

Midtown Park Apartments General Contractor RFP
June 13, 2012

REQUEST FOR PROPOSALS

General Contractor

Midtown Park Apartments

1415 Scott Street San Francisco

Sponsored by
Mercy Housing California

June 13, 2012

PROJECT INFORMATION

Mercy Housing is requesting qualifications from qualified general contractors to conduct a feasibility study and potentially serve as general contractor for the renovation of Midtown Park Apartments a fully occupied 140 unit apartment complex located at 1415 Scott Street in San Francisco.

PROJECT INFORMATION

Midtown Park Apartments is a 140 unit fully occupied, four-story, affordable apartment complex built in the 1960s and in need of a full renovation. Comprised of duplexes and flats, the development is within 6 buildings of approximately 23 units each and is comprised of four stories over a soft story parking garages. The unit mix includes one-bedrooms, two-story two-and three-bedroom units and encompassed in approximately 156,000 square feet of building.

The development team is currently seeking the services of a qualified architect to assist in the feasibility study. We are seeking a general contractor to join our team to provide preconstruction and construction services. The current construction estimate is \$21 million.

SITE INFORMATION

The site is located at 1415 Scott Street and is comprised of six buildings including 1415 Scott Street, 2040 O'Farrell Street, 2060 O'Farrell Street, 1450 Divisadero Street, 2141 Geary Boulevard and 2121 Geary Boulevard. The site is bounded by the blocks of Scott, Divisadero, O'Farrell and Geary Boulevard and is located in the Western Addition neighborhood of San Francisco. It is located in Supervisor District 5 and is zoned RM-3 Residential – Mixed, Medium Density within a 50-X height limit. The assessor's parcel number is Block 1099 Lot 031. The site is approximately 99,591 square feet and represents a full city block. The Planning Department will administer any project entitlements. The site is generally rectangle in shape with a central courtyard and the buildings along the site edge. The site is adjacent to a major intersection of Divisadero and Geary Streets, which has two major bus lines.

PROJECT TIMELINE:

The project is currently in the early conceptual and feasibility phase, which will last through 2012. During this phase, we will review the physical condition of the project as well as create a development plan and scope of work for the project. Based on this plan, the project will move forward with a development scenario in 2013 including design. It is expected that design and permitting will last through 2013 and 2014 with construction

starting at the end of 2014 or beginning of 2015 and depending on the scope could last 12 to 24 months.

The following development milestones are estimated at this time:

Task	Start	Complete
Site Feasibility, Due Diligence, Assessment	March, 2012	March, 2013
Design/Permitting/Financing	March 2013	Sept. 2014
Construction	Oct. 2014	March 2016

ADDITIONAL REDEVELOPMENT AGENCY REQUIREMENTS

The Human Rights Commission's (HRC) Local Business Enterprise (LBE) goal is TBD%. However, the awarded General Contractor will be required to meet the requisite LBE subcontracting goal. (See HRC Attachment 1)

BID INSTRUCTIONS

GENERAL INFORMATION

Attached is the following information:

- Copies of the Bid Form.
- Project Drawings
- Site Map
- Preconstruction Services Agreement
- HRC Attachment 1

It is understood that in receiving this proposal, Mercy Housing assumes no obligation to enter into a contract for the Work covered by this proposal. MERCY HOUSING reserves the right to reject any and all proposals or to waive irregularities therein. MERCY HOUSING reserves the right to evaluate each and every proposal in their absolute discretion and to accept any particular proposal, which in their opinion appears to be in the best interest of MERCY HOUSING. All costs incurred in preparing and submitting a proposal for this Work are to be borne by the bidders without cost to MERCY HOUSING. Proposals will be opened privately and bidders will be notified of the successful bidder. MERCY HOUSING reserves the right to reject any and all bids and accept the bid, which in its opinion, appears to be most advantageous to MERCY HOUSING. Receipt and review of this Request for Proposal constitutes an agreement of

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confidentiality between MERCY HOUSING and each of the general contracting firms preparing their Proposal. MERCY HOUSING reserves the right to change the form of this Request for Proposal, or make clarifications thereto, within a reasonable time before the date of submission of Proposals.

TIME, PLACE, AND PROPOSAL DISTRIBUTION

SUBMISSION DATE

Proposals will be due by Monday, July 12 at 5pm, at the Offices of Mercy Housing California at the address below.

