.

Exhibit 4. Funding Sources

Payment and Source	Amount($)	Status
Substantial Completion Development Fee		
Developer issued tax-exempt bonds	**$5,000,000**	Issued at Financial Close
Milestone Payment 1		
Caltrans -SB 1 State of Good Repair (FY23-FY26)	$5,150,953	Secured
SFCTA - Prop K Sales Tax	1,000,000	Secured
MTC - Regional Measure 3 Bridge Toll Funds (RM3)	42,393,000	Secured
City General Fund (2014 Prop B - Transit)	5,750,000	Secured
FTA - Section 5307 Formula Funds (FY22-FY24)	10,706,047	Secured
Total	**$65,000,000**	
Milestone Payment 2		
General Obligation (GO) Bonds (June 2026)	$200,000,000	Pending voter approval
Savings from other projects	50,000,000	TBD
Total	**$250,000,000**	
Availability Payments		
SFMTA Capital Budget and Capital Improvement Program	$980,351,550 (approximately $33.3 million annually)	TBD
	Total Amount	**Total Secured Funds**
	$1,300,351,550	**$70,000,000**

Source: SFMTA Staff

POLICY CONSIDERATION

The updated scope for the Potrero Yard Modernization Project plans to enable the potential for the affordable housing developer to build approximately 104 affordable residential units adjacent to the Infrastructure Facility, compared to the 465 units originally proposed to be built adjacent to and above the Infrastructure Facility, or approximately 22 percent of the initial housing proposal. This significant reduction reflects the substantial additional costs required to enable the potential to construct housing above the Infrastructure Facility, reflected in the need

for a reinforced podium, support spaces, and other common infrastructure. By no longer enabling the potential to construct housing above the Infrastructure Facility, the project achieves approximately $70 million in 2025 dollars as a one-time design-build cost savings, which reduces total project costs by an estimated $161 million including debt service costs and maintains the project's overall financial viability.

According to Mayor's Office of Housing and Community Development (MOHCD) staff, the affordable housing project located at 2888 Bryant Street is currently in the predevelopment phase. At present, design work has been paused pending approval of the overall project. MEDA and Tabernacle Community Development Corporation were selected by the SFMTA as the development team, and a contractor will be selected once design activities resume. In December 2023, MOHCD executed a loan agreement with the affordable housing developer to provide $3 million in funding to finance predevelopment activities for the project. There is currently no determined construction start date for the project, but it is not expected to start before FY 2028-29 according to staff. As noted above, the SFMTA Board of Directors approved a Lease Development and Disposition Agreement on March 3, 2026 to enable development of the housing project. Following the Lease Development and Disposition Agreement, SFMTA will enter into a ground lease for the affordable housing project, which will be subject to Board of Supervisors' approval.

RECOMMENDATIONS

1. Amend the proposed resolution to remove the word "estimated" from the cumulative not to exceed amount of $1,396,433,595, and to remove language stating that the not to exceed amount is subject to adjustment based on the terms of the Project Agreement because the not to exceed amount already includes a contingency to allow for changes in interest rates and credit spread.
2. Approve the proposed resolution as amended.

Click on this page to be forwarded to the Legislative Research Center to view the entirety of this voluminous document

POTRERO YARD MODERNIZATION PROJECT

INFRASTRUCTURE FACILITY PROJECT AGREEMENT

BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

ACTING BY AND THROUGH THE

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

AND

PRG – POTRERO PROPERTIES LLC

DATED AS OF [_____, 2026]



SFMTA

Potrero Yard Modernization Project

Bus Yard Project Agreement

Board of Supervisors – Budget & Finance Committee
March 18, 2026

POTRERO YARD MODERNIZATION PROJECT

Project Scope



View from Franklin Square

DRAFT RENDERING
Design subject to change

Project Need

At its core, the Potrero Yard Modernization Project is a critical infrastructure project. The current yard is:

- Functionally obsolete
- Operating beyond crush capacity
- Seismically unsafe, hindering the SFMTA's ability to respond in the event of a disaster



Project Scope

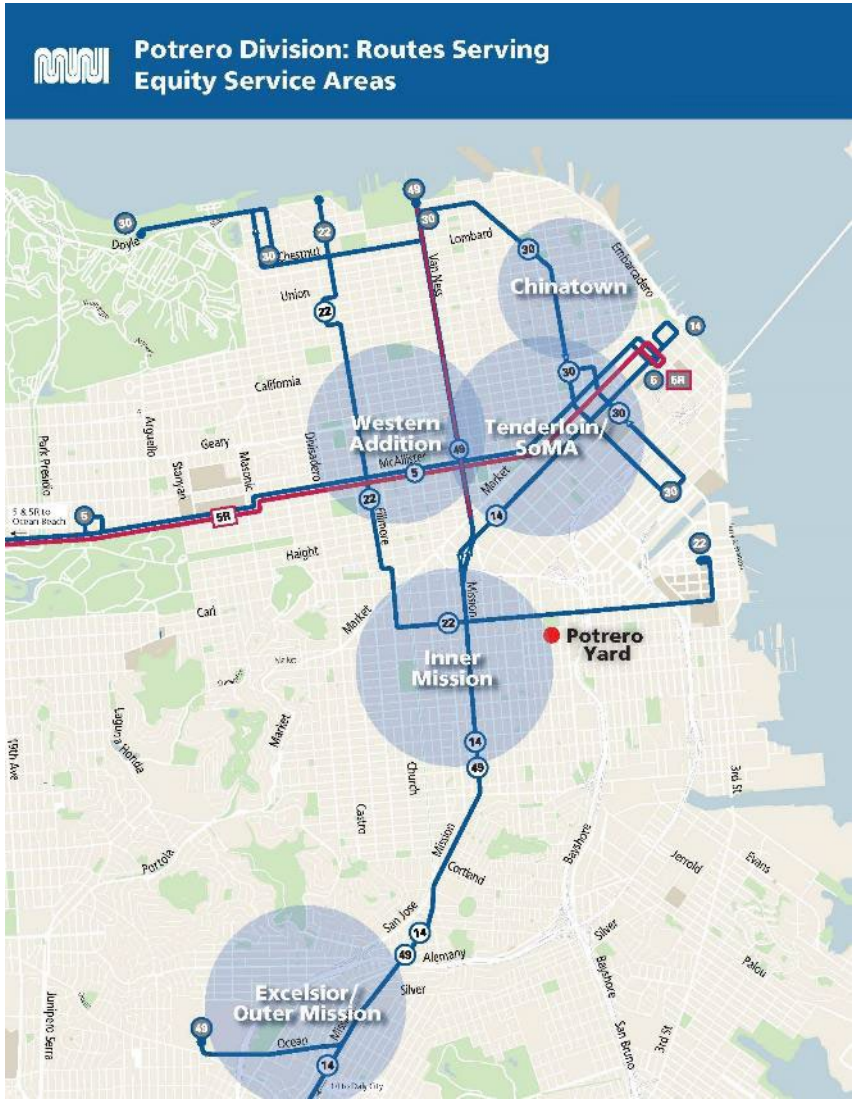
A new modern, four-level infrastructure facility will:

- Improve transit service and maintain buses more efficiently
- Accommodate 68% more electric trolley buses
- Provide safe, naturally lit, and well-ventilated workspaces for staff
- Consolidate Muni operator training functions
- Improve the surrounding streetscape
- Enable proposed Bryant Street housing – approximately 100 units of affordable housing and neighborhood-serving retail space



DRAFT RENDERING
Design subject to change

Potrero's Role in Delivering Service

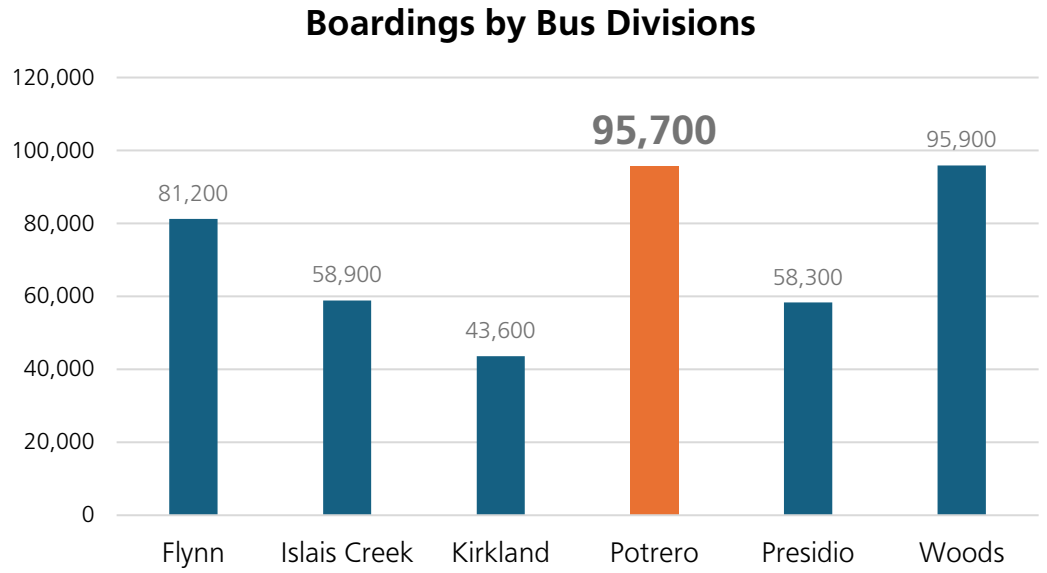


Routes

5/5R, 14, 22, 30, 49 (All serve Muni Service Equity neighborhoods)

Ridership

Second-highest ridership in Muni system with 95,700 avg weekday riders (~22% of bus weekday ridership)



City Partnerships

SFMTA

SAN FRANCISCO PUBLIC WORKS

San Francisco Planning

MAYOR'S OFFICE OF
HOUSING & COMMUNITY DEVELOPMENT

CITY ATTORNEY SAN FRANCISCO

SAN FRANCISCO
Office of Economic and Workforce Development

POTRERO Neighborhood Collective

Staff Support



"The most important thing for (myself and for) staff is safety. This facility has been here for over 100 years — things are starting to break down. A new facility will be up to code — it will be safer."

— Dave McElroy, Electrical Transit Mechanic, Asst Supervisor

"With a new modern facility, we'd be able to work more safely. We'd be more efficient and could put more vehicles out on the road."

Mike Henry, Chief Mechanical Officer for Fleet Maintenance





— Robert Sistoso, Electrical Transit Mechanic, Asst Supervisor

"As a supervisor, I see the struggle of mechanics putting their bodies in an awkward position due to lack of ceiling clearance, over time could can lead to injury.

Ceiling concrete is coming apart, which could potentially cause serious injury. A new facility with new equipment will provide a safe working environment and longevity for our staff."

Staff Support



Potrero Division Send-Off Celebration – February 6, 2026



Last Pull-in at Potrero – February 14, 2026

Project Timeline

SFMTA Planning
2018–2022



- ✓SFMTA planning and community outreach and engagement to advance project
- ✓PNC selected as project Development Team

Design & Permitting
2023–2026



- ✓Entitlements granted
- ✓Updated EIR and received CEQA certification
- ✓Conducted contractor procurement for bus yard
- ✓Value Engineering process
- ✓Continued outreach
- ✓Muni operations temporarily relocated

Final Design & Construction
2026-2030



- Enter into Project Agreement with City and PNC
- Demolish existing Potrero Yard
- Construct new bus yard
- Housing developers continue identifying and securing funding

Housing Construction
as funds secured



- Developer to secure funding for Bryant Street housing
- Conduct contractor procurement for Bryant Street housing
- Construction of housing and retail spaces

Project Updates



Proposed Project

Up to 246 buses
Approx. 465 units proposed Affordable Housing



Proposed Project Variant

Up to 246 buses, up to 160 paratransit vehicles
Approx. 100 units proposed Affordable Housing



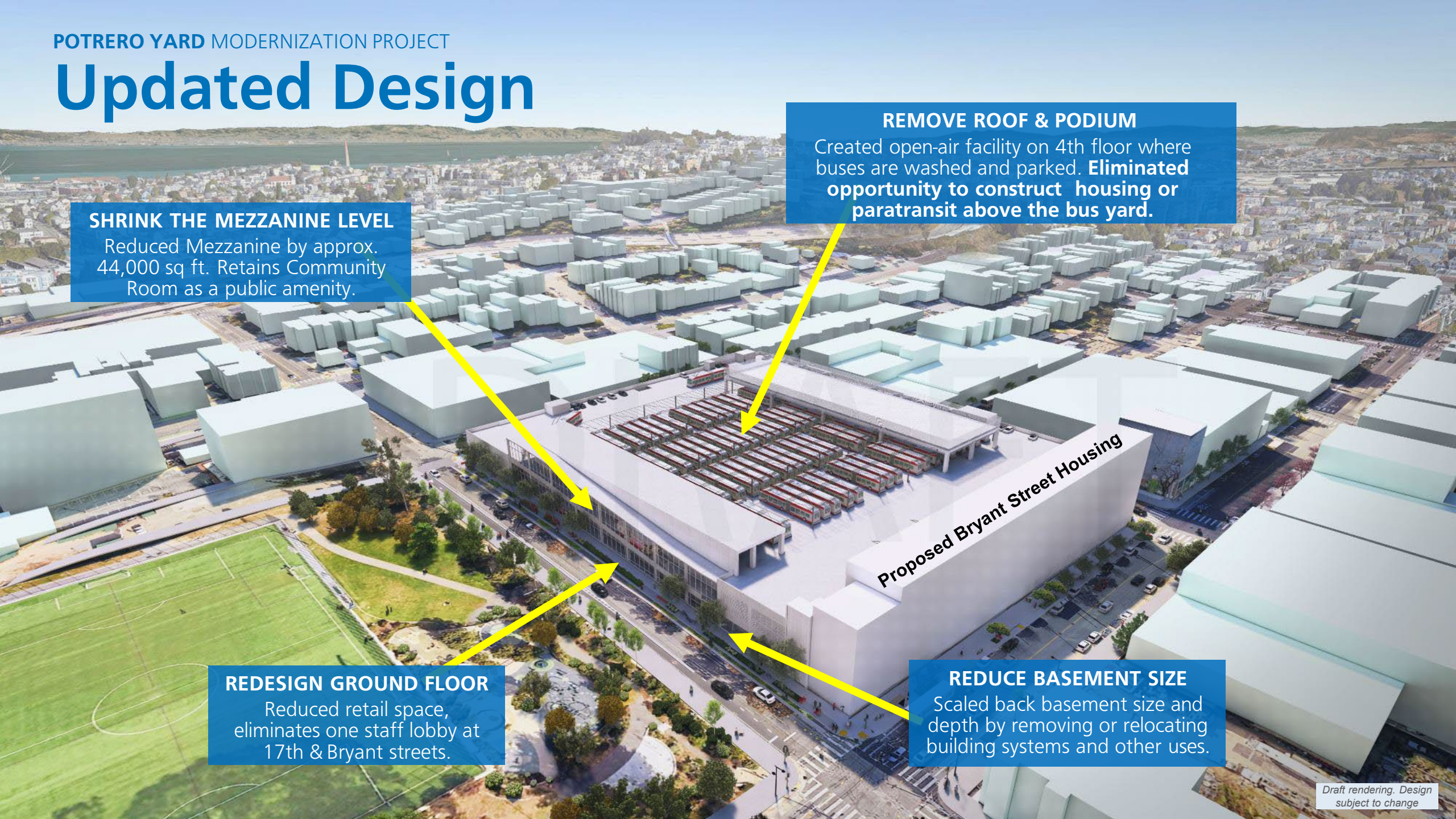
Final Project

Up to 246 buses
Approx. 100 units proposed Affordable Housing

Development of housing is subject to funding sources and market feasibility.

POTRERO YARD MODERNIZATION PROJECT

Updated Design



SHRINK THE MEZZANINE LEVEL
Reduced Mezzanine by approx. 44,000 sq ft. Retains Community Room as a public amenity.

REMOVE ROOF & PODIUM
Created open-air facility on 4th floor where buses are washed and parked. **Eliminated opportunity to construct housing or paratransit above the bus yard.**

REDESIGN GROUND FLOOR
Reduced retail space, eliminates one staff lobby at 17th & Bryant streets.

REDUCE BASEMENT SIZE
Scaled back basement size and depth by removing or relocating building systems and other uses.

Draft rendering. Design subject to change

Draft Project Renderings



Bryant Street and Mariposa Street



17th Street and Hampshire Street

Community Input & Outreach

155+
Outreach Activities

2,600+
Current Subscribers to Project Updates

25+
Street Fairs and Community Celebrations

55
Neighborhood Working Group Meetings

60+
Listening sessions and briefings with community organizations & leaders

1,100+
Respondents to Neighborhood Surveys and Feedback Polls

Response to Community Input

The Project has worked to retain public amenities requested by the Working Group and broader community, including:

- **Community Room** - publicly accessible meeting space.
- **Public Restroom** – located near Franklin Square to serve parkgoers.
- **Streetscape Improvements** – enhanced landscaping, improved sidewalks and crosswalks.
- **Upgraded Bicycle Infrastructure** – protected and widened bicycle lanes and bicycle parking for staff and the public.
- **Opportunity for Bryant Street Housing** – approx. 100 units of affordable family housing

Not everything could be retained in the project as a result of budget constraints:

- **Podium –** Potential for future housing or paratransit facility above the bus yard.
- **One of Three Retail Spaces** – Two community retail spaces will still be provided at ground level of Bryant Street Housing



SFMTA

Project Agreement

Payment Framework

Based on a Final Design-Build Price of $612,107,000

Milestone and Annual Payment Obligation/Details

Payment Type	Purpose	Amount	Sources	Notes
Milestone Payment 1 (MP1)	Closing costs and repays developer for pre-development costs	**$65M**	• RM3 • Sales Tax • SB1 SGR • FTA 5307	Paid at Financial Close
Milestone Payment 2 (MP2)	Down payment on design and construction costs	**$250M**	• 2026 ESER GO Bond • SFMTA Capital Project Savings	Performance-based. Paid by Substantial Completion
Availability Payments (AP)	Annual debt service payments on design and construction costs	**$33M**	• SFMTA Capital Fund Sources	Paid annually until 2061.

Project Labor Agreement

A Project Labor Agreement (PLA):

- Promotes efficient construction in a safe work environment,
- Ensures adequate supply of skilled craftworkers,
- Establishes a framework for labor-management cooperation and stability, and
- Provides for peaceful settlement of labor disputes.

POTRERO Neighborhood Collective

SAN FRANCISCO BUILDING AND CONSTRUCTION TRADES COUNCIL · AMERICAN FEDERATION OF LABOR · BUILDING & CONSTRUCTION TRADES DEPT. · LABOR OMNIA VINCIT · ORG. FEB. 10, 1908 · ORG. NOV 15TH, 1881 · ORG. FEB. 6, 1896 ·

NORTHERN CALIFORNIA CARPENTERS REGIONAL COUNCIL

SFMTA

Housing Agreement



Enables Bryant Street Housing



17th Street and Bryant Street

- The final bus yard design continues the project's long-term commitment to affordable housing.
- **Enables the ability to build approximately 100 units of affordable housing** along Bryant Street (Studio to 3 bedrooms).
- Construction is dependent on housing developer's ability to secure funding. **The SFMTA cannot fund housing**.
- Housing project to include two community-serving retail spaces

meda

TCDC

POTRERO Neighborhood Collective

Proposed Bryant Street Housing

The approved **Lease Development & Disposition Agreement (LDDA)** sets terms for development of the proposed housing and the form of the future Ground Lease, including:

- All homes must remain affordable to households earning up to 80% of Area Median Income
- 75-year ground lease term (with option to renew)
- SFMTA review of design to ensure compatibility with the bus yard
- Schedule of required milestones to achieve approval of the Ground Lease and Close of Escrow, which must occur no later than two (2) years after completion of the bus yard

The future Ground Lease will be brought to the Board of Supervisors for consideration upon developer securing funds to begin construction.

The LDDA was approved by the SFMTA Board of Directors on March 3, 2026.

Recommendation

Amend the legislation to include as the second-to-last *Whereas* clause the following:

WHEREAS, On March 9, 2026, the Planning Department issued a Memorandum to File, which found that with development of the Housing Project, the remaining sites identified in the 2022 Housing Element Update are adequate to meet the requirements of California Government Code Section 65583.2 and to accommodate the City's share of the regional housing need pursuant to California Government Code Section 65584. The Board incorporates those findings as its own, and incorporates the March 9, 2026 letter as though fully incorporated herein; and

Forward to the full Board of Supervisors with **recommendation** as amended to approve Contract No. 1334 — Infrastructure Facility Project Agreement for the design, construction, and financing of a bus storage and maintenance facility for the **Potrero Yard Modernization Project.**



Thank You

PREDEVELOPMENT AGREEMENT

by and between

THE CITY AND COUNTY OF SAN FRANCISCO

acting by and through the

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

and

POTRERO NEIGHBORHOOD COLLECTIVE LLC

Potrero Yard Modernization Project

November 2, 2022

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PREDEVELOPMENT AGREEMENT

This Predevelopment Agreement (this "**Agreement**") dated for reference purposes only as of November 2, 2022, is by and between the **CITY AND COUNTY OF SAN FRANCISCO** ("**City**"), a municipal corporation acting by and through the **SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY** ("**SFMTA**"), and **POTRERO NEIGHBORHOOD COLLECTIVE LLC**, a limited liability company organized under the laws of the State of Delaware ("**Lead Developer**" or "**LD**"). City and Lead Developer are also each referred to as a "**Party**" and together referred to as the "**Parties**" below.

RECITALS

A. City, under the jurisdiction of the SFMTA, owns the real property commonly known as 2500 Mariposa Street in San Francisco, California, which is a 4.4-acre site comprised of Assessor's Block No. 3971-001, bounded by Bryant Streets, 17th Street, Hampshire Street, and Mariposa Street, and fully described on the attached Appendix A (the "**Project Site**").

B. The Project Site is currently improved with a two-story structure used for electric trolley bus parking, operations, and maintenance services and an open trolley bus storage yard, which do not have the capacity to meet current needs, expected future needs, or modern safety and maintenance standards. City policy also promotes using public lands to build affordable housing to the greatest extent possible.

C. On August 21, 2020, San Francisco Public Works issued a Request for Qualifications on behalf of the SFMTA (together with all its addenda, the "**RFQ**") to invite interested parties to submit a statement of qualifications to design, build, finance and maintain the Infrastructure Facility (as defined in Article 1 (*Definitions*)) at the Project Site and design, build, finance, operate and maintain the Housing and Commercial Component (as defined in Article 1 (*Definitions*)) at the Project Site.

D. City determined Lead Developer and two other respondents to the RFQ were the three most qualified respondents to the RFQ and invited those three respondents to respond to a Request for Proposals for the development of the Project, which was issued by City on April 9, 2021 (the "**Initial RFP**"). The Initial RFP and all addenda to the Initial RFP shall be collectively referred to in this Agreement as the "**RFP**".

E. On December 30, 2021, Lead Developer submitted a proposal to City in response to the RFP (the "**Original Proposal**") offering to perform predevelopment services and negotiate the form of the Project Agreement, the Housing and Commercial Component Agreement with respect to the Housing and Commercial Component (as defined in Article 1 (*Definitions*)) to develop and deliver the Project.

F. On May 26, 2022, City issued Addendum #30 to the RFP requesting proposal revisions from eligible proposers.

G. On July 20, 2022, Lead Developer submitted its revised response to the RFP, which was clarified through the request for clarifications process set forth in the RFP. The Original Proposal and the revised response to the RFP, as clarified, are collectively referred to as (the "**Proposal**").

H. On September 12, 2022, Lead Developer was selected by City as the preferred respondent with the best-value proposal to the RFP.

I. Lead Developer and City wish to enter into this Agreement to provide for terms and conditions of the following predevelopment activities needed for timely delivery of the Project (as defined in Article 1 (*Definitions*)): (i) negotiating and finalizing agreements that are necessary for the Project, (ii) preparing and obtaining design documents, due diligence materials, and other development materials and analyses, (iii) preparing the analysis for any early works to prepare the Project Site for the Project during the PDA Term and if approved by City, performing that early work, (iv) negotiating and finalizing the MME Construction Agreement (as defined in Article 1 (*Definitions*), (v) developing the commercial and financing structure for the Project and negotiating and finalizing the related financing documents, (v) procuring a design-build contract for the construction of the Infrastructure Facility, (vi) procuring a facility maintenance contract for certain elements of the Infrastructure Facility, and (vii) any other predevelopment activities necessary to develop the Project and Project Documents to timely reach Commercial Close (as defined in Article 1 (*Definitions*)) and IF Financial Close and HCC Financial Close (each as defined in Article 1 (*Definitions*) below).

J. This Agreement addresses predevelopment activities only and does not commit City to any definite course of action with respect to approval of the Project or any portion of the Project. City will not consider approval of the Project until the City has completed environmental review with respect to the Project in compliance with the CEQA (as defined in Article 1 (*Definitions*) below) and City's CEQA procedures, as set forth in San Francisco Administrative Code Chapter 31. Accordingly, notwithstanding this Agreement, City and any other public agencies with jurisdiction over any part of the Project each shall have the absolute discretion to (a) require modifications to the Project and/or implementation of specific measures to mitigate significant adverse environmental impacts; (b) select feasible alternatives that avoid significant adverse impacts of the Project, including the "no project" alternative; (c) reject all or part of the Project if the economic and social benefits of the Project do not outweigh otherwise unavoidable significant adverse impacts of the Project; (d) approve the Project upon a finding that the economic and social benefits of the Project outweigh otherwise unavoidable significant adverse environmental impact of the Project; and (e) deny the Project.

AGREEMENT

1. DEFINITIONS

1.1. "**100% SD Package**" is described in Section 3.2 (*100% SD Package*) of Appendix B-2.

1.2. "**50% SD Package**" is described in Section 3.1 (*50% SD Package*) of Appendix B-2.

1.3. "**Access Agreement**" is defined in Section 6.3 (*Due Diligence Investigation*).

1.4. **"Additional HCC Materials"** is defined in Section 6.9(h) (*Additional HCC Materials*).

1.5. "**Affiliate**" means any of the following: (a) any Equity Member; (b) any Person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with Lead Developer or any Equity Member; and (c) any Person owned in whole or in part by (i) Lead Developer, (ii) any Equity Member, or (iii) any Affiliate of Lead Developer under clause (b) of this definition, whether the ownership interest is direct or indirect,

beneficial or of record, provided that ownership of less than 10% of the equity interest in a Person shall not give rise to Affiliate status. For the purpose of this definition, "control" means the power to direct the management of a Person, whether through voting, nomination, or other selection rights, by contract, through family relationship, or by other means.

1.6. "**Affordable Housing Developer**" means each of Mission Economic Development Agency, Young Community Developers, Inc., and Tabernacle Community Development Corp.

1.7. "**Affordable Units**" means the affordable units in the Proposed HCC, which are comprised of three low income projects (senior housing facing Bryant Street and two family housing projects along the southwestern corner of the Facility, with each containing between 80-110 units), and one moderate income project (containing approximately 284 units), subject to any modification pursuant to Section 9.2 (*HCC Change*) or Section 9.3 (*Changes Proposed by City*).

1.8. **"Agreement"** means this Predevelopment Agreement, including all appendices and attachments, as such agreement may be modified from time to time.

1.9. "**Allowance**" means any of the items identified in FS Form D of the Financial Proposal.

1.10. "**Applicable Law**" means all federal, state, local, and administrative laws, ordinances, resolutions, regulations, requirements, proclamations, orders, or decrees of any municipal, county, state, or federal government or other governmental or regulatory authority, board of fire underwriters, or any directive or occupancy certificate issued under any law by any public officer or officers acting in their regulatory capacity, in each case having the force of law and applicable to either of the Parties, the Project or any element of the Project, or the Project Site or any portion of the Project Site.

1.11. "**Area Median Income**" or "**AMI**" means median income as published annually by the San Francisco Mayor's Office of Housing and Community Development for the City and County of San Francisco, derived in part from the income limits and area median income determined by United States Department of Housing and Urban Development for the San Francisco area, adjusted solely for household size, but not high housing cost area.

1.12. "**Asset Management Program**" means a plan that describes all the management, engineering, repairs and maintenance, and other activities needed to provide a best-value level of service for the Facility as a whole during its operational life-cycle, and allocates responsibility for those activities between the Principal Project Company, the Housing Project Company, and City during the Infrastructure Facility Term and the Housing Term.

1.13. "**Asset Management Program Development Plan**" is described in Section 2.2.2.4 (*Asset Management Program Development Plan*) of Appendix B-2.

1.14. "**Availability Payment**" means the payments to be made by City to the Principal Project Company during the Infrastructure Facility Term in consideration for the Principal Project Company's services under the Project Agreement. The amount and timing of each Availability Payment will be established in the Project Agreement.

1.15. **"Base Date"** means July 20, 2022.

1.16. "**Base License Rights**" is defined in Section 11.2 (*Lead Developer IP*).

1.17. "**BEB Charging Equipment**" is described in Article 1 (*Introduction*) of Division 5 (*Battery-Electric Bus Supplemental Criteria*) of the Technical Requirements.

1.18. "**BEB Charging Infrastructure**" is described in Article 1 (*Introduction*) of Division 5 (*Battery-Electric Bus Supplemental Criteria*) of the Technical Requirements.

1.19. "**BIM Execution Plan**" or "**BEP**" is described in Section 2.2.2.2 (*BIM Execution Plan*) of Appendix B-2.

1.20. "**Board of Supervisors**" means the Board of Supervisors of the City and County of San Francisco.

1.21. "**Building Automation System**" or "**BAS**" means a computer-based system installed in buildings to control and monitor mechanical and electrical plants, including HVAC (heating, ventilation, air conditioning), lighting, power systems, fire systems, and security systems.

1.22. "**Building Information Modeling**" or "**BIM**" means a three-dimensional, digital, model-based process that gives owners, architects, engineers, contractors, and facility maintenance managers the insight and tools to more efficiently plan, design, construct, operate, and maintain buildings and infrastructure.

1.23. "**Business Day**" means any day that is not a Saturday or Sunday, a City public holiday, a State of California public holiday, or a federal public holiday.

1.24. "**Bus Yard Component**" or "**BYC**" means the Facility's transit component, which (a) will include the spaces needed for City's operation and maintenance activities at the Facility after Substantial Completion of the Infrastructure Facility, (b) must meet the Bus Yard Component criteria in the Technical Requirements except as otherwise approved by City in writing, which approval shall be at its sole discretion, and (c) will not be used for the Common Infrastructure.

1.25. "**CEQA**" is defined in Article 13 (*Final Action Subject to Environmental Review*).

1.26. "**CEQA and General Regulatory Approvals Plan**" is described in Section 2.2.3.2 (*Entitlements and General Regulatory Approvals Plan*) of Appendix B-2.

1.27. "**Change of Control**" means any Equity Transfer, transfer of an interest, direct or indirect, in an Equity Member, or other assignment, sale, financing, grant of security interest, hypothecation, conveyance, transfer of interest or transaction of any type or description, including by or through voting securities, asset transfer, contract, merger, acquisition, succession, dissolution, liquidation, bankruptcy or otherwise, that results, directly or indirectly, in a change in possession of the power to direct or control or cause the direction or control of the management of Lead Developer or a material aspect of its business. A change in possession of the power to direct or control or cause the direction or control of the management of an Equity Member may constitute a Change in Control of Lead Developer if such Equity Member possesses, immediately prior to such Change in Control, the power to direct or control or cause the direction or control of the management of Lead Developer. Notwithstanding the foregoing, the following shall not constitute a Change in Control:

(a) a change in possession of the power to direct or control the management of Lead Developer or a material aspect of its business due solely to bona fide open market transactions in securities effected on a recognized public stock exchange, including such transactions involving an initial public offering;

(b) an upstream reorganization or transfer of indirect interests in Lead Developer so long as no change occurs in the entity with ultimate power to direct or control or cause the direction or control of the management of Lead Developer;

(c) a change in possession of the power to direct or control the management of Lead Developer or a material aspect of its business due solely to a bona fide transaction involving a beneficial interest in the ultimate parent organization of an Equity Member (but not if the Equity Member is the ultimate parent organization) if the references, experience or financial statements of the ultimate parent organization were not considered or evaluated in the statement of qualifications or proposal, provided, however, that this exception shall not apply if at the time of the transaction the transferee is suspended or debarred from bidding, proposing or contracting with the City or any federal or State department or agency, or is subject to a suspension or debarment proceeding;

(d) an Equity Transfer, where the transferring Equity Member and the transferee are under the same ultimate parent organization ownership, management and control before and after the transfer; or

(e) a transfer of interests (i) between managed funds that are under common ownership, management or control or (ii) by an Equity Member to a fund, investment vehicle or other entity managed by or under common control of such Equity Member, except, in each case, a change in the management or control of a fund, investment vehicle or other entity, as applicable, that manages or controls; and

(f) the exercise of minority veto or voting rights (whether pursuant to applicable Law, by Lead Developer's organizational documents or by related member or shareholder agreements or similar agreements) over major business decisions of Lead Developer, provided that if such minority veto or voting rights are exercised pursuant to shareholder or similar agreements, City received copies of such agreements on or before the date of the Agreement.

1.28. "**City**" is defined in the Preamble.

1.29. **"City Agents**" means, collectively, employees, officers, members, managers, directors, agents, contractors, subcontractors, and consultants of City.

1.30. "**City Data**" means any information, data, or document, whether or not protectable Intellectual Property, which is created, developed, or collected by, or on behalf of, City related to transportation operations, national infrastructure planning and Personal Information of the City employees, vendors and consumers. For the avoidance of doubt, City Data shall include, but not be limited to, (a) all "nonpublic information," as defined by the Gramm-Leach-Bliley Act (15 USC § 6801 et seq.), (b) personal information as defined by California Civil Code §§ 1798.29, 1798.82, and 1798.140 (California Consumer Privacy Act of 2018, effective January 1, 2020), as amended and supplemented by the California Privacy Rights Act of 2020 (effective December 16, 2020; operative January 1, 2023), (c) protected health information or individually identifiable health information as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HiTECH) Act or as defined by the Code of Federal Regulations (45 CFR § 160.103), and/or (d) personal data as defined by the EU General Data Protection Regulation (Regulation (EU) 2016/679). For the further avoidance of doubt, City Data is not limited to proprietary or confidential information, and need not constitute trade secret information.

1.31. "**City Event of Default**" is defined in Section 19.2 (*City Event of Default*).

1.32. "**City IP**" means all Intellectual Property owned by, or sufficiently licensed to, City (other than pursuant to any license granted by the Lead Developer, any Lead Developer Related Entity or any owner of any Third Party IP under or as required by this Agreement).

1.33. "**City Predevelopment Cost**" is defined in Section 2.3(c) (*City Predevelopment Cost*).

1.34. "**City Project Director**" is defined in Section 7.3(b) (*For City*).

1.35. "**City Project Manager**" is defined in Section 7.3(b) (*For City*).

1.36. **"City Proposed Change"** is defined in Section 9.3(a).

1.37. "**claims**" means all claims, demands, rights, and causes of action.

1.38. "**COTS**" (or, "Commercially Available Off-the-Shelf Software") means Software (i) sold in substantial quantities, (ii) readily available to City without Lead Developer or third party participation, (iii) provided without modification in the same form in which it is sold in the commercial marketplace, and (iv) for which there are at least two (2) readily available alternative solutions or items with the same or substantially similar design, use or function as the proposed COTS. For the avoidance of doubt, COTS does not include so-called open source software or sole-source software.

1.39. "**Commencement Date**" means the date that City delivers Notice to Proceed #1 to Lead Developer under Section 4.2(a) (*Notice to Proceed #1*).

1.40. "**Commercial Close**" means the concurrent, full execution and delivery of both the Project Agreement and the HCC Agreement.

1.41. "**Common Infrastructure**" means the physical infrastructure component of the Facility that is shared by the Bus Yard Component and the Housing and Commercial Component, as further described in the Technical Requirements, and the criteria for which are set forth in the Technical Requirements, except as otherwise approved by City in writing, which approval shall be at its sole discretion.

1.42. "**Common Infrastructure Costs**" is defined in Section 2.6 (*Allocation of Common Infrastructure Costs*).

1.43. "**Conference/Media Summary**" is defined in Section 7.6(i) (*Press Conference or Media Activity*).

1.44. "**Construction Permitting Plan**" is described in Section 2.2.2.6 (*Construction Permitting Plan*) of Appendix B-2.

1.45. "**Contractor Procurement Plan**" is described in Section 2.2.4.1 (*Contractor Procurement Plan*) of Appendix B-2.

1.46. "**Cost and Risk Management Plan**" is described in Section 2.2.2.3 (*Cost and Risk Management Plan*) of Appendix B-2.

1.47. "**Cost Management**" is defined in Section 2.2.2.3 (*Cost and Risk Management Plan*) of Appendix B-2.

1.48. **"Covered Services"** is defined in Section 24.4(a) (*Covered Services*).

1.49. "DB" means design-build.

1.50. "**Debt Financing Plan**" is defined in Section 2.2.1.2 (*Financing Management Plan*) of Appendix B-2.

1.51. "**Design Deliverables**" is referenced in Appendix B-2.

1.52. "**Design-Build Contract**" is defined in Section 6.11 (*Design-Build Contract*).

1.53. "**Design-Build RFP**" means the request for proposals for the Design-Build Contract.

1.54. "**Design-Build RFQ**" means the request for qualifications for the Design-Build Contract.

1.55. "**Design Management Plan**" is described in Section 2.2.2.1 (*Design Management Plan*) of Appendix B-2.

1.56. "**Design Quality Management**" is defined in Section 2.1.2.1 (*Design Quality Management*) of Appendix B-2.

1.57. "**Design Reviews**" is defined in Section 2.2.2.1 (*Design Management Plan*) of Appendix B-2.

1.58. "**Developed IP**" means Intellectual Property that is authored, created, invented or reduced to practice under or for the purposes of the Agreement, the Work or the Project, whether or not such Intellectual Property is incorporated into the Project IP but excluding any adaptation, continuation or derivative work that constitutes Lead Developer IP.

1.59. "**Development Team Member**" and "**Development Team**" are defined in Section 7.1 (*Development Team*).

1.60. "**Director of Transportation**" means the SFMTA's Director of Transportation.

1.61. "**Discontinuation Notice**" is defined in Section 4.2(c) (*Decision Not to Proceed*).

1.62. "Dispute" means any dispute, disagreement or controversy between City and Lead Developer concerning their respective rights and obligations under the Agreement, including concerning any claim, alleged breach or failure to perform and remedies.

1.63. "**Draft EIR**" is defined in Section 6.20(a) (*Project Sponsor*).

1.64. "**Early Works**" means, to the extent approved by City, any physical work required at the Project Site, or off-site utility work, or physical work associated with relocating the Potrero Division bus fleet and all relevant operations out of the Project Site, during the PDA Term to enable Substantial Completion of the Infrastructure Facility by the Outside Delivery Date. The MME Expansion Project is not an Early Work.

1.65. "**Early Works Agreement**" means an agreement entered into by City and Lead Developer for the performance of Early Works by Lead Developer during the PDA Term.

1.66. "**Early Works Plan**" is described in Section 2.2.5.1 (*Early Works Plan*) of Appendix B-2.

1.67. "**Effective Date**" means the date the Director of Transportation executes this Agreement.

1.68. "**EIR**" means the Environmental Impact Report for the Project, including the Draft EIR, public and agency comments on the Draft EIR (DEIR) received during the review process, a list of people and organizations that submitted comments, responses from the lead agency to the comments received, and any revisions of the Draft EIR.

1.69. "**Energy Management Program**" is defined in Section 6.7 (*Energy Management Program*).

1.70. "**Engineering Analysis**" means the process of applying scientific analytic principles and processes to reveal the properties and state of a system, device, or mechanism under study.

1.71. "**Entitlements and General Regulatory Approvals Plan**" is described in Section 2.2.3.2 (*Entitlements and General Regulatory Approvals Plan*) of Appendix B-2.

1.72. "**Equity Member**" means a Person that directly holds a legal and beneficial interest in Lead Developer.

1.73. "**Equity Transfer**" means any assignment, mortgage, encumbrance, hypothecation, conveyance, sale, or other transfer of equity interest in Lead Developer.

1.74. "**Extension Notice**" is defined in Section 3.3(c) (*Performance Extension*).

1.75. "**Extension Request**" is defined in Section 3.1 (*PDA Term; Predevelopment Period Extensions*).

1.76. "**Extremely low income**" is described in Section 3.1.2 (*Housing*) of Division 8 (*Public Benefit Principles*) of the Technical Requirements.

1.77. "**Facility**" means the Bus Yard Component, Housing and Commercial Component, and Common Infrastructure, collectively.

1.78. "**FF&E**" means furniture, fixtures, and equipment.

1.79. "**Final Acceptance**" means that all design and construction work is complete and all other prerequisites for final acceptance have been met as set forth in (a) any Early Works Agreement (with respect to the applicable Early Works); (b) the Project Agreement (with respect to the Infrastructure Facility); and (c) the HCC Agreement (with respect to the Housing and Commercial Component), as applicable.

1.80. "**Final Price**" is defined in the "Final Price and Cost Savings Form" in Attachment 4 of Appendix B-2).

1.81. "**Finance Plan**" is defined in Section 6.8 (*Project Financing*).

1.82. "**Financial Model**" is described in Section 2.2.1.2 (*Financing Management Plan*) of Appendix B-2.

1.83. "**Financial Proposal"** means Volume 3 to the Proposal, which is attached as Appendix G, except the Housing and Commercial Component contingency plan included in

Financial Submittal 11 (*Housing and Commercial Component Organizational, Financial, and Operations Plan*).

1.84. "**Financing Management Plan**" is described in Section 2.2.1.2 (*Financing Management Plan*) of Appendix B-2.

1.85. "**Fixed Budget Limit**" or "**FBL**" is defined in Section 2.5(a) (*Fixed Budget Limit*).

1.86. **"Floating Milestone Date"** is defined in Section 3.2(b) (*Phase 2 Floating Milestone*).

1.87. "**General Regulatory Approvals**" is defined in Section 6.21(b) (*General Regulatory Approvals*).

1.88. "**Geotechnical Baseline Report**" is described in Section 3.2.1 (*Drawings and Reports*) of Appendix B-2.

1.89. "**gsf**" is defined in Section E1.2.3 (*Lead Developer's Predevelopment Costs*) of Appendix B-2.

1.90. "**Guarantor**" means each Person providing a Guaranty as described in Section 6.23 (*Guaranty*). As of the Effective Date, the Guarantor is Plenary Americas US Holdings Inc.

1.91. **"Guaranty"** means each guaranty executed by a Guarantor guaranteeing some or all of the obligations of Lead Developer under the Agreement.

1.92. "**Handback Requirements**" means the terms, conditions, requirements, and procedures governing the condition in which Principal Project Company is to deliver the Infrastructure Facility and its assets upon expiration of the Infrastructure Facility Term.

1.93. "**HCAO**" is defined in Section 24.2 (*Requiring Health Benefits for Covered Employees*).

1.94. **"HCC Agreement"** means the agreement between City and the Housing Project Company (or between City and the Principal Project Company and assigned by Principal Project Company to a Housing Project Company) which would be signed at the HCC Commercial Close, pursuant to which City will grant a long-term real property interest in certain premises for the development of the Housing and Commercial Component.

1.95. "**HCC Change"** is defined in Section 9.2(a) (*Basis for HCC Changes*).

1.96. **"HCC Change Request"** is defined in Section 9.2(b) (*HCC Change Request*).

1.97. **"HCC Commercial Close**" means the full execution and delivery of the HCC Agreement.

1.98. **"HCC Financial Close"** means the full execution and delivery of the HCC Financing Documents, either at or after HCC Commercial Close, where all conditions to the effectiveness of the HCC Agreement and Housing Financing Documents have been satisfied so that the Housing Project Company is sufficiently funded to commence construction of the Housing and Commercial Component.

1.99. "HCC Financing Documents" means all documents to be executed by the Housing Project Company) to finance the Housing and Commercial Component.

1.100. "HCC Interface Requirements" is defined in Section 6.9(a) (*HCC Interface Requirements*).

1.101. "HCC Schedule" is defined in Section 6.9(c) (*HCC Schedule*).

1.102. "**HCC Term Sheet**" is defined in Section 6.9(d) (*HCC Term Sheet*).

1.103. "**HCC Transaction Documents**" mean, collectively, the HCC Term Sheet, the HCC Agreement, and any other documents to be executed by City and the Housing Project Company with respect to the Project.

1.104. "**Housing and Commercial Component**" or "**HCC**" means the Facility's housing and commercial component, which would include the commercial space, the housing units and their associated support spaces (e.g., lobbies, vertical and horizontal circulation, storage, open space, rooms for building systems, offices for property management and residential services, and resident amenities such as laundry and community rooms) that are not used for the Bus Yard Component or the Common Infrastructure.

1.105. "**Housing Developer**" means each of Presidio Development Partners, LLC and Tabernacle Community Development Corp.

1.106. "**Housing Project Company(ies)**" means the special-purpose entity(ies) that will deliver, operate and maintain the Housing and Commercial Component pursuant to the HCC Agreement.

1.107. "**Housing Term**" means the period during which a Housing Project Company has the right and obligation to maintain and operate the Housing and Commercial Component.

1.108. "**IF Commercial Close**" means the full execution and delivery of the Project Agreement.

1.109. "**IF Financial Close**" means the full execution and delivery of the IF Financing Documents, either at or after IF Commercial Close, where all conditions to the effectiveness of the Project Agreement and IF Financing Documents have been satisfied so that the Principal Project Company is sufficiently funded to commence construction of the Infrastructure Facility.

1.110. "**IF Financing Documents**" means all documents to be executed by the Principal Project Company to finance the Infrastructure Facility.

1.111. "**IF Transaction Documents**" mean, collectively, the Project Agreement, and any other documents to be executed by City and the Principal Project Company with respect to the Project.

1.112. "**IFM Contract**" is defined in Section 6.13 (*IFM Contract*).

1.113. "**IFM RFP**" means the request for proposals for the IFM Contract.

1.114. "**IFM RFQ**" means the request for qualifications for the IFM Contract.

1.115. "**Indemnified Parties**" is defined in Section 21.1 (*Lead Developer's Duty to Indemnify*).

1.116. "**Infrastructure Facility**" means the Bus Yard Component and the Common Infrastructure, collectively.

1.117. "**Infrastructure Facility Maintenance**" or "**IFM**" means all management, engineering, repairs and maintenance, renewals and replacement, and other ancillary services required at all times for the Infrastructure Facility to allow for the ongoing operations and maintenance activities needed at the Facility and to meet the service requirements specified in the Asset Management Program and the Handback Requirements.

1.118. "**Infrastructure Facility Term**" means the 30-year period during which the Principal Project Company must provide the Infrastructure Facility Maintenance under the Project Agreement.

1.119. "**Intellectual Property**" means all current and future legal and/or equitable rights and interests, anywhere in the world, in know-how, patents (including applications), copyrights (including moral rights), trademarks (registered and unregistered), service marks, trade secrets (as defined by the Defend Trade Secrets Act § 2(b)(1) (18 USC § 1839(3)), and pursuant to US state and federal laws), designs (registered and unregistered), utility models, circuit layouts, mask works, business and domain names, inventions, solutions embodied in technology, and other intellectual activity, and applications of or for any of the foregoing, subsisting in or relating to the Work Materials or IP Materials. Without limiting the foregoing, Intellectual Property includes Software and City Data. For the avoidance of doubt, Intellectual Property is distinguished from the physical, electronic, and/or mechanical embodiments of such Intellectual Property (see IP Materials).

1.120. "**IP Escrow**" is defined in Section 11.7(b).

1.121. "**IP Escrow Agent**" is defined in Section 11.7(b).

1.122. "**IP Materials**" means all physical, electronic and/or mechanical embodiments of, and documents disclosing, Intellectual Property. Without limiting the generality of the foregoing, IP Materials include embodiments, documents, deliverables and/or Work Materials incorporating concepts, inventions (whether or not protected under patent laws), works of authorship, information, new or useful art, combinations, discoveries, formulae, algorithms, specifications, manufacturing techniques, technical developments, systems, computer architecture, artwork, Software, Source Code, decompilation instructions, programming, applets, scripts, designs, procedures, processes, and methods of doing business, and any other media, materials, plans, reports, project plans, work plans, documentation, training materials, and other tangible objects produced under the Agreement or required by, incorporated into or combined with the Work, Work Materials, or the Project.

1.123. "**LBE Plan**" is defined in Section 6.10 (*Local Business Enterprise Plan*).

1.124. "LD Change Request" is defined in Section 9.1(c) (*LD Change Request*).

1.125. "**LD Event of Default**" is defined in Section 19.1 (*LD Event of Default*).

1.126. "**LD Media Contact**" is defined in Section 7.6(d)(iii) (*Media and Communications Team Contacts*).

1.127. "**LD Outreach Plan**" is defined in Section 7.6(c) (*Lead Developer Outreach Plan*).

1.128. "**LD Predevelopment Cost**" is defined in Section 2.3(d) (*LD Predevelopment Cost*).

1.129. "**LD Project Director**" is defined in Section 7.3(a) (*For Lead Developer*).

1.130. "**LD Project Manager**" is defined in Section 7.3(a) (*For Lead Developer*).

1.131. "LD Proposed Change" is defined in Section 9.1(a) (*LD Proposed Change*).

1.132. "**Lead Developer**" or "**LD**" is defined in the Preamble.

1.133. "**Lead Developer Agents**" means, collectively, Lead Developer's employees, officers, members, managers, directors, agents, contractors, subcontractors, consultants, members, Affiliates, and Development Team Members.

1.134. "**Lead Developer IP**" means Intellectual Property that is (i) owned by any Lead Developer Related Entity prior to the Effective Date, (ii) developed or acquired by any Lead Developer Related Entity independently of the Agreement or not specifically for the purposes of performing the Work (iii) any adaptation, continuation or derivative work which requires the incorporation, exercise or practice of Intellectual Property that is the subject of either subsection (i) or (ii).

1.135. "Lead Developer Related Entities" means:

(a) Lead Developer;

(b) Lead Developer Agents;

(c) any Guarantor;

(d) any other persons or entities performing any of the Work;

(e) any other persons or entities for whom Lead Developer may be legally or contractually responsible; and

(f) the employees, agents, officers, directors, representatives, consultants, successors and assigns of any of the foregoing.

1.136. "**Local Business Enterprise**" or "**LBE**" means a business designated and certified as such by the San Francisco Contract Monitoring Division under San Francisco Administrative Code Section 14B.3.

1.137. "**Losses**" means, collectively, any loss, expense, cost, compensation, damages (including foreseeable consequential damages), attorneys' fees, claims, demands, liens, obligations, injuries, liability, interest, penalties, fines, lawsuits and other proceedings, judgments, awards, or liabilities of any kind, known or unknown, contingent or otherwise, equitable relief, mandamus relief, specific performance, or any other relief.

1.138. "**Low income**" is described in Section 2.2.2 (*Equity, Affordability Mix and Tenant Preferences*) of Division 6 (*Program for the Housing and Commercial Component*) of the Technical Requirements.

1.139. "Mediation" is defined in Section 25.5(a) (*Mediation Request*).

1.140. "Mediation Request" is defined in Section 25.5(a) (*Mediation Request*).

1.141. "**MEP**" means mechanical, electrical, and plumbing.

1.142. "**MME Expansion Project**" means the expansion of SFMTA's Muni Metro East facility located at 601 25th Street in San Francisco, as further described in Appendix K.

1.143. "**MME Construction Agreement**" means the agreement between Lead Developer and City for the performance of the MME Expansion Project to be negotiated and finalized in accordance with Section 6.24 (*MME Expansion Project*).

1.144. "**MMRP**" means any Mitigation Monitoring and Reporting Program for the Project adopted by the Planning Commission in certifying the EIR.

1.145. "**Moderate income**" is described in Section 2.2.2 (*Equity, Affordability Mix and Tenant Preferences*) of Division 6 (*Program for the Housing and Commercial Component*) of the Technical Requirements.

1.146. "**MOHCD**" means the San Francisco Mayor's Office of Housing and Community Development.

1.147. "**Muni Metro East**" or "**MME**" means the City property that comprises portions of Blocks 4297, 4298, 4299, 4300, 4310, and 4313, and is bounded by 25th, Illinois, Cesar Chavez, and Maryland Streets.

1.148. "Notice of Acceptance" means the notice described in Section 4.3(c) (*Notice of Acceptance*).

1.149. "**Notice to Proceed**" or "**NTP**" is defined in Section 4.1 (*Performance*).

1.150. "**NPV**" means net present value.

1.151. "**OEWD**" means City's Office of Economic Workforce and Development.

1.152. "**Original Proposal**" means the original proposal submitted by Lead Developer on December 30, 2021, as described in Recital E, in response to the Initial RFP.

1.153. "**Outside Delivery Date**" means November 30, 2027.

1.154. "**Owner's Information Requirements**" or "**OIR**" is described in Section 2.2.2.2 (*BIM Execution Plan*) of Appendix B-2.

1.155. "**PCIC**" means the percentage of Common Infrastructure cost allocated to City, which will be 55.10%, as set forth in FS Form B of the Financial Proposal, as may be further adjusted pursuant to the version of FS Form B submitted by Lead Developer at Performance Milestone 15 and Performance Milestone 27A if approved, respectively, by City at Performance Milestone 16 and Performance Milestone 28.

1.156. "**PCIC(Dis)**" means the discount to the PCIC(Max) described in FS Form B of the Financial Proposal.

1.157. "**PCIC(Max)**" means the percentage of Common Infrastructure cost allocated to City as stated in Form FS B of the Financial Proposal, which is based on (i) the gross square feet of floor area of the Bus Yard Component divided by (ii) the gross square feet of floor area of the

Bus Yard Component and the Housing and Commercial Component. Such percentage may be further adjusted pursuant to the version of FS Form B submitted by Lead Developer at Performance Milestone 15 and Performance Milestone 27A if approved, respectively, by City at Performance Milestone 16 and Performance Milestone 28.

1.158. "**PCIH**" means the percentage of Common Infrastructure cost allocated to the Housing and Commercial Component, which will be 44.90%, as set forth in FS Form B of the Financial Proposal. Such percentage may be further adjusted pursuant to the version of FS Form B submitted by Lead Developer at Performance Milestone 15 and Performance Milestone 27A if approved, respectively, by City at Performance Milestone 16 and Performance Milestone 28.

1.159. "**PDA Management Plan**" means a plan that covers Lead Developer's management of the Work, which will be based on the preliminary plan included in the Technical Proposal and to be finalized as described in Appendix B-2.

1.160. "**PDA Phase**" is defined in Section 4.1 (*Performance*).

1.161. "**PDA Term**" is defined in Section 3.1 (*PDA Term; Predevelopment Period Extensions*).

1.162. "**Performance Date**" means the date for the performance of a Performance Milestones, as set forth in Appendix B-1.

1.163. "**Performance Extension**" is defined in Section 3.3(c) (*Performance Extension*).

1.164. "**Performance Milestones**" is defined in Section 3.2(a) (*Compliance*).

1.165. "**Person**" means any individual, corporation, joint venture, limited liability company, company, voluntary association, partnership, trust, unincorporated organization, governmental entity, or other entity.

1.166. "Phase 2 Floating Milestone" is defined in Section 3.2(b) (*Phase 2 Floating Milestone*).

1.167. "**Plan for Coordination with Regulatory Agencies**" is described in Section 2.2.2.5 (*Plan for Coordination with Regulatory Agencies*) of Appendix B-2.

1.168. "**Planning Commission**" means the San Francisco Planning Commission.

1.169. "**Planning Department**" means the San Francisco Planning Department.

1.170. "**Predevelopment Agreement Management Plan**" or "**PMP**" is described in Section 2.1.1 (*Predevelopment Agreement Management Plan*) of Appendix B-2.

1.171. "**Predevelopment Period**" means the five hundred sixty-eight (568) consecutive day period that commences on the Commencement Date, as may be extended by in accordance with Section 3.1 (*PDA Term; Predevelopment Period Extensions*).

1.172. "**Preliminary Financial Model**" means the electronic financial model that generates financial projections for the Infrastructure Facility, which Lead Developer included in its Financial Proposal.

1.173. "**Preliminary Pro Forma**" means the electronic pro forma model that generates financial projections for the Housing and Commercial Component, which Lead Developer included in its Financial Proposal.

1.174. "**Preliminary Term Sheet**" is the term sheet attached as Appendix F.

1.175. "Premises" is defined in Section 6.9(d) (*HCC Term Sheet*).

1.176. "**Press Matters**" is defined in Section 7.6(h) (*Press Contacts*).

1.177. "**Press Release**" is defined in Section 7.6(h) (*Press Contacts*).

1.178. "**Prevailing Rate of Wages**" shall have the meaning given in Section 6.22(e) of the San Francisco Administrative Code.

1.179. "**Principal Project Company**" or "**PPC**" means the Lead Developer or a special-purpose entity in which Lead Developer is the only party with the power to direct the management of that entity, whether through voting, nomination, or other selection rights, by contract, or by other means, that enters into the Project Agreement with City for delivery of the Infrastructure Facility and maintenance of certain elements thereof.

1.180. "**Pro Forma**" is defined in Section 2.2.1.2 (*Financing Management Plan*) of Appendix B-2.

1.181. "**Project**" means development, design, construction, and financing of the Facility at the Project Site, the Infrastructure Facility Maintenance, and the Property Management.

1.182. "**Project Agreement**" means the agreement between City and the Principal Project Company for delivery of the Infrastructure Facility, which would be signed at IF Commercial Close.

1.183. "**Project Documents**" mean, collectively, the Transaction Documents, the IF Financing Documents, the HCC Financing Documents, the Design-Build Contract, the IFM Contract, and any other documents to be executed by the Principal Project Company, the Housing Project Company, any Design-Build Contract contractor, the IFM Contract contractor, or any other third party providing either services, funding, or financing with respect to the Project, the performance of the Principal Project Company's obligations under the Project Agreement, the performance of the Housing Project Company's obligations under the HCC Agreement, or the independent function of the Bus Yard Component and the Housing and Commercial Component.

1.184. "**Project IP**" means all Intellectual Property authored, created, invented or reduced to practice under or for the purposes of the Agreement, or otherwise required by, integrated into or combined with the Work or the Project.

1.185. "**Project Management Deliverables**" is defined in Appendix B-2.

1.186. "**Project Objectives**" are set forth in Appendix D.

1.187. "**Project Principal(s)**" is the person(s) each Equity Member has designated as its representative principally responsible for that Equity Member's role on the Development Team.

1.188. "**Project Schedule**" is defined in Section 6.2 (*PDA Phases*).

1.189. "**Project Site**" is defined in Recital A.

1.190. "**Property Management**" means the management, leasing, rent collection, tenant services and relations, engineering, repairs and maintenance, renewals and replacement, and other ancillary services required for operating the of the Housing and Commercial Component in compliance with Applicable Law and keeping it in a good operating condition during the Housing Term.

1.191. "**Proposal**" means the Original Proposal, and the revised response to the RFP submitted by Lead Developer to City on July 20, 2022 as clarified through the request for clarifications process set forth in the RFP. Portions of the Proposal are included in the Agreement at Appendix C (*Proposal Commitments*), Appendix G (*Financial Proposal*), Appendix H (*Technical Proposal*), Appendix I (*Development Team and Key Personnel*), and including Attachment 1 (*SFMTA Trainee Hiring Program*) and Attachment 2 (*First Source Hiring Program*) of Appendix G.

1.192. "Proposal Payment" is defined in Section 16.3(a) (*Proposal Payment*).

1.193. "Proposed HCC" is defined in Section 6.9 (*HCC Predevelopment Work*).

1.194. "**Public Records Act**" means the Public Records Act in California Government Code Section 6250 *et seq*.

1.195. "**Quality Assurance Manager**" is the person that the Lead Developer has designated to develop, implement, and maintain a system of quality management for the Development Team's work products and development process.

1.196. "**Quality Management Plan**" or "**QMP**" is described in Section 2.1.2 (*Quality Management Plan*) of Appendix B-2.

1.197. "**Qualified Out-of-Pocket Costs**" means the costs incurred by Lead Developer, including demonstrated internal costs, to prepare the Work Materials and procure the Design-Build Contract and IFM Contract, which costs must not be increased by any dollar or percentage amount representing added profit, fee, or administrative or other charge but can include the actual financing costs incurred by Lead Developer during the PDA Term from loans or lines of equity extended by any third party financial institutions, or Affiliates provided the Affiliate provides rates competitive with third party financial institutions, to finance the Work Materials and the procurement of the Design-Build Contract and IFM Contract, and which must have been documented by Lead Developer in compliance with this Agreement. The following costs shall not be included as Qualified Out-of-Pocket Costs: (a) HCC costs (except those specifically incurred in connection with Work Materials identified in Appendix B-1 and Appendix B-2; (b) the internal financing costs incurred by any of the Development Team Members; or (c) the costs of any Additional HCC Materials.

1.198. "**Reference Documents**" means the materials described in Appendix N.

1.199. "**Regulatory Agency**" is defined in Section 6.21(c) (*No Lobbying; Proprietary Capacity*).

1.200. "**Regulatory Appeal Delay**" is defined in Section 3.3(b) (*Regulatory Appeal Delay*).

1.201. "**Regulatory Approval**" is defined in Section 6.21 (*Regulatory Approvals*).

1.202. "**Regulatory Approval Strategy**" is defined in Section 6.21(b) (*General Regulatory Approvals*).

1.203. **"Regulatory Change"** is defined in Section 9.1(a) (*LD Proposed Change*).

1.204. "**Release Conditions**" is defined in Section 11.7(c).

1.205. "**RFP**" means the request for proposals for the selection of the Lead Developer, as described in Recital D.

1.206. "**RFQ**" means the request for qualifications for the selection of the Lead Developer.

1.207. "**Scheduled Substantial Completion Date**" means the Substantial Completion date for the Infrastructure Facility or the HCC, as applicable, that Lead Developer includes in the Financial Model and Pro Forma.

1.208. "**SFMTA**" means the San Francisco Municipal Transportation Agency.

1.209. "**SFMTA Board**" means the San Francisco Municipal Transportation Agency Board of Directors.

1.210. "**SFMTA Media Contact**" is defined in Section 7.6(d)(iii) (*Media and Communications Team Contacts*).

1.211. "**SFMTA Public Outreach and Engagement Program**" is defined in Section 7.6(a) (*SFMTA Public Outreach and Engagement Program*).

1.212. "**SFPW**" means San Francisco Public Works.

1.213. "**Short-Listed Proposers**" means Potrero Neighborhood Collective, Potrero Mission Community Partners, and Potrero Yard Community Partners.

1.214. "**Software**" means individually each, and collectively all, of the computer programs developed or provided by Lead Developer, and any Lead Developer Related Entity, under this Contract (including Project IP, Lead Developer IP and/or Third-Party IP), including as to each such program, the processes, and routines used in the processing of data, the object code, interfaces to be provided hereunder by Lead Developer, updates, upgrades, and any and all programs otherwise provided by Lead Developer under this Agreement.

1.215. "**Source Code**" means the version of a Software computer program in which the programmer's original programming statements are expressed in any programming language. (See 2 CCR 20621.)

1.216. "**Substantial Completion**" means **(a)** in the case of Early Works, when construction is completed in accordance with the requirements of the applicable Early Works Agreement and the Early Works can be utilized for its intended purpose; **(b)** in the case of the Housing and Commercial Component, when (i) construction is completed in accordance with the requirements of the HCC Agreement and the Housing and Commercial Component can be utilized for its intended purpose, (ii) a certificate of temporary occupancy is issued for the Housing and Commercial Component, (iii) tenants are able to move into the Housing and Commercial Component; and (iv) demobilization from the Project Site is complete, and **(c)** in the case of the Infrastructure Facility, when (i) construction is completed in accordance with the requirements of the Project Agreement and the Infrastructure Facility can be utilized for its

intended purpose, (ii) a certificate of temporary occupancy is issued for the Bus Yard Component, and (iii) the Bus Yard Component is in a condition of full operational functionality to allow the SFMTA's transit operations to relocate to the Bus Yard Component.

1.217. "**Sunshine Ordinance**" means the San Francisco Sunshine Ordinance in Chapter 67 of the San Francisco Administrative Code.

1.218. "**TDM**" means transportation demand management.

1.219. "**Technical Proposal**" means Volume 2 to the Proposal, which is attached as Appendix H, except the Housing and Commercial Component contingency plan included in Technical Submittal 28 (*PDA Management Plan*).

1.220. "**Technical Requirements**" means the requirements set forth in Appendix E, as may be modified in writing by City during the PDA Term.

1.221. "**Terminating Event**" is defined in Section 16.2 (*Terminating Event*).

1.222. "**Termination**" is defined in Section 16.2 (*Terminating Event*).

1.223. "**Termination Notice**" is defined in Section 16.4 (*Termination Notice; Effect of Termination*).

1.224. "**Termination Payment**" is defined in Section 16.3 (*Termination Payments*).

1.225. "**Third Party IP**" means Intellectual Property owned by any Person unrelated to any Lead Developer Related Entity.

1.226. "**Transaction Documents**" mean, collectively, the IF Transaction Documents and the HCC Transaction Documents.

1.227. "**Unavoidable Delays**" is defined in Section 3.3(a) (*Unavoidable Delay*).

1.228. "**Very low income**" is described in Section 1.2.1 (*Equity, Affordability, and Target Populations*) of Division 6 (*Program for the Housing and Commercial Component*) of the Technical Requirements.

1.229. "**Work**" means all work, services and activities to be performed, furnished, provided, or undertaken by or on behalf of Lead Developer under this Agreement, including but not limited to the activities in Appendix B-1 and Appendix B-2.

1.230. "**Work Materials**" means the Proposal and all studies, analyses, models, applications, reports, permits, plans, drawings, designs, drawings, specifications, blueprints, studies, memoranda, computation sheets, pro-forma assumptions, financial methodologies, computer files and media, or other documents, original works of authorship and similar work product, whether in digital or any other format, generated by or for the Lead Developer in submitting the Proposal or performing the Work.

2. PREDEVELOPMENT GUIDELINES

2.1. Predevelopment Approach. During the PDA Term, each Party will diligently and collaboratively work to develop the Project, with City performing its obligations as described in Article 8 (*City Predevelopment Obligations*) below, and Lead Developer performing all other predevelopment activities required to allow for IF Financial Close no later than

November 30, 2024, Substantial Completion of the Infrastructure Facility within the Fixed Budget Limit no later than the Outside Delivery Date, and Substantial Completion of the Housing and Commercial Component no later than one year after Substantial Completion of the Infrastructure Facility. The commercial and financing structure for the Project shall not expose City to any interface or integration risk relating to the Project's physical and operational components, or resulting from the use, if specifically permitted by this Agreement, of multiple entities and contracts to deliver the Project. Lead Developer's predevelopment activities shall fulfill the Project's objectives set forth in Appendix D ("**Project Objectives**") and conform to the Technical Requirements and the requirements of this Agreement.

2.2. Incorporation of Elements of RFP and Proposal.

(a) The Technical Requirements and Project Objectives, which comprised a portion of the RFP, and portions of the Proposal are attached to and incorporated in this Agreement, provided that:

(i) if there is any conflict between the Technical Requirements or the Project Objectives and the body of this Agreement, then the terms of the body of this Agreement shall govern;

(ii) if there is any conflict between Appendix B-1, Appendix B-2 or the Technical Requirements and the Project Objectives, then Appendix B-1, Appendix B-2 and the Technical Requirements shall govern; and

(iii) if there is any conflict among the portions of the Proposal attached to and incorporated into this Agreement and the body of this Agreement, Appendix B-1, Appendix B-2, the Technical Requirements or the Project Objectives, then the body of this Agreement, Appendix B-1, Appendix B-2, the Technical Requirements and the Project Objectives shall govern, except as otherwise approved by City in writing, which approval shall be at City's sole discretion, and provided that if City determines, in its sole discretion, that the Proposal contains a provision that is more beneficial to City than is specified elsewhere in this Agreement, then that provision shall take precedence.

(b) Lead Developer acknowledges City's execution of this Agreement with portions of the Proposal attached to and incorporated in this Agreement as appendices shall not in and of itself serve as City's approval to any variance between the Proposal and any aspect of this Agreement.

(c) City will not be responsible for any errors, omissions, inaccuracies or incomplete statements in the Proposal, and the incorporation of the Technical Proposal and the Financial Proposal in this Agreement does not constitute any statement or determination as to their compliance with the Technical Requirements or the Project Objectives.

(d) With the exception of the Fixed Budget Limit, the LD Predevelopment Cost, the PCIC, PCIC(Max), PCIC(Dis), and the PCIH, the Parties acknowledge that the financing assumptions for the Infrastructure Facility and the Housing and Commercial Component included in the Financial Proposal are indicative in nature and subject to development during the PDA Term.

(e) City's interim or final answers to the questions or requests for clarifications (RFCs) posed during the Proposal process for this Agreement shall in no event be deemed part of the Agreement and shall not be relevant in interpreting the Agreement except and solely to the extent as they may clarify provisions otherwise considered ambiguous by City, in its

sole discretion. Except to the extent incorporated into this Agreement in accordance with Section 2.2(a), the RFP shall not be relevant in interpreting this Agreement.

2.3. Prior Costs and Predevelopment Costs. Before the Effective Date, City, Lead Developer and the Lead Developer Agents devoted time, effort, and financial resources with respect to the Project. City performed due diligence, submitted and pursued certain Regulatory Approval applications, and issued the RFQ and the RFP, and Lead Developer submitted a statement of qualifications in response to the RFQ and submitted the Proposal in response to the RFP. The Parties also anticipate that during the PDA Term, City, the City Agents, Lead Developer, and the Lead Developer Agents will devote substantial time, effort, and financial resources as required in this Agreement. The Parties are willing to engage in these PDA Term activities subject to the terms and conditions set forth in this Agreement. Each Party shall bear its own costs; provided, however, that if any Commercial Close occurs, the applicable Transaction Documents will require the Principal Project Company and the Housing Project Company, as applicable, to reimburse the Parties as set forth in this Section 2.3 (*Prior Costs and Predevelopment Costs*).

(a) City's Prior Cost. None of the costs incurred by City with respect to the Project prior to the Effective Date will be reimbursed to City.

(b) Lead Developer Prior Cost. None of the costs incurred by Lead Developer or any of the Lead Developer Agents with respect to the Project prior to the Effective Date will be recovered as a direct reimbursement.

(c) City Predevelopment Cost. The "**Reporting Date**" means the twentieth (20th) Business Day before the Commercial Close, and the "**City Predevelopment Cost**" means City's direct and indirect costs related to the development of the Project and its obligations under this Agreement and any Early Works Agreements between the Effective Date and the Reporting Date. On the Reporting Date, City will notify Lead Developer of the total amount of the City Predevelopment Cost as of the Reporting Date. At the HCC Financial Close, the Housing Project Company will be required to reimburse City by an amount equal to the City Predevelopment Cost multiplied by the PCIH, which will be allocated to the Housing and Commercial Component. At City's election, at the IF Financial Close, the Principal Project Company will be required to reimburse City by an amount equal to the City Predevelopment Cost multiplied by the PCIC, which will be allocated to the Bus Yard Component.

(d) LD Predevelopment Cost. During the PDA Term, Lead Developer will bear its direct and indirect costs related to the development of the Project and its obligations under this Agreement at its sole cost (as described in FS Form A5-PR of the Financial Proposal and as adjusted through the PDA Term as specified in this Agreement, the "**LD Predevelopment Cost**"); provided, however, that at the IF Financial Close, the Principal Project Company will be required to reimburse Lead Developer by the amounts calculated and allocated as follows: (i) for the Bus Yard Component, the amount equal to the LD Predevelopment Cost multiplied by the PCIC minus the amount of the Continuation Payment; and (ii) for the Housing and Commercial Component, the amount equal to the LD Predevelopment Cost multiplied by the PCIH.

2.4. Risk Allocation.

(a) Preliminary Term Sheet; HCC Term Sheet. The risks assigned to each Party with respect to designing, building, and financing the Infrastructure Facility, the long-term Infrastructure Facility Maintenance, and the physical and operational interface and integration of Infrastructure Facility and the Housing and Commercial Component, are described in the Preliminary Term Sheet. The Preliminary Term Sheet will be the basis for allocating Project

risks in the Project Agreement and any other applicable IF Transaction Documents. The HCC Term Sheet will be the basis for allocating Project risks in the HCC Agreement.

(b) Integration and Interface Risks. While Lead Developer may form a Principal Project Company to develop the Infrastructure Facility, and a separate Housing Project Company to develop the Housing and Commercial Component, and may procure a design-build contractor for the Infrastructure Facility and a different design-build contractor for the Housing and Commercial Component, all risks relating to the physical and operational interface and integration of the various elements of the Facility, and all risks arising from the use, if specifically permitted by this Agreement, of multiple entities and contracts to deliver the Project, shall be allocated to Lead Developer, the Principal Project Company and the Housing Project Company under the Project Agreement and the HCC Agreement (with sufficient performance guaranties from or development agreements with the original Guarantor, its Affiliate, or other parties acceptable to City) and under no circumstances shall City bear any such risks.

2.5. Fixed Budget Limit; Adjustments; Allowances; Submittals.

(a) Fixed Budget Limit. Lead Developer has committed to a maximum amount for the design and construction costs and Infrastructure Facility Maintenance costs of the Infrastructure Facility, together with the LD Predevelopment Cost, as specified in FS Form A7 of the Financial Proposal (the **"Fixed Budget Limit"**). The Fixed Budget Limit is subject to adjustment from the Commencement Date through to Performance Milestone 27A in accordance with Section 2.5(b) (*Increases to Fixed Budget Limit*), (c) (*No Other Increases to Fixed Budget Limit*), (d) (*Reductions to Fixed Budget Limit*) and (e) (*Submittals, and Process for Adjustments to Fixed Budget Limit*). City will exercise reasonable effort to provide notice of changes prior to Performance Milestone 27A.

(b) Increases to Fixed Budget Limit. The Fixed Budget Limit may be increased to account for increases in the design and construction costs or the Infrastructure Facility Maintenance costs of the Infrastructure Facility, and to account for increases in the LD Predevelopment Cost due only to increased design costs related to the Infrastructure Facility incurred during the PDA Term, due to the following only:

(i) City Proposed Change. A City Proposed Change under Section 9.3 (*Changes Proposed by City*), including any City Proposed Change to the Technical Requirements to add any additional scope item Allowance described in FS Form D, other than Allowances relating to escalation or insurance;

(ii) LD Proposed Change. City accepts an LD Proposed Change due to:

A. A change in Applicable Law that occurs within the period commencing June 20, 2022 and ending at Performance Milestone 27A;

B. Project Site conditions revealed through Lead Developer's due diligence investigation of the Project Site differ materially from the conditions disclosed in the Reference Documents; or

C. The Planning Commission, the SFMTA Board, or the Board of Supervisors imposes Regulatory Approval conditions on the Infrastructure Facility or Infrastructure Facility Maintenance.

(iii) LBE Changes. LBE Plan requirements that differ from the assumed LBE percentage goals and objectives stated in Technical Submittal 28 of the Technical

Proposal, provided that Lead Developer must reasonably demonstrate the increased costs caused by the differing LBE Plan requirements, using the same qualitative and quantitative methodologies that were used to calculate the costs of the LBE percentage goals and objectives described in Technical Submittal 28.

(iv) Changes to PCIC. The PCIC changes due to a change in the actual gross square footage of the Bus Yard Component or the Housing and Commercial Component from that anticipated in the Technical Proposal and Financial Proposal.

(c) No Other Increases to Fixed Budget Limit. The Fixed Budget Limit will not be adjusted to reflect any increases in the cost to design and build the Infrastructure Facility or to perform the Infrastructure Facility Maintenance, except as specified in Section 2.5(b) (*Increases to Fixed Budget Limit*), unless City provides its consent, in City's sole discretion.

(d) Reductions to Fixed Budget Limit. City anticipates that, as the Work progresses, the design and construction costs and the Infrastructure Facility Maintenance costs of the Infrastructure Facility, and consequently the Fixed Budget Limit, will trend downward from the Fixed Budget Limit set forth in the FS Form A7 of the Financial Proposal. In addition, the Fixed Budget Limit will be reduced by the MME Expansion Project procurement costs set forth in FS Form A5-PR if the Parties do not sign the MME Construction Agreement (except to the extent that Lead Developer demonstrates to City's satisfaction that Lead Developer has incurred reasonable MME Expansion Project procurement costs), and to account for reductions in the design and construction costs, or the Infrastructure Facility Maintenance costs, of the Infrastructure Facility, arising from changes to the Project made prior to Performance Milestone 27A, including due to: (i) City Proposed Changes, (ii) LD Proposed Changes accepted by the City, (iii) LBE Plan requirements differing from the LBE assumptions given in Technical Submittal 28 of the Technical Proposal, and (iv) PCIC changes due to a change in the actual gross square footage of the Bus Yard Component or the Housing and Commercial Component from that anticipated in the Technical Proposal and Financial Proposal.

(e) Submittals, and Process for Adjustments to Fixed Budget Limit.

(i) Fixed Budget Limit Forms. At Performance Milestone 15 and Performance Milestone 27A, Lead Developer must submit updated versions of FS Forms A1, A2, A3, A4, A5-PR, A7 and A8 and FS Form B to the Financial Proposal, a full and detailed cost estimate in accordance with Attachment 2 to Appendix B-2, a summary schedule in accordance with Appendix B-2 and in the same format as Appendix H, and a risk register in accordance with Appendix B-2. Such updated versions will reflect the following:

A. The updated costs to design and build the Infrastructure Facility and provide the Infrastructure Facility Maintenance, including any changes in costs to the extent arising from the circumstances described in Section 2.5(b) (*Increases to Fixed Budget Limit*) and Section 2.5(d) (*Reductions to Fixed Budget Limit*), and updates to the LD Predevelopment Cost, if any, as expressly permitted by this Agreement; and

B. Any change in the actual gross square footage of the Bus Yard Component or the Housing and Commercial Component.

(ii) If the materials submitted pursuant to Section 2.5(e)(i) (*Fixed Budget Limit Forms*) at Performance Milestone 15 and Performance Milestone 27A are approved by City and show any change in the cost to design and build the Infrastructure Facility or perform the Infrastructure Facility Maintenance due to any of the matters described in Section 2.5(b) (*Increases to Fixed Budget Limit*) or Section 2.5(d) (*Reductions to Fixed Budget Limit*), or any change to the LD Predevelopment Cost expressly permitted by this Agreement, or any

change to the actual gross square footage of the Bus Yard Component or the Housing and Commercial Component from that anticipated in the Technical Proposal and Financial Proposal, the Fixed Budget Limit will be modified accordingly at Performance Milestone 16 and at Performance Milestone 28 to be the amount shown in the updated version of FS Form A7 submitted by Lead Developer at Performance Milestone 27A.

(f) Allowances Cost Estimates.

(i) Updates to Form D. At Performance Milestone 15 and Performance Milestone 27A, Lead Developer must submit updated versions of FS Form D to the Financial Proposal and cost estimates in the same format as Attachment 2 to Appendix B-2. The updated information for the Allowance cost estimates shall also be clearly identified in each submission of the Design Deliverables to City (draft and final), as shown in Appendix B-1. The updated version of FS Form D submitted at Performance Milestone 15 must include an explanation for any differences from the Allowance amounts set forth in FS Form D of the Financial Proposal. The updated version of FS Form D submitted at Performance Milestone 27A must include an explanation for any differences from the Allowance amounts set forth in FS Form D submitted at Performance Milestone 15. If any Allowance prices exceed the applicable Allowance amounts in FS Form D of the Financial Proposal, Lead Developer shall propose design strategies and changes to the relevant scope(s) and/or technical requirement(s) to bring them back within the Allowance amounts stated in FS Form D of the Financial Proposal.

(ii) Insurance. At Performance Milestone 15 and Performance Milestone 27A Lead Developer must submit, at item (g) in Part I and item (c) in Part III of FS Form D, its reasonable estimate of the cost of the insurance that will be required for the design and construction of the Infrastructure Facility and the Infrastructure Facility Maintenance, respectively (the "**Required Insurance**"). If the Principal Project Company will self-perform the Infrastructure Facility Maintenance, then at Performance Milestone 32, Lead Developer must submit to City an updated version of FS Form D submitted at Performance Milestone 27A, with the only change being to item (c) in Part III of FS Form D showing the actual cost of the Required Insurance for the Infrastructure Facility Maintenance.

(iii) Escalation. At Performance Milestone 15 and Performance Milestone 27A, Lead Developer must submit, at item (h) in Part I of FS Form D, the updated construction cost escalation Allowance, which shall be equal to the 5-year average of the Engineering News Record (ENR) Buildings Cost Index (BCI) in San Francisco, averaged year over year from the date of the corresponding Performance Milestone, and applied from the date of the corresponding Performance Milestone to the mid-point of construction.

(g) Sum of Fixed Budget Limit, Insurance, Escalation. At Performance Milestone 15 and Performance Milestone 27A, Lead Developer must submit FS Form A8 setting forth the sum of the updated Fixed Budget Limit, plus insurance costs, plus the escalation amount.

2.6. Allocation of Common Infrastructure Costs. "**Common Infrastructure Costs**" means the total costs (including those costs incurred during the PDA Term) to design and build the Common Infrastructure and perform the Infrastructure Facility Maintenance with respect to the Common Infrastructure. The PCIC under the Transaction Documents is stated in the FS Form B of the Financial Proposal (the "**Original FS Form B**"); provided, however, that if the gross square footage of the Bus Yard Component or the Housing and Commercial Component changes from the gross square footage set forth in the Technical Proposal and Financial Proposal, the PCIC(Max) and the PCIC shown in the Original FS Form B will be adjusted accordingly at Performance Milestone 27A. In calculating any PCIC adjustment at Performance Milestone 27A, there shall be no change in the PCIC(Dis) from that described in

Original FS Form B, except that if as a result of an HCC Change pursuant Section 9.2 (*HCC Change*) the Project is modified to only be comprised of the Bus Yard Component, then the PCIC(Dis) shall be zero.

City will compensate the Principal Project Company for delivering the Infrastructure Facility and performing the Infrastructure Facility Maintenance, adjusted by the PCIC, via an industry-standard, performance-based regime of Availability Payments during the Infrastructure Facility Term. The Housing Project Company will pay for its share of the annual cost of Infrastructure Facility Maintenance, based on the PCIH, starting on Substantial Completion of the Infrastructure Facility or on such other date as mutually agreed by the Parties and every year thereafter for the Housing Term.

2.7. Diligent and Good Faith Efforts. Subject to each Party's termination rights under the terms of this Agreement, each Party agrees to diligently and in good faith pursue to completion all of its respective obligations under this Agreement during the PDA Term. Lead Developer agrees to commit the financial and personnel resources reasonably required to fulfill its obligations under this Agreement, and pay all costs it incurs to fulfill its obligations under this Agreement. City agrees to commit the personnel resources reasonably required to fulfill its obligations under this Agreement.

2.8. Standard of Care. Each Party agrees to perform, and to cause its Agents to perform, its obligations under this Agreement in accordance with accepted standards of professional practice that are applicable to other projects of similar size and complexity in the San Francisco Bay Area. This standard of care shall apply to and define all professional obligations provided by licensed professionals for any of the Work Materials.

2.9. Suspension of Obligations. If a Party cannot timely satisfy any obligation under this Agreement solely because the other Party's failure to timely comply with its obligations under this Agreement, the affected obligation of the first Party will be suspended until the other Party performs the unperformed obligation that is precluding or preventing the first Party's performance, with a corresponding extension to the Performance Date for any Performance Milestone the first Party is precluded or prevented from timely performing solely due to the other Party's failure. The first Party must continue to perform all of its other obligations under this Agreement to the extent they are not precluded or prevented by other Party's failure.

2.10. Exclusive Negotiations; City's Reserved Rights. City will not solicit or consider any other proposals or negotiate with any other party with respect to developing or using the Project Site without Lead Developer's consent; provided, however, that City reserves the right, in its sole discretion but subject to Section 9.3 (*Changes Proposed by City*), to take or not take, any or all of the following actions at any time:

(a) Enter into agreements for the use, occupancy, maintenance or repair of all or any portion of the Project Site as long as they do not prevent Lead Developer from conducting due diligence investigations of the Project Site that are reasonably needed for the Project, permanently alter the condition of the Project Site, and expire or are terminable by City without penalty, cost or expense to Lead Developer before Commercial Close. Lead Developer acknowledges the Project site is being used for transit operations and it will need to schedule its due diligence activities in a manner that does not unreasonably interfere with those operations.

(b) Waive, extend or conditionally extend the time to complete the various Performance Milestones by the applicable dates set forth in Appendix B-1 attached hereto (the "**Performance Dates**"), subject to the requirements of Section 3.2 (*Performance Milestones*) with regard to extending any of the Performance Milestones beyond the Predevelopment Period.

(c) Expand or contract the scope of the Project by altering the Technical Requirements to respond to new information, community, regulatory or environmental issues, or opportunities to reduce costs to City or to enhance community benefits.

In addition, if negotiations with Lead Developer under this Agreement are unsuccessful or do not lead to approval of the Transaction Documents by the Director of Transportation or, as applicable, the SFMTA Board, the Board of Supervisors, or any other City commission or board within the PDA Term, City has the right to negotiate with another developer for the development of the Project Site, to elect not to pursue any project at the Project Site, or to undertake other efforts with the Project Site including pursuing a new procurement or issuing a new request for proposals. Lead Developer agrees that if this Agreement terminates on its own terms, City shall have the right to elect to negotiate with another Short-Listed Proposer or to reprocure the Project.

2.11. Proprietary or Confidential Information.

(a) Lead Developer Information. The Parties enter into this Agreement with the understanding that in the course of the negotiations City may require that Lead Developer provide certain information that is proprietary. Such information may be necessary for City to verify financial, operational or trade secret information that is relevant to the negotiations of the Transaction Documents and the review of other Project Documents that will serve the public interest and the economic feasibility of the Project. Lead Developer will provide such information, and with respect to such information Lead Developer reasonably designates as confidential trade secret or proprietary information, Lead Developer will clearly identify, in writing and with specificity, the materials it believes to be confidential trade secret or proprietary information and the provision of the Public Records Act and the Sunshine Ordinance that it believes to provide an exemption to disclosure (the "**LD Confidential Information**"). City shall not publicly disclose LD Confidential Information without Lead Developer's consent except to the extent City is compelled to make such a disclosure under Applicable Law. Lead Developer acknowledges that regardless of its determination that any information or materials are confidential trade secret or proprietary information, City must make its own determination of whether the LD Confidential Information or other information or materials are confidential trade secret or proprietary or are subject to disclosure under existing law.

