



**CITY AND COUNTY OF SAN FRANCISCO  
LONDON N. BREED, MAYOR**

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**MEMORANDUM OF UNDERSTANDING**

**MOU M-16511**

**BY AND BETWEEN**

**THE SAN FRANCISCO PORT COMMISSION**

**AND**

**THE SAN FRANCISCO RECREATION AND PARK DEPARTMENT**

**REGARDING**

**THE ECOCENTER FACILITY AT HERON'S HEAD PARK**

**ELAINE FORBES  
EXECUTIVE DIRECTOR**

**SAN FRANCISCO PORT COMMISSION**

**KIMBERLY BRANDON, PRESIDENT  
WILLIE ADAMS, VICE PRESIDENT  
GAIL GILMAN, COMMISSIONER  
VICTOR MAKRAS, COMMISSIONER  
DOREEN WOO HO, COMMISSIONER**

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## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("**MOU**") dated for reference purposes only as of March 1, 2019, is entered into by and between the Recreation and Park Department ("**RPD**") and the San Francisco Port Commission ("**Port**"), each a department of the City and County of San Francisco ("**City**"), regarding the EcoCenter at Heron's Head Park.

### RECITALS

**A.** Under the Burton Act (Chapter 1333 of Statutes 1968, as amended) and San Francisco Charter Section 4.114, the administration and control of real property transferred to the City by the State of California pursuant to the legislative trust grant, including the area encompassing the real property which is the subject of this MOU, is vested in the Port.

**B.** RPD's mission is to provide enriching recreational activities, maintain beautiful parks, and preserve the environment for the well-being of everyone in our diverse community. RPD has been and will continue to be an organization that puts the needs of the community first.

**C.** The EcoCenter at Heron's Head Park (the "**EcoCenter**"), located at 32 Jennings Street, occupies approximately 2,300 square feet within the Port's Heron's Head Park. The EcoCenter is LEED Platinum certified, featuring a living roof, solar power, rainwater capture and on-site wastewater treatment system. Its only connection to municipal utilities is the potable water supply. Heron's Head Park is a 22-acre open space dedicated to wetland and wildlife habitat and passive recreation. Heron Head's Park is a signature park on the "Blue Greenway" and a destination for San Francisco residents and visitors from throughout the Bay Area. The EcoCenter was planned and constructed in order to promote public access and deliver high quality programs focusing on green building, sustainable resource use, environmental justice, experiential learning and community engagement for San Francisco's southeastern neighborhoods as well as a broad spectrum of participants of various ages and backgrounds. The EcoCenter and an approximately 6,000 sq. ft. portion of Heron's Head Park immediately surrounding the EcoCenter are collectively referred to herein as the "**Premises**". To date, a series of private parties have operated the Premises under lease agreements with the Port.

**D.** RPD manages over 4,000 acres of recreational land, which includes 181 playgrounds and play areas, 82 recreation centers and club houses, 222 neighborhood parks, and serves over 880,000 San Francisco residents. Since 2010, RPD has provided approximately 3,200 hours/year of stewardship, education, and youth development at Heron's Head Park through its Youth Stewardship and Greenager Programs. RPD has maintained consistent staff knowledgeable about Heron's Head Park's landscape, history, community members, and seasonal maintenance responsibilities. RPD's long-term commitment, values, mission, ties with community partners, and broad reach make it the ideal party to operate the Premises. In operating the Premises, RPD will continue to provide rich environmental stewardship and recreational programming in line with the Port's mission.

**E.** The Port and RPD now wish to enter into this MOU to allow RPD to operate the Premises on the terms and conditions described in this MOU. This MOU will allow the Port and RPD to continue and expand on educational programming while serving the community as a gathering space as a spoke and hub model. RPD will leverage its expertise, tenure in the community and partnerships in providing recreational opportunities and creating leadership pathways for local youth to further activate the Premises, which will result in activating Heron's Head Park as a whole.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

## AGREEMENT

### 1. RECITALS

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

### 2. PREMISES.

The Premises is described in Recital C and more particularly depicted on *Exhibit A* attached hereto.

