

118-0042019-002

Agenda Item **No. 5(c)**
Meeting of February 19, 2019

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Nadia Sesay, Executive Director

SUBJECT: Authorizing a Ground Lease Agreement and an Amended and Restated Loan Agreement, for an aggregate not to exceed \$47,361,690 both with Mercy Housing California 78 L.P., a California limited partnership, for the development of 152 rental units (including one manager's unit) serving extremely-low to low-income families at Mission Bay South Block 6 West (691 China Basin Street), a project within the scope of the Mission Bay Final Subsequent Environmental Impact Report ("FSEIR"), a Program EIR, and is adequately described in the FSEIR for the purposes of the California Environmental Quality Act; Mission Bay South Redevelopment Project Area

EXECUTIVE SUMMARY

Mercy Housing California ("Mercy" or "Project Sponsor"), the developer of a 152-unit affordable rental housing project ("Project") at 691 China Basin Street (Mission Bay South Block 6 West or "MBS 6W" or the "Site"), is requesting approval for a long-term ground lease and a permanent loan of up to \$47,361,690. The Project will serve extremely low to low-income families. The requested funding amount is included in the approved Recognized Obligation Payment Schedule ("ROPS"), for the fiscal year beginning July 1, 2018 and ending June 30, 2019, as Item #405, which was approved by the California Department of Finance ("DOF").

The Project is located on one of the "Agency Affordable Housing Parcels" as defined in the Mission Bay South Owner Participation Agreement. The development team consists of Mercy, Paulett Taggart Architects, and Mercy Housing Management Group. The Project Sponsor has established Mercy Housing California 78, L.P. as the development entity for the Project.

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The Commission on Community Investment and Infrastructure (“OCII Commission”) approved Mercy as developer on February 21, 2017, authorized an Exclusive Negotiations Agreement, which included an Option to Ground Lease, and a Predevelopment Loan Agreement in the amount of up to \$3,495,000 million for the Project on July 18, 2017, and approved the Project’s schematic design on March 20, 2018.

In preparation for the close of construction financing and construction start, planned for end of April 2019, the Sponsor is seeking to enter into a 75-year Ground Lease (“Ground Lease”) for MBS 6W (Attachment 1) and an Amended and Restated Loan Agreement (Attachment 2) in an aggregate amount not to exceed \$47,361,690 (this amount is the total of the existing \$3,495,000 million predevelopment loan and requested additional gap amount of \$43,866,690). The loan request was approved by the Citywide Affordable Housing Loan Committee on December 7, 2018 (Attachment 3).

Staff recommends that the Commission authorize a Ground Lease Agreement and an Amended and Restated Loan Agreement, and adopt environmental findings pursuant to California Environmental Quality Act.

BACKGROUND

Mission Bay Affordable Housing Development

On September 17, 1998, the SFRA Commission approved the Mission Bay North and South Redevelopment Plans and Owner Participation Agreements (“OPAs”) with the Mission Bay master developer, FOCIL-MB, LLC, the successor in interest to Catellus Development Corporation. Since the initial approval of the South OPA, the document has been amended six times to modify the development plan on several parcels.

The enforcement of the North and South OPAs as amended will result in 6,514 residential units, with approximately 29% or approximately 1,918 units set aside as affordable. In Mission Bay North 700 affordable units (inclusionary and OCII-sponsored) have been completed. In Mission Bay South, the MBS OPA requires OCII to construct a base number of 1,108 affordable housing units. In addition, Section 3.6 of the MBS Housing Program (Attachment 3 to the MBS OPA) allows OCII to construct an additional 110 affordable housing units, pending assessment of the development impacts and any necessary approvals, for a maximum total of 1,218 affordable housing units. The affordable units in Mission Bay North and South are comprised of inclusionary affordable units and units developed by nonprofit housing developers on OCII Affordable Housing parcels. OCII Affordable Housing parcels comprise 15 acres of land that the Master Developer in Mission Bay North and South is required to contribute to OCII.

To date, 493 affordable units have been completed in Mission Bay South. This includes 150 affordable units at 1180 4th Street (Block 13 East), 200 affordable family units at Five 88 (588 Mission Bay Boulevard North on MBS Block 7 West), and 143 units at 626 Mission Bay Boulevard (MBS Block 6 East), which was completed earlier this year. Approximately 725 affordable units remain to be completed and leased, including 119 units in the OCII-sponsored affordable development currently under construction on Block 3 East or 1150 3rd Street.

# of Affordable Units	Mission Bay North	Mission Bay South	Mission Bay North and South
Built	700	493	1,193
Under Construction or Planned	<u>0</u>	<u>725*</u>	<u>725*</u>
TOTAL	700	1,218	1,918

* The South OPA requires OCII to construct a base number of 1,108 affordable housing units. In addition, Section 3.6 of the Mission Bay South Housing Program (Attachment 3 to the South OPA) allows OCII to construct an additional 110 affordable housing units, pending assessment of the development impacts and any necessary approvals, for a maximum total of 1,218 affordable housing units.

In total and as shown in the table above, 1,193 affordable units have been completed and 725 units (including the additional 110 allowable affordable units) remain to be completed in the Mission Bay project areas.

Project Background

OCII released a request for proposals (“RFP”) for the Site in August 2016. Following review and evaluation of five submittals, OCII staff recommended and OCII Commission approved the selection of the team led by the Sponsor to develop affordable rental housing for extremely-low to low-income families on MBS 6W on February 21, 2017.

On July 18, 2017, the OCII Commission authorized the Executive Director to enter into an Exclusive Negotiations Agreement (“ENA”) and Predevelopment Loan with the Sponsor. The ENA also included the form of Option to Ground Lease Agreement, which was required by the California Debt Limit Allocation Committee and Tax Credit Allocation Committee to demonstrate site control for MBS 6W.

The schematic design for the Project was reviewed by the Mission Bay Citizens Advisory Committee (“CAC”) in March 2018 and was conditionally approved by the OCII Commission in March 2018. The development team has responded to the schematic design conditions of approval. Project renderings and a site plan are included as Attachment 4. In addition, Mission Bay South neighborhood amenities are shown in Attachment 5.

Upon completion of the Project, OCII will transfer its assets related to the Site to the Mayor’s Office of Housing and Community Development (“MOHCD”), which is the designated Housing Successor under Redevelopment Dissolution Law.

DISCUSSION

Project Description

The Site is a 1.13 acres parcel bounded by China Basin Street to the north, Merrimac Street to the west, Mission Bay Boulevard North to the south and a 143-unit affordable rental development to the east (MBS Block 6 East) bordered by a mid-block walkway (see Attachment 5 for amenities and transit maps). The Project is a 152-unit development for extremely-low to low-income families; 38 units will be set aside as

public housing replacement units for households voluntarily relocating from Sunnydale or Potrero Annex or Terrace HOPE SF sites. The Project includes 10 studios, 34 one-bedroom units, 76 two-bedroom units, 29 three-bedroom units, 1 four-bedroom unit, 1 five-bedroom unit, and 1 two-bedroom manager's unit. The Project will be one of the first in San Francisco to implement the new 2018 federal and state Low Income Housing Tax Credits ("LIHTC") regulations, which allow LIHTC-funded affordable housing projects to include units targeted to households making up to 80% of AMI as long as the project's average targeting does not exceed 59% Area Median Income ("AMI") as defined by United States Department of Housing and Urban Development ("HUD"). For the purposes of this Project, the units in the Project will be restricted at between 40% and 80% of AMI as published by MOHCD ("MOHCD AMI"). The Project's average AMI is 56% MOHCD AMI. The 38 units set aside for households moving from HOPESF sites will be supported with project-based Section 8 vouchers (PBVs).

The building will total approximately 185,148 square feet of building space organized in four wings that flank a central courtyard. The tallest wing will have a height of seven stories while the shortest wing will consist of four stories. The Project includes a ground floor childcare center, 26 parking spaces (0.2:1 ratio) and curbside 2 car share spaces, a large landscaped courtyard, roughly 1,000 square foot in community-serving commercial space, a large community room with a kitchen, a multipurpose teen room, children's play space, services offices, onsite laundry and 130 bike parking spaces.

Project Financing and Loan Terms

As previously noted, the OCII Commission approved a \$3,495,000 million loan in July 2017 to fund predevelopment activities. On December 7, 2018, the Citywide Affordable Housing Loan Committee recommended approval of a total OCII subsidy amount of \$47,361,690, which includes the \$3,495,000 million in existing predevelopment funds as well as an additional \$43,866,690 in permanent funding. The Project Sponsor will apply for \$1,510,000 from the Federal Home Loan Bank's Affordable Housing Program ("AHP") in March 2019. If, as anticipated, the Project receives \$1,510,000 in AHP funding, then OCII's total subsidy would be reduced to \$45,851,690. OCII's permanent funding will partially finance construction of the Project, and will be used to leverage other financing sources. If approved, OCII and Mercy Housing California 78, L.P., will enter into an Amended and Restated Loan Agreement ("Loan Agreement") with a term of 55 years, and an interest rate of up to 3%, with authority given to the Executive Director of OCII and the Director of MOHCD to approve a decrease down to 0% as part of the final financial plan ("FFP") for the Project. In addition to the exhibits that make up the FFP, the FFP Confirmation Letter (as defined in the Loan Agreement) may adjust the priority of distribution of surplus cash (§ 6.02(f) of the Ground Lease and § 3.6 of the Loan Agreement) as necessary to meet Project financing needs.

In addition to the OCII loan, the Project is financed with investor equity raised from the sale of 4% Low-Income Housing Tax Credits, construction and permanent loans backed by tax-exempt bonds issued by the City, a grant from the State of California Department of Housing and Community Development's Infill Infrastructure Grant Program ("IIG"), and an anticipated low interest loan through AHP. Funding sources and uses for the Project are summarized in the chart below:

Number of Units: 152

Building Square Footage: 185,148
Bedroom Count: 294

Permanent Sources	Amount	Per Unit	Per Bedroom	Per Sq. Ft.
Tax Credit Equity	\$48,160,372	\$316,845	\$163,811	\$260
Tax Exempt Perm Loan - A	\$5,840,000	\$38,421	\$19,864	\$32
Tax Exempt Perm Loan - B	\$8,601,000	\$56,586	\$29,255	\$46
IIG - Sponsor Loan	\$5,000,000	\$32,895	\$17,007	\$27
AHP*	\$1,510,000	\$9,934	\$5,136	\$8
Sponsor Deferred Developer Fee	\$1,180,000	\$7,763	\$4,014	\$6
Sponsor Equity	\$3,400,000	\$22,368	\$11,565	\$18
Subtotal of Non-OCII Sources	\$73,691,372	\$484,812	\$250,651	\$398
OCII Permanent Loan*	\$45,851,690	\$301,656	\$155,958	\$248
Total Development Sources	\$119,543,062	\$786,468	\$406,609	\$646

**Note: The above table assumes the Project is successful in receiving AHP funds. Should those funds not be available to the Project, then OCII's total subsidy would be \$47,361,690.*

Uses	Amount	Per Unit	Per Bedroom	Per Sq. Ft.
Acquisition	\$0	\$0	\$0	\$0
Hard Costs	\$92,035,980	\$605,500	\$313,048	\$497
Soft Costs	\$20,107,082	\$132,283	\$68,391	\$109
Developer Fee	\$7,400,000	\$48,684	\$25,170	\$40
Total Development Costs	\$119,543,062	\$786,468	\$406,609	\$646

Ground Lease Terms

OCII will take ownership of the Site from the Mission Bay South master developer, FOCIL, immediately prior to the close of construction financing and will maintain ownership through the construction period. The Sponsor is seeking to enter into a 75-year Ground Lease (with one option for an additional 24 years) with OCII. Once the Project is complete, the Site, along with the Ground Lease (and loan agreement) will be transferred to MOHCD as the Housing Successor. MOHCD will perform long-term asset management and ensure compliance with Ground Lease and Loan Agreement terms. Mercy Housing California 78, L.P. will maintain ownership of the building or "improvements". Key terms of the Ground Lease are described below.

Rent

The Ground Lease establishes an annual rent of \$2,660,000, which is equal to 10% of the unrestricted value of the property. The annual rent consists of: 1) a base rent of \$15,000, which is paid out of the project's annual operating expenses and accrues if not paid, and 2) a residual rent that is equal to the

annual rent less the \$15,000 base rent (a maximum of \$2,645,000 per year). Residual rent is paid only if there is surplus cash after the Project pays all of its operating expenses, and does not accrue if it is not paid. Mercy Housing California 78, L.P. will be required to start paying annual rent beginning in the year after the Project receives its final Certificate of Occupancy.

Affordability Restrictions

The units at MBS 6W will all be restricted to residents earning between 40% and 80% MOHCD AMI. As previously stated, this Project will be one of the first affordable housing projects in the City to implement “income averaging”. In 2018, both the United States and the California Tax Credit Allocation Committee (TCAC) approved regulation changes to allow LIHTC projects to include units targeted to households making up to 80% of AMI as long as the project’s average targeting does not exceed 59% AMI as defined by HUD.

MOHCD and OCII will implement the new regulations with the following guidelines:

- A. The rents are pegged to the Unadjusted AMIs as determined by MOHCD;
- B. The maximum AMI allowed in a project is 80% MOHCD AMI; and
- C. The project overall does not exceed 60% MOHCD AMI on average.

The Project currently includes 15 units, or 10% of the Project, targeted to households earning up to 80% MOHCD AMI and is averaging 56% MOHCD AMI overall. Staff recommends implementing income averaging because, in addition to consistency with TCAC policy, it:

1. Allows for a more mixed-income community within a single project by allowing a broader range of AMIs.
2. Increases project financial feasibility by reducing the gap subsidy required from OCII. Sponsor ran an alternative scenario without income averaging in which the number of units at 40%, 50%, and 60% AMI remained the same but all the other units above 60% AMI were capped at 60% AMI. By incorporating income averaging, the development team calculated that the OCII subsidy for this project would be reduced by approximately \$1.5 million.
3. Allows OCII, without added cost to OCII, to create more Certificate of Preference (COP) opportunities at both the lower and higher income tiers and allows greater flexibility in housing public housing households voluntarily relocating to MBS 6W who might otherwise be over-income.

The Project's affordability unit mix is represented in the following chart:

	40% MOHCD AMI		50% MOHCD AMI		60% MOHCD AMI	65% MOHCD AMI		80% MOHCD AMI	Manager's Unit	TOTAL
	Non-PBV units	PBV	Non-PBV units	PBV	Non-PBV units	Non-PBV units	PBV	Non-PBV units		
Studio	3		2		3	2				10
1	8	4	6	1	7	3	1	4		34
2	3	12	5	12	25	9	2	8	1	77
3	1	4	4	1	11	4	1	3		29
4			1							1
5			1							1
TOTAL	15	20	19	14	46	18	4	15	1	152
	35		33		46	22		15	1	152

These affordability restrictions are consistent with the Mission Bay Housing Policy and will be administered in compliance with Fair Housing Law.

Construction of the Improvements

The Ground Lease requires that Mercy Housing California 78, L.P., construct the Project in compliance with the approved construction documents and in accordance with an agreed-upon schedule of performance. The OCII Construction Specialist has reviewed the construction documents and will continue to monitor progress on the Project until completion. The Ground Lease requires OCII approval of any proposed changes to the construction plans after construction has commenced.

Schedule of Performance

The Loan Agreement and Ground Lease both attach a Schedule of Performance which is staff's and the Project Sponsor's current best estimate of a timeframe for development and occupancy of the Project. In addition, the senior construction financing lender is undertaking a review of the construction schedule for its underwriting purposes, which is not yet complete. Therefore staff notes that prior to closing, the Schedule of Performance may be revised from the current version attached to the Loan Agreement and Ground Lease (by an estimated two to three months) should the senior construction lender demonstrate it to be necessary to securing required financing for the Project. This is consistent with past practice in the closing process for construction loans for OCII (and MOHCD) affordable housing projects, and consistent with the Loan Agreement, which authorizes the Executive Director to consider revisions to the Schedule of Performance, as necessary, once the OCII loan is issued.

Marketing and Lease-Up***Occupancy Preferences and Resident Selection******Lottery Family Units: 113 (74% of total)***

Preferences for the low-income family housing units will be provided in the following order:

1. Certificate of Preference (“COP”) Holders; then,
2. Displaced Tenant Housing Preference¹; then,
3. San Francisco residents or San Francisco workers.
4. General Population.

Project-Based Voucher Family Units 38 (25% of total)

The remaining 38 units will have a preference for households voluntarily and permanently relocating from the Sunnydale or Potrero Terrace or Potrero Annex HOPE SF communities and will be leased through the San Francisco Housing Authority, in conjunction with the developer for each site.

Marketing Process (Lottery Family Units Only)

The marketing process applies only to the family units. OCII’s required marketing process begins one month after construction start with an early outreach plan, which includes a minimum of four early outreach postcards to COP holders, as well as rent readiness workshops and counseling conducted through the Sponsor’s selected housing agency. The marketing process culminates with an application phase through the DAHLIA housing portal, and a lottery that takes place approximately three months before construction completion.

Equal Opportunity Program and Compliance with OCII Policies

The Sponsor will continue to comply with OCII’s policies regarding, nondiscrimination in contracts, minimum compensation, and health care accountability. Throughout predevelopment, the Sponsor has worked closely with OCII contract compliance staff to comply with the Small Business Enterprise (“SBE”) Program on this Project. As of July 2018, the Sponsor has exceeded OCII’s 50% SBE goal, having achieved approximately 92% SBE (85% SFSBE, 31% MBE and 56% WBE) for professional services consultants. A complete list of consultants is included as Attachment 6 and SBE consultant biographies for the five largest SBE contracts are included as Attachment 7.

The Sponsor is committed to meeting OCII requirements and goals during the construction phase of the Project, which include a 50% SBE construction subcontracting participation goal, payment of prevailing wages, and a 50% local construction workforce hiring goal. The Sponsor has selected Cahill Contractors (“Cahill”) to serve as the general contractor for the construction of the Project, pending agreement on the fixed limit of construction costs expected in March 2019.

¹ The Displaced Tenant Housing Preference program (DTHP Program) is intended to benefit tenants displaced by Ellis Act Evictions, Owner Move In Evictions or Fires. The preference applies to 20% of units within a project for initial sale, re-sale, initial leases and subsequent leases.

In an effort to stimulate greater small business, minority, and women contractor participation in the development and construction of the Project, staff has pursued opportunities with the Sponsor and Cahill to encourage joint venture relationships at both the prime and subcontract level. The Sponsor and Cahill have agreed and are cooperating with OCII to explore breaking out scopes of work for potential joint venture opportunities with local SBEs. Potential scopes include certain construction work, such as concrete and overall project management.

COMMUNITY PARTICIPATION

Community outreach for the project has been conducted primarily through the Mission Bay CAC. The Mission Bay CAC has received regular updates regarding the project since the issuance of the RFP and has participated in developer selection, program development, and schematic design review. The community has been supportive of the Project throughout the development process and the Mission Bay CAC approved the schematic design in March 2018.

In addition to Mission Bay CAC meetings, public input opportunities have been provided at OCII Commission meetings in 2017 in 2018. The OCII Commission was unanimous in its approval of the predevelopment loan and exclusive negotiations agreement, and in its approval of the schematic design. While the OCII Commission has been fully supportive of the overall design and programming for the Project, Commissioners did raise concerns regarding the number of planned parking spaces. Though the project provides less than 1:1 parking, the 0.2 ratio is in line with other Mission Bay 100% affordable developments, which range from 0 to 0.38 spaces per unit. Furthermore, the Site is within close proximity to goods and services (see Attachment 5), and there are multiple transit options available to Mission Bay residents. Providing less than 1:1 parking in OCII developments in Mission Bay and elsewhere in the City has proved to meet demand adequately.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

OCII Commission authorization of the Ground Lease and Amended and Restated Loan Agreement documents facilitate the development of the Project, and is an Implementing Action within the scope of the Mission Bay Project analyzed in the Final Subsequent Environmental Impact Report for Mission Bay North and South ("FSEIR"); and, therefore requires no further environmental review beyond the FSEIR pursuant to the State CEQA Guidelines Sections 15180, 15162 and 15163 for the following reasons:

1. The Implementing Actions are consistent with the project analyzed in the FSEIR and do not require major revisions to the FSEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant impacts; and,
2. No substantial changes have occurred with respect to the circumstances under which the "Mission Bay Project" analyzed in the FSEIR will be undertaken that would require major revisions to the FSEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the FSEIR; and,

3. No new information of substantial importance relating to the development of affordable housing on MBS 6W has become available, which would indicate that (i) the MBS 6W Project will have significant effects not discussed in the FSEIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (iv) mitigation measures or alternatives, which are considerably different from those in the FSEIR, will substantially reduce one or more significant effects on the environment that would change the conclusions set forth in the FSEIR.

NEXT STEPS

Construction financing is anticipated to close in April 2019, and construction will commence immediately after. Construction is scheduled to be complete by February 2021. Upon full occupancy of the Project, the land, Ground Lease, and Loan will be transferred to the Mayor's Office of Housing and Community Development as the Housing Successor under Dissolution Law.

(Originated by Annie Wong, Development Specialist)



Nadia Sesay
Executive Director

- Attachments:
1. Ground Lease Agreement
 2. Amended and Restated Loan Agreement
 3. Loan Evaluation (December 7, 2018)
 4. Schematic Design and Site Plan
 5. Site and Amenities Maps
 6. SBE Consultants
 7. Consultant Biographies

**AMENDED AND RESTATED LOAN AGREEMENT
(OCII PROPERTY TAX TRUST FUND)**

By and Between

**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND
COUNTY OF SAN FRANCISCO,**

a public body, organized and existing under the laws of the State of California

and

MERCY HOUSING CALIFORNIA 78, L.P.,

a California limited partnership,

for

MISSION BAY SOUTH BLOCK 6 WEST

691 China Basin Street

\$47,361,690

Dated as of _____, 2019

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EXHIBITS

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B-2	Annual Operating Budget
B-3	20-Year Cash Flow Proforma
C	Form of Tenant Income Certification
D	Intentionally Omitted
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L	Schedule of Performance
M	OCII Monthly Project Update Form
N	Developer Fee Schedule
O	Assignment of Work Product
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Q	Legal Description of the Site
R	Final Financial Plan Confirmation Letter
S	Operational Rules for San Francisco Housing Lotteries and Rental Lease Up Activities
T-1	Form of Early Outreach Plan for Initial Lease Up or Sale of Units
T-2	Marketing and Tenant Selection Plan for Initial Rental Units

**AMENDED AND RESTATED
LOAN AGREEMENT
(Affordable Housing Fees)**
(Redevelopment Property Tax Trust Fund)
(Mission Bay South Block 6 West)

THIS AMENDED AND RESTATED LOAN AGREEMENT ("**Agreement**") is entered into as of _____, 2019, by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, hereafter referred to as the Office of Community Investment and Infrastructure, a public body organized and existing under the laws of the State of California ("**OCII**"), and MERCY HOUSING CALIFORNIA 78, L.P., a California limited partnership, ("**Borrower**").

RECITALS

A. In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 *et seq.* the "**CRL**"), the former San Francisco Redevelopment Agency ("**Former Agency**") and the Board of Supervisors of the City and County of San Francisco (the "**City**") established the Mission Bay South Redevelopment Project Area (the "**Project Area**").

B. In accordance with the CRL, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay South Redevelopment Project Area by Ordinance No. 335-98 adopted on November 2, 1998, referred to herein as the "Mission Bay South Redevelopment Plan." In cooperation with the City, the Former Agency was responsible for implementing the Mission Bay South Redevelopment Plan.

C. The Mission Bay South Redevelopment Plan provides for the redevelopment, construction and revitalization of the area generally bounded by the China Basin Channel, Seventh and Mariposa Streets, and the San Francisco Bay, containing approximately 238 acres of land, into a mixed-use development comprised of public open space, retail, commercial, entertainment uses, and parking and loading uses.

D. The Mission Bay South Owner Participation Agreement (the "**OPA**") between the Agency and Catellus Development Corporation (succeeded by FOCIL-MB, LLC, the "**Master Developer**"), as updated, provides that the Master Developer will contribute lands within the Project Area to the Former Agency, and at no cost, for the development of up to one thousand two hundred eighteen (1,218) affordable housing units (defined in the OPA as "**Agency Affordable Housing Parcels**").

E. Under the OPA, Block 6 West within the Project Area, as more particularly described in **Exhibit Q** (the "**Site**"), is an Agency Affordable Housing Parcel to be contributed to the Former Agency for development of affordable housing.

F. On February 1, 2012, the State of California dissolved all redevelopment agencies, including the Former Agency, by operation of law pursuant to California Health and Safety Code

Sections 34170 *et seq.* (“**Redevelopment Dissolution Law**”). Under the authority of the Redevelopment Dissolution Law and under San Francisco Ordinance No. 215-12 (Oct. 4, 2012) (establishing the Successor Agency Commission (“**Commission**”) and delegating to it state authority under the Redevelopment Dissolution Law), OCII is administering the enforceable obligations of the Former Agency.

G. On January 24, 2014, the California Department of Finance (“**DOF**”) made a final and conclusive determination pursuant to Redevelopment Dissolution Law that the OPA, the Mission Bay South Tax Increment Allocation Pledge Agreement, and the Mission Bay South Allocation Pledge Agreement Housing are enforceable obligations that survive the dissolution of the Former Agency, and require OCII to administer the development authorized under the Mission Bay South Redevelopment Plan, OPA, and related South Plan Documents, including the obligation to fund construction of affordable housing on the Agency Affordable Housing Parcels.

H. In 2015, the State of California adopted amendments to the Redevelopment Dissolution Law, codified at Health and Safety Code Section 34177.7, which authorized OCII to incur indebtedness for the purpose of funding development of affordable housing, including of the Agency Affordable Housing Parcels.

I. On August 23, 2016, OCII issued a Housing Development Request for Proposals to develop and operate affordable rental housing units for low income families as well as a childcare facility space on the Site. On February 21, 2017, the Commission selected, by Resolution No. 7-2017, Mercy Housing California to develop the Project. Accordingly, the Commission approved, by Resolution No. 28-2017, an exclusive negotiations agreement (the “ENA”) by and between OCII and Borrower on July 18, 2017.

J. Borrower intends to enter into a Ground Lease (as defined herein) of the Site for the purpose of constructing, and thereafter intends to construct on the Site, approximately one hundred fifty-two (152) units of low- income family rental housing (including one unrestricted manager’s unit) and associated parking as well as ground floor space consisting of approximately 7,000 square feet of child-care and community-serving commercial space, all as more particularly set forth in the Basic Concept and Schematic Designs approved on March 20, 2018 by Commission Resolution No. 008-2018, and further set forth in Design Development Documents, approved by OCII on September 10, 2018, and as may be further revised in accordance with the Redevelopment Requirements (herein, the “**Project**”).

K. Pursuant to authorization by Commission Resolution No.28-2017 dated July 18, 2017, OCII entered into a Predevelopment Loan Agreement (the “Predevelopment Loan”) with Borrower to provide funds totaling Three Million Four-Hundred Ninety-Five Hundred Thousand Dollars (\$3,495,000) (the “Predevelopment Loan Amount”) to Borrower to fund certain costs related to the development of the Project.

L. On December 7, 2018, the Citywide Affordable Housing Loan Committee (“**Loan Committee**”) approved a loan to the Borrower (the “**Loan**”) for the development of the Project, in for an aggregate amount not to exceed Forty-Seven Million Three Hundred Sixty-One Thousand, Six Hundred Ninety Dollars (\$47,361,690) (the “**Funding Amount**”), which amount includes the Predevelopment Loan amount of \$3,495,000.

M. On February 19, 2019, the Commission approved the issuance of the Loan by Resolution No. ____-2019.

N. In accordance with the requirements of the OPA, on or before _____, 2019, Master Developer will transfer the Site to OCII.

O. OCII now intends to issue the Loan to Borrower in accordance with the terms of this Agreement.

P. For purposes of implementation and to ensure consistency with the City's overall affordable housing goals and priorities, OCII has engaged the Mayor's Office of Housing and Community Development ("MOHCD") to provide construction monitoring and loan disbursement services for the Loan and the Project, in cooperation with OCII.

Q. Upon completion of construction of the Project, OCII intends to assign its rights and obligations under this Agreement and Ground Lease, together with conveyance of fee title to the Site, to MOHCD as the designated Housing Successor of the City and County of San Francisco under Board of Supervisors Resolution 11-12, as required by Redevelopment Dissolution Law and OCII's approved Long-Term Property Management Plan dated December 2015.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, the parties agree as follows:

ARTICLE 1 DEFINITIONS.

1.1 Defined Terms. As used in this Agreement, the following words and phrases have the following meanings:

"20-Year Cash Flow Proforma" means the 20-year cash flow proforma for the Project attached as **Exhibit B-3**, as it may be revised and approved by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date. Any revisions to the 20-Year Cash Flow Proforma so approved by the MOHCD Director and the OCII Executive Director will be attached to and included in this Agreement in the form of the Final Financial Plan Confirmation Letter.

"Accounts" means all depository accounts, including reserve and trust accounts, required or authorized under this Agreement or otherwise by the OCII in writing. All Accounts must be maintained in accordance with Section 2.3.

"Agreement" has the meaning given in the first paragraph hereto.

"Annual Operating Budget" means an annual operating budget for the Project attached hereto as **Exhibit B-2**, as it may be revised and approved by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date. Any revisions to the Annual Operating

Budget so approved by the MOHCD Director and the OCII Executive Director will be attached to and included in this Agreement in the form of the Final Financial Plan Confirmation Letter.

"Assignment of Work Product" means the assignment of work product executed by Borrower granting OCII a security interest in the Work Product to secure Borrower's performance under this Agreement and the Note prior to the Loan Closing Date, in substantially the form and substance attached hereto as **Exhibit O**.

"Authorizing Resolutions" means: (a) in the case of a corporation, a certified copy of resolutions adopted by its board of directors; (b) in the case of a partnership (whether general or limited), a certificate signed by all of its general partners; and (c) in the case of a limited liability company, a certified copy of resolutions adopted by its board of directors or members, satisfactory to the City and evidencing Borrower's authority to execute, deliver and perform the obligations under the OCII Documents to which Borrower is a party or by which it is bound.

"Borrower" means Mercy Housing California 78, L.P., a California limited partnership, and its authorized successors and assigns.

"CFR" means the Code of Federal Regulations.

"Charter Documents" means: (a) in the case of a corporation, its articles of incorporation and bylaws; (b) in the case of a partnership, its partnership agreement and any certificate or statement of partnership; and (c) in the case of a limited liability company, its operating agreement and any LLC certificate or statement. The Charter Documents must be delivered to OCII in their original form and as amended from time to time and be accompanied by a certificate of good standing for Borrower issued by the California Secretary of State and, if Borrower is organized under the laws of a state other than California, a certificate of good standing issued by the Secretary of State of the state of organization, issued no more than ninety (90) days before the Loan Closing Date.

"City" means the City and County of San Francisco, a municipal corporation. Whenever this Agreement provides for a submission to the City or an approval or action by the City, this Agreement refers to submission to or approval or action by MOHCD unless otherwise indicated.

"CNA" means a 20-year capital needs assessment or analysis of replacement reserve requirements.

"Commission" means the Successor Agency Commission, commonly referred to as the Commission on Community Investment and Infrastructure.

"Completion Date" has the meaning set forth in Section 5.6.

"Compliance Term" has the meaning set forth in Article 3.

“Construction Contract” has the meaning set forth in Section 5.2.

“Control of the Site” means Borrower’s acquisition of fee ownership or a leasehold interest in the Site (or a portion thereof).

“CRL” has the meaning set forth in **Recital A**.

"Declaration of Restrictions" means a recorded declaration of restrictions in substantially the form and substance attached hereto as **Exhibit K** that requires Borrower and the Project to comply with the use restrictions in this Agreement for the duration specified therein, even if the Loan is repaid or otherwise satisfied, this Agreement terminates or the Deed of Trust is reconveyed.

"Deed of Trust" means the deed of trust executed by Borrower granting OCII a lien on Borrower’s leasehold interest in the Site and on the Project to secure Borrower's performance under this Agreement and the Note, in substantially the form and substance attached hereto as **Exhibit J**.

“Deferred Developer Fee” means the portion of the Developer Fee that is deferred for payment at the time of the audit performed by Borrower after completion of construction of the Project.

"Developer" means Mercy Housing California, a California nonprofit public benefit corporation, and its authorized successors and assigns.

"Developer Fees" has the meaning set forth in Section 15.1.

"Disburse", "Disbursement" and other derivatives thereof means the disbursement of all or a portion of the Funding Amount by OCII as described in **Article 4**.

"Distributions" has the meaning set forth in Section 13.1.

"DOF" has the meaning set forth in **Recital G**.

"Environmental Activity" means any actual, proposed or threatened spill, leak, pumping, discharge, leaching, storage, existence, release, generation, abatement, removal, disposal, handling or transportation of any Hazardous Substance from, under, into or on the Site.

"Environmental Laws" means all present and future federal, state, local and administrative laws, ordinances, statutes, rules and regulations, orders, judgments, decrees, agreements, authorizations, consents, licenses, permits and other governmental restrictions and requirements relating to health and safety, industrial hygiene or the environment or to any Hazardous Substance or Environmental Activity, including the Comprehensive Environmental

Response, Compensation, and Liability Act of 1980 (commonly known as the "Superfund" law) (42 U.S.C. §§ 9601 *et seq.*), the Resource Conservation and Recovery Act of 1976, as amended by the Solid Waste and Disposal Act of 1984 (42 U.S.C. §§ 6901 *et seq.*); the National Environmental Policy Act of 1969 ("NEPA") (24 CFR §§ 92 and 24 CFR §§ 58); the California Hazardous Substance Account Act (also known as the Carpenter-Presley-Tanner Hazardous Substance Account Law and commonly known as the "California Superfund" law) (Cal. Health & Safety Code §§ 25300 *et seq.*); and the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65") (Cal. Health & Safety Code §§ 25249.2 *et seq.*); and Sections 25117 and 25140 of the California Health & Safety Code.

"Escrow Agent" means the escrow agent for the title company issuing the Title Policy.

"Event of Default" has the meaning set forth in Section 19.1.

"Expenditure Request" means a written request by Borrower for a Disbursement from the Funding Amount, which must certify that the Project costs covered by the Expenditure Request have been paid or incurred by Borrower.

"Final Financial Plan" means the Table of Sources and Uses, the Annual Operating Budget and 20 Year Cash Flow (**Exhibits B-1, B-2, and B-3**), as they may be revised and approved by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date. Any revisions to the Final Financial Plan so approved by the MOHCD Director and the OCII Executive Director will be attached to and included in this Agreement in the form of the Final Financial Plan Confirmation Letter.

"Final Financial Plan Confirmation Letter" means a letter documenting the approved Final Financial Plan including any adjustments thereto made and approved by the MOHCD Director and the OCII Executive Director subsequent to execution of this Agreement but prior to the Loan Closing Date, including without limitation interest rate and distribution of surplus cash.

"Funding Amount" has the meaning initially set forth in **Recital K** and shall include any revision by the Final Financial Plan (including the Final Financial Plan Confirmation Letter).

"Funds" means the monies to be Disbursed by OCII under this Agreement.

"GAAP" means generally accepted accounting principles in effect on the date of this Agreement and at the time of any required performance.

"General Partner" means Mercy Housing Calwest, a California nonprofit public benefit corporation, and its authorized successors and assigns.

"Governmental Agency" means: (a) any government or municipality or political subdivision of any government or municipality; (b) any assessment, improvement, community

facility or other special taxing district; (c) any governmental or quasi-governmental agency, authority, board, bureau, commission, corporation, department, instrumentality or public body; or (d) any court, administrative tribunal, arbitrator, public utility or regulatory body.

“Ground Lease” means the ground lease of the Site naming Borrower as tenant and OCII as landlord.

"Hazardous Substance" means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any Governmental Agency to pose a present or potential hazard to human health or safety or to the environment. Hazardous Substance includes any material or substance listed, defined or otherwise identified as a "hazardous substance," "hazardous waste," "hazardous material," "pollutant," "contaminant," "pesticide" or is listed as a chemical known to cause cancer or reproductive toxicity or is otherwise identified as "hazardous" or "toxic" under any Environmental Law, as well as any asbestos, radioactive materials, polychlorinated biphenyls and any materials containing any of them, and petroleum, including crude oil or any fraction, and natural gas or natural gas liquids. Materials of a type and quantity normally used in the construction, operation or maintenance of developments similar to the Project will not be deemed "Hazardous Substances" for the purposes of this Agreement if used in compliance with applicable Environmental Laws.

“HCD” means the California Department of Housing and Community Development.

"HUD" means the United States Department of Housing and Urban Development acting by and through the Secretary of Housing and Urban Development and any authorized agents.

"Income Restrictions" means the maximum household income limits for Qualified Tenants, as set forth in **Exhibit A**.

