

ATTACHMENT 22

AFFORDABLE HOUSING PROGRAM

This Affordable Housing Program (the “Program”) is attached to and made a part of the Disposition and Development Agreement for Hunters Point, Phase 1 (the “Agreement”). The Agreement applies in the first instance to Horizontal Improvements (such as streets, utilities, parks and the like), but it also includes terms and conditions that will apply to Vertical Improvements (such as residential units, commercial facilities, office space and the like). For clarity, Attachment 27 to the Agreement comprises a summary of the terms and conditions that will apply to Vertical Improvements, and it incorporates by reference certain Attachments to the Agreement. This is one such Attachment, since it outlines the Affordable Housing Program for Phase 1 and sets forth the rights and obligations of Agency and Vertical Developers in connection with the Program. Agency and Vertical Developers are bound by this Program as part of the obligations they assume, and benefits they receive, under the document that will incorporate the summary of terms and conditions set forth in Attachment 27.

Section 1 Overview.

1.1 Affordable Units. Phase 1 will include approximately 1,600 Residential Units. At least thirty-two percent (32%), and as much as forty-four percent (44%), of the Residential Units will comprise Affordable Housing for low- and moderate-income residents.

1.2 Baseline Affordable Housing. The baseline Phase 1 Affordable Housing Units will consist of (a) approximately three hundred twenty (320) Agency Affordable Housing Units to be built on Agency Housing Parcels and (b) Inclusionary Units comprising fifteen percent (15%, or approximately one hundred ninety-two (192) units) of the total Vertical Developer Residential Units to be built by third-party Vertical Developers, including Developer Affiliates, on the Project Site.

1.3 Option Units. Agency will also have the right to purchase up to an additional fifteen percent (15%, or approximately one hundred ninety-two (192) units) of the total Vertical Developer Residential Units to be built on the Project Site, on the terms and conditions set forth in this Program.

1.4 Income Targets. The median income in the Bayview Hunters Point community is approximately eighty percent (80%) of AMI. For-Sale Affordable Housing Units will be priced for households earning an average of eighty percent (80%) of AMI. For-Rent Affordable Housing Units will be priced for households earning no more than fifty percent (50%) of AMI. These income targets are approximately ten percent to twenty percent (10-20%) lower than those typically required for affordable housing units built in the City. Current HUD income levels are available from the Agency.

1.5 Affordable Residential Unit Distribution. Affordable Housing Units will be evenly distributed throughout Phase 1. The overall Phase 1 housing program for all Vertical Developer Residential Units will feature a mix of For-Rent and For-Sale Residential Units with thirty percent (30%) For-Rent and seventy percent (70%) For-Sale. The Agency will consider minor variations to this rate so long as the overall weighted average affordability level of the

Inclusionary Units does not exceed sixty-eight percent (68%) of AMI (as defined in Section 2 below). The distribution of Affordable Units within the Project Site (including the allocation of Affordable Units between For-Rent and For-Sale) consists of a fifteen percent (15%) Inclusionary Unit Requirement for each Residential Project, unless Agency and Developer or Vertical Developer agree otherwise, as shown on the map attached as Exhibit A. A Declaration of Rental Use Restriction, restricting Residential Units to For-Rent rather than For-Sale, substantially in the form attached as Exhibit B, will be recorded against each For-Rent Residential Unit in Phase 1, whether the Residential Unit is Affordable or Market Rate. A Declaration of Restrictions for For-Rent Affordable Housing Units, restricting For-Rent Affordable Residential Units to the specified affordability level, substantially in the form attached as Exhibit C, will be recorded against each For-Rent Affordable Residential Unit in Phase 1. Each For-Sale Affordable Residential Housing Unit must be sold to qualified members of the public as evidenced by an Affordable Housing Parcel Deed substantially in the form specified in Exhibit D. A Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement, restricting For-Sale Affordable Residential Units to the specified affordability level, substantially in the form attached as Exhibit D, will be recorded against each For-Sale Affordable Residential Unit.

1.6 Buyer Assistance. Vertical Developers will coordinate with appropriate agencies and financial institutions to provide qualified home buyers with access to down payment assistance, first-time buyer financing programs (from such entities as Fannie Mae, Federal Home Loan Bank, and similar entities) and homeownership counseling services as needed.

Section 2 Definitions.

Terms not defined in this Program have the meanings given to them in the Agreement.

Addendum to Deed of Trust has the meaning set forth in Section 3.3 and is substantially in the form of Attachment C to Exhibit D.