The Premises is to be open to members of the general public for use and enjoyment, and Heron's Head Park is subject to certain regulatory requirements imposed by the Bay Conservation and Development Commission ("BCDC") under Permit M98-3 (as amended through Amendment No. Two, dated April 27, 2006), as amended.

RPD acknowledges and agrees that it is familiar with the Premises, accepts the Premises in its "as is" condition, without any improvements or alterations by Port, without representation or warranty of any kind, and subject to all applicable laws governing its use, occupancy and possession. RPD acknowledges that it has received and reviewed the FEMA disclosure notice attached as *Schedule 1*. RPD acknowledges and agrees that it has investigated and inspected the condition of the Premises and the suitability of the Premises for RPD's intended use. RPD acknowledges and agrees that Port has not made, and Port hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the Premises, the physical or environmental condition of the Premises, the present or future suitability of the Premises for RPD's intended use, accessibility of the Premises or any other matter whatsoever relating to the Premises, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose. RPD must disclose the information contained in this Section to any proposed subtenant at the Premises.

### 3. EFFECTIVE DATE

The "**Effective Date**" of this MOU shall be when fully signed.

### 4. TERM.

The "**Term**" of this MOU shall begin when the MOU is fully signed and continue for nine (9) years unless terminated as provided herein. Following the expiration of the Term, this MOU shall continue on a month-to-month basis at which point either party may terminate the MOU with 30-days' prior written notice.

### 5. NO USE FEE

Use of the Premises by RPD for public recreational and leisure purposes will enliven the waterfront by attracting people to the waterfront and raising awareness of the waterfront and its benefits and amenities at no increased cost to Port. In lieu of paying a use fee and as a material consideration for the Port entering this MOU, except as otherwise provided in this MOU, RPD shall ensure the Premises is open to the public during the Public Access Hours (as defined in Section 6) and deliver the programming required by this MOU and the Operations and Program Plan attached hereto as *Exhibit B*, as may be amended under this MOU.

## 6. PERMITTED USE

The Premises shall be used for education and public access with focus on green building, sustainability, and the San Francisco Bay environment, and community meeting and assembly space for purposes related to the educational mission as further described in the Operations and Program Plan (the “**Permitted Uses**”). The Premises must be open for free public access at least five (5) days/week, including at least one weekend day/week (the “**Public Access Hours**”). The Port shall cause Heron’s Head Park to be open to the public at all times except between thirty minutes after sunset and thirty minutes before sunrise or as-needed to allow maintenance or construction in the park. RPD shall use its best efforts to ensure that all of the Premises is used continuously during the Term for the Permitted Uses and requirements of this MOU and subject to Section 8, RPD shall not reduce existing Public Access Hours without the prior written consent of Port.

RPD may sell branded and other program-related merchandise at the Premises for the purposes of promoting its own organization and fundraising for the Premises.

RPD may host special events as further described in the Operations and Program Plan. Community meetings are not considered to be special events that require the Port’s prior written consent and may be held outside of regular operating hours. Any events or activities that require a Building Permit, Encroachment Permit or Special Event Permit as described in Port Code Section 6.3 and 6.4 and are not included in the Operations and Program Plan shall require such additional permitting.

RPD shall provide the environmental programming described in the Operations and Program Plan and RPD's failure to do so without timely curing such failure will be a material breach of this MOU. As long as it is permitted under the Operations and Program Plan, RPD may charge fees for certain programs to the extent needed to recover costs for materials or other direct expenses related to providing the subject program. Port may, from time to time, review the Operations and Program Plan and recommend revisions; provided, however, that it can only be amended with the written consent of each party, each acting in its sole discretion. RPD agrees to maintain records regarding its programming at the Premises, including type of program, organization or institution participating, and number of participants, and to provide quarterly reports to Port describing same. RPD shall cooperate with the Port representatives during the course of any review of RPD's operations and programming at the Premises.

