Commission on Community Investment and Infrastructure

RESOLUTION NO. 33-2014
Adopted May 6, 2014

RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE MAYOR'S OFFFICE OF HOUSING AND COMMUNITY DEVELOPMENT FOR THE IMPLEMENTATION OF THE RETAINED HOUSING OBLIGATIONS.

WHEREAS, On February 1, 2012, the state dissolved the Former Agency pursuant to the California Assembly Bill known as AB 26 and the California Supreme Court's decision and order in the case entitled *California Redevelopment Association et al. v. Ana Matosantos.* In June 2012, AB 26 was amended by AB 1484. (Together, AB 26 and AB 1484 are referred to as the "Dissolution Law.") The Former Agency assisted in the development of over 10,000 affordable housing units restricted to low and moderate income households, and at the time of Dissolution had over 1,400 affordable housing units in the planning or predevelopment stages and had obligations to assist in the development of about 5,200 affordable housing units associated with the Hunters Point Shipyard/Candlestick Point, Mission Bay North and South, and Transbay Projects (the "Major Approved Development Projects"); and obligations to replace about 6,700 affordable units destroyed in the 1960's and 1970's (the "Replacement Housing Obligation"); and,

WHEREAS, The Redevelopment Dissolution allowed cities or counties to elect to retain the housing assets and functions previously performed by the redevelopment agency. Cal. Health & Safety Code § 34176. The Board of Supervisors of the City and County of San Francisco elected, under Resolution No. 11-12 (Jan. 26, 2012), to retain the housing functions of the Former Agency and accepted transfer of the Former Agency's affordable housing assets. Resolution No. 11-12 designated the Mayor's Office of Housing ("MOH" or "MOHCD") to perform the housing functions and to accept the housing assets of the Former Agency; and,

WHEREAS, AB 1484 clarified that successor agencies to former redevelopment agencies were separate public entities and had to retain affordable housing obligations to qualify for funding from property tax revenues (former tax increment) to fulfill those obligations. Subsequently, the City implemented AB 1484 by Ordinance No. 215-12 (Oct. 4, 2012) ("Successor Agency Ordinance") and acknowledged that the Successor Agency retained enforceable obligations for the development of affordable housing required to fulfill the Major Approved Development Projects' affordable housing requirements and the Replacement Housing Obligation, (together, the "Retained Housing Obligations"); and,

WHEREAS, As a result of these state and local laws, OCII became the Successor Agency to the Redevelopment Agency of the City and County of San Francisco and assumed the Retained Housing Obligations. OCII is a public body, corporate and politic, exercising the Former Agency's functions and powers under the Community Redevelopment Law ("CRL"), as amended by Dissolution Law; and,

WHEREAS, Pursuant to the Successor Agency Ordinance, OCII was directed to create a framework with MOHCD for fulfilling their respective responsibilities for the implementation of the funding, approvals, and management of the Retained Housing Obligations. This Memorandum of Understanding (the "MOU"), attached hereto as Exhibit 1, is intended to outline the framework agreed upon by OCII and MOHCD for implementing such obligations, as well as the terms for disposition of the assets related thereto; and,

WHEREAS, OCII is responsible for implementing the Retained Housing Obligations pursuant to the CRL as amended by Dissolution Law and to its enforceable obligations, which includes but is not limited to: the provision of the funding necessary to implement the Retained Housing Obligations pursuant to OCII's annual budget and semi-annual Recognized Payment Obligation Schedules ("ROPS"), including securing the necessary funds through the receipt of Redevelopment Property Tax Trust Fund ("RPTTF") from the City's Auditor-Controller, the issuance of tax allocation bonds, or other alternate forms of financing; the application of OCII's equal opportunity and workforce programs and land use authority as required by the enforceable obligations, unless otherwise designated in this MOU; the facilitation of community input through applicable Citizens Advisory Committees and other relevant community stakeholders; and the application of OCII's Purchasing Policy, which includes seeking necessary authorizations from the Commission on Community Investment and Infrastructure (the "Commission"). The Commission will approve the selection of developers through Requests for Proposals, funding requests, land use entitlements, dispositions and other development agreements for the Retained Housing Obligation's in accordance with OCII's policies and enforceable obligations. OCII will also seek authorization and approval of certain actions from the Oversight Board of the City and County of San Francisco ("Oversight Board") as required by the CRL as amended by Dissolution Law and from the Board of Supervisors as required by the CRL or the Successor Agency Ordinance; and,

WHEREAS, Upon completion of each Retained Housing Obligation project, OCII will seek to transfer the affordable housing asset(s) to MOHCD as the Housing Successor pursuant to the CRL as amended by Dissolution Law. On November 25, 2013, the Oversight Board approved Resolution No. 13-2013 confirming that 1,024 affordable housing assets, including but not limited to land and regulatory agreements, had transferred to MOHCD as Housing Successor. From and after the transfer of each asset to MOHCD, MOHCD shall manage the asset in compliance with local, state, and federal requirements, including Dissolution Law, Assembly Bill 987, and Assembly Bill 341, to ensure compliance with affordability restrictions and other requirements imposed through enforceable obligations, including funding, entitlement, and land disposition agreements. Any payments made under the terms of the relevant funding and land disposition agreements after the transfer of the Retained Housing Obligation asset to MOHCD, less any excess OCII loan or grant proceeds that result from the financial close-out of the affordable housing project which are due to OCII, shall be paid to MOHCD, and maintained in a separate Low and Moderate Income Housing Asset Fund, and may be used by MOHCD in compliance with the CRL as amended by Dissolution Law and Assembly Bill 341, or other applicable state laws; and,

WHEREAS, In anticipation of that future transfer of the Retained Housing Obligations to MOHCD, OCII will coordinate with MOHCD during the implementation of the

affordable housing projects in order to ensure an integrated transfer of the asset(s) to MOHCD consistent with the program goals in Redevelopment Plans, the City Consolidated Plan, and HOPE SF Principles. This coordination will include provision of draft project documents to MOHCD for review and comment, collaboration on the MOHCD and OCII affordable housing program annual budgets and semi-annual Recognized Payment Obligation Schedules (ROPS), the inclusion of OCII affordable housing projects in MOHCD project pipeline reporting, and OCII's continuation of the Former Agency's practice of underwriting affordable housing funding request consistent with MOHCD's underwriting guidelines. Variances to the underwriting guidelines will be presented and considered by the Citywide Affordable Housing Loan Committee ("Loan Committee") and approved variances will be described in relevant Commission memoranda; and,

WHEREAS, Under this MOU, OCII will engage MOHCD to provide designated staffing services to assist in the implementation of the Retained Housing Obligations on behalf of OCII, including but not limited to designated fiscal services, program administration of the Certificate of Preference Program, overseeing the marketing of OCII sponsored affordable units, construction management services, implementation of the limited equity homeownership and below market rate inclusionary programs required by OCII enforceable obligations, and OCII will include the cost for these services in its annual budget and semi-annual ROPS; and,

WHEREAS, Under this MOU, MOHCD will provide services to ensure coordination between OCII and MOHCD as Housing Successor and future holder of the affordable housing assets. MOHCD will include the cost associated with their participation as Housing Successor in its annual budget; and, now, therefore, be it

RESOLVED, That the Commission authorizes the Executive Director to enter into the MOU, substantially in the form of the agreement on file with the Secretary of the Commission, with the Mayor's Office of Housing and Community Development, and to take any additional actions necessary to consummate the transaction.

Exhibit 1: Retained Housing Obligation Implementation MOU

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of May 6, 2014.

Natasha Jones

_____

Commission Secretary

Memorandum of Understanding
For the Implementation of Affordable Housing Obligations Under San Francisco Successor Agency Ordinance 215-12

This Memorandum of Understanding (this "MOU"), dated as of _____, 2014, is entered into by and between the City and County of San Francisco ("City"), acting by and through the Mayor's Office of Housing and Community Development ("MOHCD"), and the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, hereafter referred to as the Office of Community Investment and Infrastructure ("OCII", and together with MOHCD, the "Parties").

RECITALS

A. On February 1, 2012, the state dissolved the Redevelopment Agency of the City and County of San Francisco ("Former Agency") pursuant to the California Assembly Bill known as AB 26 and the California Supreme Court's decision and order in the case entitled *California Redevelopment Association et al. v. Ana Matosantos.* In June 2012, AB 26 was amended by AB 1484. (Together, AB 26 and AB 1484 are referred to as the "Dissolution Law.") Prior to its dissolution, the Former Agency had assisted in the development of over 10,000 affordable housing units restricted to low and moderate income households At the time of dissolution, it had over 1,400 affordable housing units in the planning or predevelopment stages and had obligations to assist in the development of about 5,200 affordable housing units associated with the Hunters Point Shipyard/Candlestick Point, Mission Bay North and South, and Transbay Projects (the "Major Approved Development Projects"); and obligations to replace about 6,700 affordable units destroyed in the 1960's and 1970's (the "Replacement Housing Obligation").

B. The Dissolution Law allowed cities or counties to elect to retain the housing assets and functions previously performed by the redevelopment agency. Cal. Health & Safety Code § 34176. The Board of Supervisors of the City and County of San Francisco elected, under Resolution No. 11-12 (Jan. 26, 2012), to retain the housing functions of the Former Agency and accepted transfer of the Former Agency's affordable housing assets. Resolution No. 11-12 designated the Mayor's Office of Housing ("MOH" or "MOHCD") to perform the housing functions and to accept the housing assets of the Former Agency.

C. AB 1484 established that successor agencies to former redevelopment agencies were separate public entities that succeeded to the "organizational status of the former redevelopment agency" and that retained affordable housing obligations to qualify for funding from property tax revenues (former tax increment) to fulfill those obligations. Cal. Health & Safety Code §§ 34173 (g) & 34176 (a)(1). Subsequently, the City implemented AB 1484 by Ordinance No. 215-12 (Oct. 4, 2012) ("Successor Agency Ordinance") and acknowledged that the Successor Agency retained enforceable obligations for the development of affordable housing required to fulfill the Major Approved Development Projects and the Replacement Housing Obligation" (together, the "Retained Housing Obligations").

