

COMPENSATION AGREEMENT PURSUANT TO
HEALTH AND SAFETY CODE SECTION 34180(f)

This Agreement, dated for reference purposes as of _____, _____, is entered into by and among the City of San Mateo (“City”), San Mateo County, San Mateo-Foster City School District, San Mateo Union High School District, San Mateo County Office of Education, Bay Area Air Quality Management District, Peninsula Health Care District, San Mateo Harbor District, and San Mateo County Mosquito & Vector Control District (“Taxing Entities”), on the basis of the following facts, understandings, and intentions of the Parties:

RECITALS

A. The City of San Mateo Redevelopment Agency (the “RDA”) was activated by the City Council of the City of San Mateo (the “City Council”) as a redevelopment agency under the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.).

B. Pursuant to the Redevelopment Dissolution Statutes, the Former RDA was dissolved as of February 1, 2012, and the Successor Agency became responsible for paying the enforceable obligations, disposing of the properties and other assets, and unwinding the affairs of the Former RDA.

C. Accordingly, ownership of the Former RDA's Properties that had been acquired to implement the Redevelopment Plan transferred to the Successor Agency for disposition in accordance with the Redevelopment Dissolution Statutes.

D. The Successor Agency received a "Finding of Completion" from the DOF on April 26, 2013 confirming that the Successor Agency had made specified required payments under the Redevelopment Dissolution Statutes and entitling the Successor Agency to prepare and submit a Long-Range Property Management Plan (the "LRPMP") to the Oversight Board and the DOF for approval.

E. The Successor Agency prepared and obtained Oversight Board approval of its LRPMP on December 17, 2014, calling for the properties at 480 East Fourth Avenue and 400 East Fifth Avenue (the “Properties”) which are currently used as surface parking lots containing 235 public parking spaces to be transferred by the Successor Agency to the City and retained for future development to implement projects identified in the Redevelopment Plan.

F. The LRPMP states that the City will enter into a compensation agreement with the affected taxing entities prior to the City’s disposition of the properties designated as properties transferred for future development and provide for any net proceeds of sale to be distributed as property taxes to the affected taxing entities and that the purchase price to be paid by the Developer for such properties under the any disposition agreement will be not less than the fair reuse value of the Properties with the covenants, conditions, and development costs authorized pursuant to a Disposition and Development Agreement as determined by formal action of the City Council. Per the LRPMP, Oversight Board approval of the compensation agreement is not required.

G. On September 7, 2017, the City issued a Request for Proposal (the “RFP”) to select a developer for the purpose of constructing and operating housing on the 480 East 4th Avenue property and constructing a public parking garage to be operated by the City on the 400 East 5th Avenue to include replacement parking for the current surface lots and parking for the housing to be constructed on 480 East 4th Avenue. MidPen Housing, Inc. (the “Developer”) responded to the RFP and was selected as the developer of the Properties.

H. The City entered into a Disposition, Development, and Loan Agreement (the “DDLA”) with the Developer on August 19, 2020 to construct two hundred and twenty five (225) units of multi-family rental housing for low income households, a portion of which will have a preference for qualifying public agency employees, on 480 East 4th Avenue and a parking garage on 400 East 5th Avenue containing up to 696 parking spaces, including 164 spaces for exclusive use of the housing development, 235 replacement public parking spaces, and up to 297 additional public parking spaces for Downtown San Mateo (the “Development”). The City will retain ownership of 400 East 5th Avenue and will own and operate the parking garage. The Developer will have an easement over a portion of 480 East 5th Avenue for the 164 parking spaces designated for the exclusive use of the housing development.

I. The Development is consistent with the Redevelopment Plan and the proposed use of the Properties as outlined in the LRPMP.

J. The Developer's construction and operation of the development is not financially feasible without the City's financial assistance. The City will provide the Developer with loans totaling \$12.5 million (“City Loans”) to provide construction funding in consideration for the Developer's agreement to construct and operate the low-income housing, including \$5 million for the construction of the garage on the 400 East 5th Avenue property.

K. The City commissioned a Reuse Appraisal of the Properties in June 2020 in accordance with California Health and Safety Code Section 33433 to estimate the fair reuse value of the 480 East 4th Avenue property that is to be conveyed to the Developer as well as the City's total cost associated with the Development. The Reuse Appraisal concluded that the reuse value of the Properties is zero and that without the City’s financial contribution to the Development would have a significant funding gap and the reuse value would be negative. Additionally, the Reuse Appraisal concluded that the garage on the 400 East 5th Avenue property is not anticipated to generate any excess revenue after payment of all operating costs.

L. The Parties desire to enter into this Agreement to comply with the terms of the LRPMP for the execution of an appropriate compensation agreement in accordance with Health and Safety Code Section 34180(f).

NOW, THEREFORE, the Parties agree as follows:

Section 1. Definitions. The following definitions shall apply in this Agreement:

(a) "Agreement" means this Compensation Agreement Pursuant to Health and Safety Code Section 34180(f), as may be amended from time to time.