All Permitted Uses shall be conducted by RPD employees, RPD volunteers, or other entities selected by RPD, each of whom shall be deemed to be RPD's agent or invitee. Any proposed written sublease or license to give any third party the right to use the Premises is subject to Port’s consent in its sole discretion (absent such written sublease or license, Port’s consent is not required). Each RPD agent shall be subject to all terms and conditions of this MOU, and a breach by an agent constitutes a breach by RPD. RPD is responsible for ensuring that each agent is aware of and complies with all of the provisions of this MOU.

## 7. RESTRICTIONS ON USE; COMPLIANCE WITH LAW

RPD shall not use or permit the Premises, or any part thereof, to be used for any purposes that would materially interfere with the primary purposes of public access and education as set forth in Section 6 of this MOU. The Port has the absolute right to veto any use of the Premises that is inconsistent with public trust requirements or the BCDC permit. RPD agrees not to make any material improvements or alterations to the Premises without the prior written consent of Port (which consent shall not be unreasonably withheld) as well as obtaining any necessary Port regulatory permits;

provided, however, that repairs or replacements with similar materials or improvements that do not change the functionality or dimensions of the Premises will not require Port consent.

Except as otherwise described in the Operations and Program Plan or this MOU, RPD shall not: (a) allow overnight stays at the Premises without Port's prior consent; (b) conduct or allow activities that would prevent or impede public access to the Premises, or erect or maintain anything that would materially interfere with views of San Francisco Bay or other intended public uses; (c) allow any activity that requires an After Hours Permit from the San Francisco Police Department without Port's prior consent; or (d) allow or conduct retail sales.

## **8. MAINTENANCE; SURRENDER OF PREMISES**

At all times during the Term of this Lease, RPD shall protect the Premises from any damage, injury or disturbance occurring during RPD's hours of operation as stated in the Operations and Program Plan. If RPD or any of its Agents or Invitees damages, injures or disturbs any of the Premises, or any portion thereof, RPD shall immediately notify Port of that occurrence. Without limiting any of its other rights hereunder, Port may immediately take all actions it deems proper to repair the Department Facilities.

The Port shall be responsible for maintenance and repair of the EcoCenter and its building systems (including plumbing, electrical, fire protection, life safety, and other mechanical and electrical systems) in their current configuration and condition. RPD will be responsible for any security, communications, and janitorial services it desires for the Premises and shall conduct routine visual observation of the EcoCenter building systems. The parties' respective obligations with respect to the EcoCenter building systems are further described in the Building Systems Obligation Plan attached hereto as *Exhibit C*. If such maintenance or repair matter substantially interferes with the Permitted Uses or threatens public health or safety, RPD shall have the right to close the Premises to the public until the Port resolves such matter. If RPD notifies the Port of any matter that requires maintenance and repair and is the Port's responsibility under this MOU, the Port shall diligently pursue such maintenance and repair to completion. If such maintenance or repair matter substantially interferes with the Permitted Uses or threatens public health or safety, RPD shall have the right to close the Premises to the public until the Port resolves such matter.

At the expiration or earlier termination of this MOU, RPD shall surrender the Premises in at least as good condition as when received, normal wear and tear and the changes from the Port Repairs excepted, clean and free of any items stored on the Premises by RPD, and shall repair any damage to the Premises caused by RPD's use unless such damage is normal wear and tear.

Notwithstanding the foregoing sentence, nothing contained herein shall require either RPD or the Port to repair or replace any damage to the Premises resulting from acts of war, earthquake, tidal wave, other acts of nature.

## **9. INSURANCE**

**(a) Third Parties Coverage.** RPD shall require RPD's third party contractors or subcontractors at the Premises to secure the insurance coverage specified below as applicable.

**(i) General Liability Insurance.** Comprehensive or commercial general liability insurance, with limits not less than One Million Dollars (\$1,000,000.00) each occurrence combined single limit for bodily injury and property damage, including

coverages for contractual liability, independent contractors, broad form property damage, personal injury, products and completed operations, fire damage and legal liability with limits not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) and explosion, collapse and underground (XCU) coverage during any activity on or alteration or improvement to the Premises.