D. As a result of these state and local laws, OCII became the Successor Agency to the Redevelopment Agency of the City and County of San Francisco and assumed the Retained Housing Obligations. OCII is a public body, corporate and politic, exercising the Former Agency's functions and powers under the Community Redevelopment Law ("CRL"), as amended by Dissolution Law.

E. Pursuant to the Successor Agency Ordinance, OCII was directed to create a framework with MOHCD for fulfilling their respective responsibilities for the implementation of the funding, approvals, and management of the Retained Housing Obligations. This MOU is intended to outline the framework agreed upon by OCII and MOHCD for implementing such obligations, as well as the terms for disposition of the assets related thereto.

F. OCII is responsible for implementing the Retained Housing Obligations pursuant to the CRL as amended by Dissolution Law. The Department of Finance has finally and conclusively determined that the affordable housing programs for all of the Major Approved Development Projects are enforceable obligations for which DOF will approve subsequent payments to fulfill those obligations and will only review future expenditures to confirm that they are required by the underlying enforceable obligations. Letter, S. Szalay, Local Government Consultant, DOF, to T. Bohee, Executive Director, OCII (Dec. 14, 20120 (Hunters Point Shipyard Phases 1 and 2), *available at* http://www.dof.ca.gov/redevelopment/final_and_conclusive/Final_and_Conclusive_Letters/documents/San_Francisco_F&C_EO_Items_67_123_173_&_174.pdf; Letter, S. Szalay, Local Government Consultant, DOF, to T. Bohee, Executive Director, OCII (April 15, 2013) (Transbay), *available at* http://www.dof.ca.gov/redevelopment/final_and_conclusive/Final_and_Conclusive_Letters/documents/San_Francisco_F&C_EO_Items_102_105_&_237.pdf; Letter, Justyn Howard, Assist. Program Budget Manager, DOF, to T. Bohee, Executive Director, OCII (Jan. 24, 2014) (Mission Bay South and North), *available at* http://www.dof.ca.gov/redevelopment/final_and_conclusive/Final_and_Conclusive_Letters/documents/San_Francisco_F&C_EO_Items_84-88_220_&_226.pdf. See generally Cal. Health & Safety Code § 34177.5 (j). On Oct. 21, 2013, OCII also submitted to DOF a Request for a Final and Conclusive Determination that its Replacement Housing Obligation under Senate Bill No. 2113 ("SB 2113") is an enforceable obligation. A determination on this request is pending.

G. To fulfill its Retained Housing Obligations, OCII will have to take numerous actions, including but not limited to: the provision of the funding necessary to implement the Retained Housing Obligations pursuant to OCII's annual budget and semi-annual Recognized Payment Obligation Schedules ("ROPS"), including securing the necessary funds through the receipt of Redevelopment Property Tax Trust Fund ("RPTTF") from the City's Auditor-Controller, the issuance of tax allocation bonds, or other alternate forms of financing; the application of OCII's equal opportunity and workforce programs and land use authority as required by the enforceable obligations; the facilitation of community input through applicable Citizens Advisory Committees and other relevant community stakeholders; and the application of OCII's Purchasing Policy, which includes seeking necessary authorizations from the Commission on Community Investment and Infrastructure (the "Commission").

H. Under the Successor Agency Ordinance, the Board of Supervisors delegated to the Commission, with a few exceptions, the authority "to act in place of the former Commission of the dissolved Redevelopment to implement, modify, enforce and complete the surviving projects, including without limitation, . . . the Retained Housing Obligations." Ordinance No. 215-12, § 6 (a) (1) at p. 10. Accordingly, the Commission will approve the selection of developers through Requests for Proposals, funding requests, land use entitlements, dispositions and other development agreements for the Retained Housing Obligation's in accordance with OCII's policies and enforceable obligations. OCII will also seek authorization and approval of certain actions from the Oversight Board of the City and County of San Francisco ("Oversight Board") as required by the CRL as amended by Dissolution Law and from the Board of Supervisors as required by the CRL or the Successor Agency Ordinance.

I. Dissolution Law generally requires successor agencies to transfer affordable housing assets to a designated housing successor. Cal. Health & Safety Code § 34177 (g). On September 7, 2012, DOF initially approved OCII's transfer of housing assets to MOHCD. Letter, S. Szalay, Local Government Consultant, to Olson Lee, Director, MOHCD. Subsequently, on November 25, 2013, the Oversight Board approved Resolution No. 13-2013 confirming that an additional 1,024 affordable housing assets, including but not limited to land and regulatory agreements, had transferred to MOHCD as Housing Successor (the "List of Transferred Housing Assets"). Subsequently, DOF approved the List of Transferred Housing Assets. Letter, J.Howard, DOF, Assist. Program Budget Manager, to S. Oerth, OCII, Deputy Director (March 6, 2014). The List of Transferred Housing Assets is available at http://sfredevelopment.org/modules/showdocument.aspx?documentid=5879.

J. In compliance with Dissolution Law, MOHCD must manage transferred housing assets in accordance with the affordable housing requirements in the Community Redevelopment Law, including its reporting requirements under Sections 33418 and 34176.1 of the Health and Safety Code, to ensure compliance with affordability restrictions and other requirements imposed through enforceable obligations, including funding, entitlement, and land disposition agreements. Any payments made under the terms of the relevant funding and land disposition agreements after the transfer of the Retained Housing Obligation asset to MOHCD, less any excess OCII loan or grant proceeds that result from the financial close-out of the affordable housing project which are due to OCII, shall be paid to MOHCD, and maintained in a separate Low and Moderate Income Housing Asset Fund, as required under Cal. Health & Safety Code § 34176, and may be used by MOHCD in compliance with the CRL as amended by Dissolution Law or other applicable state laws.

K. Upon completion of each specific project that is part of the Retained Housing Obligations, OCII will transfer the affordable housing asset(s) to MOHCD, acting in its capacity as the Housing Successor, under Dissolution Law and Board of Supervisor Resolution No. 11-12. In anticipation of future transfers of housing assets that are part of the Retained Housing Obligations, OCII will coordinate with MOHCD during the implementation of the affordable housing projects in order to ensure the transfer of the asset(s) to MOHCD consistent with the program goals in Redevelopment Plans, the City Consolidated Plan, and,

to the extent applicable, the HOPE SF Principles. This coordination will include provision of draft project documents to MOHCD for review and comment, collaboration on the MOHCD and OCII affordable housing program annual budgets and semi-annual Recognized Payment Obligation Schedules (ROPS), the inclusion of OCII affordable housing projects in MOHCD project pipeline reporting, and OCII's continuation of the Former Agency's practice of underwriting affordable housing funding requests consistent with the following MOHCD's underwriting guidelines and policies, as amended from time to time, available at http://sf-moh.org/index.aspx?page=25: (1) Current Underwriting Guidelines, (2) A&E Basic Services Fee Guidelines & Fee Schedule (Appendix A), (3) Tax Credit Developer Fee Policy, (4) Non-Tax Credit Developer Fee Policy, (5) MOHCD Asset Management Fee Policy, (6) Residual Receipt Policy, (7) Subordination Policy, (8) Commercial Space Policy, and (9) Bicycle Parking Policy. Variances to the underwriting guidelines will be presented and considered by the Citywide Affordable Housing Loan Committee ("Loan Committee") and approved variances will be described in relevant Commission memoranda.

L. Under this MOU, OCII will engage MOHCD to provide designated staffing services to assist in the implementation of the Retained Housing Obligations on behalf of OCII, including but not limited to designated fiscal services, program administration of the Certificate of Preference Program, construction management, marketing review and financial closing services related to capital housing development, and assistance in implementing the limited equity homeownership and below market rate inclusionary programs required by OCII enforceable obligations. Nothing in this MOU, however, shall be construed as authorizing funding for those MOHCD activities and programs that are not related to OCII's implementation of Retained Housing Obligations.

M. Any undefined capitalized terms set forth herein shall have the meaning provided for such term in the Dissolution Law or Successor Agency Ordinance, as applicable.

NOW THEREFORE, the Parties agree as follows:

1. **Scope of MOU**. This MOU defines the working relationship between the Parties for the implementation of the Retained Housing Obligations, as defined in the enforceable obligation, Successor Agency Ordinance, and Dissolution Law.

2. **Application of Equal Opportunity and Contracting Policies**. Implementation of OCII's Retained Housing Obligations shall be consistent with the contractual or statutory enforceable obligation that applies to the particular project. An enforceable obligation may require compliance with OCII's equal opportunity and contract compliance policies, e.g. Small Business Enterprise Policy, Construction Workforce Agreement. For specific projects that have transferred to MOHCD in its capacity as Housing Successor, OCII's equal opportunity and contract compliance policies shall not apply to the project in the future unless the underlying enforceable obligation, e.g. the Candlestick Point-Hunters Point Shipyard Phase 2 Disposition and Development Agreement, remains in effect and requires the application of these policies.

3. **Capital Housing Projects Services**.

a. MOHCD Assistance to OCII in fulfilling Retained Housing Obligations. MOHCD agrees to provide the following services to OCII for its Retained Housing Obligation projects that require funding or approvals from OCII for capital development ("Capital Housing Projects"). OCII will include the cost of these services in OCII's annual budget and semi-annual ROPS, with the exception of those provided pursuant to Section 3.a.(vi), Issuance of Tax Exempt Mortgage Revenue Bonds as MOHCD will be seek compensation for those services through bond issuance and administration fees.

(i) Financial Closing Process. In connection with MOHCD's Fiscal Services, MOHCD will provide services to assist OCII in any financial closings related to the project documents, including assisting in the preparation of final documents for execution, recording of documents, and assisting in the review of information necessary for the encumbrance and disbursement of funds by MOHCD's Fiscal Division in accordance with Section 6 of this MOU.

