February 20, 2020 Item No. ____

Honorable Members
Consolidated Oversight Board

Consolidated Oversight Board
Successor Agency for the
City of Marina
Meeting of February 27, 2020

**CONSOLIDATED OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE CITY OF MARINA CONSIDER APPROVING (1) PROVISIONS OF A CERTAIN OPERATING AGREEMENT RELATED TO EXTENSIONS OF TIME FOR CERTAIN PROPERTY TAX REVENUES AND (2) THE ISSUANCE OF BONDS OF THE SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY, MAKING CERTAIN DETERMINATIONS WITH RESPECT TO THE BOND AND PROVIDING FOR OTHER MATTERS RELATING THERETO**

## REQUEST:

It is requested that the Consolidated Oversight Board consider:

1. Adopting Resolution No. 2020- , approving provisions of a certain Operating Agreement related to extensions of time for certain property tax revenues; and

2. Adopting Resolution No. 2020- , approving the issuance of bonds of the Successor Agency to the Marina Redevelopment Agency, making certain determinations with respect to the bonds and providing for other matters relating thereto.

## BACKGROUND:

Prior to its dissolution, the Marina Redevelopment Agency entered into a number of agreements with Marina Community Partners, LLC, (the Developer) in connection with the Marina Dunes project. These Agreements included a Disposition and Development Agreement, two Implementation Agreements, a Tax Increment Financing Plan and Agreement and two promissory notes issued by the former Agency for the benefit of the Developer (the Agreements). The Disposition and Development Agreement, which has been placed on the Successor Agency's Recognized Obligation Payment Schedules (ROPS) and approved by the State Department of Finance (DOF), committed the former Agency to make certain payments to the Developer from tax increment generated by the Dunes project and a portion of the tax increment generated by the Sea Haven project, and, at the Developer's request, to issue tax increment bonds secured by these payments.

As a result of dissolution of the Former Redevelopment Agency, the Developer in February 2012, pursuant to the terms of the Agreements, declared an excused delay resulting from the uncertainty that arose from the dissolution of the Former Agency. The excused delay continued until December 2019 when the Developer and the City entered into an Operating Agreement (**Exhibit A)** that addressed a variety of land use issues and for administrative convenience included an update to the Schedule of Performance to address the excused delay including extensions of the pledges of property tax increment.

The Successor Agency previously issued bonds in 2018 at the request of the Developer. Proceeds of the 2018 bond issuance were used to partially reimburse the Developer for certain eligible expenses including construction of new infrastructure. Based on growth in assessed value since issuance of the

2018 Bonds, which supports issuance of additional bonds, the Developer has requested that the Successor Agency proceed with a second bond issuance in a letter attached as **Exhibit B**.

Health and Safety Code Section 34177.5, adopted after the dissolution of redevelopment, authorizes a successor agency to issue bonds to satisfy an enforceable obligation when the enforceable obligation includes an irrevocable pledge of property tax increment, formerly tax increment, and the enforceable obligation also includes the obligation to issue bonds secured by the pledge of property tax increment. The Agreements include an irrevocable pledge of property tax increment and the obligation to issue bonds secured by that pledge.

The Successor Agency to the Marina Redevelopment Agency (the Successor Agency) authorized issuance of the bonds on February 19, 2020. The Successor Agency resolution, a copy of which is attached as **Exhibit C,** takes several actions including:

- Recognizes the Successor Agency's obligation to issue the bonds under the terms of the DDA and approves their issuance in an amount not to exceed $18,000,000;

- Approves in substantial form a supplemental bond indenture (**Exhibit D**), which supplements the previously approved indenture for the 2018 Bonds to provide for a second bond issuance. The indenture is the basic legal document governing the bonds. The supplemental indenture must be approved prior to seeking approval by the State Department of Finance (DOF) and of the Consolidated Oversight Board resolution (if adopted) that approves the issuance of the bonds;

- Requests that the Consolidated Oversight Board approve the bond issue and make certain required determinations.

The Consolidated Oversight Board previously approved a Recognized Obligation Payment Schedule (ROPS) for the upcoming 2020-21 fiscal year for the Successor Agency which includes a potential payment to the Developer from the proceeds of a new bond issue. The payment identified on the ROPS would only be made to the extent bonds are authorized by the Successor Agency, and approved by the Consolidated Oversight Board and the DOF, and are subsequently issued. The 2020-21 ROPS is currently pending DOF approval, but DOF has stated it will only approve the payment on the ROPS if bonds are first authorized by the Successor Agency and approved by the Consolidated Oversight Board. Consolidated Oversight Board approval pursuant to the attached resolution will be prior to DOF's deadline for finalizing its review of the ROPS.

**ANALYSIS:**

The former Marina Redevelopment Agency entered into a Disposition and Development Agreement with the Developer to undertake a multi-phased mixed-use development on former lands of the Fort Ord Army base located in the City of Marina, which was subsequently amended by the First and Second Implementation Agreements. The Second Implementation Agreement committed the former Redevelopment Agency to pay to the Developer some of the tax increment generated by the Dunes Project as well as a portion of the tax increment generated by the Sea Haven project (formerly Marina Heights) to reimburse the Developer for infrastructure costs and costs associated with the development of affordable housing. As part of the Second Implementation Agreement, the former Redevelopment Agency and the Developer entered into a Tax Increment Financing Plan and Agreement that specified the terms of the tax increment payments to the Developer. The former Agency also issued two notes to the Developer evidencing the obligation to make the tax increment payments. The Successor Agency has succeeded to the former Redevelopment Agency's obligations under the Agreements, including the Tax Increment Financing Plan and Agreement.

The Tax Increment Financing Plan and Agreement contains two separate pledges, one for the non-housing tax increment (the "Available Non-Housing Tax Increment") and one for the tax increment that the former Agency was required to deposit in a low and moderate income housing fund (the "Available LMIHF Tax Increment"). The terms for the two different streams of tax increment have different durations. The Tax Increment Financing Plan and Agreement provides that the pledge of Available Non-Housing Tax Increment terminates on June 30, 2030 and the pledge of Available LMIHF Tax Increment terminates on June 30, 2020. However, in February 2012, the Developer declared an excused delay under the terms of the Agreements on the basis of the uncertainty that resulted from the dissolution of the Former Redevelopment Agency. Subsequent to the declaration of the excused delay the Developer and the Successor Agency addressed a variety of matters related to dissolution including obtaining DOF approval of the enforceable obligations created by the Agreements through several meet and confers and obtaining DOF approval of the 2018 bond issuance. Obtaining these approvals and issuing the bonds were essential steps to releasing the excused delay.

The City of Marina and the Developer have been working over the last several years on revisions to the project in an effort to make Phase 2 of the project feasible. The necessary revisions include changing the location and type of the affordable housing to be provided by the Developer, modifying some of the park and open space requirements and releasing the Developer from certain development obligations under the Specific Plan governing the project. The City and the Developer entered into an Operating Agreement in December 2019 that addresses the land use issues. As part of that Operating Agreement and for administrative convenience, the excused delay is recognized and a new schedule of performance is attached that revises the dates for development and extends the dates for the pledge of property tax increment consistent with the excused delay. The pledge dates have been extended in accordance with the provisions of the Agreements to October 2037 for the Available Non-Housing Tax Increment and to October 2027 for the Available LMIHF Tax increment. The Successor Agency is obligated under the terms of the Agreements to approve the extension of the schedule of performance including the extension of the pledge dates as a ministerial act. The extensions do not constitute an amendment to the Agreements but rather implement mandatory provisions of the Agreements. Although the Successor Agency does not believe that the Oversight Board is required to approve the extensions in the Schedule of Performance, the Successor Agency, at the request of Oversight Board Counsel is requesting that the Oversight Board approve the provisions of the Operating Agreement that relate solely to the extensions of time for the pledge as a result of the excused delay.

The remaining provisions of the Operating Agreement will facilitate the development of Phases 2 and 3 of the Dunes project and will provide significant benefits to the taxing entities. Attached as **Exhibit E** is a projection of benefits to the taxing entities prepared by Keyser Marston if the Dunes development is fully built out. These projections assume that the bonds are issued and the tax increment pledge dates are consistent with the Schedule of Performance attached to the Operating Agreement.

The Tax Increment Financing Plan and Agreement provides that the Developer may, from time to time, request that the Agency issue bonds secured by the pledged tax increment with proceeds of the bonds to be paid to the Developer. The Agency is required to act reasonably and in good faith to issue such bonds.

The Successor Agency previously issued bonds in 2018 in the total amount of $13,490,000 as required under the Agreements in order to make required payments to the Developer. The Developer is now requesting that the Successor Agency proceed with a second bond issuance in accordance with the requirements of the Tax Increment Financing Plan and Agreement, supported by property tax increment arising from additional assessed value added by new construction occurring since the issuance of the 2018 bonds.

City staff has assembled a financing team to assist the Successor Agency in meeting its obligation under the Tax Increment Financing Plan and Agreement. The team consists of KNN Public Finance as municipal advisor for assisting in managing the bond issue, Keyser Marston Associates as fiscal consultant tasked with preparing a report on the project area and the tax increment revenues as required by bond investors, Quint & Thimmig LLP, as bond and disclosure counsel, who will prepare the various legal and disclosure documents for the bond issue, and Stifel, Nicolaus & Company Incorporated to underwrite the bond issue and market it to investors. This team has worked with City staff and its counsel, Goldfarb & Lipman, to develop a plan of finance and the initial documents. Approval of the resolution, including its various findings, will allow the transaction to be submitted to the State Department of Finance for its approval, as required by State law. The DOF may take up to 65-days to approve the bond financing.

Based on projections of available tax increment revenue and using the assumptions set forth in the Tax Increment Financing Plan and Agreement, it is recommended that up to $18,000,000 million in bonds be authorized. The actual amount of bonds that will be issued will depend on a number of factors that cannot be determined until closer to the actual sale date, including whether the bonds will all bear taxable interest rates or a combination of taxable and tax-exempt rates, the actual interest rate market at the time of sale, and the amount of tax-increment that can be pledged to the bonds, which will vary depending on whether the sale occurs following release of the 2020-21 assessment roll or before and whether the Fort Ord Reuse Authority (FORA) issues its blight remediation bonds, which will result in a portion of the tax increment that previously went to FORA going toward debt service on those bonds. The bonds will be 20-year bonds as required by the Tax Increment Financing Plan and Agreement.

The proceeds of the bonds will be used to reimburse the Developer for certain costs incurred related to the development of the Dunes. The Developer previously submitted to the Former Agency invoices for infrastructure costs in the amount of $98.7 million for infrastructure costs and $15.6 million for costs related to affordable housing. Following disbursement of funds allocated in January 2020 for the ROPS 19-20 payment to the Developer, the Developer will have received a total of $11 million for infrastructure costs and $10.7 million for costs related to affordable housing from proceeds of the prior 2018 Bonds and from regular semi-annual payments to the Developer pursuant to the Agreements. As the Dunes Project continues to develop, additional costs are expected to be invoiced pursuant to the Agreements.

The Developer has indicated its intent to move forward with the second phase of development of the Dunes, adding 140 new units of affordable housing, 360 new units of market rate housing and removing the blighted army barracks that currently occupy the phase 2 property.

**FISCAL IMPACT:**

Should the Consolidated Oversight Board approve this request, the funds pledged to the payment of the Bonds are the funds that are currently being paid to the Developer pursuant to the DDA and the ROPS. To the extent that the debt service on the bonds in any year is less than the tax increment pledged to the Developer pursuant to the Financing Plan, the Developer will be entitled to payment of the difference.

The Bonds will have a term of 20 years which extends beyond the time period for the payment of tax increment to the Developer; however, the DDA and the Financing Plan specifically require the issuance of bonds with a minimum term of 20 years and provide for the continued payment of the bond debt service after the expiration of the tax increment pledge in the Financing Plan. The taxing entities will continue to receive their statutory pass through payments as well as the remainder of the property taxes generated by the redevelopment project area. Additionally, after the expiration of the pledge dates, the taxing entities will receive the property taxes generated by the Dunes project and the Sea Haven project that are not necessary for the payment of debt service on the bonds previously issued by the Successor Agency pursuant to the Agreements.

**CONCLUSION:**

This request is submitted for Consolidated Oversight Board consideration and possible action.

Respectfully submitted,

Jeff Crechriou
Successor Agency Manager &
Airport Services Manager
City of Marina

Exhibit A – Operating Agreement
Exhibit B – Letter from Marina Community Partners Requesting Issuance of Bonds
Exhibit C – Successor Agency Resolution 2020-01 (SA-MRA)
Exhibit D – Supplemental Indenture
Exhibit E – Projection of Benefits to the Taxing Entities

Before the Consolidated Oversight Board
Successor Agency for the
City of Marina, State of California

RESOLUTION NO. 2020-_____

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| Determine that it is the best interests of the affected taxing entities in the Marina Fort Ord Redevelopment Project Area that the continued development of the Dunes Project be completed as soon as possible; Ratify and Approve the Conforming Clarifications to the Schedule the Schedule of Performance incorporated into that certain Operating Agreement entered into by and between the City of Marina and Marina Community Partners, LLC; and Direct the Successor Agency of the City of Marina Staff to take all actions necessary to effectuate requirements associated with this approval. | ) ) ) ) ) ) ) |

WHEREAS, the former Marina Redevelopment Agency (the "Former Agency") entered into a Disposition and Development Agreement, dated as of May 31, 2005 (the “DDA”), between the Former Agency and Marina Community Partners, LLC (the “Developer”), and in furtherance of certain provisions of the DDA, the Former Agency and the Developer entered into an Implementation Agreement dated as of September 9, 2006, a Second Implementation Agreement dated as of August 5, 2008 and a Tax Increment Financing Plan and Agreement, dated as of August 5, 2008 (the “Financing Plan,” and together with the DDA, the “Former Agency Obligation”); and

WHEREAS, the DDA calls for the development of a mixed use development consisting of 1237 residential units, up to 750,000 square feet of retail improvements, up to 760,000 square feet of office improvements and up to 500 hotel rooms on the blighted former Fort Ord Army base (the "Dunes Project"); and

WHEREAS, pursuant to the redevelopment law effective at the time of Agreements, the Former Agency pledged tax increment funds to assist with certain portions of the development of the Dunes Project; and

WHEREAS, pursuant to section 34172(a) of the California Health and Safety Code, the Former Agency has been dissolved and no longer exists, and pursuant to Section 34173, the Successor Agency to the Marina Redevelopment Agency (the “Successor Agency”) has become the successor entity to the former Marina Redevelopment Agency; and

WHEREAS, as a result of the dissolution of the Former Agency, the Developer declared an Excused Delay pursuant to the provisions of the DDA, which Excused Delay remained in effect until 2019 due to the uncertainty of the application of the dissolution laws to the Former Agency Obligations; and

WHEREAS, by application of the Excused Delay (Force Majeure) provisions in the DDA as part of the Former Agency Obligation, among other time extensions, the time of the Payment Obligation Period in Part I, Section 3 of the Financing Plan (as set forth in Section 6.14 of the

DDA), has been extended to October, 2037 pursuant to and as provided in the DDA and the Financing Plan; and the Payment Obligation Period in Part II, Section 3 of the Financing Pan (as set forth in Section 8.4 (a) of the DDA) has been extended to October, 2027 pursuant to and as provided in the DDA and Financing Plan; and

WHEREAS, the City of Marina and the Developer have entered into that certain Operating Agreement that addresses various land use issues related to the Dunes Project and which for administrative certainty also includes conforming clarifications to the Schedule of Performance including the extension of various time periods for performance by the Developer and the extension of the pledge of property tax increment as a result of the Excused Delay; and

WHEREAS, the Successor Agency has consented to the Conforming Clarifications to the Schedule of Performance including the extensions to the Payment Obligation Periods as a ministerial act under the terms of the Agreements; and

WHEREAS, the Consolidated Oversight Board has reviewed the Conforming Clarifications to the Schedule of Performance incorporated into the Operating Agreement and has considered the staff presentation and any comments from the public related thereto.

NOW, THEREFORE, BE IT RESOLVED that the Consolidated Oversight Board hereby finds and determines that the foregoing recitals are true and correct, and together with information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, resolutions and determinations set forth below.

BE IT ALSO RESOLVED that based on the facts set forth in the staff presentation and comments from staff and the public on the matter, the Consolidated Oversight Board hereby finds and determines that it is in the best interests of the affected taxing entities that the Dunes Project be completed as soon as possible, and that the provisions of the DDA and the Agreements continue and be extended to account for the period of the Excused Delay.

BE IT FURTHER RESOLVED that, that the Consolidated Oversight Board hereby ratifies and approves the Conforming Clarifications to the Schedule of Performance incorporated into that certain Operating Agreement entered into by and between the City of Marina and the Developer and consented to by the Successor Agency. In connection with such ratification and approval, the Consolidated Oversight Board makes the specific findings set forth below.

1. The Consolidated Oversight Board has examined the provisions of the Agreements relative to the financial commitments of the Former Agency and finds that each of them is necessary for the continued development of the Dunes Project, so as to permit the expeditious wind-down of the affairs of the Former Agency by the Successor Agency.
    a. The obligations of the Former Agency as set forth in the Agreements, including the Excused Delay provisions, were material terms to the original agreement.
    b. The full development of the Dunes Project provides significant financial benefits to the affected taxing entities by increasing property tax revenues to the affected taxing entities.

2. The Consolidated Oversight Board hereby authorizes and directs the Successor Agency staff to take all actions necessary under the Dissolution Act to ensure the validity of the Conforming Clarifications to the Schedule of Performance, including participation in any Meet and Confer process.

PASSED AND ADOPTED by the Monterey County Consolidated Oversight Board at a meeting duly held on the 27th day of February, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Warren Poitras, Chairperson

ATTEST:

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Debby Bradshaw, Board Clerk

Before the Consolidated Oversight Board
Successor Agency for the
City of Marina, State of California

RESOLUTION NO. 2020-_____

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| Approve the Issuance of Bonds of the Successor Agency to the Marina Redevelopment Agency, make certain determinations with respect to the Bonds and provide for other matters relating thereto. | ) ) ) |

WHEREAS, pursuant to section 34172(a) of the California Health and Safety Code (unless otherwise noted, all section references hereinafter being to such Code), the Marina Redevelopment Agency has been dissolved and no longer exists, and pursuant to Section 34173, the Successor Agency to the Marina Redevelopment Agency (the "Successor Agency") has become the successor entity to the former Marina Redevelopment Agency; and

WHEREAS, pursuant to section 34179(j), this Consolidated Oversight Board has been established; and

WHEREAS, this Consolidated Oversight Board is informed by the Successor Agency that prior to the dissolution of the Former Agency, the Former Agency entered into a Disposition and Development Agreement, dated as of May 31, 2005 (the "DDA"), between the Former Agency and Marina Community Partners, LLC (the "Developer"), and in furtherance of certain provisions of the DDA, the Former Agency and the Developer entered into an Implementation Agreement dated as of September 9, 2006, a Second Implementation Agreement dated as of August 5, 2008 and a Tax Increment Financing Plan and Agreement, dated as of August 5, 2008 (the "Financing Plan," and together with the DDA, the "Former Agency Obligation"); and

WHEREAS, by application of the Excused Delay (Force Majeure) provisions in the DDA as part of the Former Agency Obligation, among other time extensions, the time of the Payment Obligation Period in Part I, Section 3 of the Financing Plan (as set forth in Section 6.14 of the DDA), has been extended to October, 2037 pursuant to and as provided in the DDA and the Financing Plan; and the Payment Obligation Period in Part II, Section 3 of the Financing Pan (as set forth in Section 8.4 (a) of the DDA) has been extended to October, 2027 pursuant to and as provided in the DDA and Financing Plan; which extensions (with other time extensions) are set forth in the Conforming Clarifications to the Schedule of Performance approved as part of an Operating Agreement by the City Council as a mandatory ministerial act as of December 17, 2019; and

WHEREAS, the Former Agency Obligation includes an obligation of the Successor Agency to make payments from certain Available Non-Housing Tax Increment Funds for Eligible Project Costs and to make payments from certain Available LMIHF Funds for Eligible LMIHF Costs, as such capitalized terms are defined in the Financing Plan; and

WHEREAS, the Former Agency Obligation has been included on Recognized Obligation Payment Schedules prepared for the Successor Agency pursuant to section 34177, and has been recognized by the Successor Agency, this Consolidated Oversight Board and the California Department of Finance as an "enforceable obligation" of the Former Agency, as such term is defined in Section 34171(d); and

WHEREAS, section 34177.5(a)(4) authorizes the Successor Agency to issue bonds to make payments under enforceable obligations when the enforceable obligations include the irrevocable pledge of property tax increment, formerly tax increment revenues prior to the effective date of section 34177.5, and the enforceable obligations also include the obligation to issue bonds secured by that pledge, and the Former Agency Obligation includes such an irrevocable pledge and obligation to issue bonds; and

WHEREAS, pursuant to Section 6 of Part 1 and Section 6 of Part 2 of the Financing Plan, in 2017 the Developer requested that the Successor Agency issue bonds to make payments on the Former Agency Obligation; and