City agrees to notify Lead Developer of any public records request that involves LD Confidential Information. Lead Developer agrees to bear all the costs of any litigation that is filed to determine the applicability of the public records law to documents submitted by Lead Developer and designated as LD Confidential Information under this Section 2.11 (*Proprietary or Confidential Information*). Lead Developer acknowledges that the drafts of the Project Documents and other Work Materials during negotiations and other correspondence between Lead Developer and City may be public records.

(b) City Information. Lead Developer understands and agrees that, in the performance of the Work or in contemplation thereof, Lead Developer may have access to private or confidential information that may be owned or controlled by City ("**City Confidential Information**"). The City Confidential Information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Lead Developer shall exercise the same standard of care to protect the City Confidential Information as a reasonably prudent developer would use to protect its own proprietary data.

Lead Developer agrees to hold any City Confidential Information it receives from or creates under this Agreement in strictest confidence and used only in the performance of the Work. Lead Developer shall not use or disclose any City Confidential Information or other City data it receives under this Agreement ("**City Data**") except as permitted or required by the Agreement or as otherwise authorized in writing by City. Any work using, or sharing or storage

of, City Confidential Information outside the United States is subject to prior written authorization by City. Access to City Confidential Information must be strictly controlled and limited to Key Personnel on a need-to-know basis only. Lead Developer is provided a limited non-exclusive license to use the City Data or Confidential Information solely for performing the Work and not for Lead Developer's own purposes or later use. Nothing herein shall be construed to confer any license or right to the City Data or City Confidential Information, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third party. Unauthorized use of City Data or City Confidential Information by Lead Developer, the Lead Developer Agents or other third parties is prohibited. For purpose of this requirement, the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for commercial purposes, advertising or advertising-related purposes, or for any purpose other than security or service delivery analysis that is not explicitly authorized.

On any termination of this Agreement (unless this Agreement is terminated due to the full execution of the Project Agreement) or at City's request, Lead Developer shall, within forty-eight (48) hours, return all City Confidential Information which includes all original media. Once Lead Developer has received written confirmation from City that all the City Confidential Information has been successfully transferred to City, Lead Developer shall within ten (10) Business Days purge all the City Confidential Information from its servers, any hosted environment Lead Developer has used in performance of this Agreement, work stations that were used to process the data or for production of the data, and any other work files stored by Lead Developer in whatever medium. Lead Developer shall provide City with written certification that such purge occurred within five (5) Business Days of the purge.

3. TERM; PERFORMANCE DATES

3.1. PDA Term; Predevelopment Period Extensions. The term of this Agreement (the "**PDA Term**") will commence on the Effective Date and will expire on the earlier date (the "**Expiration Date**") to occur of the Commercial Close and the expiration of the Predevelopment Period, subject to earlier termination as provided in this Agreement. The Parties obligations under this Agreement will terminate on the termination of this Agreement, subject to any obligations that expressly survive such termination.

The Predevelopment Period can only be extended with the written consent of both Parties, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that a non-requesting Party has the sole discretion to withhold or condition its consent to the other Party's Predevelopment Period extension request if the requesting Party is in default of its obligations under this Agreement at the time of submitting the extension request. A Party requesting a Predevelopment Period extension shall do so by delivering written notice of that extension request (an "**Extension Request**") to the other Party. The non-requesting Party must respond in writing to an Extension Request within ten (10) Business Days of receiving of an Extension Request. If the non-requesting Party withholds its consent to an Extension Request, the requesting Party has the right to request a meeting of the Parties to discuss the matter by delivering a written meeting request to the non-requesting Party within ten (10) Business Days of receiving the non-requesting Party's written notice of withholding its consent to the Extension Request. If the requesting Party timely delivers the meeting request to the non-requesting Party, the Parties must meet to discuss the Extension Request at a mutually agreeable time within ten (10) Business Days of the non-requesting Party's receipt of the meeting request. If the non-requesting Party does not agree to the Extension Request after that meeting, the Predevelopment Period will not be extended pursuant to that Extension Request.

3.2. Performance Milestones.

(a) Compliance. Each of the performance milestones ("**Performance Milestones**") are described in the attached Appendix B-1, which also establishes the dates for completing the Performance Milestones. The Parties established the Performance Milestones to ensure that the Commercial Close occurs on or before the expiration of the Predevelopment Period, the Substantial Completion of the Infrastructure Facility occurs no later than the Outside Delivery Date, and the Substantial Completion of the Housing and Commercial Component occurs no later than one year after Substantial Completion of the Infrastructure Facility. During the PDA Term, subject to City's delivery of the applicable Notice to Proceed to Lead Developer pursuant to Article 4 (*PDA Phases; Notices to Proceed*), the Lead Developer agrees to diligently pursue to completion the Performance Milestones in the manner and by the Performance Dates described in attached Appendix B-1. "Performance Milestones" shall include any additional Performance Milestones specified by the Parties in writing and "Performance Dates" shall include the performance dates mutually established by the Parties for those additional Performance Milestones.

Lead Developer's compliance with the Performance Milestones by the applicable Performance Dates shall not alter or reduce its obligations to comply with any other provision of this Agreement. The Performance Milestones shown in the attached Appendix B-1 can be changed by the mutual agreement of Lead Developer and City. It is anticipated that the PDA Management Plan could contain additional Performance Milestones and Performance Dates and propose other changes to Appendix B-1, all without increasing the LD Predevelopment Cost or changing the Predevelopment Period.

(b) Phase 2 Floating Milestone. The Performance Milestones include a **"Phase 2 Floating Milestone"**, which will be achieved upon the last to occur of the following (the "**Floating Milestone Date**"): (i) the Planning Commission has certified the EIR and approved, or recommended to the Board of Supervisors for approval as applicable, the special use district, conditional use authorization, General Plan Referral, and related General Plan amendments (the "**Phase 2 Entitlements**") needed to construct and operate the Facility as stated in the Draft EIR project description or as otherwise mutually agreed to by the Parties; (ii) if the Planning Commission certification of the EIR is appealed, the Board of Supervisors, in its sole discretion, has adopted findings to affirm the Planning Commission's certification of the EIR; (iii) the Board of Supervisors has, in its sole discretion and as applicable, adopted legislation and findings to approve any Phase 2 Entitlements that require the approval of the Board of Supervisors to be effective, and (iv) the approvals and legislation described in the foregoing (i) through (iii) are effective.

3.3. Unavoidable Delays and Regulatory Appeal Delays.

(a) Unavoidable Delay. "**Unavoidable Delays**" means delays in the timely completion of a Performance Milestone by reason of enemy action, civil commotion, epidemics, pandemics, and related governmental orders and requirements (and private sector responses to comply with those orders and requirements), strikes, lockouts or other labor disputes, protests, riots, demonstrations, acts of God, or by any other similar reason without the fault and beyond the reasonable control of the Party meeting that Performance Milestone. Unavoidable Delays shall not include any Regulatory Appeal Delay, any delays in meeting the MME Project Expansion Performance Milestones specified in Section 6.24 (*MME Expansion Project*), any delays under the MME Construction Agreement, or any delays under any Early Works Agreement.

(b) Regulatory Appeal Delay. "**Regulatory Appeal Delay**" means any delays arising from a proceeding or administrative appeal before any court, tribunal, or other judicial,

adjudicative, or legislative decision-making body that challenges the validity of any Regulatory Approval if the pendency of the proceeding or appeal is reasonably likely to prevent the Parties from timely entering into the Transaction Documents. A Regulatory Appeal Delay includes litigation related to the approval of any of the Transaction Documents by the SFMTA Board or, as applicable, the Board of Supervisors, or any other City commission or board. Regulatory Appeal Delays exclude any action or proceeding brought by any Lead Developer Affiliate or their Affiliates, any Lead Developer Agents, or any other third party assisted directly or indirectly by Lead Developer.

(c) Performance Extension. If Lead Developer is unable to timely satisfy any Performance Milestone because of an Unavoidable Delay or a Regulatory Appeal Delay, except as otherwise described below, Lead Developer can extend the period for completing that Performance Milestone (a "**Performance Extension**") by giving notice to City (the "**Extension Notice**") within five (5) Business Days of Lead Developer first learning of that Unavoidable Delay or Regulatory Appeal Delay. The Extension Notice must describe the Unavoidable Delay or Regulatory Appeal Delay, as applicable, describe how it immediately affects the timely performance of Lead Developer's obligations under the applicable Performance Milestone, and provide Lead Developer's good faith estimate of the dates by which it will be able to satisfy the affected Performance Milestone(s) immediately affected by that Unavoidable Delay or Regulatory Appeal Delay, as applicable, provided that the estimate shall not extend the Performance Date for completing any of Performance Milestones beyond the Predevelopment Period (as may be extended by the Parties pursuant to Section 3.1 (*PDA Term; Predevelopment Period Extensions*)).

If Lead Developer delivers an Extension Notice to City, the Performance Dates for Lead Developer's satisfaction of the Performance Milestones affected by the Unavoidable Delay or Regulatory Appeal Delay described in the Extension Notice will be extended to the dates specified in the Extension Notice (but no later than the expiration of the Predevelopment Period as may be extended by the Parties pursuant to Section 3.1 (*PDA Term; Predevelopment Period Extensions*)) unless Lead Developer delivers an Extension Notice to City and any of the following applies:

(i) On or before the tenth (10^{th}) day following City's receipt of the Extension Notice, City notifies Lead Developer in writing that there is no basis for a Performance Extension under the criteria set forth in this Section 3.3(c) (*Performance Extension*) for a Performance Extension; or

(ii) A Terminating Event has occurred.

Except for the changes in the Performance Dates for the Performance Milestones affected by an Unavoidable Delay or Regulatory Appeal Delay (which shall not be extended beyond the Predevelopment Period), all other terms and conditions of the Agreement will remain in full force and effect during a Performance Extension. Any Party that is unable to timely achieve any Performance Milestone it is required to meet due to an Unavoidable Delay or Regulatory Appeal Delay must proceed with due diligence to resolve the matters causing the Unavoidable Delay Event or Regulatory Appeal Delay to the extent reasonably possible and, once resolved, to use commercially reasonable efforts to achieve the affected Performance Milestone as soon as possible.

4. PDA PHASES; NOTICES TO PROCEED

4.1. Performance. Lead Developer shall perform, and cause the Lead Developer Agents, as applicable, to perform, the Work in compliance with all the terms and conditions of this Agreement. The Work is to be performed in the three phases (each, a "**PDA Phase**" and

collectively, the "**PDA Phases**") described in the attached Appendix B-1, with each PDA Phase only commencing if City, in its sole discretion, issues a written notice to proceed (a "**Notice to Proceed**" or "**NTP**") to Lead Developer for that PDA Phase. Lead Developer is not authorized to perform Work for any PDA Phase until City delivers a Notice to Proceed to Lead Developer for that PDA Phase. In addition, if the Floating Milestone Date occurs, Lead Developer is not authorized to perform any further PDA Phase 2 Work after the Floating Milestone Date unless City delivers a Notice to Proceed for the remaining PDA Phase 2 Work. Notwithstanding anything to the contrary in the two preceding sentences, Lead Developer may elect to perform Work for a PDA Phase before receiving a Notice to Proceed for that PDA Phase, or before receiving a Notice to Proceed for the remaining PDA Phase 2 Work after the Floating Milestone Date occurs, at the risk of not receiving any Termination Payment for that Work if City terminates this Agreement before delivering the applicable Notice to Proceed to Lead Developer.

4.2. Notices to Proceed; Decision Not to Proceed

(a) Notice to Proceed #1. City will deliver Notice to Proceed #1 of Appendix B-1 to Lead Developer within five (5) Business Days of the last to occur of (i) the full execution and delivery of this Agreement, (ii) the full execution and delivery of the Guaranty, (iii) Lead Developer's delivery of the evidence of insurance required in Article 17 (*Insurance*) and any other materials reasonably required by City, and (iv) Lead Developer becoming a City vendor with a valid business tax registration number from the Business Tax Division of the San Francisco Tax Collector.

(b) Additional Notices to Proceed. City can elect, in its sole discretion, to issue to Lead Developer a Notice to Proceed #2 as described in Appendix B-1 for PDA Phase 2 after City has issued a Notice of Acceptance with respect to PDA Phase 1, subject to any suspension of the PDA Phase 2 Work pursuant to Section 4.2(d) (*Suspension of PDA Phase 2; Continuation Payment*). City can elect, in its sole discretion, to issue to Lead Developer a Notice to Proceed #3 as described in Appendix B-1 for PDA Phase 3 after City has issued a Notice of Acceptance with respect to PDA Phase 2. The issuance of any Notice to Proceed shall not be deemed to excuse the continued compliance with the requirements for the issuance of any prior Notice to Proceed.

(c) Decision Not to Proceed. City has the sole discretion in determining whether to issue a Notice to Proceed for any of the PDA Phases. If City decides not to proceed with a PDA Phase, it must provide written notice of that decision to Lead Developer (a "**Discontinuation Notice**"), after which this Agreement will terminate in accordance with Article 16 (*Termination*). Within fifteen (15) Business Days of receiving a Discontinuation Notice, Lead Developer will deliver all Work Materials that is in the possession of Lead Developer or the Lead Developer Agents and was not previously delivered to City.

(d) Suspension of PDA Phase 2; Continuation Payment.

(i) If the Floating Milestone Date occurs, then Lead Developer's obligation and authorization to perform the PDA Phase 2 Work shall automatically be suspended as of the Floating Milestone Date unless City elects, in its sole discretion, to issue a Notice to Proceed for the continuation of the PDA Phase 2 Work (a "**Continuation Notice**"). Within 45 Business Days of issuing a Continuation Notice, City shall make a payment of Four Million Three Hundred Fifty Thousand Dollars ($4,350,000) (the "**Continuation Payment**") to Lead Developer in exchange for an executed release from Lead Developer satisfactory in form and substance to City. The executed release from Lead Developer shall release, waive, and discharge City and City Agents of and from all liabilities, obligations, claims, and demands whatsoever arising out of or under this Agreement for Work during the period beginning on the Effective

Date and ending on the Floating Milestone Date. City's ability to issue the Continuation Notice is contingent on obtaining the authorizations described in Section 4.2(d)(ii).

(ii) City's payment of the Continuation Payment requires the prior authorization of both the SFMTA Board and the Board of Supervisors, each acting in their respective sole discretion.

(iii) If the Floating Milestone Date occurs and City obtains the authorizations described in Section 4.2(d)(ii), but does not elect to issue the Continuation Notice on or before the 30th day after the Floating Milestone Date (the "**Outside Suspension Date**"), then City must provide a Discontinuation Notice to Lead Developer within five (5) Business Days after the Outside Suspension Date, after which this Agreement will terminate in accordance with Article 16 (*Termination*).

(iv) If the Floating Milestone Date occurs but City does not obtain the authorizations described in Section 4.2(d)(ii) by the Outside Suspension Date, the Parties can mutually agree in writing to permit City to issue the Continuation Notice without any City obligation to make the Continuation Payment.

4.3. Acceptance of Work.

(a) Acceptance Request. Within five (5) Business Days of determining all the Work for a PDA Phase has been fully completed, including the delivery of the required Work Materials for that PDA Phase, Lead Developer will submit a written request (each, an "**Acceptance Request**") for Acceptance of the PDA Phase specifying that the Work for that PDA Phase is completed and the date that Work was completed to City.

(b) Notice of Incompleteness. Within fourteen (14) Business Days of receiving an Acceptance Request, if City determines that the Work for the applicable PDA Phase is not complete or if additional information is required to determine if Acceptance should be granted, City must notify Lead Developer in writing of any outstanding Work that must be completed at no cost to City and any other outstanding issues (each, a "**Notice of Incompleteness**"). Lead Developer must promptly cure the deficiencies identified in the Notice of Incompleteness and submit a new Acceptance Request for that PDA Phase. The procedure in this subsection (b) shall be repeated until City is satisfied that all Work required for that PDA Phase has been completed in accordance with this Agreement and no further requirements must be met.

(c) Notice of Acceptance. City will issue a Notice of Acceptance for the Work in a PDA Phase if it has received an Acceptance Request for that PDA Phase and determines, in its sole discretion, that the Work for that PDA Phase is complete and the following conditions are met:

(i) Lead Developer has provided a certification that the Work for the applicable PDA Phase has been completed;

(ii) Lead Developer has delivered and City has, if applicable, approved in writing all Work Materials required for that PDA Phase under this Agreement;

(iii) Lead Developer has provided a signed statement under penalty of perjury and in form acceptable to City that all other debts and claims of all applicable Lead Developer Agents and suppliers relating to the Work for that PDA Phase and prior PDA Phases have been paid or settled and provided evidence that any Agents or suppliers that created the

Work Materials have consented to those Work Materials being assigned to City if this Agreement terminates for any reason other than Commercial Close; and

(iv) All of Lead Developer's other obligations relating to that PDA Phase have been satisfied in full or waived in writing by City.

5. PROJECT DOCUMENTS

5.1. Negotiating Principles.

(a) Coordination in Responses. Lead Developer shall ensure each draft of a Project Document, or each response to a draft Project Document, that Lead Developer delivers to City for review under this Agreement has been internally reviewed by the appropriate Lead Developer Related Entities. City shall ensure each draft of a Project Document, or each response to a draft Project Document, that City delivers to Lead Developer for review has been internally reviewed by the appropriate City parties acting with respect to City's rights and obligations under this Agreement.

(b) Good Faith Efforts. The Preliminary Term Sheet provides some of the terms to be incorporated in the Project Agreement and, as applicable, the other IF Transaction Documents except to the extent the Parties mutually agree to modify any of those terms. Section 6.9(d) (*HCC Term Sheet*) provides some of the terms to be incorporated in the HCC Agreement and, as applicable, the other HCC Transaction Documents except to the extent the Parties mutually agree to modify any of those terms. City reserves the right, in its sole discretion, to modify the Preliminary Term Sheet (either through a revised Preliminary Term Sheet or through development of the Project Agreement) to reflect the Proposal, the commercial/financial structure that is developed during the PDA Term and for impacts to the terms of the Preliminary Term Sheet arising out of the commercial/financial structure of the Housing and Commercial Component. If and to the extent that City does decide to modify the Preliminary Term Sheet (either through a revised Preliminary Term Sheet or through development of the Project Agreement), City will collaborate with Lead Developer on the modified terms. During the PDA Term, City and Lead Developer will each use commercially reasonable good faith efforts to negotiate the terms of the Transaction Documents. The obligation to negotiate in good faith requires the Parties to communicate with each other with respect to those issues for which agreement has not been reached, and in such communication to follow reasonable negotiation procedures, including meetings, telephone, virtual meetings, and correspondence.

(c) Meeting Schedule. The Parties must establish a schedule for weekly meetings, and for providing and reviewing various drafts of the Project Agreement, the HCC Term Sheet, and the other Transaction Documents. This schedule must reflect the Performance Dates for submitting the Project Agreement, the HCC Term Sheet and other Transaction Documents to the SFMTA Board for consideration, the Outside Delivery Date, and the date for Substantial Completion of the Housing and Commercial Component no later than one year after Substantial Completion of the Infrastructure Facility. Lead Developer shall submit its proposed schedule to City by Performance Milestone 2. If the Parties cannot mutually agree on that schedule on or before by Performance Milestone 5 or any later date approved by City in writing, City can terminate this Agreement.

(d) Conformity. The Transaction Documents must conform to the Preliminary Term Sheet, the HCC Term Sheet requirements set forth in Section 6.9(d) (*HCC Term Sheet*), the Technical Proposal, and the Financial Proposal, except to the extent the Parties mutually agree to revise them, and meet the requirements of this Agreement. The Transaction Documents must be mutually satisfactory to City and Lead Developer, and approved as to form by the Office of the City Attorney.

(e) Subject to Approvals. The negotiated form of each Transaction Document shall be subject to the completion of CEQA review and the Planning Commission's certification of the EIR, the Parties' successful negotiation of the final terms of all of the Transaction Documents (subject to an approved HCC Change pursuant to Section 9.2 (*HCC Change*) to remove the Housing and Commercial Component), and approval of the negotiated Transaction Documents by the SFMTA Board and, as applicable, the Board of Supervisors and any other City board or commission, each acting in its sole discretion.

5.2. Transaction Documents.

(a) City will submit drafts of the Project Agreement and the HCC Agreement to Lead Developer by the applicable Performance Date specified in the Performance Milestones. City prepare the first drafts of all other Transaction Documents unless otherwise mutually agreed by the Parties.

(b) If the Performance Milestones do not specify a Performance Date for delivering a specific Transaction Document (an "**Unspecified Document**"), City shall deliver the initial draft of that Unspecified Document by the date mutually, if any, selected by the Parties. If the Parties do not agree on a specific date, City will deliver the draft to Lead Developer by Performance Milestone 19.

(c) Each draft of the Transaction Documents must incorporate the following to the extent applicable to that Transaction Document: (i) the Technical Requirements, (ii) the Project Objectives, (iii) the requirements of Section 6.5(c) (*Project Agreement*), Section 7.1 (*Development Team*), Section 7.2 (*Key Personnel; Organization*), and Section 15.1 (*Prohibited Payments*), (iv) the LBE Plan, (v) the Asset Management Program and Energy Management Program, (vi) the Fixed Budget Limit and the updated Financial Model for the design and delivery of the Infrastructure Facility and performance of the Infrastructure Facility Maintenance for the Infrastructure Facility submitted at Performance Milestone 32, (vii) require Substantial Completion of the Infrastructure Facility no later than the Outside Delivery Date, and Substantial Completion of the Housing and Commercial Component no later than one year after Substantial Completion of the Infrastructure Facility, (viii) require that the Project be consistent with the Project description in the EIR and require the Principal Project Company to comply with and implement the MMRP, and (ix) the requirements listed in the attached Appendix M.

(d) As long as a Party complies with its obligations to negotiate in good faith under Section 5.1 (*Negotiating Principles*), timely submits the drafts of each Transaction Document it is required to submit to the other Party by the applicable Performance Date, timely provides its comments to the drafts of each Transaction Document submitted by the other Party by the applicable Performance Date, and for each draft Transaction Document incorporates or otherwise conforms the matters described in the foregoing sentence to the extent applicable, that Party will not be in default of its obligations under this Agreement by reason of the Parties' failure to mutually agree to the final form of any Transaction Document.

5.3. Approval of Project Agreement and Other Transaction Documents. The Parties acknowledge that the SFMTA Board and Board of Supervisors will, and other City boards or commissions may, need to approve the Project Agreement negotiated under this Agreement, and their approval may be required for the other Transaction Documents. Lead Developer understands and agrees that although the SFMTA is a department of the City, City staff and executives have no authority or influence over the SFMTA Board, the Board of Supervisors, or other City boards or commissions for approval of any Transaction Documents. Accordingly, there is no guarantee or a presumption that any Transaction Document negotiated by the Parties under this Agreement will be approved by the SFMTA Board, the Board of Supervisors or, if applicable, any other City board or commission. City's sole obligation under

this Agreement with respect to the approval of the Transaction Documents shall be to negotiate in good faith with Lead Developer, review Lead Developer's timely submittals in good faith, provide any comments it is required to deliver to Lead Developer by the applicable Performance Date, and present and recommend any final negotiated Transaction Documents that are in the forms approved by the City Project Director and the LD Project Director to the SFMTA Board and the Board of Supervisors (and if applicable, any other City boards or commissions) for their review and consideration, acting in their respective sole discretion.

6. PREDEVELOPMENT WORK

6.1. Statement of Work.

(a) During the PDA Term, Lead Developer must conduct all predevelopment activities needed to (i) develop the Project in compliance with this Agreement and the PDA Management Plan approved by the City, (ii) reach Commercial Close before the expiration of the Predevelopment Period, (iii) reach IF Financial Close by November 30, 2024, (iv) reach Substantial Completion of the Infrastructure Facility in compliance with the requirements of this Agreement by no later than the Outside Delivery Date, (v) reach Substantial Completion of the Housing and Commercial Component no later than one year after Substantial Completion of the Infrastructure Facility, and (vi) avoid delaying Substantial Completion of the Infrastructure Facility beyond the Outside Delivery Date or adversely impacting the SFMTA's operations at or use of the Bus Yard Component. Such activities include, but are not limited, to the predevelopment obligations described in this Article 6 (*Predevelopment Work*).

(b) As part of City's rights under Section 9.3 (*Changes Proposed by City*), City may elect to change the Technical Requirements to include any or all of the additional scope item Allowances described in FS Form D, other than Allowances relating to escalation or insurance. Accordingly, Lead Developer shall also develop the scopes and technical requirements of the Allowances, using its best efforts to deliver each Allowance within the applicable cost estimate for that Allowance in FS Form D of the Financial Proposal.

6.2. PDA Phases. Lead Developer will deliver the Project Management Deliverables and Design Deliverables to City in the three PDA Phases described in the attached Appendix B-1. Lead Developer must timely deliver the Project Management Deliverables and Design Deliverables by the dates specified for them in the attached Appendix B-1 (as may be modified by Section 3.2 (*Performance Milestones*)), and prepare the other Work Materials in compliance with the PDA Management Plan schedule ("**Project Schedule**"). Any change in the initial Project Schedule from the schedule originally included in the Financial Proposal, and any change to the Project Schedule, will require written approval from the City.

6.3. Due Diligence Investigation. If City delivers Notice to Proceed #1 to Lead Developer, Lead Developer must duly execute and deliver to City the access agreement attached as Appendix L ("**Access Agreement**") for its due diligence investigations at the Project Site, either by providing the number of original signed copies requested by City or signing the Access Agreement through DocuSign, under a multifactor authentication process initiated by City. City must duly execute the Access Agreement by the tenth (10^{th}) Business Day immediately following its receipt of the Access Agreement executed by Lead Developer. Lead Developer and City will use the form of Access Agreement for any other due diligence activities proposed by Lead Developer at the Project Site that are not included in the first Access Agreement executed by the Parties.

Lead Developer must complete all due diligence that is reasonably needed to determine if the Project Site is appropriate for the Project in consideration of the Preliminary Term Sheet, the Fixed Budget Limit, and the other requirements specified in this Agreement. Such due diligence

shall include the site due diligence investigations set forth in Appendix B-2, and shall include, but not be limited to, determining (i) the quality, nature, adequacy and physical condition of the Project Site, including all aspects of the existing improvements, the physical, geological and environmental condition of the Project Site (including soils and any groundwater), and the presence or absence of any hazardous materials in, on, under or about the Project Site, (ii) all title matters affecting the Project Site, (iii) the Applicable Law and private or public covenants, conditions and restrictions relating to the Project Site and its legal status, including, without limitation, the compliance of the Project Site or its operation, (iv) taxes, assessments, use permit requirements relating to the Project Site and the Project, and (iv) all other matters of material significance affecting the Project Site. Lead Developer shall submit the scope of its proposed due diligence investigation of the Project Site and the final reports, analyses, and materials it prepares and receives regarding the conditions described in (i) and (ii) of this paragraph to City by the applicable Performance Dates specified in the Performance Milestones.

All entries by Lead Developer or the Lead Developer Agents onto the Project Site to perform any testing, inspections, or other investigations will be made only at mutually agreeable times and pursuant to the terms and conditions of the Access Agreement. As specified in the Access Agreement, Lead Developer acknowledges the Project Site has active high voltage overhead lines and special clearance procedures and authorizations will be necessary before Lead Developer or the Lead Developer Agents can commence certain due diligence activities at the Project Site. Lead Developer is responsible for scheduling sufficient time to comply with these procedures and obtain these authorizations in order to timely commence and complete its due diligence investigations at the Project Site.

6.4. Compliance with Plans. The PDA Management Plan and the other plans described in Appendix B-2 must guide Lead Developer's predevelopment activities and obligations for the Project during the PDA Term. If the PDA Management Plan and those other plans are approved by City through the process described in Appendix B-2, Lead Developer must promptly follow and comply with each of the processes and requirements described in them.

6.5. Design Development.

(a) Compliance of Design Deliverables. Every Design Deliverable must comply with the Technical Requirements and the requirements of Appendix B-2, regardless of any conflicts between the Technical Requirements and the Technical Concept Design submitted as part of the Proposal, unless City approves of any variance in writing, which approval will be in its sole discretion. Every Design Deliverable must maintain the Fixed Budget Limit. Lead Developer is solely responsible for ensuring the Design Deliverables and all other Project design work performed by or for Lead Developer during the PDA Term complies with Applicable Law and the requirements and procedures of this Agreement. Lead Developer bears the risk of any of the Design Deliverables being incorrect or incomplete due to an incomplete and/or incorrect review, examination or investigation of the Project Site or its existing improvements as long as City gives Lead Developer adequate access to the Project Site for its due diligence investigations, subject to the limitations specified in Section 6.3 (*Due Diligence Investigation*) and the Access Agreement.

(b) Design Deliverable Analyses. In developing each Design Deliverable, Lead Developer must comply with the following:

(i) Incorporate and make design changes as needed to comply with the Technical Requirements without exceeding the Fixed Budget Limit.

(ii) Evaluate changes to the design that are directly related to material changes to the Technical Requirements implemented pursuant to Article 9 (*Changes to the Project*). Lead Developer shall provide City with a cost and schedule impact analysis for each proposed material change to the Technical Requirements and a determination if these would increase or decrease the Fixed Budget Limit. As stated in Section 2.10 (*Exclusive Negotiations; City's Reserved Rights*) and Article 9 (*Changes to the Project*), City retains sole discretion to propose, accept, or reject any changes to the Technical Requirements.

(iii) Evaluate the development of the Allowance items and provide City with (i) a full and detailed cost estimate of those items in accordance with Attachment 2 to Appendix B-2, (ii) a summary schedule of those items in accordance with Appendix B-2 and in the same format as Appendix H, (iii) a risk register for those items in accordance with Appendix B-2 relative to their corresponding cost estimates provided by Lead Developer in FS Form D of the Financial Proposal, and (iv) a determination if these Allowances would increase or decrease the Fixed Budget Limit.

(c) Project Agreement. The Project Agreement must include substantially the same design submittal and review procedures and requirements for each subsequent design deliverable to be submitted by the Principal Project Company to City after Commercial Close, and shall follow the content and format requirements that shall be agreed by Lead Developer and City during the PDA Term. The Project Agreement design deliverables must comply with these design submittal and review requirements as stated in Appendix B-2 before they are submitted to City, acting in its regulatory capacity, for any site permit or construction permit.

6.6. Asset Management Program. Lead Developer must timely refine and finalize the scope of the Infrastructure Facility Maintenance and develop the Asset Management Program, as required in the PDA Management Plan and the attached Appendix B-2, all of which are subject to City's prior approval and must be performed in consultation with City. The Asset Management Program must be used by Lead Developer for the competitive bidding process for the Design-Build Contract and IFM Contract. As of Commercial Close, the implementation of the Asset Management Program will be part of the Principal Project Company's responsibilities under the Project Agreement during the Project's construction period and the Infrastructure Facility Term.

6.7. Energy Management Program. Lead Developer must develop an energy management program for the Facility ("**Energy Management Program**") in accordance with the requirements set forth in Appendix B-2 and in consultation with City. The Energy Management Program shall be consistent with good industry practice, Applicable Law, applicable standards and specifications. The Energy Management Program must be used by Lead Developer for the competitive bidding process for the Design-Build Contract and IFM Contract, all as part of the Asset Management Program Development Plan. As of the IF Commercial Close, the implementation of the Energy Management Program will be part of the Principal Project Company's responsibilities under the Project Agreement through the construction of the Infrastructure Facility and the Infrastructure Facility Terms.

6.8. Project Financing. Lead Developer must competitively procure and obtain sufficient debt financing for the development and timely delivery of the Project consistent with the Financial Proposal and in compliance with the Financing Management Plan described in the attached Appendix B-2, if approved by City; provided that if a Lead Developer's finance plan for the Infrastructure Facility and the Housing and Commercial Component is approved by the City at Performance Milestone 34, Lead Developer must then competitively procure and obtain the debt financing described in that City-approved finance plan (the "**Finance Plan**").

6.9. HCC Predevelopment Work. Lead Developer must use commercially reasonable, good faith efforts to perform all predevelopment activities needed to timely develop, design, finance, fund, construct, operate and maintain the Housing and Commercial Component as described in the Technical Proposal (the "**Proposed HCC**"), as may be modified pursuant to Section 9.2 (*HCC Change*) or Section 9.3 (*Changes Proposed by City*). Such predevelopment activities include, but are not limited to, the activities described in this Section 6.9 (*HCC Predevelopment Work*).

(a) HCC Interface Requirements. The Housing and Commercial Component must meet the following requirements (the "**HCC Interface Requirements**"):

(i) the Housing and Commercial Component must timely fund its share of the Common Infrastructure design, construction, operation and maintenance costs (based on PCIH);

(ii) the development, financing and construction of the Housing and Commercial Component must not delay Substantial Completion of the Infrastructure Facility, which must occur by the Outside Delivery Date;

(iii) the Housing and Commercial Component must achieve Substantial Completion within one year following Substantial Completion of the Infrastructure Facility; and

(iv) the construction of the Housing and Commercial Component must not interfere with or put at risk the Bus Yard Component or its transit operations, as determined by City, in its sole discretion.

A. The following Housing and Commercial Component construction activities are examples of activities that City currently expects would interfere with or impede the SFMTA's transit operations after Substantial Completion of the Infrastructure Facility. Lead Developer may propose solutions to prevent such activities from interfering with or impeding SFMTA's transit operations, but City shall no have no obligation to accept or agree to those solutions.

(1) Any disturbance or temporary obstruction of building access for individuals, SFMTA vehicles, or Infrastructure Facility supporting services such as deliveries or waste retrieval as a result of Housing and Commercial Component construction activities, construction materials or equipment delivery, or staging of equipment or materials (a written request may be made to City for an exception at least six months in advance of any such proposed activity taking place, which City will review and respond in writing, in its sole discretion);

(2) Any damage to the Infrastructure Facility resulting from ongoing Housing and Commercial Component construction;

(3) Any changes to the Infrastructure Facility building or systems or disturbance to active Infrastructure Facility building operations or building systems, as a result of Housing and Commercial Component design integration; and

(4) Any mobilization for the start of construction.

B. The following Housing and Commercial Component construction activities are examples of activities that City currently expects would not interfere with or impede the SFMTA's transit operations after Substantial Completion of the Infrastructure Facility, to the extent they do not result in any of the activities described in Section 6.9(a)(iv)(A)

and provided the following activities are completed no later than one year after Substantial Completion of the Infrastructure Facility:

(1) For completion of Housing and Commercial Component construction activities occurring above the completed Infrastructure Facility roof deck, any HCC construction activities that do not negatively impact the roof deck or the SFMTA operations being performed within the Infrastructure Facility, subject to structural analysis and design performed by the Lead Developer during the PDA phase to address potential impact loads from accidental loading;

(2) For completion of Housing and Commercial Component construction activities occurring below the completed Infrastructure Facility roof deck, interior finishes such as the installation of drywall, casework, tile, painting, final inspections and completion of punchlist items; and

(3) Demobilization of Housing and Commercial Component construction occurring above or below the completed Infrastructure Facility roof deck.

(b) HCC Development Plan. At the meeting described in Performance Milestone 1F, Lead Developer shall present its draft plan for (i) verifying feasibility and constructability of the Proposed HCC or any other housing that meets the Technical Requirements, (ii) securing Regulatory Approvals and financing for the Proposed HCC, (iii) constructing and achieving Substantial Completion of the Proposed HCC in a manner that meets the HCC Interface Requirements and the HCC Schedule, and (iv) performing the feasibility and financing analysis described in Section 6.9(g) (*Feasibility Analysis*). The plan is subject to the review and approval of City and the plan, if approved by City, will be the "**HCC Development Plan**". The HCC Development Plan must include the HCC Schedule and the HCC Term Sheet and Lead Developer's proposed collaborative approach to work with City to achieve the Proposed HCC in compliance with the HCC Interface Requirements. Lead Developer shall provide its draft HCC Term Sheet to City no later than thirty (30) days after the meeting described in Performance Milestone 1F.

(c) HCC Schedule. The "**HCC Schedule**" will be a schedule that provides the key Proposed HCC milestones and their timing, including but not limited to (i) the Parties' review, negotiation and completion of the HCC Development Plan, the HCC Term Sheet, the HCC Agreement, and any other Project Documents required for the development, design, financing, construction, operation and maintenance of the Housing and Commercial Component, (ii) the dates for securing the needed Regulatory Approvals and financing, and (iii) the construction stages and milestones related to the Proposed HCC through its Substantial Completion, together with the anticipated Substantial Completion of the Infrastructure Facility. The HCC Schedule will also be used by the City to assist it with ensuring the development, financing, design, and construction of the Housing and Commercial Work will meet the HCC Interface Requirements and to help City plan for and manage its corresponding activities. Lead Developer will present a draft HCC Schedule to City at Performance Milestone 1F, which draft must incorporate the Housing and Commercial Component schedule included in FS Form F-PR of the Financial Proposal. Lead Developer shall update and submit the HCC Schedule at regular intervals and, at a minimum, at Performance Milestones 16 and 28.

(d) HCC Term Sheet. The "**HCC Term Sheet**" will outline the key terms of the HCC Agreement, which must conform with the relevant provisions of the Proposal (unless otherwise agreed to or modified under Section 9.2 (*HCC Change*) or through the final design process and approved by City) and the Technical Requirements. The HCC Term Sheet will be non-binding and conditioned on the completion of CEQA review and the Planning Commission's certification of the EIR, the Parties' successful negotiation of the Transaction

Documents and, and approval of the negotiated Transaction Documents by the SFMTA Board and, as applicable, the Board of Supervisors and any other City boards or commissions, each acting in its sole discretion. Except as otherwise mutually agreed by the Parties, the HCC Term Sheet must reflect the Proposal, comply with the Project Objectives and the Technical Requirements for the Housing and Commercial Component, and address the following terms related to the Housing and Commercial Component:

(i) A description of the real property interest in the parcel(s) ("**Premises**") to be transferred to the Housing Project Company, which City will continue to own in fee;

(ii) The approved activities at the Premises;

(iii) A description of the Proposed HCC, including a summary of its size, layout, proposed buildings, and the private and public open spaces;

(iv) The details of each building, including that building's number of affordable residential units and any market rate units listed by bedroom type and Area Median Income tier, the proposed rent and tenant income level restrictions and utility allowances for the affordable residential units, the minimum and average size of residential units by bedroom type, the affirmative marketing strategy, tenant preferences, resident services plan, and management plan, the proposed location and square footage of commercial and other space, and the financing strategy for constructing and operating the commercial space and the affordable and any market rate residential units;

(v) The public benefit program, the transportation demand management plan if required under the SFMTA's Transportation Demand Management Program, or if a transportation demand plan is not required, the approach to facilitating public transit use by residents or other users of the Housing and Commercial Component, and the program of public right of way improvements;

(vi) The proposed efforts to achieve labor harmony;

(vii) A description of the needed Regulatory Approvals and the anticipated timing for applying for and securing those Regulatory Approvals;

(viii) A description of the anticipated financing and tax credits, including the timing that financing would be available, the timing of any application for financing and any applicable tax credits, the additional approvals needed for that financing or tax credits, and the relative availability of that financing or tax credits;

(ix) A description of the Housing Project Company's contingency plans if the Housing Project Company cannot timely obtain the Regulatory Approvals, financing and (if applicable) tax credits needed for delivery of the Proposed HCC, and include (1) a requirement that, if any change is needed to the project to be constructed under the applicable HCC Agreement, the Housing Project Company first obtain City's approval and any necessary Regulatory Approvals, and (2) a description of the process for obtaining those approvals.

(x) The proposed form of the HCC Agreement to grant the Housing Project Company a long-term real property interest in the Premises, the commencement and expiration of that interest, any conditions precedent to the commencement of that interest, and proposed payments equal to the value of that interest to City (provided a Housing Project Company may first recover the development costs for its Affordable Units, with the HCC Term Sheet describing the anticipated timing for recovering those development costs);

(xi) The conditions precedent to the execution of the HCC Agreement, HCC Financial Close, and the commencement of the HCC Term;

(xii) City participation in any transfer that results in the Housing Project Company (or any of its subtenants or assignees) receiving proceeds after deducting its costs of financing, developing, design, construction and improvement of the Premises and the transaction costs for that transfer (but excluding the lease or sublease of individual residential or commercial units) and calculation and allocation of cost savings resulting from any refinancing of the Housing and Commercial Component construction costs, if any;

(xiii) The method of paying the Housing and Commercial Component share of the Common Infrastructure costs, which will be based on the PCIH, and security for such payment, including the method for paying such costs between Substantial Completion of the Infrastructure Facility and any later Substantial Completion of any portion of the HCC;

(xiv) The security for financial close of any funding to be used to finance any market-rate building to be constructed at the Premises;

(xv) Commercially reasonable standard mortgagee protection provisions, to the extent any lender will take a security interest in any real property interest of the Premises or ownership interest in the Housing and Commercial Component improvements at the Premises;

(xvi) Insurance requirements and the Parties' respective rights and obligations with respect to damage and destruction;

(xvii) A description of capital reserves, security deposit, financing security, and the forms of payment and performance bonds;

(xviii) The sole responsibility and cost of the Housing Project Company (or its assignee) for designing, financing, building, operating, and maintaining the Premises and Housing and Commercial Component during the Housing Term and paying (or obtaining any available abatements) all property taxes and assessments levied against or related to the Housing and Commercial Component during the Housing Term;

(xix) Housing Project Company's obligations with respect to (A) the environmental condition of the Premises and any hazardous materials released at the Premises and (B) the environmental condition of the Common Infrastructure and any hazardous materials released at the Common Infrastructure, which shall be based on the PCIH;

(xx) Restrictions on assignment, subletting and other transfers of the HCC Agreement or the Housing Project Company's interest, including any restrictions on equity transfers or change of control of the Housing Project Company, and a requirement that the Guarantor (being the Guarantor as of the date of execution of this Agreement) or its Affiliate shall, until such time as the Housing and Commercial Component achieves Substantial Completion, be responsible for the delivery of the HCC (but not the financing of the HCC) and its integration with the Infrastructure Facility, by contract, or by other means, unless otherwise agreed to by City in its sole discretion. For the avoidance of doubt, the Housing Project Companies will have primary responsibility for delivering the Housing and Commercial Component and the Guarantor's (or its Affiliate's) responsibility hereunder does not require the provision of guarantees, security or other financial obligations for the delivery of the HCC on behalf of the Housing Project Companies or otherwise;

(xxi) The obligation to achieve Substantial Completion of the Housing and Commercial Component within one year following Substantial Completion of the Infrastructure Facility;

(xxii) Housing Project Company's obligation to ensure that, as of the date for Substantial Completion of the Housing and Commercial Component, it shall be free of defects, including design defects, errors and omissions, except as may be set out in the Housing and Commercial Component punch list (which shall be fully resolved as of final acceptance of the Housing and Commercial Component);

(xxiii) Remedies for defaults, including mortgagee protection rights of lenders and any termination rights for City;

(xxiv) The surrender condition of the Premises, including all improvements then located on the Premises, and any application of reserve funds and transfer of occupants' security deposits at the end of the Housing Term; and

(xxv) Any other fundamental terms, including any applicable stakeholder input, that will serve as a basis for negotiating the HCC Agreement.

(e) Execution of HCC Term Sheet. If the Parties mutually agree to a final version of the HCC Term Sheet by the date specified for that agreement in the HCC Schedule, Lead Developer will execute the HCC Term Sheet. If City elects to submit the HCC Term Sheet to the SFMTA Board or any other City body, Lead Developer must attend any meetings held by the SFMTA Board and, if applicable, any other City body considering the HCC Term Sheet. Lead Developer must also be prepared, at City's request, to provide supporting materials and present the HCC Term Sheet and Proposed HCC at any of those meetings. If either the SFMTA Board or, if applicable, any other City body, does not endorse the submitted HCC Term Sheet, then the Parties may mutually agree to modify the HCC Term Sheet and have it resubmitted for endorsement. City will execute the mutually-approved HCC Term Sheet within seven (7) Business Days of endorsement (if at all) of the HCC Term Sheet by the SFMTA Board or later endorsement (if at all) by any other City body, if applicable. The endorsed HCC Term Sheet is subject to modification pursuant to Section 9.2 (*HCC Change*) and Section 9.3 (*Changes Proposed by City*), and City may elect to submit modified versions of the HCC Term Sheet to the SFMTA Board or any other City body. The Parties acknowledge that any executed HCC Term Sheet is intended only to set forth general principles for negotiation of the HCC Agreement and the other HCC Transaction Documents. The HCC Agreement and each of the other HCC Transaction Documents will be subject to review and approval by the Parties, their respective legal counsel, the SFMTA Board, and as applicable, by the Board of Supervisors, with both boards acting in their sole discretion. Regardless of whether the HCC Term Sheet is executed by City, City cannot be bound by the HCC Agreement or any of the other HCC Transaction Documents until they are approved by the SFMTA Board and as applicable, the Board of Supervisors or any other City board or commission, each in their respective sole discretion, and executed by City, which will not occur until CEQA review for the Project is complete.

(f) Financing. Lead Developer must timely pursue the sources of Housing and Commercial Component funding listed in its Financial Proposal, and any additional sources of funding that it identifies during the PDA Term, in compliance with the HCC Schedule, the Financing Management Plan described in the attached Appendix B-2, and the Finance Plan, if any. Lead Developer shall also be responsible for ensuring compliance with all the conditions and requirements of that funding, including any that apply to actions taken by Lead Developer during the PDA Term. If the Financial Proposal includes MOHCD loans, Lead Developer shall comply with, and structure any Housing Project Company developing Affordable Units to be funded with the MOHCD loans in compliance with, the underwriting guidelines for MOHCD

predevelopment loans, which can be located at https://sfmohcd.org/housing-development-forms-documents. At the kick-off meeting described in Performance Milestone 1, MOHCD will discuss the materials Lead Developer will need to submit to MOHCD to apply for a predevelopment loan with respect to the Affordable Units that qualify for a MOHCD predevelopment loan. Lead Developer will promptly respond to MOHCD requests for information needed to timely submit and process the predevelopment loan application. Lead Developer acknowledges and agrees that City shall have no obligation to provide funding for any aspect of the Housing and Commercial Component.

(g) Feasibility Analysis. Lead Developer must timely develop and deliver a Housing and Commercial Component feasibility and financing analysis, plans, and commitments consistent with the Financial Proposal and in compliance with the HCC Schedule, the Financing Management Plan described in the attached Appendix B-2, and the Finance Plan, if any. The Financing Management Plan will account for tax credits that Lead Developer anticipates in regard to the construction of the Affordable Units. Although the Housing and Commercial Component share (based on PCIH) of the Common Infrastructure costs will be the Housing Project Company's responsibility, Lead Developer has the sole discretion in allocating those costs among the Affordable Units and the Housing and Commercial Component market rate residential units and non-residential units. The materials described in this subsection and the timelines included in those materials must reflect the Project Schedule and the HCC Schedule and comply with the HCC Interface Requirements.

(h) Additional HCC Materials. The Design Deliverables include certain plans, drawings and specifications for the Housing and Commercial Component. If Lead Developer elects to prepare any other plans, drawings and specifications for the Housing and Commercial Component (the "**Additional HCC Materials**") during the PDA Term, Lead Developer must submit the Additional HCC Materials to City for approval, in its proprietary capacity as owner of the Project Site and to confirm compliance with the Technical Requirements, before the Additional HCC Materials are submitted to any Regulatory Agency (including City acting in its proprietary capacity) for review or approval. City shall review and respond to any Additional HCC Materials submitted within the time periods specified in the HCC Development Plan. Lead Developer acknowledges and agrees that any Additional HCC Materials will, to the extent applicable, reflect the HCC Schedule milestones for the development, financing, construction, and Substantial Completion of the Housing and Commercial Component. Lead Developer shall be responsible, at its sole cost and expense, for the development of all Additional HCC Materials, which Lead Developer must ensure are: (i) assignable to any housing developer for the Affordable Units or the Housing and Commercial Component market rate residential units, as necessary, that holds an interest in the proceeds of any construction loan for those Affordable Units or market rate residential units, and (ii) comply with Applicable Law (including but not limited to Chapter 7 of the San Francisco Environment Code), the Technical Requirements, and, if applicable, MOHCD's design requirements for housing funded with MOHCD funds.

6.10. Local Business Enterprise Plan. Lead Developer must timely develop a program for utilizing Local Business Enterprises (as defined in Chapter 14B of the San Francisco Administrative Code) that must be consistent with the policy goals and purpose of Chapter 14B of the San Francisco Administrative Code to ensure participation by Local Business Enterprises and non-discrimination in the design, construction, and ongoing asset management of the Project during the term of the Project Agreement (the "**LBE Plan**"). Within twenty-eight (28) days of the Commencement Date, Lead Developer must meet with City to commence LBE Plan discussions. Lead Developer acknowledges City may require an LBE Plan that differs from the Local Business Enterprise assumptions Lead Developer used for the purposes of the Proposal, as described in Technical Submittal 28 of the Technical Proposal. Lead Developer must obtain the approval of City to the LBE Plan no later than Performance Milestone 17. In addition, during

the PDA Term, Lead Developer will strive to incorporate Local Business Enterprises participation in appropriate Work activities. If Lead Developer wishes to engage and receive credit for its use of Local Business Enterprises during the PDA Term, it will need the prior written consent of City's Contract Monitoring Division, which can be withheld in the sole discretion of City's Contract Monitoring Division.

6.11. Design-Build Contract. Lead Developer must timely prepare the contract for the design and construction of the Facility in compliance with the requirements of this Agreement (the **"Design-Build Contract"**) and its related materials, including the process for obtaining competitive bids and selecting the design-builder, all of which are subject to City's prior approval and must be performed in consultation with City. Lead Developer may procure more than one Design-Build Contract and contractor, provided that the Infrastructure Facility is designed and built by a single design-build contractor pursuant to a single Design-Build Contract, and provided Lead Developer takes responsibility for all integration and interface risks resulting from the use of more than one Design-Build Contract and contractor. The Design-Build Contract must incorporate the 100% Schematic Design Package described in Appendix B-2 to the extent approved by City at Performance Milestone 28, be subject to the applicable requirements of the Project Agreement and the HCC Agreement, as applicable, incorporate the applicable requirements set forth in Appendix M, and, except as otherwise mutually agreed by the Parties, incorporate the Technical Requirements applicable to the work to be performed under the Design-Build Contract. No Development Team Member or its Affiliates can submit a bid for the Design-Build Contract; provided, however, that IBI Group, A California Partnership and Y.A. studio can each be a subcontractor to any entity that submits a Design-Build Contract bid.

6.12. Infrastructure Facility Maintenance. Table 1 in Division 7 (*Asset Management Program Requirements*) of the Technical Requirements summarizes the Infrastructure Facility Maintenance scope of work, which is to be provided on a 24/7/365 basis. In consultation with City, Lead Developer must timely refine and finalize the scope of the Infrastructure Facility Maintenance and develop the Asset Management Program, as required in the PDA Management Plan and the attached Appendix B-2, all of which are subject to City's prior approval and must be performed in consultation with City. City's goal is to pass the risk of life-cycle renewal and replacement to provide cost certainty, transparency, and optimized performance of the Infrastructure Facility to the Principal Project Company. This is important for the financial feasibility and operations of the Bus Yard Component and Housing and Commercial Component and their coexistence as part of a vertically integrated Facility.

City expects that the Housing Term will be longer than the Infrastructure Facility Term. In recognition of this likely fact and to address the relevant risks, after the Infrastructure Facility Term ends, City will ensure that the Infrastructure Facility continues to be maintained with substantially the same scope and performance standards as the Infrastructure Facility Maintenance specified in the Asset Management Program by electing, in its sole discretion, to (a) self-perform the Infrastructure Facility Maintenance, (b) contract it to a maintenance provider, (c) retain the Principal Project Company to continue providing it, or (d) pursue any other option . After the Infrastructure Facility Term ends, the share of the Infrastructure Facility Maintenance Costs allocated to the Housing and Commercial Component must be paid to City for the remainder of the Housing Term.

6.13. IFM Contract. Lead Developer must timely prepare the contract for the performance of the Infrastructure Facility Maintenance during the Infrastructure Facility Term in compliance with the requirements of this Agreement (the "**IFM Contract**") and the related contract materials, including the process for obtaining competitive bids for the IFM Contract and selecting the IFM Contract contractor, as further described in the attached Appendix B-2. The IFM Contract must be subject to the applicable requirements of the Project Agreement,

incorporate the scope of the Infrastructure Facility Maintenance to be provided by the Principal Project Company and the applicable requirements set forth in Appendix M and, except as otherwise mutually agreed by the Parties, incorporate the Technical Requirements applicable to the work to be performed under the IFM Contract. Except for Lead Developer, no Development Team Member or its Affiliates can submit a bid for the IFM Contract.

6.14. Interface Agreements and Direct Agreements. During the PDA Term, City expects that Lead Developer will develop the form of interface agreements with respect to the Asset Management Program services to be performed by or for the Principal Project Company and the Housing Project Company, which agreements will be among Principal Project Company and/or the Housing Project Company and other parties identified by Lead Developer with City's prior consent during the PDA Term, unless City otherwise agrees, in writing and in its sole discretion, to those forms being developed pursuant to the Project Agreement. City will develop during the PDA Term the forms of direct agreements among City, Principal Project Company or the Housing Project Company, as applicable, and parties providing financing for the Project, unless City otherwise agrees, in writing and in its sole discretion, to those forms being developed pursuant to the Project Agreement.

The interface agreements and direct agreements shall be substantially the same in type, form, and content as those customary for joint development and design-build-finance-maintain procurements, and will be subject to the prior written approval of City in its sole discretion.

6.15. Pricing and Fixed Budget Limit; Determining the Final Price

(a) Update with Contractor Pricing. At Performance Milestone 31, Lead Developer must submit to City the forms included as Attachment 4 to Appendix B-2, ("Best-value Contractor Recommendation Form and Final Price and Cost Savings Form"), which will reflect the Design-Build Contract pricing for the Infrastructure Facility and IFM Contract pricing provided by the contractors recommended for award of the Design-Build Contract for the Infrastructure Facility and IFM Contract, respectively, the 30% cost saving amount, if applicable, and any deduction for the Continuation Payment if made by City.

(b) Pricing Lower than Fixed Budget Limit + Insurance + Escalation. If the Best-Value Contractor Recommendation Form submitted at Performance Milestone 31 shows any reduced cost to design and build the Infrastructure Facility or perform the Infrastructure Facility Maintenance when compared to the total amount set forth in FS Form A8 delivered at Performance Milestone 27A, then the Final Price shall be determined in accordance with the Final Price Form and Cost Savings Form included in Appendix B-2.

(c) Pricing Higher than Fixed Budget Limit + Insurance + Escalation.

(i) If the materials submitted at Performance Milestone 31 show any increased pricing to design and build the Infrastructure Facility or perform the Infrastructure Facility Maintenance when compared to the total amount set forth in FS Form A8 delivered at Performance Milestone 27A, then the Parties will enter into good faith negotiations for the ninety (90) day period immediately following Performance Milestone 31, subject to extension by mutual agreement, to identify and agree to changes to the Infrastructure Facility or the Infrastructure Facility Maintenance requirements to bring the costs within the total amount set forth in FS Form A8 delivered at Performance Milestone 27A. If the Parties do not, within the ninety (90) day period, or such extended period as agreed by the Parties, (A) reach agreement on modifications to the Infrastructure Facility or the Infrastructure Facility Maintenance requirements to bring the costs within the total amount set forth in FS Form A8 delivered at Performance Milestone 27A, or (B) agree to reprocure the Design-Build Contract for the Infrastructure Facility and/or the IFM Contract in accordance with Section 6.15(c)(ii), then City

may elect to terminate this Agreement in accordance with Article 16 (*Termination*), in which case Lead Developer will be entitled to the Termination Payment, provided Lead Developer demonstrates that it used commercially reasonable efforts to stay within the Fixed Budget Limit and otherwise meets the conditions for payment of the Termination Payment.

(ii) During the ninety (90) day negotiation period described in Section 6.15(c)(i), the Parties may agree that Lead Developer will reprocure the Design-Build Contract for the Infrastructure Facility and/or the IFM Contract, on terms mutually agreed by the Parties. If the pricing for any new bids received by Lead Developer exceeds the total amount set forth in FS Form A8 delivered at Performance Milestone 27A, the Parties will enter into good faith negotiations for the ninety (90) day period commencing on the due date for the new bid(s), subject to extension by mutual agreement. If the Parties reach agreement within the specified time period(s) on modifications to the Infrastructure Facility or the Infrastructure Facility Maintenance requirements to bring the costs within the total amount set forth in FS Form A8 delivered at Performance Milestone 27A, then the Final Price shall be the sum of the LD Predevelopment Cost, plus the Design-Build Contract price for the Infrastructure Facility and the IFM Contract price based on the scope and terms negotiated in good faith by the Parties. If the Parties do not reach agreement, within the ninety (90) day period specified in Section 6.15(c)(ii), or such extended period as agreed by the Parties, on modifications to the Infrastructure Facility or the Infrastructure Facility Maintenance requirements to bring the costs within the total amount set forth in FS Form A8 delivered at Performance Milestone 27A, then City may elect to terminate this Agreement in accordance with Article 16 (*Termination*).

(d) Final Price. If a Final Price is determined pursuant to Section 6.15(b) (*Pricing Lower than Fixed Budget Limit + Insurance + Escalation*) or Section 6.15(c) (*Pricing Higher than Fixed Budget Limit + Insurance + Escalation*), Lead Developer will include the Final Price in the Finance Plan submitted to City at Performance Milestone 32.

(e) Adjustments to Final Price Prior to Commercial Close. The Final Price will be adjusted for the period beginning on the date that is thirty (30) days prior to the due date for the Design-Build Contract and IFM Contract proposals and ending on the "**Setting Date**", being the date that is fifteen (15) days prior to the date of Commercial Close, to account for the following events:

(i) Reprocurement Due to Unavoidable Delay or a Regulatory Appeal Delay. If the Parties mutually agree to extend the Predevelopment Period beyond November 30, 2024 as result of an Unavoidable Delay or a Regulatory Appeal Delay, the Parties will adjust the Final Price and modify the escalation amount set forth in FS Form A8 delivered at Performance Milestone 27A by adding the Reprocurement Amount (defined as follows), if applicable, and modifying the escalation amount given in the modified FS Form D submitted at Performance Milestone 32 to extend the assumed mid-point of construction by the number of days between November 30, 2024 and the extended date of Commercial Close. E.g., if Commercial Close occurs on January 30, 2025, the assumed mid-point of construction will be July 31, 2026. If an Unavoidable Delay or a Regulatory Appeal Delay occurs after Performance Milestone 32 and is not resolved until after the bid validity period for the Design-Build Contract for the Infrastructure Facility or the IFM Contract, the "**Reprocurement Amount**" shall be Lead Developer's actual costs to reprocure the Design-Build Contract for the Infrastructure Facility or IFM Contract, as applicable.

(ii) Changes to Applicable Law. City accepts an LD Proposed Change due to a change in Applicable Law.

(iii) LD or Principal Project Company Required Insurance Pricing. City agrees to the reasonable costs presented by Lead Developer for insurance coverages to be

provided by Lead Developer or the Principal Project Company based on the insurance requirements set forth in the draft Project Agreement provided by City to Lead Developer at Performance Milestone 29A provided the proposed coverages do not duplicate coverages already included in the Design-Build Contract for the Infrastructure Facility or the IFM Contract.

(iv) Regulatory Approval Conditions. The Planning Commission, the SFMTA Board, or the Board of Supervisors imposes Regulatory Approval conditions on the Infrastructure Facility or the Infrastructure Facility Maintenance.

(v) LD Predevelopment Cost. City approves an IF Reimbursement Request pursuant to Section 9.2(g) (*IF Reimbursement Notice*).

6.16. Early Works. As further described in in the attached Appendix B-2, Lead Developer must also submit its analysis on the necessity of commencing Early Works and the process for procuring the contractor(s) that would perform the Early Works. If approved and accepted by City, which approval may be subject to completion of CEQA review for the Project if the Early Work is determined to not have independent utility from the Project, Lead Developer will procure the Early Works contractor(s) in compliance with the process approved by City and, if approved by the SFMTA Board, execute an Early Works Agreement based on terms mutually agreed by the Parties. If Lead Developer enters into an Early Works Agreement in compliance with this Section 6.16 (*Early Works*), Lead Developer will ensure the Early Works is performed and, once executed by City, timely perform its obligations under that Early Works Agreement.

6.17. Formation of Principal Project Company and Housing Project Company. Lead Developer must cause the Principal Project Company and the Housing Project Company to be a legal entity that is funded to the satisfaction of City and has become a City vendor with a valid business tax registration number from the Business Tax Division of the City's Tax Collector at least thirty (30) days before Commercial Close, or any other date mutually selected by the Parties.

6.18. Utilities. Except as otherwise specified in this Section 6.18 (*Utilities*), Lead Developer is solely responsible for obtaining and implementing all new utility services needed for the Facility, and must submit the appropriate applications to obtain gas (if permitted under Applicable Law), electricity, water, internet (except as otherwise specified in the Technical Requirements), and all other utilities needed to develop and operate the Project, as further described in the attached Appendix B-2. Lead Developer acknowledges that under San Francisco Administrative Code Section 99, electric service to the Project Site must be provided by the San Francisco Public Utilities Commission ("**SFPUC**") unless it determines it is not feasible for it to provide electricity to the Project Site. As further described in Division 5 (*Battery-Electric Bus Supplemental Criteria*) of the Technical Requirements, the SFMTA submitted two Applications for Electric Service for the Facility to the SFPUC on April 14, 2021 ("**SFPUC Applications**"). Within twenty-eight (28) days of the Commencement Date (concurrent with Performance Milestone 6), Lead Developer must assume the primary applicant role to the SFPUC Applications. Lead Developer must notify City if it foresees substantial changes in the Facility electrical service approach, as outlined in the SFPUC Applications, that would require an amendment to the SFPUC Applications. Lead Developer will cooperate with City to take all actions needed to further the SFPUC Applications and obtain electrical service for the Project.

6.19. Construction Permits. Lead Developer must not submit any construction or site permit application for the Project Site to City's Department of Building Inspection without the prior consent of City, which may be subject to the completion of CEQA review for the Project.

6.20. CEQA.

(a) Project Sponsor. The SFMTA, as project sponsor, filed an environmental review application for the Project with the Planning Department on November 20, 2019 (the "**CEQA Application**"). The Planning Department issued a preliminary project assessment for the Project (Case No. 2019-02188ENV) on May 22, 2020 (the "**Preliminary Project Assessment**"), and a draft Environmental Impact Report for the Project (Case No. 2019-02188ENV) on June 30, 2021 (the "**Draft EIR**"), and the SFMTA anticipates the EIR will be submitted to the Planning Commission for certification in mid-2023. The SFMTA will continue to be the project sponsor for purposes of CEQA, with the close collaboration of and support from Lead Developer and pay the Planning Department charges for its environmental review of the Project.

(b) Lead Developer Support. If the SFMTA intends to submit any materials to the Planning Department with respect to its CEQA review of the Project, Lead Developer must provide the SFMTA (or if directed by the SFMTA, the Planning Department) with its comments to those materials. Lead Developer must also collaborate with the SFMTA with respect to all comments and requests from the Planning Department with respect to its CEQA review of the Project, and provide the Planning Department and the SFMTA with all supporting materials needed for the Draft EIR and EIR (including but not limited to drawings, analyses, data points, and project features, and revisions of the requested materials) within fifteen (15) days of the SFMTA's or the Planning Department's request for those comments or materials; provided, however, that if those comments or materials cannot be reasonably provided within that fifteen (15) day period, Lead Developer must provide them to the SFMTA and the Planning Department as soon as reasonably possible.

To facilitate efficient transfer of information after the Commencement Date, City will add LD Project Director and LD Project Manager to the list of approved Project agents to be identified in the submitted CEQA Application. Lead Developer must include City on all Planning Department communications pertinent to CEQA review of the Project, delivering all written communications to the SFMTA at the same time they are delivered to the Planning Department, and inviting the SFMTA to join all meetings and calls with the Planning Department. At the request of the Planning Department, the SFMTA engaged SWCA Environmental Consultants ("**SWCA**") to provide project scoping and environmental analysis to support the CEQA review process under an agreement (Contract No. SFMTA-2018-03) dated January 17, 2018, as amended (as amended, the "**SWCA Contract**"). The SFMTA will continue to retain SWCA, or any alternative environmental consultant acceptable to the Planning Department, to perform the environmental analysis required by the Planning Department for the Project's CEQA review process. If Lead Developer elects to have the Draft EIR or the EIR modified to accommodate an HCC Change to reduce the size of the Proposed HCC, then Lead Developer shall pay the costs of SWCA's and any other consultant's work to effect that modification.

(c) Hearings and Meetings. SFMTA staff will take the lead in coordinating hearings and meetings for the CEQA review of the Project and the certification, if at all, of the EIR. Notwithstanding the SFMTA's lead role for coordinating hearings and meetings, Lead Developer must provide any supporting materials reasonably requested by the SFMTA for those hearings and meetings on or before the tenth Business Day immediately following its receipt of the SFMTA's request. In addition, Lead Developer must be available to attend and respond to questions at those hearings and meetings.

(d) Conformity with CEQA Project Description and Draft EIR; MMRP. Lead Developer agrees to endeavor to design and plan the Facility in a manner that is consistent with the Project description in the Draft EIR, as well as the draft mitigation measures set forth in the

draft EIR, subject to the review and findings of the Planning Department; provided if the EIR is certified by the Planning Commission during the PDA Term, Lead Developer must design and plan the Facility in a manner that is consistent with the Project description in the EIR and comply with any MMRP, to the extent any MMRP requirements apply during the PDA Term. Nothing in this Agreement shall be construed to preclude Lead Developer from proposing, or City and other public agencies from considering or approving Project designs, modifications, or alternatives that avoid or mitigate significant adverse environmental impacts. If the Planning Commission certifies the EIR, the Parties anticipate the Planning Commission would adopt the MMRP at that time. Lead Developer acknowledges and agrees that the MMRP, if adopted, may differ from the draft mitigation measures in the Draft EIR and it will modify its designs and plans accordingly to reflect the requirements of the MMRP.

6.21. Regulatory Approvals. The Parties acknowledge that approvals, permits, determinations, and authorization from governmental agencies acting in their regulatory capacity, including but not limited to those required from City acting in its regulatory capacity, and utility companies, are required for the development of the Project (each, a "**Regulatory Approval**"). Regulatory Approvals shall include any certification or adoption of environmental review for the Project prepared pursuant to CEQA and adoption of any CEQA findings that must be made by City or a responsible agency, as required by CEQA. The Parties' respective obligations for the CEQA review of the Project are set forth in Section 6.20 (*CEQA*). The Parties' respective obligations for the other Regulatory Approvals are described below.

(a) Transaction Document Approvals. SFMTA staff will take the lead in coordinating hearings and meetings for any approval of the Transaction Documents from all applicable City Regulatory Agencies (and their individual members and committees). Notwithstanding the SFMTA's lead role for coordinating hearings and meetings, the Lead Developer must provide any supporting materials reasonably requested by the SFMTA for those hearings and meetings on or before the tenth (10^{th}) Business Day immediately following its receipt of the SFMTA's request. In addition, Lead Developer must be available to attend and respond to questions at those hearings and meetings.

(b) General Regulatory Approvals. "**General Regulatory Approvals**" means all Regulatory Approvals other than those needed for CEQA review of the Project and to authorize City's execution of the Transaction Documents.

(i) Lead Developer is solely responsible for determining and obtaining, during the PDA Term, only those General Regulatory Approvals required to perform the Work, to achieve the Phase 2 Floating Milestone, and to achieve the following objectives set forth in Section 6.1(a): (A) develop the Project in compliance with this Agreement and the PDA Management Plan approved by City, (B) reach Commercial Close before the expiration of the Predevelopment Period, and (C) reach IF Financial Close by November 30, 2024. In obtaining such General Regulatory Approvals, Lead Developer shall incorporate any Project modifications or requirements required for those General Regulatory Approvals, and timely pursue such General Regulatory Approvals; provided that SFMTA staff will take the lead in coordinating General Regulatory Approval hearings and meetings for the Project with the applicable City Regulatory Agencies (and their individual members and committees) and the SFMTA will pay the Planning Department's charges for any entitlement application review that Lead Developer requests from the Planning Department for the Project during the PDA Term, including the special use district, conditional use authorization, San Francisco General Plan amendment, and General Referral and design review. The SFMTA, as the City department with jurisdiction over the Project Site, will also collaborate with Lead Developer on its strategy for seeking the General Regulatory Approvals from all applicable City departments and City Regulatory Agencies and at Lead Developer's request, SFMTA staff will join in Lead Developer's meetings with the various City departments to discuss the General Regulatory Approvals at mutually agreeable times.

(ii) Lead Developer must not seek any General Regulatory Approvals for anything that does not comply with the requirements and processes described in the Technical Requirements or fall within the scope of the Project described in the Draft EIR, unless otherwise approved of in writing by City, which approval will be in its sole discretion. Lead Developer understands and agrees the SFMTA's status as a department of City shall in no way limit the obligation of Lead Developer, at Lead Developer's own cost and initiative, to obtain all the General Regulatory Approvals from the applicable Regulatory Agencies. If any Regulatory Agency does not initially approve any General Regulatory Approval pursued by Lead Developer, Lead Developer shall use commercially reasonable efforts to make the changes required by the Regulatory Agency for that General Regulatory Approval, to the extent it is possible to do so while complying with the other requirements of this Agreement.

(iii) Before submitting any application or request for any General Regulatory Approval, Lead Developer first must present the basis upon which Lead Developer proposes to obtain all the required Regulatory Approvals (the "**Regulatory Approval Strategy**") to the City for the Director of Transportation's review and approval. City may suggest revisions or changes to the proposed Regulatory Approval Strategy, which Lead Developer must consider in good faith. Lead Developer acknowledges and agrees that maintaining professional working relations with Regulatory Agencies is critical to the SFMTA's management of San Francisco ground transportation, including other current or future SFMTA projects. Accordingly, Lead Developer must use its best efforts throughout the PDA Term to take no actions relating to the Project that does not comport to the approved Regulatory Approval Strategy, would significantly and adversely affect the SFMTA's relationship with any other Regulatory Agency, or would adversely affect the SFMTA's management of San Francisco ground transportation or any current or future SFMTA projects unless otherwise approved of in writing by City, which approval will be in its sole discretion.

(iv) Before filing an application for any General Regulatory Approval that is not described in the Regulatory Approval Strategy approved by City, Lead Developer must obtain the Director of Transportation's authorization, which will not be unreasonably withheld or delayed. Lead Developer agrees that City's withholding or delay in approving any application for a General Regulatory Approval will be reasonable if the application would adversely affect the SFMTA's management of San Francisco ground transportation or any current or future SFMTA projects, does not substantially conform to the Preliminary Term Sheet, the HCC Term Sheet, or any subsequent Project Document or design document to which City and Lead Developer agreed, or requires City to be a co-permittee to the application as owner of the Project Site.

(c) No Lobbying; Proprietary Capacity. The approval of various City departments (including, but not limited to, the Planning Department, MOHCD, and SFPW) and other City Regulatory Agencies (including, but not limited to the Planning Commission, the SFMTA Board, and the Board of Supervisors) will be required for the Project. The City Project Manager and the SFMTA staff working on the Project on behalf of City in its proprietary capacity will collaborate with Lead Developer regarding its Project discussions with other City staff with respect to the Project, and Lead Developer will promptly and substantively respond to any communications or requests for information that it receives from City staff; provided, however, that Lead Developer understands and agrees that although the SFMTA is a department of City, City staff and executives have no authority or influence over any officials, departments, boards, commissions, agencies, or other entities responsible for the issuance of any Regulatory Approvals (individually defined as "**Regulatory Agency**" and collectively as "**Regulatory Agencies**") including but not limited to City officials, departments, boards, commissions or agencies acting in City's regulatory capacity. Accordingly, there is no guarantee or a presumption that any of the Regulatory Approvals will be issued by the appropriate Regulatory Agency. Other than as described in Section 5.3 (*Approval of Project Agreement and Other*

Transaction Documents) as to the approval of the Transaction Documents by the SFMTA Board of Directors and the Board of Supervisors, to the extent applicable, City's sole obligation under this Agreement with respect to the Regulatory Approvals shall be to review the submitted Regulatory Approval Strategy and CEQA and General Regulatory Approvals Plan described in Appendix B-2, and act as the project sponsor for the CEQA review with the support of Lead Developer pursuant to Section 6.20(a) (*Project Sponsor*).

Lead Developer acknowledges City is acting in its proprietary capacity under this Agreement and understands and agrees no City staff has an obligation to advocate, promote or lobby any Regulatory Agency and/or any governmental official (including any City official) for any Regulatory Approval or for approval of the Project, the Project Agreement, the HCC Term Sheet, or any other Transaction Documents, and any such advocacy, promotion or lobbying shall be done by Lead Developer at Lead Developer's sole cost and expense. Lead Developer hereby waives any claims against City, and fully releases and discharges City to the fullest extent permitted by law, from any liability relating to the failure of City or any Regulatory Agency from issuing any required Regulatory Approval or from issuing any approval of the Project.

(d) Costs. Subject to Lead Developer's costs to perform its obligations under Section 6.20(b) (*Lead Developer Support*) and Section 6.21(b) (*General Regulatory Approvals*), during the PDA Term, City will be responsible for City's costs associated with the Regulatory Approvals required under CEQA and for the approval of the Transaction Documents. Lead Developer will be solely responsible for applying for, obtaining, and paying all costs associated with all Regulatory Approvals, and Lead Developer, at its sole cost and expense, will comply with the terms of all Regulatory Approvals and shall pay and discharge any fines or penalties imposed as a result of Lead Developer's failure to comply with any Regulatory Approval, for which City will have no monetary or other liability.

(e) Cooperation. The Parties agree to cooperate with one another to expeditiously aid in (i) Lead Developer's efforts to obtain the General Regulatory Approvals in accordance with this Agreement and (ii) City's efforts, acting in its proprietary capacity, to seek the necessary CEQA approvals for the Project and the approvals of the SFMTA Board and, as applicable, the Board of Supervisors and any other City boards or commissions, to the Transaction Documents.

(f) Third-Party Challenge.

(i) "**Third-Party Challenge**" means any administrative, legal or equitable action or proceeding instituted by any party other than City or Lead Developer challenging the validity or performance of any provision of this Agreement, the Project, any Regulatory Approvals made by City acting as a Regulatory Agency (including the adoption or certification of the EIR), other actions taken pursuant to CEQA, or any action taken by City or Lead Developer in furtherance of this Agreement, or any combination thereof relating to all or any portion of the Project. The Parties agree to proceed with due diligence and cooperate with one another to defend and resolve any Third-Party Challenge to the extent reasonably possible. Lead Developer shall assist and cooperate with City at Lead Developer's own expense in connection with any Third-Party Challenge. The City Attorney's Office may use its own legal staff or outside counsel in connection with defense of the Third-Party Challenge, at the City Attorney's sole discretion.

(ii) Subject to Section 6.21(f)(iii): (A) if a Third-Party Challenge solely arises from any aspect of the Housing and Commercial Component, Lead Developer shall reimburse City for its actual costs in defense of the action or proceeding, including but not limited to the time and expenses of the City Attorney's Office (at the non-discounted rates then charged by the City Attorney's Office) and any consultants (collectively, the "**City Challenge**

Costs"), within thirty (30) days of receiving an invoice for those costs from City; provided, however, Lead Developer shall have the right to monthly invoices for all the City Challenge Costs with respect to that Third-Party Challenge; and (B) if a Third-Party Challenge arises with respect to the Bus Yard Component and the Housing and Commercial Component, or cannot be clearly ascribed to solely the Bus Yard Component, Lead Developer shall reimburse City by an amount equal to the City Challenge Costs multiplied by the PCIC within thirty (30) days of receiving an invoice for those costs from City; provided, however, Lead Developer shall have the right to monthly invoices for all the City Challenge Costs with respect to that Third-Party Challenge.

(iii) Notwithstanding Section 6.21(f)(ii), Lead Developer will not be responsible for reimbursing City for City Challenge Costs relating to any Third Party Challenge to Regulatory Approvals made by City acting as a Regulatory Agency (including the adoption or certification of the EIR), or other actions taken pursuant to CEQA, except to the extent the Third Party Challenge is directly related to Lead Developer's failure to comply with this Agreement.

(iv) If this Agreement terminates before a Third-Party Challenge is resolved, the Parties shall jointly seek to have the Third-Party Challenge dismissed and Lead Developer shall have no obligation to reimburse City for any defense costs that City incurs after the dismissal.

(v) The filing of any Third-Party Challenge shall not delay or stop the Lead Developer's performance of its obligations under this Agreement unless the third party obtains a court order preventing the activity or City elects to require that action.

6.22. Correction of Defective Work Materials. In addition to the other remedies that are available to City under this Agreement or Applicable Law and at no cost to City, at City's request, Lead Developer must correct or revise, or cause the Lead Developer Agents, as applicable, to correct or revise, as applicable, any Work Materials that are defective due to the negligent acts, errors or omissions of Lead Developer or any of Lead Developer Agents. City's inspection of (or failure to inspect), review (or failure to review), acceptance of any of the Work Materials or any Termination Payment made under this Agreement cannot be construed to relieve any Lead Developer Related Entity of Lead Developer's obligations and responsibilities under this Agreement for any negligent acts, errors or omissions nor operate as a waiver of any of City's rights under this Agreement or any cause of action arising out of the performance of this Agreement. Subject to the terms of Section 21.3 (*Limitation of Liability*), Lead Developer will be and remain liable to City for all Losses caused by Lead Developer's failure to comply with the terms and conditions of this Agreement or by the negligent acts, errors or omissions of any Lead Developer Related Entities in the performance of this Agreement in accordance with Applicable Law. Lead Developer must use its professional judgment, care and prudence in approving and accepting any Work Materials prepared by any Lead Developer Agents and take all action necessary to ensure the Work Materials prepared by any Lead Developer Agents are correct and accurate.

6.23. Guaranty.

(a) The Guarantor shall provide and maintain the Guaranty, in the form of Appendix J, in full force and effect throughout the PDA Term.

(b) Lead Developer shall periodically report to City regarding the financial capacity of the Guarantor. If, at any point during the PDA Term, the Guarantor's financial capacity is materially negatively affected, as determined by City in its sole discretion, City may require, and Lead Developer shall provide, one or more additional guarantees so that the combined financial capacity of the Guarantor and the additional guarantors provides equivalent

security to City as the Guaranty provided as of the Effective Date. Each such Guaranty shall be substantially in the form provided in Appendix J, together with appropriate evidence of authorization, execution, delivery and validity of such Guaranty.

6.24. MME Expansion Project.

(a) During the period preceding Performance Milestone 6B, City and Lead Developer will each use commercially reasonable good faith efforts to negotiate the terms of the MME Construction Agreement based on the MME Construction Agreement Terms included in Appendix K. The obligation to negotiate in good faith requires the Parties to communicate with each other with respect to those issues for which agreement has not been reached, and in such communication to follow reasonable negotiation procedures, including meetings, telephone, virtual meetings, and correspondence.

(b) If the Parties mutually agree to terms for the MME Construction Agreement on or before Performance Milestone 6B, the Parties will execute and deliver the MME Construction Agreement within five (5) Business Days of the SFMTA Board's approval of the MME Construction Agreement.

(c) If the Parties do not mutually agree to terms for the MME Construction Agreement on or before Performance Milestone 6B, if the SFMTA Board does not approve the MME Construction Agreement, or if the Parties do not execute and deliver the MME Construction Agreement within five (5) Business Days of the SFMTA Board's approval of the MME Construction Agreement, then City may, in its sole discretion, separately procure a contractor to deliver the MME Expansion Project.

7. PREDEVELOPMENT MANAGEMENT

7.1. Development Team. Lead Developer, and the Persons described in the attached Appendix I as its controlling and other Equity Members, the Affordable Housing Developer, the Housing Developer, the Design Consultant, the Construction Management Consultant, and Infrastructure Facility Maintenance Consultant (each, a "**Development Team Member**" and collectively, the "**Development Team**") will serve those respective roles for Lead Developer's performance of its obligations under this Agreement. Lead Developer must not make any changes to the Development Team or the roles assigned to each Development Team Member in the attached Appendix I without the prior written consent of City, which may be withheld in its sole discretion. If a Development Team Member notifies Lead Developer that it is withdrawing from the Project or the Guarantor intends to withdraw from the Project, Lead Developer shall immediately notify City. If Lead Developer and City do not mutually agree to the replacement for the withdrawing Development Team Member or Guarantor within fifteen (15) days of the withdrawal of that Development Team Member or Guarantor (the "**Selection Period**"), City shall have the right to terminate this Agreement by delivering written notice of such termination to Lead Developer within ten (10) days of the expiration of the Selection Period. If City timely delivers a termination notice to Lead Developer under this Section 7.1 (*Development Team*), this Agreement shall terminate on the date of such delivery.

7.2. Key Personnel; Organization. In addition to the Development Team, Appendix I describes the additional persons that will be instrumental to Lead Developer's predevelopment activities for the Project (collectively, the "**Key Personnel**"). During the PDA Term, Lead Developer must retain the Key Personnel to implement the Lead Developer's obligations under this Agreement and to manage other Lead Developer personnel working on that implementation. Except for any termination of employment, retirement, death, injury or other similar circumstances, Lead Developer must not change any Key Personnel without City's prior written approval, which shall not be unreasonably withheld or conditioned. Lead Developer's proposed

replacement of any Key Personnel for any reason is subject to City's prior written approval, which shall not be unreasonably withheld or conditioned. If Lead Developer intends to replace any Key Personnel, it shall first notify City in writing of the proposed replacement, the reason for the proposed replacement, the person it proposes as a replacement, and certify that the proposed replacement person complies with the requirements for the position that person would fill described in Appendix I (a "**Proposed Replacement Notice**"). Within five (5) Business Days of receiving a Proposed Replacement Notice, City shall notify Lead Developer if it approves of the proposed replacement. If Lead Developer and City do not mutually agree to the replacement for the withdrawing Key Personnel individual within fifteen (15) Business Days of the withdrawal of that individual (the "**Selection Period**"), City shall have the right to terminate this Agreement by delivering written notice of such termination to Lead Developer within ten (10) Business Days of the expiration of the Selection Period. If City timely delivers a termination notice to Lead Developer under this Section 7.2 (*Key Personnel; Organization*), this Agreement shall terminate on the date of such delivery.

7.3. Project Directors and Project Managers.

(a) For Lead Developer. Brian Middleton ("**LD Project Manager**") is the person responsible for managing Lead Developer's day-to-day activities of the Project on a full-time basis, including ongoing communications and coordination with City and acting as the main point of contact between City and Lead Developer. Stuart Marks ("**LD Project Director**") is authorized to make decisions and bind Lead Developer, and is the person responsible for overseeing Lead Developer's rights and obligations under the PDA and Lead Developer's contractual rights and obligations with the Development Team Members. Lead Developer must obtain the prior written approval of City to any change in the LD Project Director or the LD Project Manager, which approval will not be unreasonably withheld.

(b) For City. Tim Kempf ("**City Project Manager**") will be the person responsible for managing City's day-to-day activities of the Project on a full-time basis, including ongoing communications and coordination with Lead Developer and acting as the main point of contact between City and Lead Developer. Kerstin Magary ("**City Project Director**") is authorized to make decisions and bind City, and is the person responsible for overseeing City's rights and obligations under the PDA. City must give written notice to Lead Developer of any change in the City Project Director or the City Project Manager.

7.4. Communication. The LD Project Director must keep the City Project Director fully informed on all matters concerning the Work and shall keep records of all material aspects, with weekly meetings on the status of the Performance Milestones.

7.5. Cost Reports and Audits.

(a) Quarterly Cost Reports. On the first day of each January, April, July, and October in the PDA Term, Lead Developer must submit a written report of all LD Predevelopment Cost (segregated into those incurred in connection with the Housing and Commercial Component, those incurred in connection with the Bus Yard Component, those incurred in connection with the Common Infrastructure) incurred by it in the three-month period immediately preceding the date of the applicable report, together with reasonable supporting materials documenting those costs.

(b) Audits. Lead Developer agrees to maintain and make available to City, during regular business hours, accurate books and accounting records relating to the LD Predevelopment Cost (segregated into those incurred in connection with the Housing and Commercial Component, those incurred in connection with the Bus Yard Component, those incurred in connection with the Common Infrastructure). Lead Developer will permit City to

audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Lead Developer shall maintain such data and records in an accessible location and condition for a period of not fewer than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section 7.5(b) (*Audits*). Lead Developer shall include the same audit and inspection rights and record retention requirements in all subcontracts.

7.6. Community Outreach and Public Relations.

(a) SFMTA Public Outreach and Engagement Program. City will lead the stakeholder outreach to the following parties (the "**SFMTA Outreach Parties**"): SFMTA staff, the SFMTA Citizens' Advisory Council, other SFMTA working and advisory groups, the SFMTA Board, the Board of Supervisors (and its committees and members), City departments, and other City Regulatory Agencies. This outreach (the "**SFMTA Public Outreach and Engagement Program**") will be to educate the SFMTA Outreach Parties and address any of their questions regarding the Bus Facility Component. Lead Developer must not initiate any outreach for matters within the SFMTA Public Outreach and Engagement Program. Lead Developer must forward any questions or information requests it receives from the SFMTA Outreach Parties for matters within the scope of the SFMTA Public Outreach Program (other than those raised by a Regulatory Agency in connection with a General Regulatory Approval) to a SFMTA Project Communications Team Contact (defined in Section 7.6(d) (*SFMTA Project Communications Team Meetings and Contacts*)) and notify the questioner or requester that it is doing so.

(b) Lead Developer Support. Lead Developer must use commercially reasonable efforts to support the SFMTA Public Outreach and Engagement Program by taking the following actions:

(i) Attending meetings scheduled by the SFMTA with members of the public and any of the SFMTA Outreach Parties to describe the Bus Facility Component, the Common Infrastructure, the Infrastructure Facility Maintenance, or the Housing and Commercial Component, provided the SFMTA shall provide at least five (5) Business Days' prior notice of such meetings to Lead Developer;

(ii) Providing supporting materials for those meetings, as requested by the SFMTA;

(iii) Collaborating with the SFMTA on any written materials provided by the SFMTA to Lead Developer for the SFMTA Public Outreach and Engagement Program; and

(iv) If the SFMTA requests Lead Developer to provide supporting materials for the meetings described in the foregoing subsection (i) or input on any materials described in the foregoing subsection (iii), Lead Developer must make commercially reasonable efforts to provide those materials or that input within three (3) Business Days following its receipt of the SFMTA's request; if such supporting materials cannot be reasonably provided within such three (3) Business Day period, then Lead Developer must provide them as soon as reasonably possible.