(ii) Construction Management Services. MOHCD will provide the following construction management services:

(1) Participate in OCII review and approval of schematic designs to provide input on constructability, cost, and sustainability issues.

(2) Participate in infrastructure planning for HOPE SF projects.

(3) Review construction plans and specifications to provide input on constructability, cost and sustainability issues, and review change orders for cost reasonableness.

(4) Monitor construction for compliance with approved plans and specifications and entitlements

(5) Provide regular updates to OCII on construction status and notification of request for change orders that substantially change the programmatic function or design quality of the Capital Housing Projects.

(iii) Limited Equity Program Documents. Pursuant to OCII's enforceable obligations, OCII funded for-sale affordable housing units will be offered through OCII's Limited Equity Program ("LEP") and MOHCD will draft any documents necessary to implement the LEP, and will implement the financial closings necessary under the LEP Documents.

(iv) Marketing of Affordable Units. MOHCD will provide the following services related to the marketing of affordable housing units in Capital Housing Projects. MOHCD will provide these services consistent with Fair Housing Law, the project's enforceable obligation documents which require affirmative marketing and outreach and a lottery-based selection of applicants, and the marketing, lottery, and application policies used

for the City's Inclusionary Program to the extent they are consistent with the enforceable obligation documents.

(1) Review and comment on marketing plans submitted by the project sponsor ("Marketing Plans") for approval by OCII.

(2) Facilitate and monitor the marketing process including coordinating with marketing and outreach consultants engaged by the project sponsor, reviewing final rents or sales prices, overseeing the lottery process and implementation of any preferences required by the enforceable obligations, including but not limited to the Certificate of Preference Program, and reviewing, approving, and denying applicants in compliance with approved Marketing Plans and LEP documents if applicable.

(3) Provide regular updates to OCII on the progress of the marketing and lease-up of the affordable units and facilitate collection of data on marketing outcomes necessary for reporting.

(v) Other Services. MOHCD may provide other services for Capital Housing Projects as mutually agreed to by the Parties.

(vi) Issuance of Tax-Exempt Mortgage Revenue Bonds. MOHCD will, at OCII's request, act as the issuer of tax-exempt mortgage revenue bonds for Retained Housing Obligations that require such financing and will be responsible for all costs associated with its role as issuer, including MOHCD and City Attorney staffing costs, and will seek all necessary approvals to effectuate the issuance of the tax-exempt mortgage revenue bonds. The Parties will coordinate on the approvals necessary for the issuance of the mortgage revenue bonds, including the Board of Supervisors and the California Debt Limit Allocation Committee.

b. MOHCD Participation as Housing Successor. MOHCD will provide the following services on Capital Housing Projects to ensure that OCII's approval and funding of specific projects are consistent with MOHCD's role as Housing Successor and future holder of the affordable housing assets. MOHCD shall include the staffing cost and time associated with their participation as Housing Successor in its annual budgets and workplans.

(i) Request for Proposal Process. MOHCD will provide the following services related to Requests for Proposals ("RFP's) on Retained Housing Obligations.

(1) Review and comment on any draft RFP to be issued by OCII.

(2) Review and comment on submitted proposals.

(3) Designate MOHCD staff to participate on proposal review panels.

(ii) Loan or Grant Underwriting Process. MOHCD will review and comment on draft loan evaluations through the Loan Committee "Peer Review" process and

prior to publication of final loan evaluation documents to the Citywide Affordable Housing Loan Committee.

(iii) Project Document Review. MOHCD will review and comment on draft documents necessary to implement the Retained Housing Obligation, including, but not limited to, loans, grants, exclusive negotiations agreements, disposition and development agreements, and ground leases ("Project Documents").

c. Coordination of the Tax Credit Queue. MOHCD shall prepare and maintain, in collaboration with OCII, the schedule of projects anticipated to seek funding through competitive awards of 9% Low Income Housing Tax Credits from the California Tax Credit Allocation Committee (the "9 % Queue"), subject to the review and approval of Loan Committee.

d. Transfer of Completed Capital Housing Project Assets. At the point at which a Capital Housing Project has completed construction, achieved full lease-up of affordable units, and the project has completed all necessary financial close-out procedures to determine if any unused loan or grant proceeds are due to be returned to OCII, OCII will prepare a Certificate of Completion, the form of which will be mutually agreed to by the Parties. OCII will transfer, subject to any Oversight Board and DOF review and approval, the assets related to the Capital Housing Project to MOHCD as Housing Successor, which may include fee interest in land, ground leases, loans or grants, or other affordability restrictions. Any excess construction period proceeds attributable to OCII that may be determined after transfer of the asset to MOHCD will be paid to OCII. Upon request of OCII, MOHCD will provide the following services to assist in the preparation of the Certificate of Completion and any other materials necessary to effectuate the transfer of completed housing assets to MOHCD as Housing Successor, pursuant to the CRL as amended by Dissolution Law. These services may include:

(i) Provide documentation of completed lease-up in compliance with the Marketing Plan.

(ii) Prepare documentation necessary to reflect the transfer of the housing asset(s) in the official records of the City

(iii) Seek any necessary approvals from the City in order to accept the transferred housing asset(s).

(iv) Assist in preparation of materials necessary to seek any Oversight Board and DOF approvals of the transfer of the housing asset(s), as may be required by the CRL as amended by Dissolution Law.

(v) Provide interim asset management services, including monitoring of compliance with all regulatory and enforceable obligation terms, should the transfer of the Capital Housing Project asset(s) be delayed for reasons beyond OCII's control.

4. **Inclusionary Units**. Pursuant to OCII's enforceable obligations, any non-OCII funded affordable housing rental units included in market-rate developments ("Inclusionary BMR Rental Units") will be offered to eligible households, and any non-OCII funded for-sale affordable housing units included in market-rate developments ("Inclusionary LEP Units") will be offered to eligible households through OCII's Limited Equity Program ("LEP"). MOHCD will provide the following services prior to the project's completion and the transfer of any affordable housing restrictions to MOHCD as a housing asset. OCII will include the cost of these services in OCII's annual budget and semi-annual ROPS as needed. MOHCD will provide these services consistent with the project's enforceable obligation documents which require affirmative marketing and outreach and a lottery-based selection of applicants, the marketing, lottery, and application policies used for the City's Inclusionary Program, and Fair Housing Law. Upon completion of the relevant housing asset and issuance of a Certificate of Completion, MOHCD will be responsible for the monitoring and asset management of any Inclusionary LEP Units or Inclusionary BMR Rental Units (together "Inclusionary Units") in compliance with the CRL as amended by Dissolution Law or other relevant state laws.

a. Document Drafting. MOHCD will draft documents necessary to implement the marketing and sale of Inclusionary LEP Units in compliance with the LEP Program, and the marketing and leasing of Inclusionary BMR Rental Units in compliance with OCII's enforceable obligations, and provide such documents to OCII for final approval.

b. Review Location of Inclusionary Units. MOHCD will review and comment on the location of Inclusionary Units in floor plans prior to the approval of schematic designs.

c. Marketing and Sales of Inclusionary LEP Units. MOHCD will facilitate and monitor the marketing of the Inclusionary LEP Units, including setting pricing; reviewing, approving, and denying buyers consistent with the requirements of the LEP Documents and OCII enforceable obligations; and facilitating the financial closing of the sale of the Inclusionary LEP Unit.

d. Marketing and Leasing of Inclusionary BMR Rental Units. MOHCD will facilitate and monitor the marketing of the Inclusionary BMR Rental Units in compliance with the enforceable obligations and the Marketing Plan, including approving final rents; reviewing, approving, and denying renters.

e. Monitoring of Inclusionary Units. MOHCD will monitor compliance with OCII enforceable obligations and the LEP Program if applicable.

f. Marketing Updates. Provide regular updates to OCII on the progress of the marketing and sales or leasing of the Inclusionary Units.

g. Transfer of Completed Inclusionary Unit Assets. At the point at which a project with Inclusionary Units has completed construction and achieved either full sales or full lease up of any Inclusionary Units as applicable, OCII will prepare a Certificate of Completion, the form of which is will be mutually agreed to by the Parties. OCII will seek to transfer the affordability restrictions related to the Inclusionary Units to MOHCD as Housing

Successor pursuant to the CRL as amended by Dissolution Law. Upon request of OCII, MOHCD will provide the following services to assist in the preparation of the Certificate of Completion and any other materials necessary to effectuate that transfer to MOHCD. Upon project completion and transfer of the housing asset, MOHCD will be responsible for the monitoring and asset management of Inclusionary Units in compliance with the CRL as amended by Dissolution Law or other relevant state laws.

(i) Provide documentation of completed sales or leasing in compliance with the Marketing Plan.

(ii) Prepare documentation necessary to reflect the transfer of the housing asset(s) in the official records of the City

(iii) Seek any necessary approvals from the City in order to accept the transferred housing asset(s).

(iv) Assist in preparation of materials necessary to seek any Oversight Board and DOF approvals of the transfer of the housing asset(s), as may be required by the CRL as amended by Dissolution Law.

(v) Provide interim asset management services, including monitoring of compliance with all regulatory and enforceable obligation terms, should the transfer of the affordability restrictions be delayed for reasons beyond OCII's control.

5. **Certificate of Preference Program**. As required by OCII's enforceable obligations, preferences for OCII sponsored affordable housing must be granted to eligible households who hold Certificates of Preference ("Certificate Holders") in accordance with OCII's Property Owner and Occupant Preference Program (the "Certificate of Preference Program" or "COP Program"), as reprinted September 11, 2008 and effective October 1, 2008, as approved by Former Agency Commission Resolution No. 57-2008, included as Exhibit A. MOHCD will administer the COP Program on behalf of both OCII and the City, which is independently obligated to apply the COP Program to its affordable housing programs under Board of Supervisors Ordinance No. 232-08 (Oct. 30, 2008). This program administration will include providing overall management of the program, issuing Certificates of Preference to eligible applicants, marketing of new units to Certificate Holders, administering MOHCD homeownership financial assistance programs to Certificate Holders, and outreaching to Certificate Holders to participate in MOHCD sponsored rental readiness programs. OCII will include the cost of MOHCD's services to implement the COP Program on new OCII Retained Housing Obligation projects and a pro-rata share of the COP Program's overall administration (based on an estimate of the proportion of OCII funded projects in the COP Program's upcoming annual pipeline) in OCII's annual budget and semi-annual ROPS as needed.