Affiliate has the meaning set forth in the Agreement as follows: A Person in which Developer or a Vertical Developer, as the case may be, directly or indirectly owns and/or controls (a) twenty five percent (25%) or more (or if such Person is not publicly traded, fifty percent (50%) or more) of each class of equity interests (including rights to acquire such interests), or (b) twenty five percent (25%) or more (or if such Person is not publicly traded, fifty percent (50%) or more) of each class of interests that have a right to nominate, vote for or otherwise select the members of the board or other governing body that directs or causes the direction of substantially all of the management and policies of that Person.

Affordable means, (a) with respect to a For-Rent Residential Unit, a monthly rental charge, including a utility allowance in an amount determined by the San Francisco Housing Authority, which does not exceed thirty percent (30%) of fifty percent (50%) of Area Median Income, based upon Imputed Household Size; and (b) with respect to a For-Sale Residential Unit, a purchase price based on a five percent (5%) down payment and a rate for a thirty (30) year fixed mortgage based on a ten (10) year rolling average of rates published in the Wall Street Journal, with a total of annual payments for principal, interest, taxes, assessments and

homeowner's association dues which does not exceed thirty-three percent (33%) of the Program Income Level.

Affordable Housing Parcel Deed means the deed conveying an Affordable Housing Parcel to the Agency.

Affordable Housing Units means, collectively, the Vertical Developer Inclusionary Units and Agency Affordable Housing Units.

Agency Affordable Housing Units means the Residential Units constructed on Agency Housing Parcels.

Agency Housing Parcels has the meaning set forth in the Agreement, as follows: The parcels to be retained by Agency and designated as Agency Housing Parcels on the map attached as Attachment 2 to the Agreement.

Area Median Income (AMI) has the meaning set forth in the Agreement, as follows: The area median income for a household, adjusted **solely** for actual household size, and not adjusted for other factors, including but not limited to, HUD high cost adjustments, as determined by HUD for the San Francisco Primary Metropolitan Statistical Area, from time to time.

Business Day has the meaning set forth in the Agreement, as follows: A day other than a Saturday, Sunday or a state or federal holiday.

City means the City and County of San Francisco, California, a municipal corporation.

Close or Closing for Option Units means the recordation of the deed evidencing the conveyance of Option Units to the Agency.

Complete Construction means the point at which Residential Units have been completed in accordance with approved plans and specifications, as reasonably determined by Agency, and a Certificate of Occupancy has been issued for such Residential Units.

Declaration of Rental Use Restriction has the meaning set forth in Section 3.1 and is substantially in the form attached as Exhibit B.

Declaration of Restrictions for For-Rent Affordable Housing Units has the meaning set forth in Section 3.3 and is substantially in the form attached as Exhibit C.

Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement has the meaning set forth in Section 3.3 and is substantially in the form attached as Exhibit D.

Design Review and Document Approval Procedure for Vertical Improvements means the document to be negotiated by Developer and the Agency and, if agreed upon, attached to the Agreement, as it may be amended from time to time.

Developer means LENNAR/BVHP, LLC, a California limited liability company doing business as Lennar/BVHP Partners.

Direct Costs means all costs incurred by Vertical Developer in constructing the Units, excluding Land Cost, Indirect Costs, and Vertical Developer Profit, for each Major Residential Phase. Direct Costs shall include costs and expenses actually incurred and paid for construction of the Units, including fees for inspections and building permits and other permit fees, the fees of engineers, surveyors and architects providing services in connection with the construction of Units for each Major Phase, and the costs of options and upgrades to the Units, but shall specifically exclude amounts paid to any Affiliate of the Vertical Developer unless Agency gives its prior written approval. Agency will not unreasonably withhold its approval so long as Vertical Developer provides supporting information substantiating that any such payments do not exceed amounts that would be payable to non-related parties in an arms length transaction for similar services within the City. The amount of any Direct Costs is subject to verification and reasonable approval by Agency. Any costs that cannot be reasonably verified through statements and invoices shall not be included as “Direct Costs.” Vertical Developer shall timely provide to Agency a schedule specifically identifying and substantiating all Direct Costs claimed, showing in particular the basis on which Direct Costs were allocated to the Units in a particular Major Phase, together with supporting materials, in a form reasonably satisfactory to Agency.

Escrow has the meaning set forth in Section 3.5(h).

For-Rent or **Rental** means a Residential Unit that is intended at the time of Complete Construction to be occupied subject to a lease, and not offered for sale.

For-Sale or **Sale** means a Residential Unit that is intended at the time of Complete Construction to be offered for sale, *e.g.*, as a condominium for individual Residential Unit ownership.

Grant Deed has the meaning set forth in Section 3.3.