"Indemnify" means, whenever any provision of this Agreement requires a person or entity (the "Indemnitor") to Indemnify any other entity or person (the "Indemnatee"), that the Indemnitor will be obligated to defend, indemnify and protect and hold harmless the Indemnatee, its officers, employees, agent, constituent partners, and members of its boards and commissions harmless from and against any and all Losses arising directly or indirectly, in whole or in part, out of the act, omission, event, occurrence or condition with respect to which the Indemnitor is required to Indemnify an Indemnatee, whether the act, omission, event, occurrence or condition is caused by the Indemnitor or its agents, employees or contractors, or by any third party or any natural cause, foreseen or unforeseen; *provided that* no Indemnitor will be obligated to Indemnify any Indemnatee against any Loss arising or resulting from the gross negligence or intentional wrongful acts or omissions of the Indemnatee or its agents, employees or contractors. If a Loss is attributable partially to the grossly negligent or intentionally wrongful acts or omissions of the Indemnatee (or its agents, employees or contractors), the Indemnitor must Indemnify the Indemnatee for that part of the Loss not attributable to its own grossly negligent or intentionally wrongful acts or omissions or those of its agents, employees or contractors.

"Indemnatee" has the specific meaning set forth in Section 23.1 and the general meaning set forth in the definition of "Indemnify."

"Indemnitor" has the meaning set forth in the definition of "Indemnify."

"Investor Limited Partner" means, collectively, the tax credit equity investor who will be admitted as a limited partner and/or special limited partner of Borrower concurrent with Loan Closing, and their respective successors and assigns.

"IRS Tax Credit Rules" shall mean all laws, rules, regulations, ordinances and statutes relating to or governing the Tax Credits, including, but not limited to, Section 42 of the Internal Revenue Code, as it may be amended from time to time.

"Laws" means all statutes, laws, ordinances, regulations, orders, writs, judgments, injunctions, decrees or awards of the United States or any state, county, municipality or Governmental Agency, including the CRL.

"Loan" has the meaning set forth in **Recital K**.

"Loan Closing" means the recording of the Deed of Trust and Declaration of Restrictions as authorized by the Borrower and OCII in accordance with the provisions of this Agreement.

"Loan Closing Date" means the date on which OCII and the Borrower authorize Loan Closing and the Deed of Trust and Declaration of Restrictions are recorded in the Official Records.

"Loan Committee" has the meaning set forth in **Recital K**.

"Loss" or "Losses" includes any loss, liability, damage, cost, expense or charge and reasonable attorneys' fees and costs, including those incurred in a proceeding in court or by mediation or arbitration, on appeal or in the enforcement of OCII's or the City's rights or in defense of any action in a bankruptcy proceeding.

"Maturity Date" has the meaning set forth in Section 3.3.

"Median Income" means area median income as determined by MOHCD, adjusted solely for actual household size.

"MOHCD" means the Mayor's Office of Housing and Community Development or its successor which the Board of Supervisors of the City and County of San Francisco has designated, under Redevelopment Dissolution Law, as the Housing Successor to the Former Agency, and which will acquire OCII's interest in the Project upon OCII's issuance of a certificate of completion, as described in the Memorandum of Understanding for the

implementation of Affordable Housing Obligations under San Francisco Successor Agency Ordinance 215-12 between OCII and MOHCD (May 6, 2014).

"Note" means the promissory note executed by Borrower in favor of OCII in the original principal amount of the Funding Amount. The prior note for the Predevelopment Loan Amount has been cancelled and returned to Borrower, and the Predevelopment Loan Amount is now part of the Funding Amount.

"Notice to Proceed" has the meaning set forth in Section 5.5.

"OCII" means the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, known as the Office of Community Investment and Infrastructure.

"OCII Documents" means this Agreement, the Note, the Deed of Trust, the Declaration of Restrictions, the Assignment of Work Product and any other documents executed or, delivered in connection with this Agreement.

"OCII Monthly Project Update" has the meaning set forth in Section 10.2.

"Official Records" has the meaning set forth in Section 3.1.

"One Hundred Percent Occupancy" means the date on which the Developer executes the initial residential lease for the last available Unit in the Project.

"Operating Reserve Account" has the meaning set forth in Section 12.2.

"Opinion" means an opinion of Borrower's California legal counsel, satisfactory to OCII and its legal counsel, that Borrower is a duly formed, validly existing California limited partnership in good standing under the laws of the State of California, has the power and authority to enter into the OCII Documents and will be bound by their terms when executed and delivered, and that addresses any other matters OCII reasonably requests.

"Permitted Exceptions" means liens in favor of OCII, real property taxes and assessments that are not delinquent, and any other liens and encumbrances OCII expressly approves in writing in its escrow instructions.

"Predevelopment Loan Amount" has the meaning set forth in **Recital J**. "Project" means the development described in **Recital I**. If indicated by the context, "Project" means the Site and the improvements developed on the Site.

"Project Area" has the meaning set forth in **Recital A**.

"Project Expenses" means the following costs, which may be paid from Project Income to the extent of available Project Income pursuant to the Annual Operating Budget approved prior

to the Loan Closing Date by OCII Executive Director and MOHCD Director as part of the Final Financial Plan: (a) all charges incurred in the operation of the Project for utilities, real estate taxes and assessments and premiums for insurance required under this Agreement, the Ground Lease or by other lenders providing secured financing for the Project; (b) salaries, wages and any other compensation due and payable to the employees or agents of Borrower employed in connection with the Project, including all related withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments; (c) required payments of interest and principal, if any, on any senior financing that has been approved by OCII and is secured by either the Borrower's leasehold interest in the Ground Lease, the Project constructed thereon, or both, and used to finance the Project; (d) all other expenses actually incurred to cover operating costs of the Project, including supportive services (if any), maintenance and repairs; (e) credit adjuster payments including interest; (f) required, and necessary, deposits to the Replacement Reserve Account, Operating Reserve Account, and any other reserve account required under this Agreement; (g) the approved annual property management fees indicated in the Annual Operating Budget and approved as part of the Final Financial Plan (h) an initial issuer fee equal to 25 basis points on the total bond issuance or \$170,000 and an annual bond monitoring fee equal to the greater of 12.5 basis points on the outstanding bond amount or \$85,000 per year with no annual increases ; (i) annual Base Rent Payments under the Ground Lease; and (j) any extraordinary expenses reasonably approved in advance by the OCII (other than expenses paid from any reserve account). Project Fees are not Project Expenses.

"Project Fees" means (i) a combined annual asset management and partnership management fee in the amount of no less than \$25,000 and no more than \$45,320 in the first year of operations, and increasing by 3.5% annually, (ii) an limited partner asset management fee/annual investor services fee in the amount of \$5,000, payable to Borrower's Investor Limited Partner, and (iii) Deferred Developer Fee approved by OCII pursuant to the OCII Documents and consistent the San Francisco Mayor's Office of Housing and Community Development Multifamily Affordable Housing Operating Fees Policy (effective April 1, 2016) and Policy on Development Fees For Tax Credit Projects (effective July 29, 2016, updated on July 20, 2018), both as may be amended from time to time.

"Project Financing" has the meaning set forth in Section 4.3(b)(i).

"Project Income" means all income and receipts in any form received by Borrower from the operation of the Project, including rents, fees, deposits, commercial master lease payments, accrued interest disbursed from any reserve account required under this Agreement for a purpose other than that for which said reserve account was established, and reimbursements and other charges paid to Borrower in connection with the Project. Project Income shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances, condemnation proceeds, insurance proceeds provided for the purpose of reconstructing all or part of the Project, or interest accruing on any portion of the Funding Amount.

"Project Operating Account" has the meaning set forth in Section 11.1.

"Publication" means any report, article, educational material, handbook, brochure, pamphlet, press release, public service announcement, webpage, audio or visual material or other communication for public dissemination, which relates to all or any portion of the Project or is paid for in whole or in part using the Funding Amount.

"Qualified Tenant" means a Tenant household, earning no more than the maximum permissible annual income level allowed under this Agreement as set forth in **Exhibit A**. The term "Qualified Tenant" includes each category of Tenant designated in **Exhibit A**.

"Redevelopment Dissolution Law" has the meaning set forth in **Recital F**.

"Redevelopment Requirements" has the meaning set forth in the OPA and its Attachment C (Mission Bay South Housing Program).

"Rent" means the aggregate annual sum charged to Tenants for rent and utilities in compliance with Section 7.

"Rent Restrictions" means the limitations on Rents set forth in Section 7.3 and **Exhibit A**.

"Replacement Cost" means all hard constructions costs of the Project, not including the cost of site work and foundations but including construction contingency, for the purpose of establishing the amount of the Replacement Reserve Account. This defined term is not intended to affect any other calculation of replacement cost for any other purpose.

"Replacement Reserve Account" has the meaning set forth in Section 12.1.

"Retention" has the meaning set forth in Section 4.7.

"Schedule of Performance" means the schedule attached hereto as **Exhibit L** that sets forth Project tasks and milestones and the dates by which they will be completed.

"Section 8" means rental assistance provided under Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. § 1437f) or any successor or similar rent subsidy programs.

"Senior Lien" has the meaning set forth in Section 24.1.

"Site" means the real property described in **Exhibit Q** of this Agreement.

"Surplus Cash" means Project Income remaining after payment of Project Expenses and Project Fees. The amount of Surplus Cash must be based on figures contained in audited financial statements.

"TCAC" means the California Tax Credit Allocation Committee.

"Table" means the Table of Sources and Uses.

"Table of Sources and Uses" means a table of sources and uses of funds attached hereto as **Exhibit B-1**, including a line item budget for the use of the Funding Amount, which table may not be adjusted without OCII's prior written approval.

"Tenant" means any residential household in the Project.

"Tenant Selection Plan" has the meaning set forth in Section 6.1.

"Title Policy" means an ALTA extended coverage lender's policy of title insurance in form and substance satisfactory to OCII, issued by an insurer selected by Borrower and satisfactory to OCII, together with any endorsements and policies of coinsurance and/or reinsurance required by OCII, in a policy amount equal to the Funding Amount, insuring the Deed of Trust and indicating the Declaration of Restrictions as valid liens on the Site, each subject only to the Permitted Exceptions.

"Unit" means a residential rental unit within the Project.

"Waiting List" has the meaning set forth in Section 6.5.

"Work Product" has the meaning set forth in Section 24.21.

1.2 Interpretation. The following rules of construction will apply to this Agreement and the other OCII Documents.

(a) The masculine, feminine or neutral gender and the singular and plural forms include the others whenever the context requires. The word "include(s)" means "include(s) without limitation" and "include(s) but not limited to," and the word "including" means "including without limitation" and "including but not limited to" as the case may be. No listing of specific instances, items or examples in any way limits the scope or generality of any language in this Agreement. References to days, months and years mean calendar days, months and years unless otherwise specified. References to a party mean the named party and its successors and assigns.

(b) Headings are for convenience only and do not define or limit any terms. References to a specific OCII Document or other document or exhibit mean the document, together with all exhibits and schedules, as supplemented, modified, amended or extended from time to time in accordance with this Agreement. References to Articles, Sections and Exhibits refer to this Agreement unless otherwise stated.

(c) Accounting terms and financial covenants will be determined, and financial information must be prepared, in compliance with GAAP as in effect on the date of performance. References to any Law, specifically or generally, will mean the Law as amended, supplemented or superseded from time to time.

(d) The terms and conditions of this Agreement and the other OCII Documents are the result of arms'-length negotiations between and among sophisticated parties who were represented by counsel, and the rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not apply to the construction and interpretation of the OCII Documents. The language of this Agreement must be construed as a whole according to its fair meaning.

1.3 Websites for Statutory References. The statutory and regulatory materials listed below may be accessed through the following identified websites.

(a) CFR provisions: www.access.gpo/nara/cfr

(b) OMB circulars: www.whitehouse.gov/OMB/circulars

(c) S.F. Administrative Code:
www.sfgov.org/site/government_index.asp#codes

ARTICLE 2 FUNDING.

2.1 Funding Amount. OCII agrees to lend to Borrower a maximum principal amount equal to the Funding Amount in order to finance predevelopment and development costs associated with the Project. The Funding Amount will be Disbursed according to the terms and subject to the conditions set forth in this Agreement. Borrower hereby acknowledges that the prior note for the Predevelopment Loan Amount has been cancelled and returned to Borrower, and the Predevelopment Loan Amount (including both the portion disbursed to Borrower prior to the Loan Closing Date and any undisbursed amount) is now included within the Funding Amount, and is therefore subject to the repayment and all other provisions of the OCII Documents.

2.2 Use of Funds. Borrower acknowledges that OCII's agreement to make the Loan is based in part on Borrower's agreement to use the Funds solely for the purpose set forth in Section 2.1 and agrees to use the Funds solely for that purpose in accordance with the approved Table of Sources and Uses.

2.3 Accounts; Interest. Each Account to be maintained by Borrower under this Agreement must be held in a bank or savings and loan institution acceptable to OCII as a segregated account that is insured by the Federal Deposit Insurance Corporation or other

comparable federal insurance program. With the exception of tenant security deposit trust accounts, any interest earned on funds in any Account must be used for the benefit of the Project.

2.4 Records. Borrower must maintain and provide to the OCII upon request records that accurately and fully show the date, amount, purpose and payee of all expenditures from each Account authorized under this Agreement or by the OCII in writing and keep all estimates, invoices, receipts and other documents related to expenditures from each Account. In addition Borrower must provide to the OCII promptly following Borrower's receipt, complete copies of all monthly bank statements, together with a reconciliation, for each Account until all funds (including accrued interest) in each Account have been disbursed for eligible uses.

2.5 Conditions to Additional Financing. The OCII may grant or deny any application by Borrower for additional financing for the Project in its sole discretion.

2.6 Contracting Requirements. Borrower shall use the OCII contract compliance requirements for procurement activities, as further set forth in Exhibit E of this Agreement.

ARTICLE 3 TERMS AND PROVISIONS OF THE LOAN.

3.1 Term. The term of this Agreement shall commence on the Loan Closing Date and shall continue until the fifty-seventh (57th) anniversary of the date the Deed of Trust is recorded on Borrower's leasehold interest in the Site the Official Records of the City and County of San Francisco (the “**Official Records**”), regardless of any reconveyance of the Deed of Trust (the “**Compliance Term**”). To ensure the Borrower's, or subsequent assignees', continued compliance with such obligations, the Deed of Trust shall be recorded in the Official Records upon execution of the Ground Lease.

3.2 Interest. The outstanding principal balance of the Loan will bear simple interest at a rate of one percent (1%) per annum (subject to adjustment by the Final Financial Plan Confirmation Letter prior to the Loan Closing Date).

3.3 Loan Repayment Terms. Interest shall accrue, and repayment of principal and interest shall be paid from Surplus Cash in accordance with Section 3.6, below. Notwithstanding the foregoing, the outstanding principal balance and any accrued but unpaid interest of the Loan will be due and payable upon the expiration of the Compliance Term (herein the “Maturity Date”), according to the terms set forth in full in the Note. At least sixty (60) days prior to the Maturity Date, the Borrower may apply to OCII for an extension of the Maturity Date. In the event that, as of the date of such request the Borrower continues to be in compliance with the OCII Documents, OCII may, in its discretion, agree to extend the Maturity Date pursuant to a written amendment to the Agreement and permit the Borrower to continue to defer repayment of principal and interest, or may require that the Borrower make amortized payments of principal and interest, depending on factors such as rental payments received from the commercial portion of the Project.

3.4 Declaration of Restrictions: Borrowers, and its assigns, must comply with all provisions of the OCII Documents relating to the use of the Site and the Project, as set forth in the Declaration of Restrictions, and any amended and restated versions of such declaration, to be recorded in the Official Records, for the duration of the Declaration of Restrictions, even if the Loan is repaid or otherwise satisfied, or the Deed of Trust is reconveyed. Notwithstanding anything to the contrary contained herein, Borrower's obligation to comply with the terms and obligations contained in the OCII Documents shall be subject to Borrower's compliance with all applicable laws, statutes and regulations, including, but not limited to Section 42 of the Internal Revenue Code, the California Revenue and Taxation Code, CDLAC's regulations, and TCAC's regulations.

3.5 Default Interest Rate. Upon the occurrence of an Event of Default under any OCII Document, the principal balance of the Loan will bear interest at the default interest compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, with such default interest rate commencing as of the date an Event of Default occurs and continuing until such Event of Default is fully cured. In addition, the default interest rate will apply to any amounts to be reimbursed to the OCII under any OCII Document if not paid when due or as otherwise provided in any OCII Document.

3.6 Distribution of Surplus Cash and Repayment of Principal. Within one hundred twenty (120) days of the end of each fiscal year following the Completion Date, Borrower shall apply annual Project Income to pay Project Expenses and then to pay Project Fees. Any cash remaining after payment of Project Expenses and Project Fees shall be deemed Surplus Cash. Provided Borrower is not currently in default (subject to applicable notice and cure periods) under any terms of the OCII Documents or the Ground Lease, Borrower shall use Surplus Cash to make the following payments:

Fifty percent (50%) of the Surplus Cash shall be distributed to the Borrower and 50% of the Surplus Cash shall be distributed to OCII ("OCII's Portion"), until the earlier to occur of (i) the fifteenth (15th) anniversary of the date the Project achieves One Hundred Percent Occupancy; or (ii) full payment of the Deferred Developer Fee. Thereafter, one-third (1/3) of Surplus Cash shall be distributed to the Borrower and the remaining two thirds (2/3) shall be distributed to OCII as OCII's Portion. Subject to confirmation by the Final Financial Plan Confirmation Letter concerning priority of application of OCII's Portion, at all times during the Compliance Term, OCII's Portion will be applied first to Accrued Base Rent (as defined in the Ground Lease), and then toward repayment of the outstanding Loan until the entire principal and accrued but unpaid interest on the Loan, and repayment of outstanding principal and accrued and unpaid interest on any other debt permitted by OCII to be payable from Surplus Cash, is repaid in full, and then payment of OCII's Portion shall go toward Residual Rent (as defined in the Ground Lease) until paid in full in accordance with the terms of this Agreement and the Ground Lease.

3.7 Repayment of Unused Portion of Principal. In addition to any other payment requirements, within six (6) months after the Completion Date, the Borrower shall promptly repay to OCII any portion of the Loan previously disbursed to Borrower and not used for eligible

costs as described in this Agreement. No interest shall accrue on that portion of the Loan repaid pursuant to this Section 3.7.

3.8 Changes In Funding Streams. OCII's agreement to make the Loan on the terms set forth in this Agreement and the Note is based in part on Borrower's projected sources and uses for construction of the Project (including predevelopment activities and construction phase expenses), as set forth in the Table of Sources and Uses. Borrower covenants to give written notice to the OCII within thirty (30) days of any significant changes in budgeted funding or income set forth in documents previously provided to the OCII. OCII reserves the right to modify the terms of this Agreement based upon any substantial reductions in Borrower's projected sources or substantial increase in Borrower's uses of all funds for the Project to the extent Borrower has not provided additional Project sources sufficient to cover any reductions in sources or increase in uses, which sources shall be acceptable to the OCII in its reasonable discretion.

3.9 Additional OCII Approvals. Borrower understands and agrees that OCII is entering into this Agreement in its proprietary capacity and not as a regulatory agency with certain police powers. Borrower understands and agrees that neither entry by OCII into this Agreement nor any approvals given by OCII under this Agreement shall be deemed to imply that Borrower will obtain any required approvals from City departments, boards or commissions which have jurisdiction over the Property. By entering into this Agreement, OCII is in no way modifying or limiting the obligations of Borrower to develop the Property in accordance with all local laws. Borrower understands that any development of the Property shall require approvals, authorizations and permits from governmental agencies with jurisdiction over the Property, which may include, without limitation, the City Planning Commission and the San Francisco Board of Supervisors. Notwithstanding anything to the contrary in this Agreement, no party is in any way limiting its discretion or the discretion of any department, board or commission with jurisdiction over the Project, including but not limited to a party hereto, from exercising any discretion available to such department, board or commission with respect thereto, including but not limited to the discretion to (i) make such modifications deemed necessary to mitigate significant environmental impacts, (ii) select other feasible alternatives to avoid such impacts, including the "No Project" alternative; (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided, or (iv) determine not to proceed with the proposed Project Notwithstanding the above, on September 17, 1998, the Redevelopment Agency Commission adopted Resolution No. 182-98 which certified the Final Subsequent Environmental Impact Report ("FSEIR") for Mission Bay North and South pursuant to the California Environmental Quality Act ("CEQA") and State CEQA Guidelines Sections 15168 (Program EIR) and 15180 (Redevelopment Plan EIR). On the same date, the Redevelopment Agency Commission also adopted Resolution No. 183-98, which adopted environmental findings (and a statement of overriding considerations), in connection with the approval of the Plan and other Mission Bay project approvals (the "Mission Bay Project"). The San Francisco Planning Commission ("Planning Commission") certified the FSEIR by Resolution No. 14696 on the same date. On October 19, 1998, the Board of Supervisors adopted Motion No. 98-132 affirming certification of the FSEIR by the Planning

Commission and the Agency, and Resolution No. 854-98 adopting environmental findings and a statement of overriding considerations for the Mission Bay Project.

3.10 Additional Borrower Covenants. Borrower hereby agrees to the following:

- a. Borrower acknowledges that the Final Financial Plan the MOHCD Director and OCII Executive Director may, prior to Loan Closing, collectively approve and include as part of this Agreement revisions to the Final Financial Plan for the benefit of the Project, and Borrower shall cooperate with OCII and MOHCD and their financial advisor in identifying such revisions.
- b. Borrower will allow OCII Executive Director to decrease the interest rate to as low as 0% as part of the Final Financial Plan, should the Project need it after review of capital account analysis.
- c. Beginning in the Spring of 2019, Borrower will apply for the maximum eligible loan from the Affordable Housing Program (AHP) of the Federal Home Loan Bank of San Francisco until successful; provided that Borrower shall only be required to continue applying for so long as the Project is eligible to receive AHP funds. Borrower shall immediately deposit with OCII all funds obtained from the AHP to pay down the Loan.
- d. Borrower shall reduce contingency amounts at pre-construction milestones consistent with MOHCD policy/guidelines, and shall apply savings from the reduced contingencies to reduce the Loan by amount of unused contingency, or reduce the Loan amount prior to Loan Closing.
- e. Borrower shall submit a revised services plan no later than 12 months after construction start, to be reviewed and approved by OCII.
- f. Borrower shall provide an executed Letter of Intent or Intent to Lease Agreement for the community-serving commercial space within the Project no later than the first anniversary of the date of Borrower's Notice to Proceed.
- g. Borrower shall provide OCII with quarterly updates on the status of subtenants' or tenant fundraising for tenant improvements of the child-care and community-serving commercial space. This summary should include a list of committed, pending and prospective sources of funds.

ARTICLE 4 CLOSING; DISBURSEMENTS.

4.1 Generally. Subject to the terms of this Agreement, OCII will make Disbursements in an aggregate sum not to exceed the Funding Amount to or for the account of Borrower in accordance with this Agreement and the approved line item budget contained in the Table of Sources and Uses.

4.2 Closing. In the event Borrower does not satisfy all of the conditions to Loan Closing contained in Section 4.3(b) within twenty-four (24) months of the date of this Agreement, OCII may declare this Agreement to be null and void.

4.3 Conditions Precedent to Closing.

(a) OCII will authorize the Loan Closing upon satisfaction of the following preconditions:

i. The Funding Amount is available for disbursement on or immediately after the Loan Closing Date;

ii. Borrower must have delivered to OCII fully executed (and for documents to be recorded, acknowledged) originals of the following documents, in form and substance satisfactory to the OCII: (i) the Note; (ii) this Agreement (in triplicate); (iii) an opinion of Borrower's counsel in form and substance reasonably acceptable to OCII; (iv) the Authorizing Resolutions; and (v) any other OCII Documents reasonably requested by OCII.

iii. Borrower must have delivered to OCII Borrower's Charter Documents.

iv. Borrower must have delivered to OCII insurance endorsements and, if requested by OCII, copies of policies for all insurance required under **Exhibit F** of this Agreement.

v. Borrower will have reviewed the terms of the Loan with its tax counsel to determine the applicable interest rate necessary to satisfy the true debt test.

(b) Borrower will authorize the Loan Closing upon satisfaction of the following preconditions:

(i) Borrower shall have obtained the following Project financing, all on terms and in amounts acceptable to Borrower in its sole discretion: (1) Borrower shall receive a loan or loans for Project development costs, made from the proceeds of the sale of tax-exempt bonds allocated to Borrower by the California Debt Limit Allocation Committee; (2) Borrower shall receive an allocation of four percent (4%) federal low income housing tax credits by TCAC pursuant to Section 42 of the Internal Revenue Code of 1986, as amended; (3) Borrower shall obtain an equity investment in Borrower from a tax credit investor; (4) Borrower shall obtain a commitment for a permanent mortgage; and (5) Borrower shall obtain additional Project financing from any other required lenders (collectively, the "Project Financing");

(ii) the lenders and investors associated with the Project Financing are unconditionally prepared to close and fund their financing, with the exception of the permanent lender and HCD;

(iii) Borrower shall have executed the Ground Lease and (subject to such limitations or reservations as may be referenced in the Ground Lease) accepted the condition of the Site.

4.4 Disbursement of Funds. Following satisfaction of the conditions in Section 4.3, OCII will authorize the Escrow Agent to Disburse Funds as provided in OCII 's escrow instructions.

4.5 Disbursements.

- (a) OCII's obligation to approve any expenditure of Funds on or after the Loan Closing Date is subject to Borrower's satisfaction of the following conditions precedent:

(i) Borrower must have delivered to OCII an Expenditure Request in form and substance satisfactory to OCII, together with: (i) copies of invoices, contracts or other documents covering all amounts requested; (ii) a line item breakdown of costs to be covered by the Expenditure Request; and (iii) copies of checks issued to pay expenses covered in the previous Expenditure Request. Any request from Borrower to reallocate Funds between the line items or to change the budget limits for a line item from what is shown in the Table of Sources and Uses must be approved as follows: (i) except for funds moved from the contingency line item to another line item, a requested reallocation of Funds in an amount up to ten percent (10%) of the Funding Amount in the aggregate may be made with the express written approval of OCII's Housing Manager; and (ii) except for funds moved from the contingency line item to another line item, a requested reallocation of Funds in an amount that exceed ten percent (10%) of the Funding Amount may be made only with the express written approval of the OCII Executive Director. Reallocations of Funds from contingency line items to other line items shall not require the consent of OCII.

- (b) No Event of Default, or event that with notice or the passage of time or both could constitute an Event of Default, may have occurred that remains uncured as of the date of the Expenditure Request.
- (c) With respect to any Expenditure Request for rehabilitation or construction costs in the three-month and six-month construction draw requests, Borrower must have certified to OCII that the Project complies with the labor standards set forth in **Exhibit E**, Section 1, if applicable.
- (d) OCII shall use best efforts to either approve or disapprove each such Expenditure Request within 10 business days of receipt. In the event OCII disapproves an Expenditure Request, OCII shall provide written notice thereof to Borrower specifying the reason for such disapproval. OCII shall use best efforts to fund all approved Expenditure Requests within five (5) business days of approval.

4.6 Schedule of Performance. Borrower must perform in accordance with the Schedule of Performance (**Exhibit L**). The Schedule of Performance may be modified at the request of the Borrower; however, any modification to the Schedule of Performance shall be at the reasonable discretion of the OCII Executive Director.

4.7 Retention. In addition to the other conditions to Disbursements, Borrower acknowledges that the amount of hard costs or tenant improvements costs included in any Expenditure Request associated with rehabilitation or construction, when added to previously approved costs, may not exceed ninety percent (90%) of the approved budgeted costs on a line item basis. OCII will retain the remaining ten percent (10%) of hard costs or tenant improvement costs associated with rehabilitation or construction (the "Retention"). Borrower may request disbursement of the aggregate amount of the Retention only upon satisfaction of each of the following conditions, unless otherwise approved in writing by OCII: (a) completion of rehabilitation or construction of the Project in accordance with the plans and specifications approved by OCII, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion; (b) timely recordation of a notice of completion; and (c) either expiration of the lien period and the absence of any unreleased mechanics' liens or stop notices or recordation of the lien releases of all contractors, subcontractors and suppliers who provided labor or materials for the Project.

After fifty percent (50%) of the construction of the Project is complete as determined by the OCII--assigned construction management specialist, and upon Borrower's written request, OCII may elect to reduce the amount of Retention withheld to a level of no less than five percent (5%) of the hard costs or tenant improvements, provided that the following prerequisites have been met: (a) all work required to be performed by all parties for whom OCII agrees to release the Retention (the "Early Retention Release Contractors") has been completed in conformance with the terms of the applicable contract documents, the plans and specifications approved by the City and all applicable Laws; (b) the applicable Early Retention Release Contractors have filed unconditional lien waivers satisfactory to the OCII-assigned construction management specialist; (c) no liens or stop notices have been filed against the Project; (d) no claims against the Project are pending; (e) the OCII construction management specialist determines that the contingency is in balance and adequate to complete the Project; and (f) the Project is on schedule.

4.8 Limitations on Approved Expenditures. OCII may refuse to approve any expenditure: (a) during any period in which an event that, with notice or the passage of time or both, would constitute an Event of Default remains uncured; or (b) for disapproved, unauthorized or improperly documented expenses. OCII is not obligated to approve expenditure of the full Funding Amount unless approved Expenditure Requests support disbursement of the full Funding Amount, and in no event may the aggregate amount of all Funds Disbursed to Borrower under this Agreement exceed the Funding Amount.

ARTICLE 5 DEMOLITION, REHABILITATION OR CONSTRUCTION.

5.1 Contracting Requirements. In the selection of all contractors and professional consultants for the Project, Borrower must comply with OCII's contract compliance requirements as further set forth in **Exhibit E** of this Agreement.

5.2 Plans and Specifications. Before starting any demolition, rehabilitation or construction on the Site, Borrower must have delivered to OCII, and OCII must have reviewed and approved plans and specifications and the construction contract for the Project entered into between Borrower and Borrower's general contractor and approved by OCII (the "**Construction Contract**"). The plans approved by OCII must also be approved by the City's Department of Building Inspection (as collectively approved, the "**Approved Plans**") prior to the start of any demolition, rehabilitation or construction on the Site. The Approved Plans must be explicitly identified in the Construction Contract. The specifications approved by OCII, including the funder requirements and the technical specifications (the "Approved Specifications") must also be explicitly identified in the Construction Contract. The Construction Contract may include funder requirements not otherwise addressed in the Approved Specifications. After completion of the Project, Borrower must retain the Approved Plans as well as "as-built" plans for the Project, the Approved Specifications and the Construction Contract, all of which Borrower must make available to OCII upon request.

5.3 Change Orders. Borrower may not approve or permit any change orders to the plans and specifications approved by OCII without OCII's prior written consent. Borrower acknowledges that OCII's approval of any change order will not constitute an agreement to amend the Table of Sources and Uses or to provide additional Funds for the Project, unless OCII agrees in its sole discretion to amend the Table of Sources and Uses or provide additional Funds for that purpose. OCII shall endeavor to provide written approval or disapproval of each change order and any equivalent amendment to the Table of Sources and Uses within ten (10) business days of receipt for request therefor.

5.4 Insurance, Bonds and Security. Before starting any demolition, rehabilitation or construction on the Site, Borrower must deliver to OCII insurance endorsements and bonds as described in **Exhibit F**. At all times, Borrower must take prudent measures to ensure the security of the Site.

5.5 Notice to Proceed. No demolition, rehabilitation or construction may commence until Borrower has issued a written notice to proceed with OCII's approval.

5.6 Commencement and Completion of Project. Unless otherwise extended in writing by OCII, Borrower must: (a) commence construction of the Project by May 1, 2019; (b) complete demolition, and construction of the Project by July 1, 2021 (the "**Completion Date**"), in substantial accordance with the plans and specifications approved by OCII, as evidenced by a temporary certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion; and (c) achieve occupancy of Ninety Five percent (95%) of the Units by November 1, 2021.

5.7 Construction Standards. All construction must be performed in a first class manner, substantially in accordance with final plans and specifications approved by OCII and in accordance with all applicable codes.

ARTICLE 6 MARKETING.

6.1 Early Outreach Plan and Implementation.

(a) Early Outreach Plan. In accordance with the timeline established in **Exhibit L**, Borrower shall submit, and thereafter obtain OCII approval of, a plan for initial marketing of the Units (the “Early Outreach Plan”) that is in compliance with the restrictions set forth in **Exhibit A** and consistent with template provided as **Exhibit T-1**. OCII shall have 10 business days from the date it receives Borrower’s draft Early Outreach Plan to review and approve the submission as consistent with **Exhibit T-1**, or disapprove the submission. If OCII disapproves, it shall identify inconsistencies with the provisions of **Exhibit A** or **Exhibit T-1** that require correction so that Borrower may submit a revised Early Outreach Plan, so corrected, for approval.

(b) Implementation. Early outreach pursuant to the Early Outreach Plan must start within three months of commencement of construction, but Borrower may not start the outreach process until Borrower obtains an approved Early Outreach Plan.

6.2 Marketing and Tenant Selection Plans and Implementation.

(a) Marketing and Tenant Selection Plans. In accordance with the timeline established in **Exhibit L**, Borrower shall submit, and thereafter obtain OCII approval of, Borrower’s Marketing Plan and Tenant Selection Plan (“Marketing and Tenant Selection Plans”) that is in compliance with the guidance and restrictions set forth in **Exhibits A** and **S** and consistent with template provided as **Exhibit T-2**. OCII shall have 20 business days from the date it receives Borrower’s draft Marketing and Tenant Selection Plans to review and approve the submission as consistent with **Exhibits A, S** and **T-2**, or disapprove the submission. If OCII disapproves, it shall identify those inconsistencies with the provisions of **Exhibits A, S** and **T-2** that require correction so that Borrower may submit revised draft Marketing and Tenant Selection Plans, so corrected, for approval. Once approved, Borrower must obtain OCII approval of any alterations to the Marketing and Tenant Selection Plans.

(b) Implementation. Borrower must market and rent the Units in the manner set forth in the approved Marketing and Tenant Selection Plans, and must commence marketing activities no later than 180 days prior to the projected Completion Date. Before marketing any Units, Borrower must provide OCII with updated implementation and contact information.

6.3 Marketing Records. Borrower must keep records of: (a) activities implementing the affirmative marketing plan; (b) advertisements; and (c) other community outreach efforts.

6.4 Waiting List. Borrower's Tenant Selection Plan must contain, at a minimum, policies and criteria that provide for the selection of tenants from a written waiting list in the chronological order of their application (the "Waiting List"). The Tenant Selection Plan may allow an applicant to refuse an available Unit for good cause without losing standing on the Waiting List but shall limit the number of refusals without cause as approved by OCII. Borrower shall at all times maintain the Waiting List. Upon the vacancy of any Unit, Borrower shall first attempt to select the new Tenant for such Unit from the Waiting List, and shall only market the Unit to the general public after determining that no applicants from the Waiting List qualify for such Unit. The Waiting List must be kept on file at the Project at all times.

ARTICLE 7 AFFORDABILITY AND OTHER LEASING RESTRICTIONS.

7.1 Term of Leasing Restrictions. Borrower acknowledges and agrees that the covenants and other leasing restrictions set forth in this Article will remain in full force and effect as provided in the Declaration of Restrictions attached hereto and recorded on the Loan Closing Date. If applicable, the requirements to comply with the provisions of Internal Revenue Code Section 42, including Section 42(h)(6)(E)(ii), are hereby acknowledged.

7.2 Borrower's Covenant.

(a) Borrower covenants to rent all Units (except one Unit reserved for the manager of the Project) at all times to households certified as Qualified Tenants at initial occupancy, as set forth in **Exhibit A**.

(b) A Tenant who is a Qualified Tenant at initial occupancy may not be required to vacate the Unit due to subsequent rises in household income, except as provided in Section 7.3. After the over-income Tenant vacates the Unit, the vacant Unit must be rented only to Qualified Tenants as provided in Section 7.1.

7.3 Rent Restrictions.

(a) Rent charged to each Qualified Tenant may not exceed the amounts set forth in **Exhibit A**, *provided that* Rents may be adjusted annually based on changes to the rents published annually by MOHCD, subject to the limitations below. The Rents for the initial year of lease-up of the Project shall be the rents published for such year by MOHCD.

(b) Unless prohibited under any applicable Law or the rules and regulations governing any Project funding source (including without limitation the requirements of the regulatory agreement between Borrower and the California Tax Credit Allocation Committee which shall be recorded against the Project), each residential lease must provide for termination of the lease upon 120 days' prior written notice in the event that Borrower's annual income certification indicates that the Tenant's household income exceeds 120 percent of Median Income.

(c) With the OCII's prior written approval and in accordance with maximum rent limitations set forth in Section 7.3(a) and all applicable restrictions, Rent increases for Units exceeding the amounts permitted under Section 7.3(b) may be permitted once annually in order to recover increases in approved Project Expenses, provided that: (i) in no event may single or aggregate increases exceed ten percent (10%) per year, unless such an increase is contemplated in a OCII-approved temporary relocation plan or is necessary due to the expiration of Section 8 or other rental subsidies; and (ii) Rents for each Unit may in no event exceed the maximum Rent permitted under Section 7.3(a). City approval for such Rent shall not be unreasonably withheld.

(d) Unless prohibited under any applicable Laws, if the household income of a Qualified Tenant exceeds the maximum permissible income during occupancy of a Unit, then, upon no less than thirty (30) days' prior written notice to the Tenant or as otherwise required under the Tenant's lease or occupancy agreement, Borrower may adjust the charges for Rent for the previously Qualified Tenant to be equal to thirty percent (30%) of the Tenant's adjusted household income. Rents charged under this provision may exceed the Maximum Rent permitted under Section 7.3(a).