(ii) Automobile Liability Insurance. Comprehensive or business automobile liability insurance with limits not less than One Million Dollars (\$1,000,000.00) each occurrence combined single limit for bodily injury and property damage, including coverages for owned and hired vehicles and for employer's non-ownership liability, which insurance shall be required if any automobiles or any other motor vehicles are operated by such party on the Premises. This provision shall not apply to an Operator so long as it does not own any automobiles and has no employee using an automobile for such Operator's business at the Premises.

(iii) Worker's Compensation; Employer's Liability. Worker's Compensation Insurance with Employer's Liability limit not less than One Million Dollars (\$1,000,000.00) for each accident, injury or illness, on employees eligible for each. In the event an Operator is self-insured for the insurance required pursuant to this Section 9(a)(iii), it shall furnish to Port a current Certificate of Permission to Self-Insure signed by the Department of Industrial Relations, Administration of Self-Insurance, Sacramento, California.

(iv) Personal Property Insurance. Each party, at its sole cost and expense, shall procure and maintain on all of its personal property and improvements and alterations, in, on, or about the Premises, property insurance on an all risk form, excluding earthquake and flood, to the extent of full replacement value. The proceeds from any such policy shall be used by such party for the replacement of its personal property.

(v) Special Events/Participants. If a party holds special events at the Premises, such party, at its sole cost and expense, shall procure and maintain Special Events/Participants Liability (GL) coverage insurance acceptable to Port, with limits not less than One Million Dollars (\$1,000,000.00).

(vi) Other Coverage. Such other insurance or different coverage amounts as is required by applicable law or as is generally required by commercial owners of facilities similar in size, character, age and location as the Premises, as may change from time to time, or as may be required by the City's Risk Manager.

(b) **Claims-Made Policies.** If any of the insurance required in this Section is provided under a claims-made form of policy, the insured party shall maintain such coverage continuously throughout its activities at the Premises and without lapse for a period of three (3) years beyond the termination of its relevant agreement with RPD with respect to the Premises, to the effect that should occurrences during the Term give rise to claims made after termination of the relevant RPD agreement, such claims shall be covered by such claims-made policies.

(c) **Annual Aggregate Limits.** If any of the insurance required in this Section is provided under a form of coverage which includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be double the occurrence limits specified herein.

(d) **Payment of Premiums.** The insured party shall pay the premiums for maintaining all required insurance.

(e) **Waiver of Subrogation Rights.** RPD is responsible for performing its obligations under this MOU, but is not required to carry any third party insurance for the Premises. Before entering into any written agreement that allows a third party to use or perform work at the Premises, RPD shall require such party to (i) waive any right of recovery against City, including but not limited to the Port and RPD, for any loss or damage sustained by such party with respect to the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of the City, to the extent such loss or damage is covered by insurance which such party is required to purchase under such agreement or is actually covered by insurance obtained by such party, and (ii) to agree to cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies relating to the Premises; provided, the failure to obtain any such endorsement shall not affect the above waiver.

(f) **General Insurance Matters.**

(i) All liability insurance policies required to be maintained by hereunder shall contain a cross-liability clause, shall name as additional insureds the "**CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS,**" shall be primary to any other insurance available to the additional insureds with respect to claims arising under this MOU, and shall provide that such insurance applies separately to each insured against whom complaint is made or suit is brought except with respect to the limits of the company's liability.

(ii) All insurance policies required to be maintained by any entity as required herein shall be issued by an insurance company or companies reasonably acceptable to Port with an AM Best rating of not less than A-VIII and authorized to do business in the State of California. RPD's compliance with this Section shall in no way relieve or decrease RPD's liability under this MOU.

(iii) All insurance policies required to be maintained by any entity hereunder shall provide for thirty (30) days prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to RPD and Port. Such notice shall be given in accordance with the notice provisions of Section 15.

