

**THIRD AMENDMENT TO PURCHASE AND
SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS**

(367 Marina Boulevard /Assessor's Parcel Number: 015-011-350))

This Third Amendment to the Purchase and Sale Agreement and Joint Escrow Instructions (this “Third Amendment”) is made and effective as of October 15, 2025 (“Effective Date”) by and between the City of South San Francisco, a municipal corporation (“Seller”) and Ensemble Investments, LLC, a California limited liability company (“Buyer”). Seller and Buyer are sometimes collectively referred to herein as “the Parties.” Any capitalized terms not defined herein shall have the meaning ascribed to them in the Agreement.

RECITALS

A. Seller and Buyer entered into that certain Purchase and Sale Agreement and Joint Escrow Instructions dated December 10, 2021, (“Original Agreement”) with respect to that certain real property located at 367 Marina Boulevard, South San Francisco, California (Assessor’s Parcel Number 015-011-350 [formerly known as 015-010-970 in the Purchase and Sale Agreement, subsequently re-numbered]) (“Property”);

B. The Parties entered into that certain First Amendment to Purchase and Sale and Joint Escrow Agreements (the “First Amendment”), amending the Original Agreement, on December 20, 2022 to extend the term and to contemplate the Seller’s completion of the California Surplus Land Act process, among other things;

C. The Parties entered into that certain Second Amendment to Purchase and Sale Agreement and Joint Escrow Instructions (the “Second Amendment”), further amending the Original Agreement and the First Amendment, on December 20, 2023, to extend the term and deadline for close of escrow (the Original Agreement, together with the First Amendment and the Second Amendment, are referred to herein as the “Agreement”); and

D. In 2023, Seller completed all required noticing and procedural steps in order to comply with the provisions of the California Surplus Land Act as it pertains to the Property.

E. The Parties now desire to enter into this Third Amendment to, among other things, further extend the term of the Agreement, extend the deadline for close of escrow, and modify the term sheet for further Development Agreement negotiations, as more specifically memorialized below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, and incorporating all of the above as though set forth in full herein, and in consideration of all the recitals, conditions and agreements contained herein, the parties hereby agree as follows, with amendments to existing provisions within the Agreement reflected as additions in double underline and deletions in ~~strikethrough~~.

1. **Section 4.4(b)** of the Original Agreement, as amended, is hereby amended to read as follows:

(b) Pursuant to the Bay Conservation and Development Commission ("BCDC") Permit No. 2017.007.00, originally issued on April 27, 2018 and amended on July 30, 2021 as Amendment No. 2, and any amendments thereto (the "BCDC Permit") attached hereto and incorporated herein as Exhibit B, Seller shall be responsible for construction of the temporary north-south Bay Trail connection ~~no later than 6 months following the completion of Phase IC, with the construction~~ consisting of a 12-foot-wide accessible interim path that ~~will the BCDC Permit specifies~~ will originate near the existing pedestrian bridge at the southern shoreline of the peninsula and connect through the Hotel Site, to the southern sidewalk to Marina Boulevard. Seller and Buyer shall coordinate with each other and cooperatively negotiate with BCDC to seek amendments to the BCDC Permit to (i) remove the interim path obligation and (ii) alter the timing for completion and location of the permanent trail to a more appropriate location. If negotiations with BCDC are not successful, Seller shall construct the interim path as required by the existing BCDC Permit and Buyer shall reimburse Seller the actual costs of such construction as part of the Closing.