(b) "Auditor-Controller" means the San Mateo County Auditor-Controller.

(c) "DDLA" means the Disposition, Development, and Loan Agreement between the City and the Developer dated August 17, 2020 for the Properties.

(d) "Developer" means MidPen Housing, Inc.

(e) "Disposition Proceeds" means, with respect to the Properties, the gross lease payments and other compensation, if any, actually received by the City from the Developer in consideration for the disposition of the 480 East 4th Avenue property and the 400 East 5th Avenue property pursuant to the DDLA, less the sum of the City's actual costs for processing the lease, as well as the costs incurred by the City in carrying or maintaining the Properties, in preparing and improving the Properties for development, and any City funds loaned to the Developer for costs of developing the Development.

(f) "DOF" means the California Department of Finance.

(g) "ERAF" means the Educational Revenue Augmentation Fund maintained by the Auditor-Controller.

(h) "Effective Date" has the meaning given in Section 2.

(i) "Former RDA" means the Redevelopment Agency of the City of San Mateo.

(j) "LRPMP" means the Long-Range Property Management Plan of the Successor Agency as it exists from time to time.

(k) "Oversight Board" means the Successor Agency's oversight board established and acting in accordance with the Redevelopment Dissolution Statutes.

(l) "Parties" means all the parties to this Agreement as set forth in the opening paragraph of this Agreement. "Party" means one of the Parties individually.

(m) "Properties" mean collectively, the following parcels of real property that are owned by the Successor Agency and that are subject to the terms of the LRPMP and this Agreement, each as more fully described in the LRPMP:

(1) "480 East 4th Avenue": an approximately 1.16-acre property located at 480 East 4th Avenue;

(2) "400 East 5th Avenue": an approximately 1.25-acre property located at 400 East 5th Avenue.

(n) "Redevelopment Dissolution Statutes" means collectively ABx1 26 enacted in June 2011, and AB 1484 enacted in June 2012.

(o) "Redevelopment Plan" means the San Mateo Merged Project Area.

(p) "Successor Agency" means the Successor Agency of the Redevelopment Agency of the City of San Mateo".

(q) "Taxing Entities" means, collectively, the following entities that comprise affected taxing entities for purposes of the Redevelopment Dissolution Statutes: City of San Mateo, San Mateo County, San Mateo-Foster City School District, San Mateo Union High School District, San Mateo County Office of Education, Bay Area Air Quality Management District, Peninsula Health Care District, San Mateo Harbor District, and San Mateo County Mosquito & Vector Control District . "Taxing Entities" shall also mean and include ERAF if and to the extent the Auditor-Controller determines that ERAF is entitled to a distribution of compensation pursuant to Section 6 and the provisions of Health and Safety Code Section 34188.

Section 2. Disposition of Properties By City. Under the provisions of the DDLA, the City will ground lease 480 East 4th Avenue to the Developer for one dollar per year for a term of 99-years for the construction of the low-income housing ("Ground Lease"). The City will retain ownership of 400 East 5th Avenue while granting the Developer an easement dedicating no less than 164 spaces in the parking garage constructed on 400 East 5th Avenue, for the term of the Ground Lease, for use by the housing development ("Easement"). The timing of the disposition of 480 East 4th Avenue pursuant to the Ground Lease and the conveyance of the Easement over 400 East 5th Avenue under the DDLA is at the time that the Developer obtains its building permits for the Development.

Section 3. Compensation To Taxing Entities Related To Disposition Proceeds.

(a) Disposition Proceeds. Under the terms of the DDLA, no net Disposition Proceeds are to be received by the City from the disposition of the Properties to the Developer, either in the form of lease payments or revenues generated by the Properties. Additionally, based on the Reuse Appraisal of the Properties completed June 2020, the reuse value of the Properties is zero. Consequently, there are no Disposition Proceeds to be distributed to the Taxing Entities that are subject to this agreement. The Taxing Entities agree that upon execution of the Ground Lease and the Easement in accordance with the DDLA, the Taxing Entities shall have no further interest or right to any revenues or proceeds from the Properties.

(b) Alternate Disposition Proceeds. If, for any reason, the Developer and City determine to increase the disposition price for the Properties to an amount greater than the stated disposition price, the City hereby agrees to that the Taxing Entities shall receive their pro rata share of the net proceeds, if any, resulting from the lease or sale of the property at the alternate disposition price in accordance with the applicable provisions of the Dissolution Law.

(c) Garage Net Operating Revenues. If, during the term of this Agreement, the parking garage generates net operating revenue, that revenue will be paid to the City to reimburse it for its \$5 million contribution toward construction of the parking garage. If, during the term of this Agreement, net operating revenue generated by the parking garage exceeds \$5

million, it shall be distributed amongst the taxing entities on a pro rata basis based on the applicable share of the property taxes as shown in Exhibit B.

Section 4. Term of Agreement; Early Termination.