(iv) RPD shall deliver to Port certificates of insurance and additional insured policy endorsements in a form satisfactory to Port evidencing the coverages required herein, together with evidence of payment of premiums, on or before the commencement date of any applicable agreement, and upon renewal of each policy not less than thirty (30) days before expiration of the term of the policy. RPD shall, upon Port's request, promptly furnish Port with a complete copy of any insurance policy required hereunder.

## **10. CLAIMS AND DAMAGES**

Because Port will not be receiving any fees for the use of the Premises and because of certain funding restrictions imposed on Port funds due to public trust restraints, it is the understanding of the parties that Port shall not expend any funds due to or in connection with RPD's use of the Premises except as otherwise specified in this MOU. Therefore, RPD agrees to be responsible and cause each Operator to be



responsible for all costs associated with all claims, damages, liabilities or losses which arise (i) as a result of the handling of Hazardous Materials on or about the Premises by such Operator or its agents or invitees; or (ii) out of any injuries or death of any person or damage of any property occurring in, on or about the Premises from any cause.

In addition, any agreement with any Operator shall require the Operator to waive all claims against City relating to any injury, accident or death of any person in or about the Premises or Heron's Head Park from any cause whatsoever (except to the extent caused solely and directly by the gross negligence or willful misconduct of City or its agents) and to indemnify the City for all losses and claims arising from Operator's activities at the Premises. The foregoing obligation of such Operator shall survive the expiration or termination of its agreement with RPD with respect to the Premises.

#### **11. PRESENCE OF HAZARDOUS MATERIALS**

California law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, RPD is hereby advised that Hazardous Materials (as herein defined) may be present on or near the Premises, including, but not limited to vehicle fluids, janitorial products, tobacco smoke, and building materials containing chemicals, such as lead and formaldehyde. Further, the Hazardous Materials listed in the reports listed in *Schedule 2* are present on the property, copies of which have been delivered to or made available to RPD. By execution of this MOU, RPD acknowledges that the notice set forth in this Section satisfies the requirements of California Health and Safety Code Section 25359.7 and related Laws. RPD must disclose the information contained in this Section to any Operator, agent, invitee, contractor or subcontract at the Premises. RPD also acknowledges its own obligations pursuant to California Health and Safety Code Section 25359.7 as well as the penalties that apply for failure to meet such obligations.

#### **12. DEFAULT BY RPD**

The occurrence of any one or more of the following events shall constitute a default by RPD:

(a) Use of the Premises in a manner inconsistent with this MOU, as determined by Port in its sole and absolute discretion, if such use continues for a period of thirty (30) days following written notice from Port; or

(b) Failure to perform any other provision of this MOU if that failure is not cured within ninety (90) days after Port has given written notice of the failure to RPD. If the default cannot reasonably be cured within ninety (90) days, RPD shall not be in default of this MOU if RPD commences to cure the default within such ninety (90) day period and diligently and in good faith continues to cure the default.

(c) Upon the occurrence of default by RPD with respect to the Premises, Port may at its option, with 120 days notice to RPD, terminate RPD's right to possession of the Premises.

#### **13. DEFAULT BY THE PORT**

The Port's failure to perform any of its obligations under this MOU within ninety (90) days after RPD has given written notice of the failure to the Port; provided, however, that if the default cannot reasonably be cured within ninety (90) days, the Port shall not

be in default of this MOU if the Port commences to cure the default within such ninety (90) day period and diligently and in good faith continues to cure the default.

**14. TERMINATION.**

Upon the occurrence of default by either party with respect to the Premises, either party may at its option, with one hundred twenty (120) days notice, terminate this MOU and RPD's right to possession of the Premises.

