File No. 151226 Committee Item No. 7
Board Item No. 13

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee **Date** January 27, 2016

Board of Supervisors Meeting **Date** February 2, 2016

Cmte	Board	
☐	☐	Motion
☐	☐	Resolution
☒	☑	Ordinance
☒	☒	Legislative Digest
☒	☒	Budget and Legislative Analyst Report
☐	☐	Youth Commission Report
☐	☐	Introduction Form
☒	☑	Department/Agency Cover Letter and/or Report
☒	☒	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☒	☑	Contract/Agreement
☒	☒	Form 126 – Ethics Commission
☐	☐	Award Letter
☐	☐	Application
☐	☐	Public Correspondence

OTHER (Use back side if additional space is needed)

☒	☑	PUC Resolutions
☐	☒	PowerPoint Presentation
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	

Completed by: Linda Wong **Date** January 22, 2016
Completed by: Linda Wong **Date** January 28, 2016

AMENDED IN COMMITTEE
1/27/16

FILE NO. 151226 ORDINANCE NO.

[Waiver of Certain Contract Requirements for Project Delivery Agreement for New Central Shops Facilities - Oryx Development I, LLC - $55,000,000 Project Cost; Interdepartmental Property Transfers]

Ordinance approving and authorizing the Director of Property of the General Services Agency's Real Estate Division ("RED") to execute a Project Delivery Agreement with Oryx Development I, LLC, a Nevada limited liability company ("Developer" or "Oryx") for the design and construction of proposed improvements to future City owned real estate at 555 Selby Street and 1975 Galvez Avenue (Assessors Block 5250, Lot 15, Assessors Block 5250, Lot 16), and tenant improvements to future City leased property at 450 Toland Street (Assessors Block 5230, Lot 18), to create new facilities for the relocation of the City's Central Fleet Maintenance Shop ("Central Shops") from 1800 Jerrold Street (portions of Assessors Blocks 5262 and 5270), with total anticipated project delivery cost of $55,000,000 from San Francisco Public Utilities Commission ("SFPUC") Wastewater Enterprise funds; exempting the project from certain contracting requirements in Administrative Code Chapter 6 by waiving the requirements of Administrative Code Sections 6.61(b) and 6.61(c)(1) – (4), and approving the selection of Oryx Development I, LLC as Developer, and Developer's selection of FM&E Architecture & Design as a Subcontractor to serve as the Project Architect and Charles Pankow Builders, Ltd. as a Subcontractor to serve as General Contractor, without competitive bidding; authorizing the jurisdictional transfer of 1800 Jerrold Street, from General Services Agency's Office of Contract Administration ("OCA") to the SFPUC Wastewater Enterprise, and the jurisdictional transfer of 555 Selby Street and 1975 Galvez Avenue, and the leasehold of 450 Toland Street, from the SFPUC to OCA, subject to the terms and conditions of the Memorandum of Understanding entered into between the RED, OCA and SFPUC; and finding the proposed transactions are in

conformance with the City's General Plan, and the eight priority policies of Planning Code, Section 101.1.

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. Findings.

A. Under companion legislation on file with the Clerk of the Board of Supervisors in File No. 151215 (the "Companion Resolution"), the Director of Property would be authorized to acquire real property located at 555 Selby Street and 1975 Galvez Avenue (Assessors Block 5250, Lot 15, Assessors Block 5250, Lot 16), and execute a lease for property located at 450 Toland Street (Assessors Block 5230, Lot 18) (collectively, the "Project Site") using SFPUC Wastewater Enterprise ("WWE") funds for WWE purposes. If the Companion Resolution and this Ordinance are adopted and final, jurisdiction over the Project Site would be transferred to OCA to create new facilities for the relocation of the City's Central Shops from 1800 Jerrold Avenue (portions of Assessors Blocks 5262 and 5270), to facilitate the timely jurisdictional transfer of 1800 Jerrold Avenue to the SFPUC Wastewater Enterprise.

B. In 1946, the City acquired real property for the construction of the North Point Sludge Treatment Plant near Islais Creek, now commonly known as the Southeast Water Pollution Control Plant ("Southeast Plant"), including purchase of Assessor's Block 5262 in its entirety, and later the City purchased the portion of Assessor's Block 5270 for that same purpose. Since the 1960's, the City's Central Shops, a facility providing repair services to the City's non-revenue vehicle fleet, has been located on a portion of Assessor's Block 5262, Lot

No. 009, with an address of 1800 Jerrold Avenue. The OCA holds jurisdiction over 1800 Jerrold Avenue, where the City's Department of Technology Public Safety Division is also located.

C. The City owned property at 1800 Jerrold Avenue is approximately 6 acres in size and located adjacent to the Southeast Plant. The Southeast Plant facilities are in need of substantial maintenance, repair and replacement, and the adopted WWE Capital Plan includes an allocation over the next ten years of $164,000,000 toward treatment plant improvements, together with various other allocations for repairs and replacements. The SFPUC seeks to secure a large parcel of land in proximity to the Southeast Plant to support capital improvements necessary to maintain essential utility services, and there is a very limited supply of such available land. OCA would consent to a jurisdictional transfer of 1800 Jerrold Avenue to the SFPUC, provided that OCA receives compensation sufficient to enable occupancy of functionally equivalent facilities and for necessary incurred relocation expenses.

D. The OCA, SFPUC and RED have entered into a Memorandum of Understanding, which is on file with the Clerk of the Board of Supervisors under File No. 15-1226 (the "MOU"), to establish the terms and conditions of such jurisdictional transfers. The City's Director of Property has determined that the current fair market value of 1800 Jerrold Avenue is less than the reasonable and necessary expense required to relocate Central Shops to facilities that are functionally equivalent to Central Shops' existing facilities, including property acquisition costs, rent, development, design and construction of replacement improvements.

E. City staff have developed a conceptual design for the Project Site that meets the operational needs of Central Shops, and involves the demolition of all existing improvements at 555 Selby Street and 1975 Galvez Avenue, and new construction of an approximately 54,000 square foot, 35-foot-high building to be used for maintenance and repair of medium

and heavy duty vehicles, such as fire trucks, heavy equipment transporters, dump trucks, and street sweepers, as well as for administrative offices, support functions, and employee amenities; and tenant improvements to 450 Toland Street modifying the existing approximately 45,000 square foot building's interior to provide for three functional programs (Light Duty Vehicle Shop, Body/Paint Shop, and Ladder Shop), associated building systems, and related employee amenities (collectively, the "Proposed Project"). The MOU provides that SFPUC will pay OCA not to exceed $55,000,000 for the cost of OCA's Proposed Project on the Project Site, inclusive of contingencies and Developer fee.

F. On October 28, 2015, the Planning Department's CEQA Coordinator Timothy Johnston issued a notice that this project is categorically exempt under California Environmental Quality Act (CEQA) Guidelines Section 15332 (Infill Development, Class 32). The Planning Department, through General Plan Referral letter dated November 5, 2015, which is on file with the Clerk of the Board of Supervisors under File No. 15-1226, has verified that the City's acquisition of 1975 Galvez Avenue and 555 Selby Street, and lease of 450 Toland Street, together with the jurisdictional assignments and transfers noted herein, are all consistent with the General Plan and the Eight Priority Policies under the Planning Code Section 101.1.

G. Due to time constraints brought on by the challenges of finding suitable relocation sites for Central Shops in the current extraordinarily competitive real estate market for industrial land, and the SFPUC's pressing need for land to accommodate its WWE capital improvement program by the summer of 2017, the Director of Property informally approached entities capable of executing the Proposed Project and identified one team reasonably available and deemed capable of carrying out the Proposed Project within the time frame required and within the budget developed. The City and~~and Oryx, LLC,~~ the Developer, subsequently entered into negotiations for a Project Delivery Agreement (the "PDA") for Oryx to complete

the development, design and construction of the Proposed Project, subject to obtaining authorization to waive the competitive selection requirements in Administrative Code Chapter 6, Sections 6.61(b) and 6.61(c) (1) – (4).

H. Under the proposed PDA, Oryx shall enter into, manage, monitor, and oversee all contracts required to complete the Proposed Project for the City (the "Developer Services"). The Developer has selected, subject to City approval, FM&E Architecture and Design (the "Architect") as the architect and Charles Pankow Builders, Ltd, (the "General Contractor"), as the general contractor for the Proposed Project. The Developer shall negotiate, with assistance from the Director of Property consulting with the Director of Public Works, contracts with the Architect and the General Contractor for the design and construction of the Proposed Project. Such contracts, and all other contracts required for the completion of the Proposed Project (the "Project Contracts"), will be entered into by Developer as set forth in the proposed PDA.

I. The OCA, RED and SFPUC have determined that the design-build project delivery method is necessary and appropriate to achieve anticipated time efficiencies and that the use of the design-build project delivery method is in the public's best interest. The proposed PDA is a design-build agreement with two phases. During the first phase, for a negotiated price of not more than ten~~eight~~ million three~~four~~ hundred ~~thirty~~ thousand dollars ($~~8~~10,300~~430~~,000), the Developer and its approved subcontractors will complete~~d~~ design of the proposed improvements, permitting and initial construction work to prepare the Project Site and install piles. The proposed PDA would obligate the Developer to design the project based on RED and OCA's budget of fifty five million dollars ($55,000,000), and in recognition of the City's desire to obtain beneficial occupancy by June 29, 2017. When its Architect completes 100% construction drawing to the City's satisfaction, the Developer will provide the City with a proposed Guaranteed Maximum Price and schedule establishing the duration for

completion of the construction work. If the Guaranteed Maximum Price does not exceed $55 million, and the schedule is acceptable, the City may authorize the second phase of the contract, and issue a Notice to Proceed to the Developer for the construction, subject to approval by the Mayor and Board of Supervisors, in their sole and separate discretion. If the Guaranteed Maximum Price of the Proposed Project exceeds the $55 million in SFPUC funds as provided in the MOU, then OCA and RED will work with the Developer to amend the scope of the Proposed Project to bring it within budget, or seek the Mayor and Board's approval of supplemental authorization.

J. Entering into the PDA with Oryx is appropriate and in the City's best interests. If the Proposed Project is developed, the City would functionally replace existing Central Shops at 1800 Jerrold Avenue with a state of the art facility in close proximity to the existing operation. The development would involve significant participation of local trades and businesses to bolster the local economy. ~~Based upon the information provided by the Office of Public Finance and the Real Estate Director~~The Proposed Project is required in order to meet the needs of the SFPUC Wastewater Enterprise capital program, as determined by the SFPUC in Commission Resolution No. 15-0241, and SFPUC is funding the Proposed Project under the terms of the MOU, therefore, the Board finds that the Proposed Project is exempt from the provisions of ~~financially feasible consistent with~~ Administrative Code Chapter 29, pursuant to Section 29.1(c)(4) of Chapter 29.

K. The SFPUC unanimously approved Resolution No. 15-0241 on November 10, 2015, authorizing the SFPUC General Manager to execute the MOU, subject to approval by the Board of Supervisors and the Mayor of the jurisdictional transfer of 1800 Jerrold Avenue to the SFPUC consistent with the terms of the MOU, and setting forth the total amount of costs to be incurred and paid by SFPUC of seventy three million, seven hundred thousand dollars ($73,700,000), which is the not to exceed sum agreed upon in the MOU to acquire and lease

the Project Site and complete necessary improvements and relocate Central Shops to functionally equivalent facilities. On December 8, 2015, the SFPUC will consider a revised resolution, consistent with this Ordinance, and if approved, that SFPUC resolution will be on file with the Clerk of the Board of Supervisors under File No. 15-1226. If both the proposed Companion Resolution and the Proposed Ordinance become effective, the Project Site acquired by the SFPUC will be placed under the jurisdiction of OCA, subject to the condition that if Central Shops fails to occupy, vacates, or ceases to use the acquired property for Central Shop functions (the "Triggering Event"), OCA will owe payment to SFPUC within thirty (30) days after the Triggering Event in an amount equal to the unamortized value of the acquisition and improvement cost of 555 Selby Street and 1975 Galvez Avenue. The amortization schedule shall be straight-line depreciation of land and improvements over thirty (30) years, commencing on the date of receipt of a Temporary Certificate of Occupancy ("TCO"), with a first year value of $50,000,000. For example purposes only, should the TCO date be June 1, 2017, and the Triggering Event date be June 1, 2037, the payment amount due SFPUC shall be $16,666,666 (20 years of 30 years total = 0.33 remaining life, $50,000,000 x 0.33 = $16,666,666).

L. The Director of Property, SFPUC General Manager, and Director of Purchasing all recommended to the Mayor that the SFPUC can more advantageously use 1800 Jerrold Avenue and that jurisdiction to 1800 Jerrold Avenue be transferred to SFPUC, and that jurisdiction to the Project Site be assigned to OCA, in accordance with the terms and conditions of the MOU.

Section 2. Waiver of Administrative Code Chapter 6, Section 6.61 (b) and 6.61(c) (1) – (4). The Board of Supervisors recognizes that this Proposed Project is slated to occur at one of the most robust construction periods in the history of San Francisco, and as such, there are limited availabilities of design and construction teams led by a developer entity willing and

able to perform the Proposed Project within the budget and timeline provided by the City. Accordingly, the design and construction of the Proposed Project by Developer shall not be subject to the requirements of Administrative Code Chapter 6, Sections 6.61(b) and 6.61(c)(1) – (4), which would otherwise require a competitive selection process for the proposed design-build PDA. The Board of Supervisors approves the selection of the Developer, the Architect, and the General Contractor as set forth in the PDA, without competitive bidding, and authorizes OCA and RED to enter into the proposed PDA, subject to the Mayor's approval. Competitive bidding for subcontracting opportunities shall be as set forth in the subcontract between Developer and the General Contractor, as approved by the City in accordance with the terms of the proposed PDA, and that subcontract will comply with the procedures and requirements regarding procurement of trade work (subcontractors) consistent with Administrative Code Chapter 6, Section 6.61(c)(5). The proposed PDA shall also require compliance with Administrative Code Chapter 6, Sections 6.61, subsections (d) (e) (f) and (g), among other provisions, which incorporate by reference City requirements governing contract terms and working conditions in Administrative Code Chapter 6, Section 6.22, including but not limited to provisions for Insurance, Prevailing Wage, Local Hiring, Liquidated Damages, Bonds, City Right to Terminate for Convenience, Employment of Apprentices, Contractor Prompt Payment to Subcontractors, and Administrative Code Chapters 12 and 14.

Section 3. Jurisdictional Transfers between SFPUC and OCA. The Planning Department, through General Plan Referral letter dated November 5, 2015 ("Planning Letter"), which is on file with the Clerk of the Board of Supervisors under File No. 15-1226, has verified that the City's acquisition of 1975 Galvez Avenue and 555 Selby Street, and lease of 450 Toland Street, together with the jurisdictional assignments and transfers noted herein, are all consistent with the General Plan and the Eight Priority Policies under the Planning Code Section 101.1. The Board finds that the Proposed Project, and jurisdictional transfers of 1800

Jerrold Avenue from OCA to SFPUC and the Project Site from SFPUC to OCA, subject to the terms and conditions of the MOU, is consistent with the City's General Plan and Eight Priority Policies of Planning Code Section 101.1 and incorporates the Planning Letter by this reference as though fully set forth in this Ordinance. Based on the recommendation of the Directors of Property and Purchasing, the SFPUC General Manager, and the Mayor, the jurisdiction of 1800 Jerrold Avenue shall be transferred to the SFPUC, and the jurisdiction of the Project Site shall be transferred to OCA, subject to the terms and conditions of the MOU.

Section 4. Additions, Amendments, and Modifications. The Board of Supervisors authorizes the Director of Property to enter into any additions, amendments, or other modifications to the PDA, and any other documents or instruments in connection with same, that the Director of Property and the City Administrator determine, following consultation with the City Attorney, are in the City's best interests, do not materially decrease the City's benefits or materially increase the City's obligations or liabilities, and are appropriate and advisable to complete the proposed transaction, such determination to be conclusively evidenced by the execution and delivery by the Director of Property and the City Administrator of any such additions, amendments, or other modifications.

Section 5. Effective and Operative Dates. 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 10 days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance. This ordinance shall

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become operative upon its effective date or upon adoption of the Companion Resolution, whichever is later.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Noreen Ambrose
Deputy City Attorney

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AMENDED IN COMMITTEE
1/27/16

FILE NO. 151226

LEGISLATIVE DIGEST

[Waiver of Certain Contract Requirements for Project Delivery Agreement for New Central Shops Facilities - Oryx Development I, LLC - $55,000,000 Project Cost; Interdepartmental Property Transfers]

Ordinance approving and authorizing the Director of Property of the General Services Agency's Real Estate Division ("RED") to execute a Project Delivery Agreement with Oryx Development I, LLC, a Nevada limited liability company ("Developer" or "Oryx") for the design and construction of proposed improvements to future City owned real estate at 555 Selby Street and 1975 Galvez Avenue (Assessors Block 5250, Lot 15, Assessors Block 5250, Lot 16), and tenant improvements to future City leased property at 450 Toland Street (Assessors Block 5230, Lot 18), to create new facilities for the relocation of the City's Central Fleet Maintenance Shop ("Central Shops") from 1800 Jerrold Street (portions of Assessors Blocks 5262 and 5270), with total anticipated project delivery cost of $55,000,000 from San Francisco Public Utilities Commission ("SFPUC") Wastewater Enterprise funds; exempting the project from certain contracting requirements in Administrative Code Chapter 6 by waiving the requirements of Administrative Code Sections 6.61(b) and 6.61(c)(1) – (4), and approving the selection of Oryx Development I, LLC as Developer, and Developer's selection of FM&E Architecture & Design as a Subcontractor to serve as the Project Architect and Charles Pankow Builders, Ltd. as a Subcontractor to serve as General Contractor, without competitive bidding; authorizing the jurisdictional transfer of 1800 Jerrold Street, from General Services Agency's Office of Contract Administration ("OCA") to the SFPUC Wastewater Enterprise, and the jurisdictional transfer of 555 Selby Street and 1975 Galvez Avenue, and the leasehold of 450 Toland Street, from the SFPUC to OCA, subject to the terms and conditions of the Memorandum of Understanding entered into between the RED, OCA and SFPUC; and finding the proposed transactions are in conformance with the City's General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Administrative Code Chapter 6 sets forth the City's public works contracting policies and procedures. Chapter 6, Section 6.61 governs award of Design-Build contracts. Section 6.61(b) requires a pre-qualification process and selection through either an invitation for bids or a request for qualifications for a type of Design-Build contract referred to as "Competitive Bid or Fixed Budget Limit Procurement." Alternatively, a department can pursue a Design-Build contract under Section 6.61(c) for "Best Value Procurement", and under Section 6.61(c) subsections (1) – (4), the department is required to pursue a pre-qualification process or issuance of a combined request for qualifications and request for proposals, and selection

based on the ranking process. These requirements are generally referred to as competitive bidding for Design-Build contracts.

Administrative Code Chapter 23, Article II, establishes the policies and procedures for City departments to seek jurisdictional transfers of property from one department to another.

Amendments to Current Law

The San Francisco Public Utilities Commission (SFPUC) seeks to acquire jurisdiction over 1800 Jerrold Avenue for its Wastewater Enterprise, which is the current location of the City's Central Shops, under the jurisdiction of General Services Administration, Office of Contract Administration (OCA), consistent with Administrative Code Chapter 23 policies and procedures. The City Real Estate Division (RED), Director of Property determined that the current fair market value of 1800 Jerrold Avenue is less than the reasonable and necessary expense required to relocate Central Shops to facilities that are functionally equivalent to Central Shops' existing facilities, including property acquisition costs, rent, development, design and construction of replacement improvements. SFPUC approved a Memorandum of Understanding (MOU) with OCA and RED, agreeing to incur costs and pay OCA the total amount of Seventy Three Million Seven Hundred Thousand dollars ($73,700,000) to accomplish the jurisdictional transfer, provided that OCA agree to obtain or construct the necessary functionally equivalent facilities for Central Shops, and relocate by June 2017.

To accomplish this objective on that timeline, OCA and RED seek a waiver of Administrative Code Chapter 6, Sections 6.61(b) and 6.61(c) (1) – (4), which otherwise would require a competitive selection process for the Design-Build contract required to construct the new Central Shops facilities. Instead, they seek approval of the selection of Oryx Development I, LLC as Developer, and Developer's selection of FM&E Architecture & Design as a subcontractor to serve as the Project Architect and Charles Pankow Builders, Ltd. as a subcontractor to serve as General Contractor under a Project Delivery Agreement (Design-Build), with a not to exceed cost of Fifty Five Million dollars ($55,000,000).

OCA is not seeking waiver of other Administrative Code provisions applicable to Design-Build contracts. The Project Delivery Agreement will require competitive bidding for subcontracting opportunities consistent with the procedures and requirements regarding procurement of trade work (subcontractors) under Administrative Code Chapter 6, Section 6.61(c)(5). The proposed PDA shall also require compliance with Administrative Code Chapter 6, Sections 6.61, subsections (d) (e) (f) and (g), among other provisions, which incorporate by reference City requirements governing contract terms and working conditions in Administrative Code Chapter 6, Section 6.22, including but not limited to provisions for Insurance, Prevailing Wage, Local Hiring, Liquidated Damages, Bonds, City Right to Terminate for Convenience, Employment of Apprentices, Contractor Prompt Payment to Subcontractors, and Administrative Code Chapters 12 and 14. OCA will also seek Civil Service Commission approval for the Project Delivery Agreement, as required by the Charter.

The SFPUC, OCA and RED, with the Mayor's consent, seek Board approval of the jurisdictional transfer of 1800 Jerrold Avenue from OCA to SFPUC, and the jurisdictional transfer of property that SFPUC will acquire if authorized by a Companion Resolution (Board File No.151215) to OCA, for the new Central Shops facilities, subject to the terms and conditions of the MOU.

Background Information

In 1946, the City acquired real property for the construction of the North Point Sludge Treatment Plant near Islais Creek", now commonly known as the Southeast Water Pollution Control Plant ("Southeast Plant"). The Southeast Plant facilities are in need of substantial maintenance, repair and replacement, and the adopted WWE Capital Plan includes an allocation over the next ten years of $164,000,000 toward treatment plant improvements, together with various other allocations for repairs and replacements. The SFPUC seeks to secure a large parcel of land in proximity to the Southeast Plant to support capital improvements necessary to maintain essential utility services, and there is a very limited supply of such available land.

Since the 1960's, the City's Central Shops, a facility providing repair services to the City's non-revenue vehicle fleet, has been located on a portion of Assessor's Block 5262, Lot No. 009, (approximately 6 acres) with an address of 1800 Jerrold Avenue, adjacent to the Southeast Plant. SFPUC seeks jurisdiction over 1800 Jerrold Avenue for its Wastewater Enterprise by June 2017, consistent with the requirements of its capital improvement program schedule. OCA would consent to a jurisdictional transfer to the SFPUC, provided that OCA receives compensation sufficient to enable occupancy of functionally equivalent facilities and for necessary incurred relocation expenses. The SFPUC Commission approved an MOU with OCA and RED, providing that SFPUC would incur costs and pay OCA the total transfer price of $73,700,000 for OCA to construct functionally equivalent facilities, provided that OCA relocated from the existing Central Shops facilities by June 2017.

Due to time constraints brought on by the challenges of finding suitable relocation sites for Central Shops in the current extraordinarily competitive real estate market for industrial land, and the SFPUC's pressing need for land to accommodate its WWE capital improvement program by the summer of 2017, the Director of Property informally approached entities capable of executing the proposed project and identified one team reasonably available and deemed capable of carrying out the Proposed Project within the time frame required and within the budget developed. The City and Oryx Development I, LLC, the Developer, subsequently entered into negotiations for a Project Delivery Agreement (the "PDA") for Oryx to complete the development, design and construction of the proposed project, subject to obtaining authorization to waive the competitive selection requirements in Administrative Code Chapter 6, Sections 6.61(b) and 6.61(c) (1) – (4).

The OCA, RED and SFPUC have determined that the design-build project delivery method is necessary and appropriate to achieve anticipated time efficiencies and that the use of the design-build project delivery method is in the public's best interest. The proposed PDA is a design-build agreement with two phases. During the first phase, for a negotiated price of $10,300,000, the Developer and its approved subcontractors will completed design of the proposed improvements, permitting and initial construction work to prepare the sites and install piles. The proposed PDA would obligate the Developer to design the project based on RED and OCA's budget of $55 million, and in recognition of the City's desire to obtain beneficial occupancy by June 29, 2017. When its Architect completes 100% construction drawing to the City's satisfaction, the Developer will provide the City with a proposed Guaranteed Maximum Price and schedule establishing the duration for completion of the construction work. If the Guaranteed Maximum Price does not exceed $55 million, and the schedule is acceptable, the City may authorize the second phase of the contract, and issue a Notice to Proceed to the Developer for the construction; provided that the Mayor and Board of Supervisors approve Phase II of the PDA, in their sole and separate discretion. If the cost of the Proposed Project exceeds the $55 million in SFPUC funds as provided in the MOU, then OCA and RED will work with the Developer to amend the scope of the Proposed Project to bring it within budget, or seek the Mayor and Board's approval of supplemental authorization.

The departments seek waiver of the Administrative Code Chapter 6, Sections 6.61(b) and 6.61(c) (1) – (4) to enter into a design-build contract to relocate Central Shops to new functionally equivalent facilities on an expedited timeline, so that the SFPUC Wastewater Enterprise can assume jurisdiction over 1800 Jerrold Avenue, to support implementation of the Wastewater Enterprise capital improvement program on the approved schedule.

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Items 7 and 8 Files 15-1226 and 16-0021	Departments: San Francisco Public Utilities Commission (SFPUC) General Services Agency (GSA) Office of Contract Administration (OCA) Real Estate Division (RED)

EXECUTIVE SUMMARY

Legislative Objectives

- File 15-1226: Ordinance (a) authorizing the Director of Property to execute a Project Delivery Agreement with Oryx, LLC (developer) to design and construct improvements to City-owned properties at 555 Selby Street and 1975 Galvez Avenue and City-leased property at 450 Toland Street for new Central Shops at a total estimated cost of $55,000,000 from San Francisco Public Utilities Commission (SFPUC) Wastewater Enterprise funds; (b) exempting the project from Administrative Code Chapter 6 contracting requirements and approving the selection of Oryx LLC as Developer and Developer's selection of FM&E Architecture & Design to serve as Project Architect and Charles Pankow Builders, Ltd, to serve as General Contractor, without competitive bidding; (c) authorizing the jurisdictional transfer of 1800 Jerrold Street from the General Services Agency's (GSA) Office of Contract Administration (OCA) to the SFPUC and authorizing the jurisdictional transfer of 555 Selby Street, 1975 Galvez Avenue and 450 Toland Street from the SFPUC to OCA, subject to the Memorandum of Understanding (MOU); and (d) finding that the proposed transactions are in conformance with the City's General Plan and the eight priority policies of Planning Code, Section 101.1.
- File 16-0021: Ordinance appropriating $62,200,000 as a transfer from the SFPUC's Wastewater Enterprise Funds to the City Administrator for pre-development costs for the Central Shops Relocation Project in FY 2015-16.

Key Points

- Central Shops is currently located at 1800 Jerrold Avenue. The SFPUC plans to occupy 1800 Jerrold Avenue, which is adjacent to the Southeast Water Pollution Control Plant (Plant), as part of the SFPUC's Sewer System Improvement Program (SSIP). The Board of Supervisors recently approved leasing property at 450 Toland Street and purchasing properties at 555 Selby Street and 1975 Galvez Avenue for the relocation of Central Shops.
- The proposed Project Delivery Agreement is not in final form; the final form of the Agreement will be submitted to the Board of Supervisors by Monday, January 25, 2016.

Fiscal Impact

- The ordinance (File 15-1226) estimates Phase I, Design of the Project Delivery Agreement to cost $8,430,000. The City is now estimating Phase I will cost $10,263,517, including development management fees of up to $1,239,000.
- The acquisition, capitalized 10-year lease expenses, and construction cost to replace the existing Central Shops facilities are estimated to total $73,700,000.
- The proposed supplemental appropriation (File 16-0021) would transfer $62,200,000 from the SFPUC's Wastewater Enterprise Funds to the City Administrator for pre-development costs for the Central Shops Relocation Project, which is $11,500,000 less than the total $73,700,000 cost to reflect that SFPUC previously funded the acquisition of the properties at 555 Selby Street and 1975 Galvez Avenue.

Policy Consideration

- City departments must conduct a competitive process in accordance with City Code. However, the proposed ordinance (15-1226) would waive the City's competitive bidding requirements and approve the selection of the developer, architect and general contractor on a sole source selection basis in order to expedite the proposed project. The City's requirements for competitive bidding promote larger public policy objectives of providing an open process to obtain the most competitive price for the City.

Recommendations

- Amend the proposed ordinance (File 15-1226) to (a) clarify that the Board of Supervisors is only approving Phase I Design of the Project Delivery Agreement, and (b) reflect that the Phase I costs are no longer estimated to be $8,430,000 but rather are currently estimated to be $10,263,517, or not to exceed $10,300,000.
- The Real Estate Division will be submitting further amendments to File 15-1226 to exempt this project from the Chapter 29 requirements regarding fiscal feasibility in accordance with Section 29.1(c)(4).
- Approval of the proposed ordinance (File 15-1226), which would authorize sole source contracts and waive competitive bidding as required by the City's Administrative Code on the proposed Central Shops relocation project, is a policy decision for the Board of Supervisors.
- Amend the proposed supplemental appropriation ordinance (File 16-0021) to place $45,000,000 of the total requested $62,200,000 on Budget and Finance Committee reserve. Given that the Budget and Legislative Analyst considers File 15-1226 to be a policy matter, the companion ordinance (File 16-0021) is also considered to be a policy decision for the Board of Supervisors. The OCA and Real Estate should request the release of the remaining $45,000,000 at the same time when they request approval of Phase II of the Project Delivery Agreement by the Board of Supervisors.

MANDATE STATEMENT

City Administrative Code Chapter 6 specifies the City's public works contracting policies and procedures, with Section 6.61 addressing the award of Design-Build contracts.[1] In accordance with Sections 6.61(b) and (c), prior to selecting and awarding Design-Build contracts, City departments must conduct a competitive process. Such a competitive process may include a pre-qualification process through either an invitation for bids or a request for qualifications or a combined request for qualifications and request for proposals, with selection based on a ranking process.

