

ATTACHMENT A

Proposed Term Sheet for Agreement to Transfer Fee Title of Bayshore Park Site from the City of Daly
City to the Housing Authority of the County of San Mateo
10/7/16

Proposed Recitals:

- 1) Whereas, since 1977 the City of Daly City (the "City") has continuously owned and operated Bayshore Park (also known as "David R. Rowe Park"), which is a neighborhood park located adjacent to Midway Village and consists of APNs: 005-330-390 and 005-330-330 (collectively, the "Bayshore Park Site").
- 2) Whereas, on or about November 12, 2008, the California Department of Toxic Substance Control ("DTSC") entered into a release and settlement agreement (the "Settlement Agreement") with the City, the United States of America, the Housing Authority of the County of San Mateo (the "Authority"), and Pacific Gas & Electric in response to DTSC's claims against each of them under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § § 9601-9675 for recovery of certain costs it allegedly incurred in response to the release or threatened release of hazardous substances at the Bayshore Park Site.
- 3) Whereas, on or about October 27, 2008, the City, the Authority and the then-existing Daly City Redevelopment Agency entered into a separate Memorandum of Understanding ("MOU") for the purpose of identifying the City and the Authority's respective responsibilities in meeting the timelines and financial contributions to be made to DTSC pursuant to the Settlement Agreement.
- 4) Whereas, under paragraph 4.3 of the Settlement Agreement, the City and the Authority agreed to jointly and severally pay the Response Costs payment to DTSC.
- 5) Whereas, under paragraph 4.4 of the Settlement Agreement, the City and the Authority agreed to jointly and severally pay DTSC a "carrying charge" of \$24,000 per year until the Response Costs payment according to the graduated payment schedule set forth in paragraph 4.3 is made.
- 6) Whereas, to date, the City has paid DTSC \$84,000 in Carrying Charges, and the County has paid DTSC \$96,000 in Carrying Charges, but neither the City nor the Authority have made any Response Costs payment to DTSC.
- 7) Whereas, according to the graduated payment schedule set forth in paragraph 4.3 (d) of the Settlement Agreement and Section D. (4.3) of the MOU, the amount of Response Costs due to DTSC, if paid on or before October 27, 2016, is \$720,000.
- 8) Whereas, section E. (7) (a) of the MOU provides that "if the Authority pays, or otherwise assumes or undertakes, all of [the] City's payment obligations and responsibilities to DTSC under the Settlement Agreement, and pays to the City those payments made by the City as "Carrying Charges," "Response

Costs”, and the prior incurred costs to the City of up to \$295,094.92, then, in consideration of such payment, undertaking or assumption, the City shall, subject to acceptance by [the Authority], transfer fee title to Bayshore Park to the Authority . . .”

- 9) Whereas, section E. (7) (d) of the MOU also allows the parties “to choose to enter into other agreements pursuant to which, as between the City and the Authority, the City . . . shall be credited with having satisfied all of its obligations to DTSC and the Authority shall be responsible for the payment of the City’s obligations to DTSC with regard to the Response Costs [p]ayments and the Carrying Charges.”
- 10) Whereas, section 4.01 of Exhibit B of the Settlement Agreement entitled “Covenant to Restrict Use of Property Environmental Restriction” (the “Deed Restriction”) prohibits certain uses of the Bayshore Park Site, including residential uses, hospital facilities for humans, public or private school facilities for persons under 21 years of age and day care centers for children.
- 11) Whereas, section 6.02 of Exhibit B of the Settlement Agreement permits the City “or any other aggrieved person” to apply to DTSC for a termination of the terms of the Deed Restriction as they apply to all or any portion of the Bayshore Park Site.
- 12) Whereas, the Authority plans to engage an affordable housing Developer (the “Developer”) to redevelop Midway Village, an aging affordable housing complex in Daly City, in order to better utilize the site to provide an increased number of critically-needed new homes affordable to households with a range of incomes, along with a new childcare center to replace the current Bayshore Child Development Center facility (the “Midway Village Redevelopment Project”).
- 13) Whereas, the Authority seeks to acquire the Bayshore Park Site for the purposes of creating a better overall site plan for the Midway Village Redevelopment Project and providing better public access and parking for a new public park space that will replace the current Bayshore Park.

