

MEMORANDUM OF AGREEMENT

**BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND THE CALIFORNIA STATE
HISTORIC PRESERVATION OFFICER REGARDING THE MIXED USE DEVELOPMENT, 55 LAGUNA
STREET, SAN FRANCISCO**

WHEREAS, the Mayor's Office of Housing of the City and County of San Francisco (MOH) has been asked to approve funding subject to regulation by 24 CFR Part 58 (Part 58) for the development of 110 units of affordable senior housing units, which is part of a larger development of 440 housing units and community facilities (Undertaking) to be located at the San Francisco State Teacher's College site at 55 Laguna Street in San Francisco; and

WHEREAS, the site was listed as a Historic District on the National Register of Historic Places as San Francisco State Teachers' College on January 7, 2008 under Criterion A, as representative of the broad patterns of events relating to the history of state normal schools in California and to Work Progress Administration (WPA) projects in San Francisco as #38-84; and

WHEREAS, the activities funded by the Part 58 programs would have an adverse effect on the qualities of the resource which serve as the basis for the National Register listing of the site under Criteria A; and

WHEREAS, the Sponsor of the affordable senior housing is 55 Laguna L.P. consisting of Mercy Housing California and Openhouse; and

WHEREAS, the Sponsor of the market rate housing is Alta Laguna, LLC; and

WHEREAS, the City and County of San Francisco (City) has assumed responsibility for environmental review responsibilities for programs and activities subject to regulation under Part 58; and

WHEREAS, the Director of the Mayor's Office of Housing has been designated the Agency Official under Section 106 of the National Historic Preservation Act (NHPA) and the Certifying Officer under Part 58; and

WHEREAS, the City is a Certified Local Government pursuant to Section 101(c)(1) of the NHPA; 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, MOH has consulted with the San Francisco Historic Preservation Commission and Save the Laguna Street Campus regarding the effects of the undertaking on historic properties; and

WHEREAS, the City has established the Area of Potential Effects (APE) for the Undertaking as defined at 36 CFR §800.16 based on the 55 Laguna Street Historic Property Survey Report (HPSR), prepared for and approved by the San Francisco Planning Department (Planning); and

WHEREAS, the City, with public participation, has identified and evaluated historic properties located within the APE; and

WHEREAS, the City has determined that the Undertaking would not have an adverse effect on off-site historic resources within the APE; including contributors to the Hayes Valley Historic District or San Francisco Landmarks in the immediate vicinity; and

WHEREAS, three of the existing buildings on the site: Richardson Hall (excluding its Administration Wing), Woods Hall and Woods Hall Annex, have been designated San Francisco City Landmarks; and

WHEREAS, In accordance with 36 CFR 800.6(a)(1), MOH has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and has invited the ACHP to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii). The ACHP has declined to participate; and

WHEREAS, the Undertaking was subject to preliminary archeological review by Planning which determined that there was reasonable presumption that archeological resources may be present within the project; and

WHEREAS, the Northwest Information Center (NWIC) at Sonoma State University has advised the City that there is a moderately high possibility of identifying Native American archeological resources and a moderately high possibility of identifying historic-period archeological resources in the project site; and

WHEREAS, the signatories to this Memorandum of Agreement (MOA) acknowledge that archeological resources covered by this MOA are subject to the provisions of Section 304 of the NHPA and Section 6254.10 of the California Government Code (Public Records Act) relating to the disclosure of archeological site information and having so acknowledged will ensure that all actions and documentation prescribed by this MOA are consistent with those authorities; and

WHEREAS, the SHPO has acknowledged that the necessary archeological studies cannot be completed until after a request for release of funds has been submitted to the Department of Housing and Urban Development (HUD) by the City and has advised the City that a MOA between the SHPO and the City that outlines the procedures and methodology that the City will use to further identify potential archeological resources within the project site is appropriate; and

WHEREAS, the City, pursuant to 36 CFR §800.13(a) and 36 CFR §800.14(b) will outline actions to be taken if historical or cultural deposits are discovered during the implementation of the Undertaking; and

WHEREAS, on July 18, 2012, the Historic Preservation Commission (HPC) of the City and County of San Francisco held a public hearing regarding the Undertaking and the nature of the mitigation measures necessary to address the adverse effect of the Undertaking; and

WHEREAS, the City has considered the recommendations of the HPC and has incorporated them into the Environmental Review Records (ERR) of the Undertaking and where possible has included them in this MOA; and

WHEREAS, the City and the SHPO are signatories to this MOA, and 55 Laguna L.P. has signed this MOA as a concurring party, and Alta Laguna LLC, and Save the Laguna Street Campus have declined to sign this MOA as concurring parties; and

NOW THEREFORE, the City and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on Historic Properties, and further agree that these stipulations will govern the Undertaking and all of its parts until this MOA expires or is terminated.