City Administrative Code Chapter 23, Article II establishes the policies and procedures for the jurisdictional transfers of City property from one department to another. These procedures include that the Director of Property shall prepare a report regarding the estimated fair market value of the property to be transferred and that the Board of Supervisors approve such jurisdictional transfers of City properties.

City Charter Section 9.105 states that amendments to the Annual Appropriations Ordinance, after the Controller certifies the availability of funds, are subject to Board of Supervisors approval by ordinance.

BACKGROUND

The City's Central Fleet Maintenance Shop (Central Shops) is currently located on a City-owned 5.3-acre site at 1800 Jerrold Avenue[2] under the jurisdiction of the City's General Services Agency (GSA). Central Shops provides repair services to the City's non-revenue vehicle fleet. Located immediately adjacent to 1800 Jerrold Avenue is the San Francisco Public Utilities Commission (SFPUC) Southeast Water Pollution Control Plant (Plant). As part of the SFPUC's Sewer System Improvement Program (SSIP), the SFPUC plans to occupy the 1800 Jerrold Avenue site in order to rehabilitate the adjacent Plant and/or as a potential location for the Biosolid Digesters Facilities Project[3].

The GSA plans to relocate Central Shops from 1800 Jerrold Avenue to two sites near its current location. The two sites are: (1) 1975 Galvez Avenue and 555 Selby Street, two adjacent parcels which would be purchased and merged into one site for Central Shops heavy duty fleet repair operations, such as fire trucks, dump trucks and street sweepers, and include administrative offices and support functions; and (2) 450 Toland Street, which would be leased for the Central Shops light duty fleet repair operations, such as light duty trucks, body and paint shop and

[1] Design-Build is defined as an approach to the procurement of design and construction services, whereby a single entity is retained to provide both professional design services and general contractor services.

[2] The City's Department of Technology (DT) Public Safety Division is also located at 1800 Jerrold Avenue, which is responsible for radio repair/installation in public safety vehicles and repair/installation of the City's fiber infrastructure. Real Estate is currently negotiating a new lease for DT's Public Safety Division to relocate from the City-owned 1800 Jerrold Avenue to a private facility, which will be subject to Board of Supervisors approval later this year.

[3] The SFPUC is currently undergoing environmental review for the Biosolids Digester Facilities Project. Biosolid digesters break down solid waste as part of the sewage treatment process.

related employee support functions. On December 15, 2015, the Board of Supervisors approved (File 15-1215; Resolution No. 525-15) authorizing:

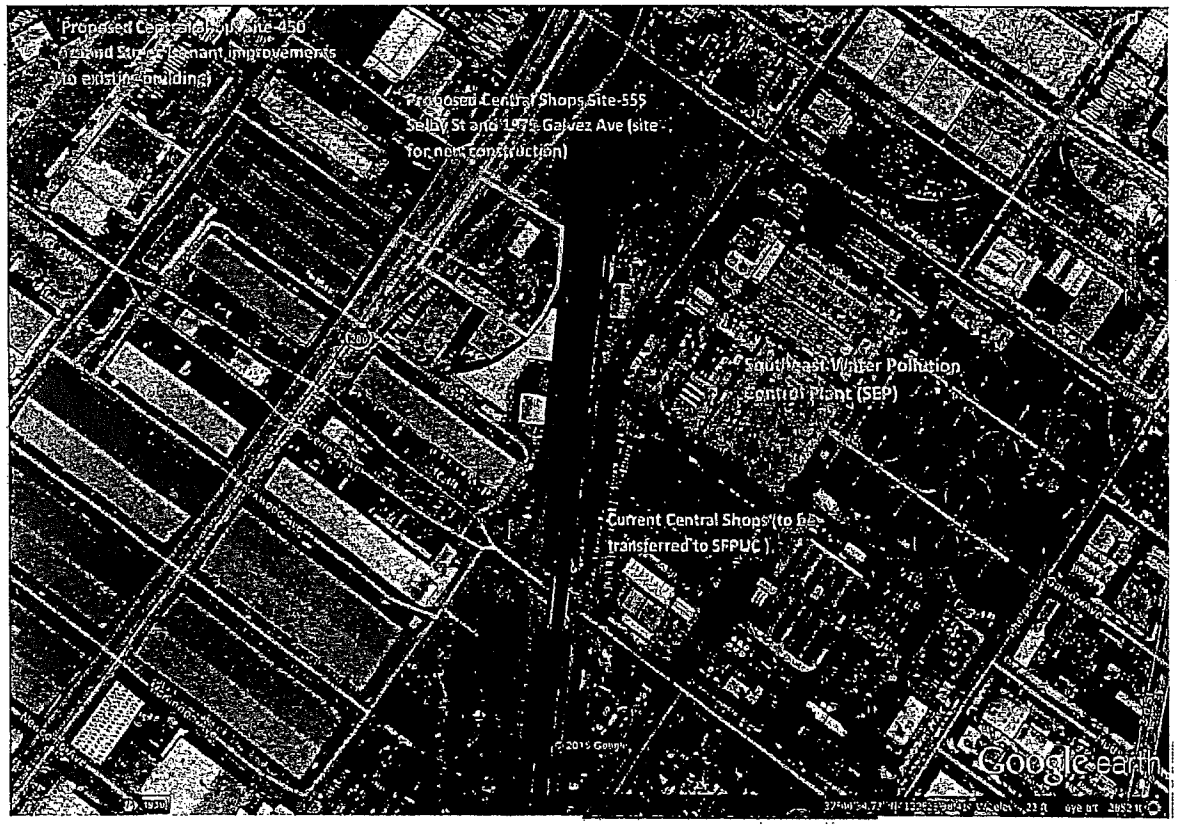
(1) a new lease between the City (as tenant) and Four Fifty Toland, LLC (as landlord) for 450 Toland Street for a term of ten years, with two five-year options to extend, for an initial cost of $735,600 per year with three percent annual increases;

(2) a purchase and sale agreement between the City (as buyer) and Selby and Hudson Corporation (as seller) for 555 Selby Street for $6,300,000; and

(3) a purchase and sale agreement between the City (as buyer) and W.Y.L. Five Star Service Industries, Inc. (as seller) for 1975 Galvez Avenue for $5,000,000.

Figure 1 below shows the current and proposed locations for Central Shops.

Figure 1: Current and Proposed Locations for Central Shops



Source: City Staff

DETAILS OF PROPOSED LEGISLATION

- The proposed ordinance (File 15-1226) would approve and authorize the following:
  1. The Director of Property to execute a Project Delivery Agreement[4] with Oryx, LLC (developer) for the design and construction of proposed improvements to City-owned properties at 555 Selby Street and 1975 Galvez Avenue and tenant improvements to City-leased property at 450 Toland Street, for a new relocated City Central Fleet Maintenance Shop (Central Shops) at a total estimated cost of $55,000,000 from SFPUC Wastewater Enterprise funds;
  2. Exempt the project from certain contracting requirements in Administrative Code Chapter 6 by waiving Sections 6.61(b) and 6.61(c)(1)-(4) and approving the selection of Oryx LLC as Developer and Developer's selection of FM&E Architecture & Design as subcontractor to serve as Project Architect and Charles Pankow Builders, Ltd, as subcontractor to serve as General Contractor, without competitive bidding;
  3. Authorize the jurisdictional transfer of 1800 Jerrold Street from the General Services Agency's (GSA) Office of Contract Administration (OCA)[5] to the SFPUC Wastewater Enterprise and authorize the jurisdictional transfer of 555 Selby Street and 1975 Galvez Avenue and the leasehold of 450 Toland Street from the SFPUC to OCA, subject to the terms and conditions of the Memorandum of Understanding (MOU) entered into between the RED, OCA and SFPUC; and
  4. Find that the proposed transactions are in conformance with the City's General Plan and the eight priority policies of Planning Code, Section 101.1.[6]
  5. Find that the Proposed Project is fiscally feasible consistent with Administrative Code Chapter 29.
- The proposed ordinance (File 16-0021) would appropriate $62,200,000 as a transfer from the SFPUC's Wastewater Enterprise Funds to the City Administrator for pre-development costs for the Central Shops Relocation Project in FY 2015-16. This ordinance would also

[4] The Project Delivery Agreement includes a General Conditions document as an attachment, which specifies the City code requirements, obligations, arbitration, change order and contingency provisions, etc.
[5] OCA currently holds jurisdiction to 1800 Jerrold Street property and Central Shops is under OCA.
[6] The Eight Priorities of City Planning Code Section 101.1 include: (1) existing neighborhood-serving retail uses be preserved and enhanced, and future opportunities for resident employment in and ownership of such businesses enhanced; (2) existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods; (3) the City's supply of affordable housing be preserved and enhanced; (4) commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking; (5) a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced; (6) the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake; (7) landmarks and historic buildings be preserved; and (8) parks and open space and their access to sunlight and vistas be protected from development.

place the $62,200,000 on Controller's Reserve pending transfer of the funds from the Wastewater Enterprise Funds including proceeds of indebtedness[7].

Current Plan and Timeframe

Currently, Central Shops occupies 80,577 square feet of improvements on 263,102 square feet of land at 1800 Jerrold Avenue. Central Shops will occupy 98,000 square feet of improvements on 167,347 square feet of land at the combined 555 Selby Street, 1975 Galvez Avenue, and 450 Toland Street locations, a reduction of 95,755 square feet of land (a 36% reduction), and an increase of 17,423 square feet of improvements (a 22% increase). According to Mr. Updike, the SFPUC needs to occupy 1800 Jerrold Avenue by June 30, 2017 in order to meet the SSIP project timeline. The current estimated timeframe to relocate the Central Shops, including designing and constructing the new Central Shop facilities is approximately 18 months, or June 2017.

Waiver of City's Competitive Bidding Requirements

The proposed ordinance (15-1226) would waive the competitive bidding requirements in the City's Administrative Code and approve the selection of Oryx LLC as Developer and the Developer's selection of FM&E Architecture & Design as Project Architect and Charles Pankow Builders, Ltd, as General Contractor. The ordinance states that due to time constraints coupled with "the current extraordinarily competitive real estate market for industrial land", the "Director of Property informally approached entities capable of executing the Proposed Project and identified one team reasonably available and deemed capable of carrying the Proposed Project within the time frame required and within the budget developed".

Mr. John Updike, Director of Real Estate advises that to complete the City's competitive bidding processes can take approximately a year, whereas sole source selection requires six months, a reduction of approximately six months. Given that the City was not certain of acquisition and leasing sites to relocate Central Shops until late fall of 2015, and the SSIP's project timeline completion of June of 2017, Mr. Updike advises that sole source selection was necessary to secure the proposed project team of developer, architect and general contractor expeditiously.

Mr. Updike advises that the proposed team was selected because given the current economic climate and number of ongoing projects in the City, six or seven other firms capable of executing this project were not currently available. Both Oryx and FM&E Architecture & Design have completed several private development and architecture projects respectively, but neither has previously contracted with the City. Charles Pankow Builders recent projects include the City's Public Safety Building and the War Memorial Veterans Building.

Mr. Dan McKenna of Central Shops reports that a private architecture, engineering and construction management firm, Gannett-Fleming, was hired by OCA at a cost of $400,000 to peer review the proposed project, including validating the 2013 Fleet Management Space Needs Assessment Report, reviewing the Program Plan prepared by DPW, the project design

[7] The source of funding for this ordinance is through the SFPUC's SSIP program, which is funded with Wastewater Enterprise revenue bonds and repaid with by wastewater ratepayers. The SFPUC anticipates issuing an additional $500 million of Wastewater Enterprise revenue bonds on approximately April 15, 2016.

and construction plans to be prepared by the development team and to provide consulting services during the construction phase regarding change orders, schedules and budget.

Project Delivery Agreement

The City is currently negotiating a final Project Delivery Agreement for the Central Shops Replacement Facilities Project on a sole source basis with Oryx, LLC to complete the development, design, management and construction of the proposed project, including entering into and overseeing all contracts for GSA's heavy equipment repair facility at 555 Selby Street and 1975 Galvez Avenue, and GSA's lighter equipment repair facility at 450 Toland Street. As specified in the draft Project Delivery Agreement, all other contracts required for the completion of the project will be entered into by Oryx, without subsequent approvals. Mr. Updike advises that, except for the developer, architect and general contractor agreements, limited use of design-assist subcontractors and limited performance of concrete work and rough carpentry by the general contractor, all subcontracts will comply with the Chapter 6 competitive bidding provisions of the Administrative Code.

However, as of the writing of this report, the proposed Project Delivery Agreement is not in final form. Therefore, the Budget and Legislative Analyst's report is based on the draft Project Delivery Agreement. Mr. Updike advises that the final form of the Agreement will be submitted to the Board of Supervisors by Monday, January 25, 2016.

Under the Project Delivery Agreement, the Project would be completed in two phases:

(1) Design Phase, and

(2) Construction Phase.

The Board of Supervisors is currently being requested to approve Phase I, the Design Phase of the Project Delivery Agreement, as summarized in Table 1 below:

Table 1: Summary of Phase I of the Project Delivery Agreement

- Complete project design, including demolition, permitting, site grading and piles;
- Select and retain licensed architect to design the project;
- Select and retain licensed general contractor to construct the project;
- Provide City with all analyses, surveys, designs, engineering, permits, warranties, etc.;
- Comply with Local Hire, First Source and Local Business Enterprise Program Requirements;
- Design project within project budget of $55 million to be completed by June 29, 2017;
- Procure trade subcontractors on competitive basis, with award to lowest responsive bid;
- Developer may procure design, preconstruction or design-assist subcontractor services based on qualifications only, subject to City representative sole discretion, up to 7.5% of total subcontract costs;
- Developer through its General Contractor may self-perform specific trade work;
- Provide Guaranteed Maximum Price and Schedule for completion;
- Conditioned on agreement to proceed with Phase II (construction), developer will provide the City with a completed project.

The proposed ordinance estimates Phase I to cost $8,430,000. However, based on further due diligence, the City is now estimating Phase I will cost $10,263,517, as shown in Table 2 below, including development management fees of up to $1,239,000 ($846,000 + $393,000).

Table 2: Current Estimated Costs for Phase I, Design

Acquisition due diligence	$25,000
Architect and sub-consultants	2,532,299
Design- build sub-consultants	479,737
Pre-construction services (Pankow)	627,000
Permits and fees	925,475
Legal, insurance, accounting and administration	215,000
Development Management Base Fee	846,000
Development Management Bonus Fee	393,000
Demolition/Site-grading/Piles	3,286,960
Contingency (10%)	933,047
Total	$10,263,517

When the architect completes the construction drawings, the developer will provide a guaranteed maximum price and schedule for completion. If the price and schedule are acceptable, the City may authorize the construction and completion of the project, subject to Board of Supervisors and Mayoral approval. If the price exceeds $55 million, the City will work with the developer to reduce the scope of the project, or seek Mayor and Board of Supervisors approval of supplemental authorization. At that time, the Board of Supervisors would be requested to approve an amendment to this Project Delivery Agreement, to increase the not to exceed amount, dates and requirements for completion.

Given the changes noted above, the proposed ordinance (File 15-1226) should be amended to (a) clarify that the Board of Supervisors is only approving Phase I Design of the Project Delivery Agreement, and (b) reflect that the Phase I costs are no longer estimated to be $8,430,000 but rather are currently estimated to be $10,263,517, or not to exceed $10,300,000.

Jurisdictional Transfer of Properties

The proposed ordinance states that OCA consents to a jurisdictional transfer of 1800 Jerrold Avenue to the SFPUC, provided that OCA receives compensation sufficient to enable occupancy of functionally equivalent facilities and for necessary incurred relocation expenses. Approval of an MOU among the SFPUC, OCA and Real Estate provides that the SFPUC commits $73,700,000 of Wastewater Enterprise funds to the Central Shops Relocation Project to pay for the purchase of 555 Selby Street and 1975 Galvez Avenue, 10-year lease payments for 450 Toland Street, and design and construction costs of the Central Shops facilities. The MOU specifies the following jurisdictional transfers:

- 1800 Jerrold Avenue site from OCA to the SFPUC; and
- 555 Selby Street, 1975 Galvez Avenue and 450 Toland Street sites from SFPUC to OCA.

The MOU also provides that, given that SFPUC ratepayers are paying the cost to purchase sites and relocate Central Shops, if Central Shops fails to occupy, vacates or ceases to use the two acquired properties for Central Shop functions before the useful life of the facilities expire in 30

years, then the SFPUC ratepayers will be reimbursed an amount equal to the unamortized value of the acquisition and improvement costs. The leased property at 450 Toland Street is not included in this provision because if Central Shops ceases to function there, the lease could be terminated.

CEQA and Planning Code Provisions

On October 28, 2015, the Planning Department found that the proposed relocation of Central Shops from 1800 Jerrold Avenue to 555 Selby Street, 1975 Galvez Avenue, and 450 Toland Street was categorically exempt from the California Environmental Quality Act (CEQA). On November 5, 2015, the Planning Department found that the proposed project is in conformity with the City's General Plan and Planning Code Section 101.1.

Administrative Code Chapter 29

Mr. Updike requests that an amendment to the proposed ordinance be approved to invoke the exception to Chapter 29 of the Administrative Code regarding fiscal feasibility permitted in Section 29.1(c)(4) which states that Chapter 29 will not apply to any project that is a utility capital improvement project under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC). According to Mr. Updike, the proposed relocation of Central Shops would not be necessary if the SFPUC utility project did not require the site at 1800 Jerrold Street and the SFPUC is the sole funding source for these projects. Therefore, Mr. Updike will be submitting an amendment at the Budget and Finance Committee meeting on January 27, 2016 to state that the project qualifies under the exemption in Section 29.1(c)(4).

FISCAL IMPACT

The proposed ordinance states that the Director of Real Estate determined that the current fair market value of 1800 Jerrold Avenue is less than the expense required to relocate Central Shops to functionally equivalent facilities, including property acquisition costs, rent, development, design and construction of improvements. Mr. Updike notes that an appraisal, conducted by David Tattersall, determined the fair market value of the 1800 Jerrold Avenue property to be $12,750,000.

Cost of Functional Replacement

According to Mr. Updike, SFPUC will pay OCA the "functional replacement costs" to relocate Central Shops from 1800 Jerrold Avenue to the three new locations. Functional replacement involves an administrative settlement payment to mitigate OCA's costs to relocate Central Shops to the three new locations, including the costs of constructing improvements. The acquisition, capitalized 10-year lease expenses, and construction costs to functionally replace the existing Central Shops facilities at the Selby/Galvez and Toland sites are estimated to total $73,700,000, as summarized in Table 2 below.

Table 2: Total SFPUC Costs

Acquisition of 555 Selby Street	$6,500,000
Acquisition of 1975 Galvez Avenue	5,000,000
Subtotal Acquisitions	$11,500,000
10-Year Lease of 450 Toland Street	6,900,000
Construction of new Central Shops	55,000,000
Moving Expenses	300,000
Total	$73,700,000

Previous and Proposed Appropriation of Funds

Mr. Carlos Jacobo Budget Director for the SFPUC advises that to date $69,552,948 of Wastewater Enterprise Sewer System Improvement Program funds have been appropriated for this project, pending the sale of Wastewater revenue bonds. The balance of $4,147,052 to total $73,700,000 will be appropriated in the FY2016-17 budget, subject to appropriation approval by the Board of Supervisors.

The proposed supplemental appropriation (File 16-0021) would transfer $62,200,000 from the SFPUC's Wastewater Enterprise Funds to the City Administrator for pre-development costs for the Central Shops Relocation Project in FY 2015-16. The requested $62,200,000 is $11,500,000 less than the total $73,700,000 cost shown in Table 2 above, to reflect that the SFPUC funds were used directly to acquire the two properties at 555 Selby Street and 1975 Galvez Avenue.

Given that the proposed ordinance (File 15-1226) is (a) requesting the Board of Supervisors to approve Phase I of the Project Delivery Agreement at an estimated cost not to exceed $10,300,000, and (b) lease payments for ten years at the 450 Toland Street site totaling $6,900,000 were previously approved by the Board of Supervisors, for a total of $17,200,000, amend the proposed supplemental appropriation ordinance (File 16-0021) to place $45,000,000 of the total requested $62,200,000 on Budget and Finance Committee reserve. The OCA and Real Estate can request the release of the remaining $45,000,000 at the same time when they request approval of Phase II of the Project Delivery Agreement by the Board of Supervisors.

POLICY CONSIDERATION

In accordance with Chapter 6 of the City's Administrative Code, prior to selecting and awarding contracts, City departments must conduct a competitive process. However, the proposed ordinance (15-1226) would waive the competitive bidding requirements in the City's Administrative Code and approve the selection of Oryx LLC as the developer and the developer's selection of FM&E Architecture & Design as the architect and Charles Pankow Builders, Ltd, as the general contractor. While recognizing that using a sole source selection of the developer, architect and general contractor will expedite the proposed project, the City's requirements for competitive bidding promote larger public policy objectives of providing an open process to obtain the most competitive price for the City.

RECOMMENDATIONS

1. Amend the proposed ordinance (File 15-1226) to (a) clarify that the Board of Supervisors is only approving Phase I Design of the Project Delivery Agreement, and (b) reflect that the Phase I costs are no longer estimated to be $8,430,000 but rather are currently estimated to be $10,263,517, or not to exceed $10,300,000.
2. The Real Estate Division will be submitting further amendments to File 15-1226 to exempt this project from the Chapter 29 requirements regarding fiscal feasibility in accordance with Section 29.1(c)(4).
3. Approval of the proposed ordinance (File 15-1226), which would authorize sole source contracts and waive competitive bidding as required by the City's Administrative Code on the proposed Central Shops relocation project, is a policy decision for the Board of Supervisors.
4. Amend the proposed supplemental appropriation ordinance (File 16-0021) to place $45,000,000 of the total requested $62,200,000 on Budget and Finance Committee reserve. Given that the Budget and Legislative Analyst considers File 15-1226 to be a policy matter, this companion ordinance (File 16-0021) is also considered to be a policy decision for the Board of Supervisors. The OCA and Real Estate should request the release of the remaining $45,000,000 at the same time when they request approval of Phase II of the Project Delivery Agreement by the Board of Supervisors.

Item 9 File 15-1216	Department: General Services Agency - Department of Public Works (DPW)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve an amendment to the existing agreement between Public Works and Hellmuth, Obata & Kassabaum, Inc. (HOK) for architectural and engineering design and other related consulting services for the San Francisco Police Department's (SFPD) new Traffic Company and Forensic Services Division Facility to be located at 1995 Evans Street.
- The amendment increases the not-to-exceed agreement amount by $10,868,353, from $993,952 to a total not-to-exceed amount of $11,862,305.

Key Points

- The City intends to construct a new 110,000-square-foot facility at 1995 Evans Street, which would relocate the (SFPD Traffic Company and Forensic Services Division from the Hall of Justice to 1995 Evans Street.
- Based on the results of a competitive Request for Qualifications process, DPW selected HOK to provide design services for the proposed facility.
- On September 15, 2015, Public Works awarded an agreement to HOK in the amount of $993,952 to provide program validation and conceptual design phase services.
- DPW is seeking authorization to amend the agreement with HOK to complete schematic design, design development, construction documents, bidding/negotiation, construction administration, and warranty phase services for the proposed facility.

Fiscal Impact

- The total project budget for the new SFPD Traffic Company and Forensic Services Division Facility is $165,000,000.
- The $11,862,305 agreement between the City and HOK constitutes 7.2 percent of the total budget.
- The project is funded by the $400 million Earthquake Safety and Emergency Response Bonds approved by San Francisco voters in June 2014.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(b) states that agreements entered into by a department, board, or commission having a term of (a) more than 10 years; (b) anticipated expenditures of $10 million or more; or (c) modifications to these agreements of more than $500,000, require Board of Supervisors approval.

BACKGROUND

The City intends to construct a new 110,000-square-foot facility at 1995 Evans Street, which would relocate the San Francisco Police Department's (SFPD) Traffic Company and Forensic Services Division from the Hall of Justice at 850 Bryant Street to 1995 Evans Street. The new Traffic Company and Forensic Services Division Facility will include forensic laboratories, laboratory support and office space, and storage and offices for the fleet of motorcycle police officers who provide traffic enforcement.

Construction of the new Traffic Company and Forensic Services Division Facility is part of Public Work's Justice Facilities Improvement Program to replace the Hall of Justice due to seismic deficiencies and obsolete building systems.

Public Works issued a competitive Request for Qualifications (RFQ) on August 8, 2014, for an architectural and engineering team to provide design and other related consulting services to the Traffic Company and Forensic Services Division Facility project. Based on the results of the RFQ process, DPW selected Hellmuth, Obata & Kassabaum, Inc. (HOK) to provide design services for the proposed facility.

On September 15, 2015, Public Works awarded an agreement to HOK in the amount of $993,952 to provide program validation and conceptual design phase services.

Public Works is seeking authorization to amend the agreement with HOK to complete schematic design, design development, construction documents, bidding/negotiation, construction administration, and warranty phase services for the proposed facility.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve an amendment to the existing agreement between Public Works and HOK for architectural and engineering design and other related consulting services for the SFPD's new Traffic Company and Forensic Services Division Facility to be located at 1995 Evans Street. The amendment increases the not-to-exceed agreement amount by $10,868,353, from $993,952 to a total not-to-exceed amount of $11,862,305, as shown in Table 1 below. The total not-to-exceed amount includes an 11 percent contingency amount of $1,078,391.

FISCAL IMPACT

As shown in Table 1 below, the budget for HOK architectural and engineering design-related services totals $11,862,305.

Table 1: Budget for HOK Design Services for the New SFPD Traffic Company and Forensic Services Division Facility

Services	Amount
Existing Agreement	
Program Verification	$225,006
Conceptual Design	768,946
Existing Agreement Subtotal	*$993,952*
Proposed Amendment	
Schematic Design	$1,790,235
Design Development	2,434,466
Construction Documents	2,717,016
Bidding/Negotiation	131,450
Construction Administration	2,641,871
Warranty	74,924
Additional Design Service Subtotal	*$9,789,962*
11 Percent Contingency	1,078,391
Proposed Amendment Subtotal	*$10,868,353*
TOTAL	**$11,862,305**

The SFPD Traffic Company and Forensic Services Division Facility total project budget is $165,000,000. The $11,862,305 agreement between the City and HOK constitutes 7.2 percent of the total budget, as shown in Table 2 below. According to Mr. Charles Higueras, Program Manager at Public Works, the 7.2 percent project budget allocated to architectural and engineering and other supporting design service is consistent with industry standards for this type of project.

The project is funded by the $400 million Earthquake Safety and Emergency Response Bond approved by San Francisco voters in June 2014.

Table 2: Total Budget for Traffic Company and Forensic Services Division Facility

Services	Amount	Percent of Budget
Construction, Purchase, and Installation		
Principal Construction Contract	$100,000,000	60.6%
General Contractor Contingency	1,193,440	0.7
Construction Change Order Contingency	6,903,487	4.2
Art Enrichment	1,972,425	1.2
Hazardous Materials Construction/Abatement	50,000	0.03
Temporary Utilities	450,000	0.3
Construction Subtotal	*$110,569,352*	*67.0%*
Project Control		
Client Department Services	$777,600	0.5%
DPW Project Management	4,410,939	2.7
City Administrative Services	385,000	0.2
Regulatory Agency Approvals	1,460,000	0.9
Architecture/Engineering Design	11,862,305	7.2
Conceptual Planning	844,992	0.5
Additional Architecture/Engineering Services	1,796,835	1.1
Construction Management Services	10,880,981	6.6
Geotechnical, Surveys, and Data Collection	1,541,178	0.9
Reserve	4,640,000	2.8
Project Control Subtotal	*$38,599,830*	*23.4%*
Site Control	*$15,830,818*	*9.6%*
TOTAL	**$165,000,000**	**100%**

POLICY CONSIDERATION

As noted above, Public Works proposes to increase the agreement with HOK for the new SFPD Traffic Company and Forensic Services Division Facility by $10,868,353, from $993,952 to $11,862,353. The scope of services specified in the RFQ included architecture and engineering design services for completion of the project. According to Mr. Higueras, the original agreement with HOK included a limited scope of services for only the initial program verification and conceptual design because it provides for a more certain understanding of the true scope of the project and corresponding construction cost. Public Works is now proposing to amend the agreement to include the full scope of architecture and engineering design services through the completion of the project because it provides for the necessary balance of design service aligned with the defined scope of the project.

RECOMMENDATION

Approve the proposed resolution.

CENTRAL SHOPS REPLACEMENT FACILITIES PROJECT

PROJECT DELIVERY AGREEMENT

Between

CITY AND COUNTY OF SAN FRANCISCO,

a charter city and county,

as the City

and

ORYX DEVELOPMENT I, LLC,

a Nevada limited liability company,

as Developer

Dated as of _____, 2016

TABLE OF CONTENTS

Page

1. **Developer's Responsibilities** 2
2. **Contract Sum** 7
3. **Contract Time And Liquidated Damages** 10
4. **Obligations Of The City** 11
5. **Indemnity; Exculpation** 12
6. **Dispute Resolution** 12
7. **Project Signage** 13
8. **Insurance** 13
9. **Assignment** 13
10. **Rights In Deliverables** 13
11. **Additional Requirements; Certain Requirements Incorporated by Reference** 14
12. **Notices** 17
13. **Compliance With Americans With Disabilities Act** 18
14. **Modification Of This Agreement** 18
15. **Applicable Law** 19
16. **Severability** 19
17. **Counterparts** 19
18. **Benefits and Obligations** 19
19. **Integration** 19
20. **Further Assurances** 19
21. **Headings** 19
22. **Survival** 19
23. **No Waiver** 20
24. **Ownership Of Work Product** 20
25. **Sunshine Ordinance** 20
26. **City's Remedies for False Claims and Other Violations** 20
27. **MacBride Principles -Northern Ireland** 21

EXHIBITS AND SCHEDULES ATTACHED HERETO

Exhibit A	Project Budget
Exhibit B	Criteria Package
Exhibit C	Scope of Developer Services
Exhibit D	Project Schedule
Exhibit E	Reserved
Exhibit F	Developer's Insurance Requirements
Exhibit G	Owner Developer Requirements
Exhibit H	List of Approved Project Contracts
Exhibit I	Local Hire, First Source and LBE Requirements
Exhibit J	Form of Assignment of Intangibles

PROJECT DELIVERY AGREEMENT

THIS PROJECT DELIVERY AGREEMENT ("Agreement"), is made for the convenience of the parties this _____ day of _____, 2016, by and between Oryx Development I, LLC, located at 1001 Van Ness Avenue, San Francisco, California ("Developer"), and the City and County of San Francisco, State of California (the "City"), acting through its Director of Real Estate ("Director").