Proposed Key Terms:

1) THE CITY’S OBLIGATIONS:

- a. As permitted by section E. (7)(a) of the MOU, the City shall transfer fee title of the Bayshore Park Site to the Authority, or its affiliate San Mateo County Housing Authority Incorporated (“SAMCHAI”), at the Authority’s election, upon commencement of construction of Phase I of the Midway Village Redevelopment Project.
- b. The City agrees to fully cooperate with the Authority and Developer in any of their efforts to terminate any or all of the terms of the Deed Restriction. The City agrees to timely share any information that it has related to the Bayshore Park Site that would aid the Housing Authority and Developer during this process.
- c. The City agrees to work with the Authority to ensure that the releases described in section 7.4 of the Settlement Agreement are prepared and executed either when (i) the transfer of ownership of the Bayshore Park Site from the City to the Authority is effectuated or (ii) City planning entitlements for the redevelopment of the Bayshore Park Site or any portion of the Midway Village Site [APNs: 005-330-020;-030;-040;-050;-060;-070;-080;-090;-100;-110;-120;

-130,-140,-150,-160,-170,-180,-190,-200,-210,-220,-230,-240,-250,-260,-270,-280,-290,
-300;-310;-340;-350;-360;-370;-380;-400] are approved, whichever is earlier.

2) THE AUTHORITY'S OBLIGATIONS:

- a. On or by October 27, 2016, the Authority shall pay DTSC the Response Cost payment for which the City and the Authority are jointly and severally liable in accordance with the graduate payment schedule set forth in section 4.3 of the Settlement Agreement and section D. (4.3) of the MOU. [If the Response Cost payment has not been made to DTSC on or by said date, then the Response Cost amount will increase from \$720,000 to \$760,000].
- b. Within 30 days following the Developer's receipt of all planning entitlements for the Midway Village Redevelopment Project, the Authority shall pay the City (i) \$84,000 for payments the City made to DTSC to cover "Carrying Charges" incurred to date under the Settlement Agreement, and (ii) an additional \$295,094.92 for payments the City made to DTSC to cover clean-up and remediation costs for the Bayshore Park Site, provided that the City gives the Authority reasonable documentation in advance substantiating the City's payment of those amounts to DTSC for the purposes stated above.
- c. On or before completion of construction of the portion of the Midway Village Redevelopment Project containing the unimproved public park area and unimproved area for associated public parking spaces, the Authority shall deed back to the City a publically-accessible unimproved public park area and unimproved area for associated public parking spaces of comparable size to the current Bayshore Park soccer field (approximately [INSERT NO.] acres), located somewhere within the enlarged campus area comprising Midway Village Site, the Bayshore Park Site, and/or the approximately .5 acre parcel of land located on Midway Drive in Daly City, APN 005-330-320 (the "Midway Property"), which would be capable of accommodating a soccer playing field equivalent in function to the current Bayshore Park soccer field.
 - i. The City shall be responsible for any and all costs associated with maintaining and improving the said new park and associated public parking, with the maintenance work and improvements that the City deems necessary or desirable.
 - ii. The Authority and Developer shall solicit the City's feedback regarding the Developer's proposed location and configuration of the said new park and associated public parking.
 - iii. The location and configuration of the said new park and associated public parking shall be indicated in the Planning entitlements application submitted by the Developer.
 - iv. The City and Authority understand and agree that there may be a period of time, between the transfer of the Bayshore Park Site to the Authority and the completion of construction of the portion of the Midway Village Redevelopment Project containing the unimproved public park area and unimproved area for associated public parking spaces, when there is no functioning public park area.

- v. The Authority shall work with the Developer to minimize to the greatest degree possible any such time period when there is no functioning public park area due to build-out of the Midway Village Redevelopment Project.