Additional copies will also be required as noted below. Proposals shall be sent via messenger, US mail or overnight delivery (fax copies will not be accepted) to:

Four Copies:
Michael Simmons
c/o Mercy Housing California
1360 Mission Street, Suite 300
San Francisco, CA 94103

SELECTION PROCESS

A selection committee composing of representatives from the Midtown Park Board Members, developer, architect, project manager and construction manager will review the proposals and recommend the three highest -scoring firms to be interviewed. Final selection will be based on a combined score for written proposal and interview.

SELECTION PROCESS TIMELINE

- RFPs distributed: June 13, 2012
- Pre Bid Conference: June 27, 2012 11am
- RFP Responses due: July 12, 2012 @ 5pm via messenger, overnight delivery or US mail
- Interviews: Week of July 23rd
- Selection: August 1, 2012

PRE BID CONFERENCE DATE/LOCATION

Wednesday, June 27, 2012 @ 11am.
Human Rights Commission
25 Van Ness Avenue, Suite 800
San Francisco, CA 94102
Contact: Romulus Asenloo –415-252-2539

WRITTEN COMPARATIVE EVALUATION CRITERIA (55 points)

- The thoroughness and quality of the submission. (5 points)
- Experience of the respondent in providing preconstruction services and constructing for the renovation of affordable housing. (15 points)
- Experience and success in meeting LBE goals and working with the community. (10 points)
- Proposed staff experience. (10 points)
- Ability to meet insurance requirements and bonding capacity. (5 points)
- Competitiveness of fee proposal. (10 points)

INTERVIEW EVALUATION CRITERIA (45 points)

- The overall desirability and compatibility of the individual or firm. (5 points)
- Experience of the Contractor to work with the team during preconstruction to provide existing condition analysis, constructability input and solutions as well as sound budgets to maximize value, minimize future changes during construction and maintain a budget. (15 points)
- Approach and ability of the Contractor and staff to effectively and efficiently manage construction workflow, provide cost effective solutions and manage the project schedule within the context of an occupied renovation project. (15 points)
- Experience meeting green and sustainable standards. (5 points)
- Approach on how to meet the TBD LBE subcontracting goal. (5 points)

GENERAL REQUIREMENTS

Proposals will not be accepted unless submitted as described in the section entitled Format of Proposals, on the forms provided, and in accordance with the specified time frames and instructions. Mercy Housing intends to select a General Contractor immediately. If you are the successful bidder, you will be expected to execute a Preconstruction Services Agreement to provide feasibility and preconstruction services in

the form included with the attached documents (**Exhibit C**). Your agreement will be with Mercy Housing, Inc.

SCOPE OF SERVICES

The selected Contractor shall become a key member of the project team and contribute their expertise throughout feasibility, preconstruction, design and construction. In general, the scope of work to be provided by the Contractor shall consist of providing all services required for the construction and delivery of the renovation of Midtown Park Apartment. These services include all feasibility, estimating, pre-construction, construction, supervisory, administration and coordination, labor, materials, equipment, supplies, fabrication, transportation, insurance, bonds, permits, licenses and other items that are necessary and appropriate for the construction of the project. This project is being sponsored by the Mayor's Office of Housing and therefore the successful contractor is expected to meet all Human Rights Commission LBE and local hiring requirements. Any questions regarding HRC policies should be directed to Romulus Anseloo at Romulus.Anseloo@sfgov.org.

CLARIFICATIONS

All questions or clarifications concerning this RFP must be submitted in writing, by July 5th via e-mail, to Michael Simmons at MichaelS@mspdi.com.

PRE-CONSTRUCTION SERVICES

The selected General Contractor will be expected to provide preliminary budgeting, value engineering, cost monitoring, construction planning, procurement planning, plan coordination, specification reviews, and scheduling during the schematic design, design development and construction document phases. Compensation for these services will be based on an agreed upon scope and budget.

Specific deliverables and services include the following:

Feasibility

Walk entire project including units, common area, parking, storage, equipment rooms, roof and all grounds to assess current condition of Midtown Park.

Participate with architect and development team to assess project conditions and strategize on design and construction solutions,

Participate with development team and relocation consultant on preliminary project phasing and scheduling,

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Meet with the Midtown Development Committee, if necessary, to answer questions and discuss the physical condition of Midtown.

Attendance at project meetings as requested or required, average one every three weeks,

Provide preliminary project cost estimate and assist in prioritizing and value engineering to meet project budget.

