

DDA EXHIBIT B5

“Housing Plan”

DDA EXHIBIT B5

DISPOSITION AND DEVELOPMENT AGREEMENT

(MISSION ROCK)

HOUSING PLAN

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ATTACHMENTS

- Exhibit A – Form of Declaration of Restrictions
- Exhibit A Legal Description of the Property
- Exhibit B Plans for Inclusionary Units
- Exhibit B – Form Housing Data Table

MISSION ROCK HOUSING PLAN SUMMARY¹

The development plan for Mission Rock under the Transaction Documents provides for the development of approximately 1,000 to 1,950 Residential Units. This housing plan (the "Housing Plan") provides that not less than 40% of the Residential Units that may be developed at the Project Site will be below market rate units Affordable to low and moderate income households or TAY Units ("Inclusionary Units"). The parties anticipate that all Inclusionary Units will be built by Vertical Developers in concert with Market-Rate Units within private market-rate development projects. As discussed below, the Port shall convey land to Vertical Developers to develop all Residential Units on the Project Site. The Inclusionary Units will be constructed and rented in accordance with this Housing Plan.

Developer will submit Phase Submittals to the Port pursuant to the Transaction Documents. Following each Phase Approval, the Port will authorize the Chief Harbor Engineer to issue Port permits necessary for Developer to begin to construct the Horizontal Improvements in accordance with the DDA and the Master Lease. Upon exercise of an Option in accordance with the DDA, the Port will convey each Residential Parcel through Parcel Leases to a Vertical Developer. A Vertical Developer will construct the Vertical Improvements, including Residential Parcels and Inclusionary Units therein, in accordance with the Parcel Lease and Vertical DDA. Inclusionary Units within the Vertical Improvements will be constructed in accordance with this Housing Plan. While the Developer will retain certain flexibility and discretion to respond to market conditions as to each Phase and Vertical Improvement, the Project is required by the DDA to comply with certain Inclusionary Housing Milestones by Phase Approval regarding the types, sizes, locations, level of affordability and percentage of the Inclusionary Units.

Developer and the Port will designate the general location of potential Residential Parcels, which will be distributed throughout the Project Site in accordance with a generalized Phasing Plan. The Inclusionary Units are expected to include a range of Residential Unit types, including transition age foster youth ("TAY") units. Each Vertical Developer will retain the discretion to determine the type of Inclusionary Units to be constructed so long as such units are consistent with the Phase Approval and contain the same unit mix (i.e. studio, 1 bedroom, 2 bedroom, or 3 bedroom) or a larger bedroom mix as the Market-Rate Units in that particular Vertical Improvement.

A variety of private and public funding sources may be used to finance the Inclusionary Units, including, but not limited to, low-income housing tax credits, the Jobs/Housing Equivalency Fees, tax-exempt housing bonds, and various other local, State and Federal sources of funding.

The foregoing summary is provided for convenience and for informational purposes only. In case of any conflict, the provisions of the DDA, the Housing Plan, and each Vertical DDA shall control.

1. DEFINITIONS.

Initially capitalized terms unless separately defined in this Housing Plan have the meanings and content set forth in the DDA. Terms defined in the DDA and also set forth in this Section are provided herein for convenience only.

1.1. Affordable, Affordability, or Affordable Housing Cost. means with respect to a Rental Unit, a monthly rental charge (including the Utility Allowance applicable to the Household Size of such Rental Unit) that does not exceed thirty percent (30%) of the maximum

¹ Defined terms in the Summary have the meaning set forth in this Housing Plan.

Area Median Income percentage permitted for the applicable type of Residential Unit, based upon Household Size.

1.2. Area Median Income or AMI means for the Inclusionary Units, unadjusted median income for the San Francisco area as published from time to time by the United States Department of Housing and Urban Development (HUD) adjusted solely for household size.

1.3. BMR Units has the meaning set forth in the Monitoring and Procedures Manual.

1.4. Declaration of Restrictions means a document or documents recorded against an Inclusionary Unit requiring that the Unit remain Affordable in accordance with the terms of this Housing Plan. The Declaration of Restrictions for the Rental Inclusionary Units shall be in the form attached hereto as Exhibit A.

1.5. Development Agreement has the meaning set forth in the DDA.

1.6. Financing Plan means the Financing Plan attached to the DDA.

1.7. Horizontal Improvements has the meaning set forth in the DDA.

1.8. Household Size means the total number of persons residing within a Residential Unit

1.9. Housing Data Table means the table attached here to as Exhibit B.

1.10. Housing Preferences and Lottery Procedures Manual means MOHCD's Housing Preferences and Lottery Procedures Manual dated March 31, 2017, as may subsequently be updated.