HUD means the United States Department of Housing and Urban Development.

Imputed Household Size means the total number of bedrooms in a Residential Unit plus one (1).

Inclusionary Unit means an Affordable Residential Unit to be constructed by a Vertical Developer pursuant to this Program and the Agreement, which shall be either For-Rent or For-Sale housing offered in accordance with the terms of this Program.

Indirect Costs means all costs and charges incurred by the Vertical Developer in constructing Units for each Major Phase, excluding Land Cost, Direct Costs and Vertical Developer Profit. By way of example, Indirect Costs shall include without limitation costs and charges such as site indirect costs, overhead or charges for on-site personnel, depreciation of capital expenditures or equipment, real property taxes and assessments, insurance expenses, financing expenses or interest, the cost of performing warranty work and maintaining warranty reserves, legal fees and expenses, general business taxes or licenses, closing costs incurred in connection with sales of Units and other costs customarily treated as “soft costs” in the home

building industry; provided that, Indirect Costs shall specifically exclude (a) sales or marketing expenses, since this term is used to calculate the Option Purchase Price and no marketing or sale expenses are required for Option Units and (b) amounts paid to any Affiliate of the Vertical Developer unless the Agency gives its prior written approval. Agency will not unreasonably withhold its approval so long as Vertical Developer provides supporting information substantiating that any such payments do not exceed amounts that would be payable to non-related parties in an arms length transaction for similar services within the City. The amount of any Indirect Costs is subject to verification and reasonable approval by Agency. Any costs that cannot be reasonably verified through statements and invoices shall not be included as “Indirect Costs.” The Vertical Developer shall timely provide to Agency a schedule substantiating all Indirect Costs claimed, showing in particular the basis on which Indirect Costs were allocated to the Units in a particular Major Phase, together with supporting materials, in a form reasonably satisfactory to Agency. The parties agree that irrespective of the Indirect Costs actually incurred, the amount designated as Indirect Costs for purposes of determining the Option Purchase Price shall not exceed twenty percent (20%) of Direct Costs, provided that builder’s risk and property insurance costs will be included in the Option Purchase Price even if they cause Indirect Costs to exceed twenty percent (20%) of Direct Costs.

Infrastructure has the meaning set forth in the Agreement.

Infrastructure Plan means the document attached to the Agreement as Attachment 9, as it may be amended from time to time.

Land Cost means the verified cash purchase price allocated among the Residential Units to be developed in the relevant Major Phase. The Land Cost is subject to verification and reasonable approval by Agency. Any costs that cannot be reasonably verified through closing statements and other documentation shall not be included as “Land Cost.” The Vertical Developer shall timely provide to Agency a schedule substantiating all Land Costs claimed, showing in particular the basis on which Land Costs were allocated to the Units in a particular Major Phase, together with supporting materials, in a form reasonably satisfactory to Agency.

Major Phase means a development segment comprising one or more of the numbered parcels or portions of parcels included with a numbered parcel (or a remainder parcel if so approved by Agency pursuant to the Design Review and Document Approval Procedure for Vertical Improvements), as shown on Attachment 2 to the Agreement containing one or more Residential Projects.

Major Phase Housing Data Table has the meaning set forth in Section 3.6 and is substantially in the form attached as Exhibit G.

Market Rate or **Market Rate Residential Unit** means a Residential Unit that has no restrictions under this Affordable Housing Program or the Agreement with respect to affordability levels or income restrictions for occupants.

Memorandum of Option has the meaning set forth in Section 3.5(a) and is substantially in the form attached as Exhibit E.

Option Purchase Price has the meaning set forth in Section 3.5(e).

Option Units has the meaning set forth in Section 3.5(a).

Owner means the person or entity holding fee title to a parcel or Residential Unit in Phase 1.

Option Unit Exceptions has the meaning set forth in Section 3.5(c).

Project Housing Data Table has the meaning set forth in Section 3.7 and is substantially in the form attached as Exhibit H.

Program Income Level means the maximum AMI allowed for Affordable Units within a development based on Imputed Household Size.

Project Site has the meaning set forth in the Agreement.

Promissory Note Secured By Deed of Trust has the meaning set forth in Section 3.3 and is substantially in the form of Attachment A to Exhibit D.

Qualified Land Buyer has the meaning set forth in the Agreement.

Redevelopment Requirements has the meaning set forth in the Agreement.

Release of Option Rights means the document, substantially in the form attached as Exhibit F, in which the Agency releases its right to purchase Vertical Developer Residential Units in a specific Residential Project, other than those specific Option Units that Agency has elected to purchase under this Attachment 22.