RECITALS

WHEREAS, the City intends to acquire: (1) fee title to the real property located at 555 Selby Street and 1975 Galvez Street, San Francisco, CA (Lots 015 and 016, Block 5250) (the "Purchased Site"), and (2) a leasehold interest to the real property located at 450 Toland Street, San Francisco, CA (Lot ___, Block ____) (the "Leased Site") (collectively the "Development Sites"), as more particularly described on Exhibit A attached hereto. This Agreement shall not take effect unless and until the City successfully completes its acquisition of the specified interests in real property for the Purchased Site and the Leased Site; and

WHEREAS, the City desires to develop: (1) the Purchased Site into a one-story vehicular repair facility with ancillary administrative office space containing approximately 53,000 gross square feet upon the Purchased Site, and (2) the Leased Site by making tenant improvements to modify the existing 45,000 square foot building to accommodate maintenance and repair of light duty vehicles, ladder shop, body and paint shop, metal fabrication and welding shop, and administrative offices and amenities. The scope of work to be performed on the Development Sites is described in greater detail in the Criteria Package, attached as Exhibit B (the "Central Shops Replacement Facilities Project" or the "Project"); and

WHEREAS, the City wishes to retain Developer to Provide all services necessary to design and construct a complete and fully-functional Project, including but not limited to project management, design, and construction services. The City acknowledges that Developer does not hold any contractor, architect, or engineering licenses, and that Developer will retain Subcontractors holding such licenses to perform all Work under this Agreement that must be performed by a licensed entity or individual. Developer wishes to Provide the services sought by the City as described above, all on the terms and conditions hereinafter set forth.

NOW, THEREFORE, Developer, in consideration of the mutual covenants set forth in this Agreement, promises and agrees to Provide all services to design and construct the Project in accordance with the requirements of the Contract Documents, to perform the Work in good and workmanlike manner to the satisfactions of the Director, to prosecute the Work with diligence from day to day to Final Completion, to furnish all project management services, design services, and all construction work, labor and materials to be used in the execution and completion of the Work in accordance with the Contract Documents, and to otherwise fulfill all of Developer's obligations under the Contract Documents, as and when required under the Contract Documents, to the satisfaction of the Director. Developer's execution of this Agreement signifies its acceptance of the Contract Time and the Contract Sum as being sufficient for completion of Phase One of the Work as hereinafter defined and development of proposals for Provision of Phase Two of the Work, as well as acceptance of the other terms and conditions of the Contract Documents.

1. Developer's Responsibilities

1.1 Contract Documents. Developer shall Provide all Work according to the Contract Documents, which are incorporated into and made a part of this Agreement by this reference, and all labor, materials and services used in providing the Work shall comply with the Contract Documents. The Contract Documents, which comprise the entire agreement between Developer and the City concerning the Provision of the Work, are defined in the General Conditions. Defined terms used in this Agreement shall be given the definition set forth herein or as set forth in the Article 1.01 of the General Conditions.

1.2 General Responsibilities.

(a) Developer shall provide all Developer Services required to design, construct, and Deliver the Project to the City.

(b) The Work of this Project is divided into two phases: (1) Phase One -- the Design Phase; and (2) Phase Two -- the Construction Phase, as set forth in Exhibit D hereto. At the time of execution of this Agreement, the City is only proceeding with Phase One. The Contract Sum and Contract Time set forth herein apply only to Phase One Work. Proceeding with Phase Two is conditioned upon approval by the City of the Construction Documents and subsequent agreement by the Parties on the Contract Sum, Contract Time, and Scope of Work applicable to Phase Two Work.

(c) Developer shall select and retain a Subcontractor that is a licensed design professional ("Architect), subject to City Approval, to design the Project in Phase One and obtain the regulatory approvals needed to complete the project in Phase One and to assist the General Contractor with design-related issues during Phase Two. City has pre-approved Developer's request to approve FM&E Architecture & Design as a Subcontractor to Developer serving as the Project Architect.

(d) Developer shall select and retain a Subcontractor that is a licensed general contractor ("General Contractor") to provide input into the Architect's Project design during Phase One and to construct the Project during Phase Two (subject to the issuance of a Notice to Proceed for Phase Two as set forth above in Paragraph 1.2 (b) above. City has pre-approved Developer's request to approve Charles Pankow Builders, Ltd., A California Limited Partnership, as a Subcontractor to Developer serving as the Project's General Contractor.

(e) Developer shall Provide the City with all Phase One Work as set forth herein (Project design and construction of approved pre-Construction Phase site work), including, but not limited to, all applicable investigations, analyses, surveys, engineering, design, procurement, materials, labor, workmanship, construction and erection, commissioning, equipment, shipping, subcontractors, material suppliers, permits, insurance, bonds, fees, taxes, duties, documentation, spare parts, materials for initial operation, security, disposal, startup, testing, training, warranties, guarantees, and all incidentals.

(f) Conditioned on agreement by the Parties to proceed with Phase Two (Construction) of the Project, Developer shall Provide the City with a fully-functional, complete and operational Project constructed in accordance with the Contract Documents, including but not limited to, all investigations, analyses, surveys, engineering, design, procurement, materials, labor, workmanship, construction and erection, commissioning, equipment, shipping, subcontractors, material suppliers, permits, insurance, bonds, fees, taxes, duties, documentation, spare parts, materials for initial operation, security, disposal, startup, testing, training, warranties, guarantees, and all incidentals.

1.3 Design Services.

(a) Design. The City will issue a Notice to Proceed with Design within five (5) Days after execution of the Agreement. Developer shall perform the Design Requirements based on the scope of work contained in the Criteria package and its commitment to assist the City in its efforts to meet the City's Project budget and schedule. Developer acknowledges and agrees that the Developer is designing toward a budget limit set by the City for the Project ("Budget Limit") as set forth in Exhibit A for all Work necessary to Deliver the Project. Developer shall perform all reviews, estimates, and other Design Requirements in conformance with the Budget Limit and timelines set by the City pursuant to the terms of this Agreement; provided however, that (i) the City acknowledges that the Phase Two construction costs reflected in the Project Budget are merely estimates and that the actual cost of Phase Two will be determined only upon the acceptance by the City of the Phase Two Budget (defined below), (ii) modifications to the Criteria Package by the City may result in cost increase above the Budget Limit, (iii) the discovery of latent, concealed, or otherwise differing conditions in the Development Sites unknown at the date of this Agreement, including but not limited to the discovery of hazardous materials], may result in cost increases above the Budget Limit.

(i) The City's total "Phase One Project Limit, which is that portion of the Budget Limit for all Phase One services by Developer under this Agreement, is $10,264,000.

(ii) This City seeks to obtain substantial completion of Phase One of the Work (Site Work) by March 31, 2017, subject to date of issuance of a NTP for Phase One on March 10, 2016 ("Phase One Project Schedule").

(iii) Developer shall provide all Design Requirements in conformance with the Project Schedule and shall provide timely comment, input, reports, or responses as appropriate. Failure by Developer to provide timely services may result in termination of this Agreement for cause.

(iv) During the Design Phase, Developer will oversee and coordinate the work of the Architect and other design sub-consultants and work closely with the City Representative to facilitate discussion and design decisions to provide information, estimates, schemes, and recommendations to the City regarding construction materials, methods, systems, phasing, and costs that will provide the highest quality, energy conserving and efficient building within the Budget Limit and schedule for the Project.

(b) Core Lower-Tier Subcontractors. At any time after the Notice to Proceed with Phase One (Design), Developer may select Core Lower-Tier Subcontractors for design, preconstruction, or design-assist services for the disciplines listed below based on qualifications only. The selected Core Lower-Tier Subcontractors may also provide construction services as more fully described in Section 1.5(b).

(i) Mechanical,
(ii) Electrical,
(iii) Plumbing,
(iv) Fire Protection/Fire Suppression,
(v) Building Envelope/Curtain Wall,
(vi) Steel, and
(vii) Elevators.

1.4 Construction Services.

(a) General. Following the City's issuance of a Notice to Proceed with Phase Two Construction, Developer's General Contractor and all of its subcontractors contracted for the construction of the Project will provide all construction services from mobilization through Final Completion necessary to construct the Project in accordance with the Contract Documents and to render the Project and all of its components operational and functionally and legally usable. Developer will furnish construction administration and management services and will perform the Project in an expeditious and economical manner consistent with the requirements of the Contract Documents.

(b) Standard. At a minimum, Developer and its General Contractor shall be responsible to perform construction services consistent with the standards reasonably expected from a general contractor who submits a competitive bid with its own list of subcontractors to perform all of the construction work under a contract, including, but not limited to, construction, value engineering/integration services, construction management, contract administration, cost control, subcontractor procurement, scheduling, coordination, testing, shop drawing development, processing/review, and distribution of product warranties/related documentation, commissioning and startup, and project closeout.

1.5 Procurement and Award of Trade Subcontracts.

(a) Competitive Procurement. Developer shall assure full and open competition for the procurement of all Trade Subcontractors except as otherwise permitted hereunder. In doing so, except as provided in this Article 1.5, Developer shall follow a two-step process: (1) pre-qualification and (2) competitive bid as follows:

(i) Pre-Qualification: Developer, with City's approval, will develop pre-qualification standards for all Trade Subcontractors. Developer will establish a pool of no fewer than three (3) pre-qualified bidders for each trade package, subject to the approval of the City. If Developer is unable to pre-qualify at least three (3) bidders for a trade package, Developer shall provide a written justification to the City for approval. The City, in its sole discretion, may require the Developer to take additional steps to pre-qualify bidders such as advertising the subcontracting opportunity on a publicly-accessible City website. Only pre-qualified bidders will be allowed to bid. Developer, with the assistance of the City, will resolve any protests or disputes relating to the pre-qualification process.

(ii) Trade Packages: Developer shall receive sealed bids from pre-qualified bidders. The bid security provisions of San Francisco Administrative Code Section 6.21 will not apply, unless expressly pre-approved by the City. The City Representative will be present at bid opening to ensure a fair and equitable process. Developer will consult with the City Representative before rejecting any bids.

(iii) Developer shall award the Trade Package to the responsible bidder submitting the lowest responsive bid.

(b) Limited Noncompetitive Procurement – Core Lower-Tier Trade Subcontractors. Developer may procure design, preconstruction, or design-assist services from Core Lower-Tier Trade Subcontractors based on qualifications only. As soon as practical, Developer may seek from a Core Lower-Tier Trade Subcontractor a written cost proposal for construction of the related trade package and submit the cost proposal to the City Representative for consideration. The City may either approve Developer's request to award the trade subcontract to the Core Lower-Tier Trade Subcontractor based on the cost proposal or, at the City Representative's sole discretion, he or she may require the Developer to competitively procure the trade package by competitive bid in conformance with section 1.5(a) and /or the

Phase Two Project Schedule as necessary for the General Contractor to procure such trade package by competitive bid.

(c) Self-Performed Trade Work: Developer through its General Contractor may self-perform Trade Work under the following conditions:

(i) Eligible scopes of work: Cast-In-Place Concrete, Rough Carpentry, Millwork, Demolition & Salvage.

(ii) The City, in its sole discretion, shall either authorize General Contractor to bid against pre-qualified Trade Subcontractors or accept a fair and reasonable price proposal for the Trade Package from the General Contractor.

(iii) In determining whether the General Contractor's price proposal is fair and reasonable, the City Representative will make the determination by comparing the General Contractor's cost proposal against an independent cost estimate.

(d) Developer may negotiate subcontracts for trade work up to an amount not exceeding 7.5% of total estimated construction subcontract costs. The City Representative shall establish a maximum dollar value for each negotiated trade subcontract.

(e) Contigent on the Parties' agreement on a budget for Phase Two (the "Phase Two Budget"), the City will modify this Agreement by increasing Developer's scope of Work and the Contract Sum by the amount of the Phase Two Budget. Once the Phase Two Budget is added to the Agreement, the City acknowledges it will be obligated to pay Developer the amount of funds certified by the Controller for conforming work actually performed, provided there is no offset by the City for liquidated damages, non-conforming work, or other circumstances preventing payment. Developer acknowledges that any work related to Trade Packages to the extent such work has not been added to the Agreement by written, properly authorized Trade Package Set, is done at the sole risk of Developer.

1.6 Developer Services. During the term of this Agreement, Developer shall Provide all Developer Services necessary for the Project's management, design, construction, completion, and delivery of the completed Project to the City. Developer shall Provide all design and construction services necessary for receipt of all occupancy permits and authorizations (e.g., LEED requirements in Chapter 7 of the Administrative Code for municipal buildings, Civic Design Review approval by the San Francisco Arts Commission, regulatory approvals such as Building Permit and trade construction permits) to operate a facility that meets or exceeds all design and specification requirements that have been agreed upon between the City and Developer based on the criteria set forth herein and in the Criteria Package (Exhibit C), including, but not limited to, compliance with all industry standards and all applicable codes and regulations.

(a) Developer shall timely pay any and all fees, charges, costs, expenses and other amounts properly due and payable by Developer under this Agreement.

(b) Developer shall supply qualified personnel necessary to perform its responsibilities under this Agreement, and all such persons shall be employees, agents, or Subcontractors of Developer and shall not be, or be deemed to be, employees of the City. Developer shall employ such employees as shall be necessary or appropriate to enable Developer at all times to oversee, coordinate and provide the Developer Services as required under this Agreement. All matters pertaining to the

employment, training, conduct, supervision, compensation, promotion and discharge of such employees shall be the sole responsibility of Developer and Developer shall comply with all applicable laws and regulations having to do with worker's compensation, social security, unemployment insurance, hours of labor, wages, prevailing wages, working conditions and safety and similar matters with respect to such employees. Should the City determine that Developer, or any agent or employee of Developer, is not performing the Developer Services in accordance with the requirements of this Agreement, the City shall provide Developer with written notice of such failure. Within five (5) business days of Developer's receipt of such notice, Developer shall take commercially reasonable efforts to remedy the deficiency. Notwithstanding the foregoing, if the City believes that an action of Developer, or any agent or employee of Developer, warrants immediate remedial action by Developer, the City shall contact Developer and provide Developer in writing with the reason for requesting such immediate action.

1.7 Project Contracts.

(a) Assignment. The term "Project Contracts" shall include the Architect Contract, the General Contractor's Construction Contract, subcontracts entered into by the Architect or General Contractor, and various materials and equipment contracts with the suppliers. In the event this Agreement is terminated for any reason, Developer shall, if so directed by the City, immediately assign the Project Contracts to the City in accordance with the Contract Documents.

(b) Provisions in Project Contracts. Developer shall include or require inclusion of the contract provisions required under S.F. Administrative Code sections 6.22 and 6.61, including the provisions set forth in Exhibit G and Exhibit I in all Project Contracts, except as any requirements in those sections may be waived by the City's Board of Supervisors.

(c) Design Professional Services. In addition to the requirements in Exhibit G and Exhibit I, Developer shall include contract provisions required under S.F. Administrative Code section 6.42, including the provisions set forth in Exhibit H, in the Architect's Subcontract and all subconsultants to the by the Architect.

1.8 Project Coordinator. Developer shall cooperate with the City in order to perform the Developer Services to ensure compliance with applicable deadlines and to cause the expeditious and timely completion of the Project. Developer designates Laura Billings, who will be dedicated to the Project, to serve as Developer's primary contact with the City (the "Project Coordinator"). The Project Coordinator shall attend regularly scheduled preconstruction, construction and related meetings relating to the Project and report to the City regarding the same. In addition, Developer shall organize, prepare agendas and lead construction progress meetings on a regular basis for the City's personnel assigned to the Project, no less than weekly. Developer shall keep the City informed of all material matters relating to or affecting the Project. In such regard, the Project Coordinator shall communicate directly with the "City's Representative" on a regular basis, informing such person of all material events relating to the Project. In addition, Developer shall promptly and in a timely manner answer all inquiries the City may have with respect to the Project. Developer may change the designated Project Coordinator during the term of this Agreement with City's consent, which shall not be unreasonably withheld.

1.9 Communications with the City; Regularly Scheduled Meetings. Developer shall make its personnel available at reasonable times for communications with the City and will keep the City advised of all matters affecting the Project within the scope of Developer's Services and will provide updates regarding the status of the Project on a monthly basis. Developer shall designate representatives of its Architect and General Contractor, who are acceptable to the City, who shall be authorized by those entities as individuals

with the authority, respectively, to bind the Architect or the General Contractor, and who shall attend construction project meetings. In addition to "regularly scheduled" construction progress meetings, appropriate personnel of Developer and its Subcontractors shall attend other meetings as reasonably requested by the City relating to the Project.

1.10 Procuring Project Development Approvals. Developer shall submit requests for regulatory and other approvals in a timely manner in order to obtain all required approvals that are necessary for the Project in accordance with the Project Schedule. Notwithstanding the foregoing, City acknowledges and agrees that (i) the timeline for City's review and approval of the Design Submittals and related documents, (ii) the timeline for public or regulatory agencies' (including but not limited to the California Department of Transportation and the Pacific Gas and Electricty Company) review and processing of approvals, and (iii) objections or appeals by unsucessful bidders during the bid procees, is outside the reasonable control of Developer. The Project Schedule contains reasonable assumptions about the anticipated time periods associated with City's and regulatory agencies' reviews and approvals and the bid process required by the Contract Documents. If the actual time periods for the foregoing exceeds the assumption(s) in the Project Schedule or the time periods expressly set forth in this Agreement, then all such delay(s) in excess of the time periods assumed in the Project Schedule or otherwise set forth in this Agreement shall be considered Unavoidable Delay, and the parties shall make an equitable adjustment to the Project Schedule.

1.11 Standard of Performance. Developer covenants to the City that the Developer will perform or cause the applicable Subcontractor(s) to perform the Work 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 for construction managers, design professionals, and construction contractors. Without limiting the foregoing, Developer shall perform the Developer Services in a manner consistent with Developer's work on the other similar projects. Developer understands and agrees that in entering into this Agreement, the City is relying on Developer's experience and expertise and Developer's commitment to take such actions as needed to manage the Project's design and construction consistent with other similar projects completed by Oryx, or by senior members of Oryx staff as completed by them prior to employment by Oryx. Under this Agreement, Developer shall, consistent with industry standards for similar projects, closely monitor and oversee the work of its Subcontractors throughout the construction of the Project, and promptly notify the City of any defaults, deficiencies or violations of which it becomes aware.

2. Contract Sum

2.1 Contract Sum. The Contract Sum for Phase One is the amount set forth in section 2.2 for Phase One Work. Conditioned upon agreement by the Parties to a budget for Phase Two, the Contract Sum shall me modified to include the agreed-upon amount for Phase Two.

2.2 Initial Contract Award. The Initial Contract Award for Phase One Work is $10,264,000, which includes the following pricing:

(a) Design Fee. The Design Fee in the amount of $3,639,000. Developer agrees that the amount of the Design Fee provides full compensation for the Project's design, including but not limited to all services of the Architect, Architect's subconsultants, General Contractor, and Core Lower-Tier Subcontractors as permitted under subsection 1.3(b) of this Agreement, necessary to Provide 100% Construction Drawings and construction administration services for the Site Work, but excluding construction oversight and other construction administration services by the Architect and other design consultants to be included in the Phase Two Budget, and excluding any additional design services required

of the Architect and other design consultants during Phase Two Construction Work (e.g., modifications to the Construction Documents required as a result of a Change Order).

(b) Site Work. Pre-Phase Two construction Site Work in the amount of $3,287,000, which shall constitute payment in full abatement, demolition, grading, sitework and piles, and a 10% contingency for the Site Work, and all Work by the General Contractor and Architect related to design, performance, and completion of the Site Work to the satisfaction of the City Representative.

(c) Management Fee: The Management Fee is a fee payable to Developer for Developer's project management services during Phase One. The Management Fee shall comprise a "Base Fee" and a "Bonus Fee". The Management Fee shall include all of Developer's construction management fees and project management fees, (excluding third party, project specific costs) for Phase One Work.

(i) The Base Fee shall be a lump sum in the amount of $846,000 which amount shall be paid periodically as follows: The amount of $70,500 shall constitute an initial payment to Developer for its management services up to the issuance of the NTP for Phase One,which may be submitted for payment with the Application for Payment following the issuance of the NTP. The balance of the Base Fee shall be payable monthly commencing with the first Application for Payment and monthly thereafter, for eleven additional payments of $ 70,500 each. (the "Monthly Payments"). In the event that Phase One is completed prior to the payment of all of the Monthly Payments referred to above and if the City has not issued a NTP with construction for Phase Two to Developer, then all of the remaining unpaid Monthly Payments shall be due and payable at the completion of Phase OneThe Bonus Fee shall be lump sum of $393,000.

(ii) The Bonus Fee shall be earned and payable if the Phase One Contract Duration has been accomplished within the Contract Time and for an amount equal to, or less than the Contract Sum set forth in Section 3.1 herein.

(d) Other costs. Other applicable costs include (without limitation) consulting, legal, project insurance, permits and other Project specific fees (including a contingency allowance thereon) in the total amount of $2,099,000.

2.3 Contingency Reserves: The GMP, the Phase One and Phase Two Budgets contain the following contingency reserves: Contractor's Contingency, Developer's Contingency and Indirect Costs Contingency (collectively the "Contingencies" or "Contingency Reserves") to cover changes in market conditions, cost to repair defective work not recovered from subcontractors or suppliers, and any unanticipated costs arising from changes in circumstances. The Developer's Contingency shall also include reserves to cover unforeseen conditions discovered after the commencement of the Work. The Contingencies shall not be used to fund any increase in the cost of the Work associated with changes requested by the City to the Scope of Work or the Criteria Package.

(a) Contingency Reserves may be used only upon Developer's submission of a Contingency Utilization Form describing the scope and approximate cost of the work requested as a draw from a Contingency reserve. Any construction-related request shall first be applied to the Contractor's Contingency, while design or other non-construction requests shall first be applied against the Indirect Costs Contingency. In event that the Contractor's Contingency or the Indirect Costs Contingency are respectively exhausted, such requests may be applied to the Developer's Contingency. Once the Contingency Utilization Form has been approved by the City, which approval shall not be unreasonably denied, conditioned, or delayed, Developer may proceed with the subject work ("Contingency Work") and, upon

completion, Developer shall notify the City that the Contingency Work is complete. Developer's notification shall include a detailed description of the Contingency Work completed and all necessary supporting documentation to back up the final cost of the Contingency Work, which will then be billed as part of the monthly progress payments.

(b) Upon Final Completion of the Work, any unused Contingency Reserves shall be divided among the parties as follows.

(i) Any unused amounts remaining in the Contractor's Contingency shall be shared equally between the City and Developer, with Developer further sharing it's share with the General Contractor under the terms of Developer's contract with the General Contractor.

(ii) Any unused amounts remaining in the Indirect Costs Contingency or the Developer's Contingency shall be shared equally between the City and Developer.

(c) In the event that, at Final Completion of Work, the Phase One and Phase Two Budgets (including the GMP contained therein) have not been fully expended, such "Cost Savings" shall accrue to the benefit of the City.

2.4 Phase Two Budget, Authorized Not-To-Exceed Amount ("Guaranteed Maximum Price" or "GMP") and Contract Time for Phase Two. Prior to or upon City's approval of the 50% Construction Documents, the Developer shall prepare and submit for approval a proposal for the GMP to be included with the Phase Two Budget proposal, and Contract Time for Phase Two. The Estimated Total GMP shall be prepared by the General Contractor on the basis of accepted bids for Trade Packages and the General Contractor's estimates for Trade Packages which have not completed the bid process at the time of the GMP proposal. If the Phase Two Budget and Phase Two Contract Time is acceptable to the City, the City's Board of Supervisors may authorize a not-to-exceed contract amount and Phase Two Contract Time and approve the City to issue a Notice to Proceed with Phase Two Construction. At no time, shall the Contract Sum exceed the Budget Limit.

2.5 Trade Package Sets

(a) Trade Packages Sets are scopes of Work to be procured in conformance with Article 1.5 above and the General Conditions. Trade Package Sets will be issued by the Developer at various intervals throughout the Agreement for the purpose of soliciting bids, selecting and contracting with trade subcontractors.

(b) Each Trade Package Set shall include any costs associated with errors and omissions, trade scope gaps, and schedule issues relating to the Work included in the Trade Packages. A Trade Package Set shall not include unanticipated costs for unforeseen conditions outside the control of Developer or design changes initiated by the City by Design Directive. Any costs associated with these items will be incorporated into the Agreement by Change Order.

(c) The total price for each Trade Package Set shall be the lowest responsive bid from a responsible bidder for the trade work or directly negotiated trade work as allowed by the Agreement. The Trade Package Base Bid shall not include any scopes of work for the trade that are part of any Trade Package Reserves.

2.6 Change Orders. The Contract Sum may be increased or decreased by Change Orders. Change Orders are governed by General Conditions Article 6 – Clarification and Changes in the Work.

2.7 Contract Closeout. Upon Final Completion of the Work, any unused Trade Package Reserves and Trade Package Allowances shall accrue to the benefit of the City, including the Developer's Fee associated with unused Trade Package Set Allowances and Trade Package Set Reserves, and the Contract Sum shall be adjusted by deductive Change Order.

2.8 Certification by the Controller. This Agreement is subject to the budget and fiscal provisions of the City. Charges will accrue only after prior written authorization certified by the City Controller, and the amount of the City's obligation under this Agreement shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

3. Contract Time and Liquidated Damages

3.1 Contract Duration. The Project will be accomplished in two phases: (1) the Design Phase (or "Phase One"); and (2) the Construction Phase (or "Phase Two"). The phases of Work are more fully described in Exhibit C hereto.

(a) The Design Phase shall include Site Work at the Development Sites including abatement, demolition, grading, sitework and piles. . This work requires plans stamped by the appropriate design professional and approved by the City and the City's issuance of a Notice to Proceed with such Work. The Work must be performed by contractors holding the appropriate license.

(b) Developer shall commence Design Phase Work promptly after the Controller's Office certifies this Agreement and the City issuance of a Notice to Proceed with Design.

(c) The total contract duration for the Design Phase, including the City's approval of the 100% Construction Documents, receipt of all required regulatory approvals, and completion of the Site Work is 365 consecutive calendar Days, subject to extensions of time resulting from Unavoidable Delays.

(d) Developer shall include with its GMP proposal for Phase Two the number of consecutive calendar Days to constitute the duration of the Construction Phase until achievement of Substantial Completion. If the Parties agree on the duration of the Construction Phase (and the GMP as discussed in Article 2), subject to the approval of the City's Board of Supervisors and certification of funds by the office of the city Controller, the agreed-upon duration for the Construction Phase will be implemented by contract modification.

(e) The duration for Developer to achieve Final Completion is ninety (90) consecutive Calendar Days following the City's issuance of a Notice of Substantial Completion.

3.2 Liquidated Damages. The City and the Developer understand and agree that time is of the essence in all matters relating to the Contract Documents and that the City will suffer financial and other, intangible but significant losses if the Work is not completed within the Contract Time, as may be extended in accordance with Article 7 of the General Conditions. The City and Developer further understand and agree that the actual cost to the City that would result from Developer's failure to complete the Work within the Contract Time is extremely difficult, if not impossible, to determine. Accordingly, the City and Contractor agree that, as City's sole and exclusive remedy for delay), Developer will pay the City liquidated

damages for delay (but not as a penalty) the following amounts for each day a phase of work remains uncompleted after expiration of the durations referenced above:

(a) Design Phase: $5000 for each Day after the Design Phase duration on which Developer has not accomplished completion and City approval of the 100% Construction Documents pursuant to the approval time frames herein;

(b) Site Work: $500 for each Day after the Site Work duration on which Developer has not accomplished Substantial Completion of the Site Work.

(c) Construction Phase: $5000 for each Day after the Construction Phase duration on which the Developer has not accomplished Substantial Completion until the City issues a Notice of Substantial Completion.

Final Completion: $500 for each Day after the 90-day duration following Substantial Completion on which the Developer has not accomplished Final Completion until the City issues a Certificate of Final Completion.

4. Obligations of the City

4.1 City Representative. The City will provide timely notice to the Developer (no later than the date of issuance of the NTP with Design) of the City employee designated as the City's representative for purposes of contact between the City and Developer in connection with the construction of the Project, including, without limitation, the giving of notices, consents and approvals ("City Representative"). The City representative may, in a signed written document, which he or she may withdraw at any time, designate another City employee as the City Representative's authorized designee. The City may at any time, by notice given to Developer, remove the City's Representative and appoint another individual to act as the City's Representative. Except as set forth in this Agreement to the contrary, the City's Representative or designee shall have the authority to bind the City with respect to all matters for which the consent or approval of the City is required or permitted pursuant to this Agreement and all consents, approvals and waivers given by the City's Representative shall bind the City and may be relied upon by Developer. The City Representative may delegate his or her authority to another individual by written notice to the Developer, which may be changed or withdrawn at any time.

4.2 City Cooperation. The City shall cooperate with Developer for the design and construction of the Project and shall promptly and in a timely manner (a) provide information regarding its requirements for the Project, (b) answer inquiries Developer may have with respect to such information, and (c) timely approve or disapprove (in accordance with the terms of this Agreement) any items and grant its approval for Developer to execute Project Contracts required for the development of the Project. The City shall provide responses to additional information or decisions requested by Developer of the City in a prompt and timely manner in accordance with the terms of this Agreement.

4.3 City Keeping Developer Informed. The City shall keep Developer promptly informed of all material matters that come to the City's attention relating to or affecting the project management, design or construction of the Project relevant to the Developer Services, including, without limitation, all agreements and discussions between the City and third parties relating to such matters, and the City shall promptly notify Developer of any developments necessitating or warranting a change in the Project Plan or the Plans and Specifications.