WHEREAS, in response to the Developer's request: (a) on October 3, 2017, the governing board Successor Agency adopted Resolution No. 2017-07 (SA-MRS) approving the issuance of bonds (the "2018 Bonds") in order to make payments on the Former Agency Obligation; (b) on November 2, 2017, the governing board of the Oversight Board of the Successor Agency to the Marina Redevelopment Agency adopted Resolution No. 2017-08 (OB) approving the issuance of the 2018 Bonds by the Successor Agency (the "OB Resolution"); (c) the State of California Department of Finance delivered a letter dated February 9, 2018 to the Successor Agency approving portions of the OB Resolution, including the portion that approved the issuance of the 2018 Bonds by the Successor Agency; (d) on July 26, 2018, the Successor Agency issued the 2018 Bonds pursuant to an Indenture of Trust, dated as of July 1, 2018 (the "Original Indenture"), between the Successor Agency and MUFG Union Bank, N.A., as trustee, including the Successor Agency's Tax Allocation Bonds, Series 2018A (the "2018A Bonds") in the initial principal amount of $6,905,000 and the Successor Agency's Housing Tax Allocation Bonds, Series 2018B (the "2018B Bonds") in the initial principal amount of $6,585,000; and (e) the net proceeds of the 2018A Bonds were used to reimburse the Developer for Eligible Project Costs and the net proceeds of the 2018B Bonds were used to reimburse the Developer for Eligible LMIHF Costs, all in satisfaction of portions of the Former Agency Obligation; and

WHEREAS, the Developer has now sent the Successor Agency a request pursuant to Section 6 of Part 1 and Section 6 of Part 2 of the Financing Plan, dated January 15, 2020, that the Successor Agency issue two new series of bonds (the "2020 Bonds") to make additional payments on the Former Agency Obligation; and

WHEREAS, the Successor Agency by its Resolution adopted on February 19, 2020 (the "Successor Agency Resolution") approved the issuance of 2020 Bonds in order to make additional payments to the Developer under the Former Agency Obligation, pursuant to section 34177.5(a)(4); and

WHEREAS, in the Successor Agency Resolution, the Successor Agency also authorized the execution and delivery of a first supplement (the "First Supplement") to the Original Indenture (the Original Indenture, as amended and supplemented by the First Supplement, is referred to herein as the "Indenture"), pursuant to which a series of the 2020 Bonds are to be secured on a parity with the 2018A Bonds, and a series of the 2020 Bonds are to be secured on a parity with the 2018B Bonds, each under the Indenture; and

WHEREAS, in the Successor Agency Resolution, the Successor Agency also requested that this Consolidated Oversight Board (i) direct the Successor Agency to undertake the proceedings to issue the 2020 Bonds to make payments under the Former Agency Obligation, (ii) approve the issuance of the 2020 Bonds pursuant to the Successor Agency Resolution and the Indenture, and (iii) make certain determinations described below on which the Successor Agency will rely in undertaking the proceedings to issue the 2020 Bonds to make payments under the Former Agency Obligation; and

WHEREAS, the Successor Agency has determined to sell the 2020 Bonds to Stifel, Nicolaus & Company, Incorporated (the "Underwriter") pursuant to the terms of a bond purchase contract to be entered into by the Successor Agency and the Underwriter; and

WHEREAS, following approval by the Consolidated Oversight Board of the issuance of the 2020 Bonds by the Successor Agency and upon submission of the Successor Agency Resolution and this Resolution to the California Department of Finance, the Successor Agency will, with the assistance of its disclosure counsel, its municipal advisor and its fiscal consultant, cause to be prepared a form of official statement for each series of the 2020 Bonds describing the respective series of the 2020 Bonds and containing material information relating to the Successor Agency and the respective series of the 2020 Bonds, the preliminary forms of which will be submitted to the Successor Agency for approval for distribution by the Underwriter to persons and institutions interested in purchasing the 2020 Bonds, and counsel to the Underwriter will prepare a bond purchase contract relating to the sale by the Successor Agency of the 2020 Bonds to the Underwriter, the form of which also will be submitted to the Successor Agency for approval; and

WHEREAS, this Consolidated Oversight Board has completed its review of the Successor Agency proceedings and wishes at this time to give its approval as set forth below.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The above recitals are true and correct.

2. The Successor Agency has informed the Consolidated Oversight Board that the Developer has requested that the Successor Agency issue the 2020 Bonds pursuant to the Successor Agency's obligations under the Former Agency Obligation. The Successor Agency has advised the Consolidated Oversight Board that it has determined that the Former Agency Obligation is an enforceable obligation for purposes of section 34177.5(a)(4), and the Successor Agency has acknowledged that it has an irrevocable obligation under the Former Agency

Obligation to issue the 2020 Bonds, subject to the applicable provisions of the Former Agency Obligation, including Section 6 of Part 1 and Section 6 of Part 2 of the Financing Plan.

3. As authorized by section 34177.5(f), the Consolidated Oversight Board hereby directs the Successor Agency to undertake the proceedings to issue the 2020 Bonds and make payments on the Former Agency Obligation, and as authorized by section 34177.5(f) and section 34180, this Consolidated Oversight Board hereby directs and approves the issuance by the Successor Agency of the 2020 Bonds pursuant to section 34177.5(a)(4) and under other applicable provisions of the Community Redevelopment Law and as provided in the Successor Agency Resolution and the Indenture in the aggregate principal amount of not to exceed $18,000,000.

4. The Consolidated Oversight Board hereby approves the sale and delivery of the 2020 Bonds in whole. However, if the 2020 Bonds are initially sold in part, the Successor Agency is hereby authorized to sell and deliver additional series of the 2020 Bonds without the prior approval of this Consolidated Oversight Board provided that in each such instance the 2020 Bonds so sold and delivered are in compliance with the section 34177.5(a)(4).

5. As requested by the Successor Agency, the Consolidated Oversight Board makes the following determinations upon which the Successor Agency may rely in undertaking the refunding proceedings and the issuance of the 2020 Bonds:

(a) The Successor Agency is authorized, as provided in section 34177.5(f), to recover its costs related to the issuance of the 2020 Bonds from the proceeds of the 2020 Bonds, including the cost of reimbursing its administrative staff for time spent with respect to the authorization, issuance, sale and delivery of the 2020 Bonds;

(b) The application of the proceeds of the 2020 Bonds by the Successor Agency to the payment by the Successor Agency of costs of issuance of the 2020 Bonds, including municipal bond insurance and reserve fund bond insurance premiums, shall be implemented by the Successor Agency promptly upon sale and delivery of the 2020 Bonds, notwithstanding section 34177.3 or any other provision of law to the contrary, without the approval of the Consolidated Oversight Board, the California Department of Finance, the Monterey County Auditor-Controller or any other person or entity other than the Successor Agency; and

(c) The Successor Agency shall be entitled to receive its full Administrative Cost Allowance under section 34171 without any deductions with respect to continuing costs related to the 2020 Bonds, such as trustee's fees, auditing and fiscal consultant fees and continuing disclosure and rating agency costs (collectively, "Continuing Costs of Issuance"), and such Continuing Costs of Issuance shall be payable from property tax revenues pursuant to section 34183. In addition and as provided by section 34177.5(f), if the Successor Agency is unable to complete the issuance of the 2020 Bonds for any reason, the Successor Agency shall, nevertheless, be entitled to recover its costs incurred with respect to the proceedings for the funding of payments on the Former Agency Obligation

from such property tax revenues pursuant to section 34183 without reduction in its Administrative Cost Allowance.

6. Pursuant to section 34179(h), this Resolution shall be effective five (5) business days after proper notification hereof is given to the California Department of Finance unless the California Department of Finance requests a review of the actions taken in this Resolution, in which case this Resolution will be effective upon approval by the California Department of Finance.

PASSED AND ADOPTED by the Monterey County Consolidated Oversight Board at a meeting duly held on the 27th day of February, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Warren Poitras, Chairperson

ATTEST:

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Debby Bradshaw, Board Clerk

# EXHIBIT A

**OPERATING AGREEMENT CLARIFYING AND MODIFYING CERTAIN PROJECT APPROVALS FOR THE SPECIFIC PLAN FOR THE DUNES ON MONTEREY BAY**

This OPERATING AGREEMENT ("**Operating Agreement**") dated as of December 17, 2019, is entered into between the CITY OF MARINA, a California municipal corporation ("**City**") and MARINA COMMUNITY PARTNERS, LLC, a Delaware limited liability company ("**MCP**") (collectively, the "**Parties**") making clarifications and modifications in the Project Approvals for the implementation of the Specific Plan for the Dunes on Monterey Bay (formerly University Villages).

R E C I T A L S

A. On May 31, 2005, the Marina City Council adopted Resolution No. 2005-130 approving the University Villages (now the Dunes on Monterey Bay) Specific Plan ("**Specific Plan**").

B. Concurrently with its adoption of the Specific Plan, the City Council introduced and held first reading on Ordinance No. 2005-08 approving a Development Agreement between the City and MCP to implement the Specific Plan, which ordinance was adopted on June 7, 2005 and became effective as of July 8, 2005 ("**Development Agreement")**.

C. Sec. 5.6 of the Specific Plan stresses flexibility in its implementation:

> "In order to create the most desirable community possible, there is a certain amount of flexibility which needs to be provided for the Specific Plan. This flexibility allows for shifts in market demand."

D. Article 3 of the Development Agreement states the intent of the Parties that Subsequent Project Approvals and Modifications to Project Approvals shall not require an amendment to the Development Agreement (Sec. 3.1.1); and provides, in part, that minor modifications to Project Approvals may be made as an Administrative Amendment, without notice, hearing, CEQA review, or formal action by a commission or board or the City Council, such as "lot line and parcel adjustments, changes in diversity, intensity, scale or scope of the Project . . ." (Sec. 3.1.4).

E. Concurrently with its adoption of the Specific Plan, the former Marina Redevelopment Agency (now "**Successor Agency**") and MCP entered into a Disposition and Development Agreement dated May 31, 2005, as modified by Implementation Agreement dated September 6, 2006, and Second Implementation Agreement dated August 5, 2008, and Tax Increment Financing Plan and Agreement and implementing documents dated August 5, 2008 (collectively, all above described documents referred to as the "**DDA**" and, together with the Specific Plan and Development Agreement, the "**Project Approvals**").

F. Section 2.1 of the DDA provides:

> "Development Description. The parameters of the Development shall be as set forth in the Development Approvals as approved as may be modified from time to time by the Developer and the City, and to the extent the description of the Development set forth in this Agreement differs from that put forth in the Development Approvals, the provisions of the Development Approvals shall control. The description of the Development set forth in Recital C and this Article 2 is merely for descriptive purposes."

G. The City, the Successor Agency and MCP have engaged in the dispute resolution process under the Development Agreement and DDA to address various disputes between the parties. As a result of the dispute resolution, the City and MCP, together with the Successor Agency, have agreed that certain issues have inhibited the ability to move forward with the Project, specifically Phase 2 of the Project, and have worked cooperatively to resolve those disputes.

H. The City Council has found and determined that the clarifications and modifications in the Project Approvals for the implementation of the Specific Plan set forth in this Operating Agreement constitutes an Administrative Amendment under the Development Agreement, and that such clarifications and modifications are consistent with the City's General Plan, Zoning Ordinance, and the Fort Ord Reuse Plan.

## AGREEMENTS

NOW THEREFORE, City and MCP (the "**Parties**") agree as follows:

**1. Affordable Housing Requirements**.

The Parties have determined, that it is impractical and not economically feasible to include for-sale affordable housing subject to long-term deed restrictions in the Project and that the inclusion of such deed restricted for-sale affordable housing will subject to the City to an on-going unfunded administrative burden over the term of such restrictions. Restricted rental housing in place of the originally contemplated for-sale housing will meet the long-term affordable housing goals of the Project and provide additional affordable housing opportunities to low income households. Therefore, the Parties agree as follows:

A. MCP may, in lieu of providing 140 units of for-sale housing affordable to low and moderate income households, provide the 140 affordable housing units in Phase 2 and Phase 3 of the Project, provided the 140 affordable housing units are provided in at least two separate rental complexes that will be located, in whole or in part, in the area of Phase 3 of the Project south of the Dunes Park as shown on the **Map of the Project Site (Affordable Housing Sites)**, attached hereto as **Exhibit A-1**, and/or on Parcel 24 adjacent to Imjin Parkway (the "Affordable Housing Complexes") subject to a 55-year regulatory agreement; provided, however, to the extent that MCP develops affordable rental housing units in Phase 3 that were previously required to be developed in Phase 2, such units shall be deemed attributable to Phase 2 for purposes of Part 2 of the Tax Increment Financing Plan and Agreement (identified in Recital E of this Operating Agreement).

B. Unless MCP and the City agree upon a different site for the Affordable Housing Complexes in accordance with subsection G below, MCP shall purchase one or more parcels located in Phase 3 for affordable rental housing and/or workforce housing for a purchase price of $44,531.53 per residential unit multiplied by the sum of (a) the number of affordable rental housing units and/or workforce housing units to be built on such parcels and (b) the number of residential units to be located on Phase 2 land in excess of 360 units, if any ("**Excess Phase 2 Units**") (the "**Price per Unit Method**"). By way of example: calculated under the Price per Unit Method, if 140 affordable apartments are to be built on Phase 3 land and 360 market rate and workforce units are to be built on Phase 2 land, the purchase price of the applicable phase 3 parcels would be $6,234,414 (140 units multiplied by $44,531.53 per unit). The parties further agree that the purchase of any Phase 3 parcels for development as affordable and/or workforce housing shall not require MCP to purchase the balance of the Phase 3 parcels.

C. MCP shall, as a condition to conveyance of Phase 2, identify to the City the sites for the 140 affordable rental units and, if such sites are different from those identified in Paragraph A, above, such sites shall be subject to the City's approval. MCP will acquire the sites for the Affordable Housing Complexes no later than the date applicable under the Schedule of Performance as modified by the Conforming Clarifications to the Schedule of Performance attached hereto as **Exhibit E** ("**Schedule of Performance**").

D. The income mix for the units in the Affordable Housing Complexes shall be substantially as shown in the **Affordable Housing Complex Estimated Unit Mix**, attached hereto as **Exhibit B** and incorporated herein by reference. Any significant changes to the income mix for the units shall be subject to the approval of the City.

E. If for any reason MCP fails to commence construction of the 140 affordable rental units by the date set forth in the Schedule of Performance (as modified and, in addition, subject to City's performance under the Schedule of Performance), the City shall have the remedy set forth in Section 11 of this Agreement.

F. In consideration of the above modifications and completion of the affordable housing units described in subsection A. of this Section 1, MCP shall pay to the City on or before the purchase of the parcel or parcels for the Affordable Housing Complexes, as a Developer in-lieu affordable housing subsidy Two Hundred Thousand Dollars ($200,000) for affordable housing administration costs. Such amount, together with the land purchase price, deconstruction (site clearance) costs for the affordable housing sites, allocable infrastructure costs, and direct subsidies for vertical construction shall be deemed eligible costs in Phase 3 for reimbursement from housing tax increment funds pursuant to the Tax Increment Financing Plan and Agreement.

G. During a period of up to three (3) months after the date of this Agreement, MCP and the City will explore options for developing some portion of the affordable housing units outside of the Specific Plan Area in an effort to catalyze the development of downtown Marina.

**2. Workforce Homes Requirements**.

A. MCP shall have the right, but not the obligation, to satisfy the requirement to build the remainder of the Workforce Homes for Phase 1 (9 units) and the Phase 3 Workforce Housing Requirements (36 units) in Phase 2 (up to a total of 45 units).

B. MCP anticipates that Workforce Housing units shall be developed as its Sea House duet home model. Assumed Household Sizes for purposes of determining sales prices for the Workforce Housing shall be based on the number of bedrooms in a Workforce Home, plus 2 persons.

C. MCP shall have the option, but not the obligation, to purchase Parcel 24 for a purchase price calculated under the Price per Unit Method to locate units of Workforce Housing.

D. If the market rate purchase price for a comparable unit with an equal number of bedrooms and comparable square footage to a Workforce Home is not more than $40,000 more than the purchase price for a Workforce Home, as such purchase price for the Workforce Home is calculated pursuant to DDA and the Below Market Rate Housing Implementation Agreement dated as of April 1, 2015 ("**Workforce Housing Implementation Agreement**"), the Workforce Home may qualify as Workforce Housing without a requirement for a note and deed of trust or implementation of an equity sharing program for the purchase of such housing, provided (i) the Workforce Home is sold at an Affordable Workforce Housing Cost; (ii) is sold to a verified income eligible Workforce Household; and (iii) MCP substantially complies with the requirements of the Workforce Housing Implementation Agreement in the sale of such Workforce Homes, as modified in this Section 2.

E. Illustrative examples:

(i) If the market price for a given home is $710,000, and the workforce housing formula price for that home is $660,000, the home would be sold for $660,000 and include the shared equity/appreciation restrictions, because the market price is more than $40,000 above the workforce housing price.

(ii) If the market price for a given home is $690,000, and the workforce housing formula price for that home is $660,000, the home would be sold for $660,000 (the Affordable Workforce Housing Cost formula governs price regardless of market price), but would not include the shared equity/appreciation restrictions, because the market price is less than $40,000 over the Affordable Workforce Housing Cost.

F. The City Manager, in consultation with the City Attorney, is authorized to execute conforming changes to the Workforce Housing Implementation Agreement.

**3. FORA Fee.**

Exhibit D to the Development Agreement is amended to add a new Section 4.5, as set forth in the **Amended and Restated Exhibit D, (**attached hereto as **Exhibit D**), which Section 4.5 shall be effective only when the Fort Ord Reuse Authority ("**FORA**") is dissolved and to the

extent that no provision is made upon such dissolution for the continuation of FORA fees, in whole or in part, by the County or other public agency.

**4. FORA Credits to MCP for Deconstruction Costs; Allocation of Phase 2 and Phase 3 Purchase Prices.**

A. FORA has claimed the amount of Seven Million Six Hundred Fifty Thousand Dollars ($7,650,000) as its share of the purchase price for Phase 2 (50% of the price set forth in the original DDA). In order to assure the City that its 50% share of the purchase price for Phase 2 will not be diminished but will remain at Six Million Two Hundred Eighty-Three Thousand Dollars ($6,283,000) which includes a Phase 1 credit of $467,000 (50% of the purchase price adjusted in the Second Implementation Agreement), MCP agrees to deposit into escrow an additional amount of Nine Hundred Thousand Dollars ($900,000), so that FORA and the City will each be allocated its claimed respective share of the Phase 2 land price. The purchase price shall be calculated as set forth in the Examples in subsection C below.

B. FORA is expected to claim the amount of Thirteen Million Three Hundred Fifty Thousand Dollars ($13,350,000) as its share of the total purchase price for Phase 3 (50%) of the price set forth in the original DDA). In order to assure the City that its 50% share of the purchase price for Phase 3 will not be diminished but will remain at Eleven Million Seven Hundred Fifty Thousand Dollars ($11,750,000) (50% of the purchase price adjusted in the Second Implementation Agreement), MCP agrees to deposit into escrow an additional amount of One Million Six Hundred Thousand Dollars ($1,600,000), so FORA and the City will each be allocated its respective share of the Phase 3 land price. The purchase price shall be calculated as set forth in the Examples in subsection C below.

C. Examples of Purchase Price Payable by MCP

(i) For Phase 2, the City's 50% share of the Purchase Price would be $6,283,000, consisting of (a) the City's 50% share of the land sale proceeds for Phase 2 of $6,750,000 (50% of $13,500,000), less (b) a Phase 1 credit of $467,000; and

(ii) For Phase 3, assuming MCP has previously purchased Phase 3 site(s) for the affordable rental housing complexes for $6,234,414, the City's 50% share of the Purchase Price would be $8,632,793, consisting of (a) the City's 50% share of the land sale proceeds for Phase 3 of $11,750,000 (50% of $23,500,000) less (b) the City's 50% share of the land sale payment for the affordable housing complexes, or $3,117,207 (50% of $6,234,414).

In addition to the City's 50% share of the Purchase Price, as identified in the above examples, the total amount deposited into escrow by MCP with respect to the purchase of Phases 2 and 3, respectively, will include the remaining portion, if any, of FORA's 50% share of the land sale proceeds after the applicable credits to MCP for deconstruction pursuant to the Memorandum of Agreement and the Settlement Agreement, both referenced in Paragraph D, below.

D. Effect of FORA Dissolution. FORA, MCP and the Marina Redevelopment Agency entered into a Memorandum of Agreement dated August 25, 2005 (the

"**MOA**") and FORA and MCP entered into a Settlement Agreement dated August 15, 2019 (the "**Settlement Agreement**") related to the payment of deconstruction costs associated with the Project. To the extent that the City receives any portion of FORA's share of land sales proceeds after the dissolution of FORA, the City will provide a land sales proceeds credit toward deconstruction costs as contemplated in the MOA and the Settlement Agreement but only from FORA's share of land sales proceeds actually received by the City. Any land sales credits for deconstruction provided pursuant to this subsection shall be subject to the terms of the MOA and the Settlement Agreement which limit the total reimbursement to be received by MCP from FORA in cash and land sales proceeds credits for deconstruction for the Project to a maximum of (i) $46,000,000 or (ii) actual deconstruction costs, whichever is less. In no event shall any land sales credits for deconstruction be paid from the City's share of land sales proceeds. Deconstruction costs related to the site for the Affordable Housing Complexes to be reimbursed from Available LMIHF funds are not eligible for land sale credits.

**5. Non-Housing Tax Increment Reimbursement**.

A. The Parties acknowledge and stipulate that development of the Project has been hindered and delayed for a period commencing February 1, 2012 and ending October 1, 2019 (the "**Force Majeure Period**") due to force majeure ("**Excused Delay**", as defined in Section 12.4 of the DDA), requiring adjustments in the Schedule of Performance and other provisions of the DA, DDA and implementing documents, including provisions pertaining to reimbursements to MCP for costs associated with the development of affordable housing in the Project. Therefore, the Payment Obligation Period (as defined in Part I., Section 3 of the Tax Increment Financing Plan and Agreement) shall be extended due to the Force Majeure Period to October 2037.