Concept/Schematic Design (SD) Phase

- One separate estimate including CPM schedules based on 100% schematic design documents,
- On-going value engineering services related to the above cost estimates and building scope of work,
- Attendance at project meetings as requested or required, average one every three weeks,

Design Development (DD) Phase

- One separate estimate including CPM schedules based on the in-process design development documents,
- On-going value engineering services related to the above cost estimates and building scope of work,
- Attendance at project meetings as requested or required, average one every two weeks,
- Identify and involve key subcontractors in constructability reviews, cost estimating, and value engineering activities,
- Secure samples of materials proposed for inclusion in the Work,
- Prepare a list of key LBE subcontractors and suppliers, preferably community based, to begin an outreach strategy.

Construction Document (CD) Phase

All deliverables listed under Design Development Phase plus:

- One complete Initial GMP estimate including CPM schedules based on 50% Construction Documents,

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- A Final GMP estimate including CPM schedules based on the 100% Construction Documents,
- At least two detailed constructability reviews of coordination and pricing documents produced by the architect,
- At least three updated CPM schedules – one initial schedule, one at 50% completion of CDs and one prior to publication of the Final GMP documents. Show critical path for key trades and a separate network logic diagram,
- Two separate scope reviews of the CDs – one at 50% completion and one prior to publication of the Final GMP documents.
- Attend one meeting with City Build at 75% CD to kick-off hiring and training process.

The reviews shall identify inconsistencies and potential change order risks in the CDs and include input from key subcontractors. The reviews shall be in submitted in written form and include drawing annotations.

CONTRACT

Form of Contract

The contract to be entered into by the successful Contractor and Owner will be on a cost plus a fee basis subject to a Guaranteed Maximum Price (GMP) covering all of the services and work to be provided by the Contractor. The basis of the contract will be the AIA A111 - Standard Form of Agreement between Owner and Contractor, **2007 Edition**, and the corresponding AIA A201 - General Conditions of the Contract. A sample contract has been attached for review.

By submitting a proposal, each Contractor acknowledges and understands that it is agreeing, if it is the successful Contractor, to enter into a contract with Owner to renovate the Midtown Park Apartment project for a total GMP. The Contractor will be responsible for any cost or expense in excess of such total GMP as will be provided in the contract documents. The total GMP will include all construction fees and costs, and all other costs to be incurred in permitting the project, and carrying out all other work or providing all other services of any kind or nature whatsoever that shall be necessary in constructing and delivering the project in accordance with the project schedule.

General Conditions

We are interested in understanding how your firm proposes to manage and staff this project. Your proposal must include a detailed description of those items that you would intend to include in general conditions. In addition, please provide an estimate or range for a potential weekly general conditions cost based on your expected management and staffing structure. Here are some examples of costs to include:

General Conditions

- Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principle office, job site office, or other offices including, but not limited to: Project Manager, Project Engineer, Superintendent, Project Accountant, Coordinator and Secretaries. Itemize the hourly cost and estimated time per week of project staffing,
- Computer costs (if applicable),
- All preliminary and final estimating costs including, but not limited to: blueprinting, mail and delivery services, estimating personnel and travel expenses,
- Job site, home office equipment and supplies including, but not limited to: telephone, copy machine, fax machine, coffee, drinking water, safety hats, first aid, utility bills and office trailer, etc. A telephone and fax machine is required at the project site,
- Attendance at weekly project meetings including preparation and distribution of meeting agenda and minutes,
- Temporary toilets,
- Other items that you typically include in your General Conditions,
- Cleanup including job site labor and dumpsters for daily cleanup. Final cleanup shall be competitively bid,
- Temporary power, lighting and water distribution on each floor,
- Hoisting,
- Blueprinting and reproduction fees for subcontractor bidding, construction and project close-out,

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- Security personnel (if applicable).

PROJECT REPORTING

During both pre-construction and construction, the contractor will be responsible for detailed reporting to Owner regarding the status of the project. Reports will include project budget and costs incurred to date, schedule, progress of construction, quality assurance, and others as required to keep MERCY HOUSING fully advised of the overall project status.

FORMAT OF PROPOSALS

Proposals must respond to each of the following sections and items, in the same order, with each section tabbed identifying the section name. Whenever appropriate, please discuss innovative methods or approaches used by your company that separates you from your competitors.

QUALIFICATIONS & EXPERIENCE

Company History

Give a brief description of your company's history and its capabilities. Include a description of what you consider to be your company's area of expertise related to the Midtown Park project. Provide an organizational chart for your company and a brief resume of key personnel that you will assign to the project.