1.11. Implementing Manuals means the Housing Preferences and Lottery Procedures Manual and the Monitoring and Procedures Manual.

1.12. Inclusionary Milestone means the date of each Phase Submittal submittal.

1.13. Inclusionary Obligation has the meaning set forth in Section 3.1 of this Housing Plan.

1.14. Inclusionary Units means for a Rental Unit, a unit that is available to and occupied by households with incomes not exceeding One Hundred Fifty percent (150%) of Area Median Income and rented at an Affordable Housing Cost for households with incomes at or below One Hundred Fifty percent (150%) of Area Median Income, including TAY Units. The mechanism for setting the maximum Affordable Housing Cost and income level for each Inclusionary Unit is set forth in Section 3 of this Housing Plan. For clarity, Developer anticipates that Inclusionary Units will be built within private market-rate development projects, subject to Section 3.5.

1.15. Jobs/Housing Equivalency Fee has the meaning set forth in the Development Agreement.

1.16. Marketing and Operations Plan has the meaning set forth in Section 3.9 of this Housing Plan.

1.17. Market-Rate or Market-Rate Unit means a Residential Unit constructed on a Residential Parcel that has no restrictions under this Housing Plan or the DDA with respect to Affordable Housing Cost levels or income restrictions for occupants.

1.18. Minimum Affordable Percentage has the meaning set forth in Section 2.1 of this Housing Plan.

1.19. MOHCD shall mean the City of San Francisco's Mayor's Office of Housing and Community Development or any successor agency.

1.20. Monitoring and Procedures Manual means the City and County of San Francisco's Inclusionary Affordable Housing Program Monitoring and Procedures Manual, dated May 10, 2013, as may be subsequently updated.

1.21. Option has the meaning set forth in the DDA.

1.22. Parking Space means a parking space constructed in the Parking Garage by or on behalf of Developer.

1.23. Phase has the meaning set forth in the DDA.

1.24. Phase Approval has the meaning set forth in the DDA.

1.25. Phase Submittal has the meaning set forth in the DDA.

1.26. Project Site has the meaning set forth in the DDA.

1.27. Residential Parcel has the meaning set forth in the DDA.

1.28. Residential Unit means a room or suite of two or more rooms that is designed for residential occupancy for 32 consecutive days or more, including provisions for sleeping, eating and sanitation, for not more than one family, and may include senior and assisted living facilities.

1.29. Section 415 means San Francisco Planning Code Section 415 et seq.

1.30. Schedule of Performance has the meaning set forth in the DDA.

1.31. Vertical DDA shall have the meaning in the DDA.

1.32. Vertical Developer shall have the meaning set forth in the DDA.

1.33. Vertical Improvement is defined in the DDA.

2. HOUSING DEVELOPMENT

2.1. Development Program. Vertical Developers may develop approximately 1,000 to 1,950 Residential Units on the Project Site. At Project build-out, the number of the Inclusionary Units developed on the Project Site shall be equal to forty percent (40%) of the total number of the Residential Units that are developed on the Project Site (the "Minimum Affordable Percentage"). The Parties understand and agree that Vertical Developers' right to construct the number of Residential Units specified in this Housing Plan is absolute and is based on the total number of Residential Units entitled under the DDA, Phase Approvals, and Vertical DDAs.

2.2. Development Process.

(a) Subject to the terms of the DDA, the Project shall be developed in a series of Phases. The DDA includes a process for Developer's submittal of Phase Submittals and the Port's review and approval of Phase Submittals. The anticipated order of development of the Phases is set forth in the Phasing Plan and the Schedule of Performance, subject to revision in accordance with the procedures set forth in the DDA.

(b) Developer will submit Phase Submittals to the Port pursuant to the Transaction Documents. Following each Phase Approval, the Port will authorize the Chief Harbor Engineer to issue Port permits necessary for Developer to begin to construct the approved Horizontal Improvements in accordance with the DDA and the Master Lease. Upon exercise of an Option in accordance with the DDA, the Port will convey each Residential Parcel through Parcel Leases to each Vertical Developer.

(c) Simultaneously with the Closing of each Parcel Lease, the Port, in consultation with MOHCD, and the Vertical Developer will enter into a Vertical DDA which will include a commitment by the Vertical Developer to construct its Vertical Improvements within a specific timeframe coordinated with the approved Schedule of Performance in the Phase

Submittal. The Vertical DDA will be substantially in a form agreed upon by the Port and Developer following the execution of the DDA and shall specify, among other things (i) the number of Market-Rate Units allowed to be constructed on the Residential Parcel, (ii) the minimum number of Inclusionary Units to be constructed on the Residential Parcel (consistent with Section 3.3 of this Housing Plan), (iii) the Affordability level of each Inclusionary Unit (consistent with Section 3.1 of this Housing Plan), (iv) the location of the Inclusionary Units before recordation of the Declaration of Restrictions as set forth in Section 3.6 of this Housing Plan, and (v) the approximate unit type and size for each Inclusionary and Market-Rate Unit.