~~Seller agrees to provide prompt written notice to Buyer no less than thirty days in advance of the anticipated completion date for the Phase IC work. Prior to Closing, Buyer or its agents shall be entitled to enter onto the Property to complete construction of the temporary Bay Trail improvements subject to and consistent with all applicable provisions of the BCDC Permit, and to diligently process any permits required to install the temporary trail improvement. Access to the Property for such construction shall be coordinated with Seller's representative.~~

2. **Section 5.1** of the Original Agreement (as previously amended by the First and Second Amendments) is hereby further amended as follows:

Closing. The escrow for conveyance of the Property shall close ("Close of Escrow" or "Closing") within thirty (30) days after the satisfaction, or waiver by the appropriate Party, of all of the Buyer's Closing Conditions (as defined in Section 5.2 below) and all of the Seller's Closing Conditions (as defined in Section 5.3 below), which shall occur no later than July 15, 2027 ~~six (6) months after the Seller concludes the statutory process outlined in Government Code section 54220 et seq. (where such statutory process does not result in a sale of the Property to a third party,~~ (the "Closing Date"). Upon Buyer's written request, Seller may grant an extension of the Closing Date by up to an additional

three (3) months.

3. In exchange for Seller extending the Closing Date to July 15, 2027, Buyer agrees to the following:

(a) Waiver and Release of Bad Faith Negotiation Claim. Buyer hereby waives, releases, remises, acquits and forever discharges Seller (and its elected and appointed officers, officials, directors, legislative body members, managers, employees, attorneys, consultants, invitees, licensees, agents, and contractors and subcontractors acting on behalf of Seller) from any and all actions, causes of action, charges, claims, compensation, costs, damages, fees (including attorneys' fees and experts' fees), fines, demands, judgments, losses, orders, penalties, rights, and expenses of any kind or type, and compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen (collectively, "Claims"), which Buyer has or may have, now or in the future, regarding Seller's alleged bad faith negotiation on account of or in any way arising from or in connection with Seller and Buyer's negotiations occurring prior to the Effective Date relating to contract provisions providing for a card check neutrality agreement in the Development Agreement (the "Release").

Buyer acknowledges that Buyer is familiar with Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
THAT THE CREDITOR OR RELEASING PARTY DOES NOT
KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
THE TIME OF EXECUTING THE RELEASE AND THAT, IF
KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
OR RELEASED PARTY.

Effective upon the Effective Date, by initialing below, Buyer expressly waives the benefits of Section 1542 of the California Civil Code with respect to the foregoing Release:

Buyer's initials: _____

(b) Waiver of Reimbursement for Spit Design Work Costs. Buyer waives, releases, remises, acquits and forever discharges Seller of any and all contractual obligations, as outlined in Section 6 of the Cost Sharing Agreement entered into between the Parties in March of 2021, to reimburse Buyer for up to One Hundred and Fifty Thousand Dollars (\$150,000) for the Spit Design Work costs in the event that Buyer does not ultimately purchase the Property.

3. **Section 5.3(e) "Seller's Conditions of Closing" of the Original Agreement, as amended, is further amended as follows:**

~~(e) Buyer has completed construction of the temporary north-south Bay Trail connection (if required, assuming timely completion of the Phase 1C work) and has incorporated a permanent north-south Bay Trail connection into the entitlements for the Project, as identified in BCDC Permit 2017.007.00, at Buyer's expense and in accordance with the BCDC Permit or any amendments thereto. Unless BCDC has (i) waived, released, or otherwise modified the BCDC Permit conditions such that the temporary or permanent trail, as applicable, is no longer required, or (ii) provided an extension of time for construction of the permanent north-south Bay Trail connection, Buyer has demonstrated to Seller's satisfaction that the permanent trail has been incorporated into the entitlements for the Project and will be constructed and opened to the public upon opening of the Hotel and no later than 36 months following closure of the temporary path (if such temporary path was constructed). Such trail construction, shall be completed two (2) months prior to the deadline imposed by BCDC, as such deadline may be amended. Such Bay Trail connection, if required by the BCDC Permit,~~ shall comply with the Americans with Disabilities Act and any other applicable standards, requirements, or amendments.