**6. Housing Tax Increment Reimbursement**

A. By way of clarification and not constituting a substantive change with respect to the completion of the Affordable Housing required in the Project and reimbursement to MCP for its costs associated with the development of that Affordable Housing. the Parties stipulate as follows:

(i) the estimated amount $18 Million allocated for reimbursement to MCP for costs associated with providing Horizontal Improvements of direct benefit to Affordable Housing is hereby adjusted based on the Consumer Price Index (San Francisco Bay Area) ("CPI") for the Force Majeure Period to $22,680,000; and

(ii) upon commencement of the Affordable Housing Complexes, MCP shall have commenced construction of the last segment of Affordable Housing to be provided by MCP in the Project and shall be entitled to receive payment of Available LMIHF Funds up to an amount sufficient to reimburse MCP up to the full amount of Eligible LMIHF Costs associated with vertical improvements in the development of the Affordable Housing in the Project, including Eligible LMIHF Costs incurred in Phase 3 and any remaining unreimbursed Eligible LMIHF Costs incurred in Phase 1 and 2 and the full amount of Eligible LMIHF

Costs associated with horizontal improvements up to the adjusted amount set forth in subject section (A)(i) above.

B. In addition, the parties further agree that the Payment Obligation Period (as defined in Part II., Section 3 of the Tax Increment Financing Plan and Agreement) shall be extended due to the Force Majeure Period to October 2027.

**7. Hotel Requirements**

In the event that MCP provides the City with written notice that it is unable, despite commercially reasonable efforts, to enter into an agreement with a hotel developer for a hotel development consisting of not less than a 150 room hotel to be located on a portion of Opportunity ~~Site~~Parcel 1A ("**OP1A**" or "**Hotel Site**") on terms required by a hotel developer by the date set forth in the Schedule of Performance for approval of the Hotel Site Plan/Architectural Design, MCP hereby grants to the City an option to purchase the Hotel Site, which will be located on a portion of OP1A as shown on the **Map of the Project Site (Land Use Plan)**, attached hereto as **Exhibit A-2**, with the backbone horizontal infrastructure and utility improvements to the Hotel Site ~~pad~~ installed, such option to be effective upon the date of such notice, and, upon issuance of such notice, MCP shall be relieved of the obligation to provide for the development of a hotel in the Project. As used herein, "backbone horizontal infrastructure and utility improvements" shall mean the installation of roadway improvements (street, gutter, curb) and primary utilities (water, sewer, storm drain, gas, electric) from facilities within the public right-of-way on 2nd Avenue to the boundary or property line of OP1A (**not** to the hotel pad) sufficient to serve a hotel use. The City's purchase price for the Hotel Site shall be Three Million Six Hundred Thousand Dollars ($3,600,000) which represents MCP's costs of land acquisition and horizontal infrastructure/utility improvements benefitting the Hotel Site, together with MCP's planning and design costs with respect to the Hotel Site. The City shall have twelve (12) months from the date set forth in the Schedule of Performance for the approval of the Hotel Site Plan/Architectural Design to give MCP notice of its intent to exercise ~~the~~ its purchase option ("**Option Exercise Notice**"). If the City gives the Option Exercise Notice, escrow on the conveyance of the Hotel Site shall close within sixty (60) days of the date of the Option Exercise Notice.

**8. Dunes Linear and Dunes Park.**

A. Linear Parks – Park improvements for the Dunes Linear Park in Phases 2 and 3 as shown on the **Map of the Project Site (Linear Parks)**, attached hereto as **Exhibit A-3**, and incorporated herein by reference, shall be based on a width dimension of 70 feet. To the extent that the Specific Plan contemplated a community center on Parcel G, the Parties agree that the DDA and the Development Agreement do not require MCP to construct a community center on Parcel G. The City shall allow MCP to further value engineer the park landscaping improvements to achieve additional water conservation goals.

B. Dunes Park – Upon written notice from the City to MCP of the commencement of construction of the Dunes Park improvements as evidenced by a notice to proceed issued by the City to its contractor, MCP shall pay the City Four Million Six Hundred Seventy Thousand Five Hundred Eighty-One Dollars ($4,670,581), which represents an annual

adjustment based on the Consumer Price Index (San Francisco-Bay Area) ("**CPI**") for the period between 2005 to 2021, from the payment of Three Million Dollars ($3,000,000) set forth in the DDA, which payment shall be used by the City for construction of park improvements on the Dunes Park site, provided however, that if the City does not have a source of funds for the deconstruction work on the Dunes Park Site, MCP shall make the payment of the amount set forth above upon request by the City to pay for such deconstruction.

C. Dunes Park Contribution – At the time of commencement of construction of the Affordable Housing Complexes, MCP shall pay the City an additional Three Million Eight Hundred Thousand Dollars ($3,800,000), to be used for construction of the Dunes Park improvements. Payments made by MCP under this subsection C. shall be eligible as a direct affordable housing cost eligible for reimbursement as Phase 3 eligible housing costs pursuant to the Tax Increment Financing Plan and Agreement and consistent with the prior Housing Invoices submitted by MCP to the City.

D. Construction of Dunes Park – The City shall be responsible for design, building removal and site preparation, bidding and construction, and payment for such costs. Funds contributed toward park improvements under subsections B. and C., above, shall be expended for construction of park improvements and/or deconstruction of existing improvements within 36 months of receipt by the City.

**9. Relinquishment of Arts District Parcel and Chapel Building**.

MCP agrees to relinquish and City agrees to accept for development by the City in accordance with the Specific Plan, those portions of the Project identified for development as an Arts District and the Chapel Building as shown on the **Map of the Project Site (Chapel Building and Arts District)**, attached hereto as **Exhibit A-4**. The sites and improvements comprising the Arts District and Chapel shall be excluded from MCP's purchase of Phase 2, but without any reduction in the purchase price for Phase 2. MCP will assist the City with grant applications and planning for the maintenance and improvements of the Arts District and Chapel without incurring any financial obligations on the part of MCP.

**10. Promenade Minimum Improvements**.

MCP shall build not less than 27,285 square feet of commercial retail space improvements, (the remaining Phase 1 Minimum retail improvements) together with backbone infrastructure improvements, as shown on the **Promenade Minimum Infrastructure Improvements**, attached hereto as **Exhibit C**, by the date set forth in the Schedule of Performance.

**11. Building Permit Monitoring.**

Section 4.1.4 is added to the Development Agreement, to provide as follows:

"4.1.4 Notwithstanding any provision in Article 4 of this Development Agreement or Article 11 of the DDA to the contrary, the City shall have the right to suspend the issuance of building permits (as described in Section 4.1.4.2 below) for market-rate housing only in the Project (but in no event for Affordable Housing or

Workforce Homes), as its sole remedy, for a failure of Developer to satisfy any of the obligations set forth in Section 4.1.4.1 below by the outside date set forth in the Schedule of Performance (including any and all extensions), provided however, that (i) the Developer has been provided written notice and an opportunity to cure under Section 4.1.4.3 of this Development Agreement; (ii) the date(s) for performance has not been extended by an Excused Delay, an agreement between Developer and City or otherwise; and (iii) City has met all of its obligations and taken all necessary actions to process approvals pertaining to such Developer obligations within the dates set forth in the Schedule of Performance:

4.1.4.1 The specific Developer obligations that are subject to this remedy are the following:

(a) Substantial completion of deconstruction in Phase 2: (Jan. 2021);

(b) Substantial completion of vertical improvements for approximately 27,285 sq. ft. of commercial pads in the Promenade (Dec. 2022); and

(c) Commencement of construction of the Affordable Housing Complexes (Jan. 2023) and payment of the applicable purchase price for the site(s) of the Affordable Housing Complexes.

4.1.4.2 Temporary suspension of the issuance of building permits for the market-rate housing in the Project shall apply to applications for building permits for market-rate housing as follows:

(a) With respect to a failure to satisfy the obligation in paragraphs (a), (b) and (c) of Section 4.1.4.1, after 150 building permits have been issued for market-rate housing in Phase 2.

4.1.4.3 If the City wants to exercise its rights as set forth above in the first paragraph of this Section 4.1.4, City shall provide 30 days' advance written notice to Developer that it is invoking its right to suspend the issuance of building permits for market-rate housing. Any such suspension shall be terminated upon the date that Developer has substantially satisfied the obligation to which the remedy applies. Notwithstanding anything set forth in the above, the City and MCP each retains all of its respective rights and remedies with respect to the other Party's failure to meet any other dates set forth in the Schedule of Performance, including those dates that are dependent upon the dates set forth in Section 4.1.4.1."

**12. <u>Water Allocation</u>**

If MCP fails to acquire Phase 3 by the time set forth in the Schedule of Performance, any water allocation for the remaining portion of Phase 3 (aside from the water allocation necessary for the Affordable Housing Complexes) shall be returned to the City.

**13. Phase 3 Property Conveyance**

If the City/Successor Agency have met all of its conditions to closing for conveyance of Phase 3 and MCP fails to acquire Phase 3 by the outside date set forth in the Schedule of Performance, MCP's rights to acquire the Phase 3 property or any portion thereof that MCP has not previously acquired shall be terminated and the DDA and the Development Agreement for any unacquired portion of Phase 3 shall be automatically terminated.

**14. Expedited Processing and Approval of Key Project Development Entitlements**.

City acknowledges the critical importance of having an expedited approval process for design review and other approvals to implement the Project, and agrees to provide such expedited approval process at the request of MCP, subject to the provisions of Section 2.5.4. of the Development Agreement.

**15. Extension of Term of Development Agreement**.

A. City acknowledges that as provided in Section 1.2.2 of the Development Agreement, the term of the Development Agreement has been extended to December 31, 2025 by reason of two events of Force Majeure each totaling more than 270 days.

B. Within fifteen (15) days of City execution of this Operating Agreement, MCP and the City shall extend the term of the Development Agreement, in writing, as a ministerial act, in the form of an Administrative Amendment under Section 3.1.7 of the Development Agreement, which extension shall be recorded in the Official Records of Monterey County.

**16. References to 2019 Pro Forma**.

The 2019 Pro Forma is on file with the City Clerk. The 2019 Pro Forma shows assumption and estimates of revenues, costs and economic projections for the Project and may be referenced by the Parties when necessary for clarification and interpretation of this Operating Agreement, the Development Agreement, as amended, and the DDA, and all related agreements and documents relating to the Project.

**17. Disposition and Development Agreement**.

City has determined, and MCP concurs, that no amendment, modification or further clarification is required in the terms of the DDA in that the DDA provides in Section 2.1 that the description of the Project in the DDA is merely for descriptive purposes and that the Development Approvals control. A copy of this Operating Agreement has been provided to the Successor Agency and shall be deemed and accepted by the Successor Agency and MCP as automatically incorporated into the DDA with respect to descriptions of the Project and other conditions of performance and approvals required by MCP and the Successor Agency under the DDA.

**18. Defined Terms**

Defined terms not otherwise defined herein shall have the meaning set forth in the DDA and/or the Development Agreement.

[*Signatures on following page*]

**SIGNATURE PAGE TO OPERATING AGREEMENT**

City and MCP have executed this Agreement effective as of date above shown.

**CITY OF MARINA**

By: _____
City Manager

**MARINA COMMUNITY PARTNERS, LLC,**
a Delaware limited liability company

By: Shea Homes Limited Partnership
A California limited partnership
Its Managing Member