(d) Vertical Developers will have the flexibility to select the size and type of Residential Units, including the complete discretion to determine the unit mix for Market-Rate Units subject to the unit mix requirements of Section 3.3(e), and the applicable Vertical DDA and Parcel Lease.

(e) Developer shall submit the Housing Data Table with each Phase Submittal and the table will preliminarily identify the maximum number and location of Residential Units, including the number and location of anticipated Inclusionary Units, for each Residential Parcel within such submittal. Developer or the Port may request a revision to such number before execution of a Vertical DDA and the corresponding Parcel Lease conveying a Residential Parcel to a Vertical Developer, subject to the requirements of this Housing Plan and the DDA. The final details of the plan for the Inclusionary Units for each Residential Parcel shall be specified in the Parcel Lease and corresponding Vertical DDA. Vertical Developer may revise such numbers at any time after execution of a Vertical DDA and the corresponding Parcel Lease conveying a Residential Parcel to a Vertical Developer, subject to Port approval, in consultation with MOHCD, as required by the applicable Vertical DDA and Parcel Lease, as defined pursuant to Section 2.2(c), above.

(f) Subject to the terms of the applicable Vertical DDA and Parcel Lease, following receipt of all Vertical Approvals, the Vertical Developer may construct the applicable Vertical Improvements, and upon such construction, the Vertical Developer must include the number of Inclusionary Units for such Vertical Improvements as are set forth in the Vertical DDA and Parcel Lease.

2.3. Developer Land Conveyances.

(a) Housing Plan Compliance in Phase Submittals. This Housing Plan is intended to provide flexibility regarding delivery of Inclusionary Units within the Project Site, subject to the overall 40% Inclusionary Unit commitment. In order to track Developer's compliance with this Housing Plan, as part of the applicable Phase Submittal for a Residential Parcel, Vertical Developer shall submit a Project Housing Data Table, in the form of Exhibit B attached hereto, identifying the location of each Residential Parcel subject to the Phase Submittal, and containing the following information:

- (i)** the parcel acreage;
- (ii)** the number of Residential Units;
- (iii)** the number and location of any Inclusionary Units, including the size, bedroom count, Household Size and amenities for each such Unit;
- (iv)** the AMI Percentage of each Inclusionary Unit;
- (v)** the type and square footage of uses that are not residential uses (e.g., retail, community space, open space); and
- (vi)** the anticipated date for completion of the Residential Parcel.

(b) Conveyance of Residential Parcels. After exercising an Option, the Port will convey the applicable Residential Parcel to the applicable Vertical Developer through a Parcel Lease. The Port will also enter into a Vertical DDA and confirm or modify pursuant to Section 2.4, as applicable, the information provided in the Phase Approval regarding items 2.3(a)(1) above for the Vertical Improvement that is the subject of the Vertical DDA.

2.4. Changes to Phasing Approval. Developer may, from time to time, request changes, including material changes, to the Phasing Approval, including but not limited to regarding the size, location or composition of a Residential Parcel(s) within a Phase, with a brief explanation as to why Developer is requesting such change. Any material change shall be subject to the Port's review and approval, in consultation with MOHCD, provided that the Port will not withhold its approval of any such changes which are consistent with the DDA and this Housing Plan.

2.5. Maintenance of the Horizontal Infrastructure. Following completion and conveyance to the Port or other City agency, as determined by the parties, it is anticipated that a master association will maintain or cause to be maintained the Horizontal Improvements in accordance with the DDA.

3. INCLUSIONARY HOUSING REQUIREMENTS

3.1. Development of Inclusionary Units. Forty percent (40%) of all Residential Units shall be Inclusionary Units, with an Affordable Housing Cost to households with incomes not exceeding One Hundred Fifty percent (150%) of Area Median Income (the “Inclusionary Obligation”). The Inclusionary Obligation will be satisfied by developing Inclusionary Units at the following affordability levels:

Levels of Affordability	
% of Total Units	AMI Levels
2%	45%
10%	55%
4%	90%
17%	120%
7%	150%