(c) Lead Developer Outreach Plan. As described in Appendix B-2, Lead Developer must develop a Public Outreach and Engagement Plan (the "**LD Outreach Plan**") for

City's review. Once approved by City, Lead Developer must comply with the processes and requirements of the LD Outreach Plan. Lead Developer will work collaboratively with City to ensure that the goals of the LD Outreach Plan are met, and address any needed changes to LD Outreach Plan during the PDA Term.

(d) SFMTA Project Communications Team Meetings and Contacts.

(i) Within five (5) days of the Commencement Date, Lead Developer will organize and hold a one-day (minimum 3-hour) collaboration session with SFMTA staff members and consultants that have worked on Project stakeholder outreach and engagement (the "**SFMTA Project Communications Team**") to discuss the following: (A) stakeholder identification process (e.g. type of stakeholders and their level of involvement), (B) mapping the public participation spectrum for each phase of the Project, including the design phase, the phase for public meetings and hearings for the Regulatory Approvals, the construction phase, and the operations phase, (C) planning the details of the engagement process, (D) best practices stemming from prior outreach and engagement efforts, (E) expected outreach and engagement budget, (F) resources needed to implement community outreach events, (G) dealing with and managing stakeholder conflict, and (H) reviewing and assessing the process to demonstrate achievements and to identify lessons learned for informing future engagement exercises.

(ii) Within thirty-five (35) days of the Commencement Date, Lead Developer will organize and hold another collaboration session (minimum 2-hours) with the SFMTA Project Communications Team to discuss proposed public outreach and engagement events and the timeline around key decision points for public input, and to confirm the scope of work outlined by Lead Developer. City will review, vet, and approve all outreach content proposed by Lead Developer, and Lead Developer must incorporate stakeholder input into the Project in a manner satisfactory to City. The SFMTA will have the right to, at its election, attend every stakeholder engagement event held by Lead Developer, and Lead Developer will provide agenda allotment to the SFMTA at these events to provide SFMTA news and service updates and other announcements not otherwise pertinent to the Project.

(iii) Media and Communications Team Contacts. At or before the meeting described in the foregoing subsection (i), (A) City must designate at least two (2) SFMTA staff members authorized to receive notices and communicate with Lead Developer about all public outreach program matters (each, the "**SFMTA Project Communications Team Contact**") and designate at least two (2) SFMTA staff members authorized to receive notices and communicate with Lead Developer about all media matters (each, the "**SFMTA Media Contact**"), and (B) Lead Developer must designate at least one person (the "**LD Project Communications Team Contact**") who will be authorized to receive notices and communicate with City about the public outreach program matters and designate at least one person (the "**LD Media Contact**") who will be authorized to receive notices and communicate with City about all media matters. Either Party shall have the right to change the persons designated as their respective Communications Team Contact and Media Contact by delivering written notice of that change to the other Party.

(e) Lead Developer Public Outreach. In addition to complying with the Public Outreach and Engagement Requirements included in Division 9 (*SFMTA's Communications Division's Public Outreach and Engagement Requirements*) of the Technical Requirements, any City-approved LD Outreach Plan, and any outreach requirements required for the General Regulatory Approvals, Lead Developer must adhere to the following practices:

(i) Establish an appropriate budget to fund the SFMTA Public Outreach and Engagement Program and Lead Developer's obligations under this Section 7.6 (*Community Outreach and Public Relations*) to safely and effectively engage with Project

stakeholders through each Project phase described in Section 7.6(d)(i)(B) (i.e. Project led events, community tabling events, sponsoring community events, collateral mailers, newspaper, radio and online ads, brochures, flyers, posters/signage, website/digital content, stakeholder giveaways, hand sanitizers, t-shirts, tote bags, water bottles, and other forums for educating the public).

(ii) Ensure that stakeholder contact information and correspondence is sent weekly to the SFMTA Project Communications Team Contact in order to update their stakeholder database.

(iii) Propose, plan, and schedule regular stakeholder updates by email, physical mailers, or in-person or virtual meetings when appropriate. These various communications channels are intended to keep Project stakeholders informed as the Project progresses. The proposed schedule of in-person and/or virtual meetings may be based on time, such as quarterly, and or may track to key Project milestones or community decision points for the Project.

(f) Potrero Yard Neighborhood Working Group. Commencing on the Commencement Date, Lead Developer will take the lead in facilitating, attending and sufficiently funding regular Potrero Yard Neighborhood Working Group meetings and activities during the PDA Term. Prior to the Effective Date, the Potrero Yard Neighborhood Working Group generally met on a monthly basis.

(g) Media Presence and Project Publicity. Unless City agrees otherwise in writing, Lead Developer must obtain the SFMTA Media Contact's consent prior to all Project press releases and press conferences. Lead Developer shall notify City as early as possible regarding Lead Developer's plan to issue press releases or hold press conferences and provide City with sufficient time to review and comment on those plans.

(h) Press Contacts. Lead Developer must not speak with the press or social media about the Project, its negotiations with City or submittals to City, or Lead Developer's proposed development concepts, plans, phasing or uses (collectively, "**Press Matters**") that have not been approved by City in writing for public release.

A "**Press Release**" means any written press release, advertisement, or other formal communication to any media outlet (including newspapers, local blog, radio and television stations, and web sites). Lead Developer agrees it will provide the SFMTA Media Contact with a draft copy of any Press Release with no less than five (5) Business Days' prior notice before its proposed release and will not issue any Press Release that has not been approved by the SFMTA Media Contact. City will have the right to issue its own separate Press Releases.

The LD Outreach Plan will govern Lead Developer's Press Releases and Lead Developer's media contacts unless City gives Lead Developer written notice (a "**Noncompliance Notice**") that Lead Developer has not kept City informed of Lead Developer media's activities with respect to the Project as required in the LD Outreach Plan. As of the date of a Noncompliance Notice, Lead Developer may not issue, nor permit or authorize any other party to issue, any Press Release relating to the Project, its negotiations with City or submittals to City, or Lead Developer's proposed development concepts, plans, phasing or uses that have not been approved by the SFMTA Media Contact in writing for public release.

(i) Press Conference or Media Activity.

(i) Lead Developer agrees not to hold any press conference or media activities regarding any Press Matters without first inviting the SFMTA Media Contact to be present, or have another SFMTA representative to be present, at the press conference or media activity and obtaining the SFMTA Media Contact's consent to the press conference or media activity. Lead Developer must provide the SFMTA Media Contact with no less than five (5) Business Days' prior notice of the date and time of any proposed press conference or media activity and state in detail the purpose of the press conference or media activity and the topics to be discussed ("**Conference/Media Summary**"). The SFMTA Media Contact must review the Conference/Media Summary promptly and advise Lead Developer of any comments by 5:00 p.m. on the day before the press conference/media activity. If the SFMTA Media Contact does not respond within two (2) Business Days of receiving the Conference/Media Summary, the Conference/Media Summary will be deemed approved.

Lead Developer must make reasonable efforts to schedule the press conference or media activity to accommodate the schedules of the SFMTA representatives designated to attend by the SFMTA Media Contact. If City reasonably believes the proposed press conference/media activity would adversely affect its interests, then City shall have the right to withhold its consent to Lead Developer holding the press conference or media activity, even if the press conference or media activity may further Lead Developer's interests.

(ii) City is entitled to withhold its consent to a Press Release, proposed press conference or media activity by Lead Developer, or a Conference/Media Summary if the SFMTA believes it would adversely affect the SFMTA's relationship with the public or a Regulatory Agency or adversely affect a Regulatory Agency's decision regarding any Regulatory Approvals. If the SFMTA Media Contact reviews a Press Release or Conference/Media Summary and believes that revisions or changes are advisable and appropriate, Lead Developer must make the those suggested revisions or changes irrespective of whether it may further Lead Developer's interests.

(iii) Lead Developer must timely notify the SFMTA Media Contact of media inquiries regarding the Project received by Lead Developer and Lead Developer's proposed response. The SFMTA Media Contact can waive any of the notice periods required under this Section 7.6 (*Community Outreach and Public Relations*) in writing or by telephone.

7.7. Monthly and Quarterly Report. No later than the first day of each month and each calendar quarter during the PDA Term, Lead Developer must prepare and submit to City a meaningful summary (as described for progress reporting in Section 2.1.1.2 (*Progress Reporting*) of Appendix B-2) of its major activities during the previous month or quarter, as applicable, to achieve each of the Performance Milestones for it required under Appendix B-1, and to prepare and deliver the Project Management Deliverables and Design Deliverables required under Appendix B-2.

7.8. Weekly Meetings. The LD Project Manager and City Project Manager will meet weekly to discuss Project coordination and the status of CEQA review for the Project, the Transaction Documents, Project financing, Regulatory Approvals, Design Documents, the status of any Early Works, Project feasibility, the Performance Milestones, and other Project-related matters, unless a weekly meeting is waived or rescheduled by mutual agreement. The LD Project Manager will coordinate for the LD Project Director, appropriate Key Personnel and other Lead Developer Agents, and the City Project Manager will coordinate for the City Project Director and other appropriate City staff working on the Project with respect to City's proprietary capacity under this Agreement, to attend those weekly meetings as applicable. The

LD Project Manager and City Project Manager may, by mutual agreement, hold two weekly meetings to divide the topics for discussion between those meetings.

7.9. Data Room. Lead Developer must set up and manage an industry-standard virtual data room to store Project documents (including Project Documents) and materials to be shared between the Parties and with other parties approved by City to receive those documents and materials.

7.10. Assignment of Work Materials. Lead Developer must ensure its contracts with any Lead Developer Agent for the creation or submission of any Work Materials must include provisions automatically assigning the Work Materials created under those contracts to City if there is a Termination. Lead Developer must provide a copy of each contract for Work Materials between Lead Developer and that Lead Developer Agent. Work Materials will be assigned to City in accordance with Section 16.6 (*Assignment of Work Materials*). Lead Developer's obligations under this Section 7.10 (*Assignment of Work Materials*) shall survive any termination of this Agreement.

8. CITY PREDEVELOPMENT OBLIGATIONS

In addition to City's other obligations under this Agreement, City must comply with the predevelopment obligations described in this Article 8 (*City Predevelopment Obligations*) acting solely in its proprietary capacity and not in its regulatory capacity.

8.1. Design and Plan Development. City will timely provide written comments to the draft Design Deliverables it receives from Lead Developer in the manner described in the Design Management Plan in the attached Appendix B-2 (if approved by City) and by the Performance Dates described for those comments in Appendix B-1; provided, however, that once any draft Design Deliverables are submitted to City by Lead Developer for City review, City shall have no less than twenty-eight (28) days to review and provide written comments on such drafts to Lead Developer.

8.2. Cooperation in Developing the Transaction Documents. City will deliver the draft Project Agreement and any other Transaction Documents for which it elects to prepare the initial draft, and provide comments to the drafts of the Project Agreement and the other Transaction Documents within the time periods specified for those comments in the attached Appendix B-2.

8.3. Cooperation in Financing Efforts. City must use good faith efforts to reasonably cooperate in Lead Developer's efforts to secure the Project financing described in the City-approved Finance Plan ("**Approved Financing**") by timely responding to requests for information and attending meetings with potential lenders as reasonably requested by Lead Developer. City will use reasonable efforts to timely provide its comments on the draft Approved Financing agreements, the terms of which agreements shall be consistent with the requirements of the HCC Term Sheet and the final form of Project Agreement. City's full faith and credit and taxing power will not be pledged to secure any Approved Financing, nor can any Approved Financing constitute general indebtedness of City. Any Approved Financing agreements that require City's signature will be subject to the approval of the SFMTA Board and, if applicable, the Board of Supervisors, each acting in their sole discretion.

8.4. Housing and Commercial Component Feasibility Analysis and Financing. City will provide comments to the Housing and Commercial Component feasibility and financing analyses, plans, and commitments it receives from Lead Developer in the manner described in the attached Appendix B-2.

8.5. Design-Build Contract. City will provide comments to the draft Design-Build Contract materials it receives from Lead Developer, including the procurement materials and Lead Developer's proposed process for obtaining competitive bids for the Design-Build Contract and selecting the Design-Build Contract contractor in the manner described in the attached Appendix B-2.

8.6. Asset Management Program. City will collaborate with Lead Developer to ensure the Infrastructure Facility Maintenance will be sufficient to support the SFMTA's operations and maintenance of the Bus Yard Component. In addition to that collaboration, City will provide comments to the drafts of the scope of the Principal Project Company's Infrastructure Facility Maintenance it receives from Lead Developer in the manner described in the attached Appendix B-2.

8.7. Energy Management Program. City will collaborate with Lead Developer in its efforts to develop the Energy Management Program.

8.8. IFM Contract. City will provide comments to the draft IFM Contract materials it receives from Lead Developer, including the procurement materials and Lead Developer's proposed process for obtaining competitive bids for the IFM Contract and selecting the IFM Contract contractor in the manner described in the attached Appendix B-2.

8.9. Early Works. City will provide comments to the Early Works analysis it receives from Lead Developer and, if it approves and accepts the Early Works analysis, which approval may be subject to completion of CEQA review for the Project, execute an Early Works Agreement that addresses the City's requirements for the Early Works.

8.10. General Regulatory Approval Cooperation. City agrees, subject to its rights under Section 6.21 (*Regulatory Approvals*), to: (a) reasonably cooperate with Lead Developer in filing for, processing, and obtaining all General Regulatory Approvals in accordance with the Regulatory Approval Strategy; and (b) respond within a commercially reasonable time to requests for coordination, consultation, and scheduling additional meetings regarding the Project, including matters relating to any General Regulatory Approval if City would be the co-applicant. This Section 8.10 (*General Regulatory Approval Cooperation*) does not limit or otherwise constrain City's discretion, powers, and duties as a Regulatory Agency.

9. CHANGES TO THE PROJECT

9.1. Infrastructure Facility or Infrastructure Facility Maintenance Changes Proposed by Lead Developer.

(a) LD Proposed Change. Lead Developer may, at any time during the PDA Term, propose a modification to the Infrastructure Facility or the Infrastructure Facility Maintenance requirements as described in the Technical Proposal or the Technical Requirements (an "**LD Proposed Change**") due to: (i) any change in Applicable Law that occurs after June 20, 2022; (ii) the imposition of Regulatory Approval conditions on the Infrastructure Facility or Infrastructure Facility Maintenance by the Planning Commission, the SFMTA Board, or the Board of Supervisors (a "**Regulatory Change**"); (iii) any Project Site condition revealed through Lead Developer's due diligence investigation of the Project Site that differs materially from the conditions disclosed in the Reference Documents; or (iv) any modification that Lead Developer reasonably believes is in the best interests of City or the Project.

(b) LD Proposed Change Processes. Any LD Proposed Change that, if accepted by City, would (i) increase the design and construction costs or the Infrastructure Facility Maintenance costs of the Infrastructure Facility, or (ii) alter the Technical Requirements,

must be presented to City, for City's review and approval or disapproval, through the LD Change Request procedures set forth in Section 9.1(c) (*LD Change Request*). Lead Developer may present all other LD Proposed Changes, being those not included in item (i) or (ii) of this Section 9.1(b) (*LD Proposed Change Processes*), to City through the weekly Project meetings required pursuant to Section 7.8 (*Weekly Meetings*). City may, in its sole discretion, take the following actions with respect to any LD Proposed Change presented at a weekly Project meeting: (A) approve, (B) disapprove, or (C) request that Lead Developer submit an LD Change Request for such LD Proposed Change. City's approval, disapproval or request for an LD Change Request with respect any LD Proposed Change presented at a weekly meeting will be documented in the meeting minutes. City's approval of LD Proposed Changes at weekly meetings shall be summarized and included in the monthly and quarterly reports required under Section 7.7 (*Monthly and Quarterly Report*).

(c) LD Change Request.

(i) To propose an LD Proposed Change that, if accepted by City, would (A) increase the design and construction costs or the Infrastructure Facility Maintenance costs of the Infrastructure Facility, or (B) alter the Technical Requirements, Lead Developer must submit a written, detailed description of the LD Proposed Change and a narrative justification supporting the LD Proposed Change (an "**LD Change Request**").

(ii) The LD Change Request must include the following: (A) narrative overview of the LD Proposed Change and how it differs from the Project, (B) rationale for the LD Proposed Change, (C) impact analysis, including environmental, social, economic, community, traffic, safety, operations and maintenance or third-party impacts (positive and negative) of the LD Proposed Change, (D) cost analysis, including any additional costs or savings to the Project resulting from the LD Proposed Change, (E) specifications and plan drawings, as applicable, and (F) any additional information relevant to adjudicating a decision on the LD Proposed Change.

(iii) Within ten (10) Business Days of receiving an LD Change Request, City will notify Lead Developer, in writing, if it agrees to the LD Change Request, disapproves or tentatively disapproves the LD Change Request, or needs additional information regarding the LD Change Request, and the reasons for any tentative disapproval, disapproval, or additional information request. Any such request for additional information from City must detail the specific information City needs from Lead Developer to consider the LD Change Request. If City requests additional information for an LD Change Request, City will, within ten (10) Business Days of receiving that additional information, notify Lead Developer if it approves the LD Change Request, tentatively disapproves the LD Change Request, or needs additional information regarding the LD Change Request. The Parties shall agree in good faith to any necessary extensions to the review periods in this Section 9.1(c)(iii) to accommodate particularly complex LD Proposed Change or combination of LD Proposed Changes.

(iv) If City disapproves an LD Change Request because City reasonably determines it is not an LD Proposed Change as defined, Lead Developer can request a meeting of the Parties to further discuss that LD Change Request within ten (10) Business Days of receiving City's written notice of its disapproval. Within ten (10) Business Days of that meeting, City will notify Lead Developer if City approves, tentatively disapproves, or disapproves the LD Change Request and the reasons for any tentative disapproval or disapproval.

(v) Any LD Proposed Change presented to City through the LD Change Request procedures will not take effect until approved in writing by City, which approval shall not be unreasonably withheld with respect to LD Proposed Changes categorized within items (i) through (iii) of Section 9.1(a) (*LD Proposed Change*); the approval of LD

Proposed Changes described in item (iv) of Section 9.1(a) (*LD Proposed Change*) are within the City's sole discretion.

(vi) Lead Developer agrees that it would be reasonable for City to withhold its approval of any LD Proposed Change that City determines would (i) materially alter the Infrastructure Facility or the Infrastructure Facility Maintenance as described in the Technical Proposal or the Technical Requirements, (ii) materially increase City's costs or other liability with respect to the Project, (iii) materially and adversely affect the SFMTA's operations at or use of the Bus Yard Component, (iv) delay Substantial Completion of the Infrastructure Facility beyond the Outside Delivery Date, (v) materially reduce the number of residential units or reduce the number of any Affordable Units from that shown in the Technical Proposal, or (vi) materially increase City's risk from that shown in the Preliminary Term Sheet (or if an HCC Term Sheet is signed, from that shown in the HCC Term Sheet), materially differ from the Project Objectives, or any other aspect of the Project important to City.

(d) LD Proposed Changes will not result in an increase to the Fixed Budget Limit, except to the extent specifically permitted in Section 2.5(b)(ii) (*LD Proposed Change*).

9.2. HCC Change.

(a) Basis for HCC Changes. The Proposed HCC must comply with the applicable Project Objectives and the Technical Requirements and must be developed in a manner that meets the HCC Interface Requirements. However, the Parties recognize that the Proposed HCC can only be achieved in compliance with the HCC Interface Requirements with sufficient and timely financing, funding, and Regulatory Approvals. If Lead Developer reasonably determines that (i) it cannot feasibly obtain the financing, funding, or Regulatory Approvals needed to construct the Proposed HCC, or (ii) it can obtain the necessary financing, funding, and Regulatory Approvals but cannot reasonably comply with the conditions of any of the Regulatory Approvals despite using cost effective means or cannot comply with the HCC Interface Requirements, then Lead Developer may propose a change to the Proposed HCC (an "**HCC Change**"). An HCC Change may, but is not required to, consist of the Housing and Commercial Component contingency plan included in Technical Submittal 28 (PDA Management Plan) and Financial Submittal 11 (Housing and Commercial Component Organizational, Financial, and Operations Plan) of the Proposal.

(b) HCC Change Request. To request an HCC Change, Lead Developer must submit a written request (an "**HCC Change Request**") that includes (i) an overview of the HCC Change and how it differs from the Proposed HCC, (ii) the rationale for the HCC Change, including a detailed description of why the Proposed HCC is no longer determined to be feasible, (iii) an impact analysis, including environmental, social, economic, community, traffic, safety, operations and maintenance or third-party impacts (positive and negative) of the HCC Change, if applicable, (iv) a cost analysis, including any additional costs or savings to the Infrastructure Facility or Proposed HCC resulting from the HCC Change, if applicable, (v) if the HCC Change would reduce the level of affordability or number of Affordable Units of the Proposed HCC, an analysis (with supporting backup documentation) showing that the Proposed HCC, if modified by the HCC Change, will have the highest level of affordability and number of Affordable Units that is feasible, including a detailed description of the methods Lead Developer considered to preserve the level of affordability and number of Affordable Units in the Proposed HCC and why those methods were not feasible, (vi) specifications and plan drawings, if applicable, and (vii) any additional information relevant to adjudicating a decision on the HCC Change.

(c) City Review. City shall not unreasonably withhold its consent to an HCC Change Request. The Parties agree it shall be reasonable for City to withhold its consent to an HCC Change Request if City determines (i) the matters described in the HCC Change Request

do not qualify for an HCC Change, or (ii) the matters described in the HCC Change Request qualify for an HCC Change, but the Proposed HCC, as modified by the proposed HCC Change, would (A) fail to comply with the Technical Requirements, (B) fail to meet the HCC Interface Requirements or the Project Objectives, (C) fail to meet the affordable rental unit requirements of California Government Code Section 54221(f)(1)(F)(i) or California Government Code Section 54221(f)(1)(F)(ii), or if higher, the requirements of San Francisco Planning Code Section 415.6(a), (D) materially increase City's costs or other liability; or (E) fail to reach Substantial Completion no later than one year after Substantial Completion of the Infrastructure Facility.

(d) Response to HCC Change Request. Within fifteen (15) Business Days of receiving an HCC Change Request, City will notify Lead Developer, in writing, if it approves or disapproves of the HCC Change Request or needs additional information, and the reasons for any disapproval or additional information request. If City requests additional information for an HCC Change Request, City will, within fifteen (15) Business Days of receiving that additional information, notify Lead Developer if it approves or disapproves of the HCC Change Request or needs additional information regarding the HCC Change Request.

(e) Approved HCC Change. If City approves an HCC Change, the Proposed HCC will be modified by that HCC Change as of Lead Developer's receipt of City's written approval of the HCC Change. Any costs or time resulting from an approved HCC Change will not be a LD Predevelopment Cost or otherwise be allocated to the Bus Yard Component. If the HCC Change results in removal or reduction of the Housing and Commercial Component from the Project, the LD Predevelopment Cost shall be reduced accordingly, and the amount of that reduction shall be negotiated in good faith by the Parties.

(f) Disapproved HCC Change. If City reasonably disapproves an HCC Change Request under Section 9.2(c)(i), there will be no change to the Proposed HCC for that HCC Change Request. If City reasonably disapproves an HCC Change Request under Section 9.2(c)(ii) but it is feasible to construct a modified Proposed HCC that would (i) comply with the applicable Project Objectives, the Technical Requirements, and the HCC Interface Requirements, (ii) meet the affordable rental unit requirements of California Government Code Section 54221(f)(1)(F)(i) or California Government Code Section 54221(f)(1)(F)(ii), or if higher, the requirements of San Francisco Planning Code Section 415.6(a), and (iii) reach Substantial Completion no later than one year after Substantial Completion of the Infrastructure Facility without materially increasing City's costs or other liability, then Lead Developer will submit a revised HCC Change Request for that modified version. If City reasonably disapproves an HCC Change Request under Section 9.2(c)(ii) and it is not feasible to construct a modified Proposed HCC that would (x) comply with the applicable Project Objectives, the Technical Requirements, and the HCC Interface Requirements, (y) meet the affordable rental unit requirements of California Government Code Section 54221(f)(1)(F)(i) or California Government Code Section 54221(f)(1)(F)(ii), or if higher, the requirements of San Francisco Planning Code Section 415.6(a), and (z) reach Substantial Completion no later than one year after Substantial Completion of the Infrastructure Facility without materially increasing City's costs or other liability, then the Project will be modified to only be comprised of the Bus Yard Component.

(g) IF Reimbursement Notice. If Lead Developer submits an HCC Change Request after Performance Milestone 27A due to a Regulatory Approval condition of the Planning Commission, the SFMTA Board, or the Board of Supervisors, and the Project is modified to only be comprised of the Bus Yard Component pursuant to Section 9.2(f) (*Disapproved HCC Change*), then the LD Predevelopment Cost will be increased by any additional, documented costs incurred by Lead Developer (subject to City approval, which will not be unreasonably withheld) to modify the Design Deliverables for a Facility that will only be comprised of the Bus Yard Component. To request City's approval of any such costs, Lead Developer must submit a written request (an "**IF Reimbursement Notice**") that has a detailed

description of the Design Deliverables modifications together with invoices evidencing the costs for those modifications. Within fifteen (15) Business Days of receiving an IF Reimbursement Notice, City will notify Lead Developer, in writing, if it approves or disapproves of the IF Reimbursement Request or needs additional information, and the reasons for any disapproval or additional information request. If City requests additional information for an IF Reimbursement Notice, City will, within fifteen (15) Business Days of receiving that additional information, notify Lead Developer if it approves or disapproves of the Request or needs additional information regarding the IF Reimbursement Notice.

9.3. Changes Proposed by City.

(a) City may propose modifying the Preliminary Term Sheet and the HCC Term Sheet, if any, in the applicable draft Transaction Documents, and may also propose modifying the Technical Requirements, the Proposal, or any other aspect of the Project ("**City Proposed Change**") at any time, in each case without notice to any Guarantor. To propose a City Proposed Change, City must submit a written, detailed description of that City Proposed Change and a narrative justification for the City Proposed Change. Within five (5) Business Days of receiving notice of a City Proposed Change, Lead Developer must notify City in writing if it accepts the City Proposed Change or requests a meeting of the Parties to discuss the City Proposed Change. Any failure to timely respond to a City Proposed Change will be deemed Lead Developer's acceptance of that City Proposed Change. If Lead Developer timely requests a meeting of the Parties with respect to a City Proposed Change, the Parties will meet within ten (10) Business Days of City's receipt of that meeting request from Lead Developer. If City elects to pursue the City Proposed Change after that meeting, it must deliver written notice of that election to Lead Developer and the Project will be accordingly modified by the City Proposed Change. Pursuant to Section 2.5 (*Fixed Budget Limit; Adjustments; Allowances; Submittals*), any additional costs or time incurred by a City Proposed Change shall be equitably adjusted by the Parties, using the PCIC to the extent a City Proposed Change also benefits the Common Infrastructure or the Housing and Commercial Component.

(b) As of the execution of this Agreement, the Lead Developer anticipates the requirements of the Regulatory Approvals that will be needed for the Proposed HCC, and the construction timing of the Proposed HCC, will not have a material, negative impact on City's cost of the Infrastructure Facility, the timing for Substantial Completion of the Infrastructure Facility, or the operation of the Bus Yard Component after Substantial Completion of the Infrastructure Facility. However, the Parties acknowledge new information discovered during the PDA Term with respect to the timing, feasibility, and Regulatory Approval conditions and financing to deliver the Proposed HCC may affect that initial analysis. The primary objective of the Project is the timely delivery and operation of the Infrastructure Facility, but City recognizes that Lead Developer will expend time and funds to pursue its predevelopment obligations under this Agreement with respect to the Proposed HCC.

Accordingly, notwithstanding anything to the contrary in Section 9.3(a), City will not propose a City Proposed Change to modify or remove the Housing and Commercial Component and Common Infrastructure from the Project unless City reasonably determines (i) Lead Developer will not be able to obtain the Regulatory Approvals or financing needed for the timely construction of the Proposed HCC and timely payment of the Infrastructure Facility construction costs allocated to the Housing and Commercial Component, (ii) the Proposed HCC will delay Substantial Completion of the Infrastructure Facility beyond the Outside Delivery Date, (iii) the anticipated timing for Housing and Commercial Component construction activities will interfere with the SFMTA's transit operations at the Bus Yard Component after the Substantial Completion of the Infrastructure Facility, or (iv) the Proposed HCC will materially increase City's costs or liabilities with respect to the Project. A City Proposed Change to modify the Housing and Commercial Component may, but is not required to, consist of the Housing and

Commercial Component contingency plan included in Technical Submittal 28 (PDA Management Plan) and Financial Submittal 11 (Housing and Commercial Component Organizational, Financial, and Operations Plan) of the Proposal.

If any of the conditions of the foregoing paragraph are met, City can make a City Proposed Change to modify or remove the Housing and Commercial Component and Common Infrastructure from the Project through the procedure to effect a City Proposed Change under Section 9.3(a).

10. RECORDS

10.1. Definition of Material Adverse Change. The term "material adverse change" shall include any (i) bankruptcy, (ii) decrease in tangible net worth of 10% or greater of net assets, (iii) sale, merger, or acquisition exceeding 10% of the value of net assets prior to the sale, merger, or acquisition, (iv) downward change in credit rating, (v) inability to meet material conditions of loan or debt covenants, (vi) incurrence of a net operating loss, (vii) sustained charges exceeding 5% of the then net assets due to claims, changes in accounting, write-offs, or business restructuring; restructuring/reduction in salaried personnel exceeding 10% of its workforce or involving the disposition of assets exceeding 10% of the then net assets, (viii) or event know to the entity which represents a material change in financial position from previously submitted financial statements.

10.2. Material Adverse Change in Financial Position. Lead Developer shall, for itself and for each Equity Member, Housing Developer, Affordable Housing Developer, and Guarantor, notify City of, and shall provide an explanation for, any material adverse change in financial position that was not reflected in or differed from the financial position reflected in the latest financial statements submitted in its response to the RFQ and updated in the Proposal. If there is any such material adverse change, Lead Developer shall promptly provide City with an assessment regarding the effect of such change on Lead Developer's ability to complete its obligations under this Agreement.

10.3. Future Performance. Following its review of financial statements or certifications provided under this Article 10 (*Records*), City may, in its sole discretion, require Lead Developer to develop and implement a plan assuring City of Lead Developer's capacity to continue to perform its obligations under this Agreement. City shall have the right to review and approve, in its sole discretion, such plan, and may identify additional measures assuring future performance, including requiring additional guarantees in accordance with Section 6.23 (*Guaranty*). Lead Developer shall promptly and diligently carry out any approved plan in accordance with its terms.

11. INTELLECTUAL PROPERTY

11.1. Developed IP.

(a) Lead Developer acknowledges and agrees that the City shall own all Developed IP and the Lead Developer agrees to assign, and shall cause all Lead Developer Related Entities to assign, to City all rights, title and interest in and to the Developed IP including any deliverable and/or Work Materials upon Commercial Close, provided that to the extent this Agreement is terminated in accordance with Section 16, the Lead Developer will assign, and cause Lead Developer Related Entities to assign, to City all rights, title and interest in and to the Developed IP in connection with the assignment of Work Materials contemplated by Section 16.6 and subject to payment receipt by the Lead Developer of the applicable Termination Payment. In connection with the foregoing. Lead Developer agrees to execute, and shall cause all Lead Developer Related Entities to execute, such further documents and to do such further

acts as may be necessary to perfect, register, or enforce City's ownership of such rights, in whole or in part. If any Lead Developer Related Entity fails or refuses to execute any such documents, Lead Developer for itself and on behalf of any Lead Developer Related Entity hereby appoints City as the necessary Lead Developer Related Entity's attorney-in-fact (this appointment is irrevocable and is coupled with an interest) to act on Lead Developer Related Entity's behalf and to execute such documents. Lead Developer hereby forever waives and agrees never to assert, and shall cause any Lead Developer Related Entity to waive and never to assert, against City, its successors or licensees any and all "moral rights" (including claims based on 17 U.S.C. §§ 101-810 (the Copyright Act of 1976, as modified), specifically including 17 U.S.C. § 106A(a) (the Visual Artists Rights Act of 1990, "VARA")) that such Lead Developer Related Entity may have in Intellectual Property or deliverable and/or Work Materials following assignment thereof in accordance with this Agreement.

(b) Reserved.

(c) Lead Developer shall deliver to City all deliverables and/or Work Materials authored, created or developed under or for the purpose of the Agreement at time(s)/dates(s) pursuant to the Agreement.

11.2. Lead Developer IP.

(a) Lead Developer hereby grants, and shall cause each Lead Developer Related Entity to grant, to City an irrevocable, perpetual, non-exclusive, transferable, fully paid-up right and license to use, execute, perform, sublicense, exploit, , manufacture, distribute, reproduce, adapt, display, and prepare derivative works ("**Base License Rights**") of Lead Developer IP in connection with the Work or the Project. Lead Developer acknowledges and agrees that all rights, title or license(s) granted under this Article 11 (*Intellectual Property*) will survive any expiration or earlier termination of this Agreement without regard to convenience, default or other causation.

(b) Lead Developer shall identify and disclose to City all Lead Developer IP required by, incorporated in, or combined with the Work or the Project.

11.3. Third Party IP.

(a) Lead Developer shall secure license(s) in the name of City for the Base License Rights of Third Party IP, in connection with the Work or the Project, including a representation and warranty that Third Party IP does not infringe the rights, including Intellectual Property rights, of any Person. To the extent that the foregoing license rights or representation and warranty are refused by any owner of Third Party IP, Lead Developer shall secure City's prior written approval, in its reasonable discretion, for any license, the terms of which are acceptable to such owner of Third Party IP. For the avoidance of doubt, in no event shall Lead Developer incorporate Third Party IP into the Work, any Work Materials, or the Project without first securing such licenses.

(b) Lead Developer shall obtain from each owner of Third Party IP consent to have all necessary IP Materials related to Third Party IP, including but not limited to Source Code, documentation and/or related instructions and materials to execute Software deposited into an IP Escrow deposit requirements of Section 11.7 (*IP Escrow*). No Third Party IP shall be incorporated into the Work or the Project without City's prior written approval, in its sole discretion, to the extent the owner of the relevant Third Party IP has not provided such consent.

(c) COTS. Lead Developer shall secure license(s) in the name of City based on commercially available terms for the COTS, including any standard end user license

agreement. If the COTS license terms fail to provide the complete Base License Rights, Lead Developer shall provide (i) an outline of such license deficiencies and (ii) the identification of at least one (1) other COTS available for the same purpose, function or design. Lead Developer shall identify and disclose to City all COTS required by, incorporated in, or combined with the Work or the Project.

11.4. City IP and City Data.

(a) City hereby grants to Lead Developer a limited, non-exclusive license to use, execute, perform, exploit, manufacture, distribute, reproduce, adapt, display, sublicense (solely to the Development Team Design Consultant and to its design subconsultants listed in Appendix O (*List of Design Subconsultants*), and prepare derivative works from the Project IP, City IP, and City Data, and any deliverable and/or Work Materials incorporating such Intellectual Property, solely in connection with and limited to the Allowed Uses. "**Allowed Uses**" are: (a) incorporation into the Work Materials and/or the Project; and (b) performance, provision, furnishing and discharge of the Work under the Agreement. All rights not specifically granted in this Section 11.4(a) are reserved to City. For the avoidance of doubt, no rights to trademarks of City, whether registered or not, (the "**City Marks**") are granted to Lead Developer and Lead Developer may not incorporate, refer to, or otherwise use the City Marks for any marketing, promotional or advertising purposes without a separate trademark license agreement. Any sublicense permitted under this Section 11.4(a) shall include the same limitations, terms and conditions that apply with respect to the Lead Developer's license granted hereunder, and Lead Developer shall provide City with a copy of each such sublicense. Changes to the list of design subconsultants included in Appendix O may be made with the prior written consent of the City Project Director, and such changes shall be effective from the date of City's delivery of that written consent to Lead Developer (which consent shall include a copy of the revised Appendix O), or such later date stated in the notice delivering that consent.

(b) In addition to Lead Developer's obligations and restrictions related to City Data in this Agreement, Lead Developer acknowledges and agrees that all City Data, including the results or creation of any anonymization, de-identification, aggregation or other analysis of such City Data, whether physical or digital, is owned by City. Except as specifically provided in this Agreement, no Lead Developer Related Entity shall make use of City Data even if such use is for such Lead Developer Related Entity's internal use or analysis, whether or not commercial value is available or received, and/or such information or data is available in other, separate or cumulative sources.

(c) Notwithstanding any other term or condition of this Agreement, the rights and permissions granted under this Section 11.4 (*City IP and City Data*), including the rights and permissions of any sublicensees, shall terminate (i) upon the effective date of termination of this Agreement or (ii) upon 24-hour written notice by City to Lead Developer, whichever is earlier.

11.5. Delivery. Excluding COTS pursuant to Section 11.3(c), but in addition to any deliverable and/or Work Materials or other items to be delivered to City under this Agreement, Lead Developer shall deliver, or cause to be delivered, to City all IP Materials. Only to the extent that such delivery would eliminate or substantially limit the legal protections for, or commercial value of, such IP Materials, in such cases Lead Developer shall comply, and cause Lead Developer Related Entities to comply, with the IP Escrow deposit requirements of Section 11.7 (*IP Escrow*), below, provided that such delivery to City or deposit into IP Escrow(s) shall occur at the earlier of (x) when such deliverable and/or Work Materials is due under the Agreement terms, (y) within 60 days after the Effective Date of the Agreement or (z) 60 days prior to the effective date of termination.

11.6. Payment Inclusive. Lead Developer acknowledges and agrees that the sum of all payments made pursuant to the Agreement shall include all royalties, fees, costs and expenses arising from or related to the Software or any licenses granted under this Article 11 (*Intellectual Property*). For the avoidance of doubt, all fees, costs and expenses for IP Escrow(s) are included in such payments paid to Lead Developer by City under this Agreement.

11.7. IP Escrow.

(a) City and Lead Developer acknowledge that Lead Developer, Lead Developer Related Entities and/or owners of Third Party IP may not wish to deliver the required IP Materials directly to City pursuant to this Agreement as public disclosure could deprive the such owners of Intellectual Property commercial value. Lead Developer further acknowledges that City nevertheless must be guaranteed access to such IP Materials and the complete enjoyment of all rights, including Intellectual Property rights, granted pursuant to this Agreement, and must be assured that the IP Materials are delivered to City.

(b) In lieu of delivering the IP Materials directly to City pursuant to the Agreement, subject to the requirements of Section 11.5 (*Delivery*), Lead Developer, Lead Developer Related Entity or the owner of Third Party IP may from time to time elect to deposit relevant IP Materials with a neutral depository. In such event, City and Lead Developer (or the applicable Lead Developer Related Entity or other owner of Third Party IP) shall: (i) mutually select one or more escrow companies or other neutral depositories (each an "**IP Escrow Agent**") engaged in the business of receiving and maintaining escrows of Software Source Code or other Intellectual Property; (ii) establish one or more escrows (each an "**IP Escrow**") with the IP Escrow Agent on terms and conditions reasonably acceptable to City and Lead Developer for the deposit, retention, audit, upkeep and release of IP Materials to City pursuant to this Agreement; (iii) determine a date for each deposit of the IP Materials into the IP Escrow; and (iv) determine a process for releasing from escrow the IP Materials to be delivered to City pursuant to the Agreement. Lead Developer shall be responsible for the fees and costs of the IP Escrow Agent and IP Escrow(s).

(c) Any IP Materials deposited in IP Escrow(s) shall be released and delivered to City in any of the following circumstances ("**Release Conditions**"):

(i) this Agreement is terminated for any reason;

(ii) voluntary or involuntary bankruptcy of Lead Developer, Lead Developer Related Entity or the owner of Third Party IP; or

(iii) Lead Developer, Lead Developer Related Entity or the owner of Third Party IP is dissolved or liquidated or otherwise ceases to engage in the ordinary course of the business of manufacturing, supplying, maintaining, and servicing the software, product, part, or other item containing the relevant Intellectual Property.

(iv) City shall maintain the confidentiality of any IP Materials released pursuant to this Section 11.7(c) pursuant to Section 2.11 (*Proprietary or Confidential Information*) and shall enter into a non-disclosure agreement with any third party to whom City, in its sole discretion, grants access to such IP Materials to the extent that such IP Materials contain Confidential Information.

(d) Audit & Verification. Regardless of whether one of the Release Conditions occurs, City shall have the right to require the IP Escrow Agent to verify the relevance, completeness, currency, accuracy, and functionality of the IP Materials held by the IP Escrow in a manner and form as directed by City at the expense of Lead Developer not more

than once in any calendar year. In the event such testing demonstrates the IP Materials held by the IP Escrow does not correspond to the Work Materials and/or Project or pursuant to the Agreement, Lead Developer shall deposit the correct materials with the IP Escrow Agent within seventy-two (72) hours following notice by City.

11.8. Lead Developer Related Entities Lead Developer acknowledges and agrees that it shall direct, and be responsible for, the compliance of all Lead Developer Related Entities with the obligations and restrictions of this Article 11 (*Intellectual Property*) and shall incorporate the provisions of this Article 11 (*Intellectual Property*) into each agreement involving development, provision or acquisition of Intellectual Property or the creation or generation of any deliverable and/or Work Materials.

12. NO REPRESENTATION OR WARRANTY OF PROJECT VIABILITY

Lead Developer acknowledges and agrees that City has not made any representation or warranty regarding any matters relating to the Project Site, including but not limited to (i) the suitability of the Project Site for construction of the Project, (ii) the Project, (iii) if the SFMTA Board, Board of Supervisors, any other applicable City board or commission, and City's Mayor will approve the Transaction Documents, (iv) the ability to obtain CEQA approval for the Project, or (v) Lead Developer's ability to obtain the General Regulatory Approvals. Lead Developer further acknowledges and agrees that although City is a Regulatory Agency, it is entering into this Agreement in its proprietary capacity and not as a Regulatory Agency with certain police powers and in that proprietary capacity, it has no authority or influence over other City officials, departments, boards, commissions, or agencies or any other Regulatory Agency responsible for issuing required Regulatory Approvals (including City, in its regulatory capacity). Accordingly, no guarantee or presumption exists that any of the Regulatory Approvals will be issued by the appropriate Regulatory Agency, and City's status as a Regulatory Agency will not limit Lead Developer's obligation to obtain General Regulatory Approvals from appropriate Regulatory Agencies that have jurisdiction over the Project.

13. FINAL ACTION SUBJECT TO ENVIRONMENTAL REVIEW

City will not enter into any Transaction Document or request approval of them until City has completed environmental review with respect to the Project in compliance with the California Environmental Quality Act ("**CEQA**") and City's CEQA Procedures, as set forth in San Francisco Administrative Code Chapter 31. The Project will also require discretionary approvals by a number of government bodies after public hearings and environmental review. Nothing in this Agreement commits, or shall be deemed to commit City or any other public agency to approve or implement the Project or the Transaction Documents, and they may not do so until environmental review of the Project as required under Applicable Law has been completed and they are able to review and consider the information contained in the CEQA document and all other relevant information about the Project. Accordingly, all references to the "**Project**" in this Agreement shall mean the proposed Project subject to future environmental review and consideration by City and other public bodies.

City and any other public agencies with jurisdiction over any part of the Project each shall have the absolute discretion to (a) require modifications to the Project and/or implementation of specific measures to mitigate significant adverse environmental impacts; (b) select feasible alternatives that avoid significant adverse impacts of the Project, including the "no project" alternative; (c) reject all or part of the Project if the economic and social benefits of the Project do not outweigh otherwise unavoidable significant adverse impacts of the Project; (d) approve the Project upon a finding that the economic and social benefits of the Project outweigh otherwise unavoidable significant adverse environmental impact of the Project; and (e) deny the Project.

14. COMMERCIAL CLOSE

14.1. Achieving Commercial Close. If Lead Developer has obtained all necessary General Regulatory Approvals, CEQA review for the Project has been completed, the Transaction Documents have been mutually approved by the Parties, and the Transaction Documents have been approved by the SFMTA Board, the Board of Supervisors, and any other applicable City board or commission, each acting in its sole discretion, and all the other Performance Milestones have been timely achieved, Lead Developer shall cause the Principal Project Company and the Housing Project Company to execute and deliver the Transaction Documents. Such execution and delivery will occur on or before the tenth (10th) Business Day (the "**Scheduled Commercial Closing Date**") immediately following the date legislation adopted by the Board of Supervisors to approve the Transaction Documents is effective (the "**Project Approval Date**") or any earlier date mutually selected by the Parties, the Principal Project Company, and the Housing Project Company between the Project Approval Date and the Scheduled Commercial Closing Date.

14.2. Flexibility for Separate Commercial Closings. Notwithstanding Section 14.1 (*Achieving Commercial Close*), the IF Commercial Close and the HCC Commercial Close may occur at different times, provided that City has provided its prior written approval in its sole discretion.

15. PROHIBITED ACTIONS

15.1. Prohibited Payments. Lead Developer may not pay, or agree to pay, any fee or commission, or any other thing of value contingent on entering into this Agreement, any other Project Document, or any other agreement with City related to the Project, to any City or City employee or official or to any contracting consultant hired by City for the Project. By entering into this Agreement, Lead Developer certifies to City that Lead Developer has not paid or agreed to pay any fee or commission, or any other thing of value contingent on entering into this Agreement, any other Project Document, or any other agreement with City related to the Project, to any City employee or official or to any contracting consultant hired by City for the Project.

15.2. No Entry. Lead Developer expressly acknowledges and agrees that this Agreement does not give Lead Developer or any Lead Developer Agents the right to enter or access the Project Site. Any entry on the Project Site by Lead Developer or any of the Lead Developer Agents must be pursuant to terms and conditions of the Access Agreement.

15.3. Submitting False Claims. The full text of San Francisco Administrative Code Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement by this reference. Pursuant to San Francisco Administrative Code Section 21.35, any contractor or subcontractor who submits a false claim shall be liable to City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to City if the contractor or subcontractor: (a) knowingly presents or causes to be presented to an officer or employee of City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by City; (c) conspires to defraud City by getting a false claim allowed or paid by City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to City; or (e) is a beneficiary of an inadvertent submission of a false claim to City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to City within a reasonable time after discovery of the false claim. Lead Developer agrees that all references to a contractor in San Francisco Administrative Code Section 21.35 apply to Lead Developer and all references to a subcontractor in San Francisco Administrative Code Section 21.35 apply to Lead Developer Agents and agents of Development Team Members.

16. TERMINATION

16.1. Termination for Convenience. In addition to its other termination rights in this Agreement, City shall have the right to terminate this Agreement at any time at its sole discretion by providing at least ten (10) days prior written notice of that termination to Lead Developer. Termination (or partial termination) of this Agreement shall not relieve any Guarantor of its obligation for any claims arising out of the Work performed.

16.2. Terminating Event. The occurrence of any of the following events (each, a "**Terminating Event**") will cause early termination of and extinguish this Agreement ("**Termination**"), without an opportunity for the Lead Developer to cure:

(a) City exercises its right to terminate this Agreement following an LD Event of Default;

(b) City exercises its right to terminate this Agreement for convenience;

(c) City issues a Discontinuation Notice;

(d) The PDA Term expires before Commercial Close occurs;

(e) Lead Developer exercises its right to terminate this Agreement following a City Event of Default;

(f) Lead Developer fails to comply with Article 15 (*Prohibited Actions*), Article 18 (*Assignment and Changes in Ownership of Lead Developer*), or Section 24.1 (*Nondiscrimination in City Contracts and Benefits Ordinance*).

16.3. Termination Payments. If this Agreement terminates before Commercial Close for any reason, City will have no obligation to reimburse or otherwise pay Lead Developer for any of Lead Developer's Project costs or expenses. Notwithstanding anything to the contrary in the foregoing sentence, City shall, in exchange for an executed release from Lead Developer satisfactory in form and substance to City, make the following payments (each, a "**Termination Payment**"), as applicable, to Lead Developer if this Agreement terminates before Commercial Close for any reason other than an LD Event of Default and Lead Developer has performed its obligations under Section 16.6(a). The executed release from Lead Developer shall release, waive, and discharge City and City Agents of and from all liabilities, obligations, claims, and demands whatsoever arising out of or under this Agreement. City's liability to Lead Developer with respect to any claims or Disputes arising from this Agreement shall not exceed Nine Million Nine Hundred Ninety Thousand Dollars ($9,990,000) plus the amount of the Continuation Payment, if paid. City's payment of any Termination Payment shall not affect any of City's rights under the Agreement with respect to completed Work, or relieve Lead Developer or any Guarantor from its respective obligations with respect thereto.

(a) Proposal Payment. If this Agreement terminates for any reason other than an LD Event of Default, then City will pay Lead Developer an amount equal to One Million Three Hundred and Fifty Thousand Dollars ($1,350,000) for Work Materials comprising the Proposal (the "**Proposal Payment**").

(b) PDA Phase 1. If this Agreement terminates for any reason other than an LD Event of Default after Lead Developer has timely submitted all the documents described as Performance Milestone 15, and those documents comply with the applicable requirements for them in the attached Appendix B-2, then, in addition to the Proposal Payment, City will pay Lead Developer an amount equal to the lesser of Lead Developer's Qualified Out-of-Pocket

Costs to provide the PDA Phase 1 materials ("**PDA Phase 1 Costs**") and Four Million Nine Hundred Ninety Thousand Dollars ($4,990,000). Lead Developer must submit commercially reasonable evidence of its PDA Phase 1 Costs to City before City is obligated to make any payment under this subsection (b).

(c) PDA Phase 2. If this Agreement terminates for any reason other than an LD Event of Default after Performance Milestone 16 and Lead Developer has timely delivered the materials described as Performance Milestone 27, and those materials comply with all the applicable requirements for them in the attached Appendix B-2, then, in addition to the Proposal Payment, City will pay Lead Developer an amount equal to the lesser of (A) the PDA Phase 1 Costs and Lead Developer's Qualified Out-of-Pocket Costs to provide those PDA Phase 2 materials ("**PDA Phase 2 Costs**") and (B) Seven Million Six Hundred Forty Thousand Dollars ($7,640,000). Lead Developer must submit commercially reasonable evidence of its PDA Phase 1 Costs and its PDA Phase 2 Costs to City before City is obligated to make any payment under this subsection (c).

(d) PDA Phase 3. If this Agreement terminates for any reason other than an LD Event of Default after Performance Milestone 28 and after Lead Developer has timely delivered the materials and evidence described as Performance Milestones 32 and 33, and those materials comply with all the applicable requirements for them in the attached Appendix B-2, then, in addition to the Proposal Payment, City will pay Lead Developer an amount equal to the lesser of (A) the PDA Phase 1 Costs, the PDA Phase 2 Costs and Lead Developer's Qualified Out-of-Pocket Costs to provide those PDA Phase 3 materials and perform those PDA Phase 3 activities ("**PDA Phase 3 Costs**") and (B) Eight Million Six Hundred Forty Thousand Dollars ($8,640,000). Lead Developer must submit commercially reasonable evidence of its PDA Phase 1 Costs, its PDA Phase 2 Costs, and its PDA Phase 3 Costs to City before City is obligated to make any payment under this subsection (d).

(e) Termination between Milestones. City's delivery of Notice to Proceed #1 to Lead Developer and each of the Performance Milestones described in the foregoing subsections (b)-(d) are "**Qualifying Payment Milestones**". If this Agreement terminates for any reason other than an LD Event of Default between any of the Qualifying Payment Milestones for any reason other than an LD Event of Default, City will make a partial termination payment (a "**Partial Payment**") for Lead Developer's Qualified Out-of-Pocket Costs for any Work Materials completed by Lead Developer for the Qualifying Payment Milestone that would have immediately followed the date this Agreement is terminated if (1) Lead Developer has delivered those Work Materials to City within ten (10) Business Days following the termination of this Agreement, (2) those Work Materials comply with all the requirements for them in the attached Appendix B-2, as modified to reflect the early delivery of those Work Materials, and (3) all third parties that prepared any of those Work Materials have consented in writing to the assignment of them to City.

Lead Developer must submit commercially reasonable evidence of its Qualified Out-of-Pocket Costs for these partially-completed Work Materials to City before City is obligated to make any payment under this subsection (e). The amount of the Partial Payment will be the higher of (i) the amount calculated by prorating the termination payment associated with the next Qualifying Payment Milestone at the time this Agreement terminates by the number of days between that next Qualifying Payment Milestone and the immediately preceding Qualifying Payment Milestone, and determining the prorated portion of that next Qualifying Payment Milestone termination payment as of the date of termination, and (ii) the value of the completed or partially completed Work Materials prepared for the PDA Phase during which this Agreement terminates, as reasonably determined by mutual agreement of the Parties based on the percentage of completion of those Work Materials relative to the total amount of Work Materials required during the applicable PDA Phase.

(f) Electronic Payments. Lead Developer agrees that City's obligation to make any Termination Payment to Lead Developer is conditioned on Lead Developer signing up to receive electronic payments through the City's Automated Clearing House (ACH) payments service/provider. The process to sign up for those electronic payments is described at www.sfcontroller.org/electronic-payments-ach-vendors.

(g) Survival. The Parties' respective rights and obligations under this Section 16.3 (*Termination Payments*) shall survive any termination of this Agreement.

16.4. Termination Notice; Effect of Termination. A Party shall exercise any termination right it has under this Agreement by delivering written notice to the other Party ("**Termination Notice**"). Following the delivery of a Termination Notice, this Agreement will terminate and each Party will be released from all liability under this Agreement except for any obligations that expressly survive the termination or expiration of this Agreement.

16.5. City's Rights Following Termination. If a Termination occurs, City, in its sole discretion, may take any action with respect to the Project Site, including the right to negotiate with another developer for the development of the Project Site, to elect not to pursue any project at the Project Site, or to undertake other efforts with the Project Site including pursuing a new procurement or issuing a new request for proposals. Lead Developer agrees that if this Agreement terminates on its own terms, City shall have the right to elect to negotiate with another Short-Listed Proposer to reprocure the Project, and use the Proposal and the Work Materials submitted by Lead Developer prior to Termination.

16.6. Assignment of Work Materials

(a) If there is a Termination, Lead Developer must take the following actions within the time periods specified in City's notice:

(i) assign, at no cost to City, all of its rights under its consulting contracts with Lead Developer Agents, including any rights to use all resulting Work Materials;

(ii) satisfy all outstanding fees relating to the Work Materials that are then due and payable or will become due and payable for services relating to the Project rendered by any of Lead Developer Agents providing any Work Materials up to the date of Termination and provide written evidence of satisfaction to City; and

(iii) deliver copies of all Work Materials in the possession of Lead Developer or a Development Team Member or, for materials not in the possession of Lead Developer or a Development Team Member, confirm, on request from the applicable Lead Developer Agents or City, those Lead Developer Agents are authorized to deliver or have delivered from the appropriate parties all Work Materials to City.

(b) If there is a Termination, and except as provided in Article 11 (*Intellectual Property*), including without limitation Lead Developer's payment of fees, and subject to Section 21.1(g), City's use, license or other exercise of rights of Intellectual Property subject to Article 11 (*Intellectual Property*) or Work Materials following a Termination shall be at City's risk and Lead Developer neither warrants nor represents that such Intellectual Property or Work Materials are suitable for use without modification for a subsequent purpose, project or procurement.

(c) Lead Developer's obligations under this Section 16.6 (*Assignment of Work Materials*) shall survive a Termination.

17. INSURANCE

17.1. Required Coverage During PDA Term. Without in any way limiting Lead Developer's liability pursuant to Article 21 (*Indemnity; Disclaimers; Limitation of Liability*), Lead Developer must maintain or cause to be maintained in force insurance in the following amounts and coverages during the PDA Term:

(a) Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations.

(b) Commercial Automobile Liability Insurance with limits not less than $1,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(c) Workers' Compensation, in statutory amounts, with Employers' Liability limits not less than $1,000,000 for each accident, injury, or illness; provided that Lead Developer shall not be required to carry workers' compensation coverage as long as Lead Developer has no employees.

(d) Professional Liability Insurance, applicable to Lead Developer's profession, with limits not less than $1,000,000 for each claim with respect to negligent acts, errors or omissions in connection with the Work.

17.2. Endorsements. The insurance described in Section 17.1 (*Required Coverage During PDA Term*) shall include the following endorsements:

(a) The Commercial General Liability policy and the Commercial Automobile Liability Insurance policy must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of City for all work performed by Lead Developer, its employees, agents and subcontractors under this Agreement.

(c) The Commercial General Liability policy shall provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom a claim is made or suit is brought.

(d) The Commercial Automobile Liability Insurance policy shall provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

17.3. Other Insurance Requirements. The insurance described in Section 17.1 (*Required Coverage During PDA Term*) are subject to the following requirements:

(a) Thirty (30) days' advance written notice shall be provided to City of cancellation, intended non-renewal, or reduction in coverages, except for non-payment for which no less than ten (10) days' notice shall be provided to City. Notices shall be sent to City address set forth in Article 23 (*Notices*) below.

(b) Should any of the required insurance be provided under a claims-made form, Lead Developer shall maintain such coverage continuously throughout the PDA Term and, without lapse, for a period of three years beyond the end of the PDA Term, to the effect that, should occurrences during the PDA Term give rise to claims made after the end of the PDA Term, such claims shall be covered by such claims-made policies.

(c) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

(d) Should any required insurance lapse during the PDA Term, City shall have no obligation to make any termination payments to Lead Developer until City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

(e) Before commencing any Work, Lead Developer shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Lead Developer's liability hereunder.

(f) If Lead Developer will use any Lead Developer Related Entity to provide Work, Lead Developer shall require the Lead Developer Related Entity to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and Lead Developer as additional insureds.

18. ASSIGNMENT AND CHANGES IN OWNERSHIP OF LEAD DEVELOPER

18.1. Restrictions on Assignment. Lead Developer acknowledges that City is entering into this Agreement on the basis of the special skills, capabilities, and experience of Lead Developer, the Development Team and the Key Personnel. This Agreement is personal to Lead Developer and, except as provided in this Agreement, may not be assigned, transferred, conveyed, or otherwise disposed of without City's prior consent, which may be withheld in City's sole and absolute discretion; provided, however, that Lead Developer can assign this Agreement to an entity that (i) has Lead Developer as its sole or controlling member or shareholder, (ii) has the minimum assets required for the respondents to the RFP, and (iii) has assumed Lead Developer's agreements with the Development Team Members) and (iv) has the same Guarantor with respect to the Project (an "**Approved Subsidiary**"). Any assignment, transfer, conveyance, or other disposition of this Agreement in violation of this Section 18.1 (*Restrictions on Assignment*) will be an incurable LD Event of Default under this Agreement.

18.2. Restrictions on Changes in Ownership of Lead Developer. A Change of Control of Lead Developer or an Equity Transfer that results in any Equity Member ceasing to own (directly or indirectly) the same percentage of the issued share capital, partnership or membership interests, as applicable, in Lead Developer that it owned (directly or indirectly) as of Effective Date, shall be subject to City's prior written approval in City's sole discretion.

19. DEFAULT

19.1. LD Event of Default. The occurrence of any of the following events will constitute a default by Lead Developer under this Agreement after the expiration of the applicable cure period, if any (each, an "**LD Event of Default**"):

(a) Any fraudulent act, misrepresentation or willful misconduct by any Lead Developer Related Entity with respect to the Proposal, the Project or this Agreement;

(b) Lead Developer fails to achieve any of the Performance Milestones to be achieved by Lead Developer in the manner and by the Performance Dates described in the attached Appendix B-1, as the Performance Dates may be extended or stayed in accordance with Section 2.9 (*Suspension of Obligations*), Section 2.10 (*Exclusive Negotiations; City's Reserved Rights*), or Section 3.1 (*PDA Term; Predevelopment Period Extensions*), or Section 3.3 (*Unavoidable Delays and Regulatory Appeal Delays*), as applicable, or extended by City in its sole discretion, if such failure is not cured within ten (10) Business Days after City's notice to Lead Developer, but if the default cannot reasonably be cured within the ten (10) Business Day cure period, Lead Developer will not be in default of this Agreement if Lead Developer commences to cure the default within the ten (10) Business Day cure period and diligently and in good faith prosecutes the cure to completion;

(c) Lead Developer fails to comply with any other provision of this Agreement or any Early Works Agreement if not cured within ten (10) Business Days after City's notice to Lead Developer, but if the default cannot reasonably be cured within the ten (10) Business Day cure period, Lead Developer will not be in default of this Agreement if Lead Developer commences to cure the default within the ten (10) Business Day cure period and diligently and in good faith prosecutes the cure to completion;

(d) Any of the representations, warranties or covenants made by Lead Developer or any Guarantor in Section 22.1 (*Lead Developer Representations and Warranties*) are not true in any material respect throughout the PDA Term;

(e) A voluntary or involuntary action is filed (i) to have Lead Developer adjudicated insolvent and unable to pay its debts as they mature or a petition for reorganization, arrangement or liquidation under any bankruptcy or insolvency law, or a general assignment by Lead Developer, for the benefit of creditors, or (ii) seeking Lead Developer's reorganization, arrangement, liquidation, or other relief under any law relating to bankruptcy, insolvency, or reorganization or seeking appointment of a trustee, receiver, or liquidator of Lead Developer or any substantial part of Lead Developer's assets or any of the foregoing events occurs with respect to any of the members of Lead Developer, any of the Development Team Members, or any Guarantor, and, in respect of any involuntary action, such action has not been dismissed within 60 days of being filed;

(f) There is an uncured event of default under any Early Works Agreement or the Access Agreement by Lead Developer or any of the Lead Developer Agents;

(g) There is a change in the Development Team or Key Personnel without City's consent;

(h) Lead Developer, its parent company, or their respective members or shareholders, or any of the Development Team Members are debarred or prohibited from doing business with any federal, state or local government agency; or

(i) Lead Developer fails to comply with Article 15 (*Prohibited Actions*) or Section 24.1 (*Nondiscrimination in City Contracts and Benefits Ordinance*); or

(j) Any Guarantor revokes or attempts to revoke its obligations under its Guaranty or otherwise takes the position that such instrument is no longer in full force and effect, and Lead Developer fails to cure such LD Event of Default cured within five (5) Business Days after City's notice to Lead Developer by providing City with alternative security and/or a new

guarantor, which security and/or new guarantor must be in a form satisfactory to City, in its sole discretion.

19.2. City Event of Default. The occurrence of any of the following events will constitute a default by City under this Agreement after the expiration of the applicable cure period, if any (each, a "**City Event of Default**"):

(a) City's failure to comply with any provision of this Agreement if the failure is not cured within ten (10) Business Days after Lead Developer's notice to City; but if the default cannot reasonably be cured within the ten (10) Business Day cure period, City will not be in default of this Agreement if City commences to cure the default within the ten (10) Business Day cure period and diligently and in good faith prosecutes the cure to completion.

(b) A voluntary or involuntary action is filed (i) to have City adjudicated insolvent and unable to pay its debts as they mature or a petition for reorganization, arrangement or liquidation under any bankruptcy or insolvency law, or a general assignment by City for the benefit of creditors, or (ii) seeking City's reorganization, arrangement, liquidation, or other relief under any law relating to bankruptcy, insolvency, or reorganization or seeking appointment of a trustee, receiver, or liquidator of City or any substantial part of City's assets.

(c) Any representation or warranty made by City under this Agreement is false, misleading or inaccurate when made, in each case in any material respect, or omits material information when made.

20. REMEDIES

20.1. City's Remedies. Following an LD Event of Default, City may (a) terminate this Agreement by delivery of notice to Lead Developer and, as the termination date specified in that notice (which may be on the delivery of the notice), Lead Developer and City will both be released from all liability under this Agreement (except for those obligations that survive Termination), (b) seek to enforce Lead Developer's indemnity obligations, (c) seek to enforce any Guarantor obligations under the Guarantees, (d) obtain copies and/or assignments of the Work Materials to which City is entitled. These remedies are not exclusive, but are cumulative with any remedies now or later allowed by law or in equity. If an LD Event of Default occurs, Lead Developer and any Guarantor shall be jointly and severally liable to City for all Losses incurred by the City and the City Agents.

20.2. Lead Developer's Remedies. Following a City Event of Default, Lead Developer will have the option, as its sole and exclusive remedy at law or in equity, to terminate this Agreement by delivery of notice to City and, as the termination date specified in that notice (which may be on the delivery of the notice), Lead Developer and City will both be released from all liability under this Agreement (except for those provisions that survive Termination, including City's obligations to make any payments to Lead Developer pursuant to Section 16.3 (*Termination Payments*). Lead Developer waives any and all rights it may now or later have to pursue any other remedy or recover any other damages on account of any City breach or default, including loss of bargain, special, punitive, compensatory or consequential damages. No member, official, agent or employee of City will be personally liable to Lead Developer, or any successor in interest (if and to the extent permitted under this Agreement), due to a City Event of Default or for any amount that may become due to Lead Developer or successor or on any obligations under the terms of this Agreement.

21. INDEMNITY; DISCLAIMERS; LIMITATION OF LIABILITY

21.1. Lead Developer's Duty to Indemnify. To the fullest extent permitted by law, and related to facts and circumstances arising from and after the Effective Date, Lead Developer agrees to indemnify and hold City and the City Agents (collectively, the "**Indemnified Parties**") harmless, and at City's request, defend them from and against any Losses that the Indemnified Parties may incur as a result, directly or indirectly, of any of the following:

(a) Any injury to or death of a person, including employees of any Indemnified Parties or any Lead Developer Related Entity, and any loss of or damage to property, in each case arising out of Lead Developer's performance of this Agreement, including, but not limited to, Lead Developer's use of facilities or equipment provided by City or others;

(b) Breach by any Lead Developer Related Entity of Applicable Law, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations;

(c) Strict liability imposed by any law or regulation arising out of Lead Developer's performance of this Agreement;

(d) Breach by any Lead Developer Related Entity of any of its obligations or any representation, warranty or covenant under the Agreement or any Early Works Agreement, including Lead Developer's execution of subcontracts or Development Team agreements not in accordance with the applicable requirements of this Agreement;

(e) Any Lead Developer Related Entity's failure to obtain or comply with the terms and conditions of any Regulatory Approval;

(f) Any fraud, criminal conduct, intentional misconduct, recklessness, bad faith, gross negligence, negligence or other culpable act or omission of any Lead Developer Related Entity; and

(g) Any infringement, or alleged infringement, of the proprietary rights, including Intellectual Property rights, of any third party based on or related to the Work, Project, or any Work Materials (i) as delivered to the City, (ii) as intended for use by the City, and (iii) as combined or integrated with City hardware, systems and software for which any Lead Developer Related Entity had a reasonable opportunity to investigate or discover."

The foregoing indemnification includes, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against City. In addition to Lead Developer's obligation to indemnify City, Lead Developer specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Lead Developer by City and continues at all times thereafter.

This indemnification shall apply regardless of whether or not a claim, suit, action, loss or liability was caused in part or contributed to by an Indemnified Party. However, without affecting the rights of City under any provision of this Agreement, Lead Developer shall not be required to indemnify and hold harmless City for liability to the extent caused by (i) the negligence, reckless or willful misconduct, bad faith or fraud of an Indemnified Party; or (ii) City's breach of any of its material obligations under this Agreement. In instances where City is shown to have been actively negligent, reckless, engaged in willful misconduct or acting in bad faith or with fraud and where such City actions account for only a percentage of the liability

involved, the obligation of Lead Developer will be for that entire portion or percentage of liability not attributable to such actions of City.

With respect to Work performed by a design professional as defined in Civil Code Section 2782.8, this indemnification shall apply only to the extent permitted by said Section 2782.8.

Lead Developer's obligations under this Section 21.1 (*Lead Developer's Duty to Indemnify*) will survive the expiration or earlier Termination of this Agreement.

21.2. Disclaimer and Acknowledgement.

(a) Disclaimer. Except as otherwise provided in this Agreement, City does not represent or warrant, and hereby disclaims: (i) that the information contained in the Reference Documents and in any other reference information is either complete or accurate or suitable for use or that such information is in conformity with the requirements of any Regulatory Approvals or other governmental approvals or rules; (ii) that any itemized list set forth in the Technical Requirements is accurate or complete; (iii) responsibility for the condition of the Project Site; and (iv) responsibility for any Regulatory Agency's failure to issue any required Regulatory Approval.

(b) Acknowledgement. Lead Developer, on behalf of itself and the Lead Developer Related Entities, and each of their respective successors and assigns, hereby acknowledges (i) City's disclaimers set forth in Section 21.2(a) (*Disclaimer*); (ii) that Lead Developer previously received the Reference Documents through the RFP, and they were provided for general or reference information only and without any warranty as to their accuracy, completeness or fitness for any particular purpose; and (iii) agrees that the Lead Developer Related Entities shall have no recourse to City for any claim arising out of or relating to the matters set forth in Section 21.2(a) (*Disclaimer*).

21.3. Limitation of Liability

(a) Except as provided in Section 21.3(b), Lead Developer's liability to City for damages, including direct, indirect and consequential damages, arising out of Lead Developer's performance of the Agreement (or failure to perform hereunder) shall be limited to Nine Million Nine Hundred Ninety Thousand Dollars ($9,990,000) plus the amount of the Continuation Payment if paid.

(b) The limitation of damages set forth in Section 21.3(a) does not apply to or limit any right of recovery City may have respecting the following:

(i) Losses arising out of fraud, criminal conduct, intentional misconduct, recklessness, bad faith, or gross negligence on the part of any Lead Developer Related Entity;

(ii) Lead Developer's indemnities set forth in Section 21.1 (*Lead Developer's Duty to Indemnify*), or elsewhere in the Agreement, for third party claims;

(iii) Losses arising out of any release of hazardous materials by any Lead Developer Related Entity; and

(iv) Any liability for any type of damage or loss, to the extent such loss or damage is covered by insurance required under this Agreement or for which Lead Developer was required to provide insurance if coverage is not in force, or is covered by the actual amount of

insurance applicable to the Project and the Work (regardless of whether required to be carried hereunder), whichever is greater.

22. REPRESENTATIONS AND WARRANTIES

22.1. Lead Developer Representations and Warranties. Lead Developer represents, warrants and covenants to City (and will cause its members, on behalf of themselves, to represent, warrant and covenant to City) as follows, as of the date hereof and throughout the PDA Term:

(a) Valid Existence; Good Standing. Lead Developer is a limited liability company organized under the laws of the State of Delaware. Lead Developer's sole manager and sole member is Plenary Americas US Holdings Inc., which is a corporation duly incorporated and validly existing under the laws of the State of Delaware. Lead Developer has the requisite power and authority to own its property and conduct its business as presently conducted. Lead Developer and its sole manager and sole member have each made the necessary filings with, and are all good standing in, the State of California.

(b) Business Licenses. Lead Developer and its manager have obtained all licenses required to conduct its business in San Francisco and Lead Developer, its manager, and its member are not in default of any fees or taxes due to the City and County of San Francisco.

(c) Authority. Lead Developer and its manager each have the requisite power and authority to execute and deliver this Agreement and the agreements contemplated hereby and to carry out and perform all of the terms and covenants of this Agreement and the agreements contemplated hereby to be performed by Lead Developer.

(d) No Limitation on Ability to Perform. Neither Lead Developer's operating agreement nor any Applicable Law prohibit Lead Developer's entry into this Agreement or its performance hereunder. No consent, authorization or approval of, and no notice to or filing with, any governmental authority, Regulatory Agency or other Person is required for the due execution and delivery of this Agreement by Lead Developer and Lead Developer's performance hereunder, except for consents, authorizations and approvals which have already been obtained, notices which have already been given and filings which have already been made. There are no undischarged judgments pending against Lead Developer, and Lead Developer has not received notice of the filing of any pending suit or proceedings against Lead Developer before any court, Regulatory Agency, or arbitrator, which might materially adversely affect the enforceability of this Agreement or the business, operations, assets or condition of Lead Developer.

(e) Valid Execution. The execution and delivery of this Agreement and the performance by Lead Developer hereunder have been duly and validly authorized. When executed and delivered by City and Lead Developer, this Agreement will be a legal, valid and binding obligation of Lead Developer.

(f) Defaults. The execution, delivery and performance of this Agreement (i) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default by Lead Developer under (1) any agreement, document or instrument to which Lead Developer is a party or by which Lead Developer is bound, (2) any Law applicable to Lead Developer or its business, or (3) the operating agreement of Lead Developer, and (ii) do not result in the creation or imposition of any lien or other encumbrance upon the assets of Lead Developer, except as contemplated hereby.

(g) Financial Matters. Lead Developer is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, Lead

Developer has not filed a petition for relief under any Chapter of the U.S. Bankruptcy Code, there has been no event that has materially adversely affected Lead Developer's ability to meet its obligations hereunder, and to the best of Lead Developer's knowledge, no involuntary petition naming Lead Developer as debtor has been filed under any Chapter of the U.S. Bankruptcy Code.

(h) Warranty of LD Development Program. Lead Developer warrants to City that all the Work will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time they are performed so as to ensure that all performed Work is correct and appropriate for the purposes contemplated in this Agreement.

(i) Guarantor Valid Existence; Good Standing. Guarantor is duly organized and validly existing under the laws of the State of Delaware, with full power, right, and authority to own its properties and assets and carry on its business as now conducted or proposed to be conducted.

(j) Enforceability of Guaranty. The Guaranty constitutes the legal, valid and binding obligation of the Guarantor, enforceable in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity.

(k) Valid Execution of Guaranty. The execution, delivery and performance of the Guaranty have been duly authorized by all necessary action of Guarantor and will not result in a breach of or a default under Guarantor's organizational documents or any indenture or loan or credit agreement or other material agreement or instrument to which Guarantor is a party or by which its properties and assets may be bound or affected.

22.2. City Representations and Warranties.

(a) Valid Existence; Good Standing. City is a municipal corporation created and validly existing under the laws of the State of California.

(b) Authority. City has the requisite power and authority to execute and deliver this Agreement and the Access Agreement and to perform all of the terms and covenants of this Agreement and the agreements contemplated hereby to be performed by City, subject to the terms and conditions of this Agreement.

(c) Valid Execution. The execution and delivery of this Agreement and the performance by City hereunder have been duly and validly authorized. When executed and delivered by City and Lead Developer, this Agreement will be a legal, valid and binding obligation of City.

(d) Defaults. The execution, delivery and performance of this Agreement do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default by City under (i) any agreement, document or instrument to which City is a party or by which City is bound, (ii) any law applicable to City, or (ii) the City's Charter.

(e) Source of Funds. City has adequate sources of funds to perform the payment obligations of City under this Agreement, subject to the requirements of Section 24.15 (*Certification of Funds*).

22.3. Survival. The representations and warranties herein will survive any termination of this Agreement.

23. NOTICES.

Any notice given under this Agreement must be in writing delivered in person, by commercial courier, next business day delivery requested, or by registered, certified mail or express mail, return receipt requested, with postage prepaid, to the mailing addresses below. All notices under this Agreement will be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. For the convenience of the Parties, copies of notices may also be given by email to the email address given below but email notice will not be binding on either Party.

The effective time of a notice will not be affected by the receipt of the email copy of the notice. Any mailing address, or email address, may be changed at any time by giving written notice of the change in the manner provided above at least ten (10) days before the effective date of the change.

City:	San Francisco Municipal Transportation Agency 1 South Van Ness, 8th Floor San Francisco, CA 94103 Attn: Kerstin Magary Email: Kerstin.magary@sfmta.com
With a copy to:	Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, California 94102-4682 Attn: Real Estate & Finance Group Re: Potrero Yard Modernization Project Email: Carol.R.Wong@sfcityatty.org
Lead Developer:	Potrero Neighborhood Collective LLC 555 W Fifth Street, Suite 3150 Los Angeles, CA 90013 Attn: Stuart Marks Re: Potrero Modernization Project Email: Stuart.Marks@plenarygroup.com
With a copy to:	Brian Middleton Potrero Neighborhood Collective LLC 555 W Fifth Street, Suite 3150 Los Angeles, CA 90013 Email: Brian.Middleton@plenarygroup.com
With a copy to:	Chris Jauregui Potrero Neighborhood Collective LLC 555 W Fifth Street, Suite 3150 Los Angeles, CA 90013 Email: Chris.Jauregui@plenarygroup.com

24. CITY REQUIREMENTS

Lead Developer has reviewed, understands, and is ready, willing, and able to comply with the terms and conditions of this Article 24 (*City Requirements*), which summarizes special City requirements as of the Effective Date, each of which is fully incorporated by reference. Lead Developer acknowledges that City requirements in effect when any Transaction Documents are executed will be incorporated into the Transaction Documents, as applicable, and will apply to all contractors, subcontractors, and any other Lead Developer Related Entities, as applicable. City requirements of general applicability will apply to the Project even if not summarized below.

The following summary is for Lead Developer's convenience only; Lead Developer is obligated to become familiar with all applicable requirements and to comply with them fully as they are amended from time to time. City ordinances are currently available on the web at www.sfgov.org. References to specific laws in this Article 24 (*City Requirements*) refer to the San Francisco Municipal Code unless specified otherwise. Capitalized terms used in this Article 24 (*City Requirements*) and not defined in this Agreement will have the meanings assigned to them in the applicable Section of the San Francisco Municipal Code.

24.1. Nondiscrimination in City Contracts and Benefits Ordinance.

(a) Non-Discrimination in Contracts. Lead Developer shall comply with the provisions of Chapters 12B and 12C of the Administrative Code, which are incorporated into this Agreement by this reference. Lead Developer shall incorporate by reference in all Subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the Administrative Code and shall require all subcontractors to comply with such provisions. Lead Developer is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

(b) Non-Discrimination in the Provision of Employee Benefits. Lead Developer does not as of the date of this Agreement, and will not during the PDA Term, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

24.2. Requiring Health Benefits for Covered Employees. All undefined, initially-capitalized terms used in this Section 24.2 (*Requiring Health Benefits for Covered Employees*) shall have the meanings given to them in Administrative Code Chapter 12Q (the "**HCAO**"). If the HCAO applies to this Agreement, Lead Developer shall comply with the requirements of the HCAO. For each Covered Employee, Lead Developer shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Lead Developer chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission. Information about and the text of the HCAO, as well as the Health Commission's minimum standards, is available on the web at http://sfgov.org/olse/hcao. Lead Developer is subject to the enforcement and penalty provisions in the HCAO. Any Subcontract entered into by Lead Developer shall require any Subcontractor with 20 or more employees to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section 24.2 (*Requiring Health Benefits for Covered Employees*).

24.3. Minimum Compensation Ordinance. If San Francisco Administrative Code Chapter 12P applies to this Agreement, Lead Developer shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P

("**Chapter 12P**"), including a minimum hourly gross compensation, compensated time off, and uncompensated time off. Lead Developer is subject to the enforcement and penalty provisions in Chapter 12P. Information about and the text of the Chapter 12P is available on the web at http://sfgov.org/olse/mco. Lead Developer is required to comply with all of the applicable provisions of Chapter 12P, irrespective of the listing of obligations in this Section 24.3 (*Minimum Compensation Ordinance*). By signing and executing this Agreement, Lead Developer certifies that it complies with Chapter 12P.

24.4. Prevailing Rate of Wages and Working Conditions.

(a) Covered Services. Lead Developer agrees it will pay, and require the Lead Developer Agents to pay, the Prevailing Rate of Wages for any Project construction, asset management work or other covered work or improvements performed by Lead Developer or the Lead Developer Agents ("**Covered Services**"), including any trade work for the Project performed by or for Lead Developer during the PDA Term. The provisions of Section 6.22(e) of the San Francisco Administrative Code are incorporated as provisions of this Agreement as if fully set forth herein and will apply to any Covered Services performed by Lead Developer and the Lead Developer Agents.

(b) Determining the Prevailing Rate of Wages. The latest Prevailing Rate of Wages for private employment on public contracts as determined by the San Francisco Board of Supervisors and the Director of the California Department of Industrial Relations, as such prevailing wage rates may be changed during the PDA Term, are hereby incorporated as provisions of this Agreement. Copies of the Prevailing Rate of Wages as fixed and determined by the Board of Supervisors are available from the Office of Labor Standards and Enforcement ("**OLSE**") and on the Internet at http://www.dir.ca.gov/DLSR/PWD and http://sfgov.org/olse/prevailing-wage. Lead Developer agrees that it and the Lead Developer Agents will pay no less than the Prevailing Rate of Wages, as fixed and determined by the Board of Supervisors, to all workers who perform Covered Services and are employed by Lead Developer or the Lead Developer Agents.

(c) Subcontract Requirements. As required by Section 6.22(e)(5) of the San Francisco Administrative Code, Lead Developer shall insert in every subcontract or other arrangement, which it may make for the performance of Covered Services under this Agreement, a provision that said subcontractor shall pay to all persons performing labor in connection with Covered Services under said subcontract or other arrangement not less than the highest general the Prevailing Rate of Wages as fixed and determined by the Board of Supervisors for such labor or services.

(d) Posted Notices. As required by Section 1771.4 of the California Labor Code, Lead Developer shall post job site notices prescribed by the California Department of Industrial Relations ("**DIR**") at all job sites where Covered Services are to be performed.

(e) Payroll Records. As required by Section 6.22(e)(6) of the San Francisco Administrative Code and Section 1776 of the California Labor Code, Lead Developer shall keep or cause to be kept complete and accurate payroll records for all trade workers performing Covered Services. Such records shall include the name, address and social security number of each worker who provided Covered Services on the project, including apprentices, his or her classification, a general description of the services each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every subcontractor who shall undertake the performance of any part of Covered Services shall keep a like record of each person engaged in the execution of Covered Services under the subcontract. All such

records shall at all times be available for inspection of and examination by City and its authorized representatives and the DIR.

(f) Certified Payrolls. Certified payrolls shall be prepared pursuant to San Francisco Administrative Code Section 6.22(e)(6) and California Labor Code Section 1776 for the period involved for all employees, including those of subcontractors, who performed labor in connection with Covered Services. Lead Developer and each subcontractor performing Covered Services shall submit certified payrolls to City and to the DIR electronically. Lead Developer shall submit payrolls to City via the reporting system selected by City. The DIR will specify how to submit certified payrolls to it. City will provide basic training in the use of the reporting system at a scheduled training session. Lead Developer and all subcontractors that will perform Covered Services must attend the training session. Lead Developer and applicable subcontractors shall comply with electronic certified payroll requirements (including training) at no additional cost to City.

(g) Compliance Monitoring. Covered Services to be performed under this Agreement are subject to compliance monitoring and enforcement of prevailing wage requirements by the DIR and/or the OLSE. Lead Developer and any subcontractors performing Covered Services will cooperate fully with the DIR and/or the OLSE and other City employees and agents authorized to assist in the administration and enforcement of the prevailing wage requirements, and agrees to take the specific steps and actions as required by Section 6.22(e)(7) of the San Francisco Administrative Code. Steps and actions include but are not limited to requirements that: (i) Lead Developer will cooperate fully with the Labor Standards Enforcement Officer and other City employees and agents authorized to assist in the administration and enforcement of the Prevailing Wage requirements and other labor standards imposed on Lead Developer by the Charter and Chapter 6 of the San Francisco Administrative Code; (ii) Lead Developer agrees that the Labor Standards Enforcement Officer and his or her designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of Lead Developer, employee time sheets, inspection logs, payroll records and employee paychecks; (iii) the contractor shall maintain a sign-in and sign-out sheet showing which employees are present on the job site; (iv) Lead Developer shall prominently post at each job-site a sign informing employees that the project is subject to the City's Prevailing Wage requirements and that these requirements are enforced by the Labor Standards Enforcement Officer; and (v) that the Labor Standards Enforcement Officer may audit such records of Lead Developer as he or she reasonably deems necessary to determine compliance with the Prevailing Wage and other labor standards imposed by the Charter and this Chapter and applicable to this Agreement. Failure to comply with these requirements may result in penalties and forfeitures consistent with analogous provisions of the California Labor Code, including Section 1776(g), as amended from time to time.

(h) Remedies. Should Lead Developer, or any subcontractor who shall undertake the performance of any Covered Services, fail or neglect to pay to the persons who perform Covered Services under this Agreement, subcontract or other arrangement for the Covered Services, the general prevailing rate of wages as herein specified, Lead Developer shall forfeit, and in the case of any subcontractor so failing or neglecting to pay said wage, Lead Developer and the subcontractor shall jointly and severally forfeit, back wages due plus the penalties set forth in San Francisco Administrative Code Section 6.22 (e) and/or California Labor Code Section 1775. City, when certifying any payment, which may become due under the terms of this Agreement, shall deduct from the amount that would otherwise be due on such payment the amount of said forfeiture.

24.5. Local Hire. Lead Developer agrees to comply with the Local Hiring Policy for Construction set forth in San Francisco Administrative Code Chapter 82 (the "**Local Hiring Policy**") in the performance of any Work that is construction, asset management, and other

covered work or improvement ("**Covered Work**"). Before starting any Covered Work, Lead Developer shall contact OEWD to verify the Local Hiring Policy requirements that apply to the Covered Work and Lead Developer shall comply with all such requirements. Failure to comply shall be deemed a breach of this Agreement, and Lead Developer may also be liable for penalties as set forth in the Local Hiring Policy. Without limiting the foregoing:

(a) For Covered Projects that exceed $750,000, Lead Developer shall comply with the applicable mandatory participation levels for Project Work Hours performed by Local Residents, Disadvantaged Workers, and Apprentices as set forth in Section 6.22(G)(4).

(b) For Covered Projects that exceed $1,000,000, Lead Developer shall prepare and submit to OEWD for approval a local hiring plan as set forth in Section 6.22(G)(6).

(c) Lead Developer shall comply with the applicable record keeping and reporting requirements and shall cooperate in City inspections and audits for compliance with the Local Hiring Policy.

Any capitalized term used in this Section 24.5 (*Local Hire*) that is not defined will have the meaning given to such term in the Local Hiring Policy.

24.6. First Source Hiring; SFMTA Trainee Hiring Program.

(a) First Source Hiring Program. Lead Developer must comply with the First Source Hiring Program requirements for the Work it performs under this Agreement set forth in the attached Attachment 2 and comply with the requirements of all of the provisions of Chapter 83 of the San Francisco Administrative Code for any Covered Work. Lead Developer is subject to the enforcement and penalty provisions in Chapter 83 for that work. Lead Developer and the Development Team Members must hire a minimum number of professional service trainees in the area of that party's expertise in any Covered Work. These hires count toward the First Source Hiring Program requirements. Trainees may be obtained through the City's One Stop Employment Center, which works with various employment and job training agencies/organizations or other employment referral source.