By:_____
Its:_____

By:_____
Its_____

**Acknowledgment and Acceptance:**

Successor Agency to the Marina
Redevelopment Agency

By:_____
Its:_____

# EXHIBIT A-1
## MAP OF PROJECT SITE (Affordable Housing Sites)

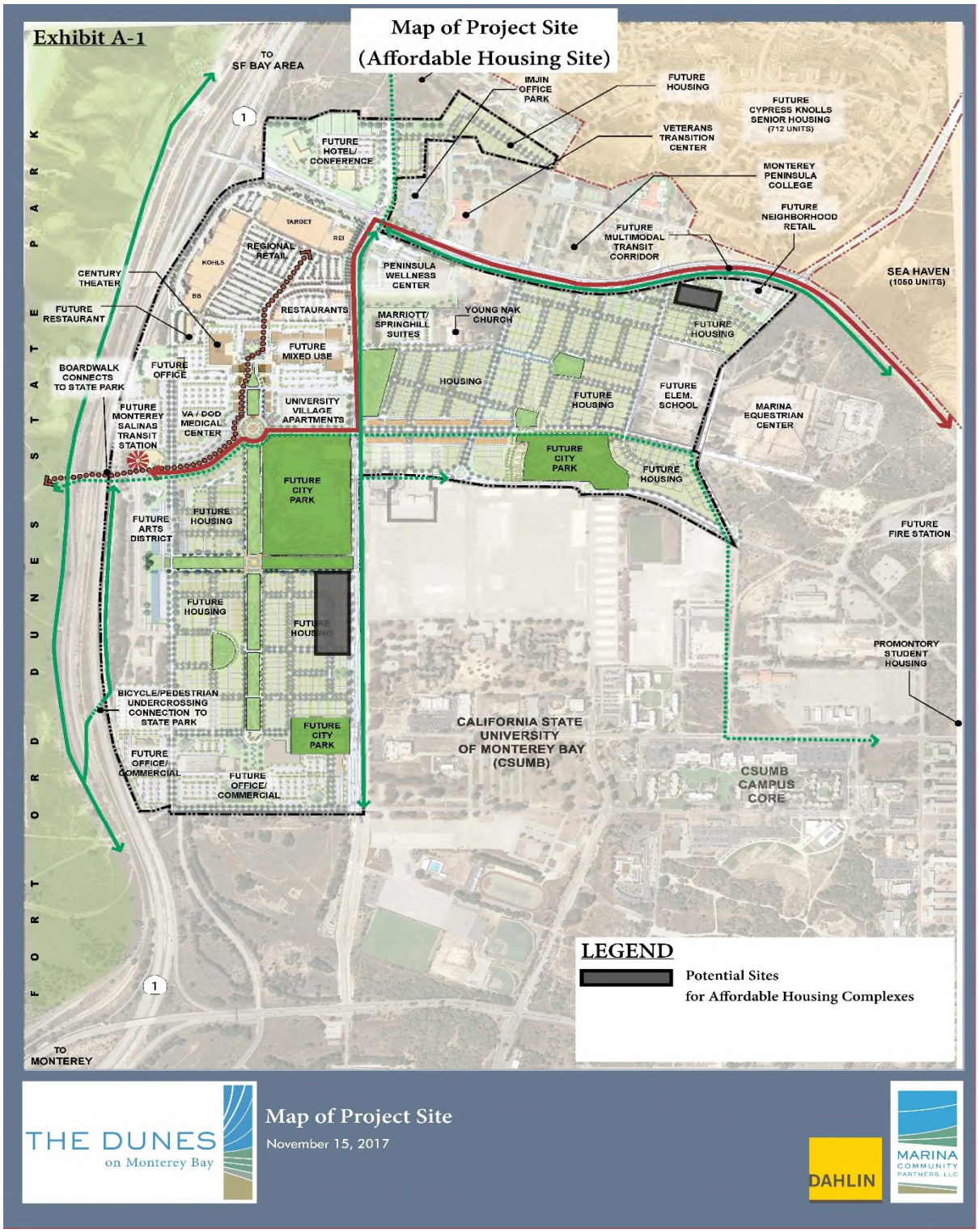


Exhibit A-1-1

**EXHIBIT A-2**
**MAP OF THE PROJECT SITE**
LAND USE PLAN

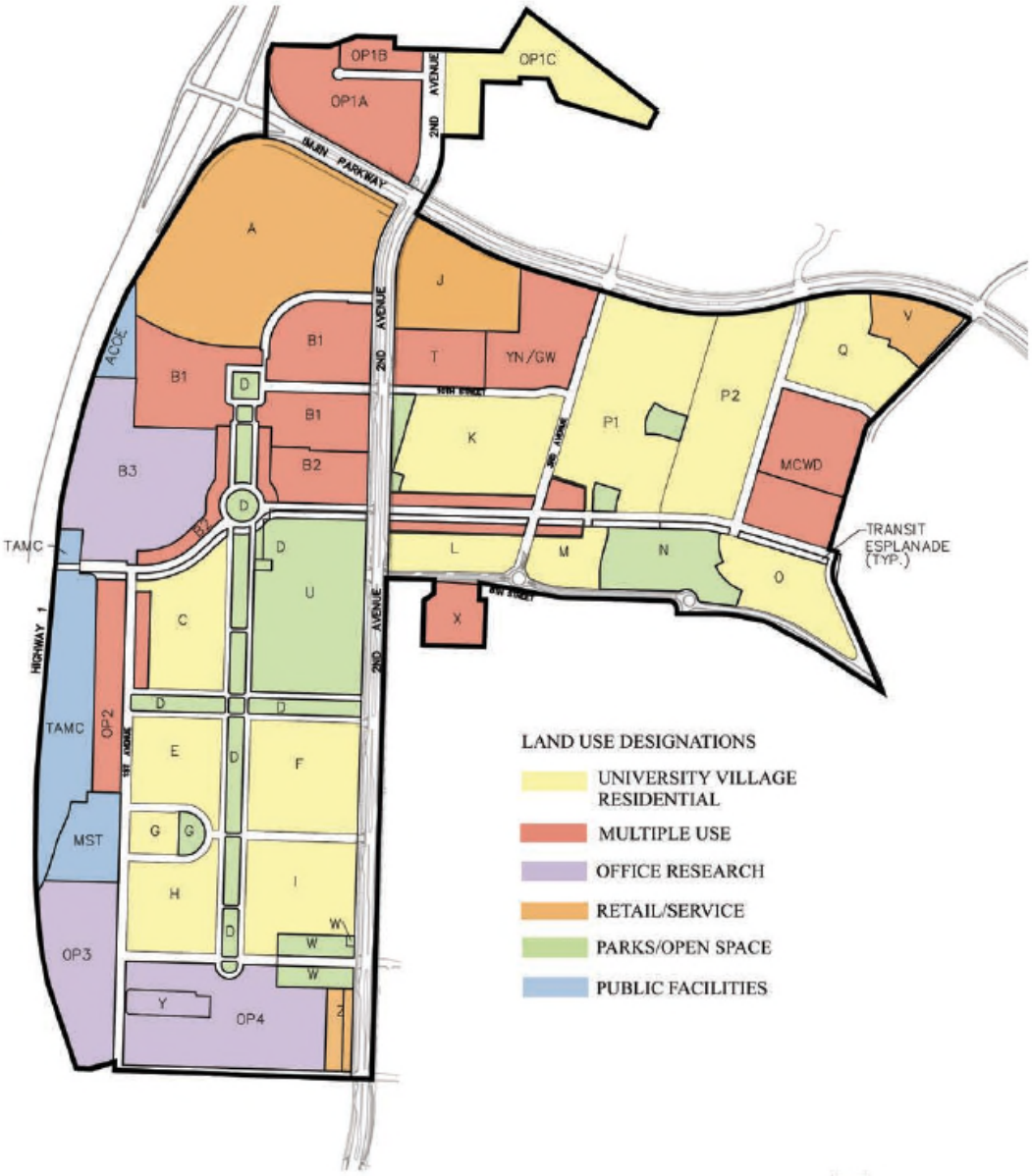


Exhibit A-2-1

## EXHIBIT A-3

## Map of the Project Site (Linear Parks)

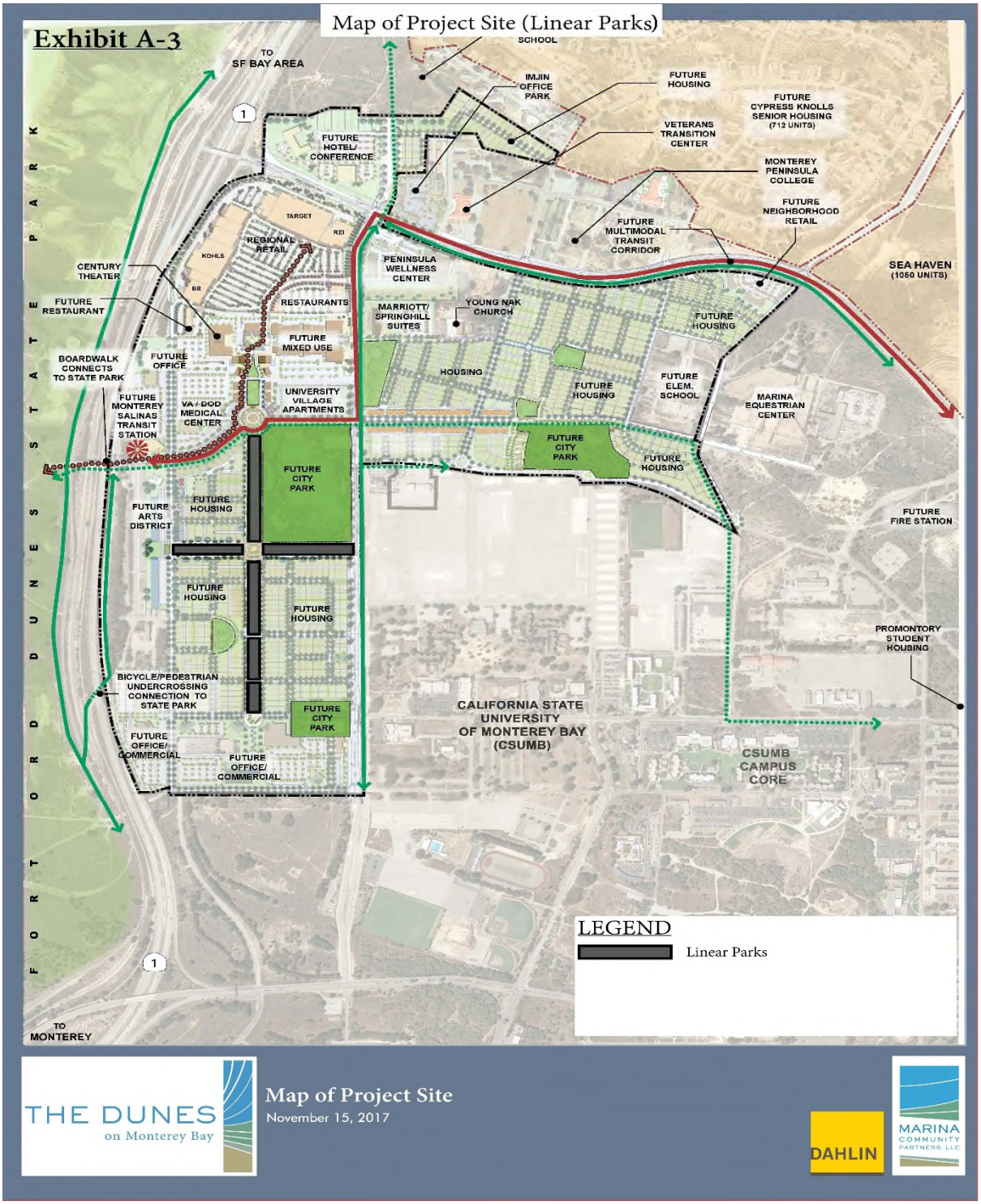


Exhibit A-3-1

## EXHIBIT A-4

## Map of the Project Site (Chapel Building and Arts District)

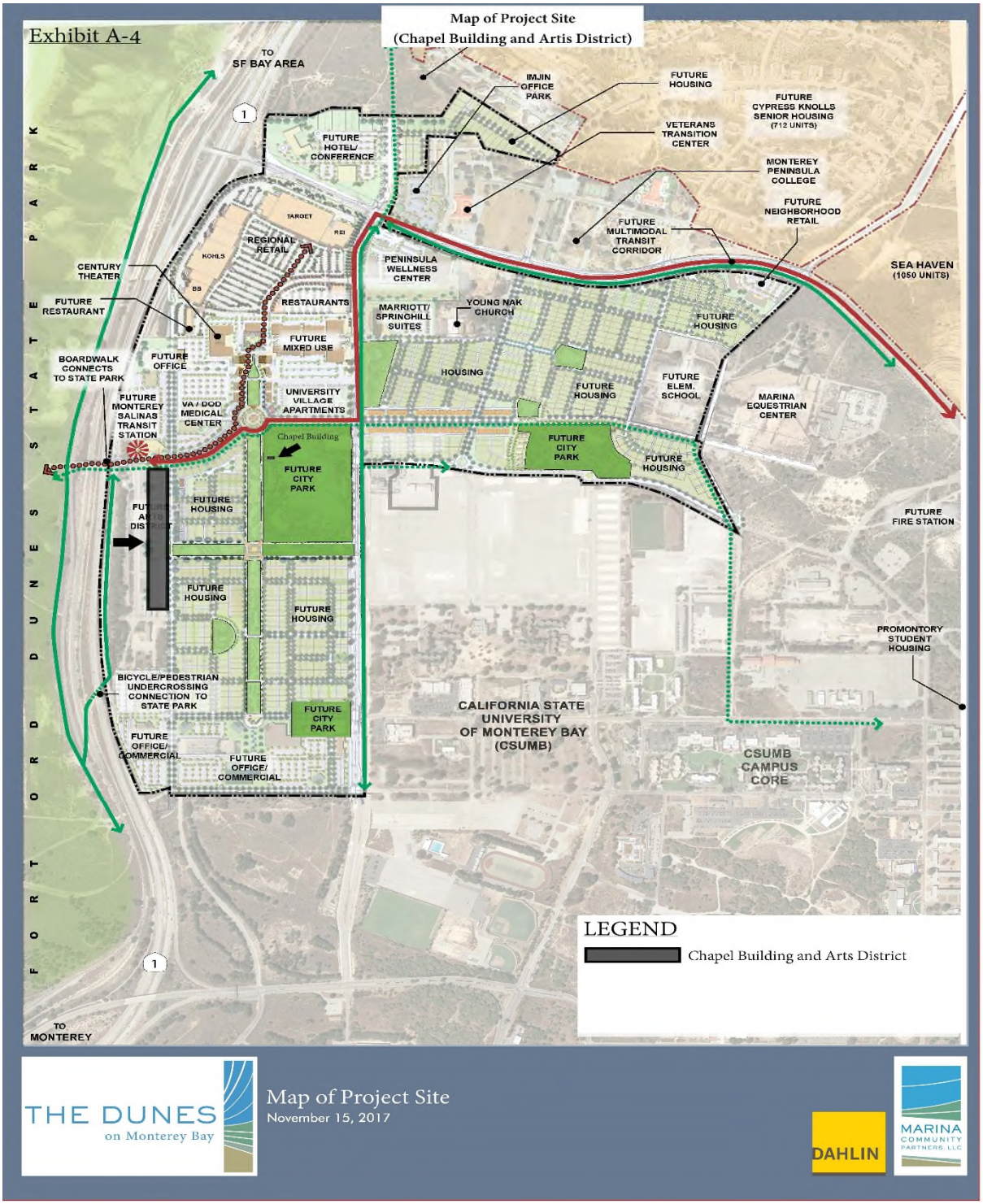


Exhibit A-4-1

# EXHIBIT B

# AFFORDABLE HOUSING COMPLEXES PROJECTED AFFORDABILITY BREAKDOWN

Exhibit B

Affordable Housing Complex Estimated Unit Mix

Transaction Summary — Marina - The Dunes with State Tax Credits - Scenario 1

| Unit Mix & Affordability | 0 Bedroom | 1 Bedroom | 2 Bedroom | 3 Bedroom | 4 Bedroom | Total Units | % of Affordable |
|---|---|---|---|---|---|---|---|
| 50% TCAC | 0 | 40 | 41 | 10 | 0 | 91 | 65.5% |
| 80% TCAC | 0 | 16 | 29 | 3 | 0 | 48 | 34.5% |
| **Affordable** | **0** | **56** | **70** | **13** | **0** | **139** | **100.0%** |
| Market/Mgr | 0 | 0 | 0 | 1 | 0 | 1 | |
| **Total Units** | **0** | **56** | **70** | **14** | **0** | **140** | |

# EXHIBIT C

# PROMENADE MINIMUM INFRASTRUCTURE IMPROVEMENTS

EXHIBIT C

**Promenade Minimum Infrastructure Improvements**

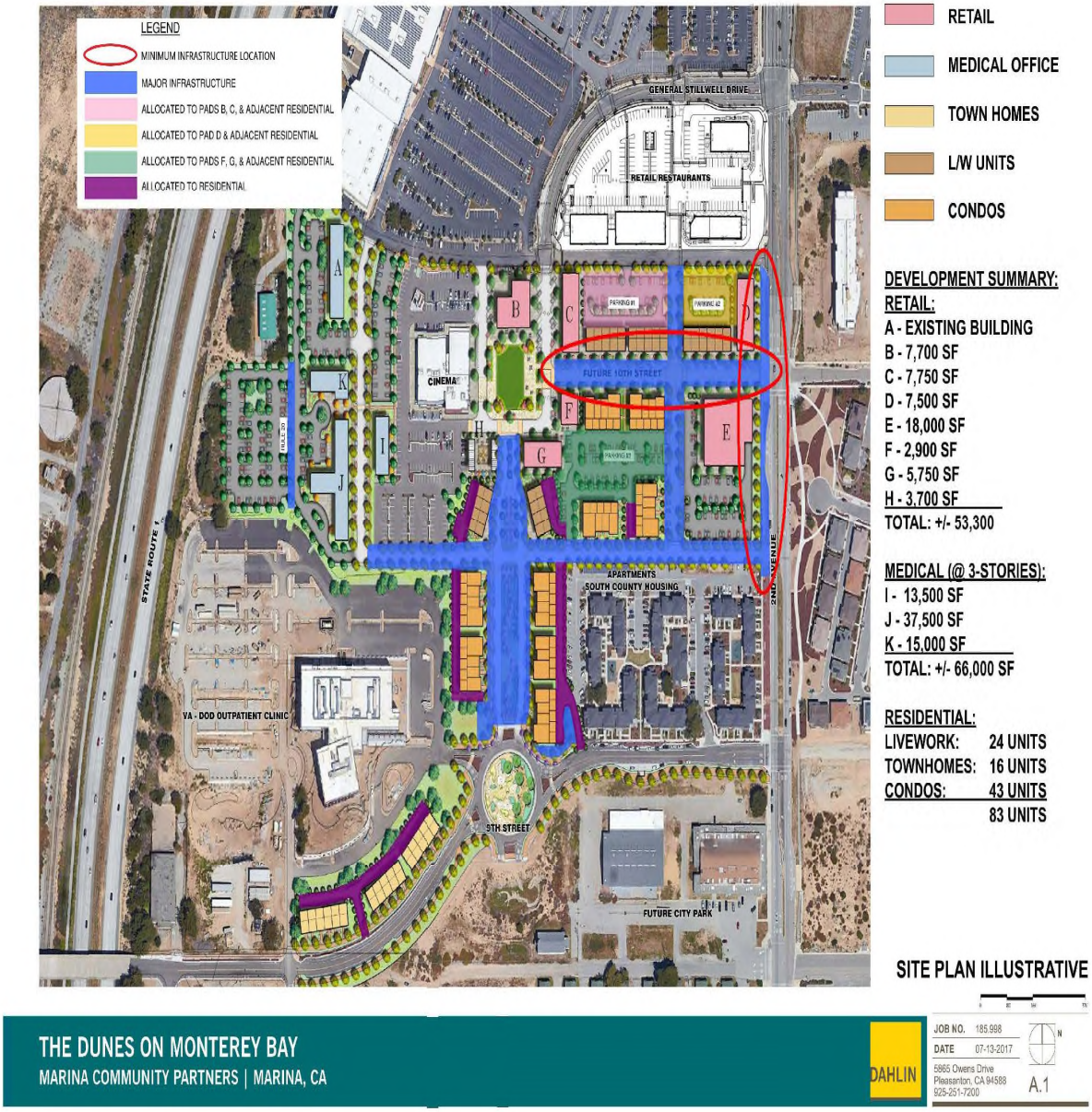


Exhibit C-1

EXHIBIT C

**Summary**
**Promenade Minimum Improvements**
**10/23/2019**

| Description | | Cost |
|---|---|---|
| 10th Street | $ | 692,435.36 |
| 2nd Avenue | $ | 772,100.40 |
| Subtotal | $ | 1,464,535.76 |
| ENRCCI 2/18 to 10/19 (11183 to 11326) | | 1.26% |
| Inflation 2/18 to 10/19 | $ | 18,490.96 |
| **Total** | **$** | **1,483,026.72** |

**EXHIBIT D**

**AMENDED AND RESTATED EXHIBIT D TO DEVELOPMENT AGREEMENT**

FEES, CONDITIONS AND MONETARY EXACTIONS
APPLICABLE TO THE PROJECT

**[Note: Unless expressly noted, there are no changes to Exhibit D to Development Agreement approved June 7, 2005, Effective July 8, 2005]**

**[First Paragraph conformed to change in DDA by Second Implementation Agreement dated as of August 5, 2008]**. The provisions of this Exhibit D are deemed reasonable by the City in light of the processing and development of the Project and taking into consideration the payments to the Marina Redevelopment Agency (shared with FORA) of the total Purchase Price of $43,000,000 to be paid by the Developer to the Agency for the Property pursuant to the terms of the DDA, which Purchase Price was established by the Agency as the fair reuse value of the Property based on a pro forma analysis of the Project approved on August 5, 2008 (the "2008 Project Pro Forma") and a reuse valuation approved on August 5, 2008 (the "2008 Reuse Valuation") that included assumptions, among others, as to the Developer's costs of fees and monetary exactions for the Project.

Developer shall pay, in the amounts and at the times set forth in, and subject to the terms of, this Exhibit D, the following fees and monetary exactions, which shall be the sole obligation of the Developer to pay City-imposed processing fees, impact fees or other monetary exactions with respect to the development of the Project.

1. CITY PROCESSING FEES FOR SUBSEQUENT DEVELOPMENT APPROVALS

Except as otherwise limited in this Exhibit D, Developer shall pay City processing fees for Subsequent Development Approvals as established pursuant to applicable law and in effect at the time on a city-wide basis at the time of the completed applications for such Subsequent Development Approvals, including City's reasonable costs of processing any subsequent environmental review required under CEQA with respect to such applications.

2. CITY PLAN CHECK AND INSPECTION FEES

Processing fees for plan checking and inspection, including costs of outside consultants, for construction of the Project shall be paid as allocated to the uses set forth in Table 1 to this Exhibit D (which amounts include fees for the Strong Motion Instrumentation Program and Building Department Training) and are estimated for purposes of the Project Pro Forma and Reuse Valuation at Four Million Five Hundred Thousand Dollars ($4,500,000). Actual fees will depend on actual costs for such services in relation to the activity to plan check, inspect and process permits necessary for the Project as provided for in Table 1 as provided by the City's Strategic Development Center, but in no event shall this total exceed Six Million Seven Hundred Thousand ($6,700,000). Actual costs could be less or more than the $4,500,000 estimate but shall not exceed the limit set in this paragraph. At agreed upon reporting intervals, City and

Developer will review cost estimates and budget projections for permit, inspection and processing fee activity. In the event it is determined during any periodic review that the Developer or Affiliate of Developer under the construction of the vertical improvements (exclusive of hotels) have paid more processing fees than the actual costs to the City of providing the services for which those fees were paid, the Developer or its Affiliate, as the case may be, shall be given a credit by the City in the amount of such overpayment as an offset against future fees payable by the Developer or its Affiliate, and, following the final accounting, shall refund the amount of any then remaining overpayment.

For purposes of this Agreement, plan check and inspection fees shall include the City's General Plan Fee. The Developer shall pay the City's General Plan fee at the time of recordation of the first Final Subdivision Map for each Phase of the Development. The City's General Plan fee is set at $500 per acre and payments to be made by the Developer of the General Plan fee shall be based on the gross acreage of the particular Phase of Development.

3. CITY IMPACT AND OTHER DEVELOPMENT FEES AND MONETARY EXACTIONS

On the Effective Date of this Agreement, City is in the process of updating its capital improvement program (the "City CIP") and is considering adoption of a schedule of impact fees and development and other monetary exactions, in accordance with Section 66000 et seq. of the Government Code (referred to herein as "AB 1600") to implement the City CIP. The establishment and limitations on such fees as set forth in Table 2 to this Exhibit are deemed by the City to be necessary and reasonable and consistent with its contemplated actions.

Impact, development and other monetary exactions payable with respect to the development of the Project shall be established and fixed by the City, in accordance with the provisions of AB 1600, but shall not exceed in any event, as applicable to the Project, the amounts set forth in Table 2 for the various land uses in the Project, subject to reduction based upon the AB 1600 analysis and subject to increase only for escalation in accordance with the construction cost index, identified in the City's fee adoption ordinances, to be adopted by the City in connection with the imposition of such fees. Such fees include all fees applicable to the public facilities and improvements for which Developer and the Project are required to pay impact fees under the Specific Plan and the Development Approvals, including costs or fees for mitigation measures under the EIR Mitigation Monitoring Program.

City and Developer agree that, as set forth in Table 2 to this Exhibit D, the maximum impact fees payable with respect to the specific land uses developed in the Project shall be the amounts, subject only to escalation in accordance with the construction cost index referenced above, as follows:

| | | |
|---|---|---|
| 1. | Single family residential units: | $13,730.02 per unit. |
| 2. | Townhomes: | $11,169.90 per unit. |
| 3. | Multi-family residential: | $11,654.61 per unit. |
| 4. | Senior housing | $7,436.48 per unit. |
| 5. | Retail: | $24.21 per sq. ft. |
| 6. | Office: | $7.74 per sq. ft. |

| | | |
|---|---|---|
| 7. | Hotel: | $5,875 per room |
| 8. | Industrial: | $4.02 per sq. ft. |

The limitation on Impact Fees set forth in this Section 3 for a hotel are assumed to include the total fees payable to the City, and City agrees that there shall be no additional Impact Fees charged hotels for ancillary space in conjunction with the operation of a hotel, including, but not limited to, management functions, restaurants, convention, meeting, recreational and activity space.

4. FORA FEES

The Developer and the Project shall be responsible for the payment to FORA of its fees for the development of the private improvements as established from time to time by FORA for its base-wide capital improvements program (the "FORA CIP").

City shall cooperate with the Developer, at no cost to the City, to maintain the FORA Fees at an amount not exceeding the range assumed in the Project Pro Forma and the Reuse Valuation.

4.5 FORA DISSOLUTION

**[Section 4.5 is added by Section 3 of the Operating Agreement between the City and Marina Community Partners dated as of December 17, 2019.]**

This Section 4.5 shall be effective only in the event that FORA is dissolved and to the extent that no provision is made upon such dissolution for the continuation of FORA fees, in whole or in part, as follows:

a. City and Developer acknowledge that (i) Developer is currently obligated to pay at time of issuance of building permit a one-time special assessment levied by the Fort Ord Reuse Authority ("FORA") Basewide Community Facilities District, which may be adjusted (the "FORA Fee"); (ii) FORA may be dissolved in 2020 and some or all of its obligations may be transferred to local agencies. In the event that FORA is dissolved, Developer acknowledges that it will no longer be obligated to pay the FORA Fee to FORA. Developer further acknowledges that City may assume certain obligations of FORA currently paid by FORA with the FORA Fee or assume obligations to collect fees or assessments from property owners and developers to pay for obligations currently covered by the FORA Fee and assumed by other public entities and that City will need to collect a fee comparable to the FORA Fee to cover such obligations.

b. Developer agrees to cooperate with the City in addressing the replacement of the FORA Fee, including the following:

(i) Developer shall vote for inclusion of any property owned by Developer for which the FORA Fee has not already been paid within

assessment districts or community facilities districts formed by the City or any regional entity, and shall pay such fees as may be imposed by such assessment districts or community facilities districts, provided such fees are lawful and lawfully imposed, and such fees do not exceed the FORA Fee in effect at the time of FORA's dissolution, subject to annual adjustments equal to the lesser of (1) five percent (5%), or (2) the percentage change since the immediately preceding fiscal year in the Engineering News Record's Construction Cost Index applicable to the area ("FORA Fee Adjuster").

(ii) Developer agrees, in the event that FORA is dissolved with respect to any property owned by Developer for which the FORA Fee has not already been paid, to pay to the City a new fee to replace the FORA Fee (the "New Fee"), provided that such New Fee:

(A) is required to be paid upon issuance of a building permit and not before,

(B) is a one-time fee or assessment; and

(C) the City shall be responsible for distributing such applicable portions of the New Fee to other regional agencies, if any, that assume obligations that were previously funded by the FORA Fee.

c. Whether the New Fee is a single fee and/or assessment or multiple fees and/or assessments, it shall be payable upon issuance of a building permit and shall not, in the aggregate, exceed the lesser of (1) the amount of the FORA Fee at the time of FORA's dissolution, as increased by the FORA Fee Adjuster; or (2) the amount that, when added to any FORA-related development impact fee adopted by the City or other local entities or any special assessment or special tax imposed pursuant to subsection (b)(i) above, does not exceed the FORA Fee in effect on FORA's dissolution, as adjusted by the FORA Fee Adjuster.

d. The provisions of this Section 4.5 shall not be applicable to individual homeowners or assignees who took title to portions of the Property prior to the effective date of this Section 4.5 and provided further, in no event shall the New Fee pursuant to subsection (b)(ii) plus any assessment or special tax pursuant to subsection (b)(i) exceed the FORA Fee at the time of FORA's dissolution, as increased by the FORA Fee Adjuster. The limitations set forth herein on the amount of any fee imposed by the City or adopted by the City to replace the FORA Fee shall not in any way limit the City's ability to adopt and impose other development impact fees, special taxes, or assessments unrelated to the replacement of the FORA Fee.

5. MCWD CONNECTION AND SERVICE CHARGES

The Developer and the Project shall be responsible for payment of connection charges imposed by the Marina Coast Water District ("MCWD") for water and sewer services to private improvements, estimated to not exceed the following as assumed in Project Pro Forma and Reuse Valuation: Thirty-Eight Hundred Dollars ($3,800) per equivalent dwelling unit.

City will cooperate with the Developer to maintain the MCWD charges as not to exceed the range assumed in the Project Pro Forma and Reuse Valuation.

6. SCHOOL FEES

The Developer and the Project shall be responsible for statutory school fees for school facilities as imposed by the Monterey Peninsula Unified School District. City will cooperate with the Developer to maintain school fees estimated at the not-to-exceed the range assumed in the Project Pro Forma and Reuse Valuation.