Residential Project means a development containing Residential Units and possibly containing other uses permitted under the Redevelopment Plan for the Hunters Point Naval Shipyard and this Affordable Housing Program, which is undertaken by the Developer through the Agreement or Vertical Developers through a Disposition and Development Agreement or other land transfer agreements, including but not limited to, ground leases.

Residential Unit means a dwelling unit consisting of a room or suite of two (2) or more rooms that is designed for residential occupancy.

Short Form Deed of Trust and Assignment of Rents has the meaning set forth in Section 3.3 and is substantially in the form of Attachment B to Exhibit D.

Title Company has the meaning set forth in Section 3.5(h).

Title Report has the meaning set forth in Section 3.5(b).

Total Residential Units has the meaning set forth in Section 3.

Total Vertical Developer Residential Units means the total of Vertical Developer Market Rate Residential Units and Inclusionary Units developed in Phase 1.

Vertical Developer(s) has the meaning set forth in the Agreement.

Vertical Developer Inclusionary Unit has the meaning given in the definition for Inclusionary Unit.

Vertical Developer Inclusionary Unit Requirement has the meaning set forth in Section 3.2(a).

Vertical Developer Profit has the meaning set forth in Section 3.5 (e).

Vertical Improvements has the meaning set forth in the Agreement.

Section 3 Housing Program.

Up to one thousand six hundred (1,600) Residential Units will be constructed in Phase 1 (“Total Residential Units”). Of the Total Residential Units, approximately three hundred twenty (320) Affordable Residential Units may be constructed on Agency Housing Parcels. In addition, Vertical Developers will construct one thousand two hundred eighty (1,280) Residential Units, as further described in this Program. At least thirty percent (30%) of the Vertical Developer Residential Units in Phase 1 will be For-Rent Units, and approximately seventy percent (70%) will be For-Sale Units. Notwithstanding the above, Vertical Developers, with the Agency’s consent, may lease the For-Sale Units on an interim basis, prior to sale, for a lease term of up to one year, not to be extended without the Agency’s consent. Such For-Sale Units will continue to be identified as For-Sale Units during the lease term and will be sold as For-Sale Units following the expiration of the lease term. At least fifteen percent (15%) of such For-Rent Units and at least fifteen percent (15%) of such For-Sale Units will be Inclusionary Units, as further described below. In addition, Agency has the option to purchase up to an additional fifteen percent (15%) of Vertical Developer Residential Units, allocated between For-Rent and For-Sale Units in such proportion as Agency in its sole and absolute discretion elects, as described in Section 3.5.

3.1 Declaration of Rental Use Restriction. As soon as practicable after recordation of a final subdivision map for Phase 1, but no later than the first sale to a Vertical Developer of any Lot designated on Exhibit A for For-Rent Residential Units, Developer will record against such Lots a Declaration of Rental Use Restriction substantially in the form attached as Exhibit B. Vertical Developer will promptly provide to Agency copies of the recorded documents, showing the date of recording and document numbers.

3.2 Vertical Developer Inclusionary Unit Requirement.

(a) Allocation. The Vertical Developer Inclusionary Unit Requirement equals fifteen percent (15%) of the Vertical Developer Residential Units constructed in Phase 1, with the fifteen percent (15%) Inclusionary Unit Requirement for each Residential Project, unless Agency and Developer or Vertical Developer agree otherwise. The Inclusionary Units shall be distributed and located, and shall comply with the percentages of total units for each Major Phase, all as shown on Exhibit A.

(b) Affordability.

(1) At least thirty percent (30%) of the Inclusionary Units constructed by Vertical Developers in Phase 1 shall be For-Rent Inclusionary Units. These Units can be

rented at rates no higher than the Program Income Levels for households earning fifty percent (50%) of AMI, less the utility allowance calculated pursuant to schedules and procedures established by the San Francisco Housing Authority.

(2) Approximately seventy percent (70%) of the Inclusionary Units constructed by Vertical Developers in Phase 1 shall be For-Sale Inclusionary Units. These units must be priced such that they are Affordable to households earning no more than eighty percent (80%) of AMI.

(c) Distribution. Distribution of the Inclusionary Units shall be fifteen (15) percent for each Residential Project, unless Agency and Vertical Developer agree otherwise.

(d) Design. The design of the Vertical Developer Inclusionary Units shall be substantially equivalent in size, location, amenities and quality and reflect the mix of Residential Unit sizes and room configurations of, and be dispersed among, the Vertical Developer's Market Rate Residential Units in each Residential Project.