STIPULATIONS

The City shall ensure that the following stipulations are carried out:

- I. ADDRESSING ADVERSE EFFECTS OF THE UNDERTAKING ON HISTORIC ARCHITECTURAL PROPERTIES
 - A. Prior to any physical removal of any historic building or part of any building or any site features, the Project Sponsor shall prepare, or cause to be prepared, documentation of the historic properties proposed for demolition or alteration located at the San Francisco State Teacher's College, San Francisco, California. This documentation shall meet the Historic American Buildings Survey (HABS) Documentation, Level II standards. The HABS level documentation package shall be submitted to the Planning Department for review and comment prior to issuance of any permit that may be required by the City for demolition or alteration of historic properties. This HABS level documentation shall include the following:
 1. A HABS-Level II outline report format which shall include descriptive and historical information on the buildings and their architects. Information from any previous reports may be included to fulfill the requirements for descriptive and historical requirements.

2. Photographic documentation of the exterior and any significant interior elements of the buildings.

a. Photographic documentation shall follow the HABS Photographic Standards for detail and quality, including use of large format photographs and negatives, archival processing, labeling and sacrificial test prints.

b. Planning Department staff shall be consulted during the scoping process to identify exterior and interior building elements to be photographed for the documentation package.

c. Two sets of archival prints and two sets of archival negatives shall be prepared.

d. Contextual site photographs of the campus including the Sacred Palm will be taken. The contextual photographs will reveal the relationship between the resources to remain and Middle Hall, the Administration Wing, and the portion of Laguna Street retaining wall to be demolished. Photographs of the resources to remain shall include exterior photographs of Woods Hall, Woods Hall Annex and Richardson Hall.

3. The HABS-level documentation shall include:

a. Drawings: Existing drawings, where available, shall be photographed with large format negatives or photographically reproduced on Mylar.

b. Photographs: Black and white photographs with large-format negatives should be shot of exterior and interior views of the campus, including shots of the buildings in their existing physical context. These photographs shall include, but are not limited to, the Administration Wing of Richardson Hall, Middle Hall, the Laguna Street retaining wall and any significant landscape features of the former campus.

c. Historic photos, where available, should be reproduced using large-format photography and all photographs should be printed on archival (acid-free) fiber paper. New negatives are not required if the San Francisco Library already has large format negatives.

d. Written data: A report should be prepared that documents the existing condition of the Administration Wing of Richardson Hall, Middle Hall, the Laguna Street retaining wall, and any significant landscape features of the former campus, as well as the overall history of the California Normal School and the site of San Francisco State University.

e. Documentation of the former campus shall be submitted to the following repositories:

1) Documentation report and one set of photographs and a copy of the original drawings, if available, shall be submitted to the History Room of the San Francisco Public Library.