TABLE 1 TO EXHIBIT D

[SEE TABLE ATTACHED]

TABLE 1

STRATEGIC DEVELOPMENT CENTER

DEVELOPMENT REVIEW AND INSPECTION FEES WITHOUT ESCALATION FACTOR

Harris & Associates

UNIVERSITY VILLAGES ESTIMATED FEES

| | | | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | PROJECT TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Residential | Year | | | | | | | | | | | |
| | Units | | 176 | 320 | 408 | 89 | 89 | 87 | 23 | 23 | 22 | 1237 |
| | Fees | | $828,849 | $1,202,249 | $1,529,956 | $333,416 | $333,416 | $324,952 | $102,355 | $102,355 | $97,318 | $4,654,866 |
| Model P/C | | | $59,394 | | | | | | | | | $59,394 |
| Commercial | Fees | | $150,676 | $248,617 | $256,150 | $90,406 | | | | | | $745,848 |
| Comm'l P/C | | | $122,424 | $202,001 | $208,122 | $73,455 | | | | | | $606,002 |
| SDC Credit | | | -$15,738 | -$15,738 | -$15,738 | -$15,738 | -$17,786 | | | | | -$80,738 |
| Hotel (100 rooms and 400 rooms) | | | | | $46,426 | $185,702 | | | | | | $0 |
| | | Total | $945,605 | $1,637,128 | $2,024,917 | $667,240 | $315,630 | $324,952 | $102,355 | $102,355 | $97,318 | $6,217,500 |

Prepared by: DN/RP
Checked by: MC
Updated: Mon 5/23/05

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 2009 | Permit Fee | $3,931 | $4,533 | $3,742 | $5,037 | $3,350 | $3,504 | $3,623 | $3,259 | $2,909 | |
| | | | | Units | 20 | 19 | 6 | | 31 | | | 13 | | 89 |
| | | | | Fees | $78,620 | $86,127 | $22,452 | | $103,850 | | | $42,367 | | $333,416 |
| | | | 2010 | Permit Fee | $3,931 | $4,533 | $3,742 | $5,037 | $3,350 | $3,504 | $3,623 | $3,259 | $2,909 | |
| | | | | Units | 19 | 18 | 6 | | 31 | | | 13 | | 87 |
| | | | | Fees | $74,689 | $81,594 | $22,452 | | $103,850 | | | $42,367 | | $324,952 |
| | | | 2011 | Permit Fee | $3,931 | $4,533 | $3,742 | $5,037 | $3,350 | $3,504 | $3,623 | $3,259 | $2,909 | |
| | | | | Units | | | | 15 | 8 | | | | | 23 |
| | | | | Fees | | | | $75,555 | $26,800 | | | | | $102,355 |
| | | | 2012 | Permit Fee | $3,931 | $4,533 | $3,742 | $5,037 | $3,350 | $3,504 | $3,623 | $3,259 | $2,909 | |
| | | | | Units | | | | 15 | 8 | | | | | 23 |
| | | | | Fees | | | | $75,555 | $26,800 | | | | | $102,355 |
| | | | 2013 | Permit Fee | $3,931 | $4,533 | $3,742 | $5,037 | $3,350 | $3,504 | $3,623 | $3,259 | $2,909 | |
| | | | | Units | | | | 14 | 8 | | | | | 22 |
| | | | | Fees | | | | $70,518 | $26,800 | | | | | $97,318 |
| | | | Total Units | | 242 | 126 | 132 | 115 | 298 | 139 | 24 | 53 | 108 | 1237 |
| | | | TOTALS | | $957,566 | $578,793 | $499,599 | $588,378 | $1,003,157 | $491,007 | $90,985 | $176,178 | $316,718 | $4,702,381 |
| | | | Note | | | | | | | | | | | |
| | | | 1 | Building fee is based on the average size unit proposed in the housing mix, as submitted by the developer. | | | | | | | | | | |

TABLE 2 TO EXHIBIT D

[SEE TABLE ATTACHED]

TABLE 2

UNIVERSITY VILLAGES

**Summary of Impact Fees**

| Land Use | Traffic Intersections | Roadways | Parks | Facilities | Airport | Public Safety - Fire Department | Total |
|---|---|---|---|---|---|---|---|
| **Residential (Per Unit)** | | | | | | | |
| *Single Family Dwellings* | $2,067.38 | $3,322.31 | $6,365.58 | $1,394.73 | | $580.02 | $13,730.02 |
| *Town homes* | $1,266.23 | $2,034.86 | $5,894.06 | $1,394.73 | | $580.02 | $11,169.90 |
| *Senior* [A] | $648.07 | $1,041.46 | $3,772.20 | $1,394.73 | | $580.02 | $7,436.48 |
| *Multi-Family Dwellings* | $1,452.16 | $2,333.65 | $5,894.06 | $1,394.73 | | $580.02 | $11,654.61 |
| **Non Residential** | | | | | | | |
| *Office (per Building ft^2)* | $2.19 | $3.52 | - | $1.09 | | $0.93 | $7.74 |
| *Hotels (room)* | $1,626.17 | $2,613.28 | - | $1,162.27 | | $473.29 | $5,875.00 |
| *Commercial / Retail (per Building ft^2)* | $8.82 | $14.18 | - | $0.66 | | $0.56 | $24.21 |
| *Industrial (per Building ft^2)* | $1.39 | $2.23 | - | $0.22 | | $0.19 | $4.02 |

## EXHIBIT E

## CONFORMING CLARIFICATIONS TO SCHEDULE OF PERFORMANCE

| **Project Milestones (Remaining) (1) (2)** | **Responsible Party** | **New SOP Outside Date (3)** |
|---|---|---|
| Phase 2 Development – Approval of Tentative Subdivision/Parcel Maps | City | May 2020 |
| Phase 1 Minimum – Approval of Site Plan/Architectural Design Review – Promenade (if requested by MCP) | City | Feb 2022 |
| Phase I Minimum – completion of vertical improvements for minimum retail in Promenade (approximately 27,285 sq. ft. of commercial pads) (4) | MCP | Dec 2022 |
| Phase 1C – Completion of vertical improvements | MCP | May 2020 |
| Phase 2 – commence deconstruction | MCP | Oct 2020 |
| Phase 2 – complete deconstruction (4) | MCP | Jan 2021 |
| Phase 2 – Takedown/land sale to MCP | MCP | Jan 2021 |
| Phase 2 East – Approval of Final Map, Improvement Plans | City | Oct 2020 |
| Phase 2 East – completion of horizontal improvements | MCP | Mar 2022 |
| Phase 2 East – completion of vertical improvements | MCP | May 2024 |
| Phase 2/3 AHU rental complex – commence construction (4) | MCP | Jan 2023 |
| Phase 2 – Op Site 1A - Approval of Parcel Map, | City | May 2020 |
| Phase 2 – Site 1A – Approval of Hotel Site Plan/Architectural Design (5) | City | Dec 2020 |
| Phase 2 – Op Site 1A – Hotel – completion of horizontal improvements (5) | MCP | Jul 2022 |
| Phase 2 – Op Site 1A – Hotel – completion of vertical improvements (5) | MCP | Aug 2024 |
| Phase 2 – Op Site 1B/C - Approval of Final Map, Improvement Plans | City | Jul 2021 |
| Phase 2 – Op Site 1B/C – Completion of Horizontal Improvements | MCP | June 2022 |
| Phase 2 – Op Site 1 B/C – Completion of Vertical Improvements | MCP | Apr 2024 |
| Phase 2 West – Approval of Final Map, Improvement Plans | City | Dec 2023 |
| Phase 2 West – Completion of horizontal improvements | MCP | Jan 2025 |
| Dunes Park – City financing and development plan submitted to MCP | City | Jun 2022 |

| **Project Milestones (Remaining) (1) (2)** | **Responsible Party** | **New SOP Outside Date (3)** |
|---|---|---|
| Dunes Park – Completion of Minimum Improvements | City | Oct 2023 |
| Phase 2 West – completion of vertical improvements | MCP | Jul 2027 |
| Phase 3 – complete deconstruction | MCP | Mar 2024 |
| Parcel W – City Park – complete deconstruction | City | Mar 2024 |
| Phase 3 – Takedown/sale to MCP (6) | MCP | Apr 2024 |
| Phase 3 – Approval of Tentative Maps | City | Apr 2024 |
| Phase 3 – Approval of Final Maps, Improvement Plans | City | Sep 2024 |
| Phase 3 – completion of horizontal improvements | MCP | Jan 2026 |
| Phase 3 – completion of vertical improvements | MCP | Dec 2028 |
| Termination of Tax Increment payments to MCP for Housing Fund obligations (exclusive of debt service on bonds) | City | Oct 2027 |
| Termination of Tax Increment payments to MCP for Non-Housing Fund obligations (exclusive of debt service on bonds | City | Oct 2037 |

*Notes:*

*(1) Represents remaining primary SOP items as adopted in the 2010 Conforming Clarifications;*

*(2) Acknowledgement of Excused Delay period; commencing February 1, 2012 and ending, on Oct 1, 2019 (with resolution of TI Invoice #2)*

*(3) MCP outside dates will be reasonably extended if City does not meet its milestones; MCP to provide submittals for project milestones no later than 90 days prior to required City approval date.*

*(4) Milestone items subject to building permit metering as defined in the DA as amended in 2019.*

*(5) Subject to provisions relating to the Option for the Hotel Site by the City*

*(6) Subject to the provisions of Section 13 of this Operating Agreement.*

**EXHIBIT B**

MARINA
COMMUNITY
PARTNERS, LLC

January 15, 2020

City of Marina
And Successor Agency to
Former Marina Redevelopment Agency
211 Hillcrest Ave.
Marina, CA 93933

Attn: Layne Long
City Manager

Dear Mr. Long,

Re: Issuance of Bonds

Marina Community Partners, LLP ("MCP") respectfully requests that the City and Successor Agency approve a request for the issuance of bonds by the Successor Agency in a total principal amount of up to $30,000,000, pursuant to the 2005 Disposition and Development Agreement, and Section Part I, Section 6 and Part II, Section 6 of the Tax Increment Financing Plan and Agreement, dated August 5, 2008. If approved by the Successor Agency, MCP understands that this request for bond issuance shall be submitted to the Consolidated Oversight Board for the County of Monterey for its consideration and then reviewed by the state Department of Finance.

The prior bonds issued in 2018 for the Dunes Project expressly contemplated the subsequent issuance of parity bonds from time to time as the Project is developed, and it is our objective to have such parity bonds issued as soon as possible, following approval of the Oversight Board and Department of Finance.

Thank you for your consideration of this request. We request that the Successor Agency and City consider this request at their next available meetings.

Very truly yours,

Douglas A. Yount
Project Director

# EXHIBIT C

RESOLUTION NO. 2020-01 (SA-MRA)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA, ACTING AS THE SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY, APPROVING THE ISSUANCE OF BONDS IN ORDER TO MAKE PAYMENTS ON AN ENFORCEABLE OBLIGATION, APPROVING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL INDENTURE OF TRUST RELATING THERETO, REQUESTING OVERSIGHT BOARD APPROVAL OF THE ISSUANCE OF THE BONDS, REQUESTING CERTAIN DETERMINATIONS BY THE OVERSIGHT BOARD, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, pursuant to section 34172(a) of the California Health and Safety Code (unless otherwise noted, all section references hereinafter being to such Code), the Marina Redevelopment Agency (the "Former Agency") has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to section 34173, the Successor Agency to the Marina Redevelopment Agency (the "Successor Agency") has become the successor entity to the Former Agency;

WHEREAS, prior to the dissolution of the Former Agency, the Former Agency entered into a Disposition and Development Agreement, dated as of May 31, 2005 (the "DDA"), between the Former Agency and Marina Community Partners, LLC (the "Developer"), and in furtherance of certain provisions of the DDA, the Former Agency and the Developer entered into an Implementation Agreement dated as of September 9, 2006, a Second Implementation Agreement dated as of August 5, 2008 and a Tax Increment Financing Plan and Agreement, dated as of August 5, 2008 (the "Financing Plan," and together with the DDA, the "Former Agency Obligation");

WHEREAS, the Former Agency Obligation includes an obligation of the Successor Agency to make payments from certain Available Non-Housing Tax Increment Funds for Eligible Project Costs and to make payments from certain Available LMIHF Funds for Eligible LMIHF Costs, as such capitalized terms are defined in the Financing Plan;

WHEREAS, the Former Agency Obligation has been included on Recognized Obligation Payment Schedules prepared for the Successor Agency pursuant to section 34177, and has been recognized by the Successor Agency, the Oversight Board (as defined below) and the California Department of Finance as an "Enforceable Obligation" of the Former Agency, as such term is defined in section 34171(d);

WHEREAS, section 34177.5(a)(4) authorizes the Successor Agency to issue bonds to make payments under enforceable obligations when the enforceable obligations include the irrevocable pledge of property tax increment, formerly tax increment revenues prior to the effective date of section 34177.5, and the enforceable obligations also include the obligation to issue bonds secured by that pledge, and the Former Agency Obligation includes such an irrevocable pledge and obligation to issue bonds;

WHEREAS, pursuant to Section 6 of Part 1 and Section 6 of Part 2 of the Financing Plan, in 2017 the Developer requested that the Successor Agency issue bonds to make payments on the Former Agency Obligation;

WHEREAS, in response to the Developer's request: (a) on October 3, 2017, the governing board Successor Agency adopted Resolution No. 2017-07 (SA-MRS) approving the issuance of bonds (the "2018 Bonds") in order to make payments on the Former Agency Obligation; (b) on November 2, 2017, the governing board of the Oversight Board of the Successor Agency to the Marina Redevelopment Agency adopted Resolution No. 2017-08 (OB) approving the issuance of the 2018 Bonds by the Successor Agency (the "OB Resolution"); (c) the State of California Department of Finance delivered a letter dated February 9, 2018 to the Successor Agency approving portions of the OB Resolution, including the portion that approved the issuance of the 2018 Bonds by the Successor Agency; (d) on July 26, 2018, the Successor Agency issued the 2018 Bonds pursuant to an Indenture of Trust, dated as of July 1, 2018 (the "Original Indenture"), between the Successor Agency and MUFG Union Bank, N.A., as trustee, including the Successor Agency's Tax Allocation Bonds, Series 2018A (the "2018A Bonds") in the initial principal amount of $6,905,000 and the Successor Agency's Housing Tax Allocation Bonds, Series 2018B (the "2018B Bonds") in the initial principal amount of $6,585,000; and (e) the net proceeds of the 2018A Bonds were used to reimburse the Developer for Eligible Project Costs and the net proceeds of the 2018B Bonds were used to reimburse the Developer for the Eligible LMIHF Costs, all in satisfaction of portions of the Former Agency Obligation;

WHEREAS, the Developer has now sent the Successor Agency a request pursuant to Section 6 of Part 1 and Section 6 of Part 2 of the Financing Plan, dated January 15, 2020, that the Successor Agency issue two new series of bonds (the "2020 Bonds") to make additional payments on the Former Agency Obligation;

WHEREAS, in light of the foregoing, the Successor Agency desires at this time to authorize the issuance of two series of additional bonds (collectively, the "2020 Bonds"), with one such series to be secured on a parity with the 2018A Bonds and the other series to be secured on a parity with the 2018B Bonds, each under the Indenture defined below, and to use the proceeds of the 2020 Bonds to make payments to the Developer under the Former Agency Obligation, with the 2020 Bonds to be issued pursuant to a first supplemental indenture of trust (the "First Supplement"), and the Original Indenture as amended and supplemented by the First Supplement (together, the "Indenture");

WHEREAS, pursuant to section 34179(j), the Consolidated Oversight Board Successor Agency for the County of Monterey, State of California (the "Oversight Board") has been established;

WHEREAS, the Successor Agency is now requesting that the Oversight Board direct the Successor Agency to undertake the proceedings to issue the 2020 Bonds to make payments under the Former Agency Obligation and to approve the issuance of the 2020 Bonds pursuant to this Resolution and the Indenture;

WHEREAS, the Successor Agency further requests that the Oversight Board make certain determinations described below on which the Successor Agency will rely in undertaking the proceedings to issue the 2020 Bonds to make payments under the Former Agency Obligation and the issuance of the 2020 Bonds;

WHEREAS, the Successor Agency has determined to sell the 2020 Bonds to Stifel, Nicolaus & Company, Incorporated (the "Underwriter") pursuant to the terms of a bond purchase contract to be entered into by the Successor Agency and the Underwriter; and

WHEREAS, following approval by the Oversight Board of the issuance of the 2020 Bonds by the Successor Agency and upon submission of this Resolution and a resolution of approval of the Oversight Board (the "Oversight Board Resolution") to the California Department of Finance, the Successor Agency will, with the assistance of its disclosure counsel, its municipal advisor and its fiscal consultant, cause to be prepared a form of official statement for each series of the 2020 Bonds describing the respective series of the 2020 Bonds and containing material information relating to the Successor Agency and the respective series of the 2020 Bonds, the preliminary forms of which will be submitted to the Successor Agency for approval for distribution by the Underwriter to persons and institutions interested in purchasing 2020 Bonds, and counsel to the Underwriter will prepare a bond purchase contract relating to the sale by the Successor Agency of the 2020 Bonds to the Underwriter, the form of which also will be submitted to the Successor Agency for approval.

NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY hereby resolves as follows:

1. Determination of Need to Issue 2020 Bonds. The Developer has requested that the Successor Agency issue the 2020 Bonds pursuant to the Successor Agency's obligations under the Former Agency Obligation. The Successor Agency has determined that the Former Agency Obligation is an enforceable obligation for purposes of section 34177.5(a)(4), and the Successor Agency acknowledges that it has an irrevocable obligation under the Former Agency Obligation to issue the 2020 Bonds, subject to the applicable provisions of the Former Agency Obligation, including Sections 6 of Part 1 and Section 6 of Part 2 of the Financing Plan.

2. Approval of Issuance of the 2020 Bonds. The Successor Agency hereby authorizes and approves the issuance of the 2020 Bonds in the aggregate principal amount of not to exceed $18,000,000.

3. Approval of First Supplement. The Successor Agency hereby approves the First Supplement prescribing the terms and provisions of the 2020 Bonds and the application of the proceeds of the 2020 Bonds, in the form on file with the Secretary of the Successor Agency. The City Manager of the City of Marina (the "City Manager"), on behalf of the Successor Agency, is hereby authorized and directed to execute and deliver the First Supplement in such form, together with such changes therein, deletions therefrom and additions thereto as the City Manager shall approve, such approval to be conclusively evidenced by the execution and delivery by the City Manager of the First Supplement. The Successor Agency hereby authorizes the delivery and performance of the First Supplement.

4. Municipal Bond Insurance and Surety Bond. The City Manager is hereby authorized and directed to take all actions necessary to obtain a municipal bond insurance policy for one or both series of the 2020 Bonds and reserve account bond insurance policy for one or both series of the 2020 Bonds from a municipal bond insurance company if it is determined by the City Manager, upon consultation with the municipal advisor to the Successor Agency and the Underwriter, that such municipal bond insurance policy and/or reserve account bond insurance policy will reduce the interest cost with respect to the applicable series of the 2020 Bonds.

5. Approval of Official Statements; Underwriter and Bond Purchase Contract. (a) Following approval by the Oversight Board of the issuance of the 2020 Bonds by the Successor Agency and upon submission of this Resolution and the Oversight Board Resolution to the California Department of Finance, the Successor Agency will, with the assistance of its disclosure counsel, its fiscal consultant and its municipal advisor, cause to be prepared a form of official statement for each series of the 2020 Bonds describing the respective series of the 2020 Bonds to which it pertains and containing material information relating to the Successor Agency and the respective series of the 2020 Bonds, the preliminary forms of which will be submitted to the Successor Agency for approval for distribution by the Underwriter to persons and institutions interested in purchasing the 2020 Bonds.

(b) Stifel, Nicolaus & Company, Incorporated is hereby approved as the Underwriter for the 2020 Bonds. Following approval by the Oversight Board of the issuance of the 2020 Bonds by the Successor Agency and upon submission of this Resolution and the Oversight Board Resolution to the California Department of Finance, the Underwriter will cause to be prepared a form of bond purchase contract, the preliminary form of which will be submitted to the Successor Agency for approval.

6. Oversight Board Approval of the Issuance of the 2020 Bonds. The Successor Agency hereby requests that the Oversight Board, as authorized by section 34177.5(f), direct the Successor Agency to undertake the proceedings to issue the 2020 Bonds, and as authorized by section 34177.5(f) and section 34180, to approve the issuance of the 2020 Bonds pursuant to section 34177.5(a)(4), this Resolution and the Indenture.

7. Determinations by the Oversight Board. The Successor Agency requests that the Oversight Board make the following determinations upon which the Successor Agency will rely in undertaking the proceedings for the issuance of the 2020 Bonds:

(a) The Successor Agency is authorized, as provided in section 34177.5(f), to recover its costs related to the issuance of the 2020 Bonds from the proceeds of the 2020 Bonds, including the cost of reimbursing its administrative staff for time spent with respect to the authorization, issuance, sale and delivery of the 2020 Bonds;

(b) The application of the proceeds of the 2020 Bonds by the Successor Agency to make payments on the Former Agency Obligation, as well as the payment by the Successor Agency of costs of issuance of the 2020 Bonds, including municipal bond insurance and reserve fund bond insurance premiums, shall be implemented by the Successor Agency promptly upon sale and delivery of the 2020 Bonds, notwithstanding section 34177.3 or any other provision of law to the contrary, without the approval of the Oversight Board, the California Department of Finance, the Monterey County Auditor-Controller or any other person or entity other than the Successor Agency; and

(c) The Successor Agency shall be entitled to receive its full Administrative Cost Allowance under section 34171 without any deductions with respect to continuing costs related to the 2020 Bonds, such as trustee's fees, auditing and fiscal consultant fees and continuing disclosure and rating agency costs (collectively, "Continuing Costs of Issuance"), and such Continuing Costs of Issuance shall be payable from property tax revenues pursuant to section 34183. In addition and as provided by section 34177.5(f), if the Successor Agency is unable to complete the issuance of the 2020 Bonds for any reason, the Successor Agency shall, nevertheless, be entitled to recover its costs incurred with respect to the proceedings for the funding of payments on the Former Agency Obligation from such property tax revenues pursuant to section 34183 without reduction in its Administrative Cost Allowance.