**15. ENTRY BY PORT**

The Port may enter the Premises at any reasonable time, for inspection, inventory or maintenance and repairs, and when otherwise reasonably necessary for the protection of the Port's interests. Such entry shall be conducted in a manner that reasonably limits any impact on the Permitted Uses. Port shall not be liable in any manner, and RPD hereby waives any claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, arising out of Port's entry onto the Premises or performance of any necessary or required work on the Premises, or on account of bringing necessary materials, supplies and equipment into or through the Premises during the course thereof, except damage resulting solely from the willful misconduct or gross negligence of Port or its authorized representatives.

**16. NOTICE**

Any notice given under this MOU shall be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier return receipt requested, with postage prepaid, at the following addresses, or at such other addresses as either the Port or RPD may designate by notice as its new address:

Address for Port: Deputy Director, Real Estate and Development  
Port of San Francisco  
Pier One  
San Francisco, CA 94111

Telephone No: (415) 274-0501  
Fax No: (415) 274-0578

Address for RPD: Dana Ketcham  
Director of Property  
San Francisco Recreation and Park Department  
McLaren Lodge  
San Francisco, CA 94117

Telephone No: (415) 831-6868  
Fax No: (415) 831-2099

Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first-class or certified mail, one day after the date it is mailed, if sent by overnight courier, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by email, facsimile or telephone to the address or numbers set forth above or such other address or number as

may be provided from time to time; however, neither the Port nor RPD may give official or binding notice by email, telephone or facsimile.

#### **17. MINERAL RESERVATION**

The State of California, pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Premises. In accordance with the provisions of said Statutes, Port and RPD shall and hereby do grant to the State of California the right to explore, drill for and extract said subsurface minerals, including oil and gas deposits, from such areas.

In no event shall Port be liable to RPD for any claims arising from such exploration or drilling, nor shall such exploration or drilling constitute an actual or constructive eviction of RPD, or otherwise relieve RPD from any of its obligations under this MOU.

#### **18. UTILITIES**

The Port shall be responsible for the actual costs for water service to the Premises. RPD waives any claims against the Port for such service.

#### **19. ENTIRE AGREEMENT**

This MOU (including attached exhibits, if any) contains the entire understanding between the parties with respect to the subject matter hereof.

#### **20. APPROVALS**

All approvals under this MOU and any agreements contemplated hereby may be given by the RPD General Manager and the Port Executive Director, or their respective designees, except as otherwise specified herein or in the City Charter or the City's Municipal Code.

#### **21. AMENDMENTS**

This MOU may be amended or modified only by a signed writing of the parties. The RPD General Manager and Port Executive Director, in consultation with the City Attorney, may execute such written amendments on behalf of their respective departments, provided the amendments are in the best interests of their respective departments, do not materially increase the obligations or liabilities of their respective departments, are necessary or advisable to effectuate the purposes of this MOU, and are in compliance with all applicable laws.

[REMAINDER OF PAGE LEFT BLANK]

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

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation operating by and through the SAN FRANCISCO PORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation operating by and through the SAN FRANCISCO RECREATION AND PARK DEPARTMENT

By: \_\_\_\_\_  
ELAINE FORBES  
Executive Director  
Port of San Francisco

By: \_\_\_\_\_  
PHIL GINSBURG  
General Manager  
San Francisco Recreation and Park Department

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

REVIEWED:  
**DENNIS J. HERRERA, City Attorney**

By: \_\_\_\_\_  
  
Rona H. Sandler  
Deputy City Attorney

Recreation and Park Commission Resolution No.  
Port Commission Resolution No.

MOU Prepared By: [\_\_\_\_\_] (initial)

**EXHIBIT A**

**MAP OF PREMISES**

[Attachment on following page]

**EXHIBIT B**

**OPERATIONS AND PROGRAM PLAN**

[Attachment on following page]

## EXHIBIT C

**BUILDING SYSTEMS OBLIGATIONS PLAN**

[Attachment on following page]



## SCHEDULE 1

### FEMA-National Flood Insurance Program Disclosure Notice

The Federal Emergency Management Agency ("FEMA") is revising Flood Insurance Rate Maps ("FIRMs") for San Francisco Bay Area communities. As part of this effort, FEMA is preparing a FIRM for the City and County of San Francisco for the first time. That process may have significant impacts for developing new structures and reconstructing or repairing existing structures on San Francisco's waterfront.