5. Indemnity; Exculpation

5.1 Developer Indemnity. Developer's indemnity obligations are set forth in sections 3.21 and 3.22 of the General Conditions.

5.2 City Exculpation. No board or commission of the City (and no officer, director, member, manager, employee or agent of the City) shall be personally liable for the performance of the City's obligations under this Agreement.

5.3 Developer Exculpation. No direct or indirect partner, employee, sub-consultant, shareholder or member in or of Developer (and no officer, director, managing director, manager, employee, sub-consultant or agent of such partner, shareholder or member) shall be personally liable for the performance of Developer's obligations under this Agreement.

5.4 Limitations. No insurance policy covering Developer's performance under this Agreement shall operate to limit Developer's liability under this Agreement. Nor shall the amount of insurance coverage operate to limit the extent of such liability. Notwithstanding any other provision of this Agreement, in no event shall either Party be liable to the other, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement or the Developer's performance of the Work.

5.5 Liability for Use of Equipment. The Developer shall be liable, and the City shall not be liable, for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Developer, or any of its Subcontractors, or by any of their employees, subcontractors, or agents, even though such equipment is furnished, rented or loaned by the City.

6. Dispute Resolution

6.1 Non-Binding Mediation.

(a) Upon an alleged default, either party may request non-binding mediation by delivering a written request for mediation ("Mediation Request") to the other party. The Mediation Request must include a summary of the issue in dispute and the position of the parties, together with any backup information or documentation it 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 matter. In the absence of such agreement, or if the meet and confer does not resolve the matter promptly, the party who requested meditation may submit the matter for mediation to a mediator acceptable to both parties. If the parties cannot agree on a mediator, the party may refer the matter for mediation with JAMS.

(b) The parties will cooperate with one another in selecting a mediator who is acceptable to both parties or 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 the matters submitted to mediation until after the completion of the initial mediation session. 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 in sections 1115 through 1128 of the California Evidence Code, inclusive, will apply in connection with any mediation.

(c) 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.

6.2 Upon the failure of any agreed-upon mediation to resolve the default in question, the Parties may pursue such rights and remedies as are available under this Agreement – the Parties agreeing that the aforementioned mediation process is a non-binding process.

7. Project Signage

Developer may maintain reasonable and customary signage at the Development Site specifying Developer's role in the Project.

8. Insurance

8.1 Developer Insurance. Developer shall procure and maintain, at its cost and expense, insurance relating to the Project in conformance with the requirements stated at Exhibit F attached hereto.

8.2 Developer Obligations to Submit Reports. Upon receipt of notice thereof, Developer shall promptly investigate and make a written report to any insurance company providing coverage to the City with respect to the Project, with a copy to the City, of all accidents, claims, or damage relating to the Project within the scope of the Developer Services, any damage or destruction to the Project and the estimated cost of repair thereof, and shall prepare such further reports required by any such insurance company in connection therewith.

9. Assignment

9.1 Developer Assignment. The services to be performed by Developer and its Subcontractors under this Agreement are personal to Developer and its Subcontractors and neither Developer nor its Subcontractors may not assign or transfer their obligations under this Agreement or any rights or benefits under this Agreement to any person or entity without the prior written approval of the City, which consent may be granted or withheld in the City's sole discretion.

9.2 Obligations Binding on Permitted Assigns. All of the covenants, conditions and obligations contained in this Agreement shall be binding upon and inure to the benefit of any respective permitted successors and assigns.

9.3 No Release of Liability. Notwithstanding any assignment by Developer or its Subcontractor(s) of rights under this Agreement, in no event shall Developer or its Subcontractor(s) be released from any obligations or liabilities hereunder, and if requested by the City, Developer shall covenant in writing to be jointly and severally liable with its assignee for all of its obligations and liabilities hereunder.

10. Rights in Deliverables

10.1 Ownership of Results. Any interest of Developer or its Subcontractors in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Developer or its Subcontractors, shall become the property of and will be transmitted to the City upon the Final Completion of the Project or earlier termination of this Agreement. However, unless expressly prohibited elsewhere in this Agreement,

Developer and its Subcontractors may retain and use copies for reference and as documentation of its experience and capabilities.

10.2 Works for Hire. If, in connection with the Work, Developer or its Subcontractors or lower-tier subcontractors create Deliverables including, without limitation, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works shall be the property of the City effective upon the Final Completion of the Project or earlier termination of this Agreement. If any Deliverables created by Developer or its Subcontractors or their subcontractors under this Agreement are ever determined not to be works for hire under U.S. law, Developer and its Subcontractors, effective upon the Final Completion of the Project or earlier termination of this Agreement, hereby assigns all Developer's and its Subcontractors' copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to a clause in every subcontract imposing the same duties upon subcontractors. With the City's prior written approval, Developer and its Subcontractors may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

10.3 Assignment of Project Contracts. Upon Final Completion of the Project or earlier termination of this Agreement and payment to Developer of all amounts to which it is entitled under this Agreement, Developer and its Subcontractors shall assign to the City all their rights, title and interest in and to the Deliverables by an assignment of Intangible. All of the Project Contracts shall require assignment to the City, together with all warranties and guarantees, without the prior consent of the Developer and without any payment to the Developer.

11. Additional Requirements; Certain Requirements Incorporated by Reference

11.1 Laws Incorporated by Reference. The full text of the laws expressly listed in this Section 11, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions expressly incorporated by reference in this Section 11 and elsewhere in the Agreement are available at www.sfgov.org under "Government."

11.2 Additional Requirements – Subcontractor Agreements. It is hereby understood and agreed that Developer shall incorporate into all of its Project Subcontracts agreements all requirements of this Section 11, and all Subcontractors and their lower-tier subcontractors shall be bound the same as Developer for compliance with all requirements of this Section 11. Developer shall include a provision in each Subcontract requiring Subcontractors to incorporate into all lower-tier subcontractor agreements, if any, all requirements of this Section 11. Subcontractors and their lower-tier subcontractors providing Work on the Project shall all be bound the same as Developer for compliance with all requirements of this Section 11.

11.3 Conflict of Interest. By executing this Agreement, Developer certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

11.4 Prohibition on Use of Public Funds for Political Activity. In performing the Developer Services, Developer shall comply with San Francisco Administrative Code Chapter 12G, which prohibits

funds appropriated by the 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. Developer is subject to the enforcement and penalty provisions in Chapter 12G.

11.5 Nondisclosure of Private, Proprietary or Confidential Information.

(a) If this Agreement requires the City to disclose "Private Information" to Developer within the meaning of San Francisco Administrative Code Chapter 12M, Developer shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Developer Services. Developer is subject to the enforcement and penalty provisions in Chapter 12M.

(b) In the performance of Developer Services, Developer may have access to the City's proprietary or confidential information, the disclosure of which to third parties may damage the City. If the City discloses proprietary or confidential information to Developer, then, to the extent Developer is advised in writing that such information is proprietary or confidential, such information must be held by Developer in confidence and used only in performing this Agreement, subject to Developer's right to disclose such information as may be required by Court order or applicable law. Developer shall exercise the same standard of care to protect such information as a reasonably prudent person would use to protect its own proprietary or confidential information.

11.6 Nondiscrimination Requirements.

(a) Non Discrimination in Contracts. Developer shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Developer is subject to the enforcement and penalty provisions in Chapters 12B and 12C to the extent applicable to Developer.

(b) Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Developer does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the 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.

11.7 Minimum Compensation Ordinance. Developer shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. Developer is subject to the enforcement and penalty provisions in Chapter 12P. By signing and executing this Agreement, Developer certifies that it is in compliance with Chapter 12P.

11.8 Health Care Accountability Ordinance. Developer shall comply with San Francisco Administrative Code Chapter 12Q as applicable to Developer's work under this Agreement. To the extent applicable, (1) Developer shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3 and (2) Developer is subject to the enforcement and penalty provisions in Chapter 12Q.

11.9 Owner Contracting Requirements. Developer must comply with the Owner Contracting Requirements set forth in Exhibit G and Exhibit I hereto, and shall be subject to the enforcement and penalty provisions of such requirements.

11.10 Alcohol and Drug-Free Workplace. The City reserves the right to deny access to, or require Developer to remove from, the City facilities personnel of any Subcontractor or lower-tier subcontractor who the City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs the City's ability to maintain safe work facilities or to protect the health and well-being of the City employees and the general public. The City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, the City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

11.11 Limitations on Contributions. By executing this Agreement, Developer acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the 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, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The prohibition on contributions applies to each prospective Party to the contract; each member of Developer's board of directors; Developer's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Developer; any Subcontractor retained by Developer to provide services for the Project; and any committee that is sponsored or controlled by Developer. Developer must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to the City.

11.12 Consideration of Criminal History in Hiring and Employment Decisions.

(a) Developer agrees to comply fully with and be bound by the provisions of Chapter 12T, "City Developer/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. Developer shall comply with all of the applicable provisions of 12T. Capitalized terms used in this Section 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 Developer's and its Subcontractors' operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees of Developer and its Subcontractors 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 by Developer and its Subcontractors of an individual 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.

11.13 Tropical Hardwood and Virgin Redwood Ban. Pursuant to San Francisco Environment Code Section 804(b), the City urges Developer not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

11.14 Preservative Treated Wood Products. Developer shall comply with the applicable provisions of San Francisco Environment Code Chapter 13, which requires that contractors purchasing preservative-treated wood products on behalf of the City, shall only purchase such products from the list of alternatives adopted by the Department of the Environment pursuant to Section 1302 of Chapter 13, unless otherwise granted an exemption by the terms of that Chapter.

11.15 Compliance with Laws. Developer shall use commercially reasonable efforts to cause each Subcontractor and all lower-tier subcontractors to become and remain fully informed of and comply with the applicable provisions of the Charter, ordinances, and regulations of the City and other local agencies having jurisdiction over their work, and all federal and state laws and regulations in any manner affecting the Project Contracts, the performance of the Work thereunder, or those persons engaged therein. Developer shall require compliance with, and shall use good faith efforts to ensure all construction and materials provided under the Project Contracts shall be in full accordance with, the applicable provisions of the latest laws and requirements, as the same may be amended, updated or supplemented from time to time, of the Codes specified in the Project Contracts, Americans with Disability Act Accessibility Guidelines, CAL-OSHA, the State Division of Industrial Safety of the Department of Industrial Relations, the Division of the State Architect – Access Compliance, the Public Utilities Commission of the State of California, the State Fire Marshal, the National Fire Protection Association, the San Francisco Department of Public Health, state and federal laws and regulations, and of other bodies or officials having jurisdiction or authority over same, and they shall be observed and complied with by Developer and any and all persons, firms and corporations employed by or under it. The City and its agents may at any time, following written notice to Developer, enter upon any part of the work to ascertain whether such laws, ordinances, regulations or orders are being complied with, provided that the City shall have no obligation to do so under this Agreement and no responsibility for such compliance. To the extent applicable to Developer, Developer shall comply with all laws including the applicable provisions of the Charter, ordinances and regulations of the City and local agencies having jurisdiction over it.

12. Notices

12.1 Any notice required or permitted to be given hereunder and any approval by the parties shall be in writing and shall be (as elected by the Party giving such notice or granting such approval): (1) personally delivered, (2) delivered by recognized overnight courier, (3) transmitted by postage prepaid certified mail, return receipt requested, or, (4) by facsimile or electronic mail with a hard copy sent by one of the other methods described in clauses (1) – (3) of this Section. Except as otherwise specified herein, all notices and other communications shall be deemed to have been duly given on the earlier to occur of: (a) the date of receipt if delivered personally; (b) on the next business day if sent by overnight courier; (c) five (5) days after the date of posting if transmitted by mail; or (d) the date of transmission with confirmed answerback if transmitted by facsimile or electronic mail. Either Party may change its address for purposes hereof by notice given to the other Party. Notwithstanding the foregoing to the contrary, any notice of default must be sent by registered mail.

12.2 Notices, requests and approvals hereunder shall be directed as follows:

the City:	TBD The City and County of San Francisco TBD San Francisco, California 94102 Attn: TBD Re: Central Shops Project Facsimile No.: TBD
with copy to:	TBD Deputy the City Attorney Office of the City Attorney The City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4682 Re: Central Shops Project Facsimile No.: (415) 554-4755
Developer:	Oryx, LLC Attn: Facsimile No.: ( )
with a copies to:	 Attention: Esq. Telephone No.: ( ) Fax No.: ( )

13. Compliance with Americans with Disabilities Act

Developer shall provide the Developer Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

14. Modification of This Agreement

This Agreement may not be modified, nor may compliance with any of its terms be waived, except as expressly provided herein. Any modification or waiver must be in writing. "Notices" regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement.

15. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to the principles of conflicts of laws. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco, California.

16. Severability

If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

17. Counterparts

This Agreement may be executed in one or more counterparts, and each of such counterparts shall, for all purposes, be deemed to be an original, but all of such counterparts shall constitute one and the same instrument. The parties agree that their respective signatures transmitted by facsimile or PDF electronic mail shall be deemed binding for all purposes.

18. Benefits and Obligations

The covenants and agreements herein contained shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, administrators, legal representatives and permitted successors and assigns. No provisions of this Agreement shall inure to the benefit of, or be enforceable by, any creditors, Developers or other third parties.

19. Integration

This Agreement represents the entire and integrated agreement between the City and Developer and supersedes all prior negotiations, representations or agreements, either written or oral with respect to the subject matter hereof. This Agreement may be amended only by written instrument signed by the City and Developer.

20. Further Assurances

The City and Developer agree to execute and deliver such further instruments as may be necessary or desirable to effect this Agreement and the covenants and obligations of the parties hereto, subject to any necessary governmental approvals.

21. Headings

The headings in this Agreement are solely for convenience of reference and shall not affect its interpretation.

22. Survival

Notwithstanding anything stated to the contrary in this Agreement, none of the covenants, conditions or indemnities of the Developer or the City under this Agreement shall (a) survive the termination of this Agreement, except in connection with an action by such Party for termination of this Agreement and damages based on the alleged breach of such covenant, condition or indemnity, or (b) survive Final Completion, except that (1) the provisions of 3.2, 8.2, 10.3, 11.4, and Exhibit J shall survive the termination of this Agreement, or Final Completion, as applicable, for a period of one year after either such event occurs, (2) the provisions of Sections 1.11, Article 5, 6.1, 11.2, 11.5, 11.11, 11.15, 12 and 13 shall survive the termination of this Agreement, or Final Completion, as applicable, for a period of three (3) years after either such event occurs, or, such longer time as is necessary to resolve any issue for which indemnification is asserted under such sections provided a demand is made by the party asserting such indemnification obligations within such three (3) year period, and (3) the provisions of Sections 1.7(b), 1.7(c), 8.2, 9.3, 10.1, 10.2, 15, 16, 17 and 18 shall survive the termination of this Agreement, or Final Completion, as applicable, without limitation.

23. No Waiver

No failure or delay of either Party in the exercise of any right under this Agreement shall be deemed to be a waiver of such right. No waiver by either Party of any condition under this Agreement for its benefit or any breach under this Agreement shall constitute a waiver of any other or further right or subsequent breach.

24. Ownership of Work Product

Whether provided by the City or Developer or their respective agents, all of the data, notes, estimates, computations, sketches, photographs, presentations, reports, renderings, computer programs and all other materials relating to the Project and the Developer Services (collectively, the "Works") are and shall remain, together with all copyright privileges, the property of the City whether or not the Project for which they are made is executed. To the extent Developer has any copyright in the Works, Developer hereby assigns any such copyright to the City. Developer may retain copies, including reproducible copies and intermediate drafts, of the same for information and reference only.

25. Sunshine Ordinance

Developer understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov. Code section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City hereunder are public records subject to public disclosure. Developer hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

26. City's Remedies for False Claims and Other Violations

Under San Francisco Administrative Code section 6.22(M), any Developer, Developer, Subcontractor or consultant who violates any provision of Local Hire and Prevailing Wages for Construction (San Francisco Administrative Code sections 6.22 through 6.45), who submits false claims, or who violates against any governmental entity a civil or criminal law relevant to its ability to perform under or comply with the terms and conditions of its agreement, may be declared an irresponsible bidder and debarred according to the procedures set forth in San Francisco Administrative Code section 6.80, et seq. Additionally, any Developer, Developer, Subcontractor or consultant who submits a false claim may

be subject to monetary penalties, investigation, and prosecution as set forth in Administrative Code section 6.80, et seq.

27. MacBride Principles -Northern Ireland

The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Developer confirms that Developer has read and understands that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

[SIGNATURES ARE ON FOLLOWING PAGE]

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

CITY

CITY AND COUNTY OF SAN FRANCISCO,
a Charter City and County

By: _____
Name:
Title:

APPROVED AS TO FORM:

DENNIS J. HERRERA, CITY ATTORNEY

By: _____
Name:
Deputy the City Attorney

DEVELOPER

ORYX Development I, LLC,
a Nevada limited liability company

BY:

By: _____
Name:
Title:

EXHIBIT A

PROJECT BUDGET

EXHIBIT B

1/19/16

ORYX

Project: Central Shops Relocation, GSA

Phase One Project Budget
ref: CSPh1-11916

		$	
Acquisition Due Diligence Costs		25,000	Allowance for misc. follow-up on reports from City's due diligence
A&E - Architect & Subconsultants		2,532,299	A&E design budget for primary architect and subconsultants, includes 2 mo of CA
A&E - Design-Build Subs		479,737	MEP & F&LS design-build sub-contractors (DD/CD phase)
Pre-construction Services (Pankow)		627,000	Pre construction services from contractor (SD/DD/CD)
Permits and Fees		925,475	Preliminary Estimate - includes both filing and issuance fees
Legal, insurance, accounting and misc admin		215,000	Legal costs include Dev Agmt, A&E & Const Contracts, Subcontracts, Insurance, Accounting
Development Management Base Fee (Phase 1)		846,000	Through GMP / CDs (11 months + 1 month initial payment at NTP)
Development Management Bonus (Phase 1)		393,000	Bonus due upon completion of Phase 1 Deliverables
Abatement/Demolition/Grading/Sitework/Piles		3,286,960	Initial site-work (Selby Galvez)
Contingency	10.0%	933,047	% of Pre-Development Costs
TOTAL PHASE ONE BUDGET		10,263,517	

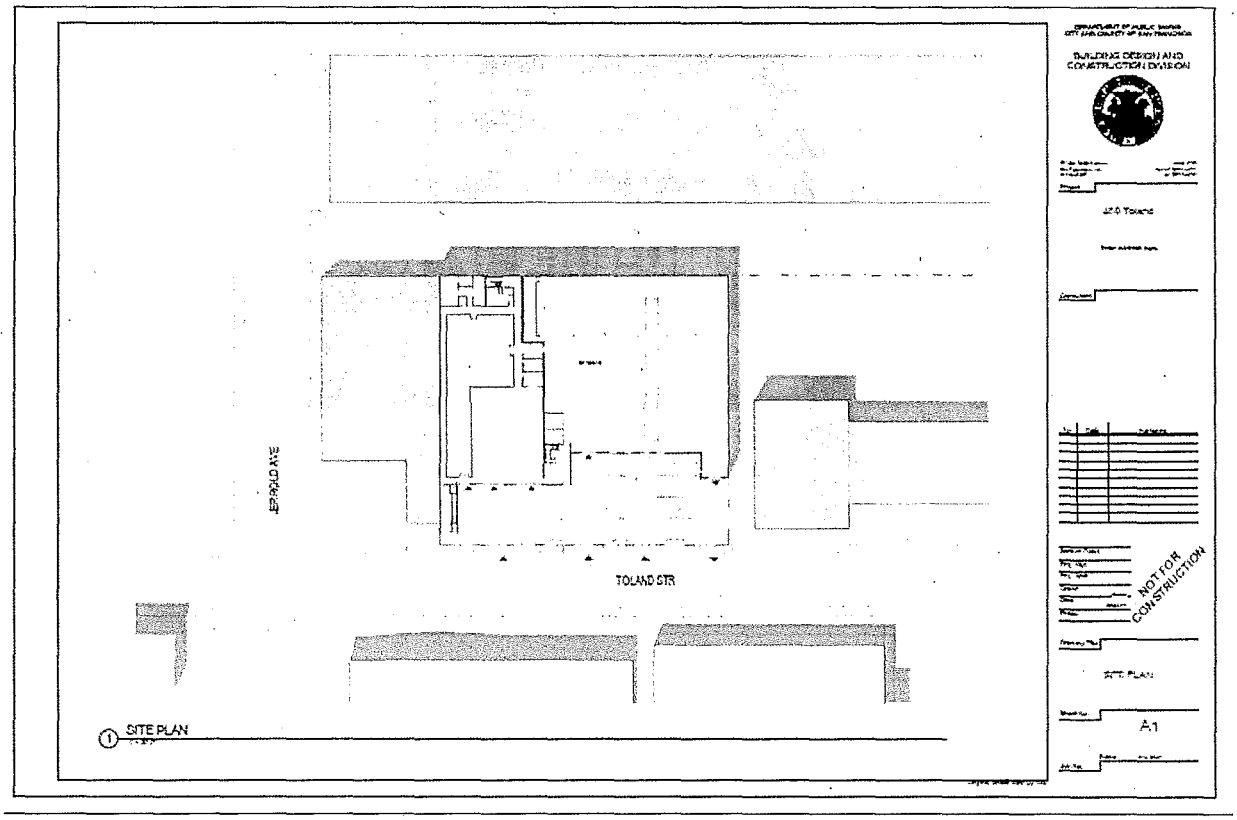
CENTRAL SHOPS - PROJECT BUDGET

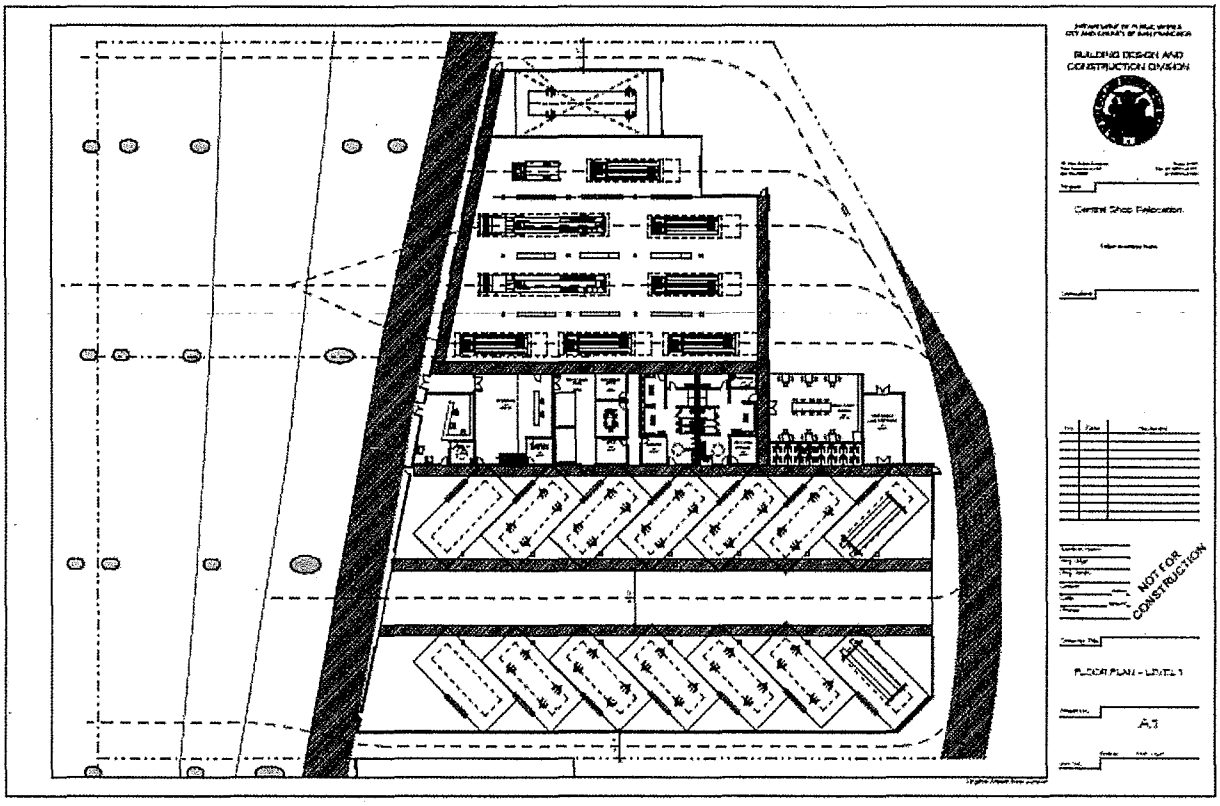
NOVEMBER 18, 2015
Preliminary: based on information available to Oryx as of the date of this budget
ref CSB111815

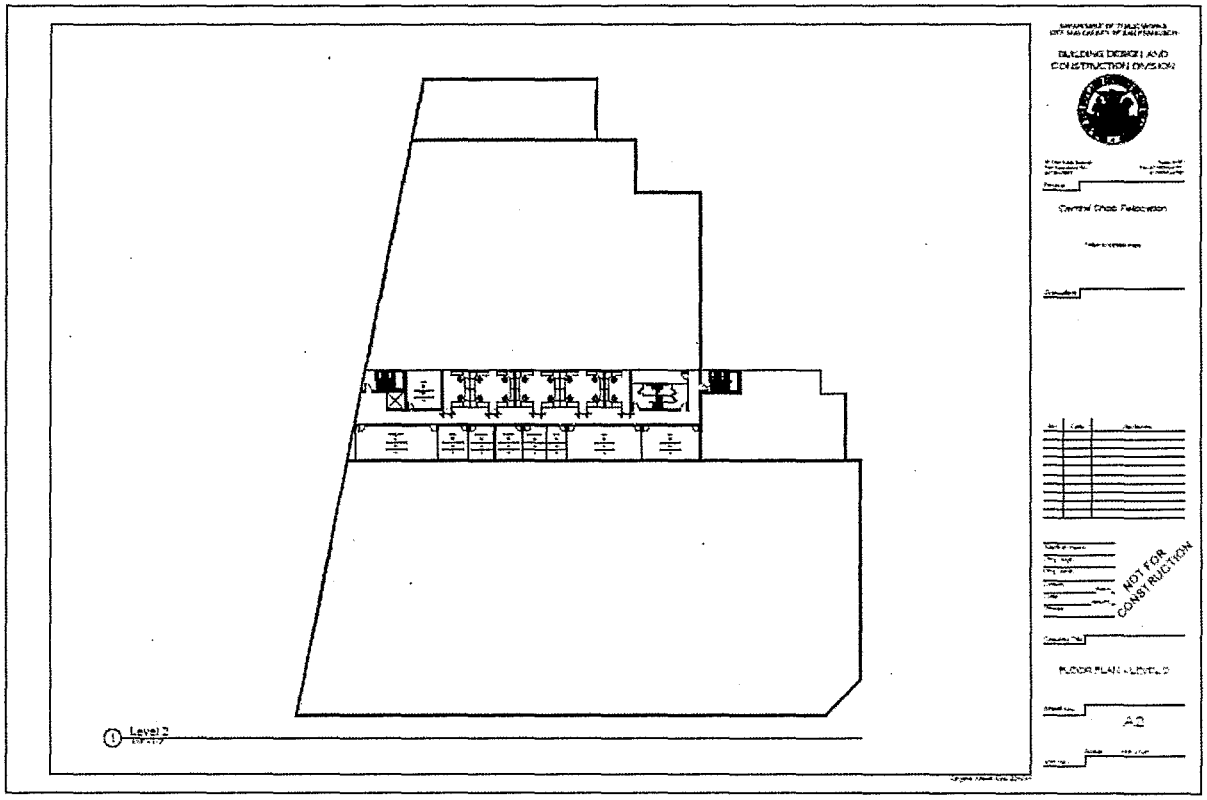
	$
DIRECT COSTS	
GENERAL REQUIREMENTS	5,089,995
DEMO	730,645
EXCAVATION, PILES & EXTERIOR	5,677,336
BUILDING	21,924,118
EQUIPMENT	7,038,116
TOTAL	40,460,210
GC FEE	1,891,515
DIRECT BUILDING COSTS	42,351,725
GC CONTINGENCY	4,235,172
TOTAL BEFORE OWNERS CONTINGENCY	46,586,897
OWNER CONTINGENCY	2,117,586
TOTAL DIRECT BUILDING COSTS	48,704,484
INDIRECT COSTS	
A&E	1,820,000
MANAGEMENT FEE (Base + Bonus)	2,629,699
OTHER	1,417,585
CONTINGENCY	651,921
TOTAL INDIRECT COSTS	**6,519,205**
TOTAL PROJECT COSTS	**55,223,689**

EXHIBIT B

CRITERIA PACKAGE







The Criteria Package also include the information in the 14-page Memorandum from Gannett Fleming to Dan McKenna dated January 11, 2016, entitled "CCSF Selby/Galvez and Toland Sites Technical Review (Final Memorandum)," which is being provided separately as an attachment to this Agreement.

EXHIBIT C

SCOPE OF DEVELOPER SERVICES

I. DESCRIPTION OF GENERAL SERVICES

A. General Services. Unless otherwise provided, the Developer Services identified below and in the Agreement shall extend to the design and construction of the Project. Developer shall oversee and monitor all aspects of the design and construction of the Project.

1. Administration and Coordination

(i) In conjunction with the City, prepare the Project Plan for the City's approval. The Project Plan shall include, but not be limited to, Site logistics, measures to keep the Site secure, a defined Site perimeter, and progressive Site clean-up. Developer shall update or modify the Project Plan from time to time upon the request of the City or when Developer deems necessary, and all such revisions to the Project Plan shall be subject to the City's approval.

(ii) Establish and implement procedures for coordination of all aspects of the Project between the City, Developer, and Developer's subcontractors of all tiers.

(iii) Negotiate contracts and agreements for all contracted services, including site development, architectural, construction, engineering, testing and consulting services, and provide written recommendations to the City to approve contracts or agreements.

(iv) Coordinate the services and activities of the General Contractor, Architect, and the Lower-Tier Subcontractors and Suppliers, to facilitate cooperative efforts in the development and implementation of the Project Plan.