8. Filing of Resolution. The Secretary of the Successor Agency is hereby authorized and directed to file a certified copy of this Resolution with the Oversight Board, and, as provided in section 34180(j) with the Monterey County Administrative Officer, the Monterey County Auditor-Controller and the California Department of Finance.

9. Agreements with Consultants. The firm of KNN Public Finance is hereby designated as municipal advisor to the Successor Agency for the 2020 Bonds, the firm of Keyser Marston Associates, Inc. is hereby designated as fiscal consultant to the Successor Agency for the 2020 Bonds, and the firm of Quint & Thimmig LLP is hereby designated as Bond Counsel and as Disclosure Counsel to the Successor Agency for the 2020 Bonds. The City Manager, on behalf of the Successor Agency, is hereby authorized and directed to execute and deliver agreements with such firms for their services related to the 2020 Bonds, each such agreement to be in a form acceptable to the City Manager.

10. Official Actions. Any and all officers of the Successor Agency are hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to do any and all things and take any and all actions, which they, or any of them, may deem necessary or advisable in obtaining the requested approvals by the Oversight Board and the California Department of Finance and in the issuance, sale and delivery of the 2020 Bonds. Whenever in this Resolution the City Manager is directed to execute any document or take any action, such execution or action may be taken on behalf of the City Manager by any person designated by the City Manager to act on his behalf in the case he is absent or unavailable.

11. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Marina acting as the governing board of the Successor Agency to the Marina Redevelopment Agency at a regular meeting duly held on the 19th day of February 2020, by the following vote:

AYES: COUNCIL/AGENCY MEMBERS: Berkley, Urrutia, O'Connell, Morton
NOES: COUNCIL/AGENCY MEMBERS: None
ABSENT: COUNCIL/AGENCY MEMBERS: Delgado
ABSTAIN: COUNCIL/AGENCY MEMBERS: None

Gail Morton, Vice Chair

ATTEST:

Anita Sharp, Board Secretary

# EXHIBIT D

FIRST SUPPLEMENTAL INDENTURE OF TRUST

by and between the

SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY

and

MUFG UNION BANK, N.A., as Trustee

Dated as of _____ 1, 2020

Relating to:
$_____
Successor Agency to the Marina Redevelopment Agency
Tax Allocation Bonds, Series 2020A
and
$_____
Successor Agency to the Marina Redevelopment Agency
Housing Tax Allocation Bonds, Series 2020B

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# FIRST SUPPLEMENTAL INDENTURE OF TRUST

THIS FIRST SUPPLEMENTAL INDENTURE OF TRUST (this "First Supplement"), dated as of _____ 1, 2020, is by and between the SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY, a public entity organized and existing under the laws of the State of California (the "Successor Agency"), and MUFG UNION BANK, N.A., as trustee (the "Trustee") under an Indenture of Trust, dated as of July 1, 2018, by and between the Trustee and the Successor Agency (the "Original Indenture"). Capitalized terms used in this First Supplement and not otherwise defined herein have the meanings given to such terms in the Original Indenture.

## RECITALS:

**WHEREAS**, pursuant to Section 34173 of the California Health and Safety Code, the Successor Agency has become the successor to the former Marina Redevelopment Agency (the "Former Agency");

**WHEREAS**, prior to the dissolution of the Former Agency, the Former Agency entered into the DDA and the Financing Plan with Marina Community Partners, LLC (the "Developer"), and the Former Agency delivered the Promissory Notes to the Developer (the DDA, the Financing Plan and the Promissory Notes being collectively referred to herein as the "Former Agency Obligation");

**WHEREAS**, the Former Agency Obligation has been included on Recognized Obligation Payment Schedules prepared for the Successor Agency pursuant to section 34177 of the Community Redevelopment Law of the State of California (the "Law"), and has been recognized by the Successor Agency, the Oversight Board of the Successor Agency to the Marina Redevelopment Agency and the California Department of Finance as an "Enforceable Obligation" of the Former Agency, as such term is defined in section 34171(d) of the Law;

**WHEREAS**, section 34177.5(a)(4) of the Law authorizes the Successor Agency to issue bonds to make payments under enforceable obligations when the enforceable obligations include the irrevocable pledge of property tax increment, formerly tax increment revenues prior to the effective date of section 34177.5 of the Law, and the enforceable obligations also include the obligation to issue bonds secured by that pledge, and the Former Agency Obligation includes such an irrevocable pledge and obligation to issue bonds;

**WHEREAS**, pursuant to Section 6 of Part 1 and Section 6 of Part 2 of the Financing Plan, in 2017 the Developer requested that the Successor Agency issue bonds to make payments on the Former Agency Obligation;

**WHEREAS**, in response to the Developer's request: (a) on October 3, 2017, the governing board Successor Agency adopted Resolution No. 2017-07 (SA-MRS) approving the issuance of

bonds in order to make payments on the Former Agency Obligation; (b) on November 2, 2017, the governing board of the Oversight Board of the Successor Agency to the Marina Redevelopment Agency adopted Resolution No. 2017-08 (OB) approving the issuance of bonds by the Successor Agency (the "OB Resolution"); (c) the State of California Department of Finance delivered a letter dated February 9, 2018 to the Successor Agency approving portions of the OB Resolution, including the portion that approved the issuance of the 2018 Bonds by the Successor Agency; (d) on July 26, 2018, the Successor Agency issued the 2018A Bonds and the 2018B Bonds pursuant to the Indenture; (e) the net proceeds of the 2018A Bonds were deposited to the Eligible Project Costs Account and the net proceeds of the 2018B Bonds were deposited to the Eligible LMIHF Account, each established under the Original Indenture; and (f) all amounts in the Eligible Project Costs Account and the Eligible LMIHF Account were transferred to the Developer in satisfaction of portions of the Former Agency Obligation;

**WHEREAS**, on January 15, 2020, the Developer sent the Successor Agency a request pursuant to Section 6 of Part 1 and Section 6 of Part 2 of the Financing Plan, that the Successor Agency issue two new series of bonds to make additional payments on the Former Agency Obligation;

**WHEREAS**, in response to the Developer's request on February 19, 2020, the Successor Agency adopted Resolution No. _____ authorizing the issuance of its Successor Agency to the Marina Redevelopment Agency Tax Allocation Bonds, Series 2020A (the "2020A Bonds") and its Successor Agency to the Marina Redevelopment Agency Housing Tax Allocation Bonds, Series 2020B (the "2020B Bonds"), and the Successor Agency approved and authorized the execution of this First Supplement;

**WHEREAS**, on February 27, 2020, the Consolidated Oversight Board Successor Agency for the County of Monterey, State of California adopted Resolution No. _____ (the "Consolidated Oversight Board Resolution") pursuant to which it approved the issuance of the 2020A Bonds and the 2020B Bonds by the Successor Agency for the purpose of making funds available to make additional payments in respect of the Former Agency Obligation; and

**WHEREAS**, on _____, 2020, the California Department of Finance provided a letter to the Successor Agency approving the Consolidated Oversight Board Resolution; and

**WHEREAS**, Section 7.01(c) of the Original Indenture authorizes the Successor Agency to enter into Supplemental Indentures, as defined therein, in connection with the issuance of Parity Debt, as defined therein; and

**WHEREAS**, the Successor Agency now desires to proceed with the issuance of the 2020A Bonds as Series A Parity Debt and the 2020B Bonds as Series B Parity Debt pursuant to (and as such capitalized terms are defined in) Section 3.04 of the Original Indenture, as amended by this First Supplement, and it is intended that this First Supplement constitute a "Supplemental Indenture," as such term is used in the Original Indenture; and

**WHEREAS**, in providing for the issuance of the 2020A Bonds and the 2020B Bonds, the Successor Agency has determined that it is necessary to amend the Original Indenture, as more particularly provided in Sections 1 and 2 hereof, as such amendments are authorized by Section 7.01 of the Original Indenture (including Section 7.01(c) thereof); and

**WHEREAS**, the Successor Agency has determined that all acts and proceedings required by law necessary to make the 2020A Bonds and the 2020B Bonds, when executed by the Successor Agency, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Successor Agency, and to constitute the Original Indenture, as amended by this First Supplement, a valid and binding agreement for the uses and purposes herein and therein set forth in accordance with its terms, have been done or taken.

## AGREEMENT:

**NOW, THEREFORE**, in consideration of the premises and the mutual agreements herein contained, and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

**SECTION 1**. Supplement to Original Indenture. In accordance with the provisions of Section 7.01(c) of the Original Indenture, the Original Indenture is hereby amended by adding two new articles to be designated as Article X and Article XI. Such Article X and Article XI shall read in their entity as follows:

## ARTICLE X

## 2020A BONDS

Section 10.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 10.01 shall, for all purposes of this Article X but not for any other purposes of this Indenture, have the respective meanings specified in this Section 10.01. All terms defined in Section 1.02 of this Indenture and not otherwise defined in this Section 10.01 shall, when used in this Article X, have the respective meanings given to such terms in such section.

*"Article X"* means this Article X which has been incorporated in and made a part of this Indenture pursuant to the First Supplemental Indenture of Trust, dated as of _____ 1, 2020, by and between the Successor Agency and the Trustee, together with all amendments of and supplements to this Article X entered into pursuant to the provisions of Section 7.01.

*"Closing Date"* means _____, 2020, being the date upon which there was a physical delivery of the 2020A Bonds in exchange for the amount representing the purchase price of the 2020A Bonds by the Original Purchaser.

*"Continuing Disclosure Certificate"* means that certain Continuing Disclosure Certificate of the Successor Agency pertaining to the 2020A Bonds dated as of the Closing Date, as

originally executed and as it may be amended from time to time in accordance with the terms thereof.

*"Original Purchaser"* means Stifel, Nicolaus & Company, Incorporated, the first purchaser of the 2020A Bonds upon their delivery by the Trustee on the Closing Date.

*"Series 2020A Costs of Issuance"* means all items of expense directly or indirectly payable by or reimbursable to the Successor Agency relating to the authorization, issuance, sale and delivery of the 2020A Bonds, including but not limited to printing expenses, operating expenses, rating agency fees, filing and recording fees, initial fees and charges and first annual administrative fee of the Trustee and fees and expenses of its counsel, fees, charges and disbursements of attorneys, municipal advisors, fiscal consultants, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the 2020A Bonds, and any other cost, charge or fee in connection with the original issuance of the 2020A Bonds.

*"Series 2020A Costs of Issuance Fund"* means the fund by that name established and held by the Trustee pursuant to Section 10.07.

"*Series 2020A Proceeds Fund*" means the fund by that name established and held by the Trustee pursuant to Section 10.06.

Section 10.02. Authorization of 2020A Bonds. The Successor Agency has reviewed all proceedings heretofore taken with respect to the 2020A Bonds and has found, as a result of such review, and hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the 2020A Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Successor Agency is now duly empowered, pursuant to each and every requirement of law, including the Refunding Bond Law, to issue the 2020A Bonds in the manner and form provided in this Indenture.

2020A Bonds in the aggregate principal amount of _____ Million _____ Hundred Thousand Dollars ($_____) are hereby authorized to be issued by the Successor Agency as Series A Parity Debt under this Indenture, for the purpose of making deposits to the Eligible Project Costs Account of the Developer Payment Fund, to the Series 2020A Reserve Account and to the Series 2020A Costs of Issuance Fund; and the Trustee shall authenticate and deliver the 2020A Bonds to the Original Purchaser upon receipt of a request of the Successor Agency with respect thereto. The 2020A Bonds shall be authorized and issued under, and shall be subject to the terms of, this Indenture and the Law. This Indenture constitutes a continuing agreement with the Owners of all of the 2020A Bonds issued hereunder and then Outstanding to secure the full and final payment of principal of and interest on all 2020A Bonds which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The 2020A Bonds shall be designated the "Successor Agency to the Marina Redevelopment Agency Tax Allocation Bonds, Series 2020A."

Section 10.03. Terms of 2020A Bonds. (a) The 2020A Bonds shall be issued in fully registered form without coupons in denominations of $5,000 or any integral multiple thereof. The 2020A Bonds shall be dated the Closing Date, and shall mature and become payable in the following principal amounts on September 1 in the following years, and shall bear interest at the following interest rates (based on a 360-day year comprised of twelve 30-day months):

| Maturity Date (September 1) | Principal Amount | Interest Rate |
|---|---|---|

(b) Interest on the 2020A Bonds (including the final interest payment upon maturity or earlier redemption) shall be payable on each Interest Payment Date, commencing September 1, 2020, to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee mailed by first class mail, postage prepaid, on the Interest Payment Date, to such Owner at the address of such Owner as it appears on the Registration Books as of such Record Date; provided however, that payment of interest may be by wire transfer to an account in the United States of America to any registered owner of 2020A Bonds in the aggregate principal amount of $1,000,000 or more who shall furnish written wire instructions to the Trustee on or before the applicable Record Date. Such instructions shall remain in effect until rescinded in writing by the Owner. Principal of and redemption premium (if any) on any 2020A Bond shall be paid upon presentation and surrender thereof, at maturity or redemption, at the Principal Corporate Trust Office. Both the principal of and interest and premium (if any) on the 2020A Bonds shall be payable in lawful money of the United States of America.

(c) The 2020A Bonds shall be dated as of their date of delivery and each 2020A Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (i) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (ii) it is authenticated on or before August 15, 2020, in which event they shall bear interest from the Closing Date; provided, however, that if, as of the date of authentication of the 2020A Bonds, interest thereon is in default, the 2020A Bonds shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(d) The 2020A Bonds shall be subject to the provisions of Sections 2.06 (Transfer of Bonds), 2.07 (Exchange of Bonds), 2.09 (Temporary Bonds) and 2.10 (Bonds Mutilated, Lost, Destroyed or Stolen) of this Indenture.

(e) CUSIP numbers shall appear on the 2020A Bonds, subject to the provisions of Section 2.11 of this Indenture.

(f) The 2020A Bonds shall be subject to the Book-Entry Only System, as set forth in Section 2.12 of this Indenture, and to the provisions of Section 2.13 of this Indenture.

Section 10.04. Redemption of 2020A Bonds.

(a) Optional Redemption of 2020A Bonds. The 2020A Bonds maturing on or before September 1, ____, are not subject to optional redemption prior to maturity. The 2020A Bonds maturing on or after September 1, ____, are subject to redemption, at the option of the Successor Agency, but only with the prior written consent of the Developer to the extent required under the Financing Plan, on any date on or after September 1, ____, as a whole or in part, among such maturities as shall be determined by the Successor Agency (and, in lieu of such determination, pro rata among maturities), and by lot within a maturity, from any available source of funds, at the following redemption prices expressed as a percentage of the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption:

| Redemption Date | Redemption Price |
|---|---|
| September 1, ____ to August 31, ____ | % |
| September 1, ____ to August 31, ____ | |
| September 1, ____ to August 31, ____ | |
| September 1, ____ and thereafter | |

The Successor Agency shall be required to give the Trustee written notice of its intention to redeem 2020A Bonds under this subsection 10.04(a) with a designation of the maturities of the 2020A Bonds to be redeemed at least forty-five (45) days prior to the date fixed for such redemption, or such lesser number of days as shall be agreed to by the Trustee.

(b) Mandatory Sinking Payment Redemption. (i) The 2020A Bonds maturing on September 1, ____ ("2020A Term Bonds"), are subject to mandatory redemption from Sinking Account payments set forth in the following schedule on September 1, ____, and on each September 1 thereafter, to and including September 1, ____, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; provided, however, that if some but not all of the 2020A Term Bonds have been redeemed pursuant to subsection (a) above, the total amount of Sinking Account payments to be made subsequent to such redemption shall be reduced in an amount equal to the principal amount of the 2020A Term Bonds so redeemed by reducing each such future Sinking Account payment on a pro rata basis (as nearly as practicable) in integral

multiples of $5,000, as shall be designated pursuant to written notice filed by the Successor Agency with the Trustee.

| Redemption Date (September 1) | Principal Amount |
|---|---|

(c) Notice of Redemption. The Trustee on behalf and at the expense of the Successor Agency shall mail (by first class mail, postage prepaid) notice of any redemption at least thirty (30) but not more than sixty (60) days prior to the redemption date, to (i) the Owners of any 2020A Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) the Securities Depositories and to the Information Services designated in a Written Request of the Successor Agency filed with the Trustee at the time the Successor Agency notifies the Trustee of its intention to redeem 2020A Bonds; *provided, however,* that such mailing shall not be a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such 2020A Bonds or the cessation of the accrual of interest thereon. Such notice shall state the redemption date and the redemption price, shall designate the CUSIP number of the 2020A Bonds to be redeemed, shall state the individual number of each Series 2020A Bond to be redeemed or state that all 2020A Bonds between two stated numbers (both inclusive) or shall state that all of the 2020A Bonds Outstanding of one or more maturities are to be redeemed, and shall require that such 2020A Bonds be then surrendered at the Principal Corporate Trust Office of the Trustee for redemption at the said redemption price, giving notice also that further interest on the 2020A Bonds to be redeemed will not accrue from and after the date fixed for redemption.

Notwithstanding the foregoing, in the case of any optional redemption of the 2020A Bonds under Section 10.04(a) above, the notice of redemption may state that the redemption is conditioned upon receipt by the Trustee of sufficient moneys to redeem the 2020A Bonds on the anticipated redemption date, and that the optional redemption shall not occur if, by no later than the scheduled redemption date, sufficient moneys to redeem the 2020A Bonds have not been deposited with the Trustee. In the event that the Trustee does not receive sufficient funds by the scheduled optional redemption date to so redeem the 2020A Bonds to be optionally redeemed, such event shall not constitute an Event of Default; the Trustee shall send written notice to the Owners to the effect that the redemption did not occur as anticipated, and the 2020A Bonds for which notice of optional redemption was given shall remain Outstanding for all purposes of this Indenture.

Upon the payment of the redemption price of 2020A Bonds being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, bear the CUSIP

number identifying, by maturity, the 2020A Bonds being redeemed with the proceeds of such check or other transfer.

(d) Partial Redemption of 2020A Bonds. In the event only a portion of any Series 2020A Bond is called for redemption, then upon surrender thereof the Successor Agency shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Successor Agency, a new Series 2020A Bond or 2020A Bonds of the same interest rate and maturity, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Series 2020A Bond to be redeemed.

(e) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the 2020A Bonds so called for redemption shall have been duly deposited with the Trustee, such 2020A Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest shall accrue thereon from and after the redemption date specified in such notice.

(f) Manner of Redemption. Whenever provision is made in this Indenture for the redemption of less than all of the 2020A Bonds, the Trustee will select 2020A Bonds for redemption in such order of maturity as shall be designated by the Successor Agency in its discretion, and the Trustee shall select the 2020A Bonds within a maturity to be redeemed by lot in any manner which the Trustee in its sole discretion shall deem appropriate. Notwithstanding the foregoing, if for any reason the Successor Agency fails to provide the Trustee with direction as to the maturities to be redeemed, the Trustee shall select the 2020A Bonds to be redeemed pro rata among maturities.

Section 10.05. Form of 2020A Bonds; Authentication and Delivery. The 2020A Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the respective forms set forth in Exhibit C attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

The 2020A Bonds shall be executed on behalf of the Successor Agency by the signature of its Chair and the signature of its Board Secretary who are in office on the Closing Date or at any time thereafter. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any Series 2020A Bond ceases to be such officer before the Closing Date, such signature shall nevertheless be as effective as if the officer had remained in office until the Closing Date. Any Series 2020A Bond may be signed and attested on behalf of the Successor Agency by such persons as at the actual date of the execution of such Series 2020A Bond shall be the proper officers of the Successor Agency, duly authorized to execute debt instruments on behalf of the Successor Agency, although on the date of such Series 2020A Bond any such person shall not have been such officer of the Successor Agency.

Only such of the 2020A Bonds as shall bear thereon a certificate of authentication in the form set forth in Exhibit C to this Indenture (which is Exhibit A to the First Supplemental Indenture of Trust, dated as of _____ 1, 2020, between the Successor Agency and the Trustee), manually executed and dated by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that such 2020A Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 10.06. Application of Proceeds of Sale of 2020A Bonds. Upon the receipt of the proceeds of the sale of the 2020A Bonds on the Closing Date of $_____ (being the principal amount of the 2020A Bonds of $_____, less an underwriter's discount of $_____, plus an original issue premium of $_____), the Trustee shall deposit the proceeds of sale thereof in the Series 2020A Proceeds Fund which the Trustee shall establish and hold in trust hereunder, and the Trustee shall transfer amounts in the Series 2020A Proceeds Fund as follows:

(a) The Trustee shall deposit in the Series 2020A Costs of Issuance Fund $_____;

(b) The Trustee shall deposit $_____ in the Series 2020A Reserve Account of the Series A Debt Service Fund; and

(c) The Trustee shall deposit $_____ in the Eligible Project Costs Account of the Developer Payment Fund.

Following the transfers described in subparagraphs (a), (b) and (c) above, the Trustee shall close the Series 2020A Proceeds Fund. The Trustee may, in its discretion, establish a temporary fund or account in its books and records to facilitate transfers required under this Section 10.06.