- 2) Documentation report and one set of photographs and a copy of the original drawings, if available, shall be submitted to the Environmental Design Archives in the College of Environmental Design, University of California, Berkeley.
 - 3) Documentation report and xerographic copies of the photographs shall be submitted to the Northwest Information Center of the California Historic Resources Information Center, Sonoma State University.
 - 4) Documentation report and xerographic copies of the photographs and the original drawings shall be submitted to the Planning Department for review prior to the issuance of any permit that may be required by the City for demolition or alteration of the Historic Property.
- B. The Project Sponsor shall prepare and implement, or cause to be prepared and implemented, an interpretation program. Such a program will include a permanent interpretive display at the San Francisco State Teacher's College to describe to the general public the history of the site as an early California Normal School and as the original site of the San Francisco State University, as well as its WPA-era associations, including information about the existing WPA-era mural(s) in Woods Hall Annex. As part of the interpretation program, the murals shall remain in publicly accessible areas, or made publicly available by arrangement for curated tours where the murals would be located in private common areas. The sponsor shall retain the historic names of the remaining three buildings on the site, and should consider naming new private streets for aspects of the site's evolution, including its historic geography, or cultural landscape. Components of this mitigation program will include a permanent kiosk within or near the proposed Waller Park that would contain historic photographs, plans, and descriptive text. The proposed interpretation program shall be submitted to the Planning Department for review and comment.
- C. Prior to any renovation activities, the Project Sponsors shall retain a preservation architect to design a plan to address protection of significant interior finishes, including murals, during construction. A conditions assessment and protection plan shall be prepared by a qualified architectural finishes conservator and submitted with the project proposal to ensure the safety of the contributing elements of the historic resources during the construction phase. Prior to any renovation activities, the Preservation Architect shall prepare a plan to identify, retain, and preserve all WPA-era murals and/or mosaics at the project site, including Reuben Kadish's mural: "A Dissertation on Alchemy" located in Woods Hall Annex, the "Angel" mural in Richardson Hall (by artist Bebe Daum), and others which may potentially exist beneath paint and/or plaster, such a possible interior mural by John Emmett Gerrity

in the lobby of Woods Hall or an exterior mosaic by Maxine Albro (near the northwest entrance to Woods Hall).

- D. Prior to any renovation activities, the architectural finishes conservator shall, as part of the plan; test and remove wall coatings to investigate the location and condition of any covered WPA-era murals and/or mosaics. If any such resources are located, including contributing decorative and sculptural elements, they shall also remain in place and be restored, through the auspices of sponsor partnership with the University of California, private and public art endowments, as the San Francisco Environmental Review Officer (ERO) determines reasonably equitable and feasible.
- E. The Project Sponsors shall retain a qualified preservation architect during design development to:
 - 1. Assist with ensuring the compatibility of the new structures with the National Register Historic District and the retained individual historic resource buildings in terms of their location, scale, massing, fenestration pattern, details and materials, so as not to detract from the National Register Historic District or the setting of the retained individual historic resource buildings;
 - 2. Conduct historic window and door survey of the site prior to approval of construction drawings;
 - 3. Manage treatment of the retained historic resource building, including accessibility and structural upgrade design;
 - 4. Plan and oversee mural preservation; and
 - 5. Act with overall responsibility to implement historic resource mitigations, monitor work performed, and to report quarterly to the City, as Lead Agency, and to SHPO, as requested, and pursuant to Section 106 as necessary, during the period from project approval to end of construction.
- F. The Project Sponsors shall retain a qualified arborist to ensure the successful relocation of a Canary Palm called the "Sacred Palm." While the HPC objected to the relocation of the Sacred Palm, it did approve a Certificate of Appropriateness for its relocation. Prior to approval of construction documents, a horticultural report shall be prepared by an arborist with information to guide the retention and design requirements for the continuing health of the Canary Palm, including its successful storage, replanting, and spatial requirements for growth and feeding.
- G. The Project Sponsors, in consultation with the Preservation Architect San Francisco Planning Department, shall identify appropriate architectural features to salvage. Where feasible, the Project Sponsors shall ensure that significant architectural features are salvaged before demolition or alteration and that they are properly stored and protected or reused in the development. When feasible and appropriate, salvaged architectural features shall be reused in other preservation projects. The

respective sponsors of the senior housing will be responsible for the curation and storage of salvaged architectural features.

II. ADDRESSING ADVERSE EFFECTS OF THE UNDERTAKING ON ARCHEOLOGICAL PROPERTIES

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

- A. Based on a reasonable presumption that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources.
 1. The Project Sponsors shall retain the services of an archeological consultant meeting the Secretary of the Interior's Professional Qualifications Standards (36 CFR Part 61, Appendix A) for archeology from the pool of qualified archeological consultants maintained by the Planning Department archeologist.
 - a. The archeological consultant shall undertake an archeological testing program as specified herein.
 - b. In addition, the consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure.
 - c. The archeological consultant's work shall be conducted in accordance with this measure and with the requirements of the project archeological research design and treatment plan (Archeo-Tec. Final Archeological Research Design/Treatment Plan for the Laguna Hill Project, July 1, 2005) at the direction of the ERO.
 - d. In instances of inconsistency between the requirements of the project archeological research design and treatment plan and of this archeological mitigation measure, the requirements of this archeological mitigation measure shall prevail.
 - e. All plans and reports prepared by the consultants 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. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project 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 to a less than significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5(a)(c).