6. **Fiscal Services.**

a. MOHCD Services for Budget Planning and ROPS Preparation. MOHCD shall

work collaboratively with OCII to establish the budget and anticipated expenditures for the affordable housing program in the ROPS by providing the following services. OCII will include the cost of MOHCD's services in OCII's annual budget and semi-annual ROPS as needed.

(i) Assist with preparation of the annual budget, including assisting with the analysis of prior year expenditures, and providing staffing cost estimates pursuant to this MOU.

(ii) Provide a reconciliation for housing-related expenditures for each ROPS period ("Housing ROPS True-Up"), to be submitted to OCII for review by January 31st for July to December period ROPS and August 31st for January to December period ROPS. OCII will include the cost of MOHCD's services in OCII's annual budget and semi-annual ROPS as needed.

b. MOHCD Accounting System Services. MOHCD agrees to provide the following services, the cost of which OCII will include in its annual budget and semi-annual ROPS.

(i) Set up encumbrances and pay project costs and fund loan disbursements in accordance with approved funding agreements, the OCII budget, and the ROPS. Such payments will occur via a direct charge to OCII project codes in the accounting system used by OCII and MOHCD (the "Accounting System").

(ii) Confirm ROPS authority prior to making payments and ensure that each payment from OCII funds references ROPS authority in the Accounting System transaction description and/or notepad.

(iii) Initiate journal entries in the Accounting System to reallocate budgets between expenditure categories or project details initiated by MOHCD subject to the approval of OCII.

(iv) Collaborate with OCII in creating and maintaining the project detail and index code structure for RPTTF funded housing items on approved ROPS.

(v) Provide necessary accounting reports as requested, including but not limited to an accounting of SB 2113 funds expended in fulfillment of the Replacement Housing Obligation.

c. MOHCD Annual Audit Support. MOHCD will provide assistance and documentation as requested by OCII or by auditors preparing OCII's annual financial audit, including the preparation and reporting of outstanding loan balances.

7. **Regulatory Changes to Local, State, and Federal Funding Programs and Considerations for Local Policy**. The parties will notify each other of, and work collaboratively to comment on, any proposed changes to local, state, or federal funding programs that would impact the financing of affordable housing production in the City. The

parties agree to coordinate on proposed amendments to Redevelopment Plans, Owner Participation or Development and Disposition Agreements, or Housing Programs which have broader implications for Citywide housing policies, and will incorporate feedback in reports to the relevant approving bodies, including the Commission, the Board of Supervisors, and the Oversight Board.

8. **Reporting**.

a. OCII Reporting Responsibilities.

(i) Annual Housing Production Report: OCII shall prepare and publish an Annual Production Report of units completed pursuant to the Retained Housing Obligations. Such report will include, but is not limited to, the following data elements: project name and location (including street address and Redevelopment Project Area) , project sponsor, project tenure, population type, number of total units, number of affordable units, affordability levels, amount and type of OCII funding, construction start and completion dates. OCII will provide MOHCD with a draft of the Annual Housing Production Report for its review prior to publication.

(ii) Annual Replacement Housing Obligation Report: OCII shall prepare and publish an annual Replacement Housing Obligation Report identifying units funded pursuant to Senate Bill 2113 ("SB 2113") (codified at Cal. Health and Safety Code Sec. 33333.7) in furtherance of OCII's Replacement Housing Obligation, based on funding data prepared and maintained by MOHCD fiscal staff. Such report will include, but is not limited to, the following data elements: project name and location (including street address and Redevelopment Project Area) , project sponsor, project tenure, population type, number of total units, number of total affordable units, number of affordable units designated as Replacement Housing Units pursuant to SB 2113, affordability levels, amount of total OCII funding, amount of SB 2113 funding, construction start and completion dates (estimated as applicable). OCII will provide MOHCD with a draft of the Annual Replacement Housing Obligation Report for its review prior to publication.

(iii) Other Reports. OCII will collaborate with MOHCD on any other reports relating to the Retained Housing Obligation as required by local, state, or federal requirements.

b. MOHCD Prepared Reports.

(i) Citywide Pipeline Report. MOHCD will prepare and maintain on a quarterly basis a citywide multifamily housing project "Pipeline Report" that will include all known Retained Housing Obligations based on data provided by OCII. Such a report will include, but is not limited to, the following data elements: project name and location, project sponsor, population type, unit totals, MOHCD or OCII project designation, and construction start and completion dates (estimated as applicable). MOHCD will provide OCII with a draft of the Citywide Pipeline Report for its review prior to any publication or distribution, and OCII will not distribute or publish the Citywide Pipeline Report without MOHCD approval.

(ii) Marketing Outcomes Reports. MOHCD will provide reports on the outcomes of the leasing or sales of OCII affordable units (both funded and inclusionary) to ensure compliance with the marketing requirements of enforceable obligation(s). Such reports will include, but are not limited to, the following data elements: project name and location (including street address and Redevelopment Project Area), project sponsor, project tenure, population type, number of total units, number of affordable units, affordability levels, marketing start dates, construction completion dates, all applicable occupancy preferences required by the enforceable obligation documents, and the following information on actual project households including household size, income as percentage of Area Median Income, ethnicity, and geographic origin by zip code if within San Francisco and by city if household is origination from outside San Francisco.

(iii) Other Reports. MOHCD will collaborate with OCII on any other reports relating to the Retained Housing Obligation as required by local, state, or federal requirements.

9. **Ancillary Administrative Costs.** As part of the annual budget process the Parties will work to identify any ancillary administrative costs related to the implementation of this MOU, such as office space, reception services, or other services as needed, and will include those costs in the OCII annual budget.

10. **Timekeeping and Billing of Staffing Services**.

a. Timekeeping. OCII and MOHCD will work collaboratively to provide annual billing instructions to OCII and MOHCD staff that will indicate the appropriate project billing codes to be used in employee timesheets. The parties agree to use best efforts to ensure accuracy in all timesheets.

b. Allocation of City Attorney Billing. OCII and MOHCD will work collaboratively to ensure that City Attorney charges billed to each department are properly allocated to the correct department and funding source.

c. Billing. OCII's ability to pay invoices within 30 days of receipt of an invoice is subject to DOF authorization of such payment on OCII's ROPS. Thus MOHCD and OCII will provide invoices for any staffing services in association with this MOU for each of the Parties respective review and approval on a quarterly basis, with invoices for the 2nd and 4th quarter of each fiscal year due within 21 days after the close of that quarter in order for invoices to reviewed and payments approved consistent with the ROPS.

11. **Annual MOU Budget.** The parties will coordinate to develop an annual budget estimating the amount for which MOHCD will bill in the upcoming fiscal year for the services designated in this MOU to be paid by OCII, and will be included in OCII's Annual Budget, subject to annual appropriations and funding ability.

12. **Records Management**. Throughout the entire development process, OCII and MOHCD shall maintain all records for individual affordable housing projects per each party's

record retention policies and procedures. OCII shall provide MOHCD with copies of all relevant documents at the time completed housing assets are transferred to MOHCD pursuant to Dissolution Law.

13. **Cooperation**. The Parties agree to cooperate with and assist each other in undertaking all efforts to accomplish the proposed transactions contemplated by this MOU. Any and all actions or proceedings undertaken by OCII and the City in accordance with this MOU shall be subject to approval as required under applicable laws and regulations, and any future discretionary approvals will be subject to the exercise of discretion by policy makers.

14. **Term**. The term of this MOU shall begin on the date it is signed by all of the parties below and shall end on the earlier of (i) the date when the parties enter into an agreement which, by its terms, terminates this MOU, or (ii) the date when all Retained Housing Obligations have been completed.

15. **Discretion of Parties**.OCII and MOHCD, including their respective boards, commissions, departments, and officials, each shall exercise its sole discretion over all matters relating to this MOU over which it has jurisdiction consistent with legal requirements, customary practices, and public health, safety, convenience and welfare, and each shall retain, at all times, its respective authority to take any action under its jurisdiction that is necessary to protect the health, safety, convenience and welfare of the public.

16. **Sunshine Ordinance**.OCII and MOHCD acknowledge and agree that MOHCD is subject to the City's Sunshine Ordinance (S.F. Admin. Code, Chapter 67) and the State Public Records Law (Cal. Gov. Code §§ 6250 *et seq.*), and as a result, this MOU and any and all records, information and materials submitted to the City hereunder are subject to public disclosure under the provisions of those laws.

17. **Miscellaneous**. (a) This MOU may be amended or modified only by a writing signed by the Executive Director of OCII, or his or her designee, and the Director of MOHCD, 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 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) 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.

18. **Recitals**. The Recitals above are expressly incorporated herein and made a part of this MOU by this reference.

IN WITNESS WHEREOF, the parties have caused this MOU to be executed as of the date first written above.

MOHCD:

Approved as to form:
Dennis J. Herrera
City Attorney

_____
Deputy City Attorney

MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT

By: _____
Olson Lee, Director

Date: _____

OCII:

Approved as to form:
James Morales
Interim General Counsel

_____

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE

By: _____
Tiffany Bohee, Executive Director

Date: _____

OCII Commission Resolution No._____
Adopted _____

Exhibit A: Property Owner and Occupant Preference Program, with attachments

PROPERTY OWNER AND OCCUPANT PREFERENCE PROGRAM

(CERTIFICATE OF PREFERENCE PROGRAM)

OF THE REDEVELOPMENT AGENCY
OF THE
CITY AND COUNTY OF SAN FRANCISCO

As amended and restated pursuant to
Agency Resolution No. 57-2008 (June 3, 2008)

Reprinted September 11, 2008

Effective October 1, 2008

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I. INTRODUCTION.