Section 10.07. Series 2020A Costs of Issuance Fund. There is hereby established a separate fund to be known as the "Series 2020A Costs of Issuance Fund", which shall be held by the Trustee in trust. The Trustee shall deposit in the Series 2020A Costs of Issuance Fund the amount specified in Section 10.06(a). The moneys in the Series 2020A Costs of Issuance Fund shall be used and withdrawn by the Trustee from time to time to pay the Series 2020A Costs of Issuance upon submission of a Written Request of the Successor Agency stating (a) the person to whom payment is to be made, (b) the amount to be paid, (c) the purpose for which the obligation was incurred, (d) that such payment is a proper charge against the Series 2020A Costs of Issuance Fund, and (e) that such amounts have not been the subject of a prior request of the Successor Agency. On the earlier of (i) the date which is six months following the Closing Date, or (ii) the date of receipt by the Trustee of a Written Request of the Successor Agency therefor, all amounts (if any) remaining in the Series 2020A Costs of Issuance Fund shall be withdrawn therefrom by the Trustee and transferred to the Interest Account, and the Trustee shall then close the Series 2020A Costs of Issuance Fund.

Section 10.08. Deposit and Investment of Moneys in Funds. Moneys in the funds and accounts held by the Trustee under this Article X shall be invested by the Trustee in Permitted Investments pursuant to Section 6.07 of this Indenture.

Section 10.09. Security for 2020A Bonds. The 2020A Bonds shall be Parity Debt which shall be secured in the manner and to the extent set forth in Article IV and in this Article X.

Section 10.10. Continuing Disclosure. The Successor Agency hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure of the Successor Agency to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, any owner of 2020A Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Successor Agency to comply with its obligations under this Section.

Section 10.11. Effect of this Article X. Except as in this Article X expressly provided or except to the extent inconsistent with any provision of this Article X, the 2020A Bonds shall be deemed to be "Series A Parity Debt" under and within the meaning of Section 3.04, and every term and condition contained in this Indenture shall apply to the 2020A Bonds with full force and effect, with such omissions, variations and modifications thereof as may be appropriate to make the same conform to this Article X.

## ARTICLE XI

## 2020B BONDS

Section 11.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 11.01 shall, for all purposes of this Article XI but not for any other purposes of this Indenture, have the respective meanings specified in this Section 11.01. All terms defined in Section 1.02 of this Indenture and not otherwise defined in this Section 11.01 shall, when used in this Article XI, have the respective meanings given to such terms in such section.

*"Article XI"* means this Article XI which has been incorporated in and made a part of this Indenture pursuant to the First Supplemental Indenture of Trust, dated as of _____ 1, 2020, by and between the Successor Agency and the Trustee, together with all amendments of and supplements to this Article XI entered into pursuant to the provisions of Section 7.01.

*"Closing Date"* means _____, 2020, being the date upon which there was a physical delivery of the 2020B Bonds in exchange for the amount representing the purchase price of the 2020B Bonds by the Original Purchaser.

*"Continuing Disclosure Certificate"* means that certain Continuing Disclosure Certificate of the Successor Agency pertaining to the 2020B Bonds dated as of the Closing Date, as

originally executed and as it may be amended from time to time in accordance with the terms thereof.

*"Original Purchaser"* means Stifel, Nicolaus & Company, Incorporated, the first purchaser of the 2020B Bonds upon their delivery by the Trustee on the Closing Date.

*"Series 2020B Costs of Issuance"* means all items of expense directly or indirectly payable by or reimbursable to the Successor Agency relating to the authorization, issuance, sale and delivery of the 2020B Bonds, including but not limited to printing expenses, operating expenses, rating agency fees, filing and recording fees, initial fees and charges and first annual administrative fee of the Trustee and fees and expenses of its counsel, fees, charges and disbursements of attorneys, municipal advisors, fiscal consultants, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the 2020B Bonds, and any other cost, charge or fee in connection with the original issuance of the 2020B Bonds.

*"Series 2020B Costs of Issuance Fund"* means the fund by that name established and held by the Trustee pursuant to Section 11.07.

"*Series 2020B Proceeds Fund*" means the fund by that name established and held by the Trustee pursuant to Section 11.06.

Section 11.02. Authorization of 2020B Bonds. The Successor Agency has reviewed all proceedings heretofore taken with respect to the 2020B Bonds and has found, as a result of such review, and hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the 2020B Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Successor Agency is now duly empowered, pursuant to each and every requirement of law, including the Refunding Bond Law, to issue the 2020B Bonds in the manner and form provided in this Indenture.

2020B Bonds in the aggregate principal amount of _____ Million _____ Hundred Thousand Dollars ($_____) are hereby authorized to be issued by the Successor Agency as Series B Parity Debt under this Indenture, for the purpose of making deposits to the Eligible LMIHF Costs Account of the Developer Payment Fund, to the Series 2020B Reserve Account and to the Series 2020B Costs of Issuance Fund; and the Trustee shall authenticate and deliver the 2020B Bonds to the Original Purchaser upon receipt of a request of the Successor Agency with respect thereto. The 2020B Bonds shall be authorized and issued under, and shall be subject to the terms of, this Indenture and the Law. This Indenture constitutes a continuing agreement with the Owners of all of the 2020B Bonds issued hereunder and then Outstanding to secure the full and final payment of principal of and interest on all 2020B Bonds which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The 2020B Bonds shall be designated the "Successor Agency to the Marina Redevelopment Agency Tax Allocation Bonds, Series 2020B."

Section 11.03. Terms of 2020B Bonds. (a) The 2020B Bonds shall be issued in fully registered form without coupons in denominations of $5,000 or any integral multiple thereof. The 2020B Bonds shall be dated the Closing Date, and shall mature and become payable in the following principal amounts on September 1 in the following years, and shall bear interest at the following interest rates (based on a 360-day year comprised of twelve 30-day months):

| Maturity Date (September 1) | Principal Amount | Interest Rate |
|---|---|---|

(b) Interest on the 2020B Bonds (including the final interest payment upon maturity or earlier redemption) shall be payable on each Interest Payment Date, commencing September 1, 2020, to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee mailed by first class mail, postage prepaid, on the Interest Payment Date, to such Owner at the address of such Owner as it appears on the Registration Books as of such Record Date; provided however, that payment of interest may be by wire transfer to an account in the United States of America to any registered owner of 2020B Bonds in the aggregate principal amount of $1,000,000 or more who shall furnish written wire instructions to the Trustee on or before the applicable Record Date. Such instructions shall remain in effect until rescinded in writing by the Owner. Principal of and redemption premium (if any) on any 2020B Bond shall be paid upon presentation and surrender thereof, at maturity or redemption, at the Principal Corporate Trust Office. Both the principal of and interest and premium (if any) on the 2020B Bonds shall be payable in lawful money of the United States of America.

(c) The 2020B Bonds shall be dated as of their date of delivery and each 2020B Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (i) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (ii) it is authenticated on or before August 15, 2020, in which event they shall bear interest from the Closing Date; provided, however, that if, as of the date of authentication of the 2020B Bonds, interest thereon is in default, the 2020B Bonds shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(d) The 2020B Bonds shall be subject to the provisions of Sections 2.06 (Transfer of Bonds), 2.07 (Exchange of Bonds), 2.09 (Temporary Bonds) and 2.10 (Bonds Mutilated, Lost, Destroyed or Stolen) of this Indenture.

(e) CUSIP numbers shall appear on the 2020B Bonds, subject to the provisions of Section 2.11 of this Indenture.

(f) The 2020B Bonds shall be subject to the Book-Entry Only System, as set forth in Section 2.12 of this Indenture, and to the provisions of Section 2.13 of this Indenture.

Section 11.04. Redemption of 2020B Bonds.

(a) Optional Redemption of 2020B Bonds. The 2020B Bonds maturing on or before September 1, ____, are not subject to optional redemption prior to maturity. The 2020B Bonds maturing on or after September 1, ____, are subject to redemption, at the option of the Successor Agency, but only with the prior written consent of the Developer to the extent required under the Financing Plan, on any date on or after September 1, ____, as a whole or in part, among such maturities as shall be determined by the Successor Agency (and, in lieu of such determination, pro rata among maturities), and by lot within a maturity, from any available source of funds, at the following redemption prices expressed as a percentage of the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption:

| Redemption Date | Redemption Price |
|---|---|
| September 1, ____ to August 31, ____ | % |
| September 1, ____ to August 31, ____ | |
| September 1, ____ to August 31, ____ | |
| September 1, ____ and thereafter | |

The Successor Agency shall be required to give the Trustee written notice of its intention to redeem 2020B Bonds under this subsection 11.04(a) with a designation of the maturities of the 2020B Bonds to be redeemed at least forty-five (45) days prior to the date fixed for such redemption, or such lesser number of days as shall be agreed to by the Trustee.

(b) Mandatory Sinking Payment Redemption. (i) The 2020B Bonds maturing on September 1, ____ ("2020B Term Bonds"), are subject to mandatory redemption from Sinking Account payments set forth in the following schedule on September 1, ____, and on each September 1 thereafter, to and including September 1, ____, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; provided, however, that if some but not all of the 2020B Term Bonds have been redeemed pursuant to subsection (a) above, the total amount of Sinking Account payments to be made subsequent to such redemption shall be reduced in an amount equal to the principal amount of the 2020B Term Bonds so redeemed by reducing each

such future Sinking Account payment on a pro rata basis (as nearly as practicable) in integral multiples of $5,000, as shall be designated pursuant to written notice filed by the Successor Agency with the Trustee.

| Redemption Date (September 1) | Principal Amount |
|---|---|

(c) Notice of Redemption. The Trustee on behalf and at the expense of the Successor Agency shall mail (by first class mail, postage prepaid) notice of any redemption at least thirty (30) but not more than sixty (60) days prior to the redemption date, to (i) the Owners of any 2020B Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) the Securities Depositories and to the Information Services designated in a Written Request of the Successor Agency filed with the Trustee at the time the Successor Agency notifies the Trustee of its intention to redeem 2020B Bonds; *provided, however,* that such mailing shall not be a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such 2020B Bonds or the cessation of the accrual of interest thereon. Such notice shall state the redemption date and the redemption price, shall designate the CUSIP number of the 2020B Bonds to be redeemed, shall state the individual number of each Series 2020B Bond to be redeemed or state that all 2020B Bonds between two stated numbers (both inclusive) or shall state that all of the 2020B Bonds Outstanding of one or more maturities are to be redeemed, and shall require that such 2020B Bonds be then surrendered at the Principal Corporate Trust Office of the Trustee for redemption at the said redemption price, giving notice also that further interest on the 2020B Bonds to be redeemed will not accrue from and after the date fixed for redemption.

Notwithstanding the foregoing, in the case of any optional redemption of the 2020B Bonds under Section 11.04(a) above, the notice of redemption may state that the redemption is conditioned upon receipt by the Trustee of sufficient moneys to redeem the 2020B Bonds on the anticipated redemption date, and that the optional redemption shall not occur if, by no later than the scheduled redemption date, sufficient moneys to redeem the 2020B Bonds have not been deposited with the Trustee. In the event that the Trustee does not receive sufficient funds by the scheduled optional redemption date to so redeem the 2020B Bonds to be optionally redeemed, such event shall not constitute an Event of Default; the Trustee shall send written notice to the Owners to the effect that the redemption did not occur as anticipated, and the 2020B Bonds for which notice of optional redemption was given shall remain Outstanding for all purposes of this Indenture.

Upon the payment of the redemption price of 2020B Bonds being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, bear the CUSIP number identifying, by maturity, the 2020B Bonds being redeemed with the proceeds of such check or other transfer.

(d) Partial Redemption of 2020B Bonds. In the event only a portion of any Series 2020B Bond is called for redemption, then upon surrender thereof the Successor Agency shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Successor Agency, a new Series 2020B Bond or 2020B Bonds of the same interest rate and maturity, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Series 2020B Bond to be redeemed.

(e) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the 2020B Bonds so called for redemption shall have been duly deposited with the Trustee, such 2020B Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest shall accrue thereon from and after the redemption date specified in such notice.

(f) Manner of Redemption. Whenever provision is made in this Indenture for the redemption of less than all of the 2020B Bonds, the Trustee will select 2020B Bonds for redemption in such order of maturity as shall be designated by the Successor Agency in its discretion, and the Trustee shall select the 2020B Bonds within a maturity to be redeemed by lot in any manner which the Trustee in its sole discretion shall deem appropriate. Notwithstanding the foregoing, if for any reason the Successor Agency fails to provide the Trustee with direction as to the maturities to be redeemed, the Trustee shall select the 2020B Bonds to be redeemed pro rata among maturities.

Section 11.05. Form of 2020B Bonds; Authentication and Delivery. The 2020B Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the respective forms set forth in Exhibit D attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

The 2020B Bonds shall be executed on behalf of the Successor Agency by the signature of its Chair and the signature of its Board Secretary who are in office on the Closing Date or at any time thereafter. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any Series 2020B Bond ceases to be such officer before the Closing Date, such signature shall nevertheless be as effective as if the officer had remained in office until the Closing Date. Any Series 2020B Bond may be signed and attested on behalf of the Successor Agency by such persons as at the actual date of the execution of such Series 2020B Bond shall be the proper officers of the Successor Agency, duly authorized to execute debt instruments on behalf of the Successor Agency, although on the

date of such Series 2020B Bond any such person shall not have been such officer of the Successor Agency.

Only such of the 2020B Bonds as shall bear thereon a certificate of authentication in the form set forth in Exhibit D to this Indenture (which is Exhibit B to the First Supplemental Indenture of Trust, dated as of _____ 1, 2020, between the Successor Agency and the Trustee), manually executed and dated by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that such 2020B Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 11.06. Application of Proceeds of Sale of 2020B Bonds. Upon the receipt of the proceeds of the sale of the 2020B Bonds on the Closing Date of $_____ (being the principal amount of the 2020B Bonds of $_____, less an underwriter's discount of $_____, plus an original issue premium of $_____), the Trustee shall deposit the proceeds of sale thereof in the Series 2020B Proceeds Fund which the Trustee shall establish and hold in trust hereunder, and the Trustee shall transfer amounts in the Series 2020B Proceeds Fund as follows:

(a) The Trustee shall deposit in the Series 2020B Costs of Issuance Fund $_____;

(b) The Trustee shall deposit $_____ in the Series 2020B Reserve Account of the Series B Debt Service Fund; and

(c) The Trustee shall deposit $_____ in the Eligible Project Costs Account of the Developer Payment Fund.

Following the transfers described in subparagraphs (a), (b) and (c) above, the Trustee shall close the Series 2020B Proceeds Fund. The Trustee may, in its discretion, establish a temporary fund or account in its books and records to facilitate transfers required under this Section 11.06.

Section 11.07. Series 2020B Costs of Issuance Fund. There is hereby established a separate fund to be known as the "Series 2020B Costs of Issuance Fund", which shall be held by the Trustee in trust. The Trustee shall deposit in the Series 2020B Costs of Issuance Fund the amount specified in Section 11.06(a). The moneys in the Series 2020B Costs of Issuance Fund shall be used and withdrawn by the Trustee from time to time to pay the Series 2020B Costs of Issuance upon submission of a Written Request of the Successor Agency stating (a) the person to whom payment is to be made, (b) the amount to be paid, (c) the purpose for which the obligation was incurred, (d) that such payment is a proper charge against the Series 2020B Costs of Issuance Fund, and (e) that such amounts have not been the subject of a prior request of the Successor Agency. On the earlier of (i) the date which is six months following the Closing Date, or (ii) the date of receipt by the Trustee of a Written Request of the Successor Agency therefor,

all amounts (if any) remaining in the Series 2020B Costs of Issuance Fund shall be withdrawn therefrom by the Trustee and transferred to the Interest Account, and the Trustee shall then close the Series 2020B Costs of Issuance Fund.

Section 11.08. Deposit and Investment of Moneys in Funds. Moneys in the funds and accounts held by the Trustee under this Article XI shall be invested by the Trustee in Permitted Investments pursuant to Section 6.07 of this Indenture.

Section 11.09. Security for 2020B Bonds. The 2020B Bonds shall be Parity Debt which shall be secured in the manner and to the extent set forth in Article IV and in this Article XI.

Section 11.10. Continuing Disclosure. The Successor Agency hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure of the Successor Agency to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, any owner of 2020B Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Successor Agency to comply with its obligations under this Section.

Section 11.11. Effect of this Article XI. Except as in this Article XI expressly provided or except to the extent inconsistent with any provision of this Article XI, the 2020B Bonds shall be deemed to be "Series B Parity Debt" under and within the meaning of Section 3.04, and every term and condition contained in this Indenture shall apply to the 2020B Bonds with full force and effect, with such omissions, variations and modifications thereof as may be appropriate to make the same conform to this Article XI.

SECTION 2. Additional Amendments to Original Indenture.

(a) The following terms are hereby added to Section 1.02 of the Original Indenture:

"*Reserve Requirement*" means, with respect to the 2020A Bonds and as of any date of calculation, an amount equal to the least of (a) Maximum Annual Debt Service on the 2020A Bonds for the then current or every subsequent Bond Year, (b) 125% of average Annual Debt Service on the 2020A Bonds for the then current and every subsequent Bond Year, and (c) 10% of the original principal amount of the 2020A Bonds.

"*Reserve Requirement*" means, with respect to the 2020B Bonds and as of any date of calculation, an amount equal to the least of (a) Maximum Annual Debt Service on the 2020B Bonds for the then current or every subsequent Bond Year, (b) 125% of average Annual Debt Service on the 2020B Bonds for the then current and every subsequent Bond Year, and (c) 10% of the original principal amount of the 2020B Bonds.

"*2020A Bonds*" means the Successor Agency to the Marina Redevelopment Agency Tax Allocation Bonds, Series 2020A, authorized by and at any time Outstanding pursuant to this Indenture.

"*Series 2020A Reserve Account*" means the account by that name within the Series A Debt Service Fund established and held by the Trustee pursuant to Section 4.03(a).

"*2020B Bonds*" means the Successor Agency to the Marina Redevelopment Agency Tax Allocation Bonds, Series 2020B, authorized by and at any time Outstanding pursuant to this Indenture.

"*Series 2020B Reserve Account*" means the account by that name within the Series B Debt Service Fund established and held by the Trustee pursuant to Section 4.03(b).

(b) The following terms defined in Section 1.02 of the Original Indenture are hereby amended as follows:

(i) The term "Parity Debt" is hereby amended by adding thereto, as a new last sentence thereof, the following: "It is hereby acknowledged that the 2020A Bonds are Parity Debt with respect to the Series 2018A Bonds, and the 2020B bonds are Parity Debt with respect to the 2018B Bonds."

(ii) The term "Term Bonds" is hereby amended by adding thereto, as a new last sentence thereof, the following: "It is hereby acknowledged that the 2020A Bonds maturing on September 1, ___ are Term Bonds and the 2020B Bonds maturing on September 1, ____ are Term Bonds."

(c) The first paragraph of Section 4.01 of the Original Indenture is hereby amended by adding thereto, as new fourth and fifth sentences thereof, the following: "The 2020A Bonds are also secured by an exclusive pledge of, security interest in and lien on amounts in the Series 2020A Reserve Account within the Series A Debt Service Fund. Except for the Pledged Non-Housing Funds and such moneys, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium (if any) on the 2020A Bonds."

(d) The second paragraph of Section 4.01 of the Original Indenture is hereby amended by adding thereto, as new fourth and fifth sentences thereof, the following: "The 2020B Bonds are also secured by an exclusive pledge of, security interest in and lien on amounts in the Series 2020B Reserve Account within the Series B Debt Service Fund. Except for the Available LMIHF Funds and such moneys, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium (if any) on the 2020B Bonds."

(e) The first sentence of the first paragraph of Section 4.03(a) of the Original Indenture is hereby amended by adding thereto, after the words "the Reserve Account" therein, the following: ", the Series 2020A Reserve Account."

(f) The first sentence of the first paragraph of Section 4.03(b) of the Original Indenture is hereby amended by adding thereto, after the words "the Reserve Account" therein, the following: ", the Series 2020B Reserve Account."

(g) Subparagraph (c) of the first paragraph of Section 6.07 of the Original Indenture is hereby amended by adding thereto, after the words "the Reserve Account" therein, the following: "or the Series 2020A Reserve Account or the Series 2020B Reserve Account."

**SECTION 3**. Attachment of Exhibit C. The Original Indenture is hereby further amended by incorporating therein an Exhibit C setting forth the form of the 2020A Bonds, which shall read in its entirety as set forth in Exhibit A attached hereto and by this reference made a part hereof.

**SECTION 4**. Attachment of Exhibit D. The Original Indenture is hereby further amended by incorporating therein an Exhibit D setting forth the form of the 2020B Bonds, which shall read in its entirety as set forth in Exhibit B attached hereto and by this reference made a part hereof.

**SECTION 5**. Partial Invalidity. If any section, paragraph, sentence, clause or phrase of this First Supplement shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this First Supplement. The Successor Agency hereby declares that it would have entered into this First Supplement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issue of the 2020A Bonds and the 2020B Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences. clauses, or phrases of this First Supplement may be held illegal, invalid or unenforceable.

**SECTION 6**. Execution in Counterparts. This First Supplement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 7**. Governing Law. This First Supplement shall be construed and governed in accordance with the laws of the State of California applicable to contracts made and performed in such State.