(b) SFMTA Trainee Hiring Program. As part of the SFMTA Employment Training Program, City requires that Lead Developer cause a minimum number of professional service trainees in the area of the expertise of Lead Developer or the Development Team members to be hired during the PDA Term. The Project Agreement and the HCC Agreements also must require the Principal Project Company and the Housing Project Company, respectively, to cause a minimum number of professional service trainees in the area of the expertise of the Principal Project Company and the Housing Project Company to be hired during the term of any agreement between City and Principal Project Company, and City and any Housing Project Company, for the Project. If a person hired by Lead Developer, a Development Team member, the Principal Project Company, or a Housing Project Company for the Project through the First Source Hiring Program also meets the trainee requirements described below, that person will be counted toward these trainee hiring requirements. Trainees may be obtained through the City's One Stop Employment Center, which works with various employment and job training agencies/organizations or other employment referral source.

Lead Developer must cause at least four (4) trainees to be hired during the PDA Term by the times and for the areas specified in the attached Attachment 1. Lead Developer must cause trainees for any professional services performed under any Early Works Agreement to be hired during the term of those agreements, using no less than the number of trainees required under the SFMTA Trainee Hiring Program (based on the projected cost of professional services under the applicable agreement). Any agreement between the Principal Project

Company and City, or between a Housing Project Company and City, for the Project, including the Project Agreement, and the HCC Agreement, must require that during the term of that agreement, the Principal Project Company and the Housing Project Company, respectively, cause trainees to be hired for any professional services performed for the Project under that agreement, using no less than the number of trainees required by the SFMTA Trainee Hiring Program (based on the projected cost of professional services under the applicable agreement).

The following requirements apply to the trainees:

1. The trainee must be hired by the party providing professional services for the Project.

2. No trainee may be counted towards meeting more than one contract requirement. For example, if City and Lead Developer enter into the PDA and an Early Works Agreement, any trainee hired for the PDA services would not count toward the trainee hiring requirement for the Early Works Agreement.

3. A trainee must meet enrollment qualifications established under the City's First Source Hiring Program as follows:

a. "Qualified" with reference to an economically disadvantaged individual shall mean an individual who meets the minimum bona fide occupational qualifications provided by the prospective employer to the San Francisco Workforce Development System in the job availability notices required by the First Source Hiring Program.

b. "Economically disadvantaged individual" shall mean an individual who is either (i) eligible for services under the Workforce Investment Act of 1988 (29 U.S.C. 2801 et seq.), as determined by the San Francisco Private Industry Council; or (ii) designated "economically disadvantaged" by the FS First Source Hiring Program HP administration, which means an individual who is at risk of relying upon, or returning to, public assistance.

c. "On-the-job training" means the hiring party hire the trainee on a full-time basis for at least 12 months or on a part-time basis for 24 months (using the full-time or part-time definition of the employer hiring that trainee), with prior approval offering him/her on-the-job training that allows the trainee to progress on a career path.

4. Before a trainee is hired, Lead Developer, the Principal Project Company, or the Housing Project Company, as applicable, shall submit for City's approval a description and summary of training proposed for that trainee, along with the rate of pay for the position.

5. The trainee's commitment does not require that he/she is used only on this Project; the trainee may also be used on other Lead Developer, Principal Project Company, or Housing Project Company projects that may be appropriate for the trainee's skill development.

Lead Developer must work with the SFMTA Employment Training Program during the PDA Term to develop a trainee plan (the "**PA Trainee Plan**") that will apply to the term of any agreement between the Principal Project Company and City for the Infrastructure Facility, and to the term of any agreement between Housing Project Company and City for the Housing and Commercial Component, and those agreements will include the obligation to hire trainees as described in the PA Trainee Plan.

24.7. Prohibition on Use of Public Funds for Political Activity. In performing the Work, Lead Developer shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by City for this Agreement from being expended to

participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Lead Developer is subject to the enforcement and penalty provisions in Chapter 12G.

24.8. Consideration of Salary History. Lead Developer shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." Lead Developer is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Lead Developer is subject to the enforcement and penalty provisions in Chapter 12K. Information about and the text of Chapter 12K is available on the web at https://sfgov.org/olse/consideration-salary-history. Lead Developer is required to comply with all of the applicable provisions of 12K, irrespective of the listing of obligations in this Section 24.8 (*Consideration of Salary History*).

24.9. Consideration of Criminal History in Hiring and Employment Decisions.

(a) Lead Developer agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("**Chapter 12T**"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at http://sfgov.org/olse/fco. Lead Developer is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section 24.9 (*Consideration of Criminal History in Hiring and Employment Decisions*). Capitalized terms used in this Section 24.9 (*Consideration of Criminal History in Hiring and Employment Decisions.*) and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

(b) The requirements of Chapter 12T shall only apply to a Lead Developer's or its Agent's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

24.10. Resource Efficiency Requirements. The Project will be subject to Chapter 7 of the San Francisco Environment Code. Accordingly, the Project must meet certain resource efficient requirements. Lead Developer agrees that it will design the Project to comply with Chapter 7 of the San Francisco Environment Code, as may be amended from time to time, or any similar law.

24.11. MacBride Principles Northern Ireland. City urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

24.12. Notification of Limitations on Contributions. Lead Developer acknowledges its obligations under Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date City approves the contract. The prohibition on contributions applies to (a) each prospective party to the contract, (b) each member of the contractor's board of directors, the contractor's chairperson, chief executive officer, chief financial officer and chief operating officer, (c) any person with an ownership interest of more than ten percent (10%) in the contractor, (d) any subcontractor listed in the bid or contract, and (e) any committee that is sponsored or controlled by the contractor. Lead Developer certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted the Proposal, and has provided the names of the persons required to be informed to City.

24.13. Sunshine Ordinance. In accordance with Administrative Code Section 67.24(e), contracts, contractors' bids, leases, agreements, responses to requests for proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided to City that is within the scope of this Section 24.13 (*Sunshine Ordinance*) will be made available to the public upon request.

24.14. Conflicts of Interest. Lead Developer acknowledges that it is familiar with the provisions of San Francisco Charter, Article III, Chapter 2, Section 15.103 of the City's Campaign and Governmental Conduct Code, and California Government Code Sections 87100 *et seq*. and Sections 1090 *et seq*., certifies that it does not know of any facts that would constitute a violation of these provisions, and agrees that if Lead Developer becomes aware of any such fact during the PDA Term, Lead Developer will notify City immediately.

24.15. Certification of Funds. This Agreement is subject to the fiscal provisions of the City's Charter and the budget decisions of its Mayor and Board of Supervisors, each acting in its sole discretion. No funds will be available hereunder until prior written authorization certified by the City's Controller. The Controller cannot authorize payments unless funds have been certified as available in the budget or in a supplemental appropriation. This Agreement shall automatically terminate, without liability to City, if funds are not properly appropriated or certified by the Controller. City's obligations hereunder shall never exceed the amount certified by the Controller for the purpose and period stated in such certification. City, its employees and officers are not authorized to offer or promise any additional funding that would exceed the Termination Payment described in Section 16.3 (*Termination Payments*). Such additional funding requires lawful approval and certification by the Controller. Without such lawful approval and certification, City shall not be required to provide such additional funding.

24.16. Art Commission Design Review; Art Enrichment Allocation. The Facility will be subject to the requirements of San Francisco Charter Section 5.103 and Administrative Code Section 3.19. Lead Developer must work with the San Francisco Arts Commission, in

consultation with the City, to design and build the Facility in compliance with those requirements.

25. DISPUTE RESOLUTION PROCEDURES

25.1. General. All Disputes shall be subject to the Dispute Resolution Procedures set forth in this Article 25 (*Dispute Resolution Procedures*), except for any decision, determination, judgment or other action of City that the Agreement states is subject to City's sole or absolute discretion (in which case the decision, determination, judgment or other action shall be final, binding and not subject to dispute resolution and shall not constitute a basis for any claim for additional monetary compensation, time extension or any other relief); and except for any other matter for which the Agreement expressly provide otherwise. The Parties agree to use reasonable efforts to resolve any Disputes under this Article 25 (*Dispute Resolution Procedures*) as quickly as possible.

25.2. Claims. Any claim by Lead Developer must be submitted to City in writing within ten (10) days after the occurrence of the event or condition giving rise to the potential claim, and the written submittal shall include the reasons Lead Developer believes the claim is valid and shall identify any additional compensation and/or time claimed, the elements of the Work affected by the event or condition giving rise to the claim, Lead Developer's proposed interpretation of Agreement terms, and other legal, equitable, or contractual relief claimed. Lead Developer shall also furnish any additional information relating to the claim as City may require to evaluate the claim. Failure to comply with these requirements shall constitute a waiver by Lead Developer of any right, equitable or otherwise, to bring any such claim against City.

25.3. City Response to Lead Developer's Claim. Within thirty (30) days of receipt of a claim, City shall render a decision or the Parties shall mutually agree to a date by which City will render a decision with respect to the claim. If no decision is made and no date is agreed within thirty (30) days of City's receipt of the claim, the claim shall be deemed rejected by City.

25.4. Informal Dispute Resolution. If Lead Developer wishes to dispute City's decision under Section 25.3 (*City Response to Lead Developer's Claim*) (including a deemed rejection of a claim), or if a Dispute arises that does not involve a claim, the Parties shall use their best efforts to resolve such Dispute by submission of the Dispute to the City Project Director and the LD Project Director for resolution. If a Dispute cannot be resolved at this administrative level, then the Parties shall present the Dispute to the Director of Transportation or his duly authorized representative and to an equivalent executive officer with the Lead Developer for resolution. If the Dispute cannot be resolved at this executive level, the Parties may mutually agree to proceed in accordance with Section 25.5 (*Mediation*).

25.5. Mediation.

(a) Mediation Request. A Party may request non-binding mediation ("**Mediation**") by delivering a written request for Mediation ("**Mediation Request**") to the other Party. The Mediation Request must include a summary of the Dispute and the position of the Party submitting the request, together with any backup information or documentation that Party elects to provide. Within fifteen (15) days after receipt of the Mediation Request, the responding Party may agree to meet and confer promptly with the requesting Party to attempt to resolve the Dispute. In the absence of such agreement, or if the meet and confer does not resolve the matter promptly, the Party who requested Mediation may submit the Dispute for Mediation to JAMS in the City and County of San Francisco.

(b) Selection of Mediator and Process. The Parties will cooperate with JAMS and with one another in selecting a mediator from a JAMS panel of neutrals and in scheduling

the Mediation proceedings as quickly as feasible. The Parties agree to participate in the Mediation in good faith. Neither Party may commence or if commenced, continue, a civil action with respect to a Dispute submitted to Mediation until after the completion of the initial Mediation session. The initial Mediation session must occur within 30 days of the date that the Dispute was submitted for Mediation to JAMS, or within such other time period as may be agreed by the Parties. The Parties will each pay their own costs and expenses in connection with the Mediation, and the Party that requested Mediation will pay all costs and fees of the mediator. Without limiting the foregoing, the provisions of Sections 703.5 and 1115 through 1128 of the California Evidence Code, inclusive, will apply in connection with any Mediation.

(c) Use of Evidence. The provisions of Sections 1152 and 1154 of the California Evidence Code will apply to all settlement communications and offers to compromise made during the Mediation.

(d) Other Remedies. If the Dispute cannot be resolved through Mediation, each Party may pursue any rights and remedies available at law or under this Agreement.

25.6. Continuing Performance. Lead Developer shall proceed diligently with performance of this Agreement pending resolution of any Dispute, appeal, or action ensuing under this Agreement, including all Work that is the subject of any Dispute, except for any performance City determines in writing should be delayed, suspended, or terminated as a result of such Dispute. City will continue to perform its obligations for undisputed amounts.

26. MISCELLANEOUS

26.1. Compliance with Law. Lead Developer shall keep itself fully informed of the City's Charter, codes, ordinances and duly adopted rules and regulations of the City and of all state, and federal laws in any manner affecting the Project or the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time. To the extent the Finance Plan approved by City includes any federal or state funding that prohibit any of City's contracting requirements in Article 24 (*City Requirements*), City agrees such requirements will be waived.

26.2. California Law. This Agreement must be construed and interpreted in accordance with the laws of the State of California and the City's Charter.

26.3. Entire Agreement. This Agreement contains all of the representations and the entire agreement between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to its subject matter are superseded by this Agreement. No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement may be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this Agreement.

26.4. Amendments. No amendment to this Agreement will be valid unless it is in writing and signed by all of the Parties.

26.5. Severability. Except as otherwise specifically provided in this Agreement, a judgment or court order invalidating any provision of this Agreement, or its application to any person, will not affect any other provision of this Agreement or its application to any other person or circumstance, and the remaining portions of this Agreement will continue in full force and effect, unless enforcement of this Agreement as invalidated would be unreasonable or

grossly inequitable under all of the circumstances or would frustrate the purposes of this Agreement.

26.6. No Party Drafter; Captions. The provisions of this Agreement will be construed as a whole according to their common meaning and not strictly for or against any party in order to achieve the objectives and purposes of the Parties. Any caption preceding the text of any Section, paragraph or subsection or in the table of contents is included only for convenience of reference and will be disregarded in the construction and interpretation of this Agreement.

26.7. Interpretation. Whenever required by the context, the singular shall include the plural and vice versa, the masculine gender shall include the feminine or neuter genders, and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waive" applies to "waiver," waived," waiving"). In this Agreement, the terms "include," "included" and "including" will be deemed to be followed by the words "without limitation" or "but not limited to." Provisions in this Agreement relating to number of days are calendar days unless otherwise specified, but if the last day of any period to give notice, reply to a notice, or to undertake any other action does not occur on a Business Day, then the last day for undertaking the action or giving or replying to the notice will be the next succeeding Business Day.

26.8. Waiver. None of the following will constitute a waiver of any breach under, or of City's right to demand strict compliance with, this Agreement: (a) City's failure to insist upon Lead Developer's strict performance of any obligation under this Agreement; or (b) City's failure to exercise any right, power, or remedy arising from Lead Developer's failure to perform its obligations for any length of time. City's consent to or approval of any act by Lead Developer requiring City's consent or approval may not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act by Lead Developer. Any waiver by City of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

26.9. No Brokers. Each Party represents that it has not engaged a broker or finder in connection with this Agreement or any of the Transaction Documents.

26.10. Time is of the Essence. Time is of the essence for each provision of this Agreement, including performance of the Performance Milestones.

26.11. No Recording. Neither this Agreement nor any memorandum or short form thereof may be recorded by Lead Developer.

26.12. Notification of Legal Requests. Lead Developer shall immediately notify City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests ("**Legal Requests**") related to any City Confidential Information or City Data or that in any way might reasonably require access to the City Confidential Information or City Data, and in no event later than 24 hours after it receives the Legal Request. Lead Developer shall not respond to Legal Requests without first notifying City other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement. Lead Developer shall retain and preserve the City Confidential Information and City Data in accordance with the City's instruction and requests, including, without limitation, any retention schedules and/or litigation hold orders provided by the City to Lead Developer, independent of where the City Confidential Information or City Data is stored.

26.13. Joint and Several Liability. If Lead Developer is a joint venture or partnership, each venturer or partner will be jointly and severally liable for Lead Developer's obligations under this Agreement and City shall have no obligation to provide written notice of any Lead Developer default or failure under this Agreement to each venturer or partner.

26.14. Relationship of the Parties. Lead Developer, the Lead Developer Agents and their employees (collectively, the "**Developer Parties**") are and shall at all times be and remain independent from City and none shall be deemed to be an agent or an employee of City. Nothing in this Agreement shall be construed to place the Parties in the relationship of partners or joint ventures. Neither Party shall have any right or power to obligate or bind the other in any manner whatsoever. This Agreement is not intended nor shall it be construed to create any third-party beneficiary rights in any third party. City is not a fiduciary and has no special responsibilities to Lead Developer beyond the obligations expressly set forth in this Agreement.

26.15. Independent Contractor. Lead Developer acknowledges and agrees that at all times, each of the Developer Parties shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which they perform the services and work Lead Developer is required to perform under this Agreement. Lead Developer agrees that none of the Developer Parties will (i) represent or hold themselves out to be employees of the City at any time, (ii) have employee status with City, and (iii) be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Lead Developer acknowledges and agrees it is liable for the acts and omissions of itself and any of the other Developer Parties. Lead Developer shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to the performance of any the Work by any of the Developer Parties. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and any of the Developer Parties. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of the Work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which any of the Developer Parties performs work under this Agreement. Lead Developer agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Lead Developer's compliance with this Section 26.15 (*Independent Contractor*). If City determines that Lead Developer or any of the other Developer Parties is not performing in accordance with the requirements of this Section 26.15 (*Independent Contractor*), City shall provide Lead Developer with written notice of that deficiency. Lead Developer shall remedy the deficiency within five (5) Business Days of Lead Developer's receipt of such notice; provided, however, that if City believes that an action of Lead Developer or any of the other Developer Parties warrants immediate remedial action by Lead Developer, City shall contact Lead Developer and provide Lead Developer in writing with the reason for requesting such immediate action. Lead Developer's failure to timely remediate, or cause any of the other Developer Parties to remediate, the deficiency described in the writing shall be a breach of Lead Developer's obligations under this Agreement.

26.16. Counterpart Signatures and Electronic Delivery. This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. A signature delivered on any counterpart by facsimile or other electronic means shall for all purposes be deemed to be an original signature to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

Lead Developer and City have executed this Agreement as of the last date written below.

LEAD DEVELOPER: POTRERO NEIGHBORHOOD COLLECTIVE LLC, a limited liability company organized under the laws of the State of Delaware.

By: _____
Name: _____
Its: _____

Date: _____

CITY: CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the San Francisco Municipal Transportation Agency

By: _____
Jeffrey Tumlin
Director of Transportation

Date: NOVEMBER 2, 2022

APPROVED AS TO FORM:

David Chiu, City Attorney

By: _____
Carol Wong
Deputy City Attorney

Lead Developer and City have executed this Agreement as of the last date written below.

LEAD DEVELOPER: POTRERO NEIGHBORHOOD COLLECTIVE LLC, a limited liability company organized under the laws of the State of Delaware.

By: _____

Name: Stuart Marks

Its: Vice President

Date: October 24, 2022

CITY: CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the San Francisco Municipal Transportation Agency

By: _____

Jeffrey Tumlin
Director of Transportation

Date: _____

APPROVED AS TO FORM:

David Chiu, City Attorney

By: _____

Carol Wong
Deputy City Attorney

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FIRST AMENDMENT TO PREDEVELOPMENT AGREEMENT

This First Amendment to Predevelopment Agreement dated for reference purposes only as of May 29, 2024 (this "**Amendment**"), is by and between the City and County of San Francisco ("**City**"), a municipal corporation acting by and through the San Francisco Municipal Transportation Agency ("**SFMTA**"), and Potrero Neighborhood Collective LLC, a limited liability company organized under the laws of the State of Delaware ("**Lead Developer**"). City and Lead Developer are also each referred to as a "**Party**" and together referred to as the "**Parties**" below.

RECITALS

A. City and Lead Developer are parties to a Predevelopment Agreement dated for reference purposes only as of November 2, 2022 (the "**Original Agreement**") for the predevelopment of the Project (as defined in the Original Agreement). All undefined, initially-capitalized terms used in this Amendment shall have the meanings given to them in the Original Agreement, and the Original Agreement, as modified by this Amendment, shall be referred to below as the "**Modified Agreement**".

B. The Parties wish to modify the Original Agreement on the terms and conditions below.

AGREEMENT

ACCORDINGLY, in consideration of the matters described in the foregoing Recitals, the agreements set forth in this Amendment and other good and valuable consideration, the receipt and adequacy of which are acknowledged, City and Lead Developer agree as follows:

1. Changed Definitions. The following definitions in Section 1 of the Original Agreement are modified as follows:

(a) Affordable Housing Developer. Section 1.6 of the Original Agreement is amended in its entirety to read as follows:

> "1.6. "Affordable Housing Developer" means, together, Mission Economic Development Agency and Tabernacle Community Development Corp."

(b) Affordable Units. Section 1.7 of the Original Agreement is amended in its entirety to read as follows:

> "1.7. "Affordable Units" means the affordable units in the Proposed HCC, which are comprised of two low income projects (a family housing project facing Bryant Street and a family housing project along the southwestern corner of the Facility, with each containing between 110-191 units), and one moderate income project (containing approximately 218 units), subject to any modification pursuant to Section 9.2 (HCC Change) or Section 9.3 (Changes Proposed by City)."

(c) Facility. Section 1.77 of the Original Agreement is amended in its entirety to read as follows:

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"1.77. "Facility" collectively means the Bus Yard Component, Housing and Commercial Component, Common Infrastructure, and at City's election, an alternative podium paratransit component."

(d) Housing Developer. Section 1.107 of the Original Agreement is amended in its entirety to read as follows:

"1.107. "Housing Developer" means Plenary Potrero Housing LLC, a California limited liability company."

(e) Outside Delivery Date. Section 1.153 of the Original Agreement is amended in its entirety to read as follows:

"1.153. "Outside Delivery Date" means November 30, 2029.

(f) Predevelopment Period. Section 1.171 of the Original Agreement is amended in its entirety to read as follows:

"1.171."Predevelopment Period" means the period between the Commencement Date and October 18, 2024, as may be extended by in accordance with Section 3.1 of the Original Agreement.'

2. Infrastructure Facility.

(a) Timing for IF Financial Close. All references in the Original Agreement requiring IF Financial Close no later than November 30, 2024, are amended to require IF Financial Close no later than May 30, 2025.

(b) Timing for Substantial Completion of Infrastructure Facility. All references in Appendix D to the Original Agreement to November 30, 2027, are amended to be November 30, 2029.

3. Housing and Commercial Component.

(a) Timing for Substantial Completion. All references in the Original Agreement that require Substantial Completion of the Housing and Commercial Component no later than one year after Substantial Completion of the Infrastructure Facility are amended to require that (i) construction of any Housing and Commercial Component housing project to be built on the completed Infrastructure Facility roof deck (a "Podium Housing Project") commence no later than three years after Substantial Completion of the Infrastructure Facility, as may be extended by City in its sole discretion, and (ii) construction of any Housing and Commercial Component project to be located adjacent to the Bus Yard Component and along Bryant Street commence no later than five years after IF Financial Close, as may be extended by City in its sole discretion.

(b) Changes to HCC Interface Requirements.

(i) Section 6.9(a)(iv)(A)(4) is deleted in its entirety; provided, however, that Podium Housing Project construction activities occurring above the completed Infrastructure Facility roof deck must not negatively impact the roof deck or the SFMTA operations being performed within the Infrastructure Facility.

(ii) Section 6.9(a)(iv)(B) of the Original Agreement is amended in its entirety to read as follows:

"B. To ensure that Podium Housing construction activities will not negatively impact the roof deck or SFMTA operations within the Infrastructure Facility, on

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or before the sixtieth (60th) day immediately following City's issuance (if any) of Notice to Proceed #3, Lead Developer shall deliver the following draft materials (collectively, the "Podium Housing Pre-Construction Materials") to City:

1. Structural analysis and designs that address potential impact loads from accidental loading on the completed Infrastructure Facility roof deck;

2. A Podium Housing Project podium housing permitting plan and construction plan (together, the "Podium Permitting and Construction Plans") that address the nature of phased vertical delivery (including the proposed laydown and staging areas, crane use, phasing, delivery of materials, hoisting) and demonstrate how the Podium Housing Projects will be constructed on the completed Infrastructure Facility roof deck in a manner that avoids damage to the Infrastructure Facility and interference with Infrastructure Facility operations.

3. Mitigation and monitoring measures (the "Podium Mitigation and Monitoring Measures") that will objectively track any impact from the construction of the Podium Housing Projects to the Infrastructure Facility or on Infrastructure Facility operations and describe the temporary and permanent sensors that will be used within and throughout the Infrastructure to track vibration and noise impacts from construction of the Podium Housing Projects."

(C) City shall provide Lead Developer with its comments to the Podium Housing Pre-Construction Materials within fifteen (15) Business Days of receiving all of the draft Podium Housing Pre-Construction Materials from Lead Developer. Lead Developer shall further develop the Podium Housing Pre-Construction Materials to incorporate City's comments and finalize them in a form approved by City. Lead Developer must obtain City's approval to the final form of the Podium Housing Pre-Construction Materials on or before the ninetieth (90th) day immediately following City's issuance (if any) of Notice to Proceed #3. The HCC Agreement shall require that all Podium Housing Project construction on the completed roof deck of the Infrastructure Facility be performed in conformity and compliance with the approved Podium Permitting and Construction Plans and Podium Mitigation and Monitoring Measures."

(d) California Surplus Land Act Requirements. All references in the Original Agreement to California Government Code Section 54221(f)(1)(F)(i) and Section 54221(f)(1)(F)(ii) are amended to, respectively, California Government Code Section 54221(f)(1)(F) and Section 54221(f)(1)(G).

4. Work for Paratransit Component Alternative. Section 3.2.1 of Appendix B-2 to the Original Agreement is amended to include the requirement:

"27. Alternative paratransit component schematic design that integrates a paratransit component on the completed Infrastructure Facility roof deck and includes the spaces needed for City's paratransit operation and maintenance activities at the Facility, with access and egress from vehicular ramps extending from the Bus Yard Component onto the Infrastructure Facility roof deck, and meet the paratransit criteria in Division 3 of the Technical Requirements. The Parties anticipate that any paratransit component would be delivered pursuant to a Project Agreement change order and developed as a "Joint Development Alternative 2 (Paratransit Component)"."

5. Continuation Notice. The first sentence of Section 4.2(d)(i) of the Original Agreement is amended in its entirety to read as follows:

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"If the Floating Milestone Date occurs, then Lead Developer's obligation and authorization to perform the Work shall automatically be suspended as of the Floating Milestone Date unless City elects, in its sole discretion, to issue a Notice to Proceed for the continuation of the Work (a "Continuation Notice")."

6. Final Price Adjustment for Reprocurement Due to Unavoidable Delay or a Regulatory Appeal. Section 6.15(e)(i)) of the Original Agreement is amended in its entirety to read as follows:

"If the Parties mutually agree to extend the Predevelopment Period beyond May 30, 2025, as result of an Unavoidable Delay or a Regulatory Appeal Delay, the Parties will adjust the Final Price and modify the escalation amount set forth in FS Form A8 delivered at Performance Milestone 27A by adding the Reprocurement Amount (defined as follows), if applicable, and modifying the escalation amount given in the modified FS Form D submitted at Performance Milestone 32 to extend the assumed mid-point of construction by the number of days between May 30, 2025 and the extended date of Commercial Close. E.g., if Commercial Close occurs on June 1, 2025, the assumed mid-point of construction will be September 1, 2027. If an Unavoidable Delay or a Regulatory Appeal Delay occurs after Performance Milestone 32 and is not resolved until after the bid validity period for the Design-Build Contract for the Infrastructure Facility or the IFM Contract, the "Reprocurement Amount" shall be Lead Developer's actual costs to reprocure the Design-Build Contract for the Infrastructure Facility or IFM Contract, as applicable."

7. Change in LD Project Manager and City Project Director. Section 7.3 of the Original Agreement is amended to identify Chris Jauregui as the LD Project Manager and Chris Lazaro as the City Project Director.

8. Notices. Section 23 of the Original Agreement is amended in its entirety to read as follows:

"Any notice given under the Agreement must be in writing. Unless otherwise indicated in the Agreement, all written communications sent by the Parties may be by U.S. first class mail or email, and shall be addressed as follows:

City: San Francisco Municipal Transportation Agency
1 South Van Ness, 8th Floor
San Francisco, CA 94103
Attn: Chris Lazaro
Email: Chris.lazaro@sfmta.com

With a copy to: Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Attn: Real Estate & Finance Group
Re: Potrero Yard Modernization Project
Email: Carol.R.Wong@sfcityatty.org

Lead Developer: Potrero Neighborhood Collective LLC
633 West Fifth Street, Suite 4975
Los Angeles, CA 90013
Attn: Stuart Marks
Re: Potrero Modernization Project
Email: Stuart.Marks@plenarygroup.com

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With a copy to: Chris Jauregui
Potrero Neighborhood Collective LLC
633 West Fifth Street, Suite 4975
Los Angeles, CA 90013
Email: Chris.Jauregui@plenarygroup.com

Any notice of a City Event of Default or an LD Event of Default must be sent by (a) personal delivery, commercial courier (next business day delivery requested), or by registered, certified mail or express mail (return receipt requested, with postage prepaid) to the mailing addresses above, and (b) email to the e-mail addresses above, with the sender using the receipt notice feature. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party at least ten (10) days prior to the effective date of such change. If that address change is sent by email, the sender must specify a receipt notice."

9. No Joint Venture. Nothing in this Amendment shall be construed to place the Parties in the relationship of partners or joint ventures or to create any third-party beneficiary rights in any third party. City is not a fiduciary and has no special responsibilities to Lead Developer beyond the obligations expressly set forth in the Agreement.

10. Governing Law. This Amendment will be construed and enforced in accordance with the laws of the State of California and City's Charter.

11. Party Drafter; Captions. The provisions of this Amendment will be construed as a whole according to their common meaning and not strictly for or against any Party in order to achieve the objectives and purposes of the Parties. Any caption preceding the text of any Section, paragraph or subsection or in the table of contents is included only for convenience of reference and will be disregarded in the construction and interpretation of this Amendment.

12. Counterpart Signatures and Electronic Delivery. This Amendment may be executed in one or more counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. A signature delivered on any counterpart by DocuSign, using multifactor authentication, shall for all purposes be deemed to be an original signature to this Amendment.

13. Legal Effect; Effective Date. Except as expressly modified by this Amendment, all of the terms and conditions of the Original Agreement shall remain unchanged and in full force and effect. This Amendment shall be effective as of the date it is fully executed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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Lead Developer and City have executed this Amendment as of the last date written below.

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through
the San Francisco Municipal Transportation Agency

By: DocuSigned by: _____
5D9CA93F695F43E...
Jeffrey Tumlin
Director of Transportation

Date: 5/29/2024 | 3:41 PM PDT

APPROVED AS TO FORM:

David Chiu, City Attorney

By: DocuSigned by: Carol R Wong _____
E19655437042457...
Carol Wong
Deputy City Attorney

LEAD DEVELOPER:

POTRERO NEIGHBORHOOD COLLECTIVE
LLC, a limited liability company organized under
the laws of the State of Delaware.

By: DocuSigned by: Stuart Marks _____
23B2D001A46F495...
Stuart Marks
Vice President

Date: 5/28/2024 | 7:31 PM PDT

SECOND AMENDMENT TO PREDEVELOPMENT AGREEMENT

This Second Amendment to Predevelopment Agreement dated for reference purposes only as of October 1, 2024 (this "**Second Amendment**"), is by and between the City and County of San Francisco ("**City**"), a municipal corporation acting by and through the San Francisco Municipal Transportation Agency ("**SFMTA**"), and Potrero Neighborhood Collective LLC, a limited liability company organized under the laws of the State of Delaware ("**Lead Developer**"). City and Lead Developer are also each referred to as a "**Party**" and together referred to as the "**Parties**" below.

RECITALS

A. City and Lead Developer executed a Predevelopment Agreement dated for reference purposes only as of November 2, 2022 (the "**Original Agreement**") for the predevelopment of the Project (as defined in the Original Agreement), as amended by a First Amendment to Predevelopment Agreement dated for reference purposes only as of May 29, 2024 ("**First Amendment**"). All undefined, initially-capitalized terms used in this Second Amendment shall have the meanings given to them in the Original Agreement, as modified by the First Amendment (the "**Modified Agreement**").

B. The Parties wish to amend the Modified Agreement on the terms and conditions below.

AGREEMENT

ACCORDINGLY, in consideration of the matters described in the foregoing Recitals, the agreements set forth in this Second Amendment and other good and valuable consideration, the receipt and adequacy of which are acknowledged, City and Lead Developer agree as follows:

1. Extended Dates for Predevelopment Period and IF Financial Close.

   (a) Section 1.171 of the Original Agreement is amended in its entirety to read as follows:

   "1.171. "Predevelopment Period" means the period between the Commencement Date and July 31, 2025, as may be extended by in accordance with Section 3.1 of the Original Agreement."

   (b) All references in the Modified Agreement requiring IF Financial Close no later than May 31, 2025, are amended to be July 31, 2025.

2. Increase in Termination Payment. The Modified Agreement requires Lead Developer to perform the predevelopment work specified in the Modified Agreement, as well as all other predevelopment activities required to allow for Substantial Completion of the Infrastructure Facility within the Fixed Budget Limit no later than the Outside Delivery Date. Extending the Predevelopment Period will increase the Lead Developer's costs to perform this work and these activities. Lead Developer also incurred additional costs to incorporate all City Proposed Changes, including the City Proposed Change described in a letter dated as of August 23, 2024, which increased the number of buses that would be stored and maintained at the Infrastructure Facility in the designs Lead Developer is required to submit to the SFMTA, and to assist the SFMTA in seeking federal funding for the Project. Accordingly, the Parties agree to modify the financial terms in the Original Agreement as follows.

(a) The first paragraph of Section 16.3 of the Original Agreement is amended in its entirety to read as follows:

> "16.3. Termination Payments. If this Agreement terminates before Commercial Close for any reason, City will have no obligation to reimburse or otherwise pay Lead Developer for any of Lead Developer's Project costs or expenses. Notwithstanding anything to the contrary in the foregoing sentence, City shall, in exchange for an executed release from Lead Developer satisfactory in form and substance to City, make the following payments (each, a "Termination Payment"), as applicable, to Lead Developer if this Agreement terminates before Commercial Close for any reason other than an LD Event of Default and Lead Developer has performed its obligations under Section 16.6(a). The executed release from Lead Developer shall release, waive, and discharge City and City Agents of and from all liabilities, obligations, claims, and demands whatsoever arising out of or under this Agreement. City's liability to Lead Developer with respect to any claims or Disputes arising from this Agreement shall not exceed Fifteen Million Five Hundred Forty-Six Thousand Five Hundred Sixty-Six Dollars ($15,546,566) plus the amount of the Continuation Payment, if paid. City's payment of any Termination Payment shall not affect any of City's rights under this Agreement, as amended, with respect to completed Work, or relieve Lead Developer or any Guarantor from its respective obligations with respect thereto."

(b) Section 16.3(c) of the Original Agreement is amended in its entirety to read as follows:

> "(c) PDA Phase 2. If this Agreement terminates for any reason other than an LD Event of Default after Performance Milestone 16 and Lead Developer has timely delivered the materials described as Performance Milestone 27, and those materials comply with all the applicable requirements for them in the attached Appendix B-2, then, in addition to the Proposal Payment, City will pay Lead Developer an amount equal to the lesser of (A) the PDA Phase 1 Costs and Lead Developer's Qualified Out-of-Pocket Costs to provide those PDA Phase 2 materials ("PDA Phase 2 Costs") and (B) Thirteen Million One Hundred Ninety-Six Thousand Five Hundred Sixty-Six Dollars ($13,196,566). Lead Developer must submit commercially reasonable evidence of its PDA Phase 1 Costs and its PDA Phase 2 Costs to City before City is obligated to make any payment under this subsection (c)."

(c) Section 16.3(d) of the Original Agreement is amended in its entirety to read as follows:

> "(d) PDA Phase 3. If this Agreement terminates for any reason other than an LD Event of Default after Performance Milestone 28 and after Lead Developer has timely delivered the materials and evidence described as Performance Milestones 32 and 33, and those materials comply with all the applicable requirements for them in the attached Appendix B-2, then, in addition to the Proposal Payment, City will pay Lead Developer an amount equal to the lesser of (A) the PDA Phase 1 Costs, the PDA Phase 2 Costs and Lead Developer's Qualified Out-of-Pocket Costs to provide those PDA Phase 3 materials and perform those PDA Phase 3 activities ("PDA Phase 3 Costs") and (B) Fourteen Million One Hundred Ninety-Six Thousand Five Hundred Sixty-Six Dollars ($14,196,566). Lead Developer must submit

commercially reasonable evidence of its PDA Phase 1 Costs, its PDA Phase 2 Costs, and its PDA Phase 3 Costs to City before City is obligated to make any payment under this subsection (d)."

(d) Section 21.3(a) of the Original Agreement is amended in its entirety to read as follows:

"(a) Except as provided in Section 21.3(b), Lead Developer's liability to City for damages, including direct, indirect and consequential damages, arising out of Lead Developer's performance of this Agreement, as amended (or failure to perform hereunder) shall be limited to Fifteen Million Five Hundred Forty-Six Thousand Five Hundred Sixty-Six Dollars ($15,546,566) plus the amount of the Continuation Payment if paid."

3. Site Permit for the Infrastructure Facility. Lead Developer acknowledges it is necessary to obtain a site permit for the construction of the Infrastructure Facility ("Site Permit") from City's Department of Building Inspections ("DBI") before the Outside Performance Date to facilitate Substantial Completion of the Infrastructure Facility by November 30, 2029. Accordingly, Lead Developer agrees to submit the Site Permit application and pay the related application fee at its sole cost on or before November 30, 2024, and to take all commercially reasonable efforts to pursue the issuance of the Site Permit (including the submission of any information or materials required by DBI) before the Outside Performance Date. For the avoidance of doubt, the Site Permit application fee and the costs incurred by Lead Developer for work associated with advancing the Site Permit will be Qualified Out-of-Pocket Costs.

4. Additional Environmental Review. The SFMTA is seeking potential federal funding for the Project, which would require environmental compliance under federal law, including the National Environmental Policy Act ("NEPA") under 42 U.S.C. Section 4321 *et seq* and Section 106 of the National Historic Preservation Act. The SFMTA will take the lead in pursuing the needed review for Project environmental compliance under federal law ("Federal Environmental Review"), directing consultants work on the Federal Environmental Review and in facilitating conversations with the United States Department of Transportation Federal Transit Administration ("FTA"), provided that Lead Developer must procure and pay the consultants for the Federal Environmental Review and timely collaborate with the SFMTA with respect to all SFMTA and FTA comments and requests with respect to the Federal Environmental Review. Lead Developer must also provide the SFMTA with all supporting materials needed for the Federal Environmental Review (including but not limited to drawings, analyses, data points, and project features, and revisions of the requested materials) within two (two) business days of the SFMTA's request for those comments or materials; provided, however, that if those comments or materials cannot be reasonably provided within that two (2) business day period, Lead Developer must provide them to the SFMTA as soon as reasonably possible.

5. No Joint Venture. Nothing in this Second Amendment shall be construed to place the Parties in the relationship of partners or joint ventures or to create any third-party beneficiary rights in any third party. City is not a fiduciary and has no special responsibilities to Lead Developer beyond the obligations expressly set forth in the Modified Agreement, as amended by this Second Amendment.

6. Governing Law. This Second Amendment will be construed and enforced in accordance with the laws of the State of California and City's Charter.

7. Party Drafter; Captions. The provisions of this Second Amendment will be construed as a whole according to their common meaning and not strictly for or against either Party in order to achieve the objectives and purposes of the Parties. Any caption preceding the text of any Section, paragraph or subsection or in the table of contents is included only for convenience of

reference and will be disregarded in the construction and interpretation of this Second Amendment.

8. Counterpart Signatures and Electronic Delivery. This Second Amendment may be executed in one or more counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. A signature delivered on any counterpart by DocuSign, using multifactor authentication, shall for all purposes be deemed to be an original signature to this Second Amendment.

9. Legal Effect; Effective Date. Except as expressly modified by this Second Amendment, all of the terms and conditions of the Original Agreement shall remain unchanged and in full force and effect. Once fully executed, this Second Amendment shall be effective as of October 17, 2024.

Lead Developer and City have executed this Second Amendment as of the last date written below.

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through
the San Francisco Municipal Transportation Agency

By: _____
Jeffrey Tumlin
Director of Transportation

Date: _____

APPROVED AS TO FORM:

David Chiu, City Attorney

By: _____
Carol Wong
Deputy City Attorney

LEAD DEVELOPER:

POTRERO NEIGHBORHOOD COLLECTIVE LLC, a limited liability company organized under the laws of the State of Delaware.

By: Stuart Marks
_____
Stuart Marks
Vice President

Date: September 20, 2024
_____

THIRD AMENDMENT TO PREDEVELOPMENT AGREEMENT

This Third Amendment to Predevelopment Agreement dated for reference purposes only as of July 31, 2025 (this "**Third Amendment**"), is by and between the City and County of San Francisco ("**City**"), a municipal corporation acting by and through the San Francisco Municipal Transportation Agency ("**SFMTA**"), and Potrero Neighborhood Collective LLC, a limited liability company organized under the laws of the State of Delaware ("**Lead Developer**"). City and Lead Developer are also each referred to as a "**Party**" and together referred to as the "**Parties**" below.

RECITALS

A. City and Lead Developer executed a Predevelopment Agreement dated for reference purposes only as of November 2, 2022 (the "**Original Agreement**") for the predevelopment of the Project (as defined in the Original Agreement), as amended by a First Amendment to Predevelopment Agreement dated for reference purposes only as of May 29, 2024 ("**First Amendment**"), and a Second Amendment to Predevelopment Agreement dated for reference purposes only as of October 1, 2024 ("**Second Amendment**"). All undefined, initially-capitalized terms used in this Third Amendment shall have the meanings given to them in the Original Agreement, as modified by the First Amendment and the Second Amendment (the "**Modified Agreement**").

B. The Parties wish to amend the Modified Agreement on the terms and conditions below.

AGREEMENT

ACCORDINGLY, in consideration of the matters described in the foregoing Recitals, the agreements set forth in this Third Amendment and other good and valuable consideration, the receipt and adequacy of which are acknowledged, City and Lead Developer agree as follows:

1. Extended Dates for Predevelopment Period, IF Financial Close, and Substantial Completion of Infrastructure Facility.

(a) Section 1.171 of the Original Agreement is amended in its entirety to read as follows:

"1.171. "Predevelopment Period" means the period between the Commencement Date and March 31, 2026, as may be extended by in accordance with Section 3.1 of the Original Agreement."

(b) All references in the Modified Agreement requiring IF Financial Close no later than July 31, 2025, are amended to be March 31, 2026.

(c) All references in Appendix D to the Original Agreement to November 30, 2029, are amended to be November 30, 2030.

2. Increase in Termination Payment. The Modified Agreement requires Lead Developer to perform the predevelopment work specified in the Modified Agreement, as well as all other predevelopment activities required to allow for Substantial Completion of the Infrastructure Facility within the Fixed Budget Limit no later than the Outside Delivery Date. Extending the Predevelopment Period will increase the Lead Developer's costs to perform this work and these

activities. Accordingly, the Parties agree to modify the financial terms in the Original Agreement as follows to increase the Termination Payment by Five Hundred Thousand Dollars ($500,000).

(a) The first paragraph of Section 16.3 of the Original Agreement is amended in its entirety to read as follows:

> "16.3. Termination Payments. If this Agreement terminates before Commercial Close for any reason, City will have no obligation to reimburse or otherwise pay Lead Developer for any of Lead Developer's Project costs or expenses. Notwithstanding anything to the contrary in the foregoing sentence, City shall, in exchange for an executed release from Lead Developer satisfactory in form and substance to City, make the following payments (each, a "Termination Payment"), as applicable, to Lead Developer if this Agreement terminates before Commercial Close for any reason other than an LD Event of Default and Lead Developer has performed its obligations under Section 16.6(a). The executed release from Lead Developer shall release, waive, and discharge City and City Agents of and from all liabilities, obligations, claims, and demands whatsoever arising out of or under this Agreement. City's liability to Lead Developer with respect to any claims or Disputes arising from this Agreement shall not exceed Sixteen Million Forty-Six Thousand Five Hundred Sixty-Six Dollars ($16,046,566) plus the amount of the Continuation Payment, if paid. City's payment of any Termination Payment shall not affect any of City's rights under this Agreement, as amended, with respect to completed Work, or relieve Lead Developer or any Guarantor from its respective obligations with respect thereto."

(b) Section 16.3(d) of the Original Agreement is amended in its entirety to read as follows:

> "(d) PDA Phase 3. If this Agreement terminates for any reason other than an LD Event of Default after Performance Milestone 28 and after Lead Developer has timely delivered the materials and evidence described as Performance Milestones 32 and 33, and those materials comply with all the applicable requirements for them in the attached Appendix B-2, then, in addition to the Proposal Payment, City will pay Lead Developer an amount equal to the lesser of (A) the PDA Phase 1 Costs, the PDA Phase 2 Costs and Lead Developer's Qualified Out-of-Pocket Costs to provide those PDA Phase 3 materials and perform those PDA Phase 3 activities ("PDA Phase 3 Costs") and (B) Fourteen Million Six Hundred Ninety-Six Thousand Five Hundred Sixty-Six Dollars ($14,696,566). Lead Developer must submit commercially reasonable evidence of its PDA Phase 1 Costs, its PDA Phase 2 Costs, and its PDA Phase 3 Costs to City before City is obligated to make any payment under this subsection (d)."

(c) Section 21.3(a) of the Original Agreement is amended in its entirety to read as follows:

> "(a) Except as provided in Section 21.3(b), Lead Developer's liability to City for damages, including direct, indirect and consequential damages, arising out of Lead Developer's performance of this Agreement, as amended (or failure to perform hereunder) shall be limited to Sixteen Million Forty-Six Thousand Five Hundred Sixty-Six Dollars ($16,046,566) plus the amount of the Continuation Payment if paid."

3. Substantial Completion Fee. Lead Developer and City agree that the Project Agreement may be amended to include a fee to be paid to Principal Project Company conditioned on Substantial Completion being achieved (the "**SC Fee**") instead of an Equity Investment, otherwise Equity Member of Lead Developer will continue to be required to invest equity capital into the project as described in the Financial Management Plan

4. Increase in LD Predevelopment Costs. The initial pricing provided by Lead Developer to SFMTA during the Design-Build RFP process showed increased pricing to the design-build scope of the Infrastructure Facility compared to the total amount set forth in FS Form A8 delivered at Performance Milestone 27A. In advance of Lead Developer receiving a Design-Build RFP proposal, the Parties elected to engage in good faith negotiations to identify and agree to changes to bring down costs. The Parties have identified potential Infrastructure Facility design changes that would cause Lead Developer to incur additional Qualified Out-of-Pocket Costs that exceed the Termination Payment increase described above. If City submits any City Proposed Change to modify the Infrastructure Facility design to bring down costs, the Parties agree (a) the City Proposed Change will be issued no later than August 8, 2025, and (b) the LD Predevelopment Cost described in Form A5-PR, submitted by Lead Developer at Performance Milestone 27A, will be increased by an amount equal to the lower of (i) Lead Developer's additional Qualified Out-of-Pocket design costs for the Infrastructure Facility due to that City Proposed Change and (ii) $5,500,000. The Parties further agree there shall be no further increases to the LD Predevelopment Cost notwithstanding anything to the contrary in the Modified Agreement.

5. No Joint Venture. Nothing in this Third Amendment shall be construed to place the Parties in the relationship of partners or joint ventures or to create any third-party beneficiary rights in any third party. City is not a fiduciary and has no special responsibilities to Lead Developer beyond the obligations expressly set forth in the Modified Agreement, as amended by this Third Amendment.

6. Governing Law. This Third Amendment will be construed and enforced in accordance with the laws of the State of California and City's Charter.

7. Party Drafter; Captions. The provisions of this Third Amendment will be construed as a whole according to their common meaning and not strictly for or against either Party in order to achieve the objectives and purposes of the Parties. Any caption preceding the text of any Section, paragraph or subsection or in the table of contents is included only for convenience of reference and will be disregarded in the construction and interpretation of this Third Amendment.

8. Counterpart Signatures and Electronic Delivery. This Third Amendment may be executed in one or more counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. A signature delivered on any counterpart by DocuSign, using multifactor authentication, shall for all purposes be deemed to be an original signature to this Third Amendment.

9. Legal Effect; Effective Date. Except as expressly modified by this Third Amendment, all of the terms and conditions of the Original Agreement shall remain unchanged and in full force and effect. Once fully executed, this Third Amendment shall be effective as of the date it is fully executed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

Lead Developer and City have executed this Third Amendment as of the last date written below.

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through
the San Francisco Municipal Transportation Agency

By: Judson True
for Julie Kirschbaum
Director of Transportation

Date: August 1, 2025

APPROVED AS TO FORM:

David Chiu, City Attorney

By: Isidro Jimenez
Carol Wong
Deputy City Attorney

LEAD DEVELOPER:

POTRERO NEIGHBORHOOD COLLECTIVE
LLC, a limited liability company organized under
the laws of the State of Delaware.

By:
Stuart Marks
Vice President

Date: July 31, 2025

[General Plan - Potrero Bus Yard Project]

Ordinance amending the Urban Design Element of the General Plan to facilitate the Potrero Bus Yard Project; adopting findings under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 340.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental and Planning Code Findings.

(a) At its hearing on January 11, 2024, and prior to recommending the proposed General Plan Amendments for approval, by Motion No. 21482 the Planning Commission certified a Final Environmental Impact Report ("FEIR") for the Potrero Bus Yard Project ("Project") pursuant to the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.), the CEQA Guidelines (Cal. Code Reg. Section 15000 et seq.), and Chapter 31 of the Administrative Code. A copy of said Motion is on file with the Clerk of the Board of Supervisors in File No. 240047, and is incorporated herein by reference. In accordance with the actions contemplated herein, this Board has reviewed the FEIR, concurs with its conclusions, affirms the Planning Commission's certification of the

FEIR, and finds that the actions contemplated herein are within the scope of the Project described and analyzed in the FEIR.

(b) In approving the Project at its hearing on January 11, 2024, by Motion No. 21483, the Planning Commission also adopted findings under CEQA, including a statement of overriding considerations, and a Mitigation Monitoring and Reporting Program ("MMRP"). Copies of said Motion and MMRP are on file with the Clerk of the Board of Supervisors in File No. 240047, and are incorporated herein by reference. The Board hereby adopts and incorporates by reference as though fully set forth herein the Planning Commission's CEQA findings, including the statement of overriding considerations. The Board also adopts and incorporates by reference as though fully set forth herein the Project's MMRP, on file with the Clerk of the Board in File No. 240047.

(c) Section 4.105 of the Charter provides that the Planning Commission shall periodically recommend to the Board of Supervisors, for approval or rejection, proposed amendments to the San Francisco General Plan ("General Plan").

(d) Planning Code Section 340 provides that an amendment to the General Plan may be initiated by a resolution of intention by the Planning Commission, which refers to, and incorporates by reference, the proposed General Plan amendment. Section 340 further provides that the Planning Commission shall adopt the proposed General Plan amendment after a public hearing if it finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment or any part thereof. If adopted by the Commission in whole or in part, the proposed amendment shall be presented to the Board of Supervisors, which may approve or reject the amendment by a majority vote.

(e) Section 4.105 of the Charter further provides that if the Board of Supervisors fails to act within 90 days of receipt of the proposed General Plan amendments, then the proposed amendments shall be deemed approved.

(f) On January 11, 2024, the Planning Commission, in Resolution No. 21484, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1 and serve the public necessity, convenience, and welfare. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 240047, and is incorporated herein by reference.

(g) On January 16, 2024, the Board of Supervisors received from the Planning Department the proposed General Plan amendments contained in this ordinance. These amendments are on file with the Clerk of the Board of Supervisors in File No. 240047 and are incorporated herein by reference.

Section 2. The General Plan is hereby amended by revising the Urban Design Element as follows:

Map 4 ("Urban Design Guidelines for Height of Buildings"), add to the map notes: "Change Lot 001 in Assessor's Block 3971 so that it has a height designation of 89-160 ft."

Map 5 ("Urban Design Guidelines for Bulk of Buildings"), add to the map notes: "Change the bulk limits for the site identified as the San Francisco Municipal Transportation Agency Potrero Bus Yard (Assessor's Block 3971, Lot 001), to indicate that there shall be no bulk limit below 75 feet, but that bulk shall be limited between 75 feet and 150 feet as determined by the following controls: (1) building area above 75 feet shall be limited to no more than 50% lot coverage; (2) there shall be 10 foot setbacks above 75 feet along the west, south, and east sides of the site, and a 60 foot setback above 75 feet along the north side of the site; and (3) portions of the building above 75 feet may encroach into the setbacks

described in (2) above, but said encroachment shall be limited to no more than a total of 180 linear feet for the west, south, and east sides of the site.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Peter R. Miljanich
PETER R. MILJANICH
Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 240047 **Date Passed:** March 12, 2024

Ordinance amending the Urban Design Element of the General Plan to facilitate the Potrero Bus Yard Project; adopting findings under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 340.

February 26, 2024 Land Use and Transportation Committee - RECOMMENDED

March 05, 2024 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

March 12, 2024 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Safai, Stefani and Walton
Excused: 1 - Ronen

File No. 240047

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 3/12/2024 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

3/22/24

Date Approved

[Planning Code, Zoning Map - Potrero Yard Special Use District]

Ordinance amending the Planning Code and Zoning Map to create the Potrero Yard Special Use District and change the height and bulk limits at 2500 Mariposa Street, Assessor's Parcel Block No. 3971, Lot No. 001, to facilitate development of the Potrero Yard Modernization Project; adopting findings under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Planning and Environmental Findings.

(a) The Potrero Yard Special Use District contemplated in this ordinance would facilitate development of the Potrero Yard Modernization Project ("Project"), which would include a modern, multi-story, efficient bus maintenance and storage facility to serve the San Francisco Municipal Transportation Agency, as well as high-density residential development.

(b) At its hearing on January 11, 2024, and prior to recommending the proposed ordinance for approval, by Motion No. 21482, the Planning Commission certified a Final Environmental Impact Report ("FEIR") for the Project pursuant to the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.), the CEQA

Guidelines (Cal. Code Reg. Sections 15000 et seq.), and Chapter 31 of the Administrative Code. A copy of said Motion is on file with the Clerk of the Board of Supervisors in File No. 231256, and is incorporated herein by reference. In accordance with the actions contemplated in this ordinance, this Board has reviewed the FEIR, concurs with its conclusions, affirms the Planning Commission's certification of the FEIR, and finds that the actions contemplated in this ordinance are within the scope of the Project described and analyzed in the FEIR.

(c) In approving the Project at its hearing on January 11, 2024, by Motion No. M-21482, the Planning Commission also adopted findings under CEQA, including a statement of overriding considerations, and a Mitigation Monitoring and Reporting Program ("MMRP"). Copies of said Motion and MMRP are on file with the Clerk of the Board of Supervisors in File No. 231256, and are incorporated herein by reference. The Board hereby adopts and incorporates by reference as though fully set forth herein the Planning Commission's CEQA findings, including the statement of overriding considerations. The Board also adopts and incorporates by reference as though fully set forth herein the Project's MMRP.

(d) On January 11, 2024, the Planning Commission, in Resolution No. 21485, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 231256, and is incorporated herein by reference.

(e) Pursuant to Planning Code Section 302, this Board finds that this Planning Code amendment will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 21485, adopted on January 11, 2024, and the Board

adopts such reasons as its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No. 231256 and is incorporated herein by reference.

Section 2. Article 2 of the Planning Code is hereby amended by adding Section 249.98, to read as follows:

Section 249.98. POTRERO YARD SPECIAL USE DISTRICT.

*(a) **Location.** A Special Use District entitled the Potrero Yard Special Use District (the "SUD") is hereby established, comprising Lot 001 in Assessor's Parcel Block 3971 (the "Project site"), located at 2500 Mariposa Street, to facilitate the purpose set forth in subsection 249.98(b).*

*(b) **Purposes.** The purpose of the Potrero Yard SUD is to facilitate development of the Potrero Yard Modernization Project by allowing uses beyond San Francisco Municipal Transportation Agency's growing facility, maintenance, and operational needs, including residential uses and non-residential uses. The Potrero Yard Modernization Project will include the construction and operation of a modern, multi-story, efficient bus maintenance and storage facility equipped to serve the San Francisco Municipal Transportation Agency's growing and future needs, as well as the construction of high-density residential development and ground floor commercial space. The controls set forth in this Section 249.98 shall be in addition to the requirements of any agreement between the City and another party for developing and operating uses at the site.*

*(c) **Controls.** In addition to controls applicable to the Public District set forth in Planning Code Sections 211 et seq., applicable provisions of the Planning Code shall apply in the Potrero Yard SUD, except as otherwise provided in this Section 249.98. In the event of a conflict between other provisions of the Planning Code and this Section 249.98, this Section 249.98 shall control.*

*(d) **Uses.***

*(1) **Public Uses.** Public Facilities, including Public Transportation Facility and Public Utility Yard, shall be principally permitted uses.*

*(2) **Residential Uses.***

*(A) **Planned Unit Development.** Residential Uses shall be authorized as a Planned Unit Development subject to Conditional Use Authorization in accordance with the provisions of Planning Code Sections 303 and 304.*

*(B) **Density.** No density limit. Density is regulated by the permitted height and bulk, and required setbacks, exposure, and open space of each development lot.*

*(3) **Non-Residential Uses.** On the first floor, the following non-residential uses shall be principally permitted or conditionally permitted as set forth in Table 838 of Planning Code Section 838, the Urban Mixed Use District Zoning District: all uses within the following use categories: "Sales and Service Category," "Entertainment, Arts and Recreation Use Category," "Industrial Use Category," "Institutional Use Category"; and "Non-Retail Professional Services" use within the "Non-Retail Sales and Services Use Category." All other uses and use categories in Table 838 shall not be permitted. Commercial Use Characteristics shall be principally permitted or conditionally permitted as set forth in Table 838.*

*(e) **Residential Development Controls.***

*(1) **Usable Open Space.** Each dwelling unit shall have access to 80 square feet of private or common usable open space or 54 square feet of publicly accessible usable open space. In the event that Public Facilities or Public Transportation Facilities are constructed on portions of the building above 75 feet in height, the amount of usable open space required for each dwelling unit shall be reduced to 50 square feet of private or common usable open space.*

*(2) **Dwelling Unit Mix.** Dwelling unit mix requirements shall be those applicable to the Eastern Neighborhoods Mixed Use Districts under Planning Code Section 207.6. Additional dwelling unit mix requirements may be determined by future agreement between the City and another party for developing and operating uses within the SUD.*

*(3) **Affordability.** Additional affordability requirements may be determined by future agreement between the City and another party for developing and operating uses within the SUD.*

*(f) **Non- Residential Development Controls.** The following controls shall apply to all non-residential uses within this SUD, except for public uses.*

*(1) **Street frontage requirements.** The active use requirements in Planning Code subsection 145.1(c)(3) shall apply to non-public uses fronting on Bryant Street, 17th Street, and Hampshire Street.*

*(2) **Transparency requirements.** The transparency requirements in Planning Code subsection 145(c)(6) shall apply to frontages with non-public, active uses.*

*(3) **Gates, railings, and grillwork requirements.** The gates, railings, and grillwork requirements in Planning Code subsection 145.1(c)(7) shall apply.*

*(4) **Location and operating conditions.** Location and operating conditions in accordance with Planning Code Section 202.2 shall apply.*

*(5) **Parking Requirements.** Off-street parking is not required for the non-residential uses permitted under subsection 249.98(d)(3).*

*(g) **Building Standards.***

*(1) **Sign Regulations.** The provisions of Planning Code Article 6 shall apply to all signs within this SUD. Notwithstanding the foregoing sentence, the following signs are permitted. Such signs shall otherwise conform to the provisions of the Planning Code, and shall require any other applicable approvals, including, if necessary, an encroachment permit under Section 786 of the Public Works Code.*

(A) One indirectly illuminated, freestanding sign may be located along Mariposa Street within the public right of way. The aforementioned freestanding sign shall not exceed 15 feet in height, 70 feet in width, and 490 square feet in area on any side. Such freestanding sign shall not project more than four feet into the public right of way.

(B) One window sign displaying the "Muni" logo. Such window sign shall allow no less than 50% transparency and shall have maximum dimensions of 51 feet in width and 24 feet in height.

(2) ***Streetscape Plan.*** *The streetscape and pedestrian improvement requirements set forth in Planning Code Section 138.1 shall apply. A streetscape plan shall be submitted for review to the Planning Department showing the location, design, and dimensions of all existing and proposed streetscape elements in the public right-of-way directly adjacent to the fronting property, including signage, street trees, sidewalk landscaping, street lighting, site furnishings, utilities, driveways, and curb lines, and the relation of such elements to proposed new construction and site work on the Project site.*

(3) ***Height and Bulk for portions of the building lower than 75 feet in height.*** *There shall be no bulk, Floor Area Ratio, setback, lot coverage, or rear yard requirements for any uses within the portion of any building below 75 feet in height, as measured from the midpoint of Mariposa Street between Bryant Street and Hampshire Street at the curb level.*

(4) ***Development Standards for portions of the building 75 feet or more in height.***

(A) ***Setbacks.*** *At minimum, setbacks of 60 feet along the 17th Street frontage, and 10 feet along the Bryant Street, Mariposa Street, and Hampshire Street frontages, are required; provided, however, that (i) stairs and elevator penthouses, parapets greater than four feet in height, mechanical equipment and appurtenances necessary to the operation or maintenance of the building or structure itself and its screening, and enclosed vehicular ramps for public uses may be located within the setbacks required in this subsection 249.98(g)(4)(A); and (ii) no setback shall be required for a cumulative total of 180 linear feet or less of building along the Bryant Street, Mariposa Street, and Hampshire Street frontages.*

(B) ***Lot Coverage.*** *Lot coverage between 75 feet and 150 feet in height shall be limited to no more than 50% of the total lot area.*

*(C) **Massing separation above 115 feet in height.***

(i) No street-facing portion of the building above 115 feet in height shall have a linear dimension greater than 180 feet in width without it being separated from another mass by the means described in subsection 249.98(4)(C)(ii) below. Further, when located along Bryant Street, Mariposa Street, or the Hampshire Street frontage, such building massing shall not have a linear dimension greater than 155 feet in width.

(ii) Building masses shall be separated by at least 25 feet. Such massing breaks shall take the form of recessing and projecting building elements to provide articulation to the façade. The depth of such massing breaks shall be sufficient to establish a distinguishable and desirable transition between masses.

Section 3. Article 2.5 of the Planning Code is hereby amended by revising Section 270, to read as follows:

SEC. 270. BULK LIMITS: MEASUREMENT.

(a) The limits upon the bulk of buildings and structures shall be as stated in this Section *270* and in Sections 271 and 272. The terms Diagonal Dimension, Height, Length, and Plan Dimensions shall be as defined in this Code. In each height and bulk district, the maximum plan dimensions shall be as specified in the following table, at all horizontal cross-sections above the height indicated.

TABLE 270
BULK LIMITS

District Symbol	Height Above Which Maximum Dimensions Apply (in feet)	Maximum Plan Dimensions (in feet)	
		Length	Diagonal Dimension

on Zoning Map			
A	40	110	125
* * * * *			
CS	This table not applicable. But see Section 270(h).		
PY	*This table not applicable. But see Section 249.98 Potrero Yard Special Use District.*		

* * * * *

Section 4. The Planning Code is hereby amended in accordance with Planning Code Section 106 by revising Height Map HT08 and Special Use District Map SU08 of the Zoning Map, as follows:

(a) To change the Height and Bulk Map HT08 as follows:

Assessor's Parcels (Block/Lot Numbers)	**Height and Bulk Districts Superseded**	**New Height and Bulk Districts**
3971/001	65-X	150-PY

(b) To change Special Use District Map SU08 by creating the new Potrero Yard Special Use District and assigning the following Assessor's Parcel to be within the Potrero Yard Special Use District:

Assessor's Parcel (Block/Lot)	**Special Use District**
3971/001	Potrero Yard Special Use District

Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 6. Scope of Ordinance. Except as stated in Section 4 of this ordinance regarding the Zoning Map, in enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Peter R. Miljanich
PETER R. MILJANICH
Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 231256 **Date Passed:** March 12, 2024

Ordinance amending the Planning Code and Zoning Map to create the Potrero Yard Special Use District and change the height and bulk limits at 2500 Mariposa Street, Assessor's Parcel Block No. 3971, Lot No. 001, to facilitate development of the Potrero Yard Modernization Project; adopting findings under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

February 26, 2024 Land Use and Transportation Committee - RECOMMENDED

March 05, 2024 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

March 12, 2024 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Safai, Stefani and Walton
Excused: 1 - Ronen

File No. 231256

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 3/12/2024 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

3/22/24
Date Approved

[Approval of Potrero Bus Yard Predevelopment Agreement with a $4,350,000 Continuation Payment and a Potential Termination Payment of up to $9,990,000 - Potrero Neighborhood Collective LLC - 2500 Mariposa]

Resolution approving a Predevelopment Agreement between Potrero Neighborhood Collective LLC and the City and County of San Francisco, acting by and through the San Francisco Municipal Transportation Agency, dated as of November 2, 2022, including a $4,350,000 continuation payment and a potential termination payment of up to $9,990,000; and making environmental findings under the California Environmental Quality Act.

WHEREAS, The San Francisco Municipal Transportation Agency ("SFMTA") has determined it is critical to replace its outdated Potrero Yard facility at 2500 Mariposa Street in the Mission District ("Project Site") to provide the best quality transit service for all of San Francisco, one of the most important tools we have to fight climate change; and,

WHEREAS, The SFMTA's Potrero Yard Modernization Project ("Project") includes the simultaneous joint development and construction of a new facility with a modern four-story bus storage and maintenance component ("Bus Yard Component") and, if feasible, a multi-family housing and commercial component ("Housing Component") at the Project Site, with a potential paratransit facility if it is not feasible to construct housing above the Bus Yard Component; and,

WHEREAS, The Project will expand capacity for the electric trolley bus fleet at the Project Site by over 50 percent, and allow Muni to continue as a national leader in delivering sustainable transit service by helping to facilitate its transition to a 100 percent zero-emission fleet; and,

WHEREAS, The new facility will dramatically improve efficiency of Muni operations and maintenance by providing adequate space and operational flow for bus maintenance, parking, and circulation of the electric trolley bus fleet; and,

WHEREAS, By improving the work environment for SFMTA frontline operations and maintenance staff, who currently work in a 110-year-old facility that is significantly outdated and undersized, buses can be repaired faster for more reliable Muni service; and,

WHEREAS, The Project will be the nation's first known joint development of a bus storage and maintenance transit facility with housing, and if feasible, will address a critical housing need with one of San Francisco's largest affordable housing developments with up to 465 affordable rental units for low and moderate income households; and,

WHEREAS, On April 7, 2020, the San Francisco Municipal Transportation Agency ("SFMTA") Board of Directors approved Resolution 200407-035, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240136, authorizing the SFMTA to use a joint development procurement method to deliver the Project and seek approval from the Board of Supervisors for that method; and,

WHEREAS, On March 16, 2021, the Board of Supervisors adopted Ordinance 38-21, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240136, to approve a joint development delivery method and a best-value selection of the developer for the Project and exempted various Project agreements from certain San Francisco Administrative Code requirements that are inconsistent with the joint development delivery method, with the ordinance being signed by the Mayor and effective on April 25, 2021; and,

WHEREAS, After a competitive process for a predevelopment agreement for the Project ("PDA") that included a request for qualifications and a request for proposals, the SFMTA Board of Directors adopted Resolution 221101-105 on November 1, 2022, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240136, to authorize the

SFMTA Director of Transportation to execute the PDA with Potrero Neighborhood Collective, LLC ("PNC"), which has Plenary Americas US Holdings Inc. (Plenary) as its sole member, for a term that will not exceed 568 days; and,

WHEREAS, The PDA was fully executed as of November 2, 2022, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240136; and,

WHEREAS, Except for limited SFMTA predevelopment obligations described in the PDA, the PDA requires PNC to perform the majority of the predevelopment work needed for the Project at its sole cost during the PDA term, including but not limited to developing schematic designs, maintenance plans, and financing plans, securing Project financing, obtaining Project entitlements, and procuring design-build and maintenance contractors; and,

WHEREAS, The PDA requires that the SFMTA and PNC negotiate the terms of agreements for the design, construction and certain maintenance of the Bus Yard Component, the design, construction and operation of the Housing Component, and the design, construction and maintenance of the common infrastructure that would be shared by the Bus Yard Component and the Housing Component ("Project Documents"); and,

WHEREAS, If City staff and PNC mutually agree to the forms of the Project Documents during the PDA term, the SFMTA will seek approval to those Project Documents from the SFMTA Board of Directors and the Board of Supervisors before the expiration of the PDA term; and,

WHEREAS, The SFMTA can terminate the PDA at any time for convenience, and if the PDA terminates for any reason other than PNC's default or the parties' execution of the Project Documents, the PDA includes a termination payment to PNC that will not exceed $9,990,000; and,

WHEREAS, The PDA requires the SFMTA to pursue all needed review under the California Environmental Quality Act ("CEQA") for the Project; and,

WHEREAS, The PDA requires PNC, at its sole cost, provide certain materials submitted to the City's Planning Department for Project's CEQA review and to obtain the special use district, conditional use authorization, General Plan Referral, and related General Plan amendments needed for the Project ("Entitlements"); and,

WHEREAS, Under the PDA, if there is final certification of the environmental impact report ("EIR") for the Project under CEQA and the Entitlements are approved by, as applicable, the Planning Commission and the Board of Supervisors and become effective (the "EIR/Entitlement Milestone"), then PNC's predevelopment work will automatically be suspended unless the SFMTA elects, in its sole discretion, to issue a notice for PNC to continue that predevelopment work ("Continuation Notice"); and,

WHEREAS, If the SFMTA issues the Continuation Notice, it must pay PNC a continuation payment of $4,350,000 ("Continuation Payment"), and the SFMTA cannot make the Continuation Payment without the prior approval from the Board of Supervisors under Section 9.118 of the San Francisco Charter because the Continuation Payment and any potential termination payment would be over $10,000,000; and,

WHEREAS, The SFMTA has determined that PNC has incurred substantial predevelopment costs in pursuing the Entitlements, supporting the SFMTA's efforts for the Project's CEQA review, and performing its PDA predevelopment work obligations, which would have been otherwise borne by the SFMTA; and,

WHEREAS, The SFMTA has determined that the Entitlements are critical to the timely completion of the Project and will increase the value of the Project Site by more than the amount of the Continuation Payment, and that the amount of the Continuation Payment is no more than fair market value; and,

WHEREAS, On January 11, 2024, by Motion No. 21482, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 231256, the Planning Commission certified

as adequate, accurate, and complete the Environmental Impact Report for the Project ("Final EIR") pursuant to CEQA, the CEQA Guidelines (Cal. Code Reg. Sections 15000 et seq.), and Chapter 31 of the Administrative Code; and in accordance with the actions contemplated in this resolution, the Board of Supervisors has reviewed the Final EIR, concurs with its conclusions, affirms the Planning Commission's certification of the Final EIR, and finds that the actions contemplated in this resolution are within the scope of the Project described and analyzed in the Final EIR; and,

WHEREAS, On January 11, 2024, by Motion No. 21487, which is on file with the Clerk of the Board of Supervisors in File No. 240136, the Planning Commission approved the conditional use authorization for the Project and determined that the Project is consistent with the General Plan, and the Board of Supervisors affirms that determination; and,

WHEREAS, On January 11, 2024, by Resolution No. 21484, the Planning Commission recommended approval to the Board of Supervisors of the General Plan amendments ordinance necessary to facilitate the Project ("General Plan Ordinance"), and by Resolution No. 21485, recommended approval to the Board of Supervisors of the Planning Code and Zoning Map amendments ordinance creating the Special Use District necessary to facilitate the Project ("Special Use District Ordinance"), which are on file with the Clerk of the Board of Supervisors in File Nos. 231256 and 240047, and are incorporated herein by reference; and,

WHEREAS, In approving the Project at its hearing on January 11, 2024, by Motion No. 21483, the Planning Commission adopted findings, including a rejection of alternatives and a statement of overriding considerations (the "CEQA Findings") and a Mitigation Monitoring and Reporting Program ("MMRP"), and the Board of Supervisors adopts as its own and incorporates by reference as though fully set forth herein the CEQA Findings, including the statement of overriding considerations and the MMRP; and,

WHEREAS, If the Board of Supervisors approves the General Plan Ordinance and the Special Use District Ordinance and they take effect, the EIR/Entitlement Milestone will be reached and the SFMTA will seek to timely issue a Continuation Notice to PNC and pay the Continuation Payment to continue PNC's predevelopment work for the Project under the PDA; and,

WHEREAS, If City makes the Continuation Payment, City's payment obligations under the PDA could exceed $10,000,000, which requires the approval of the Board of Supervisors under City Charter Section 9.118; now, therefore, be it

RESOLVED, If the Board of Supervisors approves the SUD and General Plan Ordinances and they take effect, the Board of Supervisors approves the PDA and authorizes the SFMTA Director of Transportation to issue the Continuation Notice and make the Continuation Payment to PNC on the terms and conditions in the PDA.

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 240136 **Date Passed:** March 05, 2024

Resolution approving a Predevelopment Agreement between Potrero Neighborhood Collective LLC and the City and County of San Francisco, acting by and through the San Francisco Municipal Transportation Agency, dated as of November 2, 2022, including a $4,350,000 continuation payment and a potential termination payment of up to $9,990,000; and making environmental findings under the California Environmental Quality Act.

February 28, 2024 Budget and Finance Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

February 28, 2024 Budget and Finance Committee - RECOMMENDED AS AMENDED

March 05, 2024 Board of Supervisors - ADOPTED

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 240136

I hereby certify that the foregoing Resolution was ADOPTED on 3/5/2024 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London Breed

London N. Breed
Mayor

3/15/24

Date Approved

[Agreement - Potrero Neighborhood Collective, LLC - Potrero Yard Infrastructure Facility Design-Build-Finance-Operate-Maintain Agreement - 2500 Mariposa Street - Endorsement of Key Terms]

Resolution generally endorsing the form of an Infrastructure Facility Design-Build-Finance-Operate-Maintain Agreement (Form Project Agreement) for the San Francisco Municipal Transportation Agency (SFMTA) Potrero Yard Modernization Project, and the following pricing: 1) an initial milestone payment of up to $75,000,000 at financial close, 2) a relocation payment of up to $500,000 within 60 days of completing temporary relocation of Potrero Yard operations, 3) a milestone payment of up to $200,000,000 by no later than 2033, and 4) an initial maximum annual availability payment of up to $42,200,000 (in Fiscal Year 2030 dollars) over a maintenance term not to exceed 30 years after the scheduled substantial completion date, anticipated in 2029, subject to interest rate and credit spread fluctuations between commercial close and financial close and annual Consumer Price Index adjustments, with the part of the payment covering capital costs increasing 1% per year and sculpted to align with the SFMTA's existing debt service obligations; and providing that the final terms of the agreement, including final pricing and inclusion of a Small Business Enterprise/Disadvantaged Business Enterprise Plan, shall be subject to approval of the Board of Supervisors.

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) has determined it is critical to replace its outdated Potrero Yard facility at 2500 Mariposa Street in the Mission District to provide the best quality transit service for all of San Francisco, one of the most important tools we have to fight climate change; and

WHEREAS, The SFMTA's Potrero Yard Modernization Project (Project) includes the joint development of a modern bus storage and maintenance facility (Bus Yard Component),

affordable and moderate-income housing with limited commercial space if financially feasible (Housing Component), and shared infrastructure supporting both the Bus Yard and Housing Components (Common Infrastructure), with a potential paratransit facility as an alternative if constructing housing above the Bus Yard Component is not feasible; and

WHEREAS, The Bus Yard Component and Common Infrastructure are, collectively, the Infrastructure Facility; and

WHEREAS, The Bus Yard Component will dramatically improve efficiency of Muni operations and maintenance by providing adequate space and operational flow for bus maintenance, parking, and circulation of the electric trolley bus fleet; and

WHEREAS, By improving the work environment for SFMTA frontline operations and maintenance staff, who currently work in a 109-year-old facility that is significantly outdated and undersized, buses can be repaired faster for more reliable Muni service; and

WHEREAS, The Project would be the nation's first known joint development of a bus storage and maintenance transit facility with housing, and if feasible, would address a critical housing need with up to 465 affordable rental units proposed for low and moderate income households; and

WHEREAS, On April 7, 2020, by Resolution 200407-035, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240136, the SFMTA Board of Directors authorized the SFMTA to use a joint development procurement method to deliver the Project and seek approval from the Board of Supervisors for that method; and

WHEREAS, On March 16, 2021, by Ordinance 38-21, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240136, the Board of Supervisors approved a joint development delivery method and a best-value selection of the developer for the Project and exempted various Project agreements from certain San Francisco Administrative Code

requirements that are inconsistent with the joint development delivery method, with the Ordinance being signed by the Mayor and effective on April 25, 2021; and

WHEREAS, On November 1, 2022, after a competitive solicitation process, by Resolution No. 221101-105, the SFMTA Board of Directors authorized the Director of Transportation to execute the Predevelopment Agreement for the Project with Potrero Neighborhood Collective LLC ("Lead Developer"), wholly owned by Plenary Americas US Holdings, a leading long-term investor, developer, and manager of public infrastructure; and

WHEREAS, The Predevelopment Agreement was fully executed as of November 2, 2022, and it was subsequently amended by a First Amendment to the Predevelopment Agreement that was fully executed as of May 29, 2024, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240937, and a Second Amendment to Predevelopment Agreement dated as of October 1, 2024, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240937, and which was approved by the Board of Supervisors under Resolution No. 534-24; and

WHEREAS, Under the Predevelopment Agreement, the Lead Developer is responsible for conducting predevelopment work and negotiating with the SFMTA specific transaction documents to deliver the Project, including the Infrastructure Facility Design-Build-Finance-Operate-Maintain Agreement (Project Agreement) for the Infrastructure Facility and housing agreements for the Housing Component; and

WHEREAS, Construction of the Infrastructure Facility would commence before construction of the Housing Component, and the SFMTA expects to submit forms of housing agreements for the Housing Component to the SFMTA Board of Directors and the Board of Supervisors in spring 2025; and

WHEREAS, The Project Agreement would serve as the primary contract between the City, acting through the SFMTA, and a to-be-established entity ("Principal Project Company")

that would be an affiliate of the Lead Developer, covering the design, construction, and financing of the Infrastructure Facility, and the operation and maintenance of certain elements over a 30-year period after the scheduled substantial completion date; and

WHEREAS, The SFMTA and the Lead Developer have negotiated the Form Project Agreement, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 241136, which requires the SFMTA to pay any possessory interest tax assessed on the Principal Project Company's interest under the Form Project Agreement, and will be modified to substantially incorporate the Draft Small Business Enterprise/Disadvantaged Business Enterprise Plan (SBE/DBE) Plan, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 241136; and

WHEREAS, The Form Project Agreement includes risk allocation, technical, regulatory, and insurance requirements, performance standards, and a payment mechanism; and

WHEREAS, Under this payment mechanism, the SFMTA would make milestone payments at various times up to no later than 2033, and annual availability payments, paid on a quarterly basis, during the 30-year maintenance term; the availability payments would be structured as single, combined payments covering project debt, performance, and equity return, subject to deductions for non-compliance with specified performance standards; and

WHEREAS, Finalizing the pricing for the Form Project Agreement depends on the Lead Developer's selection of a design-build contractor, completion of operations and maintenance pricing, and completion of the structure, terms, and pricing of the Project's debt financing, all of which require additional time and coordination; and

WHEREAS, The SFMTA has determined that obtaining the endorsement of the Form Project Agreement from the Board of Supervisors before finalizing pricing demonstrates the City's commitment to the Project, strengthens the ability to secure favorable financing terms, and avoids delays that could increase costs or disrupt the project schedule, while ensuring

that final approval by the Board of Supervisors will be obtained once pricing and terms are finalized and the terms of the Draft SBE/DBE Plan are substantially incorporated; and

WHEREAS, The SFMTA has also determined that obtaining the Board of Supervisors' endorsement of the following pricing would help ensure budget discipline: (i) an initial milestone payment of up to $75,000,000 at financial close; (ii) a relocation payment of up to $500,000 within 60 days of completing temporary relocation of Potrero Yard operations; (iii) a milestone payment of up to $200,000,000 by no later than 2033; and (iv) an initial maximum annual availability payment of up to $42,200,000 (in Fiscal Year 2030 dollars) over a maintenance term not to exceed 30 years after the scheduled substantial completion date, anticipated in 2029, subject to interest rate and credit spread fluctuations between commercial close and financial close, and annual Consumer Price Index (CPI) adjustments, with the part of the availability payment covering capital costs increasing 1% per year and sculpted to align with SFMTA's existing debt service obligations; and

WHEREAS, The Board of Supervisors wishes to generally endorse the Form Project Agreement and the pricing set forth herein; and

WHEREAS, The National Environmental Policy Act (NEPA) process is currently underway for the Project and anticipated to be completed in December 2024; the actions contemplated in this Resolution do not commit the City to any proposed project or any project alternative, modification, or mitigation regarding the Project until, unless, and before the NEPA Approval is obtained and City approves the Project, alternative, modification or mitigation; and

WHEREAS, On January 11, 2024, by Motion No. 21482, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 231256, the Planning Commission certified as adequate, accurate, and complete the Environmental Impact Report for the Project (Final EIR) pursuant to the California Environmental Quality Act (Pub. Resources Code,

Sections 21000 et seq., "CEQA"), the CEQA Guidelines (Cal. Code Reg. tit. 14, Sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code; and

WHEREAS, On January 11, 2024, by Motion No. 21483, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 231256, the Planning Commission, based on substantial evidence in the entire record of proceedings, made certain findings regarding the environmental impacts of the Project analyzed in the FEIR, rejected alternatives as infeasible, adopted the proposed mitigation monitoring and reporting program ("MMRP"), and set forth a Statement of Overriding Considerations explaining why the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the FEIR and that those adverse environmental effects are therefore acceptable; and

WHEREAS, The Planning Department has evaluated the revisions to the Project contemplated in the Project Agreement, as conditionally approved by this Resolution and determined based on the requirements of CEQA, that no additional environmental review is necessary; said determination is on file with the Clerk of the Board of Supervisors in File No. 231256 and is incorporated herein by reference; and

WHEREAS, The Board affirms the CEQA determination for the Project and based on substantial evidence in the entire record of these proceedings, further affirms that there are no substantial changes proposed for the Project, or the circumstances under which it will be undertaken, that would require major revisions of the FEIR due to new significant environmental effects or a substantial increase in the severity or previously identified significant effects, and further, no new information of substantial importance that shows the Project will have significant effects not discussed in the FEIR, substantially more severe significant effects than discussed in the FEIR, or mitigation measures or alternatives that the Project sponsor has declined to adopt; and

WHEREAS, On January 11, 2024, by Motion No. 21487, which is on file with the Clerk of the Board of Supervisors in File No. 240136, the Planning Commission approved the conditional use authorization for the Project and determined that the Project is consistent with the General Plan, and the Board of Supervisors affirms that determination; and

WHEREAS, On January 11, 2024, by Resolution No. 21484, the Planning Commission recommended approval to the Board of Supervisors of the General Plan amendments ordinance necessary to facilitate the Project ("General Plan Ordinance"), and by Resolution No. 21485, recommended approval to the Board of Supervisors of the Planning Code and Zoning Map amendments ordinance creating the Special Use District necessary to facilitate the Project ("Special Use District Ordinance"), which are on file with the Clerk of the Board of Supervisors in File Nos. 231256 and 240047, and are incorporated herein by reference; now, therefore, be it

RESOLVED, That the Board of Supervisors generally endorses the Form Project Agreement, and the following pricing: 1) an initial milestone payment of up to $75,000,000 at financial close, 2) a relocation payment of up to $500,000 within 60 days of completing temporary relocation of Potrero Yard operations, 3) a milestone payment of up to $200,000,000 by no later than 2033, and 4) an initial maximum annual availability payment of up to $42,200,000 (in Fiscal Year 2030 dollars) over a maintenance term not to exceed 30 years after the scheduled substantial completion date, anticipated in 2029, subject to interest rate and credit spread fluctuations between commercial close and financial close and annual Consumer Price Index adjustments, with the part of the payment covering capital costs increasing 1% per year and sculpted to align with the SFMTA's existing debt service obligations; and provides that the final terms of the agreement, including final pricing and inclusion of a Small Business Enterprise/Disadvantaged Business Enterprise (SBE/DBE) Plan, shall be subject to approval of the Board of Supervisors; and, be it

FURTHER RESOLVED, That as required by Administrative Code, Section 23.38, the Board of Supervisors authorizes and approves the Form Project Agreement requirement that the SFMTA pay any possessory interest tax assessed on the Principal Project Company's interest under the Final Project Agreement.

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 241136 **Date Passed:** December 10, 2024

Resolution generally endorsing the form of an Infrastructure Facility Design-Build-Finance-Operate-Maintain Agreement (Form Project Agreement) for the San Francisco Municipal Transportation Agency (SFMTA) Potrero Yard Modernization Project, and the following pricing: 1) an initial milestone payment of up to $75,000,000 at financial close, 2) a relocation payment of up to $500,000 within 60 days of completing temporary relocation of Potrero Yard operations, 3) a milestone payment of up to $200,000,000 by no later than 2033, and 4) an initial maximum annual availability payment of up to $42,200,000 (in Fiscal Year 2030 dollars) over a maintenance term not to exceed 30 years after the scheduled substantial completion date, anticipated in 2029, subject to interest rate and credit spread fluctuations between commercial close and financial close and annual Consumer Price Index adjustments, with the part of the payment covering capital costs increasing 1% per year and sculpted to align with the SFMTA's existing debt service obligations; and providing that the final terms of the agreement, including final pricing and inclusion of a Small Business Enterprise/Disadvantaged Business Enterprise Plan, shall be subject to approval of the Board of Supervisors.