FEMA prepares the FIRMs to support the National Flood Insurance Program ("NFIP"), a federal program that enables property owners, businesses, and residents in participating communities to purchase flood insurance backed by the federal government. The San Francisco Board of Supervisors has adopted a floodplain management ordinance governing new construction and substantial improvements in flood prone areas of San Francisco and authorizing the City's participation in NFIP (as amended, the "Floodplain Ordinance"). The Floodplain Ordinance imposes requirements on any new construction or substantial improvement of structures in city-designated flood zones that are intended to minimize or eliminate flood hazard risks. NFIP regulations allow a local jurisdiction to issue variances to its floodplain management ordinance under certain narrow circumstances, without jeopardizing the local jurisdiction's eligibility in the NFIP. However, the particular projects that are granted variances by the local jurisdiction may be deemed ineligible for federally-backed flood insurance by FEMA.

FIRMs identify areas that are subject to inundation during a flood having a 1% chance of occurrence in a given year (also known as a "base flood" or "100-year flood"). FEMA refers to an area that is at risk from a flood of this magnitude as a special flood hazard area ("SFHA"). To prepare the FIRM for San Francisco, FEMA has performed detailed coastal engineering analyses and mapping of the San Francisco Bay shoreline. The San Francisco Bay Area Coastal Study includes both regional hydrodynamic and wave modeling of the San Francisco Bay, as well as detailed onshore coastal analysis used to estimate wave runup and overtopping, as well as overland wave propagation. These onshore analyses form the basis for the Base Flood Elevations (BFEs) and SFHAs shown on the FIRM.

FEMA initiated preparation of a FIRM for the City in the mid-2000s, and issued a preliminary version of the FIRM in 2007, but did not finalize that map. Subsequently, FEMA completed region-wide analyses of flooding on San Francisco Bay and the Pacific Ocean coastline. FEMA used these studies to prepare another preliminary FIRM for San Francisco, which it issued in November 2015. The preliminary FIRM identified SFHAs along the City's shoreline in and along the San Francisco Bay consisting of "A zones" (coastal areas subject to inundation by tidal surge and waves less than three feet in height) and "V zones" (areas subject to the additional hazards that accompany waves more than three feet in height). These zones generally affect City property under the jurisdiction of the Port of San Francisco and other areas of the San Francisco waterfront, including parts of Mission Bay, Hunters Point Shipyard, Candlestick Point, Treasure and Yerba Buena Islands, and an area adjacent to Islais Creek.

Due to comments and an appeal submitted by the City, FEMA has not yet finalized the FIRM. Sometime during 2019, FEMA intends to issue a revised preliminary FIRM showing changes due to the appeal resolution, and give the City a period (most likely 30 days) in which to comment. Following resolution of any comments, FEMA would finalize the FIRM.

To finalize the FIRM, FEMA will issue a Letter of Final Determination (LFD) stating that the map will be published in final form six months from the date of the LFD (referred to as the "effective date" of the FIRM). During that six-month period, the City

must amend the floodplain management ordinance to adopt the new FIRM. After the effective date, the FIRM will be used for all flood insurance and floodplain management purposes.

The federal legislation and regulations implementing the NFIP are located at 42 U.S.C. §§ 4001 et seq.; 44 C.F.R. Parts 59-78, §§ 59.1-78.14. FEMA also publishes "Answers to Questions About the NFIP" and FEMA Publication 186 entitled "Mandatory Purchase of Flood Insurance Guidelines." Additional information on this matter can be found on the City's and FEMA's websites at the following links:

<http://sfgsa.org/san-francisco-floodplain-management-program>

<https://www.fema.gov/national-flood-insurance-program-flood-hazard-mapping>

<https://www.fema.gov/national-flood-insurance-program>

**SCHEDULE 2**  
**HAZARDOUS MATERIAL DISCLOSURE**