3.2. Transition Age Youth Housing. The Housing Program includes 24 Inclusionary Units that shall be set aside to house persons transitioning out of public systems, such as the foster system, or homelessness (TAY Units). It is anticipated that the Vertical Developer developing the Residential Parcel that includes TAY Units will partner with a qualified non-profit services provider and, in consultation with such provider and the Port, in consultation with MOHCD, the City’s Budget Office, and the City’s Department of Homelessness and Supportive Housing (“HSH”), will establish TAY Unit requirements to govern the Vertical Developer's obligations regarding construction and operation of the TAY Units and any associated service space. TAY Units built on the Project Site shall qualify as Inclusionary Units for purposes of meeting the Minimum Affordable Housing Percentage and Inclusionary Housing Obligation and as Inclusionary Units meeting affordability levels of 45% and/or 55% AMI levels for the purposes of satisfying the Inclusionary Housing Obligation. Notwithstanding anything to the contrary in this Housing Plan, TAY Units may be grouped together in a single Residential

Parcel, among Market-Rate Units and other Inclusionary Units, for financing purposes and to maximize the efficient provision of on-site services to TAY Unit occupants.

3.3. Developer Flexibility. Developer shall have sole discretion to determine the exact number of Inclusionary Units to be developed on each Residential Parcel and the Affordability level of each Inclusionary Unit, provided that: (a) the Housing Data Table to be submitted with each Phase Submittal shall identify the location of the Residential Parcels containing Inclusionary Units, the number of Inclusionary Units, and the Inclusionary Unit allocation shall be in accordance with the Phase Approval, subject to any subsequent revisions in accordance with the DDA, (b) the cumulative number of all Inclusionary Units approved pursuant to a Phase Submittal shall at no time be less than twenty percent (20%) of the total Residential Units approved pursuant to such Phase Submittal; (c) the number of Inclusionary Units in each Vertical Improvement approved pursuant to a Phase Submittal shall be between twenty percent (20%) and sixty percent (60%) of the total Residential Units within such Vertical Improvement approved pursuant to a Phase Submittal; (d) Except for TAY Units, Affordability levels shall be appropriately distributed throughout the Project Site and Inclusionary Units consisting of Forty-Five percent (45%) and Fifty-Five percent (55%) Area Median Incomes shall not be grouped together or constructed in only the later phases of the Project, unless approved by Port, in consultation with MOHCD; (e) the unit mix of the Inclusionary Units must either (i) match the unit mix of the Market-Rate Units within a Vertical Improvement (this can be calculated by multiplying the number of any type of Market-Rate Unit (e.g., studio) by the required inclusionary percentage under the Vertical DDA), or (ii) be composed of larger units than the Market-Rate Units (for example, a Residential Parcel may contain 3 bedroom Inclusionary Units, but not 3 bedroom Market-Rate Units) and (f) Developer shall demonstrate that the Inclusionary Obligation has been or will be satisfied at each Inclusionary Milestone as set forth in Section 3.4 of this Housing Plan.

3.4. Inclusionary Milestones. Developer retains flexibility in the order of development of Residential Parcels within a Phase. The purpose of the Inclusionary Milestones is to advise the Port, MOHCD and the Developer, as part of any new Phase Submittal, regarding the overall status of Residential Parcel construction, including compliance with Inclusionary Obligations, which are consistent with the Inclusionary Housing obligations under previously approved Phase Submittals. Compliance with the Inclusionary Obligation at each Inclusionary Milestone shall be demonstrated by Developer providing the Port and MOHCD with information as follows: (a) a chart summarizing by Phase all Market-Rate and Inclusionary Units (including Affordability levels) approved to date, and describing construction and occupancy status as to each; and (b) a calculation of the cumulative percentages of Residential Units and Inclusionary Units constructed to date, by Phase and overall for the Project Site. During buildout of a Phase, interim conditions may dictate that the current number of units by Phase or cumulatively within the Project Site is less than twenty percent (20%) of the completed Residential Units by Phase or within the Project Site. If this is the case, then the Developer shall submit to the Port and MOHCD a plan summarizing the status of approved but not yet constructed projects on Residential Parcels, and include the plan for modifications to the prior Phase Approvals that will help to expedite development of the remaining Residential Parcels within the previously approved Phase(s). Developer's proposed plan shall be presented to the Port and MOHCD no later than thirty (30) days after the Inclusionary Milestone in which the Inclusionary Obligation was not met.

3.5. Variations. MOHCD, in consultation with the Port, may approve a Phase Submittal or Vertical DDA that does not comply with Section 3.3(c) or (d) if it determines that the proposed development will otherwise comply with this Housing Plan and such variance will allow a Vertical Developer to maximize available financing for the production and/or operation of Inclusionary Housing in the Project Site, such approval shall not be unreasonably withheld or delayed. By way of example only, it is anticipated that the TAY Units will be located in a single

building for purposes of service delivery, and depending on factors such as the building size and remaining unit mix, the Inclusionary Unit percentage within such building could exceed 60%. There may be other examples of similar circumstances where a special circumstance warrants a higher level of affordability in a building; however, it is generally the intent of the Parties to develop a Project composed of mixed income buildings and not create stand-alone affordable buildings.