(e) Marketing and Operations Guidelines. The Vertical Developer's obligations with respect to the marketing and operation of the Inclusionary Units, including without limitation the rental rates of Rental Units, sales prices of For-Sale Units, tenant qualifications and reporting requirements and the Vertical Developer's obligations with respect to marketing and occupancy preferences for the Vertical Developer Market Rate Residential Units are described in Exhibit I to this Program.

3.3 Continued Affordability of Inclusionary Units. As soon as practicable after the recordation of a final subdivision map for Phase 1, but in no event later than the first rental of a For-Rent Inclusionary Unit or sale of a For-Sale Inclusionary Unit, the Vertical Developer who owns such Unit will record against such Unit, as applicable, either the Declaration of Restrictions for For-Rent Affordable Housing Units substantially in the form attached as Exhibit C or the Declaration of Restrictions for For-Sale Affordable Housing Units and Option to Purchase Agreement substantially in the form attached as Exhibit D to ensure continued affordability for a ninety (90) year period after the initial lease or sale of the Unit. The Vertical Developer will promptly provide to Agency a copy of the recorded documents, showing the date of recording and document numbers. Any condominium map for each Vertical Developer Residential Project containing Inclusionary Units shall also reflect the above restrictions. Further, the Vertical Developer will convey each For-Sale Affordable Housing Unit. The Vertical Developer will promptly provide to Agency a copy of each recorded grant deed, showing the date of recording and document number. The Owner of the For-Sale Affordable Housing Unit shall execute the Short Form Deed of Trust and Assignment of Rents, the Addendum to Deed of Trust, and the Promissory Note Secured By Deed of Trust, in the forms attached as Attachments to Exhibit D. The Vertical Developer or Owner will promptly provide to Agency a copy of the recorded documents, showing the date of recording and document numbers.

3.4 Disability Access. The Vertical Developer shall comply with all applicable federal, state and local disability access laws, including without limitation the Americans With Disabilities Act, Section 504 of the Rehabilitation Act, the Fair Housing Amendments Act and any other applicable disability access laws. The Vertical Developer is responsible for

determining those disability access laws applicable to the Project. In addition, prior to occupancy of the Project, the Vertical Developer shall provide to the Agency a written reasonable accommodations policy which indicates how the Vertical Developer will respond to requests by disabled individuals for accommodations in Units and common areas of the Project.

3.5 Memorandum of Option; Closing.

(a) Option Units. Agency may purchase up to fifteen percent (15%) of the Phase 1 Vertical Developer Residential Units from Vertical Developers (the “Option Units”), allocated between For-Rent and For-Sale Units in such proportion as Agency in its sole and absolute discretion elects (the “Option”). As soon as practicable after the recordation of the final subdivision map for Phase 1, but in no event later than the first sale of any Lot to a Vertical Developer, Vertical Developer will record against all Lots in the Project Site the Memorandum of Option in the form attached as Exhibit E, evidencing Agency’s Option, and promptly provide to Agency a copy of the recorded documents, showing the date of recording and document numbers.

(b) Procedure for Exercise of Option. Promptly after completion of the Design Review and Document Approval Procedure for Vertical Development for each Major Phase containing Residential Units, the Vertical Developer will deliver to Agency a written notice informing Agency of such completion. The notice will include a description of the Residential Units approved (as For-Sale or For-Rent, number of bedrooms, amenities) and a preliminary title report covering the Residential Units issued by the Title Company (the “Title Report”), together with copies of all documents relating to title exceptions showing in the Title Report. Agency will have ninety (90) days after receipt of the notice and other required information to exercise its Option by written notice to the Vertical Developer, specifying in its notice the Residential Units it intends to purchase (the “Option Units”). Agency may exercise its Option, in whole or in part, until such time as Agency has purchased up to fifteen percent (15%) of the total Phase 1 Vertical Developer Residential Units. For each Major Phase including Residential Units constructed by a Vertical Developer, Agency may purchase up to fifteen percent (15%) of the available Vertical Developer Residential Units in that Major Phase.

(c) Due Diligence. During the ninety (90) day period after Agency’s receipt of the Vertical Developer’s notice and other required information under Section 3.5(b), (i) the Vertical Developer will permit Agency and its designated representatives, at reasonable times and after reasonable notice, to review all non-privileged reports, plans, specifications and other information relating to the approved Residential Units and to inspect the site where the approved Residential Units will be or are being constructed and (ii) Agency may object to any exception shown on the Title Report, other than Permitted Exceptions as set forth in the Agreement or any other liens or encumbrances agreed to by the Agency in the course of Infrastructure or Vertical Improvement development or otherwise contemplated by the Agreement. If Agency fails to so object, then the new exception will be deemed to be a Permitted Exception. If Agency does so object, then the Vertical Developer at its cost will remove any exceptions created by or on behalf of the Vertical Developer prior to the Close of Escrow on the Option Unit, and in its sole discretion may elect to remove any other exception to which Agency objected. If the Vertical Developer does so elect, it will notify Agency within ten (10) days after receipt of Agency’s objection. The title exceptions to which Agency did not object, as well as those to which

Agency objected but the Vertical Developer elected not to remove, or which are otherwise permitted hereunder are the “Option Unit Exceptions.”

