



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary

Fee Waiver for the Market and Octavia Community Improvement Impact Fee and the Van Ness and Market Neighborhood Infrastructure Fee

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

HEARING DATE: JUNE 6, 2019

Record No.: 2015.010013IKA
Project Address: 30 Otis Street
Date: May 30, 2019
Plan Area: Market & Octavia
Project Sponsor: Jessie Stuart
Align Real Estate
255 California St. Suite 525
San Francisco, CA 94111

Staff Contact: Lily Langlois (415-575-9083)
Lily.Langlois@sfgov.org

SUMMARY

The Project Sponsor of the development at 30 Otis is seeking to enter an In-Kind Agreement with the City of San Francisco to provide a new pedestrian plaza and public space improvements at the corner of 12th Street, Otis Street, and South Van Ness Avenue in return for a waiver of \$3,000,000 of their Market and Octavia Community Improvement Impact Fee and Van Ness and Market Neighborhood Infrastructure Fee obligations.

PROJECT LOCATION

The proposed project, called 30 Otis Plaza, is located at the corner of 12th Street, Otis Street, and South Van Ness Avenue. The project's location at the intersection of Otis/Mission Street and South Van Ness Avenue gives it prominence and visibility, and its proximity to the Van Ness Metro Station and the future end-of-the-line Van Ness Bus Rapid Transit (BRT) stop, make it a major transit-oriented development. The project falls within the "Hub", referred to as *SoMa West* in the Market Octavia Area Plan, envisioned as an area for high density residential development. Numerous policies in the Area Plan support this vision including the creation of the Van Ness and Market Downtown Residential Special Use District (SUD). The SUD encourages the development of a transit-oriented, high-density, mixed-use residential neighborhood around the intersections of Market Street and Van Ness Avenue and Mission Street and South Van Ness Avenue.

As envisioned in the Hub Public Realm Plan, 30 Otis Plaza is intended to be the gracious "southern terminus" of a new linear public open space on 12th Street that will be redesigned to serve as a calm,

pedestrian-oriented high-density residential street. The new 12th Street open space will begin at Market Street, and run along the east edge of 12th Street, until opening into the large plaza at 30 Otis. Above the plaza, on the west side of 12th Street, the In-Kind Agreement would also fund the replacement of the sidewalk in front of 40 12th Street, 42 12th Street, and 56-70 12th Street, including street trees, paving, and plantings to Better Streets Plan standards.

30 Otis Plaza will be an approximately 9,500 sq. ft. public plaza, which would occupy a portion of the former 12th Street right-of-way and a small portion of private property adjacent to the east façade of the 30 Otis building. The 30 Otis building would include a ground-floor retail space and residential lobby entrance, as well as an entrance to the City Ballet School, that would open onto the plaza. In addition to implementing the vision of the public realm improvements called for in the Hub Public Realm Plan, the new plaza is consistent with the Market Octavia Area Plan; and with the design for the plaza area as part of the Van Ness Improvement and Bus Rapid Transit (BRT) Project, which includes the previously-approved realignment of 12th Street at South Van Ness Avenue.

BACKGROUND

On September 27, 2018, the project at 30 Otis was approved by the Planning Commission. The proposed project consists of demolition of the five existing buildings and construction of a new 398,365 gross square-foot mixed-use building containing 416 residential units, 2,199 ft² of retail, 15,993 ft² of arts activities space and a theater to be occupied by the City Ballet School. The project provides 95 residential parking spaces, three car-share spaces, a total of 224 Class 1 bicycle parking spaces and 32 Class 2 bicycle parking spaces. The building consists of a 9-story, 85 foot tall podium across the entire site and a 26-story, 250 foot tall tower located at the southeast corner of the site, at the corner of Otis and 12th Streets. The project provides approximately 31,290 ft² of usable open space including a privately owned public space along Otis Street. Additionally, the project would create the approximately 9,500 ft² public plaza to be funded by this In-Kind Agreement fee waiver..

Per Sections 421 and 424 of the Planning Code, the project is subject to pay \$5,020,125 in Market and Octavia Community Improvement impact fees, and \$2,022,278 in Van Ness and Market Neighborhood Infrastructure fees, since the property falls within the boundaries of the Market and Octavia Area Plan and Van Ness and Market Residential Special Use District. As per Sections 421.3(d) and 424.3(c) of the Planning Code, sponsors may pay the impact fee directly to the City or may request to directly provide infrastructure that is consistent with the Community Improvements Program for the Market Octavia Area Plan. Such direct provision of infrastructure requires approval of the City, in the form of a legally binding "In-Kind Agreement." Align Real Estate, the Project Sponsor for the 30 Otis development, is seeking such an In-Kind Agreement to provide public space improvements for the 30 Otis Plaza.

The proposed 30 Otis Plaza consists of 9,533 ft² of pedestrian-only plaza (See Attachment 5). The Project Sponsor would not receive In-Kind credit for any portion of the plaza improvements on the Sponsor's property (497 ft²); or on the curbside sidewalk edges of South Van Ness and 12th Streets (1,896 ft²); or for public right-of-way improvements which are already required under the Better Streets Plan; or for several artistic benches and a reflecting pool, which are part of the 30 Otis project's public art requirement and have been approved by the Arts Commission (2,124 ft²). The In-Kind fee waiver would cover only pedestrian plaza improvements, including utilities relocation, between its building frontage and property line and the plaza edges of the new sidewalks bordering the new plaza on 12th Street and South Van Ness Avenue, a total of 5,016 ft² of the entire 9,533 public plaza area. In addition, In-Kind credit would cover the reconstruction of the 12th Street sidewalk in front of 40 12th Street, 42 12th Street, and 56-70 12th Street,

including street trees, paving, and plantings to Better Streets Plan standards. This will enable the eventual complete reconstruction of 12th St by the 3 major developments along 12th St, including 30 Otis, 1601 Market (“Plumber’s Union”), and 10 South Van Ness (“Honda site”), in 3 corresponding major phases.

The improvements proposed for this agreement would support the policies established in the Market & Octavia Area Plan passed in 2008. The Plan envisioned high density residential development at the Market and Van Ness intersection, an enhanced public realm, and improvements to support transit use, walking, and biking. Further, both the Market Octavia Plan as well as the Hub Public Realm Plan recognize underutilized streets and rights-of-way as an opportunity to create new public parks and plazas.

PROPOSED PUBLIC IMPROVEMENTS

The Project Sponsors of 30 Otis propose to provide public space and infrastructure improvements at the corner of 12th Street, Otis Street, and South Van Ness Avenue to create a new public open space and enhance pedestrian safety. The proposed public plaza included in this In-Kind Agreement would feature:

- 1) New pedestrian-only plaza (9,533 ft²), with public art benches and small reflecting pool, special paving, green planters and trees, permanent stairs seating, and movable tables and chairs.
- 2) New sidewalk and streetscape improvements to the west side of 12th Street (3,569 ft²)

The plaza would be publicly accessible at all time and located on public rights-of-way and private property, subject to an operations plan that would be developed subsequent to this approval, and approved by the City, via the Public Works Major Encroachment Permit (MEP) process.

OUTREACH AND PUBLIC COMMENT

The Market Octavia Citizen Advisory Committee (the CAC) reviewed iterations of the proposed Plaza at the October 2018 and May 2019 meetings. The CAC approved a resolution on May 20, 2019 supporting the improvements and recommending an in-kind waiver of a maximum of \$3,000,000 (See Attachment 4).

According to the Project Sponsor, extensive community engagement has been conducted for the 30 Otis development and the associated 30 Otis Plaza. Since hosting its first pre-application community meeting in April 2016, the Project Sponsor has presented at or attended more than 40 meetings to review the proposed project and streetscape design included in this In-Kind Agreement. The Project Sponsor has reviewed the proposed plaza and In-Kind agreement with all adjacent neighbors and project sponsors of proposed projects within the vicinity.

DESIGN REVIEW

The project sponsor began conversations with the City on seeking an In-Kind Agreement early in the process of their project entitlements. The proposed design has been reviewed and commented on by the Planning Department (including the Streets Design Advisory Group), the Department of Public Works, the SFMTA, and the SF Arts Commission Civic Design Review Committee. The Agencies have reviewed the concept design to identify any design and technical issues; the resulting design incorporates their recommendations and reflects the feedback received from city agencies. The Project Sponsor has incorporated changes in the final concept design including pedestrian circulation and access, improving loading and passenger drop-off, and the use of a palette of materials recommended by Public Works to coordinate with the rest of the design of 12th Street.

COST ESTIMATES & PROJECT BUDGET

For the construction cost of the portions of the plaza to be funded by the fee waiver, the Department received two cost estimates from the project sponsor – from Turner and Build Group – in the amount of \$4,052,335 and \$4,255,291, respectively. The cost estimates have been reviewed by the Planning Department and Department of Public Works (see Attachments 3). These cost estimates support the fee waiver amount of \$3,000,000. According to the Turner estimate, the total capital budget that is fundable by the in-kind fee waiver, including soft costs and escalation, is \$4,052,335, as follows:

Otis Plaza Capital Costs fundable by the in-kind agreement fee waiver

Construction costs (plaza & 12 th St sidewalk), including escalation	\$1,765,450
Soft costs (<i>Landscape architecture, civil engineering, etc.</i>)	\$504,281
Utilities Relocation, Permits, & Inspections	\$1,782,604
Total Development Cost	\$4,052,335.00

Based on the cost estimates and proposed in-kind value, as well as the other plaza costs for public art and Better Streets Plan requirements, the total project budget is \$5,722,344, as follows:

Total Otis Plaza Capital Budget

Plaza costs covered by In-Kind Agreement fee waiver	\$3,000,000
Remaining Plaza Costs funded by Project Sponsor	\$1,052,335
Required Better Streets Plan Required Improvements (sponsor-funded)	\$377,332
Public Art Requirements - Seating and Reflecting Pool (sponsor-funded)	\$1,292,677
Total Funding	\$5,722,344.00

MAINTENANCE OF IMPROVEMENTS

As part of the Major Encroachment Permit, the Project Sponsor is required to maintain the Plaza for the life of the improvements. Relatedly, a Maintenance Covenant would be outlined as part of the Major Encroachment Permit, in which a specific maintenance work program will be established; the responsibility for that work program will be tied to the 30 Otis development site in perpetuity through a Notice of Special Restriction on the property.

THE CITY'S PLAZA PROGRAM

Similarly, the In-Kind Agreement will include a provision indicating that the City may decide to include 30 Otis Plaza in the City's Plaza Program. Through the Plaza Program, City staff will assign the ongoing operations and programming of the plaza to a third party through a public RFP process to select a non-profit plaza steward. The advantages of participating in the Plaza Program include, but are not limited to enabling ongoing programming through a single permit, assuring that the plaza is sufficiently activated and does not inadvertently feel privatized.

ENVIRONMENTAL REVIEW

The proposed improvements were environmentally cleared as a part of the EIR for 30 Otis (Case no. 2015-010013ENV), dated November 1, 2018, on file with the Department.

GENERAL PLAN CONSISTENCY

The proposed Project is found to be in conformity with the General Plan. See the attached Draft Motion. These General Plan findings can be relied upon for other related City actions, such as approval of a Major Encroachment Permit and the remapping of curb lines, where General Plan findings (e.g. General Plan Referrals) will also be required.

REQUIRED COMMISSION ACTION

The action before the Commission is to approve an impact fee waiver for the 30 Otis project in the amount of \$3,000,000 in return for provision of the in-kind improvements discussed above.

BASIS FOR RECOMMENDATION

In September of 2010, the Planning Commission endorsed a policy entitled "[Procedures for In-Kind Agreements](#)". The proposed improvements would present a suitable priority for an In-Kind Agreement to satisfy portions of the applicable infrastructure impact fee obligation.

- The Proposed Improvements are Eligible for an In-Kind Agreement
- The Proposed Improvements are a Priority
- The Project is Recommended

ELIGIBILITY CRITERIA

1. Improvement Fulfills the Purpose of Community Improvements

Per Planning Code section 421.1(a) (which describes in-kind improvements under the Market Octavia Community Improvements Fund) public improvements, including community open spaces, pedestrian and streetscape improvements, are eligible for funding.

2. The Infrastructure Type is Identified in the Fee Ordinance

The plaza falls under the "Complete Streets" category of improvements in the Market and Octavia Community Improvements Fund and Van Ness and Market Residential SUD Infrastructure Fund, and therefore is eligible.

3. The Expenditure Category for Infrastructure Type is Not Exhausted

The "Complete Streets" category of these Infrastructure Funds have not been exhausted.

PRIORITIZATION CRITERIA

1. Improvement is identified in the Five-Year Capital Plan

The project is included in the current IPIC and CAC endorsed Five Year Capital Plan for Fiscal Year 2020-2024, which was adopted in December 2018, but for a lower amount of \$2,200,000. However, the In-Kind fee waiver at the higher amount of \$3,000,000 in support of the project was approved by the IPIC and CAC in May 2019 and will accordingly be incorporated into the forthcoming Five Year Capital Plan for Fiscal Year 2021-2025 which is expected to be approved by the IPIC and the CAC in November of this year. In addition, the Project is specifically included in the Hub Public Realm Plan as a priority public realm improvement in the area, and the Van Ness and 12th Street intersection is called out as one of the intersections for pedestrian improvements. Thus, this project fulfills the vision articulated in the Community Improvements identified in the Market Octavia Area Plan and in the Hub Public Realm Plan.

2. Improvement does not Compete with a CAC and IPIC Endorsed Improvement

The In-Kind fee waiver amount in support of the Project was approved by the IPIC and CAC in Fall, 2018 and in May 2019. As part of the approval by each of these entities, the Project was determined not to be in competition with any currently identified capital project included in the CAC and IPIC endorsed Five Year Capital Plan. This Project falls within the Complete Streets funding category, which as of the most recently adopted Five Year Capital Plan for Fiscal year 2020-2024 contains a projected un-programmed cumulative balance of \$10,698,000 through the Market and Octavia Community Improvements Fund and \$9,018,000 through the Van Ness and Market Residential SUD Infrastructure Fund, for a total of \$19,716,000 in unprogrammed Complete Streets Infrastructure funds.