December 04, 2024 Budget and Finance Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

December 04, 2024 Budget and Finance Committee - RECOMMENDED AS AMENDED

December 10, 2024 Board of Supervisors - ADOPTED

Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai and Walton

File No. 241136

I hereby certify that the foregoing Resolution was ADOPTED on 12/10/2024 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

12/19/24

Date Approved

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 260303-014

WHEREAS, Under Charter Section 8A.100, the San Francisco Municipal Transportation Agency (SFMTA), a department of the City and County of San Francisco (city), is responsible for managing the city's transportation system, which includes planning, designing, financing, constructing, delivering, and operating and maintaining transportation infrastructure to connect the city with safe, equitable and sustainable transportation choices (Public Benefits), which provision of Public Benefits constitute core governmental functions and responsibilities (Government Burdens) of the SFMTA; and,

WHEREAS, The SFMTA owns and operates the Potrero Division bus yard located at 2500 Mariposa Street, San Francisco (Assessor's Block 3971, Lot 001) (Project Site), which has been in continuous operation since 1915 but no longer meets the operational, safety, seismic, or environmental needs of a modern transit system; and,

WHEREAS, The SFMTA is implementing the Potrero Yard Modernization Project (Project) to replace the existing Potrero Division bus yard with a modern, resilient, and efficient bus storage and maintenance facility designed to support the SFMTA's transition to a zero-emission fleet and to improve reliability, safety, and efficiency of transit service (Infrastructure Facility); and,

WHEREAS, The Project contemplates the potential for the joint development of a housing component adjacent to the Infrastructure Facility at the Project Site, if feasible; and,

WHEREAS, On March 16, 2021, the Board of Supervisors adopted Ordinance No. 38-21,signed by the Mayor on March 26, 2021 (Procurement Ordinance), authorizing the SFMTA to procure and contract for all or any combination of design, construction, financing, operations, asset management, and related services (collectively, "Joint Development Services") to deliver the Project using a joint development procurement delivery method, permitting best-value selection of a developer team, and exempting agreements for such services from certain provisions of San Francisco Administrative Code Chapters 6, 14B, and 21, while requiring compliance with prevailing wage, local business enterprise participation, and local hire policies; and,

WHEREAS, the Procurement Ordinance further authorizes the SFMTA to enter into one or more agreements for Joint Development Services with the selected respondent, and any ancillary agreements appropriate to deliver the Project without restriction on the form of agreement, but subject to any approval of the Board of Supervisors required under Charter Section 9.118; and,

WHEREAS, Pursuant to the Procurement Ordinance, the SFMTA conducted a full and open competitive solicitation process and selected Potrero Neighborhood Collective LLC (Lead Developer), with Plenary Americas US Holdings Inc., a Delaware corporation (Plenary), as its lead equity member, as the preferred proposer and entered into a predevelopment agreement dated November 2, 2022 to advance design development, environmental review, regulatory approvals, financial analysis, and negotiation of agreements to deliver the Project (Predevelopment Agreement); and,

WHEREAS, SFMTA staff and the Lead Developer have evaluated multiple delivery and financing approaches and, based on financial analysis conducted under the Predevelopment Agreement, determined that delivering the Infrastructure Facility under a design-build-finance structure—without long-term operations and maintenance obligations—provides the best overall value to the SFMTA by reducing project costs, largely preserving the SFMTA's preferred risk allocation for design and construction, while retaining public control over operations and maintenance; and,

WHEREAS, to optimize the Infrastructure Facility's financing and delivery under this design-build-finance structure—and pursuant to the Procurement Ordinance—the SFMTA and Lead Developer determined to incorporate a non-profit conduit borrower structure to facilitate tax-exempt financing for the Infrastructure Facility, with such entity serving as conduit borrower and counterparty to the SFMTA under the design-build-finance agreement, while the Lead Developer retains responsibility for substantially all obligations and risks associated with the design and construction of the Infrastructure Facility, pursuant to a project implementation agreement with the non-profit entity; and the SFMTA Board of Directors finds that this financing and contractual structure is authorized by and consistent with the Procurement Ordinance; and,

WHEREAS, While it is financially infeasible to develop housing above the Infrastructure Facility given current market conditions, SFMTA staff and the Lead Developer have determined it may be feasible to develop a housing project with approximately 104 affordable residential units and two units of ground-level commercial space collectively comprised of approximately 2,800 square feet adjacent to the Infrastructure Facility (Housing Project); and,

WHEREAS, The SFMTA therefore now proposes to enter into (a) an Infrastructure Facility Project Agreement (Project Agreement) for the design, construction, and financing of the Infrastructure Facility pursuant to a design-build-finance structure, and (b) a Lease Disposition and Development Agreement for the development of the Housing Project, which Lease Disposition and Development Agreement will be presented to the SFMTA Board of Directors for approval under a separate calendar item and action; and,

WHEREAS, Under the proposed Project Agreement, the contract term would commence upon execution of the agreement by both parties (Commercial Close) and continue until 30 years after substantial completion of the Infrastructure Facility (Substantial Completion), which is scheduled for 2030, resulting in an expected end date of 2060; and,

WHEREAS, the SFMTA's design and construction period payment obligations would include (1) two milestone payments (Milestone Payments) of (a) $65,000,000, payable on or around the close of the Infrastructure Facility financing (Financial Close) as partial compensation for predevelopment, planning, and design work, and (b) $250,000,000, payable during construction as partial payment and compensation for design and construction of the Infrastructure Facility; (2) a Substantial Completion Development Fee payment of $5,000,000 as compensation for Lead Developer's successful completion of construction, payable after Substantial Completion; and (3) amounts payable for termination or delay events, if applicable, all as provided under the Project Agreement; and,

WHEREAS, Commencing approximately one year after anticipated Substantial Completion and continuing through the end of the contract term, the SFMTA would make annual availability payments payable on a quarterly basis (Availability Payments) for purposes of repayment of the project's debt financing and ongoing project administrative costs. These Availability Payments are currently projected to start at approximately $33 million, with an estimated cumulative amount of $980,351,550; and,

WHEREAS, These Availability Payments are subject to upward or downward adjustment between the amounts reflected in the Project Agreement at Commercial Close and those that will be incorporated as part of a subsequent amendment to the Project Agreement at Financial Close to account for interest rate and credit spread movements between the two dates, which will affect the portion of the Availability Payments used to service project debt, described below. A limited portion of the Availability Payments ($426,613 in Fiscal Year 2032 dollars) used to pay certain project administration costs following Substantial Completion will be linked to inflation; and,

WHEREAS, the Project Agreement includes negotiated affordability protections, including defined limits and mechanisms intended to ensure that Availability Payments remain within agreed parameters until Financial Close, and establishes an "Affordability Event" to identify circumstances at Financial Close under which changes to Availability Payments—such as adjustments resulting from interest rate or credit spread movements—would require additional SFMTA Board of Directors consideration, all as set forth in the Project Agreement; and,

WHEREAS, In accordance with the Project Agreement, all payments due from the SFMTA under the Project Agreement, including any termination compensation, shall be paid solely from the available monies of the SFMTA in the applicable fiscal year, and no SFMTA payment obligation shall constitute a debt of the city or a pledge of its credit or taxing power or any other resources or properties of the city beyond the fiscal year for which funds have been appropriated for the benefit of the SFMTA and certified by the Controller for the benefit of the SFMTA; and,

WHEREAS, Provident Resources Group Inc. is a Georgia nonprofit corporation that is exempt from the payment of federal income tax under Section 501(a) of the Internal Revenue Code of 1986, as amended (Code), as an entity created under Section 501(c)(3) of the Code (Provident); and,

WHEREAS, One of the charitable purposes of Provident is to serve to lessen Government Burdens and foster economic development, which charitable purpose may be accomplished through various means, including without limitation, the development, construction, acquisition, ownership, management, maintenance, operation and disposition of public facilities, public buildings, public works, essential housing and infrastructure of various types that serve the purposes and functions of government, the provisions of services and financial assistance, and the performance of activities that enable state and local government to proficiently carry out its functions and responsibilities to its citizens; and,

WHEREAS, In furtherance of its charitable mission, Provident has been asked and is willing to partner with the SFMTA to facilitate the financing and delivery of the Infrastructure Facility for the exclusive Public Benefits of the SFMTA and the city and in furtherance of Provident's charitable mission to serve to lessen Government Burdens and foster economic development; and,

WHEREAS, To accomplish this purposed, Provident has formed a wholly-owned subsidiary - PRG – Potrero Properties LLC, a Delaware limited liability company (Non-Profit Entity), which for federal income tax purposes is treated as part of Provident rather than a separate entity (a "disregarded" entity), and whose activities are attributed to and deemed to be nonprofit activities of Provident; and,

WHEREAS, The Non-Profit Entity is organized exclusively for the purpose of lessening the Government Burdens and to facilitate the Public Benefits for the benefit of the SFMTA; and,

WHEREAS, The SFMTA intends to enter into the Project Agreement with the Non-Profit Entity to provide access to lower cost tax-exempt financing for the Infrastructure Facility; and,

WHEREAS, The California Municipal Finance Authority (CMFA) is a joint powers authority authorized under California law to issue tax-exempt bonds for qualifying public and nonprofit projects, and it is expected that CMFA would issue bonds for a portion of Infrastructure Facility costs and loan the proceeds to the Non -Profit Entity on terms that are more favorable than could be achieved if the Project Agreement were entered into directly with the Lead Developer and funded by private financing; and,

WHEREAS, The SFMTA has determined that (1) the Infrastructure Facility will deliver Public Benefits, (2) the design, construction, and financing of the Infrastructure Facility constitute Government Burdens of the SFMTA, and (3) engaging the Non-Profit Entity to facilitate the issuance of tax-exempt bonds and delivery of the Infrastructure Facility will further the public interest by lessening those Government Burdens; and,

WHEREAS, The Non-Profit Entity has requested the city's Controller's Office of Public Finance to conduct a public hearing in accordance with Section 147(f) of the Code, and for the Board of Supervisors to approve the issuance of tax-exempt obligations by the CMFA on behalf of the Non-Profit Entity in accordance with the Code; and,

WHEREAS, Participation by Provident and the Non-Profit Entity is intended solely to support the financing and delivery of essential Public Benefits for the exclusive benefit of the public, and not for any private or proprietary purpose; and,

WHEREAS, Under the Project Agreement, the Non-Profit Entity will serve as the counterparty to the SFMTA primarily to facilitate the issuance of tax-exempt bonds as conduit borrower, while substantially all obligations and risks associated with the design and construction of the Infrastructure Facility set forth in the Project Agreement will be borne by the Lead Developer as the "Principal Project Company," in accordance with the negotiated risk allocation for the Infrastructure Facility and pursuant to a Project Implementation Agreement between the Non-Profit Entity and the Principal Project Company; and,

WHEREAS, The Non-Profit Entity will enter into a Project Implementation Agreement with the Principal Project Company that requires the Principal Project Company to deliver the Infrastructure Facility and be responsible and accountable for performance of the design and construction obligations, consistent with the risk allocation negotiated under the Project Agreement; and,

WHEREAS, The Non-Profit Entity will remain responsible for its Project Agreement obligations that are not assumed by the Principal Project Company, for enforcing its rights against Principal Project Company under the Project Implementation Agreement, and for complying with its obligations and reporting requirements under the Infrastructure Facility financing documents, with the SFMTA responsible for any possessory interest taxes assessed on the Non-Profit Entity's interest under the Project Agreement; and,

WHEREAS, Neither the SFMTA nor the city will have any direct legal obligation or liability with respect to repayment of any bonds or other indebtedness issued by CMFA on behalf of the Non-Profit Entity in connection with the Infrastructure Facility, and no such bonds or other indebtedness shall constitute an indebtedness or obligation, or the pledge of the faith and credit or taxing power of the city or of any properties or resources of the SFMTA or the city, and the SFMTA's sole payment obligations in connection with the Infrastructure Facility shall be limited to the Milestone Payments, the Substantial Completion Development Fee, the Availability Payments, and potential termination or delay-event compensation, all as expressly provided for under the Project Agreement, in accordance with its terms and conditions; and,

WHEREAS, This design-build-finance delivery structure under the Project Agreement and Project Implementation Agreement principally preserves the Lead Developer's role as the developer of the Infrastructure Facility, which ensures continuity from its predevelopment obligations under the Predevelopment Agreement and enables the SFMTA to obtain the financing benefits associated with the Non-Profit Entity's participation without transferring primary construction and delivery risk from the Lead Developer; and,

WHEREAS, In order for Provident and the Non-Profit Entity to participate in the financing of the Infrastructure Facility on a tax-exempt basis, Provident requires that the SFMTA

Board of Directors adopt findings acknowledging that delivery of the Infrastructure Facility is a Government Burden and engaging the Non-Profit Entity to assist in financing and facilitating delivery of the Infrastructure Facility will lessen that Government Burden and provide the Public Benefits; and,

WHEREAS, Such findings do not constitute (1) approval of any bonds or other indebtedness to be issued by the SFMTA, or (2) pledge of any revenues or properties of the SFMTA, or a pledge of any faith and credit, or taxing power of, the city or any resources thereof; and,

WHEREAS, SFMTA staff therefore requests that the SFMTA Board of Directors acknowledge, accept, authorize, and include in this Resolution the findings required by Provident and the Non-Profit Entity in connection with the Project Agreement and the related tax-exempt financing; and,

WHEREAS, SFMTA staff further requests that the SFMTA Board of Directors authorize the Director of Transportation to seek approval from the Board of Supervisors of the Project Agreement pursuant to Charter Section 9.118(b)—which requires Board of Supervisors approval for agreements involving anticipated expenditures of $10,000,000 or more or a term of ten years or more—and, subject to such approval, to execute the Project Agreement with the Non-Profit Entity; and,

WHEREAS, If the Project Agreement is not executed before the Predevelopment Agreement expires on March 31, 2026, through no default of the Lead Developer, the SFMTA would be liable for a termination payment of up to $15,546,566 under the Predevelopment Agreement; and,

WHEREAS, SFMTA staff requests that the SFMTA Board of Directors authorize the Director of Transportation, in consultation with the City Attorney, to execute on or more amendments to the Predevelopment Agreement, if necessary, to extend its term in order to allow sufficient time to obtain required approvals and execute the Project Agreement, provided that any such amendments do not materially increase the city's obligations or materially reduce its benefits under the Predevelopment Agreement; and,

WHEREAS, The Potrero Yard Modernization Project was described and analyzed in a Final Environmental Impact Report (FEIR) that the San Francisco Planning Commission certified as adequate, accurate, and complete by Motion No. 21482 on January 11, 2024. On January 11, 2024, by Motion No. 21483, the Planning Commission, based on substantial evidence in the entire recording of proceedings, also made certain findings regarding the environmental impacts of the Potrero Yard Modernization Project, rejected alternatives as infeasible, adopted the proposed mitigation monitoring and reporting program ("MMRP"), and set forth a "Statement of Overriding Considerations" explaining why the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the FEIR and that those adverse environmental effects are therefore acceptable. By Ordinance No. 57-24 passed by the Board of Supervisors on March 12, 2024, and signed by the Mayor on March 22, 2024, the Board of

Supervisors, having reviewed the FEIR, concurred with the Planning Commission's conclusions and affirmed the Planning Commission's certification of the FEIR. In addition, in Ordinance No. 57-24, the Board of Supervisors adopted and incorporated by reference the CEQA findings that the Planning Commission adopted in Motion No. 21483 including the Statement of Overriding Considerations and the MMRP; and,

WHEREAS, On October 25, 2024, the Planning Department issued a Memorandum to File, and issued a second Memorandum to File on February 4, 2026, which each reviewed proposed modifications to the Potrero Yard Modernization Project and found that the modified project would not cause new significant impacts or result in a substantial increase in the severity of the impacts identified in the Final EIR, and no new or revised mitigation measures would be required. In the Memoranda to File, the Planning Department determined that no additional environmental review is necessary for the reasons set forth in the Memoranda to File; and,

WHEREAS, Authorizing the Director of Transportation to execute the Project Agreement with PRG – Potrero Properties LLC and authorizing the Director of Transportation to seek Board of Supervisors approval under Charter Section 9.118(b) would not result in a direct or reasonably foreseeable indirect physical change to the environment beyond the scope analyzed in the FEIR and NTFs; and,

WHEREAS, Copies of the CEQA determinations, including the FEIR and Memoranda to File, as well as the CEQA Findings contained in Motion No. 21482, Motion No. 21483, the Statement of Overriding Considerations, and Ordinance No. 57-24, are on file with the Secretary to the SFMTA Board of Directors, and are incorporated herein by reference; and,

WHEREAS, The foregoing recitals are incorporated into this Resolution as findings of the SFMTA Board of Directors; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors has reviewed and considered the Final EIR, the MMRP, the Memoranda to File, and the record as a whole, and by this reference incorporates and hereby adopts as its own the CEQA Findings contained in Motion No. 21482, Motion No. 21483, Ordinance No. 57-24, and the Statement of Overriding Considerations, and the Memoranda to File. The SFMTA Board of Directors finds that based on the record as a whole, including the Final EIR and the Memoranda to File for the Potrero Yard Modernization Project, the Final EIR reflects the independent judgment and analysis of the Planning Department and the SFMTA Board of Directors, is adequate and complete, and there is no substantial evidence that the proposed Infrastructure Facility at the Potrero Yard Project, given the implementation of the mitigation measures as stated in the Final EIR and the adoption of the MMRP, could have a significant effect on the environment as shown in the analysis of the Final EIR. The SFMTA Board of Directors hereby adopts the Final EIR and the MMRP; and, be it further

RESOLVED, That the SFMTA Board of Directors hereby authorizes the Director of Transportation to execute Contract No. 1334, Infrastructure Facility Project Agreement (Project

Agreement), with PRG – Potrero Properties LLC (Non-Profit Entity), for the design, construction, and financing of a bus storage and maintenance facility for the Potrero Yard Modernization Project, subject to Board of Supervisors approval, providing for: (1) a 30-year term commencing after substantial completion, scheduled for 2030, and expected to end in 2060; (2) two milestone payments of $65,000,000 at or around financial close and $250,000,000 during construction; (3) a $5,000,000 development fee payable after substantial completion; (4) annual availability payments commencing approximately one year after anticipated substantial completion and continuing through the end of the term, projected to start at approximately $33 million, with an estimated cumulative total of approximately $980 million; and (5) potential delay or termination compensation, all as provided in the Project Agreement and for an estimated not to exceed amount of $1.4 billion, all expressed in nominal dollars; and, be it further

RESOLVED, That the SFMTA Board of Directors hereby authorizes the Director of Transportation to seek Board of Supervisors approval of the Project Agreement under Charter Section 9.118(b); and, be it further

RESOLVED, That, subject to approval of the Project Agreement by the Board of Supervisors pursuant to Charter Section 9.118(b), the SFMTA Board of Directors hereby authorizes the Director of Transportation, at their discretion and in consultation with the city Attorney, to: (1) take all actions and execute any amendment, agreements, certificates, instruments, understandings, and documents contemplated by the Project Agreement or determined by the Director of Transportation to be necessary or appropriate to implement and carry out the transactions and purposes of the Project Agreement, including but not limited to lender direct agreements, continuing disclosure agreements, certificates, and other ancillary documents related to the financing and delivery of the Infrastructure Facility; and (2) execute any additions, amendments, or other modifications to the Project Agreement that the Director of Transportation determines are in the best interests of the city or necessary or appropriate to implement and carry out the purposes and intent of the Project Agreement and this Resolution, provided that such additions, amendments, or modifications do not materially increase the city's obligations or materially reduce the rights or benefits of the city, including materially changing the risk allocation in the Project Agreement the effect of which would cause the city or the SFMTA to assume materially more risks related to the project; provided further that, for clarity, additions, amendments, or other modifications that adjust the amount, timing, or calculation of Availability Payments that do not constitute an Affordability Event—including adjustments resulting from interest rate movements, credit spread movements, or other formula-based or risk-allocated mechanisms contemplated in the Project Agreement—are within the authority delegated to the Director of Transportation under this Resolution; and, be it further

RESOLVED, That the SFMTA Board of Directors hereby authorizes the Director of Transportation to execute one or more amendments to the Predevelopment Agreement as the Director of Transportation determines, in consultation with the City Attorney, are necessary or appropriate to extend the term of the Predevelopment Agreement in order to allow sufficient time, if necessary, to obtain required approvals and execute the Project Agreement; provided

that any such amendments shall not materially increase the city's obligations or materially reduce its benefits under the Predevelopment Agreement; and, be it further

RESOLVED, That the SFMTA Board of Directors hereby finds and determines that the design, construction, and financing of the Infrastructure Facility as part of the Potrero Yard Modernization Project will satisfy legitimate Government Burdens and provide the Public Benefits, and that approval of the Project Agreement is intended to accomplish and alleviate such Government Burdens and provide the Public Benefits; and, be it further

RESOLVED, That the SFMTA Board of Directors hereby requests and approves the engagement of the Non-Profit Entity, whose sole member is Provident Resources Group Inc., a Georgia nonprofit corporation and a tax-exempt entity under Section 501(c)(3) of the Code, and whose activities are attributed to and deemed to be nonprofit activities of Provident for federal income tax purposes, to assist the SFMTA in lessening and achieving its Government Burdens pursuant to the Project Agreement by financing and facilitating delivery of the Infrastructure Facility for the exclusive Public Benefits of the city; and, be it further

RESOLVED, That the SFMTA Board of Directors hereby finds and confirms that engaging the Non-Profit Entity to assist in financing and delivery of the Infrastructure Facility will lessen the Government Burdens by enabling delivery of essential public transportation infrastructure through tax-exempt financing and a design-build-finance delivery structure while preserving public ownership and control; and, be it further

RESOLVED, That nothing in this Resolution shall be construed to create any direct legal obligation or liability of the SFMTA or the city with respect to any bonds or other indebtedness issued by the California Municipal Finance Authority, or any loan or other obligation of the Non-Profit Entity in connection therewith, and such bonds or indebtedness shall not constitute an indebtedness of the SFMTA or the city within the meaning of any constitutional or statutory provision.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of March 3, 2026.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 200407-035

WHEREAS, The Potrero Yard Modernization Project (Project) includes the simultaneous development and construction of a modern bus storage and maintenance facility with multi-family housing constructed above the facility; and,

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) will deliver the Project under its Building Progress Program and consistent with the citywide Public Land for Housing initiative, which encourages joint development opportunities for housing on public sites; and,

WHEREAS, Based on the Project's public and private features, staff have determined it is appropriate and in the City's best interest to deliver the Project utilizing a joint development procurement method; and,

WHEREAS, The joint development solution provides for a single point-of-responsibility for managing project complexity and contractors (e.g., design-build contractors, maintenance contactors for private housing development), financing, and successfully delivering the Project; and,

WHEREAS, The SFMTA has partnered with the Department of Public Works to deliver the Project and plans to issue a Request for Qualifications and subsequent Request for Proposals to procure the services of a joint development partner.

WHEREAS, The SFMTA requires a project-specific ordinance from the Board of Supervisors because existing authority to utilize the joint development procurement method does not currently exist in the Administrative Code.

WHEREAS, The project-specific ordinance is required before the SFMTA and Department of Public Works issue the RFP for the joint development services in the summer of 2020.

WHEREAS, In November 2019 a project application for the Project was submitted to the San Francisco Planning Department to initiate environmental review of the Project under the California Environmental Quality Act (CEQA); and,

WHEREAS, On March 13, 2020, the SFMTA, under authority delegated by the Planning Department, determined that Project Specific Legislation for Potrero Yard Modernization Project is are not a "project" under the CEQA pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the SFMTA to use a joint development procurement method for the Potrero Yard Modernization Project; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to seek approval from the Board of Supervisors for a Project-specific ordinance to implement the joint development procurement method in a manner that is most efficient for the Project.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of April 7, 2020.

R. Boomer

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 221101-105

WHEREAS, The Potrero Yard Modernization Project (Project) includes the simultaneous development and construction of a facility (Facility) with a modern bus storage and maintenance component (Bus Yard Component) and, if feasible, a multi-family housing and commercial component (Housing Component); and,

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) will deliver the Bus Yard Component under its Building Progress Program and, if feasible, pursue the Housing Component consistent with the citywide Public Land for Housing initiative, which encourages joint development opportunities for housing on public sites; and,

WHEREAS, Based on the Project's public and private features, staff have determined it is appropriate and in the City's best interest to deliver the Project utilizing a joint development procurement method; and,

WHEREAS, The joint development solution provides for a single point-of-responsibility for managing project complexity and contractors (e.g., design-build contractors, maintenance contactors for private housing development), financing, and successfully delivering the Project; and,

WHEREAS, The SFMTA and San Francisco Public Works (SFPW) partnered to procure a developer to design, build, and finance the Facility, operate the Housing Component, and maintain certain Facility infrastructure elements; and,

WHEREAS, In November 2019, the SFMTA submitted a project application for the Project to the San Francisco Planning Department (Planning Department) to initiate environmental review of the Project under the California Environmental Quality Act (CEQA); and,

WHEREAS, A Request for Qualifications for the Project was issued on August 21, 2020, and three of the responding teams (Potrero Mission Community Partners, Potrero Neighborhood Collective, and Potrero Yard Community Partners) were short-listed; and,

WHEREAS, On April 7, 2020, the SFMTA Board approved Resolution 200407-035, authorizing the SFMTA to use a joint development procurement method to deliver the Project and seek approval from the Board of Supervisors (BOS) for that method; and,

WHEREAS, On March 16, 2021, the BOS adopted Ordinance 38-21 to approve a joint development delivery method and a best-value selection of the developer for the Project and exempted various Project agreements from certain San Francisco Administrative Code requirements that are

inconsistent with the joint development delivery method, with the ordinance being signed by the Mayor and effective on April 25, 2021; and,

WHEREAS, A Request for Proposals for the Project (RFP) was released to the three short-listed teams on April 9, 2021 (RFP), with proposals due December 30, 2021, and all three short-listed teams submitting timely proposals; and,

WHEREAS, The Project's Draft Environmental Impact Report (DEIR) was published by the Planning Department on June 30, 2021, reviewed by the Historic Preservation Commission on August 4, 2021, and reviewed by the Planning Commission on August 26, 2021, and the public comment period closed on August 31, 2021, and the SFMTA anticipates bringing the Environmental Impact Report to the Planning Commission for approval in 2023, after including updated Project details, responding to all comments received to the DEIR, and otherwise complying with all relevant CEQA Guidelines; and,

WHEREAS, On March 1, 2022, the SFMTA Board adopted Resolution 220301-017 to approve the form of Predevelopment Agreement (Form PDA) for the Project, with a term that will not exceed 568 days, a potential termination payment that will not exceed $9,990,000, and if approved by the Board of Supervisors, a potential continuation payment of $4,000,000; and,

WHEREAS, In March of 2022, the SFMTA completed its evaluation of the submitted RFP proposals and determined that two proposers (Qualified Proposers) submitted responsive proposals that passed all administrative pass-fail criteria, and those Qualified Proposers were Potrero Mission Community Partners, led by John Laing Group and Edgemoor Infrastructure & Real Estate, and Potrero Neighborhood Collective (PNC), led by Plenary Americas US Holdings Inc. (Plenary); and,

WHEREAS, On May 26, 2022, the SFMTA exercised its RFP right to request proposal revisions ("Proposal Revisions") from the Qualified Proposers so they could better align their proposals with the SFMTA's stated Project goals and offer the best value to the SFMTA and City with respect to the Project; and,

WHEREAS, The Form PDA was modified in the request for Proposal Revisions to increase a continuation payment from $4,000,000 to $4,350,000; and,

WHEREAS, The SFMTA received a timely Proposal Revision from PNC on July 20, 2022, and based on evaluation of the submitted Proposal Revision, the SFMTA selected PNC as the preferred proposer to enter into the PDA on September 12, 2022, and after selecting PNC as the preferred proposer, the SFMTA further modified the Form PDA to include details and commitments from PNC's RFP proposal (Final PDA) and PNC submitted the required post-selection deliverables; and,

WHEREAS, On October 17, 2022, the SFMTA issued a notification of intent to award the Final PDA and issued a public announcement naming the PNC as the preferred proposer and as permitted in the RFP, PNC created Potrero Neighborhood Collective, LLC (Lead Developer), which has Plenary as its sole member, to be the developer under the Final PDA; and,

WHEREAS, The SFMTA is requesting the SFMTA Board of Directors to authorize the Director of Transportation to execute the Final PDA with the Lead Developer; and,

WHEREAS, The Final PDA sets the terms for the parties' negotiation of the future agreements for the delivery of the Project and outlines the Project predevelopment activities to be performed by the Lead Developer; and,

WHEREAS, The SFMTA can terminate the PDA at any time for convenience, and if the PDA terminates for any reason other than the Lead Developer's default or the parties' execution of the agreements for the delivery of the Project, the PDA includes a termination payment to the Lead Developer in the amount described in the form of PDA presented to the SFMTA Board, which shall not exceed $9,990,000; and,

WHEREAS, If there is final certification of the environmental impact report for the Project under CEQA and final adoption of the special use district, conditional use authorization, General Plan Referral, and related General Plan amendments needed for the Project, the Lead Developer's PDA obligations will suspend unless the SFMTA elects, in its sole discretion, to issue a notice for the Lead Developer to continue the PDA work (Continuation Notice); and,

WHEREAS, If the SFMTA issues the Continuation Notice, it must pay the Lead Developer a continuation payment of $4,350,000 (Continuation Payment) and the SFMTA cannot make the Continuation Payment without the prior approval from the Board of Supervisors under Section 9.118 of the San Francisco Charter, so the SFMTA will not issue the Continuation Notice without first obtaining the prior approval for the Continuation Payment from the Board of Supervisors; and,

WHEREAS, The PDA should be executed as soon as possible to meet the November 30, 2027, deadline for substantial completion of the Bus Yard Component and the infrastructure it shares with the Housing Component; and,

WHEREAS, On October 6, 2022, the SFMTA, under authority delegated by the Planning Department, determined that the Potrero Yard Modernization Project Predevelopment Agreement is not a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute a Predevelopment Agreement with Potrero Neighborhood Collective, LLC for the Potrero Yard Modernization Project, with a term that will not exceed 568 days, a potential termination payment that will not exceed $9,990,000, and if approved by the Board of Supervisors, a potential continuation payment of $4,350,000.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 1, 2022.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

CERTIFICATE OF PUBLICATION

This Certificate of Publication is delivered on the date set forth below for the purposes of demonstrating compliance with Section 147(f) of the Internal Revenue Code of 1986, as amended and applicable Treasury Regulations. The undersigned, as Principal Administrative Analyst in the Office of Public Finance within the Office of the Controller for the City and County of San Francisco ("City") hereby certifies as follows:

1. A Notice of Public Hearing ("Notice") with respect to the plan of finance, the issuance of the bonds ("Bonds"), and the project described therein ("Project"), was published on the primary website address of City, at https://www.sf.gov/tax-equity-fiscal-responsibility-act-hearing-notices-tefra on February 17, 2026.

2. The Notice was published in an area of the City's website which is used to inform residents within its geographical jurisdiction about City public hearings on matters affecting them. The Notice was clearly identified and accessible to members of the general public seeking information concerning the plan of finance, the issuance of the Bonds and the Project.

3. Content of the Notice and evidence of the website publication of the Notice are attached hereto as Exhibit A.

4. The Notice remained continuously published on the City's website for the entire period of seven (7) or more days from the date of the original publication described in Paragraph 1 above to the hearing date described in the Notice. The City Controller's Office held the hearing as described in the Notice on the date and at the time as described therein.

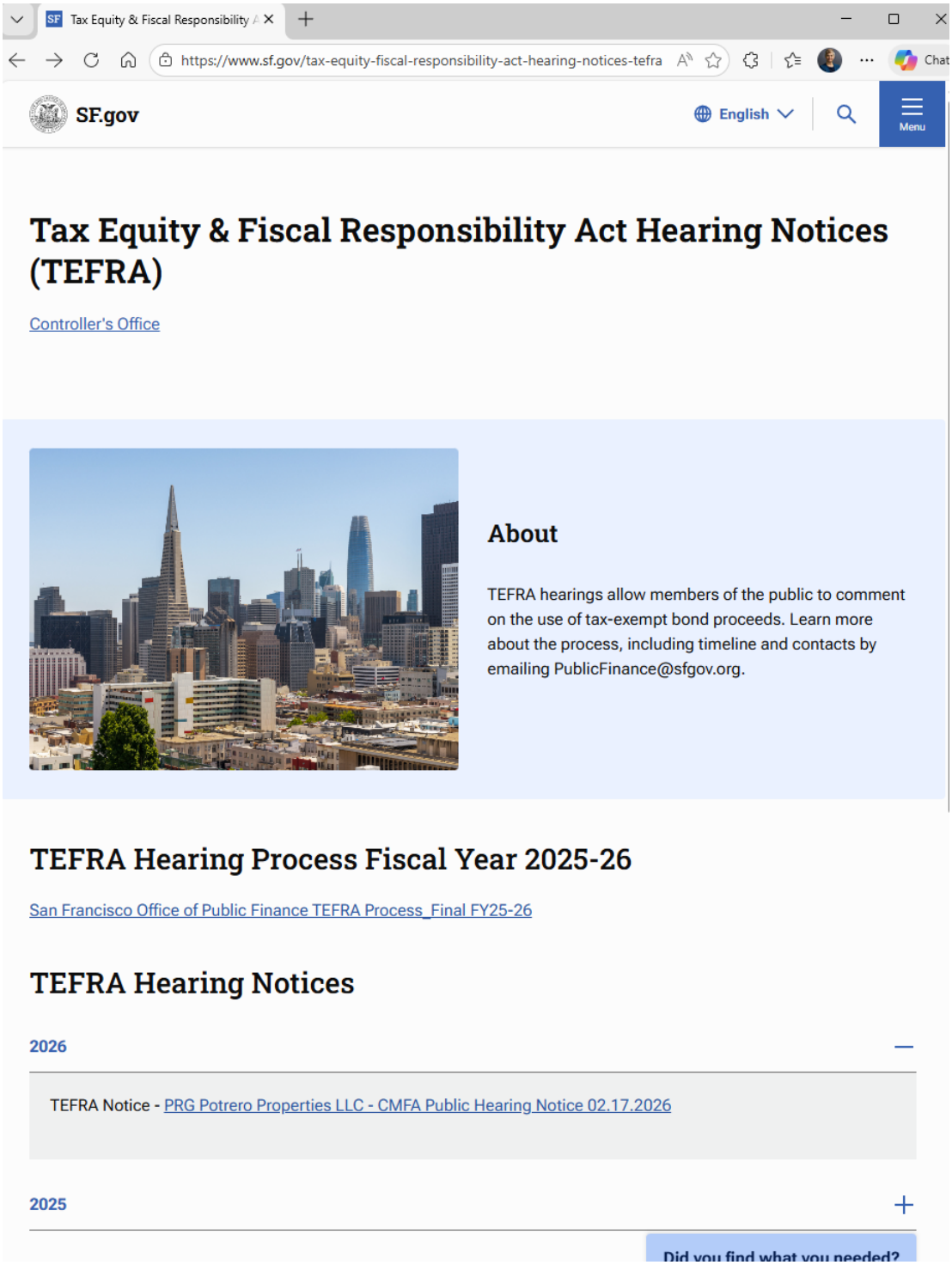
Dated this 24th day of February, 2026.

CITY AND COUNTY OF SAN FRANCISCO

By: Keith Sevigny
Keith Sevigny
Principal Administrative Analyst
Office of Public Finance

EXHIBIT A

NOTICE OF PUBLIC HEARING AND EVIDENCE OF PUBLICATION





CITY AND COUNTY OF SAN FRANCISCO

NOTICE OF PUBLIC HEARING PURSUANT TO SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, REGARDING THE PROPOSED ISSUANCE OF NOT TO EXCEED $900,000,000 OF TAX-EXEMPT OBLIGATIONS BY CALIFORNIA MUNICIPAL FINANCE AUTHORITY ON BEHALF OF PRG POTRERO PROPERTIES LLC

NOTICE IS HEREBY GIVEN that on February 24, 2026, at 11:00 a.m., a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986, as amended ("Code") will be held by the City and County of San Francisco Controller's Office of Public Finance, via toll free telephonic means accessible to the general public as described below, with respect to the proposed issuance by the California Municipal Finance Authority, a statewide joint powers authority ("Issuer") of qualified 501(c)(3) bonds, as defined in Section 145 of the Code, in one or more series from time to time pursuant to a plan of finance, in an amount not to exceed $900,000,000 ("Bonds"). Proceeds of the Bonds are expected to be loaned by the Issuer to PRG Potrero Properties LLC, a nonprofit limited liability company ("Borrower"), the sole member of which is Provident Resources Group Inc., a Georgia nonprofit corporation, and an organization described in Section 501(c)(3) of the Code, to finance a portion of the costs of or reimbursement for the construction, renovation, improvement, equipping and furnishing of facilities known as the Potrero Division bus yard. The bus yard will serve as a public bus storage and maintenance facility, located generally at 2500 Mariposa Street, San Francisco, California 94110 ("Facility"), together with offsite utility improvements in the vicinity of and connecting to the Facility (collectively, the "Project"). The Facility is owned and operated by the City and County of San Francisco.

Members of the public may listen to and provide comments about the proposed Project during the hearing by (1) dialing toll-free 1-877-402-9753 and (2) entering access code: 8883457# at the prompt. The public hearing will begin promptly at 11:00 a.m. and the line will be held open until at least 11:10 a.m., subject to the number of individuals wishing to comment on the issuance of the Bonds or the proposed Project. Once all the public comments are heard, the hearing will be concluded. The public hearing is intended to comply with the public approval requirement of Section 147(f) of the Code, and the Treasury Regulations promulgated thereunder.

Interested persons wishing to comment on the issuance of the Bonds or on the nature and location of the Project may participate in the public hearing by telephone or, prior to the time of the hearing, by submitting written comments in advance of the public hearing to the City's Office of Public Finance as follows: PublicFinance@sfgov.org.

Dated: February 17, 2026

2024-0000007

F I L E D

SAN FRANCISCO County Clerk

FEB 14 2024

by: Mariedyne Nadonza

Deputy County Clerk

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

NOTICE OF DETERMINATION

POSTED FEB 14 2024 TO

FEIR Certification Date:	January 11, 2024
Final Approval Date:	February 13, 2024
Case No.:	**2019-021884ENV**
State Clearinghouse No:	2020089022
Project Title:	**Potrero Yard Modernization Project (2500 Mariposa Street)**
Zoning:	Public (P) Zoning District 65-X Height and Bulk District
Block/Lot:	3971/001
Lot Size:	192,000 square feet (4.4 acres)
Lead Agency:	San Francisco Planning Department
Project Sponsor:	Chris Lazaro, San Francisco Municipal Transportation Agency (SFMTA) (415) 549-6572 Chris.Lazaro@sfmta.com
Staff Contact:	Jennifer McKellar (628) 652-7563 jennifer.mckellar@sfgov.org

To: County Clerk, City and County of San Francisco
City Hall Room 168
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

State of California
Office of Planning and Research
PO Box 3044
Sacramento, CA 95812-3044

Pursuant to the California Environmental Quality Act (CEQA), the Guidelines of the Secretary for Resources, and San Francisco requirements, this Notice of Determination is transmitted to you for filing. At the end of the posting period, please return this Notice to the Staff Contact with a notation of the period it was posted.

Attached fee:

☒ $79 filing fee **AND** ☒ $4,051.25 EIR Fee **OR**
☐ No Effect Determination (From CDFW)

Project Description and Location

The project site is located at 2500 Mariposa Street on the block bounded by Mariposa Street to the south, Bryant Street to the west, 17th Street to the north, and Hampshire Street to the east in the Mission neighborhood of the City and County of San Francisco. The project would demolish the existing SFMTA Potrero Trolley Coach Division Facility (Potrero Yard), a California Register of Historic Resources–eligible historic resource, and replace it with an

expanded and modernized transit facility for up to 213 buses. The project includes SFMTA maintenance, operation, and administrative uses, and joint development (residential and commercial) uses as part of a joint development program between SFMTA and a private project co-sponsor. The approximately 1,250,000-gross-square-foot structure would rise to heights ranging from 70 to 150 feet across the site. It would contain a four-level (including mezzanine level), approximately 70-foot-tall replacement transit facility (700,000 gross square feet) plus a joint development with a mix of commercial (3,000 gross square feet) and residential uses (up to 530,000 gross square feet and 513 units). The majority of residential development would be atop the replacement transit facility on floors 7 through 13. A Paratransit Variant is also proposed, which would construct Bryant Street family housing (103 units) but replace the remainder of the podium housing with SFMTA's Paratransit Operations.

Determination

The City and County of San Francisco decided to carry out or approve the project on January 11, 2024 when the Planning Commission certified the Final Environmental Impact Report (FEIR) and approved a Conditional Use Authorization to allow the redevelopment of SFMTA's Potrero Yard and the construction of a joint development that includes commercial tenant spaces and residential dwelling units within a Public (P) Zoning District and 65-X Height and Bulk District. The project was officially approved on February 13, 2024, when no appeal of the FEIR or Conditional Use Authorization was filed. A copy of the document(s) may be examined at the Planning Department, 49 South Van Ness Avenue, Suite 1400, San Francisco, CA, 94103, in case nos. 2019-021884ENV and 2019-021884CUA, and Board of Supervisors, City Hall, 1 Carlton B. Goodlett Place Room 244, San Francisco, CA, 94102 in file no. 231256.

An Environmental Impact Report has been prepared pursuant to the provisions of CEQA. It is available to the public and may be examined at the Planning Department at the above address or online at: https://bit.ly/SFPlanning_PotreroYard.

1. A determination has been made that the project in its approved form will have a significant effect on the environment and findings were made pursuant to Section 15091 and a statement of overriding considerations was adopted pursuant to Section 15093.

2. Mitigation measures were made a condition of project approval, and a mitigation and monitoring reporting program was adopted for the project.

Debra Dwyer

For Lisa Gibson
Environmental Review Officer

February 13, 2024

Date

cc: Chris Lazaro, SFMTA
Chris Jauregui, Plenary Americas
Supervisor Hillary Ronen (District 9)
Supervisor Shamann Walton (District 10)

State of California - Department of Fish and Wildlife

2024 ENVIRONMENTAL DOCUMENT FILING FEE CASH RECEIPT

DFW 753.5a (REV. 01/01/24) Previously DFG 753.5a

Print [redacted] Save

RECEIPT NUMBER:
38-02/14/2024-013

STATE CLEARINGHOUSE NUMBER *(If applicable)*

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY	LEADAGENCY EMAIL	DATE
SAN FRANCISCO PLANNING DEPARTMENT	pic@sfgov.org	02/14/2024
COUNTY/STATE AGENCY OF FILING		**DOCUMENT NUMBER**
SAN FRANCISCO COUNTY		2024-0000007

PROJECT TITLE

POTRERO YARD MODERNIZATION PROJECT (2500 MARIPOSA STREET)

PROJECT APPLICANT NAME	PROJECT APPLICANT EMAIL		PHONE NUMBER
JENNIFER MCKELLAR	jennifer.mckellar@sfgov.org		(628) 652-7563
PROJECT APPLICANT ADDRESS	**CITY**	**STATE**	**ZIP CODE**
49 SOUTH VAN NESS AVENUE, SUITE 1400	SAN FRANCISCO	CA	94103

PROJECT APPLICANT *(Check appropriate box)*

☒ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☐ Private Entity

CHECK APPLICABLE FEES:

☒ Environmental Impact Report (EIR)	$ 4,051.25	$ 4,051.25
☐ Mitigated/Negative Declaration (MND)(ND)	$ 2,916.75	$
☐ Certified Regulatory Program (CRP) document - payment due directly to CDFW	$ 1,377.25	$
☐ Exempt from fee		
☐ Notice of Exemption (attach)		
☐ CDFW No Effect Determination (attach)		
☐ Fee previously paid (attach previously issued cash receipt copy)		
☐ Water Right Application or Petition Fee (State Water Resources Control Board only)	$ 850.00	$
☒ County documentary handling fee	$ 79.00	$ 79.00
☐ Other		$

PAYMENT METHOD:

☐ Cash ☐ Credit ☐ Check ☒ Other JE 611548 **TOTAL RECEIVED** $ 4,130.25

SIGNATURE	AGENCY OF FILING PRINTED NAME AND TITLE
X [signature]	Mariedyne Nadonza Deputy Clerk

ORIGINAL - PROJECT APPLICANT COPY - CDFW/ASB COPY - LEAD AGENCY COPY - COUNTY CLERK DFW 753.5a (Rev. 01012024)

San Francisco Planning

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San Francisco, CA 94103
628.652.7600
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PLANNING COMMISSION MOTION NO. 21482

HEARING DATE: JANUARY 11, 2024

Record No.:	**2019-021884ENV**
Project Title:	**2500 Mariposa Street (SFMTA Potrero Yard Modernization Project)**
Zoning:	Public (P) Use District 65-X Height and Bulk Districts
Block/Lot:	3971/001
Project Sponsor:	San Francisco Municipal Transportation Agency Chris Lazaro – (415) 549-6572 Chris.Lazaro@sfmta.com
Property Owner:	San Francisco Municipal Transportation Agency (City and County of San Francisco) 1 S. Van Ness Ave, 7th Floor San Francisco, CA 94103
Staff Contact:	Jennifer McKellar – (628) 652-7563 Jennifer.McKellar@sfgov.org

ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED PROJECT AND A PROPOSED PROJECT VARIANT AT 2500 MARIPOSA STREET. THE PROJECT WOULD INCLUDE SFMTA BUS PARKING AND CIRCULATION (UP TO 213 BUSES); SFMTA MAINTENANCE, OPERATION, AND ADMINISTRATIVE USES; AND JOINT DEVELOPMENT (RESIDENTIAL AND COMMERCIAL) USES AS PART OF A JOINT DEVELOPMENT PROGRAM BETWEEN SFMTA AND A PRIVATE PROJECT CO-SPONSOR. THE APPROXIMATELY 1,250,000 GROSS-SQUARE-FOOT STRUCTURE WOULD RISE TO HEIGHTS RANGING FROM 70 TO 150 FEET ACROSS THE SITE. IT WOULD CONTAIN A FOUR-LEVEL (INCLUDING MEZZANINE LEVEL), APPROXIMATELY 70-FOOT-TALL REPLACEMENT TRANSIT FACILITY (700,000 GROSS SQUARE FEET) PLUS A JOINT DEVELOPMENT WITH A MIX OF COMMERCIAL (3,000 GROSS SQUARE FEET) AND RESIDENTIAL USES (UP TO 530,000 GROSS SQUARE FEET AND 513 UNITS). THE MAJORITY OF RESIDENTIAL DEVELOPMENT WOULD BE ATOP THE REPLACEMENT TRANSIT FACILITY ON FLOORS 7 THROUGH 13. A PROJECT VARIANT (PARATRANSIT VARIANT) IS ALSO PROPOSED, WHICH WOULD CONSTRUCT BRYANT STREET FAMILY HOUSING (103 UNITS) BUT REPLACE THE REMAINDER OF THE PODIUM HOUSING WITH SFMTA'S PARATRANSIT OPERATIONS.

PREAMBLE

On January 11, 2024, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting regarding the final Environmental Impact Report ("EIR") in compliance with the California Environmental Quality Act for Record No. 2019-021884ENV.

The Project EIR files have been made available for review by the Commission and the public. The Commission Secretary is the Custodian of Records; the file for Record No. 2019-021884ENV is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California. The project EIR has also been made available for public review online at https://bit.ly/SFPlanning_PotreroYard.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2019-021884ENV, for the Potrero Yard Modernization Project at 2500 Mariposa Street (hereinafter "Project"), including the project variant (hereinafter "Project Variant") based on the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 et seq., hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

   A. The Department determined that an environmental impact report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on August 19, 2020. On the same date, the Department submitted the notice of preparation of an EIR and notice of public scoping meeting to the state Office of Planning and Research electronically, and emailed or mailed the notice to the Department's list of persons requesting such notice, and to owners and occupants of properties within 300 feet of the project site on August 19, 2020.

   B. On September 2, 2020, the Department held a virtual public scoping meeting by Zoom conference and telephone to receive public comments on the scope of the environmental analysis in the EIR for the project.

   C. On June 30, 2021, the Department published the draft EIR (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; the Department emailed or mailed the notice to the Department's list of persons requesting such notice, and to property owners and occupants within a 300-foot radius of the site on June 30, 2021.

   D. Electronic copies of the notice of availability of the DEIR and the DEIR were posted to the Planning Department's environmental review documents web page and available for download. The notice of availability of the DEIR was also posted on the website of the San Francisco County Clerk's Office.

   E. The notice of availability of the DEIR and of the date and time of the public hearing at the Planning Commission were posted at and near the project site on June 30, 2021.

   F. On June 30, 2021, the DEIR was emailed or otherwise delivered to government agencies and was submitted to the State Clearinghouse electronically for delivery to responsible or trustee state agencies.

G. A notice of completion of an EIR was filed with the State Secretary of Resources via the State Clearinghouse on June 30, 2021.

2. The Commission held a duly advertised public hearing on said DEIR on August 26, 2021, at which opportunity for public comment was given and public comment was received on the DEIR. The period for acceptance of written comments ended on August 31, 2021.

3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 62-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Responses to Comments document, published on December 13, 2023, posted to the Planning Department's environmental review documents web page, distributed to the Commission, other decisionmakers, and all parties who commented on the DEIR, and made available to others upon request at the Department.

4. A final environmental impact report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Responses to Comments document, all as required by law.

5. The Planning Department Commission Secretary is the Custodian of Records; all pertinent documents are located in the File for Case No. 2019-021884ENV, at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

6. The Commission, in certifying the completion of said FEIR, hereby does find that none of the factors that would necessitate recirculation of the FEIR under CEQA Guidelines Section 15088.5 are present. The FEIR contains no information revealing (1) any new significant environmental impact that would result from the Project (or Project Variant) or from a new mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously identified environmental impact, (3) any feasible Project (or Project Variant) alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project (or Project Variant), but that was rejected by the Project's proponents, or (4) that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

7. The Commission finds that the Project and Project Variant proposed for approval are within the scope of the Project and Project Variant analyzed in the FEIR, and the FEIR fully analyzed the Project and Project Variant proposed for approval. No new impacts have been identified that were not analyzed in the FEIR.

8. On January 11, 2024, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

9. The Commission hereby does find that the FEIR concerning File No. 2019-021884ENV reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Responses to Comments document contains no significant revisions to the DEIR, and hereby does

CERTIFY THE COMPLETION of said FEIR in compliance with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

10. The Commission, in certifying the completion of said FEIR, hereby does find that the Project and Project Variant described in the EIR:

    A. Would have a significant unavoidable project-specific impact on cultural resources: historical architectural resources;

    B. Would have a significant unavoidable project-specific impact on air quality for construction- and operation-related health risk; and

    C. Would make a considerable contribution to significant unavoidable cumulative impacts on air quality: construction- and operation-related health risk.

11. The Commission reviewed and considered the information contained in the FEIR prior to approving the Project and Project Variant.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on January 11, 2024.

Jonas P. Ionin
Commission Secretary

AYES:	Braun, Ruiz, Diamond, Imperial, Koppel, Moore, Tanner
NAYS:	None
ABSENT:	None
ADOPTED:	January 11, 2024

San Francisco Planning

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PLANNING COMMISSION MOTION NO. 21483

HEARING DATE: JANUARY 11, 2024

Record No.:	2019-021884ENV
Project Address:	2500 MARIPOSA STREET (SFMTA's Potrero Modernization Project)
Zoning:	P (Public) Zoning District 65-X Height and Bulk District
Block/Lot:	3971 / 001
Project Sponsor:	Chris Jauregui
Company:	Plenary Americas, Potrero Neighborhood Collective LLC
Address:	555 W. Fifth St., Suite 3150
City, State:	Los Angeles, CA
Property Owner/ Sponsor:	City and County of San Francisco, San Francisco Municipal Transportation Agency (SFMTA)
Address:	1 S. Van Ness Ave, 7th Floor
City, State:	San Francisco, CA 94103
Staff Contact:	Gabriela Pantoja, Senior Planner Gabriela.Pantoja@sfgov.org, (628) 652-7380 Jennifer McKellar, Senior Environmental Planner Jennifer.McKellar@sfgov.org, (628) 652-7380

ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, INCLUDING FINDINGS OF FACT, FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND A STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO APPROVALS FOR SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY (SFMTA) POTRERO YARD MODERNIZATION PROJECT LOCATED AT 2500 MARIPOSA STREET, LOT 001 ON ASSESSOR'S BLOCK 3971, WITHIN THE P (PUBLIC) ZONING DISTRICT AND 65-X HEIGHT AND BULK DISTRICT.

PREAMBLE

The SFMTA Potrero Modernization Project (hereinafter "Project") refers to either the Refined Project or the Paratransit Variant as described below at 2500 Mariposa Street, Assessor's Parcel Block 3971 Lot 001 (hereinafter "Project Site"), in the northeast portion of San Francisco's Mission District near the South of Market and Potrero Hill neighborhoods.

The Refined Project will replace SFMTA's Potrero Trolley Coach Division Facility at 2500 Mariposa St. to accommodate the expansion of the SFMTA's transit vehicle fleet, the modernization of bus maintenance, operation, and administrative services, expand and consolidate training operations at one site; and joint development uses including residential uses. The new, approximately 1,250,000 gross-square-foot, mixed-use building will occupy the 4.4-acre site and be 70 to 150 feet in height. It will contain a four-level, approximately 70-foot-tall transit facility (Transit Facility Component) plus a mix of commercial and residential uses in the remainder of the Project (Housing Component) as part of a joint development program between SFMTA and the Potrero Neighborhood Collective (PNC).

a) Transit Facility Component. The Transit Facility Component will occupy the basement to fourth floor levels and include vehicular and bus circulation areas (ramps, drive aisles), mechanical rooms, bus storage locations, bus wash stations, administrative and office spaces, lockers and showers, community rooms, and outdoor open space. A limited portion of the joint development will be located within the Transit Facility Component specifically the ground floor and include residential lobbies along Hampshire and Bryant Streets and retail spaces at the corners of 17th and Hampshire Street, and 17th and Bryant Streets.

b) Housing Component. The Housing Component will include the construction of a total of 513 dwelling units (117 Studios, 184 one-bedroom, 144 two-bedroom, 68 three-bedroom) along Bryant and Hampshire Streets. Along Bryant Street, the proposed housing component will run from the ground floor to the top floor and provide dwelling units that are intended for families and will be offered at a below market rate. Along Hampshire Street, the proposed housing component with the exception of a lobby at the ground floor will commence at the podium level and provide dwelling units intended for workforce and will be offered at a below market rate.

c) Phasing. The Project is proposed to be constructed in three distinct phases, which may or may not overlap. The first phase will include the construction of the Transit Facility Component and is expected to last three years. According to the Project Sponsor team, construction is expected to begin in late 2024 and finish in late 2027. The second phase will include the construction of the Housing Component along Bryant St. up to the fourth level, podium level. Construction for the second phase is expected span two years and start one to two years after the start of construction on the first phase. Lastly, the third phase will construct the remaining Housing Component atop the podium level (both the remaining housing along Bryant St. and workforce housing along Hampshire St.) and is expected to span two years and start no sooner than two years after the start of the first phase. Phases 2 and 3 may also be constructed after the completion of SFMTA's facility.

The Paratransit Variant in lieu of constructing portion of the Housing Component atop of the bus facility, the bus facility will expand to include portions of one additional level at the podium for the use of SFMTA's Paratransit Division. In such a case, the proposal would still construct that portion of the Housing Component along Bryant St. for a total of 103 dwelling units and retail spaces at the corners of 17th and Hampshire Street, and 17th and Bryant Streets. The additional square footage for the bus facility would replace the western-most portion of the Housing Component and include additional building massing for administrative and operation spaces, and paratransit storage, operation, and circulation areas including a covered ramp for SFMTA's Paratransit division.

On November 20, 2019, San Francisco Municipal Transportation Agency (SFMTA) (hereinafter "Property Owner") filed an Environmental Evaluation Application No. 2019-021884ENV (hereinafter "Application") and applicable supplemental materials in related records with the Planning Department (hereinafter "Department").

The Department is the Lead Agency responsible for the implementation of the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq. ("CEQA"), the Guidelines for Implementation of CEQA, 14 California Code of Regulations Sections 15000 et seq. ("CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").

Pursuant to and in accordance with the requirements of Section 21094 of CEQA and Sections 15063 and 15082 of the CEQA Guidelines, on August 19, 2020, the Department published a Notice of Preparation of an Environmental Impact Report and Notice of Public Scoping Meeting] ("NOP") and initiated a 30-day public comment period.

On September 2, 2020, the Department held an advertised public meeting on the scope of the environmental analysis for the EIR, at which public comment was received. The period for commenting on the NOP ended on September 18, 2020.

On June 30, 2021, the Planning Department published a Draft Environmental Impact Report ("Draft EIR") for the project. The Department provided public notice in a newspaper of general circulation of the availability of the Draft EIR, including an initial study, for public review and comment, and provided the date and time of the San Francisco Planning Commission ("Planning Commission") public hearing on the DEIR; this notice was mailed or emailed to the Department's lists of persons requesting such notice and of owners and occupants of sites within 300-foot radius of the project site, and decision-makers. This notice was also posted at and near the Project site by the Project Sponsor or consultant on June 30, 2021.

On August 26, 2021, the Planning Commission held a duly noticed public hearing on the Draft EIR, at which opportunity for public comment was given, and public comment was received on the Draft EIR. The period for commenting on the DEIR ended on August 31, 2021.

The Department prepared responses to comments on environmental issues received during the public review period for the Draft EIR, prepared revisions to the text of the Draft EIR in response to comments received or based on additional information that became available during the public comment period, and corrected errors in the Draft EIR.

On December 13, 2023, the Planning Department published a Responses to Comments document (RTC) that was posted to the Planning Department's environmental review documents web page, distributed to the Commission, other decisionmakers, and all parties who commented on the DEIR, and made available to others upon request at the Department.

The Department prepared a final environmental impact report (hereinafter "Final EIR"), consisting of the Draft EIR, any consultations and comments received during the Draft EIR review process, any additional information that became available, and the RTC, all as required by law.

On January 11, 2024, the Planning Commission reviewed and considered the Final EIR and found that the contents of said report and the procedures through which the Final EIR was prepared, publicized, and reviewed comply

with the provisions of CEQA, the CEQA Guidelines, and Chapter 31. The Final EIR was certified by the Commission on January 11, 2024, by adoption of Motion No. 21482.

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

WHEREAS, the Commission reviewed and considered the Final EIR for the Project and Paratransit Variant and found the Final EIR to be adequate, accurate, and objective, thus reflecting the independent analysis and judgment of the Department and the Commission, and that the RTC presented no new environmental issues not addressed in the Draft EIR, and approved the Final EIR for the Project and Paratransit Variant in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

WHEREAS, the Department prepared the CEQA Findings, attached to this Motion as Attachment A and incorporated fully by this reference, regarding the alternatives, mitigation measures, improvement measures, and environmental impacts analyzed in the FEIR, the overriding considerations for approving the Project and Paratransit Variant, and the proposed mitigation monitoring and reporting program ("MMRP") attached as Attachment B and incorporated fully by this reference, which includes both mitigation measures and improvement and public works standard construction measures. The Commission has reviewed the entire record, including Attachments A and B, which material was also made available to the public.

MOVED, that the Commission hereby adopts findings under the California Environmental Quality Act, including findings rejecting alternatives as infeasible and setting forth a Statement of Overriding Considerations, attached to this Motion as Attachment A, and adopts the Mitigation Monitoring and Reporting Program, attached as Attachment B, both fully incorporated into this Motion by reference, based on substantial evidence in the entire record of this proceeding.

The Department Commission Secretary is the Custodian of Records; all pertinent documents are located in the File for Case No. 2019-021884ENV, at the Planning Department, 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

I hereby certify that the foregoing Motion was ADOPTED by the Commission at its regular meeting on January 11, 2024.

Jonas P. Ionin
Commission Secretary

AYES:	Braun, Ruiz, Diamond, Imperial, Koppel, Moore, Tanner
NAYS:	None
ABSENT:	None
ADOPTED:	January 11, 2024

San Francisco Planning

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ATTACHMENT A

Potrero Yard Modernization Project

2500 Mariposa Street

California Environmental Quality Act Findings: Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations

SAN FRANCISCO PLANNING COMMISSION

PREAMBLE

In determining to approve the Project, which refers to either the Refined Project or the Paratransit Variant described in Section I, below, the San Francisco Planning Commission (the "Commission") makes and adopts the following findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures, as well as improvement measures and Public Works Standard Construction Measures, and alternatives, and a statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 *et seq.* ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 *et seq.* ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopts these findings in conjunction with the Approval Actions described in Section I(c), below, as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting these CEQA findings.

These findings are organized as follows:

Section I provides a description of the Project, the environmental review process for the Project, the City approval actions to be taken, and the location and custodian of the record.

Section II lists the Project's less-than-significant impacts or cumulative impacts that do not require mitigation.

Section III identifies potentially significant impacts or cumulative impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures.

Section IV identifies significant Project-specific or cumulative impacts that would not be avoided or reduced to a less-than-significant level and describes any applicable mitigation measures as well as the disposition of

the mitigation measures. The Final EIR identified mitigation measures to address these impacts, but implementation of the mitigation measures will not reduce the impacts to a less-than-significant level.

Sections III and IV set forth findings as to the mitigation measures proposed in the Final EIR. The Draft Environmental Impact Report ("Draft EIR") and the Responses to Comments document ("RTC") together comprise the "Final EIR," or "FEIR." Attachment B to the Planning Commission Motion contains the Mitigation Monitoring and Reporting Program: Mitigation, Improvement and Public Works Standard Construction Measures ("MMRP"), which provides a table setting forth the full text of each mitigation measure listed in the Final Environmental Impact Report that is required to reduce a significant adverse impact.

Section V identifies the Project alternatives that were analyzed in the Final EIR and discusses the reasons for their rejection.

Section VI sets forth the Commission's Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093.

The MMRP (Attachment B) is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. The MMRP also specifies the party responsible for implementation of each mitigation measure and establishes monitoring actions and a monitoring schedule. For this project, the MMRP includes separate tables for other project requirements and design elements such as Standard Construction Measures and Improvement Measures agreed to by the project sponsor team, which consists of the San Francisco Municipal Transportation Agency (SFMTA), San Francisco Public Works (public works) and the Potrero Neighborhood Collective (PNC), a private development consortium.
These findings are based upon substantial evidence in the entire record before the Commission. The references set forth in these findings to certain pages or sections of the Draft EIR or the RTC, which together comprise the Final EIR, are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

Section I. Procedural Background and Project Description

A. Procedural Background

In April 2021, prior to publication and circulation of the Project Draft EIR on June 30, 2021, the San Francisco Municipal Transportation Agency (SFMTA) and San Francisco Public Works (Public Works) released a Request for Proposals (RFP) to procure and select a private development consortium to design, build, finance, and maintain the joint development for Potrero Yard. The proposed development consisted of a replacement transit facility component and a mixed-use component with residential, commercial, and childcare uses.

In October 2022, the City and County of San Francisco (City) awarded a contract to a private development consortium to enter into negotiations to refine the conceptual plans, obtain project approvals, construct the approved project, and manage the mixed-use component. During the procurement period, which ended in October 2022, the project sponsor team (SFMTA, public works, and the Potrero Neighborhood Collective (PNC)) developed a refined version of the Draft EIR Project incorporating various elements of the project variants described in the Draft EIR Project and analyzed for CEQA compliance, and presented it to the City Planning Department (Planning Department). Subsequently, the project sponsor team further refined the

proposed building design and program in response to feedback from the Planning Department's current Planning staff and through interdepartmental urban design and streetscape design review processes, resulting in the 50 Percent Schematic Design, the Refined Project. The project sponsor team also introduced a Paratransit Variant. These are described below (Project Description).

B. Project Description

A. Refined Project

The Refined Project will replace SFMTA's Potrero Trolley Coach Division Facility at 2500 Mariposa Street (Potrero Yard), in the northeast portion of San Francisco's Mission District near the South of Market and Potrero Hill neighborhoods. The Project will accommodate the expansion of the SFMTA's transit vehicle fleet, the modernization of bus maintenance, operation, and administrative services, expand and consolidate training operations at one site; and joint development uses including residential uses. The new, approximately 1,250,000 gross-square-foot, mixed-use building will occupy the 4.4-acre site and be 70 to 150 feet in height. It will contain a four-level, approximately 70-foot-tall transit facility (Transit Facility Component) plus a mix of commercial and residential uses in the remainder of the Project (Housing Component) as part of a joint development program between SFMTA and the Potrero Neighborhood Collective (PNC).

a) Transit Facility Component. The Transit Facility Component will occupy the basement to fourth floor levels and include vehicular and bus circulation areas (ramps, drive aisles), mechanical rooms, bus storage locations, bus wash stations, administrative and office spaces, lockers and showers, community rooms, and outdoor open space. A limited portion of the joint development will be located within the Transit Facility Component specifically the ground floor and include residential lobbies along Hampshire and Bryant Streets and retail spaces at the corners of 17th and Hampshire Street, and 17th and Bryant Streets.

b) Housing Component. The Housing Component will include the construction of a total of 513 dwelling units (117 Studios, 184 one-bedroom, 144 two-bedroom, 68 three-bedroom) along Bryant and Hampshire Streets. Along Bryant Street, the proposed housing component will run from the ground floor to the top floor and provide dwelling units that are intended for families and will be offered at a below market rate. Along Hampshire Street, the proposed housing component with the exception of a lobby at the ground floor will commence at the podium level and provide dwelling units intended for workforce and will be offered at a below market rate.

c) Phasing. The Project is proposed to be constructed in three distinct phases, which may or may not overlap. The first phase will include the construction of the Transit Facility Component and is expected to last three years. According to the Project Sponsor team, construction is expected to begin in late 2024 and finish in late 2027. The second phase will include the construction of the Housing Component along Bryant St. up to the fourth level, podium level. Construction for the second phase is expected span two years and start one to two years after the start of construction on the first phase. Lastly, the third phase will construct the remaining Housing Component atop the podium level (both the remaining housing along Bryant St. and

workforce housing along Hampshire St.) and is expected to span two years and start no sooner than two years after the start of the first phase. Phases 2 and 3 may also be constructed after the completion of SFMTA's facility.

B. Paratransit Variant

In lieu of constructing a portion of the Housing Component atop of the bus facility, the bus facility will expand to include portions of one additional level at the podium for the use of SFMTA's Paratransit Division. In such a case, the proposal would still construct that portion of the Housing Component along Bryant St. for a total of 103 dwelling units and retail spaces at the corners of 17th and Hampshire Street, and 17th and Bryant Streets. The additional square footage for the bus facility would replace the western-most portion of the Housing Component and include additional building massing for administrative and operation spaces, and paratransit storage, operation, and circulation areas including a covered ramp for SFMTA's Paratransit Division.

As noted above, in the Preamble section, the Project is defined as being either the Refined Project or the Paratransit Variant.

C. Project Objectives

The project sponsor team seeks to achieve the following objectives by undertaking the Project:

Basic Objectives

1. Rebuild, expand, and modernize the SFMTA's Potrero Bus Yard by 2027 to efficiently maintain and store a growing Muni bus fleet according to the SFMTA Fleet Plan and Facilities Framework schedule.

2. Construct the first SFMTA transit facility with infrastructure for battery electric buses to facilitate Muni's transition to an all-electric fleet, in accordance with San Francisco and California policy.

3. Construct a new public asset that is resilient to earthquakes and projected climate change effects, and provides a safe, secure environment for the SFMTA's employees and assets.

4. Improve working conditions for the SFMTA's workforce of transit operators, mechanics, and front-line administrative staff through a new facility at Potrero Yard.

5. Achieve systemwide master plan priorities by consolidating two currently scattered transit support functions at Potrero Yard: (a) improve and streamline transit operator hiring by consolidating SFMTA's operator training function in a new, state-of-the-art facility; and (b) support efficient Muni operations by consolidating the Street Operations division in a modern, convenient facility.

6. Implement inclusive and transparent stakeholder engagement in designing this project and completing the CEQA process.

7. Create a development that is financially feasible, meaning that the public asset can be funded by public means and public transportation funds are used only for the bus yard component.

Additional Objectives

8. Enhance safety and reduce conflicts between transit, commercial vehicles, bicyclists, drivers, and pedestrians in the project site vicinity.

9. Improve the architectural and urban design character of the project site by replacing the existing fences and blank walls with more active, transparent street walls, to the extent feasible.

10. Maximize the reuse of the 4.4-acre site in a central, mixed-use neighborhood by creating a mixed-use development and providing dense housing and striving to maximize the number of affordable units on the site.

11. Increase the City's supply of housing by contributing to the Mayor's Public Lands for Housing goals, the San Francisco General Plan Housing Element goals, and the Association of Bay Area Governments' Regional Housing Needs Allocation for the City by optimizing the number of dwelling units, including affordable housing, particularly near transit.

12. Support transit-oriented development and promote the use of public transportation through an innovative and comprehensive transportation demand management program.

13. Ensure that joint development is able to fund its own construction and ongoing management without reliance on City subsidy other than what is originally assumed as part of the project budget while ensuring that SFMTA's transportation funds are only allocated for the transit use.

14. Demonstrate the City's leadership in sustainable development by constructing an environmentally low-impact facility intended to increase the site's resource efficiency.

D. Project Approvals

The Project requires the following approvals:

<u>Actions by the City Planning Commission</u>

- Recommendation of approval of a General Plan Amendment which would amend the Urban Design Element by amending Urban Design Element Map 4 ("Urban Design Guidelines for the Height of Buildings") and Urban Design Element Map 5 ("Urban Design Guidelines for the Bulk of Buildings"). Urban Design Element Map 4 would be amended to state that Lot 001 in Assessor's Block 3971 has a height designation of 89-160 feet. Urban Design Element Map 5 would be amended to modify the bulk limits at the site to accommodate the Project's massing.

- Recommendation of approval of a proposed Planning Code Amendment which would add a new Special Use District—the Potrero Yard Special Use District—to the Planning Code permitting the Project's proposed uses at the site and imposing certain development standards upon the Project.

- Recommendation of approval of a proposed Zoning Map Amendment which would amend the City Zoning Map to reflect the new Potrero Yard Special Use District.

- Approval of Conditional Use Authorization for a Planned Unit Development for the Project's Residential Uses.

- Adoption of Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations under CEQA.

- Adoption of Shadow Findings that net new shadow on Franklin Square Park by the Project would not be adverse to the use of Franklin Square Park.

Actions by the City and County Board of Supervisors

- Approval of a General Plan Amendment which would amend the Urban Design Element by amending Urban Design Element Map 4 ("Urban Design Guidelines for the Height of Buildings") and Urban Design Element Map 5 ("Urban Design Guidelines for the Bulk of Buildings"). Urban Design Element Map 4 would be amended to state that Lot 001 in Assessor's Block 3971 has a height designation of 89-160 feet. Urban Design Element Map 5 would be amended to modify the bulk limits at the site to accommodate the Project's massing.

- Approval of a proposed Planning Code Amendment which would add a new Special Use District—the Potrero Yard Special Use District—to the Planning Code permitting the Project's proposed uses at the site and imposing certain development standards upon the Project.

- Approval of a proposed Zoning Map Amendment which would amend the City Zoning Map to reflect the new Potrero Yard Special Use District.

Actions by City Public Works

- If sidewalks are used for construction staging and pedestrian walkways are constructed in the curb lanes, approval of a street space permit from the Bureau of Street Use and Mapping.

- Approval of an encroachment permit or a street improvement permit for signage and streetscape improvements.

- Approval of a new curb cut and removal of existing curb cuts.

Approvals by City Recreation and Parks Commission

- Review and comment to Planning Commission regarding shadowing of Franklin Square Park.

Approvals by City Department of Building Inspection

- Approval of demolition, grading, site/building permits, sign permits, and other ministerial approvals as needed.

E. Environmental Review

On November 20, 2019, SFMTA submitted an Environmental Evaluation Application for the Project to the Planning Department, initiating the environmental review process. The EIR process includes an opportunity for the public to review and comment on the Project's potential environmental effects and to further inform the environmental analysis.

On August 19, 2020, the Planning Department published a Notice of Preparation (NOP) of an EIR and Notice of Public Scoping Meeting (EIR Appendix A, Notice of Preparation of an Environmental Impact Report and Notice of Public Scoping Meeting, August 19, 2020), announcing its intent to solicit public comments on the scope of the environmental analysis and to prepare and distribute an EIR on the Project. The Planning Department distributed the Notice of Availability of an NOP and Notice of Public Scoping Meeting to the State Clearinghouse and relevant state and regional agencies; occupants of the site and adjacent properties; property owners within 300 feet of the project site; and other potentially interested parties, including neighborhood organizations that have requested such notice. A legal notice was published in the newspaper on Wednesday, August 19, 2020. Publication of the NOP initiated a 30-day public review and comment period that ended on September 18, 2020. Pursuant to CEQA section 21083.9 and CEQA Guidelines section 15206, the Planning Department held a public scoping meeting on September 2, 2020, to receive input on the scope of the environmental review for this Project. During the NOP review and comment period, eight comments were received. One speaker provided oral comments at the scoping meeting and seven comment letters and emails were submitted to the Planning Department. The comment letters received in response to the NOP and a copy of the transcript from the public scoping meeting are available for review at the Planning Department offices as part of Case File No. 2019-021884ENV. The Planning Department considered the comments made by the public in preparation of the Draft EIR for the project and project variants.

The Planning Department published the Draft EIR, including the Initial Study, on June 30, 2021. The Draft EIR identified a 62-day public comment period—from July 1, 2021 through August 31, 2021—to solicit public comment on the Draft EIR. A public hearing on the draft EIR was held before the San Francisco Planning Commission on August 26, 2021. Five public comments on the draft EIR were made in written form during the public comment period and four comments were made as oral testimony at the public hearing.

Additionally, there was a public hearing before the San Francisco Historic Preservation Commission on Wednesday, August 4, 2021. This hearing allowed the Historic Preservation Commissioners to provide comments on the Draft EIR, including the Initial Study, to the Planning Commission.

As described in Section I above, the Draft EIR project was refined (Refined Project) and a new variant added (Paratransit Variant) after publication of the Draft EIR. The Planning Department analyzed the Refined Project and the Paratransit Variant and determined that neither would result in the new significant environmental impacts or substantially increase the severity of the impacts presented in the Draft EIR. Nor do they add any new mitigation measures or alternatives that the project sponsor team has declined to implement.

Under section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when "significant new information" is added to the EIR after public notice is given of the availability of the Draft EIR for public review but prior to certification of the Final EIR. The term "information" can include changes in the project or environmental setting, as well as additional data or other information. New information added to an EIR is not

"significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

(CEQA Guidelines, § 15088.5, subd. (a).)

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

On December 13, 2023, the Planning Department distributed a Responses to Comments (RTC) on the Draft EIR document for review to the Planning Commission as well as to the other public agencies and commissions, non-governmental organizations including neighborhood associations, and individuals who commented on the Draft EIR. The RTC document provides a complete description of the Refined Project and Paratransit Variant, an analysis of the physical environmental impacts of each compared to the Draft EIR Project, responds to the comments made on the Draft EIR during the 62-day review period, and revises Draft EIR text based on additional information and minor errata that became available or known subsequent to Draft EIR publication.

The Commission finds that none of the changes and revisions presented in the RTC substantially affects the analysis or conclusions presented in the Draft EIR; therefore, recirculation of the Draft EIR for additional public comments is not required.

F. Content and Location of Record

The record upon which all findings and determinations related to the adoption of the Project are based include the following:

- The Final EIR, consisting of the Draft EIR, the RTC document, and all documents referenced in or relied upon by the Final EIR;
- All information (including written evidence and testimony) provided by city staff members to the Planning Commission related to the Final EIR, the Project, the project approvals and entitlements, and the alternatives set forth in the Final EIR;

- All information (including written evidence and testimony) presented to the Planning Commission, or incorporated into reports presented by the Planning Department, by the environmental consultant and subconsultants who prepared the Final EIR;
- All information (including written evidence and testimony) presented to the city from other public agencies relating to the Project or the final EIR;
- All applications, letters, testimony, and presentations provided to the city by the Department and its consultants in connection with the Project;
- All information (including written evidence and testimony) presented at any public hearing or workshop related to the Final EIR;
- The MMRP; and
- All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The public hearing transcripts and audio files, a copy of all letters regarding the Final EIR received during the public review period, the administrative record, and background documentation for the Final EIR are located at the San Francisco Planning Department, 49 South Van Ness Avenue, Suite 1400, San Francisco. The San Francisco Planning Commission Secretary is the custodian of these documents and materials.

G. Findings about Environmental Impacts and Mitigation Measures

The following Sections II, III, and IV set forth the Planning Commission's findings about the Final EIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the Planning Commission regarding the environmental impacts of the Project and the mitigation measures included as part of the Final EIR and adopted by the Planning Commission as part of the Project. To avoid duplication and redundancy, and because the Planning Commission agrees with, and hereby adopts, the conclusions in the Final EIR, these findings will not repeat the analysis and conclusions in the Final EIR, but instead incorporate them by reference and rely upon them as substantial evidence supporting these findings.

In making these findings, the Planning Commission has considered the opinions of the Department and other city staff members and experts, other agencies, and members of the public. The Planning Commission finds that (i) the determination of significance thresholds is a judgment decision within the discretion of the city; (ii) the significance thresholds used in the Final EIR are supported by substantial evidence in the record, including the expert opinion of the Final EIR preparers and city staff members; and (iii) the significance thresholds used in the Final EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the Planning Commission is not bound by the significance determinations in the Final EIR (see Public Resources Code section 21082.2, subdivision [e]), the Planning Commission finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, a full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the determination regarding the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the Planning Commission ratifies, adopts, and incorporates in these findings the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures,

except to the extent any such determinations and conclusions are specifically and expressly modified by these findings, and relies upon them as substantial evidence supporting these findings.

As set forth below, the Planning Commission adopts and incorporates the mitigation measures for the Project set forth in the Final EIR, which are set forth in the attached MMRP, to reduce the significant and unavoidable impacts of the Project. The Planning Commission intends to adopt the mitigation measures proposed in the Final EIR that are within its jurisdiction and urges other city agencies and departments that have jurisdiction over other mitigation measures proposed in the Final EIR, and set forth in the MMRP, to adopt those mitigation measures. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the Final EIR due to a clerical error, the language of the policies and implementation measures as set forth in the Final EIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the Final EIR.

These findings are based upon substantial evidence in the entire record before the Planning Commission. The references set forth in these findings to certain pages or sections of the EIR or responses to comments in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

SECTION II. IMPACTS OF THE PROJECT FOUND TO BE LESS THAN SIGNIFICANT AND THUS NOT REQUIRING MITIGATION

Under CEQA, no mitigation measures are required for impacts that are less than significant (Public Resources Code section 21002; CEQA Guidelines sections 15126.4, subdivision [a][3], 15091). Based on the evidence in the entire record of this proceeding, the Planning Commission finds that the Project will not result in any significant impacts in the following areas and that these impact areas therefore do not require mitigation.

Cultural Resources

- CR-2: Construction of the Project would not materially alter, in an adverse manner, the physical characteristics of any off-site historical resource that justifies its inclusion in the California Register of Historical Resources.

- C-CR-1: The Project, in combination with cumulative projects, would not materially alter, in an adverse manner, the physical characteristics of historical resources that justify their eligibility for inclusion in the California Register of Historical Resources, resulting in a cumulative impact.

Transportation and Circulation

- TR-1: Construction of the Project would not require a substantially extended duration or intense activity and the secondary effects would not create potentially hazardous conditions for people walking, bicycling, or driving; or interfere with accessibility for people walking or bicycling; or substantially delay public transit.

- TR-2: Operation of the Project would not create potentially hazardous conditions for people walking, bicycling, or driving or public transit operations.
- TR-3: Operation of the Project would not interfere with accessibility of people walking or bicycling to and from the project site, and adjoining areas, or result in inadequate emergency access.
- TR-4: Operation of the Project would not substantially delay public transit.
- TR-5: Operation of the Project would not cause substantial additional VMT or substantially induce automobile travel.
- TR-6: Operation of the Project would not result in a loading deficit.
- C-TR-1: The Project, in combination with cumulative projects, would not result in significant construction-related transportation impacts.
- C-TR-2: The Project, in combination with cumulative projects, would not create potentially hazardous conditions.
- C-TR-3: The Project, in combination with cumulative projects, would not interfere with accessibility.
- C-TR-4: The Project, in combination with cumulative projects, would not substantially delay public transit.
- C-TR-5: The Project, in combination with cumulative projects, would not cause substantial additional VMT or substantially induce automobile travel.
- C-TR-6: The Project, in combination with cumulative projects, would not result in significant loading impacts.

Noise and Vibration

- C-NO-2: Construction vibration as a result of the Project, combined with construction vibration from cumulative projects in the vicinity, would not generate excessive groundborne vibration or groundborne noise levels.
- C-NO-3: Operation of the Project, combined with operation noise from cumulative projects in the vicinity, would not cause a substantial permanent increase in ambient noise levels in the Project vicinity.

Air Quality

- AQ-2: During operation, the Project would generate criteria air pollutant emissions at levels that would not result in a cumulatively considerable net increase in criteria air pollutants for which the region is in nonattainment.
- AQ-4: The Project would not conflict with implementation of the 2017 Bay Area Clean Air Plan.

- AQ-5: The Project would not create objectionable odors that would affect a substantial number of people.

Shadow

- SH-1: The Project would not create new shadow that substantially and adversely affects the use and enjoyment of publicly accessible open spaces.

- C-SH-1: The Project in combination with cumulative projects in the vicinity would not create new shadow in a manner that substantially and adversely affects the use and enjoyment of publicly accessible open spaces. The Project would not make a cumulatively considerable contribution to a significant cumulative shadow impact.

SECTION III. FINDINGS OF POTENTIALLY SIGNIFICANT IMPACTS OF THE PROJECT THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL THROUGH MITIGATION

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible. The findings in this Section III concern mitigation measures set forth in the EIR to mitigate the potentially significant impacts of the Project. These mitigation measures are included in the MMRP, which is included as Attachment B to the Planning Commission motion adopting these findings.

The project sponsor team has agreed to implement the mitigation measures identified below to address the potential impacts identified in the EIR. As authorized by CEQA section 21081 and CEQA Guidelines sections 15091, 15092, and 15093, based on substantial evidence in the whole record of this proceeding, the Planning Commission finds that, unless otherwise stated, the Project will be required to incorporate mitigation measures identified in the EIR into the Project to mitigate or avoid significant or potentially significant environmental impacts. These mitigation measures will reduce or avoid the potentially significant impacts described in the EIR, and the Planning Commission finds that these mitigation measures are feasible to implement and are within the responsibility and jurisdiction of the city to implement or enforce. In addition, the required mitigation measures are fully enforceable and will be included as conditions of approval for project approvals under the Project, as applicable, and also will be enforced through conditions of approval in building permits issued for the Project by the San Francisco Department of Building Inspection, as applicable. With the required mitigation measures, these Project impacts would be avoided or reduced to a less-than-significant level.

Noise and Vibration

- NO-1: Construction of the Project would generate a substantial temporary increase in ambient noise levels in the vicinity of the project in excess of standards established in the San Francisco Noise Ordinance or applicable standards of other agencies.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-NO-1 (Construction Noise Control) would reduce this impact to a less-than-significant level.

- NO-2: Construction of the Project would generate excessive groundborne vibration or groundborne noise levels.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-NO-2 (Vibration-Sensitive Equipment at 2601 Mariposa Street (KQED Building)) would reduce this impact to a less-than-significant level.

- NO-3: Operation of the Project would generate a substantial permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan, or applicable standards of other agencies.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-NO-3 (Fixed Mechanical Equipment Noise Control for Building Operations) would reduce this impact to a less-than-significant level.

- C-NO-1: Construction noise as a result of the Project, combined with construction noise from cumulative projects in the vicinity, would cause a substantial temporary increase in ambient noise levels.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-NO-1 (Construction Noise Control) would reduce this impact to a less-than-significant level.

Air Quality

- AQ-1: During construction, the Project would not generate significant fugitive dust emissions, but would generate criteria air pollutant emissions at levels which would result in a cumulatively considerable net increase in criteria air pollutants for which the region is in nonattainment.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-AQ-1 (Off-Road Construction Equipment Emissions Minimization) would reduce this impact to a less-than-significant level.

Wind

- WI-1: The Project would create wind hazards in publicly accessible areas of substantial pedestrian use in the vicinity of the project site.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-WI-1 (Design Measures to Reduce Project-Specific Wind Impacts) would reduce this impact to a less-than-significant level.

- C-WI-1: The Project, in combination with cumulative projects, would not alter wind in a manner that would make a cumulatively considerable contribution to a significant cumulative wind impact.

The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-WI-1 (Design Measures to Reduce Project-Specific Wind Impacts) would reduce this impact to a less-than-significant level.

Tribal Cultural Resources

- TCR-1: Construction of the Project could cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code section 21074.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-TCR-1 (Tribal Cultural Resources Preservation and/or Interpretive Program) would reduce this impact to a less-than-significant level.

- C-TCR-1: The Project, in combination with cumulative projects in the vicinity, would not result in significant cumulative tribal cultural resources impacts.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-TCR-1 (Tribal Cultural Resources Preservation and/or Interpretive Program) would reduce this impact to a less-than-significant level.

Geology and Soils

- GE-6: The Project could directly or indirectly destroy a unique paleontological resource or site.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-GE-6a (Inadvertent Discovery of Paleontological Resources) would reduce this impact to a less-than-significant level.

SECTION IV. SIGNIFICANT IMPACTS OF THE PROJECT THAT CANNOT BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL

Based on substantial evidence in the whole record of these proceedings, the Planning Commission finds that there are significant Project-specific and cumulative impacts that would not be eliminated or reduced to an insignificant level by the mitigation measures listed in the MMRP. The Final EIR identifies significant impacts in two significant impact topic areas—Cultural Resources and Air Quality–that would remain significant and unavoidable, even with implementation of mitigation measures; those impacts topics and the mitigation measures that reduce the impacts, although not to a less-than-significant level, are listed below.

The Planning Commission further finds based on the analysis contained within the Final EIR, other considerations in the record, and the significance criteria identified in the Final EIR, that feasible mitigation measures are not available to reduce the significant Project impacts to less-than-significant levels, and thus those impacts remain significant and unavoidable. The Planning Commission also finds that, although measures were considered in the Final EIR that could reduce some significant impacts, certain measures, as described below, are infeasible for reasons set forth below; therefore, those impacts remain significant and unavoidable or potentially significant and unavoidable.

The following significant impacts on the environment, as reflected in the Final EIR, are unavoidable. But, as more fully explained in Section VII, below, under Public Resources Code section 21081(a)(3) and (b) and CEQA Guidelines sections 15091(a)(3), 15092(b)(2)(B), and 15093, the Planning Commission finds that these impacts are acceptable in light of the legal, environmental, economic, social, technological and other benefits of the Project. This finding is supported by substantial evidence in the record of this proceeding.

A. Impacts That Remain Significant and Unavoidable After Implementation of Mitigation Measures

Cultural Resources

- CR-1: The Project would cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5 of the CEQA Guidelines.

  The Project would demolish the entire bus yard and building and redevelop the whole site with an approximately 1,250,000-gross-square-foot building that rises between 70 to 150 feet in height, including a partial basement level. The demolition under the Project would eliminate all the character-defining features that contribute to and convey the historic and architectural significance of the project site as a post-Earthquake reinforced concrete car barn designed by master Michael M. O'Shaughnessy.

  For these reasons, the Project would materially alter the physical characteristics of the Potrero Trolley Coach Division Facility that convey its historic significance and that justify its inclusion in the California Register. As such, the Project would cause a substantial adverse impact on the Potrero Trolley Coach Division Facility, a historical resource, and this would be a significant impact.