3.6. Inclusionary Restrictions. The Port, in consultation with MOHCD, shall impose the Inclusionary Obligation on each Vertical Developer of a Residential Parcel. The obligation will be imposed in the Parcel Lease for the Residential Parcel and shall include any requirements pursuant to the DDA and the Vertical DDA.

3.7. Continued Affordability of Inclusionary Units. The Inclusionary Units required under this Housing Plan shall remain for rent for the term of the applicable Parcel Lease (i.e., 75 years) and such units will not be mapped for individual unit ownership, provided, however, that the Market-Rate Units may be mapped for individual unit ownership to allow such Market-Rate Units to be converted in the future. The prohibition on condominium conversion on the required Inclusionary Units shall be included in the applicable Vertical DDAs. No later than the issuance of a first construction document applicable to an Inclusionary Unit, the applicable Vertical Developer shall record against the Inclusionary Unit a Declaration of Restrictions substantially in the form attached hereto as Exhibit A. Vertical Developer shall, upon recordation, provide to the Port and MOHCD a copy of the applicable Declaration of Restriction.

3.8. Comparability. The Inclusionary Units required under this Housing Plan shall comply with the comparability requirements of Zoning Administrator Bulletin No. 10, dated December 2015, as may subsequently be updated, provided, however, that (a) the unit mix of the Inclusionary Units must not match the unit mix for the Project if the unit mix of the Inclusionary Units is composed of larger units than the Market-Rate Units (for example, a Residential Parcel may contain 3 bedroom Inclusionary Units, but not 3 bedroom Market-Rate Units), and (b) more than 50% of the units on any floor may be designated as Inclusionary Units in the case of the TAY Units, or as may be otherwise approved by the Port, in consultation with MOHCD.

3.9. Marketing and Operations Guidelines for Inclusionary Units. A Vertical Developer may not market or rent Inclusionary Units until MOHCD, in consultation with the Port, has approved the following for such Inclusionary Units for consistency with this Housing Plan and the Implementing Manuals: (a) the marketing plan (which includes any preferences determined pursuant to San Francisco Administrative Code Chapter 47; such preferences may include, but shall not be limited to, preferences for educators currently employed with the San Francisco Unified School District); (b) conformity of the rental charges for such Inclusionary Units with this Housing Plan; and (c) eligibility and income-qualifications of renters, together with any supplemental information required under the Implementing Manuals (collectively “Marketing and Operations Plan”). Such approval shall not be unreasonably withheld or delayed. The Vertical Developer that develops the TAY Units must work with HSH to create and implement a lease-up and occupancy plan (the “TAY Unit Occupancy Plan”). Vertical Developers shall submit the HSH-approved TAY Unit Occupancy Plan to the Port not later than one hundred twenty (120) days before the date Vertical Developer expects to begin marketing the Market Rate Units. The Port, in consultation with MOHCD and HSH, shall review and consider approval of the applicable plan in accordance with the Vertical DDA and this Housing Plan, provided, however, if the Port does not respond to Vertical Developer within sixty (60) days after receipt of the applicable plan, such plan will be deemed approved.

3.10. Planning Code Section 415 and Implementing Manuals. The provisions of this Housing Plan are hereby expressly deemed to satisfy the requirements of the San Francisco Inclusionary Affordable Housing Program and Section 415. The Parties agree and acknowledge that the Planning Department and MOHCD have established certain protocols for

implementation of Section 415 as set forth in the Implementing Manuals. Vertical Developers of Inclusionary Units shall comply, as applicable, with the rental program for BMR Units set forth in the Implementing Manuals, provided, however, that Developer may: (a) use other development subsidies to finance the construction of Inclusionary Units beyond those described in Section V.C of the Monitoring and Procedures Manual; and (b) establish an alternate pricing process, in consultation with the Port, including setting income levels and rents and establishing a methodology for maximum monthly rent levels consistent with the use of financing, other than the process described in Section III.C of the Monitoring and Procedures Manual, so long as the alternate pricing formula does not create affordability levels that exceed the levels set forth in Section 3.1 above. By complying with the provisions of this Housing Plan, Developer shall be deemed in full compliance with the Monitoring and Procedures Manual. Developer shall comply, as applicable, with the Housing Preferences and Lottery Procedures Manual, subject to modification in consultation with the Port, to address preferences and procedures related to TAY Units or educators or other preferences contemplated in Section 3.9.