3. CAC Supports the Proposed Improvement

The CAC approved a resolution in May 2019 supporting the improvements in an amount up to \$3,000,000 (Attachment 5).

4. Efficiencies are Gained Through Coordination with Development Project

Project Sponsors can utilize the construction tools and labor already working onsite for the 30 Otis development to deliver the improvements in a more timely and efficient manner. The Project would be timed with the development of the adjacent development and delivered no later than when the development is ready for occupancy. The Project could be built in conjunction with the development project, resulting in less disruption from construction than if the Project were independently built at another time.

RECOMMENDATION

The proposed 30 Otis Plaza and 12th Street sidewalk improvements support the policies and projects established in the Market & Octavia Area Plan. The Project would enhance pedestrian safety, provide additional public open space and community programming opportunities, and contribute to an improved public realm in this rapidly developing neighborhood.

The January 2019 Interagency Plan Implementation Report projects approximately \$32,089,000 in impact fee revenue for Complete Streets projects in the Market & Octavia Plan Area, including revenue from the Van Ness and Market SUD Infrastructure Fee, over the five-year period from FY 2019-20 through FY 2023-24. Of this, a total of \$11,300,000 in Complete Streets revenue has yet to be programmed and remains available to be allocated to specific eligible projects. At the May 8th, 2019 IPIC meeting, the IPIC was supportive of allocating up to \$3,000,000 for 30 Otis Plaza.

Pursuing this In-Kind Agreement would create an opportunity to capitalize on existing construction of an adjacent development to enhance and expand the public realm within the area, resulting in efficiencies gained for the construction of the improvements. The CAC has passed a resolution in support of this In-Kind Agreement for the scope of work described in this case report, for up to \$3,000,000.

Based on the public benefits generated, CAC support, public comments and outreach, and review of the design, cost estimate, and terms of the agreement, **the Planning Department recommends approval of this In-Kind Agreement.**

Attachments:

1. Draft Planning Commission Motion
2. Cost Estimates (Turner Construction and Build Group)
3. Market Octavia CAC Resolution
4. Otis Plaza Concept Design
5. In-Kind Agreement



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Motion

HEARING DATE: JUNE 6, 2019

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Record No.: 2015.010013IKA
Project Address: 30 Otis Street
Date: May 30, 2019
Plan Area: Market & Octavia
Project Sponsor: Jessie Stuart
Align Real Estate
255 California St. Suite 525
San Francisco, CA 94111

Staff Contact: Lily Langlois (415-575-9083)
Lily.Langlois@sfgov.org

APPROVING AN IMPACT FEE WAIVER FOR THE 30 OTIS PROJECT IN THE AMOUNT OF \$3,000,000 TO PROVIDE A NEW PEDESTRIAN PLAZA AND PUBLIC SPACE IMPROVEMENTS AT THE CORNER OF 12TH STREET, OTIS STREET, AND SOUTH VAN NESS AVENUE BASED ON THE COMPLETION OF AN IN-KIND AGREEMENT BETWEEN THE PROJECT SPONSOR AND THE CITY.

PREAMBLE

On May 30, 2008, the Market & Octavia Plan became effective, including now Section 421.3 of the San Francisco Planning Code, the Market and Octavia Community Improvements Fund applicable to all projects in the plan area, including the subject property. The Planning Code also enabled project sponsors to seek a waiver from the impact fees when providing public improvements through an In-Kind Agreement with the Planning Department.

On March 1, 2018, the Project Sponsor, Align Real Estate, filed an application with the City for approval of an In-Kind Agreement for provision of a new pedestrian plaza, public space, and streetscape improvements at the corner of 12th Street, Otis Street, and South Van Ness Avenue.

On September 27, 2018, the Planning Commission approved the 30 Otis project. The project consists of a consists a new 250' tall mixed-use building containing 416 residential units, 2,199 square feet of retail, 15,993 square feet of arts activities space and a theater to be occupied by the City Ballet School.

The proposed improvements would provide a new public open space to improve the public realm, enhance pedestrian safety, and provide open space. Creating the plaza is consistent with the Market & Octavia Area Plan; with the public realm improvements called for in Hub Public Realm Plan; and with the design for the area as part of the Van Ness Improvement and Bus Rapid Transit (BRT) Project. The improvements proposed for this agreement would support the policies established in the Market & Octavia Area Plan passed in 2008. The Plan envisioned high-density residential development at the Market and Van Ness intersection, an enhanced public realm, and improvements to support transit use, walking, and biking.

Further, both the Market & Octavia Plan as well as the Hub Public Realm Plan recognize underutilized streets and rights-of-way as an opportunity to create new public parks and plazas.

On May 20, 2019, in Motion 2019-05-20-01, the Market Octavia Citizens Advisory Committee passed a resolution supporting the proposed improvements for the 30 Otis In-Kind Agreement.

MOVED, that the Commission hereby authorizes the Market Octavia Community Improvements Fund Fee Waiver for 30 Otis in the amount of \$3,000,000 based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. The proposed In-Kind Agreement is consistent with the Planning Code Section 421.3.
3. **In-Kind Agreement Approval Criteria.** The proposed improvements would present a suitable priority for an In-Kind Agreement to satisfy portions of the Area Plan infrastructure impact fees as they meet the following criteria established in the Planning Commission approved "Procedures of In-Kind Agreements".
 - Improvement Fulfills the Purpose of Community Improvements: Per Planning Code section 421.1(a) (which describes in-kind improvements under the Market Octavia Community Improvements Fund) public improvements, including community open spaces, pedestrian and streetscape improvements, are eligible for funding.
 - The Infrastructure Type is identified in the Fee Ordinance: The plaza project falls under the "Complete Streets" category of improvements in the Market and Octavia Community Improvements Fund and Van Ness and Market Residential SUD Infrastructure Fund, and therefore is eligible.
 - The Expenditure Category for Infrastructure Type is Not Exhausted: The "Complete Streets" category of these Infrastructure Fund funds have not been exhausted.
4. **Priority Improvements.** The proposed improvements are a priority for the Plan Area as they meet the following criteria:
 - Improvement is identified in the Five-Year Capital Plan

The project is included in the current IPIC and CAC endorsed Five Year Capital Plan for Fiscal Year 2020-2024, which was adopted in December 2018, but for a lower amount of \$2,200,000. However, the In-Kind fee waiver at the higher amount of \$3,000,000 in support of the project was approved by the IPIC and CAC in May 2019 and will accordingly be incorporated into the forthcoming Five-Year Capital Plan for Fiscal Year 2021-2025 which is expected to be approved by the IPIC and the CAC in November of this year. In addition, the Project is specifically included in the Hub Public Realm Plan as a priority public realm improvement in the area, and the Van Ness and 12th Street intersection is called out as one of the intersections for pedestrian improvements. Thus, this project fulfills vision articulated in the Community Improvements identified in the Market Octavia Area Plan and in the Hub Public Plan.

- **Improvement does not Compete with a CAC and IPIC Endorsed Improvement:**

The In-Kind fee waiver amount in support of the Project was approved by the IPIC and CAC in Fall, 2018 and in May 2019. As part of the approval by each of these entities, the Project was determined not to be in competition with any currently identified capital project included in the CAC and IPIC endorsed Five Year Capital Plan. This Project falls within the Complete Streets funding category, which as of the most recently adopted Five Year Capital Plan for Fiscal year 2020-2024 contains a projected un-programmed cumulative balance of \$10,698,000 through the Market and Octavia Community Improvements Fund and \$9,018,000 through the Van Ness and Market Residential SUD Infrastructure Fund, for a total of \$19,716,000 in unprogrammed Complete Streets Infrastructure funds.

- **CAC Supports the Proposed Improvement:**

The CAC approved a resolution in May 2019 supporting the improvements in an amount up to \$3,000,000 and any eligible administrative and project management costs as to be determined by the Planning Department (Attachment 5).

- **Efficiencies are Gained Through Coordination with Development Project:**

Project Sponsors can utilize the construction tools and labor already working onsite for the 30 Otis development to deliver the improvements in a more timely and efficient manner. The Project would be timed with the development of the adjacent development and delivered no later than when the development is ready for occupancy. The Project could be built in conjunction with the development project, resulting in less disruption from construction than if the Project were independently built at another time

5. **Other City Agency Review.** The Project is recommended by the Planning Department and has been reviewed by other public agencies, including the Department of Public Works and the SFMTA. The Street Design Advisory Team, a multi-agency multi-disciplinary review team chaired by Planning, reviewed the project twice and is supportive of the concept design.
6. **Other Required City Actions.** The finalization of the design and the ultimate implementation of the plaza will require additional actions from other City Agencies, including but not necessarily limited to approval of a Major Encroachment Permit. These approvals are required in addition to this approval and the finalization of an In-Kind Agreement between the City and Project Sponsor.
7. **General Plan Compliance.** The Proposed Project is, on balance, consistent with the following Objectives and Policies of the General Plan. All required City approval actions where General Plan findings are required, including but not limited to a major encroachment permit and curb relocation legislation, may rely on findings below:

The proposed In-Kind improvements support the General Plan by implementing the below policies and objectives.

MARKET OCTAVIA AREA PLAN

OBJECTIVE 1.2 ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREA'S UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

Creation of this new pedestrian plaza at the highly-visible major intersection of South Van Ness Avenue and Otis/Mission Streets highlights the area's unique urban form as a transforming high-density residential neighborhood and strengthens the new neighborhood's fabric and character with a well-designed and integrated pedestrian plaza for public life.

OBJECTIVE 3.1 ENCOURAGE NEW BUILDINGS THAT CONTRIBUTE TO THE BEAUTY OF THE BUILT ENVIRONMENT AND THE QUALITY OF STREETS AS PUBLIC SPACE.

Creation of this new pedestrian plaza by the 30 Otis project contributes to the beauty of the surrounding built environment and the improved quality of the streets fronting the project's new high-rise residential building as public space.

OBJECTIVE 3.2 PROVIDE SAFE AND COMFORTABLE PUBLIC RIGHTS-OF-WAY FOR PEDESTRIAN USE AND IMPROVE THE PUBLIC LIFE OF THE NEIGHBORHOOD.

Creation of this plaza from former wide rights-of-way devoted to vehicles will improve the pedestrian experience and provide needed space for public life. The plaza builds on the approved design of this plaza as part of the Van Ness Improvement and Bus Rapid Transit (BRT) Project.

OBJECTIVE 5.3 ELIMINATE OR REDUCE THE NEGATIVE IMPACT OF PARKING ON THE PHYSICAL CHARACTER AND QUALITY OF THE NEIGHBORHOOD.

Creation of this plaza will eliminate and reduce the significant negative existing impacts of parking on 12th Street and neighborhood quality.

OBJECTIVE 7.2 ESTABLISH A FUNCTIONAL, ATTRACTIVE AND WELL-INTEGRATED SYSTEM OF PUBLIC STREETS AND OPEN SPACES IN THE SOMA WEST AREA TO IMPROVE THE PUBLIC REALM

POLICY 7.2.7 Embark on a study to reconfigure major intersections to make them safer for vehicles and pedestrians alike, to facilitate traffic movement, and to take advantage of opportunities to create public spaces.

URBAN DESIGN ELEMENT

OBJECTIVE 4 IMPROVE OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT PRIVDE AND OPPORTUNITY.

Policy 4.11 Make use of street space and other unused public areas for recreation, particularly in dense neighborhoods, such as those close to downtown, where land for traditional open spaces is more difficult to assemble.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 3 IMPROVE ACCESS AND CONNECTIVITY TO OPEN SPACE

Policy 3.1 Creatively develop existing publicly-owned rights-of-way and streets into open space.

The proposed 30 Otis Plaza would create a new plaza in coordination with the development project at 30 Otis Street.

OBJECTIVE 6 SECURE LONG-TERM RESOURCES AND MANAGEMENT FOR OPEN SPACE ACQUISITION, AND RENOVATION, OPERATIONS, AND MAINTENANCE OF RECREATIONAL FACILITIES AND OPEN SPACE.

Policy 6.1 Pursue and develop innovative long-term funding mechanisms for maintenance, operation, renovation and acquisition of open space and recreation.

Approvals for the plaza will be required by Public Works and/or other agencies having jurisdiction over the plaza. Through these approvals, including the Major Encroachment Permit (MEP) approval, ongoing maintenance plans and funding plans for the long-term maintenance of the plaza will be required. Furthermore, the Project Sponsor acknowledges that the City could require that it participate in the City's Plaza Program whereby the programming of the plaza is turned over to a third party to assure that it is sufficiently maintained and is managed as a public resource

8. **Planning Code Sections 101.1 Findings.** The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- a) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced

The proposed project will have no adverse effects on neighborhood-serving retail uses.

- b) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed project will protect and enhance the existing neighborhood character by creating a public plaza and improving the public life in the neighborhood.

- c) The City's supply of affordable housing will be preserved and enhanced:

The proposed project will have no adverse effects on the City's supply of affordable housing.

- d) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed project would not impede MUNI transit service.

- e) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed project would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- f) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed project would not affect the preparedness against injury and loss of life in an earthquake is unaffected.

- g) That landmark and historic buildings will be preserved

The proposed project would not adversely affect landmark and historic buildings.

- h) Parks and open space and their access to sunlight and vistas will be protected from development

The proposed project will not affect access to sunlight and vistas in parks and open spaces.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on June 6th, 2017.