  Mitigation measures M-CR-1a (Documentation of Historical Resource), M-CR-1b (Salvage Plan), M-CR-1c (Interpretation of the Historical Resource), and M-CR-1d (Oral Histories) would document and present the complex history of the site and subject building. These mitigation measures would reduce the cultural resource impact but not to a less-than-significant level. The impact is significant and unavoidable with mitigation. Because identified mitigation measures M-CR-1a, M-CR-1b, M-CR-1c and M-CR-1d would not reduce the impact to a less-than-significant level, a full and a partial preservation alternatives to the Project have been identified.

Air Quality

- AQ-3: Construction and operation of the Project would generate toxic air contaminants, including diesel particulate matter, at levels which would expose sensitive receptors to substantial pollutant concentrations.

  Construction of the Project would generate the following local air pollutants of concern: running exhaust DPM and PM2.5 from off-road equipment and on-road trucks, fugitive PM2.5 dust from on-road truck tire wear, brake wear, and resuspension of entrained roadway dust. Operation of the Project would also generate the following local air pollutants of concern: running exhaust DPM, PM2.5, and/or TOG from on-road vehicles and emergency diesel generators, and fugitive PM2.5 dust from on-road vehicle tire wear, brake wear, and resuspension of entrained roadway dust. The emissions of DPM, PM2.5, and TOG during Project construction and operation could pose a health risk to nearby

sensitive receptors.

As explained in the Final EIR, with implementation of Mitigation Measures M-AQ-1 (Off-Road Construction Equipment Emissions Minimization) and M-AQ-3 (Emergency Diesel Generator Health Risk) the excess cancer health risk exposure would be reduced to just below the threshold of significance of 7.0 in a million (i.e., 6.87 in a million overall with 6.22 in a million attributable to off-road construction equipment after mitigation). The 38.5 percent reduction to the overall cancer risk at the maximally exposed individual resident attributable to Mitigation Measure M-AQ-1 would not be assured because of potential increases to the off-road construction equipment roster and intensity of average daily use. As a result, the efficacy of the combination of Mitigation Measures M-AQ-1 and M-AQ-3 would also not be assured. Although a reasonable worst-case construction scenario for the construction air quality emissions modeling was employed and long-term operational benefits associated with the Project's TDM program were not calculated, construction and operation of the Project could result in a substantial increase in the exposure of sensitive receptors to DPM, TOG, and PM2.5 and the impact on local air quality is determined to be significant. No additional mitigation measures have been identified and therefore this impact is significant and unavoidable with mitigation.

C-AQ-1: The Project, in combination with cumulative projects in the vicinity, would contribute considerably to cumulative health risk impacts on sensitive receptors. As discussed in the Final EIR, cumulative projects within 1,000 feet of the offsite maximally exposed individual resident are not expected to substantially increase the existing background health risks at the maximally exposed individual resident. However, as discussed under Impact AQ-3, the Project would result in a substantial increase in the existing background health risks at the maximally exposed individual resident. Even with Mitigation Measures M-AQ-1 and M-AQ-3 required as conditions of approval for the Project, construction and/or operation of the Project would result in a substantial increase in the exposure of sensitive receptors to DPM, TOG, and PM2.5 and the Project's contribution to cumulatively significant health risk impacts would be significant and unavoidable with mitigation.

SECTION V. Evaluation of Project Alternatives

This section describes the EIR alternatives and the reasons for rejecting the alternatives as infeasible. CEQA mandates that an EIR evaluate a reasonable range of alternatives to the Project or the project location that would feasibly attain most of the project's basic objectives, but that would avoid or substantially lessen any identified significant adverse environmental effects of the project. An EIR is not required to consider every conceivable alternative to a Project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. CEQA requires that every EIR also evaluate a "no project" alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their ability to meet project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

A. Alternatives Analyzed in the Final EIR

The Department considered a range of alternatives in draft EIR Chapter 5, Alternatives. The Final EIR analyzed the Project compared to four CEQA alternatives:

- Alternative A (No Project Alternative)
- Alternative B (Full Preservation Alternative)
- Alternative C (Partial Preservation Alternative)
- Alternative D (Transit Facility Plus Commercial Only Alternative)

B. Evaluation of Project Alternatives

CEQA provides that alternatives analyzed in an EIR may be rejected if "specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible ... the project alternatives identified in the EIR" (CEQA Guidelines section 15091[a][3]). The Planning Commission has reviewed each of the alternatives to the Project as described in the Final EIR that would reduce or avoid the impacts of the Project and finds that there is substantial evidence of specific economic, legal, social, technological, and other considerations that make these alternatives infeasible, for the reasons set forth below.

In making these determinations, the Planning Commission is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." The Planning Commission is also aware that under CEQA case law, the concept of "feasibility" encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project, and (ii) the question of whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

The following Project alternatives and Project were fully considered and compared in the Final EIR.

- **Alternative A (No Project Alternative):** Under Alternative A, existing land use controls on the Project site would continue to govern site development and the existing site would continue to function as a transit facility, which would not constitute a change from existing conditions. Under Alternative A, the existing maintenance and operations building would be retained in its current configuration, including its flat roof (parking deck) and second-story additions constructed in 1924 along Mariposa and Hampshire streets for offices and maintenance shops, respectively. The overall height and massing (approximately 45-foot height at Mariposa and Hampshire streets) would be preserved. The paved bus storage yard on the western portion of the site with access from Mariposa Street would also be retained in its current condition.

  If Alternative A were to proceed, no changes would be implemented, and none of the impacts associated with the Project, as described in the Final EIR, would occur. With no change to existing site conditions under the no Project alternative, land use activity on the Project site would not contribute to significant cumulative impacts beyond existing levels.

  Alternative A is hereby rejected as infeasible. Although it would eliminate the significant and unavoidable impacts to cultural resources and air quality, it would fail to meet the basic objectives of

the Project. In particular, Alternative A would fail to: (i) rebuild, expand, and modernize the SFMTA's Potrero Bus Yard by 2027 to efficiently maintain and store a growing Muni bus fleet according to the SFMTA Fleet Plan and Facilities Framework schedule; (ii) construct the first SFMTA transit facility with infrastructure for battery electric buses to facilitate Muni's transition to an all-electric fleet, in accordance with San Francisco and California policy; (iii) construct a new public asset that is resilient to earthquakes and projected climate change effects, and provides a safe, secure environment for the SFMTA's employees and assets; (iv) improve working conditions of SFMTA's workforce of transit operators, mechanics, and front-line administrative staff through a new facility at Potrero Yard; (v) achieve systemwide master plan priorities by consolidating scattered transit support functions at Potrero Yard; or (vi) create a development that is financially feasible in that the public asset can be funded by public means and public transportation funds are used only for the bus yard component.

- **Alternative B (Full Preservation Alternative):** The two preservation alternatives are the culmination of a screening process that considered various site plans, building retention programs, building heights, views of the character-defining features, and feedback from the City Historic Preservation Commission. Under the Full Preservation Alternative, the existing, approximately 45-foot-tall, office wing along Mariposa Street would be retained and the remainder of the maintenance and operations building would be demolished, including the shops wing along Hampshire Street north of the office wing. The replacement transit facility would cover the remainder of the site, including the bus yard on the west portion of the site.

  Under Alternative B, the building's three transit levels would rise to a height of 75 feet, with multi-family residential floors above rising to 150 feet (inclusive of the 75-foot-tall transit facility podium). The office wing would be retained and preserved in its entirety with no new construction built on top of it. The shops wing along Hampshire Street would be demolished; however, new construction would feature setbacks that reference the wing's original form and massing. Under this alternative, residential uses within the new transit facility would be developed along Mariposa and Bryant streets, and on floors above the new transit facility podium. However, the footprint for residential development would be limited under Alternative B due to the retention of the office wing, the transit facility podium setbacks from the retained office wing, and the residential floor setbacks from the transit facility podium. Ground-floor commercial uses would be developed along Bryant Street. Most of the character-defining features of the historical resource would be retained and reused.

  Overall, Alternative B would have approximately 176,000 fewer gross square feet of space compared to the Refined Project and about 53,000 more gross square feet of space than the Paratransit Variant. Compared to the Project (both the Refined Project and the Paratransit Variant), the replacement transit facility would be reduced in size by approximately 122,000 gross square feet—from approximately 700,000 to 578,000 gross square feet.

  Alternative B is hereby rejected as infeasible because it would fail to meet the basic objectives of the Project. In particular, Alternative B would not fully satisfy the Project's basic objectives to: (i) rebuild, expand, and modernize the SFMTA's Potrero Bus Yard by 2027 to efficiently maintain and store a growing Muni bus fleet according to the SFMTA Fleet Plan and Facilities Framework schedule; (ii) construct the first SFMTA transit facility with infrastructure for battery electric buses to facilitate Muni's

transition to an all-electric fleet, in accordance with San Francisco and California policy; and (iii) achieve systemwide master plan priorities by consolidating scattered transit support functions at Potrero Yard. Reductions to the transit facility under Alternative B could result in less space for operator training, operator and administration areas, transit street operations, and electric bus battery infrastructure, as well as displacement of maintenance bays and bus parking, limiting SFMTA's ability to meet the fleet plan mix, and loss of non-revenue vehicle parking spaces, limiting SFMTA's ability to consolidate transit street operations and other functions at Potrero Yard.

- **Alternative C (Partial Preservation Alternative):** Under the Partial Preservation Alternative, the office wing along Mariposa and Hampshire streets on the southeast portion of the site would be retained and reused. The remainder of the building would be demolished, including the shops wing along Hampshire Street north of the office wing. New construction (i.e., the three-level transit facility, with residential and ground-floor commercial uses plus residential uses atop the transit facility podium) would cover the remainder of the site as it does in Alternative B.

  Similar to the Project, the building's three transit levels would rise to a height of 75 feet, with multi-family residential floors above rising to 150 feet (inclusive of the 75-foot-tall transit facility podium). The office wing would be retained and preserved in its entirety, with no new construction built on top of it. The remainder of the building would be demolished but the new building would feature some setbacks and notches to differentiate the new construction from the retained office wing. Residential uses within the new transit facility under this alternative would be developed along Mariposa and Bryant streets and on floors above the transit facility podium. However, the footprint for residential development would be limited under Alternative C due to the retention of the office wing and the residential floor setbacks from the transit facility podium and retained office wing. Ground-floor commercial uses would be developed along Bryant Street as under the Project. Most of the character-defining features of the historical resource would be retained and reused, although to a lesser degree than in Alternative B. A portion of the existing structure would be retained; however, spatial relationships with the site and environment would be altered to a greater extent in Alternative C as compared to Alternative B.

  Overall, Alternative C would have approximately 166,000 fewer gross square feet of space compared to the Refined Project and 63,000 more gross square feet of space than the Paratransit Variant. Compared to the Project (Refined Project and Paratransit Variant), the replacement transit facility would be reduced in size by 103,000 gross square feet—from approximately 700,000 to 597,000 gross square feet. Although the interior of the retained office wing of the maintenance and operations building would be renovated to serve the SFMTA's programmatic needs, reductions to the SFMTA program could result in similar land use program reductions as with the Full Preservation Alternative.

  Alternative C is hereby rejected as infeasible because it would fail to meet the basic objectives of the Project. In particular, like Alternative B, Alternative C would not fully satisfy the Project's basic objectives to: (i) rebuild, expand, and modernize the SFMTA's Potrero Bus Yard by 2027 to efficiently maintain and store a growing Muni bus fleet according to the SFMTA Fleet Plan and Facilities Framework schedule; (ii) construct the first SFMTA transit facility with infrastructure for battery electric buses to facilitate Muni's transition to an all-electric fleet, in accordance with San Francisco and California policy; and (iii) achieve systemwide master plan priorities by consolidating scattered transit

support functions at Potrero Yard. Reductions to the transit facility under Alternative C could result in less space for operator training, operator and administration areas, transit street operations, and electric bus battery infrastructure, as well as displacement of maintenance bays and bus parking, limiting SFMTA's ability to meet the fleet plan mix, and loss of non-revenue vehicle parking spaces, limiting SFMTA's ability to consolidate transit street operations and other functions at Potrero Yard.

- **Alternative D (Transit Facility Plus Commercial Only Alternative):** Under the Transit Facility Plus Commercial Only Alternative, the 4.4-acre site would be redeveloped to provide a modern transit facility with commercial uses in a 75-foot-tall structure with three transit levels. However, Alternative D, unlike the Project, would not include residential uses within the transit facility (along Mariposa and Bryant streets) or proposed residential development atop the transit facility podium. All joint development space within the transit facility would be repurposed for SFMTA maintenance and circulation space, electric bus battery infrastructure, and staff amenities with the exception of ground-floor commercial space. The approximately 3,000 gross square feet of ground-floor commercial uses under the Project (Refined Project and Paratransit Variant) would be approximately 30,000 gross square feet less than under Alternative D, which would include 33,000 gross square feet of commercial uses along Bryant Street.

  Streetscape improvements would be limited to a loading facility on Bryant Street for commercial use, and the off-street loading at the basement level would be dedicated to the SFMTA. There would be no passenger loading space on Hampshire or Bryant streets north of Mariposa Street; thus, fewer parking spaces adjacent to the project site would be lost compared to Project (Refined Project and Paratransit Variant) . Alternative D would require 107,000 cubic yards more excavation than the Project (Refined Project and Paratransit Variant) for the foundation and structural work and the below-grade basement. However, due to the smaller construction program for the transit facility and commercial space only, Alternative D could be constructed in 2.5 to 3 years, less than the approximately four years expected for the Project (Refined Project and Paratransit Variant)..

  Alternative D is hereby rejected as infeasible. Overall, Alternative D would meet fewer of the additional project objectives than Alternatives B or C because there would be no residential component to the joint development. Without the residential component, the Alternative D project would deliver zero housing units and would fail to maximize reuse of a site located in a central, mixed-use neighborhood by creating a mixed-use development and providing dense housing and striving to maximize the number of affordable units on the site.

SECTION VI. STATEMENT OF OVERRIDING CONSIDERATIONS

The Planning Commission finds that, notwithstanding the imposition of all feasible mitigation measures, a total of three significant impacts related to cultural resources and air quality would remain significant and unavoidable with mitigation, as described in more detail above.

Pursuant to CEQA section 21081 and CEQA Guidelines section 15093, the Planning Commission hereby finds, after consideration of the Final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological, and other benefits of the Project – including. as noted above, either the Refined Project or the Paratransit Variant – independently and collectively outweighs these significant and unavoidable impacts and is an overriding consideration warranting approval of the Project, as further

discussed below. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Planning Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found below, and in the record of proceedings.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Planning Commission specifically finds that there are significant benefits of the Project to support approval of the Project in spite of the unavoidable significant impacts, and therefore makes this statement of overriding considerations. The Planning Commission further finds that, as part of the process of obtaining Project approvals, significant effects on the environment from implementation of the Project have been eliminated or substantially lessened, where feasible. All mitigation measures and improvement measures identified in the Final EIR and MMRP are adopted as part of the Approval Actions described in Section I, above.

Furthermore, the Planning Commission has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technological, legal, social, and other considerations. The Project would meet all of the objectives, as described in the Draft EIR.

The Project would have the following benefits:

- The Project would advance SFMTA's Building Progress Program, which has a goal of repairing, renovating, and modernizing SFMTA's aging facilities and facilitating improvement of the overall transportation service delivery system in the City.

- The Project would replace an aging facility a new multilevel bus facility that will not only improve maintenance and storage capabilities, but also contribute to a greener, more sustainable, and reliable transportation system for the City.

- The Project would ensure resiliency to climate change and natural disasters and improve transit service by reducing vehicle breakdowns, increasing on-time performance, and reducing passenger overcrowding. Relatedly, the Project will provide a safer, more secure environment for SFMTA's employees and physical assets.

- The Project would directly address and support the City's housing goals—memorialized in its General Plan Housing Element and the Mayor's Public Lands for Housing Goals—by constructing a range of new housing units (up to 513)on the site.

- The Project would enhance safety and reduce conflicts between transit, commercial vehicles, bicyclists, drivers, and pedestrians in the project site vicinity.

- The Project would support transit-oriented development and promote the use of public transportation through an innovative and comprehensive transportation demand management program.

- The Project would demonstrate the City's leadership in sustainable development by constructing an environmentally low-impact facility intended to increase the site's resource efficiency.

Having considered the above, and in light of evidence contained in the FEIR and in the record, the Planning Commission finds that the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the FEIR and/or Initial Study, and that those adverse environmental effects are therefore acceptable.

ATTACHMENT B – AGREEMENT TO IMPLEMENT MITIGATION MONITORING AND REPORTING PROGRAM: MITIGATION, IMPROVEMENT AND PUBLIC WORKS STANDARD CONSTRUCTION MEASURES (MMRP) and MMRP

Attachment B

MITIGATION MONITORING AND REPORTING PROGRAM: MITIGATION, IMPROVEMENT & PUBLIC WORKS STANDARD CONSTRUCTION MEASURES

Record No.:	Case No. 2019-021884ENV	Block/Lot:	3971/001
Project Title:	SFMTA Potrero Yard Modernization Project	*Lot Size:*	4.4 acres
BPA Nos:	Submittal pending	*Project Sponsor:*	Chris Lazaro, SFMTA, (415) 549-6572
Zoning:	Public (P) Use District	*Lead Agency:*	San Francisco Planning Department
	65-X Height and Bulk District	*Staff Contact:*	Jennifer McKellar, Planning – (628) 652-7563

Tables 1 and 3 below indicate when compliance with each mitigation and improvement measure must occur. Some mitigation and improvement measures span multiple phases. Substantive descriptions of each mitigation measure's requirements are provided on the following pages in the Mitigation Monitoring and Reporting Program. The San Francisco Municipal Transportation Agency (SFMTA) is the project sponsor and property owner of the project site at 2500 Mariposa Street (Potrero Yard). Together the SFMTA and a private project co-sponsor (developer) are referenced below as the project sponsor team. In addition, pursuant to the May 11, 2023, memorandum regarding Public Works' Authority for project delivery of the Potrero Yard Project and the May 31, 2020, attachment referenced therein, San Francisco Public Works assumes responsibility for environmental compliance, including applicable Standard Construction Measures in Tables 2 and 6 below.

	Period of Compliance			
Table 1: Adopted Mitigation Measure	**Prior to the start of Construction***	**During Construction****	**Post-Construction or Operational**	**Compliance with MM completed?**
Mitigation Measure M-CR-1a: Documentation of Historical Resource	X			
Mitigation Measure M-CR-1b: Salvage Plan	X			
Mitigation Measure M-CR-1c: Interpretation of the Historical Resource	X			
Mitigation Measure M-CR-1d: Oral Histories	X			
Mitigation Measure M-TCR-1: Tribal Cultural Resources Preservation and/or Interpretive Program	X	X	X	
Mitigation Measure M-NO-1: Construction Noise Control	X	X		
Mitigation Measure M-NO-2: Vibration-Sensitive Equipment at 2601 Mariposa Street (KQED Building)	X	X		
Mitigation Measure NO-3: Fixed Mechanical Equipment Noise Control for Building Operations	X		X	

Mitigation Measure M-AQ-1: Off-Road Construction Equipment Emissions Minimization	X	X		
Mitigation Measure M-AQ-3: Emergency Diesel Generator Health Risk Reduction Plan	X		X	
Mitigation Measure M-WI-1: Design Measures to Reduce Project-Specific Wind Impacts	X			
Mitigation Measure M-GE-6a: Inadvertent Discovery of Paleontological Resources	X	X		
Mitigation Measure M-GE-6b: Preconstruction Paleontological Evaluation for Class 3 (Moderate) Paleontological Sensitivity Sediments during Construction	X	X		

*Prior to any ground disturbing activities at the project site.
**Construction is broadly defined to include any physical activities associated with construction of a development project including, but not limited to: site preparation, clearing, demolition, excavation, shoring, foundation installation, and building construction.

	Period of Compliance			
Table 2: Adopted Public Works Standard Construction Measure	**Prior to the start of Construction***	**During Construction****	**Post-Construction or Operational**	**Compliance with SCM completed?**
SCM #1: SEISMIC AND GEOTECHNICAL STUDIES	X	X		
SCM #2: AIR QUALITY	X	X		
SCM #3: WATER QUALITY	X	X		
SCM #4: TRAFFIC	X	X		
SCM #5: NOISE	X	X		
SCM #6: HAZARDOUS MATERIALS	X	X		
SCM #7: BIOLOGICAL RESOURCES	X	X		
SCM #8: VISUAL AND AESTHETIC CONSIDERATIONS, PROJECT SITE	X	X		
SCM #9: CULTURAL RESOURCES	X	X		

*Prior to any ground disturbing activities at the project site.
**Construction is broadly defined to include any physical activities associated with construction of a development project including, but not limited to: site preparation, clearing, demolition, excavation, shoring, foundation installation, and building construction.

(Continues on next page)

	Period of Compliance			
Table 3: Adopted Improvement Measure	**Prior to the start of Construction***	**During Construction****	**Post-Construction or Operational**	**Compliance with Improvement Measure completed?**
Improvement Measure I-TR-A: Construction Management Plan – Additional Measures	X	X		
Improvement Measure I-TR-B: Driveway and Loading Operations Plan (DLOP)			X	

*Prior to any ground disturbing activities at the project site.
**Construction is broadly defined to include any physical activities associated with construction of a development project including, but not limited to: site preparation, clearing, demolition, excavation, shoring, foundation installation, and building construction.

Signatures:

I agree to implement the attached mitigation measure(s) and standard construction measures as described herein as conditions of project approval.

Private Project Co-Sponsor (Developer)

December 22, 2023
Date

Note to project sponsor team: Please contact CPC.EnvironmentalMonitoring@sfgov.org to begin the environmental monitoring process prior to the submittal of your building permits to the San Francisco Department Building Inspection.

(Continues on next page)

MITIGATION MONITORING AND REPORTING PROGRAM

Table 4: MITIGATION MEASURES FOR THE POTRERO YARD MODERNIZATION PROJECT

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
		MONITORING AND REPORTING PROGRAM[1]		
MITIGATION MEASURES AGREED TO BY PROJECT SPONSOR TEAM				
HISTORIC ARCHITECTURAL/CULTURAL RESOURCES				
Mitigation Measure M-CR-1a: Documentation of Historical Resource (HRER Part II, Mitigation Measure 1)				
Prior to issuance of a demolition permit, the project sponsor team shall undertake Historic American Building/Historic American Landscape Survey-like (HABS/HALS-like) documentation of the building features. The documentation shall be undertaken by a professional who meets the Secretary of the Interior's Professional Qualifications Standards for Architectural History, History, or Architecture (as appropriate) to prepare written and photographic documentation of the Potrero Trolley Coach Division Facility. The specific scope of the documentation shall be reviewed and approved by the Planning Department but shall include the following elements: Measured Drawings – A set of measured drawings shall be prepared that depict the existing size, scale, and dimension of the historic resource. Planning Department staff will accept the original architectural drawings or an as-built set of architectural drawings (e.g., plans, sections, elevations). Planning Department staff will assist the consultant in determining the appropriate level of measured drawings. Historic American Buildings/Historic American Landscape Survey-Level Photographs – Either Historic American Buildings/Historic American Landscape Survey (HABS/HALS) standard large-format or digital photography shall be used. The scope of the digital photographs shall be reviewed by Planning Department staff for concurrence, and all digital photography shall be conducted according to the latest National Park Service (NPS) standards. The	Project Sponsor Team and qualified consultant, at the direction of the ERO	Prior to issuance of excavation permit or commencement of construction	Planning Department preservation staff shall review and approve the documentation package	Considered complete upon completion of the Planning Department approved documentation provided to the repositories in their preferred format and the print-on-demand booklet is made available to the public, upon request

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
photography shall be undertaken by a qualified professional with demonstrated experience in HABS/HALS photography. Photograph views for the data set shall include contextual views; views of each side of the building and interior views, including any original interior features, where possible; oblique views of the building; and detail views of character-defining features. All views shall be referenced on a photographic key. This photographic key shall be on a map of the property and shall show the photograph number with an arrow to indicate the direction of the view. Historic photographs shall also be collected, reproduced, and included in the data set. HABS/HALS Historical Report – A written historical narrative and report shall be provided in accordance with the HABS/HALS Historical Report Guidelines. The written history shall follow an outline format that begins with a statement of significance supported by the development of the architectural and historical context in which the structure was built and subsequently evolved. The report shall also include architectural description and bibliographic information. Video Recordation (HRER Part II, Mitigation Measure 3) – Video recordation shall be undertaken before demolition or site permits are issued. The project sponsor team shall undertake video documentation of the affected historical resource and its setting. The documentation shall be conducted by a professional videographer, one with experience recording architectural resources. The documentation shall be narrated by a qualified professional who meets the standards for history, architectural history, or architecture (as appropriate) set forth by the Secretary of the Interior's Professional Qualification Standards (36 Code of Federal Regulations Part 61). The documentation shall include as much information as possible—using visuals in combination with narration—about the materials, construction methods, current condition, historic use, and historic context of the historical resource. This mitigation measure would supplement the				

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
traditional HABS/HALS documentation, and would enhance the collection of reference materials that would be available to the public and inform future research. Softcover Book – A Print-on-Demand softcover book shall be produced that includes the content from the historical report, historical photographs, HABS/HALS photography, measured drawings, and field notes. The Print-on-Demand book shall be made available to the public for distribution. The project sponsor team shall transmit such documentation to the History Room of the San Francisco Public Library, San Francisco Architectural Heritage, the Planning Department, and the Northwest Information Center. The HABS/HALS documentation scope will determine the requested documentation type for each facility, and the project sponsor team will conduct outreach to identify other interested groups. All documentation will be reviewed and approved by the Planning Department's staff before any demolition or site permit is granted for the affected historical resource.				
Mitigation Measure M-CR-1b: Salvage Plan (HRER Part II, Mitigation Measure 2)				
Prior to any demolition that would remove character-defining features, the project sponsor team shall consult with the planning department as to whether any such features may be salvaged, in whole or in part, during demolition/alteration. The project sponsor team shall make a good faith effort to salvage materials of historical interest to be utilized as part of the interpretative program.	Project Sponsor Team/qualified preservation consultant at the direction of the ERO	Prior to issuance of construction permits	Planning Department	Considered compete after salvage occur and interpretive program is complete
Mitigation Measure M-CR-1c: Interpretation of the Historical Resource (HRER Part II, Mitigation Measure 4)				
The project sponsor team shall facilitate the development of an interpretive program focused on the history of the project site. The interpretive program should be developed and implemented by a qualified professional with demonstrated experience in displaying information and graphics to the public in a visually interesting	Project Sponsor Team, construction contractors, and qualified consultant, at the	Prior to issuance of excavation permit or commencement of construction	Planning Department preservation staff shall review and approve the interpretive program plan	Considered complete upon the Planning Department's approval and the Project Sponsor Team's implementation of the interpretive program plan

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
manner, such as a museum or exhibit curator. This program shall be initially outlined in a proposal for an interpretive plan subject to review and approval by Planning Department staff. The proposal shall include the proposed format and the publicly-accessible location of the interpretive content, as well as high-quality graphics and written narratives. The proposal prepared by the qualified consultant describing the general parameters of the interpretive program shall be approved by Planning Department staff prior to issuance of the architectural addendum to the site permit. The detailed content, media, and other characteristics of such an interpretive program shall be approved by Planning Department staff prior to issuance of a Temporary Certificate of Occupancy. The interpretative program shall include but not be limited to the installation of permanent on-site interpretive displays or screens in publicly accessible locations. Historical photographs, including some of the large-format photographs required by Mitigation Measure M-CR-1a, may be used to illustrate the site's history. The oral history program required by Mitigation Measure M-CR-1d will also inform the interpretative program. The primary goal is to educate visitors and future residents about the property's historical themes, associations, and lost contributing features within broader historical, social, and physical landscape contexts. These themes would include but not be limited to the subject property's historic significance for its association with the earliest years of San Francisco's Municipal Railway, the United States' first publicly owned street railway and for its distinctive characteristics as a car barn, for its post-Earthquake period of construction, and as the work of master Michael M. O'Shaughnessy.	direction of the ERO			
Mitigation Measure M-CR-1d: Oral Histories (HRER Part II, Mitigation Measure 5)				

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
The project sponsor team shall undertake an oral history project on the resource that may include interviews of people such as former SFMTA employees, or other community members who may offer informative historic perspectives on the history and significance of the resource. The project shall be conducted by a professional historian in conformance with the Oral History Association's Principles and Best Practices (https://www.oralhistory.org/principles-and-best-practices-revised-2018/). In addition to transcripts of the interviews, the oral history project shall include a narrative project summary report containing an introduction to the project, a methodology description, and brief summaries of each conducted interview. Copies of the completed oral history project shall be submitted to the San Francisco Public Library, Planning Department, and other interested historical institutions. The oral history project shall also be incorporated into the interpretative program.	Project Sponsor Team and qualified consultant, at the direction of the ERO	Prior to issuance of excavation permit or commencement of construction	Planning Department preservation staff shall review and approve the documentation package	Considered complete upon the Planning Department's approval and the Project Sponsor Team's implementation of the interpretive program plan
Mitigation Measure M-TCR-1: Tribal Cultural Resources Preservation and/or Interpretive Program				
During ground-disturbing activities that encounter archeological resources, if the Environmental Review Officer (ERO) determines that a significant archeological resource is present, and if in consultation with the affiliated Native American tribal representatives, the ERO determines that the resource constitutes a tribal cultural resource (TCR) and that the resource could be adversely affected by the proposed project, the proposed project shall be redesigned so as to avoid any adverse effect on the significant tribal cultural resource, if feasible. If the ERO, in consultation with the project sponsor, determines that preservation-in-place of the TCR would be both feasible and effective, then the archeological consultant shall prepare an archeological resource preservation plan (ARPP). Implementation of	Project Sponsor Team, construction contractors, and qualified consultant, at the direction of the ERO	Consultation and planning starting upon discovery of a potential TCR during archeological testing or during construction excavations; interpretive program to be implemented prior to issuance of building occupancy permit	Environmental Review Officer (ERO) or designee	In the event of the discovery of a TCR, considered complete after implementation of the Planning Department approved interpretation program

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
the approved ARPP by the archeological consultant shall be required when feasible. If the ERO, in consultation with the affiliated Native American tribal representatives and the project sponsor, determines that preservation-in-place of the TCR is not a sufficient or feasible option, then the project sponsor shall implement an interpretive program of the TCR in consultation with affiliated Native American tribal representatives. An interpretive plan produced in consultation with affiliated Native American tribal representatives, at a minimum, and approved by the ERO, would be required to guide the interpretive program. The plan shall identify proposed locations for installations or displays, the proposed content and materials of those displays or installation, the producers or artists of the displays or installation, and a long-term maintenance program. The interpretive program may include artist installations, preferably by local Native American artists, oral histories with local Native Americans, artifacts displays and interpretation, and educational panels or other informational displays.				
NOISE				
Mitigation Measure M-NO-1: Construction Noise Control				
The SFMTA and private project co-sponsor and/or its contractors on SFMTA's behalf (referred to below as project sponsor team) shall prepare construction noise control documentation as detailed below. Prior to issuance of any demolition or building permit, the project sponsor team shall submit a project-specific construction noise control plan to the Environmental Review Officer (ERO) or the ERO's designee for approval. The construction noise control plan shall be prepared by a qualified acoustical engineer, with input from the construction contractor, and include all feasible measures to reduce construction noise. The construction noise control plan shall identify noise control measures to meet a performance target of	Project Sponsor Team, construction contractors, acoustical engineer	Prior to the issuance of construction permits; prior to the commencement of each construction stage; implementation of monitoring ongoing during construction	Environmental review officer or designee in Planning Department, Project Sponsor Team	Noise control plan approved by ERO/Planning Department prior to construction and considered complete upon submission of a noise monitoring report after each construction phase and completion of construction activities

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
construction activities not resulting in a noise level greater than 90 dBA at noise-sensitive receptors and 10 dBA above the ambient noise level at noise-sensitive receptors. The project sponsor team shall ensure that requirements of the construction noise control plan are included in contract specifications. If nighttime construction is required, the plan shall include specific measures to reduce nighttime construction noise. The plan shall also include measures for notifying the public of construction activities, complaint procedures, and a plan for monitoring construction noise levels in the event complaints are received. The construction noise control plan shall include the following measures to the degree feasible, or other effective measures, to reduce construction noise levels: • Use construction equipment that is in good working order, and inspect mufflers for proper functionality; • Select "quiet" construction methods and equipment (e.g., improved mufflers, use of intake silencers, engine enclosures); • Use construction equipment with lower noise emission ratings whenever possible, particularly for air compressors; • Prohibit the idling of inactive construction equipment for more than five minutes; • Locate stationary noise sources (such as compressors) as far from nearby noise-sensitive receptors as possible (including future onsite noise-sensitive receptors at the Phase 2 Bryant Street Housing under the phased construction scenarios for the Refined Project), muffle such noise sources, and construct barriers around such sources and/or the construction site. • Avoid placing stationary noise-generating equipment (e.g., generators, compressors) within noise-sensitive buffer areas (as determined by the acoustical engineer) immediately adjacent to neighbors (including future onsite noise-				

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
sensitive receptors at the Phase 2 Bryant Street Housing under the phased construction scenarios for the Refined Project). • Enclose or shield stationary noise sources from neighboring noise-sensitive properties (including the future onsite noise-sensitive receptors at the Phase 2 Bryant Street Housing under the phased construction scenarios for the Refined Project) with noise barriers to the extent feasible. To further reduce noise, locate stationary equipment in pit areas or excavated areas, if feasible; and • Install temporary barriers, barrier-backed sound curtains and/or acoustical panels around working powered impact equipment and, if necessary, around the perimeter of active construction areas or phases. When temporary barrier units are joined together, the mating surfaces shall be flush with each other. Gaps between barrier units, and between the bottom edge of the barrier panels and the ground, shall be closed with material that completely closes the gaps, and dense enough to attenuate noise. • Under the phased construction scenarios for the Refined Project, develop strategies to reduce exposure to construction noise in coordination with future onsite noise-sensitive receptors at the Phase 2 Bryant Street Housing. Some options to reduce noise include limiting noise to Phase 2 Bryant Street receptors by delaying or limiting occupancy in units closest to the construction zone or notifying receptors of loud construction periods. These options should be explored as part of the noise control plan prepared by a qualified noise consultant and the construction contractor. The construction noise control plan shall include the following measures for notifying the public of construction activities, complaint procedures, and monitoring construction noise levels:				

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
• Designate an on-site construction noise manager for the project; • Notify neighboring noise-sensitive receptors within 300 feet of the project construction area at least 30 days in advance of high-intensity noise-generating activities (e.g., pier drilling, pile driving, and other activities that may generate noise levels greater than 90 dBA at noise-sensitive receptors) about the estimated duration of the activity (including future onsite noise-sensitive receptors at the Phase 2 Bryant Street Housing under the phased construction scenarios for the Refined Project); • Post a sign onsite describing noise complaint procedures and a complaint hotline number that shall always be answered during construction; • Implement a procedure for notifying the planning department of any noise complaints within one week of receiving a complaint; • Establish a list of measures for responding to and tracking complaints pertaining to construction noise. Such measures may include the evaluation and implementation of additional noise controls at sensitive receptors (residences, hospitals, convalescent homes, schools, churches, hotels and motels, and sensitive wildlife habitat); and • Conduct noise monitoring (measurements) at the beginning of major construction phases (e.g., demolition, grading, excavation) and during high-intensity construction activities to determine the effectiveness of noise attenuation measures and, if necessary, implement additional noise control measures. The construction noise control plan shall include the following additional measures in the event of pile-driving activities:				

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
• When pile driving is to occur within 600 feet of a noise-sensitive receptor, implement "quiet" pile-driving technology (such as pre-drilling of piles, sonic pile drivers, auger cast-in-place, or drilled-displacement, or the use of more than one pile driver to shorten the total pile-driving duration [only if such measure is preferable to reduce impacts to sensitive receptors]) where feasible, in consideration of geotechnical and structural requirements and conditions; • Where the use of driven impact piles cannot be avoided, properly fit impact pile driving equipment with an intake and exhaust muffler and a sound-attenuating shroud, as specified by the manufacturer; and • Conduct noise monitoring (measurements) before, during, and after the pile-driving activity.				
Mitigation Measure M-NO-2: Vibration-Sensitive Equipment at 2601 Mariposa Street (KQED Building)				
Prior to construction, the SFMTA and private project co-sponsor and/or its contractors on SFMTA's behalf (referred to below as project sponsor team) shall designate and make available a community liaison to respond to vibration complaints from building occupants at the KQED building, located at 2601 Mariposa Street. Contact information for the community liaison shall be posted in a conspicuous location so that it is clearly visible to building occupants most likely to be disturbed. Through the community liaison, the project sponsor team shall provide notification to property owners and occupants of 2601 Mariposa Street at least 10 days prior to construction activities involving equipment that can generate vibration capable of interfering with vibration-sensitive equipment, informing them of the estimated start date and duration of vibration-generating construction activities. Equipment types capable of generating such vibration include an impact pile	Project Sponsor Team, and qualified consultant, at the direction of the ERO	Prior to the issuance building and construction permits	Project sponsor, project acoustical engineer and Planning Department	Considered complete after construction activities are completed and after buildings and/or structures are remediated to their pre-construction condition at the conclusion of vibration-generating activity on the site, should any damage occur

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Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
driver, or similar equipment, operating within 250 feet of the building or a vibratory roller, or similar equipment, operating within 125 feet of the building. If feasible, the project sponsor team shall identify potential alternative equipment and techniques that could reduce construction vibration levels. Alternative equipment and techniques may include, but are not limited to: • pre-drilled piles, • caisson drilling, • oscillating or rotating pile installation, • jetting piles into place using a water injection at the tip of the pile could be substituted for driven piles, if feasible, based on soil conditions, • static rollers could be substituted for vibratory rollers in some cases. If concerns prior to construction or complaints during construction related to equipment interference are identified, the community liaison shall work with the project sponsor team and the affected building occupants to resolve the concerns such that the vibration control measures would meet a performance target of the 65 VdB vibration level threshold for vibration sensitive equipment, as set forth by Federal Transit Authority (FTA). To resolve concerns raised by building occupants, the community liaison shall convey the details of the complaint(s) to the project sponsor team, such as who shall implement specific measures to ensure that the project construction meets the performance target of 65 VdB vibration level for vibration sensitive equipment. These measures may include evaluation by a qualified noise and vibration consultant, scheduling certain construction activities outside the hours of operation or recording periods of specific vibration-sensitive equipment if feasible, and/or conducting ground-borne vibration monitoring to document that the project can meet the performance target of 65 VdB at specific distances and/or locations. Ground-borne				

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Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
vibration monitoring, if appropriate to resolve concerns, shall be conducted by a qualified noise and vibration consultant.				
Mitigation Measure NO-3: Fixed Mechanical Equipment Noise Control for Building Operations				
The SFMTA and a private project co-sponsor and/or its contractors on SFMTA's behalf (referred to below as project sponsor team) shall prepare operational noise control documentation as detailed below. Prior to approval of a building permit, the project sponsor team shall submit documentation to the Environmental Review Officer (ERO) or the officer's designee, demonstrating with reasonable certainty that the building's fixed mechanical equipment (such as heating, ventilation and air conditioning [HVAC] equipment) meets the noise limits specified in sections 2909 (b) and 2909 (d) of the noise ordinance (i.e., an 8-dB increase above the ambient noise level at the property plane for commercial or mixed-use properties; and interior noise limits of 55 dBA and 45 dBA for daytime and nighttime hours inside any sleeping or living room in a nearby dwelling unit on a residential property assuming windows open, respectively). Acoustical treatments required to meet the noise ordinance may include, but are not limited to: • Enclosing noise-generating mechanical equipment; • Installing relatively quiet models of air handlers, exhaust fans, and other mechanical equipment; • Using mufflers or silencers on equipment exhaust fans; • Orienting or shielding equipment to protect noise-sensitive receptors (residences, hospitals, convalescent homes, schools, churches, hotels and motels, and sensitive wildlife habitat) to the greatest extent feasible; • Increasing the distance between noise-generating equipment and noise-sensitive receptors; and/or	Project Sponsor Team and qualified consultant, at the direction of the ERO	Prior to the issuance building permit	Environmental Review Officer (ERO) or designee	Considered complete after receipt and acceptance of the appropriate documentation to the ERO

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
• Placing barriers around the equipment to facilitate the attenuation of noise. Compliance with this fixed-mechanical equipment noise control for building operations standard requirement does not obviate the need for the equipment to demonstrate compliance with the noise ordinance throughout the lifetime of the project.				
AIR QUALITY				
Mitigation Measure M-AQ-1: Off-Road Construction Equipment Emissions Minimization				
The SFMTA and private project co-sponsor and/or its contractors on SFMTA's behalf (referred to below as project sponsor team) shall comply with the following: A. Engine Requirements. 1. All off-road equipment greater than or equal to 25 horsepower shall have engines that meet U.S. EPA or California Air Resources Board Tier 4 Final off-road emission standards. 2. Where access to alternative sources of power is available, portable diesel engines shall be prohibited. If access to alternative sources of power is infeasible, portable diesel engines shall meet the requirements of Subsection (A)(1). 3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The project sponsor team shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing	Project Sponsor Team, construction contractors	Prior to issuance of a construction permit; implementation ongoing during construction	Environmental Review Officer (ERO) or designee/ project sponsor	Considered complete upon Planning Department review and approval of Construction Emissions Minimization Plan, ongoing review and approval of biannual reports, and review and approval of final construction report

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
areas and at the construction site to remind operators of the two-minute idling limit. 4. The project sponsor team shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications. B. Waivers. 1. The San Francisco Planning Department Environmental Review Officer (ERO) may waive the equipment requirements of Subsection (A)(1) if: a particular piece of off-road Tier 4 Final equipment is not regionally available, not technically feasible, or would not produce desired emissions reduction due to expected operating modes. In granting the waiver, the project sponsor team must demonstrate with substantial evidence that the project construction does not exceed the BAAQMD threshold for NOx (54 lbs/day) by resulting in a net increase of average daily NOx emissions greater than 4 pounds per day. The project sponsor team must also demonstrate with substantial evidence that the overall combined construction and operational excess cancer risk does not exceed 7 per 1 million persons exposed at nearby sensitive receptors. C. Construction Emissions Minimization Plan. 1. Before starting onsite construction activities, the project sponsor team shall submit a Construction Emissions Minimization Plan (Plan) to the ERO for review and approval. The Plan shall state, in reasonable detail, how the project sponsor team will meet the requirements of Section A.				

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
2. The Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel use and hours of operation. 3. The project sponsor team shall ensure that all applicable requirements of the Plan have been incorporated into the contract specifications. The Plan shall include a certification statement that the project sponsor team agrees to comply fully with the Plan. 4. The project sponsor team shall make the Plan available to the public for review onsite during working hours. The project sponsor team shall post at the construction site a legible and visible sign summarizing the Plan. The sign shall also state that the public may ask to inspect the Plan for the project at any time during working hours and shall explain how to request to inspect the Plan. The project sponsor team shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way. D. Monitoring 1. After start of construction activities, the project sponsor team shall submit biannual reports to the ERO documenting compliance with the Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor team shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the Plan.				

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Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
Mitigation Measure M-AQ-3: Emergency Diesel Generator Health Risk Reduction Plan				
The SFMTA and private project co-sponsor and/or its contractors on SFMTA's behalf (referred to below as the project sponsor team) shall comply with the following: 1. Require all emergency diesel generators to meet Tier 4 Final emission standards and reduce annual testing limit to 20 hours per year for each generator; or 2. Require all emergency generators to be battery-powered; or 3. The project sponsor team shall retain a qualified air quality consultant to develop an Emergency Diesel Generator Health Risk Reduction Plan. The project sponsor team shall submit the plan to the San Francisco Planning Department Environmental Review Officer (ERO) for review and approval prior to issuance of a permit for emergency diesel generators from the San Francisco Department of Building Inspection or the Bay Area Air Quality Management District. The plan must include, for each emergency diesel generator, a description of the anticipated venting location, engine specifications, and annual maintenance testing procedures. The plan must demonstrate with substantial evidence that annual maintenance testing will not result in the project's overall construction and operational cancer risk exceeding 7 per one million persons exposed at nearby offsite sensitive receptors. Additionally, the operator of the facility at which the generators are located (including the private project co-sponsor as applicable) shall be required to maintain records of the testing schedule for each emergency diesel generator for the life of that generator and to	Project Sponsor Team and construction contractor	Prior to issuance of a permit for emergency diesel generator	Project Sponsor Team, facility maintenance contractor, and the Planning Department	Considered complete upon Planning Department review and approval of Emergency Diesel Generator Health Risk Reduction Plan

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Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
provide this information for review to the planning department within three months of requesting such information.				
WIND				
Mitigation Measure M-WI-1(a): Design Measures to Reduce Project-Specific Wind Impacts				
The project sponsor team shall retain a qualified wind consultant to prepare, in consultation with the San Francisco Planning Department (planning department), a wind impact mitigation report that identifies design measures to reduce the project's wind impacts in the project scenario. Prior to certification of the Final Environmental Impact Report, the project sponsor team shall submit the wind impact mitigation report to the planning department for its final review and approval. The wind impact mitigation report shall incorporate updated information on the building design based on a list of potential wind reduction measures identified below, along with the estimated effectiveness of each measure to reduce the identified off-site wind hazards. • Porous façades on portions of the north, east and west sides for natural ventilation as part of the heating, ventilation, and air conditioning strategy for the new transit facility at the second and third levels • Recessed building corner up to 12 feet in height at the southwest corner of proposed building near Bryant/Mariposa intersection • Vertical elevated screens on portions of the second and third levels of the west façade (Bryant Street) • Vertical wind screens at grade level on the adjacent Bryant Street sidewalk near the Bryant/Mariposa intersection Such wind reduction design measures may include additional on-site landscaping, or equivalent wind-reducing features; and off-site wind reduction measures such as landscaping, streetscape	Project Sponsor Team/qualified consultant	Prior to completion of the environmental review	Project Sponsor Team, and the Planning Department	Completion of and acceptance of the wind impact mitigation report by the Planning Department

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Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
improvements or other wind-reducing features, such as wind screens. The project sponsor team shall implement as many of the design measures identified in the wind impact mitigation report as needed to reduce the proposed project's or project variants' potential to create a new wind hazard or exacerbate an existing wind hazard in publicly accessible areas of substantial pedestrian use to less-than-significant levels. The final wind impact mitigation report should not find that the project produces a net increase of the already identified wind hazard exceedances. The planning department shall approve the final list of wind reduction measures that the project sponsor team shall implement.				
Mitigation Measure M-WI-1(b): Additional Wind Testing				
If changes to the building design or massing are proposed after certification of the Final Environmental Impact Report, additional wind analysis may be required to confirm the modified design does not result in any 9-hour wind hazard exceedances and to minimize 1-hour wind hazard exceedances. If the planning department determines that the modified design could result in wind hazard criterion exceedances (for example, due to the removal of one or more wind reducing features), the project sponsor team shall retain a qualified wind consultant to prepare a wind analysis under the direction of the planning department. The wind analysis may require a wind tunnel test and shall identify wind reduction measures needed to avoid 9-hour wind hazard exceedances and to minimize 1-hour wind hazard exceedances.	Project Sponsor Team /qualified consultant	Prior to completion of the environmental review	Project Sponsor Team, and the Planning Department	Completion of and acceptance of the wind impact mitigation report by the Planning Department
GEOLOGY AND SOILS				
Mitigation Measure M-GE-6a: Inadvertent Discovery of Paleontological Resources				

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Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
Worker Awareness Training - Prior to commencing construction, and ongoing throughout ground disturbing activities (e.g., excavation, utility installation, the project sponsor and/or their designee shall ensure that all project construction workers are trained on the contents of the Paleontological Resources Alert Sheet, as provided by the Planning Department. The Paleontological Resources Alert Sheet shall be prominently displayed at the construction site during ground disturbing activities for reference regarding potential paleontological resources. In addition, the project sponsor shall inform the contractor and construction personnel of the immediate stop work procedures and other procedures to be followed if bones or other potential fossils are unearthed at the project site. Should new workers that will be involved in ground disturbing construction activities begin employment after the initial training has occurred, the construction supervisor shall ensure that they receive the worker awareness training as described above. The project sponsor shall complete the standard form/affidavit confirming the timing of the worker awareness training to the Environmental Review Officer (ERO). The affidavit shall confirm the project's location, the date of training, the location of the informational handout display, and the number of participants. The affidavit shall be transmitted to the ERO within five (5) business days of conducting the training. Paleontological Resource Discoveries - In the event of the discovery of an unanticipated paleontological resource during project construction, ground disturbing activities shall temporarily be halted within 25 feet of the find until the discovery is examined by a qualified paleontologist as recommended by the Society of	Project Sponsor Team, construction contractors, at the direction of the ERO	Prior to construction commencement	Project Sponsor Team and the Planning Department	Submission of evidence of worker awareness training and distribution of alert sheet to the satisfaction of the Planning Department, including proper adherence to procedures if a resource is encountered

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
Vertebrate Paleontology standards (SVP 2010) and Best Practices in Mitigation Paleontology (Murphey et al. 2019). Work within the sensitive area shall resume only when deemed appropriate by the qualified paleontologist in consultation with the ERO. The qualified paleontologist shall determine: 1) if the discovery is scientifically significant; 2) the necessity for involving other responsible or resource agencies and stakeholders, if required or determined applicable; and 3) methods for resource recovery. If a paleontological resource assessment results in a determination that the resource is not scientifically important, this conclusion shall be documented in a Paleontological Evaluation Letter to demonstrate compliance with applicable statutory requirements (e.g., Federal Antiquities Act of 1906, CEQA Guidelines Section 15064.5, California Public Resources Code Chapter 17, Section 5097.5, Paleontological Resources Preservation Act 2009). The Paleontological Evaluation Letter shall be submitted to the ERO for review within 30 days of the discovery. If the qualified paleontologist determines that a paleontological resource is of scientific importance, and there are no feasible measures to avoid disturbing this paleontological resource, the qualified paleontologist shall prepare a Paleontological Mitigation Program. The mitigation program shall include measures to fully document and recover the resource of scientific importance. The qualified paleontologist shall submit the mitigation program to the ERO for review and approval within 10 business days of the discovery. Upon approval by the ERO, ground disturbing activities in the project area shall resume and be monitored as determined by the qualified paleontologist for the duration of such activities. The mitigation program shall include: 1) procedures for construction monitoring at the project site; 2) fossil preparation and				

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
identification procedures; 3) curation of paleontological resources of scientific importance into an appropriate repository; and 4) preparation of a Paleontological Resources Report (report or paleontology report) at the conclusion of ground disturbing activities. The report shall include dates of field work, results of monitoring, fossil identifications to the lowest possible taxonomic level, analysis of the fossil collection, a discussion of the scientific significance of the fossil collection, conclusions, locality forms, an itemized list of specimens, and a repository receipt from the curation facility. The project sponsor shall be responsible for the preparation and implementation of the mitigation program, in addition to any costs necessary to prepare and identify collected fossils, and for any curation fees charged by the paleontological repository. The paleontology report shall be submitted to the ERO for review within 30 business days from conclusion of ground disturbing activities, or as negotiated following consultation with the ERO.				
Mitigation Measure M-GE-6b: Preconstruction Paleontological Evaluation and Monitoring Plan during Construction				
The project sponsor shall engage a qualified paleontologist to develop a site-specific monitoring plan prior to commencing soil-disturbing activities at the project site. The Preconstruction Paleontological Monitoring Plan would determine project construction activities requiring paleontological monitoring based on those may affect sediments with moderate sensitivity for paleontological resources. Prior to issuance of any demolition permit, the project sponsor shall submit the Preconstruction Paleontological Monitoring Plan to the ERO for approval. At a minimum, the plan shall include: 1. Project Description 2. Regulatory Environment – outline applicable federal, state and local regulations	Project Sponsor Team, construction contractors, and qualified consultant, at the direction of the ERO	Prior to construction commencement	Project Sponsor Team and the Planning Department	Completion of and acceptance of the Preconstruction Paleontological Evaluation by the Planning Department

MONITORING AND REPORTING PROGRAM[1]

Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
3. Summary of Sensitivity Classification(s) 4. Research Methods, including but not limited to: 4.a. Field studies conducted by the approved paleontologist to check for fossils at the surface and assess the exposed sediments. 4.b. Literature Review to include an examination of geologic maps and a review of relevant geological and paleontological literature to determine the nature of geologic units in the project area. 4.c. Locality Search to include outreach to the University of California Museum of Paleontology in Berkeley. 5. Results: to include a summary of literature review and finding of potential site sensitivity for paleontological resources; and depth of potential resources if known. 6. Recommendations for any additional measures that could be necessary to avoid or reduce any adverse impacts to recorded and/or inadvertently discovered paleontological resources of scientific importance. Such measures could include: 6.a. Avoidance: If a known fossil locality appears to contain critical scientific information that should be left undisturbed for subsequent scientific evaluation. 6.b. Fossil Recovery: If isolated small, medium- or large-sized fossils are discovered during field surveys or construction monitoring, and they are determined to be scientifically significant, they should be recovered. Fossil recovery may involve collecting a fully exposed fossil from the ground surface, or may involve a systematic excavation, depending upon the size and complexity of the fossil discovery. 6.c. Monitoring: Monitoring involves systematic inspections of graded cut slopes, trench sidewalls, spoils piles, and other types of construction				

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Adopted Mitigation Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
excavations for the presence of fossils, and the fossil recovery and documentation of these fossils before they are destroyed by further ground disturbing actions. Standard monitoring is typically used in the most paleontologically sensitive geographic areas/geologic units (moderate, high and very high potential); while spot-check monitoring is typically used in geographic areas/geologic units of moderate or unknown paleontological sensitivity (moderate or unknown potential). 6.d. Data recovery and reporting: Fossil and associated data discovered during soils disturbing activities should be treated according to professional paleontological standards and documented in a data recovery report. The plan should define the scope of the data recovery report. The consultant shall document the monitoring conducted according to the monitoring plan and any data recovery completed for significant paleontological resource finds discovered, if any. Plans and reports prepared by the consultant shall be considered draft reports subject to revision until final approval by the ERO. The final monitoring report and any data recovery report shall be submitted to the ERO prior to the certificate of occupancy.				

Continues on the next page.

Table 5: IMPROVEMENT MEASURES FOR THE POTRERO YARD MODERNIZATION PROJECT

MONITORING AND REPORTING PROGRAM[1]

Adopted Improvement Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
IMPROVEMENT MEASURES AGREED TO BY PROJECT SPONSOR TEAM				
TRANSPORTATION				
Improvement Measure I-TR-A: Construction Management Plan – Additional Measures				
As part of the project's construction management plan, the SFMTA and a private project co-sponsor and/or its contractors on SFMTA's behalf (referred to as project sponsor team) will require additional measures to further minimize disruptions to people walking and bicycling, transit, and emergency vehicles during project construction: The additional measures include: Carpool, Bicycle, Walk, and Transit Access for Construction Workers—Carpool, Bicycle, Walk, and Transit Access for Construction Workers—To minimize parking demand and vehicle trips associated with construction workers, the construction contractor will include as part of the Construction Management Plan methods to encourage carpooling, bicycle, walk, and transit access to the project site by construction workers. These methods could include providing secure bicycle parking spaces, participating in free-to-employee and employer ride matching program from www.511.org, participating in emergency ride home program through the City of San Francisco (www.sferh.org), and providing transit information to construction workers. Project Construction Updates for Adjacent Businesses and Residents— To minimize construction impacts on access to nearby residences and businesses, the project sponsor team will provide nearby residences and adjacent businesses with regularly updated information regarding project construction, including construction activities, peak construction vehicle activities, travel lane closures,	Project Sponsor Team, including SFMTA regulatory teams, and construction contractor	Prior to the issuance of construction permits; implementation ongoing during construction with construction updates provided weekly; Active Monitoring of Detours as needed	Project Sponsor Team, SFMTA (in its regulatory capacity)	Considered complete upon the submittal and approval of the Construction Management Plan to the SFMTA (in its regulatory capacity)

MONITORING AND REPORTING PROGRAM[1]

Adopted Improvement Measures	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
and parking lane and sidewalk closures (e.g., via the project's website). At regular intervals to be defined in the construction management plan, a regular email notice will be distributed by the project sponsor team that would provide current construction information of interest to neighbors, as well as contact information for specific construction inquiries or concerns.				
Improvement Measure I-TR-B: Driveway and Loading Operations Plan (DLOP)				
The project sponsor team (including joint development project sponsor as applicable) will be required to prepare and implement a Driveway and Loading Operations Plan (DLOP). The DLOP will be prepared by the private project co-sponsor, in coordination with the SFMTA, and submitted as part of the application for the first temporary occupancy permit. The DLOP will include provisions to manage loading activities and driveway operations associated with the below-grade onsite loading spaces; provisions for assessing on-street commercial and passenger loading supply and protocol for expanding on-street supply, if needed; provisions for trash/recycling/compost truck access and collection operations; provisions for residential move-in and move-out operations; provisions for scheduling Muni deliveries using the onsite loading facilities; and provisions for accommodating recurring deliveries such as UPS, Federal Express, and USPS within the onsite loading facilities. The intent of the DLOP is to reduce potential conflicts between passenger and freight loading and transit operations, and between passenger and freight loading activities and people walking and bicycling, and other vehicles in the project vicinity, as well as to maximize reliance on onsite facilities to accommodate freight loading demand.	Project Sponsor Team	Project Sponsor Team to submit Loading Management Plan to ERO prior to the issuance of any certificate of occupancy for the proposed project.	ERO, Project Sponsor Team or successor owner/ manager of residential building	Considered complete upon ERO approval of Loading Management Plan; Ongoing monitoring to continue indefinitely

Table 6: PUBLIC WORKS STANDARD CONSTRUCTION MEASURES FOR THE POTRERO YARD MODERNIZATION PROJECT

Public Works' Regulatory Affairs division will ensure the Standard Construction Measures are included in construction specifications and contracts. The planning department environmental monitoring team will confirm the public works standard construction measures have been incorporated into the final project agreement with the project sponsor team.

	MONITORING AND REPORTING PROGRAM[1]			
Adopted Public Works Standard Construction Measure	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring / Reporting Responsibility**	**Monitoring Actions / Completion Criteria**
PUBLIC WORKS STANDARD CONSTRUCTION MEASURES AGREED TO BY PROJECT SPONSOR TEAM				
Public Works Standard Construction Measure #1, Seismic and Geotechnical Studies (Geology and Soils)				
The project manager shall ensure that projects that may potentially be affected by existing soil, slope and/or geologic conditions at the project site will be screened for liquefaction, subsidence, landslide, fault displacement, and other geological hazards at the project site, and will be engineered and designed as necessary to minimize risks to safety and reliability due to such hazards. As necessary, geotechnical investigations will be performed.	Project Sponsor Team, construction contractors	Prior to construction	Project Sponsor Team, Planning Department, Public Works Regulatory Affairs	Considered complete upon submission of geotechnical investigations, if applicable
Public Works Standard Construction Measure #2, Air Quality				
All projects will comply with the Construction Dust Control Ordinance. Major construction projects that are estimated to require 20 or more days of cumulative work within the Air Pollutant Exposure Zone must comply with the additional clean construction requirements of the Clean Construction Ordinance.	Project Sponsor Team, construction contractors	Ongoing during construction	Project Sponsor Team, Planning Department, Public Works Regulatory Affairs	Considered complete upon submission of a Site-Specific Dust Control Plan for the review and approval of the Department of Public Health
Public Works Standard Construction Measure #3, Water Quality				
All projects will implement erosion and sedimentation controls to be tailored to the project site, such as fiber rolls and/or gravel bags around storm drain inlets, installation of silt fences, and other such measures sufficient-to prevent discharges of sediment and other pollutants to storm drains and all surface waterways, such as San Francisco Bay, the Pacific Ocean, water supply reservoirs, wetlands, swales, and streams. As required based on project location and size,	Project Sponsor Team, construction contractors	Ongoing during construction	Project Sponsor Team, Planning Department, Public Works Regulatory Affairs	Considered complete upon Project Sponsor Team's enforcement of water quality considerations

MONITORING AND REPORTING PROGRAM[1]

Adopted Public Works Standard Construction Measure	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
a Stormwater Control Plan (in most areas of San Francisco) or a Stormwater Pollution Prevention Plan (SWPPP) (in certain areas of San Francisco) will be prepared. If uncontaminated groundwater is encountered during excavation activities, it will be discharged in compliance with applicable water quality standards and discharge permit requirements.				
Public Works Standard Construction Measure #4, Traffic				
All projects will implement traffic control measures sufficient to maintain traffic and pedestrian circulation on streets affected by construction of the project. The measures will also, at a minimum, be consistent with the requirements of San Francisco Municipal Transportation Agency (SFMTA)'s Blue Book. Traffic control measures may include, but not be limited to, flaggers and/or construction warning sign age of work ahead; scheduling truck trips during non-peak hours to the extent feasible; maintaining access to driveways, private roads, and off-street commercial loading facilities by using steel trench plates or other such method; and coordination with local emergency responders to maintain emergency access. Any temporary rerouting of transit vehicles or relocation of transit facilities would be coordinated with SFMTA Muni Operations.	Project Sponsor Team, construction contractors	Ongoing during construction	Project Sponsor Team; SFMTA Muni Operations, Public Works Regulatory Affairs	Considered complete upon the submittal and approval of the Construction Management Plan to the SFMTA
Public Works Standard Construction Measure #5, Noise				
All projects will comply with local noise ordinances resulting construction noise. Public Works shall undertake measures to minimize noise disruption to nearby neighbors and sensitive receptors during construction. These efforts could include using best available noise control technologies on equipment (i.e., mufflers, ducts, and acoustically attenuating shields), locating stationary noise sources (i.e., pumps and generators) away from sensitive receptors, erecting temporary noise barriers, and other such means.	Project Sponsor Team, construction contractors	Ongoing during construction	Project Sponsor Team, Planning Department, Public Works Regulatory Affairs	Considered complete upon Project Sponsor enforcement of local noise ordinances

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Adopted Public Works Standard Construction Measure	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
Public Works Standard Construction Measure #6, Hazardous Materials				
Projects that involve excavation of 50 cubic yards of soil in the Maher Zone will comply with the Maher Ordinance. Projects on sites that are not currently located in the Maher Zone but have the potential to contain hazardous materials in soil and/or groundwater will be referred to the Department of Public Health as newly identified Maher sites.	Project Sponsor Team, construction contractors	Ongoing during construction	Project Sponsor Team, Planning Department, Public Works Regulatory Affairs	Considered complete upon Project Sponsor enforcement of Maher ordinance
Public Works Standard Construction Measure #7, Biological Resources				
Projects will comply with all local, state, and federal requirements for surveys, analysis, and protection of biological resources (e.g., Migratory Bird Treaty Act, Federal and State Endangered Species Acts, etc.). The project site and the immediately surrounding area will be screened to determine whether biological resources may be affected by construction. If biological resources are present, a qualified biologist will carry out a survey of the project site to note the presence of general biological resources and to identify whether habitat for special-status species and/or migratory birds is present. If necessary, measures will be implemented to protect biological resources, such as installing wildlife exclusion fencing, establishing work buffer zones, installing bird deterrents, having a qualified biologist conduct monitoring, and other such applicable measures. Tree removal will also comply with any applicable tree protection ordinance.	Project Sponsor Team, construction contractors	Ongoing during construction	Project Sponsor Team, Planning Department, Public Works Regulatory Affairs	Considered complete upon Project Sponsor enforcement of biological considerations
Public Works Standard Construction Measure #8, Visual and Aesthetic Considerations, Project Site				
All project sites will be maintained in a clean and orderly state. Construction staging areas will be sited away from public view, and on currently paved or previously disturbed areas, where possible.	Project Sponsor Team, construction contractors	Ongoing during construction	Project Sponsor Team, Planning Department, Public Works Regulatory Affairs	Considered complete upon Project Sponsor Team's enforcement of visual considerations

MONITORING AND REPORTING PROGRAM[1]

Adopted Public Works Standard Construction Measure	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
Nighttime lighting will be directed away from residential areas and have shields to prevent light spillover effects. Upon project completion, project sites on City-owned lands will be returned to their general pre-project condition, including re-grading of the site and re-vegetation or re-paving of disturbed areas to the extent this is consistent with Public Works Bureau of Urban Forestry Policy and San Francisco Code. Project sites on non-City land will be restored to their general pre-project condition so that the owner may return them to their prior use, unless otherwise arranged with the property owner.				
Public Works Standard Construction Measure #9, Cultural Resources				
All projects that will alter a building or structure, produce vibrations, or include soil disturbance will be screened to assess whether cultural resources are or may be present and could be affected, as detailed below. Soil is defined as native earthen deposits or introduced earthen fill. Soil does not include materials that were previously introduced as part of roadway pavement section including asphalt concrete wearing roadway base and subbase. *Archeological Resources.* The EP Archeologist has determined that Standard Archeological Measure III (Testing/Data Recovery) shall be implemented by Public Works to protect and/or treat significant archeological resources identified as being present within the site and potentially affected by the project (see Attachment H: Public Works Archeological Measure III (Testing / Data Recovery)). 1. Public Works shall implement the EP Archeologist's recommendations prior to and/or during project construction consistent with Standard Archeological Measure III and shall consult with the EP Archeologist in	Project Sponsor Team, construction contractors	Prior to issuance of a construction permit	Project Sponsor Team, the EP Archeologist staff, Public Works and the ERO	Considered complete upon compliance with Standard Archeological Measure III (Testing/Data Recovery) requirements

Adopted Public Works Standard Construction Measure	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
selecting a qualified archeological consultant from the EP Archeological Resources Consultant Pool, as needed, to implement these measures. 2. Soil-disturbing activities in archeologically sensitive areas, as identified through the above process, will not begin until preconstruction archeological measures required by the EP Archeologist (e.g., preparation of an Archeological Testing Plan, Archeological Treatment Plan, and/or an Archeological Data Recovery Plan) have been implemented.				
Public Works Standard Construction Measure #9, Cultural Resources				
All projects that will alter a building or structure, produce vibrations, or include soil will be screened to assess whether cultural resources are or may be present disturbance and could be affected, as detailed below. *Historic (Built Environment) Resources*. Where construction will take place in proximity to a building or structure identified as a significant historical resource but would not otherwise directly affect it, Public Works will implement protective measures, such as but not limited to, the erection of temporary construction barriers to ensure that inadvertent impacts to such buildings or structures are avoided. These measures shall require the development of a Construction Best Practices for Historical Resources Plan and a plan outlining the Construction Monitoring for Historical Resources Program to be reviewed and approved by CCSF Planning Department Preservation staff. If a project includes or is directly adjacent to historic buildings or structures susceptible to vibration (such as but not limited to unreinforced masonry, earthen construction, lathe and plaster, or fragile architectural ornamentation) as determined in consultation with CCSF Planning Department Preservation staff, Public Works will determine if vibrations associated with proposed construction	Project Sponsor Team, construction contractors	Prior to issuance of a construction permit	Project Sponsor Team, the EP Preservation staff, Public Works and the ERO	Considered complete upon compliance with requirements

MONITORING AND REPORTING PROGRAM[1]

Adopted Public Works Standard Construction Measure	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
activities has the potential to cause damage to such buildings or structures. Generally, vibration below 0.12 inches per second peak particle velocity does not have the potential to damage sensitive buildings or structures. A vibration study may be necessary to determine if such vibration levels will occur. If Public Works determines in consultation with CCSF Planning Department Preservation staff that vibration damage may occur, Public Works will engage a qualified historic architect or historic preservation professional to document and photograph the preconstruction condition of the building and prepare a plan for monitoring the building during construction. The monitoring plan will be submitted to and approved by CCSF Planning Department Preservation Planner prior to the beginning of construction and will be implemented during construction. The monitoring plan will identify how often monitoring will occur, who will undertake the monitoring, reporting requirements on vibration levels, reporting requirements on damage to adjacent historical resources during construction, reporting procedures to follow if such damage occurs, and the scope of the preconstruction survey and post-construction conditions assessment. If any damage to a historic building or structure occurs, Public Works will modify activities to minimize further vibration. If any damage occurs, the building will be repaired following the Secretary of the Interior's Standards for the Treatment of Historic Properties under the guidance of a qualified historic architect or historic preservation professional in consultation with CCSF Department Preservation Planner.				

[1] *Definitions of MMRP Column Headings:*
Adopted Mitigation, Improvement or Public Works Standard Construction Measures: Full text of the mitigation measures, improvement measures or Public Works Standard Construction Measures copied verbatim from the final CEQA document.
Implementation Responsibility: Entity who is responsible for implementing the mitigation measures, improvement measures or Public Works Standard Construction Measures. In most cases this is the project sponsor and/or project's sponsor's contractor/consultant and at times under the direction of the planning department.
Mitigation Schedule: Identifies milestones for when the actions in the mitigation measure, improvement measure or Public Works Standard Construction Measure need to be implemented.

Monitoring/Reporting Responsibility: Identifies who is responsible for monitoring compliance with the mitigation measure, improvement measure or Public Works Standard Construction Measure and any reporting responsibilities. In most cases it is the Planning Department who is responsible for monitoring compliance. If a department or agency other than the planning department is identified as responsible for monitoring, there should be an expressed agreement between the planning department and that other department/agency. In most cases the project sponsor, their contractor, or consultant are responsible for any reporting requirements.
Monitoring Actions/Completion Criteria: Identifies the milestone at which the mitigation measure, improvement measure or Public Works Standard Construction Measure is considered complete. This may also identify requirements for verifying compliance.

San Francisco Planning

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ATTACHMENT A

Potrero Yard Modernization Project

2500 Mariposa Street

California Environmental Quality Act Findings: Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations

SAN FRANCISCO PLANNING COMMISSION

PREAMBLE

In determining to approve the Project, which refers to either the Refined Project or the Paratransit Variant described in Section I, below, the San Francisco Planning Commission (the "Commission") makes and adopts the following findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures, as well as improvement measures and Public Works Standard Construction Measures, and alternatives, and a statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 *et seq.* ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 *et seq.* ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopts these findings in conjunction with the Approval Actions described in Section I(c), below, as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting these CEQA findings.

These findings are organized as follows:

Section I provides a description of the Project, the environmental review process for the Project, the City approval actions to be taken, and the location and custodian of the record.

Section II lists the Project's less-than-significant impacts or cumulative impacts that do not require mitigation.

Section III identifies potentially significant impacts or cumulative impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures.

Section IV identifies significant Project-specific or cumulative impacts that would not be avoided or reduced to a less-than-significant level and describes any applicable mitigation measures as well as the disposition of

the mitigation measures. The Final EIR identified mitigation measures to address these impacts, but implementation of the mitigation measures will not reduce the impacts to a less-than-significant level.

Sections III and IV set forth findings as to the mitigation measures proposed in the Final EIR. The Draft Environmental Impact Report ("Draft EIR") and the Responses to Comments document ("RTC") together comprise the "Final EIR," or "FEIR." Attachment B to the Planning Commission Motion contains the Mitigation Monitoring and Reporting Program: Mitigation, Improvement and Public Works Standard Construction Measures ("MMRP"), which provides a table setting forth the full text of each mitigation measure listed in the Final Environmental Impact Report that is required to reduce a significant adverse impact.

Section V identifies the Project alternatives that were analyzed in the Final EIR and discusses the reasons for their rejection.

Section VI sets forth the Commission's Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093.

The MMRP (Attachment B) is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. The MMRP also specifies the party responsible for implementation of each mitigation measure and establishes monitoring actions and a monitoring schedule. For this project, the MMRP includes separate tables for other project requirements and design elements such as Standard Construction Measures and Improvement Measures agreed to by the project sponsor team, which consists of the San Francisco Municipal Transportation Agency (SFMTA), San Francisco Public Works (public works) and the Potrero Neighborhood Collective (PNC), a private development consortium.
These findings are based upon substantial evidence in the entire record before the Commission. The references set forth in these findings to certain pages or sections of the Draft EIR or the RTC, which together comprise the Final EIR, are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

Section I. Procedural Background and Project Description

A. Procedural Background

In April 2021, prior to publication and circulation of the Project Draft EIR on June 30, 2021, the San Francisco Municipal Transportation Agency (SFMTA) and San Francisco Public Works (Public Works) released a Request for Proposals (RFP) to procure and select a private development consortium to design, build, finance, and maintain the joint development for Potrero Yard. The proposed development consisted of a replacement transit facility component and a mixed-use component with residential, commercial, and childcare uses.

In October 2022, the City and County of San Francisco (City) awarded a contract to a private development consortium to enter into negotiations to refine the conceptual plans, obtain project approvals, construct the approved project, and manage the mixed-use component. During the procurement period, which ended in October 2022, the project sponsor team (SFMTA, public works, and the Potrero Neighborhood Collective (PNC)) developed a refined version of the Draft EIR Project incorporating various elements of the project variants described in the Draft EIR Project and analyzed for CEQA compliance, and presented it to the City Planning Department (Planning Department). Subsequently, the project sponsor team further refined the

proposed building design and program in response to feedback from the Planning Department's current Planning staff and through interdepartmental urban design and streetscape design review processes, resulting in the 50 Percent Schematic Design, the Refined Project. The project sponsor team also introduced a Paratransit Variant. These are described below (Project Description).

B. Project Description

A. Refined Project

The Refined Project will replace SFMTA's Potrero Trolley Coach Division Facility at 2500 Mariposa Street (Potrero Yard), in the northeast portion of San Francisco's Mission District near the South of Market and Potrero Hill neighborhoods. The Project will accommodate the expansion of the SFMTA's transit vehicle fleet, the modernization of bus maintenance, operation, and administrative services, expand and consolidate training operations at one site; and joint development uses including residential uses. The new, approximately 1,250,000 gross-square-foot, mixed-use building will occupy the 4.4-acre site and be 70 to 150 feet in height. It will contain a four-level, approximately 70-foot-tall transit facility (Transit Facility Component) plus a mix of commercial and residential uses in the remainder of the Project (Housing Component) as part of a joint development program between SFMTA and the Potrero Neighborhood Collective (PNC).

a) Transit Facility Component. The Transit Facility Component will occupy the basement to fourth floor levels and include vehicular and bus circulation areas (ramps, drive aisles), mechanical rooms, bus storage locations, bus wash stations, administrative and office spaces, lockers and showers, community rooms, and outdoor open space. A limited portion of the joint development will be located within the Transit Facility Component specifically the ground floor and include residential lobbies along Hampshire and Bryant Streets and retail spaces at the corners of 17th and Hampshire Street, and 17th and Bryant Streets.

b) Housing Component. The Housing Component will include the construction of a total of 513 dwelling units (117 Studios, 184 one-bedroom, 144 two-bedroom, 68 three-bedroom) along Bryant and Hampshire Streets. Along Bryant Street, the proposed housing component will run from the ground floor to the top floor and provide dwelling units that are intended for families and will be offered at a below market rate. Along Hampshire Street, the proposed housing component with the exception of a lobby at the ground floor will commence at the podium level and provide dwelling units intended for workforce and will be offered at a below market rate.

c) Phasing. The Project is proposed to be constructed in three distinct phases, which may or may not overlap. The first phase will include the construction of the Transit Facility Component and is expected to last three years. According to the Project Sponsor team, construction is expected to begin in late 2024 and finish in late 2027. The second phase will include the construction of the Housing Component along Bryant St. up to the fourth level, podium level. Construction for the second phase is expected span two years and start one to two years after the start of construction on the first phase. Lastly, the third phase will construct the remaining Housing Component atop the podium level (both the remaining housing along Bryant St. and

workforce housing along Hampshire St.) and is expected to span two years and start no sooner than two years after the start of the first phase. Phases 2 and 3 may also be constructed after the completion of SFMTA's facility.

B. Paratransit Variant

In lieu of constructing a portion of the Housing Component atop of the bus facility, the bus facility will expand to include portions of one additional level at the podium for the use of SFMTA's Paratransit Division. In such a case, the proposal would still construct that portion of the Housing Component along Bryant St. for a total of 103 dwelling units and retail spaces at the corners of 17th and Hampshire Street, and 17th and Bryant Streets. The additional square footage for the bus facility would replace the western-most portion of the Housing Component and include additional building massing for administrative and operation spaces, and paratransit storage, operation, and circulation areas including a covered ramp for SFMTA's Paratransit Division.

As noted above, in the Preamble section, the Project is defined as being either the Refined Project or the Paratransit Variant.

C. Project Objectives

The project sponsor team seeks to achieve the following objectives by undertaking the Project:

Basic Objectives

1. Rebuild, expand, and modernize the SFMTA's Potrero Bus Yard by 2027 to efficiently maintain and store a growing Muni bus fleet according to the SFMTA Fleet Plan and Facilities Framework schedule.

2. Construct the first SFMTA transit facility with infrastructure for battery electric buses to facilitate Muni's transition to an all-electric fleet, in accordance with San Francisco and California policy.

3. Construct a new public asset that is resilient to earthquakes and projected climate change effects, and provides a safe, secure environment for the SFMTA's employees and assets.

4. Improve working conditions for the SFMTA's workforce of transit operators, mechanics, and front-line administrative staff through a new facility at Potrero Yard.

5. Achieve systemwide master plan priorities by consolidating two currently scattered transit support functions at Potrero Yard: (a) improve and streamline transit operator hiring by consolidating SFMTA's operator training function in a new, state-of-the-art facility; and (b) support efficient Muni operations by consolidating the Street Operations division in a modern, convenient facility.

6. Implement inclusive and transparent stakeholder engagement in designing this project and completing the CEQA process.

7. Create a development that is financially feasible, meaning that the public asset can be funded by public means and public transportation funds are used only for the bus yard component.

Additional Objectives

8. Enhance safety and reduce conflicts between transit, commercial vehicles, bicyclists, drivers, and pedestrians in the project site vicinity.

9. Improve the architectural and urban design character of the project site by replacing the existing fences and blank walls with more active, transparent street walls, to the extent feasible.

10. Maximize the reuse of the 4.4-acre site in a central, mixed-use neighborhood by creating a mixed-use development and providing dense housing and striving to maximize the number of affordable units on the site.

11. Increase the City's supply of housing by contributing to the Mayor's Public Lands for Housing goals, the San Francisco General Plan Housing Element goals, and the Association of Bay Area Governments' Regional Housing Needs Allocation for the City by optimizing the number of dwelling units, including affordable housing, particularly near transit.

12. Support transit-oriented development and promote the use of public transportation through an innovative and comprehensive transportation demand management program.

13. Ensure that joint development is able to fund its own construction and ongoing management without reliance on City subsidy other than what is originally assumed as part of the project budget while ensuring that SFMTA's transportation funds are only allocated for the transit use.

14. Demonstrate the City's leadership in sustainable development by constructing an environmentally low-impact facility intended to increase the site's resource efficiency.

D. Project Approvals

The Project requires the following approvals:

<u>Actions by the City Planning Commission</u>

- Recommendation of approval of a General Plan Amendment which would amend the Urban Design Element by amending Urban Design Element Map 4 ("Urban Design Guidelines for the Height of Buildings") and Urban Design Element Map 5 ("Urban Design Guidelines for the Bulk of Buildings"). Urban Design Element Map 4 would be amended to state that Lot 001 in Assessor's Block 3971 has a height designation of 89-160 feet. Urban Design Element Map 5 would be amended to modify the bulk limits at the site to accommodate the Project's massing.

- Recommendation of approval of a proposed Planning Code Amendment which would add a new Special Use District—the Potrero Yard Special Use District—to the Planning Code permitting the Project's proposed uses at the site and imposing certain development standards upon the Project.

- Recommendation of approval of a proposed Zoning Map Amendment which would amend the City Zoning Map to reflect the new Potrero Yard Special Use District.

- Approval of Conditional Use Authorization for a Planned Unit Development for the Project's Residential Uses.

- Adoption of Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations under CEQA.

- Adoption of Shadow Findings that net new shadow on Franklin Square Park by the Project would not be adverse to the use of Franklin Square Park.

Actions by the City and County Board of Supervisors

- Approval of a General Plan Amendment which would amend the Urban Design Element by amending Urban Design Element Map 4 ("Urban Design Guidelines for the Height of Buildings") and Urban Design Element Map 5 ("Urban Design Guidelines for the Bulk of Buildings"). Urban Design Element Map 4 would be amended to state that Lot 001 in Assessor's Block 3971 has a height designation of 89-160 feet. Urban Design Element Map 5 would be amended to modify the bulk limits at the site to accommodate the Project's massing.

- Approval of a proposed Planning Code Amendment which would add a new Special Use District—the Potrero Yard Special Use District—to the Planning Code permitting the Project's proposed uses at the site and imposing certain development standards upon the Project.

- Approval of a proposed Zoning Map Amendment which would amend the City Zoning Map to reflect the new Potrero Yard Special Use District.

Actions by City Public Works

- If sidewalks are used for construction staging and pedestrian walkways are constructed in the curb lanes, approval of a street space permit from the Bureau of Street Use and Mapping.

- Approval of an encroachment permit or a street improvement permit for signage and streetscape improvements.

- Approval of a new curb cut and removal of existing curb cuts.

Approvals by City Recreation and Parks Commission

- Review and comment to Planning Commission regarding shadowing of Franklin Square Park.

Approvals by City Department of Building Inspection

- Approval of demolition, grading, site/building permits, sign permits, and other ministerial approvals as needed.

E. Environmental Review

On November 20, 2019, SFMTA submitted an Environmental Evaluation Application for the Project to the Planning Department, initiating the environmental review process. The EIR process includes an opportunity for the public to review and comment on the Project's potential environmental effects and to further inform the environmental analysis.

On August 19, 2020, the Planning Department published a Notice of Preparation (NOP) of an EIR and Notice of Public Scoping Meeting (EIR Appendix A, Notice of Preparation of an Environmental Impact Report and Notice of Public Scoping Meeting, August 19, 2020), announcing its intent to solicit public comments on the scope of the environmental analysis and to prepare and distribute an EIR on the Project. The Planning Department distributed the Notice of Availability of an NOP and Notice of Public Scoping Meeting to the State Clearinghouse and relevant state and regional agencies; occupants of the site and adjacent properties; property owners within 300 feet of the project site; and other potentially interested parties, including neighborhood organizations that have requested such notice. A legal notice was published in the newspaper on Wednesday, August 19, 2020. Publication of the NOP initiated a 30-day public review and comment period that ended on September 18, 2020. Pursuant to CEQA section 21083.9 and CEQA Guidelines section 15206, the Planning Department held a public scoping meeting on September 2, 2020, to receive input on the scope of the environmental review for this Project. During the NOP review and comment period, eight comments were received. One speaker provided oral comments at the scoping meeting and seven comment letters and emails were submitted to the Planning Department. The comment letters received in response to the NOP and a copy of the transcript from the public scoping meeting are available for review at the Planning Department offices as part of Case File No. 2019-021884ENV. The Planning Department considered the comments made by the public in preparation of the Draft EIR for the project and project variants.

The Planning Department published the Draft EIR, including the Initial Study, on June 30, 2021. The Draft EIR identified a 62-day public comment period—from July 1, 2021 through August 31, 2021—to solicit public comment on the Draft EIR. A public hearing on the draft EIR was held before the San Francisco Planning Commission on August 26, 2021. Five public comments on the draft EIR were made in written form during the public comment period and four comments were made as oral testimony at the public hearing.

Additionally, there was a public hearing before the San Francisco Historic Preservation Commission on Wednesday, August 4, 2021. This hearing allowed the Historic Preservation Commissioners to provide comments on the Draft EIR, including the Initial Study, to the Planning Commission.

As described in Section I above, the Draft EIR project was refined (Refined Project) and a new variant added (Paratransit Variant) after publication of the Draft EIR. The Planning Department analyzed the Refined Project and the Paratransit Variant and determined that neither would result in the new significant environmental impacts or substantially increase the severity of the impacts presented in the Draft EIR. Nor do they add any new mitigation measures or alternatives that the project sponsor team has declined to implement.

Under section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when "significant new information" is added to the EIR after public notice is given of the availability of the Draft EIR for public review but prior to certification of the Final EIR. The term "information" can include changes in the project or environmental setting, as well as additional data or other information. New information added to an EIR is not

"significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

(CEQA Guidelines, § 15088.5, subd. (a).)

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

On December 13, 2023, the Planning Department distributed a Responses to Comments (RTC) on the Draft EIR document for review to the Planning Commission as well as to the other public agencies and commissions, non-governmental organizations including neighborhood associations, and individuals who commented on the Draft EIR. The RTC document provides a complete description of the Refined Project and Paratransit Variant, an analysis of the physical environmental impacts of each compared to the Draft EIR Project, responds to the comments made on the Draft EIR during the 62-day review period, and revises Draft EIR text based on additional information and minor errata that became available or known subsequent to Draft EIR publication.

The Commission finds that none of the changes and revisions presented in the RTC substantially affects the analysis or conclusions presented in the Draft EIR; therefore, recirculation of the Draft EIR for additional public comments is not required.

F. Content and Location of Record

The record upon which all findings and determinations related to the adoption of the Project are based include the following:

- The Final EIR, consisting of the Draft EIR, the RTC document, and all documents referenced in or relied upon by the Final EIR;
- All information (including written evidence and testimony) provided by city staff members to the Planning Commission related to the Final EIR, the Project, the project approvals and entitlements, and the alternatives set forth in the Final EIR;

- All information (including written evidence and testimony) presented to the Planning Commission, or incorporated into reports presented by the Planning Department, by the environmental consultant and subconsultants who prepared the Final EIR;
- All information (including written evidence and testimony) presented to the city from other public agencies relating to the Project or the final EIR;
- All applications, letters, testimony, and presentations provided to the city by the Department and its consultants in connection with the Project;
- All information (including written evidence and testimony) presented at any public hearing or workshop related to the Final EIR;
- The MMRP; and
- All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The public hearing transcripts and audio files, a copy of all letters regarding the Final EIR received during the public review period, the administrative record, and background documentation for the Final EIR are located at the San Francisco Planning Department, 49 South Van Ness Avenue, Suite 1400, San Francisco. The San Francisco Planning Commission Secretary is the custodian of these documents and materials.

G. Findings about Environmental Impacts and Mitigation Measures

The following Sections II, III, and IV set forth the Planning Commission's findings about the Final EIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the Planning Commission regarding the environmental impacts of the Project and the mitigation measures included as part of the Final EIR and adopted by the Planning Commission as part of the Project. To avoid duplication and redundancy, and because the Planning Commission agrees with, and hereby adopts, the conclusions in the Final EIR, these findings will not repeat the analysis and conclusions in the Final EIR, but instead incorporate them by reference and rely upon them as substantial evidence supporting these findings.