(v) Negotiate any documents, instruments or agreements or amendments thereto necessary or appropriate for the implementation of the Project and services related thereto, to the extent such documents, instruments or agreements, or amendments thereto, are consistent with the Project Plan. Except as otherwise provided in this Agreement, all material documents, instruments, agreements or amendments are subject to the reasonable approval of the City.

2. Management Control Procedures

(i) Coordinate the performance of all budgeting, billing and payment application review/assimilation functions as necessary or appropriate for and in connection with the coordination of the design and construction activities being conducted pursuant to the Project Plan. Such functions shall include, without limitation, the preparation and submittal to the City of a monthly single, comprehensive application for payment in form and substance satisfactory to the City, representing work completed in

accordance with Article 9 of the General Conditions. The form of application for payment shall include and incorporate, without limitation, the Developer's pay application for any period in which the Developer has submitted such application for payment for work performed. The form of application for payment shall also include (i) a statement of the Development Services Fee for such month, (ii) a statement of Developer's Reimbursable Expenses for such month, (iii) invoices establishing all other payables for such month, and (iv) such lien releases and other documentation as may be required for payment in accordance with the terms of the agreements with the Architect, General Contractor, Lower Tier Subcontractors, and any other Project team members.

(ii) Establish and implement administration and reporting procedures for the Project, including finance, budget and cost controls, as well as supervision of accounting.

(iii) Coordinate the development and implementation of a procedure/system of Project cost control and track actual and projected costs.

(iv) Oversee the activities of the Subcontractors regarding their performance in accordance with their respective agreements. Upon receipt of knowledge thereof, notify the City of all material deviations and coordinate the implementation of the necessary procedures to rectify the same.

(v) Coordinate the scheduling of meetings on a regular basis, or more frequently as the City may reasonably elect, among the City, the Architect, the General Contractor and such other parties as the City may deem necessary or appropriate concerning the Project.

(vi) Consistent with industry standards for similar projects, monitor, manage and oversee the Architect's work throughout design and construction of the Project.

(vii) Consistent with industry standards for similar projects, monitor, manage and oversee the General Contractor's work throughout design and construction of the Project.

(viii) Review, monitor, and certify the correctness of the General Contractor's monthly construction cost report of expenditures for the Project on a monthly basis.

(ix) Review the Project Budget, as compared to actual expenditures, throughout the construction of the Project and advise the City if Developer reasonably believes that the total Project Costs are likely to exceed the amounts set forth in the Project Budget and, if such is the case, Developer shall use commercially reasonable efforts to provide the City with proposed alternatives in order to keep the total costs below those set forth in the Project Budget.

3. Timing and Scheduling

(i) Coordinate the development and updating of appropriate Project schedules, including a critical path analysis.

(ii) Oversee the coordination of the individual timing schedules of all Project participants so as to conform to the overall Project Schedule and manage any necessary adjustments.

(iii) Monitor the Project participants in order to confirm that their individual work capacities and performances continually conform to the overall Project Schedule.

(iv) Endeavor to identify appropriate opportunities for "fast-tracking" the overall Project Schedule, evaluate the costs and benefits of such strategies and provide the City with Developer's recommendations. Endeavor to identify schedule impacts and prepare recovery strategies and budget of costs relating thereto.

4. Reporting

(i) Conduct Project meetings; review and comment on reports delivered by others.

(ii) Keep the City informed of all material internal and external Project related matters by initiating and distributing relevant information. The level and detail of such information will be mutually reviewed as the Project progresses.

(iii) Use good faith diligent efforts to inform the City of all upcoming meetings in a timely manner.

II. PHASES OF WORK

PART 1 - DESIGN PHASES

1.01 GENERAL REQUIREMENTS

A. Developer shall not commence the Design Phases outlined below, which includes Site Work (abatement, demolition, grading, sitework and piles), until the City issues a Notice to Proceed ("NTP") with Design.

B. Developer shall not commence the Site Work until the City issues a Notice to Proceed ("NTP") for the Site Work.

C. Throughout all design phases, Developer shall collaborate with the Project Team and shall update all submitted plans, schedules, and reports.

D. Developer shall provide a resource and cost-loaded schedule indicating the critical path for the Project duration and update this cost-loaded schedule throughout all design phases.

1.02 SCHEMATIC DESIGN PHASE

A. Based on the Criteria Package, Developer shall develop the 100% Schematic Design Documents for City approval, which shall be given within 10 working days of delivery of the said documents to the City. The 100% SD package shall include at a minimum:

1. Architectural site, floor plans, reflected ceiling, and equipment plans, exterior and interior elevations, column grids, vehicle access/egress, vertical conveyance systems including elevator lobby(s), pedestrian access/egress, etc.
2. Interior design plans and other supporting documents to illustrate the graphic design layouts.
3. Refined building systems, material, and products selections.
4. Refined MEP, Special Systems, Fire Protection, and Exterior Skin and other systems floor plans, diagrams and text to describe these systems.

B. Developer shall develop BIM Model for detailed MEP, Special Systems, and other systems floor plans, diagrams, and text to describe these systems

C. Prepare a Schematic Design phase report to document and summarize the Schematic Design phase decisions and outcomes, including deviations from the Criteria Package that are approved by the City.

D. Developer shall perform and document constructability review.

E. Prepare initial trade bid packages (BIM model (if applicable), drawings, specifications, instructions to bidders).

1.03 DESIGN DEVELOPMENT PHASE

A. Developer shall refine the approved 100% Schematic Design Documents to fully integrate all required Project design elements and issue a 50% and 100% Design Development Package, order to provide sufficient information to develop the Construction Documents for the Trade Packages. City shall approve the 50% and 100% Design Development Packages within 10 working days of delivery of the respective Design Development Packages to the City.

B. Update BIM Models.

C. Document the constructability review, including an evaluation of the design documents to identify value engineering opportunities, identification of long lead items, availability of labor, and other factors affecting construction.

D. Prepare a Design Development phase report to document and summarize the Design Development phase decisions and outcomes, including deviations from the Criteria Package that are approved by the City.

1.04 CONSTRUCTION DOCUMENTS PHASE

A. Based on the approved Design Development documents, Developer shall prepare 50% and 100% Construction Documents to fully describe the Work for each Trade Package that, at a minimum, should include drawings, diagrams, calculations, 3D models, renderings, schedules, and a Project Manual that includes the General and Supplementary Conditions, Divisions 00 and 01, and Technical Specifications. The City Representative shall provide all City comments on the 50% and 100% CD packages within 10 working days.

B. In accordance with the provisions of Section 1.10, Developer shall obtain and document all required approvals for the Construction Documents from regulatory authorities having

jurisdiction over the Project, which are necessary to obtain a Temporary Certificate of Occupancy.

C. Prepare a Construction Document phase report to document and summarize the Construction Document phase decisions and outcomes, including deviations from the Criteria Package that are approved by the City.

PART 2 - CONSTRUCTION PHASE

2.01 GENERAL SCOPE OF WORK

A. Developer shall not commence with the Construction Phase unless and until the city issues a Notice To Proceed with Construction.

B. Developer shall furnish and install mock ups as identified and determined during Programming for performance, acceptance of size, circulation, and FF&E as determined in the approved Project Schedule. The mock-ups may be constructed in-place and/or off-site as determined during Programming.

C. Construction Work activities will be authorized by the City upon award of each Trade Package Set. Developer shall perform all Work and construction administration services necessary to achieve an exceptional project outcome that meets the Programming Phase requirements with approved deviances; construct the Project in accordance with the design-build delivery method; and render the Project with all its components operational, functional, and usable.

D. Developer shall plan for authorities with jurisdiction to inspect the Work. The City Representative has final authority over coordination, use of premises, and access to site.

E. Developer shall provide qualified staff to manage construction as required by the Contract Documents, including:

1. Administration: Developer shall provide required administrative services.
2. Superintendence: Developer shall provide a qualified management team.
3. Quality Control: Developer shall implement a Quality Control (QC) Program.
4. Cost Control: Developer shall provide cost estimating, cost control, and cost management.
5. Scheduling: Continuous updating of the critical path schedule in conformance with requirements in the Contract Documents.
6. Reporting: Developer shall provide reporting services related to cost, schedule, and critical issues facing the Project.
7. Document Control/Project Records: Developer shall provide Document Control services and maintain Project Records.
8. Project Meetings: Developer shall schedule and attend weekly Project meetings.
9. Security: Developer shall secure the Project site and Work.

F. Developer shall perform the Work in phases and utilize Trade Packages as needed to achieve the Project schedule.

G. Developer shall report on the progress of the Project including information on Developer and its Architect's and General Developer's Work, percentage of completion of the Work, current estimates, forecasted contract growth, subcontract buyouts, updated monthly schedules, including projected time to completion and estimated cost to complete the Work, digital progress photographs, logs for Requests for Information, submittals and shop drawings,

pending and approved change orders, meetings minutes, and other project metrics as requested by the City.

H. Developer shall develop and implement a process to procure Trade Packages in conformance with the Contract Documents:

1. Maximize both competition and the involvement of small businesses.
2. Develop subcontractor and supplier interest for each division of the Work.
3. Use best efforts to obtain bids for each Trade Package that are less than the final cost estimates.
4. Conduct bid openings in the presence of the City Representative. All bid documents shall be circulated and viewed by those present. Developer shall provide the City with a copy of its preliminary bid tabulation and, if requested, a copy of all bids.
5. Determine final bid amounts, having reviewed and clarified the scope of Work in detail with the apparent low responsive bidders to determine that their bids are complete but do not include duplicate scope items.
6. Prepare and furnish to the City a final bid tabulation summary that includes by subcontract, trade and/or bid division, the applicable final estimated cost and the related final bid amount and the details of all scope clarifications for City's review and approval.
7. Identify to the City in writing the subcontractors to which the Developer recommends award of subcontracts, and when authorized by the City, award and enter into subcontracts.

I. Developer shall maintain systems and equipment. Developer shall provide services and maintain all equipment in accordance with manufactures instructions until such time as the City receives and takes over the equipment in the activation phase.

2.02 ACTIVATION/COMMISSIONING /MAINTENANCE TRAINING PHASE

A. Developer is responsible for performing the requirements of the commissioning process including those responsibilities assigned to subconsultants, subcontractors, vendors, manufacturers, or their representatives. The Developer shall insure that all subconsultants, subcontracts or purchase orders for systems, inclusive of all of the system components to be commissioned, include provisions for compliance with this Document.

B. The requirements of this Document are additional to the requirements of the General Conditions. If this Document requires additional labor, coordination, or documentation, including submittal data, the Developer shall comply with this Document and if any requirement of this Document conflicts with other provisions of the Contract requirements, the Developer shall request formal clarification of the Contract requirements.

C. Under the Direction of the City, Developer shall commission all systems and equipment in order to achieve the following specific objectives:

1. Verify and document that the building enclosure, systems and equipment are documented in the Design and Construction Documents in accordance with the Criteria Package.
2. Verify and document that equipment is designed, installed, started, and operates properly pursuant to the requirements of the Contract and manufacturer's specifications, instructions and recommendations.
3. Verify and document building enclosure mockups and installation perform as designed and as intended.

4. Identify deficient building enclosure, equipment, systems and installations as early as possible to facilitate timely corrective action minimizing schedule impact.
5. Verify and document that the building enclosure, equipment, and systems receive complete operational checkout by installing subcontractors, vendors and manufacturers.
6. Verify and document building enclosure, equipment and system performance.
7. Verify and validate that the City's operating personnel are adequately trained on the Operation and Maintenance of building equipment and systems.
8. Verify Operations and Maintenance Data for systems and equipment is complete and usable, and provided in the format as required by the City.

D. The commissioning process does not reduce the responsibility of the Developer, its Architect or subconsultants, General Contractor or its subcontractors, or vendors to perform and complete all Work in accordance with the requirements of the Contract.

2.03 SUBSTANTIAL COMPLETION

A. Prior to Substantial Completion, Developer shall submit all Equipment Inventory Sheets

B. In advance of Substantial Completion, Developer shall obtain the Temporary Certificate of Occupancy.

C. Developer shall complete all equipment, hardware, and software training for maintenance staff.

D. Developer shall demobilize from the Project Site.

2.04 FINAL COMPLETION

In advance of Final Completion, Developer shall complete all move in/fit out of the FF&E and for the entire Project and shall complete all Site work. Developer shall obtain the Final Certificate of Occupancy.

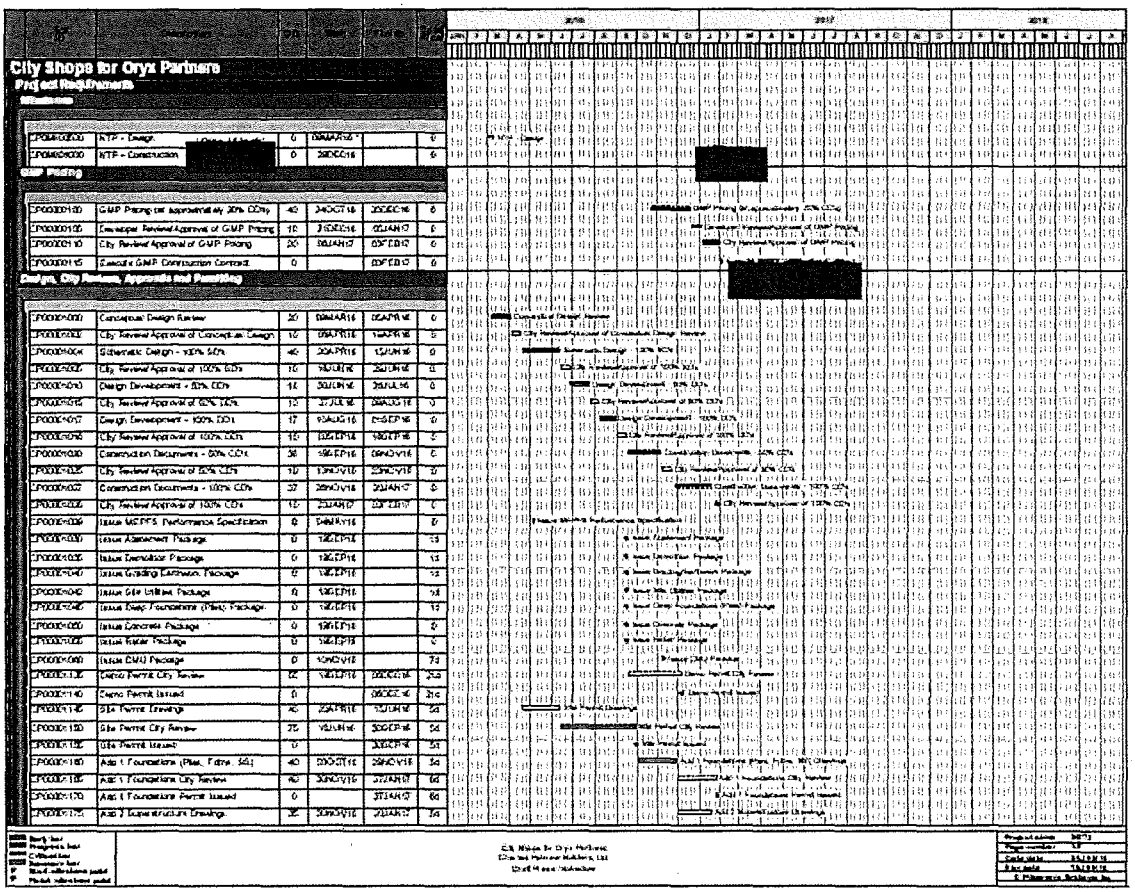
EXHIBIT D

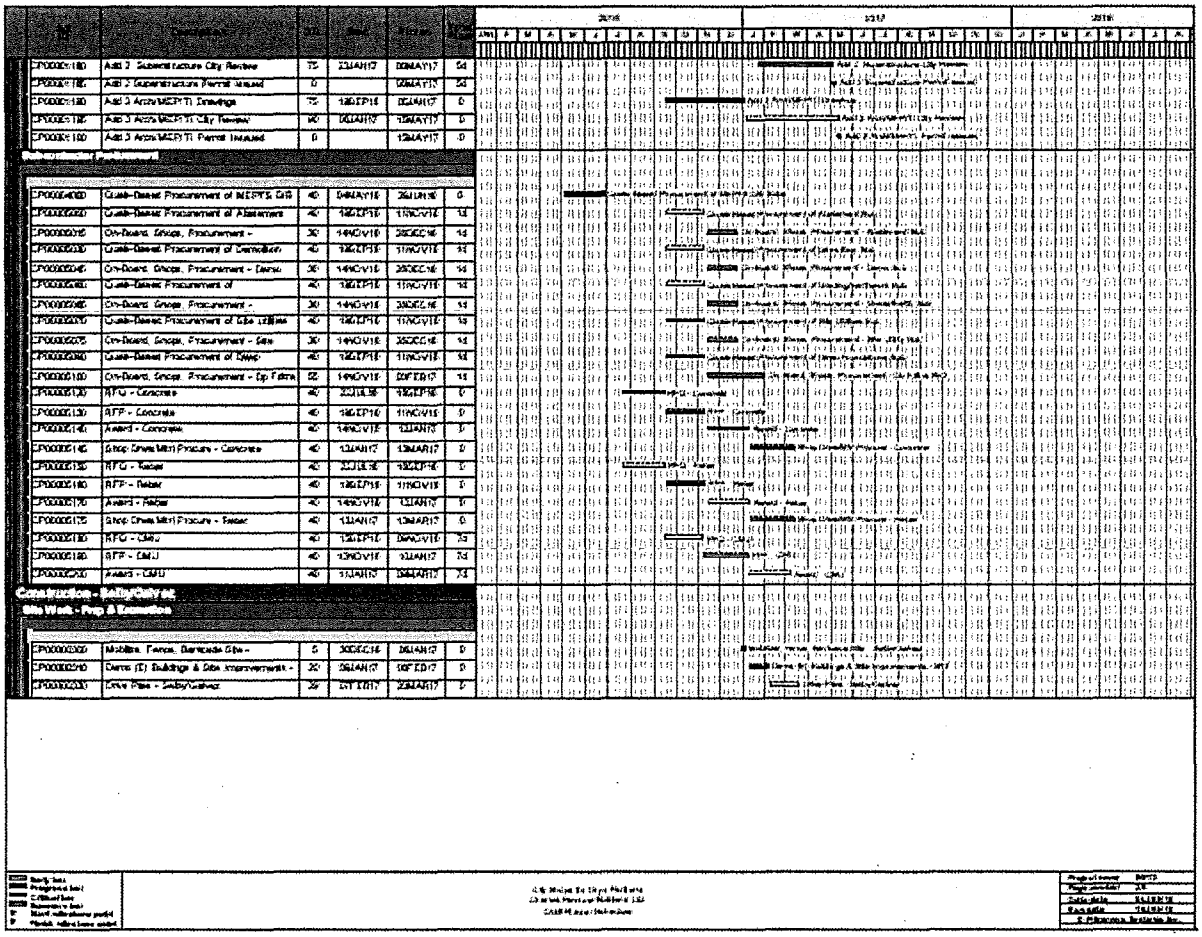
PROJECT SCHEDULE – WORK BY PHASE

The Project will be accomplished in two phases: (1) the Design Phase; and (2) the Construction Phase. The Design Phase shall include Site Work at the Development Sites comprising abatement, demolition, grading, sitework and piles. At the time this Agreement is executed, only the Design Phase will have been approved by the City's Board of Supervisors.

Prior to or upon City's approval of the 50% Construction Documents,, Developer shall propose a Guaranteed Maximum Price ("GMP") for Phase Two construction Work to the City which shall be incorporated into Developer's Phase Two Budget proposal. The proposed Phase Two Budget shall include all costs necessary for the Developer to complete and Deliver the Project to the City in conformance with all requirements of the Agreement. The Parties agree to negotiate in good faith to reach agreement on the GMP and any other Phase Two Budget line items.

Proceeding with the Construction Phase requires the approval of the City's Board of Supervisors of the Phase Two Budget and approval for the City to issue the NTP with construction. If the City does not issue a NTP with construction, the Agreement shall be terminated under the provisions authorizing Termination by the City for Convenience (General Conditions, Article 14.03).





END OF DOCUMENT

EXHIBIT E

Reserved

EXHIBIT F

INSURANCE REQUIREMENTS

1.1 SUMMARY

A. This Document includes insurance requirements, which amend Article 10 of the General Conditions.

1.2 DEVELOPER'S LIABILITY INSURANCE

A. Developer shall maintain in full force and effect, for the period covered by the Contract, the following liability insurance with the following minimum specified coverages or coverages as required by laws and regulations, whichever is greater:

1. Worker's Compensation in statutory amount, including Employers' Liability coverage with limits not less than $1,000,000.00 each accident, injury, or illness. The Worker's Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Developer, its employees, agents and subcontractors of every tier.

2. Commercial General Liability insurance with limits not less than $2,000,000.00 each occurrence combined single limit for bodily injury and property damage, including coverage for Contractual Liability, independent contractors, Explosion, Collapse, and Underground (XCU), Personal Injury, Broadform Property Damage,, and completed operations.

3. Commercial Automobile Liability insurance with limits not less than $1,000,000.00 each occurrence combined single limit for bodily injury and property damage, including owned, hired or non-owned vehicles, as applicable.

B. Approval of Developer's insurance by the City will not relieve or decrease the liability of Developer under this Agreement. The City reserves the right to require an increase in insurance coverage in the event the City determines that conditions show cause for an increase.

1.3 ADDITIONAL COVERAGES

A. Builder's Risk Insurance: Developer shall provide "Special Form" (All Risk) Builder's Risk Insurance on a replacement cost basis as follows:

1. Amount of Coverage: The amount of coverage shall be equal to the Project's full replacement cost on a completed value basis, including periodic increases or decreases in values through change orders. The policy shall provide for no deduction for depreciation. The policy shall provide coverage for "soft costs," such as but not limited to design and engineering fees, code updates, permits, bonds, insurances, and inspection costs caused by an insured peril; the policy may limit the amount for soft costs but such limit shall not be less

than 5% of the coverage amount. The Builder's Risk Insurance shall also include the full replacement cost of all City-furnished equipment, if any.

2. Additional Premium: If, due to change orders or project term extensions authorized by the City, the Builder's Risk policy becomes subject to additional premium, the City will reimburse Developer the actual cost of such additional premium, without markup, provided that the Developer submits to the City proof of payment of such additional premium and either:

   (a) copy of the applicable endorsement to the Builder's Risk policy, if the Builder's Risk Policy is issued on a declared-project basis; or
   (b) copy of Evidence of Property Insurance if the Builder's Risk policy is placed on a reporting form basis.

3. Parties Covered: The Builder's Risk policy shall identify the City and County of San Francisco as the sole loss payee. The policy shall name as insured the City and County of San Francisco, the Developer and its subcontractors of every tier.

   Each insured shall waive all rights of subrogation against each of the other insured to the extent that the loss is covered by the Builder's Risk Insurance.

4. Included Coverage: The Builder's Risk Insurance shall include, but shall not be limited to, the following coverages:

   (a) All damages or loss to the Work and to appurtenances, to materials and equipment to be incorporated into the Project while the same are in transit, stored on or off the Project site, to construction Site and temporary structures.
   (b) The perils of fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, smoke damage, damage by aircraft or vehicles, vandalism and malicious mischief, theft, collapse, and water damage.
   (c) The costs of debris removal, including demolition as may be made reasonably necessary by such covered perils, resulting damage, and any applicable law, ordinance, or regulation.
   (d) Start up and testing and machinery breakdown including electrical arcing.
   (e) Consequential loss (lost revenues and costs of funding or financing when a covered risk causes delay in completing the Work). In the event the City receives coverage specifically for a consequential loss associated with delay to the completion of the Project, such specific amount shall be credited against any liquidated damages for delay for which the Developer would otherwise be responsible.

5. Deductibles: The Builder's Risk Insurance may have a deductible clause not to exceed the amounts below. Developer shall be responsible for paying any and all deductible costs. The deductible for coverage of All Perils shall not exceed the following:

   (a) $10,000 for projects valued up to $25,000,000;

(b) $25,000 deductible for projects valued in excess of $25,000,000 and up to $75,000,000; and
(c) $50,000 deductible for projects valued in excess of $75,000,000.

B. Professional Liability Insurance: In the event that Developer employs professional architectural, engineering or land surveyor services for performing Project design, field engineering or preparing design calculations, plans and specifications, Developer shall require the retained architects, engineers and land surveyors to carry professional liability insurance with limits not less than $5,000,000 each claim with respect to negligent acts, errors, or omissions in connection with professional services to be provided under this Contract. Developer's professional liability policy shall not have an exclusion for environmental compliance management or construction management professionals.

1.4 INSURANCE FOR OTHERS

A. For general liability and automobile liability insurance, Developer shall include as additional insured, the City and County of San Francisco, its board members and commissions, and all authorized agents and representatives, and members, directors, officers, trustees, agents and employees of any of them.

B. General /Auto Liability policies shall:

1. Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees as well as others as required by contract and must include coverage for bodily injury and property damage.

2. Developer agrees to waive subrogation which any insurer of Developer may acquire from Developer by virtue of the payment of any loss. Developer agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation

1.5 FORMS OF POLICIES AND OTHER INSURANCE REQUIREMENTS

A. Before commencement of the Work of this Contract, certificates of insurance and policy endorsements in form and with insurers acceptable to the City, evidencing all required insurance and with proper endorsements from Developer's insurance carrier identifying as additional insureds the parties indicated under Article "Insurance for Others" above, shall be furnished to the City, with complete copies of policies to be furnished to the City promptly upon request. Developer will be allowed a maximum of 5 working days, after the date on which the Contract is awarded, in which to deliver appropriate bond and insurance certificates and endorsements.

B. Approval of the insurance by the City shall not relieve or decrease the extent to which Developer or subcontractor of any tier may be held responsible for payment of any and all damages resulting from its operations. Developer shall be responsible for all losses not covered by the policy, excluding damage caused by earthquake and flood consistent with section 7105 of the California Public Contract Code in excess of 5

percent of the Contract Sum, including the deductibles. All policies of insurance and certificates shall be satisfactory to the City.

C. The Developer and its Subcontractors shall comply with the provisions of California Labor Code section 3700. Prior to commencing the performance of work, the Developer and all of its Subcontractors shall submit to the awarding department a certificate of insurance against liability for workers compensation or proof of self-insurance in accordance with the provisions of the California Labor Code.

D. Liability insurance, with an allowable exception for professional liability insurance, shall be on an occurrence basis, and said insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the declaration, and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limits of liability.

E. Except for professional liability insurance, should any of the required insurance be provided under a form of coverage that includes an annual general aggregate limit or provides that claims investigation or legal defense costs be included in such annual general aggregate limit, such general annual aggregate limit shall be two times the occurrence limits stipulated. City reserves the right to increase any insurance requirement as needed and as appropriate.

F. Should any of the required insurance be provided under a claims-made form, Developer shall maintain such coverage continuously throughout the term of this Contract, and without lapse, for a period 5 years beyond the Contract Final Completion date, to the effect that, should occurrences during the Contract term give rise to claims made after expiration of the Contract, such claims shall be covered by such claims-made policies.

G. Each such policy shall be endorsed to provide thirty (30) days advance written notice to the City of reduction or non-renewal of coverages or cancellation of coverages for any reason. All notices shall be made to:

TBD
City and County of San Francisco
TBD
San Francisco, CA 94102
Attn: TBD
Re: Central Shops Project
Facsimile No.: (415) TBD

H. Developer, upon notification of receipt by the City of any such notice, shall file with the City a certificate of the required new or renewed policy at least 10 days before the effective date of such cancellation, change or expiration, with a complete copy of the new or renewed policy.

I. If, at any time during the life of this Contract, Developer fails to maintain any item of the required insurance in full force and effect, all Work of this Contract may, at City's sole option, be discontinued immediately, and all Contract payments due or that become due will be withheld, until the Developer's notice is received by the City as provided in the immediately preceding Subparagraph "H" informing the City that such insurance has been restored to full force and effect and that the premiums therefor have been paid for a period satisfactory to the City.

J. Any failure to maintain any item of the required insurance may, at City's sole option, be sufficient cause for termination for default of this Contract.

1.6 QUALIFICATIONS

A. Insurance companies shall be legally authorized to engage in the business of furnishing insurance in the State of California. All insurance companies shall have a current A.M. Best Rating not less than "A-,VIII" and shall be satisfactory to the City.

END OF DOCUMENT

EXHIBIT G

OWNER CONTRACTING REQUIREMENTS

1. Non Discrimination in the City Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate

In the performance of this Agreement, Developer agrees not to discriminate against any employee of, any City employee working with Developer , or applicant for employment with Developer , or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) Subcontracts

Developer shall include in all contracts and subcontracts relating to the Project a nondiscrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Developer shall incorporate by reference in all subcontracts the provisions of sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all Subcontractors and subcontractors of every tier to comply with such provisions. Developer's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) Non-Discrimination in Benefits

Developer does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by the City, or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in section 12B.2(b) of the San Francisco Administrative Code.

(d) CMD Form

As a condition to this Agreement, Developer shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (the "CMD"). Developer hereby represents that before execution of the Agreement: (a) Developer executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and (b) the CMD approved such form.

2. Tropical Hardwood and Virgin Redwood Ban

(a) Except as expressly permitted by the application of sections 802(b) and 803(b) of the San Francisco Environment Code, neither Developer nor any of its Developers shall provide any items to the City in the construction of the Project or otherwise in the performance of this Agreement which are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

(b) The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

(c) In the event Developer fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Developer shall be liable for liquidated damages for each violation in an amount equal to Developer's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Developer acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to Developer from any contract with the City and County of San Francisco.

3. Labor Requirements for Construction

(a) Applicable Labor Laws and Agreements. Compensation and working conditions for labor performed or services rendered (excluding professional design services) under the Project Contracts shall be in accordance with the San Francisco Charter, and applicable sections of the San Francisco Administrative Code, including section 6.22(E). The requirements of this Section 3 (collectively, the "Labor Requirements") shall be included in all Project Contracts (as applicable), and subcontracts relating to the work, as applicable, unless otherwise agreed to by the City. The Project Contracts shall expressly acknowledge the City's right to monitor and enforce the Labor Requirements in all respects and at all times, and to the withhold payments when permitted under the provisions of the Labor Requirements.