Jonas P. Ionin
Director of Commission Affairs

AYES:

NAYS:

ABSENT:

ADOPTED:

Project: 30 Otis Street
Location: San Francisco, CA
Owner: Align
Architect: SCB

Project Type: Plaza Construction

Build Group Inc
 457 Minna St, San Francisco, Ca

Type: Sitework Budget
Est. Date: 10/18/2018 - 5/1/19 Update

Total Gross SF **12,200** **gsf**

Drawings: IPIC 30 Otos Public Art Plaza dated 10.10.18, 4.23.19 Updated Drawings

ITEM	DESCPTION	QUANTITY	UNIT	UNIT PRICE	Total Project	\$/sf	Notes
General Conditions		12,200	gsf	\$19.67	\$ 240,000		
01020	General Conditions	3	mo	\$75,000.00	\$ 225,000	\$18.44	Supervision/Temp Facilities
01020	Mobilizatoion	1	ls	\$15,000.00	\$ 15,000	\$1.23	Supervision/Temp Facilities
Sitework		12,200	gsf	\$77.27	\$ 942,700		
02200	Demo Site	12,200	sf	\$7.00	\$ 85,400	\$7.00	
02200	Grade Site	12,200	sf	\$10.50	\$ 128,100	\$10.50	
02600	Underground Utilities Allowance	1	allw	\$125,000.00	\$ 125,000	\$10.25	
02710	City Curb and Gutter	280	lf	\$75.00	\$ 21,000	\$1.72	
02710	CIP Concrete Planter	15	lf	\$1,250.00	\$ 18,750	\$1.54	
02710	CIP Concrete Curb	182	lf	\$85.00	\$ 15,470	\$1.27	
02710	CIP Concrete Stairs	225	lf	\$350.00	\$ 78,750	\$6.45	
02740	Unit Pavers on Grade	4,024	sf	\$45.00	\$ 181,080	\$14.84	
02740	Concrete Paving	2,750	sf	\$38.00	\$ 104,500	\$8.57	
02750	Bollards	4	ea	\$4,500.00	\$ 18,000	\$1.48	
02750	Truncated Domes	75	lf	\$120.00	\$ 9,000	\$0.74	
02775	Relocate Muni Poles	0	ea	\$80,000.00	\$ -	\$0.00	
02775	Light Poles	0	ea	\$37,000.00	\$ -	\$0.00	
02900	Trees on Grade	12	ea	\$1,600.00	\$ 19,200	\$1.57	
02900	Trees Grates	12	ea	\$1,500.00	\$ 18,000	\$1.48	
02900	Planting Allowance	1,606	sf	\$50.00	\$ 80,300	\$6.58	
02900	Irrigation Allowance	1,606	sf	\$25.00	\$ 40,150	\$3.29	
Metals		12,200	gsf	\$6.45	\$ 78,650		
05510	Handrail at Stairs	187	lf	\$325.00	\$ 60,775	\$4.98	
05510	Handrail, other	55	lf	\$325.00	\$ 17,875	\$1.47	
General Requirements		12,200	gsf	\$26.75	\$ 326,389		
22000	General Requirements	12,200	gsf	\$25.00	\$ 305,000	\$25.00	
20000	Sub Guard Bonding	1	ls	\$21,389.06	\$ 21,389	\$1.75	1.35% of subcontractor costs
SUBTOTAL DIRECT CONSTRUCTION (W/GC'S)					\$ 1,587,739	\$130.14	
PERMITS AND ASSESSMENTS, UTILITY FEES		0.00%			by owner		
BUSINESS TAX		0.41%			\$ 6,510	\$0.53	
LIABILITY INSURANCE		1.25%			\$ 19,847	\$1.63	
CONTINGENCY		10.00%			\$ 158,774	\$13.01	
CONTRACTOR'S FEE		5.00%			\$ 88,318	\$7.24	
ESCALATION		5.00%			\$ 93,059		
TOTAL					1,954,247	\$160.18	

BID REQUESTED ALTERNATES:	QUANTITY	UNIT	UNIT PRICE	EXTENSION	\$/SF gross
---------------------------	----------	------	------------	-----------	-------------

Alternates:

Qualifications:

- 1 Bonding is not included.
- 2 No Phase 1 or Phase 2 report provided
- 3 Assumes major utility upgrades are not required
- 4 Owner to provide all meters and utilities required for this space to complete work.
- 5 The cost for identifying or removal of any hazardous material is not included.
- 6 Price does not include unforeseen discovery or hidden defects/flaws.
- 7 Special Inspection Excluded. We will schedule and coordinate, but contract should be through owner



3/4/2019

Job #: 16-184

Re: Dry Utility Budget (REVISED)

Otis - Relocation And Temp Power Joint Trench Budget

Scope

1. Relocate Existing 4KV and 12KV primary electrical facilities to accommodate Plaza construction.
2. This budget also includes all equipment necessary for Temp Power scope. Because the two jobs need to be installed at the same time, I have combined the two scopes in one budget.
3. AT&T contract costs are associated with splicing (1) 300, (2) 100, (3) 50 pair copper cables a 48 fiber cable and a 24 fiber cable.

Contractor Costs

1. Trenching - 400 LF	<u><u>\$180,000.00</u></u>
2. Vaults and Splice Boxes (Supply, Install & Excavation UON)	<u><u>\$204,900.00</u></u>
a. PG&E	<u>\$113,500.00</u>
b. Telephone	<u>\$89,400.00</u>
c. CATV	<u>\$2,000.00</u>
3. Conduits - Supply and Install	<u><u>\$220,000.00</u></u>
a. PG&E	<u>\$108,000.00</u>
b. Telephone	<u>\$84,000.00</u>
c. CATV- Installed by CATV	<u>\$28,000.00</u>
4. PG&E Electrical System	<u><u>\$362,000.00</u></u>
5. PG&E Gas System	<u><u>NIC</u></u>

Total Construction Costs: \$966,900.00

Utility Contract Costs and Consulting Fees

1. PG&E Contract Costs - 10 Year Option	Low	High
2. AT&T Contract Costs	<u>NA</u>	<u>\$481,795.00</u>
	<u>\$75,000.00</u>	<u>\$300,000.00</u>

Total Utility Contract Costs and Consulting Fees: \$781,795.00

Total Construction and Utility Contract Costs/Fees: \$1,748,695.00

Budget Summary

Total Cost Per Foot - 400 Feet	<u><u>\$4,371.74</u></u>
--------------------------------	--------------------------

30 OTIS
Schematic Site Plan
Triangular Park Area



Item	IKA Qty	Unit	Unit Price	IKA Extension
General Conditions/General Requirements/ Precon	1,257,250	pct	20%	251,450
Clear Site	15,000	sf	6.00	90,000
Grade Site	15,000	sf	12.00	180,000
Mobilization	75%	allow	50,000	37,500
A - Tree Planting	12	ea	2,000	24,000
B - Planted Areas	1,451	sf	40	58,040
C - Concrete Planter - Seating	11	lf	1,000	11,000
J - Truncated Domes	73	sf	100	7,300
K - Curb	272	lf	80	21,760
M - Slot Drain	72	lf	250	18,000
P - Bollard	4	ea	1,500	6,000
S - Interlocking Stone Pavers on Grade	2,073	sf	80	165,840
T - Linear Interlocking Stone Pavers on Grade	542	sf	80	43,360
WW - Handrails	180	lf	250	45,000
W - Stairs	180	lf	300	54,000
X - Black Basalt Flamed Top Pavers on Grade	1,853	sf	100	185,300
Allow Utilities	75%	ls	100,000	75,000
Allow Irrigation	75%	ls	60,000	45,000
Pour in Place Concrete with Integral Color	2,543	sf	50	127,150
Curb or Wall for Stairs and Blackened Elements	180	lf	350	63,000

DIRECT COSTS	1,508,700
---------------------	------------------

GENERAL CONDITIONS	0
---------------------------	----------

Sub Guard	1.15%			17,350
General Liability	0.00%			0
Payment and Performance Bonds	0.00%			0

INSURANCE AND BONDS SUBTOTAL	17,350
-------------------------------------	---------------

SF Business Tax (.0035 thru GC's Books)	0.0035			4,461
GC Construction Contingency	12.00%			150,870

GENERAL MARKUPS SUBTOTAL	155,331
---------------------------------	----------------

TOTAL HARD COSTS	1,681,381
-------------------------	------------------

Escalation (1 yr)	5.00%			84,069
-------------------	-------	--	--	--------

TOTAL HARD COSTS (w/ Escalation)	1,765,450
---	------------------



3/4/2019

Job #: 16-184

Re: Dry Utility Budget (REVISED)

Otis - Relocation And Temp Power Joint Trench Budget

Scope

1. Relocate Existing 4KV and 12KV primary electrical facilities to accommodate Plaza construction.
2. This budget also includes all equipment necessary for Temp Power scope. Because the two jobs need to be installed at the same time, I have combined the two scopes in one budget.
3. AT&T contract costs are associated with splicing (1) 300, (2) 100, (3) 50 pair copper cables a 48 fiber cable and a 24 fiber cable.

Contractor Costs

1. Trenching - 400 LF	<u><u>\$180,000.00</u></u>
2. Vaults and Splice Boxes (Supply, Install & Excavation UON)	<u><u>\$204,900.00</u></u>
a. PG&E	<u>\$113,500.00</u>
b. Telephone	<u>\$89,400.00</u>
c. CATV	<u>\$2,000.00</u>
3. Conduits - Supply and Install	<u><u>\$220,000.00</u></u>
a. PG&E	<u>\$108,000.00</u>
b. Telephone	<u>\$84,000.00</u>
c. CATV- Installed by CATV	<u>\$28,000.00</u>
4. PG&E Electrical System	<u><u>\$362,000.00</u></u>
5. PG&E Gas System	<u><u>NIC</u></u>

Total Construction Costs: \$966,900.00

Utility Contract Costs and Consulting Fees

1. PG&E Contract Costs - 10 Year Option	Low	High
	NA	\$481,795.00
2. AT&T Contract Costs	<u>\$75,000.00</u>	<u>\$300,000.00</u>

Total Utility Contract Costs and Consulting Fees: \$781,795.00

Total Construction and Utility Contract Costs/Fees: \$1,748,695.00

Budget Summary

Total Cost Per Foot - 400 Feet	<u><u>\$4,371.74</u></u>
--------------------------------	--------------------------

Market Octavia Citizen Advisory Committee Motion

30 Otis Street In-Kind Application. Presentation on a proposal to construct a new plaza on 12 Street at Otis Street in association with a development project at 30 Otis Street through an In-Kind Agreement, followed by comment and action.

MOTION NO.: 2019-05-20-01

ACTION: To approve the in-kind agreement for an amount of \$3 million to build a new plaza at 12th Street and Otis Street. The new plaza would incorporate streetscape amenities, landscaping, lighting, and seating on the west side of 12th Street.

MOTION: Paul Olsen

SECOND: Ted Olsson

AYES: Ted Olsson, Paul Olsen, Chase Chambers

NOES: Jason Henderson

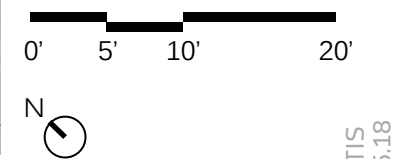
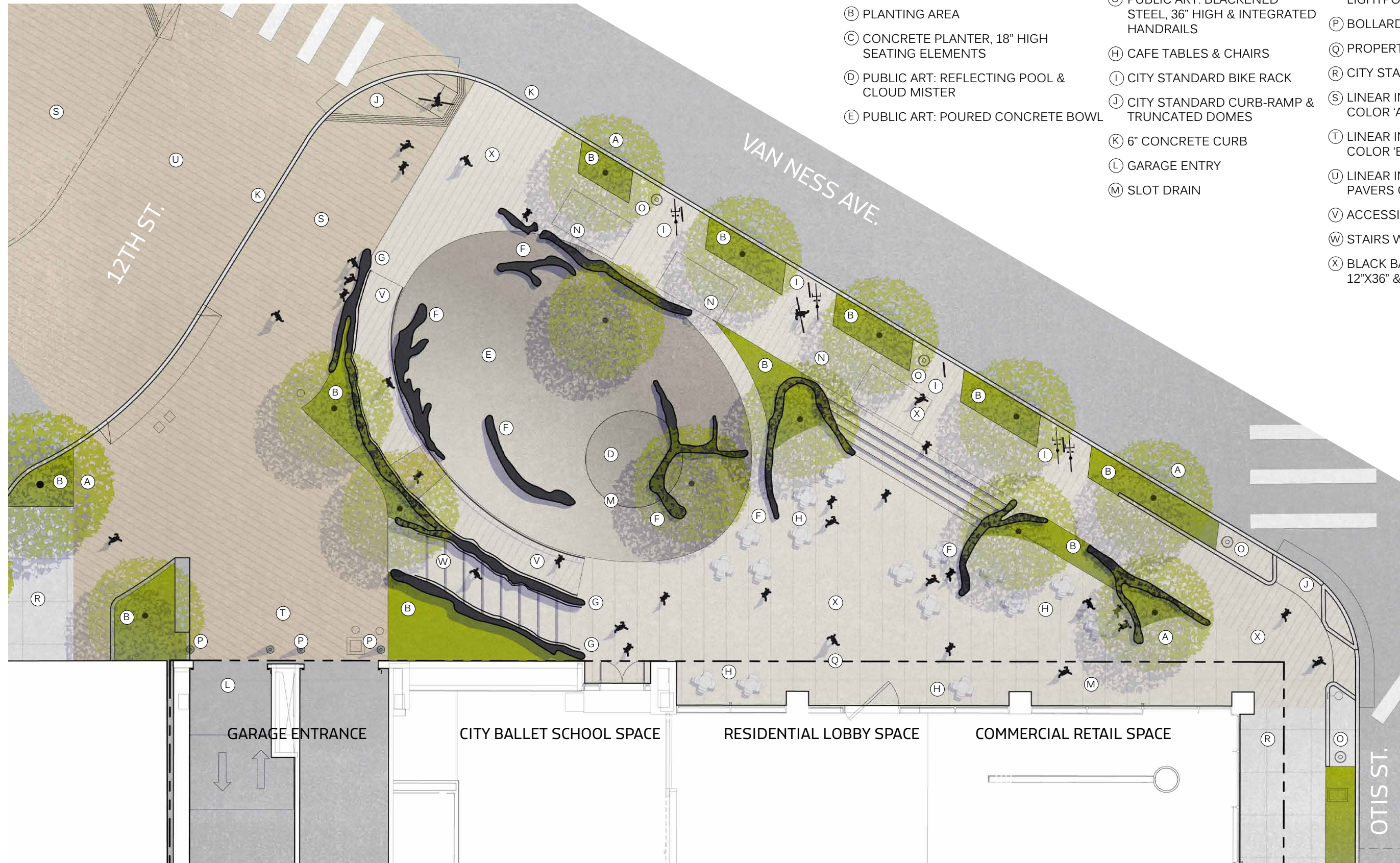
RECUSAL: Robin Levitt