IN WITNESS WHEREOF, the SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY has caused this First Supplemental Indenture of Trust to be signed in its name by the City Manager of the City of Marina, California, and MUFG UNION BANK, N.A., in token of its acceptance of the trusts created hereunder, has caused this First Supplemental Indenture of Trust to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY

By: _____
City Manager of the
City of Marina, California

MUFG UNION BANK, N.A., as Trustee

By: _____
Vice President

13068.02:J16732

## EXHIBIT A TO FIRST SUPPLEMENTAL INDENTURE OF TRUST

EXHIBIT C
FORM OF SERIES 2020A BOND

No. _____ $_____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA
COUNTY OF MONTEREY

SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY
TAX ALLOCATION BOND, SERIES 2020A

| RATE OF INTEREST: | MATURITY DATE: | DATED DATE: | CUSIP: |
|---|---|---|---|
| | September 1, ____ | _____, 2020 | |

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

The SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY, a public body, corporate and politic, duly organized and existing under the laws of the State of California (the "Successor Agency"), for value received, hereby promises to pay (but only out of the Tax Revenues and other moneys hereafter referred to) to the Registered Owner identified above or registered assigns (the "Registered Owner"), on the Maturity Date identified above, the Principal Amount identified above in lawful money of the United States of America; and to pay interest thereon at the Rate of Interest identified above in like lawful money from the date hereof, which date shall be the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond (unless this Bond is authenticated on or before an Interest Payment Date and after the fifteenth calendar day of the month preceding such Interest Payment Date (a "Record Date"), in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to August 15, 2020, in which event it shall bear interest from the Dated Date identified above; *provided, however,* that if, at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest hereon has previously been paid or made available for payment), payable semiannually on March 1 and September 1 in each year, commencing September 1, 2020 (the "Interest Payment Dates") until payment of such Principal Amount in full.

The Principal Amount hereof is payable upon presentation hereof at the Principal Corporate Trust Office (as defined in the Indenture) of MUFG Union Bank, N.A., as trustee (the "Trustee"), or at such other place as is designated by the Trustee. Interest hereon is payable by check of the Trustee mailed by first class mail on each Interest Payment Date to the Registered Owner hereof at the address of such Registered Owner as it appears on the registration books of the Trustee as of the preceding Record Date; provided that at the written request of the owner of at least $1,000,000 aggregate principal amount of Bonds which written request is on file with the Trustee as of any Record Date, interest on such Bonds shall be paid on the succeeding Interest Payment Date by wire transfer to such account as shall be specified in such written request.

This Bond is one of a duly authorized issue of bonds of the Successor Agency designated as the "Successor Agency to the Marina Redevelopment Agency Tax Allocation Bonds, Series 2020A" (the "Bonds") of an aggregate principal amount of _____ Million _____ Hundred Thousand Dollars ($_____), all of like tenor and date (except for such variation, if any, as may be required to designate varying numbers, maturities, interest rates or redemption provisions) and all issued pursuant to the provisions of Section 34177.5 of the California Health and Safety Code and pursuant to Resolution No. _____ of the Successor Agency, adopted on February 19, 2020, and Resolution No. _____ adopted by the Consolidated Oversight Board Successor Agency for the County of Monterey, State of California, on February 27, 2020, and pursuant to an Indenture of Trust, dated as of July 1, 2018, by and between the Successor Agency and the Trustee, as amended by a First Supplemental Indenture of Trust, dated as of _____ 1, 2020, between the Successor Agency and the Trustee (as so amended, the "Indenture"). Additional bonds or other obligations may be issued by the Successor Agency secured under the Indenture on a parity with the Bonds and the 2018A Bonds ("Parity Debt"), but only subject to the terms of the Indenture. Reference is hereby made to the Indenture (copies of which are on file at the office of the Trustee) and all supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Tax Revenues, as that term is defined in the Indenture, and the rights thereunder of the owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Successor Agency thereunder, to all of the provisions of which the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the Successor Agency to (a) provide funds to make payments on the Former Agency Obligation (as defined in the Indenture), (b) pay certain expenses of the Successor Agency in issuing the Bonds, and (c) fund the Series 2020A Reserve Account established under the Indenture as security for the Bonds.

The Bonds are limited obligations of the Successor Agency and this Bond and the interest hereon and on all other Bonds and the interest thereon (to the extent set forth in the Indenture), are payable from, and are secured by a pledge of, security interest in and lien on the Pledged Non-Housing Funds deposited from time to time in the Redevelopment Obligation Retirement Fund established pursuant to the Indenture, as described below.

There has been created and will be maintained by the Successor Agency, the Redevelopment Obligation Retirement Fund (as defined in the Indenture) into which Pledged Non-Housing Funds shall be deposited and from which the Successor Agency shall transfer Available Non-Housing Tax Increment Funds to the Trustee for payment of the principal of and the interest and redemption premium, if any, on the Bonds, the 2018A Bonds and any Parity Debt when due. As and to the extent set forth in the Indenture, Pledged Non-Housing Funds are exclusively and irrevocably pledged to and constitute a trust fund, in accordance with the terms hereof and the provisions of the Indenture and the Law, for the security and payment or redemption of, including any premium upon early redemption, and for the security and payment of interest on, the Bonds, the 2018A Bonds and any Parity Debt. In addition, the Bonds shall be secured at all times by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Series 2020A Reserve Account of the Series A Debt Service Fund, and the Bonds, the 2018A Bonds and any Parity Debt shall be additionally secured at all times by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Interest Account, the Principal Account, Sinking Account and the Redemption Account of the Series A Debt Service Fund (as such terms are defined in the Indenture). Except for the Pledged Non-Housing Funds and moneys in the Series A Debt Service Fund and the accounts therein, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium, if any, on the Bonds.

The Bonds maturing on or before September 1, ____, are not subject to optional redemption prior to maturity. The Bonds maturing on or after September 1, ____, are subject to redemption, at the option of the Successor Agency, but only with the prior written consent of the Developer to the extent required under the Financing Plan, on any date on or after September 1, ____, as a whole or in part, among such maturities as shall be determined by the Successor Agency (and, in lieu of such determination, pro rata among maturities), and by lot within a maturity, from any available source of funds, at the following redemption prices expressed as a percentage of the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption:

| Redemption Date | Redemption Price |
|---|---|
| September 1, ____ to August 31, ____ | % |
| September 1, ____ to August 31, ____ | |
| September 1, ____ to August 31, ____ | |
| September 1, ____ and thereafter | |

The Bonds maturing on September 1, ____, are subject to mandatory redemption from Sinking Account payments set forth in the following schedule on September 1, ____, and on each September 1 thereafter, to and including September 1, ____, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

| Redemption Date (September 1) | Principal Amount |
|---|---|

As provided in the Indenture, notice of redemption shall be mailed by the Trustee by first class mail not less than thirty (30) nor more than sixty (60) days prior to the redemption date to the respective owners of any Bonds designated for redemption at their addresses appearing on the Bond registration books of the Trustee, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default, as defined in the Indenture, shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture, but such declaration and its consequences may be rescinded and annulled as further provided in the Indenture.

The Bonds are issuable as fully registered Bonds without coupons in denominations of $5,000 and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations and of the same maturity.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Principal Corporate Trust Office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new fully registered Bond or Bonds, of any authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. The Trustee may refuse to transfer or exchange (a) any Bonds during the fifteen (15) days prior to the date established for the selection of Bonds for redemption, or (b) any Bonds selected for redemption.

The Successor Agency and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Successor Agency and the Trustee shall not be affected by any notice to the contrary.

The rights and obligations of the Successor Agency and the registered owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Successor Agency to pay the principal, interest or redemption premiums (if any) at the time and place and at the rate and in the currency provided herein of any Bond without the express written consent of the registered owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee.

This Bond is not a debt of the City of Marina, the State of California, or any of its political subdivisions, and neither said City, said State, nor any of its political subdivisions is liable hereon, nor in any event shall this Bond be payable out of any funds or properties other than those of the Successor Agency. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time, form and manner as required by the Law and the laws of the State of California and that the amount of this Bond, together with all other indebtedness of the Successor Agency, does not exceed any limit prescribed by the Law or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Trustee for registration of transfer, exchange or payment, and any Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication hereon endorsed shall have been signed by the Trustee.

IN WITNESS WHEREOF, the Successor Agency to the Marina Redevelopment Agency has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its Chair and attested to by the facsimile signature of its Board Secretary, all as of the date of issuance of the Bonds.

SUCCESSOR AGENCY TO THE MARINA
REDEVELOPMENT AGENCY

By: _____
Chair

ATTEST:

By: _____
Board Secretary

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture.

Authentication Date: _____

MUFG UNION BANK, N.A., as Trustee

By: _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto

_____

_____

_____

(Name, Address and Tax Identification or Social Security Number)

the within-mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s) _____ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signatures Guaranteed:

_____

Note: Signature(s) must be guaranteed by an eligible guarantor.

_____

Note: The signatures(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

## EXHIBIT B TO FIRST SUPPLEMENTAL INDENTURE OF TRUST

EXHIBIT D
FORM OF SERIES 2020B BOND

No. _____ $_____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA
COUNTY OF MONTEREY

SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY
HOUSING TAX ALLOCATION BONDS, SERIES 2020B

| RATE OF INTEREST: | MATURITY DATE: | DATED DATE: | CUSIP: |
|---|---|---|---|
| | September 1, ____ | _____, 2020 | |

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

The SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY, a public body, corporate and politic, duly organized and existing under the laws of the State of California (the "Successor Agency"), for value received, hereby promises to pay (but only out of the Tax Revenues and other moneys hereafter referred to) to the Registered Owner identified above or registered assigns (the "Registered Owner"), on the Maturity Date identified above, the Principal Amount identified above in lawful money of the United States of America; and to pay interest thereon at the Rate of Interest identified above in like lawful money from the date hereof, which date shall be the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond (unless this Bond is authenticated on or before an Interest Payment Date and after the fifteenth calendar day of the month preceding such Interest Payment Date (a "Record Date"), in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to August 15, 2020, in which event it shall bear interest from the Dated Date identified above; *provided, however,* that if, at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest hereon has previously been paid or made available for payment), payable semiannually on March 1 and September 1 in each year, commencing September 1, 2020 (the "Interest Payment Dates") until payment of such Principal Amount in full.

The Principal Amount hereof is payable upon presentation hereof at the Principal Corporate Trust Office (as defined in the Indenture) of MUFG Union Bank, N.A., as trustee (the "Trustee"), or at such other place as is designated by the Trustee. Interest hereon is payable by check of the Trustee mailed by first class mail on each Interest Payment Date to the Registered Owner hereof at the address of such Registered Owner as it appears on the registration books of the Trustee as of the preceding Record Date; provided that at the written request of the owner of at least $1,000,000 aggregate principal amount of Bonds which written request is on file with the Trustee as of any Record Date, interest on such Bonds shall be paid on the succeeding Interest Payment Date by wire transfer to such account as shall be specified in such written request.

This Bond is one of a duly authorized issue of bonds of the Successor Agency designated as the "Successor Agency to the Marina Redevelopment Agency Tax Allocation Bonds, Series 2020B" (the "Bonds") of an aggregate principal amount of _____ Million _____ Hundred Thousand Dollars ($_____), all of like tenor and date (except for such variation, if any, as may be required to designate varying numbers, maturities, interest rates or redemption provisions) and all issued pursuant to the provisions of Section 34177.5 of the California Health and Safety Code and pursuant to Resolution No. _____ of the Successor Agency, adopted on February 19, 2020, and Resolution No. _____ adopted by the Consolidated Oversight Board Successor Agency for the County of Monterey, State of California on February 27, 2020, and pursuant to an Indenture of Trust, dated as of July 1, 2018, by and between the Successor Agency and the Trustee, as amended by a First Supplemental Indenture of Trust, dated as of _____ 1, 2020, between the Successor Agency and the Trustee (as so amended, the "Indenture"). Additional bonds or other obligations may be issued by the Successor Agency secured under the Indenture on a parity with the Bonds and the 2018B Bonds ("Parity Debt"), but only subject to the terms of the Indenture. Reference is hereby made to the Indenture (copies of which are on file at the office of the Trustee) and all supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Tax Revenues, as that term is defined in the Indenture, and the rights thereunder of the owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Successor Agency thereunder, to all of the provisions of which the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the Successor Agency to (a) provide funds to make payments on the Former Agency Obligation (as defined in the Indenture), and (b) pay certain expenses of the Successor Agency in issuing the Bonds, and (c) fund the Series 2020B Reserve Account established under the Indenture as security for the Bonds.

The Bonds are limited obligations of the Successor Agency and this Bond and the interest hereon and on all other Bonds and the interest thereon (to the extent set forth in the Indenture), are payable from, and are secured by a pledge of, security interest in and lien on the Available LMIHF Funds deposited from time to time in the Redevelopment Obligation Retirement Fund established pursuant to the Indenture, as described below.

There has been created and will be maintained by the Successor Agency, the Redevelopment Obligation Retirement Fund (as defined in the Indenture) into which Available LMIHF Funds shall be deposited and from which the Successor Agency shall transfer Available LMIHF Funds to the Trustee for payment of the principal of and the interest and redemption premium, if any, on the Bonds, the 2018B Bonds and any Parity Debt when due. As and to the extent set forth in the Indenture, all such Available LMIHF Funds are exclusively and irrevocably pledged to and constitute a trust fund, in accordance with the terms hereof and the provisions of the Indenture and the Law, for the security and payment or redemption of, including any premium upon early redemption, and for the security and payment of interest on, the Bonds and any Parity Debt. In addition, the Bonds, the 2018B Bonds shall be secured at all times by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Series 2020B Reserve Account of the Series B Debt Service Fund, and the Bonds, the 2018B Bonds and any Parity Debt shall be additionally secured at all times by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Interest Account, the Principal Account, Sinking Account and the Redemption Account of the Series B Debt Service Fund (as such terms are defined in the Indenture). Except for the Available LMIHF Funds and moneys in the Series B Debt Service Fund and the accounts therein, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium, if any, on the Bonds.

The Bonds maturing on or before September 1, ____, are not subject to optional redemption prior to maturity. The Bonds maturing on or after September 1, ____, are subject to redemption, at the option of the Successor Agency, but only with the prior written consent of the Developer to the extent required under the Financing Plan, on any date on or after September 1, ____, as a whole or in part, among such maturities as shall be determined by the Successor Agency (and, in lieu of such determination, pro rata among maturities), and by lot within a maturity, from any available source of funds, at the following redemption prices expressed as a percentage of the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption:

| Redemption Date | Redemption Price |
|---|---|
| September 1, ____ to August 31, ____ | % |
| September 1, ____ to August 31, ____ | |
| September 1, ____ to August 31, ____ | |
| September 1, ____ and thereafter | |

The Bonds maturing on September 1, ____, are subject to mandatory redemption from Sinking Account payments set forth in the following schedule on September 1, ____, and on each September 1 thereafter, to and including September 1, ____, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

| Redemption Date (September 1) | Principal Amount |
|---|---|

As provided in the Indenture, notice of redemption shall be mailed by the Trustee by first class mail not less than thirty (30) nor more than sixty (60) days prior to the redemption date to the respective owners of any Bonds designated for redemption at their addresses appearing on the Bond registration books of the Trustee, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default, as defined in the Indenture, shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture, but such declaration and its consequences may be rescinded and annulled as further provided in the Indenture.

The Bonds are issuable as fully registered Bonds without coupons in denominations of $5,000 and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations and of the same maturity.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Principal Corporate Trust Office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new fully registered Bond or Bonds, of any authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. The Trustee may refuse to transfer or exchange (a) any Bonds during the fifteen (15) days prior to the date established for the selection of Bonds for redemption, or (b) any Bonds selected for redemption.

The Successor Agency and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Successor Agency and the Trustee shall not be affected by any notice to the contrary.

The rights and obligations of the Successor Agency and the registered owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Successor Agency to pay the principal, interest or redemption premiums (if any) at the time and place and at the rate and in the currency provided herein of any Bond without the express written consent of the registered owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee.

This Bond is not a debt of the City of Marina, the State of California, or any of its political subdivisions, and neither said City, said State, nor any of its political subdivisions is liable hereon, nor in any event shall this Bond be payable out of any funds or properties other than those of the Successor Agency. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time, form and manner as required by the Law and the laws of the State of California and that the amount of this Bond, together with all other indebtedness of the Successor Agency, does not exceed any limit prescribed by the Law or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Trustee for registration of transfer, exchange or payment, and any Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication hereon endorsed shall have been signed by the Trustee.

IN WITNESS WHEREOF, the Successor Agency to the Marina Redevelopment Agency has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its Chair and attested to by the facsimile signature of its Board Secretary, all as of the date of issuance of the Bonds.

SUCCESSOR AGENCY TO THE MARINA
REDEVELOPMENT AGENCY

By: _____
Chair

ATTEST:

By: _____
Board Secretary

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture.

Authentication Date: _____

MUFG UNION BANK, N.A., as Trustee

By: _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto

_____

_____

_____

(Name, Address and Tax Identification or Social Security Number)

the within-mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s) _____ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signatures Guaranteed:

_____

Note: Signature(s) must be guaranteed by an eligible guarantor.

_____

Note: The signatures(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

# EXHIBIT E

**Table 1**
**Projection of Property Tax Revenue to Taxing Agencies [3]**
**Dunes Project**
**Marina, CA** **January 14, 2020**

*$Thousands*

| | County | FORA (1) | MPUSD and MPC - Facilities Share of Pass Through | MPUSD and MPC Property Tax(2) | City of Marina | Other Taxing Agencies | ERAF (2) | Total |
|---|---|---|---|---|---|---|---|---|
| 2020-21 | $887 | $875 | $426 | $443 | $40 | $186 | $24 | $2,882 |
| 2021-22 | $910 | $875 | $436 | $453 | $41 | $191 | $25 | $2,931 |
| 2022-23 | $1,016 | $875 | $480 | $500 | $46 | $213 | $27 | $3,158 |
| 2023-24 | $1,339 | $875 | $613 | $640 | $59 | $281 | $35 | $3,843 |
| 2024-25 | $1,712 | $875 | $767 | $802 | $74 | $360 | $44 | $4,636 |
| 2025-26 | $2,112 | $875 | $932 | $976 | $91 | $445 | $54 | $5,486 |
| 2026-27 | $2,431 | $875 | $1,064 | $1,114 | $104 | $512 | $62 | $6,163 |
| 2027-28 | $2,749 | $875 | $1,176 | $1,478 | $203 | $595 | $121 | $7,199 |
| 2028-29 | $2,918 | $875 | $1,240 | $1,610 | $233 | $635 | $139 | $7,651 |
| 2029-30 | $3,049 | $875 | $1,291 | $1,705 | $253 | $666 | $151 | $7,990 |
| 2030-31 | $3,171 | $875 | $1,358 | $1,813 | $273 | $694 | $163 | $8,347 |
| 2031-32 | $3,238 | $875 | $1,395 | $1,876 | $285 | $710 | $170 | $8,549 |
| 2032-33 | $3,306 | $875 | $1,432 | $1,938 | $297 | $726 | $178 | $8,753 |
| 2033-34 | $3,375 | $875 | $1,470 | $2,003 | $310 | $743 | $185 | $8,961 |
| 2034-35 | $3,446 | $875 | $1,508 | $2,069 | $323 | $760 | $193 | $9,174 |
| 2035-36 | $3,519 | $875 | $1,548 | $2,136 | $336 | $777 | $201 | $9,392 |
| 2036-37 | $3,592 | $875 | $1,588 | $2,206 | $350 | $794 | $209 | $9,615 |
| 2037-38 | $3,731 | $875 | $1,629 | $2,603 | $481 | $847 | $288 | $10,454 |
| 2038-39 | $3,816 | $875 | $1,670 | $2,718 | $511 | $870 | $306 | $10,767 |
| 2039-40 | $3,903 | $875 | $1,713 | $2,836 | $542 | $893 | $324 | $11,087 |
| 2040-41 | $3,992 | $875 | $1,756 | $2,957 | $573 | $917 | $343 | $11,413 |
| 2041-42 | $4,082 | $875 | $1,801 | $3,079 | $605 | $942 | $362 | $11,746 |
| 2042-43 | $4,175 | $875 | $1,846 | $3,205 | $637 | $966 | $381 | $12,085 |
| 2043-44 | $4,269 | $875 | $1,892 | $3,332 | $670 | $992 | $401 | $12,431 |
| 2044-45 | $4,365 | $875 | $1,939 | $3,463 | $704 | $1,018 | $421 | $12,784 |
| 2045-46 | $4,463 | $875 | $1,987 | $3,596 | $738 | $1,044 | $442 | $13,144 |
| 2046-47 | $4,746 | $875 | $2,036 | $4,677 | $1,114 | $1,171 | $666 | $15,286 |
| 2047-48 | $4,848 | $875 | $2,086 | $4,816 | $1,149 | $1,199 | $687 | $15,660 |
| **Total** | **$89,161** | **$24,513** | **$39,077** | **$61,045** | **$11,041** | **$20,148** | **$6,604** | **$251,590** |

(1) Estimated amount generated by Dunes contributed towards FORA blight bond debt service (portion of overall FORA bond debt service)

(2) This amount is an offset to State funding for schools.

(3) Represents combination of pass throughs and property tax "residual" funds generated by the Dunes development, net of amounts required for related enforceable obligations.

Prepared by Keyser Marston Associates, Inc.
\\sf-fs2\SFEmployee\ddoezema\My Documents\Projects\Marina Dunes\Taxing agency revenue analysis .xlsx; Taxing agency revenue sum; 1/14/2020