(b) Prevailing Wages. The Project Contracts shall require payment of the latest Wage Rates for Private Employment on Public Contracts in the City and County of San Francisco, as determined by the San Francisco Board of Supervisors, as same may be changed during the term of this Agreement. Each Developer shall provide, and shall deliver to the City every month during any construction period, certified payroll reports with respect to all persons performing labor in the provision of the work. Copies of the latest prevailing wage rates are on file at the Department of Public Works, the City and County of San Francisco, Bureau Manager, Bureau of Engineering, 30 Van Ness Avenue, 5th Floor, San Francisco, CA, 94103.

(c) Penalties. The Construction Contract shall provide for payment to the City back wages due plus fifty dollars ($50.00), for: (i) each laborer, workman, or mechanic employed in the provision of the work, for each calendar day or portion thereof during which such laborer, workman, or mechanic is not paid the highest general prevailing rate of wage for the work performed; or (ii) each laborer, mechanic or artisan employed in the provision of the work, for each calendar day or portion thereof during which such laborer, mechanic or artisan is compelled or permitted to work for a longer period than five days (Monday-Friday) per calendar week of eight hours each, and not compensated in accordance with the prevailing overtime standard and rate.

(d) Local Hire, First Source and LBE Requirements. The Construction Contract shall require compliance, as applicable, with the Local Hire, First Source and LBE requirements set forth in Exhibit I, unless otherwise agreed to by the City.

4. Rights and Remedies During Construction

(a) General. The provisions of the Project Contract shall not limit the duties, obligations, rights and remedies otherwise imposed or available by law or in equity. No action or failure to act shall in any way abridge the rights and obligations of the parties to the Project Contract, or condone a breach thereunder, unless expressly agreed to by the parties in writing. All remedies provided in the Project Contract shall be taken and construed as cumulative; that is, in addition to each and every other remedy herein provided, the City shall have any and all equitable and legal remedies that it would in any case have.

(b) No Waiver. No waiver of any breach of any provision of the Project Contract shall be held to be a waiver of any other or subsequent breach. The only waiver by the City shall be a waiver in writing that explicitly states the item or right being waived.

(c) City's Remedies for False Claims and Other Violations. Under San Francisco Administrative Code section 6.22(M), a Developer that fails to comply with the terms of the Project Contract, who violates any provision of Local Hire and Prevailing Wages for Construction (San Francisco Administrative Code sections 6.22 through 6.45), submits false claims, or violates against any governmental entity a civil or criminal law relevant to its ability to perform under or comply with the terms and conditions of the Project Contract, may be declared an irresponsible bidder and debarred according to the procedures set forth in San Francisco Administrative Code section 6.80, et seq. Additionally, a Developer that submits a false claim may be subject to monetary penalties, investigation, and prosecution as set forth in Administrative Code section 6.80, et seq.

(d) Interpretation. The Project Contract shall be interpreted in accordance with the laws of the State of California and the provisions of the City's Charter and Administrative Code.

5. Sunshine Ordinance

Developer understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov. Code section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City hereunder are public records subject to public disclosure. Developer hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

6. MacBride Principles - Northern Ireland

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Developer acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

8. Conflicts of Interest

Through its execution of this Agreement, Developer acknowledges that it is familiar with the provisions of section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and section 87100 et seq. and section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation

of said provisions, and agrees that if Developer becomes aware of any such fact during the term of this Agreement, Developer shall immediately notify the City.

9. Notification of Limitations on Contributions

Through its execution of this Agreement, Developer acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a the City elective officer, the board on which that the City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Developer acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. Developer further acknowledges that the prohibition on contributions applies to each Developer; each member of Developer's board of directors, Developer's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Developer; any Subcontractor listed in the contract; and any committee that is sponsored or controlled by Developer. Additionally, Developer acknowledges that Developer must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126. Developer further agrees to provide to the City the name of each person, entity or committee described above.

10. Compliance with Laws

Developer shall remain fully informed of and comply with the applicable provisions of the Charter, ordinances and regulations of the City and other local agencies having jurisdiction over the work, and all federal and state laws and regulations in any manner affecting the contract documents, the performance of the work, or those persons engaged therein. Developer shall require compliance with the applicable provisions of the latest laws and requirements, as the same may be amended, updated or supplemented from time to time, of the Code specified in the contract documents, Americans with Disability Act Accessibility Guidelines, CAL-OSHA, the State Division of Industrial Safety of the Department of Industrial Relations, the Division of the State Architect – Access Compliance, the Public Utilities Commission of the State of California, the State Fire Marshal, the National Fire Protection Association, the San Francisco Department of Public Health, state and federal laws and regulations, and of other bodies or officials having jurisdiction or authority over same, and they shall be observed and complied with by Developer and any and all persons, firms and corporations employed by or under it. The City and its agents may at any time, following written notice to Developer, enter upon any part of the work to ascertain whether such laws, ordinances, regulations or orders are being complied with, provided that the City shall have no obligation to do so under this Agreement and no responsibility for such compliance. Architect and General Developer shall comply with

the applicable provisions of San Francisco Administrative Code Chapter 6 that are incorporated into the Architect Contract and the Construction Contract, respectively.

11. First Source Hiring Program

Developer must comply with the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, and as set forth in Exhibit I hereto, and Developer is subject to the enforcement and penalty provisions in Chapter 83.

12. Preservative-Treated Wood Containing Arsenic

Developer may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Developer may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Developer from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

13. Resource Efficient City Buildings and Pilot Projects

Developer acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of City buildings. Developer hereby agrees that it shall comply with all applicable provisions of such code sections.

14. Liability for Use of Equipment

The City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Developer, or any of its Subcontractors, or any Lower-Tier Subcontractors, or by any of their employees, even though such equipment is furnished, rented or loaned by the City.

15. Copyright Infringement

Developer shall indemnify, defend and hold the City harmless from and against all claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City of the materials or work provided by Developer.

EXHIBIT H

DESIGN PROFESSIONAL CONTRACT PROVISIONS

Developer shall include the following terms and conditions in all Design Professional contracts that Developer enters into as part of the Project:

1. Design Professional Services

   A. This provision sets forth basic Design Professional services to be provided by Architect or other Design Professional for the Project. Refer to the Agreement and the Criteria Package for additional, project-specific requirements.

   B. The Design Professionals shall be licensed in the State of California and shall have the necessary expertise and experience required to prepare such design documents to permit the General Contractor to complete its Work in accordance with the requirements of the Contract Documents.

      1. All design work shall be performed and stamped by licensed architects or engineers, as appropriate.

   C. Design Professionals may be replaced only with the approval of the City.

   D. The standard of care for all design services performed or furnished under the Agreement will be the care and skill ordinarily used by members of the engineering or architectural professions practicing under similar conditions, for projects of similar size and complexity, at the same time and locality. Notwithstanding the above, in the event that the Contract Documents specify that portions of the work be performed in accordance with specific performance standards, the design services shall be performed so as to achieve such specific standards.

   E. Design Professionals to be responsible without limitation for the following:

      1. Consult with authorized employees, agents and representatives of the City relative to the City's requirements for the design and construction of the Project.

      2. Before undertaking each part of the work, review the Contract Documents, including the Criteria Package, and existing reference documents and studies of the proposed site and other data furnished to the Design Professional, and advise the City and Developer whether such data is sufficient for purposes of design, and whether additional data is necessary before the Design Professional can proceed. Architect shall notify the Developer in writing promptly upon discovery of any conflict, error, fault, ambiguity, discrepancy, or defect.

      3. Request additional surveys, studies, investigations, reports and information related to the site, which the Design Professional deems necessary for the performance of the work.

      4. Provide design-related services for preparing Schematic Design ("SD"), Design Development ("DD"), and Construction Documents necessary for the General Contractor to construct and interface the Item(s) in complete conformance with the intent and performance requirements of the Contract Documents.

         a. Architect shall submit SD, DD, and Construction Documents to the City for review and acceptance for conformance with the intent and performance requirements of the Contract Documents. Construction Documents shall be submitted to the City for review and acceptance before initiating permit or construction activities based on such Construction Documents.

b. The City's review, approval or acceptance of SD, DD, and Construction Documents submitted by Developer and its Architect shall neither release Developer from its responsibilities to coordinate the various portions of the design and to provide accurate and complete design documents to fulfill the intent and requirements of the Contract Documents, nor transfer any design liability from Developer to City.

c. All SD, DD and Construction Documents, including CADD and other computer discs prepared by Developer's Design Professionals, and all other documents prepared by Architect or its subconsultants in connection with Design Professional services, shall be made and remain the property of the City, except as otherwise provided in the Agreement. Developer will provide the City with software that will allow the City to view the electronic CADD files. The ability to view the files is required; the ability to alter the files is not intended.

d. The SD, DD and Construction Documents will be prepared for the Work of the Agreement only. Any unauthorized use of the SD, DD and Construction Documents is at the sole liability of the user. The City and Developer may make and retain copies of the SD, DD, and Construction Documents for information and reference in connection with the use and occupancy of the Project by the City.

5. Comply with requirements of codes, regulations, and written interpretation thereof, existing at the time permit application(s) are made with the local authorities having jurisdiction over the Project.

6. Provide Design Professional's professional liability insurance policies and coverages as required.

7. Provide assistance in connection with the commissioning, start-up, testing, refining and adjusting of equipment or system designed by the Design Professional for incorporation into the Project.

8. Assist the City in training staff and developing processes and procedures for operation, maintenance and record keeping for equipment or system designed by the Design Professional for incorporation into the Project.

F. Developer shall be wholly responsible for all engineering and design of all Items required to be designed by Architect regardless of any contribution, input, review, participation, or coordination that the City, its agents, members, employees, and authorized representatives may have provided to Developer or its Architect or General Contractor.

G. At all times during the design of the Project, the City and its representatives shall have full access to design documents and design meetings.

H. If, in connection with the Design Professional services, Developer, General Contractor, Architect or their subconsultants create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City (subject to Developer's rights under the Agreement). If it is ever determined that any such works are not works for hire under U.S. law, Developer hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. Developer shall include in its subcontracts with its Subcontractors provisions to make the Subcontractors subject to this paragraph. With the approval of the City, Developer,

General Contractor and Architect, as applicable, may retain and use copies of such works for reference and as documentation of its experience and capabilities.

2. Insurance. Design Professional shall maintain in force, during the full term of its agreement, insurance in the amounts and coverages specified in the Contract Documents, and name as additional insureds the City and County of San Francisco, its Officers, Agents, and Employees.

3. Indemnification.

a. General. To the fullest extent permitted by law, Architect shall assume the defense of (with legal counsel subject to approval of the City), indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of the Architect or its subconsultants), expense and liability of every kind, nature, and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation), that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of the Architect, any subconsultant to the Architect, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities").

b. Limitations. No insurance policy covering the Architect's performance under this Agreement shall operate to limit the Architect's liabilities under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such Liabilities. The Architect assumes no liability whatsoever for the sole negligence, active negligence, or willful misconduct of any Indemnitee or the subcontractor of any Indemnitee.

c. Copyright infringement. Architect shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles or services to be supplied in the performance of Architect's services under this Agreement. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.

EXHIBIT I

LOCAL HIRE, FIRST SOURCE AND LOCAL BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

1. Local Hiring Requirement.

1.1. General Provisions.

1.1.1. Developer shall comply with all applicable requirements of the San Francisco Local Hiring Policy for Construction ("Policy") as set forth in section 6.22(G) of the San Francisco Administrative Code. The provisions of the Policy are incorporated by references into this Agreement. Developer agrees that Developer has had a full and fair opportunity to review and understand the terms of the Policy.

1.1.2. Developer shall require the General Contractor and all subcontractors of every tier performing construction work on behalf of the Developer as part of the Project to comply with all applicable requirements of the Policy.

1.1.3. Developer agrees that the Office of Economic and Workforce Development ("OEWD") will have the authority to enforce all terms of the Policy. Further information on the Policy and its implementation may be found at the OEWD website at: www.workforcedevelopmentsf.org.

1.2. Local Hire Requirements. Developer shall comply with the following:

1.2.1. Local Hire by Construction Trade: Mandatory participation level in terms of Project Work Hours within each trade to be performed by Local Residents is 30%, with a goal of no less than 15% of Project Work Hours within each trade to be performed by Disadvantaged Workers.

1.2.2. Local Apprentices: At least 50% of the Project Work Hours performed by apprentices within each construction trade shall be performed by local residents, with a goal of no less than 25% of Project Work Hours performed by apprentices within each trade to be performed by Economically Disadvantaged Workers.

1.2.3. Construction Contracts: Developer, shall include the terms of this Policy in the contract with the General Contractor and in every construction contract and subcontract entered in to for construction of the Project. Developer shall notify OEWD immediately upon execution of all construction contracts.

1.2.4. Preconstruction Meeting: Prior to commencement of construction, Developer and all construction subcontractors shall attend a preconstruction meeting convened OEWD staff. Representatives from Developer and all construction subcontractors who attend the pre-construction meeting must have hiring authority.

1.2.5. Forms and Payroll Submittal: General Contractor and all construction subcontractors shall utilize the City's web based payroll system to submit all of OEWD's required Local Hiring Forms and Certified Payroll Reports. The General Contractor shall submit Local Hiring Forms prior to commencement of construction and within 15 calendars days from award of contract. The General Contractor must submit payroll information on all

subcontractors who will perform construction work on the Project regardless of tier and contract amount. The General Contractor and all construction subcontractors shall submit Certified Payroll Reports on a weekly basis.

1.2.6. Recordkeeping: Developer and all construction subcontractors shall keep, or cause to be kept, for a period of four years from the date of completion of project work, payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Project. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident, and the referral source or method through which the General Contractor or subcontractor hired or retained that worker for work on the project. Developer and all construction subcontractors may verify that a worker is a local resident by following OEWD's domicile policy. All records described in this subsection shall at all times be open to inspection and examination by OEWD.

1.2.7. Monitoring. From time to time and in its sole discretion, OEWD may monitor and investigate compliance of Developer and all construction subcontractors working on the Project. Developer shall allow representatives of OEWD, in the performance of their duties, to engage in random inspections of the Site. Developer and all subcontractors shall also allow representatives of OEWD to have access to employees of Developer and all construction subcontractors and the records required to be maintained under the Policy.

1.2.8. Noncompliance and Penalties. Failure of General Contractor and/or its construction subcontractors to comply with the requirements of the Policy may subject Developer to the consequences of noncompliance specified in Section 6.22(G)(7)(f) of the Administrative Code, including but not limited to the penalties prescribed in Section 6.22(G)(7)(f)(ii). In the event the Developer fails to adhere to the penalties administered by OEWD, the Developer will be responsible for penalties for noncompliance. The assessment of penalties for noncompliance shall not preclude the City from exercising any other rights or remedies to which it is entitled. Refer to Administrative Code Section 6.22(G)(7)(f)(iv) for a description of the recourse procedure applicable to penalty assessments under the Policy.

2. First Source Requirements

2.1. General Provisions and Definitions.

2.1.1. Developer shall participate in the Workforce System program managed by the Office of Economic and Workforce Development ("OEWD") as established by the City pursuant to Chapter 83 of the San Francisco Administrative Code ("First Source Hiring Policy"). The provisions of the First Source Hiring Policy are incorporated by references into this Agreement. Developer agrees that Developer has had a full and fair opportunity to review and understand the terms of the First Source Hiring Policy.

2.1.2. Design-Builder shall require the Architect and all Subcontractors or subcontractors performing professional services in excess of $50,000 on behalf of the Design-Builder as part of the Project to comply with all applicable requirements of the First Source Hiring Policy.

2.2. Developer agrees that OEWD will have the authority to enforce all terms of the First Source Hiring Policy. Further information on the First Source Hiring Policy and its implementation may be found at the OEWD website at: www.workforcedevelopmentsf.org.

2.3. Definitions. For purposes of this section, the following terms shall be defined as follows:

2.3.1. "Entry Level Position" means any non-managerial position that requires no education above a high school diploma or certified equivalency, and less than two (2) years training or specific preparation, and shall include temporary, permanent, trainee and intern positions.

2.3.2. "Workforce System" means the First Source Hiring Administrator established by the City and managed by OEWD.

2.3.3. "Referral" means a member of the Workforce System who has been identified by OEWD as having the appropriate training, background and skill sets for a specified Entry Level Position.

2.3.4. OEWD Workforce System Participation Requirements. Architect and all professional services subcontractors shall notify OEWD's Business Team of every available Entry Level Position for work performed by the Architect and all professional services subcontractors in the City and provide OEWD 10 business days to recruit and refer qualified candidates prior to advertising such position to the general public. Architect and all professional services consultants and subconsultants shall provide feedback including but not limited to job seekers interviewed, including name, position title, starting salary and employment start date of those individuals hired by the Architect and all professional services consultants and subconsultants no later than 10 business days after date of interview or hire. Architect and all professional services consultants and subconsultants will also provide feedback on reasons as to why referrals were not hired. Architect and all professional services consultants and subconsultants shall have the sole discretion to interview any Referral by OEWD and will inform OEWD's Business Team why specific persons referred were not interviewed. Hiring decisions shall be entirely at the discretion of Architect and all professional services consultants and subconsultants. Failure to comply with the terms of the First Source Hiring Policy may result in penalties as defined in Chapter 83 of the Administrative Code.

3. Local Business Enterprise Program Requirements

3.1. Purpose. Developer agrees to partner with the Contract Monitoring Division ("CMD") to provide Local Business Enterprises ("LBE") with meaningful opportunities to participate in the construction of the Project.

3.2. LBE Participation Goal. Developer, on behalf of itself and its General Contractor and Architect, agrees to work with CMD on developing separate LBE Subconsulting and subcontracting goals and to perform good faith efforts (see attached) to award 20% of the cost of all professional services and construction contracts awarded by Developer as part of the Project to small and/or micro LBE businesses certified by CMD pursuant to Chapter 14B of the Administrative Code.

3.3. Reporting. Beginning as of the PSA Ratification Date and every quarterly thereafter, Developer shall report in writing to the City Representative with a copy to the Director of CMD a summary of Developer's attainment of the LBE Participation Goal.

EXHIBIT J

ASSIGNMENT OF CONTRACTS, WARRANTIES AND GUARANTIES AND OTHER INTANGIBLE PROPERTY

THIS ASSIGNMENT is made and entered into as of this _____day of _____, 20 _____, (the "Effective Date") by and between _____, a_____ _____ ("Assignor"), and the CITY AND COUNTY OF SAN FRANCISCO, a Charter city and county ("Assignee").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the Effective Date, Assignor hereby assigns and transfers to Assignee, and Assignee assumes, all of Assignor's rights, obligations, claims, title, and interest in and under:

A. all warranties and guaranties made by or received from any third party with respect to any building, building component, structure, system, fixture, machinery, equipment, or material situated on, contained in any building or other improvement situated on, or comprising a part of any building or other improvement situated on, any part of that certain real property described in Exhibit A attached hereto (the "Parcel") including, without limitation, those warranties and guaranties listed in Schedule 1 attached hereto (collectively, "Warranties");

B. any intangible personal property now or hereafter owned by Assignor and used in the ownership, use or operation of the Parcel, including the Assumed Contracts listed in Schedule 1.

ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. In the event of any litigation between Assignor and Assignee arising out of this Assignment, the losing party shall pay the prevailing party's costs and expenses of such litigation, including, without limitation, attorneys' fees.

3. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

4. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

5. This Assignment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first written above.

ASSIGNOR:

_____

By:_____

[NAME]

Its:_____

ASSIGNEE:

CITY AND COUNTY OF SAN FRANCISCO, a Charter city and county

By:_____

[NAME]

Its:_____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:_____

[DEPUTY'S NAME]

Deputy City Attorney

San Francisco
Water Power Sewer
Services of the San Francisco Public Utilities Commission

25 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
T 415.487-5213

To: Harlan L. Kelly, Jr.
General Manager

Through: Michael Carlin (MPC)
Deputy General Manager

From: Rosanna S. Russell (RSR)
Real Estate Director

Date: January 4, 2016

Re: **Request for the General Manager's Signature** -Central Shops Memorandum of Understanding

Attached for your signature is the *revised* Memorandum of Understanding with the City and County of San Francisco (**"City"**) General Services Agency's Office of Contract Administration (**"OCA"**), and the City and County of San Francisco General Services Agency's Real Estate Division (**"RED"** or collectively **"OCA"**), approving the transfer of the Central Shops (a portion of San Francisco Assessor's Block/Lot 5262-009, with a street address of1800 Jerrold Avenue) to the San Francisco Public Utilities Commission (SFPUC).

On November 10, 2015, this Commission approved a Memorandum of Understanding (Initial MOU) with OCA and RED, agreeing to incur costs and pay OCA the total amount of $73,700,000 to accomplish the jurisdictional transfer of 1800 Jerrold to the SFPUC, provided that OCA agrees to obtain or construct the necessary functionally equivalent facilities for Central Shops, and relocate by June 2017. The Initial MOU provided that t*he SFPUC would retain jurisdiction* over the Acquired Sites, subject to Central Shops' right to maintain jurisdiction over and use the Acquired Sites for Central Shops' functions.

After November 10, 2015, the SFPUC, OCA and RED agreed that *OCA, rather than the SFPUC, will acquire jurisdiction over the Acquired Sites* and decided to enter into the Revised MOU.

Our Commission approved the revised MOU on December 8, 2015. John Updike, City's Director of Property, has requested that you sign the MOU prior to approval and signature by the Board of Supervisors and the Mayor.

Under the revised MOU, the SFPUC will transfer funds for the City to (i) enter into purchase and sale agreements to acquire the properties at 555 Selby and 1975 Galvez in San Francisco (**"Acquisition Sites"**); (ii) enter into a ten-year lease of the property at 450 Toland in San Francisco (**"Leased Site"**), and (iii) enter into agreements with consultants to undertake development, design and construction of improvements on the Acquisition Sites and Leased Site to accommodate vacation of and relocation of Central Shops functions no later than July 31, 2017.

The Acquisition Sites acquired by the City for the relocation of Central Shops will be placed under GSA's jurisdiction, subject to the irrevocable right of GSA

to occupy and use the acquired and improved property for Central Shops functions.

If Central Shops fails to occupy, vacates, or ceases to use the acquired property for Central Shop functions (Triggering Event), however, GSA must pay to the SFPUC within thirty (30) days after the Triggering Event a sum equal to the unamortized value of the Acquisition Sites. The amortization schedule shall be straight-line depreciation of land and improvements over thirty (30) years, commencing on the date of receipt of Temporary Certificate of Occupancy, with a first year value of $50,000,000.

The SFPUC will transfer $73,700,000 in funds in installments to pay for OCA's costs in vacating and relocating Central Shops.

Upon the Board of Supervisors' approval of legislation authorizing the acquisition of the Acquisition Sites, the execution of a lease of the Leased Site, and agreements necessary to complete the development, design and construction of functionally equivalent relocation facilities, and the conditional jurisdictional transfer of Central Shops to GSA, subject to the revised MOU, then upon vacation of Central Shops and final payment of the transfer of funds, jurisdiction of Central Shops will automatically transfer from OCA to GSA.

Shelby Campbell will monitor the MOU transfer payments.

Please contact me with any questions at 487-5213.

Thank you.

MEMORANDUM OF UNDERSTANDING

(Central Shops)

THIS MEMORANDUM OF UNDERSTANDING (this "**MOU**"), dated for reference purposes only as of December 8, 2015 ("**Agreement Date**"), is by and between the City and County of San Francisco, through its Public Utilities Commission ("**SFPUC**"), the City and County of San Francisco General Services Agency's Office of Contract Administration ("**OCA**"), and the City and County of San Francisco General Services Agency's Real Estate Division ("**RED**" or collectively "**OCA**"), all three entities collectively defined as the "**Parties**".

RECITALS

A. In 1946, the City and County of San Francisco ("**City**") Board of Supervisors ("**Board**") passed Resolution No. 4744 (Series of 1939) requiring the City to purchase certain real property "for the construction, operation, and maintenance of the North Point Sludge Treatment Plant near Islais Creek," now commonly known as the Southeast Water Pollution Control Plant ("**SEP**").

B. In 1946, pursuant to Board Resolution No. 4744 (Series of 1939) and specifically for the purposes of a sludge treatment plant, the City purchased Assessor's Block 5262 in its entirety [Board Resolution No. 5518 (Series of 1939)].

C. Between 1946 and 1948, pursuant to Board Resolution No. 4744 (Series of 1939) and specifically for the purposes of a sludge treatment plant, the City purchased the portion of Assessor's Block 5270 east of the Southern Pacific Railroad tracks [Board Resolution Nos. 5385, 5437 and 5963, and Board Ordinance No. 4849 (all Series of 1939)].

D. Until August 1, 1996, the San Francisco Department of Public Works had jurisdiction over and maintained the City's wastewater system including all municipal sewage treatment and disposal systems and other related facilities located within the City.

E. Effective August 1, 1996, jurisdiction over the City's wastewater system, including sewerage facilities, assets and properties, including a portion of Assessor's Block 5262 was transferred to the SFPUC.

F. Currently, the City's Central Fleet Maintenance Shop is located on the northwest corner of the intersection of Jerrold Avenue and Quint Street, on a portion of Block/Lot 5262-009 (previously designated as Block 5262 and as a portion of Block 5270), commonly known as 1800 Jerrold Avenue ("**Transfer Site**"). The Transfer Site is more fully described in the attached **Exhibit A** and depicted on the attached **Exhibit B**.

G. The Transfer Site, is currently used as an automobile and truck maintenance and repair shop, including ancillary shops, and offices for the City's fleet, commonly referred to as the "**Central Shops**," which is under the jurisdiction of OCA. The San Francisco Department of Technology ("**DT**") also occupies a portion of Central Shops.

H. The Transfer Site is located adjacent to the SFPUC's SEP, also on Block/Lot 5262-009, among other parcels, which the City owns under the SFPUC's jurisdiction.

I. The SEP facilities are old, and require substantial maintenance, repair and replacement. The SFPUC is undertaking scheduled repair and replacement projects at the SEP and throughout the City in the near term, and has immediate need for additional space for storage of equipment and vehicles and temporary relocation of existing uses in the vicinity of the SEP. In the longer term, the SFPUC anticipates a continuing need for more space for capital improvement projects related to existing facilities and upgrades to the sewage system. Due to the existing intensive competition for available industrial land in the City, particularly in proximity to SFPUC's existing utility plants and facilities, the SFPUC now seeks to secure land necessary to support its current and future obligation to provide essential utility services.

J. OCA is willing to consent to a jurisdictional transfer of the Transfer Site to the SFPUC, provided it receives compensation to enable occupancy of functionally equivalent facilities and related necessary relocation expenses.

K. The SFPUC desires to acquire jurisdiction over the Transfer Site, subject to approval of a jurisdictional transfer consistent with this MOU by the Commission, Board of Supervisors and Mayor.

L. OCA desires to transfer jurisdiction of the Transfer Site to the SFPUC, subject to the Board of Supervisors' and Mayor's approval of a jurisdictional transfer consistent with this MOU.

M. In a letter dated November 9, 2015 to the Director of Real Estate, the San Francisco Planning Department ("**Planning Department**") found that the proposed jurisdictional transfer of the Transfer Site from OCA to the SFPUC was consistent with the City's General Plan and Planning Code Section 101.1(b).

N. The SFPUC's Bureau of Environmental Management determined the proposed jurisdictional transfer of 1800 Jerrold to the SFPUC is categorically exempt as a Class 32: In-Fill Development categorical exemption under section 15332 of the California Environmental Quality Act ("**CEQA**").

O. The Planning Department sent notification on October 13, 2015 of the Project receiving environmental review and received no public comments by the end of the specified comment period.

P. On October 28, 2015 the Planning Department concurred with the categorical exempt determination for the proposed Jurisdictional Transfer.

Q. The City's Director of Property has determined the current fair market value of the Transfer Site is less than the reasonable and necessary costs to vacate the Transfer Site and relocate Central Shops to functionally equivalent facilities. Therefore, the Director of Property has determined that the SFPUC must pay OCA the reasonable cost of the Central Shops' relocation and the cost of

functionally equivalent facilities, as set forth in the memorandum dated November 3, 2015 **attached as Exhibit C** in exchange for the jurisdictional transfer of the Transfer Site to the SFPUC.

R. The Director of Property recommends the City (i) enter into purchase and sale agreements to acquire the properties at 555 Selby and 1975 Galvez in San Francisco ("**Acquisition Sites**"); (ii) enter into a ten-year lease of the property at 450 Toland in San Francisco ("**Leased Site**"), and (iii) enter into agreements with consultants to undertake development, design and construction of improvements on the acquired and leased properties to accommodate vacation of the Transfer Site and relocation of Central Shops functions no later than July 31, 2017 (collectively "**GSA Project**").

S. On December 1, 2015, the SFPUC introduced a Resolution at the Board of Supervisors (Board File No. 151215) to authorize the execution and acceptance of a Lease by and between the City and County of San Francisco and Four Fifty Toland, LLC, a California limited liability company, for the real property located at 450 Toland Street with an initial lease amount of $735,600 per year; the execution and acceptance of a Purchase and Sale Agreement by and between City and Selby and Hudson Corporation, a California corporation, for the real property located at 555 Selby Street for $6,300,000; the execution and acceptance of a Purchase and Sale Agreement by and between the City and W.Y.L. Five Star Service Industries, Inc., a California corporation, for the real property located at 1975 Galvez Avenue for $5,000,000; and finding the proposed transactions are in conformance with the City's General Plan, and the eight priority policies of Planning Code, Section 101.1 ("**Proposed Resolution**"). The SFPUC seeks to enter into these transactions to further the proposed jurisdictional transfer of the Transfer Site, subject to the final adoption of an Ordinance authorizing the jurisdictional transfer of the Transfer Site, subject to this MOU, and the agreements to undertake development, design and construction of improvements on the Acquisition Sites and Leased Site ("**Proposed Ordinance**"). However, if the Board approves the Proposed Resolution, the SFPUC intends to execute the Lease and the Purchase and Sale Agreements for SFPUC Wastewater Enterprise purposes, and such action is not contingent on final approval of the Proposed Ordinance.