Project References

Provide a list of no more than four (4) projects recently completed by your firm that are similar in size, type, and complexity to the Midtown Park project particularly occupied renovation projects. Identify your firm's specific role in the project and the type of contract (i.e. Lump Sum bid, GMP, other). Provide locations, descriptions, original construction cost (prior to change orders), number and amount of change orders, final construction cost, scheduled completion date, actual completion date and name of your firm's Project Manager and Superintendent. In addition, please provide the name, address, telephone, and fax number of the Architect and Owner's representative for each project.

Project Staffing

Provide an organization chart showing your proposed staff for pre-construction and construction phases of the project. Include a brief resume and experience profile for key members of your proposed staff including but not limited to the Project Manager, Superintendent, Project Engineers, etc. By listing these individuals, you are certifying that they are available and will be assigned to this project if your firm is selected. Specify what role(s), if any, members of the proposed staff had with any of the projects listed under Project References.

Operating Information

Provide the following information about your company:

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- Union status,
- Bonding capacity and current amount available,
- Insurance limits, deductibles, and any outstanding claims that could affect insurance coverage available for this project,
- Identify and explain outstanding claims, suits, judgments or anticipated or current litigation and arbitration in which your firm is involved. Are you currently involved in any litigation that could have any impact on your ability to complete this project in a timely manner?

Negotiated Contracts

Describe the process you would prefer to use in order to determine a Guaranteed Maximum Price (GMP) for this project. Identify the individuals shown on your project organization chart that would be involved in this process and their responsibilities. Discuss your experience with the GMP negotiation process, value analysis and pre-construction services. Describe and illustrate the format, in detail, that you would use to present a GMP proposal.

As previously noted, MERCY HOUSING intends to enter into an agreement based on the 2007 Edition AIA A111, Agreement Between Owner and Contractors and the AIA A201. Please provide a copy of these standard agreements with any and all modifications that have been accepted by past clients.

FEASIBILITY AND PRE-CONSTRUCTION SERVICES

Discuss your approach to providing feasibility and pre-construction services. Discuss how you will interact with the Architect, Construction Manager, Developer and Owner, as well as MERCY HOUSING's consultants and governmental agencies.

OCCUPIED RENOVATION PROJECTS

Discuss your approach to preparing and renovating an occupied renovation project. Discuss your experience including working with the developer to prepare residents, scheduling, phasing and addressing residents needs and concerns.

COST CONTROL AND MANAGEMENT

Discuss your methods and approach to managing the construction costs on a project. Identify the Cost Control system(s) you use and how you would use this system to determine, monitor and control costs. (Please provide an example of your system reports) In addition, identify how you would intend to provide the Owner and the Project Team with clear, accurate and up to date accounting of the subcontracted costs, committed costs, the actual costs to date, expected costs to complete and expected final costs. Please also explain how you identify potential areas of concern, potential areas of cost and schedule growth and how you manage schedule and costs risks.

SCHEDULING

Discuss your experience and approach to planning, phasing, and scheduling a project of this type and how you would coordinate construction activities. Identify the scheduling system(s) you use and how you would schedule and monitor this project. Include samples of forms/reports.

QUALITY CONTROL

Discuss your approach as to how you will handle quality control and the expectation for quality/craftsmanship on this project.

PROJECT SAFETY

Describe on-going safety programs within your company and your company's safety record. Discuss how you will implement your company's safety program on this project, identifying any significant issues and how they will be resolved. Provide your current Experience Modification Factor.

PROCUREMENT

Discuss your plan for subcontracting the project, specifically addressing early pre-qualification of subcontractors and material suppliers, and the involvement of Owner and the Construction Manager in the subcontractor selection and award process. Describe the process you will use for material purchasing and subcontractor awards. Identify subcontractors with whom you have a long-standing working relationship. Identify how this will influence sub-bids and on-site coordination. List work that your company can self-perform. If your firm does self perform work, describe how you would intend to perform this work for the owner. Also describe how you insure that the owner receives a financial benefit from your self-performed work.

LOCAL BUSINESS ENTERPRISE AND LOCAL HIRING

MERCY HOUSING encourages and will give additional consideration to proposals received from respondents who demonstrate successful LBE and local hiring inclusion on past projects and can assist in aggressively and competitively increasing the participation of the LBE and community outreach programs in its procurement, job and training process. Such LBE participation may be through partnerships, joint ventures, subcontracts, purchase orders and /or other contractual opportunities. Particular attention and effort must be given towards the employment of skilled and unskilled labor in the local and surrounding communities. Please discuss your experience in significantly including participation by LBE in your projects. Please note the percentage of LBE subcontractor and supplier involvement on two of your most recent projects. Also indicate how your firm has been able to successfully employ local labor on these projects. Please indicate if you have worked in Bayview Hunters Point community and the percentage of LBE and local labor force participation you were able to achieve. Include in your proposal, your plan to encourage utilization of LBE and local labor on this particular project.

LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED)

The developer and the Mayor's Office of Housing are most interested in general contractors with LEED experience and environmental sensitivity as well as staff members that are qualified LEED professionals. Please briefly discuss your LEED experience and list projects, where you have employed LEED strategies or have received a LEED Accreditation.

FINANCIAL REFERENCES

Provide a minimum of three (3) banking and financial references.

PROJECT FEES & EXPENSES

Include the attached Proposal Form with your proposal to list the following project fees and expenses.

Feasibility and Pre-construction Services Budget

Indicate your suggested Budget for providing the services listed under the section entitled Preconstruction Services. Provide a detailed list of personnel and scope of work that you intend to provide during this phase.

Bonds

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Indicate the cost of payment and performance bonds as a percentage of the construction cost. Also provide confirmation from your surety that the bonds would be provided at the expressed rate.

Insurance

Provide the insurance limits that you typically provide on a project of this size and nature.

Overhead, Profit and Fee

Indicate the overhead and profit as a percentage of the total cost of work performed by Contractor's own forces, subcontractors and specialty suppliers. Describe what is included and excluded within the Overhead Profit and Fee.

Contingency

Indicate the percentage of contingency that you typically include within the GMP for Contractor's use and for Owner's use. Explain your philosophy on the access, approval and use of the Contractor's contingency.

General Conditions

Indicate the potential weekly General Conditions cost as described under the section entitled General Conditions.

Midtown Park Apartment Project

PROPOSAL FORM

Date: _____

To: Michael Simmons
Mercy Housing California
1360 Mission Street, Suite 300
San Francisco, CA 94103

Ladies and Gentlemen:

Having familiarized ourselves with the job and site conditions, the undersigned does hereby submit the following proposal for renovation of Midtown Park Apartments, San Francisco, California, in accordance with the Request For Proposal dated June 13, 2012 and all attachments thereto.

1. Potential Feasibility and Pre-Construction Budget \$ _____
2. Suggested Monthly General Conditions Cost - Construction\$ \$ _____/wk
3. Bond Percentage _____%
4. Liability Insurance _____%
 - As a direct percentage of the sum of:
 - Direct costs
 - General Conditions
 - Overhead and Profit
5. Overhead and Profit _____%
 - As a percentage of direct cost plus General Conditions
6. Contingency Contractor: _____% Owner: _____%
7. The undersigned agrees to assume all increases in labor rates, and/or material prices, taxes, cost indexes or any other rates that may develop the life of this contract.
8. The undersigned agrees that this proposal shall remain in effect for a period of ninety (90) days from the date of receipt of bids. The undersigned further agrees to enter into a

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Preconstruction Agreement for preconstruction services covered by the proposal within the said ninety (90) day period.

9. The undersigned acknowledges that the price reflects the work contained in the Conceptual documents.

SUBMITTED BY:

(Name of Contractor)

(Address of Contractor)

(Contact and Phone Number of contractor)

EXHIBIT C

**FEASIBILITY AND PRECONSTRUCTION SERVICES AGREEMENT
AGREEMENT BETWEEN MERCY HOUSING, AS OWNER, AND
_____, AS CONSULTANT**

THIS AGREEMENT is made and entered into as of the date of the signature of the last party signing below

BETWEEN the Owner:

attention: _____

_____, CA 9 _____

Tel. _____

Fax. _____

hereinafter referred to as "Owner";

and the CONSULTANT

attention: _____

_____, CA 9 _____

Tel. _____

Fax. _____

the ARCHITECT is:

attention: _____

_____, CA 9 _____

Tel. _____

Fax. _____

The PROJECT is:

Midtown Park Apartments

To be constructed at 1415 Scott Street, San Francisco, California.

The Project shall consist of:

Renovation of 140 apartments consisting of approximately 156,000 square feet on approximately 2.25 acres. The project includes six buildings of approximately 23 units each including one, two and three-bedroom units as well as XX garage parking spaces .

Owner and Consultant agree as set forth below:

ARTICLE 1.