ABSENT: Krute Singha, Mohammed Soriano Bilal

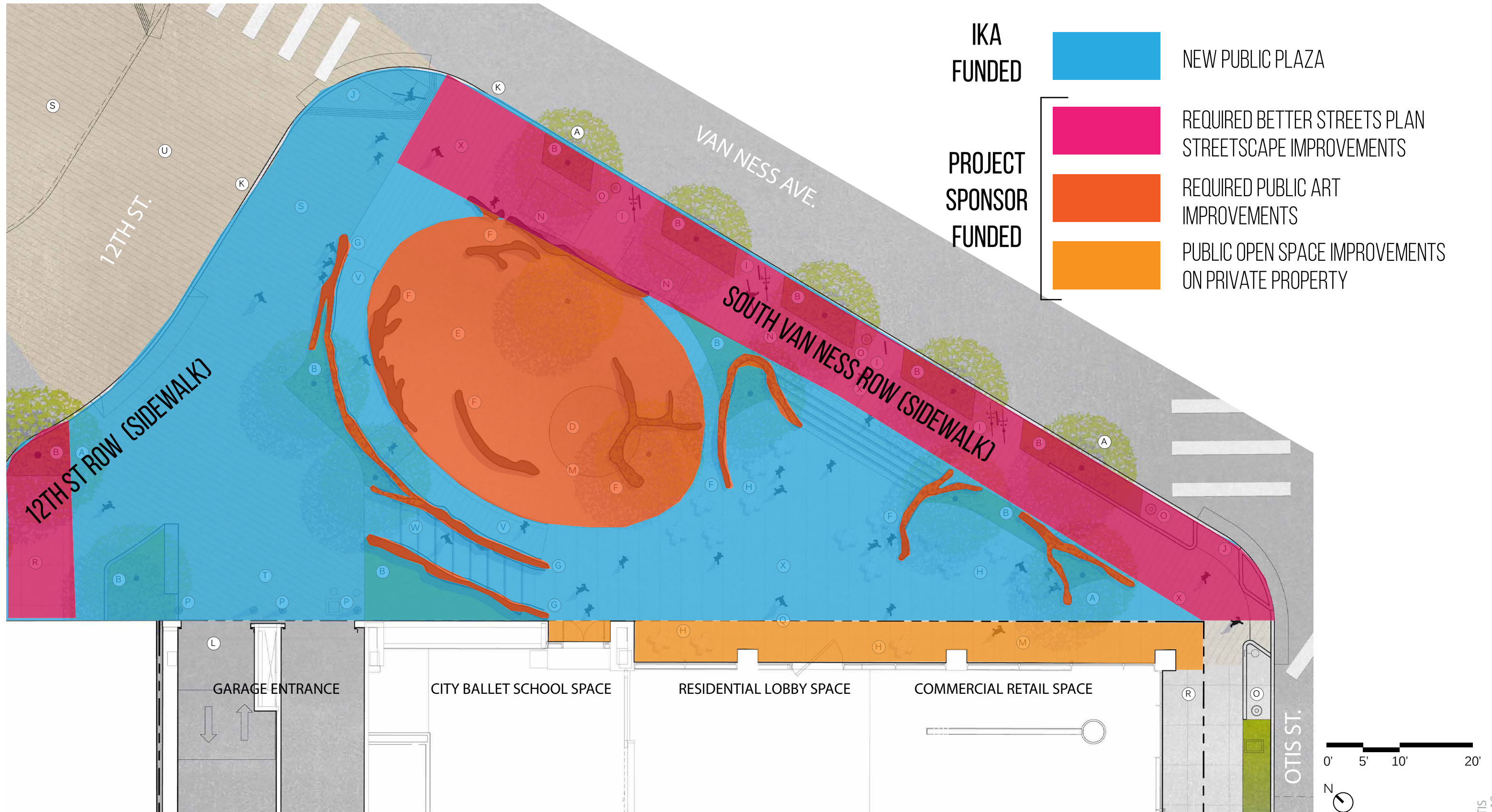
SCHEMATIC SITE PLAN

KEY LEGEND

- (A) TREE PLANTING: GLEDITSIA TRIACANTHOS INERMIS 'HONEY LOCUST'
- (B) PLANTING AREA
- (C) CONCRETE PLANTER, 18" HIGH SEATING ELEMENTS
- (D) PUBLIC ART: REFLECTING POOL & CLOUD MISTER
- (E) PUBLIC ART: POURED CONCRETE BOWL
- (F) PUBLIC ART: BLACKENED STEEL, 18" HIGH SEATING ELEMENTS
- (G) PUBLIC ART: BLACKENED STEEL, 36" HIGH & INTEGRATED HANDRAILS
- (H) CAFE TABLES & CHAIRS
- (I) CITY STANDARD BIKE RACK
- (J) CITY STANDARD CURB-RAMP & TRUNCATED DOMES
- (K) 6" CONCRETE CURB
- (L) GARAGE ENTRY
- (M) SLOT DRAIN
- (N) SURFACE UTILITIES
- (O) UTILITY POLE - MUNI AND/OR LIGHTPOLE
- (P) BOLLARD
- (Q) PROPERTY LINE
- (R) CITY STANDARD CONCRETE PAVING
- (S) LINEAR INTERLOCKING STONE PAVERS COLOR 'A', 12"X36"
- (T) LINEAR INTERLOCKING STONE PAVERS COLOR 'B', 12"X36"
- (U) LINEAR INTERLOCKING VEHICULAR PAVERS COLOR 'A', 12"X36"
- (V) ACCESSIBLE RAMP WITH HANDRAILS
- (W) STAIRS WITH HANDRAILS
- (X) BLACK BASALT FLAMED TOP PAVERS 12"X36" & 18"X36"



CODE-COMPLYING + IN-KIND ENHANCEMENTS PLAZA PLAN

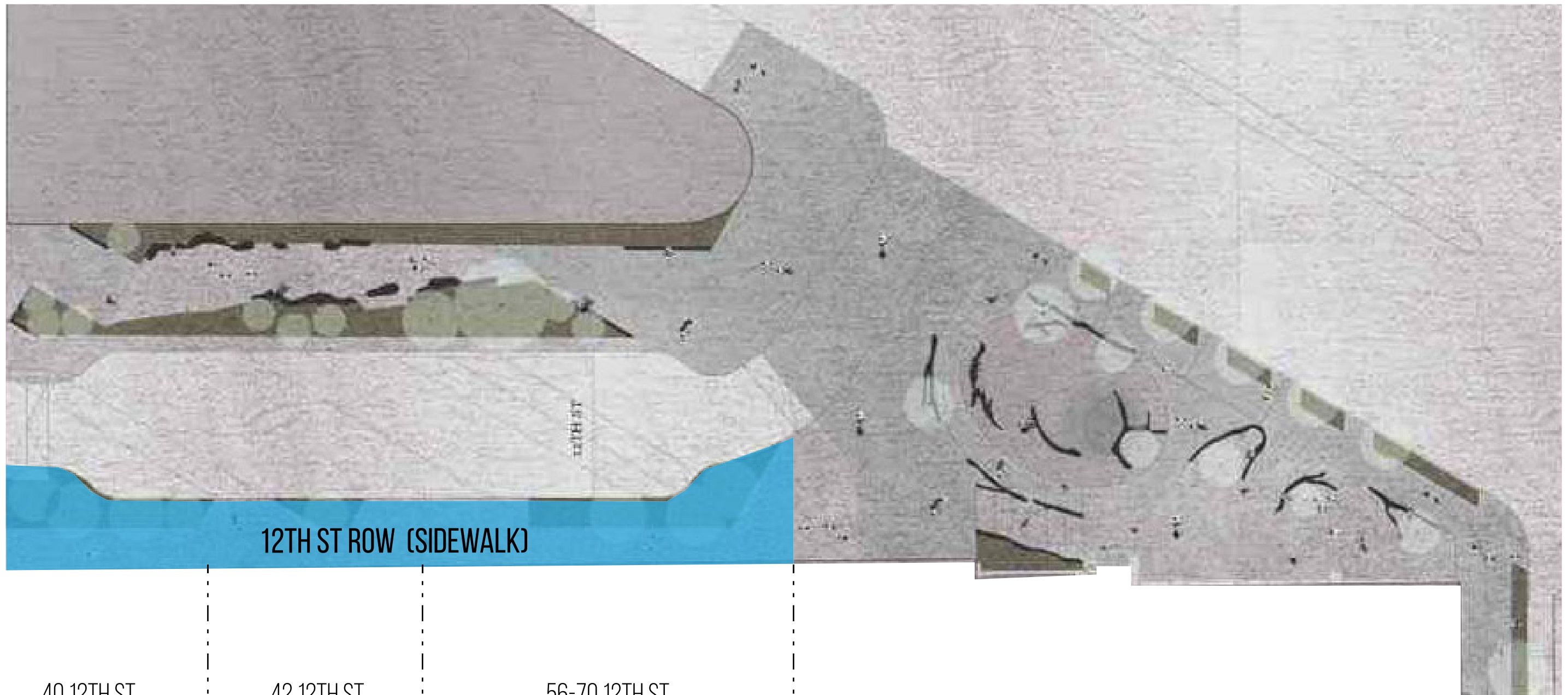


CODE-COMPLYING + IN-KIND ENHANCEMENTS PLAZA PLAN

IKA
FUNDED



NEW SIDEWALK AND
STREETScape IMPROVEMENTS



40 12TH ST

42 12TH ST

56-70 12TH ST

**30 OTIS STREET IN-KIND AGREEMENT
(PER ARTICLE 4 OF THE PLANNING CODE)**

THIS IN-KIND AGREEMENT (“**Agreement**”) is entered into as of _____, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through the Planning Commission (the “**City**”) and **Otis Property Owner, LLC** a Delaware limited liability company (“**Project Sponsor**”), with respect to a development project to be located at 30 Otis Street, San Francisco, California, and commonly known as 30 Otis (the “**Project**”).

RECITALS

A. Article 4 of the San Francisco Planning Code authorizes the City, acting through the Planning Commission, and the sponsor of a development project in specified areas of the City to enter into an In-Kind Agreement that would allow the project sponsor to directly provide community improvements to the City as an alternative to payment of all or a portion of a fee that would be imposed on the development project in order to mitigate the impacts caused by the development project. Any undefined term used herein shall have the meaning given to such term in Article 4 of the Planning Code.

B. This Agreement shall not be effective until it has been signed by both the Project Sponsor and the City, is approved as to form by the City Attorney, is approved by the Planning Commission, and a duly executed Memorandum of Agreement in the form attached hereto as **Exhibit A** (the “**Memorandum of Agreement**”) is recorded in the Official Records of San Francisco County. The date upon which the foregoing requirements have been satisfied shall be the “**Effective Date**.”

C. The property described in **Exhibit B** attached hereto and generally known as 74-90-98 12th Street and 14-18-30-32-38-40 Otis Street in San Francisco, California (Assessor’s Block Number 3505 Lots 010/012/013/016/018 (the “**Land**”) is owned by Project Sponsor. On March 8, 2018 the Project Sponsor submitted an application for the development of a project on the Land that is subject to a development impact fee under Section 421-421.6 and 424-424.5 of the Planning Code and is currently estimated to be \$7,042,403, (the “**Fee**”).

D. Pursuant to the provisions of Article 4 of the Planning Code, the Project Sponsor has requested that the City enter into an In-Kind Agreement associated with the Project in order to reduce its Fee obligation under Section 421-421.6 and 424-424.5 of the Planning Code. The in-kind improvements consist of certain open space improvements generally described in **Exhibit C**, (“**In-Kind Improvements**”), and which the Project Sponsor shall install on an approximately 12,165 square feet portion of the 12th Street public right-of-way between South Van Ness Avenue and Otis Street and 2,815 square feet portion of the west sidewalk along 12 Street north of 30 Otis (the “**ROW Area**”) as further described in Schedule 1 attached hereto (the “**City Property**”), if Project Sponsor receives all of the required approvals described in Section 4.2 below. The In-Kind Improvements do not include the Project’s public art under Section 429, the cost of which is not part of this In-Kind Agreement and is not included in the cost estimates provided but is generally described in **Exhibit C**.

E. The In-Kind Improvements meet the community needs as identified by the 2008 Market & Octavia Area Plan and the In-Kind Improvements for which the Project Sponsor is requesting an in-kind Fee Waiver are not a physical improvement or provision of space otherwise required by the Project entitlements or other City Code, including Planning Code Section 135 or 429.

F. On May 8, 2019, the Interagency Planning and Implementation Committee (IPIC) agreed to an In-Kind amount up to \$3,000,000.

G. On May 20th, 2019, in Motion 2019-05-20-01, the Market & Octavia Citizens Advisory Committee passed a resolution supporting the proposed In-Kind Improvements in the amount of \$3,000,000, and any eligible administrative and project management costs as to be determined with due diligence by Planning Department.

H. City retains all rights to operate and manage the City Property and the In-Kind Improvements in its sole discretion, including any maintenance obligations that City may require of Project Sponsor under the Encroachment Permits (as defined in Section 4.2 below), if any, for the In-Kind Improvements.

I. On September 27, 2018 (Motion No 20293), the Planning Commission approved the Project, and on _____ (Motion No _____) the Planning Commission authorized the Director of Planning to enter into this Agreement on the terms and conditions set forth below.

J. If the cost of the In-Kind Improvements exceeds the amount of the Fee waiver that would be made by the City pursuant to this Agreement, Project Sponsor has offered to make a gift of such excess cost as set forth in Section 5.2.1 below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

Defined Terms. As used in this Agreement, the following words and phrases have the following meanings.

“**Agreement**” shall mean this Agreement.

“**City**” shall have the meaning set forth in the preamble to this Agreement.