(d) Release of the Option. Within ten (10) days after Agency exercises its Option but in no event later than the initial marketing of Residential Units in such Major Phase, Agency will record against the Units in each Major Phase which are not Option Units a Release of Option Rights in the form attached as Exhibit F, evidencing Agency’s release of its Option as to such Units, and promptly provide to the Vertical Developer who owns such Major Phase a copy of the recorded document, showing the date of recording and document number.

(e) Purchase Price. The Agency shall pay the Vertical Developer who owns the Option Unit an “Option Purchase Price” that is the lesser of the price offered to the public or a price comprised of the following:

(1) The Land Cost attributable to each Unit; plus

(2) Actual Direct Costs and Indirect Costs attributable to each Unit;

plus

(3) Vertical Developer fees and profit equal to ten percent (10%) on the sum of Direct and Indirect Costs (the “Vertical Developer Profit”).

(f) Time For Payment. Promptly after Complete Construction of an Option Unit, or a number of Option Units for which Complete Construction occurred reasonably contemporaneously, the Vertical Developer will deliver to Agency a written notice of Complete Construction of the Option Units, together with a copy of a recorded final subdivision map for the Major Phase in which the Option Units are located, showing the date of recording and document number, which creates separate legal parcels for each of the Option Units. The notice will include a calculation of the Option Purchase Price, together with schedules substantiating all Land, Direct and Indirect Costs claimed, showing in particular the basis on which Land, Direct and Indirect Costs were allocated to the Units in a particular Major Phase, together with supporting materials, in a form reasonably satisfactory to Agency. Agency may object to such calculation within ten (10) days after receipt, specifying the basis for its objection and its corrected calculation. The parties will negotiate in good faith in an attempt to resolve their differences, but if they are unable to do so within ten (10) days after delivery of Agency’s objection, then Closing on the Option Unit will proceed on the basis of the midpoint between the Vertical Developer’s and Agency’s calculation of the Option Purchase Price and the dispute will be resolved pursuant to the binding arbitration procedure in Section 3.5(q). Agency must pay the Option Purchase Price to the Vertical Developer through Escrow within thirty (30) days after Agency’s receipt of Vertical Developer’s notice of Complete Construction (the “Close of Escrow”), subject to extensions of such period for any delay caused by Vertical Developer.

(g) Right of Access. After exercise of Agency’s Option, Vertical Developer will continue to permit Agency and its designated representatives, at reasonable times and after reasonable notice, to review all non-privileged reports, plans, specifications and other information relating to the Option Units and to inspect the Option Units under construction.

(h) Escrow. Within five (5) Business Days after Complete Construction of each Option Unit or a number of Option Units for which Complete Construction occurred reasonably contemporaneously, Vertical Developer shall establish an escrow (“Escrow”) with Chicago Title Company at _____ (“Title Company”) and shall notify Agency in writing of the Escrow number and contact person at the same time it delivers the notice specified in Section 3.5(f).

(i) Title Policy. As a condition precedent to Agency’s obligation to accept conveyance of the Option Units, the Title Company shall be irrevocably committed to issue to Agency an CLTA owner’s title insurance policy with such endorsements, reinsurance and direct access agreements as Agency shall reasonably designate and the Title Company shall accept. The title policy will be in the amount of the Option Purchase Price, and will insure that fee title to the Option Units and all easements appurtenant thereto are vested in Agency, subject only to the Option Unit Exceptions.

(j) Closing Costs and Prorations. Vertical Developer will pay to the Title Company or the appropriate payee thereof transfer taxes, if any, and the Agency shall pay all title insurance premiums. All other closing costs shall be allocated in accordance with the then current custom in the City and County of San Francisco. Ad valorem taxes and assessments, if any, on the Option Units, shall be prorated as of the Close of Escrow. Any such taxes and assessments, including supplemental taxes and escaped assessments, levied, assessed, or imposed for any period up to recordation of the deed, shall be borne by Vertical Developer.