CONSULTANT'S SERVICES AND RESPONSIBILITIES

- 1.1. The Consultant shall work with Owner, Architect and engineers as part of a renovation team to develop a workable and cost-effective design for the Project. See Scope of Work Exhibit A.
- 1.2. The Consultant's participation and contribution to the renovation team pursuant to this Agreement shall be that of a general construction contractor who is working with the Owner and the Architect to develop a guaranteed maximum price proposal for the construction of the Project.
- 1.3. It is understood and agreed that the renovation preconstruction team will also include the Architect and other engineering and subcontractors to address issues relating to structural engineering, mechanical engineering, electrical engineering, plumbing, and fire protection. Consultant shall assist Owner in securing preconstruction services from appropriate subcontractors, and shall also assist Owner in entering into agreements with such subcontractors that are similar in form to this Agreement.
- 1.4. The Consultant shall cooperate with Architect, engineers, other contractors

and subcontractors, and any other professionals employed by the Owner for design of Work related to the Project. The Consultant shall coordinate its work with Architect and with all other contractors and consultants retained by the Owner.

1.5. Except as otherwise directed by the Owner, the Consultant shall perform its work in compliance with applicable local laws, codes, rules, regulations, ordinances and standards, including but not limited to the California Building Code, the California Health and Safety Code, the National Fire Protection Association Codes, the Uniform Building Code, the Uniform Mechanical Code, the Uniform Plumbing Code, the National Electrical Code, the Federal Occupational Safety and Health Act, the Residential Construction Defect Litigation Statutes (California Civil Code Section 895, *et seq.*), and the Americans with Disabilities Act.

1.6. Consultant shall assist Owner in developing an estimated Project construction cost.

1.7. Consultant shall hold and maintain all licenses required for Consultant to perform the work of this Agreement.

ARTICLE 2.

OWNER RESPONSIBILITIES

2.1. The Owner shall provide program information for the entire Project, including a desired budget.

2.2. Owner shall provide design services for the Project, through Architect and other design professionals including structural, mechanical, electrical and plumbing systems.

2.3. Owner, with the advice and assistance of Consultant, shall be responsible for reviews, permits, variances, environmental assessments, statements, or reports, and for payment of all required governmental fees associated with the Project.

2.4. Contractor will carry general liability insurance associated with construction of the project per Mayor's Office of Housing limits as well as furnish a payment and performance bond. And per construction agreement, Course of Construction (Builders' Risk) for the Project will be procured by the General

Contractor's contractor and paid by the Owner as part of the construction contract.

2.5. Consultant shall furnish and be reimbursed by the Owner for all blue prints and other reproduction services reasonably necessary for Consultant to perform its duties under this Agreement. Reimbursement for blue prints and other reproduction services shall be included in the general construction cost and be reimbursed at the start of construction. If termination occurs, the Owner will reimburse Consultant at the time of termination. Consultant shall not exceed \$20,000 for this work without prior written notice from the Owner. Consultant should provide written invoices during preconstruction to the Owner.

ARTICLE 2.5.1.

BASIS OF COMPENSATION

2.6. This Agreement is entered into based on the understanding that Consultant shall negotiate with Owner a guaranteed maximum price general construction contract for the Project. Such contract will incorporate the cost of Consultant's preconstruction consulting services that are the subject matter of this Agreement. Upon the execution of such contract, Owner shall have no further obligation to pay Consultant pursuant to this Agreement.

2.7. If, after Consultant has assisted Owner in developing an estimated Project construction cost, Owner abandons the Project, or fails to go forward with the construction of the Project, regardless of the reason, then at such time, the sum of

_____ **Dollars (\$_____)**

which shall be referred to herein as the "Consultant's Fee," shall at that time be due and payable to Consultant.

2.8. If, after Consultant has assisted Owner in developing an estimated Project construction cost, Owner fails to negotiate in good faith with Consultant to enter into a general construction contract for the construction of the Project, and subsequently enters into a general construction contract with a party other than Contractor for the construction of the Project, the Consultant's Fee shall at that time be due and payable to Consultant.

2.9. Consultant shall, in addition to the Consultant's Fee, be reimbursed for any

authorized expenses incurred for the benefit of the Project. Except fees referenced under section 2.5, to be reimbursable, such expenses must be approved, in advance and in writing, by Owner. Consultant shall be due such reimbursement within thirty (30) days of Consultant's invoice to Owner listing such expenses.

ARTICLE 3.