7.4 Certification.

(a) As a condition to initial occupancy, each person who desires to be a Qualified Tenant in the Project must be required to sign and deliver to Borrower a certification in the form shown in **Exhibit C** in which the prospective Qualified Tenant certifies that he/she or his/her household qualifies as a Qualified Tenant. In addition, each person must be required to provide any other information, documents or certifications deemed necessary by OCII to substantiate the prospective Tenant's income. Certifications provided to and accepted by the SFHA will satisfy this requirement.

(b) Each Qualified Tenant in the Project must recertify to Borrower on an annual basis his/her household income.

(c) Income certifications with respect to each Qualified Tenant who resides in a Unit or resided therein during the immediately preceding calendar year must be maintained on file at Borrower's principal office, and Borrower must file or cause to be filed copies thereof with the OCII promptly upon request by the OCII.

7.5 Form of Lease. The form of lease for Tenants must provide for termination of the lease and consent to immediate eviction for failure to qualify as a Qualified Tenant if the Tenant has made any material misrepresentation in the initial income certification. The term of the lease must be for a period of not less than one (1) year. Borrower may not terminate the tenancy or refuse to renew any lease of a Unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Laws or other good cause. Any termination or refusal to renew the lease for a Unit must be preceded by not less than thirty (30) days' written notice to the Tenant specifying the grounds for the action, unless a shorter notice period is permitted by law. Unless prohibited by any applicable law, or the rules and regulations governing any Project funding source, the form of lease for any Unit that has received an

allocation of tax credits must provide that the Tenant agrees that the lease may be terminated upon 120 days' notice if the Tenant's certified household income exceeds 120 percent of Median Income.

7.6 Nondiscrimination. Borrower covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this Agreement is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Project nor shall Borrower, or any person claiming under or through Borrower, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the Project.

7.7 Security Deposits. Security deposits may be required of Tenants only in accordance with applicable state law and this Agreement. Any security deposits collected must be segregated from all other funds of the Project in an Account held in trust for the benefit of the Tenants and disbursed in accordance with California law. The balance in the trust Account must at all times equal or exceed the aggregate of all security deposits collected plus accrued interest thereon, less any security deposits returned to Tenants.

ARTICLE 8 MAINTENANCE AND MANAGEMENT OF THE PROJECT.

8.1 Borrower's Responsibilities.

(a) Subject to the rights set forth in Section 8.2, Borrower will be specifically and solely responsible for causing all maintenance, repair and management functions performed in connection with the Project, including selection of tenants, recertification of income and household size, evictions, collection of rents, routine and extraordinary repairs and replacement of capital items. Borrower must maintain or cause to be maintained the Project, including the Units and common areas, in a safe and sanitary manner in accordance with local health, building and housing codes, California Health and Safety Code 17920.10 and the applicable provisions of 24 CFR Part 35.

8.2 Contracting With Management Agent.

(a) Borrower may contract or permit contracting with a management agent for the performance of the services or duties required in Section 8.1(a), subject to OCII prior written approval of both the management agent and, at OCII discretion, the management contract between Borrower and the management agent, *provided, however*, that the arrangement will not relieve Borrower of responsibility for performance of those duties. Any management contract must contain a provision allowing Borrower to terminate the contract without penalty upon no

more than thirty (30) days' notice. OCII hereby approves Mercy Housing Management Group, a Nebraska not-for-profit corporation, as the management agent for the Project.

(b) OCII will provide written notice to Borrower of any determination that the contractor performing the functions required in Section 8.1(a) has failed to operate and manage the Project in accordance with this Agreement. If the contractor has not cured the failure within a reasonable time period, as determined by OCII, Borrower must exercise its right of termination immediately and make immediate arrangements for continuous and continuing performance of the functions required in Section 8.1(a), subject to OCII approval.

8.3 Borrower Management. Borrower may manage the Project itself only with the OCII's prior written approval. OCII will provide written notice to Borrower of any determination that Borrower has failed to operate and manage the Project in accordance with this Agreement, in which case, OCII may require Borrower to contract or cause contracting with a management agent to operate the Project, or to make other arrangements OCII deems necessary to ensure performance of the functions required in Section 8.1(a).

ARTICLE 9 GOVERNMENTAL REQUIREMENTS.

9.1 Borrower Compliance. Borrower must comply, and where applicable, require its contractors to comply, with all applicable Laws governing the use of Funds for the design, construction, rehabilitation and/or operation of the Project, including the requirements of the CRL, OPA, and those Laws set forth in **Exhibit E**. Borrower acknowledges that its failure to comply with any of these requirements will constitute an Event of Default under this Agreement. Subject to Section 23.1, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

ARTICLE 10 PROJECT MONITORING, REPORTS, BOOKS AND RECORDS.

10.1 Generally.

(a) Borrower understands and agrees that it will be monitored by OCII from time to time to assure compliance with all terms and conditions in this Agreement and all Laws. Borrower acknowledges that, if and after Borrower acquires Control of the Site, OCII may also conduct periodic on-site inspections of the Project provided access to the interior of any residential unit is preceded by no less than 48 hours' prior notice. Borrower must cooperate with the monitoring by OCII and ensure full access to the Project and all information related to the Project as reasonably required by OCII.

(b) Borrower must keep and maintain books, records and other documents relating to the receipt and use of all Funds. Borrower must maintain records of all income, expenditures, assets, liabilities, contracts, operations, tenant eligibility and condition of the Project. All financial reports must be prepared and maintained in accordance with GAAP as in effect at the time of performance.

(c) Borrower must provide written notice of the replacement of: the member or manager of its' general partner or the executive director, director of housing development, director of property management and/or any equivalent position within the sole member of the managing general partner, within thirty (30) days after the effective date of such replacement.

10.2 Monthly Reporting. Commencing upon the Loan Closing Date, Borrower must submit monthly reports (the "OCII Monthly Project Update") describing progress toward developing the Project with respect to obtaining necessary approvals from other City departments, procuring architects, consultants and contractors, changes in scope, cost or schedule and significant milestones achieved in the past month and expected to be achieved in the coming month. The OCII Monthly Project Update must be submitted by email in substantially the form attached hereto as **Exhibit M** through submission of Forms 8609.

10.3 Annual Reporting.

Commencing upon the Completion Date, Borrower must file with OCII annual report forms (the "Annual Monitoring Report") that include audited financial statements with an income and expense statement for the Project covering the applicable reporting period, a statement of balances, deposits and withdrawals from all Accounts, line item statements of Project Expenses, Project Income, Project Fees (if any), Surplus Cash and any Distributions made, evidence of required insurance, a description of marketing activities and a rent roll, no later than one hundred twenty (120) days after the end of Borrower's fiscal year. The Annual Monitoring Report must be in substantially the form attached as **Exhibit H** or as later modified during the Compliance Term.

10.4 Capital Needs Assessment. Borrower must deliver to OCII, for its review and approval, an updated CNA on or before the tenth (10th) anniversary of the Completion Date, and every five years thereafter. The updated CNA must include an analysis of Borrower's actual expenditures for capital needs compared to the most recently approved CNA, Borrower's 20-Year Proforma and initial Annual Operating Budget and its then-current Annual Operating Budget.

10.5 Project Completion Report. Within the specific time periods set forth below after the completion of rehabilitation or construction, the lease-up and/or permanent financing of the Project, as applicable, Borrower must provide to OCII the reports listed below certified by Borrower to be complete and accurate. Subsequent to the required submission of the reports listed below, Borrower shall provide to OCII information or documents reasonably requested by OCII to assist in OCII's review and analysis of the submitted reports. To the extent not otherwise prohibited by applicable Law, Borrower shall provide the following reports:

(a) within one hundred eighty (180) days after completion of rehabilitation or construction, a project completion audit performed by an independent certified public accountant identifying the sources and uses of all Project funds including the Funds;

(b) within thirty (30) days after completion of rehabilitation or construction, a report on use of minority and women owned enterprises including race/ethnicity or gender, the type of work and the dollar value of such work;

(c) within thirty (30) days after seventy-five percent (75%) occupancy, and one hundred percent (100%) occupancy, respectively, a report on the lease-up of the Units including number of leases by race, ethnicity and single-headed household by gender, also indicating the Units by income category; and

10.6 Response to Inquiries. At the request of OCII, its agents, employees or attorneys, Borrower must respond promptly and specifically to questions relating to the income, expenditures, assets, liabilities, contracts, operations and condition of the Project, the status of any mortgage encumbering the Project and any other requested information with respect to Borrower or the Project.

10.7 Delivery of Records. At the request of OCII, made through its agents, employees, officers or attorneys, Borrower must provide OCII within a reasonable period of time of no less than sixty (60) days from request therefor with copies of each of the following documents, certified in writing by Borrower to be complete and accurate:

(a) all tax returns filed with the United States Internal Revenue Service, the California Franchise Tax Board and/or the California State Board of Equalization on behalf of Borrower and any general partner or manager of Borrower;

(b) all previously prepared certified financial statements of Borrower and, if applicable, its general partner or manager, the accuracy of which must be certified by an auditor satisfactory to OCII; and

(c) any other records related to Borrower's ownership structure and the use and occupancy of the Site.

10.8 Access to Other Project Books and Records. In addition to Borrower's obligations under Sections 2.4, 10.1, 10.2, and 10.3, any other obligations to provide reports or maintain records in this Agreement or any other OCII Document, Borrower agrees that duly authorized representatives of OCII (which shall include but not be limited to MOHCD staff) will have access to and the right to inspect, copy, audit and examine all books, records and other documents Borrower is required to keep at all reasonable times, following reasonable notice, for the retention period required under Section 10.9.

10.9 Records Retention. Borrower must retain all records required for the periods required under applicable Laws.

ARTICLE 11 USE OF INCOME FROM OPERATIONS.

11.1 Project Operating Account.

(a) Borrower must deposit all Project Income promptly after receipt into a segregated depository account (the "Project Operating Account") established exclusively for the Project. Withdrawals from the Project Operating Account may be made only in accordance with the provisions of this Agreement and the approved Annual Operating Budget, as it may be revised from time to time with the OCII's approval. Borrower may make withdrawals from the Project Operating Account solely for the payment of Project Expenses and Project Fees and payments and distributions of Surplus Cash in accordance with Section 3.5. Withdrawals from the Project Operating Account (including accrued interest) for any other purposes may be made only with the OCII's express prior written approval.

(b) Borrower must keep accurate records indicating the amount of Project Income deposited into and withdrawn from the Project Operating Account and the use of Project Income. Borrower must provide copies of the records to the OCII upon request.

ARTICLE 12 REQUIRED RESERVES.

12.1 Replacement Reserve Account.

(a) Upon the later to occur of: (x) Borrower's tax credit equity investor's capital contribution made in connection with conversion of the Project's senior debt from construction to permanent debt, or (y) sixty (60) days after the Completion Date, or any other date OCII reasonably designates in writing, Borrower must establish or cause to be established a segregated interest-bearing replacement reserve depository account (the "Replacement Reserve Account"). On or before the 15th day of each month following establishment of the Replacement Reserve Account, Borrower must make monthly deposits from Project Income into the Replacement Reserve Account in the amount necessary to meet the requirements of this Section. OCII may review the adequacy of deposits to the Replacement Reserve Account periodically and require adjustments as it deems necessary, which shall not be unreasonably withheld.

(b) Monthly deposits must equal one-twelfth of the sum of \$400 per unit, per year in accordance the Loan Committee approval dated December 7, 2018, or such other amount as approved by MOHCD Director and OCII Executive Director as part of the Final Financial Plan prior to the Loan Closing Date. Such additional deposits shall be made from available Surplus Cash.

(c) Borrower may withdraw funds from the Replacement Reserve Account solely to fund capital improvements for the Project, such as replacing or repairing structural elements, furniture, fixtures or equipment of the Project that are reasonably required to preserve the Project. Borrower may not withdraw funds (including any accrued interest) from the Replacement Reserve Account for any other purpose without the OCII's prior written approval which shall not be unreasonably withheld, conditioned or delayed.

12.2 Operating Reserve Account.

(a) Upon the later to occur of: (x) Borrower's tax credit equity investor's capital contribution made in connection with conversion of the Project's senior debt from construction to permanent debt, or (y) sixty (60) days after the Completion Date, Borrower must establish or cause to be established a segregated interest-bearing operating reserve depository account (the "Operating Reserve Account") by depositing funds in an amount equal to three months of the Annual Operating Budget attached hereto as **Exhibit B-2** (subject to modification by the Final Financial Plan Confirmation Letter).

(b) No less than annually after establishing the Operating Reserve Account and continuing until the Compliance Term has expired, Borrower must make additional deposits, if necessary, to bring the balance in the Operating Reserve Account to an amount equal to the original deposit amount in Section 12.2(a).

(c) Borrower may withdraw funds from the Operating Reserve Account solely to alleviate cash shortages resulting from unanticipated and unusually high maintenance expenses, seasonal fluctuations in utility costs, abnormally high vacancies, other expenses that vary seasonally or from month to month in the Project and reductions in operating subsidy. Borrower may not withdraw funds (including any accrued interest) from the Operating Reserve Account for any other purpose without the OCII's prior written approval.

(d) Borrower may maintain reserves for commercial uses only to the extent that such reserves are generated by income generated by commercial uses. For purposes of this Section 12.2(d), "commercial uses" shall refer to any non-residential uses on the Site.

ARTICLE 13 DISTRIBUTIONS.

13.1 Definition. "Distributions" refers to cash or other benefits received as Project Income from the operation of the Project and available to be distributed to Borrower, its partners or any party having a beneficial interest in the Project as Surplus Cash, but does not include reasonable payments for property management, asset management, partnership management, Developer Fees, or other services performed in connection with the Project.

13.2 Conditions to Distributions. The 20-Year Cash Flow Proforma attached hereto as **Exhibit B-3** includes projections of annual Distributions of Surplus Cash. **Exhibit B-3** is not intended to impose limits on the amounts to be annually distributed. Distributions for a particular fiscal year may be made only following: (a) OCII approval of the Annual Monitoring Report submitted for that year; (b) the OCII's determination that Borrower is not in default under this Agreement or any other agreement entered into with the City and County of San Francisco or the OCII for the Project; and (c) the OCII's determination that the amount of the proposed Distribution satisfies the conditions of this Agreement, including, but not limited to Section 3.5. OCII will be deemed to have approved Borrower's written request for approval of a proposed

Distribution unless OCII delivers its disapproval or request for more information to Borrower within thirty (30) business days after OCII's receipt of the request for approval.

13.3 Prohibited Distributions. No Distribution may be made in the following circumstances:

- (a) when a written notice of default has been issued to Borrower by any entity with an equitable or beneficial interest in the Project and the default is not cured within the applicable cure periods; or
- (b) when OCII has delivered a written notice of default to Borrower for a failure to comply with this Agreement and such default has not been remedied, or when OCII determines that Borrower's management agent has failed to comply with this Agreement and such failure has not been remedied; or
- (c) if required debt service on all loans secured by the Project and all operating expenses have not been paid current; or
- (d) if the Replacement Reserve Account, Operating Reserve Account or any other reserve account required for the Project is not fully funded under this Agreement; or
- (e) if the Loan is to be repaid from Surplus Cash, Borrower failed to make a payment when due on a Payment Date and the sum remains unpaid; or
- (f) during the pendency of an uncured Event of Default (including Borrower's failure to provide its own funds at any time OCII determines the Loan is out of balance) under any OCII Document.

13.4 Distributions of Surplus Cash. Distributions of Surplus Cash shall be made in accordance with Section 3.5.

ARTICLE 14 SYNDICATION PROCEEDS AND GENERAL PARTNER EQUITY.

14.1 Distribution and Use. If Borrower is a limited partnership or limited liability company, and unless otherwise approved by OCII in writing, Borrower must allocate, distribute and pay or cause to be allocated, distributed and paid all net syndication proceeds and all loan and grant funds as specified in the Table. Borrower must notify OCII of the receipt and disposition of any net syndication proceeds received by Borrower during the term of this Agreement.

14.2 General Partner Equity. In addition to the syndication proceeds, the General Partner shall be unconditionally obligated to contribute Three Million Four Hundred Thousand Dollars (\$3,400,000) to the Borrower.

ARTICLE 15 DEVELOPER FEES.

15.1 Amount. OCII has approved the payment of fees to the Developer in an aggregate amount not to exceed Seven Million Four Hundred Thousand and No/100 Dollars (\$7,400,000) (“**Developer Fees**”), to be paid in accordance with the Developer Fee Schedule attached hereto as **Exhibit N**. The Developer Fee are comprised of the following:

(a) an amount not to exceed One Million One Hundred Thousand and No/100 Dollars (\$1,100,000), for the predevelopment and construction periods of the Project (the “**Project Management Fee**”);

(b) an additional amount not to exceed Five Million One Hundred Twenty Thousand and No/100 Dollars (\$5,120,000) that is at-risk to the extent needed to fund cost overruns if total development costs exceed estimated development costs shown in the Final Financial Plan (the “**At-Risk Fee**”); and

(c) an additional amount not to exceed One Million One Hundred Eighty Thousand and No/100 Dollars (\$1,180,000) included as the Deferred Developer Fees.

ARTICLE 16 TRANSFERS.

16.1 Permitted Transfers/Consent. Borrower may not cause or permit any voluntary transfer, assignment or encumbrance of its interest in the Site or Project or of any ownership interests in Borrower, or lease or permit a sublease on all or any part of the Project, other than: (a) transfers of the general partnership or manager's interest in Borrower to a nonprofit public benefit corporation approved in advance by OCII; or (b) removal and thereafter replacement of a general partner of Borrower in accordance with the terms of Borrower's limited partnership agreement (and if necessary, the temporary replacement thereof with an affiliate of the Investor Limited Partner), provided that within a period of one hundred eighty (180) days after said removal (or other longer duration approved by OCII in its sole discretion), Borrower shall have replaced the general partner with a 501(c)(3) tax-exempt nonprofit corporation (or a wholly-owned subsidiary thereof), subject to Landlord's reasonable approval of the replacement general partner; (c) transfers of the limited partner or non-managing member interests in Borrower in accordance with the terms of the Borrower's partnership agreement; or (d) leases, subleases or occupancy agreements with occupants of the residential units or any permitted commercial tenants of the Project made in accordance with the Ground Lease. Any other transfer, assignment, encumbrance or lease without OCII's prior written consent will be voidable and, at OCII's election, constitute an Event of Default under this Agreement. OCII's consent to any specific assignment, encumbrance, lease or other transfer will not constitute its consent to any subsequent transfer or a waiver of any of OCII's rights under this Agreement. If there is a

conflict between Article 16.1 subsection (c), in the Agreement and Article 14.01 in the Ground Lease, Article 16.1 (c) of the Agreement shall prevail.

ARTICLE 17 INSURANCE AND BONDS.

17.1 Borrower's Insurance. Subject to approval by OCII of the insurers and policy forms, Borrower must obtain and maintain, or cause to be obtained and maintained, insurance and bonds as set forth in **Exhibit F** commencing with Loan Closing and thereafter for the term of the Ground Lease, at no expense to OCII.

ARTICLE 18 GOVERNMENTAL APPROVALS.

18.1 Compliance. Borrower covenants that it has obtained or will obtain in a timely manner and comply with all federal, state and local governmental approvals required by Law to be obtained for the Project. Subject to Section 23.1, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

ARTICLE 19 DEFAULT.

19.1 Event of Default. Any material breach by Borrower of any covenant, agreement, provision or warranty contained in this Agreement or in any of the OCII Documents that remains uncured upon the expiration of any applicable notice and cure periods contained in any OCII Document, including without limitation, Section 19.2 hereof, will constitute an "Event of Default," including the following:

(a) Borrower fails to make any payment required under this Agreement within fifteen (15) days after the date when due; or

(b) On or after the Loan Closing Date, any lien is recorded against all or any part of the Site or the Project without OCII's prior written consent, whether prior or subordinate to the lien of the Deed of Trust or Declaration of Restrictions, and the lien is not removed from title, or otherwise remedied to the OCII's satisfaction within thirty (30) days after Borrower's receipt of written notice from OCII to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have sixty (60) days to cure the default, or any longer period of time deemed necessary by OCII, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; or

(c) Borrower fails to perform or observe any other term, covenant or agreement contained in any OCII Document, and the failure continues for thirty (30) days after Borrower's receipt of written notice from OCII to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have sixty (60) days to cure the default, or any longer period of time deemed necessary by OCII, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; or

(d) Any representation or warranty made by Borrower in any OCII Document proves to have been incorrect in any material respect when made; or

(e) All or a substantial or material portion of the Project is damaged or destroyed by fire or other casualty, and, if the Borrower has elected to restore as provided in Article 20 of the Ground Lease, such restoration has not been completed as provided in and in accordance with the Ground Lease and Deed of Trust within two (2) years of the receipt of insurance proceeds (or such longer period as may be agreed by Borrower and OCII); or all or a substantial portion of the improvements is condemned, seized or appropriated by any non-City Governmental Agency which prevents the Improvements from being operated for their intended purpose;

(f) Borrower is dissolved or liquidated or merged with or into any other entity; or, if Borrower is a corporation, partnership, limited liability company or trust, Borrower ceases to exist in its present form (unless otherwise approved pursuant to Article 16) and (where applicable) in good standing and duly qualified under the laws of the jurisdiction of formation and California for any period of more than ten (10) days; or, if Borrower is an individual, Borrower dies or becomes incapacitated; or all or substantially all of the assets of Borrower are sold or otherwise transferred except as permitted under Section 16.1; or

(g) Without OCII's prior written consent as required under the terms of this Agreement, Borrower assigns or attempts to assign any rights or interest under any OCII Document, whether voluntarily or involuntarily, except as permitted under Section 16.1; or

(h) Without OCII's prior written consent, Borrower voluntarily or involuntarily assigns or attempts to sell, lease, assign, encumber or otherwise transfer all or any portion of the ownership interests in Borrower except as permitted under **Article 16**; or

(i) Without OCII's prior written consent, Borrower transfers, or authorizes the transfer of, funds in any Account required or authorized under this Agreement; or

(j) Either the Deed of Trust or the Declaration of Restrictions ceases to constitute a valid and indefeasible perfected lien on the Site and improvements, subject only to Permitted Exceptions; or

(k) Borrower is subject to an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee or similar official for Borrower or for all or any part of its property (or an appointment is made without its consent and the appointment continues undischarged and unstayed for sixty (60) days); or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to Borrower or to all or any part of its

property under the laws of any jurisdiction (or a proceeding is instituted without its consent and continues undismissed and unstayed for more than sixty (60) days); or any judgment, writ, warrant of attachment or execution or similar process is issued or levied against the Site, the improvements or any other property of Borrower and is not released, vacated or fully bonded within sixty (60) days after its issue or levy; or

(l) Any material adverse change occurs in the financial condition or operations of Borrower, such as a loss of services funding or rental subsidies, that has a material adverse impact on the Project; or

(m) Borrower fails to make any payments or disbursements required to bring the Loan in balance after OCII determines that the Loan is out of balance; or

(n) On or after the Loan Closing Date and before a certificate of occupancy is issued for the Project, Borrower ceases rehabilitation or construction of the Project for a period of fifteen (15) consecutive working days, and the cessation is not excused under Section 19.4; or

(o) Borrower is in default of its obligations with respect to any funding obligation (other than the Loan) for the Project, and the default remains uncured following the expiration of any applicable cure periods; or

(p) Borrower is in default of its obligations under any other agreement entered into with OCII or the City and County of San Francisco, and the default remains uncured following the expiration of any applicable cure periods.

19.2 Notice and Cure Rights of Investor Limited Partner. If an Event of Default occurs, or an event occurs that, with notice or the passage of time, or both, could constitute an Event of Default, OCII shall give Investor Limited Partner the same written notice given to the Borrower as required in this Agreement. Investor Limited Partner shall have the right, but not the obligation, to cure defaults within the time periods provided to Borrower herein. With respect to any right of cure provided herein, performance of a cure by Investor Limited Partner shall have the same effect as would like performance by Borrower. Unless OCII is otherwise notified, notices to Investor Limited Partner shall be sent to the address provided in Section 21.1 below.

19.3 Remedies. During the pendency of an uncured Event of Default, OCII may exercise any right or remedy available under this Agreement or any other OCII Document or at law or in equity. All of OCII's rights and remedies following an Event of Default are cumulative, including:

(a) OCII at its option may declare the unpaid principal balance of the Note, together with default interest as provided in the Note and any other charges due under the Note and the other OCII Documents, immediately due and payable without protest, presentment, notice of dishonor, demand or further notice of any kind, all of which Borrower expressly waives.

(b) OCII at its option may terminate all commitments to make Disbursements, or, without waiving the Event of Default, OCII may determine to make further Disbursements upon terms and conditions satisfactory to OCII in its sole discretion.

(c) OCII may perform any of Borrower's obligations in any manner, in OCII's reasonable discretion.

(d) OCII may terminate this Agreement.

(e) OCII, either directly or through an agent or court-appointed receiver, may take possession of the Project and enter into contracts and take any other action OCII deems appropriate to complete or construct all or any part of the improvements, subject to modifications and changes in the Project OCII deems appropriate.

(e) OCII may apply to any court of competent jurisdiction for specific performance, or an injunction against any violation, of this Agreement or for any other remedies or actions necessary or desirable to correct Borrower's noncompliance with this Agreement.

(f) Upon the occurrence of an Event of Default described in **Section 19.1(k)**, the unpaid principal balance of the Note, together with default interest as provided in the Note and any other charges due under the Note and the other OCII Documents, will become due and payable automatically.

(g) All costs, expenses, charges and advances of OCII in exercising its remedies or to protect the Project will be deemed to constitute a portion of the principal balance of the Note, even if it causes the principal balance to exceed the face amount of the Note, unless Borrower reimburses OCII within ten (10) days of OCII's demand for reimbursement.

19.4 Force Majeure. The occurrence of any of the following events will excuse performance of any obligations of OCII or Borrower rendered impossible to perform while the event continues: strikes; lockouts; labor disputes; acts of God; inability to obtain labor, materials or reasonable substitutes for either; governmental restrictions, regulations or controls; judicial orders; enemy or hostile governmental actions; civil commotion; fire or other casualty and other causes beyond the control of the party obligated to perform. The occurrence of a force majeure event will excuse Borrower's performance only in the event that Borrower has provided notice to OCII within thirty (30) days after the occurrence or commencement of the event or events, and Borrower's performance will be excused for a period ending thirty (30) days after the termination of the event giving rise to the delay.

ARTICLE 20 REPRESENTATIONS AND WARRANTIES.

20.1 Borrower Representations and Warranties. As a further inducement for OCII to enter into this Agreement, Borrower represents and warrants as follows:

(a) The execution, delivery and performance of the OCII Documents will not contravene or constitute a default under or result in a lien upon assets of Borrower under any applicable Law, any Charter Document of Borrower or any instrument binding upon or affecting Borrower, or any contract, agreement, judgment, order, decree or other instrument binding upon or affecting Borrower.

(b) When duly executed, the OCII Documents will constitute the legal, valid and binding obligations of Borrower. Borrower hereby waives any defense to the enforcement of the OCII Documents related to alleged invalidity of the OCII Documents.

(c) No action, suit or proceeding is pending or threatened that might affect Borrower or the Project adversely in any material respect.

(d) Borrower is not in default under any agreement to which it is a party, including any lease of real property.

(e) None of Borrower, Borrower's principals or Borrower's general contractor has been suspended or debarred by the Department of Industrial Relations or any Governmental Agency, nor has Borrower, any of its principals or its general contractor been suspended, disciplined or prohibited from contracting with any Governmental Agency.

(e) All statements and representations made by Borrower in connection with the Loan remain true and correct as of the date of this Agreement.

ARTICLE 21 NOTICES.

21.1 Written Notice. All notices required by this Agreement must be made in writing and may be communicated by personal delivery, facsimile (if followed within one (1) business day by first class mail) or by United States certified mail, postage prepaid, return receipt requested. Delivery will be deemed complete as of the earlier of actual receipt (or refusal to accept proper delivery) or five (5) days after mailing, *provided that* any notice that is received after 5 p.m. on any day or on any weekend or holiday will be deemed to have been received on the next succeeding business day. Notices must be addressed as follows:

To OCII:	Office of Community Investment and Infrastructure Successor Agency to the San Francisco Redevelopment Agency 1 South Van Ness, 5 th Floor San Francisco, CA 94103

Attn: Executive Director

With a copy to: Mayor's Office of Housing and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: Director

To Borrower: Mercy Housing California 78, L.P.
c/o Mercy Housing California
1256 Market Street
San Francisco, CA 94102
Attn: Asset Management

With a copy to: Bank of America, N.A.
c/o Banc of America CDC Special Holding Company, Inc.
Tax Credit Equity Investment Asset Management
NC1-007-11-25
100 North Tryon Street
Charlotte, NC 28202
Attention: Nicole Baldon
Facsimile: 980/386-6662

or any other address a party designates from time to time by written notice sent to the other party in manner set forth in this Section.

21.2 Required Notices. Borrower agrees to provide notice to OCII in accordance with Section 21.1 of the occurrence of any change or circumstance that: (a) will have an adverse effect on the physical condition or intended use of the Project; (b) causes the Loan to be out of balance; or (c) will have a material adverse effect on Borrower's operation of the Property or ability to repay the Loan.

ARTICLE 22 HAZARDOUS SUBSTANCES.

22.1 Borrower's Representations. Except as disclosed in that certain [update with reference to current Phase I/Phase II], which Phase I was delivered to OCII, and all historic reports and records referenced therein, Borrower represents and warrants to OCII, to the extent applicable, that, to the best of Borrower's actual knowledge, without independent investigation or inquiry as of the Loan Closing Date, the following statements are true and correct: (a) the Site is not in violation of any Environmental Laws; (b) the Site is not now, nor has it been, used for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Substances, except in limited quantities customarily used in residences and offices and in compliance with Environmental Laws; (c) the Site does not consist of any landfill or contain any underground storage tanks; (d) the improvements on the Site do not consist of any asbestos-

containing materials or building materials that contain any other Hazardous Substances; (e) no release of any Hazardous Substances in the improvements on the Site has occurred or in, on, under or about the Site; and (f) the Site is not subject to any claim by any Governmental Agency or third party related to any Environmental Activity or any inquiry by any Governmental Agency (including the California Department of Toxic Substances Control and the Regional Water Quality Control Board) with respect to the presence of Hazardous Substances in the improvements on the Site or in, on, under or about the Site, or the migration of Hazardous Substances from or to other real property.

22.2 Covenant. Unless OCII otherwise consents in writing, at all times from and after the date of this Agreement, at its sole expense, Borrower must: (a) comply with all applicable Environmental Laws relating to the Site and the Project, and not engage in or otherwise permit its agents to cause the occurrence of any Environmental Activity in violation of any applicable Environmental Laws or that is not customary and incidental to the intended use of the Site, *provided that* nothing contained in this Section will prevent Borrower from contesting, in good faith and by appropriate proceedings, any interpretation or application of Environmental Laws; and (b) deliver to OCII notice of the discovery by Borrower of any Environmental Activity on the Site promptly following Borrower's discovery.

ARTICLE 23 INDEMNITY.

23.1 Borrower's Obligations. Borrower must Indemnify OCII, the City, and their respective officers, agents and employees (individually or collectively, an "Indemnatee") against any and all Losses arising out of: (a) any default by Borrower in the observance or performance of any of Borrower's obligations under the OCII Documents (including those covenants set forth in **Article 22** above); (b) any failure of any representation by Borrower to be correct in all respects when made; (c) injury or death to persons or damage to property or other loss occurring on or in connection with the Site or the Project, whether caused by the negligence or any other act or omission of Borrower or any other person or by negligent, faulty, inadequate or defective design, building, construction, rehabilitation or maintenance or any other condition or otherwise, but only to the extent such event (x) occurs on or after Loan Closing and (y) arises directly or indirectly from Borrower's (or its agents) activities on the Site; (d) any claim of any surety in connection with any bond relating to the construction or rehabilitation of any improvements or offsite improvements performed by Borrower or its agents; (e) any claim, demand or cause of action, or any action or other proceeding (including without limitation those made by third-parties), whether meritorious or not, brought or asserted against any Indemnatee that relates to or arises out of the OCII Documents, the Loan, Borrower's (or its agents) activities on the Site or Borrower's (or its agents' or contractors') construction of the Project, or any transaction contemplated by, or the relationship between Borrower and OCII or Borrower and the City; (f) the occurrence, before the expiration of the term of this Agreement, of any Environmental Activity arising directly or indirectly from Borrower's (or its agents) activities on the Site or any failure of Borrower or any other person to comply with all applicable Environmental Laws relating to Borrower's (or its agents) activities on the Project or the Site; (g) the occurrence, after the termination of this Agreement, of any Environmental Activity resulting directly or indirectly

from any Environmental Activity occurring before the termination of this Agreement relating to Borrower's (or its agents) activities on the Project or the Site; (h) any liability of any nature arising from Borrower's contest of or relating to the application of any Law, including any contest permitted under **Sections 9.1, 18.1 and 22.1**; or (i) any claim, demand or cause of action, or any investigation, inquiry, order, hearing, action or other proceeding by or before any Governmental Agency, whether meritorious or not, that directly or indirectly relates to, arises from or is based on the occurrence or allegation of any of the matters described in clauses (a) through (h) above, *provided that* no Indemnitee will be entitled to indemnification under this Section for matters caused solely by its own gross negligence or willful misconduct. In the event any action or proceeding is brought against an Indemnitee by reason of a claim arising out of any Loss for which Borrower has indemnified the Indemnitees, upon written notice, Borrower must answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnitee at Borrower's sole expense. Each Indemnitee will have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt, demand, suit or judgment against the Indemnitee in connection with the matters covered by this Agreement. The provisions of this Section will survive the repayment of the Loan and/or termination of this Agreement. Any indemnification obligation of the Borrower and/or its partners under the OCII Documents shall not extend to repayment of principal or interest in the Loan. The sole recourse of OCII under the OCII Documents for repayment of the Loan shall be the exercise by OCII of its rights against the Project.

23.2 No Limitation. Borrower's obligations under **Section 23.1** are not limited by the insurance requirements under this Agreement.

ARTICLE 24 GENERAL PROVISIONS.

24.1 Subordination. The Deed of Trust and Declaration of Restrictions may be subordinated to other financing secured by and used for development of the Project (in each case, a "Senior Lien"), but only if OCII determines in its sole discretion that subordination is necessary to secure adequate acquisition, construction, rehabilitation and/or permanent financing to ensure the viability of the Project. Following review and approval by OCII and approval as to form by the City Attorney's Office, the Director of OCII or his/her successor or designee will be authorized to execute any approved subordination agreement without the necessity of any further action or approval.

24.2 No Third Party Beneficiaries other than City. Nothing contained in this Agreement, nor any act of OCII, may be interpreted or construed as creating the relationship of third party beneficiary, limited or general partnership, joint venture, employer and employee, or principal and agent between OCII and Borrower or Borrower's agents, employees or contractors. Notwithstanding the forgoing, OCII and Borrower hereby acknowledge and agree that as the intended assignee of OCII's rights under the OCII Documents, the City is a third party beneficiary under the OCII Documents and that the Investor Limited Partner is a third party beneficiary of the provisions in Sections 16.1 and 19.2 hereof.

24.3 No Claims by Third Parties. Nothing contained in this Agreement creates or justifies any claim against OCII by any person or entity with respect to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Project. Borrower must include this requirement as a provision in any contracts for the development of the Project.

24.4 Entire Agreement. This Agreement and its Exhibits incorporate the terms of all agreements made by OCII and Borrower with regard to the subject matter of this Agreement. No alteration or variation of the terms of this Agreement will be valid unless made in writing and signed by the parties hereto. No oral understandings or agreements not incorporated herein will be binding on OCII or Borrower.

24.5 OCII Obligations. OCII's sole obligation under this Agreement is limited to providing the Funds as described in this Agreement, up to the Funding Amount. Under no circumstances, including breach of this Agreement, will OCII be liable to Borrower for any special or consequential damages arising out of actions or failure to act by OCII in connection with any of the OCII Documents.

24.6 Borrower Solely Responsible. Borrower is an independent contractor with the right to exercise full control of employment, direction, compensation and discharge of all persons assisting in the performance contemplated under this Agreement. Borrower is solely responsible for: (a) its own acts and those of its agents, employees and contractors and all matters relating to their performance, including compliance with Social Security, withholding and all other Laws governing these matters and requiring that contractors include in each contract that they will be solely responsible for similar matters relating to their employees; (b) any losses or damages incurred by Borrower, any of its contractors or subcontractors and OCII and its officers, representatives, agents and employees on account of any act, error or omission of Borrower in the performance of this Agreement or any other OCII Document and the development and operation of the Project; and (c) all costs and expenses relating to Borrower's performance of obligations under the OCII Documents, the delivery to OCII of documents, information or items under or in connection with any of the OCII Documents and taxes, fees, costs or other charges payable in connection with the execution, delivery, filing and/or recording of any OCII Document or document required under any OCII Document.

24.7 No Inconsistent Agreements. Borrower warrants that it has not executed and will not execute any other agreement(s) with provisions materially contradictory or in opposition to the provisions of this Agreement.