In 1967, the Redevelopment Agency of the City and County of San Francisco ("Agency") established a Certificate of Preference Program for displaced residents and businesses in the Western Addition A-2 Redevelopment Project Area. [1] The Agency was in the midst of implementing federally-funded urban renewal programs. It created a local program whereby displaced residents and businesses received "Certificates of Preference" and were thus entitled to a priority in the renting or buying of Agency-owned or approved property. The preference was in addition to other relocation benefits (i.e., fair market value for acquired property, relocation assistance, replacement housing units) that the displacees may have received; it was also subject to otherwise applicable eligibility requirements that the Agency imposed on the renting or buying of the property.

Two years later, in 1969, the California legislature established a "priority" for low and moderate income persons displaced by redevelopment projects "in renting or buying" affordable housing developed by redevelopment agencies.[2] This statutory obligation is currently codified in the Community Redevelopment Law at Section 33411.3 of the Health and Safety Code. State law does not specify how redevelopment agencies implement the "priority" for displacees.

The Certificate of Preference Program has special significance in the Western Addition A-2 and Hunters Point Redevelopment Project Areas, where federally-funded urban renewal authorized the widespread clearance and relocation of communities. [3] The federal programs were replicated across the country and caused wide-spread social, economic, cultural, political, and emotional upheaval that has been documented in the affected communities.[4] In light of the unique social and individual losses associated with urban renewal, the Agency provides enhanced preferences to those who were directly or indirectly affected by the redevelopment activities in the Western Addition A-2 and Hunters Point Redevelopment Project Areas.

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[1] See Rules Governing Business Preferences for the Western Addition Redevelopment Project Area A-2, Agency Resolution No. 136-63 (Oct. 22, 1963); Property Owner and Occupant Preference Policy for Reestablishment in the Western Addition Redevelopment Project A-2, Agency Resolution No. 103-67 (July 25, 1967).

[2] Statutes 1969, chapter 955 (Senate Bill No. 146-Moscone), § 4.

[3] Although other project areas were subject to "urban renewal," they were not part of the Certificate Program. By the time the Agency adopted the original Certificate Program in 1967, massive displacement of businesses and residents had already occurred in the Western Addition A-1 and the Golden Gateway Project Areas. Moreover, the relocation of thousands of residents in the Yerba Buena Center Project Area was the subject of litigation that ultimately defined the rights of displacees in judicial orders and a settlement agreement. See Tenants and Owners in Opposition to Redevelopment ("TOOR") v. U.S. Dept. of Housing and Urban Development, 406 F. Supp. 1024 (N.D. Cal. 1970). Apparently, these other project areas in the urban renewal era were not included in the Certificate Program because of these circumstances and thus are not part of these revised program rules.

[4] See generally M. Fullilove, Root Shock: How Tearing Up City Neighborhoods Hurts America, and What We Can Do About It (Ballantine Books 2004).

As noted above, the Agency has statutory obligations under the California Community Redevelopment Law to provide preferences to low- and moderate-income displacees in Agency-assisted housing and to businesses for the purposes of reentering the project area.[5] The Agency has fulfilled these obligations through a Certificate of Preference Program and through separately-adopted business re-entry policies that are part of redevelopment plan approvals.[6] Historically, the Certificate of Preference Program has applied only in the Western Addition A-2, Hunters Point (Area A of the Bayview Hunters Point Redevelopment Plan), Stockton-Sacramento,[7] and Bayview Industrial Triangle Redevelopment Project Areas.[8] In other redevelopment project areas, the Agency did not use the Certificate of Preference Program, but implemented the separately-adopted business re-entry policies and directly provided replacement housing to lower income displaced residents. Accordingly, the Certificate of Preference Program is only one means by which the Agency has fulfilled its statutory obligations to provide displaced persons with a priority in the renting or buying of property.

This Property Owner and Occupant Preference Program, as amended and restated, ("Amended and Restated Program") codifies and clarifies recent amendments that the Agency Commission authorized in Agency Resolution No. 57-2008 (June 3, 2008).[9] These amendments include extending the duration of certain residential certificates, expanding the housing opportunities for certain displacees who did not receive certificates at the time of displacement because they were not then eligible, e.g., minor children and adults who were not heads of the household, revising the appeals process when the Agency denies a certificate, providing an enhanced education and outreach program to identify displacees, and reaffirming existing policies that only persons displaced by Agency action are eligible for a certificate and that a displacee may establish eligibility even though his or her name does not appear on Agency records.

In addition, the Agency Commission authorized Agency staff to continue exploring the future expansion of the certificate program to certain persons who did not live in the household at the time of displacement, but who may be the grandchildren of the original displaced heads of household, i.e., children of the persons who were children themselves at the time of displacement. The Agency

[5] California Health and Safety Code, Section 33339.5 (Reentry in business in redeveloped areas); California Health and Safety Code, Section 33411.3 (Availability of low- and moderate-income units to displaced persons of low- and moderate-income).

[6] See List of Separately-Adopted Business Preference and Re-Entry Policies, attached as Exhibit 1.

[7] The Stockton-Sacramento Redevelopment Project Area expired in 2004; under the terms of the then-existing Property Owner and Occupant Preference Program, certificates of preference from that project area expired two years later in 2006.

[8] The Rincon Point-South Beach Redevelopment Project Area also has its own Certificate of Preference Program. Property owner and occupant re-entry preference program for the Rincon Point-South Beach Redevelopment Project Area, Agency Resolution No. 330-1980 (Oct. 28, 1980).

[8] Agency Resolution No. 57-2008 is attached as Exhibit 2.

Commission did not authorize an immediate expansion of the certificate program to include these "grandchildren;" rather it directed Agency staff to continue investigating, among other things, the feasibility of expanding eligibility in light of the supply of affordable housing and the ability of the Agency to meet existing demand. When Agency staff completes its review of the issues associated with the "grandchildren" expansion, it will make appropriate amendments to the program.

This Amended and Restated Program is divided into two separate sections: a program of preference for residential displacees and another program for business displacees. The residential program applies to all existing project areas, but has special provisions for certain project areas affected by urban renewal. The business program applies only to certain existing project areas that do not have a separately-adopted business re-entry policy, namely the Western Addition A-2, Hunters Point (Area A of the Bayview Hunters Point Redevelopment Plan), and Bayview Industrial Triangle Redevelopment Project Areas. In all other project areas, separate re-entry policies remain in effect and are not affected by this Amended and Restated Program.

II. RESIDENTIAL CERTIFICATE OF PREFERENCE PROGRAM.

A. Purpose.

1. To give certain preferences in consideration for housing to persons displaced by Agency action or action on behalf of the Agency.

2. To give enhanced preferences in consideration for housing opportunities to those persons affected by urban renewal programs in the Western Addition A-2 and Hunters Point (Area A of the Bayview Hunters Point Redevelopment Plan (the "Urban Renewal Project Areas").

3. To implement, for all project areas, statutory requirements under the Community Redevelopment Law (Health & Safety Code § 33411.3) requiring the Agency to give priority to displaced low- and moderate-income households in Agency-assisted housing and in other housing for low- and moderate-income households.

4. To supplement other rights and benefits that may be available to displaced persons, such as relocation benefits under the Relocation Assistance and Property Acquisition Guidelines, 25 Cal. Code of Regulations, Sections 6000 et seq.

B. Definitions.

1. "Agency-Assisted Housing Units" means those units that the Agency must make available to displaced persons under Section 33411.3 of the Health and Safety Code, i.e., low- or moderate-income housing units developed (i) with any Agency assistance, (ii) pursuant to Section 33413 of the Health and Safety Code, or (iii) in any redevelopment project area.

2. "Certificate" or "Certificate of Preference" is Agency documentation that a person or business is eligible for a preference described in this Program.

3. "Displaced Person" means a person who was a legal occupant of a building and who permanently moved him or herself from the property as a result of acquisition of the property (i) by the Agency, (ii) by a private entity under contract with or on behalf of the Agency, or (iii) as a result of receipt of a notice of intention to acquire by the Agency. Displaced person also includes a person who moves as a result of the rehabilitation, demolition, or other displacing activity that the Agency or any person having an agreement with or acting on behalf of the Agency undertakes of

real property on which the person is in lawful occupancy. A Displaced Person may be an owner or a tenant in lawful occupancy of the property from which he/she was displaced.

4. "Residential A Certificate Holder" means a Displaced Person who lived in an Urban Renewal Project Area and who is eligible to receive a Certificate of Preference based either: (i) on his or her status as a head of household at the time of displacement, or (ii) on his or her intent to live separate and apart from the household after displacement; and whose name appears on Agency records, e.g., the Site Occupant Record.

5. "Residential C Certificate Holder" means a Displaced Person who lived in an Urban Renewal Project Area and who is eligible to receive a Certificate based on his or residency in a household at the time of Agency displacement, but who was ineligible for a Residential A Certificate of Preference. To qualify for a Residential C Certificate, the person's name must appear on the Agency's Site Occupant Record for a dwelling unit or the person must be able to prove, to the reasonable satisfaction of the Agency, that he or she resided in the household at the time of displacement.

6. "Residential G Certificate Holder" means a Displaced Person a) who is the head of household or who demonstrates to the reasonable satisfaction of the Agency that he or she intends to live separate and apart from the household after displacement; b) who lived in the City and County of San Francisco other than an Urban Renewal Project Area at the time of displacement; and c) who has not been provided by the Agency with permanently affordable replacement housing in an Agency-Assisted Housing Unit.

7. "Residential Certificate" means Agency documentation that a person is eligible for a Residential A, C, or G Certificate.

8. "Residential Certificate of Preference Holder" or "Residential Certificate Holder" means all classes of residential certificate holders, i.e., Residential A, C, and G Certificate Holders.