T. If both the Proposed Resolution and the Proposed Ordinance become effective, the Acquisition Sites acquired by the City for the relocation of Central Shops will be placed under the jurisdiction of GSA, subject to one condition. If Central Shops fails to occupy, vacates, or ceases to use the acquired property for Central Shop functions ("**Triggering Event**"), GSA must pay to the SFPUC within thirty (30) days after the Triggering Event a sum equal to the unamortized value of the Acquisition Sites. The amortization schedule shall be straight-line depreciation of land and improvements over thirty (30) years, commencing on the date of receipt of Temporary Certificate of Occupancy ("**TCO**"), with a first year value of $50,000,000. For example purposes only, should the TCO date be June 1, 2017, and the Triggering Event date be June 1, 2037, the payment amount due SFPUC shall be $16,666,666 (20 years of 30 years total = 0.33 remaining life, $50,000,000 x 0.33 = $16,666,666).

U. OCA and the SFPUC understand and acknowledge that OCA will incur substantial costs in vacating the Transfer Site and relocating Central Shops.

V. OCA desires to accept, and the SFPUC desires to transfer the funds necessary to replace the Transfer Site with facilities that will provide functional equivalent utility for Central Shops.

W. Upon the Board of Supervisors' approval of legislation authorizing the acquisition of the proposed Acquisition Sites, the execution of a lease of the Leased Site, and agreements necessary to complete the development, design and construction of functionally equivalent relocation facilities, subject to the MOU, then upon vacation of Central Shops (OCA) from the Transfer Site and final payment of the Balance Transfer, as defined and pursuant to Section 3.c.iv., requiring the SFPUC to incur or pay the projected reasonable and necessary costs of relocating Central Shops in the total amount of Seventy-Three Million Dollars Seven Hundred Thousand dollars ($73,700,000), jurisdiction of the Transfer Site will automatically transfer from OCA to the SFPUC.

X. OCA is willing transfer and the SFPUC is willing to accept the transfer, subject to the approval of the Board of Supervisors, consistent with the terms and conditions set forth in this MOU.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. Transfer of Jurisdiction.

   a. RED shall submit the Proposed Ordinance to the Board of Supervisors to obtain approval of the jurisdictional transfer, subject to the terms and conditions of this MOU and agreements necessary to complete the development, design and construction of functionally equivalent relocation facilities necessary for the jurisdictional transfer of the Transfer Site.

   b. If the Proposed Resolution authorizing the acquisition of the proposed Acquisition Sites, the execution of a lease of the Leased Site, and the Proposed Ordinance are approved and final, then:

      i. The Acquisition Sites and Lease Site will be placed under OCA's jurisdiction and control in order to effect the improvements contemplated by this MOU, and OCA will retain jurisdiction over the Acquisition Sites if SFPUC obtains jurisdiction over the Transfer Site, subject to the Triggering Event, GSA must pay the SFPUC within thirty (30) days after the Triggering Event a sum equal to the unamortized value of the Acquisition Sites. The amortization schedule shall be straight-line depreciation of land and improvements over thirty (30) years, commencing on the date of receipt of Temporary Certificate of Occupancy ("**TCO**"), with a first year value of $50,000,000. For example purposes only, should the TCO date be June 1, 2017, and the Triggering Event date be June 1, 2037, the payment amount due SFPUC shall be $16,666,666 (20 years of 30 years total = 0.33 remaining life, $50,000,000 x 0.33 = $16,666,666); and

ii. Upon payment of the Balance Transfer by the SFPUC as set forth in Section 3 below, ("**Closing Date**"), jurisdiction over the Transfer Site shall automatically transfer to the SFPUC, and OCA jurisdiction over the Acquisition Sites and control of the Lease Site shall be final, subject to the condition set forth above in subsection 2.b.i., and RED shall prepare, execute and file all applicable documentation to effect the transfer and memorialize the jurisdictional transfer of the Transfer Site in the City's real estate records ("**Final Closing**").

3. Transfer Price; Allocation of Transfer Price; Timing of Transfer of Funds; Transaction Costs.

a. Transfer Price. In consideration for the jurisdictional transfer of the Transfer Site, and jurisdiction over the Acquisition Sites, the SFPUC shall incur or pay OCA an amount ("**Transfer Price**") equal to $73,700,000 as provided in Section 3(b) below. The SFPUC has no obligation to pay any amount above the Transfer Price to OCA related to the relocation of Central Shops from the Transfer Site.

b. Allocation of Transfer Price. SFPUC Funds will be expended in the following manner.

i. No more than $11,500,000 to acquire 555 Selby Street and 1975 Galvez Avenue, and relocate the existing tenant.

ii. No more than $6,900,000 towards the cost of the ten-year lease of 450 Toland.

iii. No more than $55,000,000 for the construction of a new maintenance shop building at Selby and Galvez; and tenant improvements at 450 Toland.

iv. No more than $300,000 for reimbursement of moving expenditures.

Any deviation to this allocation shall require the prior written approval of the SFPUC General Manager and the City's Controller, which shall not be unreasonably withheld.

c. Timing of Transfer of Funds. The SFPUC has available funds appropriated in the amount of $73,700,000 to be applied towards costs incurred and payment of the Transfer Price. Each future transfer is conditioned upon the SFPUC's approval of all demands for payment prior to the disbursement of funds by OCA for expenditures, including but not limited to, contracts, invoices, and construction draws and change orders, and the City Controller shall be consulted as is appropriate prior to funding transfers.

i. The SFPUC shall incur the cost of Eleven Million Five Hundred Thousand Dollars ($11,500,000) upon final approval of the Proposed Resolution for the purchase and sale agreements for the Acquisition Sites and the cost of entering into the Lease for 450 Toland; and if the Proposed Ordinance is final and approved by the Board and the Mayor, the SFPUC will transfer funds in the

amount of Eight Million Five Hundred Thousand Dollars ($8,500,000) minus the costs incurred to that date for the Lease of 450 Toland ("**Initial Transfer**").

ii. The SFPUC shall make a second installment payment of Twenty Three Million Two Hundred Thousand Dollars ($23,200,000) ("**Second Transfer**") to OCA upon the issuance of building permits and notice to proceed on construction at the Acquisition Sites and Lease Site.

iii. The SFPUC shall make a third installment payment of Twenty Four Million Dollars ($24,000,000) ("**Third Transfer**") to OCA upon 50% completion of the new improvements at the Acquisition Sites.

iv. The SFPUC shall pay the balance of the Transfer Price or Six Million Five Hundred Thousand Dollars ($6,500,000) ("**Balance Transfer**") to OCA within ten (10) business days following Central Shop's and DT's vacation of the Transfer Site. Once the Transfer Price is fully paid, jurisdiction of the Transfer Site shall automatically transfer from GSA to the SFPUC.

d. Transaction Costs. Any costs charged by RED and any costs charged by the City Attorney's Office to negotiate and draft transaction documents related to and arising from the jurisdictional transfer of the Transfer Site and effect the Final Closing pursuant to Section 2 shall be borne by the SFPUC.

4. Rights and Obligations of the Parties.

a. The Parties agree to cooperate and work together in good faith to accomplish the purpose and intent of the MOU.

b. If OCA receives the transfer of funds according to the schedule set forth above, Central Shops and DT shall vacate the Transfer Site by the earlier of 30 days following issuance of both TCO's for the Acquisition Sites or June 30, 2017. OCA shall remove all Debris from the Transfer Site, except those items within a building, currently stored in service bays under a roof, or set forth on **Exhibit D**, before vacating the Transfer Site. For purposes of this Section, the term "**Debris**" shall include any other discarded equipment, vehicles, personal property, lumber, equipment, trash, rubbish, or building materials lying on or about the Transfer Site.

c. To accomplish the objectives of this MOU, OCA shall seek approval by the Board of Supervisors and Mayor of authorization for agreements necessary to complete the acquisitions, lease and improvements required to achieve functional equivalent facilities for the Central Shops operations and relocation on the timeline set forth herein. Because substantial SFPUC funds are at risk pending completion of those functionally equivalent facilities, the SFPUC shall have the right to:

(i) Designate a representative who shall attend regular GSA Project status meetings

between OCA, RED and their representatives, agents and contractors; and

(ii) Be advised by OCA, RED and their representatives in advance of any decision that would either increase the cost or delay by more than ten (10) days the completion of the functionally equivalent facilities on either the Acquisition Sites or the Leased Site, or could potentially result in termination of any of the agreements entered into by OCA that are necessary to accomplish the vacation of Central Shops or DT from the Transfer Site, and OCA and RED shall also so advise the City Controller.

d. Prior to the date of Central Shop's vacation of the Transfer Site, the SFPUC, its employees, agents, consultants, contractors, authorized representatives, invitees and guests (collectively, "**PUC Affiliates**") may access and use the Transfer Site for any necessary geotechnical and environmental investigations, provided that the SFPUC does not unreasonably interfere with Central Shop's operations. Each party will appoint a contact person to coordinate access.

e. Prior to the vacation of the Transfer Site, the SFPUC shall not construct or place any permanent structures or improvements in, on, under or about the Transfer Site, nor shall the SFPUC make any alterations or additions to any existing structure or improvement on the Transfer Site.

5. Termination Default.

a. If the SFPUC fails to pay the full Transfer Price consistent with this MOU, OCA may, at its option, terminate this MOU and the SFPUC's right of possession and transfer by giving not less than thirty (30) days' notice to the SFPUC ("**Termination Notice**"). Any such Termination Notice shall identify the effective date of the termination ("**Termination Date**"), which shall be a date not less than thirty (30) days after delivery of the Termination Notice to the SFPUC. Any funds paid by the SFPUC to OCA as a portion of the Transfer Price shall be returned to the SFPUC, minus OCA's and RED's reasonable costs and expenses arising from and related to this MOU, the amounts paid under the Purchase and Sale Agreements for Acquisition Sites, the amounts paid under the Lease for the Leased Site, if any, and unrecoverable costs incurred upon termination of the agreements related to the improvements to be constructed on the Acquisition Sites or Leased Site, if any, supported by written documentation delivered to the SFPUC no later than ninety (90) days following the Termination Date.

b. If OCA fails to attain TCOs for new locations by June 30, 2017, or if there is a delay in the construction schedule for the functionally equivalent facilities of more than 30 days, the SFPUC, at its option, may terminate this MOU by giving not less than thirty (30) days' notice to OCA and RED ("**Termination Notice**") and retain jurisdiction over the Acquisition Sites and control of the Lease Site, or may assume the rights and obligations under the agreements entered into by OCA to accomplish the completion of the

functionally equivalent facilities. Any such Termination Notice shall identify the effective date of the termination ("**Termination Date**"), which shall be a date not less than thirty (30) days after delivery of the Termination Notice to OCA and RED. Any funds paid by the SFPUC to OCA or RED as a portion of the Transfer Price shall be returned to the SFPUC, minus OCA's and RED's reasonable costs and expenses arising from and related to this MOU, the amounts paid under the Purchase and Sale Agreements for Acquisition Sites, the amounts paid under the Lease for the Leased Site, if any, and unrecoverable costs incurred upon termination of the agreements related to the improvements to be constructed on the Acquisition Sites or Lease Site, if any, no later than sixty (60) days following the Termination Date. Alternatively, in the SFPUC's sole discretion, the SFPUC may assume the rights and obligations under those agreements entered into by OCA for improvements to the Acquisition Sites or the Leased Site, for the relocation of Central Shops, or otherwise to recover the benefit of SFPUC expenditures.

c. "**Reasonable costs and expenses**" shall mean, for the purpose of this Section, the reasonable costs and expenses actually incurred by OCA and RED: (i) to investigate relocation sites; (ii) to negotiate and execute Purchase and Sale Agreements for Acquisition Sites; (iii) to negotiate and execute a Lease for the Leased Site; (iv) to hire consultants to implement and manage the Central Shops improvements at the Acquisition Sites and Leased Site ("**Project Management**") and (v) any funds paid under any purchase and sale agreements or relocation lease.

7. Allocation of Liability.

a. Upon the jurisdictional transfer of the Transfer Site, the SFPUC shall assume responsibility for any damage to the property of the SFPUC or for any bodily injury to or death of any such persons, resulting or arising from the condition of the Transfer Site or its use by the SFPUC, and the SFPUC expressly assumes responsibility for any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including without limitation, reasonable attorneys' and consultants' fees and costs (together, "**Claims**"), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with any such property damage, injury or death, or the physical or environmental condition of the Transfer Site and any related improvements or any law or regulation applicable thereto or the suitability of the Transfer Site for SFPUC's intended use.

b. OCA and the SFPUC acknowledge that this MOU is subject to termination and in view of such fact, OCA and the SFPUC each expressly assumes the risk of making any expenditure in connection with this MOU, even if such expenditures are substantial.

c. Upon jurisdictional transfer, the SFPUC accepts the Transfer Site in its "AS IS" condition, without representation or warranty of any kind by OCA or RED or their

employees, agents, consultants, contractors, and authorized representatives, subject to the obligations of OCA to remove Debris pursuant to Section 4.b., and further subject to all applicable laws, rules and ordinances governing the use of the Transfer Site. Without limiting the foregoing, this MOU is made subject to any and all existing and future covenants, conditions, restrictions, easements, encumbrances and other title matters affecting the Transfer Site, whether foreseen or unforeseen, and whether such matters are of record or would be disclosed by an accurate inspection or survey.

8. Conditions to Jurisdictional Transfer. Notwithstanding anything to the contrary contained herein (but subject to the remedies set forth in Section 5), the SFPUC shall have no obligation to make the Balance Transfer unless and until all of the following conditions are satisfied:

(a) Central Shops and DT have vacated the Transfer Site as set forth in Section 4.

(b) Prior to the Final Closing, OCA shall have maintained the Transfer Site in substantially the same condition it was in as of December 1, 2015, and OCA shall not, without first obtaining the SFPUC's prior written approval, have taken any of the following actions: (i) constructed any additional improvements on the Transfer Site, (ii) encumbered all or any part of the Transfer Site with any lien, transfer, grant, lease, license, or other encumbrance, or entered into any contract affecting the Transfer Site, except for operation contracts necessary under applicable Federal, State, and local law and regulations for the safe operation of the facilities and contracts that are terminable on thirty (30) days' notice or less, or (iii) caused or authorized any use of the Transfer Site different from the use of the Transfer Site as of the Agreement Date.

(c) The SFPUC's Commission and the Board of Supervisors and the Mayor (as necessary and if required), shall have approved the appropriation of funds for SFPUC payment of the Transfer Price for the Transfer Site.

9. Approval Contingency. This MOU shall only be effective as of the date that all of the following conditions are met: (i) all Parties hereto have executed this MOU; (ii) the SFPUC's Commission, acting in its sole discretion, approves the Resolution requesting the jurisdictional transfer, authorizes execution of this MOU, and requests appropriations as necessary; and (iii) the Board of Supervisors and Mayor, acting in their sole discretion, approve the Proposed Resolution authorizing the execution and acceptance of a Lease by and between the City and County of San Francisco and Four Fifty Toland, LLC, a California limited liability Company, for the real property located at 450 Toland Street with an initial lease amount of $735,600 per year; the execution and acceptance of a Purchase and Sale Agreement by and between the City and the Selby and Hudson Corporation, a California corporation, for the real property located at 555 Selby Street for $6,300,000; the execution and acceptance of a Purchase and Sale Agreement by and between the City and W.Y.L. Five Star Service Industries, Inc., a California

corporation, for the real property located at 1975 Galvez Avenue for $5,000,000, and (iv) the Board of Supervisors and Mayor adopt the Proposed Ordinance, and it becomes final, authorizing the jurisdictional transfer of the Transfer Site to the SFPUC, subject to the terms of this MOU, approves appropriations as necessary, and agreements necessary to complete the development, design and construction of functionally equivalent relocation facilities, as necessary to implement the terms and intent of this MOU.

10. No Assignment. This Agreement is personal to each of the named Parties, and shall not be assigned, conveyed or otherwise transferred by any Party under any circumstances. Any attempt to assign, convey or otherwise transfer this MOU shall be null and void and cause the immediate termination and revocation of this MOU.

11. Notices. All notices, demands, consents or approvals which are or may be required to be given by either party to the other under this MOU shall be in writing and shall be delivered in person, via email, Interdepartmental Delivery, or sent by United States Postal Service, postage prepaid, or reputable commercial courier, and addressed as follows:

If to RED:	Real Estate Division Office of the Director 25 Van Ness, Suite 400 San Francisco, CA 94102 Attn: Director of Real Estate Telephone: (415) 554-9850
If to SFPUC:	San Francisco Public Utilities Commission 525 Golden Gate Avenue, 13^{h} Floor San Francisco, California 94102 Attn: General Manager Telephone: (415) 554-3155
With a copy to:	San Francisco Public Utilities Commission Real Estate Services Division 525 Golden Gate Avenue, 10th Floor San Francisco, California 94102 Attn: Real Estate Director Telephone: (415) 487-5210 RES@sfwater.org
If to OCA:	General Services Agency Office of Contract Administration City Hall, Room 430 1 Dr. Carlton B. Goodlett Place San Francisco, California 94102 Attn: Director

Telephone: (415) 554-6743
oca@sfgov.org

or such other address that a party may from time to time designate by notice to the other Parties given pursuant to the provisions of this Section. Telephone numbers are provided to facilitate communication and shall not be a sufficient method of delivering notice. Any correctly addressed notice sent by a method that provides confirmation of delivery shall be deemed delivered on the first date of confirmed delivery or confirmed attempted delivery.

12. Authority. All matters requiring RED's approval shall be approved by the Director of RED or his or her designee. All matters requiring OCA's approval shall be approved by the Director of the Office of Contract Administration or his or her designee and, by the Board of Supervisors, if required. All matters requiring the SFPUC's approval shall be approved by the SFPUC's Commission, if required, or by the General Manager, or his or her designee, if authorized.

13. Identification and Application of Additional Funding Sources. The SFPUC shall have the right to apply for any federal, state or local funds that may be available to pay for the costs of implementing the MOU. OCA shall cooperate to provide any materials or documents held by OCA or RED necessary to submit such applications or to qualify for distribution of such funds.

14. Cooperation. Subject to the terms and conditions of this MOU, staff of all Parties to this MOU shall use reasonable efforts to do, or cause to be done, all things reasonably necessary or advisable to carry out the purposes of this MOU as expeditiously as practicable, including, without limitation, performance of further acts and the execution and delivery of any additional documents in form and content reasonably satisfactory to all Parties (subject to any necessary approvals). Notwithstanding anything to the contrary in this MOU, no party is in any way limiting its discretion or the discretion of any department, board or commission with jurisdiction over the actions described in this MOU. In addition to any conditions described in this MOU, the Parties' obligations are expressly subject to the receipt of all legally required approvals following environmental review.

15. Miscellaneous. (a) This MOU may be amended or modified only by a writing signed by the Director of RED, or his or her designee, the Director of the OCA, or his or her designee, the SFPUC, through its General Manager, or his or her designee and the Controller, or his or her designee. (b) No waiver by any party of any of the provisions of this MOU shall be effective unless in writing and signed by an authorized representative, and only to the extent expressly provided in such written waiver. (c) This MOU (including all exhibits) contains the entire understanding between the Parties as of the date of this MOU, and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. (d) Notwithstanding anything to the contrary set forth herein, no officer, director, or employee of RED, OCA or the SFPUC has the authority to bind his or her department to take any action to be performed by his or her department under this MOU unless and until the SFPUC's Commission and the Board of Supervisors and the Mayor, as applicable, approves of the action.

(e) All transactions described herein are subject to and must be conducted in accordance with the applicable requirements of the City's Charter and codes and applicable state and/or federal laws.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed as of the last date written below.

CITY AND COUNTY OF SAN FRANCISCO

RED: REAL ESTATE DIVISION
Of the General Services Agency

By: _____ Date: 1-14-2016
John Updike, Director

OCA: OFFICE OF CONTRACT ADMINISTRATION
Of the General Services Agency

By: _____ Date: 1-14-2016
Jaci Fong, Director

PUBLIC UTILITIES COMMISSION

By: _____ Date: 1·13·2016
Harlan L. Kelly, Jr., General Manager

APPROVED BY:

PUBLIC UTILITIES COMMISSION
PURSUANT TO RESOLUTION NO. 15-0265

By: _____ Date: 1-6-16
Donna Hood, Commission Secretary

March 20, 2013

Exhibit "A"
LEGAL DESCRIPTION
Central Shops

All that certain real property situate in the City and County of San Francisco, State of California, being more particularly described as follows;

BEGINNING at the intersection of the northerly line of Hudson Avenue, as said Avenue existed prior to the vacation of a portion thereof by Ord. 10607, September 23, 1957, B.8-P.239, and the westerly line of Quint Street, as said Street existed prior to the vacation of a portion thereof by Resolution No. 245-78, March 27, 1978, B.10-P18;

thence along the westerly line of said Quint Street, South 35°31'49" West, 560.00 feet to the northerly line of Jerrold Avenue;

thence along said northerly line of Jerrold Avenue, North 54°28'11"West, 313.28 feet to the easterly line of the Rail Road Right-of-Way as described in Resolution No. 5518 (series of 1939), approved May 28, 1946;

thence along said Rail Road Right-of-Way, North 6°17'09" East, 641.80 feet to the Northerly line of said Hudson Avenue extended to the northwest;

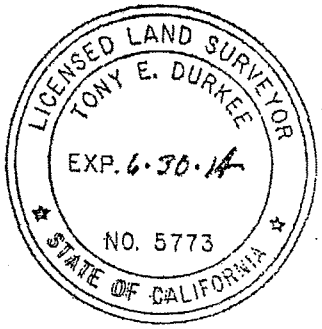
thence along said northerly line of Hudson Avenue and the extension thereof, South 54°28'11" East, 626.82 feet to the **POINT OF BEGINNING.**

Containing 6.04 acres, more or less.

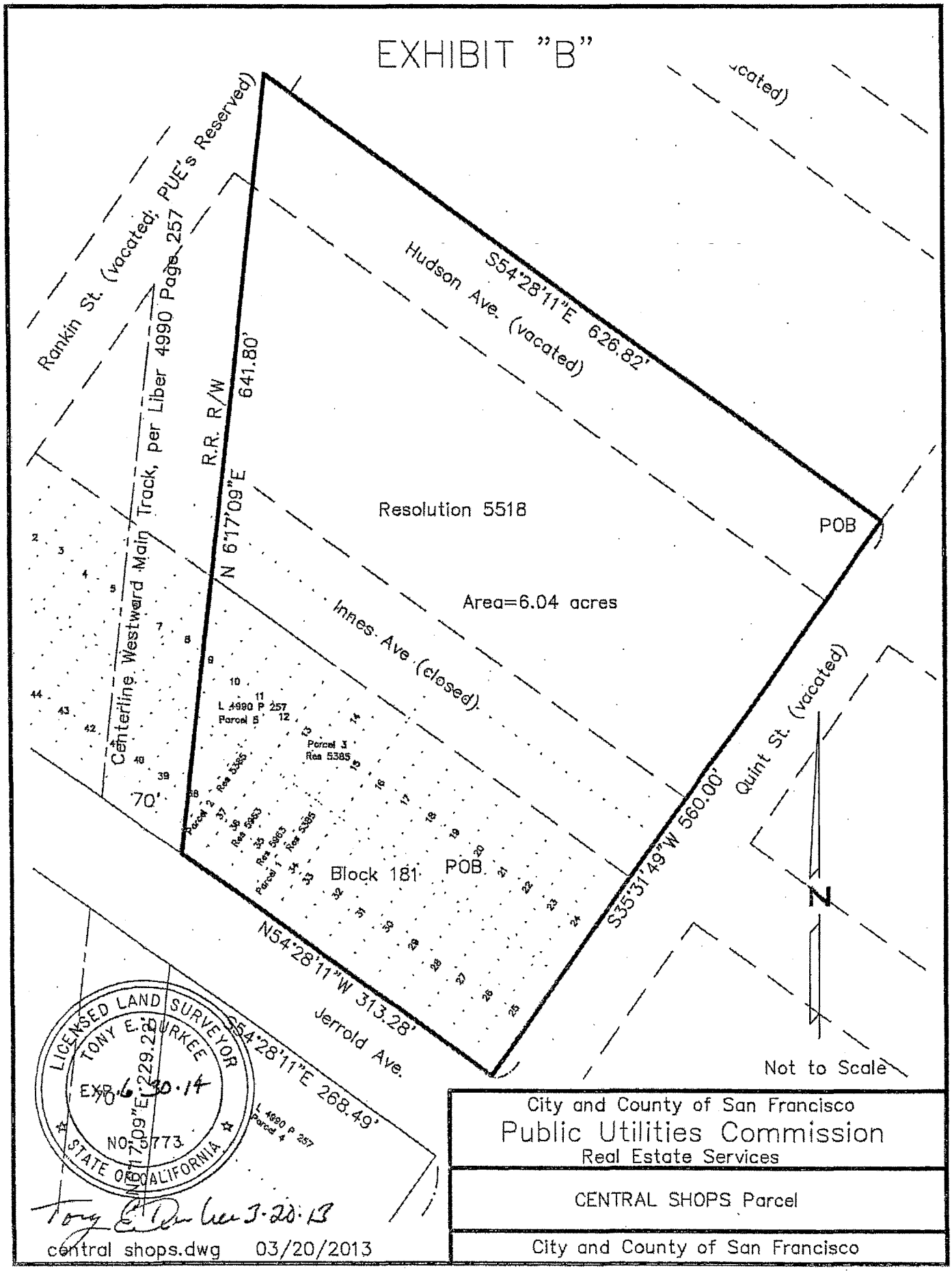
A plat showing the above-described parcels is attached herein and made a part hereof as Exhibit "B".

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.

Tony E. Durkee 7.20.13
Tony E. Durkee, PLS 5773



END OF DESCIPTION



Tony E. Durkee 3-20-13

central shops.dwg 03/20/2013

City and County of San Francisco
Public Utilities Commission
Real Estate Services

CENTRAL SHOPS Parcel

City and County of San Francisco

EXHIBIT B

SITE MAP

(See attached.)


CESAR CHAVEZ ST
HWY 101
555 SELBY ST/
1975 GALVEZ AVE
450 TOLAND ST
FLYNN
PUMP
STATION
CARGO WAY
DAVIDSON AVE
THIRD ST
SOUTHEAST
WATER POLLUTION
CONTROL PLANT
CENTRAL
SHOPS
EVANS AVE
KIRKWOOD AVE
ASPHALT
PLANT
SOUTHEAST
COMMUNITY
FACILITY
Current Southeast Plant
Future Southeast Plant
Current Central Shops
Future Central Shops
N
0
500
1000
SCALE
FEET

EXHIBIT C

DIRECTOR OF PROPERTY MEMORANDUM DATED NOVEMBER 3, 2015

(See attached.)

Edwin M. Lee, Mayor
Naomi M. Kelly, City Administrator

City and County of San Francisco
REAL ESTATE DIVISION
John Updike
Director of Real Estate

MEMORANDUM

Date: November 3, 2015

To: Rosanna S. Russell, Director of SFPUC Real Estate

From: John Updike, Director of Real Estate, Administrative Services

Subject: Jurisdictional Transfer of 1800 Jerrold

The SFPUC desires to acquire jurisdiction over the subject property, subject to its Commission's approval of a jurisdictional transfer consistent with an MOU between the SFPUC and the General Services Agency, aka Administrative Services Department ("GSA"). GSA desires to transfer jurisdiction of the property from GSA to the SFPUC, subject to the Board of Supervisors' approval of a jurisdictional transfer consistent with the MOU.

Another site suitable to the needs of Central Shops has been identified and GSA is agreeable to relocating to this property on the condition that the jurisdictional transfer of 1800 Jerrold includes the functional replacement cost of relocating.

GSA and the SFPUC understand and acknowledge that GSA will incur substantial costs in vacating the property and relocating Central Shops. GSA desires to accept, and the PUC desires to transfer the funds necessary to functionally replace the property with another facility which will provide functional equivalent utility for Central Shops. As the City's Director of Property, I have determined the current fair market value of the property is less than the reasonable and necessary costs to vacate and relocate Central Shops. Therefore, I have determined that SFPUC must pay GSA the reasonable cost of Central Shops' relocation, including acquisition costs, rent (as capitalized), tenant and other physical improvements. Upon payment of the projected reasonable and necessary

costs of relocation of Central Shops in the amount of $75,000,000 and complete vacation of Central Shops from the property, jurisdiction of the property will then transfer from GSA to the SFPUC, pursuant to the legislation to be submitted to the Board of Supervisors shortly.

Similar to how state acquisitions and relocations are addressed when a local municipal public use is to be displaced, this relocation is proposed to be a functional replacement of the real property in public ownership. Functional replacement is recognized and deployed by state agencies such as Caltrans, and by the Federal Government, under Title 49, Part 24 (Uniform Relocation Act, "URA"). Functional replacement is essentially an administrative settlement wherein cash compensation from the displacing agency may be insufficient to restore the status quo as a result of acquiring a public facility such as a school, police or fire station or other similar unique public use. It is similar in approach to the Last Resort Housing provisions of the URA, but applied to publicly owned facilities. The cost to secure 1800 Jerrold is therefore not based on an appraised valuation of the property. It is a settlement payment for the cost of replacing the facilities at a new location.

City staff have identified an assemblage of two properties to be acquired, and a separate though nearby property to be leased, of three separate properties, totaling less than 4 acres – considerably less acreage than the existing Shops location at 1800 Jerrold. The purchase sites are located in Block 5250 at Innes Avenue and Selby Street, only a few hundred feet away from the subject property. The leased site is located at 450 Toland, just a few blocks away. The acquisition, capitalized 10 year lease expenses, and construction costs to functionally replace the existing facility are estimated to cost approximately $75,000,000.

It is proposed that the involved parties enter into a Memorandum of Understanding (MOU) that outlines the fiscal responsibilities of the acquiring party, and the relocation responsibilities of the displaced party. With this MOU in place, as approved by the SFPUC Commission, The Board of Supervisors can then approve the acquisitions and lease of the replacement properties which will include the development of improvements sufficient to functionally replace the existing facilities at 1800 Jerrold. Upon vacation of the 1800 Jerrold premises, the jurisdiction to 1800 Jerrold would vest in the SFPUC. I find the process outlined herein to be consistent with the URA as it applies toward the displacement of municipal uses.