(a) Term. The term of this Agreement shall commence on the Effective Date. If at the end of the first 10-year operating period of the garage, the City has not received at least \$1 million toward reimbursement of its \$5 million garage contribution as provided for in Section 3(c), then this Agreement shall expire. If the City has received \$1 million or more in reimbursement during the first 10-year operating period as provided for in Section 3(c), then this Agreement will expire in 30 years from the date of the issuance of the certificate of occupancy of the parking garage. For the purposes of this Agreement, the “first 10-year operating period of the garage” shall commence on the date the City first offers paid parking in the garage to the public.

Section 5. Miscellaneous Provisions.

(a) Notices. All notices, statements, or other communications made pursuant to this Agreement to another Party or Parties shall be in writing, and shall be sufficiently given and served upon the Party if sent by (1) United States certified mail, return receipt requested, postage prepaid, or (2) nationally recognized overnight courier, with charges prepaid or charged to sender's account, and addressed to the applicable Party in the manner specified in the attached Exhibit A. Any Party may change its address for notice purposes by written notice to the other Parties prepared and delivered in accordance with the provisions of this Section 9(a).

(b) No Third Party Beneficiaries. No person or entity other than the Parties and their permitted successors and assigns, shall have any right of action under this Agreement.

(c) Litigation Regarding Agreement. In the event litigation is initiated attacking the validity of this Agreement, each Party shall in good faith defend and seek to uphold the Agreement; provided, however, that the costs of such litigation shall be borne solely by the City and/or the Successor Agency.

(d) State Law; Venue. This Agreement, and the rights and obligations of the Parties hereto, shall be construed and enforced in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of San Mateo County, California or in the Federal District Court for the Northern District of California.

(e) Entire Agreement; Amendment. This Agreement constitutes the entire and integrated agreement of the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be modified only in writing and only if signed by all of the Parties

(f) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon, provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Parties.

Any executed counterpart of this Agreement may be delivered to the other Parties by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

(g) Non-Waiver. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by the waiving Parties.

(h) No Partnership. Nothing contained in this Agreement shall be construed to constitute any Party as a partner, employee, joint venturer, or agent of any other Party.

(i) Ambiguities. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

(j) Exhibits. The following exhibits are incorporated in this Agreement by reference:

Exhibit A: List of Addresses For Notice Purposes

Exhibit B: Illustrative Taxing Entities Applicable Shares of Property Taxes

(k) Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

(l) Action or Approval. Whenever action and/or approval by the City is required under this Agreement, the City Manager or his or her designee may act on and/or approve such matter unless specifically provided otherwise, or unless the City Manager determines in his or her discretion that such action or approval requires referral to the City Council for consideration.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth in the opening paragraph of this Agreement.

For Attestation and/or Approval
as to Form (Optional)

For Execution
(Required)

CITY OF SAN MATEO

By: _____

Drew Corbett, City Manager

NAME OF TAXING ENTITY

By: _____

Print Name: _____

Title: _____

EXHIBIT A

LIST OF ADDRESSES FOR NOTICE PURPOSES

<p>City of San Mateo Attn: Drew Corbett, City Manager 330 W. 20th Avenue San Mateo, Ca 94403</p>	<p>San Mateo County Office of Education Attn: Nancy Magee, Superintendent 101 Twin Dolphin Drive Redwood City, CA 94065</p>
<p>San Mateo County Attn: Mike Callagy, County Manager 400 County Center Redwood City, CA 94063</p>	<p>Bay Area Air Quality Management District Attn: Marina Smotkina, Accounting Manager 375 Beale Street, Suite 600 San Francisco, CA 94105</p>
<p>San Mateo-Foster City School District Attn: Joan Rosas, Superintendent 1170 Chess Drive Foster City, CA 94404</p>	<p>Peninsula Health Care District Attn: Cheryl Fama, CEO 1819 Trousdale Drive Burlingame, CA 94010</p>
<p>San Mateo Union High School District Attn: Kevin Skelly, Superintendent 650 N. Delaware Street San Mateo, CA 94401</p>	<p>San Mateo County Harbor District Attn: Julie van Hoff, Director Admin Services PO Box 1449 El Granada, CA 94018</p>
<p>San Mateo County College District Attn: Mike Claire, Chancellor 3401 CSM Drive San Mateo, CA 94402</p>	<p>San Mateo County Mosquito & Vector Control District Attn: Brian Weber, District Manager 1351 Rollins Road Burlingame, CA 94010</p>

EXHIBIT B

ILLUSTRATIVE TAXING ENTITIES
APPLICABLE SHARES OF PROPERTY TAXES

<u>Taxing Entity/Fund</u>	<u>Property Tax Share</u>
County of San Mateo	20.08%
City of San Mateo	34.03%
San Mateo-Foster City School District	21.08%
San Mateo Union High School District	14.65%
San Mateo County Community College District	5.75%
San Mateo County Office of Education	2.99%
Bay Area Air Quality Management District	0.18%
Peninsula Health Care District	0.78%
San Mateo County Harbor District	0.30%
San Mateo County Mosquito & Vector Control District	0.16%
TOTAL	100%