“**Date of Satisfaction**” shall have the meaning set forth in Section 5.3 below.

“**Development impact fee**” or “**Fee**” shall mean the fee charged to development projects under Article 4, Section 421 of the Planning Code.

“**DBI**” shall mean the Department of Building Inspection.

“**Effective Date**” shall have the meaning set forth in Recital B.

“**First Construction Document**” shall have the meaning set forth in Section 401 of the Planning Code.

“**In-Kind Improvements**” shall have the meaning set forth in Recital D.

“**In-Kind Value**” shall have the meaning set forth in Section 3.2 below.

“**Land**” shall have the meaning set forth in Recital C.

“**Material Change**” shall have the meaning set forth in Section 3.2 below.

“**Memorandum of Agreement**” shall have the meaning set forth in Article 8 below.

“**Non-Material Change**” shall have the meaning set forth in Section 3.2 below.

“**Notice of Satisfaction**” shall have the meaning set forth in Section 5.3 below.

“**Payment Analysis**” shall have the meaning set forth in Section 5.2 below.

“**Payment Documentation**” shall have the meaning set forth in Section 5.1 below.

“**Plans**” shall have the meaning set forth in Section 4.2 below.

“**Project**” shall have the meaning set forth in the preamble to this Agreement.

“**Project Sponsor**” shall have the meaning set forth in the preamble to this Agreement.

“**Project Fee**” shall mean the Project Sponsor’s share of the Development impact fee, as calculated pursuant to Section 3.1 below.

“**RED**” shall mean the Real Estate Division of City’s Office of the City Administrator.

“**Remainder Amount**” shall have the meaning set forth in Section 3.3 below.

“**Security**” shall have the meaning set forth in Section 5.4 below.

“**SFPW**” shall mean the City’s Department of Public Works.

ARTICLE 2 PROJECT SPONSOR REPRESENTATIONS AND COVENANTS

The Project Sponsor hereby represents, warrants, agrees and covenants to the City as follows:

2.1 The above recitals relating to the Project are true and correct.

2.2 Project Sponsor: (1) is a limited liability company duly organized and existing under the laws of the State of Delaware and authorized to own property and transact business in the State of California, (2) has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated to be conducted, (3) has the power to execute and perform all the undertakings of this Agreement, and (4) is the fee owner of the Land on which the Project is located.

2.3 The execution and delivery of this Agreement and other instruments required to be executed and delivered by the Project Sponsor pursuant to this Agreement: (1) have not violated and will not violate any provision of law, rule or regulation, any order of court or other agency or government, and (2) have not violated and will not violate any provision of any agreement or instrument to which the Project Sponsor is bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature.

2.4 No document furnished or to be furnished by the Project Sponsor to the City in connection with this Agreement contains or will contain any untrue statement of material fact, or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

2.5 Neither the Project Sponsor, nor any of its principals or members, have been suspended, disciplined or debarred by, or prohibited from contracting with, the U.S. General

Services Administration or any federal, state or local governmental agency during the past five (5) years.

2.6 Pursuant to Section 421.3(d)(5) of the Planning Code, the Project Sponsor shall reimburse all City agencies for their administrative and staff costs in negotiating, drafting, and monitoring compliance with this Agreement.

ARTICLE 3 CALCULATION OF FEE AND IN-KIND CREDIT

3.1 **Calculation of Fee.** The Project Fee shall be calculated in accordance with Section 421.3 and 424.3 of the Planning Code. Based on the Project approved by the Planning Commission, the Project Fee is estimated at \$7,042,403.16 (For the fee calculations, see **Exhibit D**.) The final Fee shall be calculated on the estimated cost of the Project at the time of its First Construction Document.

3.2 **Calculation of In-Kind Value.** Based on two estimates provided by independent sources, as set forth in Schedules 2 and 3 to this Agreement, the Director of Planning determines the In-Kind Improvements have a value of approximately \$3,000,000 (the “**In-Kind Value**”). Documentation establishing the estimated third-party eligible costs of providing the In-Kind Improvements in compliance with applicable City standards is attached hereto as **Exhibit E** (the “**Cost Documentation**”). Should the relocation of existing utility infrastructure no longer be required or necessary, the In-Kind Value shall be proportionately reduced by the amount listed in the Giacalone Design Services, Inc. Dry Utility Budget included in Schedules 2 and 3. The Project Sponsor may request an increase in the In-Kind Value by delivering written notice of such request to the Director, together with reasonable documentation of the third-party eligible costs exceeding the In-Kind Value. The Director shall have the sole discretion to approve or disapprove a requested increase of up to 15% of the In-Kind Value (a “**Non-Material Change**”), and the Planning Commission shall have the sole discretion to approve or disapprove any higher requested increase (a “**Material Change**”). If upon final completion the actual construction and development costs to the Project Sponsor of providing the In-Kind Improvements are lower than this amount, the provisions of Section 5.2 below shall apply.

3.3 **Payment.** Pursuant to Section 421.3 of the Planning Code and Section 107A.13.3 of the San Francisco Building Code, the Project Sponsor shall pay to the Development Fee Collection Unit at DBI \$4,042,403.16 (the “**Remainder Amount**”), which is an amount equal to the Project Fee (see **Exhibit D**) minus the In-Kind Value (see **Exhibit E**), prior to issuance of the Project’s First Construction Document. On the Date of Satisfaction, the Project Sponsor shall receive a credit against the Project Fee in the amount of the In-Kind Value, subject to Section 5.1 below.

ARTICLE 4 CONSTRUCTION OF IN-KIND IMPROVEMENTS

4.1 **Conditions of Performance.** The Project Sponsor agrees to take all steps necessary to construct and provide, at the Project Sponsor’s sole cost, the In-Kind Improvements for the benefit of the City and the public, and the City shall accept the In-Kind Improvements in lieu of a portion of the Project Fee under this Agreement if this Agreement is still in effect and each of the following conditions are met:

4.2 **Plans and Permits.** The Project Sponsor shall cause an appropriate design professional to prepare detailed plans and specifications for the In-Kind Improvements, which plans and specifications shall be submitted for review and approval by DBI and other applicable City departments or agencies in the ordinary course of the process of obtaining a site or building permit for the Project (upon such approval, the “**Plans**”). The Project Sponsor shall be responsible

for obtaining at its sole cost, the appropriate approvals, encroachment permits and agreements needed from SFPW (each, a “**SFPW Encroachment Permit**” and collectively, the “**SFPW Encroachment Permits**”) for the construction and maintenance of the In-Kind Improvements in the ROW Area, and all other permits and approvals from other affected departments that are necessary to implement this proposal. The Project Sponsor shall be responsible, at no cost to the City, for completing the In-Kind Improvements strictly in accordance with the approved Plans, the SFPW Encroachment Permits, and shall not make any material change to the approved Plans during the course of construction without first obtaining the Director of Planning’s written approval. Upon completion of the In-Kind Improvements, the Project Sponsor shall furnish the City with a copy of the final approved Plans for the In-Kind Improvements and documentation of any approved material changes or deviations therefrom that may occur during construction of the In-Kind Improvements.

4.3 **Construction.** All construction with respect to the In-Kind Improvements shall be accomplished prior to the first certificate of occupancy for the Project, including any temporary certificate of occupancy unless circumstances set forth in Section 5.4 have occurred and Security has been provided as set forth in Section 5.4. The improvements shall be accomplished and in accordance with good construction and engineering practices and applicable laws. The Project Sponsor, while performing any construction relating to the In-Kind Improvements, shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to the surrounding property, and the risk of injury to members of the public, caused by or resulting from the performance of such construction. All construction relating to the In-Kind Improvements shall be performed by licensed, insured and bonded contractors, and pursuant to a contract that includes a release and indemnification for the benefit of the City.

4.4 **Inspections.** The Project Sponsor shall request the customary inspections of work by DBI and all other applicable City departments or agencies during construction using applicable City procedures in accordance with the City's Building Code and other applicable law. Upon final completion of the installation of the In-Kind Improvements and the Project Sponsor's receipt of all final permit sign-offs, the Project Sponsor shall notify all applicable City departments or agencies that the In-Kind Improvements have been completed. Such City departments or agencies shall inspect the site to confirm compliance with applicable City standards for such installation. This condition will not be satisfied until all applicable City departments and agencies have certified that the In-Kind Improvements are complete and ready for their intended use, including the City Engineer’s issuance of a Determination of Completion.

4.5 **Completion of In-Kind Improvements.** Upon final completion of the In-Kind Improvements and the Project Sponsor's receipt of all final permit sign-offs, the Project Sponsor shall notify the Director of Planning that the In-Kind Improvements have been completed. The Director of Planning, or his or her agent, shall inspect the In-Kind Improvements to confirm compliance with this Agreement, and shall promptly notify the Project Sponsor if there are any problems or deficiencies. The Project Sponsor shall correct any such problems or deficiencies and then request another inspection, repeating this process until the Director of Planning approves the In-Kind Improvements as satisfactory. Such approval shall be based on the requirements of this Agreement and shall not be unreasonably withheld.

4.6 **Irrevocable Offer of In-Kind Improvements.** The Project Sponsor shall irrevocably offer the In-Kind Improvements to City at or before, at City’s sole election, the issuance of the Determination of Completion, as described in Section 4.4 above, or the Notice of Satisfaction, as defined in Section 5.3 below. Such offer shall be made by delivering an Irrevocable Offer of Improvements to SFPW in substantially the form attached to this Agreement as **Exhibit F**, which shall be properly completed to describe the In-Kind Improvements in the ROW Area, duly executed by the Project Sponsor, and acknowledged.

ARTICLE 5 SATISFACTION OF OBLIGATIONS; PARTIAL REIMBURSEMENTS

5.1 **Evidence of Payment.** The Project Sponsor shall provide the Planning Department with documentation substantiating payment by the Project Sponsor of the cost of providing the In-Kind Improvements in the form of third-party checks and invoices and its or its general contractor's standard general conditions allocation (the "**Payment Documentation**"). The Payment Documentation shall include information necessary and customary in the construction industry to verify the Project Sponsor's costs and payments. The cost of providing the In-Kind Improvements shall not be significantly higher than the average capital costs for the City to provide comparable improvements, based on current value of recently completed comparable projects, as selected by the City in its sole discretion, with prior consultation with the Project Sponsor.

5.2 **Payment Analysis.** The City shall provide the Project Sponsor with a written report of its review of the Payment Documentation ("**Payment Analysis**") within ten (10) business days of its receipt thereof, which review shall be conducted for the exclusive purpose of determining whether the Payment Documentation substantially and reasonably documents that the cost of providing the In-Kind Improvements shall not be significantly higher than the average capital costs for the City to provide comparable improvements, based on current value of recently completed comparable projects, as selected by the City in its sole discretion, with prior consultation with the Project Sponsor.

5.2.1 If the Payment Analysis reasonably substantiates that the Project Sponsor made payments in respect of the In-Kind Improvements in an amount less than the In-Kind Value, the Project Sponsor shall, within sixty (60) days of the date of the Payment Analysis, pay the City an amount equal to the difference between the In-Kind Value and the actual amount paid in respect of the In-Kind Improvements by the Project Sponsor. If the Payment Analysis reasonably substantiates that the Project Sponsor made payments in respect of the In-Kind Improvements in an amount equal to or greater than the In-Kind Value, the Project Sponsor shall not be entitled to a refund of such overpayments and the City shall not be entitled to any additional funds related to the In-Kind Value.

5.2.2 The City and Project Sponsor shall endeavor to agree upon the Payment Analysis. If they are unable to so agree within thirty (30) days after receipt by Project Sponsor of the City's Payment Analysis, Project Sponsor and the City shall mutually select a third-party engineer/cost consultant. The City shall submit its Payment Analysis and Project Sponsor shall submit the Payment Documentation to such engineer/cost consultant, at such time or times and in such manner as the City and Project Sponsor shall agree (or as directed by the engineer/cost consultant if the City and Project Sponsor do not promptly agree). The engineer/cost consultant shall select either the City's Payment Analysis or Project Sponsor's determination pursuant to the Payment Documentation, and such determination shall be binding on the City and Project Sponsor.

5.3 **Satisfaction of Obligations.** Upon agreement of the Payment Analysis and completion of the In-Kind Improvements, and following Project Sponsor's delivery of the Irrevocable Offer of Improvements to City pursuant to Section 4.6 above, the Director of Planning shall provide the Project Sponsor with a Notice of Satisfaction of Obligations (the "**Notice of Satisfaction**") that certifies that the In-Kind Improvements have been inspected and been determined to be ready for use by the public based on current City standards, and constitute the full satisfaction of the obligation to provide In-Kind Improvements in the form required hereunder, and that the City has received full payment in an amount equal to the difference between the In-Kind Value and the actual amount paid in respect of the In-Kind Improvements by the Project Sponsor, subject to City's rights under Section 5.6 below. The Project Sponsor shall not receive final credit for the In-Kind Improvements until the Notice of Satisfaction is delivered, the City receives any additional payments as may be required under this Article 5, and all other obligations of the Project Sponsor under this Agreement have been satisfied (the "**Date of Satisfaction**").

5.3.1 Notwithstanding the provisions of Article 7 of this Agreement, the notices given by the parties under this Section 5.3 may be in the written form and delivered in the manner mutually agreed upon by the parties.

5.3.2 The Project Sponsor assumes all risk of loss during construction, and shall not receive final credit for the In-Kind Improvements until the Date of Satisfaction.

5.4 **Security.** If the Planning Director has not issued the Notice of Satisfaction under Section 5.3 above prior to issuance of the first certificate of occupancy for the Project, including any temporary certificate of occupancy, the Project Sponsor shall provide a letter of credit, surety bond, escrow account, or other security reasonably satisfactory to the Planning Director in the amount of one hundred percent (100%) of the Cost Documentation applicable to the In-Kind Improvements that have yet to have been determined to satisfy the obligations as set forth in Section 5.3 above (the “**Security**”) to be held by the City until issuance of the Notice of Satisfaction, at which date it shall be returned to the Project Sponsor. If the Project Sponsor is required to post a bond for the Project with the Department of Public Works under the Subdivision Map Act and that security covers the In-Kind Improvements to be provided under this Agreement, the Subdivision Map Act bond may be substituted for the Security required by this Section and the Project Sponsor is not required to provide additional Security for the In-Kind Improvements.