24.8 Inconsistencies in OCII Documents. In the event of any conflict between the terms of this Agreement and any other OCII Document, the terms of this Agreement control unless otherwise stated; *provided, however*, that any provision in this Agreement in conflict with any Law will be interpreted subject to that Law.

24.9 Governing Law. This Agreement is governed by California law without regard to its choice of law rules.

24.10 Joint and Several Liability. If more than one person or entity signs this Agreement as Borrower, the obligations of such persons and entities shall be joint and several.

24.11 Successors. Except as otherwise limited herein, the provisions of this Agreement bind and inure to the benefit of the undersigned parties and their heirs, executors, administrators, legal representatives, successors and assigns. This provision does not relieve Borrower of its obligation under the OCII Documents to obtain OCII's prior written consent to any assignment or other transfer of Borrower's interests in the Loan, the Site or the ownership interests in Borrower.

24.12 Attorneys' Fees. If any legal action is commenced to enforce any of the terms of this Agreement or rights arising from any party's actions in connection with this Agreement, the prevailing party will have the right to recover its reasonable attorneys' fees (including allocated fees of the City Attorney's Office) and costs of suit from the other party, whether incurred in a judicial, arbitration, mediation or bankruptcy proceeding or on appeal. For the purposes of this Agreement, reasonable fees of attorneys in the City Attorney's office will be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter of law for which the City Attorney's services were rendered, who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. An award of attorneys' fees and costs will bear interest at the default rate under the Note from the date of the award until paid.

24.13 Severability. The invalidity or unenforceability of any one or more provisions of this Agreement will in no way affect any other provision.

24.14 Time. Time is of the essence in this Agreement. Whenever the date on which an action must be performed falls on a Saturday, Sunday or federal holiday, the date for performance will be deemed to be the next succeeding business day.

24.15 Further Assurances. Borrower agrees to: (a) pursue in an effective and continuous manner; (b) use best efforts to achieve; and (c) take all actions reasonably required by OCII from time to time to confirm or otherwise carry out the purpose of this Agreement.

24.16 Binding Covenants. The provisions of the OCII Documents constitute covenants running with the land and will be binding upon Borrower and Borrower's successors and assigns, and all parties having or acquiring any right, title or interest in whatever form, including leasehold interests (other than Tenants and approved commercial tenants), in or to any part of the Property, except that the same will terminate and become void automatically at the expiration of the term of this Agreement. Any attempt to transfer any right, title or interest in the Property in violation of these covenants will be void.

24.17 Consent. Except as expressly provided otherwise, whenever consent or approval of a party is required in any OCII Document, that party agrees not to withhold or delay its consent or approval unreasonably.

24.18 Counterparts. This Agreement may be executed in any number of counterparts, all of which will constitute but one agreement.

24.19 Borrower's Personnel. The Project shall be implemented only by competent personnel under the direction and supervision of Borrower.

24.20 Borrower's Board of Directors. Borrower or its managing general partner (or managing member of its general partner) shall at all times be governed by a legally constituted and fiscally responsible board of directors. Such board of directors shall meet regularly and maintain appropriate membership, as established in its bylaws and other governing documents, and shall adhere to applicable provisions of federal, state and local laws governing nonprofit corporations. Said board of directors shall exercise such oversight responsibility with regard to this Agreement as is necessary to ensure full and prompt performance by Borrower of its obligations under this Agreement.

24.21 Ownership of Results. Any interest of Borrower or any sub-borrower, in drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, or other documents or Publications prepared by or on behalf of Borrower or any sub-borrower in connection with this Agreement, the implementation of the Project, the services to be performed under this Agreement, or acquired through the use of any Loan proceeds ("Work Product"), is hereby pledged to OCII as security for Borrower's obligations under this Agreement and the Note, pursuant to that certain Assignment of Work Product attached hereto as **Exhibit O**, and upon an Event of Default, subject to all applicable notice and cure periods, shall become the property of and be promptly transmitted by Borrower to OCII. Notwithstanding the foregoing, Borrower may retain and use copies for reference and as documentation of its experience and capabilities.

This Agreement constitutes a security agreement under the California Uniform Commercial Code, as it may be amended from time to time, and Borrower authorizes OCII to file any financing statements OCII elects and deems necessary to perfect its security interest in the Work Product.

24.22 Works for Hire. If, in connection with this Agreement or the implementation of the Project, Borrower creates artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship or Publications, such creations shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such creations shall be the property of OCII. If it is ever determined that any such creations are not works for hire under applicable law, Borrower hereby assigns all copyrights thereto to OCII, and agrees to provide any material, execute such documents and take such other actions as may be necessary or desirable to

effect such assignment. With the prior written approval of OCII, Borrower may retain and use copies of such creations for reference and as documentation of its experience and capabilities. Borrower shall use commercially reasonable efforts to obtain all releases, assignments or other agreements from other persons or entities implementing the Project to ensure that OCII obtains the rights set forth in this Section.

24.23 Nonrecourse. OCII's recourse against Borrower following an Event of Default is limited as set forth more specifically in the Note.

24.25 Exhibits. The following exhibits are attached to this Agreement and incorporated by reference:

EXHIBITS

- A Schedules of Income and Rent Restrictions
- B-1 Table of Sources and Uses of Funds
- B-2 Annual Operating Budget
- B-3 20-Year Cash Flow Proforma
- C Form of Tenant Income Certification
- D Intentionally Omitted
- E Contract Compliance Policies
- F Insurance Requirements
- G Lobbying/Debarment Certification Form
- H Form of Annual Monitoring Report
- I Intentionally Deleted
- J Form of Deed of Trust
- K Form of Declaration of Restrictions
- L Schedule of Performance
- M OCII Monthly Project Update Form
- N Developer Fee Schedule
- O Assignment of Work Product
- P Consent to Assignment of Work Product
- Q Legal Description
- R Final Financial Plan Confirmation Letter
- S Operational Rules for San Francisco Housing Lotteries and Rental Lease Up Activities
- T-1 Form of Early Outreach Plan for Initial Lease Up or Sale of Units
- T-2 Marketing and Tenant Selection Plan for Initial Rental Units

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at San Francisco, California as of the date first written above.

OCII:

Office of Community Investment and Infrastructure, Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body organized and existing under the laws of the State of California

By: _____

Nadia Sesay
Executive Director

APPROVED AS TO FORM:

By: _____

James B. Morales
Deputy Director and General Counsel

BORROWER:

Mercy Housing California 78, L.P.,
a California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit
corporation,
its managing general partner

By: _____

Name: _____

Its: _____

Authorized by OCII Resolution No. _____, dated _____, 2019

EXHIBIT A
Schedules of Income and Rent Restrictions*

	40% SF AMI		50% SF AMI		60% SF AMI	65% SF AMI		80% SF AMI	Manager's Unit	TOTAL
	Non-PBV units	PBV	Non-PBV units	PBV	Non-PBV units	Non-PBV units	PBV	Non-PBV units		
Studio	3		2		3	2				10
1	8	4	6	1	7	3	1	4		34
2	3	12	5	12	25	9	2	8	1	77
3	1	4	4	1	11	4	1	3		29
4			1							1
5			1							1
TOTAL	15	20	19	14	46	18	4	15	1	152
	35		33		46	22		15	1	152

*AMI is based on MOHCD established rates.

The total amount for rent and utilities (with the maximum allowance for utilities determined by the San Francisco Housing Authority) charged to a Qualified Tenant may not exceed:

- (i) thirty percent (30%) of the applicable Median Income set forth above, adjusted for household size; or
- (ii) the fair market rent established by the San Francisco Housing Authority for Qualified Tenants holding Section 8 vouchers or certificates.

Maximum Rent and utilities charged to each Qualified Tenant may not exceed the corresponding amounts for the AMI's set forth in the table above as established annually by MOHCD. Rents for all Units may be increased once annually in accordance with any increase in the rents according to MOHCD's "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco," published on an annual basis, based upon the maximum applicable target AMIs provided in the table above. The Project rents and utility allowances will be established based on established rents and utility allowances for the appropriate year of the commencement of marketing of the Project.

With OCII's prior written approval and in accordance with maximum rent limitations set forth above and all applicable restrictions, Rent increases for Units exceeding the amounts permitted above will be permitted in order to recover increases in Project Expenses, but in no event may single or aggregate increases exceed ten percent (10%) per year, unless such an increase is contemplated in a OCII-approved temporary relocation plan or when the increase is caused by an

increase in certified income. OCII approval for such rent increases that are necessary to meet all approved Project Expenses and financial obligations shall not be unreasonably withheld.

EXHIBIT B-1
Table of Sources and Uses of Funds

Application Date: 10/24/18 # Units: 152
 Project Name: Mission Bay Block 6 West # Bedrooms: 254
 Project Address: 691 China Basin Street # Beds:
 Project Sponsor: Meny Housing California

SOURCES	Total Sources									Comments
	45,851,690	1,510,000	48,160,372	5,000,000	5,840,000	8,601,000	3,400,000	1,180,000	119,543,062	
Name of Sources:	MOHCD/COH	FHLB - AHP (COH Bridge)	LP Equity	BIG - Sponsor Loan	1st Mortgage Tranche A	2nd Mortgage Tranche B	GP Contribution	Deferred Dev Fee		

USES

ACQUISITION

Acquisition cost or value									0	
Legal / Closing costs / Broker's Fee									0	
Holding Costs									0	
Transfer Tax									0	
TOTAL ACQUISITION	0	0	0	0	0	0	0	0	0	

CONSTRUCTION (HARD COSTS)

Int Construction/Rehab	18,113,830	1,510,000	45,391,160	2,333,378	464,968	8,601,000			76,414,336	
Commercial Shell Construction	961,079								961,079	
Demolition	25,188								25,188	On and Off site clearing and demo
Environmental Remediation				1,546,622					1,546,622	Class 1 tops RC24-Methane
Drainage Improvements/Landscaping	916,529								916,529	
Vehicle Improvements	0								0	
Infrastructure Improvements	0								0	
Parking	914,747			1,120,000					2,034,747	
GC Bond Premium/GC Insurance/GC Taxes	1,175,601								1,175,601	
GC Overhead & Profit	2,350,742								2,350,742	
GC General Conditions	2,728,081								2,728,081	
Sub-total Construction Costs	27,682,857	1,510,000	45,391,160	5,000,000	464,968	8,601,000	0	0	88,600,985	Construction fee item costs are % of hard costs
Design Contingency (remove at DD)									0	0% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+
Bid Contingency (remove at bid)	2,418,034								2,418,034	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+
Post Check Contingency (remove/reduce during Plan Rev)	902,134								902,134	5% up to \$30MM HC, 3% \$30-\$45MM, 2% \$45MM+
Hard Cost Construction Contingency	4,601,799								4,601,799	3% new construction / 15% rehab
Sub-total Construction Contingencies	7,921,967	0	0	0	0	0	0	0	7,921,967	
TOTAL CONSTRUCTION COSTS	36,604,814	1,510,000	45,391,160	5,000,000	464,968	8,601,000	0	0	96,522,952	

SOFT COSTS

Architecture & Design										
Architect design fees	1,681,457								1,681,457	Includes Associate Architect Fees
Design Subconsultants to the Architect (incl. Fees)	952,116								952,116	
Architect Construction Admin	688,364								688,364	
Reimbursables	60,000								60,000	
Additional Services	49,845								49,845	
Sub-total Architect Contract	3,462,782	0	0	0	0	0	0	0	3,462,782	
Other Third Party design consultants (not included under Architect contract)										Consultants not covered under architect contract, name consultant type and contract amount
Total Architecture & Design	3,462,782	0	0	0	0	0	0	0	3,462,782	

Engineering & Environmental Studies

Survey	31,400								31,400	
Geotechnical studies	161,600								161,600	
Phase I & II Reports	59,000								59,000	
CEQA / Environmental Review consultants	0								0	
NEPA / 106 Review	22,666								22,666	
CMV/PMA (rehab only)	0								0	
Other environmental consultants	447,063								447,063	Palo Verde (\$132,392), SHCo (\$9.5K), Sp. Insp (\$89K), Com (\$40K), JOH (\$8K), Stak (\$41,405), Interiors (\$10K), UDOE (\$12,201), Salter (\$8K), Treesech (\$45K), Langan (\$45.5K), Current (\$60K)
Total Engineering & Environmental Studies	721,719	0	0	0	0	0	0	0	721,719	

Financing Costs

Construction Financing Costs										
Construction Loan Origination Fee	473,896								473,896	
Construction Loan Interest				5,375,032					5,375,032	During and Post Construction
Title & Recording	50,000								50,000	Includes escrow costs and COI
CDLAC & CDAC fees	27,115								27,115	
Bond Issue Fees	356,422								356,422	Fee + Fees during construction
Other Bond Cost of Insurance	30,000								30,000	Consultant, Lender Costs, Misc.
Other Lender Costs - PreDev Loan Interest	25,000								25,000	
Sub-total Const. Financing Costs	961,423	0	0	0	5,375,032	0	0	0	6,336,455	
Permanent Financing Costs										
Permanent Loan Origination Fee	161,910								161,910	
Credit Enhance. & Appl. Fee	0								0	
Title & Recording	10,000								10,000	
Sub-total Perm. Financing Costs	171,910	0	0	0	0	0	0	0	171,910	
Total Financing Costs	1,133,343	0	0	0	5,375,032	0	0	0	6,508,375	

Legal Costs

Business Legal fees	10,000								10,000	
Land Use / CEQA Attorney fees	0								0	
Tax Credit Counsel	30,000								30,000	
Bond Counsel	50,000								50,000	
Construction Lender Counsel	135,000								135,000	
Permanent Lender Counsel	65,000								65,000	
Other Legal (specify)	0								0	
Total Legal Costs	290,000	0	0	0	0	0	0	0	290,000	

Other Development Costs

Appraisal	10,000								10,000	
Market Study	10,000								10,000	
Insurance	369,087								369,087	
Property Taxes	0								0	
Accounting / Audit	20,000								20,000	
Organizational Costs	5,000								5,000	Legal Fees
Settlement / Permit Fees	1,029,516								1,029,516	Permits + Impact Fees
Marketing / Rent-up	406,431								406,431	
Furniture	304,000								304,000	\$2,000/unit. See MOHCD UWF Guidelines on http://mohcd.org/documents-reports-and-forms
PG&E / Utility Fees	145,000								145,000	
TCAC App / Alloc / Monitor Fees	112,253								112,253	
Financial Consultant fees	45,000								45,000	\$10K under COI
Construction Management fees / Owner's Rep	151,108								151,108	
Security during Construction	0								0	
Relocation	0								0	
Other (specify)	0								0	
Other (specify)	0								0	
Other (specify)	0								0	
Total Other Development Costs	2,647,435	0	0	0	0	0	0	0	2,647,435	

Soft Cost Contingency

Contingency (Arch, Eng, Fin, Legal & Other Dev)	800,597	0	0	0	0	0	0	0	800,597	Should be either 10% or 5% of total soft costs.
TOTAL SOFT COSTS	9,145,876	0	0	0	5,375,032	0	0	0	14,520,908	6.8%

RESERVES

Operating Reserves			753,205						753,205	
Replacement Reserves									0	
Tenant Improvements Reserves									0	
Other: Sidewalk Maintenance Reserve			296,007						296,007	
Other (specify)									0	
Other (specify)									0	
TOTAL RESERVES	0	0	1,049,212	0	0	0	0	0	1,049,212	

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	1,100,000								1,100,000	
Developer Fee - Cash-out At Risk			1,720,000						1,720,000	
Developer Fee - GP Equity (also show as source)							3,400,000		3,400,000	
Developer Fee - Deferred (also show as source)								1,180,000	1,180,000	
Development Consultant Fees									0	
Other (specify)									0	
TOTAL DEVELOPER COSTS	1,100,000	0	1,720,000	0	0	0	3,400,000	1,180,000	7,400,000	

TOTAL DEVELOPMENT COST

Development Cost/Unit by Source	45,851,690	1,510,000	48,160,372	5,000,000	5,840,000	8,601,000	3,400,000	1,180,000	119,543,062	
Development Cost/Unit as % of TDC by Source	301,656	9,934	316,845	32,895	38,421	56,588	22,368	7,763	788,468	
	38.4%	1.3%	40.3%	4.2%	4.9%	7.2%	2.8%	1.0%	100.0%	

Acquisition Cost/Unit by Source

Acquisition Cost (inc Const Contingency)/Unit By Source	234,249	9,934	298,626	32,895	3,069	56,588	0	0	635,348	
Construction Cost (inc Const Contingency)/SF	159.31	8.16	245.16	27.61	2.51	46.45	0.00	0.00	621.80	

City Subsidy/Unit

City Subsidy/Unit	301,656									

Tax Credit Equity Pricing:

Construction Bond Amount:	1.90									
Construction Loan Term (in months):	63,185,123									
Construction Loan Interest Rate (as %):	30 months									
	5.50%									

EXHIBIT B-2
Annual Operating Budget

Application Date: 10/24/2018 Project Name: Mission Bay Block 6 West
 Total # Units: 152 Project Address: 691 China Basin Street
 First Year of Operations (provide data assuming that Year 1 is a full year, i.e. 12 months of operations): 2021 Project Sponsor: Mercy Housing California

INCOME	Total	Comments
Residential - Tenant Rents	1,912,524	Links from 'New Proj' - Rent & Unit Mix Worksheet
Residential - Tenant Assistance Payments (Non-LOSP)	1,389,264	Links from 'New Proj' - Rent & Unit Mix Worksheet
Commercial Space	12,961	0%
Residential Parking	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Rent Income	0	Links from 'Utilities & Other Income' Worksheet
Supportive Services Income	0	
Interest Income - Project Operations	0	Links from 'Utilities & Other Income' Worksheet
Laundry and Vending	39,260	Links from 'Utilities & Other Income' Worksheet
Tenant Charges	9,989	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Residential Income	0	Links from 'Utilities & Other Income' Worksheet
Other Commercial Income	0	Links from 'Commercial Op. Budget' Worksheet
Withdrawal from Capitalized Reserve (deposit to operating account)		
Gross Potential Income	3,363,997	
Vacancy Loss - Residential - Tenant Rents	(95,629)	Vacancy loss is 5% of Tenant Rents.
Vacancy Loss - Residential - Tenant Assistance Payments	(69,463)	Vacancy loss is 5% of Tenant Assistance Payments.
Vacancy Loss - Commercial	(6,491)	Links from 'Commercial Op. Budget' Worksheet
EFFECTIVE GROSS INCOME	3,192,427	PUPA: 21,003

OPERATING EXPENSES		
Management		
Management Fee	116,736	1st Year to be set according to HUD schedule
Asset Management Fee	21,900	
Sub-total Management Expenses	138,636	PUPA: 912
Salaries/Benefits		
Office Salaries	89,760	
Manager's Salary	74,800	
Health Insurance and Other Benefits	82,253	
Other Salaries/Benefits	147,260	
Administrative Rent-Free Unit		
Sub-total Salaries/Benefits	394,073	PUPA: 2,593
Administration		
Advertising and Marketing	2,120	
Office Expenses	35,570	
Office Rent	0	
Legal Expense - Property	12,000	
Audit Expense	11,200	
Bookkeeping/Accounting Services	17,328	
Bad Debts	0	
Miscellaneous	2,880	
Sub-total Administration Expenses	81,098	PUPA: 534
Utilities		
Electricity	62,251	
Water	87,400	
Gas	63,000	
Sewer	134,216	
Sub-total Utilities	346,867	PUPA: 2,282
Taxes and Licenses		
Real Estate Taxes	3,800	
Payroll Taxes	65,088	
Miscellaneous Taxes, Licenses and Permits	1,500	
Sub-total Taxes and Licenses	71,388	PUPA: 470
Insurance		
Property and Liability Insurance	156,540	
Fidelity Bond Insurance		
Worker's Compensation	22,396	
Director's & Officers' Liability Insurance		
Sub-total Insurance	178,936	PUPA: 1,177
Maintenance & Repair		
Payroll	173,232	
Supplies	22,300	
Contracts	95,296	
Garbage and Trash Removal	88,616	
Security Payroll/Contract	6,300	
HVAC Repairs and Maintenance	9,600	
Vehicle and Maintenance Equipment Operation and Repairs	1,200	
Miscellaneous Operating and Maintenance Expenses	11,200	Includes CAM for news
Sub-total Maintenance & Repair Expenses	407,744	PUPA: 2,683
Supportive Services	158,701	Per HCD Guidelines
Commercial Expenses	3,240	Links from 'Commercial Op. Budget' Worksheet
TOTAL OPERATING EXPENSES	1,780,683	PUPA: 11,715

Reserves/Ground Lease Base Rent/Bond Fees		
Ground Lease Base Rent	15,000	Ground lease with MOHCD Provide additional comments here, if needed.
Bond Monitoring Fee		
Replacement Reserve Deposit	60,800	
Operating Reserve Deposit		
Other Required Reserve 1 Deposit		
Other Required Reserve 2 Deposit		
Required Reserve Deposits, Commercial	0	Links from 'Commercial Op. Budget' Worksheet
Sub-total Reserve/Ground Lease Base Rent/Bond Fees	75,800	PUPA: 499
TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)	1,856,483	PUPA: 12,214
NET OPERATING INCOME (INCOME minus OP EXPENSES)	1,335,944	PUPA: 8,789
DEBT SERVICE/MUST PAY PAYMENTS (Hard debt/amortized loans)		
Hard Debt - First Lender	420,165	TE Perm Loan - A Provide additional comments here, if needed.
Hard Debt - Second Lender (HCD Program 0.42% pymt. or other 2nd Lender)	739,443	TE Perm Loan - B Provide additional comments here, if needed.
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)	0	Provide additional comments here, if needed.
Hard Debt - Fourth Lender	0	Provide additional comments here, if needed.
Commercial Hard Debt Service	0	Links from 'Commercial Op. Budget' Worksheet
TOTAL HARD DEBT SERVICE	1,159,608	PUPA: 7,629
CASH FLOW (NOI minus DEBT SERVICE)	176,336	
USES OF CASH FLOW BELOW (This row also shows DSCR.)	1.19	
USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL		
"Below-the-line" Asset Mgt fee (uncommon in new projects, see policy)		
Partnership Management Fee (see policy for limits)	23,420	2nd
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)	5,000	1st
Other Payments		
Non-amortizing Loan Print - Lender 1 (select lender in comments field)		Provide additional comments here, if needed.
Non-amortizing Loan Print - Lender 2 (select lender in comments field)		Provide additional comments here, if needed.
Deferred Developer Fee (Enter amt <= Max Fee from cell 1130)	73,958	Def. Develop. Fee split: 50% Provide additional comments here, if needed.
TOTAL PAYMENTS PRECEDING MOHCD	102,378	PUPA: 674

RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)	73,958	
Residual Receipts Calculation		
Does Project have a MOHCD Residual Receipt Obligation?	Yes	Project has MOHCD ground lease? Yes
Will Project Defr Developer Fee?	Yes	
Max Deferred Developer Fee/Borrower % of Residual Receipts in Yr 1:	50%	Max Deferred Developer Fee Amt (Use for data entry above. Do not link.): 73,958
% of Residual Receipts available for distribution to soft debt lenders in	50%	

Soft Debt Lenders with Residual Receipts Obligations	(Select lender name/program from drop down)	Total Principal Amt	Distrib. of Soft Debt Loans
MOHCD/OCII - Soft Debt Loans	All MOHCD/OCII Loans payable from res. recs	\$44,782,474	99.67%
MOHCD/OCII - Ground Lease Value	Ground Lease	\$150,000	0.33%
HCD (soft debt loan) - Lender 3			0.00%
Other Soft Debt Lender - Lender 4			0.00%
Other Soft Debt Lender - Lender 5			0.00%

MOHCD RESIDUAL RECEIPTS DEBT SERVICE		
MOHCD Residual Receipts Amount Due	73,958	50% of residual receipts, multiplied by 100% - MOHCD's pro rata share of all soft debt
Proposed MOHCD Residual Receipts Amount to Loan Repayment	73,958	Enter over/under amount of residual receipts proposed for loan repayment.
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease	0	if applicable, MOHCD residual receipts amt due LESS amt proposed for loan repaymt.
REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE		
DEBT SERVICE	0	
NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE		
HCD Residual Receipts Amount Due	0	
Lender 4 Residual Receipts Due	0	
Lender 5 Residual Receipts Due	0	
Total Non-MOHCD Residual Receipts Debt Service	0	
REMAINDER (Should be zero unless there are distributions below)		
Owner Distributions/Incentive Management Fee	0	
Other Distributions/Uses	0	
Final Balance (should be zero)	0	

EXHIBIT B-3
20-Year Cash Flow Proforma

Mission Bay Block 6 West

Total # Units: 152

TCAC Income Limits In Use!

			Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
			2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
INCOME	% annual increase	Comments (related to annual inc assumptions)	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total
Residential - Tenant Rents	2.5%		1,912,524	1,960,337	2,009,346	2,059,579	2,111,069	2,163,845	2,217,941	2,273,390	2,330,225	2,388,480
Residential - Tenant Assistance Payments (Non-LOSP)	2.5%	Section 8 PIIV	1,389,254	1,423,996	1,459,595	1,486,066	1,533,489	1,571,825	1,611,120	1,651,398	1,692,683	1,735,000
Commercial Space	2.5%		12,961	13,285	13,285	13,285	13,285	13,285	13,285	13,285	13,285	13,285
Residential Parking	2.5%		-	-	-	-	-	-	-	-	-	-
Miscellaneous Rent Income	2.5%		-	-	-	-	-	-	-	-	-	-
Supportive Services Income	2.5%		-	-	-	-	-	-	-	-	-	-
Interest Income - Project Operations	2.5%		-	-	-	-	-	-	-	-	-	-
Laundry and Vending	2.5%		39,200	40,242	41,248	42,279	43,336	44,419	45,530	46,668	47,834	49,030
Tenant Charges	2.5%		9,988	10,238	10,494	10,756	11,025	11,300	11,583	11,873	12,169	12,474
Miscellaneous Residential Income	2.5%		-	-	-	-	-	-	-	-	-	-
Other Commercial Income	2.5%		-	-	-	-	-	-	-	-	-	-
Withdrawal from Capitalized Reserve (deposit to operating account)	n/a	Link from Reserve Section below, as applicable	-	-	-	-	-	-	-	-	-	-
Gross Potential Income			3,363,997	3,448,097	3,533,967	3,621,984	3,712,202	3,804,675	3,899,459	3,996,614	4,096,197	4,198,270
Vacancy Loss - Residential - Tenant Rents	n/a	Enter formulas manually per relevant MOH policy, annualizing vacancy not appropriate	(95,626)	(98,017)	(100,467)	(102,979)	(105,553)	(108,192)	(110,897)	(113,670)	(116,511)	(119,424)
Vacancy Loss - Residential - Tenant Assistance Payments	n/a		(69,463)	(71,200)	(72,988)	(74,804)	(76,574)	(78,591)	(80,586)	(82,570)	(84,534)	(86,750)
Vacancy Loss - Commercial	n/a		(6,451)	(6,543)	(6,643)	(6,751)	(6,865)	(6,985)	(7,111)	(7,243)	(7,381)	(7,525)
EFFECTIVE GROSS INCOME			3,192,427	3,272,238	3,353,878	3,437,558	3,523,331	3,611,249	3,701,364	3,793,732	3,888,409	3,985,453
OPERATING EXPENSES												
Management												
Management Fee	3.5%	1st Year to be set according to HUD schedule	116,736	120,822	125,051	129,427	133,957	138,646	143,498	148,521	153,719	159,099
Asset Management Fee	3.5%	per MOHCD policy	21,900	22,667	23,460	24,281	25,131	26,010	26,921	27,863	28,838	29,847
Sub-total Management Expenses			138,636	143,489	148,510	153,708	159,088	164,656	170,419	176,384	182,557	188,946
Salaries/Benefits												
Office Salaries	3.5%		89,760	92,902	96,153	99,519	103,002	106,607	110,338	114,200	118,197	122,334
Manager's Salary	3.5%		74,800	77,418	80,128	82,932	85,835	88,839	91,948	95,166	98,487	101,945
Health Insurance and Other Benefits	3.5%		82,253	85,120	88,111	91,136	94,307	97,631	101,110	104,648	108,311	112,103
Other Salaries/Benefits	3.5%		147,260	152,414	157,749	163,270	168,984	174,899	181,020	187,356	193,913	200,700
Administrative Rent-Free Unit	3.5%		-	-	-	-	-	-	-	-	-	-
Sub-total Salaries/Benefits			394,073	407,866	422,141	436,916	452,208	468,035	484,416	501,371	518,919	537,081
Administration												
Advertising and Marketing	3.5%		2,120	2,194	2,271	2,350	2,433	2,518	2,606	2,697	2,792	2,890
Office Expenses	3.5%		35,570	36,815	38,103	39,437	40,817	42,246	43,725	45,255	46,839	48,478
Office Rent	3.5%		-	-	-	-	-	-	-	-	-	-
Legal Expense - Property	3.5%		12,000	12,420	12,855	13,305	13,770	14,252	14,753	15,267	15,802	16,359
Audit Expense	3.5%		11,200	11,592	11,998	12,418	12,852	13,302	13,768	14,250	14,748	15,264
Bookkeeping/Accounting Services	3.5%		17,328	17,934	18,562	19,212	19,884	20,580	21,301	22,046	22,816	23,616
Bad Debts	3.5%		-	-	-	-	-	-	-	-	-	-
Miscellaneous	3.5%		2,980	2,981	3,085	3,193	3,305	3,421	3,540	3,664	3,792	3,925
Sub-total Administration Expenses			81,098	83,936	86,874	89,815	93,062	96,319	99,690	103,179	106,751	110,528
Utilities												
Electricity	3.5%		62,251	64,430	66,695	69,019	71,434	73,955	76,522	79,201	81,973	84,842
Water	3.5%		87,400	90,459	93,625	96,902	100,294	103,804	107,437	111,197	115,089	119,117
Gas	3.5%		63,000	65,205	67,487	69,849	72,294	74,824	77,443	80,154	82,959	85,863
Sewer	3.5%		134,218	138,914	143,776	148,808	154,016	159,407	164,986	170,760	176,737	182,923
Sub-total Utilities			346,869	359,067	371,973	384,578	398,038	411,969	426,388	441,312	456,756	472,744
Taxes and Licenses												
Real Estate Taxes	3.5%		3,800	3,933	4,071	4,213	4,361	4,513	4,671	4,835	5,004	5,179
Payroll Taxes	3.5%		66,088	68,401	70,795	73,273	75,838	78,492	81,239	84,082	87,005	90,071
Miscellaneous Taxes, Licenses and Permits	3.5%		1,500	1,553	1,607	1,663	1,721	1,782	1,844	1,908	1,975	2,044
Sub-total Taxes and Licenses			71,388	73,887	76,473	78,949	81,919	84,787	87,754	90,825	94,004	97,295
Insurance												
Property and Liability Insurance	3.5%		156,540	162,019	167,690	173,559	179,633	185,920	192,428	199,163	206,133	213,348
Vehicle Bond Insurance	3.5%		-	-	-	-	-	-	-	-	-	-
Worker's Compensation	3.5%		22,396	23,180	23,991	24,831	25,700	26,599	27,530	28,494	29,491	30,523
Director's & Officers' Liability Insurance	3.5%		-	-	-	-	-	-	-	-	-	-
Sub-total Insurance			178,936	185,199	191,681	198,390	205,333	212,520	219,958	227,657	235,625	243,871
Maintenance & Repair												
Payroll	3.5%		173,232	179,295	185,570	192,065	198,788	205,745	212,946	220,399	228,113	236,097
Supplies	3.5%		22,300	23,061	23,888	24,724	25,590	26,485	27,412	28,372	29,365	30,395
Contracts	3.5%		95,296	98,631	102,083	105,656	109,354	113,182	117,143	121,243	125,487	129,879
Garbage and Trash Removal	3.5%		88,816	91,718	94,679	97,699	100,880	104,124	107,535	111,116	114,869	118,699
Security Payroll/Contract	3.5%		6,300	6,521	6,749	6,985	7,229	7,482	7,744	8,015	8,296	8,586
HVAC Repairs and Maintenance	3.5%		9,600	9,936	10,284	10,644	11,016	11,402	11,801	12,214	12,641	13,084
Vehicle and Maintenance Equipment Operation and Repairs	3.5%		1,200	1,242	1,285	1,330	1,377	1,425	1,475	1,527	1,580	1,635
Miscellaneous Operating and Maintenance Expenses	3.5%		11,200	11,592	11,998	12,418	12,852	13,302	13,768	14,250	14,748	15,264
Sub-total Maintenance & Repair Expenses			407,744	422,015	436,798	452,073	467,896	484,272	501,221	518,764	536,921	555,713
Supportive Services	3.5%		158,701	164,256	170,024	175,955	182,113	188,487	195,084	201,912	208,979	216,293
Commercial Expenses			-	3,353	3,471	3,592	3,718	3,848	3,983	4,122	4,266	4,416
TOTAL OPERATING EXPENSES			1,780,683	1,843,067	1,907,512	1,974,275	2,043,375	2,114,893	2,188,914	2,265,526	2,344,819	2,426,808
PUPA (w/o Reserves/GL Base Rent/Bond Fees)			11,715									
Reserves/Ground Lease Base Rent/Bond Fees												
Note: Hidden columns are in between total columns. To update/replace values in yellow cells, manipulate each cell rather than dragging across entire row.												
Ground Lease Base Rent			15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Bond Monitoring Fee			-	-	-	-	-	-	-	-	-	-
Replacement Reserve Deposit			60,800	60,800	60,800	60,800	60,800	60,800	60,800	60,800	60,800	60,800
Operating Reserve Deposit			-	-	-	-	-	-	-	-	-	-
Other Required Reserve 1 Deposit			-	-	-	-	-	-	-	-	-	-
Other Required Reserve 2 Deposit			-	-	-	-	-	-	-	-	-	-
Required Reserve Deposit/s, Commercial			-	-	-	-	-	-	-	-	-	-
Sub-total Reserves/Ground Lease Base Rent/Bond Fees			75,800	75,800	75,800	75,800	75,800	75,800	75,800	75,800	75,800	75,800
TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/Bond Fees)			1,856,483	1,918,867	1,983,312	2,050,075	2,119,175	2,190,693	2,264,714	2,341,326	2,420,619	2,502,688
PUPA (w/ Reserves/GL Base Rent/Bond Fees)			12,214									
NET OPERATING INCOME (INCOME minus OP EXPENSES)			1,335,944	1,353,431	1,379,565	1,387,483	1,404,157	1,420,556	1,436,650	1,452,406	1,467,790	1,482,785
DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)												
Note: Hidden columns are in between total columns. To update/replace values in yellow cells, manipulate each cell rather than dragging across entire row.												
Hard Debt - First Lender		Enter comments re: annual increase, etc.	420,165	420,165	420,165	420,165	420,165	420,165	420,165	420,165	420,165	420,165
Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Lender)		Enter comments re: annual increase, etc.	729,443	729,443	729,443	729,443	729,443	729,443	729,443	729,443	729,443	729,443
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-
Hard Debt - Fourth Lender		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-
Commercial Hard Debt Service			-	-	-	-	-	-	-	-	-	-
TOTAL HARD DEBT SERVICE			1,159,608	1,159,608	1,159,608	1,159,608	1,159,608	1,159,608	1,159,608	1,159,608	1,159,608	1,159,608
CASH FLOW (NOI minus DEBT SERVICE)			176,336	193,823	220,957	227,875	244,549	260,948	277,042	292,798	308,182	323,157
OSCR: USES OF CASH FLOW BELOW (This row also shows DSCR)			1.15	1.17	1.18	1.2	1.21	1.23	1.24	1.25	1.27	1.28
Note: Hidden columns are in between total columns. To update/replace values in yellow cells, manipulate each cell rather than dragging across entire row.												
USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL												
Reserve (to be used) Asset Mgt Fee (uncommon in new projects, see policy)	3.5%	per MOHCD policy	-	-	-	-	-	-	-	-	-	-
Partnership Management Fee (see policy for limits)	3.0%	per MOHCD policy	23,420	24,123	24,728	25,344	25,977	26,627	27,293	27,975	28,674	29,391
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)		per MOHCD policy no annual increase	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Other Payments			-	-	-	-	-	-	-	-	-	-
Non-amortizing Loan Pmt1 - Lender 1		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-
Non-amortizing Loan Pmt1 - Lender 2		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-
Deferred Developer Fee (Enter amt <= Max Payment from row 131)			73,958	82,350	90,616	98,766	106,785	114,696	122,375	129,911	137,254	144,383
TOTAL PAYMENTS PRECEDING MOHCD			102,878	111,473	120,342	129,110	137,763	146,222	154,686	162,886	170,928	1

Total # Units: 152

2 of 2

EXHIBIT C
Tenant Income Certification Form

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ Recertification ☐ Other _____

Effective Date:

Move-in Date:

(MM/DD/YYYY)

PART I - DEVELOPMENT DATA

Property Name: _____

County: _____ BIN #: _____

Address: _____

Unit Number: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$

Add totals from (A) through (D), above

TOTAL INCOME (E): \$

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$	\$
Enter Column (H) Total			Passbook Rate	
If over \$5000			\$ _____ X 2.00%	= (J) Imputed Income \$
Enter the greater of the total of column I, or J: imputed income			TOTAL INCOME FROM ASSETS (K)	\$
(L) Total Annual Household Income from all Sources [Add (E) + (K)]				\$

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ Signature (Date)

_____ (Date)

_____ Signature

_____ Signature (Date)

_____ (Date)

_____ Signature

PART V. DETERMINATION OF INCOME ELIGIBILITY**RECERTIFICATION ONLY:**

TOTAL ANNUAL HOUSEHOLD INCOME
FROM ALL SOURCES:
From item (L) on page 1

\$

Household Meets
Income Restriction
at:

☐ 60% ☐ 50%
☐ 40% ☐ 30%
☐ ____%

Current Income Limit x 140%:

\$

Household Income exceeds 140% at
recertification:

☐ Yes ☐ No

Current Income Limit per Family Size: \$

Household Income at Move-in: \$

Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Rent \$
Utility Allowance \$

Rent Assistance: \$

Other non-optional charges: \$

GROSS RENT FOR UNIT:
(Tenant paid rent plus Utility Allowance &
other non-optional charges)

\$

Unit Meets Rent Restriction at:

☐ 60% ☐ 50% ☐ 40% ☐ 30% ☐ ____%

Maximum Rent Limit for this unit: \$

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ yes ☐ no

If yes, Enter student explanation*
(also attach documentation)

Enter
1-4

*Student Explanation:

- 1 TANF assistance
- 2 Job Training Program
- Single parent/dependent child
- Married/joint return

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit ☐

See Part V above.

b. HOME ☐

Income Status

☐ ≤ 50% AMGI
☐ ≤ 60% AMGI
☐ ≤ 80% AMGI
☐ OI**

c. Tax Exempt ☐

Income Status

☐ 50% AMGI
☐ 60% AMGI
☐ 80% AMGI
☐ OI**

d. AHDP ☐

Income Status

☐ 50% AMGI
☐ 80% AMGI
☐ OI**

e. _____ ☐
(Name of Program)

Income Status

☐ _____
☐ _____
☐ OI**

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

EXHIBIT D
Intentionally Omitted

EXHIBIT E
Contract Compliance Policies

1. Equal Opportunity Policies. Borrower shall comply with OCII's Equal Opportunity Policies and execute agreements and declarations attached hereto as part of this Exhibit E, which includes: Small Business Enterprise Agreement, Construction Workforce Agreement, Prevailing Wage Provisions (Labor Standards), Nondiscrimination in Contracts and Benefits, Minimum Compensation Policy, and Health Care Accountability Policy. In order to carry out the purpose of these policies, Borrower must incorporate, or cause to be incorporated, in all contracts, subcontracts and agreements executed or amended relating to activities under the Agreement, provisions similar to the policies listed herein:

- (i) Small Business Enterprise (SBE) Policy (adopted by Resolution No. 43-2015) which requires execution of the SBE Agreement attached as Exhibit E-1.
- (ii) Construction Workforce, attached as set forth in Exhibit E-2.
- (iii) Prevailing Wage Provisions (Labor Standards) (adopted by Resolution No. 327-1985) attached as Exhibit E-3.
- (iv) Nondiscrimination in Contracts and Benefits (adopted by Resolution No. 175-1997) which requires execution of the Nondiscrimination in Contracts and Benefits Declaration Form attached as Exhibit E-4.
- (v) Minimum Compensation Policy (adopted by Resolution No. 168-2001) which requires execution of the Minimum Compensation Policy Declaration attached as Exhibit E-5.
- (vi) Health Care Accountability Policy (adopted by Resolution No. 168-2001) which requires execution of the Health Care Accountability Policy Declaration attached as Exhibit E-6

2. Environmental Review. The Project must meet the requirements of the California Environmental Quality Act (Cal. Pub. Res. Code §§ 2100 *et seq.*) and implementing regulations.

3. Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no employee, agent, consultant, officer or official of Borrower or OCII who exercises or has exercised any function or responsibilities with respect to activities assisted by Funds, in whole or in part, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in or benefit from the activities assisted under this Agreement, or have an interest, direct or indirect, in any contract, subcontract or agreement with respect thereto, or in the proceeds thereunder either for himself/herself or for those with whom he/she has family or business ties, during his/her tenure and for one year thereafter. In order to carry out the purpose of this Section, Borrower must incorporate, or cause to be incorporated, in all contracts, subcontracts and agreements relating to activities assisted under the Agreement, a provision similar to that of this Section. Borrower will be responsible for obtaining compliance with conflict of interest provisions by the parties with whom it contracts and, in the event of a breach, Borrower must take prompt and diligent action to cause the breach to be remedied and compliance to be restored.

(b) Borrower represents that it is familiar with the provisions of Sections 1090 through 1097 and 87100 *et seq.* of the California Government Code, all of which relate to prohibited conflicts of interest in connection with government contracts. Borrower certifies that it knows of no facts that constitute a violation of any of these provisions and agrees to notify OCII immediately if Borrower at any time obtains knowledge of facts constituting a violation.

(c) In the event of any violation of the conflict of interest prohibitions, Borrower agrees that OCII may refuse to consider any future application for funding from Borrower or any entity related to Borrower until the violation has been corrected to OCII's satisfaction, in OCII's sole discretion.

4. Disability Access. Borrower must comply with all applicable disability access Laws, including the Americans With Disabilities Act (42 U.S.C. §§ 1201 *et seq.*), Section 504 of the Rehabilitation Act (29 U.S.C. § 794) and the Fair Housing Amendments Act (42 U.S.C. §§ 3601 *et seq.*). Borrower is responsible for determining which disability access Laws apply to the Project, including those applicable due to the use of Funds. In addition, before occupancy of the Project, Borrower must provide to OCII a written reasonable accommodations policy that indicates how Borrower will respond to requests by disabled individuals for accommodations in Units and common areas of the Project.

5. Lead-Based Paint. Borrower must satisfy the requirements of Chapter 36 of the San Francisco Building Code ("Work Practices for Exterior Lead-Based Paint") and the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821 *et seq.*) and implementing regulations at 24 CFR part 35. Borrower must also comply with the provisions contained in 17 CCR 350000 *et seq.*, and 8 CCR 1532.1 and all other applicable Laws governing lead-based hazards.

6. Relocation. Borrower must meet any applicable requirements of the California Relocation Assistance Act (Cal. Gov. Code §§ 7260 *et seq.*) and implementing regulations in Title 25, Chapter 6 of the California Administrative Code and similar Laws.

7. Non-Discrimination in OCII Contracts and Benefits Policy.

(a) Borrower May Not Discriminate. In the performance of this Agreement, Borrower agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, height, weight, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Borrower, in any of Borrower's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services or membership in all business, social or other establishments or organizations operated by Borrower.

(b) Non-Discrimination in Benefits. Borrower does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or where the work is being performed for OCII or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a Governmental Agency under state or local law authorizing such registration, subject to the conditions set forth in the Agency's Nondiscrimination in Contracts Policy, adopted by Agency Resolution 175-97, as amended from time to time.

8. Public Disclosure.

(a) Borrower understands and agrees that under the State Public Records Law (Cal. Gov. Code §§ 6250 *et seq.*), this Agreement and any and all records, information and materials submitted to OCII or the City hereunder are public records subject to public disclosure. Borrower hereby authorizes OCII and the City to disclose any records, information and materials submitted to OCII or the City in connection with this Agreement as required by Law.

9. Compliance with Minimum Compensation Policy and Health Care Accountability Policy. Borrower agrees, as of the date of this Agreement and during the term of this Agreement, to comply with the provisions of the Agency's Minimum Compensation Policy and Health Care Accountability Policy (the "Policies"), adopted by Agency Resolution 168-2001, as such policies may be amended from time to time. Such compliance includes providing all "Covered Employees," as defined under Section 2.7 of the Policies, a minimum level of compensation and offering health plan benefits to such employees or to make payments to the City's Department of Public Health, or to participate in a health benefits program developed by the City's Director of Health.

10. Limitations on Contributions. Through execution of this Agreement, Borrower acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the Agency for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the

sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) the Mayor or members of the Board of Supervisors, (2) a candidate for Mayor or Board of Supervisors, or (3) a committee controlled by such office holder or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Borrower acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Borrower further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Borrower's board of directors; Borrower's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Borrower; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Borrower. Additionally, Borrower acknowledges that Borrower must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Borrower agrees to provide to OCII the names of each member of Borrower's general partners' (or, if applicable, general partners' managing members) board of directors; Borrower's general partners' (or, if applicable, general partners' managing members) chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Borrower's general partners (or, if applicable, general partners' managing members); any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Borrower.

EXHIBIT E-1

SMALL BUSINESS ENTERPRISE AGREEMENT

The company or entity executing this Small Business Enterprise Agreement, by and through its duly authorized representative, hereby agrees to use good faith efforts to comply with all of the following:

- I. **PURPOSE.** The purpose of entering into this Small Business Enterprise Program agreement (“**SBE Program**”) is to establish a set of Small Business Enterprise (“SBE”) participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in contracts by or at the behest of the Successor Agency to the San Francisco Redevelopment Agency (“**Agency**”) and/or the Agency-Assisted Contractor. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco-based SBEs before looking outside of San Francisco.
- II. **APPLICATION.** The SBE Program applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract.

- III. **GOALS.** The Agency’s SBE Participation Goals are:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

- IV. **TRAINEE HIRING GOAL.** In addition to the goals set forth above in Section III, there is a trainee hiring goal for all design professionals (architects, engineers, planners, and environmental consultants) on contracts or subcontracts over \$100,000. The trainee hiring goal requires architects, engineers and other design professionals only to hire qualified San Francisco residents as trainees. The trainee hiring goal is based upon the total amount of the design professional’s contract as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 – \$99,000
1	\$ 100,000 – \$249,999
2	\$ 250,000 – \$499,999
3	\$ 500,000 – \$999,999
4	\$1,000,000 – \$1,499,999
5	\$1,500,000 – \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 – or more

A. Procedures For Trainee Hires

1. Compliance with the Trainee Hiring Goal

Design professionals will be deemed in compliance with this Agreement by meeting or exceeding the trainee hiring goal or by take the following steps in good faith towards compliance.

2. Execution and Incorporation of this Agreement to Sub-agreements

The Agency-Assisted Contractor shall execute this Agreement and shall incorporate by reference or attach this Agreement to its contract(s) with the architects, engineers and other design professionals. Thus, each design professional (regardless of tier) will be obligated to comply with the terms of this Agreement. The Agency-Assisted Contractor and/or the design professionals shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. Contact Educational Institutions

Each design professional shall call the City and County of San Francisco Office of Economic and Workforce Development (OEWD) or educational institution(s) and request referrals for the required trainee positions. The request will indicate generally: (1) the number of trainees sought; (2) the required skills set (keeping in mind that these are trainee positions); (3) a brief description of job duties; (4) the duration of the trainee period; and (5) any other information that would be helpful or necessary for the educational institution or OEWD to make the referral. The minimum duration of assignment is part-time for one semester. However, design professionals are strongly encouraged to offer longer trainee employment periods to allow a more meaningful learning experience. (For example, a half-time or full-time assignment over the summer.) Although the initial contact shall be made by phone, the educational institution(s) or OEWD may require the design professionals to send a confirming letter or complete its form(s). Each design professional is required to timely provide all of the information requested by the OEWD or educational institution(s) in order to get the referrals.

4. Response from Educational Institutions

Each educational institution may have a different way of referring applicants, such as: sending resumes directly to the design professional; having the applicant contact the design professional by phone; require design professionals to conduct on-campus interviews; or some other method. The timing and method of the response will normally be discussed with the design professional during the initial phone request. The design professional is required to follow the process set by the educational institution(s) in order to get the referrals.

5. Action by Design Professionals When Referrals Available

The design professional shall interview each applicant prior to making the decision to hire or not to hire. The design professional shall make the final determination whether the applicant is qualified for the trainee position and the ultimate hiring decision. The Agency strongly encourages the design professional to hire a qualified San Francisco resident referred by the educational institution(s). The design professional shall notify the educational institution in writing of the hiring decision.

6. Action by Design Professionals When Referrals Unavailable

If after contacting two or more educational institutions the design professional is informed that no San Francisco residents are currently available, then the design professional should wait thirty (30) days and contact the educational institutions a second time to inquire whether qualified San Francisco residents are currently available for hire as trainees. If no qualified San Francisco residents are currently available after the second request, then the design professional has fulfilled its obligation under this Agreement, provided that the design professional has acted in good faith. The design professional must retain its file on all of the steps it took to comply with this Section IV and submit a copy of its file to the Agency Compliance Officer upon request.

7. Action by Design Professional When No Response From Educational Institutions

If a design professional has not received a response to its request for referrals from any of the

educational institutions within five (5) business days after the design professional has fully complied with the procedures, if any, set by the educational institution(s) for obtaining referrals, then the design professional should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause the educational institution(s) to respond to the design professional within five (5) business days of the Agency Compliance Officer being notified. If the design professional still has not received a response from the educational institution(s) after this additional five (5) business day period has run, then the design professional has fulfilled its obligation under this Section IV, provided that the design professional has acted in good faith. Each design professional must retain its file on all of the steps it took to comply with this Agreement and submit a copy of its file to the Agency Compliance Officer upon request.

8. Termination of Trainee for Cause

If at any time during the Term, it becomes necessary to terminate for cause a trainee who was hired under this Agreement and the design professional has not met the minimum duration requirements under this policy, then the design professional shall hire a new trainee by following the process set forth above.

B. Reporting Requirements For Trainee Hires

1. Reporting

Upon completion of the Term of the Agreement or the term of the design professional's contract with the Agency-Assisted Contractor, whichever is less, the design professional (i.e. Employer) shall fax or email a report to the Agency Compliance Officer stating in detail: (1) the names of the San Francisco resident(s) interviewed for trainee positions; (2) the date(s) of each interview; (3) the reasons for not hiring the San Francisco resident(s) interviewed; (4) the name, address, gender and racial/ethnic background of the successful candidate for the trainee position; and (5) the number of San Francisco residents hired as trainees.

2. Report on Terminations

In the event a San Francisco resident hired pursuant to this Agreement is terminated for cause, the responsible design professional shall within five (5) days fax or email a termination report to the Agency Compliance Officer stating in detail: (1) the name of the trainee(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); and (4) whether the design professional replaced the trainee(s).

V. TERM. The obligations of the Agency-Assisted Contractor and/or Contractor(s) with respect to SBE Program shall remain in effect until completion of all work to be performed by the Agency-Assisted Contractor in connection with the original construction of the site and any tenant improvements on the site performed by or at the behest of the Agency-Assisted Contractor unless another term is specified in the Agency-Assisted Contract or Contract.

VI. FIRST CONSIDERATION. First consideration will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: (1) Project Area SBEs, (2) San Francisco-based SBEs (outside an Agency Project or Survey Area, but within San Francisco), and (3) Non-San Francisco-based SBEs. Non-San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-San Francisco-based SBEs.

VII. ASSOCIATIONS AND JOINT VENTURES (JV). OCII will recognize JVs and Associations between non-SBE firms and SBE firms where the SBE partner performs at least 35% of the work defined in the JV or Association agreement, and receives at least 35% (or a proportionate share, whichever is higher) of the dollars to be earned by the JV or Association. Under this arrangement, OCII will deem the JV or Association to be an SBE for the purposes of meeting the SBE goal. Due to the technical nature of the disciplines and the various standards of each industry, OCII will not require a standardized agreement. However, each JV and Association agreement must be in writing and contain, at a minimum, the following terms:

- Define the management of the agreement between the parties;
- Define the technical and managerial responsibilities of each party;
- Define the scope of work to be performed by each party, and where possible identify the percentage and break-down of scope of work for each party;
- Identify any additional subcontractors or consultants that will perform the work under the agreement;
- Define the schedule, duration, and deliverable of the agreement;
- Detail the fee schedule, fee breakdown, or division of compensation;
- Specify insurance requirements and/or if each party shall maintain its own insurance;
- Specify how additional work or changes in scope shall be negotiated or determined and which party shall be responsible for notifying OCII of the changes;
- Specify how claims and disputes will be resolved.

A copy of the JV or Association agreement must be provided to OCII for approval in order for the JV or Association to be recognized.

VIII. CERTIFICATION. The Agency no longer certifies SBEs but instead relies on the information provided in other public entities' business certifications to establish eligibility for the Agency's program. Only businesses certified by the Agency as SBEs whose certification has not expired and economically disadvantaged businesses that meet the Agency's SBE Certification Criteria will be counted toward meeting the participation goals. The SBE Certification Criteria are set forth in the SBE Policy.

IX. INCORPORATION. Each contract between the Agency, Agency-Assisted Contractor or Contractor on the one hand, and any subcontractor on the other hand, shall physically incorporate as an attachment or exhibit and make binding on the parties to that contract, a true and correct copy of this SBE Agreement.

X. DEFINITIONS. Capitalized terms not otherwise specifically defined in this SBE Agreement have the meaning set forth in the Agency's SBE Policy adopted on November 16, 2004 and amended on July 21, 2009 ("**Policy**") or as defined in the Agency-Assisted Contract or Contract. In the event of a conflict in the meaning of a defined term, the SBE Policy shall govern over the Agency-Assisted Contract or Contract which in turn shall govern over this SBE Agreement.

Affiliates means an affiliation with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business.

Agency-Assisted Contract means, as applicable, the Development and Disposition Agreement (“DDA”), Land Disposition Agreement (“LDA”), Lease, Loan and Grant Agreements, and other similar contracts, and agreement that the Agency executed with for-profit or non-profit entities.

Agency-Assisted Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed an Agency-Assisted Contract.

Agency Contract means personal services contracts, purchase requisitions, and other similar contracts and operations agreements that the Agency executes with for-profit or non-profit entities.

Amendment to a Pre-existing Contract means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy (“SBE Policy”) takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

Annual Receipts means “total income” (or in the case of a sole proprietorship, “gross income”) plus “cost of goods sold” as these terms are defined and reported on Internal Revenue Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

Arbitration Party means all persons and entities who attend the arbitration hearing pursuant to Section XIII, as well as those persons and entities who are subject to a default award provided that all of the requirements in Section XIII.L. have been met.

Association means an agreement between two parties established for the purpose of completing a specific task or project. The associate agreement shall provide the SBE associate a significant project management role and the SBE associate shall be recognized in marketing and collateral material. The Association shall be distinguished from traditional subcontracting arrangements via a written Association agreement that defines the management of the agreement, technical and managerial responsibilities of the parties, and defined scopes and percentages of work to be performed by each party with its own resources and labor force. Unlike the more formal Joint Venture, an Association does not require formation of a new business enterprise between the parties. The Associate agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Commercially Useful Function means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco (“City”) as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a “commercially useful function” unless the brokerage, referral or temporary employment services are required and sought by the Agency.

Contract means any agreement between the Agency and a person(s), firm, partnership, corporation, or combination thereof, to provide or procure labor, supplies or services to, for, or on behalf of the Agency.

Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed a Contract.

Joint Venture means an entity established between two parties for the purposes of completing a venture or project. The Joint Venture agreement typically creates a separate business entity and requires acquisition of additional insurance for the newly created joint business entity. The Joint Venture agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Non-San Francisco-based Small Business Enterprise means a SBE that has fixed offices located outside the geographical boundaries of the City.

Office” or “Offices means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an “office” under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an “office.” The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an “as needed” basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

Project Area Small Business Enterprise means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area or Survey Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms’ location in a Project Area or Survey Area.

Project Area means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the Bayview Industrial Triangle, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, and Transbay.

San Francisco-based Small Business Enterprise means a SBE that: (a) has fixed offices located within the geographical boundaries of the City where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted

that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

Small Business Enterprise (SBE) means an economically disadvantaged business that: is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; has average gross annual receipts in the three years immediately preceding its application for certification as a SBE that do not exceed the following limits:

Industry	OCII SBE Size Standard
Construction Contractors	\$20,000,000
Specialty Construction Contractors	\$14,000,000
Suppliers (goods/materials/ equipment and general services)	\$10,000,000
Professional Services	\$2,500,000
Trucking	\$3,500,000

In addition, an economically disadvantaged business shall meet the other certification criteria described in Exhibit I of the SBE Policy in order to be considered an SBE by the Agency.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's three most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for Corporations) to calculate the firm's three year average annual gross receipts. In addition, the calculation of a firm's size shall include the receipts of all affiliates.

Once a business reaches the 3-year average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

Specialty Construction Contractor means a contractor licensed by the Contractors State License Board under the "C" classification license pursuant to California Business and Professions Code Section 7058.

Survey Area means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include the Bayview Hunters Point Redevelopment Survey Area C.

XI. GOOD FAITH EFFORTS TO MEET SBE GOALS Compliance with the following steps will be the basis for determining if the Agency-Assisted Contractor and/or Consultant has made good faith efforts to meet the goals for SBEs:

A. Outreach. Not less than 30 days prior to the opening of bids or the selection of contractors, the Agency-Assisted Contractor or Contractor shall:

1. **Advertise.** Advertise for SBEs interested in competing for the contract, in general circulation media, trade association publications, including timely use of the ***Bid and Contract Opportunities*** newsletter published

by the City and County of San Francisco Purchasing Department and media focused specifically on SBE businesses such as the ***Small Business Exchange***, of the opportunity to submit bids or proposals and to attend a pre-bid meeting to learn about contracting opportunities.

2. **Request List of SBEs.** Request from the Agency's Contract Compliance Department a list of all known SBEs in the pertinent field(s), particularly those in the Project and Survey Areas and provide written notice to all of them of the opportunity to bid for contracts and to attend a pre-bid or pre-solicitation meeting to learn about contracting opportunities.

- B. **Pre-Solicitation Meeting.** For construction contracts estimated to cost \$5,000 or more, hold a pre-bid meeting for all interested contractors not less than 15 days prior to the opening of bids or the selection of contractors for the purpose answering questions about the selection process and the specifications and requirements. Representatives of the Contract Compliance Department will also participate.
- C. **Follow-up.** Follow up initial solicitations of interest by contacting the SBEs to determine with certainty whether the enterprises are interested in performing specific items involved in work.
- D. **Subdivide Work.** Divide, to the greatest extent feasible, the contract work into small units to facilitate SBE participation, including, where feasible, offering items of the contract work which the Contractor would normally perform itself.
- E. **Provide Timely and Complete Information.** The Agency-Assisted Contractor or Contractor shall provide SBEs with complete, adequate and ongoing information about the plans, specifications and requirements of construction work, service work and material supply work. This paragraph does not require the Agency-Assisted Contractor or Contractor to give SBEs any information not provided to other contractors. This paragraph does require the Agency Assisted Contractor and Contractor to answer carefully and completely all reasonable questions asked by SBEs and to undertake every good faith effort to ensure that SBEs understand the nature and the scope of the work.
- F. **Good Faith Negotiations.** Negotiate with SBEs in good faith and demonstrate that SBEs were not rejected as unqualified without sound reasons based on a thorough investigation of their capacities.
- G. **Bid Shopping Prohibited.** Prohibit the shopping of the bids. Where the Agency-Assisted Contractor or Contractor learns that bid shopping has occurred, it shall treat such bid shopping as a material breach of contract.
- H. **Other Assistance.** Assist SBEs in their efforts to obtain bonds, lines of credit and insurance. (Note that the Agency has a Surety Bond Program that may assist SBEs in obtaining necessary bonding.) The Agency-Assisted Contractor or Contractor(s) shall require no more stringent bond or insurance standards of SBEs than required of other business enterprises.
- I. **Delivery Scheduling.** Establish delivery schedules which encourage participation of SBEs.

- J. **Utilize SBEs as Lower Tier Subcontractors.** The Agency-Assisted Contractor and its Contractor(s) shall encourage and assist higher tier subcontractors in undertaking good faith efforts to utilize SBEs as lower tier subcontractors.
- K. **Maximize Outreach Resources.** Use the services of SBE associations, federal, state and local SBE assistance offices and other organizations that provide assistance in the recruitment and placement of SBEs, including the Small Business Administration and the Business Development Agency of the Department of Commerce. However, only SBEs certified by the Agency shall count towards meeting the participation goal.
- L. **Replacement of SBE.** If during the term of this SBE Agreement, it becomes necessary to replace any subcontractor or supplier, the Agency's Contract Compliance Specialist should be notified prior to replacement due to the failure or inability of the subcontractor or supplier to perform the required services or timely delivery the required supplies, then First Consideration should be given to a certified SBE, if available, as a replacement.

XII. ADDITIONAL PROVISIONS

A. **No Retaliation.** No employee shall be discharged or in any other manner discriminated against by the Agency-Assisted Contractor or Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Agreement.

B. **No Discrimination.** There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of an Agency-Assisted Contract or Contract. The Agency-Assisted Contractor or Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

C. **Compliance with Prompt Payment Statute.** Construction contracts and subcontracts awarded for \$5,000 or more shall contain the following provision:

“Amounts for work performed by a subcontractor shall be paid within seven (7) days of receipt of funds by the contractor, pursuant to California Business and Professions Code Section 7108.5 *et seq.* Failure to include this provision in a subcontractor or failure to comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity.”

In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 *et seq.*), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

D. **Submission Of Electronic Certified Payrolls.** For any Agency-Assisted Contract which requires the submission of certified payroll reports, the requirements of Section VII of the

Agency's Small Business Enterprise Policy shall apply. Please see the Small Business Enterprise Policy for more details.

XIII. PROCEDURES

A. Notice to Agency. The Agency-Assisted Contractor or Contractor(s) shall provide the Agency with the following information within 10 days of awarding a contract or selecting subconsultant:

1. the nature of the contract, e.g. type and scope of work to be performed;
2. the dollar amount of the contract;
3. the name, address, license number, gender and ethnicity of the person to whom the contract was awarded; And
4. SBE status of each subcontractor or subconsultant.

B. Affidavit. If the Agency-Assisted Contractor or Contractor(s) contend that the contract has been awarded to a SBE, the Agency-Assisted Contractor or Contractor(s) shall, at the same time also submit to the Agency a SBE Application for Certification and its accompanying Affidavit completed by the SBE owner. However, a SBE that was previously certified by the Agency shall submit only the short SBE Eligibility Statement.

C. Good Faith Documentation. If the 50% SBE Participation Goals are not met in each category (Construction, Professional Services and Suppliers), the Agency-Assisted Contractor or Contractor(s) shall meet and confer with the Agency at a date and time set by the Agency. If the issue of the Agency-Assisted Contractor's or Contractor's good faith efforts is not resolved at this meeting, the Agency-Assisted Contractor or Contractor shall submit to the Agency within five (5) days, a declaration under penalty of perjury containing the following documentation with respect to the good faith efforts ("**Submission**"):

1. A report showing the responses, rejections, proposals and bids (including the amount of the bid) received from SBEs, including the date each response, proposal or bid was received. This report shall indicate the action taken by the Agency-Assisted Contractor or Contractor(s) in response to each proposal or bid received from SBEs, including the reasons(s) for any rejections.
2. A report showing the date that the bid was received, the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the non-SBE contractor who was selected submitted more than one bid, the amount of each bid and the date that each bid was received shall be shown in the report. If the bidder asserts that there were reasons other than the respective amounts bid for not awarding the contract to an SBE, the report shall also contain an explanation of these reasons.
3. Documentation of advertising for and contacts with SBEs, contractor associations or development centers, or any other agency which disseminates bid and contract information to small business enterprises.
4. Copies of initial and follow-up correspondence with SBEs, contractor associations and other agencies, which assist SBEs.
5. A description of the assistance provided SBE firms relative to obtaining and explaining plans, specifications and contract requirements.

6. A description of the assistance provided to SBEs with respect to bonding, lines of credit, etc.
7. A description of efforts to negotiate or a statement of the reasons for not negotiating with SBEs.
8. A description of any divisions of work undertaken to facilitate SBE participation.
9. Documentation of efforts undertaken to encourage subcontractors to obtain small business enterprise participation at a lower tier.
10. A report which shows for each private project and each public project (without a SBE program) undertaken by the bidder in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars awarded to SBEs and the percentage of contract dollars awarded to non-SBEs.
11. Documentation of any other efforts undertaken to encourage participation by small business enterprises.

D. Presumption of Good Faith Efforts. If the Agency-Assisted Contractor or Contractor(s) achieves the Participation Goals, it will not be required to submit Good Faith Effort documentation.

E. Waiver. Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price.

F. SBE Determination. The Agency shall exercise its reasonable judgment in determining whether a business, whose name is submitted by the Agency-Assisted Contractor or Contractor(s) as a SBE, is owned and controlled by a SBE. A firm's appearance in any of the Agency's current directories will be considered by the Agency as prima facie evidence that the firm is a SBE. Where the Agency-Assisted Contractor or Contractor(s) makes a submission the Agency shall make a determination, as to whether or not a business which the Agency-Assisted Contractor or Contractor(s) claims is a SBE is in fact owned and controlled by San Francisco-based SBEs. If the Agency determines that the business is not a SBE, the Agency shall give the Agency-Assisted Contractor or Contractor a Notice of Non-Qualification and provide the Agency-Assisted Contractor or Contractor with a reasonable period (not to exceed 20 days) in which to meet with the Agency and if necessary make a Submission, concerning its good faith efforts. If the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to Section XIII.

G. Agency Investigation. Where the Agency-Assisted Contractor or Contractor makes a Submission and, as a result, the Agency has cause to believe that the Agency-Assisted Contractor or Contractor has failed to undertake good faith efforts, the Agency shall conduct an investigation, and after affording the Agency-Assisted Contractor or Contractor notice and an opportunity to be heard, shall recommend such remedies and sanctions as it deems necessary to correct any alleged violation(s). The Agency shall give the Agency-Assisted Contractor or Contractor a written Notice of Non-Compliance setting forth its findings and recommendations. If the Agency-Assisted Contractor or Contractor disagrees with the findings and recommendations of the Agency as set forth in the Notice of Non-Compliance, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to this SBE Agreement.

XIV. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this SBE Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Agency-Assisted Contractor or Contractor shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying any entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Agency-Assisted Contractor and Contractor fail to file a timely Demand for Arbitration, the Agency-Assisted Contractor and Contractor shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. Parties' Participation. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Agency-Assisted Contractor or Contractor made an initial timely Demand for Arbitration pursuant to Section XIII.B. above.

D. Agency Request to AAA. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. Selection of Arbitrator. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. Setting of Arbitration Hearing. A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. Discovery. In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

H. Burden of Proof. The burden of proof with respect to SBE status and/or Good Faith Efforts shall be on the Agency-Assisted Contractor and/or Contractor. The burden of proof as to all other alleged breaches by the Agency-Assisted Contractor and/or Contractor shall be on the Agency.

I. California Law Applies. Except where expressly stated to the contrary in this SBE Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. Arbitration Remedies and Sanctions. The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Agency-Assisted Contract or this SBE Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Agency-Assisted Contract or this SBE Agreement, other than those minor modifications or extensions necessary to enable compliance with this SBE Agreement.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the SBE Program requirements in the Agency-Assisted Contract or this SBE Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this SBE Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. Arbitrator's Decision. The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. Default Award; No Requirement to Seek an Order Compelling Arbitration. The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. Arbitrator Lacks Power to Modify. Except as otherwise provided, the arbitrator shall

have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agency-Assisted Contract, this SBE Agreement or any other agreement between the Agency, the Agency-Assisted Contractor or Contractor or to negotiate new agreements or provisions between the parties.

N. Jurisdiction/Entry of Judgment. The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. Exculpatory Clause. Agency-Assisted Contractor or Contractor (regardless of tier) expressly waive any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Agency-Assisted Contractor or Contractor (regardless of tier) acknowledge and agree that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this SBE Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. Severability. The provisions of this SBE Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this SBE Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this SBE Agreement or the validity of their application to other persons or circumstances.

Q. Arbitration Notice: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Agency-Assisted Contractor

XV. AGREEMENT EXECUTION

I, hereby certify that I have authority to execute this SBE Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency's 50% SBE Participation Goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name and Phone Number

EXHIBIT E-2

CONSTRUCTION WORK FORCE AGREEMENT

- I. **PURPOSE.** This Agreement is entered into between the Tenant and the Office of Community Investment and Infrastructure (“OCII” or “Agency”), as successor agency to the San Francisco Redevelopment Agency for the purposes of ensuring participation of San Francisco residents and equal employment opportunities in the construction work force involved in constructing any of the phases upon the Site covered by the underlying agreement to which this Agreement is attached hereto.

II. **DEFINITIONS.**

The following definitions apply to this Agreement.

- A. “CityBuild” means the construction employment program of the Workforce Development Division of the San Francisco Office of Economic and Workforce Development (OEWD).
- B. "Contract" means any agreement in excess of \$10,000 between the Owner, its Contractors and a person to provide or procure labor, materials or services for the construction of the Owner Improvements, including a purchase order that requires installation of materials.
- C. "Contractor" means the Owner's general contractor, all prime contractors and all subcontractors (regardless of tier) having a Contract or subcontract in excess of \$10,000 and who employ persons in a Trade for construction of the Owner Improvements.
- D. "Owner Improvements" means improvements constructed in the Mission Bay South Area by the Owner.
- E. “Project Area Resident” means a San Francisco Resident who resides in a redevelopment area under the management of OCII.
- F. "San Francisco Resident" in the case of a new hire shall mean an individual who has lived in San Francisco for at least one week prior to submitting his/her initial application for employment to work on the Owner Improvements. In the case of a person employed by the Owner or its Contractor or Consultant prior to assignment to the Owner Improvements, this term shall mean a person who has lived in San Francisco for at least six months prior to the date he/she applied for a transfer to a position at the Owner Improvements or the date he/she was assigned to work on the Owner Improvements, whichever is earlier; or a person who establishes, to the satisfaction of the Agency, that he/she lived in San Francisco prior to applying for or being considered for a position with the Owner, Contractor or Consultant.

III. **WORK FORCE GOALS.**

The Owner agrees and will require each Contractor and all subcontractors to use good faith

efforts to employ 50 percent of its construction workforce hires by trade and by hours from qualified San Francisco Residents with first consideration given to Project Area Residents. Owner and Contractors will be deemed in compliance with this Agreement and the Policy by meeting or exceeding the goal or by demonstrating good faith efforts toward compliance.

IV. GOOD FAITH EFFORTS.

A. Submission of Labor Force Projections and Other Data

The Contractor shall submit, to the extent available, labor force projections to the OCII Compliance Officer, or its agent, within two (2) weeks of contract award.

B. Submit Subcontractor Information Form

The Contractor shall submit to the Compliance Officer, or its agent, the Subcontractor Information Forms, twenty-four (24) hours prior to the preconstruction meeting. The Subcontractor Information Forms are available from the Compliance Officer upon request.

C. Preconstruction Meeting

The Contractor shall hold a preconstruction meeting which shall be attended by the Compliance Officer, CityBuild, all prime contractor(s) and all subcontractor(s). The preconstruction meeting shall be scheduled between two (2) days and thirty (30) days prior to the start of construction at a time and place convenient to all attendees. The purpose of the meeting is to discuss: the hiring goals, workforce composition, worker referral process, certified payroll reporting, procedure for termination and replacement of workers covered by this Agreement and to explore any anticipated problems in complying with the Agreement. All questions regarding how this Agreement applies to the Owner, Contractor, subcontractors and consultants should be answered at this meeting. Failure to hold or attend at least one (1) preconstruction meeting will be a breach of the Policy and this Agreement that may result in the Agency ordering a suspension of work until the breach has been cured. Suspension under this provision is not subject to arbitration.

D. Submit Construction Worker Request Form

For the Term of the Agreement, each time the Owner or Contractor seeks to hire workers for the construction or rehabilitation of improvements, they must first submit, by fax, email or hand delivery, an executed construction worker request form to CityBuild. Preferably this request will be submitted at least two (2) business days before the workers are needed. However, requests with less than two (2) business days notice will be accepted. The construction worker request form will indicate generally: the number of workers needed, duration needed, required skills or trade and date/time to report. The construction worker request form is available from the Compliance Officer upon request.

E. Response from CityBuild

CityBuild shall respond, in writing, via fax, email or hand delivery to each request for construction workers. The response shall state that CityBuild was able to satisfy

the request in full, in part or was unable to satisfy the request. CityBuild shall look to their own referral lists, as well as confer with CBOs in an attempt to find qualified Project Area Residents and San Francisco Residents. If CityBuild is able to satisfy the request in full or in part, it shall direct the qualified Project Area Resident(s) or San Francisco Resident(s) to report to the Contractor on the date and time indicated in the request. If CityBuild is unable to satisfy the request, then CityBuild shall send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

F. Action by Contractor When Referrals Available

The Owner or Contractor whose request has been satisfied in full or in part shall make the final determination of whether the Project Area Residents or San Francisco Residents are qualified for the positions and the ultimate hiring decision. The Agency strongly encourages the Contractor to hire the qualified Project Area Residents or San Francisco Residents referred by CityBuild. However, if the Contractor finds the Project Area Residents or San Francisco Residents are not qualified, then the Contractor shall send the Project Area Residents or San Francisco Residents back to CityBuild. Before the close of business on the same day, the Contractor shall fax or email a statement addressed to CityBuild stating in detail the reason(s) the Project Area Residents or San Francisco Residents were not qualified or the reason(s) for not hiring the Project Area Residents or San Francisco Residents. CityBuild shall, within one (1) business day of receipt of the fax or email, send new qualified Project Area Residents or San Francisco Residents that meet the legitimate qualifications set by the Contractor or alternatively, send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

G. Action by Contractor When Referrals Unavailable

If a Contractor receives a response from CityBuild stating that no qualified Project Area Residents or San Francisco Residents are currently available, then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any additional new construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request.