OWNERSHIP AND USE OF DOCUMENTS

3.1. Owner shall own and control all work product produced by Consultant pursuant to this Agreement. Consultant shall furnish Owner with any documents, paper or electronic media prepared for the Project by the Consultant and any of Consultant's subcontractors or subconsultants, whether the Project is executed or not.

ARTICLE 5

DISPUTE RESOLUTION

5.1 Owner and Consultant agree that prior to instituting any form of litigation regarding any claim, dispute, controversy, or other matter in question between Owner and Consultant, or between or among Owner, Consultant, Contractor, or any other person or entity involved with the Project, arising out of or related to the Project, Owner and Consultant shall participate in mediation of the matter for up to two full days using the services of J*A*M*S/Endispute in San Francisco, California. Owner and Consultant each hereby agree to pay their proportionate share of any charges of J*A*M*S/Endispute relating to such mediation. Owner and Consultant each further hereby agree to include a similar clause requiring mediation prior to litigation to be inserted in all of their contracts with other entities, including contractors, subcontractors, design professionals, and consultants, relating to the Project.

5.2 The parties agree that the sole and exclusive venue for any litigation arising out of this Agreement shall be San Francisco County, California, and the San Francisco Judicial District, if applicable. The parties agree to submit to the personal jurisdiction of the Courts of the State of California.

5.3 Owner and Consultant agree that in any litigation regarding the Project which qualifies for the appointment of a Special Master under the terms of any

plan for management of complex construction litigation which is now or hereafter in effect in the Superior Court in and for the City and County of San Francisco, the parties will stipulate to the appointment of such a Special Master and will participate voluntarily in the Special Master process. The parties further agree to include a similar clause requiring stipulation to a Special Master in all of their contracts with other entities, including contractors, subcontractors, design professionals, and consultants, relating to the Project.

ARTICLE 6

INDEMNIFICATION

6.1 Owner will indemnify, defend, and hold harmless Consultant from and against any claims or causes of action for damage to property filed against Consultant arising out of Consultant's work under this Agreement, except to the extent that such claims or causes of action are due to Consultant's own negligence.

ARTICLE 7

AGREEMENT EXTENDS TO FEASIBILITY AND PRECONSTRUCTION SERVICES ONLY

7.1 This Agreement extends solely to feasibility and pre-construction consulting services to be provided by Consultant in connection with the Project. Consultant understands and agrees that any contract for Consultant to perform construction work on the Project shall be the subject of a separate agreement, and that such separate agreement shall govern all such construction work. Owner and Consultant shall work together in good faith toward reaching an agreement on a guaranteed maximum price contract for Consultant to serve as the general construction contractor for the Project under a guaranteed maximum price contract based on the estimated Project cost as determined by Consultant.

ARTICLE 8

TERMINATION OF AGREEMENT

8.1 Owner may terminate all or part of the Agreement at any time and for any reason. Such termination shall be effective upon Consultant's receipt of notice from the Owner. In case of termination that occurs after Consultant has assisted

Owner in developing an estimated Project construction cost, the Owner shall pay the Consultant the Consulting Fee. However, the Consulting Fee shall not be due if Consultant voluntarily withdraws from performing consulting services. The Consulting Fee also shall not be due if Owner terminates Consultant for cause due to Consultant's failure to perform its consulting services within the time necessary, after Owner has requested Consultant in writing to perform such services and has given Consultant at least ten (10) days' notice of Owner's intent to terminate if the services are not performed.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 This Agreement shall be governed by the laws of the State of California.

9.2 This agreement shall be binding upon Owner and Consultant and their respective successors and assigns. Neither the performance of this agreement nor any part thereof nor any monies due or to become due hereunder may be assigned by Consultant without prior written consent and approval of Owner.

9.3 This Agreement represents the entire and integrated agreement between the Owner and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Consultant.

9.4 This Agreement includes the following Exhibits attached herewith:

[none]

9.5 Nothing contained in this Agreement is intended to make the Consultant or any subcontractor, regardless of tier, or any employee or agent of the Consultant or any subcontractor, or any person including any subcontractor of the Consultant, regardless of tier, a third party beneficiary of any obligation between the Owner and the Consultant.

9.6 Any notice may be served effectually upon the Owner by delivering it in writing or by fax transmission, or by depositing it in a United States Mail deposit box with the postage thereon fully prepaid and addressed to the Owner at the address as set forth on the first page of this Agreement, and in the case of the

Consultant, may be served effectually upon Consultant by delivering it in writing or by fax transmission or by depositing it in a United States Mail deposit box with the postage thereon fully prepaid, and addressed to the Consultant at the address set forth on the first page of this Agreement, or any notice may be served effectually by delivering or mailing it, as in this Article provided, addressed to any other place the Owner or Consultant, by a written notice served upon the other, from time to time may designate.