In the event that any delay to the construction of the In-Kind Improvements occurs due to unforeseen circumstances not the fault of the Project Sponsor including delay in issuance of permits or completion of inspections by the City or other regulatory agencies with oversight over the work, or such as the discovery of an artifact that requires excavation or an act of God, the issuance of the Certificate of Occupancy for the Project will not be withheld from the Project Sponsor solely by reason of such delay in constructing the In-Kind Improvements unless such delay is caused by the Project Sponsor’s failure to timely provide all items required in applying for such permit or inspection. In such an event the Security shall be delivered prior to the issuance of the first certificate of occupancy for the Project, including any temporary certificate of occupancy.

5.5 **Additional Obligations.** Notwithstanding anything in this Agreement to the contrary:

5.5.1 On and after the Effective Date defined in Article 1, for so long as this Agreement remains in effect and the Project Sponsor is not in breach of this Agreement, the City shall not withhold the issuance of any additional building or other permits necessary for the Project due to the Project Sponsor’s payment of less than the full Project Fee amount in anticipation of the In-Kind Improvements ultimately being accepted and credited against the Project Fee under the terms and conditions set forth in this Agreement.

5.5.2 The City shall not issue or renew any further certificates of occupancy for the Project until the City receives payment of the full Project Fee (in some combination of the payment of the Initial Amount, the acceptance of In-Kind Improvements having the value described under this Agreement, receipt of the Security, and/or the acceptance of other cash payments received by the City directly from Project Sponsor for payment of the Project Fee or completion of the In-Kind Improvements), or Security pursuant to Section 5.4, above, before issuance of the first certificate of occupancy for the Project, including any temporary certificate of occupancy, subject to the delays in construction that occur due to unforeseen circumstances as provided in Section 5.4 above.

5.5.3 The City’s issuance of a certificate of final completion or any other permit or approval for the Project shall not release the Project Sponsor of its obligation to pay the full Project Fee (with interest, if applicable), if such payment has not been made at the time the City issues such certificate of final completion.

5.5.4 If the Payment Analysis in Section 5.2 determines a payment is required from the Project Sponsor for the difference between the In-Kind Value and the actual amount paid in respect of the In-Kind Improvements, and if thirty (30) days after payment is due following notice by the City the payment remains outstanding, DBI shall institute lien proceedings to recover the amount of the Fee due plus interest pursuant to Section 408 of the Planning Code and Section 107.13.15 of the Building Code.

5.5.5 The Project Sponsor understands and agrees that any payments to be credited against the Project Fee shall be subject to the provisions set forth in San Francisco Administrative Code Sections 6.80-6.83 relating to false claims. Pursuant to San Francisco Administrative Code Sections 6.80-6.83, a party who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A party who submits a false claim shall also be liable to the City for the cost of a civil action brought to recover any of those penalties or damages and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A party will be deemed to have submitted a false claim to the City if the party: (a) knowingly presents or causes to be presented to any officer or employee of the City a false claim; (b) knowingly makes, uses or causes to be made or used a false record or statement to get a false claim approved by the City; (c) conspires to defraud the City by getting a false claim allowed by the City; (d) knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the City; or (e) is beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim. The Project Sponsor shall include this provision in all contracts and subcontracts relating to the In-Kind Improvements, and shall take all necessary and appropriate steps to verify the accuracy of all payments made to any such contractors and subcontractors.

5.6 **Reimbursement of Waived Fee.** Project Sponsor acknowledges the In-Kind Improvements can only remain in the ROW Area pursuant to the applicable SFPW Encroachment Permit. If such SFPW Encroachment Permit is terminated by Project Sponsor or revoked for cause by City before the twentieth (20th) anniversary of the Notice of Satisfaction (the end of the useful life of the In-Kind Improvements) and SFPW requires Project Sponsor to restore the ROW Area to City standards at such time, Project Sponsor or any successor interest in the Project at such time shall pay DBI's Development Fee Collection Unit an amount equal to (i) the In-Kind Value allocated to the In-Kind Improvements pursuant to Article 3 less (ii) the proportionate value of the In-Kind Improvements allocated to the period they were in the ROW Area after the Notice of Satisfaction. For purpose of this section, a revocation for cause shall be a revocation of the SFPW Encroachment Permit, based on an uncured default by Permittee, as defined in the SFPW Major Encroachment Permit. By way of example only, if the allocated In-Kind Value of the In-Kind Improvements was \$500,000 and on the tenth anniversary of the Notice of Satisfaction due to a termination of the SFPW Encroachment Permit for the In-Kind Improvements by the Project Sponsor or by the City, for cause, DBI's Development Fee Collection Unit would be owed \$250,000. If the Project Sponsor fails to pay such amount within thirty (30) days following notice by the City, DBI shall institute lien proceedings to recover the amount of the Fee due plus interest pursuant to Section 408 of the Planning Code and Section 107.13.15 of the Building Code.

ARTICLE 6 MAINTENANCE AND LIABILITY

6.1 **Management and Liability.** The Project Sponsor acknowledges the SFPW Encroachment Permits, if any, will require that Project Sponsor maintain the In-Kind Improvements during the term of the SFPW Encroachment Permits and remove the In-Kind Improvements and return the ROW Area to City standards if the SFPW Encroachment Permits are terminated or revoked. Further, Project Sponsor, on behalf of itself and all future fee owners of the Land, agrees to assume full responsibility for the construction of In-Kind Improvements contemplated in this Agreement and all liability relating to such construction. Project Sponsor

acknowledges this Agreement does not create any City responsibility or liability with respect to the construction or maintenance of the In-Kind Improvements. Project Sponsor shall obtain all permits and approvals from other affected departments that are necessary to implement this proposal and shall abide by any conditions associated with such permits including the posting and maintenance of insurance and security. The City would not be willing to enter into this Agreement without this provision and the Project Sponsor's acceptance of all liability relating to construction of the In-Kind Improvements in accordance with this Article is a condition of the Planning Commission's approval of the terms of this Agreement. Project Sponsor acknowledges that City retains ownership of the City Property and retains the rights to manage and operate or designate responsibility for such management and operation to any party, and Project shall have no right to manage and operate the City Property.

6.2 **Contracts for Maintenance.** The City and the Planning Commission acknowledge that the Project Sponsor may hire third parties to perform Project Sponsor's maintenance obligations with respect to the In-Kind Improvements, if permitted under the SFPW Encroachment Permit, as long as Project Sponsor retains full responsibility at all times to perform such maintenance obligations to the standards required in such SFPW Encroachment Permit, if any. Any such hiring is subject to the review and consent of the City departments with primary jurisdiction over the In-Kind Improvements in consultation with the Planning Director and shall comply with all applicable laws. The City may condition such hiring in a manner that it deems reasonable.

ARTICLE 7 NOTICES

Except as may otherwise be mutually agreed upon by the parties in writing, all notices given under this Agreement shall be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier, return receipt requested, addressed as follows:

CITY:

Director of Planning
City and County of San Francisco
1660 Mission St.
San Francisco, CA 94103

with a copy to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Deputy City Attorney

PROJECT SPONSOR:

Otis Property Owner, LLC
c/o Align Real Estate
255 California Street
Suite 525
San Francisco, CA 94111

with a copy to:

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed given when actually delivered if such delivery is in person, two (2) days after deposit with the U.S. Postal Service if such delivery is by certified or registered mail, and the next business day after deposit with the U.S. Postal Service or with the commercial overnight courier service if such delivery is by overnight mail.

**ARTICLE 8
RUN WITH THE LAND**

The parties understand and agree that this Agreement shall run with the Project Sponsor's Land and shall burden and benefit every successor owner of the Land. The City would not be willing to enter into this Agreement without this provision, and the parties shall record the Memorandum of Agreement on or before the Effective Date. On the Date of Satisfaction or the date this Agreement is terminated pursuant to Section 9.4 below, this Agreement shall terminate, and the City shall execute and deliver to the Project Sponsor a release of the Memorandum of Agreement, which the Project Sponsor may record.

**ARTICLE 9
ADDITIONAL TERMS**

9.1 This Agreement contemplates the installation and transfer of In-Kind Improvements as authorized under Article 4 of the Planning Code and is not intended to be a public works contract; provided, however, the Project Sponsor agrees to pay no less than the prevailing wages as set forth in Section 10.1 and otherwise comply with the requirements of applicable State law as to the In-Kind Improvements work only. By entering this Agreement, the Project Sponsor is not obligated to pay prevailing wages for the construction of the Project.

9.2 The City shall have the right, during normal business hours and upon reasonable notice, to review all books and records of the Project Sponsor pertaining to the costs and expenses of providing the In-Kind Improvements.

9.3 This instrument (including the exhibit(s) hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. This Agreement 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.

9.4 This Agreement may be effectively amended, changed, modified, altered or terminated only by written instrument executed by the parties hereto except that the Project Sponsor may terminate this Agreement by written notice to the City at any time prior to issuance of the Project's First Construction Document, in which event the Project Sponsor shall have no obligations or liabilities under this Agreement and the City would have no obligation to issue the First Construction Document unless and until this Agreement is reinstated, another agreement is executed by the parties, or the Project Sponsor's obligations under Article 4 of the Planning Code are satisfied in another manner. Any material amendment shall require the approval of the City's Planning Commission, in its sole discretion. The Planning Director may approve Non-Material Change to the In-Kind Value as set forth in Section 3.2 of this Agreement.

9.5 No failure by the City to insist upon the strict performance of any obligation of Project Sponsor under this Agreement or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of payments during the continuance of any such breach, shall constitute a waiver of such breach or of the City's right to demand strict compliance with such term, covenant or condition. Any waiver must be in writing and shall be limited to the terms or matters contained in such writing. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. In the event of any breach of this Agreement by either party, the non-breaching party shall have all rights and remedies available at law or in equity.

9.6 This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of California.

9.7 The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. Time is of the essence in all matters relating to this Agreement.

9.8 This Agreement does not create a partnership or joint venture between the City and the Project Sponsor as to any activity conducted by the Project Sponsor relating to this Agreement or otherwise. The Project Sponsor is not a state or governmental actor with respect to any activity conducted by the Project Sponsor hereunder. This Agreement does not constitute authorization or approval by the City of any activity conducted by the Project Sponsor. This Agreement does not create any rights in or for any member of the public, and there are no thirdparty beneficiaries.

9.9 Notwithstanding anything to the contrary contained in this Agreement, the Project Sponsor acknowledges and agrees that no officer or employee of the City has authority to commit the City to this Agreement unless and until the Planning Commission adopts a resolution approving this Agreement, and it has been duly executed by the Director of Planning and approved as to form by City Attorney.

9.10 The Project Sponsor, on behalf of itself and its successors, shall indemnify, defend, reimburse and hold the City harmless from and against any and all claims, demands, losses, liabilities, damages, injuries, penalties, lawsuits and other proceedings, judgments and awards and costs by or in favor of a third party, incurred in connection with or arising directly or indirectly, in whole or in part, out of: (a) any accident, injury to or death of a person, or loss of or damage to property occurring in, on or about the site of the In-Kind Improvements during their construction, provided that such accident, injury, death, loss or damage does not result from the gross negligence of the City; (b) any default by the Project Sponsor under this Agreement , (c) the condition of the In-Kind Improvements constructed by or on behalf of the Project Sponsor; and (d) any acts, omissions or negligence of the Project Sponsor or its agents under this Agreement on the City Property. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigation. The Project Sponsor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the Project Sponsor by City and continues at all times thereafter. The Project Sponsor's obligations under this Section shall survive the expiration or sooner termination of this Agreement.

ARTICLE 10 CITY CONTRACTING PROVISIONS

10.1 The Project Sponsor agrees that any person performing labor in the construction of the In-Kind Improvements shall be paid not less than the Prevailing Rate of Wage (as defined in San Francisco Administrative Code Section 6.1) consistent with the requirements of Section 6.22(e) of the San Francisco Administrative Code, and shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco County. The Project Sponsor shall include, in any contract for construction of such In-Kind Improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. The Project Sponsor shall require any contractor to maintain, and shall deliver to the City upon request, weekly certified payroll reports with respect to all persons performing labor in the construction of the In-Kind Improvements. The requirements of this Section only apply to the In-Kind Improvements, and nothing in this Agreement obligates the Project Sponsor to pay the Prevailing Rate of Wage to any person performing labor in the construction of the Project.

10.2 The Project Sponsor understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law

(Gov't Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City hereunder are public records subject to public disclosure. The Project Sponsor hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

10.3 In the performance of this Agreement, the Project Sponsor covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or any City employee working with or applicant for employment with the Project Sponsor, in any of the Project Sponsor's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Project Sponsor.

10.4 Through execution of this Agreement, the Project Sponsor acknowledges that it is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provision and agrees that if it becomes aware of any such fact during the term, the Project Sponsor shall immediately notify the City.

10.5 Through execution of this Agreement, the Project Sponsor acknowledges that it is familiar with Section 1.126 of City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City, whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until three (3) months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the contractor. Negotiations are terminated when the City and/or the prospective contractor end the negotiation process before a final decision is made to award the contract.

10.6 The City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. The Project Sponsor acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

10.7 The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product.

10.8 If City's Office of Economic and Workforce Development ("OEWD") determines that the In-Kind Improvements are subject to the requirements of San Francisco Local Hiring Policy for Construction set forth in Chapter 82 of the San Francisco Administrative Code, the Project Sponsor shall comply with such requirements and execute a Local Hire Agreement with OEWD, in a form mutually agreeable to the parties, before this In-Kind Agreement is fully executed. The Project Sponsor's failure to comply with its obligations under Chapter 82, and the Local Hire Agreement shall constitute a material breach of this In-Kind Agreement and may subject the Project Sponsor and its contractors and subcontractors to the consequences of

noncompliance specified in Chapter 82, and the Local Hire Agreement, including but not limited to penalties.