(k) Escrow Instructions. At least fifteen (15) days prior to the date specified for Close of Escrow, each party will furnish the Title Company with appropriate escrow instructions consistent with, and sufficient to implement the terms of, the Option, and will contemporaneously furnish a copy of these instructions to the other party. At least two (2) Business Days prior to the date specified for Close of Escrow, each party will deposit into Escrow all documents it is obligated to deposit under this Option, and at least one (1) Business Day prior to the date specified for Close of Escrow each party will wire transfer into Escrow all funds it is obligated to deposit under this Option.

(l) Deliveries into Escrow.

(1) Agency will deliver into Escrow:

(A) the Option Purchase Price; and

(B) escrow instructions and funds consistent with this Program.

(2) The Vertical Developer will deposit into Escrow:

(A) a standard title company grant deed for each Option Unit in a form approved by Agency, executed by the Vertical Developer in recordable form; and

(B) escrow instructions and funds consistent with this Program.

(m) Conditions Precedent to Closing.

(1) Agency Conditions to Closing. The following are conditions precedent to Agency's obligations with respect to the conveyance of the Option Units, to the extent not expressly waived by Agency by written notice to Vertical Developer:

(A) The Title Company shall be irrevocably committed to issue to Agency title insurance required by Section 3.2(i);

(B) Vertical Developer shall have performed all obligations under this Program required to be performed by Vertical Developer prior to the date for Close of Escrow; and

(C) Vertical Developer shall have delivered to Agency or the Title Company, as applicable, all instructions and documents to be delivered to Agency at Close of Escrow under this Program.

(2) Vertical Developer Conditions to Closing. The following are conditions precedent to Vertical Developer's obligations with respect to the conveyance of the Option Units, to the extent not expressly waived by Vertical Developer by written notice to Agency:

(A) Agency shall have performed all obligations under this Program required to be performed by Agency prior to the date for Close of Escrow; and

(B) Agency shall have delivered to Vertical Developer or the Title Company, as applicable, all instructions and documents to be delivered to Vertical Developer at Close of Escrow under this Program.

(n) Closing. Provided that the conditions to Agency's obligations and the conditions to Vertical Developer's obligations with respect to the Option Units have been satisfied, then on the Close of Escrow on the Option Units, the Title Company will record the deed referenced in Section 3.5(l)(2)(A) in the City's official records, issue the title policy referenced in Section 3.5(m)(1)(C), prorate and pay amounts in accordance with Section 3.5(j) and the escrow instructions, release to Vertical Developer the portion of the Option Purchase Price due to the Vertical Developer and deliver to Agency and the Vertical Developer signed settlement statements.

(o) Expiration of Option. The Agency's Option shall automatically expire and all rights and obligations thereunder shall be released and be of no further force and effect after the Agency purchases the full fifteen percent (15%) of Vertical Developer Residential Units in Phase 1.

(p) Cooperation With Agency Requests. Vertical Developer shall reasonably cooperate with Agency requests to be a co-applicant on any Agency tax credit financing application for the financing of the Option Units described in the Memorandum of Option, provided that such reasonable cooperation shall be at no cost to Vertical Developer and Vertical Developer shall assume no liability whatsoever relating to or arising out of Vertical Developer's being a co-applicant.

3.6 Submissions for Major Phase Approvals.

In order to verify and to track compliance with the Affordable Housing Program, each Vertical Developer shall submit a Major Phase Housing Data Table as part of the application package for each Major Phase including Residential Units. Such Major Phase Housing Data Table shall be in a form mutually agreed upon by the Developer and the Agency and will contain the information described in subsections (a) and (b) below, and as attached in Exhibit G. Agency shall review and approve the Major Phase Housing Data Table in accordance with the procedures set forth in the Design Review and Document Approval Procedure, and development of such Major Phase shall proceed in accordance with such approvals. Agency will cooperate with Vertical Developers in providing the information required to complete the following Tables to the extent known by Agency and not known or reasonably discoverable by the Vertical Developer.

(a) Major Phase Data. The Major Phase Housing Data Table shall identify for the entire Major Phase:

- (1) The total acreage of Vertical Developer Residential Projects;
- (2) The total number of Residential Units proposed;
- (3) The total number of Market Rate Residential Units proposed;
- (4) The total number of Inclusionary Units proposed;
- (5) The allocation of Inclusionary Units among For-Rent and For-Sale Affordable Residential Units for the Major Phase; and
- (6) The location of For-Rent and For-Sale Inclusionary Units within the Major Phase, including a description of such Inclusionary Units in terms of size, number of bedrooms and amenities.

