

Appendix G

Site-Specific Programmatic Agreement



**PROGRAMMATIC AGREEMENT
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND THE
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING ALICE GRIFFITH HOUSING DEVELOPMENT,
1000-1069 FITZGERALD AVENUE,
SAN FRANCISCO, CALIFORNIA**

WHEREAS, the Mayor's Office of Housing of the City and County of San Francisco (City) has determined that the development of the Alice Griffith Public Housing (Undertaking), may have an effect on yet unidentified subsurface properties; and

WHEREAS, the City, through use of funds subject to regulation by 24 CFR Part 58 will assist in the undertaking; and

WHEREAS, the City is a Certified Local Government pursuant to Section 101(c)(1) of the National Historic Preservation Act; and

WHEREAS, the City has consulted with the California State Historic Preservation Officer (SHPO) pursuant to the Programmatic Agreement by and among the City and County of San Francisco, The California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Historic Properties Affected by the Use of Revenue from the Department of Housing and Urban Development Part 58 Programs, executed January 10, 2007 (PA for Part 58); and

WHEREAS, Double Rock Ventures, Inc and CP Development Company (Developers) have been invited to concur in this Programmatic Agreement (PA); and

WHEREAS, the California Native American Heritage Council (NAHC) advised the City that a search of its Native American sacred lands file did not identify any such resources in the Undertaking's archeological area of potential effects (APE); and

WHEREAS, pursuant to the ACHP's Section 106 regulations and the PA for Part 58, the City has conducted outreach and has actively sought and requested the comments and participation of members of the Ohlone/Costanoan Indian tribe; and the members did not respond to our requests to engage in such consultation;

WHEREAS, the Northwest Information Center (NWIC) at Sonoma State University has advised the City that there is a moderate potential of identifying unrecorded Native American resources in the APE and has made certain recommendations to the City regarding the preservation of cultural resources; and

WHEREAS, NWIC has also advised the City that there is a moderate to high potential of identifying unrecorded historic period archeological resources in the APE and has made certain recommendations to the City regarding the preservation of historic period archeological resources; and

WHEREAS, the State Historic Preservation Officer (SHPO) has acknowledged that the necessary archival research and surveying of the APE cannot be accomplished until after a Request for the Release of Funds has been submitted to the Department of Housing and Urban Development by the City and has advised the City that a Programmatic Agreement between the SHPO and the City that outlines the

procedures and methodology that the City will use to further identify potential historic properties within the APE is appropriate; and

WHEREAS, the Advisory Council on Historic Preservation has declined to participate in the consultation process for the resolution of adverse effects; and

WHEREAS, the APE is expected to contain subsurface archaeological resources from the Native American, Chinese fishing village, prehistoric, and maritime development periods, and

WHEREAS, construction activities associated with the Undertaking could however disturb these archaeological resources, and result in potentially adverse effects; and

NOW, THEREFORE, the City and the California State Historic Preservation Officer (SHPO) agree that the Undertaking shall be implemented according to the following stipulations in order to take into account the effects of the Undertaking may have on historic properties.

STIPULATIONS

The City will ensure that the following measures are carried out:

- I. Addressing potentially significant effects of the Undertaking on archaeological resources
 - A. Based on a reasonable presumption that archaeological resources may be present within the APE, the following measures shall be undertaken to avoid any potentially significant adverse effect from the Undertaking on buried or submerged historical resources.
 - 1. The Project Applicant shall retain the services of a qualified archaeological consultant having expertise in California prehistoric and urban historical archeology. As used in this Stipulation and in the PA for Part 58, “qualified archeologist: means a person who at a minimum meets the Secretary of the Interior’s Professional Qualifications Standards (36 CFR Part 61, Appendix A) for archeology.
 - a. The archaeological consultant shall undertake an archaeological testing program as specified herein.
 - b. In addition, the archaeological consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure.
 - c. The archaeological consultant’s work shall be conducted in accordance with this measure and with the requirements of the Project Archaeological Research Design and Treatment Plan (Archeo-Tec. Archaeological Research Design and Treatment Plan for the Bayview Waterfront Project, San Francisco, California, 2009) at the direction of the City’s Environmental Review Officer (ERO).
 - d. In instances of inconsistency between the requirement of the Project Archaeological Research Design and Treatment Plan and of this archaeological mitigation measure, the requirement of this archaeological mitigation measure shall prevail.