9.7 Provided Owner has paid Consultant for the work out of which the claims or liens arise, Consultant shall at all times indemnify and save Owner harmless against all liability for claims and liens for labor performed and/or materials used or furnished to be used under this Agreement, including any costs and expenses for reasonable attorneys' fees and all incidental or consequential damages resulting to Owner from such claims or liens, and Consultant shall promptly pay in full the claims of all persons, firms or corporations performing consulting services, or labor, or furnishing equipment, materials, supplies, or other items used in, upon, or for the services to be furnished to the Project by Consultant hereunder. Owner may at its option, as a condition precedent to any payment hereunder, require Consultant to submit satisfactory evidence of payment or complete waivers and releases of any and all claims of any such persons, firms or corporations. Such evidence, or releases, or waivers, must be submitted covering all such claims as a condition precedent to Owner's final payment hereunder to Consultant. All sums due Consultant hereunder shall constitute a trust fund for the benefit of Consultant's creditors in connection with the Work, and Consultant hereby consents to act as trustee under the said trust for the benefit of the said creditors and agrees not to divert to any other purpose any payments received from Owner hereunder until all claims referred to herein have been fully paid. Further, in case suit on such claims is brought, Consultant shall pay and satisfy any such lien of judgment as may be established by the decision of the court in said suit. Consultant agrees within ten (10) days after written demand to cause the effect of any suit or lien to be removed from the premises, and in the event Consultant shall fail to do so, Owner is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed. The cost thereof, together with reasonable attorneys' fees, shall be immediately due and payable to Owner by Consultant.

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IN WITNESS WHEREOF, the parties have entered into this Agreement effective on the dates set forth below:

By: _____
_____, Its _____

Dated: _____

By: _____
_____, Its _____

Dated: _____

SCOPE OF SERVICES Exhibit A

The selected General Contractor will be expected to provide preliminary budgeting, value engineering, cost monitoring, construction planning, procurement planning, plan coordination, specification reviews, and scheduling during the schematic design, design development and construction document phases. Compensation for these services will be based on an agreed upon scope and budget.

Specific deliverables and services include the following:

Feasibility

Walk entire project including units, common area, parking, storage, equipment rooms, roof and all grounds to assess current condition of Midtown Park.

Participate with architect and development team to assess project conditions and strategize on design and construction solutions,

Participate with development team and relocation consultant on preliminary project phasing and scheduling,

Meet with the Midtown Development Committee, if necessary, to answer questions and discuss the physical condition of Midtown.

Attendance at project meetings as requested or required, average one every three weeks,

Provide preliminary project cost estimate and assist in prioritizing and value engineering to meet project budget.

Concept/Schematic Design (SD) Phase

- One separate estimate including CPM schedules based on 100% schematic design documents,
- On-going value engineering services related to the above cost estimates and building scope of work,
- Attendance at project meetings as requested or required, average one every three weeks,

Design Development (DD) Phase

- One separate estimate including CPM schedules based on the in-process design development documents,

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- On-going value engineering services related to the above cost estimates and building scope of work,
- Attendance at project meetings as requested or required, average one every two weeks,
- Identify and involve key subcontractors in constructability reviews, cost estimating, and value engineering activities,
- Secure samples of materials proposed for inclusion in the Work,
- Prepare a list of key LBE subcontractors and suppliers, preferably community based, to begin an outreach strategy.

Construction Document (CD) Phase

All deliverables listed under Design Development Phase plus:

- One complete Initial GMP estimate including CPM schedules based on 50% Construction Documents,
- A Final GMP estimate including CPM schedules based on the 100% Construction Documents,
- At least two detailed constructability reviews of coordination and pricing documents produced by the architect,
- At least three updated CPM schedules – one initial schedule, one at 50% completion of CDs and one prior to publication of the Final GMP documents. Show critical path for key trades and a separate network logic diagram,
- Two separate scope reviews of the CDs – one at 50% completion and one prior to publication of the Final GMP documents.
- Attend one meeting with City Build at 75% CD to kick-off hiring and training process.

The reviews shall identify inconsistencies and potential change order risks in the CDs and include input from key subcontractors. The reviews shall be in submitted in written form and include drawing annotations.