9. "Site Occupant Record" means the Agency's record of the occupants of a building at the time of Agency displacement. The Agency or a designated agent of the Agency is responsible for completing the Site Occupancy Record ("SOR") for each displaced household.

10. "Urban Renewal Project Area" means the Western Addition A-2 or Hunters Point (i.e., Area A of the Bayview Hunters Point Redevelopment Project Area) Redevelopment Project Areas.

11. "Used" means a) in the case of a rental or purchase of a cooperative share, means the execution of a lease or rental agreement; or b) in the case of a purchase, the execution of a deed by the Agency or a third party pursuant to an agreement with the Agency requiring priority in sales to Certificate Holders.

C. Use of Residential Certificates.

A Residential Certificate entitles a Displaced Person, in accordance with the California Health and Safety Code Section 33411.3, to receive a priority in the renting or buying of an Agency-Assisted Housing Unit, subject to the following conditions:

1. The Displaced Person must meet the income eligibility and other requirements for the Agency-assisted housing unit.

2. Residential Certificate Holders are eligible to use a Certificate to receive a priority: 1) in the renting of, or buying of a cooperative share in, Agency-Assisted Housing Unit; and 2) in the buying of an Agency-Assisted Housing Unit. All classes of Residential Certificate Holders thus have the opportunity to exercise the Certificate twice: once for a rental or cooperative share opportunity and again for a homeownership opportunity, provided, however, that a person who is otherwise eligible for a Residential G Certificate Holder is not eligible for a Certificate if the Agency has provided the displaced household with affordable housing in an Agency-Assisted Housing Unit.

3. Residential Certificate Holders have the above-described preferences for the renting or buying of Agency-Assisted Housing Units in the following descending order of priority, provided, however, that a redevelopment plan or Agency Commission action may change this order of priority for a particular project area or project:

   a. A Displaced Person with the earliest date of displacement.

   b. A Displaced Person seeking to use a Certificate for a housing development in the Project Area from which the person was displaced.

c. A Displaced Person seeking to use a Certificate for a housing development either in a Project Area from which the person was not displaced or in any other part of the City.

4. The Certificate entitles the holder to preferential consideration only; the Residential Certificate Holder must still meet the otherwise applicable selection criteria on which the owner/agent shall make the final decision.

D. Exercising Certificate Opportunities.

1. As described in Section II.C.2 above, a Residential Certificate Holder has two opportunities to exercise a Certificate: once for rental or cooperative share opportunity and again for a homeownership opportunity. If the Residential Certificate Holder is successful in obtaining a unit through the use of the Certificate, he or she exercises (i.e., extinguishes) the right to use the Certificate for that particular type of housing, but may still use the certificate for a different tenure type.

a. In the case of a rental or cooperative share opportunity, to exercise a Residential Certificate means to secure successfully a tenancy in, or the purchase of a cooperative share in, an Agency-Assisted Housing Unit, as shown by the execution of a lease or other evidence of occupancy.

b. In the case of a homeownership opportunity, to exercise a Residential Certificate means to execute a deed and the closing of escrow for an Agency-Assisted Housing Unit.

2. A Residential G Certificate is exercised if the Agency provides the Residential Certificate Holder with affordable housing in an Agency-Assisted Housing Unit.

E. Application of Residential Certificate Program to a Particular Project.

The Agency shall require that developers and property managers of Agency-Assisted Housing Units extend preferences to Residential Certificate Holders upon initial occupancy of a housing project or upon the vacancy of previously-occupied units in the project. The terms and conditions by which the developer or property manager will implement these preferences shall be consistent with this Amended and Restated Program and shall appear in the affirmative marketing plan or similar documents for the project.

F. Duration of the Effectiveness of the Residential Certificate.

A Residential Certificate remains effective until the Residential Certificate Holder has completely exercised his or her Certificate as described in Section II. D; provided, however, that Certificates that have not been fully exercised have the following time limitations:

1. The Residential A and C Certificates shall be valid until seven years after completion of an Urban Renewal Project Area (i.e., Jan. 1, 2016), unless the Agency Commission approves five year extensions of these Certificates. The Agency shall not approve more than two five-year extensions.

2. The Residential G Certificate shall be valid until five years after the Agency displacement.

III. BUSINESS CERTIFICATE OF PREFERENCE PROGRAM.

A. Purpose.

1. To give certain re-entry preferences in consideration for business opportunities to businesses displaced by Agency action or action on behalf of the Agency.

2. To implement, for those project areas without separately-adopted business re-entry policies,[10] statutory requirements under the Community Redevelopment Law (Health & Safety Code § 33339.5) requiring the Agency to extend reasonable preferences to persons who were engaged in business in a redevelopment project area to reenter in business within the redeveloped area if they otherwise meet the requirements prescribed by the redevelopment plan.

3. To supplement other rights and benefits that may be available to displaced businesses, such as relocation benefits under the Relocation Assistance and Property Acquisition Guidelines, 25 Cal. Code of Regulations, Sections 6000 et seq.

[10] Western Addition A-2, Hunters Point (Area A of the Bayview Hunters Point Redevelopment Project Area), and the Bayview Industrial Triangle Redevelopment Project Areas.

B. Definitions.

1. "Business Occupant" means: 1) the owner or renter of a building that was situated on real property in the Western Addition A-2, Hunters Point, or Bayview Industrial Triangle Redevelopment Project Areas and that was acquired by the Agency after the date of (i) the adoption of the redevelopment plans or (ii) the receipt of funds for acquisition of property for these project areas, whichever date occurred earlier; or 2) a tenant engaged in business in a building whose owner entered into an Owner Participation Agreement with the Agency to extensively rehabilitate the property and the tenant received the Agency's Notice of Displacement that was required under the then-applicable federal regulations. Acquisition by the Agency includes both purchase and acquisition by eminent domain/condemnation.

2. "Business Certificate of Preference Holder" means a Business Occupant who was engaged in business in a building at the time the Agency acquired the property. To be eligible for a Business Certificate of Preference, a property owner must have been the owner of record that executed the grant deed to the Agency or the owner of record in the eminent domain at the time the Agency acquired the property. If the property owner was a corporation, partnership or other legal entity, the Certificate will be listed in the corporation or the partnership's name. If there was more than one owner of record, only one certificate will be issued.

3. "Certificate" or "Certificate of Preference" is Agency documentation that a person or business is eligible for a preference described in this Program.

4. "Displaced Business" means a person who was a legal occupant of a building and who permanently moved his or her business from the property as a result of acquisition of the property (i) by the Agency, (ii) by a private entity under contract with or on behalf of the Agency, or (iii) as a result of receipt of a notice of intention to acquire by the Agency. Displaced business also includes a person who moves as a result of the rehabilitation, demolition, or other displacing activity that the Agency or any person having an agreement with or acting on behalf of the Agency undertakes of real property on which the person is in lawful occupancy. A Displaced Person may be an owner or a tenant in lawful occupancy of the property from which he/she was displaced.

C. Use of Business Certificates.

The Business Certificate Program applies only to the Western Addition A-2, Hunters Point, and Bayview Industrial Triangle Redevelopment Project Areas. Other redevelopment project areas have separate business re-entry and preference policies that implement Section 33339.5 of the California Health and Safety Code.[11]

1. Agency-Owned Property.

The Agency may offer property that it owns for purchase and development. The Agency selects developers of such parcels based on the extent to which the proposed development serves the needs of the Project Area and the City and County of San Francisco and satisfies the requirements of the request for proposals/ qualifications, if any. The Agency may extend preferences to Business Certificate Holders who were displaced from the project area in which the Agency-owned property is located. The major factors for evaluating proposals will include:

a. Economic feasibility of the proposal.

b. The financial capacity of the developer and the demonstrated ability of the development design team.

c. The ability of the developer to proceed expeditiously with development of the site.

d. Architectural quality and degree of compliance with design objectives of the offering.

e. Other factors included in the offering.

When the Agency determines that proposals from applicants with Business Certificates and from those without Business Certificates are substantially equivalent, the Agency shall give preference to the proposal associated with the Business Certificate.

2. Rehabilitated Structures.

In the event the Agency acquires structures for rehabilitation, the Agency may sell these structures to the Business Certificate Holder who has the highest qualified bid, who complies with the terms of offering, and who was displaced from the project area in which the rehabilitated structure was located; provided, however that these

[11] See List of Separately-Adopted Business Preference and Re-Entry Policies, attached as Exhibit 1.

Business Certificate Holders will not receive a preference in bidding on a residential rehabilitation offering unless there are at least two units and the property will be used to engage in business; and provided further that a Business Certificate of Preference Holder may not use priority to bid on rehabilitation offering if the intended use is for private residency.

3. Privately-Owned Commercial Space.

A Business Certificate only entitles the Business Certificate Holder who desires to rent business space from a private property owner to a preferential consideration if the space meets the requirements of the redevelopment plan and if the Agency has required the owner to provide a preference to Business Certificate Holders who were displaced from the project area in which the privately-owned commercial space is located. The owner of the business space makes the final determination on the business mix, rental rates and terms and conditions.

4. Priority of Business Certificates.

Business Certificate Holders have the above-described preferences; provided, however, that a redevelopment plan or Agency Commission action may change or eliminate the priority for a particular project area or project; and provided further that in situations where the Agency or private property owner receives applications from multiple Business Certificate Holders having equal qualifications, the Business Certificate Holder with the earliest date of displacement from the project area in which the business opportunity is located will receive priority.

D. Timing of Eligibility Determination.

When a Business Certificate is to be used for priority in preferential offerings, eligibility must be established and a certificate issued prior to the bid opening or the specified deadline for the development proposal.