- e. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO.
 - f. Archaeological monitoring and/or data recovery programs required by this measure could suspend construction of the Undertaking for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce potential effects on a significant archaeological resource as defined in CEQA Guidelines Section 15064.5(a)(c) to a less-than-significant level
2. Archaeological Monitoring Program: If the ERO, in consultation with the archaeological consultant, determines that an Archaeological Monitoring Program (AMP) shall be implemented, the AMP shall include the following provisions, at a minimum
- a. The archaeological consultant, Project Applicant, and ERO shall meet and consult on the scope of the AMP prior to the commencement of any Project-related soils disturbing activities. The ERO, in consultation with the archaeological consultant, shall determine what Undertaking activities shall be archaeologically monitored. In most cases, any soils- disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), and site remediation, shall require archaeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context
 - b. The archaeological consultant shall train all Project construction personnel who could reasonably be expected to encounter archaeological resources of the expected resource(s), how to identify the evidence of the expected resource(s), and the appropriate protocol in the event of apparent discovery of an archaeological resource
 - c. The archaeological monitor(s) shall be present on the Project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation with the archaeological consultant, determined that Project construction activities could have no effects on significant archaeological deposits
 - d. The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis
 - e. If an intact archaeological deposit is encountered, all soil-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor shall be authorized to temporarily halt demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If, in the case of pile driving activity (foundation, shoring, etc.), the archaeological monitor has cause to believe that the pile driving activity may affect an archaeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in

consultation with the ERO. The archaeological consultant shall immediately notify the ERO of any encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit and present the findings of this assessment to the ERO as expeditiously as possible

- f. Whether or not significant archaeological resources are encountered, the archaeological consultant shall submit a written report of the findings of the monitoring program to the ERO.

3. Archaeological Data Recovery Program:

- a. The archaeological data recovery program shall be conducted in accord with an Archaeological Data Recovery Plan (ADRP).
- b. The archaeological consultant, Project Applicant, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP.
- c. The archaeological consultant shall submit a draft ADRP to the ERO.
- d. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archaeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions.
- e. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the Project. Destructive data recovery methods shall not be pursued if nondestructive methods are practical
- f. The scope of the ADRP shall include the following elements:
 - (1) Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations
 - (2) Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures.
 - (3) Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies
 - (4) Interpretive Program. Consideration of an on-site/off-site public interpretive program during the course of the archaeological data recovery program
 - (5) Security Measures. Recommended security measures to protect the archaeological resource from vandalism, looting, and other potentially damaging activities
 - (6) Final Report. Description of proposed report format and distribution of results
 - (7) Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities

4. Human Remains and Associated or Unassociated Funerary Objects:


- a. The treatment of human remains and associated or unassociated funerary objects discovered during any soil-disturbing activity shall comply with applicable state and federal laws.
 - b. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), which shall appoint a Most Likely Descendant (MLD) (PRC Sec. 5097.98).
 - c. The archaeological consultant, Project Applicant, and MLD shall make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines Sec. 15064.5(d)).
 - d. The agreement shall take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects
5. Final Archaeological Resources Report: The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s). Information that may put at risk any archaeological resource shall be provided in a separate removable insert within the final report.
- a. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources.
 - b. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than presented above
- II. Should any signatory object at any time to the manner in which the terms of this PA are implemented, the City shall consult with the objecting party(ies) to resolve the objection. If the City determines within fifteen (15) calendar days of receipt that such objection's) cannot be resolved, the City will forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (ACHP) in accordance with 36 CFR § 800.2(b)(2). The City in reaching a final decision regarding the dispute shall take any ACHP comment provided into account. The City's responsibility to carry out all other actions under this MOA that are not the subjects of the disputed will remain unchanged.
- III. At any time during implementation of the measures situated in this PA, should an objection to any such measure or its manner of implementation be raised in writing by a member of the public, the City shall take the objection into account and consult, as needed, with the objecting party and the SHPO, as needed, for a period of time not to exceed fifteen (15) calendar days. If

the City is unable to resolve the conflict, the City shall forward all documentation relevant to the dispute to the ACHP, following the terms outlined in stipulation 5, above.


- IV. If any signatory believes that the terms of this PA cannot be carried out, or than an amendment to its terms should be made, that signatory shall immediately consult with the other parties to develop amendments pursuant to 36 CFR §§ 800.6(c)(7) and 800.6(c)(8). If this PA is not amended as provided for in this stipulation, any signatory may terminate it, whereupon the City shall proceed in accordance with 36 CFR 800.
- V. If either the terms of this MOA or the undertaking have not been carried out within three (3) years following the date of execution of the AMOA, the signatories shall reconsider its terms. If the signatories agree to amend the MOA, they shall proceed in accordance with the amendment process referenced in stipulation IV, above.

Execution and implementation of this MOA evidences that the City has afforded the ACHP a reasonable opportunity to comment on the undertaking and its effects on historic properties, that the City has taken into account the effects of the undertaking on historic properties, and the City has satisfied its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations.

CITY AND COUNTY OF SAN FRANCISCO
MAYOR'S OFFICE OF HOUSING

By:  Date: 1/24/12
Brian Cheu, Director of Community Development Division

CALIFORNIA STATE HISTORIC PRESRVATION OFFICER

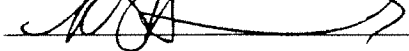
By:  Date: 4/3/12
Milford Wayne Donaldson, FAIA

CONCUR:

McCormack Baron Salazar, Inc., Member of
Double Rock Ventures, ~~Inc.~~ LLC

By:  Date: _____

CP Development Co., LP

By:  Date: 2/7/12