EXHIBIT D

PORTION OF DEBRIS TO BE REMOVED BY OCA FROM THE TRANSFER SITE

Description	L x W x H in F
Hazardous Materials Cabinet	10x10x6
Hazardous Materials Cabinet	6x8x10
Waste Oil Tank	6x6x5
Generator	12x6x5
Guard Shack	8x10x10

SAN FRANCISCO
PLANNING DEPARTMENT

General Plan Referral

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date:	November 5, 2015
Case No.	2015-013598GPR SFPUC Central Shops Relocation and Land Transfer Project (1975 Galvez Avenue, 555 Selby Street, 450 Toland Street)
Block/Lot No.:	5250/016
Project Sponsor:	Yinlan Zhang San Francisco Public Utilities Commission 525 Golden Gate Avenue, 6th Floor San Francisco, CA 94102
Applicant:	Same as Above
Staff Contact:	Lisa Fisher – (415) 558-6308 *lisa.fisher@sfgov.org*
Recommendation:	Finding the project, on balance, is **in conformity** with the General Plan, with three main areas for further enhancing the Bayview Hunters Point Area Plan
Recommended By:	John Rahaim, Director of Planning

PROJECT DESCRIPTION

The proposed Project involves the relocation of the City's General Services Administration (GSA)'s Central Fleet Maintenance Shop (Central Shops) from 1800 Jerrold Avenue, to help meet the San Francisco Public Utilities Commission's need for additional space to support its adjacent Southeast Water Pollution Control Plan (SEP). The two entities have agreed to a jurisdictional transfer of the 1800 Jerrold Street to the SFPUC and the relocation of Central Shops to two sites: 1975 Galvez / 555 Selby Street (to be purchased) and a 10-year lease of 450 Toland Street by GSA using SFPUC funds.

The project at 1975 Galvez / 555 Selby Street will include the demolition of existing strictures and the development of a new building for GSA's heavy equipment repair. The lease of Toland Street will include improvements to existing structures to use for GSA's lighter equipment repair. Public Works has prepared has prepared a preliminary design that prescribes the limits of the proposed Central Shops in terms of maximum dimensions, bulk, height, and usable

space. Once the purchase agreements, construction agreements, and lease have been approved by the Board of Supervisors, a developer engaged by GSA would carry out the design and construction without exceeding the limits.

The submittal is for a General Plan Referral to recommend whether the Project is in conformity with the General Plan, pursuant to Section 4.105 of the Charter, and Section 2A.52 and 2A.53 of the Administrative Code.

ENVIRONMENTAL REVIEW

The project was determined to be categorically exempt under CEQA Guidelines Section 15332 on 10/28/15 (Planning Record No. 2015-004781ENV.

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

The Project is the City's proposed jurisdictional transfer, lease, and redevelopment of three total sites to be used as its Central Shops. The Project is consistent with the Eight Priority Policies of Planning Code Section 101.1 from the City's General Plan, as well as other specific policies, all of which are described in the body of this letter. It is also mainly on balance and in conformity with the Bayview Hunters Point Area Plan. Several of its key objectives and policies are highlighted below, some of which are set to be met by the current Project and some of which will require further attention in the next stages of the project development. The entire Area Plan may be accessed on the Planning Department website:
http://www.sf-planning.org/ftp/general_plan/Bayview_Hunters_Point.htm#BHP_LUS_1_5

CITY OF SAN FRANCISCO GENERAL PLAN, COMMERCE AND INDUSTRY ELEMENT

http://www.sf-planning.org/ftp/General_Plan/I2_Commerce_and_Industry.htm#CAI_IND_4_10

POLICY 2.1: Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The proposed project is retaining its current industrial use and employment numbers as it relocates within the same neighborhood PDR zone, which is called for in the General Plan. The Plan seeks for new development to help achieve better transportation access, parking, room for expansion, security and a pleasant neighborhood environment for employees to work in.

POLICY 4.7: Improve public and private transportation to and from industrial areas.

It is important that industrial job centers are accessible by a wide range of suitable employees via public transportation services. Currently many industrial areas are inadequately served by public transportation

routes and transit times from surrounding residential areas are prohibitive. Improved transit service would reduce pressure for private vehicle ownership and parking problems around the project.

POLICY 4.10: Enhance the working environment within industrial areas.

Public efforts to enhance the environment of industrial areas should also be pursued to influence the attractiveness and appeal of industrial neighborhoods. The promotion of a limited number of small retail areas, restaurants, small parks, and pleasant sidewalks would serve to improve the environment of many dreary industrial areas. The current development at 555 Selby provides an outdoor seating and dining area for employees with potted plants and trees, all of which should be considered along with the new facility.

POLICY 6.1: Encourage emission reduction through energy conservation to improve air quality.

Any form of energy consumption ranging from using electricity to operating an automobile uses energy which, in the process of generation or consumption, usually creates some air pollution. Encouraging conservation of energy facilitates improvements in air quality. The Bayview Hunters Point neighborhood, especially along the I-280 corridor has some of the poorest air quality and highest rates of asthma and other respiratory health impacts in the city. New development should seek ways to help improve local air quality issues. Given this, as well as the building's sizeable flat roof and location alongside the I-280 gateway corridor into San Francisco make it a key opportunity for the inclusion of a living roof. The Planning Department's Living Roof Program <http://www.sf-planning.org/livingroof> supports new development in achieving a long list of co benefits, including energy efficiency, stormwater management, air quality improvements, ecological benefits, and usable open space.

BAYVIEW HUNTERS POINT AREA PLAN

INDUSTRIAL LAND USE

Policy 1.5: Encourage a wider variety of light industrial uses throughout the Bayview by maintaining the newly established Production, Distribution and Repair zoning, by more efficient use of industrial space, and by more attractive building design.

Policy 8.1: Maintain industrial zones for production, distribution, and repair activities in the Northern Gateway, South Basin, Oakinba, and India Basin Industrial Park subdistricts.

The Project helps maintain PDR and related industrial uses in the Bayview. It relocates and maintains its current range and intensity of light industrial uses, mainly the repair and maintenance of City vehicles, including lighter vehicles (police, fire-related automobiles and pick-up trucks) and heavier service vehicles (dump trucks, fire engines, street cleaning). The new locations are adjacent to and in close proximity to other complementary light industrial uses in a larger PDR zone.

MOBILITY

Policy 4.2: Develop the necessary improvements in public transit to move people efficiently and comfortably between different neighborhoods of Bayview Hunters Point, to and from Candlestick Park Point, and to and from Downtown and other parts of the region.

Policy 4.5: Create a comprehensive system for pedestrian and bicycle circulation.

Policy 11.2: Increase awareness and use of the pedestrian/bicycle trail system that links subareas in Bayview Hunters Point with the rest of the City.

The Plan encourages the City to continue to refine and give special attention to the bicycle and pedestrian needs of Bayview Hunters Point. Special attention should be given to pedestrian and bicycle linkages across physical barriers created by elevated highways, rail corridors, and large lots. Given the topography and existing built environment conditions, bicycling is often a convenient alternative to walking. The project should support the development of safe bicycle routes that connect to Project to the existing surrounding bicycle routes on Evans, Oakdale, and Barneveld. There may be an opportunity to extend the City's Bicycle Plan through the area with the use of abandoned rail lines. The Project should also consider enhanced pedestrian connections to proximate MUNI service.

ENERGY CONSERVATION

Policy 17.1: Promote the Bayview as an area for implementing energy conservation and alternative energy supply initiatives.

Policy 17.2: Strengthen linkages between district energy planning efforts and overall community development goals and objectives.

Policy 18.3: Promote effective energy management practices in new and existing commercial and industrial facilities to increase energy efficiency and maintain the economic viability of businesses.

Per the Area Plan, every attempt should be made to integrate energy planning with other community goals and revitalization efforts. Especially within the industrial / PDR sectors, which use substantial amounts of electricity for lighting, air conditioning, industrial operations such as welding and painting. The greatest energy savings can be achieved through improved design, management and maintenance of lighting, heating, ventilation and air conditioning (HVAC) systems. The ideal time to address energy use in existing buildings, for example, is during major rehabilitation. Energy efficiency can help minimize operating costs, reduce GHG emissions to improve air quality, and upgrade existing public facilities by implementing energy saving programs and capital improvements, thereby expanding the power of tax dollars and improving the comfort and aesthetics of facilities. Onsite renewable electricity production is a priority of the City and State, and the Project site location and building design are ideal for hosting

significant rooftop solar (Photo Voltaic, PV) use. Furthermore, conservation and renewable energy technologies can also provide opportunities for addressing job training and employment needs. Community talents, resources and businesses can be brought together in a coordinated effort to both establish new job opportunities and train workers in skills that will help bring about community energy savings.

PROPOSITION M FINDINGS – PLANNING CODE SECTION 101.1

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project, demolition and replacement of the Chinese Recreation Center, is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

Eight Priority Policies Findings

The proposed project is found to be consistent with the Eight Priority Policies of Planning Code Section 101.1 in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

   There are no existing neighborhood-serving retail uses within the proposed project area and the project would not affect any existing neighborhood-serving retail uses. The proposed project would be carried out on PDR-zoned land in an industrial area of the Bayview neighborhood, consistent with the character of other surrounding PDR zoned uses.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhood.

   The proposed project would not affect existing housing, as it is located on PDR zoned land surrounded by other PDR zoned land, where Residential use is prohibited. The project is designed in context with its industrial neighborhood, similar to other proximate, large, utilitarian, warehouse structures in the area. The project would be subject to Civic Design Review at the Arts Commission, which will ensure the neighborhood character is conserved and protected.

3. That the City's supply of affordable housing be preserved and enhanced.

   The proposed project is located in a PDR-zoned area, which does not permit residential uses. Retaining space for the storage and maintenance of the City's vehicle fleet and the wastewater treatment plant in its current neighborhood helps maintain space for new affordable housing to be constructed in other more appropriate areas.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The proposed project would not generate additional commuter traffic as the project would not expand the use of Central Shops but would simply relocate the use to sites nearby. The project is located on the route of the MUNI bus number 23. The project would implement a traffic control plan during construction to ensure that the MUNI transit service is not affected. After construction there would be adequate off-street parking to serve the Central Shops employees during work hours. Because the project is located in an area of the City zoned for production, distribution and repair where residential uses are not permitted, neighborhood parking is not an issue. As discussed above, the project would also need to ensure safe bicycle and pedestrian access.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for residential employment and ownership in these sectors be enhanced.

   The proposed project maintains industrial uses in the current neighborhood, as zoned, and does not include commercial office space. The Central Shops would relocate and maintain current employees in the production, distribution and repair sector, supporting the City's diverse economic base.

6. That the City achieves the greatest possible preparedness to protect against injury and loss of life in an earthquake.

   The proposed project would be constructed in compliance with the City's building codes and seismic safety requirements. The new Central Shops facility would allow GSA to better serve the City's emergency services vehicles, including fire trucks, ambulances, and police cars, and ensure they are ready for use during an earthquake or other emergency response.

7. That landmarks and historic buildings be preserved.

   The proposed project would not affect designated landmarks or architecturally significant buildings. None of the industrial warehouse buildings that would be demolished or renovated are considered eligible for designation as a City landmark building.

8. That our parks and open space and their access to sunlight and vistas be protected from development.

   The proposed project would not affect any existing parks or open space. It is located in a PDR-zoned area with no parks or open space in its vicinity. As mentioned above, the project would be encouraged to provide outdoor space for its employees and those from the surrounding area.

RECOMMENDATION:	**Finding the Project, on balance, in-conformity with the General Plan**

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 15-0241

WHEREAS, In 1946, the City and County of San Francisco (City) Board of Supervisors passed Resolution No. 4744 (Series of 1939) requiring the City to purchase certain real property "for the construction, operation, and maintenance of the North Point Sludge Treatment Plant near Islais Creek," now commonly known as the Southeast Water Pollution Control Plant (Southeast Plant); and

WHEREAS, In 1946, pursuant to Resolution No. 4744 (Series of 1939) and specifically for the purposes of a sludge treatment plant, the City purchased Assessor's Block 5262 in its entirety [Resolution No. 5518 (Series of 1939)]; and

WHEREAS, Between 1946 and 1948, pursuant to Resolution No. 4744 (Series of 1939) and specifically for the purposes of a sludge treatment plant, the City purchased the portion of Assessor's Block 5270 east of the Southern Pacific Railroad tracks [Resolution Nos. 5385, 5437 and 5963, and Ordinance No. 4849 (all Series of 1939)]; and

WHEREAS, Until August 1, 1996, the San Francisco Department of Public Works had jurisdiction over and maintained the City's wastewater system including all municipal sewage treatment and disposal systems and other related facilities located within the City; and

WHEREAS, Effective August 1, 1996, jurisdiction over the City's wastewater system, including sewerage facilities, assets and properties, including a portion of Assessor's Block 5262 was transferred to the SFPUC; and

WHEREAS, Since the mid-1960's, the City has maintained the Central Fleet Maintenance Shop (Central Shops), a facility providing repair services to the City's non-revenue vehicle fleet on a portion of Assessor' Block/Lot 5262-009, with an address of 1800 Jerrold Avenue (1800 Jerrold). The Office of Contract Administration (OCA) of the City's General Services Agency (GSA) has jurisdiction over 1800 Jerrold; and

WHEREAS, Employees and equipment of the City's Department of Technology (DT) also are located at 1800 Jerrold; and

WHEREAS, 1800 Jerrold is approximately 6.04 acres in size and located adjacent to the Southeast Plant, which the City owns under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC); and

WHEREAS, The Southeast Plant facilities are old, and substantial maintenance, repair and replacement is required. The SFPUC has an immediate need for additional space of at least six acres for storage of equipment and vehicles and temporary relocation of existing uses while it undertakes scheduled repair and replacement projects in the next two years. Many of the Southeast Plant's facilities have reached the end of their useful life and are in need of substantial and constant maintenance. In the longer term, the SFPUC anticipates a continuing need for more space for capital improvement wastewater treatment projects that are in the planning stages related to existing facilities and upgrades to the sewer system as part of its Sewer System Improvement Program, including the proposed Biosolids Digester Facilities Project, which is

currently undergoing separate environmental review. Due to the existing intense private sector competition for available industrial land in the City, particularly in proximity to the SFPUC's existing utility plants and facilities, the SFPUC now seeks to secure land necessary to support its current and future obligation to provide essential utility services; and

WHEREAS, OCA will consider consenting to a jurisdictional transfer of 1800 Jerrold to the SFPUC, provided that the OCA receives compensation to enable occupancy of functionally equivalent facilities and for necessary incurred relocation expenses; and

WHEREAS, SFPUC staff, together with staff of GSA's Real Estate Division (RED), has negotiated the terms of a Memorandum of Understanding (MOU), on file with the Commission Secretary for this agenda item, which provides for the terms and conditions of the proposed jurisdictional transfers; and

WHEREAS, The MOU provides that the SFPUC and OCA will seek the approval by the Board of Supervisors and the Mayor of a jurisdictional transfer of 1800 Jerrold to the SFPUC, subject to the terms and conditions of the MOU; and

WHEREAS, The City's Director of Property has determined the current fair market value of 1800 Jerrold is less than the reasonable and necessary expense required to relocate Central Shops to facilities that are functional equivalent to Central Shops' existing facilities, including property acquisition costs, rent, and development, design and construction of improvements for replacement facilities; and

WHEREAS, RED has identified an assemblage, through both leasing and purchase, of three separate properties, close to 1800 Jerrold: the proposed acquisition of 555 Selby and 1975 Galvez (Acquisition Sites) and a long-term lease of 450 Toland (Leased Site), as proposed replacement sites for Central Shops, and proposes to enter into agreements to develop, design and construct replacement facilities and tenant improvements, subject to Board of Supervisors approval; and

WHEREAS, On October 28, 2015, the Environmental Review Officer determined the proposed jurisdictional transfer of 1800 Jerrold to the SFPUC is categorically exempt as Class 32: In-Fill Development categorical exemption under section 15332 of the California Environmental Quality Act (CEQA). The Planning Department sent notification on October 13, 2015 of the project receiving environmental review and received no public comments by the end of the specified comment period; now, therefore, be it

RESOLVED, That this Commission authorizes the General Manager to enter into a MOU with OCA and RED, in substantially the form on file with the Commission Secretary, establishing the terms of the jurisdictional transfer of 1800 Jerrold in exchange for payment of $73,700,000 (Transfer Price) from Project Number CWWSIPPRPL91 for relocation of Central Shops to functionally equivalent facilities, based upon the value determined by the City's Director of Property, subject to approval by the Board of Supervisors and the Mayor of the jurisdictional transfer of 1800 Jerrold and the Acquisition Sites to the SFPUC consistent with the terms of the MOU, and approval of related actions necessary to implement the MOU; and be it

FURTHER RESOLVED, The SFPUC shall have no obligation to pay any amount above the Transfer Price to OCA for the right to assume jurisdiction and occupy 1800 Jerrold and jurisdiction over the Acquired Sites. Any changes to the cost of acquisitions, lease or

construction necessary to achieve the jurisdictional transfer of 1800 Jerrold and the relocation schedule, will be the sole responsibility of OCA ; and be it

FURTHER RESOLVED, That the SFPUC funds transferred to OCA are anticipated to be expended in the following manner: (i) $11,500,000 shall be expended for the acquisition of the Acquired Sites; (ii) $6,900,000 shall be expended toward the ten-year lease of Leased Site; and (iii) $55,300,000 shall be expended for the construction of a new one-story maintenance shop building at the Acquired Sites, tenant improvements at the Leased Site and relocation costs; and be it

FURTHER RESOLVED, That any deviation to this allocation of SFPUC funds transferred to OCA shall require the prior written approval of the SFPUC's General Manager; and be it

FURTHER RESOLVED, That this Commission approves the terms and conditions of the MOU and authorizes the General Manager of the SFPUC to execute the MOU and enter into any amendments or modifications to the MOU, including without limitation, modification, addition, or deletion of exhibits and to enter into any related documents, instruments, memorandum, or other agreements reasonably necessary to consummate the transaction contemplated in the MOU, that the General Manager determines, in consultation with the City Attorney, are in the best interests of the City; do not materially increase the liabilities or obligations of the SFPUC or materially diminish the benefits to the SFPUC; are necessary or advisable to effectuate the purposes and intent of the MOU or this Resolution; and comply with all applicable laws, including the City Charter.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of November 10, 2015.

Donna Hood

Secretary, Public Utilities Commission

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. **15-0265**

WHEREAS, By Resolution No. 15-0241 on November 10, 2015, this Commission approved a Memorandum of Understanding (Initial MOU) with the General Services Agency (GSA)'s Office of Contract Administration (OCA) of the City and County of San Francisco (City) and the GSA's Real Estate Division (RED), establishing the terms and conditions of the jurisdictional transfer of the property at 1800 Jerrold in San Francisco (1800 Jerrold) to the SFPUC,OCA and RED, agreeing to incur costs and pay OCA the total amount of $73,700,000 to accomplish the jurisdictional transfer of 1800 Jerrold to the SFPUC, provided that OCA agrees to obtain or construct the necessary functionally equivalent facilities for Central Shops, and relocate by June 2017; and '

WHEREAS, The Initial MOU provided that the SFPUC would retain jurisdiction over the properties to be purchased for the relocated facilities, subject to Central Shops' right to maintain jurisdiction over and use such properties for Central Shops' functions; and

WHEREAS, After November 10, 2015, the SFPUC, OCA and RED agreed that OCA, rather than the SFPUC, would acquire jurisdiction over the purchased properties and decided to revise the Initial MOU to address these new terms and conditions (Revised MOU); and

WHEREAS, On December 1, 2015, the SFPUC introduced a Resolution at the Board of Supervisors (Board File No. l51215) to authorize the execution and acceptance of a ten-year lease by and between the City and Four Fifty Toland, LLC for a leased site at 450 Toland Street (Leased Site) with an initial rental amount of $735,600 per year; the execution and acceptance of a Purchase and Sale Agreement by and between the City and the Selby and the Hudson Corporation, for the real property located at 555 Selby Street for $6,300,000; the execution and acceptance of a Purchase and Sale Agreement by and between the City and W.Y.L. Five Star Service Industries, Inc. for the real property located at 1975 Galvez Avenue for $5,000,000; and finding the proposed transactions are in conformance with the City's General Plan, and the eight priority policies of Planning Code, Section 101.1 (Proposed Resolution); and

WHEREAS, The purchased properties at 555 Selby Street and 1975 Galvez Street are referred to as the Acquisition Sites; and

WHEREAS, The SFPUC seeks to enter into the Leased Site and Acquisition Site transactions to further the proposed jurisdictional transfer of 1800 Jerrold, subject to the terms and conditions of the Revised MOU, and further subject to the final adoption of a proposed Ordinance authorizing the jurisdictional transfer of 1800 Jerrold (Proposed Ordinance) and the agreements to undertake development, design and construction of new improvements on the Acquisition Sites and the Leased Site. However, if the Board of Supervisors approves the Proposed Resolution, the SFPUC intends to execute the Lease and the Purchase and Sale Agreements for SFPUC Wastewater Enterprise purposes, and such action is not contingent on final approval of the Proposed Ordinance; and

WHEREAS, If both the Proposed Resolution and the Proposed Ordinance become effective, the Acquisition Sites acquired by the City for the relocation of Central Shops will be placed under the jurisdiction of GSA, subject to one condition. If Central Shops fails to occupy, vacates, or ceases to use the acquired property for Central Shop functions (Triggering Event), however, GSA must pay to the SFPUC within thirty (30) days after the Triggering Event a sum equal to the unamortized value of the Acquisition Sites. The amortization schedule shall be straight-line depreciation of land and improvements over thirty (30) years, commencing on the date of receipt of Temporary Certificate of Occupancy, with a first year value of $50,000,000; and

WHEREAS, SFPUC staff, together with staff of GSA's Real Estate Division (RED), has negotiated the terms of the Revised MOU, on file with the Commission Secretary for this agenda item, which provides for the terms and conditions of the proposed jurisdictional transfers; and

WHEREAS, The Revised MOU provides that the SFPUC and OCA will seek the approval by the Board of Supervisors and the Mayor of a jurisdictional transfer of 1800 Jerrold to the SFPUC, subject to the terms and conditions of the Revised MOU and the Proposed Ordinance; and

WHEREAS, On October 28, 2015 the Planning Department determined that this MOU is categorically exempt from CEQA as Class 32: In-Fill Development categorical exemption under CEQA section 15332. This MOU was approved by this Commission on November 10, 2015, Resolution No. 15-0241, and this modification to the MOU has no physical effect on the environment. now, therefore, be it

RESOLVED, That this Commission authorizes the General Manager to enter into the Revised MOU with OCA and RED, in substantially the form on file with the Commission Secretary, establishing the terms of the jurisdictional transfer of 1800 Jerrold in exchange for payment of $73,700,000 (Transfer Price) from Project Number CWWSIPPRPL91 for relocation of Central Shops to functionally equivalent facilities, based upon the value determined by the City's Director of Property, subject to approval by the Board of Supervisors and the Mayor of the jurisdictional transfers of 1800 Jerrold to the SFPUC and the Acquisition Sites to GSA consistent with the terms of the Related MOU, and approval of related actions necessary to implement the Revised MOU; and be it

FURTHER RESOLVED, The SFPUC shall have no obligation to pay any amount above the Transfer Price to OCA for the right to assume jurisdiction and occupy 1800 Jerrold and jurisdiction over the Acquired Sites. Any changes to the cost of acquisitions, lease or construction necessary to achieve the jurisdictional transfer of 1800 Jerrold and the relocation schedule, will be the sole responsibility of OCA; and be it

FURTHER RESOLVED, That the SFPUC funds transferred to OCA are anticipated to be expended in the following manner: (i) $11,500,000 shall be expended for the acquisition of the Acquired Sites; (ii) $6,900,000 shall be expended toward the ten-year lease of Leased Site; and (iii) $55,300,000 shall be expended for the construction of a new one-story maintenance shop building at the Acquired Sites, tenant improvements at the Leased Site and relocation costs; and be it

FURTHER RESOLVED, That any deviation to this allocation of SFPUC funds transferred to OCA shall require the prior written approval of the SFPUC's General Manager; and be it

FURTHER RESOLVED, That this Commission approves the terms and conditions of the Revised MOU and authorizes the General Manager of the SFPUC to execute the Revised MOU and enter into any amendments or modifications to the Revised MOU, including without limitation, modification, addition, or deletion of exhibits and to enter into any related documents, instruments, memorandum, or other agreements reasonably necessary to consummate the transaction contemplated in the Revised MOU, that the General Manager determines, in consultation with the City Attorney, are in the best interests of the City; do not materially increase the liabilities or obligations of the SFPUC or materially diminish the benefits to the SFPUC; are necessary or advisable to effectuate the purposes and intent of the Revised MOU or this Resolution; and comply with all applicable laws, including the City Charter.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of December 8, 2015.

Donna Hood

Secretary, Public Utilities Commission

San Francisco Water Power Sewer

Services of the San Francisco Public Utilities Commission

Central Shops

File Nos. 15-1226 and 16-0021

Board of Supervisors

Budget and Finance Committee

January 27, 2016

Michael Carlin, Deputy General Manager, SFPUC

John Updike, Director, Real Estate Division

Current Southeast Plant
Future Southeast Plant
Current Central Shops
Future Central Shops
N
SCALE
0
1500
3000
FEET

San Francisco Water Power Sewer

Total Costs

Services of the San Francisco Public Utilities Commission

Item	Estimated Cost
Acquisition of 555 Selby Street	$ 6,500,000
Acquisition of 1975 Galvez Avenue	$ 5,000,000
10-Year Lease of 450 Toland Street	$ 6,900,000
Construction of new Central Shops	$ 55,000,000
Moving Expenses	$ 300,000
TOTAL	**$ 73,700,000**

OFFICE OF THE MAYOR
SAN FRANCISCO

EDWIN M. LEE

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2015 DEC -1 PM 4:25

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Mayor Edwin M. Lee
RE: Waiver of Certain Contract Requirements for Project Delivery Agreement for New Central Shops Facilities - Oryx LLC - $55,000,000 Project Cost; Interdepartmental Property Transfers
DATE: December 1, 2015

Attached for introduction to the Board of Supervisors is an ordinance approving and authorizing the Director of Property of the General Services Agency's Real Estate Division ("RED") to execute a Project Delivery Agreement with Oryx, LLC ("Developer") for the design and construction of proposed improvements to future City owned real estate at 555 Selby Street and 1975 Galvez Avenue (Assessors Block 5250, Lot 15, Assessors Block 5250, Lot 16), and tenant improvements to future City leased property at 450 Toland Street (Assessors Block 5230, Lot 18), to create new facilities for the relocation of the City's Central Fleet Maintenance Shop ("Central Shops") from 1800 Jerrold Street (portions of Assessors Blocks 5262 and 5270), with total anticipated project delivery cost of $55,000,000 from San Francisco Public Utilities Commission ("SFPUC") Wastewater Enterprise funds; exempting the project from certain contracting requirements in Administrative Code Chapter 6 by waiving the requirements of Administrative Code Sections 6.61(b) and 6.61(c)(1) – (4), and approving the selection of Oryx LLC as Developer, and Developer's selection of FM&E Architecture & Design as a Subcontractor to serve as the Project Architect and Charles Pankow Builders, Ltd. as a Subcontractor to serve as General Contractor, without competitive bidding; authorizing the jurisdictional transfer of 1800 Jerrold Street, from General Services Agency's Office of Contract Administration ("OCA") to the SFPUC Wastewater Enterprise, and the jurisdictional transfer of 555 Selby Street and 1975 Galvez Avenue, and the leasehold of 450 Toland Street, from the SFPUC to OCA, subject to the terms and conditions of the Memorandum of Understanding entered into between the RED, OCA and SFPUC; and finding the proposed transactions are in conformance with the City's General Plan, and the eight priority policies of Planning Code, Section 101.1.

I respectfully request a waiver of the 30-day hold and that this item be heard in Budget & Finance Committee on December 9th, 2015.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

File No. 151226

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information *(Please print clearly.)*	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information *(Please print clearly.)*	
Name of contractor: Oryx Development I, LLC a Nevada limited liability company	
Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary. Oryx Development I, LLC ("Oryx Development") is a single member limited liability company that is wholly owned by Oryx Partners, LLC a Delaware limited liability company ("Oryx Partners"). Oryx Partners is the sole Managing Member of Oryx Development and is authorized to act on its behalf. Oryx Partners has two Managing Members who are John F Ramsbacher and Juan Carlos Wallace. The following have ownership interests greater than 20% in Oryx Partners: the John F. Ramsbacher Living Trust UTA dated January 3rd, 1997 and the Carr-Wallace Family Revocable Trust UTA dated July 17th, 2008 Oryx Development I, LLC will sub-contract with Charles Pankow Builders and FME Architecture & Design. (5) None	
Contractor address: Mailing address: PO Box 14315 San Francisco, CA 94114 Physical address: 1001 Van Ness Avenue, San Francisco, 94109	
Date that contract was approved:	Amount of contract: Development Fee - $1,295,000.00
Describe the nature of the contract that was approved: Approving and authorizing the Director of Property of the General Services Agency's Real Estate Division ("RED") to execute a Project Delivery Agreement with Oryx, LLC ("Developer") for the design and construction of proposed improvements to future City owned real estate at 555 Selby Street and 1975 Galvez Avenue (Assessors Block No. 5250, Lot No. 15, and Assessors Block No. 5250, Lot No. 16), and tenant improvements to future City leased property at 450 Toland Street (Assessors Block No. 5230, Lot No. 18), to create new facilities for the relocation of the City's Central Fleet Maintenance Shop ("Central Shops") from 1800 Jerrold Street (portions of Assessors Block Nos. 5262 and 5270.	
Comments:	

This contract was approved by (check applicable):

☐ the City elective officer(s) identified on this form (Mayor Edwin M. Lee)

☑ a board on which the City elective officer(s) serves (San Francisco Board of Supervisors)
Print Name of Board

☐ the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information *(Please print clearly.)*	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer) — Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk) — Date Signed