4. FINANCING OF INCLUSIONARY UNITS

4.1. Funding Generally. The Inclusionary Units may be funded by a variety of private and tax-exempt funding sources, including, but not limited to, Vertical Developer equity, Jobs/Housing Equivalency Fees, low-income housing tax credits, tax-exempt housing bonds, and various other local, State and Federal sources of funding. Due to the nature of the Project, it is not possible to ascertain the exact funding sources for each Inclusionary Unit at the time of this Housing Plan. However, it is anticipated that several funding sources will be combined to fund the development of the Inclusionary Units. Additionally, it is anticipated that TAY Units will receive a local operating subsidy through the San Francisco Local Operating Subsidy Program (LOSP), and the Developer will work with HSH and the City's Budget Department to secure a LOSP commitment.

4.2. Jobs/Housing Equivalency Fees. The commercial development within the Project Site will generate Jobs/Housing Equivalency Fees to be paid into a housing fund held by the Port in accordance with the Financing Plan. In order to construct the Inclusionary Units required under this Housing Plan, all Jobs/Housing Equivalency Fees payable by Vertical Developers of commercial uses within the Project Site and paid into the affordable housing fund administered by the Port shall be used solely for predevelopment, development expenses and administrative costs associated with the acquisition and construction of Inclusionary Units within Residential Parcels in accordance with this Housing Plan, under the terms and conditions set forth in the Development Agreement.

5. VERTICAL DEVELOPMENT PARKING AND TRANSIT PROGRAM

5.1. Separation. For Residential Parcels, all Parking Spaces shall be "unbundled" (i.e., rented separately from a Unit within such Residential Parcel). It is anticipated that no Parking Spaces will be provided within a Residential Parcel. If Parking Spaces are provided within a Residential Parcel and offered to occupants of Residential Units, then such Parking Spaces shall be offered to occupants of Inclusionary Units on the terms and conditions set forth in the Monitoring and Procedures Manual. It is currently anticipated that all parking at the Project Site shall be within the Parking Garage, which will be operated by a Parking Garage operator. Occupants of Residential Units may choose to contract directly with the operator of the Parking Garage for parking at the Project site, but shall not be obligated to do so.

5.2. Transit Program. The Project will contain a comprehensive Transit Demand Management Plan which will manage travel through a variety of investments and programs applicable to the Inclusionary Units. The Project transit program may include, but shall not be limited to, providing residents of Market Rate Units and Inclusionary Units with pre-loaded Clipper Card, on-site bike sharing and bike parking, real-time transit information on screens

within the Project, car-share memberships, improved pedestrian walking conditions and assistance with local public transit.

6. NON-APPLICABILITY OF COSTA HAWKINS ACT

The Parties understand and agree that the Costa-Hawkins Rental Housing Act (California Civil Code sections 1954.50 et seq.; the "Costa-Hawkins Act") does not and in no way shall limit or otherwise affect the restriction of rental charges for the Inclusionary Units developed pursuant to the DDA and the Development Agreement (including this Housing Plan). The DDA falls within an express exception to the Costa-Hawkins Act because the DDA is a contract with a public entity in consideration for a direct financial contribution and other forms of assistance specified in Chapter 4.3 (commencing with section 65915) of Division 1 of Title 7 of the California Government Code. Accordingly, Developer, on behalf of itself and all of its successors and assigns, including all Vertical Developers, agrees not to challenge, and expressly waives, now and forever, any and all rights to challenge, Developer's obligations set forth in this Housing Plan related to Inclusionary Units, under the Costa-Hawkins Act, as the same may be amended or supplanted from time to time. Developer shall include the following language, in substantially the following form, in all Vertical DDAs:

"The DDA (including the Housing Plan) implements the California Infrastructure Financing District Law, Cal. Government Code §§ 53395 et seq. and City of San Francisco policies and includes regulatory concessions and significant public investment in the Project. The regulatory concessions and public investment include, without limitation, a direct financial contribution of net tax increment, the conveyance of real property without payment, and other forms of public assistance. These public contributions result in identifiable, financially sufficient and actual cost reductions for the benefit of Developer and Vertical Developers. In light of the Port's authority under Government Code Section 53395.3 and in consideration of the direct financial contribution and other forms of public assistance described above, the parties understand and agree that the Costa-Hawkins Act does not and shall not apply to the Inclusionary Units developed at the Project Site under the DDA."

The Parties understand and agree that the Authority would not be willing to enter into the DDA, without the agreement and waivers as set forth in this Section 6.