(b) Major Phase Parcel Data. For each parcel identified within a Major Phase, the Major Phase Housing Data Table shall identify the proposed:

- (1) Use (e.g., residential, retail, commercial, office, research and development);
- (2) Parcel acreage;
- (3) Maximum building height;
- (4) Total number of Residential Units; and
- (5) Number of Inclusionary Units, if any.

(c) Major Phase Housing Data Tables for subsequent Major Phases submitted after the first Major Phase Housing Data Table shall include aggregate development data in

relation to the total allowable building program, including the data described above for prior Major Phases adjusted for Residential Projects which have received Schematic Design approval.

3.7 Submissions for Project Approvals.

In order to verify and to track compliance with the Affordable Housing Program, each Developer shall submit a Project Housing Data Table as part of the application package at the time each Residential Project is submitted for its Project Basic Concept Design approval, as described in the Design Review and Document Approval Procedure for Vertical Development. Such Project Housing Data Table shall be in a form mutually agreed upon by the Developer and the Agency, and will contain the information described in subsections (a) and (b) below, and as attached in Exhibit H. The Agency shall review and approve the Project Housing Data Table in accordance with the procedures set forth in the Design Review Document Approval Procedure and development of such Project shall proceed in accordance with such approvals.

(a) Major Phase Data. The Project Housing Data Table shall identify the following information with respect to the entire Major Phase in which such Residential Project is located:

- (1) The total number of allowed Residential Units for the Major Phase;
- (2) The total number of acres and the number of Market Rate Residential Units including, for Residential Projects which have received Schematic Design approval, the number of For-Sale and For-Rent Residential Units, and the number of Inclusionary Units projected for the Major Phase, adjusted for Residential Projects which have received Schematic Design approval;
- (3) The total number of Vertical Developer Residential Units which have received Schematic Design approval, including the allocation of Inclusionary Units between For-Rent and For-Sale Residential Units for each Residential Project;
- (4) The total number of Vertical Developer Residential Units for which Building Permits have been issued;
- (5) The total number of Vertical Developer Residential Units which have received Certificates of Occupancy;
- (6) The total number of Vertical Developer Residential Units for which applications for Schematic Design approval are pending;
- (7) The total number of the remaining Vertical Developer Residential Units allowed for the Major Phase;
- (8) The total number of Inclusionary Units that have been approved in a Residential Project;
- (9) The total number of Inclusionary Units approved in the Major Phase;

(10) The remaining total number of Inclusionary Units to be constructed in the Major Phase; and

(11) The allocation of Inclusionary Units between For-Rent and For-Sale Residential Units;

(12) The total number of Inclusionary Units, and the allocation of For-Sale and For-Rent Inclusionary Units, that have received Certificates of Occupancy.

(b) Project and Parcel Data. For each parcel within the Major Phase, including the subject Residential Project, the Project Housing Data Table shall identify:

(1) The current Owner;

(2) The current development status, including:

(A) Whether a Residential Project within the Major Phase has received Basic Concept Design and Schematic Design approval, and

(B) Whether a Building Permit, Certificate of Occupancy, and/or Certificate of Completion has or have been issued for a Residential Project and the dates thereof;

(3) The use and, if such Vertical Developer Residential Project has received Schematic Design approval, whether it is a For-Sale or For-Rent Residential Project;

(4) The parcel acreage;

(5) The maximum (or, if a Residential Project has already been constructed in that Major Phase, its actual) building height;

(6) The number of Total Vertical Developer Residential Units (for Projects which have received a Schematic Design approval) or the Major Phase approved number of Residential Units if the Project has not received Schematic Design approval;

(7) The number of For-Sale and For-Rent Inclusionary Units for Residential Projects which have received Schematic Design approval, or the number of For-Sale and For-Rent Inclusionary Units for Residential Projects which have not received Schematic Design approval.

Section 4 Agency Affordable Housing Program.

From time to time, the Agency may modify the forms of the documents used to implement its Affordable Housing Program to reflect changes in Agency policy or applicable law, but these changes will not affect the obligations of Vertical Developer as set forth in this Attachment 22.

LIST OF EXHIBITS

- Exhibit A Distribution of Affordable Housing Units**
- Exhibit B Declaration of Rental Use Restriction**
- Exhibit C Declaration of Restrictions for For-Rent Affordable Housing Units**
- Exhibit D Declaration of Restrictions for For-Sale Affordable Housing Units and
Option to Purchase Agreement**
- Exhibit E Memorandum of Option**
- Exhibit F Release of Option Rights**
- Exhibit G Major Phase Housing Data Table**
- Exhibit H Project Housing Data Table**
- Exhibit I Marketing and Operating Obligations**