4. The portion of Section 4.1 of the Agreement that was added to the Agreement pursuant to the First Amendment, is hereby further amended as follows:

No earlier than sixty (60) days and no later than thirty (30) days prior to the Closing Date, Seller shall cause the Title Company to update the Preliminary Report. Promptly following receipt of the updated Preliminary Report and at least ten (10) business days prior to Closing, Seller shall either (i) cause any new title matters that are not Permitted Exceptions to be removed prior to Closing, or (ii) notify Buyer that Seller will not cause Disapproved Exceptions to be cured or removed. Buyer may either (i) notify Seller in writing that it has elected to waive the Disapproved Exceptions and proceed with the purchase contemplated herein, or (ii) terminate this Agreement, whereupon, the Deposits and all interest accrued thereon shall immediately be released by the Escrow Holder to Buyer and neither Party shall have any further obligation or liability to the other with respect to the transaction contemplated by this Agreement, except for those that expressly survive termination. ~~Notwithstanding the foregoing, in the event that the Agreement is terminated pursuant to this Section 4.1, the Parties reserve the right to pursue damages and/or claims against the other Party for conduct that occurred prior to and after the execution of this the First Amendment.~~ Seller shall also deliver updated estoppel certificates related to exceptions 18 and 19 on the current Preliminary Report dated no earlier than thirty (30) days prior to Closing.

5. The Development Agreement Term Sheet attached as Exhibit C to the Original Agreement, as amended, is hereby deleted in its entirety and replaced with the Development Agreement Term Sheet attached as Attachment 1 (Exhibit C-Revised) hereto and incorporated herein.

6. **General Provisions.** Each party has received independent legal advice from its attorneys with respect to the advisability of executing this Third Amendment and the meaning of the

provisions hereof. The provisions of this Third Amendment shall be construed as to the fair meaning and not for or against any party based upon any attribution of such party as the sole source of the language in question. Except as expressly amended pursuant to this Third Amendment, the terms and provisions of the Agreement shall remain unmodified and shall continue in full force and effect, and Buyer and Seller hereby ratify and affirm all their respective rights and obligations under the Agreement. In the event of any conflict between this Third Amendment and the Agreement, this Third Amendment shall govern. The terms and provisions of this Third Amendment, together with the Agreement, shall constitute all of the terms and provisions to which Buyer and Seller have agreed with respect to the transaction governed hereby, and there are no other terms and provisions, oral or written, that apply to the Agreement and/or the Property other than as set forth in the Agreement as modified by this Third Amendment. The provisions of this Third Amendment shall apply to, be binding upon, and inure to the benefit of the parties hereto and to their respective successors and assigns.

7. **Counterparts.** This Third Amendment may be executed in multiple counterparts, all of which shall constitute an original, and all of which together shall constitute a single instrument. Counterparts of this Third Amendment executed and delivered by facsimile, email or other means of electronic delivery shall constitute originals for all purposes.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have executed this Third Amendment as of the Effective Date.

SELLER:

CITY OF SOUTH SAN FRANCISCO

By: _____
Sharon Ranals
City Manager

ATTEST:

By: _____
Rosa Govea Acosta
City Clerk

APPROVED AS TO FORM:

By: _____
Sky Woodruff
City Attorney

BUYER:

Ensemble Investments, LLC
a California limited liability corporation

By: _____
Name:
Title:

Attachment 1

EXHIBIT C-REVISED

Development Agreement Term Sheet – Updated October 2025

Seller: City of South San Francisco

Buyer: Ensemble Investments, LLC.

Property:

<u>Property Address</u>	<u>Parcel Number</u>
367 Marina Boulevard South San Francisco, CA 94080	015-011-350

Property Plan: Up to 350 rooms hotel facility.