In making these findings, the Planning Commission has considered the opinions of the Department and other city staff members and experts, other agencies, and members of the public. The Planning Commission finds that (i) the determination of significance thresholds is a judgment decision within the discretion of the city; (ii) the significance thresholds used in the Final EIR are supported by substantial evidence in the record, including the expert opinion of the Final EIR preparers and city staff members; and (iii) the significance thresholds used in the Final EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the Planning Commission is not bound by the significance determinations in the Final EIR (see Public Resources Code section 21082.2, subdivision [e]), the Planning Commission finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, a full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the determination regarding the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the Planning Commission ratifies, adopts, and incorporates in these findings the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures,

except to the extent any such determinations and conclusions are specifically and expressly modified by these findings, and relies upon them as substantial evidence supporting these findings.

As set forth below, the Planning Commission adopts and incorporates the mitigation measures for the Project set forth in the Final EIR, which are set forth in the attached MMRP, to reduce the significant and unavoidable impacts of the Project. The Planning Commission intends to adopt the mitigation measures proposed in the Final EIR that are within its jurisdiction and urges other city agencies and departments that have jurisdiction over other mitigation measures proposed in the Final EIR, and set forth in the MMRP, to adopt those mitigation measures. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the Final EIR due to a clerical error, the language of the policies and implementation measures as set forth in the Final EIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the Final EIR.

These findings are based upon substantial evidence in the entire record before the Planning Commission. The references set forth in these findings to certain pages or sections of the EIR or responses to comments in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

SECTION II. IMPACTS OF THE PROJECT FOUND TO BE LESS THAN SIGNIFICANT AND THUS NOT REQUIRING MITIGATION

Under CEQA, no mitigation measures are required for impacts that are less than significant (Public Resources Code section 21002; CEQA Guidelines sections 15126.4, subdivision [a][3], 15091). Based on the evidence in the entire record of this proceeding, the Planning Commission finds that the Project will not result in any significant impacts in the following areas and that these impact areas therefore do not require mitigation.

Cultural Resources

- CR-2: Construction of the Project would not materially alter, in an adverse manner, the physical characteristics of any off-site historical resource that justifies its inclusion in the California Register of Historical Resources.

- C-CR-1: The Project, in combination with cumulative projects, would not materially alter, in an adverse manner, the physical characteristics of historical resources that justify their eligibility for inclusion in the California Register of Historical Resources, resulting in a cumulative impact.

Transportation and Circulation

- TR-1: Construction of the Project would not require a substantially extended duration or intense activity and the secondary effects would not create potentially hazardous conditions for people walking, bicycling, or driving; or interfere with accessibility for people walking or bicycling; or substantially delay public transit.

- TR-2: Operation of the Project would not create potentially hazardous conditions for people walking, bicycling, or driving or public transit operations.
- TR-3: Operation of the Project would not interfere with accessibility of people walking or bicycling to and from the project site, and adjoining areas, or result in inadequate emergency access.
- TR-4: Operation of the Project would not substantially delay public transit.
- TR-5: Operation of the Project would not cause substantial additional VMT or substantially induce automobile travel.
- TR-6: Operation of the Project would not result in a loading deficit.
- C-TR-1: The Project, in combination with cumulative projects, would not result in significant construction-related transportation impacts.
- C-TR-2: The Project, in combination with cumulative projects, would not create potentially hazardous conditions.
- C-TR-3: The Project, in combination with cumulative projects, would not interfere with accessibility.
- C-TR-4: The Project, in combination with cumulative projects, would not substantially delay public transit.
- C-TR-5: The Project, in combination with cumulative projects, would not cause substantial additional VMT or substantially induce automobile travel.
- C-TR-6: The Project, in combination with cumulative projects, would not result in significant loading impacts.

Noise and Vibration

- C-NO-2: Construction vibration as a result of the Project, combined with construction vibration from cumulative projects in the vicinity, would not generate excessive groundborne vibration or groundborne noise levels.
- C-NO-3: Operation of the Project, combined with operation noise from cumulative projects in the vicinity, would not cause a substantial permanent increase in ambient noise levels in the Project vicinity.

Air Quality

- AQ-2: During operation, the Project would generate criteria air pollutant emissions at levels that would not result in a cumulatively considerable net increase in criteria air pollutants for which the region is in nonattainment.
- AQ-4: The Project would not conflict with implementation of the 2017 Bay Area Clean Air Plan.

- AQ-5: The Project would not create objectionable odors that would affect a substantial number of people.

Shadow

- SH-1: The Project would not create new shadow that substantially and adversely affects the use and enjoyment of publicly accessible open spaces.

- C-SH-1: The Project in combination with cumulative projects in the vicinity would not create new shadow in a manner that substantially and adversely affects the use and enjoyment of publicly accessible open spaces. The Project would not make a cumulatively considerable contribution to a significant cumulative shadow impact.

SECTION III. FINDINGS OF POTENTIALLY SIGNIFICANT IMPACTS OF THE PROJECT THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL THROUGH MITIGATION

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible. The findings in this Section III concern mitigation measures set forth in the EIR to mitigate the potentially significant impacts of the Project. These mitigation measures are included in the MMRP, which is included as Attachment B to the Planning Commission motion adopting these findings.

The project sponsor team has agreed to implement the mitigation measures identified below to address the potential impacts identified in the EIR. As authorized by CEQA section 21081 and CEQA Guidelines sections 15091, 15092, and 15093, based on substantial evidence in the whole record of this proceeding, the Planning Commission finds that, unless otherwise stated, the Project will be required to incorporate mitigation measures identified in the EIR into the Project to mitigate or avoid significant or potentially significant environmental impacts. These mitigation measures will reduce or avoid the potentially significant impacts described in the EIR, and the Planning Commission finds that these mitigation measures are feasible to implement and are within the responsibility and jurisdiction of the city to implement or enforce. In addition, the required mitigation measures are fully enforceable and will be included as conditions of approval for project approvals under the Project, as applicable, and also will be enforced through conditions of approval in building permits issued for the Project by the San Francisco Department of Building Inspection, as applicable. With the required mitigation measures, these Project impacts would be avoided or reduced to a less-than-significant level.

Noise and Vibration

- NO-1: Construction of the Project would generate a substantial temporary increase in ambient noise levels in the vicinity of the project in excess of standards established in the San Francisco Noise Ordinance or applicable standards of other agencies.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-NO-1 (Construction Noise Control) would reduce this impact to a less-than-significant level.

- NO-2: Construction of the Project would generate excessive groundborne vibration or groundborne noise levels.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-NO-2 (Vibration-Sensitive Equipment at 2601 Mariposa Street (KQED Building)) would reduce this impact to a less-than-significant level.

- NO-3: Operation of the Project would generate a substantial permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan, or applicable standards of other agencies.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-NO-3 (Fixed Mechanical Equipment Noise Control for Building Operations) would reduce this impact to a less-than-significant level.

- C-NO-1: Construction noise as a result of the Project, combined with construction noise from cumulative projects in the vicinity, would cause a substantial temporary increase in ambient noise levels.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-NO-1 (Construction Noise Control) would reduce this impact to a less-than-significant level.

Air Quality

- AQ-1: During construction, the Project would not generate significant fugitive dust emissions, but would generate criteria air pollutant emissions at levels which would result in a cumulatively considerable net increase in criteria air pollutants for which the region is in nonattainment.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-AQ-1 (Off-Road Construction Equipment Emissions Minimization) would reduce this impact to a less-than-significant level.

Wind

- WI-1: The Project would create wind hazards in publicly accessible areas of substantial pedestrian use in the vicinity of the project site.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-WI-1 (Design Measures to Reduce Project-Specific Wind Impacts) would reduce this impact to a less-than-significant level.

- C-WI-1: The Project, in combination with cumulative projects, would not alter wind in a manner that would make a cumulatively considerable contribution to a significant cumulative wind impact.

The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-WI-1 (Design Measures to Reduce Project-Specific Wind Impacts) would reduce this impact to a less-than-significant level.

Tribal Cultural Resources

- TCR-1: Construction of the Project could cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code section 21074.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-TCR-1 (Tribal Cultural Resources Preservation and/or Interpretive Program) would reduce this impact to a less-than-significant level.

- C-TCR-1: The Project, in combination with cumulative projects in the vicinity, would not result in significant cumulative tribal cultural resources impacts.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-TCR-1 (Tribal Cultural Resources Preservation and/or Interpretive Program) would reduce this impact to a less-than-significant level.

Geology and Soils

- GE-6: The Project could directly or indirectly destroy a unique paleontological resource or site.

  The Planning Commission finds that, for the reasons set forth in the Final EIR, implementing Mitigation Measure M-GE-6a (Inadvertent Discovery of Paleontological Resources) would reduce this impact to a less-than-significant level.

SECTION IV. SIGNIFICANT IMPACTS OF THE PROJECT THAT CANNOT BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL

Based on substantial evidence in the whole record of these proceedings, the Planning Commission finds that there are significant Project-specific and cumulative impacts that would not be eliminated or reduced to an insignificant level by the mitigation measures listed in the MMRP. The Final EIR identifies significant impacts in two significant impact topic areas—Cultural Resources and Air Quality–that would remain significant and unavoidable, even with implementation of mitigation measures; those impacts topics and the mitigation measures that reduce the impacts, although not to a less-than-significant level, are listed below.

The Planning Commission further finds based on the analysis contained within the Final EIR, other considerations in the record, and the significance criteria identified in the Final EIR, that feasible mitigation measures are not available to reduce the significant Project impacts to less-than-significant levels, and thus those impacts remain significant and unavoidable. The Planning Commission also finds that, although measures were considered in the Final EIR that could reduce some significant impacts, certain measures, as described below, are infeasible for reasons set forth below; therefore, those impacts remain significant and unavoidable or potentially significant and unavoidable.

The following significant impacts on the environment, as reflected in the Final EIR, are unavoidable. But, as more fully explained in Section VII, below, under Public Resources Code section 21081(a)(3) and (b) and CEQA Guidelines sections 15091(a)(3), 15092(b)(2)(B), and 15093, the Planning Commission finds that these impacts are acceptable in light of the legal, environmental, economic, social, technological and other benefits of the Project. This finding is supported by substantial evidence in the record of this proceeding.

A. Impacts That Remain Significant and Unavoidable After Implementation of Mitigation Measures

Cultural Resources

- CR-1: The Project would cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5 of the CEQA Guidelines.

  The Project would demolish the entire bus yard and building and redevelop the whole site with an approximately 1,250,000-gross-square-foot building that rises between 70 to 150 feet in height, including a partial basement level. The demolition under the Project would eliminate all the character-defining features that contribute to and convey the historic and architectural significance of the project site as a post-Earthquake reinforced concrete car barn designed by master Michael M. O'Shaughnessy.

  For these reasons, the Project would materially alter the physical characteristics of the Potrero Trolley Coach Division Facility that convey its historic significance and that justify its inclusion in the California Register. As such, the Project would cause a substantial adverse impact on the Potrero Trolley Coach Division Facility, a historical resource, and this would be a significant impact.

  Mitigation measures M-CR-1a (Documentation of Historical Resource), M-CR-1b (Salvage Plan), M-CR-1c (Interpretation of the Historical Resource), and M-CR-1d (Oral Histories) would document and present the complex history of the site and subject building. These mitigation measures would reduce the cultural resource impact but not to a less-than-significant level. The impact is significant and unavoidable with mitigation. Because identified mitigation measures M-CR-1a, M-CR-1b, M-CR-1c and M-CR-1d would not reduce the impact to a less-than-significant level, a full and a partial preservation alternatives to the Project have been identified.

Air Quality

- AQ-3: Construction and operation of the Project would generate toxic air contaminants, including diesel particulate matter, at levels which would expose sensitive receptors to substantial pollutant concentrations.

  Construction of the Project would generate the following local air pollutants of concern: running exhaust DPM and PM2.5 from off-road equipment and on-road trucks, fugitive PM2.5 dust from on-road truck tire wear, brake wear, and resuspension of entrained roadway dust. Operation of the Project would also generate the following local air pollutants of concern: running exhaust DPM, PM2.5, and/or TOG from on-road vehicles and emergency diesel generators, and fugitive PM2.5 dust from on-road vehicle tire wear, brake wear, and resuspension of entrained roadway dust. The emissions of DPM, PM2.5, and TOG during Project construction and operation could pose a health risk to nearby

sensitive receptors.

As explained in the Final EIR, with implementation of Mitigation Measures M-AQ-1 (Off-Road Construction Equipment Emissions Minimization) and M-AQ-3 (Emergency Diesel Generator Health Risk) the excess cancer health risk exposure would be reduced to just below the threshold of significance of 7.0 in a million (i.e., 6.87 in a million overall with 6.22 in a million attributable to off-road construction equipment after mitigation). The 38.5 percent reduction to the overall cancer risk at the maximally exposed individual resident attributable to Mitigation Measure M-AQ-1 would not be assured because of potential increases to the off-road construction equipment roster and intensity of average daily use. As a result, the efficacy of the combination of Mitigation Measures M-AQ-1 and M-AQ-3 would also not be assured. Although a reasonable worst-case construction scenario for the construction air quality emissions modeling was employed and long-term operational benefits associated with the Project's TDM program were not calculated, construction and operation of the Project could result in a substantial increase in the exposure of sensitive receptors to DPM, TOG, and PM2.5 and the impact on local air quality is determined to be significant. No additional mitigation measures have been identified and therefore this impact is significant and unavoidable with mitigation.

C-AQ-1: The Project, in combination with cumulative projects in the vicinity, would contribute considerably to cumulative health risk impacts on sensitive receptors. As discussed in the Final EIR, cumulative projects within 1,000 feet of the offsite maximally exposed individual resident are not expected to substantially increase the existing background health risks at the maximally exposed individual resident. However, as discussed under Impact AQ-3, the Project would result in a substantial increase in the existing background health risks at the maximally exposed individual resident. Even with Mitigation Measures M-AQ-1 and M-AQ-3 required as conditions of approval for the Project, construction and/or operation of the Project would result in a substantial increase in the exposure of sensitive receptors to DPM, TOG, and PM2.5 and the Project's contribution to cumulatively significant health risk impacts would be significant and unavoidable with mitigation.

SECTION V. Evaluation of Project Alternatives

This section describes the EIR alternatives and the reasons for rejecting the alternatives as infeasible. CEQA mandates that an EIR evaluate a reasonable range of alternatives to the Project or the project location that would feasibly attain most of the project's basic objectives, but that would avoid or substantially lessen any identified significant adverse environmental effects of the project. An EIR is not required to consider every conceivable alternative to a Project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. CEQA requires that every EIR also evaluate a "no project" alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their ability to meet project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

A. Alternatives Analyzed in the Final EIR

The Department considered a range of alternatives in draft EIR Chapter 5, Alternatives. The Final EIR analyzed the Project compared to four CEQA alternatives:

- Alternative A (No Project Alternative)
- Alternative B (Full Preservation Alternative)
- Alternative C (Partial Preservation Alternative)
- Alternative D (Transit Facility Plus Commercial Only Alternative)

B. Evaluation of Project Alternatives

CEQA provides that alternatives analyzed in an EIR may be rejected if "specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible ... the project alternatives identified in the EIR" (CEQA Guidelines section 15091[a][3]). The Planning Commission has reviewed each of the alternatives to the Project as described in the Final EIR that would reduce or avoid the impacts of the Project and finds that there is substantial evidence of specific economic, legal, social, technological, and other considerations that make these alternatives infeasible, for the reasons set forth below.

In making these determinations, the Planning Commission is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." The Planning Commission is also aware that under CEQA case law, the concept of "feasibility" encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project, and (ii) the question of whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

The following Project alternatives and Project were fully considered and compared in the Final EIR.

- **Alternative A (No Project Alternative):** Under Alternative A, existing land use controls on the Project site would continue to govern site development and the existing site would continue to function as a transit facility, which would not constitute a change from existing conditions. Under Alternative A, the existing maintenance and operations building would be retained in its current configuration, including its flat roof (parking deck) and second-story additions constructed in 1924 along Mariposa and Hampshire streets for offices and maintenance shops, respectively. The overall height and massing (approximately 45-foot height at Mariposa and Hampshire streets) would be preserved. The paved bus storage yard on the western portion of the site with access from Mariposa Street would also be retained in its current condition.

  If Alternative A were to proceed, no changes would be implemented, and none of the impacts associated with the Project, as described in the Final EIR, would occur. With no change to existing site conditions under the no Project alternative, land use activity on the Project site would not contribute to significant cumulative impacts beyond existing levels.

  Alternative A is hereby rejected as infeasible. Although it would eliminate the significant and unavoidable impacts to cultural resources and air quality, it would fail to meet the basic objectives of

the Project. In particular, Alternative A would fail to: (i) rebuild, expand, and modernize the SFMTA's Potrero Bus Yard by 2027 to efficiently maintain and store a growing Muni bus fleet according to the SFMTA Fleet Plan and Facilities Framework schedule; (ii) construct the first SFMTA transit facility with infrastructure for battery electric buses to facilitate Muni's transition to an all-electric fleet, in accordance with San Francisco and California policy; (iii) construct a new public asset that is resilient to earthquakes and projected climate change effects, and provides a safe, secure environment for the SFMTA's employees and assets; (iv) improve working conditions of SFMTA's workforce of transit operators, mechanics, and front-line administrative staff through a new facility at Potrero Yard; (v) achieve systemwide master plan priorities by consolidating scattered transit support functions at Potrero Yard; or (vi) create a development that is financially feasible in that the public asset can be funded by public means and public transportation funds are used only for the bus yard component.

- **Alternative B (Full Preservation Alternative):** The two preservation alternatives are the culmination of a screening process that considered various site plans, building retention programs, building heights, views of the character-defining features, and feedback from the City Historic Preservation Commission. Under the Full Preservation Alternative, the existing, approximately 45-foot-tall, office wing along Mariposa Street would be retained and the remainder of the maintenance and operations building would be demolished, including the shops wing along Hampshire Street north of the office wing. The replacement transit facility would cover the remainder of the site, including the bus yard on the west portion of the site.

  Under Alternative B, the building's three transit levels would rise to a height of 75 feet, with multi-family residential floors above rising to 150 feet (inclusive of the 75-foot-tall transit facility podium). The office wing would be retained and preserved in its entirety with no new construction built on top of it. The shops wing along Hampshire Street would be demolished; however, new construction would feature setbacks that reference the wing's original form and massing. Under this alternative, residential uses within the new transit facility would be developed along Mariposa and Bryant streets, and on floors above the new transit facility podium. However, the footprint for residential development would be limited under Alternative B due to the retention of the office wing, the transit facility podium setbacks from the retained office wing, and the residential floor setbacks from the transit facility podium. Ground-floor commercial uses would be developed along Bryant Street. Most of the character-defining features of the historical resource would be retained and reused.

  Overall, Alternative B would have approximately 176,000 fewer gross square feet of space compared to the Refined Project and about 53,000 more gross square feet of space than the Paratransit Variant. Compared to the Project (both the Refined Project and the Paratransit Variant), the replacement transit facility would be reduced in size by approximately 122,000 gross square feet—from approximately 700,000 to 578,000 gross square feet.

  Alternative B is hereby rejected as infeasible because it would fail to meet the basic objectives of the Project. In particular, Alternative B would not fully satisfy the Project's basic objectives to: (i) rebuild, expand, and modernize the SFMTA's Potrero Bus Yard by 2027 to efficiently maintain and store a growing Muni bus fleet according to the SFMTA Fleet Plan and Facilities Framework schedule; (ii) construct the first SFMTA transit facility with infrastructure for battery electric buses to facilitate Muni's

transition to an all-electric fleet, in accordance with San Francisco and California policy; and (iii) achieve systemwide master plan priorities by consolidating scattered transit support functions at Potrero Yard. Reductions to the transit facility under Alternative B could result in less space for operator training, operator and administration areas, transit street operations, and electric bus battery infrastructure, as well as displacement of maintenance bays and bus parking, limiting SFMTA's ability to meet the fleet plan mix, and loss of non-revenue vehicle parking spaces, limiting SFMTA's ability to consolidate transit street operations and other functions at Potrero Yard.

- **Alternative C (Partial Preservation Alternative):** Under the Partial Preservation Alternative, the office wing along Mariposa and Hampshire streets on the southeast portion of the site would be retained and reused. The remainder of the building would be demolished, including the shops wing along Hampshire Street north of the office wing. New construction (i.e., the three-level transit facility, with residential and ground-floor commercial uses plus residential uses atop the transit facility podium) would cover the remainder of the site as it does in Alternative B.

  Similar to the Project, the building's three transit levels would rise to a height of 75 feet, with multi-family residential floors above rising to 150 feet (inclusive of the 75-foot-tall transit facility podium). The office wing would be retained and preserved in its entirety, with no new construction built on top of it. The remainder of the building would be demolished but the new building would feature some setbacks and notches to differentiate the new construction from the retained office wing. Residential uses within the new transit facility under this alternative would be developed along Mariposa and Bryant streets and on floors above the transit facility podium. However, the footprint for residential development would be limited under Alternative C due to the retention of the office wing and the residential floor setbacks from the transit facility podium and retained office wing. Ground-floor commercial uses would be developed along Bryant Street as under the Project. Most of the character-defining features of the historical resource would be retained and reused, although to a lesser degree than in Alternative B. A portion of the existing structure would be retained; however, spatial relationships with the site and environment would be altered to a greater extent in Alternative C as compared to Alternative B.

  Overall, Alternative C would have approximately 166,000 fewer gross square feet of space compared to the Refined Project and 63,000 more gross square feet of space than the Paratransit Variant. Compared to the Project (Refined Project and Paratransit Variant), the replacement transit facility would be reduced in size by 103,000 gross square feet—from approximately 700,000 to 597,000 gross square feet. Although the interior of the retained office wing of the maintenance and operations building would be renovated to serve the SFMTA's programmatic needs, reductions to the SFMTA program could result in similar land use program reductions as with the Full Preservation Alternative.

  Alternative C is hereby rejected as infeasible because it would fail to meet the basic objectives of the Project. In particular, like Alternative B, Alternative C would not fully satisfy the Project's basic objectives to: (i) rebuild, expand, and modernize the SFMTA's Potrero Bus Yard by 2027 to efficiently maintain and store a growing Muni bus fleet according to the SFMTA Fleet Plan and Facilities Framework schedule; (ii) construct the first SFMTA transit facility with infrastructure for battery electric buses to facilitate Muni's transition to an all-electric fleet, in accordance with San Francisco and California policy; and (iii) achieve systemwide master plan priorities by consolidating scattered transit

support functions at Potrero Yard. Reductions to the transit facility under Alternative C could result in less space for operator training, operator and administration areas, transit street operations, and electric bus battery infrastructure, as well as displacement of maintenance bays and bus parking, limiting SFMTA's ability to meet the fleet plan mix, and loss of non-revenue vehicle parking spaces, limiting SFMTA's ability to consolidate transit street operations and other functions at Potrero Yard.

- **Alternative D (Transit Facility Plus Commercial Only Alternative):** Under the Transit Facility Plus Commercial Only Alternative, the 4.4-acre site would be redeveloped to provide a modern transit facility with commercial uses in a 75-foot-tall structure with three transit levels. However, Alternative D, unlike the Project, would not include residential uses within the transit facility (along Mariposa and Bryant streets) or proposed residential development atop the transit facility podium. All joint development space within the transit facility would be repurposed for SFMTA maintenance and circulation space, electric bus battery infrastructure, and staff amenities with the exception of ground-floor commercial space. The approximately 3,000 gross square feet of ground-floor commercial uses under the Project (Refined Project and Paratransit Variant) would be approximately 30,000 gross square feet less than under Alternative D, which would include 33,000 gross square feet of commercial uses along Bryant Street.

  Streetscape improvements would be limited to a loading facility on Bryant Street for commercial use, and the off-street loading at the basement level would be dedicated to the SFMTA. There would be no passenger loading space on Hampshire or Bryant streets north of Mariposa Street; thus, fewer parking spaces adjacent to the project site would be lost compared to Project (Refined Project and Paratransit Variant) . Alternative D would require 107,000 cubic yards more excavation than the Project (Refined Project and Paratransit Variant) for the foundation and structural work and the below-grade basement. However, due to the smaller construction program for the transit facility and commercial space only, Alternative D could be constructed in 2.5 to 3 years, less than the approximately four years expected for the Project (Refined Project and Paratransit Variant)..

  Alternative D is hereby rejected as infeasible. Overall, Alternative D would meet fewer of the additional project objectives than Alternatives B or C because there would be no residential component to the joint development. Without the residential component, the Alternative D project would deliver zero housing units and would fail to maximize reuse of a site located in a central, mixed-use neighborhood by creating a mixed-use development and providing dense housing and striving to maximize the number of affordable units on the site.

SECTION VI. STATEMENT OF OVERRIDING CONSIDERATIONS

The Planning Commission finds that, notwithstanding the imposition of all feasible mitigation measures, a total of three significant impacts related to cultural resources and air quality would remain significant and unavoidable with mitigation, as described in more detail above.

Pursuant to CEQA section 21081 and CEQA Guidelines section 15093, the Planning Commission hereby finds, after consideration of the Final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological, and other benefits of the Project – including. as noted above, either the Refined Project or the Paratransit Variant – independently and collectively outweighs these significant and unavoidable impacts and is an overriding consideration warranting approval of the Project, as further

discussed below. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Planning Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found below, and in the record of proceedings.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Planning Commission specifically finds that there are significant benefits of the Project to support approval of the Project in spite of the unavoidable significant impacts, and therefore makes this statement of overriding considerations. The Planning Commission further finds that, as part of the process of obtaining Project approvals, significant effects on the environment from implementation of the Project have been eliminated or substantially lessened, where feasible. All mitigation measures and improvement measures identified in the Final EIR and MMRP are adopted as part of the Approval Actions described in Section I, above.

Furthermore, the Planning Commission has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technological, legal, social, and other considerations. The Project would meet all of the objectives, as described in the Draft EIR.

The Project would have the following benefits:

- The Project would advance SFMTA's Building Progress Program, which has a goal of repairing, renovating, and modernizing SFMTA's aging facilities and facilitating improvement of the overall transportation service delivery system in the City.

- The Project would replace an aging facility a new multilevel bus facility that will not only improve maintenance and storage capabilities, but also contribute to a greener, more sustainable, and reliable transportation system for the City.

- The Project would ensure resiliency to climate change and natural disasters and improve transit service by reducing vehicle breakdowns, increasing on-time performance, and reducing passenger overcrowding. Relatedly, the Project will provide a safer, more secure environment for SFMTA's employees and physical assets.

- The Project would directly address and support the City's housing goals—memorialized in its General Plan Housing Element and the Mayor's Public Lands for Housing Goals—by constructing a range of new housing units (up to 513)on the site.

- The Project would enhance safety and reduce conflicts between transit, commercial vehicles, bicyclists, drivers, and pedestrians in the project site vicinity.

- The Project would support transit-oriented development and promote the use of public transportation through an innovative and comprehensive transportation demand management program.

- The Project would demonstrate the City's leadership in sustainable development by constructing an environmentally low-impact facility intended to increase the site's resource efficiency.

Having considered the above, and in light of evidence contained in the FEIR and in the record, the Planning Commission finds that the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the FEIR and/or Initial Study, and that those adverse environmental effects are therefore acceptable.

ATTACHMENT B – AGREEMENT TO IMPLEMENT MITIGATION MONITORING AND REPORTING PROGRAM: MITIGATION, IMPROVEMENT AND PUBLIC WORKS STANDARD CONSTRUCTION MEASURES (MMRP) and MMRP

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MEMORANDUM TO FILE

Date:	October 25, 2024
To:	File
From:	Jennifer McKellar
Re:	Potrero Yard Modernization Project (2500 Mariposa Street) (Modification of Potrero Yard Modernization Project – Increase in Bus and Bus Operator Count Numbers) Case No. 2019-021884ENV

INTRODUCTION

A final environmental impact report, file number 2019-021884ENV, for the subject project was certified on January 11, 2024. The project analyzed in the final environmental impact report (EIR project) would demolish the existing SFMTA Potrero Trolley Coach Division Facility, located at 2500 Mariposa Street, and replace it with an expanded and modernized transit facility that would also include residential and commercial uses. The project would construct a four level (including mezzanine level), approximately 70-foot-tall replacement transit facility (approximately 700,000 gross square feet accommodating up to 213 buses) plus a mix of commercial (approximately 3,000 gross square feet), childcare (approximately 2,000 gross square feet), and residential uses (approximately 530,000 gross square feet and 513 units). The approximately 1,240,000-gross-square-foot structure would rise to heights ranging from 70 to 150 feet across the site. Six floors of proposed residential development with ground-floor commercial uses would be located in a building constructed adjacent to the transit facility along Bryant Street. The remaining residential development would be atop the replacement transit facility on floors 7 through 13, with a retail use and a joint development residential lobby entrance for pedestrian access integrated with the replacement transit facility. Streetscape changes occurring as part of the project would include pedestrian and bicycle improvements, reconfigured parking and loading areas, installation of new seating areas and street lighting, landscaping, and utility work. The EIR project would be constructed over a period of 46 months.

The EIR also analyzed two additional phased construction scenarios for the EIR project, Scenario 1 and Scenario 2. Both scenarios divide construction into three phases: Phase 1 (new transit facility), Phase 2 (Bryant Street housing) with housing along Bryant Street up to the height of the replacement transit facility, and Phase 3 (family and workforce housing) with housing above the replacement transit facility and Bryant Street Housing. Under Scenario 1, the three construction phases would overlap resulting in periods of concurrent construction activities and operations/residential occupancies. Under Scenario 2, the three construction phases would be sequential with gaps in time (e.g., between Phase 2 and Phase 3) resulting in an overlap of construction activities and operations/residential occupancies, but to a lesser extent than under Scenario 1. Depending on which phased construction scenario is implemented, the construction duration for the EIR project could range between approximately 49 months (similar to the current timeline for the EIR project) and 96 months. This range does not cover options to extend the start date of Phase 3 as allowed under the 30-Year Project Agreement.

As a variant to the project (EIR project variant), the SFMTA would construct the housing along Bryant Street (103 units) but replace the remainder of the podium housing with SFMTA's Paratransit Operations. The proposed paratransit use would include circulation and storage space for 150 cutaway buses and 10 vans as well as space for vehicle service (maintenance bays, chassis wash bay, parts storage) and SFMTA administration.

PROPOSED REVISIONS TO PROJECT (MODIFIED PROJECT)

SFMTA, the project sponsor, now proposes to increase the total number of electric trolley buses accommodated by the replacement transit facility using a different fleet mix of 40-foot and 60-foot buses. The EIR project and EIR project variant analyzed in the EIR proposed 213 electric trolley buses (53 40-foot and 160 60-foot buses). The modified project proposes 246 buses (153 40-foot and 93 60-foot buses), a net increase of 33 buses. To facilitate this change, the modified project would alter the proposed striping on the second level of the replacement transit facility to accommodate the 33 additional buses. Modified striping would include converting 67 of the 60-foot bus parking spaces proposed in the EIR project to 100 40-foot bus parking spaces. Associated with the change in number of buses, the modified project proposes adding 301 additional bus operators to the facility compared to the EIR project. No increase in the number of paratransit bus operators is proposed under EIR project variant conditions. Attachment A provides a detailed project description.

No additional changes to the EIR project or EIR project variant described and analyzed in the EIR are proposed under the modified project.

IMPACT ANALYSIS

As described below, the modified project would not cause new significant impacts or result in a substantial increase in the severity of the impacts identified in the EIR, and no new or revised mitigation measures would be required. (See Public Resources Code section 21166; CEQA Guidelines sections 15162 and 15163.)

For context, following publication of the draft environmental impact report (DEIR), the project analyzed in the DEIR (DEIR project) was refined and a project variant and two phased construction scenarios added. These refinements and additions, collectively described above as the EIR project, EIR project variant and phased construction Scenario 1 and Scenario 2, were analyzed in the DEIR Responses to Comments (RTC) document. Thus, the below analysis includes references to both the DEIR and RTC, which together constitute the final EIR.

Note that the analysis below does not evaluate the modified project's impacts in the context of the EIR project variant being constructed instead of the EIR project. This is because the EIR project variant's impacts would be less severe than the EIR project's impacts. Compared to the EIR project, the EIR project variant would construct a smaller structure (230,000 gross square feet smaller) that would generate fewer operational vehicle trips (1,966 daily vehicle trips instead of 2,288 and 110 p.m. peak hour vehicle trips instead of 155). Therefore, analysis of the modified project compared to the EIR project represents the worst-case scenario.

Transportation Impacts

Construction Impacts

The modified project does not propose any changes to the project construction details analyzed in the EIR, including those related to phased construction Scenario 1 and Scenario 2. Construction-related transportation impacts would be the same as analyzed in the EIR because the modified project, like the EIR project, would be required to implement public works' Standard Construction Measure #4 (Traffic), Improvement Measure I-TR-A: Construction Management Plan–Additional Measures, and Improvement Measure I-TR-B: Driveway and Loading Operations Plan, which would include measures to accommodate onsite and on-street loading demand for completed phases of the project for the duration of buildout under the phased construction scenarios.

Operational Impacts

Except for the 33 additional electric trolley buses that would be stored/maintained at and enter/leave the project site and the 301 additional bus operators arriving at/leaving the site, the modified project proposes no other design or operational changes compared to the EIR project. The additional 301 bus operators proposed by the modified project would increase daily vehicle trips by 612 employee trips and increase p.m. peak hour vehicle trips by 17 employee trips compared to the EIR project.[1] In total, the modified project would generate 2,900 daily vehicle trips and 173 new p.m. peak hour vehicle trips compared to the 2,288 daily and 155 p.m. peak hour vehicle trips generated by the EIR project. Table 1 provides a summary of these estimates.

Similar to existing conditions, the EIR project and modified project do not generate a substantial number of vehicle trips during the p.m. peak hour. This is because Muni buses generally leave the yard to access their route between 4 a.m. and 7 a.m. and return to the yard in the evening between 7 p.m. and 9 p.m. As such, most employees work non-standard shifts, with the majority of morning employee commute trips occurring before the traditional a.m. peak period, and the majority of evening commute trips occurring after the traditional p.m. peak period. In addition, while the modified project would increase p.m. peak hour vehicle trips to 173 trips compared to the EIR project's 155 trips, these trips would remain less than the screening criteria of 300 peak hour project vehicle trips used by the planning department to determine if transit routes traveling through the project study area are likely to be significantly delayed. Therefore, the modified project would not substantially increase p.m. peak hour vehicle trips, and its transit delay impacts would be similar to those analyzed in the EIR and less than significant.

The modified project's increased number of daily vehicle trips would also not substantially increase vehicle miles travelled or induce automobile travel, and therefore, like the EIR project, related impacts would remain less than significant. In addition, loading impacts, including those occurring under either phased construction scenario, would be similar to those analyzed in the EIR despite the increase in bus operator trips because the modified project would be required to implement public works' Standard Construction Measure #4 (Traffic), Improvement Measure I-TR-A: Construction Management Plan–Additional Measures, and Improvement Measure I-TR-B: Driveway and Loading Operations Plan, which would include measures to accommodate onsite and on-street loading demand for completed phases of the project for the duration of buildout under the phased construction scenarios.

[1] As described in the Draft EIR (p. 3.C33) and the Responses to Comments to the Draft EIR (Appendix C-1, Table 3, p. 11), Muni buses traveling to and from the facility were not included in person trip generation. However, bus driver trips to and from work at the facility were included in the bus maintenance and storage use.

Table 1. Change in Vehicle Trips: Modified Project vs EIR Project[a]			
	EIR Project (net new vehicle trips)[b]	**Modified Project (added vehicle trips)[c,d]**	**Modified Project (total vehicle trips)[e]**
Change in Daily Trips			
Transit Facility	1,093	612 employee trips	1,705
Residential Development	1,195	0	1,195
Total	**2,288**	**+612**	**2,900**
Change in P.M. Peak Hour Trips			
Transit Facility	+58	17 employee trips	+75
Residential Development	+98	0	+98
Total	**+155**	**+17**	**+173**

Notes:

a. Source: Potrero Yard Modernization Project, Responses to Comments on the Draft Environmental Impact Report, Volume 4a: Attachment C-1: Travel Demand Estimates for the Refined Potrero Yard Modernization Project ("RTC Appendix C-1")

b. EIR project vehicle trips net of existing transit facility vehicle trips. Source: RTC Appendix C-1, Table 6. Total does not sum precisely due to rounding.

c. Vehicle trips (daily) generated by the 301 additional bus operators added by the modified project. Assumptions: Muni bus vehicle trip rate (daily) = 1.9 vehicle trips per bus, bus operator trip rate (daily) = 3.0 person trips per employee; auto mode split for bus operators (weighted by time period) = 83%; Taxi/TNC mode split for bus operators (weighted by time period) = 3%; average vehicle occupancy = 1.23. Vehicle trips include auto and Taxi/TNC trips. Source: RTC Appendix C-1, Table 2, Table 2, Table 4, and Table 2, respectively.

d. Vehicle trips (p.m. peak period) generated by the 301 additional bus operators added by the modified project. Assumptions: Muni bus vehicle trip rate (p.m. peak hour) = 0.03 vehicle trips per bus, bus operator trip rate (p.m. peak hour) = 0.07 person trips per employee; auto mode split for bus operators (weighted by time period) = 83%; Taxi/TNC mode split for bus operators (weighted by time period) = 3%; average vehicle occupancy = 1.23. Vehicle trips include auto and Taxi/TNC trips. Source: RTC Appendix C-1, Table 2, Table 2, Table 4, and Table 2, respectively.

e. Sum of EIR project (net new vehicle trips) and modified project (added vehicle trips). Total does not sum precisely due to rounding.

All other operation-related transportation impacts (i.e., potentially hazardous conditions and accessibility) would be the same as those analyzed in the EIR since the modified project would be identical to the EIR project other than the increases in buses and bus operators described above.

Therefore, the modified project would not result in any new significant transportation impacts not already identified in the EIR, nor any substantial increases in the severity of transportation impacts identified in the EIR.

Noise and Vibration Impacts

Construction Impacts

The modified project does not propose any changes to the project construction details analyzed in the EIR, including those related to phased construction Scenario 1 and Scenario 2. Therefore, like the EIR project, the modified project's construction-related noise and vibration impacts would be less than significant with the implementation of public works' Standard Construction Measure #5 (Noise), Mitigation Measure M-NO-1: Construction Noise Control, and Mitigation Measure M-NO-2: Vibration-Sensitive Equipment at 2601 Mariposa Street (KQED) Building.

Operational Impacts

The 33 additional electric trolley buses proposed by the modified project would increase the number of buses moving within and maintained at the site. As with the EIR project, although the bus fleet would be expanded, most bus movement and all maintenance activities would occur within an enclosed space,

which would improve the noise levels at the project site compared to existing conditions (currently, some bus maintenance and all bus storage is outdoors).

The additional 301 bus operators proposed by the modified project would also generate about 17 additional p.m. peak hour vehicle trips traveling to or from the site compared to the EIR project (see Table 1). The EIR assessed traffic volumes along 22 roadway segments in the project vicinity during the p.m. peak hour and determined that the EIR project would increase traffic volumes the most (39 percent) along the roadway segment of Mariposa Street between Hampshire Street and Potrero Avenue (from 274 trips to 380 trips).[2,3] The EIR further determined that this 106-trip increase would increase traffic noise by about 1 dBA along this roadway segment. Because this is below the 3-dBA significance threshold for noise impacts, the EIR project-generated traffic noise increase along local area roadways was found to be less than significant. Similar to the EIR project, the modified project's vehicle trips would be distributed amongst the various roadways in the project vicinity. Therefore, the modified project would add less than 17 new p.m. peak hour vehicle trips along the Mariposa Street roadway segment identified above. Considering that the 106-trip increase analyzed under the EIR would produce about a 1 dBA increase along this road segment, it is unlikely that an additional 17 p.m. peak trips would increase traffic noise along this segment above 3 dBA. Therefore, the modified project's operational offsite traffic noise impact would be similar to the EIR project, although slightly increased, and less than significant (including under either phased construction scenario where onsite receptors are considered).

In addition, operational noise impacts from onsite sources such as HVAC systems, cooling towers, garbage trucks and delivery trucks, would be the same as those analyzed in the EIR because the modified project would be identical to the EIR project except for the additional buses and bus operators, and would be required to implement Mitigation Measure M-NO-3: Fixed Mechanical Equipment Noise Control for Building Operations.

Overall, like the EIR project, the modified project's noise and vibration impacts would be less than significant with the implementation of public works' Standard Construction Measure #5 (Noise), Mitigation Measure M-NO-1: Construction Noise Control, Mitigation Measure M-NO-2: Vibration-Sensitive Equipment at 2601 Mariposa Street (KQED) Building, and Mitigation Measure M-NO-3: Fixed Mechanical Equipment Noise Control for Building Operations. Therefore, the modified project would not result in any new significant air quality impacts not already identified in the EIR, nor any substantial increases in the severity of noise impacts identified in the EIR.

Air Quality Impacts

Impacts Related to Construction, Clean Air Plan Consistency and Odors

The modified project does not propose any changes to the project construction details analyzed in the EIR, therefore construction-related air quality impacts would be the same as analyzed in the EIR, except as described below for the phased construction scenarios. Impacts related to clean air plan consistency and odors would also remain the same as those analyzed in the EIR because the modified project would be identical to the EIR project, except for the change in the number of buses and bus operators, and would be required to implement public works' Standard Construction Measure #2 (Air Quality), Mitigation Measure

[2] Potrero Yard Modernization Project, Draft Environmental Impact Report, pp. 3.D.50-3.D.51.
[3] Potrero Yard Modernization Project, Responses to Comments on the Draft Environmental Impact Report, p. 8.85.

M-AQ-1: Off-Road Construction Equipment Emissions Minimization, and Mitigation Measure M-AQ-3: Emergency Diesel Generator Health Risk Reduction Plan.

Criteria Air Pollutants

Operationally, the 33 additional electric trolley buses proposed by the modified project would not increase emissions of air pollutants because they do not use fossil fuels. However, the proposed 301 additional bus operators would generate 612 additional daily vehicle trips to and from the site compared to what was analyzed in the EIR.

Although the EIR project made refinements to the DEIR project, average daily criteria air pollutant emissions were not recalculated for the EIR Project because they were qualitatively determined to be similar to or lower than those analyzed in the DEIR. This is because the EIR project proposes less excavation (and consequently less haul truck trips), a longer construction period, less total square footage (resulting in lower energy and area source emissions and fewer residential and commercial vehicle trips), and the same number of transit facility vehicle trips compared to the DEIR project. Therefore, for this analysis, EIR project emissions are conservatively assumed to be the same as those calculated for the DEIR project, and the modified project's criteria air pollutant emissions are compared to those of the DEIR project.

Compared to the DEIR project, the modified project's 612 additional vehicle trips represent an approximately 29 percent increase in transit facility vehicle trips, which would proportionally increase transit facility criteria air pollutant emissions from mobile sources by approximately 29 percent.[4] Overall, the 612 additional trips represent a smaller increase (16 percent) in total trips (transit facility + residential development) compared to the DEIR project.[5] Table 2 provides a summary of the change in net operational emissions (mobile sources) analyzed in the DEIR and those resulting from the modified project.

(Continues on next page)

[4] The DEIR analyzed 2,109 daily vehicle trips (total, not net) associated with transit facility operations, which included DEIR project office trips. As noted above, EIR project emissions are conservatively assumed to be the same as those calculated for the DEIR project for this analysis. Therefore, the 612 additional daily bus operator trips proposed by the modified project represents a 29 percent increase in transit facility vehicle trips (an increase from 2,109 to 2,721 trips). Associated emissions are assumed to increase proportionally by 29 percent.

[5] The DEIR analyzed 3,942 daily vehicle trips (total, not net) associated with total DEIR project operations (transit facility and residential/commercial development operations). As noted above, EIR project emissions are conservatively assumed to be the same as those calculated for the DEIR project for this analysis. Therefore, the 612 additional daily bus operator trips proposed by the modified project represent a 16 percent increase in total (operations) vehicle trips (an increase from 3,942 to 4,554 trips).

Table 2. Change in Operation (Net) Criteria Air Pollutant Emissions (Mobile Sources Only)[a]					
		Average Daily Emissions (lb/day)			
Emission Scenario		**NOx**	**ROG**	**PM_{10}**	**$PM_{2.5}$**
Existing Emissions (No Project)	Transit Facility	5.8	0.5	5.9	1.0
	Total	*5.8*	*0.5*	*5.9*	*1.0*
DEIR/EIR Project Emissions[b]	Transit Facility	3.2	0.2	5.9	1.3
	Residential/Commercial Development	4.5	0.2	5.4	1.2
	Total	*7.7*	*0.4*	*11.3*	*2.5*
Modified Project Emissions	Transit Facility[c]	4.2	0.3	7.6	1.7
	Residential/Commercial Development	4.5	0.2	5.4	1.2
	Total	*8.7*	*0.5*	*13.0*	*2.9*
Net Project Emissions (EIR Project)		1.9	-0.1	5.4	1.5
Net Project Emissions (Modified Project)		2.9	0.0	7.1	1.9
Change in mobile source emissions		**1.0**	**0.1**	**1.7**	**0.4**

Notes:
a. Adapted from Potrero Yard Modernization Project, Draft Environmental Impact Report (DEIR), Table 3.E.8, p. 3.E.52 and Appendix G-3
b. The EIR project made refinements to the DEIR project; however average daily criteria air pollutant emissions were not recalculated for the EIR Project because they were qualitatively determined to be similar to or lower than those analyzed in the DEIR. In addition, the EIR project proposes the same number of SFMTA employees as the EIR project, so related DEIR and EIR project worker vehicle trip emissions would be the same. Therefore, for this analysis, EIR project emissions are conservatively assumed to be the same as those calculated for the DEIR project, and the modified project's increased criteria air pollutant emissions are compared to those of the DEIR project.
c. Modified project transit facility mobile emissions were calculated by increasing DEIR project transit facility mobile emissions by 29 per cent (proportional to the 29 percent increase in vehicle trips with the modified project).

Table 3 compares the total estimated average daily criteria air pollutant emissions for the EIR and modified projects, including under phased construction Scenario 1. Scenario 1 represents the worst-case scenario because its criteria air pollutant impacts are more severe than Scenario 2's impacts due to more overlap between construction and operation phases.

While the modified project slightly increases net operational criteria air pollutant emissions compared to the EIR project, its emissions do not exceed any of the thresholds of significance.[6] Therefore, the modified project's criteria air pollutant impacts would be similar to those analyzed in the EIR (including under the phased construction scenarios) and remain less than significant with the implementation of public works' Standard Construction Measure #2 (Air Quality) and Mitigation Measure M-AQ-1: Off-Road Construction Equipment Emissions Minimization.

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[6] Emissions, when converted from lb/day to tons/year do not exceed the additional significance threshold of 10 tons/year. Modified project emissions (tons/year) are 2.3 (NO_x), 4,4 (ROG), 1.4 (PM_{10}) and 0.5 ($PM_{2.5}$). Modified project (Scenario 1) emissions (tons/year) are 7.9 (NO_x), 7.2 (ROG), 1.5 (PM_{10}), and 0.5 ($PM_{2.5}$)

Table 3. Criteria Air Pollutant Emissions: EIR and Modified Projects					
		Average Daily Emissions (lb/day)			
Project	Emission Scenario[a]	NOx	ROG	PM_{10}	$PM_{2.5}$
DEIR/EIR Project[b]	Mitigated Construction (M-AQ-1)	50	22	0.4	0.3
	Operation (Net)	11.6	24	6.1	2.2
EIR Project (Scenario 1)[c,d]	Mitigated Construction (M-AQ-1)[e]	30.5	15.5	0.2	0.2
	Operation (Net)[f]	11.6	24	6.1	2.2
	Combined Construction and Operation	*42.0*	*39.4*	*6.3*	*2.4*
Modified Project	Mitigated Construction (M-AQ-1)[g]	50	22	0.4	0.3
	Operation (Net)[h]	12.6	24.1	7.8	2.6
Modified Project (Scenario 1)	Mitigated Construction (M-AQ-1)[i]	30.5	15.5	0.2	0.2
	Operation (Net)[j]	12.6	24.1	7.8	2.6
	Combined Construction and Operation	*43.1*	*39.6*	*8.0*	*2.8*
Threshold of Significance (lb/day)		**54**	**54**	**82**	**54**
Exceeds Threshold?		**No**	**No**	**No**	**No**

Notes:

a. The DEIR determined that the DEIR project's criteria air pollutant impacts would be less than significant with mitigated construction and unmitigated operations. Consistent with the EIR, all emissions scenarios noted here use this as the basis for comparison.

b. Construction and operational emissions are taken from Potrero Yard Modernization Project, Draft Environmental Impact Report (DEIR), Table 3.E.7, p. 3.E.47 and Table 3.E.8, p. 3.E.52, respectively. Although the EIR project was refined following publication of the DEIR, the EIR did not recalculate criteria air pollutant emissions. Instead, the EIR (see RTC pp. 8.99-8.103 and p. 8.106) qualitatively determined that the EIR project average daily mitigated construction emissions would be less than the average daily mitigated construction emissions estimated for the DEIR project due to the EIR project's fewer construction haul truck trips (18 percent reduction in emissions from on-road trucks) and extended construction duration (23 percent reduction in average daily emissions by 23 percent). Therefore, criteria air pollutant emissions reported for the EIR project are those estimated for the DEIR project.

c. The EIR determined that phased construction Scenario 1 impacts were more severe than Scenario 2 impacts due to more overlap between construction and operation phases, therefore only Scenario 1 impacts are shown here.

d. Construction and operation emissions are taken from Potrero Yard Modernization Project, Responses to Comments on the Draft Environmental Impact Report (RTC): Volume 3: Table 8.7, p. 8.111.

e. The EIR estimated EIR project average daily mitigated construction emissions under phased construction Scenario 1 based on the DEIR project's average daily mitigated construction emissions, taking into account the reduction from fewer construction haul truck trips (18 percent reduction in emissions from on-road trucks) and extended construction duration (28 percent reduction in average daily emissions).

f. To be conservative, the EIR evaluated criteria air pollutant emissions during the overlapping periods under Scenario 1 based on average daily emissions from full construction of all three phases and full operation of all three phases simultaneously. In addition, the net operational emissions estimated for the DEIR Project, as reported on DEIR p. 3.E.52, are used in this analysis as operational emissions for the EIR project under scenario 1, which is conservative.

g. The modified project proposes no construction changes; therefore, its construction impacts are equal to those analyzed for the EIR project.

h. Modified project net operation emissions = EIR Project net operation emissions plus change in net operation emissions from Table 2 of this document.

i. The modified project proposes no construction changes; therefore, its construction impacts are equal to those analyzed for the EIR Project under Scenario 1.

j. Modified project net operation emissions = EIR project net operational emissions plus change in net operational emissions from Table 2 of this document.

Cancer Risk and $PM_{2.5}$ Exposure

Although the EIR project made refinements to the DEIR project, excess cancer risk and PM2.5 concentrations at the maximally exposed individual resident (MEIR) were not recalculated for the EIR Project because they were qualitatively determined to be less severe than those analyzed in the DEIR.[7] This

[7] The EIR did however update the DEIR health risk analysis to include: 1) the contribution of construction fugitive dust to fine particulate matter (PM2.5) concentrations at nearby receptors (residential and worker); and 2) the evaluation of excess lifetime cancer risk and chronic hazard indices (HIs) for offsite worker receptors. See Potrero Yard Modernization Project, Responses to Comments on the Draft Environmental Impact Report (RTC): Volume 4a, Attachment E-1.

is because the EIR project proposes less excavation (and consequently less haul truck trips), a longer construction period, fewer residential and commercial vehicle trips, and the same number of transit facility vehicle trips compared to the DEIR project. Therefore, for this analysis, EIR project health risks are conservatively assumed to be the same as those calculated for the DEIR project, and the modified project's health risks are compared to those of the DEIR project.

Conservatively, the 612 additional bus operator vehicle trips would increase excess cancer risk by about 0.284 per million and $PM_{2.5}$ concentration by about 0.016 µg/m^3 at the MEIR.[8] Table 4 compares the excess cancer risk and $PM_{2.5}$ concentration contributions of the DEIR/EIR project and modified project at the MEIR.

Table 4. Excess Cancer Risk and PM2.5 Concentration at Maximally Exposed Individual Resident for EIR and Modified Projects

Project	Emission Scenario: Mitigated Emissions (M-AQ-1 and M-AQ-3)	Health Risks at MEIR	
		Excess Cancer Risk (per million)	PM2.5 (µg/m^3)
DEIR/EIR Project[a]	Off-Road Construction Equipment	6.22	0.08
	On-Road Construction Vehicles	0.10	0.002
	On-Road Operational Vehicles	0.18	0.008
	Emergency Generators	0.37	0.001
	EIR Project Health Risks Contribution	*6.87*	*0.085 (construction phase)* *0.009 (operation phase)*
Modified Project	Off-Road Construction Equipment	6.22	0.08
	On-Road Construction Vehicles	0.10	0.002
	On-Road Operational Vehicles[b]	0.464	0.025
	Emergency Generators	0.37	0.001
	Modified Project Health Risks Contribution	*7.154*	*0.085 (construction phase)* *0.025 (operation phase)*
Threshold of Significance		*7.0*	*0.2*
Exceeds Threshold?		*Yes[c]*	*No*

Notes:

a. Emissions and health risks are taken from Potrero Yard Modernization Project, Responses to Comments on the Draft Environmental Impact Report (RTC): Volume 3: (Revised) Table 3.E.9, p. 11.30. Although the EIR project was refined following publication of the DEIR, the EIR did not recalculate health risks for the EIR project. Instead, the EIR qualitatively determined that EIR project health risk impacts would be less severe than those of the DEIR project but would conservatively remain significant and unavoidable with the implementation of Mitigation Measure M-AQ-1 and Mitigation Measure M-AQ-3 (see RTC pp. 8.103-8.106). Therefore, emissions and health risks reported for the EIR project in Table 4 are those estimated for the DEIR project.

b. Compared to the EIR project, the Modified project would increase excess cancer risk by about 0.284 per million and $PM_{2.5}$ concentration by about 0.016 µg/m^3 at the maximally exposed individual resident (MEIR). Note that these are conservative estimates based on a screening tool described in the planning department's Air Quality and Greenhouse Gas Guidelines, July 2024, Appendix C: Technical Support Documentation of a Health Risk Screening Method for On-Road Vehicular Emissions in City and County of San Francisco, accessed September 30, 2024.

c. Despite this exceedance, the modified project would not result in a new impact because the EIR determined that the EIR project's health risk impacts would be significant and unavoidable with the implementation of Mitigation Measure M-AQ-1 and Mitigation Measure M-AQ-3.

The modified project's contribution to health risks at the MEIR would not exceed the significance threshold for $PM_{2.5}$ concentration but would slightly exceed the significance threshold for excess cancer risk. However,

[8] Equations for estimating the additional excess cancer risk and PM2.5 concentration at the maximally exposed individual resident (MEISR) resulting from the modified project's increased bus operator vehicle trips are based on a conservative screening tool found in the planning department's Air Quality and Greenhouse Gas Guidelines, July 2024, Appendix C: Technical Support Documentation of a Health Risk Screening Method for On-Road Vehicular Emissions in City and County of San Francisco, accessed September 30, 2024.

the modified project's health risk impacts would remain similar to the EIR project's health risk impacts, which the EIR conservatively determined to be significant and unavoidable with the implementation of Mitigation Measure M-AQ-1 and Mitigation Measure M-AQ-3.

The EIR determined that the EIR project under either phased construction Scenario 1 or Scenario 2 would result in health risk impacts that are similar to or less severe than those of the EIR project. Therefore, if the modified project was constructed under either Scenario 1 or Scenario 2, its contribution to health risks would be similar to or less severe than those described above, and would remain significant and unavoidable with the implementation of public works' Standard Construction Measure #2 (Air Quality), Mitigation Measure M-AQ-1: Off-Road Construction Equipment Emissions Minimization, and Mitigation Measure M-AQ-3: Emergency Diesel Generator Health Risk Reduction Plan.

Therefore, overall, the modified project would not result in any new significant air quality impacts not already identified in the EIR, nor any substantial increases in the severity of air quality impacts identified in the EIR.

Remaining Environmental Topics

The modified project would have the same environmental impacts as the EIR project related to land use and planning; population and housing; cultural resources, tribal cultural resources, greenhouse gas emissions, wind, shadow, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, hazards and hazardous materials, mineral resources, energy resources, agriculture and forestry resources, and wildfire. This is because the modified project's increased number of buses and bus operators, and associated increased number of vehicle trips, would not change the analyses conducted for these environmental topics in the EIR.

CONCLUSION

San Francisco Administrative Code Section 31.19(c)(1) states that a revised project must be reevaluated and that, "If, on the basis of such reevaluation, the Environmental Review Officer determines, based on the requirements of CEQA, that no additional environmental review is necessary, this determination and the reasons therefore shall be noted in writing in the case record, and no further evaluation shall be required by this Chapter." Thus, for the reasons outlined above, this note to file provides sufficient documentation that the revised project does not warrant additional environmental review.

ATTACHMENT A

Project Description Memo: Modification of Potrero Yard Modernization Project – Increase in Bus and Bus Operator Count Numbers

CC: Wade Wietgrefe, San Francisco Municipal Transportation Agency
Liz Nagle, San Francisco Municipal Transportation Agency
Gabriela Pantoja, San Francisco Planning Department

Date:	October 25, 2024
To:	Jennifer McKellar San Francisco Planning Department
From:	Wade Wietgrefe, San Francisco Municipal Transportation Agency
Through:	Liz Nagle, San Francisco Municipal Transportation Agency
Re:	**Potrero Yard Modernization Project** (Modification of Potrero Yard Modernization Project – Increase in Bus and Bus Operator Count Numbers)
Case Number:	2019-021884ENV

SUMMARY

The San Francisco Municipal Transportation Agency (SFMTA) proposes a minor modification to the Potrero Yard Modernization Project, which received California Environmental Quality Act (CEQA) clearance on January 11, 2024 (Planning case no. 2019-021884ENV). As with the original project, the project, herein referred to as the modified project, would demolish the existing SFMTA Potrero Trolley Coach Division Facility and replace it with an expanded and modernized transit facility that would also include residential and commercial uses. Similar to the original project, the modified project would contain a four level (including mezzanine level), approximately 70-foot-tall replacement transit facility (approximately 700,000 gross square feet) plus a mix of commercial (approximately 3,000 gross square feet), childcare (approximately 2,000 gross square feet), and residential uses (approximately 530,000 gross square feet and 513 units).[1] The approximately 1,240,000-gross-square-foot structure would rise to heights ranging from 70 to 150 feet across the site. Six floors of proposed residential development with ground-floor commercial would be located in a building constructed adjacent to the transit facility along Bryant Street. The remaining residential development would be atop the replacement transit facility on floors 7 through 13, with a retail use and a joint development residential lobby entrance for pedestrian access integrated with the replacement transit facility. Streetscape changes occurring as part of the modified project would include the same pedestrian and bicycle improvements, parking and loading reconfigurations, and installations of seating areas and street lighting, landscaping, and utility work as the original project. The modified project would not make any changes to the project construction details described in the EIR, including those described for the two phased construction options identified as Scenario 1 and Scenario 2.

[1] The numbers herein generally reflect the maximum amount of anticipated development. Actual amounts may be less.

311 Free language assistance / 免費語言協助 / Ayuda gratis con el idioma / Бесплатная помощь переводчиков / Trợ giúp Thông dịch Miễn phí / Assistance linguistique gratuite / 無料の言語支援 / Libreng tulong para sa wikang Filipino / 무료 언어 지원 / การช่วยเหลือทางด้านภาษาโดยไม่เสียค่าใช้จ่าย / خط المساعدة المجاني على الرقم

As a variant to the project, the SFMTA would construct the housing along Bryant Street (103 units) but replace the remainder of the podium housing with SFMTA's Paratransit Operations. The proposed paratransit use would include circulation and storage space for 150 cutaway buses and 10 vans as well as space for vehicle service (maintenance bays, chassis wash bay, parts storage) and SFMTA administration.

The modified project is limited to an increase in the total number of proposed electric trolley buses (including a different fleet mix of the 40-foot and 60-foot buses) and an associated increase in the proposed number of bus operators. This change to the transit facility component of the project is also applicable to the project variant. Under the EIR, the original project proposed accommodation of 213 buses and 829 SFMTA employees. Under the modified project, 246 buses (an increase of 33 buses) and 1,130 employees (an increase of 301 bus operators) are proposed. Differences in the composition of the bus fleet mix under the modified project include 100 additional 40-foot buses and 67 less 60-foot buses. The change in total bus length from the modified project versus the EIR project is an overall decrease of 20 feet due to the utilization of more 40-foot buses and less 60-foot buses under the modified project. See Table 1 for details.

Category[a]	Existing	EIR Project	Modified Project	Δ EIR Project & Modified
Total # of Buses	*158*	*213*	*246*	*+33*
40' Buses	65	53	153	+100
60' Buses	93	160	93	-67
Total Length of Buses	*8,180'*	*11,720'*	*11,700'*	*-20'*

a. All buses under existing, EIR, and modified project conditions are electric-trolley, and most buses would enter and exit the new facility outside of AM and PM peak hours.

Table 1: Total Number of Buses – Existing, EIR and Modified Project Conditions

EXISTING CONDITIONS

The project is located on the 4.4-acre site owned by the SFMTA. It is bounded by Mariposa Street to the south, Bryant Street to the west, 17th Street to the north, and Hampshire Street to the east in the Mission neighborhood of the City and County of San Francisco. The project site is across the street from a public park, Franklin Square. The location of the project site/existing facility is shown in **Figure 1 in Attachment A.**

The western half of the existing Potrero Yard facility is occupied by the asphalt-paved bus storage yard. The eastern half of the site is occupied by the predominantly single-story maintenance and operations building, with a second story located along Mariposa and Hampshire Streets.

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MODIFIED PROJECT

The modified project would alter the proposed striping on the second level of the replacement transit facility to accommodate the 33 additional buses. Modified striping would include converting 67 60-foot bus parking spaces in the EIR project to 100 40-foot bus parking spaces in the modified project. **See Figure 2a and Figure 2b in Attachment A.** It is anticipated that the increase in 33 buses under the modified project would also include an increase in SFMTA employees to operate the buses. It is estimated that the modified project would require 301 additional operators compared to the EIR project.[2] See Table 2 for details.

Category	Existing	EIR Project	Modified Project[a]	Δ EIR Project & Modified Project
Preferred Project: Total SFMTA Employees	*400*	*829*	*1,130*	*+301*
Operators	295	383	684	+301
Other	105	446	446	0

a. Operator estimates for the Modified Project were developed using the following assumptions: 20% vehicle spare ratio, 2.57 operator shifts per in-service vehicles, and 30% operator extraboard. Prior Operators estimates were too low as they would have conflicted with the Federal Transit Administration's vehicle spare ratio policy of 20% or required the SFMTA to miss bus service to meet the policy even if every operator showed up to work every day. Vehicle spare ratio is the total number of spare vehicles available for fixed-route service divided by the total number of fixed-route vehicles required for annual maximum service. For example, if SFMTA has 100 vehicles in fixed-route service, SFMTA would need 20 additional spare vehicles, for a total of 120 vehicles (20/100 = 20%). Extraboard refers to backup operators to account for unexpected operator absences.

Table 2: Total Number of SFMTA Employees – Existing, EIR and Modified Project Conditions

No additional changes to the project described and analyzed in the EIR are proposed as a result of the modified project.

CONCLUSION

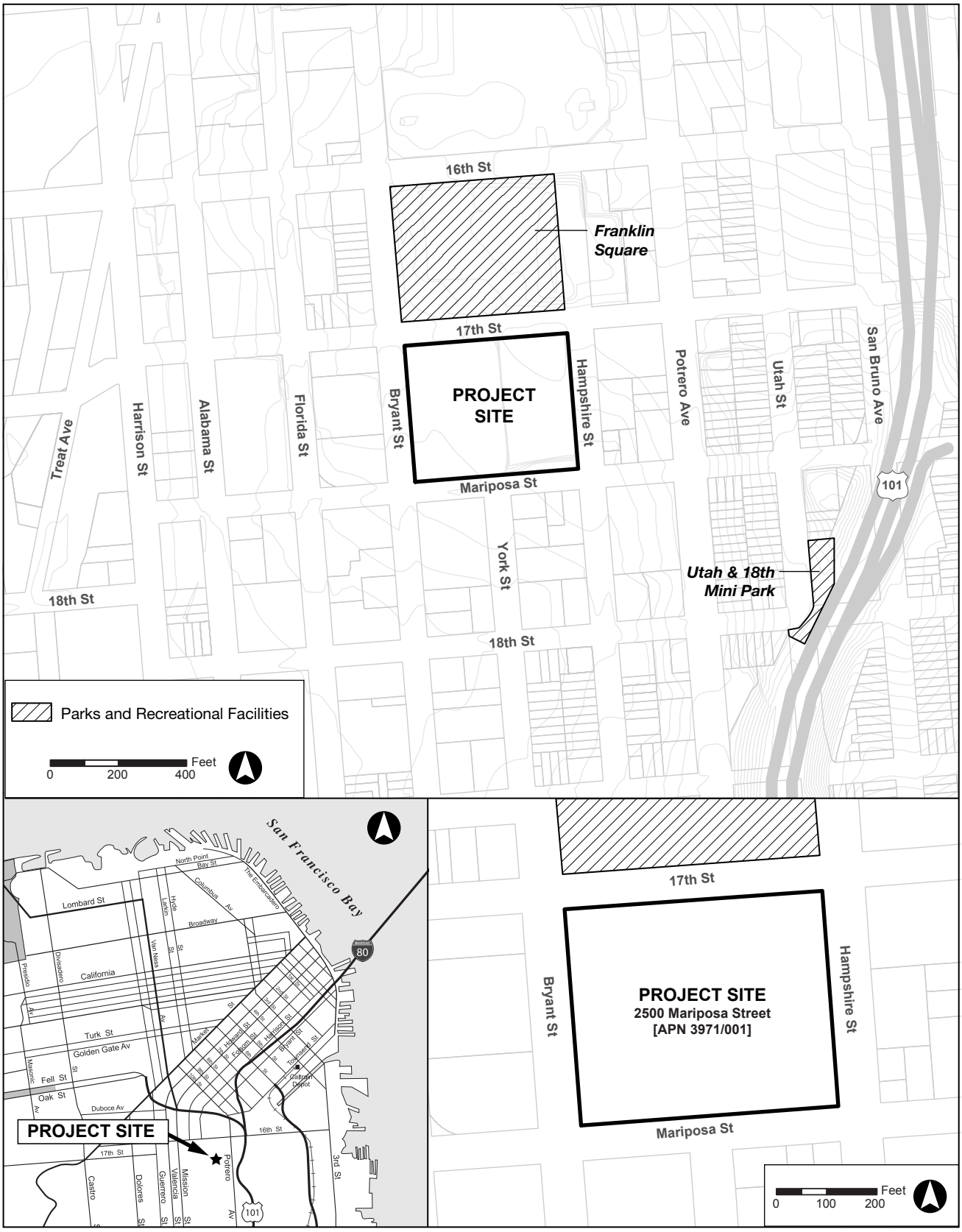
Planning department staff reviewed the modified project and determined that due to the minor increase of buses proposed, it fits within the scope analyzed for the original project and the potential environmental impacts are very similar to those identified in the EIR. This determination, documented in a memorandum to file, October 25, 2024, is available in case no. 2019-021884ENV.

ATTACHMENT A

Figure 1: Project Location
Figure 2a: EIR Project – Transit Level 2
Figure 2b: Modified Project – Transit Level 2

[2] The modified project would increase the number of buses and employees for the replacement transit facility but would not increase the number of buses or employees for paratransit operations.

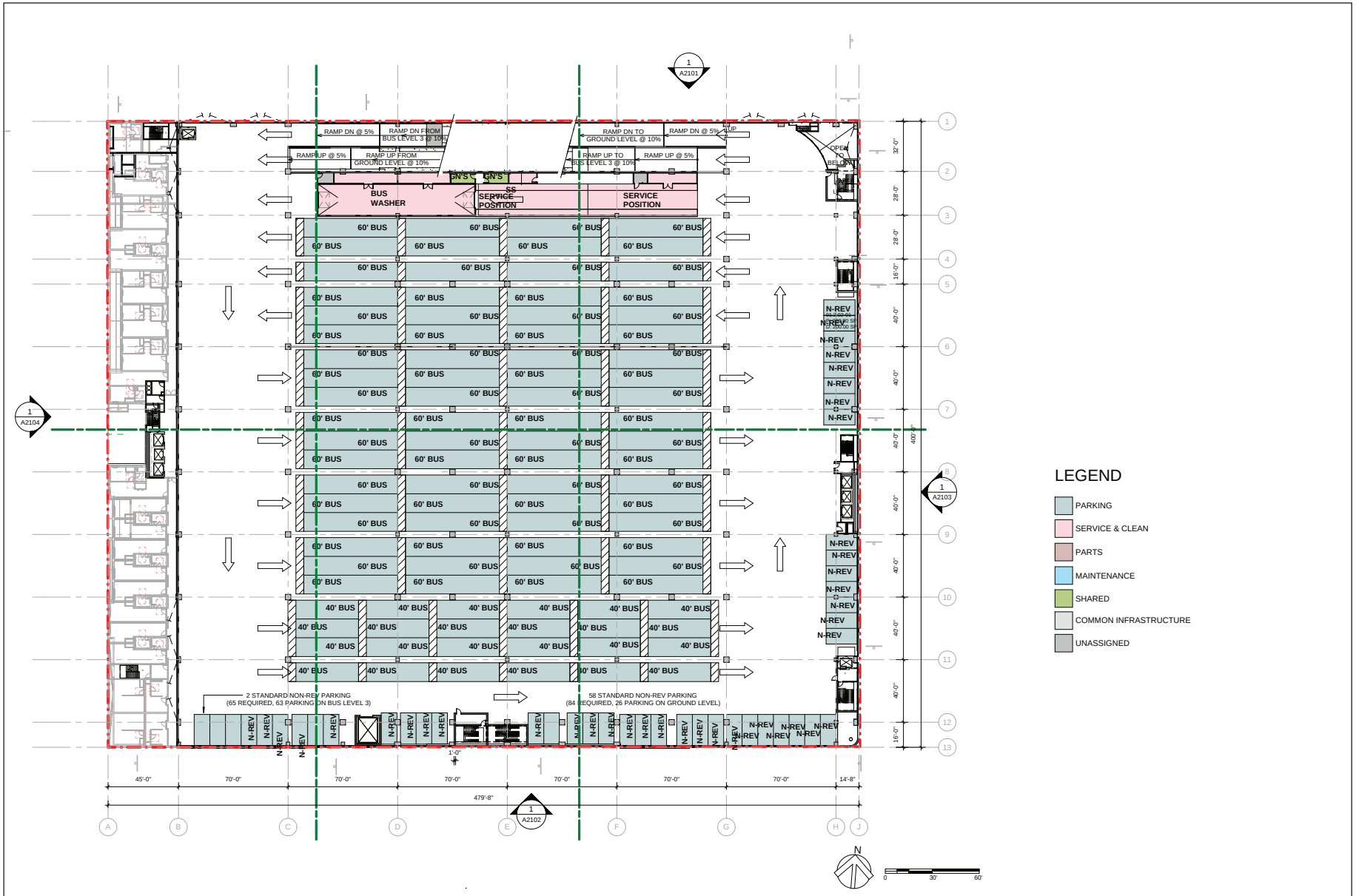
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Source: SWCA, 2020

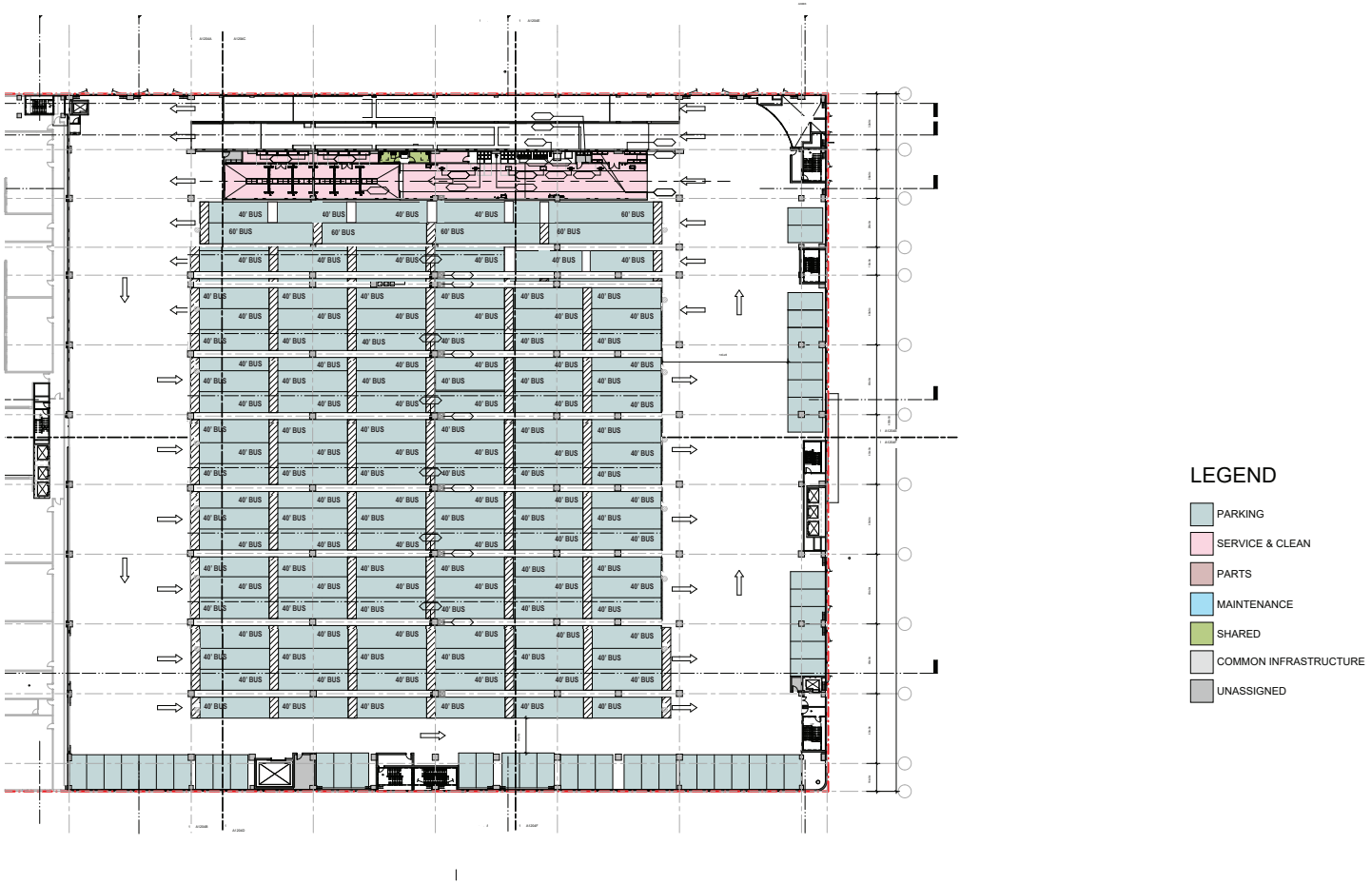
POTRERO YARD MODERNIZATION PROJECT

FIGURE 1: PROJECT LOCATION



Source: SFMTA and IBI GROUP, 2023

Figure 2a: EIR Project - Transit Level 2



Source: SFMTA and Laura Blake, 2024

Figure 2b: Modified Project - Transit Level 2

San Francisco Planning

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MEMORANDUM TO FILE #2

Date: February 4, 2026
To: File
From: Jennifer McKellar
Re: **SFMTA Potrero Yard Modernization Project (2500 Mariposa Street) Project Modification #2 – Elimination of Transit Facility Podium Housing Case No. 2019-021884ENV**

Introduction

EIR Project and Variant

A final environmental impact report (EIR) for the subject project, file number 2019-021884ENV, was certified on January 11, 2024.[1] The project analyzed in the final environmental impact report (EIR Project) would demolish the existing SFMTA Potrero Trolley Coach Division Facility, located at 2500 Mariposa Street, and replace it with an expanded and modernized transit facility that would also include residential and commercial uses. The project would construct a four level (including mezzanine level), approximately 70-foot-tall replacement transit facility (approximately 700,000 gross square feet accommodating up to 213 buses) plus a mix of commercial (approximately 3,000 gross square feet), childcare (approximately 2,000 gross square feet), and residential uses (approximately 530,000 gross square feet and 513 units). The approximately 1,240,000-gross-square-foot structure would rise to heights ranging from 70 to 150 feet across the site. Six floors of proposed residential development with ground-floor commercial uses would be located along Bryant Street in a joint development constructed adjacent to but connected with the transit facility. The remaining 7 to 13 levels of residential development would be atop the replacement transit facility, with a retail use and a joint development residential lobby entrance for pedestrian access integrated with the replacement transit facility. Streetscape changes occurring as part of the project would include pedestrian and bicycle improvements, reconfigured parking and loading areas, installation of new seating areas and street lighting, landscaping, and utility work. The EIR Project would be constructed over a period of 46 months.

The EIR also analyzed two additional phased construction scenarios for the EIR Project, Scenario 1 and Scenario 2. Both scenarios divide construction into three phases: Phase 1 (new transit facility), Phase 2 (Bryant Street housing) with housing along Bryant Street up to the height of the replacement transit facility, and Phase 3 (family and workforce housing) with housing above the replacement transit facility and Bryant Street Housing. Under Scenario 1, the three construction phases would overlap resulting in periods of concurrent construction activities and operations/residential occupancies. Under Scenario 2, the three construction phases would be sequential with gaps in time (e.g., between Phase 2 and Phase 3) resulting in an overlap of construction activities and operations/residential occupancies, but to a lesser extent than

1 San Francisco Planning Department, Potrero Yard Modernization Project (2500 Mariposa Street) Final Environmental Impact Report, Planning Department Case No. 2019-021884ENV, State Clearinghouse No. 2020089022, certified January 11, 2024. Available online at: https://sfplanning.org/environmental-review-documents, accessed December 4, 2025.

under Scenario 1. Depending on which phased construction scenario is implemented, the construction duration for the EIR project could range between approximately 49 months (similar to the current timeline for the EIR project) and 96 months. This range does not cover options to extend the start date of Phase 3 as allowed under the 30-Year Project Agreement.

As a variant to the project (EIR Project Variant), the SFMTA would construct the housing along Bryant Street (103 units) but replace the remainder of the podium housing with SFMTA's Paratransit Operations. The proposed paratransit use would include circulation and storage space for 150 cutaway buses and 10 vans as well as space for vehicle service (maintenance bays, chassis wash bay, parts storage) and SFMTA administration.

In addition, the EIR Project and EIR Project Variant would implement Public Works Standard Construction Measures, as part of the project. Implementation of these measures would managed by Public Works.

Modified EIR Project – Increase in Bus and Bus Operator Count Numbers (2024)

In October 2024, after the certification of the final EIR, SFMTA revised the project to increase the total number of electric trolley buses accommodated by the replacement transit facility using a different fleet mix of 40-foot and 60-foot buses. The EIR Project and EIR Project Variant analyzed in the EIR proposed 213 electric trolley buses (53 40-foot and 160 60-foot buses). The modified EIR Project (2024) proposed 246 buses (153 40-foot and 93 60-foot buses), a net increase of 33 buses. To facilitate this change, alternate striping on the second level of the replacement transit facility was proposed, consisting of the conversion of 67 of the 60-foot bus parking spaces proposed in the EIR Project to 100 40-foot bus parking spaces. Associated with the change in number of buses, 301 additional bus operators were added to the facility compared to the EIR Project. No increase in the number of paratransit bus operators was proposed under EIR Project Variant conditions. No additional changes to the EIR Project or EIR Project Variant described and analyzed in the EIR were proposed. The planning department evaluated the modified EIR Project (2024), determined that no additional environmental review is necessary, and documented their findings in a memorandum to file.[2]

Proposed Revisions to Project

Modified EIR Project 2 – Elimination of Transit Facility Podium Housing (2025)

Subsequent to the certification of the final EIR and to the project modifications made in 2024, the proposed project was further revised. For simplicity, the "Project" hereafter refers to the EIR Project as modified in 2024, and the "Modified Project" refers to the currently (2025) proposed project.

The Modified Project would demolish the existing SFMTA Potrero Trolley Coach Division Facility and construct a four-level (over basement), approximately 647,000-gross-square-foot (gsf), 70-foot-tall replacement transit facility that would accommodate 246 buses and 161 SFMTA non-revenue vehicles. The Modified Project would also construct a six- to thirteen-level, approximately 164,000-gsf, 150-foot-tall, 104-unit residential building with 2,800 square feet of ground-floor commercial uses on Bryant Street adjacent to the new transit facility. The new transit facility building and Bryant Street residential building proposed under the Modified Project would retain the same massing as the Project.

The main difference between the Modified Project and the Project is the removal of the podium, consequent elimination of the podium housing, removal of the podium residential entrance on Hampshire Street, reduction in size of the transit facility basement and mezzanine levels, and reconfiguration of the

[2] San Francisco Planning Department, Memorandum to File, October 25, 2024, available in Planning Department case no. 2019-021884ENV.

transit facility floor plans. Overall, these changes would result in a reduction of 458,000 gsf in building area (including approximately 2,300 gsf of childcare uses) and 409 residential units. The removal of the podium would also eliminate the ability to construct the EIR Project Variant, which included paratransit uses on the roof.

Under the Modified Project, the transit facility roof would instead be occupied by a mechanical penthouse that would be open to the sky but screened on all four sides. The penthouse structure would be located on the south side of the roof and house a 2000 kW emergency diesel generator and HVAC equipment required to service the transit facility. All mechanical equipment for Bryant Street, which may include HVAC, ventilation and exhaust, and electrical equipment, and two 500 kW generators would be located on the roof of the Bryant Street building in an enclosed mechanical penthouse. Cooling towers are not anticipated for the Modified Project. By contrast, the Project proposed three emergency diesel generators located at the northeast corner of the podium (one 2000 kW and two 500kW) and HVAC equipment located primarily inside the garage.

The Modified Project's streetscape plan would remain the same as the Project with the following exceptions. The 20-foot-wide driveway on Mariposa Street east of Bryant Street would be eliminated because a shared residential/transit facility basement is no longer proposed and the reduced transit facility basement would no longer be accessible from the street. Instead, the proposed bus exit driveway on Mariposa Street would be lengthened from 102 feet to 122 feet.

Construction of the Modified Project would last between 51 and 99 months, depending on whether construction of the transit facility building and Bryant Street building would overlap or be sequential. This is slightly longer than the Project, whose construction would last between 49 and 96 months. Like the Project, the foundations for the new buildings would consist of individual spread footings and combined mat footings under the Modified Project. However, the size of the footings for the Modified Project would be smaller (i.e., 25'x25'x4' compared to 35'x35'x6'). Unlike the Project, the Modified Project would not require the use of driven piles. While the excavation depth would remain the same (20 feet below ground surface), the Modified Project would reduce total excavation by approximately 33,000 cubic yards compared to the Project.

Another key difference is that while Public Works Standard Construction Measures would continue to apply to the Modified Project, their implementation would be carried out in accordance with a new memorandum of understanding between San Francisco Public Works and San Francisco Municipal Transportation Agency.[3] Under this agreement, San Francisco Public Works Bureau of Regulatory Compliance and Remediation would provide professional oversight for the Modified Project addressing the application of Public Works Standard Construction Measures (SCMs) as required by the subject project's Environmental Impact Report (EIR) assigning SCM-specific Monitoring/Reporting Responsibilities to Public Works, and in compliance with the Memorandum of Understanding Between San Francisco Municipal Transportation Agency and San Francisco Public Works for the Use of Public Works' Standard Construction Measures On SFMTA Projects dated September 27, 2023.

A detailed comparison of the Project and Modified Project is presented in Table 1 below. Plans depicting the Modified Project are included as Attachment A and B.

[3] Project Fee Memorandum of Understanding between San Francisco Public Works Bureau of Regulatory Compliance and Remediation (RCR) and San Francisco Municipal Transportation Agency, Regulatory Compliance and Remediation Scope of Work & Fee Proposal for Potrero Yard Modernization Project, signed January 23 and 28, 2026.

Table 1. Comparison of Project (as modified in 2024) and Modified Project (2025)

Characteristics	Project (as modified in 2024)	Modified Project (2025)	Net Change
Total Building Floor Area (gsf)	**1,235,876**	**778,211**	**-457,665**
Transit Facility Subtotal (gsf)	698,697	647,411	-51,286
Residential Development Subtotal (gsf)	531,912	163,940	-367,972
Commercial Development Subtotal (gsf)	2,931	2,800	-131
Child Care Development Subtotal (gsf)	2,336	0	-2,336
Height (feet)	**70–150**	**70–150**	**0**
Levels or Floors	**4 to 13**	**4 to 13**	**0**
Residential Units	**513**	**104**	**-409**
Two- to Three-Bedroom	210	68	-142
One-Bedroom	184	23	-161
Studio	119	13	-106
Vehicle Parking Spaces (Off-Street Spaces)	**407**	**407**	**0**
Buses (40 foot / 60 foot)	246 (153 / 93)	246 (153/93)	0
Non-Revenue Vehicles (large / standard)	161 (12 / 149)	161 (12 / 149)	0
SFMTA Staff	0	0	0
Residential	0	0	0
Loading Supply	**296 curb feet**	**296 curb feet**	**0**
(On-Street Zones/Off-Street Spaces)	**(5/2)**	**(5/1)**	**(0/-1)**
Commercial – Yellow	40 curb feet	40 curb feet	0
(On-Street/Off-Street)	(1/2)	(1/1)	(0, -1)
Passenger – White	156 curb feet	156 curb feet	0
(On-Street/Off-Street)	(3/0)	(3/0)	(0,0)
General	100 curb feet	100 curb feet	0
(On-Street/Off-Street)	(1/0)	(1/0)	(0,0)
Excavation Depth (feet)	**20**	**20**	**0**
Spoils Volume (cubic yards)	**142,230**	**109,132**	**-33,098**
Foundation(s)	spread footings/ mat slab/driven steel piles	spread footings/mat slab	smaller spread footings/no driven piles
Construction Duration	**49 months** (49-96 months under phased construction scenarios)	**51 months** (51-99 months under phased construction scenarios)	**+2** (no phase 3 for podium housing)
Notes: gsf = gross square feet; sf = square feet; cy = cubic yards			

Analysis of Potential Environmental Effects

The EIR (as modified by the 2024 memorandum to file), which includes the Initial Study as an appendix, identified the physical environmental impacts that would result from the Project. These impacts are listed below and assessed in the context of the Modified Project.