2. Consultation with Descendant Communities: On discovery of an archeological site¹ associated with descendant Native Americans or the Overseas Chinese an appropriate representative² of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to consult with ERO regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archeological Resources Report shall be provided to the representative of the descendant group.
3. Archeological Testing Program. The archeological consultant shall prepare and submit to the ERO for review and approval an archeological testing plan (ATP).
 - a. The archeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the site constitutes an historical resource under CEQA.
 - b. At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO.
 - c. If based on the archeological testing program the archeological consultant finds that significant archeological resources may be present, the ERO in consultation with the archeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. If the ERO determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:
 - 1) The proposed project shall be redesigned so as to avoid any adverse effect on the significant archeological resource; or
 - 2) A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater

¹ By the term "archeological site" is intended here to minimally include any archeological deposit, feature, burial, or evidence of burial.

² An "appropriate representative" of the descendant group is here defined to mean, in the case of Native Americans, any individual listed in the current Native American Contact List for the City and County of San Francisco maintained by the California Native American Heritage Commission and in the case of the Overseas Chinese, the Chinese Historical Society of America.

interpretive than research significance and that interpretive use of the resource if feasible.

d.

4. Archeological Monitoring Program. If the ERO in consultation with the archeological consultant determines that an archeological monitoring program shall be implemented the archeological monitoring program shall minimally include the following provisions:

- a. The archeological consultant, project sponsors, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project related soils disturbing activities commencing. The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically 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.), site remediation, etc., shall required archeological monitoring because of the risk these activities pose to potential archeological resources and their dispositional context.
- b. The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resources(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;
- c. The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;
- d. The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;
- e. If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect 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 archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significant of the encountered archeological deposit, and present the findings of this assessment to the ERO.

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

5. Archeological Data Recovery Program

- a. The archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP).
- b. The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP.
- c. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological 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.
- d. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.
- e. 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 rational 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 archeological data recovery program.
 - 5) Security Measures. Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally 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.

6. Human Remains and Associated Funerary Objects

- a. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils 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) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98)
- c. The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects. (CEQA Guidelines. Sec. 15064.5(d)).
- d. The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

7. Final Archeological Resources Report. The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological 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 Archeological 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 Environmental Planning division of the Planning Department shall receive one bound, one unbound and one unlocked, searchable PDF copy on CD 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 that presented above

III. DISPUTE RESOLUTION

- A. Should any signatory object at any time to the manner in which the terms of this MOA are implemented, the Advisory Council on Historic Preservation (ACHP) shall be asked to comment in accordance with 36 CFR §800.2(b)(2).
- B. At any time during implementation of the measures outlined in this MOA 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 pursuant to 36 CFR§800.2(b)(2)

IV. AMENDMENTS, NONCOMPLIANCE AND TERMINATION

- A. If any signatory believes that the terms of this MOA cannot be carried out or that 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). If this MOA is not amended as provided for in this stipulation, any signatory may terminate it with 30 days notice, whereupon the City shall proceed in accordance with 36 CFR §800.6(c)(8).
- B. If either the terms of this MOA or the Undertaking have not been carried out within 5 years of the execution of this agreement, the signatories shall reconsider its terms. If the signatories agree to amend the MOA, they shall proceed in accordance with the amendment process outlined in Stipulation IV.A, 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 NHPA.

SIGNATORIES

City and County of San Francisco, Mayor's Office of Housing

By: Olson Lee Date: 9-10-12
Olson Lee, Director

California State Historic Preservation Officer

By: Milford Wayne Donaldson Date: 14 SEP 2012
Milford Wayne Donaldson, FAIA

CONCURRING PARTIES:

55 Laguna L.P.

By:

Signature

[Handwritten Signature]
VP

Date:

9/11/12

Name and Title of Person signing for 55 Laguna LP

By

Signature

[Handwritten Signature]
Seth Kilbourn Exec. Dir. Open Home

Date:

9/11/12

Name and Title of Person signing for 55 Laguna LP