<u>Term</u>	<u>Comments</u>
1.) Execute and implement an Operations & Maintenance Agreement with the City providing the City and/or the Water Board with financial assurance for completion of the Buyer's Post-Closing Mitigation Measures.	
2.) Execute and implement a Maintenance and Security Agreement of site after execution of PSA.	- Maintain erosion control of site. - Installation of temporary fence within timeframe of installation of temporary BCDC trail. - Installation of temporary frontage improvements.
3.) As further described in the Third Amendment to which this term sheet is attached, Developer to construct and maintain a permanent north-south Bay Trail connection on site, at Developer's expense, as described in San Francisco Bay Conservation and Development Commission ("BCDC") Permit No. 2017-007-02, unless such Permit is amended such that the permanent trail is not required on site.	- ADA compliant - Complies with BCDC standards and existing Permit No. 2017.007.02, and any amendments. - Ensemble to agree to any amendments BCDC places on the condition provided that such amendments do not unreasonably constrain the site plan for the hotel development; City to cooperate in

	pursuing BCDC approval of necessary amendments required for alternative location of permanent trail on-site that does not unreasonably constrain the site plan for the hotel development - Permanent path to be constructed within the hotel development and open to the public upon opening of the hotel, but no later than 36 months after the closure of the temporary path (if such temporary path was constructed). - Constructed of a durable, all-weather accessible material.
4.) Condition that memorializes Developer's commitment to agree to a future Community Facilities District (CFD) assessment of up to \$1 per square foot, if formed within 120 months of the execution of the DA.	
5.) City is responsible for the installation of a new pump station to accommodate for additional flow from the hotel	- Ensemble will agree to contribute \$250,000 towards the construction costs of the new pump station, with the City/Successor Agency being responsible for additional cost-overruns.
6.) Developer is responsible for allowing reasonable access for methane monitoring of the closed landfill. Developer is also obligated to ensure that the design of the hotel and surrounding site will accommodate and permit reasonable access for methane monitoring.	- Must allow access for any third party consultant or Successor Agency representatives to maintain methane monitoring subject to applicable regulatory monitoring procedures.
7.) Developer and City to adhere to all dates addressed in Master Schedule	

Additional Development Agreement Terms to Be Negotiated During Third Amendment Extension Term

<u>Term</u>	<u>Comment</u>
Labor Peace Agreement/Card Check Neutrality Agreement	Parties to evaluate feasibility and impact of Labor Peace Agreement/Card Check Neutrality Agreement on hotel product type
Developer to enter into a Transient Occupancy Tax (TOT) Rebate Agreement with City.	Parties to negotiate duration, percentage, and cap for TOT rebate as required to ensure adequate return for the City and to render hotel development economically feasible, with metrics tied to IRR
Details regarding size, scale, amenities and hotel product type based on financial terms of broader deal	Parties acknowledge that hotel product type (full-service vs. limited service) and nature of amenities provided will depend on economic feasibility and whether Labor Peace Agreement is required

Master Development Schedule — Updated October 2025

Activity	Milestones
Submit application for Precise Plan	No later than May 1, 2022 (Completed)
Receive Development Agreement Approval (first reading)	No later than 2 weeks prior to Closing Date
Receive Entitlement Approval	No later than 2 weeks prior to Closing Date
Closing Date	No later than July 15, 2027 or October 15, 2027 if Seller elects to extend pursuant to Section 5.1__
Submit application for Building Permit	No later than 12 months after Closing Date
Delivery of Proof of an Approved Construction Loan from a Reputable Lender	Within 18 months of submitting for Building Permit.
Delivery of a Final Construction Contract	Within 18 months of submitting for Building Permit.
Construction Commences	Within 19 months of submitting for building permit-

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(367 MARINA BOULEVARD, SOUTH SAN FRANCISCO, CALIFORNIA)

Substantial Completion of Construction	Within 36 months of construction commencement; targeted for 26-month schedule, but no later than 36-month schedule.
Estimated Opening of hotel	Targeted for 2 months after Substantial Completion of Construction.

*Note that all target dates are subject to automatic extension for delays due to the City, or due to factors beyond Developer's reasonable control in accordance with the force majeure provisions of the Development Agreement.