E. Use of Business Certificates by Partnerships or Corporations.

1. A partnership or corporation in which a Business Certificate Holder has an ownership interest, may use the Certificate in the purchase of property provided:

a. The Business Certificate Holder owns outright, fifty-one percent (51%) or more of the partnership or corporation. If two or more Certificate Holders have an ownership interest in the partnership or corporation, the total percentages of ownership held by all the certificate holders must be at least 51%. In the event such partnership or corporation uses the certificate, each certificate holder, regardless of percentage of ownership, shall be deemed to have exercised his or her certificate.

b. The fifty-one percent (51%) or more ownership interest was not funded by a loan from the partnership, corporation, or any member or shareholder thereof and the Business Certificate Holder so declares in writing under penalty of perjury if required by the Agency.

c. The Business Certificate Holder must sign a non-collusion affidavit if persons other than Business Certificate Holders own the partnership or corporation.

d. The Business Certificate Holder shall not intend to sell his or her interest in the corporation or partnership at the time the Certificate is used and the Certificate Holder shall so declare in writing under penalty of perjury, if required by Agency.

e. The Business Certificate Holder shall not sell his or her interest in the corporation or partnership unless the Agency has issued a certificate of completion of new improvements and/or rehabilitation and the transfer or assignment complies with Agency anti-speculation restrictions or other conditions limiting transfer.

F. Limitations on Use of Certificate.

Business Certificate Holders may only use the Certificate. The Business Certificate of Preference cannot be used by any other person than the named recipient.

G. Exceptions to Preference.

The Agency may authorize an offering or commercial space that does <u>not</u> give priority to Certificate Holders, but the authorization must clearly state

that the Agency will not require preferences to holders of Business Certificates. However, persons who have, or are eligible to have, a certificate and who are successful in responding to a special disposition offering, either individually, jointly, or as members of a partnership or corporation, will be deemed to have exercised their certificate if they hold the minimum percentage of ownership specified in the special disposition.

H. Duration of the effectiveness of the Certificate.

Business Certificates shall be valid until two years after the completion of the Project Area from which the business was displaced.

IV. APPLICATION FOR AND NON-TRANSFERABILITY OF CERTIFICATES.

Application for all Certificates of Preference must be made to the Agency. A Certificate is not transferable voluntarily, by inheritance, by operation of law, or otherwise. A Certificate applicant is not entitled to certificate priorities until a Certificate has actually been issued. When a Certificate is requested and proof of eligibility cannot be established by Agency records, the burden shall be upon the applicant to supply the Agency with the necessary documentation.

V. REVIEW AND APPEALS PROCEDURE.

A. Persons and Entities Entitled to Reconsideration ("Complainants"). A person or business who is denied a Certificate of Preference may seek reconsideration of the Agency's decision within thirty days of receipt of the Agency's written determination of denial by filing a written statement explaining the basis for the person's eligibility for a Certificate of Preference. If a person has not received a written determination from the Agency within a reasonable period of time following the filing of an application for a Certificate of Preference, that person may also file for a reconsideration under this Section.

B. Informal Settlement. The Agency shall schedule, within sixty (60) days of receipt of a request for reconsideration, an informal settlement meeting with the complainant to consider the request for reconsideration. At the meeting, the complainant shall personally present, to the Agency, any documentation or other information justifying the person's eligibility for a Certificate of Preference under these Rules. The purpose of the meeting is to discuss the matter informally and attempt to settle without an appellate hearing. The Agency will prepare a summary of such informal discussion (the "Summary Statement") no later than thirty (30) days from the date of the last meeting. The Summary Statement will specify the names of the participants, dates of meeting, the Agency's decision regarding the complainant's eligibility for a Certificate of Preference, and will specify the procedure by which an appellate hearing may be obtained if the

complainant is not satisfied. The Summary Statement shall either be delivered personally to the complainant or sent by regular mail to the complainant's address or such other address as the complainant specifies.

C. Procedures to Obtain Administrative Review. A person that has received a Summary Statement affirming the Agency's denial of a Certificate of Preference may petition for administrative review ("Petitioner"). The Petitioner must submit a written request for administrative review to the Agency's Deputy Executive Director of Housing or his or her designee within fourteen (14) days from the date of the Summary ("Petition"). The Petition must provide the specific facts on which the complainant relies to establish eligibility for a Certificate of Preference.

D. Hearing Officer. A neutral hearing officer shall conduct the administrative review. The hearing officer may not be a person who approved the decision to deny the Certificate of Preference or a subordinate of that person. As of the date of these amended rules, the Agency intends to use the Administrative Law Judges of the San Francisco Residential Rent Stabilization and Arbitration Board to review these matters.

E. Scheduling of Hearing. The Hearing Officer shall hold the hearing within forty-five (45) days of the date of the filing of the Petition. The Agency shall ensure that written notice, by mail, of the date, time and place of the hearing is given at least ten (10) days prior to the date of the hearing. This notice shall also include these procedures governing the hearing.

F. Postponements.

(a) The Hearing Officer may grant a postponement of a hearing only for good cause and in the interest of justice.

(b) "Good cause" shall include, but is not limited, to the following:

(1) the illness of a party, an attorney or other authorized representative of a party, or a material witness of a party;

(2) verified travel outside of San Francisco scheduled before the receipt of notice of the hearing; or,

(3) any other reason which makes it impractical to appear on the scheduled date due to unforeseen circumstances or verified pre-arranged plans which cannot be changed. Mere inconvenience or difficulty in appearing shall not constitute "good cause."

(c) Parties may agree to a postponement at any time. Where the parties have agreed to a postponement, the Hearing Officer shall be notified in writing at the earliest date possible.

(d) Requests for postponement of a hearing must be made in writing at the earliest date possible, with supporting documentation attached. The person requesting a postponement should notify the other parties of the request and provide them with any supporting documentation.

G. Absence of Parties.

If a party fails to appear at a properly noticed hearing or fails to file a written excuse for non-appearance prior to a properly noticed hearing, the Hearing Officer may, as appropriate: continue the case, decide the case on the record in accordance with these rules; dismiss the case with prejudice; or proceed to a hearing on the merits.

H. Conduct of Hearing.

(a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her. If a party does not testify in his or her own behalf he or she may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. In the absence of a timely and proper objection, relevant hearsay evidence is admissible for all purposes. Proffered hearsay evidence to which timely and proper objection is made is admissible for all purposes, including as the sole support for a finding, if (a) it would otherwise be admissible under the rules of evidence applicable in a civil action or (b) the Hearing Officer determines, in his or her discretion, that, based on all the circumstances, it is sufficiently reliable and trustworthy. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

I. Burden of Proof. In any proceeding before the Hearing Officer, the Petitioner shall have the burden of proving that he or she meets the eligibility requirements for a Certificate of Preference under these Rules.

J. Stipulations. The parties, by stipulation in writing filed with the Hearing Officer, may agree upon the facts or any portion thereof involved in the hearing. The parties may also stipulate as to the testimony that would be given by a witness if the witness were present. The Hearing Officer may require additional evidence on any matter covered by stipulation.

K. Record of Proceedings. All proceedings before the Hearing Officer shall be recorded by tape or other mechanical means.

L. Personal Appearances and Representation by Agent. In any proceeding before the Hearing Officer, each party may appear personally or by an attorney, or by a representative designated in writing by the party, other than an attorney.

M. Decisions of the Hearing Officer. The Hearing Officer shall make written findings of fact and a written decision as to whether the Petitioner is eligible for a Certificate of Preference. A copy of the decision will be sent to the Petitioner and the Agency.

(a) The decision of the Hearing Officer to issue a Certificate of Preference shall be binding on the Agency, and the Agency shall promptly issue a Certificate of Preference consistent with the Hearing Officer's decision.

(b) A decision by the Hearing Officer that the Petitioner is not entitled to a Certificate of Preference shall not affect any rights the Petitioner may have to a trial de novo or judicial review in any judicial proceedings which may thereafter be brought in the matter.

VI. OUTREACH.

The Agency shall provide outreach to persons who are potentially eligible Residential Certificate Holders. The Agency shall also provide education to Residential Certificate Holders on how to exercise a Certificate and information on location of the opportunities to exercise a Certificate for rental or ownership housing.

VII. REPORTING.

Agency staff shall annually report to the Agency Commission on the status of the Residential Certificate Program including but not limited to the number of outstanding certificates, the number of Residential Certificate Holders for which the Agency currently has addresses, the number of new certificates issued, and the number of Residential Certificate Holders exercised in the past 12 months to purchase or rent new housing.

VIII. PRIOR CERTIFICATES; EFFECTIVE DATE OF PROGRAM.

A. All non-exercised, validly issued Certificates issued prior to the effective date of this program shall be honored. However, this Amended and Restated Program shall govern the manner of exercising and prioritizing.

B. The effective date of this Amended and Restated Program is October 1, 2008.

IX. AMENDMENTS TO CERTIFICATE PROGRAM.

The Agency Commission or the Executive Director may amend, from time to time, this Amended and Restated Certificate Program.