7. HOUSING PLAN IMPLEMENTATION AND ENFORCEMENT

Under the terms and conditions of the DDA, this Housing Plan is administered, monitored and enforced by the Port, in consultation with MOHCD. The Port shall consult with MOHCD regarding implementation of the Housing Plan, including but not limited to providing copies of each Phase Submittal including a Residential Parcel, and any submittals for material amendment thereto, to MOHCD for review and comment prior to Phase Approval. In addition, the Port and MOHCD contemplate that MOHCD will provide ongoing technical assistance and advice to the Port regarding Housing Program implementation, including but not limited to compliance review regarding Section 415, the Monitoring and Procedures Manual, and the Housing Preferences and Lottery Procedures Manual.

8. MISCELLANEOUS

8.1. No Third Party Beneficiary. Except to the extent set forth in the DDA, there are no express or implied third party beneficiaries to this Housing Plan.

8.2. Severability. If any provision of this Housing Plan, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Housing Plan or the application of such

provision to any other Person or circumstance, and the remaining portions of this Housing Plan shall continue in full force and effect. Without limiting the foregoing, in the event that any applicable law prevents or precludes compliance with any term of this Housing Plan, the Parties shall promptly modify this Housing Plan to the extent necessary to comply with such law in a manner that preserves, to the greatest extent possible, the benefits to each of the Parties. In connection with the foregoing, the Parties shall develop an alternative of substantially equal, but not greater, cost and benefit to Developer and any applicable Vertical Developer so as to realize from the Project substantially the same (a) overall benefit (from a cost perspective) to the public and (b) overall benefit to Developer and any applicable Vertical Developer.

8.3. Approvals. Originally approved pursuant to Board of Supervisors Resolution 0052-18 and Port Commission Resolution 18-03. Revised pursuant to Board of Supervisors Resolution ____ - ____ and Port Commission Resolution ____ - ____.

EXHIBIT A

FORM DECLARATION OF RESTRICTIONS

Free Recording Requested
Pursuant to Government Code Section 27383

Recording requested by and
when recorded mail to:

Port of San Francisco
Pier 1
San Francisco, California 94111
Attn: _____

APN#:

Address:

-----Space Above This Line for Recorder's Use-----

DECLARATION OF RESTRICTIONS

[Property Address]

THIS DECLARATION OF RESTRICTIONS ("Declaration") is made as of ____, ____, by **[LESSEE'S NAME IN BOLD, CAPITAL LETTERS.]**, a [____ limited liability company] ("Lessee"), in favor of the **CITY AND COUNTY OF SAN FRANCISCO**, acting by and through the San Francisco Port Commission (the "Port").

RECITALS

A. The Port entered into that certain Disposition and Development Agreement (the "DDA") with Seawall Lot 337 Associates, LLC, a Delaware limited liability company ("Developer") on ____, ____ governing the development of an approximately 16-acre parcel located in San Francisco south of Mission Creek/China Basin Channel, bordered by Third Street on the west, Mission Rock Street on the south, and Terry Francois Boulevard on the east (the "Mission Rock Project"). As part of the DDA, the Port and the Developer agreed to implement a housing plan that sets forth the obligations with respect to the delivery of affordable housing at the Mission Rock Project (the "Housing Plan"). The Port desires to impose certain restrictions described in the Housing Plan upon the development of the leasehold interest in the real property described in **Exhibit A** attached hereto and incorporated herein by reference (the "Property") with respect to the market-rate and inclusionary low-income housing depicted in **Exhibit B** attached hereto and incorporated herein (the "Residential Project"). Lessee and the Port entered

into that certain Vertical Disposition and Development Agreement dated as of ____, 20__ and that certain Parcel Lease on __, 20__ governing the development of the Residential Project, including the development of inclusionary low-income housing, as either may be amended from time to time (the “Vertical Agreements”). The Vertical Agreements are incorporated by reference in this Declaration as though fully set forth in this Declaration. Definitions and rules of interpretation set forth in the Vertical Agreements apply to this Declaration.

B. Pursuant to the Vertical Agreements, Lessee has agreed to comply with certain affordability and other use and occupancy restrictions (collectively, the “Regulatory Obligations”), commencing on the date on which a certificate of occupancy is issued for the Residential Project, and continuing through the date that is the expiration of the Parcel Lease applicable to the Residential Project (the “Compliance Term”).

AGREEMENT

Now, therefore, in consideration of the Port's entering into the Vertical Agreements with Lessee, Lessee agrees as follows:

1. Lessee must comply with the Regulatory Obligations through the expiration of the Compliance Term. Specifically, Lessee agrees as follows, subject to additional terms as set forth in the Agreement:

[Revise to reflect specific requirements and income categories.] [Replace “Unit” if “Beds” are used in Regulatory agreement.]