10.9 If OEWD determines that the In-Kind Improvements are subject to the First Source Hiring Program established in Chapter 83 of the San Francisco Administrative Code, the Project Sponsor shall comply with the requirements of Chapter 83 and execute a First Source Hiring Agreement with OEWD, in a form mutually agreeable to the parties, before this In-Kind Agreement is fully executed. The Project Sponsor's failure to comply with its obligations under Chapter 83 and the requirements of the First Source Hiring Agreement shall constitute a material breach of this In-Kind Agreement and may subject the Project Sponsor and its contractors and subcontractors to the consequences of noncompliance specified in Chapter 83 and the First Source Hiring Agreement, including but not limited to liquidated damages.

NOW THEREFORE, the parties hereto have executed this In-Kind Agreement as of the date set forth above.

CITY:

PROJECT SPONSOR:

CITY AND COUNTY OF SAN FRANCISCO, acting by and through its Planning Commission

By: _____
Director of Planning

By: _____
Title

APPROVED:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

ACKNOWLEDGED:

Department of Building Inspection

By: _____
Authorized Representative

ACKNOWLEDGED:

Department of Public Works

By: _____
Authorized Representative

Exhibit A

Memorandum of Agreement

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

**City and County of San Francisco
Department of Planning
1650 Mission St, Suite 400
San Francisco, CA 94103
Attn: Director**

(Free Recording Requested Pursuant to
Government Code Section 27383)

APN: 0836-001, 0836-002, 0836-003,
0836-004, 0836-005
Address: 1500-1540 Market Street, San Francisco

Memorandum of In-Kind Agreement

This Memorandum of In-Kind Agreement (this “Memorandum”), is dated as of _____, and is by and between the City and County of San Francisco, a municipal corporation, acting and through the Planning Commission (the “City”), and **Otis Property Owner, LLC** a Delaware limited liability company (the “Project Sponsor”).

1. The property described in Exhibit A attached hereto (the “Land”) and generally known as 30 Otis Street, San Francisco, California, is owned by Project Sponsor.

2. Under San Francisco Planning Code Section 421 (“Section 421”) and Planning Code Section 424 (“Section 424”), the Project Sponsor must pay to the City a development impact fee (the “Fee”) on or before the issuance of the First Construction Document for the Land; provided, however, the City can reduce such payment under Section 421.3(d) and 424.3(c) if the Project Sponsor enters into an agreement with the City to provide in-kind improvements.

3. In accordance with Section 421.3 and 424.3, the City and the Project Sponsor have entered into an in-kind agreement dated as of _____ (the “In-Kind Agreement”), which permits the Project Sponsor to receive construction documents with the satisfaction of certain conditions in return for the Project Sponsor’s agreement to provide certain in-kind improvements under the terms and conditions set forth therein.

4. Upon the Project Sponsor’s satisfaction of the terms of the In-Kind Agreement, the In-Kind Agreement shall terminate and the City will execute and deliver to the Project Sponsor a termination of this Memorandum in recordable form.

5. The Project Sponsor and the City have executed and recorded this Memorandum to give notice of the In-Kind Agreement, and all the terms and conditions of the In-Kind Agreement are incorporated herein by reference as if they were fully set forth herein. Reference is made to

the In-Kind Agreement itself for a complete and definitive statement of the rights and obligations of the Project Sponsor and the City thereunder.

6. This Memorandum shall not be deemed to modify, alter or amend in any way the provisions of the In-Kind Agreement. In the event any conflict exists between the terms of the In-Kind Agreement and this Memorandum, the terms of the In-Kind Agreement shall govern.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum as of the date first written above.

CITY AND COUNTY OF SAN FRANCISCO,
acting by and through its Planning Commission

By: _____
Director of Planning

1. By: _____
2. Name: _____
3. Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of San Francisco)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of San Francisco)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit B

Legal Description of Land

The Land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Exhibit C

In-Kind Improvements Description

The In-Kind Improvements consist of the following:

1. **Public Plaza (12,165 sq.ft.)**

A new public plaza will be created at the southern end of 12th Street, adjacent to the new 30 Otis building. The plaza will be created via the reconfiguration of the southern end of 12th Street where it meets South Van Ness Avenue as is consistent with the approved Van Ness Improvement and Bus Rapid Transit (BRT) Project design. The realignment consolidates the 12th Street intersection with South Van Ness eliminating the bifurcated access to 12th Street from South Van Ness and the separate exit from 12th Street to Otis Street that resulted from a large median island. This consolidation of realignment creates the space in the public right-of-way for the new plaza.

The plaza will also provide under Planning Code section 429 public art in the form of custom seating and a centerpiece sunken bowl, which may also serve as a small reflecting pool. The public art portion of the plaza is outside the scope of this IKA as shown on cost estimates for the work. Interlocking stone pavers will be the predominant paving material and will stretch from the property line to the South Van Ness and 12th Street curbs as a unifying design feature. Pedestrian throughway areas are provided along the South Van Ness and building edge. Stairs and an accessible ramp are provided to transition pedestrians from the plaza's two different elevations. Planted areas are provided throughout the plaza to provide dedicated green space with the South Van Ness edge densely planted to provide a green buffer from traffic and interspersed with bike racks, streetlights, and MUNI poles. The north edge of the plaza will be open which will allow vehicles to access the 30 Otis parking garage.

2. **West Sidewalk Repairs (2,815 sq.ft.)**

The deteriorating 12th Street sidewalk, north of the approved 30 Otis Street project to Stevenson Street will be removed and replaced in front of the existing 40 Otis, 42 Otis, and 68 Otis buildings. This will include planting areas and a new sidewalk.

Exhibit D

Calculation of Impact Fees

Development Impact Fees <i>(2019 fee register)</i>	Quantity	Rate	Fee	
Market & Octavia Community Infrastructure Fee (Sec. 421)				
New Residential	345,135 sf	\$13.49/sf	\$4,655,871.15	
Change of Use (Non-res to Res)	17,253 sf	\$8.40/sf	\$144,925.20	
Change of Use (Non-res to Res)	20,030 sf	\$10.95/sf	\$219,328.50	
Subtotal			\$5,020,124.85	
Van Ness & Market Infrastructure Fee (Sec. 424)				
FAR > 9:1	89,919 sf	\$22.49/sf	\$2,022,278.31	
Subtotal			\$2,022,278.31	
Total Infrastructure Impact Fees			\$7,042,403.16	

Exhibit E

Cost Documentation

Determining the Value of Required Improvements

Fee waivers cannot be made for improvements that the Project Sponsor is already legally required to undertake. In this instance, the Project Sponsor acknowledges the requirement to self-fund mandatory improvements on the Project site or used to meet Project Open Space requirements. Such improvements are required to comply with design standards for "Better Streets" and publicly accessible Open Space.

Determining the Value of Proposed Improvements

To help determine the value of the proposed In-Kind Improvements, the Project Sponsor provided two estimates of the anticipated hard costs \$1,954,247 and \$1,765,450 (attached as Schedules 2 and 3), and an estimate for the utility relocation \$1,748,695.

The Project Sponsor calculated additional development costs, such as design and engineering fees, and site preparation, to determine the full value of the proposed In-Kind Improvements. This estimate for total soft costs came to \$504,281. Based on these calculations, the overall value of the In-Kind Improvement is estimated at between \$4,052,335.00 and \$4,255,291. These estimates are subject to change over time, but the Project Sponsor acknowledges that it is responsible for any cost overruns. Determining the Specific Improvements that would be provided via this In-Kind.

Agreement

The approval of this In-Kind Agreement would commit the Project Sponsor to improving the City Property with the proposed In-Kind Improvements. Therefore, the \$3,000,000 that the Project Sponsor would be required to contribute will instead be directed towards the construction of the In-Kind Improvements in return for a reduction in the Project's Market & Octavia/Van Ness Market Street Infrastructure Impact Fee of the same amount.

Exhibit F

Form of Irrevocable Offer of Dedication

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City and County of San Francisco
Director of Public Works
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco CA 94102

**IRREVOCABLE OFFER OF IMPROVEMENTS
(Portion of XX Street)**

_____ [*insert Project Sponsor name and type of entity*] does hereby irrevocably offer to the City and County of San Francisco, a municipal corporation (“City”), and its successors and assigns, those certain public improvements [*provide general description*] on _____ Street and adjacent to Assessor’s Block _____, Lot _____ more particularly described and depicted in Public Works Permit No. _____ and as shown on site diagrams, attached as **Exhibits A-1 and B-1**, respectively, to this instrument.

With respect to this offer of improvements, it is understood and agreed that: (i) upon acceptance of this offer of public improvements, the City shall own and be responsible for public facilities and improvements, subject to the maintenance obligation of fronting property owners or other permittees pursuant to the Public Works Code, including, but not limited to, Public Works Code Sections 706 and 786, and (ii) the City and its successors and assigns shall incur no liability or obligation whatsoever hereunder with respect to such offer of public improvements, and, except as may be provided by separate instrument, shall not assume any responsibility for the offered improvements, unless and until such offer has been formally accepted by the Director of Public Works or the Board of Supervisors.

The provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, assigns and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this instrument this ___ day of _____, 20XX.

[*Insert Project Sponsor Name*],
a _____ [*insert entity type*]

By: _____
Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of San Francisco)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A-1

Permit Information

EXHIBIT B-1

Diagram of Permit Location

Schedule 1

Legal Description of the Property

The land referred to is situated in the City and County of San Francisco, State of California, and is described as follows:

Schedule 2

Cost Estimate (Build Group)

Conceptual IKA Budget

30 Otis Street

Updated: 5/7/19

Trades		IKA Qty	Unit	Unit Price	IKA Cost
HARD COSTS	General Conditions/General Requirements	1	ls	\$ 530,000.00	\$ 530,000
	Clear Site	12,200	sf	7.00	\$ 85,400
	Grade Site	12,200	sf	10.50	\$ 128,100
	Mobilization	1	ls	15,000	15,000
	A - Tree Planting & Irrigation	12	ea	3,100	\$ 37,200
	B - Planted Areas	1,606	sf	75	\$ 120,450
	C - Concrete Planter - Seating	15	lf	1,250	\$ 18,750
	J - Truncated Domes	75	sf	120	\$ 9,000
	K - City Curb & Gutter	280	lf	75	\$ 21,000
	<i>O - Utility Pole - MUNI And/Or Light (Excluded, we understand this is part of the Van Ness / BRT improvements)</i>				<i>NA</i>
	P - Bollard	4	ea	4,500	\$ 18,000
	S - Interlocking Stone Pavers on Grade	4,024	sf	45	\$ 181,080
	WW - Handrails	242	lf	325	\$ 78,650
	W - Stairs	225	lf	350	\$ 78,750
	Allow Utilities (25% of this cost is allocated to Public Art budget)	1	ls	125,000	\$ 125,000
	Pour in Place Concrete with Integral Color	2,750	sf	38	\$ 104,500
	Curb or Wall for Stairs and Blackened Elements	182	lf	85	\$ 15,470
	Sub Guard	1	ls	\$ 21,389	\$ 21,389.06
	Direct Construction Subtotal				\$ 1,587,739
	General Liability	1.25%			\$ 19,847
SF Business Tax (.0035 thru GC's Books)	0.4100%			\$ 6,510	
Hard Cost Contingency	10.00%			\$ 158,774	
Fee	5.00%			\$ 88,318	
Escalation	5.00%			\$ 93,059	
Below Line sub-total				\$ 366,508	
Hard Cost Budget Total				\$ 1,954,247	

\$ 227.64 psf

Conceptual IKA Budget

30 Otis Street

Updated: 5/7/19

Consultant		NA	NA	NA	Design Fee	
DESIGN	Architect Design				\$ 120,000	
	Civil Engineer				\$ 100,281	
	Environmental-Soil Samples Analysis and SMP				\$ 35,000	
	Geotechnical				\$ 10,000	
	Landscape Architect				\$ 115,000	
	Legal				\$ 10,000	
	Lighting				\$ 35,000	
	MEP Consultant				\$ -	
	MEP Engineer - PG&E Joint Trench				\$ 6,000	
	Printing, Renderings, Reproductions				\$ 2,000	
	Design Revisions/Soft Cost Contingency				\$ 50,000	
	Reimbursables, Travel and Misc.				\$ 5,000	
	Structural Engineering				\$ 10,000	
	Signage & Graphics				\$ 6,000	
Design Costs Total				\$ 504,281	\$ 58.74 psf	

Item		NA	NA	NA	Estimate	
PERMITS & INSPECTIONS	Ex. Conditions Surveys / Utility relocation				\$ 15,000	
	Pre-con Site Investigation				\$ 12,000	
	Traffic Control Plans				\$ 19,000	
	Independent Special Inspection				\$ 5,000	
	Environmental Monitoring				\$ 5,000	
	Miscellaneous				\$ 5,000	
	Initial Survey Work				\$ 10,000	
	Verification of Stormwater / Sewer				\$ 8,000	
	Permit Consultant				\$ 7,500	
	<i>Relocation Exiting PG&E & AT&T Infrastructure (Budget)</i>				<i>\$ 1,748,695</i>	
	<i>Remove portion of Utility Work related to Temp Power (Estimate)</i>				<i>\$ (200,000)</i>	
	<i>Relocation of Sewer / Water (Excluded, we understand this is part of the Van Ness / BRT improvements)</i>				<i>N/A</i>	
	Permit Fees - Demolition Permit				\$ 5,000	
	Permit Fees - Building Plan Review Fee				\$ 5,000	
	Permit Fees - Misc. Permit Fees				\$ 5,000	
	Non-refundable City Inspection Fee for Major Encroachment				\$ 146,569	
	Permits & Inspections Costs Total				\$ 1,796,764	\$ 209.29 psf

TOTAL COST ESTIMATE				\$ 4,255,291	\$ 495.67 psf
----------------------------	--	--	--	---------------------	----------------------