H. Action by Contractor When No Response From CityBuild

If a Contractor has not received a response to its construction worker request from CityBuild within two (2) business days, then the Contractor should immediately advise the Compliance Officer by phone, fax or email. The Compliance Officer or his/her designee shall cause a response to be sent to the Contractor within two (2) business days of being notified. If the Contractor does not receive a response from CityBuild within four (4) business days (the original two (2) business days plus the

additional two (2) business days), then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request. This Policy is intended to provide qualified Project Area and San Francisco Residents with employment opportunities without causing undue delay in hiring needed construction workers.

I. Action by Contractor When No Response From Union

The Contractor should immediately advise the Compliance Officer by phone, fax or email when the Contractor has sent a qualified Project Area Resident or San Francisco Resident to a union hall for referral in accordance with a collective bargaining agreement and the union did not refer the qualified Project Area or San Francisco Resident back for employment or when the union referral process impedes the Contractor's ability to meet its obligations under this Policy. Nothing in this Policy shall be interpreted to interfere with or prohibit existing labor agreements or collective bargaining agreements.

J. Hiring Apprentices

A Contractor may meet part of the Construction Workforce Goal by hiring apprentices. However, hiring an apprentice does not satisfy or waive the trainee hiring obligation, if any, for design professionals. Unless otherwise permitted by law, apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training or the California Department of Industrial Relations, Division of Apprenticeship Standards. Credit towards compliance will only be given for paid apprentices actually working on the project. No credit is available for apprentices while receiving class room training. Under no circumstances shall the ratio of apprentices to journeymen in a particular trade or craft exceed 1:5.

K. Termination and Replacement of Referrals

If at any time it becomes necessary to terminate for cause a construction worker who was hired under this Policy, the Contractor shall notify CityBuild in writing via fax or email and submit a report of termination pursuant to Section (B)(4). If the Contractor intends to fill the vacant position, then the Contractor shall follow the process set forth in this Policy beginning at Section (A)(6).

V. **REPORTING REQUIREMENTS.**

A. Submission of Certified Payroll Reports

Each Contractor subject to this Policy shall submit to the Agency a certified payroll report for the preceding work week on each of its employees. The Owner is ultimately responsible for the submission of these reports by the Contractors. The certified payroll report is due to the Agency by noon each Wednesday. To facilitate

compliance, the Agency uses an online Project Reporting System (PRS) for submission of certified payroll reports. This system is available at no cost to the Contractor. Training and educational materials for PRS are available at no cost online and through the Compliance Officer. Contractors are required to report certified payroll using PRS. However, a waiver may be granted to any Contractors who do not have a computer or online access.

B. Additional Information

In order to prevent unlawful discrimination in the selection, hiring and termination of employees on the basis of race, ethnicity, gender or any other basis prohibited by law and to identify and correct such unlawful practices, the Agency will monitor and collect information on the ethnicity and gender of each construction worker and apprentice. If an identifiable pattern of apparent discrimination is revealed by this additional information, it will be treated as a breach of this Policy and may be addressed as set forth in the arbitration provisions included in Agency contracts.

C. Report on Terminations

In the event a Project Area Resident or San Francisco Resident hired pursuant to this Policy is terminated for cause, the responsible Contractor shall within two (2) days fax or email a termination report to CityBuild with a copy to the Compliance Officer stating in detail: (1) the name of the worker(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the Contractor replaced the construction worker(s); and (5) whether the replacement worker(s) were Project Area Resident(s) or San Francisco Resident(s).

D. Inspection of Records

The Owner and each Contractor shall make the records required under this Agreement available for inspection or copying by authorized representatives of the Agency and its designated Compliance Officer, and shall permit such representatives to interview construction workers and apprentices during working hours on the job.

E. Failure to Submit Reports

If a Contractor fails or refuses to provide the reports as required it will be treated as a breach of this Agreement and the Policy, and may be addressed under arbitration provisions pursuant to Article VII (Arbitration of Disputes) of this Agreement.

F. Submission of Good Faith Effort Documentation

If the Owner's or Contractor's good faith efforts are at issue, the Contractor shall provide the Agency or its designated Compliance Officer with the documentation of its efforts to comply with this Policy and the Agreement. The Owner or Contractor must maintain a current file of the names, addresses and telephone numbers of each Project Area Resident or San Francisco Resident applicant referral (whether a self-referral or a referral from a union, CBO or CityBuild referral) and what action was taken with respect to each such individual.

G. Coding Certified Payrolls

Each Contractor shall include, on the weekly payroll submissions, the proper job classification (as approved by the California Department of Industrial Relations), apprentice's craft (if applicable), skill level, protected class status, and domicile of each construction worker.

VI. RECORDKEEPING REQUIREMENTS.

Contractor shall comply with the requirements of California Labor Code Section 1776, as amended, regarding the keeping, filing and furnishing of certified copies of payroll records of wages paid to its employees and to the employees of its subcontractors of all tiers.

In addition, each Contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of Owner Improvements, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Owner Improvements. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident or disadvantaged worker, and the referral source or method through which the Contractor hired or retained that worker for work on the Owner Improvements (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method). Contractor may verify that a worker is a local resident through the worker's possession of a valid SF City ID Card or other government-issued identification. OCII may require additional records to be kept with regard to Contractor's compliance with this Agreement. All records described in this section shall at all times be open to inspection and examination by the duly authorized officers and agents of OCII, including representatives of the OEWD.

VII. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this Construction Work Force Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Owner disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Owner shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Owner fails to file a timely Demand for Arbitration, the Owner shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

- C. **Parties' Participation.** The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Owner made an initial timely Demand for Arbitration pursuant to Section VII.B. above.
- D. **Agency Request to AAA.** Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.
- E. **Selection of Arbitrator.** One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.
- F. **Setting of Arbitration Hearing.** A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.
- G. **Discovery.** In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.
- H. **Burden of Proof.** The burden of proof with respect to Construction Work Force compliance and/or Good Faith Efforts shall be on the Owner. The burden of proof as to all other alleged breaches by the Owner shall be on the Agency.
- I. **California Law Applies.** Except where expressly stated to the contrary in this Construction Work Force Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.
- J. **Arbitration Remedies and Sanctions.** The arbitrator may impose only the remedies and sanctions set forth below:
1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Owner or this Construction Work Force Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Owner or this Construction Work Force Agreement, other than those minor modifications or extensions necessary to enable compliance with this Construction Work Force Agreement.
 3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the Agency's Work Force policy requirements. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.
 4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this Construction Work Force Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
 5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.
- K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.
- L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.
- M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator

shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of this Construction Work Force Agreement or any other agreement between the Agency and Owner or to negotiate new agreements or provisions between the parties.

- N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.
- O. **Exculpatory Clause.** Owner expressly waives any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Owner acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this Construction Work Force Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.
- P. **Severability.** The provisions of this Construction Work Force Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Construction Work Force Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Construction Work Force Agreement or the validity of their application to other persons or circumstances.
- Q. **Arbitration Notice:** BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR

AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

**WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO
SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE
"ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.**

Agency

Owner

I, hereby certify that I have authority to execute this Construction Work Force Agreement on behalf of the Owner listed below and that Owner agrees to diligently exercise good faith efforts to comply with this Agreement to meet or exceed the construction work force participation goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name

Phone Number

EXHIBIT E-3
PREVAILING WAGE PROVISIONS
(LABOR STANDARDS)

1. **Applicability.** These Prevailing Wage Provisions (hereinafter referred to as “Labor Standards”) apply to any and all construction of the Project Improvements as defined in the underlying agreement between the Borrower and the Office of Community Investment and Infrastructure (OCII) “Successor Agency” of which this Exhibit E and these Labor Standards are a part.
2. **All Contracts and Subcontracts shall contain the Labor Standards. Confirmation by Construction Lender.**
 - a. All specifications relating to the construction of the Project shall contain these Labor Standards and the Borrower shall have the responsibility to assure that all contracts and subcontracts, regardless of tier, incorporate by reference the specifications containing these Labor Standards. If for any reason said Labor Standards are not included, the Labor Standards shall nevertheless apply. The Borrower shall supply the Agency with true copies of each contract relating to the construction of the Project showing the specifications that contain these Labor Standards promptly after due and complete execution thereof and before any work under such contract commences. Failure to do shall be a violation of these Labor Standards.
 - b. Before close of escrow under the Agreement and as a condition to close of escrow, the Borrower shall also supply a written confirmation to the Agency from any construction lender for the Project that such construction lender is aware of these Labor Standards.
3. **Definitions.** The following definitions shall apply for purposes of this Exhibit E:
 - a. “Contractor” is the Borrower if permitted by law to act as a contractor, the general contractor, and any contractor as well as any subcontractor of any tier subcontractor having a contract or subcontract that exceeds \$10,000, and who employs Laborers, Mechanics, working foremen, and security guards to perform the construction on all or any part of the Project.
 - b. “Laborers” and “Mechanics” are all persons providing labor to perform the construction, including working foremen and security guards.
 - c. “Working foreman” is a person who, in addition to performing supervisory duties, performs the work of a Laborer or Mechanic during at least 20 percent of the work week.
4. **Prevailing Wage.**
 - a. All Laborers and Mechanics employed in the construction of the Project will

be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by §5) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination (hereinafter referred to as the "Wage Determination") made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, sections 1770, 1773 and 1773.1, regardless of any contractual relationship which may be alleged to exist between the Contractor and such Laborers and Mechanics. A copy of the applicable Wage Determination is on file in the offices of the Agency with the Development Services Manager. At the time of escrow closing the Agency shall provide the Borrower with a copy of the applicable Wage Determination.

- b. All Laborers and Mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or Mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the Contractor's payroll records accurately set forth the time spent in each classification in which work is performed.
- c. Whenever the wage rate prescribed in the Wage Determination for a class of Laborers or Mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.
- d. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any Laborer or Mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the Wage Determination, provided that the Executive Director of the Agency has found, upon the written request of the Contractor, made through the Borrower that the intent of the Labor Standards has been met. Records of such costs shall be maintained in the manner set forth in subsection (a) of §8. The Executive Director of the Agency may require the Borrower to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or program referred to above in subsection (b) of this §4. The interest shall be accumulated and shall be paid as determined by the Agency acting at its sole discretion.
- e. Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which

cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

5. **Permissible Payroll Deductions.** The following payroll deductions are permissible deductions. Any others require the approval of the Agency's Executive Director.

- a. Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.
- b. Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when case or its equivalent has been advanced to the employee in such manner as to give him or her complete freedom of disposition of the advanced funds.
- c. Any garnishment, unless it is in favor of the Contractor (or any affiliated person or entity), or when collusion or collaboration exists.
- d. Any contribution on behalf of the employee, to funds established by the Contractor, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met:
 - (i) The deduction is not otherwise prohibited by law; and
 - (ii) It is either:
 - 1) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining or for the continuation of employment, or
 - 2) Provided for in a bona fide collective bargaining agreement between the Contractor and representatives of its employees; and
 - (iii) No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor (or any affiliated person or entity) in the form of commission, dividend or otherwise; and
 - (iv) The deduction shall serve the convenience and interest of the employee.

- e. Any authorized purchase of United States Savings Bonds for the employee.
- f. Any voluntarily authorized repayment of loans from or the purchase of shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
- g. Any contribution voluntarily authorized by the employee for the American Red Cross, United Way and similar charitable organizations.
- h. Any payment of regular union initiation fees and membership dues, but not including fines or special assessments provided, that a collective bargaining agreement between the Contractor and representatives of its employees provides for such payment and the deductions are not otherwise prohibited by law.

6. **Apprentices and Trainees.** Apprentices and trainees will be permitted to work at less than the Mechanic's rate for the work they perform when they are employed pursuant to and are individually registered in an apprenticeship or trainee program approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any employee listed on a payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a Mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a Mechanic's hourly rate as specified in the Wage Determination. Apprentices or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the Wage Determination.

7. **Overtime.** No Contractor contracting for any part of the construction of the Project which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such construction to work in excess of eight hours in any calendar day or in excess of 40 hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, whichever is greater.

8. **Payrolls and Basic Records.**

- a. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of its construction of the Project and preserved for a period of one year thereafter for all Laborers and Mechanics it

employed in the construction of the Project. Such records shall contain the name, address and social security number of each employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the wages of any Laborer or Mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program, the Contractor shall maintain records which show the costs anticipated or the actual costs incurred in providing such benefits and that the plan or program has been communicated in writing to the Laborers or Mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the Wage Determination.

- b. The Contractor shall submit to the Agency on each Wednesday at noon a copy of the payrolls for the week preceding the previous week in which any construction of the Project was performed. The payrolls submitted shall set out accurately and completely all of the information required by the Agency's Optional Form, an initial supply of which may be obtained from the Agency. The Contractor if a prime contractor or the Borrower acting as the Contractor is responsible for the submission of copies of certified payrolls by all subcontractors; otherwise each Contractor shall timely submit such payrolls.
- c. Each weekly payroll shall be accompanied by the Statement of Compliance that accompanies the Agency's Optional Form and properly executed by the Contractor or his or her agent, who pays or supervises the payment of the employees.
- d. The Contractor shall make the records required under this §8 available for inspection or copying by authorized representatives of the Agency, and shall permit such representatives to interview employees during working hours on the job. On request the Executive Director of the Agency shall advise the Contractor of the identity of such authorized representatives.

9. **Occupational Safety and Health.** No Laborer or Mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her safety and health as determined under construction safety and health standards promulgated by Cal-OSHA or if Cal-OSHA is terminated, then by the federal OSHA.

10. **Equal Opportunity Program.** The utilization of apprentices, trainees, Laborers and Mechanics under this part shall be in conformity with the equal opportunity program set forth in Exhibit E of the Agreement including Schedules A and B. Any conflicts between the language contained in these Labor Standards and Exhibit I shall be

resolved in favor of the language set forth in Exhibit I, except that in no event shall less than the prevailing wage be paid.

11. **Nondiscrimination Against Employees for Complaints.** No Laborer or Mechanic to whom the wage, salary or other Labor Standards of this Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to these Labor Standards.
12. **Posting of Notice to Employees.** A copy of the Wage Determination referred to in subsection (a) of §4 together with a copy of a "Notice to Employees," in the form appearing on the last page of these Labor Standards, shall be given to the Borrower at the close of escrow. The Notice to Employees and the Wage Determination shall both be posted and maintained by the Contractor in a prominent place readily accessible to all applicants and employees performing construction of the Project before construction commences. If such Notice and Wage Determination is not so posted or maintained, the Agency may do so.
13. **Violation and Remedies.**
 - a. **Liability to Employee for Unpaid Wages.** The Contractor shall be liable to the employee for unpaid wages, overtime wages and benefits in violation of these Labor Standards.
 - b. **Stop Work--Contract Terms, Records and Payrolls.** If there is a violation of these Labor Standards by reason of the failure of any contract or subcontract for the construction of the Project to contain the Labor Standards as required by §2 ("Non-Conforming Contract"); or by reason of any failure to submit the payrolls or make records available as required by §8 ("Non-Complying Contractor"), the Executive Director of the Agency may, after written notice to the Borrower with a copy to the Contractor involved and failure to cure the violation within five working days after the date of such notice, stop the construction work under the Non-Conforming Contract or of the Non-Complying Contractor until the Non-Conforming Contract or the Non-Complying Contractor comes into compliance.
 - c. **Stop Work and Other Violations.** For any violation of these Labor Standards the Executive Director of the Agency may give written notice to the Contractor, with a copy to the Contractor involved, which notice shall state the claimed violation and the amount of money, if any, involved in the violation. Within five working days from the date of said notice, the Contractor shall advise the Agency in writing whether or not the violation is disputed by the Contractor and a statement of reasons in support of such dispute (the "Notice of Dispute"). In addition to the foregoing, the Contractor, upon receipt of the notice of claimed violation from the Agency, shall with respect to any amount stated in the Agency notice withhold

payment to the Contractor of the amount stated multiplied by 45 working days and shall with the Notice of Dispute, also advise the Agency that the moneys are being or will be withheld. If the Contractor fails to timely give a Notice of Dispute to the Agency or to advise of the withhold, then the Executive Director of the Agency may stop the construction of the improvements under the applicable contract or by the involved Contractor until such Notice of Dispute and written withhold advice has been received.

- d. Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Contractor shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14. Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Borrower shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14.
- e. Withholding Certificates of Completion. The Agency may withhold any or all certificates of completion of the Project provided for in this agreement, for any violations of these Labor Standards until such violation has been cured.
- f. General Remedies. In addition to all of the rights and remedies herein contained, but subject to arbitration, except as hereinafter provided, the Agency shall have all rights in law or equity to enforce these Labor Standards including, but not limited to, a prohibitory or mandatory injunction. Provided, however, the stop work remedy of the Agency provided above in subsection (b) and (c) is not subject to arbitration.

14. Arbitration of Disputes.

- a. Any dispute regarding these Labor Standards shall be determined by arbitration through the American Arbitration Association, San Francisco, California office (“AAA”) in accordance with the Commercial Rules of the AAA then applicable, but subject to the further provisions thereof.
- b. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made a party to the arbitration. Any such person or entity not made a party in the demand for arbitration may intervene as a party and in turn may name any such person or entity as a party.
- c. The arbitration shall take place in the City and County of San Francisco.
- d. Arbitration may be demanded by the Agency, the Borrower or the Contractor.
- e. With the demand for arbitration, there must be enclosed a copy of these

Labor Standards, and a copy of the demand must be mailed to the Agency and the Borrower, or as appropriate to one or the other if the Borrower or the Agency is demanding arbitration. If the demand does not include the Labor Standards they are nevertheless deemed a part of the demand. With the demand if made by the Agency or within a reasonable time thereafter if not made by the Agency, the Agency shall transmit to the AAA a copy of the Wage Determination (referred to in §4) and copies of all notices sent or received by the Agency pursuant to §13. Such material shall be made part of the arbitration record.

- f. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators of the AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the parties fail to select an arbitrator, within seven (7) days from the receipt of the panel, the AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within 30 days from appointment.
- g. Any party to the arbitration whether the party participates in the arbitration or not shall be bound by the decision of the arbitrator whose decision shall be final and binding on all of the parties and any and all rights of appeal from the decision are waived except a claim that the arbitrator's decision violates an applicable statute or regulation. The decision of the arbitrator shall be rendered on or before 30 days from appointment. The arbitrator shall schedule hearings as necessary to meet this 30 day decision requirement and the parties to the arbitration, whether they appear or not, shall be bound by such scheduling.
- h. Any party to the arbitration may take any and all steps permitted by law to enforce the arbitrator's decision and if the arbitrator's decision requires the payment of money the Contractor shall make the required payments and the Borrower shall pay the Contractor from money withheld.
- i. Costs and Expenses. Each party shall bear its own costs and expenses of the arbitration and the costs of the arbitration shall be shared equally among the parties.

15. **Non-liability of the Agency.** The Borrower and each Contractor acknowledge and agree that the procedures hereinafter set forth for dealing with violations of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for the construction of the Project, in determining the time for commencement and completion of construction and in proceeding with construction work. Accordingly the Borrower, and any Contractor, by proceeding with construction expressly waives and is deemed to have waived any and all claims against the Agency for damages, direct or indirect, arising out of these Labor Standards and their enforcement and including but not limited to

claims relative to stop work orders, and the commencement, continuance or completion of construction.

SAN FRANCISCO REDEVELOPMENT AGENCY

NOTICE TO EMPLOYEES

***EQUAL
OPPORTUNITY
NON-DISCRIMI-
NATION***

The contractor must take equal opportunity steps to provide employment opportunities to minority group persons and women and shall not discriminate on the basis of age, ancestry, color, creed, disability, gender, national origin, race, religion or sexual orientation.

***PREVAILING
WAGE***

You shall not be paid less than the wage rate attached to this Notice for the kind of work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 8 a day or 40 a week, whichever is greater.

APPRENTICES

Apprentice rates apply only to employees registered under an apprenticeship or trainee program approved by the Bureau of Apprenticeship and Training or the California Division of Apprenticeship Standards.

PROPER PAY

If you do not receive proper pay, write the Office of Community Investment and Infrastructure, OCII
1 South Van Ness Ave. 5th Floor
San Francisco, CA 94103
or call **749-2546** and ask for
Mr. George Bridges
Contract Compliance Specialist

EXHIBIT E-4
Nondiscrimination in Contracts and Benefits



OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE (OCII)
(SUCCESSOR TO THE SAN FRANCISCO REDEVELOPMENT AGENCY)
DECLARATION FORM
Nondiscrimination in Contracts and Benefits

Section A

Is your company/organization currently certified by the City and County of San Francisco in compliance with Administrative Code 12B Equal Benefits Ordinance and will your company/organization ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts? If yes, please indicate below, skip Section B, and execute the Declaration in Section C. If no, please skip Section A and complete Sections B and C.

- ☐ My company/organization is certified and compliant with the 12B Equal Benefits Ordinance of the City and County of San Francisco and there has been no change in our 12B Declaration since certification. My company/organization agrees to ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts. (Please check box to affirm, if applicable)

Section B

1. Nondiscrimination—Protected Classes

- a. Is it your company/organization's policy that you will not discriminate against your employees, applicants for employment, employees of the Office of Community Investment and Infrastructure (successor to the San Francisco Redevelopment Agency) (Agency), or City and County of San Francisco (City), or members of the public for the following reasons:

• Race	☐ Yes	☐ No
• color	☐ Yes	☐ No
• Creed	☐ Yes	☐ No
• Religion	☐ Yes	☐ No
• ancestry	☐ Yes	☐ No
• national origin	☐ Yes	☐ No
• Age	☐ Yes	☐ No
• sex	☐ Yes	☐ No
• sexual orientation	☐ Yes	☐ No
• gender identity	☐ Yes	☐ No
• marital status	☐ Yes	☐ No
• domestic partner status	☐ Yes	☐ No
• Disability	☐ Yes	☐ No
• AIDS or HIV status	☐ Yes	☐ No

- b. Do you agree to insert a similar nondiscrimination provision in any subcontract you enter into for the performance of a substantial portion of the contract that you have with the Agency or the City?
- ☐ Yes ☐ No

If you answered "no" to any part of Question 1a or 1b, the Agency or the City cannot do business with you.

2. Nondiscrimination—Equal Benefits (Question 2 does not apply to subcontracts or subcontractors)

- a. Do you provide, or offer access to, any benefits to employees with spouses or to spouses of employees?
- ☐ Yes ☐ No
- b. Do you provide, or offer access to, any benefits to employees with domestic partners (Partners) or to domestic partners of employees?
- ☐ Yes ☐ No

If you answered “no” to both Questions 2a and 2b, skip 2c and 2d, and sign, date and return this form. If you answered “yes” to Question 2a or 2b, continue to 2c.

- c. If “yes,” please indicate which ones. This list is not intended to be exhaustive. Please list any other benefits you provide (even if the employer does not pay for them).

Benefit	Yes, for Spouses	Yes, for Partners	No
• Medical (health, dental, vision)	☐	☐	☐
• Pension	☐	☐	☐
• Bereavement	☐	☐	☐
• Family leave	☐	☐	☐
• Parental leave	☐	☐	☐
• Employee assistance programs	☐	☐	☐
• Relocation and travel	☐	☐	☐
• Company discounts, facilities, events	☐	☐	☐
• Credit union	☐	☐	☐
• Child care	☐	☐	☐
• Other _____	☐	☐	☐
• Other _____	☐	☐	☐

- d. If you answered “yes” to Question 2a or 2b, and in 2c indicated that you do not provide equal benefits, you may still comply with the Policy if you have taken all reasonable measures to end discrimination in benefits, have been unable to do so, and now provide employees with a cash equivalent.

(1)	Have you taken all reasonable measures?	☐	Yes	☐	No
(2)	Do you provide a cash equivalent?	☐	Yes	☐	No

3. Documentation for Nondiscrimination in Benefits (Questions 2c and 2d only)

If you answered “yes” to any part of Question 2c or Question 2d, you must attach to this form those provisions of insurance policies, personnel policies, or other documents you have which verify your compliance with Question 2c or Question 2d. Please include the policy sections that list the benefits for which you indicated “yes” in Question 2c. If documentation does not exist, attach an explanation, e.g., some of your personnel policies are unwritten. If you answered “yes” to Question 2d(1) complete and attach form SFRA/CC-103, “Nondiscrimination in Benefits—Reasonable Measures Affidavit,” which is available from the Agency. You need not document your “yes” answer to Question 1a or Question 1b.

Section C

I declare (or certify) under penalty of perjury that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this _____ day of _____, 20____, at _____, _____.
(City) (State)

Name of Company/Organization: _____

Doing Business As (DBA): _____

Also Known As (AKA): _____

General Address: _____

Remittance Address (if different from above): _____

Name of Signatory: _____ Title: _____
(Please Print)

Signature: _____

Phone Number: _____ Federal Tax Identification Number: _____

Approximate number of employees in the U.S.: _____ Vendor Number: _____
(if known)

- ☐ Check here if your address has changed.
- ☐ Check here if your organization is a non-profit.
- ☐ Check here if your organization is a governmental entity.

THIS FORM MUST BE RETURNED WITH THE ORIGINAL SIGNATURE

Please return this form to: Office of Community Investment and Infrastructure (successor to the San Francisco Redevelopment Agency), One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103

EXHIBIT E-5
MINIMUM COMPENSATION POLICY (MCP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (OCII) (Successor Agency to the San Francisco Redevelopment Agency) adopted the Minimum Compensation Policy (MCP), which became effective on September 25, 2001. The MCP requires contractors and subcontractors to provide the following to their employees covered by the MCP on OCII contracts and subcontracts for services: for contractors with employees performing work in San Francisco, the Commercial Business MCP wage rate shall be no less than \$17.00 per hour effective November 11, 2018. The Nonprofit MCP wage rate is \$15.00 per hour effective July 1, 2018. The Minimum Compensation rate is adjusted on January 1 each year. Furthermore, 12 paid days off per year (or cash equivalent) and 10 days off without pay per year shall be offered.

The OCII may require contractors to submit reports on the number of employees affected by the MCP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the MCP will have the following effect:

- in each contract, the contractor will agree to abide by the MCP and to provide its employees the minimum benefits the MCP requires, and to require its subcontractors subject to the MCP to do the same.
- if a contractor does not provide the MCP minimum benefits, OCII can award a contract to that contractor only if the contract is exempt under the MCP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII's contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the MCP to your covered employees, and will ensure that your subcontractors also subject to the MCP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the MCP, available from the OCII's Contract Compliance Department at (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 1 South Van Ness, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the MCP to our covered employees, and will ensure that our subcontractors also subject to the MCP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

EXHIBIT E-6
HEALTH CARE ACCOUNTABILITY POLICY (HCAP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (“OCII”) (as Successor Agency to the Redevelopment Agency) adopted the San Francisco Health Care Accountability Policy (the “HCAP”), which became effective on September 25, 2001. The HCAP requires contractors and subcontractors that provide services to OCII, contractors and subcontractors that enter into leases with OCII, and parties providing services to tenants and sub-tenants on OCII property to choose between offering health plan benefits to their employees or making payments to OCII or directly to their employees.

Specifically, contractors can either: (1) offer the employee minimum standard health plan benefits approved by the OCII Commission; (2) pay OCII \$5.15 per hour for each hour the employee works on the covered contract or subcontract or on property covered by a lease (but not to exceed \$206 in any week) and OCII will appropriate the money for staffing and other resources to provide medical care for the uninsured (rates and amounts effective July 1, 2018 and subject to annual change).

The OCII may require contractors to submit reports on the number of employees affected by the HCAP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the HCAP will have the following effect:

- in each contract, the contractor will agree to abide by the HCAP and to provide its employees the minimum benefits the HCAP requires, and to require its subcontractors to do the same.
- if a contractor does not provide the HCAP’s minimum benefits, OCII can award a contract to that contractor **only if** the contract is exempt under the HCAP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII’s contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII’s contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the HCAP to your covered employees, and will ensure that your subcontractors also subject to the HCAP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the HCAP, available from the OCII’s Contract Compliance Department at: (415) 749-2400.

Routing. Return this form to: Contact Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 1 South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the HCAP to our covered employees, and will ensure that our subcontractors also subject to the HCAP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

EXHIBIT F
Insurance Requirements

Subject to approval by the OCII Risk Manager of the insurers and policy forms, Borrower must obtain and maintain, or caused to be maintained, the insurance and bonds as set forth in this Exhibit F throughout the Compliance Term of this Agreement, or in accordance with the timeframes stated herein, at no expense to OCII.

- A. Overview of Coverage Requirements. The following table summarizes required insurance policies and documentation. Please see Section B of this Exhibit F for more detailed descriptions of policy requirements.

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Commercial General Liability (see Section B.1)	\$1,000,000 per occurrence/ \$2,000,000 aggregate*	Borrower's design and professional contractors; and Borrower (prior to start of construction)	Additional insured (see Section G)
	\$10,000,000 per occurrence/ \$10,000,000 aggregate*	Borrower (upon construction start), general contractor, and subcontractors to the general contractor	
Automobile Liability (see Section B.2)	\$1,000,000 per occurrence*	Borrower and Borrower's contractors	Additional insured (see Section G)
Worker's Compensation and Employer's Liability (see Section B.3)	As per statute for Workers Comp; \$1,000,000 per accident; \$1,000,000 per employee; and in aggregate for bodily injury by disease as respects Employers Liability*	Borrower and Borrower's contractors	Waiver of subrogation
Professional Liability (see Section B.4)	\$2,000,000 per claim/ \$2,000,000 aggregate	Borrower if engaged in any eligible design-related activities; and Borrower's design and professional contractors	None
Crime/Dishonesty (see Section B.5)	\$3,000,000 per loss	Borrower	Loss payee endorsement
Pollution Liability/Asbestos (see Section B.6)	\$1,000,000 per claim/ \$2,000,000 aggregate	Borrower or Borrower's construction contractor(s)	Additional insured (see Section G)
Builder's Risk – During Construction (see Section B.7a)	100% of replacement value	Borrower	Loss payee endorsement
Property Insurance – After Construction	100% of replacement value	Borrower or Borrower's property manager	Loss payee endorsement

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Completion (see Section B.7b)			
Performance and Payment Bonds (see Section B.8)	100% of contract value	Borrower's construction contractors	OCII and Borrower named as dual obligees

* *Umbrella, excess liability policy, or owner controlled insurance program (OCIP) may be used to meet limits (see Section D)*

B. Minimum Scope and Limits of Insurance. Borrower and/or Borrower's Contractors must maintain insurance with limits no less than:

- 1) Commercial General Liability coverage, under Insurance Services Office occurrence form CG 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). Limits set forth below, combined single limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; broad form property damage; explosion, collapse and underground (XCU); products and completed operations. Umbrella, Excess Liability, or an Owner Controlled Insurance Policy may be used to meet the terms of this section.
 - a. Before the start of demolition/construction if the Site is unoccupied, Borrower and Borrower's Contractors will maintain coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit. These limit requirements apply to Borrower's design and professional contractors throughout the required coverage period;
 - b. During demolition/construction and occupancy of the Site and ongoing operations of the Project, Borrower and its Construction Contractors and/or Property Manager will maintain coverage of not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence and Ten Million Dollars (\$10,000,000) annual aggregate limit;
- 2) Automobile Liability coverage for all owned, non-owned, scheduled, and hired automobiles under Insurance Services Office form number CA 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). If Borrower does not own any automobiles, Borrower must provide OCII a written statement confirming that no automobiles are owned, and OCII will accept an Automobile Insurance policy providing coverage for Symbol 8 (hired autos) and Symbol 9 (non-owned autos), with additional insured endorsement. One Million Dollars (\$1,000,000) per accident for bodily injury and property damage, combined single limit.

- 3) Worker's Compensation and Employer's Liability as required by the State of California. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). Employer's Liability coverage must provide limits of One Million Dollars (\$1,000,000) for bodily injury each accident; and not less than One Million Dollars (\$1,000,000) per employee; and One Million Dollars (\$1,000,000) in the annual aggregate for bodily injury by disease. If the Borrower does not have any employees, then evidence of Workers' Compensation and Employers Liability coverage required herein must be provided by either the Project Sponsor(s) or the General Partner of the Partnership, in lieu of such coverage being provided by the Borrower. Additionally, the Borrower must provide a written statement confirming that the Borrower does not have employees.
- 4) Professional Liability (Errors and Omissions) insurance, applicable to the Borrower's licensed design and professional contractors (architects, engineers, surveyors and other eligible consultants) and to the Borrower only if the Borrower or Sponsor has any employees providing design or engineering services. Two Million Dollars (\$2,000,000) for each claim and in the annual aggregate limit covering negligent acts, errors or omissions in connection with professional services to be provided in connection with the Project. If the Professional Liability insurance is "claims made" coverage, these minimum limits shall be maintained for no less than five (5) years beyond completion of the scope of services performed. Any deductible over One Hundred Thousand Dollars (\$100,000) each claim must be reviewed by OCII Risk Management.

Design professionals who utilize the services of subcontractors or consultants to complete work in connection with this project are required to assess the risks associated with such contractors and, with the authorization of the Borrower, determine and verify the appropriate level of coverage provided by the subcontractor or consultant. The design professional and the Borrower shall assume costs and expenses that may be incurred in fulfilling any indemnity obligations as to itself or any subcontractors or consultants for whom the design professional and/or the Borrower are legally liable in the absence of adequate subcontractor or consultant coverage.

- 5) Crime Policy or Fidelity Bond (Employee Dishonesty Coverage) covering Borrower and Developer's officers and employees against employee dishonesty, forgery & alteration, theft of money & securities, and theft via electronic means, endorsed to cover third party fidelity, covering all officers and employees with respect to the Funding Amount. Three Million Dollars (\$3,000,000) each loss, with any deductible not to exceed Fifty Thousand Dollars (\$50,000). Borrower must provide an endorsement naming OCII as an additional obligee or loss payee.

Application of Crime Insurance Proceeds. Borrower shall promptly notify OCII of any claim under the required Crime Insurance Policy. OCII may retain from the proceeds of the required Crime Insurance Policy, a sufficient amount of the proceeds to pay the Funding Amount, if any, and shall pay the balance to Borrower. For the avoidance of doubt, OCII shall have no right or claim to the proceeds of the required Crime Insurance Policy in excess of the Funding Amount.

- 6) Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than One Million Dollars (\$1,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) aggregate per policy period of one year, this coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy

may be provided by the Borrower's construction contractor to maintain these minimum limits for no less than three (3) years beyond completion of the Project.

7) Property Insurance

- a. Builder's Risk Insurance during the course of any construction, special form coverage, excluding earthquake and flood, for one hundred percent (100%) of the replacement value of all completed improvements and OCII property in the care, custody and control of Borrower or its contractor, including coverage in transit and storage off-site, with a deductible not to exceed Fifty Thousand Dollars (\$50,000) each loss, including OCII as loss payee. Builder's Risk must be maintained by the Borrower or the Borrower must cause its general contractor to maintain this insurance.
- b. Property Insurance after completion of construction, special form coverage, excluding earthquake and flood, but including vandalism and malicious mischief, and including boiler and machinery insurance, for one hundred percent (100%) of the replacement value of all furnishings, fixtures, equipment, improvements, alterations and property of every kind located on or appurtenant to the Site, including coverage for loss of rental income due to an insured peril for twelve (12) months, with a deductible not to exceed Twenty Five Thousand Dollars (\$25,000) each loss, including OCII as a loss payee. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us").

- 8) Performance and Payment Bonds for eligible construction contractors during construction and/or rehabilitation, each in the amount of one hundred percent (100%) of contract amounts, naming OCII and Borrower as dual obligees, or other completion security approved by OCII in its sole discretion. OCII has approved issuance of a Completion Guaranty by an affiliate of Borrower to Borrower's institutional lender as completion security.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of those required for policies stated herein must be declared to and approved by OCII. At the option of OCII, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees; or Borrower shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.
 - D. Umbrella, Excess Liability, and Owner Controlled Insurance Policies (OCIP). An Umbrella and/or Excess Liability policy(ies) or an OCIP may be used to reach the Commercial General Liability, Workers' Compensation, and/or Automobile Liability coverage limits required herein. The Umbrella/Excess Liability/OCIP policy(ies) must appropriately schedule any such underlying policy(ies).
 - E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise approved by OCII's Risk Manager.

F. General Requirements.

- 1) If the Borrower maintains additional coverages and/or higher limits than the minimums shown in this Exhibit F, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Borrower.
- 2) The policies required herein, with the exception of Professional Liability and Workers Compensation, shall be primary insurance and non-contributory as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees shall be in excess of Borrower's insurance and shall not contribute with it.
- 3) Each insurance policy required herein must be endorsed (if endorsement is available) to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by mail has been given to OCII. Should the insurance carrier not be able to provide such notice, then the responsibility to provide the notice to OCII shall be borne by the policyholder.
- 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees.
- 5) Approval of Borrower's insurance by OCII will not relieve or decrease the liability of Borrower under this Agreement.
- 6) OCII and its officers, agents and employees will not be liable for any required premium under any policy maintained by Borrower.
- 7) All claims based on acts, omissions, injury or damage occurring or arising in whole or in part during the policy period must be covered. If any required insurance is provided under a claims-made policy, coverage must be maintained continuously for a period ending no less than five (5) years after recordation of a notice of completion for builder's risk or the Compliance Term for general liability and property insurance.