(a) *[Include if applicable:* With the exception of one Unit reserved for the manager of the Residential Project,*] Inclusionary Units in the Residential Project will at all times be rented only to tenants who qualify as Qualified Tenants at initial occupancy, specifically:*

UNIT NUMBER (Plans)	UNIT NUMBER (Building)	FLOOR	BEDS	BATHS	SIZE (Net SF)	AMI LEVEL
<i>EXAMPLE</i>	<i>EXAMPLE</i>	<i>EXAMPLE</i>	<i>EXAMPLE</i>	<i>EXAMPLE</i>	<i>EXAMPLE</i>	<i>EXAMPLE</i>
<i>2.A</i>	<i>203</i>	<i>2</i>	<i>Studio</i>	<i>1</i>	<i>598</i>	<i>90%</i>
<i>2.B</i>	<i>204</i>	<i>2</i>	<i>1</i>	<i>1.5</i>	<i>618</i>	<i>120%</i>
<i>2.C</i>	<i>205</i>	<i>2</i>	<i>2</i>	<i>2</i>	<i>851</i>	<i>150%</i>

[Include if there is a reason to restrict to a target population] In addition:

(i) _____ Units must be rented at all times to *[TAY tenants]*.

(ii) _____ Units must be rented at all times to tenants who are **[educators]**.

(b) The total amount for rent and utilities (with the maximum allowance for utilities determined by the San Francisco Housing Authority) charged to a Qualified Tenant may not exceed:

(i) thirty percent (30%) of the applicable maximum income level, adjusted for household size; or

(ii) the tenant paid portion of the contract rent as determined by the San Francisco Housing Authority for Qualified Tenants holding Section 8 vouchers or certificates.

2. During the Compliance Term the Port may rely on the Deed of Trust and/or this Declaration, in the Port's discretion, to enforce any of the Port's rights under the Vertical Agreements.

3. This Declaration and the Regulatory Obligations constitute covenants running with the land, including the leasehold interest and bind successors and assigns of Lessee and any owner of the Property. In the event that Lessee fails to comply with the Regulatory Obligations to the Port's satisfaction, in its sole discretion, within thirty (30) days of Lessee's receipt of notice from the Port to so comply, the Port at its option may exercise any rights available at equity or in law, including, without limitation, institute an action for specific performance. Lessee shall pay the Port's costs in connection with the Port's enforcement of the terms of this Declaration, including, without limitation, the Port's attorneys' fees and costs.

[Delete Section 4 if HUD is not providing financing. Revise as appropriate for HUD financing.]

4. The Port acknowledges that this Declaration and the other Vertical Agreements are subject and subordinate to the HUD Documents until the later to terminate of: (a) the term of the HUD Documents; or (b) any period during which HUD holds title to the leasehold estate in the Property. During any applicable period:

(a) The HUD Documents may be amended, extended, renewed, assigned, or superseded without the Port's consent.

(b) The Port will not declare a default or foreclose without HUD's prior

written consent.

(c) The Residential Project will be constructed and operated in conformance with the provisions of HUD's Section 202 Program and all applicable regulations and administrative requirements. In the event of any conflict between this Declaration and the provisions of any HUD regulations, related administrative requirements or capital advance documents (including the HUD Documents), the latter shall control.

(d) HUD approval of a transfer of the Residential Project as defined in Section 4 of the Capital Advance Program Use Agreement shall be deemed to constitute approval of the Port to the transfer.

5. A condominium conversion of the required Inclusionary Units within the Residential Project is prohibited.

6. This Declaration may only be amended with the written consent of Port, which consent may be withheld in its sole discretion.

Lessee has executed this Declaration as of the date first written above.

"LESSEE"

[ENTITY NAME],
[Entity Type]

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

[Delete second signature if not required.]

[SIGNATURES MUST BE NOTARIZED.]

EXHIBIT A

(Legal Description of the Property)

A LEASEHOLD INTEREST IN THE FOLLOWING LAND SITUATED IN THE CITY OF
SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

Street Address:

EXHIBIT B

(Plans for Inclusionary Units)

[Attached]

EXHIBIT B

FORM HOUSING DATA TABLE

Phase:									
Residential Parcel	Total Residential Units	Total Inclusionary Units	Parcel Acreage	Number of Inclusionary Units @ 45%	Number of Inclusionary Units @ 55%	Number of Inclusionary Units @ 90%	Number of Inclusionary Units @ 120%	Number of Inclusionary Units @ 150%	Anticipated Date of Completion

Residential Parcel:				
Location of Inclusionary Units	Bedroom Sizes	Household Sizes	Non-Residential Uses	Amenities

Residential Parcel:				
Location of Inclusionary Units	Bedroom Sizes	Household Sizes	Non-Residential Uses	Amenities

Exh B-1

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Exh B-2

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housing.2025-03-07 mission rock housing plan update parcel
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