Project: 30 Otis Street
Location: San Francisco, CA
Owner: Align
Architect: SCB

Project Type: Plaza Construction

Build Group Inc
 457 Minna St, San Francisco, Ca

Type: Sitework Budget
Est. Date: 10/18/2018 - 5/1/19 Update

Total Gross SF **12,200** **gsf**

Drawings: IPIC 30 Otos Public Art Plaza dated 10.10.18, 4.23.19 Updated Drawings

ITEM	DESCPTION	QUANTITY	UNIT	UNIT PRICE	Total Project	\$/sf	Notes
General Conditions		12,200	gsf	\$19.67	\$ 240,000		
01020	General Conditions	3	mo	\$75,000.00	\$ 225,000	\$18.44	Supervision/Temp Facilities
01020	Mobilizatoion	1	ls	\$15,000.00	\$ 15,000	\$1.23	Supervision/Temp Facilities
Sitework		12,200	gsf	\$77.27	\$ 942,700		
02200	Demo Site	12,200	sf	\$7.00	\$ 85,400	\$7.00	
02200	Grade Site	12,200	sf	\$10.50	\$ 128,100	\$10.50	
02600	Underground Utilities Allowance	1	allw	\$125,000.00	\$ 125,000	\$10.25	
02710	City Curb and Gutter	280	lf	\$75.00	\$ 21,000	\$1.72	
02710	CIP Concrete Planter	15	lf	\$1,250.00	\$ 18,750	\$1.54	
02710	CIP Concrete Curb	182	lf	\$85.00	\$ 15,470	\$1.27	
02710	CIP Concrete Stairs	225	lf	\$350.00	\$ 78,750	\$6.45	
02740	Unit Pavers on Grade	4,024	sf	\$45.00	\$ 181,080	\$14.84	
02740	Concrete Paving	2,750	sf	\$38.00	\$ 104,500	\$8.57	
02750	Bollards	4	ea	\$4,500.00	\$ 18,000	\$1.48	
02750	Truncated Domes	75	lf	\$120.00	\$ 9,000	\$0.74	
02775	Relocate Muni Poles	0	ea	\$80,000.00	\$ -	\$0.00	
02775	Light Poles	0	ea	\$37,000.00	\$ -	\$0.00	
02900	Trees on Grade	12	ea	\$1,600.00	\$ 19,200	\$1.57	
02900	Trees Grates	12	ea	\$1,500.00	\$ 18,000	\$1.48	
02900	Planting Allowance	1,606	sf	\$50.00	\$ 80,300	\$6.58	
02900	Irrigation Allowance	1,606	sf	\$25.00	\$ 40,150	\$3.29	
Metals		12,200	gsf	\$6.45	\$ 78,650		
05510	Handrail at Stairs	187	lf	\$325.00	\$ 60,775	\$4.98	
05510	Handrail, other	55	lf	\$325.00	\$ 17,875	\$1.47	
General Requirements		12,200	gsf	\$26.75	\$ 326,389		
22000	General Requirements	12,200	gsf	\$25.00	\$ 305,000	\$25.00	
20000	Sub Guard Bonding	1	ls	\$21,389.06	\$ 21,389	\$1.75	1.35% of subcontractor costs
SUBTOTAL DIRECT CONSTRUCTION (W/GC'S)					\$ 1,587,739	\$130.14	
PERMITS AND ASSESSMENTS, UTILITY FEES		0.00%				by owner	
BUSINESS TAX		0.41%			\$ 6,510	\$0.53	
LIABILITY INSURANCE		1.25%			\$ 19,847	\$1.63	
CONTINGENCY		10.00%			\$ 158,774	\$13.01	
CONTRACTOR'S FEE		5.00%			\$ 88,318	\$7.24	
ESCALATION		5.00%			\$ 93,059		
TOTAL					1,954,247	\$160.18	

BID REQUESTED ALTERNATES:	QUANTITY	UNIT	UNIT PRICE	EXTENSION	\$/SF gross
---------------------------	----------	------	------------	-----------	-------------

Alternates:

Qualifications:

- 1 Bonding is not included.
- 2 No Phase 1 or Phase 2 report provided
- 3 Assumes major utility upgrades are not required
- 4 Owner to provide all meters and utilities required for this space to complete work.
- 5 The cost for identifying or removal of any hazardous material is not included.
- 6 Price does not include unforeseen discovery or hidden defects/flaws.
- 7 Special Inspection Excluded. We will schedule and coordinate, but contract should be through owner



3/4/2019

Job #: 16-184

Re: Dry Utility Budget (REVISED)

Otis - Relocation And Temp Power Joint Trench Budget

Scope

1. Relocate Existing 4KV and 12KV primary electrical facilities to accommodate Plaza construction.
2. This budget also includes all equipment necessary for Temp Power scope. Because the two jobs need to be installed at the same time, I have combined the two scopes in one budget.
3. AT&T contract costs are associated with splicing (1) 300, (2) 100, (3) 50 pair copper cables a 48 fiber cable and a 24 fiber cable.

Contractor Costs

1. Trenching - 400 LF	\$180,000.00
2. Vaults and Splice Boxes (Supply, Install & Excavation UON)	\$204,900.00
a. PG&E	\$113,500.00
b. Telephone	\$89,400.00
c. CATV	\$2,000.00
3. Conduits - Supply and Install	\$220,000.00
a. PG&E	\$108,000.00
b. Telephone	\$84,000.00
c. CATV- Installed by CATV	\$28,000.00
4. PG&E Electrical System	\$362,000.00
5. PG&E Gas System	NIC

Total Construction Costs: \$966,900.00

Utility Contract Costs and Consulting Fees

1. PG&E Contract Costs - 10 Year Option	Low	High
2. AT&T Contract Costs	NA	\$481,795.00
	\$75,000.00	\$300,000.00

Total Utility Contract Costs and Consulting Fees: \$781,795.00

Total Construction and Utility Contract Costs/Fees: \$1,748,695.00

Budget Summary

Total Cost Per Foot - 400 Feet	\$4,371.74
--------------------------------	-------------------

Schedule 3

Cost Estimate (Turner)

Conceptual IKA Budget

30 Otis Street

Updated: 5/2/19

	Trades	IKA Qty	Unit	Unit Price	IKA Cost
HARD COSTS	General Conditions/General Requirements	1,257,250	pct	20.00%	\$ 251,450
	Clear Site	15,000	sf	6.00	\$ 90,000
	Grade Site	15,000	sf	12.00	\$ 180,000
	Mobilization	75%	allow	50,000	37,500
	A - Tree Planting	12	ea	2,000	\$ 24,000
	B - Planted Areas	1,451	sf	40	\$ 58,040
	C - Concrete Planter - Seating	11	lf	1,000	\$ 11,000
	J - Truncated Domes	73	sf	100	\$ 7,300
	K - Curb	272	lf	80	\$ 21,760
	M - Slot Drain	72	lf	250	\$ 18,000
	<i>O - Utility Pole - MUNI And/Or Light (Excluded, we understand this is part of the Van Ness / BRT improvements)</i>				<i>NA</i>
	P - Bollard	4	ea	1,500	\$ 6,000
	S - Interlocking Stone Pavers on Grade	2,073	sf	80	\$ 165,840
	T - Linear Interlocking Stone Pavers on Grade	542	sf	80	\$ 43,360
	WW - Handrails	180	lf	250	\$ 45,000
	W - Stairs	180	lf	300	\$ 54,000
	X - Black Basalt Flamed Top Pavers on Grade	1,853	sf	100	\$ 185,300
	Allow Utilities (25% of this cost is allocated to Public Art budget)	75%	ls	100,000	\$ 75,000
	Allow Irrigation (25% of this cost is allocated to Public Art budget)	75%	ls	60,000	\$ 45,000
	Pour in Place Concrete with Integral Color	2,543	sf	50	\$ 127,150
	Curb or Wall for Stairs and Blackened Elements	180	lf	350	\$ 63,000
	Trades Subtotal				\$ 1,508,700
	Sub Guard	1.15%			\$ 17,350
	General Liability	0.00%			\$ -
	Payment & Performance Bonds	0.00%			\$ -
	SF Business Tax (.0035 thru GC's Books)	0.3500%			\$ 4,461
	Hard Cost Contingency	12.00%			\$ 150,870
	Escalation (1 yrs)	5.00%			\$ 84,069
Below Line sub-total				\$ 256,750	
Hard Cost Budget Total		\$ -	\$ -	\$ -	\$ 1,765,450

\$ 205.64 psf

Conceptual IKA Budget

30 Otis Street

Updated: 5/2/19

Consultant		NA	NA	NA	Design Fee	
DESIGN	Architect Design				\$ 120,000	
	Civil Engineer				\$ 100,281	
	Environmental-Soil Samples Analysis and SMP				\$ 35,000	
	Geotechnical				\$ 10,000	
	Landscape Architect				\$ 115,000	
	Legal				\$ 10,000	
	Lighting				\$ 35,000	
	MEP Consultant				\$ -	
	MEP Engineer - PG&E Joint Trench				\$ 6,000	
	Printing, Renderings, Reproductions				\$ 2,000	
	Design Revisions/Soft Cost Contingency				\$ 50,000	
	Reimbursables, Travel and Misc.				\$ 5,000	
	Structural Engineering				\$ 10,000	
	Signage & Graphics				\$ 6,000	
Design Costs Total				\$ 504,281	\$ 58.74 psf	

Item		NA	NA	NA	Estimate	
PERMITS & INSPECTIONS	Ex. Conditions Surveys / Utility relocation				\$ 15,000	
	Pre-con Site Investigation				\$ 12,000	
	Traffic Control Plans				\$ 19,000	
	Independent Special Inspection				\$ 5,000	
	Environmental Monitoring				\$ 5,000	
	Miscellaneous				\$ 5,000	
	Initial Survey Work				\$ 10,000	
	Verification of Stormwater / Sewer				\$ 8,000	
	Permit Consultant				\$ 7,500	
	<i>Relocation Exiting PG&E & AT&T Infrastructure (Budget)</i>				<i>\$ 1,748,695</i>	
	<i>Remove portion of Utility Work related to Temp Power (Estimate)</i>				<i>\$ (200,000)</i>	
	<i>Relocation of Sewer / Water (Excluded, we understand this is part of the Van Ness / BRT improvements)</i>				<i>N/A</i>	
	Permit Fees - Demolition Permit				\$ 5,000	
	Permit Fees - Building Plan Review Fee				\$ 5,000	
	Permit Fees - Misc. Permit Fees				\$ 5,000	
	Non-refundable City Inspection Fee for Major Encroachment				\$ 132,409	
Permits & Inspections Costs Total				\$ 1,782,604	\$ 207.64 psf	

TOTAL COST ESTIMATE	\$ 4,052,335	\$ 472.03 psf
----------------------------	---------------------	----------------------

30 OTIS
Schematic Site Plan
Triangular Park Area



Item	IKA Qty	Unit	Unit Price	IKA Extension
General Conditions/General Requirements/ Precon	1,257,250	pct	20%	251,450
Clear Site	15,000	sf	6.00	90,000
Grade Site	15,000	sf	12.00	180,000
Mobilization	75%	allow	50,000	37,500
A - Tree Planting	12	ea	2,000	24,000
B - Planted Areas	1,451	sf	40	58,040
C - Concrete Planter - Seating	11	lf	1,000	11,000
J - Truncated Domes	73	sf	100	7,300
K - Curb	272	lf	80	21,760
M - Slot Drain	72	lf	250	18,000
P - Bollard	4	ea	1,500	6,000
S - Interlocking Stone Pavers on Grade	2,073	sf	80	165,840
T - Linear Interlocking Stone Pavers on Grade	542	sf	80	43,360
WW - Handrails	180	lf	250	45,000
W - Stairs	180	lf	300	54,000
X - Black Basalt Flamed Top Pavers on Grade	1,853	sf	100	185,300
Allow Utilities	75%	ls	100,000	75,000
Allow Irrigation	75%	ls	60,000	45,000
Pour in Place Concrete with Integral Color	2,543	sf	50	127,150
Curb or Wall for Stairs and Blackened Elements	180	lf	350	63,000

DIRECT COSTS 1,508,700

GENERAL CONDITIONS 0

Sub Guard	1.15%			17,350
General Liability	0.00%			0
Payment and Performance Bonds	0.00%			0

INSURANCE AND BONDS SUBTOTAL 17,350

SF Business Tax (.0035 thru GC's Books)	0.0035			4,461
GC Construction Contingency	12.00%			150,870

GENERAL MARKUPS SUBTOTAL 155,331

TOTAL HARD COSTS 1,681,381

Escalation (1 yr)	5.00%			84,069
-------------------	-------	--	--	--------

TOTAL HARD COSTS (w/ Escalation) 1,765,450



3/4/2019

Job #: 16-184

Re: Dry Utility Budget (REVISED)

Otis - Relocation And Temp Power Joint Trench Budget

Scope

1. Relocate Existing 4KV and 12KV primary electrical facilities to accommodate Plaza construction.
2. This budget also includes all equipment necessary for Temp Power scope. Because the two jobs need to be installed at the same time, I have combined the two scopes in one budget.
3. AT&T contract costs are associated with splicing (1) 300, (2) 100, (3) 50 pair copper cables a 48 fiber cable and a 24 fiber cable.

Contractor Costs

1. Trenching - 400 LF	\$180,000.00
2. Vaults and Splice Boxes (Supply, Install & Excavation UON)	\$204,900.00
a. PG&E	\$113,500.00
b. Telephone	\$89,400.00
c. CATV	\$2,000.00
3. Conduits - Supply and Install	\$220,000.00
a. PG&E	\$108,000.00
b. Telephone	\$84,000.00
c. CATV- Installed by CATV	\$28,000.00
4. PG&E Electrical System	\$362,000.00
5. PG&E Gas System	NIC

Total Construction Costs: \$966,900.00

Utility Contract Costs and Consulting Fees

1. PG&E Contract Costs - 10 Year Option	Low	High
2. AT&T Contract Costs	NA	\$481,795.00
	\$75,000.00	\$300,000.00

Total Utility Contract Costs and Consulting Fees: \$781,795.00

Total Construction and Utility Contract Costs/Fees: \$1,748,695.00

Budget Summary

Total Cost Per Foot - 400 Feet	\$4,371.74
--------------------------------	-------------------