LIST OF SEPARATELY-ADOPTED BUSINESS PREFERENCE AND RE-ENTRY POLICIES

Business Occupant Re-Entry Policy, Bayview Hunters Point Redevelopment Project, Agency Resolution No. 34-2006 (March 7, 2006);

Rules Governing Participation by Property Owners and the Extension of Reasonable Preferences to Business Occupants in the Transbay Redevelopment Project, Agency Resolution No. 17-2005 (Jan. 25, 2005);

Amended Rules Governing Participation by Property Owners and the Extension of Reasonable Preferences to Business occupants for the South of Market Redevelopment Project, Agency Resolution No. 150-2005 (Oct. 4, 2005);

Business Reentry Preference Program for the Mission Bay North Redevelopment Project Area, Agency Resolution No. 187-98 (Sept. 17, 1998);

Business Reentry Preference Program for the Mission Bay South Redevelopment Project Area, Agency Resolution No. 192-98 (Sept. 17, 1998);

Business Occupant Re-Entry Preference Program, Hunters Point Shipyard Redevelopment Project, Agency Resolution No. 93-97 (June 17, 1997);

Property owner and occupant re-entry preference program for the Rincon Point-South Beach Redevelopment Project Area, Agency Resolution No. 330-1980 (Oct. 28, 1980);

Rules for Business Preference and Reentry for the Butchertown Redevelopment Project ("India Basin"), Agency Resolution No. 238-1968 (Dec. 10, 1968)

Special Assistance Available to Businesses and Industries and Business Preference Rules for the Yerba Buena Center Redevelopment Project Area D-1, Agency Resolution No. 108-1965 (Aug. 17, 1965)

EXHIBIT 1

RESOLUTION NO. 57-2008

Adopted as Amended at the Commission Meeting of June 3, 2008

AUTHORIZING THE EXECUTIVE DIRECTOR 1) TO AMEND THE CERTIFICATE OF PREFERENCE PROGRAM BY EXTENDING THE PROGRAM'S TERMINATION DATE, EXPANDING BENEFITS TO EXISTING CERTIFICATE HOLDERS, AND AMENDING APPEAL PROCEDURES GOVERNING DENIAL OF CERTIFICATES, AND 2) TO DETERMINE THE TIMING AND APPROPRIATENESS OF A FUTURE EXPANSION OF ELIGIBILITY TO INCLUDE CERTAIN RELATIVES OF THE ORIGINAL DISPLACEES; ALL REDEVELOPMENT PROJECT AREAS AND CITYWIDE HOUSING

BASIS FOR RESOLUTION

1. On October 22, 1963, the Redevelopment Agency of the City and County of San Francisco ("Agency") initially authorized, by Resolution No. 136-63, a business preference program for the Western Addition Redevelopment Project Area A-2. Its primary purpose was to enable business owners "to re-enter [the displaced] business in the redeveloped area." Rules Governing Business Preferences for the Western Addition Redevelopment Project Area A-2 (Oct. 22, 1963) ("1963 Rules") at page 1. This program implemented the then newly-adopted California Community Redevelopment Law requirement that redevelopment agencies extend reasonable preferences to businesses "to reenter in business within the redeveloped area." Cal. Health & Safety Code § 33339.5. In conformity with this statute, the Agency has approved, on numerous occasions since 1963, business reentry programs for particular project areas prior to the approval of new redevelopment plans.

2. On July 25, 1967, the Agency extended, by Resolution No. 103-67, the preference program to residential owners and occupants who were "obliged to move as a direct result of the operation of the [redevelopment] program" in the Western Addition Redevelopment Project Area A-2. The program established that "every A-2 owner or occupant will be afforded preferential consideration in the purchase of project land for the purpose of private development, or the rental of improved space within the new and rehabilitated structures on such land." The program authorized the issuance of certificates, which were "non-assignable and non-transferable" to "a property owner or occupant of Area A-2 prior to the date of the adoption of Agency Resolution No. 103-67." Certificates were valid for one year from date of issuance and could only be used once for "reestablishment." The minutes of the Agency Commission meeting on July 25, 1967 describe the program as "the first of its kind on the West Coast."

3. In 1969, the California Legislature amended the Community Redevelopment Law to require redevelopment agencies to provide low- and moderate-income households displaced by a redevelopment project with a priority in the renting and buying of affordable housing units that the agency develops. The Legislature amended this section in 1974, 1975, and 2002.

4. The statutory authorization for the certificate of preference program in housing is codified at Section 33411.3 of the Health and Safety Code. It requires the Agency to give "priority in renting or buying" to displaced, low- and moderate-income households "whenever all or any portion of a redevelopment project is developed with low- or moderate-income housing units and whenever any low- or moderate-income housing units are developed with any agency assistance." To qualify, the lower income household must be "displaced by the redevelopment project."

5. On April 18, 1978, the Agency Commission rescinded, by Resolution No. 76-78, prior versions of the Certificate Program and adopted a new policy that clarified the Agency's rules and administration of the Certificate of Preference Program ("Certificate Program"). Memorandum, W. Hamilton to Agency Commissioners, No. 109-14078-002 (April 11, 1978). The 1978 policy established the framework for the current administration of the Certificate Program.

6. The 1978 policy made several changes including expanding the Certificate Program to include other project areas besides the A-2 Area; establishing that "only one certificate may be issued to a person or entity whether or not preference can be established on more than one basis;" and providing that a Certificate Holder could only use the certificate once to rent or to purchase units in assisted development unless a Certificate Holder who had used the certificate to rent subsequently used it to "upgrade" by purchasing an assisted unit.

7. The 1978 policy provided that a single certificate was available to the family unless the applicant determined "independent eligibility" by demonstrating that they were part of a separate family unit who lived in the same household at the time of displacement or that they intended to live separately apart from the family upon displacement. An individual or family received either: 1) a Residential Certificate A if they occupied a "Project Area building at the time it was acquired by the Agency," or 2) a Residential Certificate B if they occupied a Project Area building after a certain date but before the Agency acquired the building.

8. The 1978 policy stated that "When a Certificate is requested and proof of eligibility cannot be established by Agency records, the burden shall be upon the applicant to supply the Agency with necessary documentation." Section VII of Property Owner and Occupant Preference Program attached to Memorandum, W. Hamilton to Agency Commissioners (April 11, 1978).

9. In 1991, the Agency confirmed the applicability of the Certificate Program to all new housing developed within any redevelopment project areas and thereafter all developments assisted by tax increment funds were required to provide preferential consideration to the Certificate Holders.

10. On December 8, 1998, the Agency Commission authorized, by Resolution No. 253-98, the expansion of eligibility standards for the Certificate Program to include persons "who were minor children or adults in the household at the time of displacement and who appear in the Agency's Site Occupancy Records." Eligibility was limited to those persons whose names appeared on Agency records to ensure that a "preference" continued to provide meaningful opportunities only to persons whom the Agency could verify had been displaced. Agency staff estimated that the expanded eligibility could "translate to approximately 23,200 potential certificates." Memorandum, J. Morales to Agency Commissioners at page 2 (Dec. 1, 1998).

11. In new rules issued on June 1, 1999, the Agency established the Residential C Certificate Holder to describe the new class of eligible persons, but provided that this new certificate of preference was derivative of the original Residential A Certificate. In other words, the eligibility of the Residential C Certificate Holder was limited by the actions of the Residential A Certificate Holder in exercising the original certificate. If the Residential A Certificate Holder had used the certificate to rent, the Residential C Certificate Holder from that same displaced household could only use a certificate to obtain a preference in the purchase of an assisted unit. As with other Certificate Holders, the Residential C class had to meet income eligibility requirements for the low- and moderate-income housing that the Agency had assisted.

12. Since the beginning of 2007, the Agency Commission has received numerous memoranda from Agency staff and held several public hearings on the administration of the Certificate Program to consider how the Agency may improve it. See e.g., Memorandum, M. Rosen to Agency Commissioners, No. 118-41005-003 (Meeting of March 20, 2007); Memorandum, M. Rosen to Agency Commissioners, No. 118-35007-002 (May 31, 2007); and Memorandum, F. Blackwell to Agency Commissioners, No. 118-09908-002 (Jan. 29, 2008).

13. Agency wishes to modify immediately the Certificate Program by amending the rules to include the following:

    a. Extending the time limit for the Residential Certificates (which under current rules will expire two years after the expiration of a particular project area) by an additional 15 years subject to Agency Commission review and approval of the Certificate Program at or before the fifth year and the tenth year of the extended term, and also requiring that Agency staff report annually to the Agency Commission on the effectiveness of the Certificate Program;

b. Providing an education and outreach program that fully informs the public about the eligibility and benefits under the Certificate Program;

c. Reaffirming eligibility for Residential C Certificates to include persons who were not on the Site Occupant Record but who were members of the displaced households so long as they are able to prove that they resided in the household at the time of displacement;

d. Expanding housing opportunities for the existing group of Residential C Certificate Holders by allowing them to use the certificate for either assisted rental or assisted ownership units, regardless of whether the Residential A Certificate, upon which the Residential C Certificate was based, was exercised;

e. Clarifying and enhancing the appeals process to resolve disputes regarding certificate eligibility and extending the time for Agency written responses to informal settlement meetings; and

f. Reaffirming existing Agency policy that eligibility for certificates requires that Agency action or action on behalf of the Agency is the cause of the original displacement.

14. The Agency wishes to take additional steps to establish the basis for expanding eligibility for certificates of preference to those persons who did not live in the household at the time of displacement, but who are the children of the displaced household members that are eligible for the Residential C Certificate Holders. In most instances, the Residential C Certificate Holders are the children of the head of the displaced household, who had originally qualified for Residential A Certificates. This proposed expansion thus may provide housing opportunities for many of the grandchildren of the original displaced head of households and also retains a nexus to the original displacement and the harm associated with that displacement. The additional steps that the Agency will take prior to expanding eligibility to the children of the Residential C Certificate Holders include:

a. Establishing the factual basis for the Agency to make findings that the expansion to the class of persons who did not reside in the displaced household, but whose parents were displaced nonetheless suffered economic, social and other harm because of the parents' displacement;

b. Conducting an extensive investigation and outreach effort to identify: 1) the remaining numbers of the Residential C Certificate Holders and their current addresses, and 2) their children, if any, who would be eligible under the expanded Certificate Program; and

c. Assessing whether the supply of newly-created affordable housing, and of existing affordable housing that becomes vacant upon turnover, is

sufficient to meet the potential demands of existing Residential C Certificate Holders and those of an expanded class that includes the children of the Residential C Certificate Holders.

15. Authorization of the amendments to the Certificate Program does not constitute a project, pursuant to the California Environmental Quality Act Guidelines Section 15378(b)(5).

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized: 1) to amend immediately the Certificate of Preference Program by extending the program's termination date, expanding benefits to existing certificate holders, amending appeal procedures governing denial of certificates, and making other changes described above, and 2) to determine the timing and appropriateness of a future expansion of eligibility to include certain relatives of the original displacees.

APPROVED AS TO FORM:

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James B. Morales
Agency General Counsel