Impacts Found Not to be Significant

The EIR (as modified by the 2024 memorandum to file) determined that the Project's potential individual and cumulative environmental effects on the following resource topics are either not applicable, no impact, less than significant, or would be reduced to a less-than-significant level through the mitigation measures identified in the EIR:

- land use and planning (all topics)
- population and housing (all topics)
- cultural resources (archeological resources and human remains, off-site historical architectural resources, and cumulative impacts on historic architectural resources)
- tribal cultural resources (all topics)
- transportation (all topics)
- noise (all topics)
- air quality (criteria air pollutants, clean air plan consistency, and odors)
- shadow (all topics)
- wind (all topics)
- greenhouse gas emissions (all topics)
- recreation (all topics)
- utilities and service systems (all topics)
- public services (all topics)
- biological resources (all topics)
- geology and soils (all topics)
- hydrology and water quality (all topics)
- hazards and hazardous materials (all topics)
- mineral resources (all topics)
- energy resources (all topics)
- agriculture and forestry resources (all topics)
- wildfire (all topics)

Compared to the Project, the Modified Project would reduce the total building area by approximately 37 percent, the number of residential units by 80 per cent, the amount of commercial/childcare uses by 47 percent, and the volume of excavation by 23 percent. As a result, the Modified Project would require less excavation and yield a smaller scale of development at the site. This would reduce the overall intensity of construction activities at the site despite the slightly longer (by two to three months) construction period. For these reasons, the Modified Project would generate fewer residential/commercial person trips and vehicle trips, less construction and operational air pollutant emissions and greenhouse gas emissions, and less construction noise. The mechanical equipment proposed under the Modified Project (e.g., emergency generators, HVAC, ventilation, exhaust fans, etc.) would not be substantially different in terms of type, size, and locations than that analyzed in the EIR. Like the Project, this equipment would also be screened and subject to Mitigation Measure M-NO-3, identified in the EIR. Therefore, the Modified Project's operational noise impacts would be similar to those of the Project. The height and massing of the transit facility and Bryant Street residential buildings would remain the same as the Project. All mitigation measures and

Public Works Standard Construction Measures identified in the EIR would continue to apply to the Modified Project. For these reasons, the Modified Project would result in the same or less severe environmental impacts as the Project and would not change the analyses conducted for these environmental topics in the EIR.

Impacts Found to be Significant and Unavoidable with Mitigation

The EIR (as modified by the 2024 memorandum to file) determined that the Project's potential environmental effects on the following resource topics would be significant and unavoidable with mitigation:

- cultural resources (historical architectural resources)
- air quality (project-level and cumulative health risks)

Similar to the Project, the Modified Project would demolish the existing transit facility, which is a historic resource, and would be required to implement Mitigation Measures M-CR-1a through M-CR-1d, identified in the EIR. Therefore, the Modified Project would result in the same cultural resource impacts as the Project and would not change the analysis conducted for this topic in the EIR. Impacts would remain significant and unavoidable with mitigation.

As noted above, the reduced scope of the Modified Project would decrease air pollutant emissions compared to the Project. This would lessen the severity of project-level and cumulative health risks. However, in the absence of a quantitative air quality analysis, this evaluation conservatively concludes that the Modified Project would result in similar impacts as the Project and would still be required to implement Mitigation Measures M-AQ-1 and M-AQ-3, identified in the EIR. Therefore, the Modified Project would not change the analysis conducted for this topic in the EIR. Impacts would remain significant and unavoidable with mitigation.

As described above, the Modified Project decreases the scope of the Project, would not cause new significant impacts nor result in a substantial increase in the severity of the impacts identified in the EIR (or evaluated in the 2024 memorandum to file), and no new or revised mitigation measures would be required. (See Public Resources Code section 21166; CEQA Guidelines sections 15162 and 15163.)

Conclusion

Section 31.19(c)(1) of the San Francisco Administrative Code states that a modified project must be reevaluated and that, "If, on the basis of such reevaluation, the Environmental Review Officer determines, based on the requirements of CEQA, that no additional environmental review is necessary, this determination and the reasons therefor shall be noted in writing in the case record, and no further evaluation shall be required by this Chapter." Thus, for the reasons outlined above, this memorandum to file provides sufficient documentation that the Modified Project does not warrant additional environmental review.

Attachments

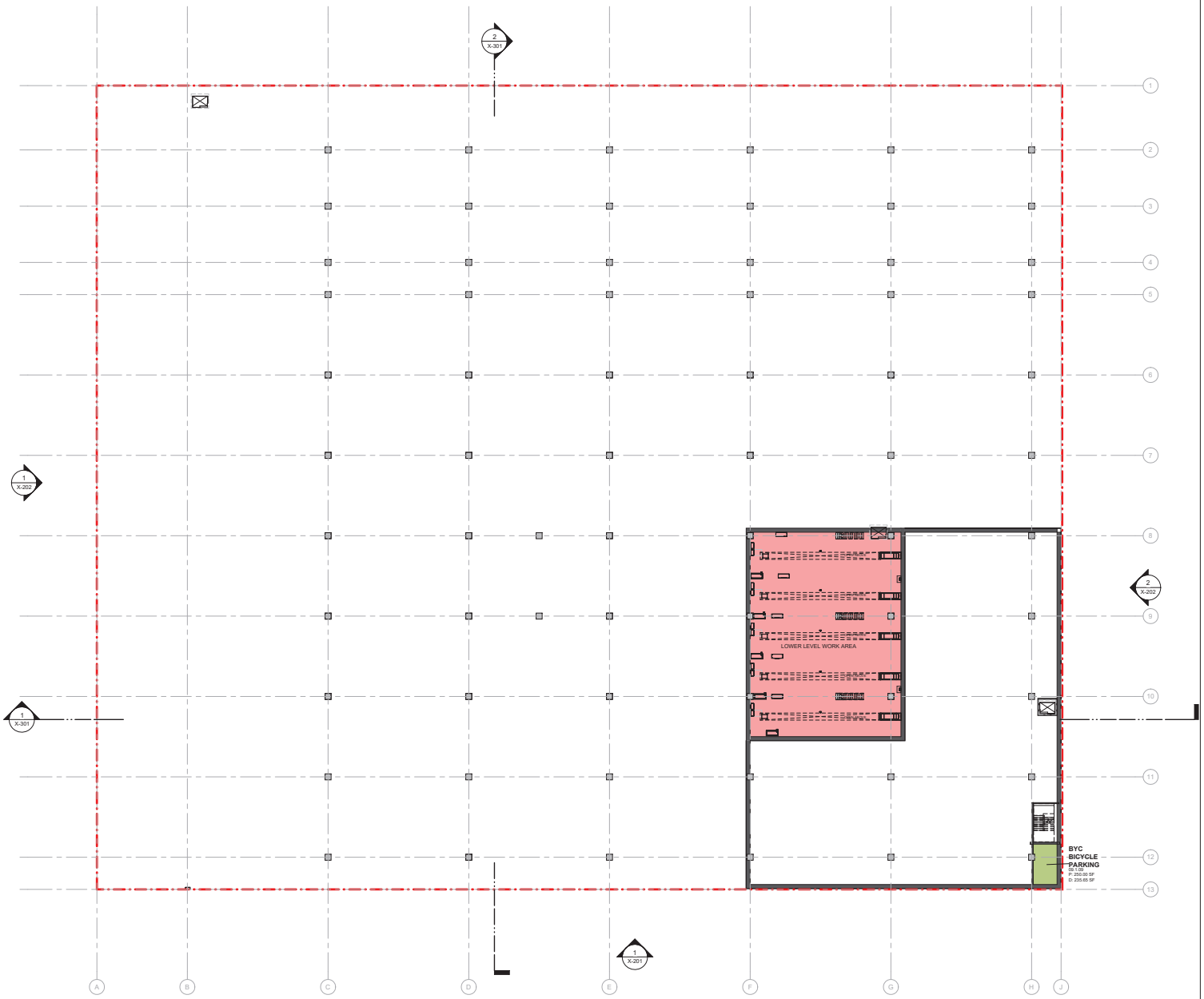
Attachment A: Modified Transit Facility Plans
Attachment B: Bryant Street Residential Building Plans (from Paratransit Variant Plan Set-Nov 17, 2023)

cc: Chris Lazaro, San Francisco Municipal Transportation Agency
Chris Jauregui, Plenary Americas

Tim Kempf, San Francisco Municipal Transportation Agency
Marcus Barrango, San Francisco Municipal Transportation Agency
Gabriela Pantoja, San Francisco Planning Department
Supervisor Jackie Fielder (District 9)

(continued next page)

Attachment A: Modified Transit Facility Plans



1 X-100 BYC LEVEL BASEMENT OVERALL PLAN
Scale: 1" = 20'-0"

DEPARTMENT

- 01 PARKING
- 02 BAYS & SHOPS
- 03 FARE BOX & CLIPPER CARD READER REPAIR SHOP
- 04 SERVICE & CLEAN
- 05 PARTS
- 06 MAINTENANCE
- 07 OPERATIONS
- 08 TRANSIT SERVICES (MRO)
- 09 SHARED
- 10 TRAINING
- CAR SHARE PARKING
- FMO
- FMO PARKING
- FUTURE HCC

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ISSUES

No.	DESCRIPTION	DATE

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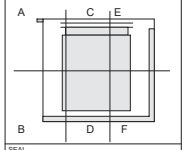
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PROJECT
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PROJECT NO:
141440

DRAWN BY:	CHECKED BY:
Author	Checker
PROJECT MGR:	APPROVED BY:
Designer	Approver

SHEET TITLE
VE Exercise - Basement

SHEET NUMBER
X-100

ISSUE

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Autodesk Docs://141440 - Potrero Yard Modernization Project/R2020 141440_Potrero Yard_VE Study_2025-08_R20.rvt



Parking Schedule (9x18)	
Level	Count

Bus (40')

GROUND FLOOR	29
BUS FL 3	124
	153

Bus (60')

BUS FL 3	5
BUS FL 4	88
	93

Large Non-Rev Vehicle

GROUND FLOOR	6
BUS FL 3	3
BUS FL 4	3
	12

Standard Non-Rev Vehicle 9x18

GROUND FLOOR	17
BUS FL 3	64
BUS FL 4	71
	152

Grand total 410

1 X-101B VE Exercise - Ground Level Copy 1
Scale: 1" = 20'-0"

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Arcadis, A California Partnership

ISSUES

No.	DESCRIPTION	DATE

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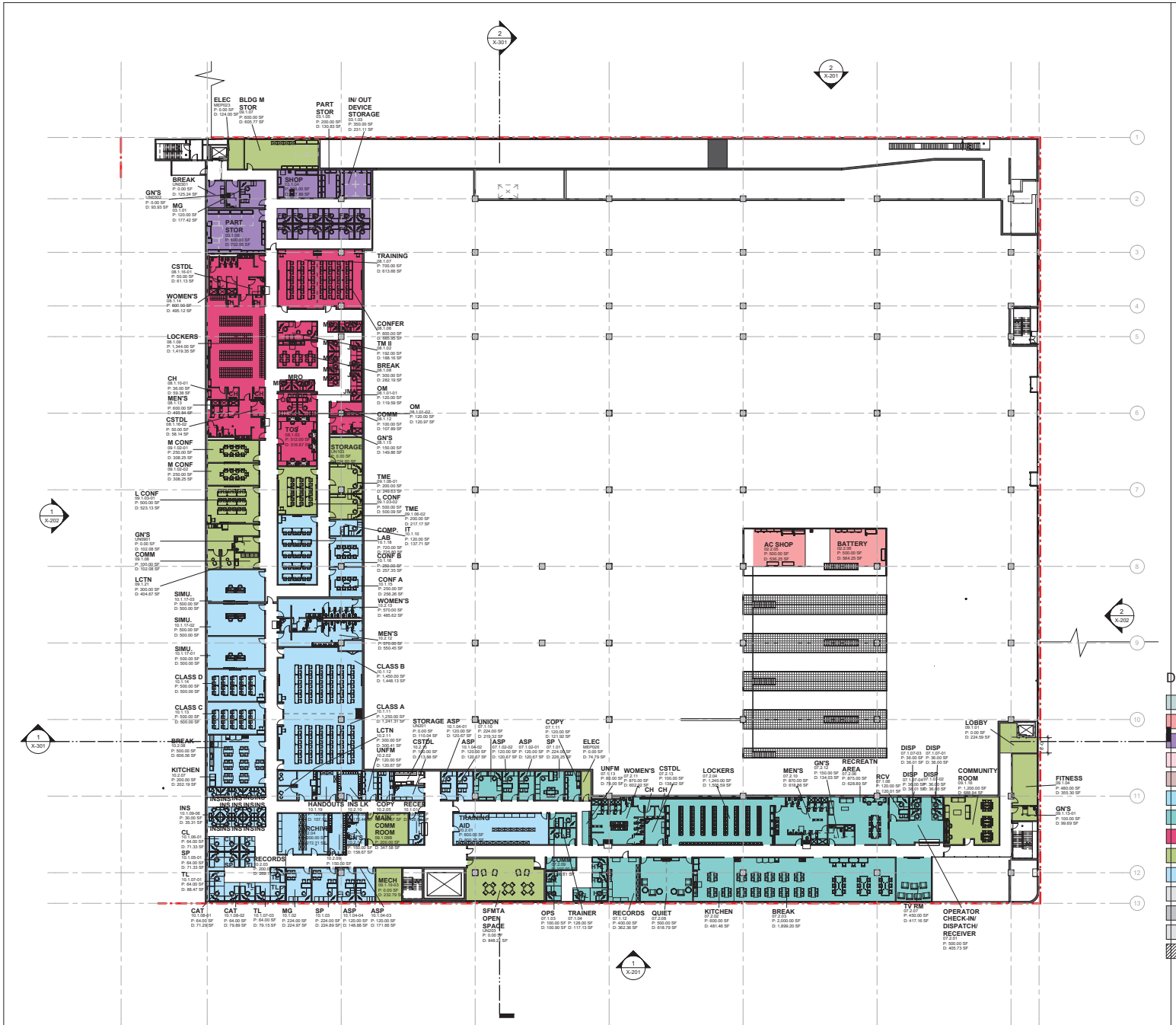
PROJECT NO: 141440
DRAWN BY: Author
CHECKED BY: Checker
PROJECT MGR: Designer
APPROVED BY: Approver

SHEET TITLE
VE Exercise - Ground Floor 9x18

SHEET NUMBER
X-101B

ISSUE

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DEPARTMENT

- 01 PARKING
- 02 BAYS & SHOPS
- 03 FARE BOX & CLIPPER CARD READER REPAIR SHOP
- 04 SERVICE & CLEAN
- 05 PARTS
- 06 MAINTENANCE
- 07 OPERATIONS
- 08 TRANSIT SERVICES (MRO)
- 09 SHARED
- 10 TRAINING
- CAR SHARE PARKING
- FMO
- FMO PARKING
- FUTURE HCC

1 X-102 VE EXERCISE - LEVEL 2
Scale: 1" = 20'-0"

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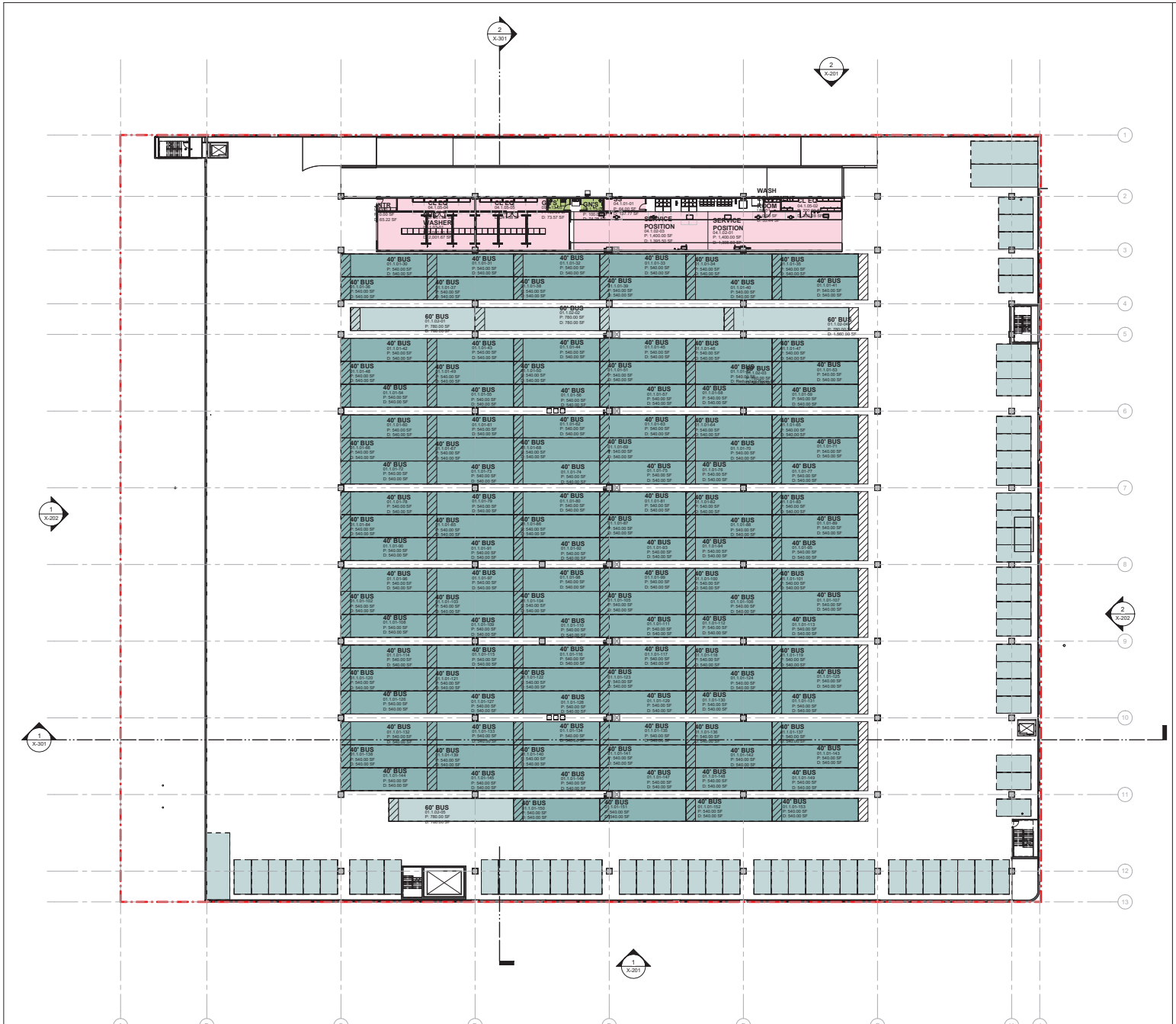
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DRAWN BY: Author | CHECKED BY: Checker
PROJECT MGR: Designer | APPROVED BY: Approver

SHEET TITLE
VE Exercise - L2

SHEET NUMBER
X-102

ISSUE

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1 X-103B BYC LEVEL 3 OVERALL PLAN
Scale: 1" = 20'-0"

Parking Schedule (9x18)	
Level	Count
Bus (40')	
GROUND FLOOR	29
BUS FL 3	124
	153
Bus (60')	
BUS FL 3	5
BUS FL 4	88
	93
Large Non-Rev Vehicle	
GROUND FLOOR	6
BUS FL 3	3
BUS FL 4	3
	12
Standard Non-Rev Vehicle 9x18	
GROUND FLOOR	17
BUS FL 3	64
BUS FL 4	71
	152
Grand total	410

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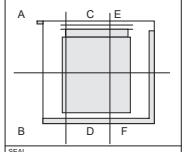
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PROJECT NO:
141440

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PROJECT MGR:	APPROVED BY:
Designer	Approver

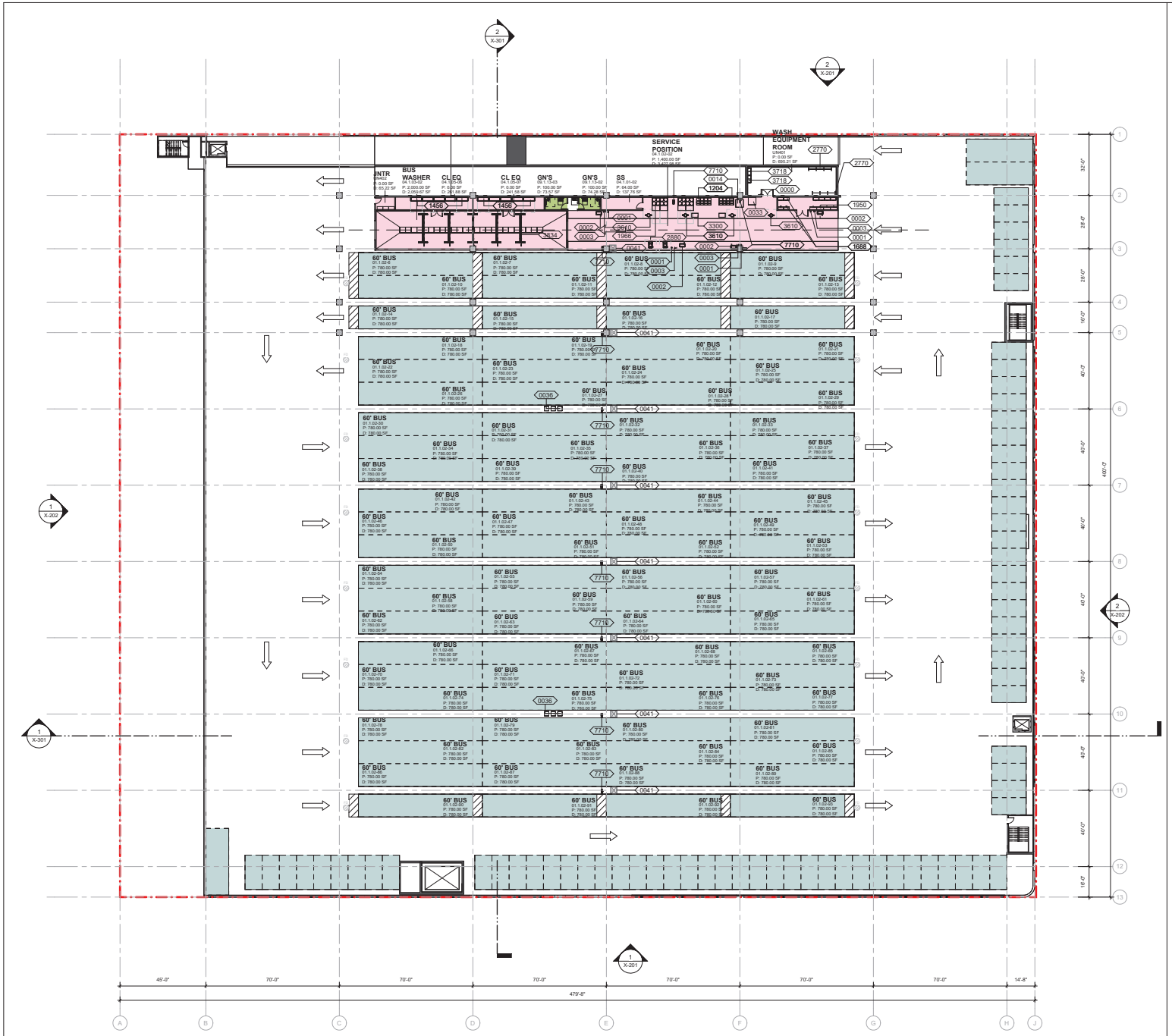
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VE Exercise - L3 9x18

SHEET NUMBER
X-103B

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1 X-104B BYC LEVEL 4 OVERALL PLAN
Scale: 1" = 20'-0"

Parking Schedule (9x18)	
Level	Count
Bus (40')	
GROUND FLOOR	29
BUS FL 3	124
	153
Bus (60')	
BUS FL 3	5
BUS FL 4	88
	93
Large Non-Rev Vehicle	
GROUND FLOOR	6
BUS FL 3	3
BUS FL 4	3
	12
Standard Non-Rev Vehicle 9x18	
GROUND FLOOR	17
BUS FL 3	64
BUS FL 4	71
	152
Grand total	410

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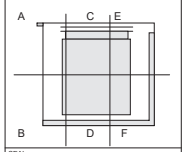
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PROJECT NO:
141440

DRAWN BY:	CHECKED BY:
Author	Checker
PROJECT MGR:	APPROVED BY:
Designer	Approver

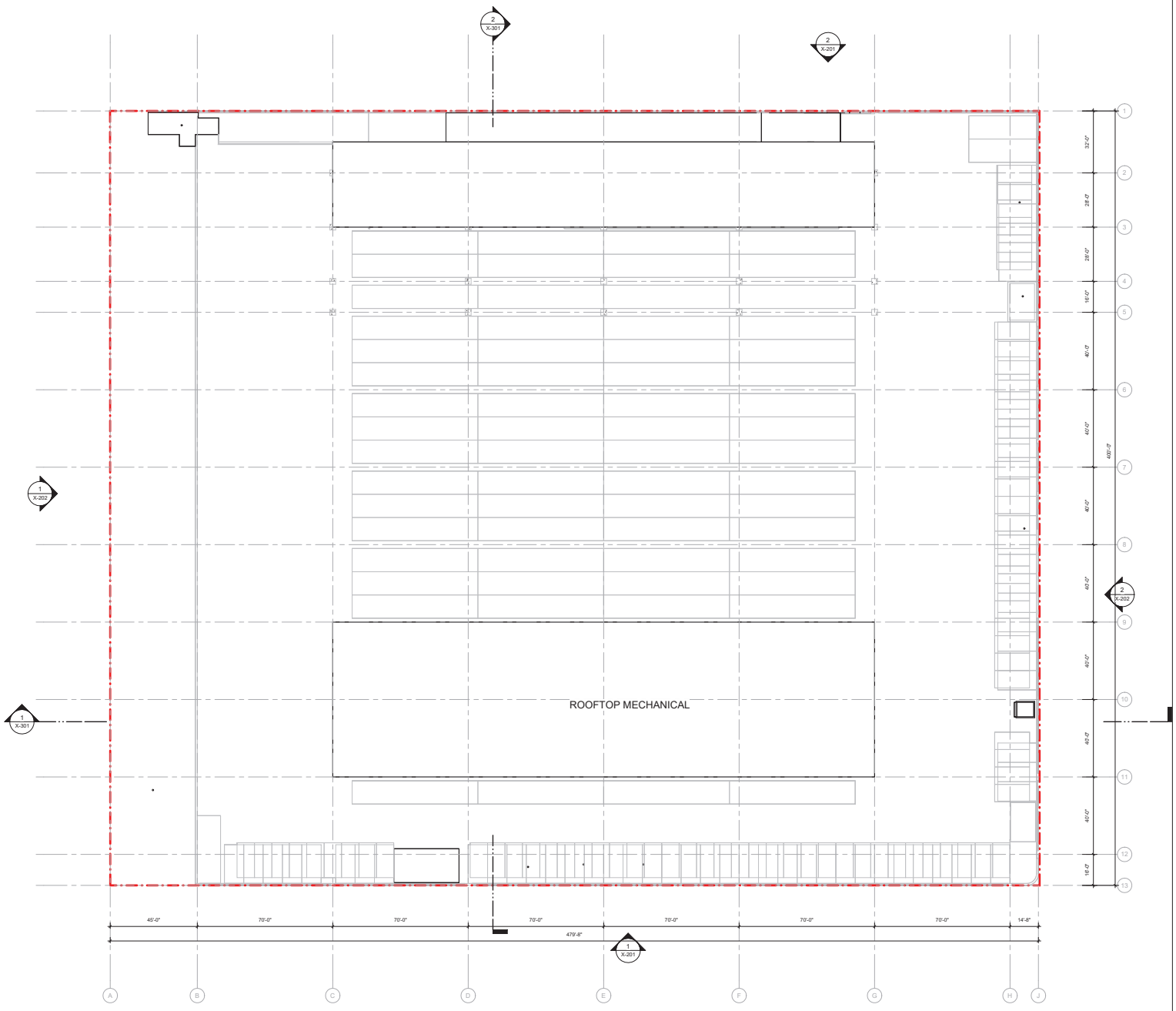
SHEET TITLE
VE Exercise - L4 9x18

SHEET NUMBER
X-104B

ISSUE

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1 X-105 BUS ROOF LEVEL - BYC
Scale: 1" = 20'-0"

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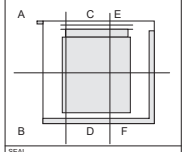
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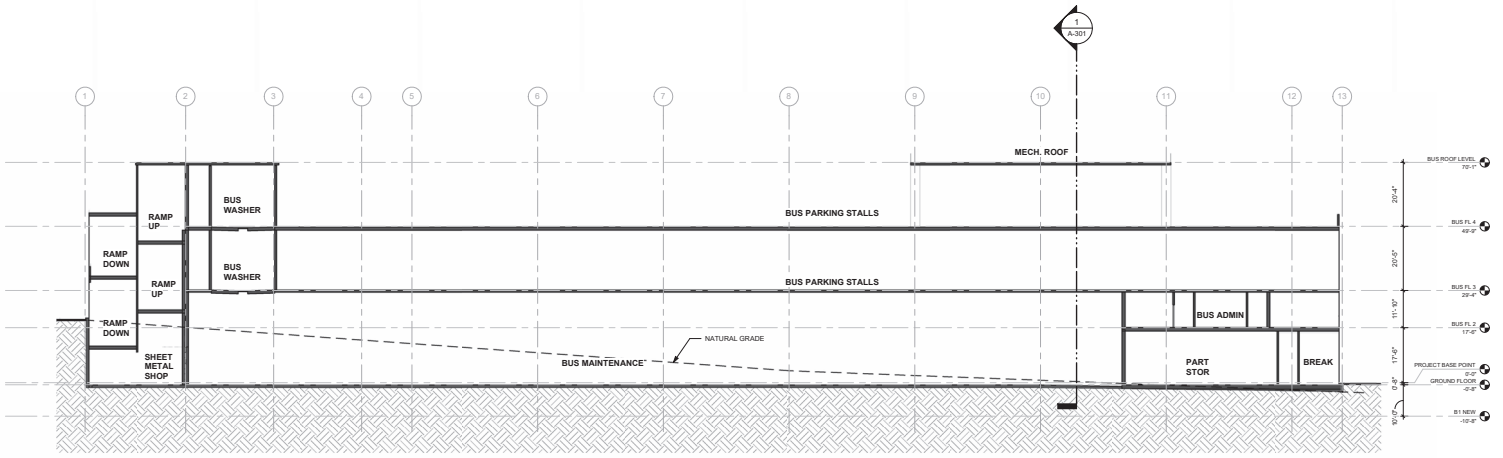
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141440

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Author	Checker
PROJECT MGR:	APPROVED BY:
Designer	Approver

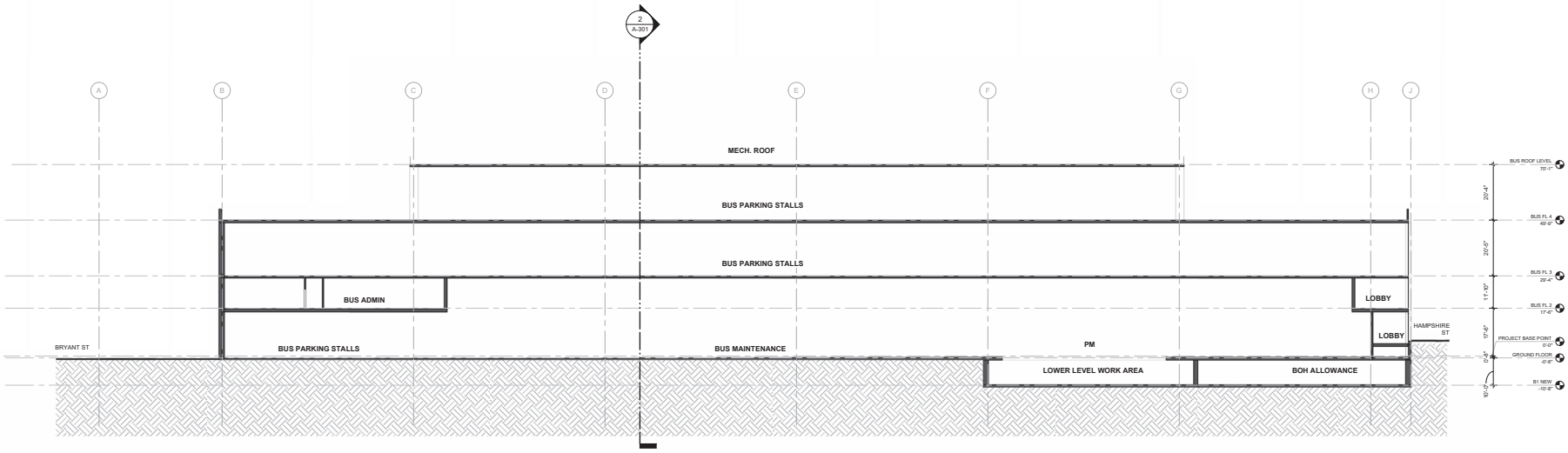
SHEET TITLE
VE Exercise - Roof Plan

SHEET NUMBER	ISSUE
X-105	

Autodesk Docs://141440 - Potrero Yard Modernization Project/R2020 141440_Potrero Yard_VE Study_2025-08_R20.rvt



2 X-301 VE Exercise - BUILDING SECTION - NORTH/SOUTH
Scale: 1/16" = 1'-0"



1 X-301 VE Exercise - BUILDING SECTION - WEST/EAST
Scale: 1/16" = 1'-0"

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Author	Checker
PROJECT MGR:	APPROVED BY:
Designer	Approver

SHEET TITLE
Building Sections

SHEET NUMBER
A-301

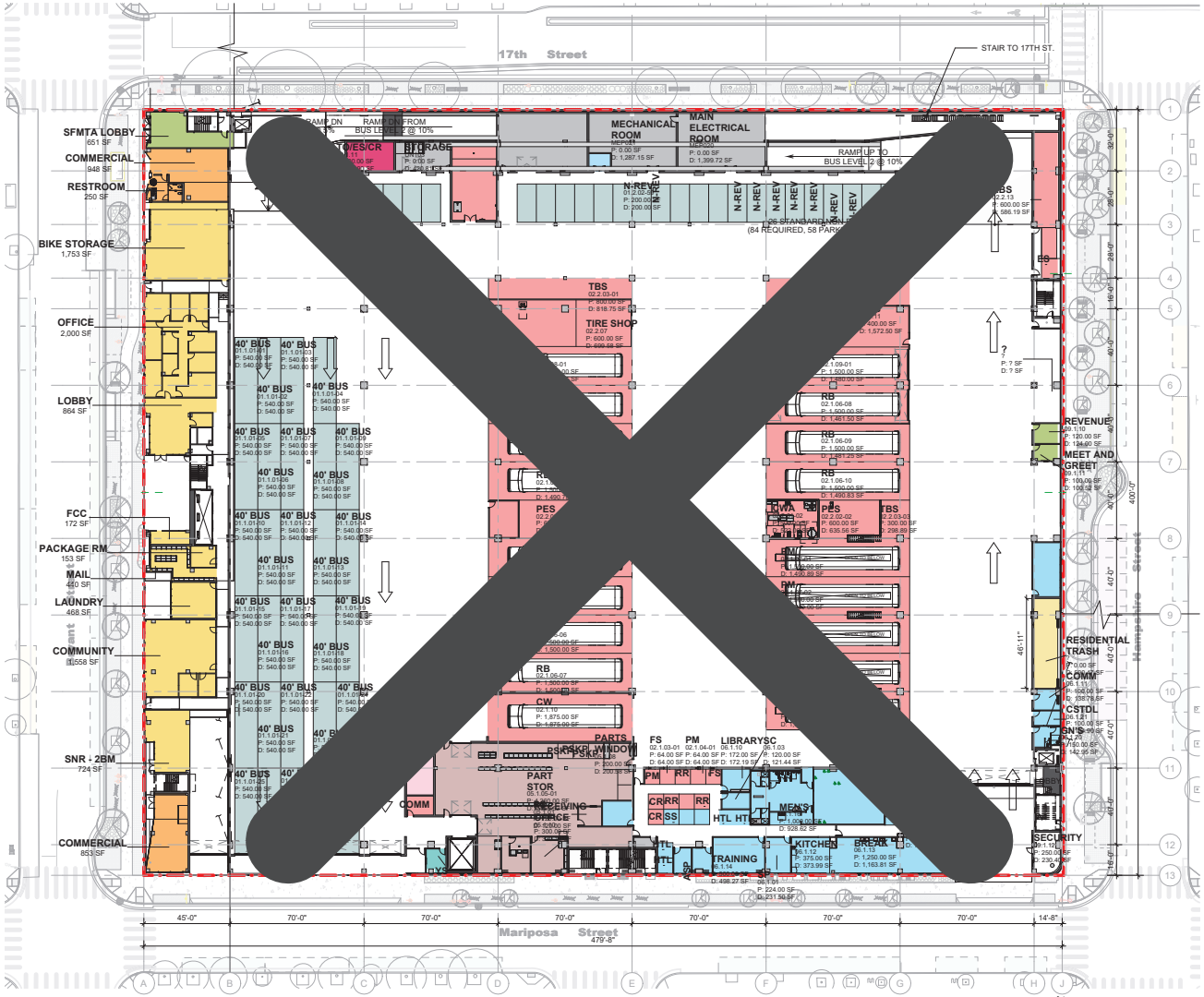
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Attachment B: Bryant Street Residential Building Plans
(from Paratransit Variant Plan Set-Nov 17, 2023)

BYC / HCC - LEVEL GROUND



AREA - BYC / HCC LEVEL GROUND				
Department	PROGRAM REQUIRED AREA (SF)	AREA PROVIDED (SF)	Δ (SF)	%
01 PARKING	21,060	21,060	0	30%
02 BAYS & SHOPS	36,210	37,949	1,739	51%
04 SERVICE & CLEAN	200	380	180	0%
05 PARTS	5,605	5,515	-90	8%
06 MAINTENANCE	7,012	7,245	233	10%
07 OPERATIONS	120	120	0	0%
08 TRANSIT SERVICES (MRO)	200	361	161	0%
09 SHARED	470	455	-15	1%
10 TRAINING	100	101	1	0%
HCC BOH/CIRCULATION	370	849	479	1%
HCC/BYC MEP	0	2,745	2,745	0%
UNASSIGNED	0	1,845	1,845	0%
Grand total	71,347	78,625	7,278	100%

DEPARTMENT

- 01 PARKING
- 02 BAYS & SHOPS
- 03 FARE BOX & CLIPPER CARD READER REPAIR SHOP
- 04 SERVICE & CLEAN
- 05 PARTS
- 06 MAINTENANCE
- 07 OPERATIONS
- 08 TRANSIT SERVICES (MRO)
- 09 SHARED
- 10 TRAINING
- 11 PARATRANSIT
- CAR SHARE PARKING
- FMO
- FMO PARKING
- HCC BOH/CIRCULATION
- HCC COMMERCIAL
- HCC DWELLING UNITS
- HCC/BYC MEP
- UNASSIGNED

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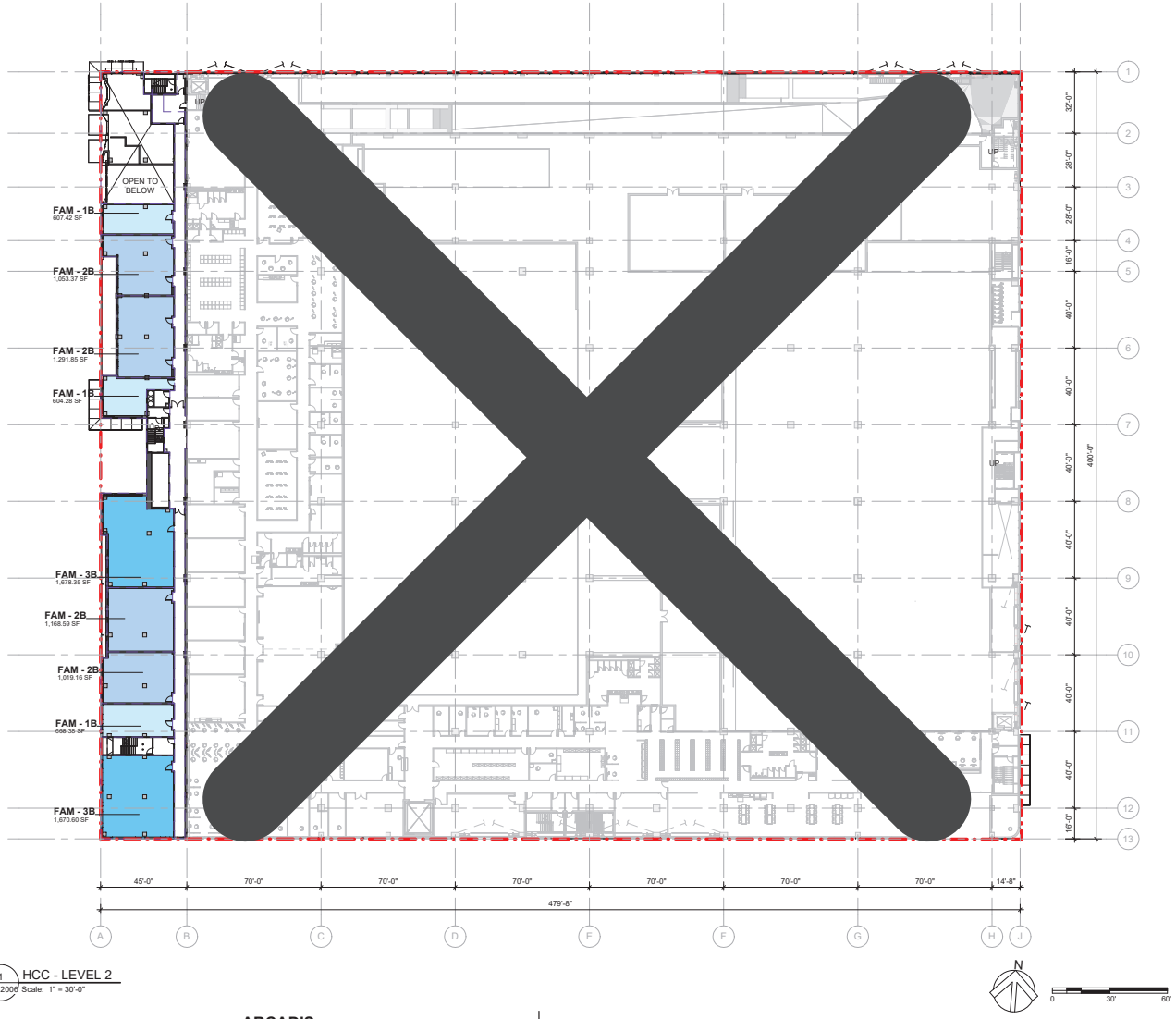
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POTRERO YARD MODERNIZATION PROJECT

Issue: **PRJ**
Date: **2023-11-17**
Project No: **141440**
Scale: **1" = 30'-0"**

ALT.2002

HCC - LEVEL 2



1 HCC - LEVEL 2
ALT.2006 Scale: 1" = 30'-0"

UNIT - HCC FL 02		
Name	**Area**	**Count**
FAM - 1B	604 SF ... 668 SF	3
FAM - 2B	1,019 SF ... 1,292 SF	4
FAM - 3B	1,671 SF ... 1,678 SF	2
TOTAL		9

LEGEND

- 0B
- 1B
- 2B
- 3B
- COMMON
- LAUNDRY

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Date: **2023-11-17**
Project No: **141440**
Scale: **1" = 30'-0"**

ALT.2006

HCC - LEVEL 3-6



1 HCC - LEVEL 3-6
ALT.2007 Scale: 1" = 30'-0"

UNIT - HCC FL 03		
Name	**Area**	**Count**
FAM - 1B	604 SF ... 625 SF	4
FAM - 2B	1,054 SF ... 1,292 SF	4
FAM - 3B	1,566 SF ... 1,682 SF	3
TOTAL		11

LEGEND

- 0B
- 1B
- 2B
- 3B
- COMMON
- LAUNDRY

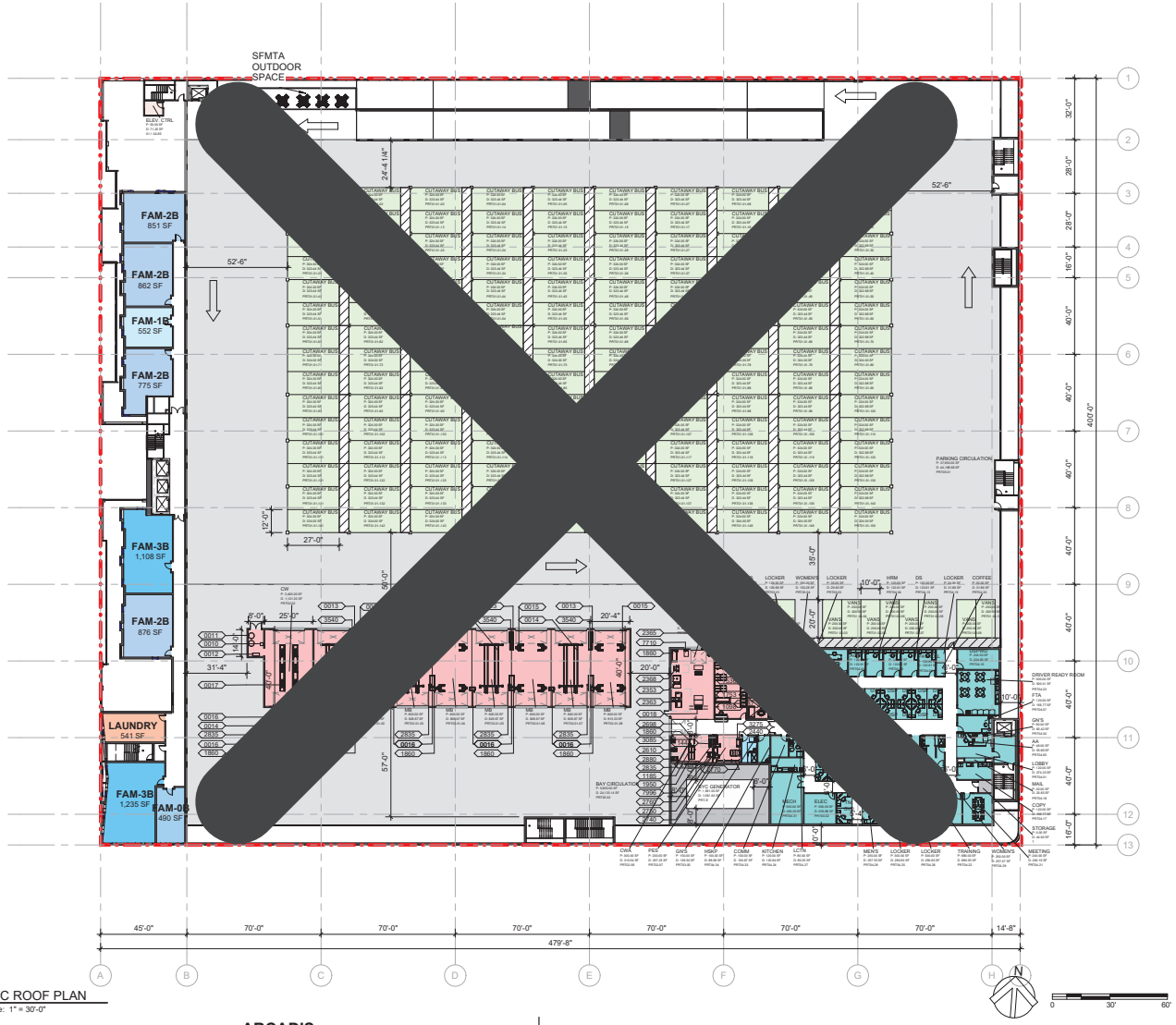
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SFMTA
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Issue: **PRJ**
Date: **2023-11-17**
Project No: **141440**
Scale: **1" = 30'-0"**

ALT.2007

HCC - LEVEL 7



1 BYC ROOF PLAN
ALT.2011 Scale: 1" = 30'-0"

UNIT - HCC FL 07		
Name	**Area**	**Count**
FAM-0B	490 SF	1
FAM-1B	552 SF	1
FAM-2B	775 SF ... 876 SF	4
FAM-3B	1,108 SF ... 1,235 SF	2
FAM		8
TOTAL		8

COMMON - HCC FL 07		
NAME	**Area**	**Count**
FAM		
LAUNDRY	541 SF	1
	541 SF	1
Grand total	541 SF	1

DEPARTMENT LEGEND

- COMMON
- HCC
- PRT01 PARKING
- PRT02 BAYS, SHOPS & PARTS
- PRT03 MAINTENANCE
- PRT04 OPERATION
- PRT05 VEHICLE CIRCULATION
- PRT06 M&E
- PUBLIC
- STF FM SPACES
- UNASSIGNED

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POTRERO YARD MODERNIZATION PROJECT

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Date: **2023-11-17**
Project No: **141440**
Scale: **1" = 30'-0"**

ALT.2011

HCC - LEVEL 8



1 HCC - LEVEL 8
ALT.2012 Scale: 1" = 30'-0"

UNIT - HCC FL 08		
Name	**Area**	**Count**
FAM-0B	490 SF ... 536 SF	2
FAM-1B	552 SF	1
FAM-2B	775 SF ... 876 SF	4
FAM-3B	1,108 SF ... 1,236 SF	2
FAM		9
TOTAL		9

COMMON - HCC FL 08		
Name	**Area**	**Count**

LEGEND

- 0B
- 1B
- 2B
- 3B
- COMMON
- LAUNDRY

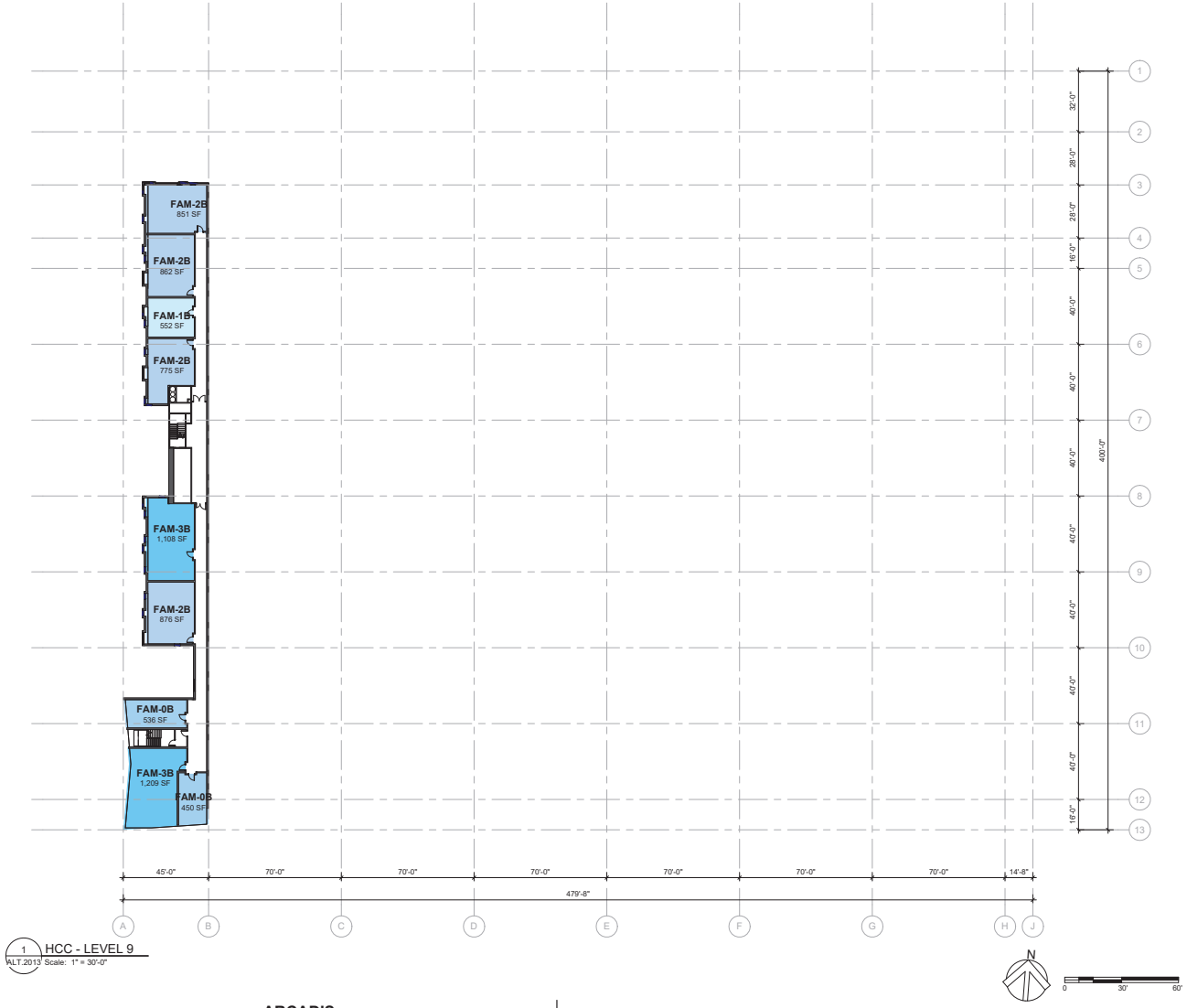
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Scale: **1" = 30'-0"**

ALT.2012

HCC - LEVEL 9-10



1 HCC - LEVEL 9
ALT.2013 Scale: 1" = 30'-0"

UNIT - HCC FL 09		
Name	**Area**	**Count**
FAM-0B	450 SF ... 536 SF	2
FAM-1B	552 SF	1
FAM-2B	775 SF ... 876 SF	4
FAM-3B	1,108 SF ... 1,209 SF	2
FAM		9
TOTAL		9

LEGEND

- 0B
- 1B
- 2B
- 3B
- COMMON
- LAUNDRY

ARCADIS

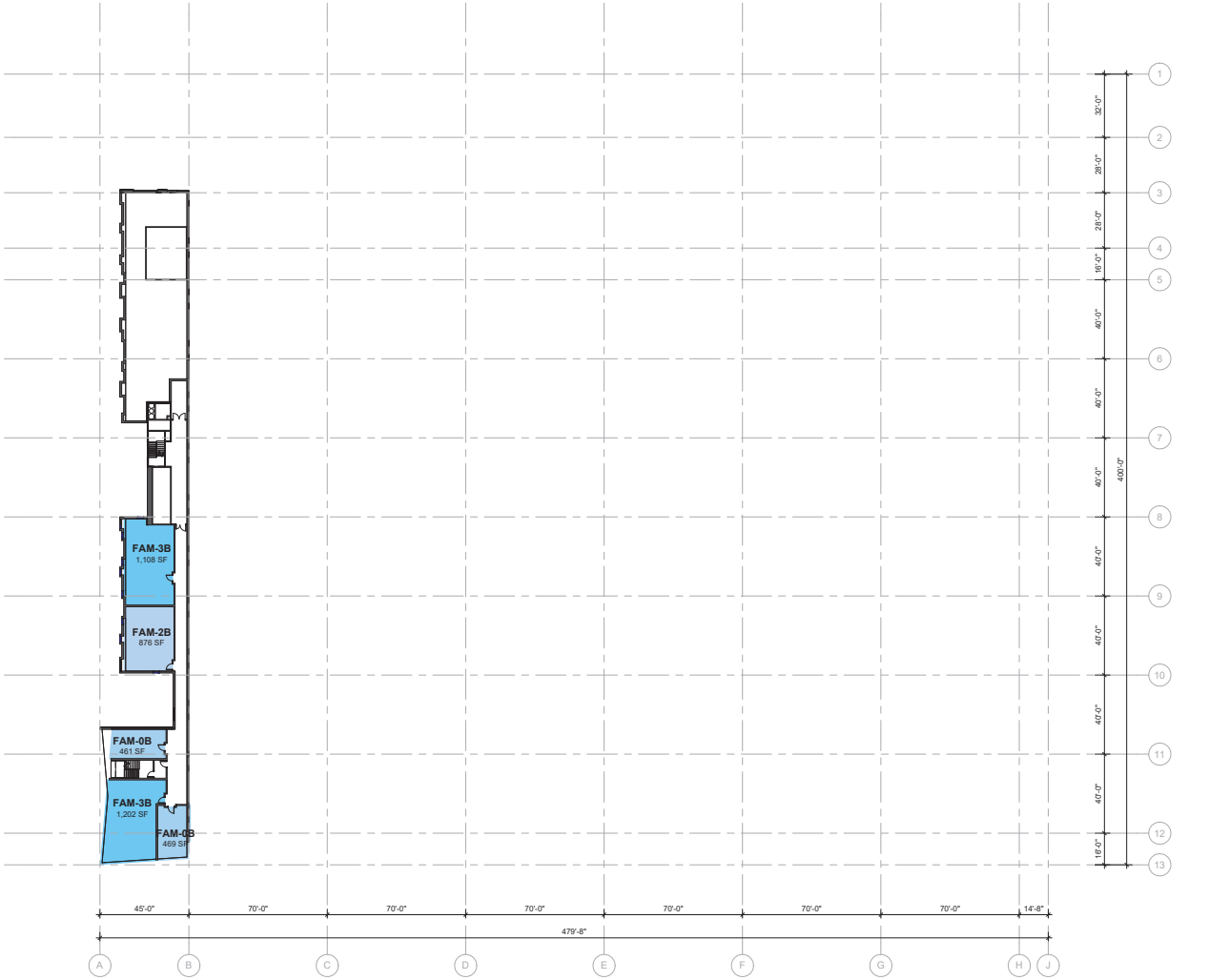
ARCADIS
100 Montgomery St, Suite 300
94104, San Francisco
California, CA

SFMTA
POTRERO YARD MODERNIZATION PROJECT

Issue: **PRJ**
Date: **2023-11-17**
Project No: **141440**
Scale: **1" = 30'-0"**

ALT.2013

HCC - LEVEL 11-13



1 HCC - LEVEL 11
ALT.2014 Scale: 1" = 30'-0"

N

0 30' 60'

UNIT - HCC FL 11		
Name	**Area**	**Count**
FAM-0B	461 SF ... 469 SF	2
FAM-2B	876 SF	1
FAM-3B	1,108 SF ... 1,202 SF	2
FAM		5
TOTAL		5

LEGEND

- 0B
- 1B
- 2B
- 3B
- COMMON
- LAUNDRY

ARCADIS

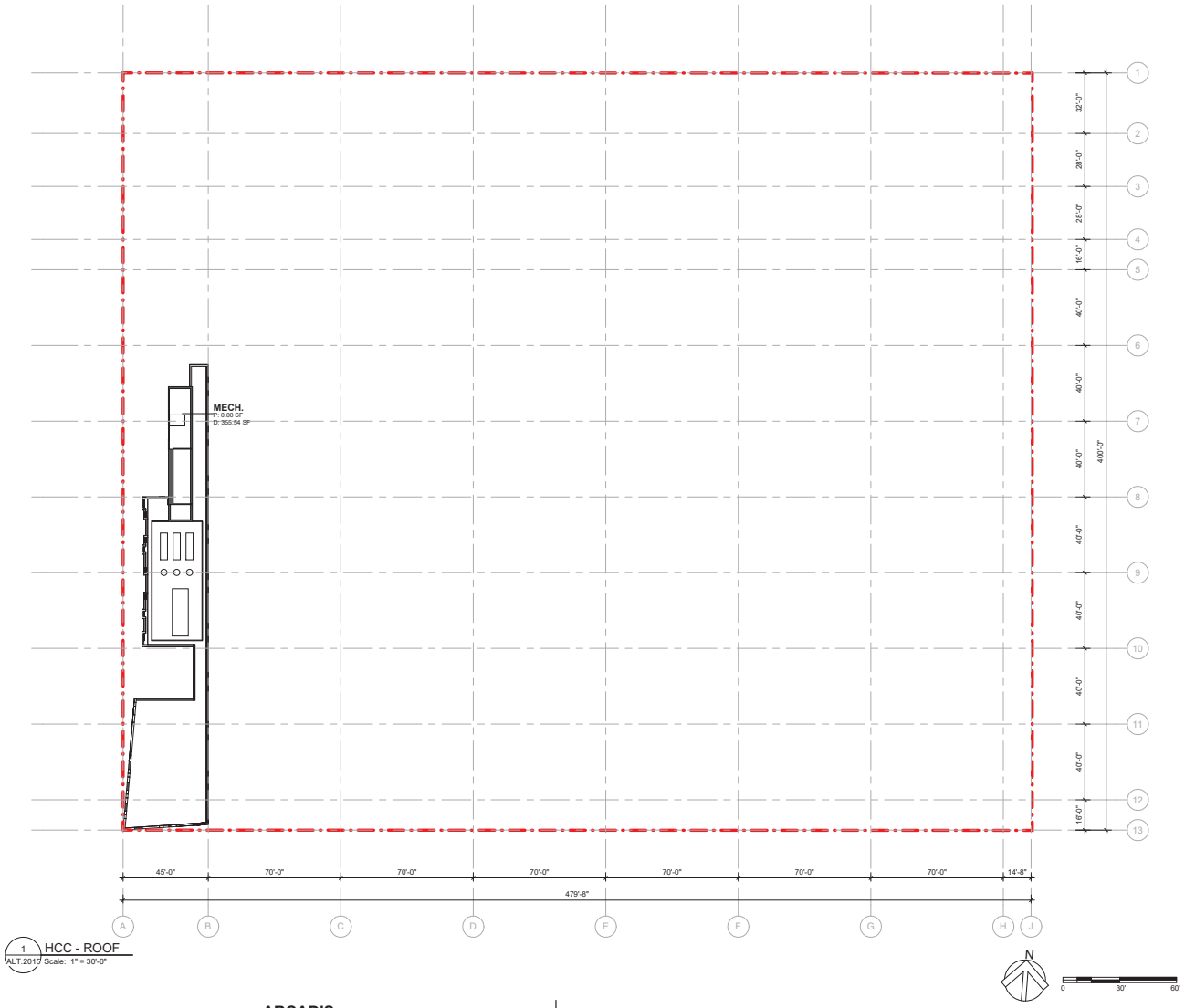
ARCADIS
100 Montgomery St, Suite 300
94104, San Francisco
California, CA

SFMTA
POTRERO YARD MODERNIZATION PROJECT

Issue: **PRJ**
Date: **2023-11-17**
Project No: **141440**
Scale: **1" = 30'-0"**

ALT.2014

HCC - ROOF



1 HCC - ROOF
ALT.2015 Scale: 1" = 30'-0"

ARCADIS
100 Montgomery St, Suite 300
94104, San Francisco
California, CA

SFMTA
POTRERO YARD MODERNIZATION PROJECT

Issue:	**PRJ**
Date:	**2023-11-17**
Project No:	**141440**
Scale:	**1" = 30'-0"**

ALT.2015

San Francisco Transit Riders
P.O. Box 193341, San Francisco, CA 94119
www.sftransitriders.org | info@sftransitriders.org | @SFTRU

March 2, 2026

SFMTA Board of Directors
One South Van Ness Avenue, 7th Floor
San Francisco, CA 94103

Re: Support for the Potrero Yard Modernization Project

Dear Chair Tarlov and SFMTA Board Directors:

I am writing on behalf of San Francisco Transit Riders in support of the Potrero Yard Modernization Project. This project will provide critical upgrades to the century-old bus yard, which are necessary for the long-term reliability of Muni's fleet and for the safety of Muni's workers. The project should move forward quickly and as proposed in order to present the minimal possible disruption to Muni's fleet and transit service.

Built in 1915 as a streetcar yard, Potrero Yard does not currently meet the needs of the modern Muni fleet. The maintenance bays have ceilings that are too low to allow indoor roof repairs or to lift buses for undercarriage work. As a result, maintenance takes longer and it is harder to return buses from the yard to service quickly. When fewer buses are on the street, riders face longer wait times and more crowding, and extended repairs also drive up costs for the agency.

The upgraded yard will provide room for 68% more electric trolleybuses and give Muni workers the safe, modern, and seismically-sound workplace they deserve, while also providing community benefits like new retail spaces, a community hub, and about 100 units of affordable housing.

San Francisco Transit Riders supports initiatives to build more affordable housing, especially when such initiatives have strong support from the community. While we were disappointed last year to hear that the amount of possible affordable housing units had been lowered, we urge the Board to approve the project in its current form. With the yard already operationally closed, any extended delay to the construction of the new yard threatens the agency's ability to provide reliable service, and forestalls the possibility of restoring or growing service as ridership increases. Potrero Yard has historically housed about half of the agency's electric trolleybus fleet, and any extended disruption to the agency's access to that fleet must be avoided.

We are glad that the final plan for the yard maintains about 100 affordable units. We urge the agency to move forward with this proposal, while also considering how it can use its other existing properties to build and provide even more affordable housing for San Francisco's residents and workforce.

Sincerely,

Dylan Fabris
Community & Policy Manager
San Francisco Transit Riders

SAN FRANCISCO CA
RMC
RICARDO MARRUN
CONCRETE CONSTRUCTION

3/9/2026

Potrero Yard Modernization Project

I am writing on behalf of (RMC) Ricardo Marrun Construction, Inc. to express [our/my] support for the Potrero Yard Modernization Project. This project started in 2018 as an innovative policy solution that responds to both the need for safe and reliable transit services as well as the urgency for affordable housing to be built in San Francisco. While the project has evolved through the pre-development phase – as large capital improvement project do – by collocating an active bus maintenance facility with affordable housing and retail spaces, it has retained a groundbreaking approach that has not been seen elsewhere in the United States.

Rebuilding Potrero Yard is a transformational project that modernizes a century-old bus yard and is also an investment in San Francisco providing:

- **Improved Safe and Reliable Muni Service** with a new Potrero Yard that can house up to 246 electric trolleybuses (a 68% increase to Potrero's existing capacity) and routes that currently serve five of San Francisco's nine Muni Service Equity neighborhoods. This new facility allows SFMTA to continue supporting emergency transportation, evacuation, and disaster-response operations after an earthquake.
- **Employee Wellness** with a seismically safe, modernized bus yard that provides natural light and training and recreation spaces for Muni employees.
- **Public Land Leveraged to Build Affordable Housing** with an agreement that enables approximately 100 units of safe and stable homes for households that might otherwise be priced out of the city, including working families and people on a fixed income.
- **Expanded Safety for Bicyclists and Pedestrians** by enhancing the City's existing 17th Street Bikeway along the project site with proposed Class IV bike lanes from Bryant Street to Hampshire Street, including concrete barriers and wider lanes where possible, as well as upgrading sidewalks and crossings. These improvements are known to support bicyclists, pedestrians, and vehicular safety in line with the City's Vision Zero efforts.
- **New Commercial Spaces that Activate** the area and include a public restroom, a community requested public benefit.
- **Economic Inclusion Approach that Prioritizes Small Business Participation** by conducting robust outreach to small businesses, setting aside key scopes of work for small businesses, and providing a mentorship program to support small business development.
- **Culturally relevant public art** that celebrates the people, values, history and diverse culture of the Potrero Hill and Mission neighborhoods while also highlighting SFMTA's goal to provide reliable, safe, and affordable transportation for all.

SAN FRANCISCO CA
RMC
RICARDO MARRUN
CONCRETE CONSTRUCTION

I urge you to support the Potrero Yard Modernization Project. Do not delay your support - with over 520,000 daily Muni riders, the city needs both a new bus yard to improve transit reliability and new housing now.

Thank you for your ongoing advocacy for public transit. I look forward to your continued leadership on this issue.

Sincerely,



Ricardo Marrun

850 South Van Ness Ave. Suite 27 San Francisco, CA 94110 - O: (415) 875-9096 - LIC. 1115915 - DIR. 2000001958

DE HARO RAMIREZ GROUP

Concrete Construction
General Contractor
License # 776852

MBE/LBE/UNION CONTRACTOR
SF-CMD CERTIFICATION ID # CMD082313958

Tuesday, March 3, 2026

Subject: Letter of Support: Potrero Yard Modernization Project

I am writing on behalf of De Haro Ramirez Group to express our support for the Potrero Yard Modernization Project. This project started in 2018 as an innovative policy solution that responds to both the need for safe and reliable transit services as well as the urgency for affordable housing to be built in San Francisco. While the project has evolved through the pre-development phase – as large capital improvement project do – by collocating an active bus maintenance facility with affordable housing and retail spaces, it has retained a groundbreaking approach that has not been seen elsewhere in the United States.
Rebuilding Potrero Yard is a transformational project that modernizes a century-old bus yard and is also an investment in San Francisco providing:

- **Improved Safe and Reliable Muni Service** with a new Potrero Yard that can house up to 246 electric trolleybuses (a 68% increase to Potrero's existing capacity) and routes that currently serve five of San Francisco's nine Muni Service Equity neighborhoods. This new facility allows SFMTA to continue supporting emergency transportation, evacuation, and disaster-response operations after an earthquake.
- **Employee Wellness** with a seismically safe, modernized bus yard that provides natural light and training and recreation spaces for Muni employees.
- **Public Land Leveraged to Build Affordable Housing** with an agreement that enables approximately 100 units of safe and stable homes for households that might otherwise be priced out of the city, including working families and people on a fixed income.
- **Expanded Safety for Bicyclists and Pedestrians** by enhancing the City's existing 17th Street Bikeway along the project site with proposed Class IV bike lanes from Bryant Street to Hampshire Street, including concrete barriers and wider lanes where possible, as well as upgrading sidewalks and crossings. These improvements are known to support bicyclists, pedestrians, and vehicular safety in line with the City's Vision Zero efforts.
- **New Commercial Spaces that Activate** the area and include a public restroom, a community requested public benefit.
- **Economic Inclusion Approach that Prioritizes Small Business Participation** by conducting robust outreach to small businesses, setting aside key scopes of work for small businesses, and providing a mentorship program to support small business development.
- **Culturally relevant public art** that celebrates the people, values, history and diverse culture of the Potrero Hill and Mission neighborhoods while also highlighting SFMTA's goal to provide reliable, safe, and affordable transportation for all.

I urge you to support the Potrero Yard Modernization Project. Do not delay your support - with over 520,000 daily Muni riders, the city needs both a new bus yard to improve transit reliability and new housing now.

Thank you for your ongoing advocacy for public transit. I look forward to your continued leadership on this issue.

Sincerely,

DE HARO RAMIREZ GROUP

Marco Ramirez
CEO

1550 Bancroft Ave, San Francisco, CA 94124 PH 415-552-3504 FAX 415-552-3505

February 28th, 2026

Subject: Rowan Letter of Support - Potrero Yard Modernization Project

I am writing on behalf of the Rowan Owners Association to express our support for the Potrero Yard Modernization Project. This project started in 2018 as an innovative policy solution that responds to both the need for safe and reliable transit services as well as the urgency for affordable housing to be built in San Francisco. While the project has evolved through the pre-development phase – as large capital improvement project do – by collocating an active bus maintenance facility with affordable housing and retail spaces, it has retained a groundbreaking approach that has not been seen elsewhere in the United States.

Rebuilding Potrero Yard is a transformational project that modernizes a century-old bus yard and is also an investment in San Francisco providing:

- **Improved Safe and Reliable Muni Service** with a new Potrero Yard that can house up to 246 electric trolleybuses (a 68% increase to Potrero's existing capacity) and routes that currently serve five of San Francisco's nine Muni Service Equity neighborhoods. This new facility also allows SFMTA to continue supporting emergency transportation, evacuation, and disaster-response operations after an earthquake.
- **Employee Wellness** with a seismically safe, modernized bus yard that provides natural light, outdoor spaces, training and recreation spaces for Muni employees.
- **Public Land Leveraged to Build Affordable Housing** with approximately 100 units of safe and stable homes for households that might otherwise be priced out of the city, including working families and people on a fixed income.
- **Expanded Safety for Bicyclists and Pedestrians** by enhancing the City's existing 17th Street Bikeway along the project site with proposed Class IV bike lanes from Bryant Street to Hampshire Street, including concrete barriers and wider lanes where possible, as well as upgrading sidewalks and crossings. These improvements are known to support bicyclists, pedestrians, and vehicular safety in line with the City's Vision Zero efforts.
- **New Commercial Spaces that Activate** the area and ***include a public restroom, a community requested public benefit.***
- **Economic Inclusion Approach that Prioritizes Small Business Participation** by conducting robust outreach to small businesses, setting

aside key scopes of work for small businesses, and providing a mentorship program to support small business development.

- **Culturally relevant Public Art** that celebrates the people, values, history and diverse culture of the Potrero Hill and Mission neighborhoods while also highlighting SFMTA's goal to provide reliable, safe, and affordable transportation for all.

I urge you to support the Potrero Yard Modernization Project. Do not delay your support - with over 520,000 daily Muni riders, the city needs both a new bus yard to improve transit reliability and new housing now.

Thank you for your ongoing advocacy for public transit. I look forward to your continued leadership on this issue.

Sincerely,

Alejandro Abogado

Alejandro Abogado

Director

ROWAN Owners Association

338 Potrero Avenue

San Francisco

SFMTA Board of Directors

Email: MTABoard@SFMTA.com

Friends of Franklin Square

February 29, 2026

Dear SFMTA Board of Directors,

The Friends of Franklin Square (FoFS) board is writing to express our support for the proposed SFMTA Potrero Yard Modernization Project proposed by Potrero Neighborhood Collective (PNC). It is our opinion that the proposed project will benefit Franklin Square Park and the majority of its park users despite casting some shadows on the park and the significant reduction in affordable housing units planned. Our primary reasons are as follows:

1) **The proposed project includes plans for 100 affordable housing units.** We believe the 100 housing units and its residents will become new park users. Living in such close proximity to the park, we believe they will be invested in Franklin Square's well-being. More park users will further activate the park and improve park safety.

2) **Although the Project as proposed does create a shadow on Franklin Square, it does appear to be limited in duration**. Our opinion is based upon our understanding that the project will increase the net new annual shadow on the park by to 3.1% from the current 1.8%. Our opinion recognizes that the new project will constrain the views from Franklin Square for park users from the current open air bus yard. Nevertheless, the severity of these issues does not, in our opinion, sufficiently negate the benefits the project will bring to Franklin Square.

3) **Furthermore, PNC supported Friends of Franklin Square's several requests for community benefits including**:

a) **Construct and maintain a public restroom on-site**, located at the corner of 17th & Hampshire Street.
b) **Construct a raised pedestrian crosswalk at the corner of 17th & Hampshire Street**.
c) **Improve street safety on all streets bordering the Project** through street lighting and activation from residential, employee and bus entryways/exits.
d) **Enhance bike lane safety on 17th Street** with concrete medians and a wider lane.
e) **Beautify streets and views from Franklin Square**: The Project will include public art along 17th Street that celebrates the people, values and history of the neighborhood. Street and podium level trees/greenery are planned throughout the Project.

SFMTA and the PNC team included a representative from Friends of Franklin as part of the Working Group since 2018, actively soliciting our feedback about the Project. We would note that communication regarding the change from the podium design and resulting 75%+ reduction in housing units by SFMTA staff and the PNC team needed improvement. While understandable given the rising construction costs, FoFS did feel blindsided by the reduction in affording housing units announced in October 2025, after 7 years of working under the understanding that the project would sustain 300+ units.

Friends of Franklin Square is an all-volunteer operated organization that seeks to enhance and improve everyone's experience at our local park. FoFS was created in 2006 to rejuvenate Franklin Square Park. We are proud to announce a fully staffed Pit Stop station opened at Franklin Square in November 2023 through our advocacy work. Since 2007, our group has advocated and secured city funding to upgrade the park including a complete remodel of the playground in 2007, the installation of the Brotherhood of Man mosaic at the park in 2013 and, in 2020, the construction of a new adult outdoor workout area, park lighting and upgrades to the park's walking path. Friends of Franklin Square was recognized by the Neighborhood Empowerment Network in 2017 as an outstanding park volunteer group. We have 267 members on our email list.

If you have any questions, please feel free to contact us via email at friendsoffranklinsquare@gmail.com.

Sincerely,

Friends of Franklin Square Board
Jolene Yee (Board Leader)
Alejandro Abogado
Anna Celli
Evan and Nicole Harms
Emanuela Zacco

Date: March 2nd, 2026

Subject: Letter of Support - Potrero Yard Modernization Project

I am writing on behalf of Streamline Drywall Inc. to express our support for the Potrero Yard Modernization Project. This project started in 2018 as an innovative policy solution that responds to both the need for safe and reliable transit services as well as the urgency for affordable housing to be built in San Francisco. While the project has evolved through the pre-development phase – as large capital improvement project do – by collocating an active bus maintenance facility with affordable housing and retail spaces, it has retained a groundbreaking approach that has not been seen elsewhere in the United States.

Rebuilding Potrero Yard is a transformational project that modernizes a century-old bus yard, and is also an investment in San Francisco providing:

- **Improved Safe and Reliable Muni Service** with a new Potrero Yard that can house up to 246 electric trolleybuses and routes that currently serve five of San Francisco's nine Muni Service Equity neighborhoods. This new facility allows SFMTA to continue supporting emergency transportation, evacuation, and disaster-response operations after an earthquake.
- **Employee Wellness** with a seismically safe, modernized bus yard that provides natural light and training and recreation spaces for Muni employees.
- **Public Land Leveraged to Build Affordable Housing** with an agreement that enables approximately 100 units of safe and stable homes for households that might otherwise be priced out of the city, including working families and people on a fixed income.
- **Expanded Safety for Bicyclists and Pedestrians** by enhancing the City's existing 17th Street Bikeway along the project site with proposed Class IV bike lanes from Bryant Street to Hampshire Street, including concrete barriers and wider lanes where possible, as well as upgrading sidewalks and crossings. These improvements are known to support bicyclists, pedestrians, and vehicular safety in line with the City's Vision Zero efforts.
- **New Commercial Spaces that Activate** the area and include a public restroom, a community requested public benefit.
- **Economic Inclusion Approach that Prioritizes Small Business Participation** by conducting robust outreach to small businesses, setting aside key scopes of work for small businesses, and providing a mentorship program to support small business development.
- **Culturally relevant public art** that celebrates the people, values, history and diverse culture of the Potrero Hill and Mission neighborhoods while also highlighting SFMTA's goal to provide reliable, safe, and affordable transportation for all.

I urge you to support the Potrero Yard Modernization Project. Do not delay your support - with over 520,000 daily Muni riders, the city needs both a new bus yard to improve transit reliability and new housing now.

Thank you for your ongoing advocacy for public transit. I look forward to your continued leadership on this issue.

Sincerely,

Triston Dion
President
Streamline Drywall Inc.



PCI **Pioneer Contractors, Inc.**

CA License # 777064 **Roofing Specialist**

3/3/2026

Subject: Letter of Support: Potrero Yard Modernization Project

I am writing on behalf of Yerba Buena Engineering (**org**/individual)] to express [**our**/my] support for the Potrero Yard Modernization Project. This project started in 2018 as an innovative policy solution that responds to both the need for safe and reliable transit services as well as the urgency for affordable housing to be built in San Francisco. While the project has evolved through the pre-development phase – as large capital improvement project do – by collocating an active bus maintenance facility with affordable housing and retail spaces, it has retained a groundbreaking approach that has not been seen elsewhere in the United States.

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I urge you to support the Potrero Yard Modernization Project. Do not delay your support - with over 520,000 daily Muni riders, the city needs both a new bus yard to improve transit reliability and new housing now.

Thank you for your ongoing advocacy for public transit. I look forward to your continued leadership on this issue.

Sincerely,

Michael Li

President

Pioneer Contractors, Inc.

1485 Armstrong Ave. San Francisco, CA 94124 Tel (415) 671-1070 Fax (415) 671-0448

An Equal Employment Opportunity Employer

DATE: Monday, March 2, 2026
FROM: Abraham Ley & Hunter Schneider | Owners
SUBJECT: Letter of Support: Potrero Yard Modernization Project

---

I am writing on behalf of Leyder Electric to express our support for the Potrero Yard Modernization Project. This project started in 2018 as an innovative policy solution that responds to both the need for safe and reliable transit services as well as the urgency for affordable housing to be built in San Francisco. While the project has evolved through the pre-development phase – as large capital improvement project do – by collocating an active bus maintenance facility with affordable housing and retail spaces, it has retained a groundbreaking approach that has not been seen elsewhere in the United States.
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I urge you to support the Potrero Yard Modernization Project. Do not delay your support - with over 520,000 daily Muni riders, the city needs both a new bus yard to improve transit reliability and new housing now.

Thank you for your ongoing advocacy for public transit. I look forward to your continued leadership on this issue.

Best regards,

Abraham Ley & Hunter Schneider
Owners

1325 B. Evans Ave. San Francisco CA 94124 Unit #4
License C-10 # 1070510
SF Vendor & LBE # CMD06241000572
SF Tax Reg # 1123864
Federal ID # 85-0974196
DIR # PW-LR-1000738412

Outlook

support for Potrero Yard Modernization Project

From Peter Belden <pbelden@gmail.com>
Date Mon 02-Mar-26 11:07
To PotreroYard <PotreroYard@sfmta.com>; MTABoard <MTABoard@sfmta.com>

EXT

Dear SFMTA Board,

I'm writing in my personal capacity as a resident of Potrero Hill who lives near Potrero Yard to urge you to approve the Potrero Yard project and keep it moving forward quickly. I have also served as a member of the Potrero Yard neighborhood working group for roughly two years and thus have had the benefit of monthly project updates and many opportunities to ask questions.

Modernizing this bus yard is essential. This project is also fantastic in that it also includes 100 units of housing on site.

Some have suggested that we should move the bus yard elsewhere or delay the project until tens or hundreds of millions of dollars in new additional funding materializes to expand the on-site housing. We should not make the perfect the enemy of the good. This project has already taken far too long. The need for a modernized bus yard is urgent. I urge you to move the project forward. If the project is delayed there is a grave risk that we will get neither a modernized bus yard nor housing.

Peter Belden
Potrero Hill

This message is from outside of the SFMTA email system. Please review the email carefully before responding, clicking links, or opening attachments.

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220, San Francisco, CA 94102
Phone: 415.252.3100 · Fax: 415.252.3112

Filing Information

Record Number

SFEC126F0001108

Status

BOS Legislative Clerk Acceptance

SFEC126f Form Type

126f4 BOS

File Number (BOS)

260185

Type of Filing

Original

Contractor Information

Contractor Name

PRG - Potrero Properties LLC

Contractor Email

hicks@provident.org

Contractor Phone #

(347) 514-3117

International Address?

No

Contractor Address (US)

555 W Fifth Street, Ste 3150

Contractor City and State

Los Angeles - CA

Contractor Zip Code

90013

Country

United States of America

Contract Information

Contract Amount

$1,396,433,595.00

Description of Amount of Contract

Two milestone payments totaling $315 million, a $5 million substantial completion development fee, and annual availability payments of approximately $33 million for a total of 30 years.

Contract Description

Approving Contract No. 1334, Infrastructure Facility Project Agreement ("Project Agreement"), with PRG - Potrero Properties LLC, for the design, construction, and financing of a bus storage and maintenance facility for the Potrero Yard Modernization Project, which Project Agreement provides for 1) a 30-year term commencing after substantial completion, scheduled for 2030, and expected to end in 2060, 2) two milestone payments of $65,000,000 at or around financial close and $250,000,000 during construction, 3) a $5,000,000 development fee payable after substantial completion, 4) annual availability payments commencing approximately one year after anticipated substantial completion and continuing through the end of the term, projected to start at approximately $33,000,000 with an estimated cumulative total of approximately $980,000,000 5) potential delay event or termination compensation, all as provided in the Project Agreement and for an estimated not to exceed amount of $1,396,433,595 expressed in nominal dollars and subject to adjustment on the terms of the Project Agreement; affirming the Planning Department's determination under the California Environmental Quality Act; and approving, for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, the issuance by the California Municipal Finance Authority of tax-exempt obligations in an aggregate principal amount not to exceed $900,000,000 to finance the costs of the Project, and making related findings and determinations related thereto.

City Agency - Departmental Contact Information

Departmental Contact

Chris Lazaro

Departmental Contact Phone #

(415) 549-6572

Full Department Name

MTA - Municipal Transportation Agency

Agency Contact Email

chris.lazaro@sfmta.com

Departmental Contact Comments

n/a

Contract Approval

Mayoral Approval Not Required

false

Affiliates and subcontractors

Entity Type	First Name	Last Name	Entity or Sub/Contractor Name
Shareholder			The Allen Group, LLC
Shareholder			D&A Communications
Other Principal Officer	Stuart	Marks	Plenary Americas USA Ltd
CEO	Brian	Budden	Plenary Americas USA Ltd
CFO	Nigel	Kirkwood	Plenary Americas USA Ltd
CEO	Matt	Rossie	Webcor Construction LP
CFO	Matt	Reece	Webcor Construction LP
CEO	Steve	Hicks	Provident Resources Group Inc
Shareholder			Provident Resources Group Inc
Shareholder			Plenary Americas USA Ltd
Shareholder			Webcor Construction LP
Shareholder			Mission Economic Development Agency
Shareholder			Young Community Developers
Shareholder			Tabernacle Community Development Corp
Shareholder			Arcadis IBI Group
Shareholder			Y.A. Studio Architect
Shareholder			Plant Construction Co LP

OFFICE OF THE MAYOR
SAN FRANCISCO

DANIEL LURIE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Dexter Darmali, Legislative & Ethics Secretary
RE: Agreement – PRG-Potrero Properties LLC – Potrero Yard Modernization Project – Design, Construction, Financing – 2500 Mariposa Street – $1,396,433,595 – Approving Bond Issuance - $900,000,000
DATE: February 24, 2026

Resolution approving Contract No. 1334, Infrastructure Facility Project Agreement ("Project Agreement"), with PRG – Potrero Properties LLC, for the design, construction, and financing of a bus storage and maintenance facility for the Potrero Yard Modernization Project, which Project Agreement provides for (1) a 30-year term commencing after substantial completion, scheduled for 2030, and expected to end in 2060, (2) milestone payments of $65,000,000 at or around financial close and $250,000,000 during construction, (3) a $5,000,000 development fee payable after substantial completion, (4) annual availability payments commencing approximately one year after anticipated substantial completion and continuing through the end of the term, projected to start at approximately $33 million, with an estimated cumulative total of approximately $980 million, (5) potential delay event or termination compensation, all as provided in the Project Agreement and for an estimated not-to-exceed amount of $1.4 billion, all expressed in nominal dollars; affirming the Planning Department's determination under the California Environmental Quality Act; and approving, for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, the issuance by the California Municipal Finance Authority of tax-exempt obligations in an aggregate principal amount not to exceed $900,000,000 to finance the costs of the Project, and making related findings and determinations related thereto.

Should you have any questions, please contact Adam Thongsavat at adam.thongsavat@sfgov.org

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