G. Verification of Coverage. Borrower must furnish OCII with certificates of insurance and original endorsements evidencing coverage required by this clause. The certificates and applicable endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by OCII before work commences. OCII reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time. Borrower shall require and verify that its contractors and consultants maintain the required policies as stated herein. Borrower must furnish OCII with copies of certificates and endorsements upon request. All certificates shall include the following:

- 1) Identify the following as the certificate holder:
Successor Agency to the Redevelopment Agency of the City and County of San Francisco
Office of Community Investment and Infrastructure

One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

- 2) Identify the name of the insurance policy holder (Borrower, Developer, or Contractor), the Project name, and the Project address.
- 3) For policies in which OCII is required to be named as an additional insured, loss payee, dual obligee, or named on a waiver of subrogation, the policy shall name “Office of Community Investment and Infrastructure/Successor Agency to the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees” on the certificate and on the attached endorsement or certificate.

H. Review. OCII reserves the right to modify the insurance coverage under this Section, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances consistent with OCII’s Risk Management Policy. The insurance coverage required under this Section shall be evaluated by OCII for adequacy from time to time. OCII may require Borrower to increase the insurance limits and/or forms of coverage in its reasonable discretion provided that such limits and/or coverage is generally available at commercially reasonable rates.

EXHIBIT G
Lobbying/Debarment Certification Form

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

This lobbying certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

3. Neither the undersigned nor its principals is listed by the General Services Administration as debarred, suspended, ineligible or voluntarily excluded from receiving the Funds on the Loan Closing Date. The undersigned will review the list to ensure that any contractor or subcontractor who bids for a contract in excess of \$100,000 is not debarred, suspended, ineligible or voluntarily excluded from participating in federal programs and activities and will obtain the certification of each contractor or subcontractor whose bid is accepted that such contractor or subcontractor is not debarred, suspended, ineligible or voluntarily excluded from participating in federal programs and activities.

Mercy Housing California 78, L.P., a California limited partnership

BY: _____

NAME: _____

TITLE: _____

DATE: _____

EXHIBIT H
Form of Annual Monitoring Report

Owner Compliance Certification and Insurance & Tax Certification Form
2018 Annual Monitoring Report
San Francisco Mayor's Office of Housing and Community Development

***** This form must be completed by Project Owner or authorized agent. *****

Complete this form, sign and date it, scan it along with current liability and property insurance certificates into a single PDF file, then email the file along with AMR_RY2018 – project name.xlsx, audited financial statements, and current waiting list to moh.amr@sfgov.org.

Project Name: _____

Project Street Address: _____

Reporting Period – Start Date: _____ End Date: _____

Owner Compliance Certification

The undersigned owner, having received housing development funds pursuant to a housing development program funding agreement/s entered into with the City and County of San Francisco ("CCSF") for the purpose of purchasing, constructing and/or improving low-income housing, does hereby certify as follows:

*Initial all statements below, and supply data to make the statement complete where needed (look for underlined blanks; e.g.: ____). **For any statements that are not true or require additional clarification, you must supply a detailed explanation on the Annual Monitoring Report Narrative Worksheet.** The failure to provide a conforming response to all statements below will render incomplete the entire Annual Monitoring Report ("AMR") submission for this project, which may result in a default condition under the funding agreement/s, and also subject the owner to scoring penalties in future efforts to obtain funding from MOHCD for this project and any other project.*

	True	False	
1			The CCSF Mayor's Office of Housing and Community Development ("MOHCD") has been alerted by the owner prior to any actions taken by the owner that affect the value of the property associated with this project, including but not limited to the establishment of any liens or encumbrances on the property; and, where required, the owner has obtained written authorization from MOHCD prior to taking any such actions.
2			The undersigned is not in default of the terms of any Agreements with CCSF for this project, nor has it been in default on any other loans, contracts or obligations on this property during the reporting period.
3			The undersigned has not been the subject of any actions relating to any other loans, contracts or obligations on this property which might have a material adverse financial impact on the property.
4			The owner has not lost or failed to renew funding for supportive services for the project during the reporting period and has made available (or caused to be made available through another party) all supportive services that are required by existing, applicable funding and regulatory agreements.
5			The owner has not lost or failed to renew funding for operating subsidy/ies for the project during the reporting period.
6			For any existing operating subsidies supporting the project, during the reporting period, the owner submitted a request for the maximum increase possible.
7			The owner has paid all taxes due for the reporting period and prior reporting periods.
8			The undersigned has marketed the units in the manner set forth in the marketing and resident selection provisions of the funding agreement/s entered into with CCSF.

Owner Compliance Certification and Insurance & Tax Certification Form
2018 Annual Monitoring Report
San Francisco Mayor's Office of Housing and Community Development

	True	False	
9			The project has met affordability and other leasing provisions set forth in the funding agreement/s entered into with CCSF during the entire reporting period. As of the end date of the reporting period, _____ units (<i>supply exact number</i>) were occupied or held vacant and available for rental by low-income tenants meeting the income qualifications pursuant to the funding agreement/s entered into with CCSF.
10			The undersigned has obtained a tenant income certification and/or third party documentation to support that certification from each tenant household occupying a unit restricted to occupancy by income-qualified tenants. All income certifications are maintained onsite with respect to each qualified tenant who resides in a unit or resided therein during the immediately preceding business year.
11			The total charges for rent and a utility allowance to each income-qualified tenant in a restricted unit do not exceed the maximum rent specified in the funding agreement/s entered into with CCSF as adjusted by the most recent HUD income and rent figures, which have been taken from the figures that are supplied by MOHCD on its website.
12			All withdrawals from the replacement and operating reserve accounts have been made in accordance with the MOHCD funding agreement/s, unless approved in writing by MOHCD.
13			Security deposits required of tenants of the project are in accordance with applicable laws and the funding agreement/s entered into with CCSF.
14			The undersigned has obtained and will maintain insurance policies in accordance with requirements of the funding agreement/s entered into with CCSF as may be reasonably updated from time to time, and has supplied with this AMR certificates of insurance that are current through the end of the reporting period.
15			The undersigned has maintained the units and common areas in a decent, safe and sanitary manner in accordance with all local health, building, and housing codes and in accordance with the HUD Housing Quality Standards.
16			The data submitted in Section 1A – Property & Residents of the Annual Monitoring Report regarding any violation/s of any health, building, or housing codes is complete and accurate; all required copies of violations/citations that were not resolved by the end of the reporting periods are also included with this AMR submission.
17			The undersigned has made best efforts to: (a) keep the units in good repair and available for occupancy; (b) keep the Project fully rented and occupied; and (c) maximize rental revenue at the Project by increasing tenant rents, and if applicable, contract rents and commercial rents, the maximum amount permitted under all current regulatory agreements, contracts, regulations and leases, without causing undue rent burden on residential tenants.
18			All questions in the Annual Monitoring Report submitted for this reporting period have been answered fully and truthfully; answers have been supplied for all of questions requiring detailed responses on the Annual Monitoring Narrative Worksheet and any related documents have been submitted as attachments.
19			The project has received additional equity proceeds in the amount of \$_____ (<i>supply amount</i>) from low-income housing tax credit investors during the reporting period.
20			Accurate information has been provided in Worksheet 2 - Fiscal Activity about any Federal Program Income earned by this project during the reporting period.
21			Any amounts charged as Asset Management Fees are reflected accurately under Income & Expenses in Worksheet 2 - Fiscal Activity of the Annual Monitoring Report, and all such amounts have been used exclusively toward asset management of this

**Owner Compliance Certification and Insurance & Tax Certification Form
2018 Annual Monitoring Report
San Francisco Mayor's Office of Housing and Community Development**

	True	False	
			project. Asset Management Fees taken beyond pre-approved levels have been documented as required in response to question 7 in Section 4 - Narrative.
22			The calculation of cash flow in Worksheet 2 - Fiscal Activity accurately reflects all expenses incurred and income earned, and the proposed distribution of any Residual Receipts would be in accordance with all relevant agreements and policies.
23			The Waiting List that has been submitted with the 2018 Annual Monitoring Report is an accurate and correct record as of the last day of the reporting period of the households who have applied to live at the Project, including the name of the head-of-household (or a suitable alternative), date of application, number of people in the household, stated household income and desired unit size.

Property and Liability Insurance

Enter the information requested below, and attach a current copy (each) of the Property and Liability Insurance Certificates. SCAN the documents and send them as an attachment along with the complete AMR to MOHCD via e-mail to: moh.amr@sfgov.org.

Property Insurance		
	Property Street Address:	
	Policy Number:	
	Policy Effective Date:	
	Policy Expiration Date:	
Liability Insurance		
	Property Street Address:	
	Policy Number:	
	Policy Effective Date:	
	Policy Expiration Date:	

Tax Certification

Enter the information requested below. You do **NOT** need to submit copies of the invoice or checks used to pay the tax.

Property Tax		
	Tax Year:	
	Amount of Tax Paid:	
	Date Paid:	
	Amount outstanding from taxes due for Reporting Period:	
	Amount outstanding from taxes due prior to Reporting Period:	

***** This form must be completed by Project Owner or authorized agent. *****

The undersigned, acting under authority of the ownership of this project, executes this Certification, subject to the pains and penalties of perjury, and certifies that the foregoing is true and correct in all respects.

Signature: _____ Date: _____

Name: _____ Title: _____

EXHIBIT I
Intentionally Deleted

EXHIBIT J
FORM DEED OF TRUST

FREE RECORDING PURSUANT TO
GOVERNMENT CODE §27383 AT THE
REQUEST OF THE SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO

WHEN RECORDED RETURN TO:

The Successor Agency to the Redevelopment
Agency of the City and County of San
Francisco, One South Van Ness Avenue,
5th Floor, San Francisco, California 94103
Attn: Housing Division

Space above for Recorder

(Assessor's Block 8711, Lot 20)

**LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

(691 China Basin Street)

THIS LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("Deed of Trust") is made as of _____, 2019, by Mercy Housing California 78, L.P., a California limited partnership ("**Trustor**"), whose address is 1256 Market Street, San Francisco, CA 94103, to _____ ("**Trustee**"), whose address is _____, [City, State, Zip Code] for the benefit of the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, hereafter referred to as the Office of Community Investment and Infrastructure, a public body, organized and existing under the laws of the State of California ("**Beneficiary**"). This Deed of Trust is executed pursuant to an Amended and Restated Loan Agreement by and between Trustor and Beneficiary dated as of _____, 2019, as it may be amended from time to time (the "**Agreement**"), the provisions of which are incorporated herein by reference. Definitions and rules of interpretation set forth in the Agreement apply to this Deed of Trust.

A. Grant in Trust. For valuable consideration, Trustor hereby grants, transfers and assigns to Trustee, in trust, with power of sale, for the benefit of Beneficiary, all right, title and interest Trustor now has or may have in the future in the following:

1. That real property situated in the City and County of San Francisco, State of California, described in Exhibit A attached hereto and incorporated herein by reference (the "Leasehold"); and
2. The affordable housing development to be constructed on the Leasehold, including 152 residential units and approximately 7,000 square feet of non-residential space currently intended to provide child care and community-serving uses, together with all other buildings, structures and other improvements now or in the future located or to be constructed

on the Leasehold (cumulatively, the "Project", and together with the Leasehold, the "Property"); and

3. All existing and future leases, subleases, tenancies, subtenancies, licenses, occupancy agreements and concessions ("Leases") relating to the use and enjoyment of all or any part of the Property, and any and all guaranties and other agreements relating to or made in connection with any of the Leases; and

4. Except for personal property and removable fixtures installed by Trustor's tenants or subtenants, all goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Property, whether stored on the Leasehold or elsewhere, including without limitation all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration, plumbing fixtures and other equipment serving the Property, all of which will be considered to the fullest extent of the law to be real property for purposes of this Deed of Trust; and

5. All building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, that have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Property; and

6. All Loan funds, whether disbursed or not, and all funds now or in the future on deposit in the Replacement Reserve Account, the Operating Reserve Account and any other account required or authorized for the Project; and

7. All proceeds, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Property or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements; and

8. All books and records pertaining to any and all of the property described above, including records relating to tenants under any Leases, the qualifications of any tenants and any certificates, vouchers and other documents in any way related thereto and records relating to the application and allocation of any federal, state or local tax credits or benefits; and

9. All rents, revenues, issues, royalties, proceeds and profits, including prepaid rent and security deposits ("Rents"), from the any portion of the Property, subject to: (i) Trustor's right to collect and retain the same as they become due and payable; and (ii) Beneficiary's rights under Section 5(d); and

10. All proceeds of, interest accrued on, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

This Deed of Trust constitutes a security agreement under, and a fixture filing in accordance with, the California Uniform Commercial Code, as it may be amended from time to time. The filing of a financing statement pertaining to personal property may not be construed in any way as derogating from or impairing the lien of, or the rights or obligations of the parties under, this Deed of Trust.

B. Obligations Secured. This Deed of Trust is given for the purpose of securing the following (collectively, the "**Secured Obligations**"):

1. Performance of all present and future obligations of Trustor set forth in the Ground Lease or the Agreement, specifically compliance with certain restrictions on the use of the Property recited in that certain Declaration of Restrictions executed by Trustor, dated as of the date of and being recorded concurrently with this Deed of Trust, as it may be amended from time to time, and the promissory note dated _____, 2019 made by Trustor to the order of Beneficiary (as it may be amended from time to time, the "Note") and performance of each agreement incorporated by reference, contained therein, or entered into in connection with the Agreement;

2. Payment of the indebtedness evidenced by the Agreement and the Note in the original principal amount of ____ [to be updated w/final #] _____ and No/100 Dollars (\$ _____), according to the terms of the Agreement and the Note ("Loan Funds"); and

3. Payment of any additional sums Trustor may borrow or receive from Beneficiary, when evidenced by another note (or any other instrument) reciting that payment is secured by this Deed of Trust.

C. Trustor's Covenants. To protect the security of this Deed of Trust, Trustor agrees as follows:

1. To perform the Secured Obligations in accordance with their respective terms;

2. To keep the Property in good condition and repair, normal wear and tear and acts of God excepted; not to remove or demolish all or any portion of the Project without Beneficiary's prior written consent; to complete or restore promptly and in good and workmanlike manner any Improvement constructed, damaged or destroyed on the Land subject to available insurance proceeds; to pay when due all claims for labor performed and materials furnished therefor, subject to Trustor's right to contest any claim in good faith; to comply with all laws affecting the Project, subject to Trustor's right to contest any claim in good faith; not to commit or permit waste with respect to the Property; not to commit, suffer or permit any act upon the Land or the Improvements in violation of law, including Environmental Laws; and to do all other acts made reasonably necessary by the character or use of the Property;

3. To provide, maintain and deliver to Beneficiary property and liability insurance as required under the Agreement and apply any insurance proceeds as provided below;

4. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees and costs incurred in any such action or proceeding in which Beneficiary or Trustee may appear and in any suit brought by Beneficiary to foreclose this Deed of Trust following an Event of Default;

5. To pay in accordance with the Agreement, but in each case prior to delinquency: (i) all taxes and assessments affecting the Property; and (ii) all encumbrances, charges and liens, with interest, on the Property, or any part thereof that appear to be prior or superior hereto;

6. Should Trustor fail to make any payment or to do any act as herein provided, then, without: (i) obligation to do so; (ii) notice to or demand upon Trustor; or (iii) releasing Trustor from any obligation hereof, Beneficiary or Trustee may: (A) make or do the same in any manner and to the extent as it deems necessary to protect the security hereof; (B) appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (C) pay, purchase, contest or compromise any encumbrance, charge or lien that in its judgment appears to be prior or superior hereto; and (D) in exercising these powers, pay necessary expenses, employ counsel and pay reasonable attorneys' fees and costs, and Trustor consents to Beneficiary's and/or Trustee's entry upon the Property for any purpose set forth in this Subsection, including Beneficiary's exercise of its rights under California Code of Civil Procedure Section 564(c); and

7. To reimburse within five (5) days of demand all sums expended by Beneficiary or Trustee pursuant to this Deed of Trust, with interest at an annual rate of interest equal to the

lesser of: (i) ten percent (10%); or (ii) the maximum lawful rate from date of expenditure to the date of payment.

D. Insurance and Condemnation Proceeds.

1. Trustor hereby assigns to Beneficiary any award of damages arising from the condemnation of all or any part of the Property for public use and any insurance proceeds arising from injury to all or any part of the Property.

2. Any condemnation award or insurance proceeds must be paid to Beneficiary or, if Beneficiary has consented to subordinate the lien of this Deed of Trust to the lien of another lender for the Project, according to the provisions in the senior lender's loan documents.

3. If a condemnation award or insurance proceeds are paid to Beneficiary, Beneficiary will release or authorize the release of funds to Trustor, provided that the funds will be used for the reconstruction of the Improvements in accordance with: (i) projections demonstrating that reconstruction is economically feasible; and (ii) Trustor's construction budget and timeline, each of which must be satisfactory to Beneficiary in its reasonable discretion. In all other cases, Beneficiary may choose in its discretion to apply funds to Trustor's obligations under the Note and the Agreement or to any senior obligations, in accordance with the respective priorities of the approved lienholders as their interests may appear of record, with the remaining funds, if any, released to Trustor.

4. Trustor agrees that Beneficiary's application or release of funds pursuant to this Section will not cure or waive any default or Notice of Default (as defined below) or invalidate any act by Beneficiary performed following a default pursuant to any OCII Document unless the default has been cured by the application or release of funds.

E. Further Agreements. Trustor further acknowledges and agrees as follows:

1. Beneficiary does not waive its right either to require prompt payment when due of all other sums secured by this Deed of Trust or to declare Trustor in default for failure to pay timely by accepting payment of any sum secured hereby after its due date.

2. Trustee may reconvey any part of the Property at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note for endorsement without affecting the liability of any entity or person for payment of the indebtedness secured hereby.

3. Upon: (i) written request of Beneficiary stating that all obligations secured hereby have been paid or performed; (ii) Beneficiary's surrender of this Deed of Trust and the Note

to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose; and (iii) payment of its fees, if any, Trustee shall reconvey the Property then held hereunder without covenant or warranty.

4. As additional security, Trustor hereby irrevocably, absolutely and unconditionally assigns to Beneficiary all Rents, whether now due, past due or to become due, subject to Beneficiary's grant to Trustor of a license to collect and retain Rents as they become due and payable so long as Trustor has not defaulted in performance of the Secured Obligations.

5. Any voluntary or involuntary conveyance, sale, encumbrance, pledge or other transfer of all or any interest in the Property or in Trustor, including a security interest, in violation of the Agreement will constitute an Event of Default (as defined below) giving Beneficiary the right to exercise its remedies at law or in equity.

6. For the purposes of this Deed of Trust, Beneficiary from time to time may substitute a successor or successors to Trustee named herein or acting hereunder by instrument in writing executed by Beneficiary and duly acknowledged and recorded in the Official Records, which instrument shall be conclusive proof of proper substitution of a successor trustee or trustees. Without conveyance from Trustee, any successor or substitute trustee will succeed to all title, estate, rights, powers and duties of Trustee. The instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the recording information for this Deed of Trust and the name and address of the new Trustee.

7. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns, provided that this subsection does not constitute Beneficiary's consent to any transfer in violation of this Deed of Trust or the Agreement. The term Beneficiary shall mean the holder of the Note, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.

8. Trustee accepts this Trust when this duly executed and acknowledged Deed of Trust is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

F. Beneficiary's Rights Following Default. Upon any default by Trustor in performance of the Secured Obligations following expiration of any applicable notice and cure periods ("**Event of Default**"):

1. Trustor's license to collect and retain Rents will terminate automatically.
2. Trustor consents to Beneficiary's entry upon and taking possession of the Property, or any part thereof, at any time after the occurrence of an Event of Default without notice, either in person, by agent or by a receiver to be appointed by a court without regard to the adequacy of any security for the indebtedness hereby secured to sue for or otherwise collect and apply Rents, less costs and expenses of operation and collection, including those of the Improvements, in its own name or in the name of Trustor. Beneficiary's collection and application of Rents shall not cure or waive any Event of Default or Notice of Default or invalidate any act done pursuant to any notice.
3. Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold the Property or any part thereof ("Notice of Default").
4. Trustee shall cause the Notice of Default to be filed in the Official Records. Beneficiary also shall deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby.
5. After the lapse of time then required by law following the recordation of a Notice of Default, and notice of sale ("Notice of Sale") having been given as then required by law, Trustee without demand on Trustor may sell the Property or any part thereof, at the time and place fixed in the Notice of Sale either as a whole or in separate parcels in any order at public auction to the highest bidder for cash in lawful money of the United States payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to any purchaser a trustee's deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the trustee's deed of any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale.
6. After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: (A) all sums expended under the terms of this Deed of Trust not then repaid, with accrued interest at the highest rate allowed by law in effect at the date hereof; (B) all other sums then secured hereby; and (C) the remainder, if any, to the person or persons legally entitled thereto.

G. Notice of Default to Trustor. The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to it at its address set forth above or any succeeding address given by notice in accordance with the Agreement. A copy of all notices delivered to Trustor hereunder shall be delivered to Trustor's Investor Limited Partner at the address provided in the Agreement.

"TRUSTOR"

Mercy Housing California 78, L.P.,
a California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____

Name: _____

Its: _____

[ALL SIGNATURES MUST BE NOTARIZED.]

[Leasehold Deed of Trust - 691 China Basin Street]

Exhibit A
Legal Description of the Site

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Leasehold estate as created by that certain lease dated March _____, 2019, made by and between the Office Of Community Investment and Infrastructure as Successor Agency to the San Francisco Redevelopment Agency, as lessor, and Mercy Housing California 78 L.P., a California limited partnership, as lessee, for the term of 75 years and upon the terms and conditions contained in said lease and subject to provisions contained in the lease which limit the right of possession, Memorandum of Ground Lease thereof recorded _____, 2019, in Official Records under Recorder's Serial Number 2019-_____ in and to the following:

Block 8711, Lot 20, as shown on the Map of Final Map Tract No. 3936, filed February 22, 2006, in Book BB of Maps, Pages 54 through 58, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California, and as amended by those certain Certificate of Corrections recorded October 12, 2006 as Instrument No. 2006-1269212, September 8, 2008 as Instrument No. 2008-1643842-00 and October 22, 2008 as Instrument No. 2008-1669876-00 of Official Records.

Assessor's LOT 020; BLOCK 8711

EXHIBIT K
FORM DECLARATION OF RESTRICTIONS

FREE RECORDING PURSUANT TO
GOVERNMENT CODE §27383 AT THE
REQUEST OF THE SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO

WHEN RECORDED RETURN TO:

Successor Agency to the Redevelopment
Agency of the City and County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: Housing Program Manager

Space above for Recorder

(Assessor's Block 8711, Lot 20)
691 China Basin Street

DECLARATION OF RESTRICTIONS

Mission Bay South Block 6 West – 691 China Basin Street

THIS DECLARATION OF RESTRICTIONS ("Declaration") is made as of _____, 2019, by MERCY HOUSING CALIFORNIA 78, L.P., a California limited partnership ("Mercy Housing"), owner of a leasehold interest in the land described in Exhibit A attached hereto, in favor of the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, fee owner of the land described in Exhibit A and commonly referred to as the Office of Community Investment and Infrastructure, a public body, organized and existing under the laws of the State of California ("OCII"). The restrictions and covenants stated herein shall bind Mercy Housing and its successors and assigns ("Covenantor") and shall be enforceable by OCII and its successors and assigns ("Covenantee").

OCII and Mercy Housing have entered into that certain Ground Lease, dated _____, 2019, (the "Ground Lease") and an Amended and Restated Loan Agreement, dated as of _____, 2019, as it may be amended from time to time (the "Loan Agreement"). The Ground Lease and Loan Agreement obligate Mercy Housing to develop the Property) as low-income housing (the "Project"). Definitions and rules of interpretation set forth in the Ground Lease apply to this Declaration, unless otherwise noted.

The Project shall be subject to the following affordability restrictions:

1. The Project shall include one hundred fifty-one (151) units of low-income family rental housing ("Units") and one unrestricted manager's unit. All Units in the Project shall at all times be occupied, or held vacant and available, for rental, by households that, at the time of initial occupancy, meet certain income-eligibility requirements, namely a household income of no more than eighty percent (80%) of Area

Median Income (“Low-Income Household”). “Area Median Income” or “AMI” means the area median income, adjusted solely for actual household size and not adjusted for high cost, based on the U.S. Department of Housing and Urban Development (“HUD”) Metro Fair Market Rent Area that contains San Francisco and published on an annual basis by the Mayor’s Office of Housing and Community Development (“MOHCD”) or based on a comparable standard as determined by the Covenantor if either HUD or MOHCD no longer publish information about the area median income.

2. The Project is subject to “the average income minimum set-aside election” under Section 42(g)(1)(C) of the Internal Revenue Code. At initial lease up and occupancy of the Project, all of the Units in the Project shall be restricted and occupied by households whose incomes at the time of initial occupancy are equal to no more than the imputed income limitation designated for such units (as set forth in Section 3 below), the average of which shall not exceed 60% AMI.

3. The Covenantor shall rent Units in the Project to households who qualify as Qualified Tenants at initial occupancy consistent with the following:

Unit Size	No. of Units	Maximum Income Level
Studio	3	40% AMI
1 Bedroom	12	40% AMI
2 Bedroom	15	40% AMI
3 Bedroom	5	40% AMI
Studio	2	50% AMI
1 Bedroom	7	50% AMI
2 Bedroom	17	50% AMI
3 Bedroom	5	50% AMI
4 Bedroom	1	50% AMI
5 Bedroom	1	50% AMI
Studio	3	60% AMI
1 Bedroom	7	60% AMI
2 Bedroom	25	60% AMI
3 Bedroom	11	60% AMI
Studio	2	65% AMI
1 Bedroom	4	65% AMI
2 Bedroom	11	65% AMI
3 Bedroom	5	65% AMI
1 Bedroom	4	80% AMI
2 Bedroom	8	80% AMI
3 Bedroom	3	80% AMI

(a) The total amount for rent and utilities (with the maximum allowance for utilities determined by the San Francisco Housing Authority) charged to a Qualified Tenant may not exceed:

(i) thirty percent (30%) of the applicable Area Median Income set forth above, adjusted for household size; or

(ii) the fair market rent established by the San Francisco Housing Authority for Qualified Tenants holding Section 8 vouchers or certificates.

4. Survival of Restrictions.

- (a) The affordability restrictions herein shall remain in effect for the life of the Project and shall survive the termination of the Ground Lease and Agreement, even if the loan under the Agreement is repaid or otherwise satisfied or the Deed of Trust is reconveyed. Subject to the provisions of subsection (b), below, this affordability restriction shall remain in first position and shall not be subordinated to the lien of any deed of trust or other financing, unless the Covenantee determines, in its sole discretion, that subordination is necessary to secure adequate financing to ensure the viability of the Project.
- (b) In the event there is a loss of the Section 8 (as defined in the Loan Agreement) rental subsidies or a loss of, or reduction in, the rental subsidy payments made thereunder without replacement thereof by comparable rental subsidy or payment, or in the event of foreclosure (or acceptance of a deed in lieu thereof) under any security interest in the Project (including the Ground Lease) to which Covenantee has subordinated its own security interest therein, and notwithstanding anything to the contrary contained in (i) this Declaration (including Sections 2 and 3); or (ii) the Ground Lease, including, but not limited to Attachment 9 thereto, the sole limitation on rental and occupancy of residential units in the Project shall be that all Units shall at all times be occupied by Low-Income Households and the monthly rent paid by such households shall not exceed: (a) 30% of 80% of Area Median Income , (b) less utility allowance.

5. The Covenantor herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the Covenantor or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.

6. This Declaration constitutes covenants running with the land, including the leasehold interest and bind successors and assigns of Covenantor. In the event that Covenantor fails to comply with this Declaration to Covenantee's satisfaction, in its sole discretion, within thirty (30) days of Covenantor's receipt of Covenantee's written notice to so comply or such additional time as Covenantee determines is reasonably necessary to comply, Covenantee, at its option, may exercise any rights available at equity or in law, including, without limitation, instituting an action for specific performance. Covenantor shall pay Covenantee's costs in connection with enforcement of the terms of this Declaration, including, without limitation, Covenantee's reasonable attorneys' fees and costs.

Covenantor has executed this Declaration as of the date first written above.

COVENANTOR:

Mercy Housing California 78, L.P.,
a California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____

Name: _____

Its: _____

EXHIBIT A

(Legal Description of the Property)

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Leasehold estate as created by that certain lease dated March _____, 2019, made by and between the Office Of Community Investment and Infrastructure as Successor Agency to the San Francisco Redevelopment Agency, as lessor, and Mercy Housing California 78 L.P., a California limited partnership, as lessee, for the term of 75 years and upon the terms and conditions contained in said lease and subject to provisions contained in the lease which limit the right of possession, Memorandum of Ground Lease thereof recorded _____, 2019, in Official Records under Recorder's Serial Number 2019-_____ in and to the following:

Block 8711, Lot 20, as shown on the Map of Final Map Tract No. 3936, filed February 22, 2006, in Book BB of Maps, Pages 54 through 58, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California, and as amended by those certain Certificate of Corrections recorded October 12, 2006 as Instrument No. 2006-1269212, September 8, 2008 as Instrument No. 2008-1643842-00 and October 22, 2008 as Instrument No. 2008-1669876-00 of Official Records.

Assessor's LOT 020; BLOCK 8711

EXHIBIT L
SCHEDULE OF PERFORMANCE

No.	<u>Performance Milestone</u>	Estimated or Actual Date	Contractual Deadline
A.	Prop I Noticing (if applicable)		
	Acquisition/Predev Financing Commitment	<u>7/2017</u>	
2.	Site Acquisition	<u>3/2019</u>	<u>7/2019</u>
3.	Development Team Selection		
a.	Architect	<u>2/2017</u>	
b.	General Contractor	<u>7/2017</u>	
c.	Owner's Representative	<u>7/2017</u>	
d.	Property Manager	<u>2/2017</u>	
e.	Service Provider	<u>2/2017</u>	
4.	Design		
a.	Submittal of Schematic Design & Cost Estimate	<u>2/2018</u>	<u>2/2018</u>
b.	Submittal of Design Development & Cost Estimate	<u>7/2018</u>	
c.	Submittal of 50% CD Set & Cost Estimate	<u>11/2018</u>	
c.	Submittal of Bid Set & GMP Development	<u>12/2018</u>	
5.	Environ Review/Land-Use Entitlements		
a.	CEQA Environ Review Submission	<u>02/2018</u>	
b.	NEPA Environ Review Submission	<u>06/2018</u>	
c.	CUP/PUD/Variances Submission	<u>03/2018</u>	
6.	Permits		
a.	Building / Site Permit Application Submitted	<u>04/2018</u>	<u>04/2018</u>
b.	Addendum #1 Submitted	<u>10/2018</u>	
c.	Addendum #2 Submitted	<u>12/2018</u>	
7.	Request for Bids Issued	<u>12/2018</u>	
8.	Service Plan Submission		
a.	Preliminary	<u>12/2019</u>	
b.	Interim	<u>06/2020</u>	

c.	Update	<u>12/2020</u>	
9.	Additional City Financing		
b.	Gap Financing Application	<u>11/2018</u>	
10.	Other Financing		
a.	IIG Application	<u>3/2018</u>	
b.	Construction Financing RFP	<u>10/2018</u>	
c.	AHP Application	<u>3/2019</u>	
d.	CDLAC Application	<u>10/2018</u>	
e.	TCAC Application	<u>10/2018</u>	
g.	Other Financing Application: Project-Based Vouchers	<u>4/2018</u>	
11.	Closing		
a.	Construction Closing	<u>4/2019</u>	
b.	Permanent Financing Closing	<u>12/2021</u>	
12.	Construction		
a.	Notice to Proceed	<u>5/2019</u>	<u>5/2019</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>2/2021</u>	<u>7/2021</u>
13.	Marketing/Rent-up		
a.	Early Outreach Marketing Plan Submittal	<u>5/2019</u>	<u>8/2019</u>
b.	Obtain Approval of Early Outreach Marketing Plan	<u>7/2019</u>	
c.	Marketing and Tenant Selection Plan Submittal	<u>8/2019</u>	
d.	Obtain Approval of Marketing and Tenant Selection Plan	<u>2/2020</u>	
e.	Commence Marketing	<u>9/2020</u>	
f.	95% Occupancy	<u>6/2021</u>	<u>11/2021</u>
14.	Cost Certification	<u>4/2021</u>	
15.	Close Out MOH/OCII Loan(s)	<u>12/2021</u>	
16.	PIS Submittal for 8609	<u>1/2022</u>	

EXHIBIT M

OCII MONTHLY PROJECT UPDATE FORM

Please complete this Monthly Project Update and email the Word document to the Project Manager, with a copy to Jeff White (jeffrey.white@sfgov.org), by the first of each month. Please focus on the relevant sections of project progress, and anticipate approvals that will be needed over the next 2 – 3 months from other departments. Use as much space as you need.

0 THE PURPOSE OF THESE UPDATES IS TO TRACK PROJECT PROGRESS

1. *during pre-construction*
2. *on non-construction issues during construction, and*
3. *after regular monthly construction meetings have ended*

Project Summary Information

Project:	
Sponsor:	
# Units:	
Target Population:	

• Monthly Update

Month Covered:	Date of Report:
Completed by:	
Estimated Construction Start Date (if changed from previous update, please explain):	
Estimated Total Development Cost (if changed from previous update, please explain):	
Projected OCII gap commitment (excluding MOH funding committed to date):	
Expected date when OCII gap funding needed: Month _____ Year _____	
Procurement and bidding (architect, consultants and contractors)	
Entitlements, permits and utilities (OCII, Planning Dept., DBI, SFFD, DPW, SFWD, MOD, PG&E and DRE)	
Major issues OCII needs to be aware of, including anything that may require OCII's involvement	

Any changes in the scope, cost, schedule or financing plan? (Attach updated budget and/or schedule if any have occurred since prior month.)

Significant milestones reached during the past month, and any planned to be reached during the coming month. Also include any projected milestones not reached during the last month and the reasons why. (Depending on the phase of the project, please cover efforts to obtain additional financing, relocation planning, service planning, marketing and rent-up, etc., as applicable for the project.)

FOR OCII STAFF USE ONLY

Major issues, delays, etc.

Items for discussion with Director

EXHIBIT N
Developer Fee Schedule

Developer Fee Disbursement Schedule		
Payment Milestone	% of Project Mgmt Fee	Amount
At closing of initial pre-development financing	13.6%	\$150,000
During or at end of Predevelopment	36.3%	\$400,000
Construction Close	20%	\$220,000
At 50% Completion of Construction	10%	\$110,000
At Completion of Construction	10%	\$110,000
At Project Close Out	10%	\$110,000
Total Project Management Fee	100%	\$1,100,000
At 95% lease up and draft cost Certification		\$344,000
At Permanent Conversion		\$860,000
At Project Close Out		\$516,000
Additional Allowable Fee – Timing of release subject to OCII staff review and approval		\$3,400,000
Total At-Risk Fee		\$5,120,000
Total Cash Developer Fee		<u>\$6,220,000</u>
Deferred Fee		\$1,180,000
Total Developer Fee		<u>\$7,400,000</u>

EXHIBIT O
Assignment of Work Product

FOR VALUE RECEIVED, Mercy Housing California 78, L.P. a California limited partnership (“Borrower”) does hereby sell, assign, pledge, transfer and set over to the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body, organized and existing under the laws of the State of California, (“Agency”) all of its rights, title and interest in and to that certain architect’s agreement (“Agreement”) entered into by and between Borrower and Paulett Taggart Associates and any other contracts entered into between Borrower and any licensed design profession or engineer (“Architect” or “Engineer”), and those certain Plans and Specifications and all amendments, modifications, supplements, general conditions and addenda thereto (“Plans”) prepared by the Architects and Engineers for the account of Borrower in connection with the development of 152 units of rental housing at 691 China Basin Street (also known as Mission Bay South Block 6 East), San Francisco, California (“Project”). The Agreement and the Plans are assigned as collateral security for certain indebtedness of Borrower to Agency evidenced by that certain Promissory Note of even date herewith in the principal amount of [\$47,361,690].

Borrower and Architect or Engineer, by executing the Consent to this assignment, agree that Agency does not assume any of Borrower’s obligations or duties concerning the Agreement and the Plans, including, but not limited to, the obligation to pay for the preparation of the Agreement and the Plans, until and unless Agency shall exercise its right hereunder.

Borrower hereby irrevocably constitutes and appoints Agency as its attorney-in-fact to demand, receive, and enforce Borrower’s rights with respect to the Agreement and the Plans, to give appropriate receipts, releases and satisfactions for and on behalf of Borrower and to do any and all acts in the name of Borrower or in the name of Agency with the same force and effect as Borrower could do if this Assignment had not been made.

Borrower hereby represents and warrants to Agency that no previous assignment of its interest in the Agreement and the Plans has been made, and Borrower agrees not to assign, sell, pledge, transfer, mortgage or otherwise encumber its interest in the Agreement and the Plans so long as this Assignment is in effect. This Assignment shall automatically terminate without further action required upon Loan Closing.

This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, or successors in interest of the Borrower and Agency.

(document continues on following page)

IN WITNESS WHEREOF, Borrower has caused this Assignment to be executed on August ____, 2019.

BORROWER:

Mercy Housing California 78, L.P.,
a California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____

Name: _____

Its: _____

EXHIBIT P
Consent to Assignment

In accordance with the terms of that certain Assignment of Architects and Engineers Agreement Plans and Specifications dated on or about the date hereof, Mercy Housing California 78, L.P., a California limited partnership ("Borrower") assigned to the Successor Agency to the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body, organized and existing under the laws of the State of California, ("Agency") all of its rights, title and interest in and to that certain architect's agreement ("Agreement") entered into by and between Borrower and Paulett Taggart Associates ("Architect/Engineer") and those certain Plans and Specifications and all amendments, modifications, supplements, general conditions and addenda thereto ("Plans") prepared by the Architect/Engineer and others for the account of Borrower in connection with the development of 152 units of rental housing at 691 China Basin Street (also known as Mission Bay South Block 6 West), San Francisco, California ("Project"). The Agreement and the Plans are assigned as collateral security for certain indebtedness of Borrower to Agency evidenced by that certain Promissory Note of even date herewith in the principal amount of \$[47,361,690].

The undersigned has prepared the Plans, hereby consents to the above Assignment and represents that he/she has received payment in full for services rendered for the Plans and accordingly hereby waives his/her lien rights, if any, with respect to the Plans. The undersigned also agrees that in the event of a breach by Borrower of any of the terms and conditions of the Agreement or any other agreement entered into with the undersigned in connection with the Plans, that so long as Borrower's interest in the Plans is assigned to Agency, it will give written notice to Agency of such breach. Agency shall have sixty (60) days from the receipt of such notice of default to remedy or cure said default; however, nothing herein shall require the Agency to cure said default, but only gives it the option to do so.

The undersigned also agrees that in the event of default by Borrower under any of the documents or instruments entered into in connection with said Note, the undersigned, at Agency's request, shall continue performance under the Agreement in accordance with the terms hereof, provided that the undersigned shall be reimbursed in accordance with the Agreement for all services rendered on Agency's behalf.

Dated: _____, 2019

_____ ARCHITECT:

Paulett Taggart Associates

By: _____

Name: _____

Title: _____

(signatures continue on following page)

ENGINEER:

By: _____

Name: _____

Title: _____

EXHIBIT Q

LEGAL DESCRIPTION OF THE REAL PROPERTY

Leasehold estate as created by that certain lease dated March _____, 2019, made by and between the Office Of Community Investment and Infrastructure as Successor Agency to the San Francisco Redevelopment Agency, as lessor, and Mercy Housing California 78 L.P., a California limited partnership, as lessee, for the term of 75 years and upon the terms and conditions contained in said lease and subject to provisions contained in the lease which limit the right of possession, Memorandum of Ground Lease thereof recorded _____, 2019, in Official Records under Recorder's Serial Number 2019-_____ in and to the following:

Block 8711, Lot 20, as shown on the Map of Final Map Tract No. 3936, filed February 22, 2006, in Book BB of Maps, Pages 54 through 58, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California, and as amended by those certain Certificate of Corrections recorded October 12, 2006 as Instrument No. 2006-1269212, September 8, 2008 as Instrument No. 2008-1643842-00 and October 22, 2008 as Instrument No. 2008-1669876-00 of Official Records.

Assessor's LOT 020; BLOCK 8711

Street Address: 691 China Basin Street

EXHIBIT R

Final Financial Plan Confirmation Letter

To be attached on or before the Loan Closing Date

EXHIBIT S

Operational Rules for San Francisco Housing Lotteries and Rental Lease-up Activities

In order to implement consistent and transparent marketing practices for all affordable housing under the purview of the Office of Community Investment and Infrastructure (OCII/MOHCD) and its agent for implementation, the Mayor's Office of Housing and Community Development (MOHCD), the following policies and procedures have been adopted. The Borrower hereby acknowledges and agrees to follow these procedures as outlined below, and as may be updated from time to time.

If ever there is a conflict between a recorded development agreement and this document, the executed development agreement will prevail. Likewise, when state and federal funding sources conflict with anything outlined in these guidelines, they too shall prevail.

HOUSING PREFERENCE PROGRAMS

The Borrower hereby agrees that first preference in occupying units designated for Low Income Households (Low Income Units) will be given to persons who have been issued a Residential Certificate of Preference (COP) and who meet all qualifications for the unit.

The Borrower further agrees that second preference in occupying units designated for Low Income Households will be given to persons who have been issued a Displaced Tenant Housing Program (DTHP) Certificate and who meet all qualifications for the unit.

The Borrower further agrees that third preference in occupying designated units for Low-Income Households will be given to persons who reside or are employed in the City, and who meet all qualifications for the unit.

For new residential developments going through the initial lease-up process, the DTHP priority shall apply to twenty percent (20%) of the Low Income Units. Thus, if the number of units available exceeds the number of qualified applicants who hold a COP or other preference as dictated by specific loan documents or marketing plan, the next priority will go to DTHP certificate holders for up to 20% of the total Low Income Units. The DTHP priority does not apply at initial lease-up or sale to buildings having four (4) or fewer Low Income Housing Units. However, the EAFP priority does apply to these same units upon re-rental.

Low Income Units with other occupancy priorities required by law, contract, or program rules may apply the COP and DTHP after other preferences, with COP holders being granted priority above DTHP certificate holders. Preferences required by a former Redevelopment Project Area Plan are not pre-empted by the COP Program or the Displaced Tenant Housing Preference Program. Preferences required by the LOHP, Direct Access to Housing Program, Housing First Program, or other government programs are not pre-empted by the Displaced Tenant Housing Preference Program.

Marketing Plan

The Borrower agrees to provide OCII/MOHCD with a complete and updated marketing plan at least forty-five (45) calendar days prior to accepting lease applications and at least one hundred and twenty (120) calendar days prior to the anticipated close of escrow for ownership units or lease origination dates for rental units. The Marketing Plan as provided to OCII/MOHCD shall

not be changed without providing OCII/MOHCD with fourteen (14) calendar days written notice.

New rental units shall be marketed for at least a 21-day period, including a listing on the OCII/MOHCD and MOHCD website and on the email housing alert system.

Outreach to Certificate Holders

OCII/MOHCD shall furnish the following:

- Address printed notices to COP Holders created by the Project Sponsor using an MOHCD template.
- Assistance to qualified tenants in filing COP applications or referral to an appropriate housing counseling organization

The Borrower agrees to:

- Create written notices to COP certificate holders advising them that units are available using a template provided by OCII/MOHCD.
- Mail the notices prior to the application period. For Office of Community Investment and Infrastructure (OCII) projects, Notices should be mailed at least 15 months before completion of construction as well as prior to the application period.
- Bear the full cost of the mailing.

Outreach to DTHP Certificate Holders

MOHCD shall furnish the following:

- A housing email alert service which provides notices to DTHP certificate holders advising them of available City Affordable Housing Units.
- Assistance to tenants in filing DTHP applications (when possible) or referral to an appropriate housing counseling organization.

Application Forms

All City Affordable Housing Project applications shall include the following questions:

- Do you have a Certificate of Preference from the San Francisco Redevelopment Agency?
- Do you have a Displaced Tenant Housing Preference Program certificate or an Ellis Act Housing Preference Program Certificate?
- Does one or more of the Household members currently live or work in San Francisco?

Applications for projects shall include the following notice placed prominently:

If eligibility for a preference cannot be verified or acceptable documentation to prove eligibility for a preference is not submitted, your Household will not receive the preference for which you indicate eligibility.

Verifying Complete Applications

On an ongoing basis as applications are received, Borrowers will review them for completeness and communicate with applicants to request any additional required information. Once an

application is complete, the Borrowers will assign the application a lottery ticket number. Borrowers will send the ticket or a copy or scan of the ticket to the applicant for their records.

Pre-Lottery Application Status Reports

At least every seven (7) calendar days, from the initial date applications are accepted, The Borrower shall supply MOHCD with a “status report” listing names and addresses of all Households that have submitted complete applications and assigned lottery ticket numbers.

No more than seven (7) calendar days after the application deadline, the Borrower must provide MOHCD with a complete list of all applicants’ names, addresses, whether they have indicated that they have a COP or DTHP certificate and whether they provided acceptable proof of the LWP. MOHCD will, in turn, confirm whether each listed applicant qualifies as a COP or DTHP certificate holder, or qualifies for preliminary status as living or working in San Francisco.

Lottery Procedures

Lotteries for City Affordable Housing Units shall be held in a public, accessible location that is arranged and paid for by the Borrower. Applicants shall be invited to attend lotteries, but attendance is not mandatory.

A representative of MOHCD shall conduct the lottery in tandem with the Borrower. MOHCD shall employ a publically available computer program to generate a random lottery rank for each and every complete application with no regard for the various preference pools. All applicants with lottery ticket numbers shall be assigned a lottery rank.

The list of all complete applications sorted by lottery rank number constitutes the ‘unranked’ lottery pool. However, several additional pools must be constructed including only those applicants who qualify for specific preferences. MOHCD will produce a ranked applicant list for each relevant preference pool. Applicants will be included in all preference pools for which they are eligible. Many applicants will be included in multiple preference pools. All DTHP certificate holders will be included in the LWP pool, if applicable, regardless of their current address at the time of application. Each of the preference pools will be sorted in lottery rank order using the same lottery rank numbers (i.e. there is no separate drawing for each pool, applicants receive only one lottery rank number which determines their position on each preference list. For example, an applicant with lottery rank number 10 would be in tenth position in the general pool but, they could also be in third position in the LWP pool and first position in the DTHP pool.)

Final Lottery List

No later than seven (7) days after the date on which the lottery is held, MOHCD and the Borrower shall publish the final lottery list including the lottery rank assigned to each applicant ticket number in the general pool list and the resulting ranked preference lists for each preference pool.

Lottery results shall be posted on either the MOHCD or DAHLIA-San Francisco Housing Portal, and shall not include the names of applicants but only the application ticket numbers.

Application Review

Applications shall not be reviewed for eligibility before a lottery, but only after the lottery ranking has been finalized.

The Borrower shall adhere to the rank order of each of the lottery preference pool lists when reviewing applications.

For the sake of efficiency, Borrower may request documentation from multiple applicants with similar rankings; however applicants will be approved or disqualified only in rank order by preference pool. Because of the complexity resulting from multiple overlapping preference pools, it is important that an available unit be offered to only one applicant. Proceeding through the list beginning with the applicant with the lowest lottery rank number in the first preference pool (generally the COP list), and moving through that list before proceeding to the next preference pool, the Project Sponsor will determine whether each applicant is eligible. Eligible applicants will be sent an acceptance letter and given the chance to select a unit before the next applicant in sequence is evaluated. An applicant that selects a unit will be removed from all subsequent preference pools and the general pool. If an applicant is disqualified or declines a unit, they will be removed from all subsequent preference pools and the general pool.

In the event that applicants utilizing DTHP certificates are approved for at least 20% of the total available City Affordable Housing Units in a Project, processing of applicants from the DTHP preference pool will be suspended and applicants from the next preference pool will be considered next. The ranked DTHP list will be maintained in case any of the selected DTHP certificate holders later withdraws, in which case the next sequential applicant on the DTHP pool list will be considered.

Response Deadline

An applicant who has been approved and notified in writing by the Borrower shall have at least seven (7) calendar days thereafter to enter into a lease agreement for the available unit or ten (10) calendar days to enter into a purchase agreement for the available unit, as applicable. If the applicant fails to affirmatively respond, the application shall be considered 'rejected' by the applicant. Rejection of the unit by an applicant must be shown on the current status report submitted to OCII/MOHCD on a weekly basis. Written notice shall be provided to applicants whose applications are closed due to a lack of response. Applicants may 'reject' units with no consequence for their eligibility for future City Affordable Housing Units.

Unit Assignment

Applicants shall be assigned or have the opportunity to choose among appropriate units in the order in which they are evaluated based on the ranked preference pools.

While Household composition may change after an applicant submits an application, Borrowers shall verify that Household members who qualified the Household for any preferences are still included in the Household and sign the lease or purchase contract. In the event that Household composition changes in a way that results in a loss of any preference status, the Household will be removed from the relevant preference list and the available unit shall be offered to the next eligible Household.

In some cases, applicants who are eligible for the overall project may not qualify for any of the remaining available units because of Household size or income category requirements or other factors. If there is no appropriate unit available for the next eligible applicant, the applicant may maintain their position on the list while the Borrower processes the next eligible applicant for whom there is an appropriate available unit. Borrowers need not complete all elements of eligibility screening once they have sufficient information to determine that no appropriate unit is available for an applicant.

Coordination Between OCII/MOHCD and Borrower

Because of the complexity in implementing the preference rules it is essential for OCII/MOHCD and Borrower to coordinate closely as applicants are evaluated.

In order to prepare to process applicants in the most efficient manor, Borrowers may collect supporting documentation from applicants whose lottery position makes them likely to be considered soon. However, because of the complexity of the preference system, it will not always be possible to know which applicants will be considered next.

In order to facilitate this process, MOHCD will provide Borrowers with an applicant tracking tool which identifies the first applicant as well as the likely next applicants in rank order. Borrowers must use this tool to ensure that applicants are screened in the proper rank order.

The Borrower will process all applicants only in preference ranked order and communicate an Application Status back to OCII/MOHCD for each applicant processed before moving to consider the next eligible applicant. Application Status may include:

- ☐ Processing
- ☐ Approved
- ☐ Lease Signed(identify unit number)
- ☐ Disqualified/Withdrawn
- ☐ Appeal
- ☐ Compliance
- ☐ Waitlist

Disqualification and Appeals

Applicants who are not able to demonstrate eligibility shall be notified in writing of their disqualification. Disqualification letters shall inform applicants that they may appeal to OCII/MOHCD with a request for Reconsideration within three (3) days from the date of receipt of the disqualification letter.

In the case of an appeal or request for reconsideration, the Borrower shall follow procedures outlined in this Manual and the project's Marketing Plan. Typically, this will require holding an appropriately sized unit for the disqualified Household while OCII/MOHCD or Borrower evaluates the request for reconsideration (within seven (7) days from receipt of the request).

Final Documentation

Within fourteen (14) calendar days after execution of a lease or sale by an applicant, the Project Sponsor shall supply MOHCD with a copy of the following for all DTHP and COP applicants:

- Signed copy of lease or ownership agreement
- Copy of complete application

Retention Policy

For MOHCD auditing purposes, Borrowers are required to keep all supporting documents for each applicant that has been interviewed for at least one year after the interview.

Waitlists

For projects that fill vacancies from a waitlist the Borrower must put the following guidelines in place. The number of households on a waitlist should be no more than 300% of the number of affordable units. The minimum number of households on the waitlist should be no less than 30% of the number of affordable units. For example, for a project with 100 affordable units there should be a maximum of 300 households on the waitlist and a minimum of 30 households on the waitlist. If the number of households on the waitlist drops below 30% the Borrower must contact MOHCD to refresh the waitlist by submitting a new marketing plan. A marketing period will be commence, and a lottery conducted thereafter, to determine which households will fill the open vacancies on the waitlist. Households from subsequent lotteries will be placed after the households who were already on the waitlist.

Additionally, the Borrower must contact the households on the waitlist in writing annually to determine if they want to remain on the waitlist. If households do not respond they will be removed from the waitlist.

EXHIBIT T-1

Form of Early Outreach Plan for Initial Lease Up or Sale of Units (2016 edition) Projects Approved by the Office of Community Investment and Infrastructure (OCII)

*City and County of San Francisco
Mayor's Office of Housing and Community Development (MOHCD)
Working as OCII's agent*

This plan is subject to OCII and/or its agent's (MOHCD's) review within 10 business days from the date it is received and complete. **Please set all dates in this plan so that no date commences sooner than 30 working days before the date of your plan submission.**

Please complete and return this form in computer "Microsoft Word" document format so that our office may track changes directly onto the document. The approval process typically involves a back-and-forth process between OCII and/or its agent, and the developer's representative. Please do not submit incomplete plans. This plan may be updated from time to time at the discretion of OCII and/or its agent. Thank you.

Special Note: Projects initially approved by OCII will be transferred to MOHCD for long-term marketing and asset management after project completion.

I. General Information *(Suggestion: Cut and paste sections I - VIII from this form into your marketing plan. This is the exact information required to be included.)*

I/We agree that ("**Developer's Name**") goal is to ensure that all applicants are screened using consistently applied, fair criteria, to provide a desirable, well-maintained and affordable place to live for an economically, racially, and ethnically integrated resident population, while complying with the provisions of any federal, state, or local law prohibiting discrimination in housing on the basis of race, religion, sex, color, family status, disability status, national origin, marital status, ancestry, gender identity or sexual orientation, source of income, or HIV/AIDS status.

In order to inform the public, owners, and prospective tenants/buyers about federal fair housing laws and affirmative fair marketing procedures per the (**insert relevant contractual document with OCII**), ("**Developer's Name**") will include the Equal Housing Opportunity logotype and/or slogan, and a logotype indicating accessibility to the disabled, in all press releases, solicitations, and program information materials.

Today's Date	
Proposed Outreach Launch Date (Must be no sooner than 30 days from the date of first submission)	
Name of Building	
Property Address (Street address used)	

for marketing and mailing to new renters / buyers)	
Property Address as Stated in Planning Approval	
Planning Motion Number	
Notice of Special Restrictions Document #, Disposition and Development or Owner Participation Agreement # or Loan Agreement #	
Name of City and Co. of SF Planner	

The following developer contact information for is for internal use only.

Name of Developer	
Developer Address	
Developer Phone	
Developer Email	

Name of Marketing Company	
Marketing Agent	
Marketing Agent Address	
Marketing Agent Phone	
Marketing Agent Email	

Date of Building Permit Issuance	
Expected Issuance Date of Temporary Certificate of Occupancy	
Expected Issuance Date of Final	

Certificate of Occupancy	
Date on Which You Expect Affordable Units to Begin Occupancy	
Date on Which You Expect All Affordable Units to Complete Occupancy	

The section below applies to rental projects only.

List all Sources of Government Financing for the Project (e.g. CDLAC, TCAC, HUD Loan, Infill Grant, etc.)	
If there is a source of government financing, how long and at what % Area Median Income must your units be restricted as rental units under this financing?	
Are your units condo mapped (i.e. subdivided) through the Department of Real Estate?	
Do you intend to convert to ownership units in the future? Please explain.	

II. Overall Building Composition

Total # Units in Building (including affordable)	
Number of Residential Floors in the Building	

III. Market Rate Units (if applicable)

Unit Type	Total #
SRO	
Studio	
Jr. 1 Bedroom	
1 Bedroom	
1+ Bedroom	

2 Bedroom	
2+ Bedroom	
3 Bedroom	
3+ Bedroom	
4 Bedroom	
Other	

- IV. Affordable Units

Total # affordable (only) Units in Building	

-
- AFFORDABLE UNITS BY BEDROOM SIZE

Unit Type	Total #	Minimum Household Occupancy Size	*Maximum Household Occupancy Size
SRO			
Studio			
Jr. 1 Bedroom			
1 Bedroom			
1+ Bedroom			
2 Bedroom			
2+ Bedroom			
3 Bedroom			
3+ Bedroom			
4 Bedroom			
Other			

*Please note that children under 6 years do not count toward household size.

-
- DETAILED DESCRIPTION OF AFFORDABLE UNITS BY BEDROOM SIZE

Refer to Area Median Income Levels Set by MOHCD/ OCII for Table Below.

Unit #	Bedroom Count	Bath Count	Square Feet	Please Indicate if Unit Accessible or Adaptable (including Visually or Hearing Impaired)	% Area Median Income Limit	For rent units: Min. Monthly Household Income Required (ex: 2 or 2.5 times rent)	For sale units: Min. Down payment Required (BMR program requires only 5%)

V. Renter / Buyer Outreach

I/We understand that it is our responsibility to read and understand the rules of the regulatory agreement(s) for this development as well as the marketing and outreach policies set forth by OCII.

At least 18 months, and 8 months prior to initiation of the affirmative marketing obligations or other public advertising and marketing of the Affordable Housing Units, (as the term is defined in the relevant development agreement(s)), the Developer shall provide occupancy preference, prioritized by the applicant category (based on a list developed by Developer and OCII and/or its agent) below.

Advanced notice (the "Advance Notice"); however, must be provided through a series of three postcards to Certificate of Preference Holders (COP). Two of the three total postcards shall alert COP preference holders during (the "Advance Notice Period") of affordable and/or market rate housing opportunities in the Project that will become available:

1. COP Postcard Template 1, shall also encourage those interested to seek a housing counseling agency to assist with advanced preparation for qualifying.
2. COP Postcard Template 2, shall market workshops specific to qualifying for the Project in conjunction with your chosen housing counseling agency, and may include a description of the housing, and income qualifications for tenancy or ownership.
3. The third and final postcard shall align with the open marketing period and include notification about the information session, lottery, and how to apply (see marketing plan).

Once postcards are approved by the COP Coordinator, the Developer/ Marketing Agent shall deliver the postcards in a quantity specified by the COP Coordinator corresponding with current number of Active COP holders. Postcard mailings shall coincide with marketing intervals as described in section VII. Application/Selection Process and Timeline. The Developer/ Marketing Agent will be invoiced for associated costs such as labels, and postage after each mailing. The Return Address side of the postcard must have matt finish to allow for postage metering.

The outreach materials will include the following information, as applicable:

1) Occupancy Preferences (Verify with OCII and/or its agent)

Preference will be given to:

Preference	Applicant Category
1	Persons Displaced by Project Activity
2	Certificate of Preference Holders: a. Western Addition b. Hunters Point
3	*Ellis Act Housing Preference (EAHP) Holders or Displaced Tenant Housing Preference
4	San Francisco Residents or Workers
3	All Others

***In 2016, the City and County of San Francisco adopted the Displaced Tenant Housing Preference (DTHP) program which both expanded and supplanted the Ellis Act Housing Preference. In 2017 OCII's Commission will be considering the DTHP for application to the projects it oversees. Should the OCII Commission adopt the DTHP, that program will supplant the EAHP and any and all references to EAHP in project-related documents will be superseded to denote DTHP as the applicable preference.*

2) POST CARD TEMPLATE 1 & 2

1. Anticipated occupancy date
2. A description of the total number of Affordable Units in the Project;
2. List Housing Counseling Agency and/or workshop dates to assist prospective applicants.

Side One:



**Coming Summer, Spring, Fall,
Winter YEAR!
Affordable Homes for Rent or Sale
in San Francisco**

**Two-bedroom and three-bedroom rental or ownership
units at Lakeside Village in the XX Neighborhood
coming soon!**

For more information about the COP Program, please call 415-701-5526.

Side Two:

Return Address:

San Francisco Mayor's Office of Housing and Community Development
1 South Van Ness, 5th Floor San Francisco, CA 94103

Beautiful new Lakeside Village apartments or homes
with modern design + amenities coming XXXXXXXX!
Affordable apartments or homes available to
households at an affordable price.

Get prepared now! For help with credit repair,
building savings for your deposit, maintaining financial
documentation and any housing need that requires
time, effort and care contact:

XXXX Housing Counselor
(415) 701-1022 or www.sfxxx.org
Lakeside Village specific workshops coming February 2019.



Reserve for COP mailing label



COP Postcard Template 2

Side One:



**Coming Summer, Spring, Fall,
Winter YEAR!
Affordable Homes for Rent or Sale
in San Francisco**

**2 two-bedroom + 3 three-bedroom rental or ownership units
available at
Lakeside Village, in the XX neighborhood at
1125 Laurel Court, San Francisco, CA 94124 coming soon!**

For more information about the COP Program, please call 415-701-5526.

Side Two:

Return Address:

San Francisco Mayor's Office of Housing and Community Development
1 South Van Ness, 5th Floor San Francisco, CA 94103

Beautiful new Lakeside Village apartments or homes
with modern design + amenities coming XXXXXXXX!
Affordable apartments or homes available to
households at an affordable price.

Get prepared! Free workshops to help you qualify:

XXX Housing Counselor
(415) 701 – 1022 or www.sfxxx.org
"Rental Readiness" Tuesday 3/20 5-7pm

XXX Housing Services
(415) 701 – 5353 or www.hsxxx.org
"How to make 1125 Laurel Court home" Thursday 3/15 6-8pm



Reserve for COP mailing label



• VI. Marketing Strategy

- a) Beginning in the early outreach period and through the **lease up** of BMR units, the Developer is required to work with a Housing Counseling Agency to assist with counseling. The Developer must identify a Housing Counseling Agency in the list below. Please note the top two Housing Counseling Agencies listed have an ongoing relationship with the current population of Certificate of Preference holders:

San Francisco Housing Development Corporation (SFHDC)
Contact: Sheri Powers (415) 822-1022

Bayview Senior Services (BVSS)
Contact: Cathy Davis (415) 647-5353

SF LGBT Community Center (415) 865-5555
Veteran's Equity Center (415) 255-2347
Mission Economic Development Agency (415) 282-3334
Consumer Credit Counseling of San Francisco (800) 777-7526
Asian, Inc. (415) 928-5910

The scope of work should include the services below:

Rental Scope of Work:

To provide comprehensive outreach and marketing services integrating with education, individualized support, group workshops, and peer-support counseling to ensure COP holders have the opportunity to be prospective residents in your development..

List of services include:

- Outreach and affirmative marketing with an emphasis on Certificate of Preference holders
- Housing placement
- Budgeting and Asset Building
- Credit counseling which should address any credit issues
- Housing education
- One on one follow ups
- Tenant counseling
- Financial education including credit building techniques
- Rental application assistance and preparation
- Eviction prevention
- Workshops for application process, income eligibility, down payment requirements, credit checks, etc.
- Workshop for COP holders
- Housing rights
- Fair housing rights
- Landlord/ tenant relations and issues

Please provide any additional scope or recommendations you may have to help COP holders to be prospective residents in your development.

- b) Beginning in the early outreach period and through the **sale** of BMR units, the Developer is required to work with a Housing Counseling Agency to assist with counseling. The Developer must identify a HomeownershipSF Housing Counseling Agency in the list below. Please contact Shannon Way at (415) 202-5464 for assistance. Please note the top Housing Counseling Agency listed has an ongoing relationship with the current population of Certificate of Preference holders:

San Francisco Housing Development Corporation (SFHDC)
Contact: Sheri Powers (415) 822-1022

SF LGBT Community Center (415) 865-5555
Mission Economic Development Agency (415) 282-3334
Consumer Credit Counseling of San Francisco (800) 777-7526
Asian, Inc. (415) 928-5910

Please also refer to www.homeownershipsf.org for more information about HomeownershipSF Housing Counseling Agencies.
Ownership Scope of Work:

To provide comprehensive outreach and marketing services integrating with education, individualized support, group workshops, and peer-support counseling to ensure COP holders have the opportunity to apply to and secure housing in your development.

List of services include:

- Outreach and affirmative marketing with an emphasis on Certificate of Preference holders
- Individual pre-purchase counseling housing workshops
- One on one follow ups
- Budgeting and Asset Building
- Financial education including credit building techniques
- Credit counseling which should address any credit issues
- Homebuyer application assistance and preparation
- Workshops for application process, income eligibility, down payment requirements, credit checks, etc.
- Housing rights
- Fair housing rights

Please provide any additional scope or recommendations that will help find and prepare prospective residents.

Outreach Materials (i.e. post cards)

I/We understand that our project must provide a post card **as a part of this submission** for the AFFORDABLE units available that includes the following information. (Please refer to sample template in section V. Renter / Buyer Outreach)

- Certificate of Preference and Ellis Act Housing Preference indication (if applicable)
- Exterior and interior photo of the development
- Information on workshops
- Fair Housing logo
- Equal Opportunity logo

Please attach the Memorandum of Understanding you have negotiated with the Housing Counseling Agency.

Outreach to Certificate of Preference Holders

- I/We understand that we are responsible for marketing our Affordable Rental or Homeownership units to Certificate of Preference holders. Certificate of Preference holders are primarily households displaced in Redevelopment Project Areas during the 1960's and 1970's, but may also include other persons displaced by Agency action. For more information, applicants may contact 415-701-5526.

I/We understand that I/we shall provide post cards for the mailing of an affordable housing announcement to all Certificate of Preference holders. We are responsible for printing the post cards, once approved by the COP Outreach Coordinator. OCII and/or its agent shall coordinate the mailing and invoice the developer for the full cost of the first class mailing, including postage and labels.

-
- **VII. Application/Selection Process and Timeline**

I have read the City and County of San Francisco's Operational Rules for San Francisco Housing Lotteries and Rental Lease-up Activities (Exhibit S) and understand the application, selection, preparation and review and Lottery process.

[Please complete the following timeline as part of your Plan]

Timeline of Entire Process (add info as needed)

TASK	TIME FRAME	DATE
OCII provides developer with: • Early Outreach Plan and Marketing Plan (which includes Tenant Selection Criteria) ("Plans") template • Fair Chance Ordinance link on HRC website • Operational Rules for Lotteries & Lease Up (another exhibit of the DDA or Loan Agreement or other relevant document) • Link to list of rental readiness service providers who can assist potential applicants or Homeownership SF if for-sale project	Developer will have template prior to or by construction commencement. Developer must submit <i>draft</i> Early Outreach and Marketing Plans 30 days after construction commencement.	
Developer provides OCII and/or its agent (MOHCD) with the Early Outreach Plan	At least 1 month after construction commencement	
OCII and/or its agent reviews Outreach Plan for accurate project information, partnering with a community outreach organization, and consistency with template.	OCII will provide approval no later than 10 business days after final draft is received.	
OCII and/or its agent reviews and approves Outreach Plan	Approval is provided within 5 business days.	
Early Outreach begins: • OCII and/or its agent monitors developer's progress on Early Outreach timeline and activities • Developer submits monthly reports on Early Outreach activities to OCII and/or its agent		
Developer provides OCII and/or its agent with Early Outreach marketing materials and OCII and/or its agent does 1 st of 3 COP mailings • Notice of Workshop dates to come, • encouragement to contact housing counseling agency • help with credit repair • asset building • maintaining financial documentation etc.	3 months after construction commencement or 18 to 12-months prior to the anticipated Temporary Certificate of Occupancy ("TCO").	
Developer submits refined draft Marketing Plan. Upon receipt of draft Marketing Plan, OCII notifies its agent, if any, that the tenant selection and marketing plans are forthcoming. (If no agent represents OCII proceed to next task below.)	12-months prior to the anticipated Temporary Certificate of Occupancy ("TCO").	

OCII reviews Plan for consistency with development agreements (loan agreements, VDDAs, DDAs, OPA/DDAs), including appropriate rent ranges, AMIs and occupancy preferences, engages with developer if any discrepancies, and confirms with its agent, if any, first draft of plan is consistent with applicable agreement, and sends to its agent, if any.	Within 30 days of receipt of plan (no later than 45 days after receipt of draft plan) OCII sends to plan to MOHCD	
OCII and/or its agent meet with leasing agent and Access to Housing Partner to go over all marketing, lease-up & lottery processes	After draft Marketing Plan(with the Tenant Selection Criteria) are approved and before marketing plan is finalized and approved	
OCII and/or its agent approves revised draft Plans & transmits Marketing Plan approval to developer	Within 60 days after the receipt of the Marketing Plan	
Developer provides OCII and/or its agent with marketing materials and OCII and/or its agent does 2 nd of 3 COP mailings • Notice of project specific Workshop dates • Get prepared, free workshops to help with qualification • Unit specific, # of units etc.	8-5 months before TCO	
OCII and/or its agent requests any/all Plan updates from developer with finalized dates and actual pricing	7 months before lease up/sales	
Developer submits final plan and COP postcard to OCII and/or its agent • OCII and/or its agent does 3th of 3 COP mailings • Notice of open Marketing period • Unit specific, rent, # of units etc. • Information sessions • Open house dates • lottery	30 day period, 6 months sales	
For projects where lease-up begin between Jan-May: If a new AMI has been published since the first draft of the Marketing Plan was created, then OCII will determine if the new AMI & Rent limits should be used in the final version of the marketing Plan. Alert OCII and/or its agent if the AMI numbers are revised.	Same 30 day period as above	
Developer sends advertisements to OCII and/or its agent for review and approval	Same 30 day period as above	
OCII and/or its agent considers final Marketing Plan with advertisements for approval • Final postcard to be delivered week prior to open marketing period.	Same 30 day period as above	
Marketing Period begins. OCII and/or its agent does COP mailing and posts to website, housing alert system; Front Desk	90 days before sales	
Marketing period	28 days (rent) / 45 days (homeownership)	

Developer provides OCII and/or its agent with applicant lists on a weekly basis. OCII and/or its agent confirms DTHP & COP	<u>Weekly</u> during marketing period	
OCII attends a specialized rental readiness workshop session for COP holders)	When scheduled	
OCII fields consumer complaints and works with leasing agent to address pre-lottery issues	As needed	
Developer provides OCII and/or its agent with final list of applications that are assigned lottery numbers	One week before lottery date	
Lottery –OCII and/or its agent assists developer	Four weeks after marketing period ends	
Developer provides OCII and/or its agent with final lottery lists that have been reconciled with the applicant list	ASAP after lottery	
Developer will submit lottery list to OCII and/or its agent who will confirm the list within 7 business days.		
Lease-up / Sales begin The appeals process needs to be included on the application, next to the signature line and in every denial letter sent to applicants		
Developer submits weekly sales or lease up reports to OCII and/or its agent using spreadsheet provided by OCII and/or its agent	Weekly during unit lease-up / sales	
If applicant files an appeal: - Developer tracks the appeal on weekly lease-up/sales list - Developer hears the appeal - Before 2nd denial is sent OCII and/or its agent needs to review file		
OCII and/or its agent reviews all denials and confirms Developer is correct in calculations and following marketing procedures		
OCII's agent, if any, alerts OCII to problems/concerns with lease-up. (If no agent represents OCII proceed to next step below.)		
OCII addresses lease-up / sales issues with Developer		
OCII addresses lease-up / sales issues with consumers and hears denial appeals after initial review by OCII and/or its agent		
Developer provides OCII and/or its agent with a clean copy of the Final Waitlist		

VIII. Document Review

I/We certify that I/we and all agents involved in the process of renting affordable units have read Exhibit L.

Representative (sign) _____

Representative (print) _____

Title (print) _____

Company (print) _____

Date (print) _____

GROUND LEASE

Mission Bay South Block 6 West

691 China Basin Street

by and between the

**OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE AS
SUCCESSOR AGENCY TO THE SAN FRANCISCO REDEVELOPMENT AGENCY,
a public body, organized and existing under the laws of the State of California**

as Landlord

AND

**Mercy Housing California 78, L.P.,
a California Limited Partnership**

as Tenant

Dated as of _____, 2019

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GROUND LEASE

This GROUND LEASE (this “**Ground Lease**” or “**Lease**”) is entered into as of _____, 2019, by and between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (commonly known as the Office of Community Investment and Infrastructure or “**OCII**”), a public body, organized and existing under the laws of the State of California (the “**Landlord**”), and Mercy Housing California 78, L.P., a California limited partnership (the “**Tenant**”) (Tenant and OCII are individually a “Party” hereto and collectively “Parties”).

RECITALS

- A. In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 et seq. the “**CRL**”), the former San Francisco Redevelopment Agency (“**Former Agency**”) and the City and County of San Francisco (the “**City**”) established the Mission Bay South Redevelopment Project Area (the “**Project Area**”).
- B. In accordance with the CRL, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay South Redevelopment Project Area by Ordinance No. 335-98 adopted on November 2, 1998. The Redevelopment Plan is referred to as the “Mission Bay South Redevelopment Plan.” In cooperation with the City, the Former Agency was responsible for implementing the Mission Bay South Redevelopment Plan.
- C. The Mission Bay South Redevelopment Plan provides for the redevelopment, construction and revitalization of the area generally bounded by the China Basin Channel, Seventh and Mariposa Streets, and the San Francisco Bay, containing approximately 238 acres of land, into a mixed-use development comprised of public open space, retail, commercial, entertainment uses, and parking and loading uses.
- D. The Mission Bay South Owner Participation Agreement (the “**OPA**”) between the Former Agency and Catellus Development Corporation (succeeded by FOCIL-MB, LLC (the “**Master Developer**”) includes the Mission Bay South Housing Program (Attachment C to the OPA), which (as currently amended) provides that the Master Developer will contribute lands within the Project Area to the Former Agency, at no cost, for the development of up

to one thousand two hundred eighteen (1,218) affordable housing units (defined in the OPA as “**Agency Affordable Housing Parcels**”). Block 6 West is within the Mission Bay South Residential land use district of the Project Area, as more particularly described in **Attachment 1** (the “Site”), and is an Agency Affordable Housing Parcel to be contributed to the Former Agency for development of affordable housing.

- E. On February 1, 2012, the State of California dissolved all redevelopment agencies, including the Former Agency, by operation of law pursuant to California Health and Safety Code Sections 34170 et seq. (“**Redevelopment Dissolution Law**”). Under the authority of the Redevelopment Dissolution Law and under San Francisco Ordinance No. 215-12 (Oct. 4, 2012) (establishing the Successor Agency Commission (“**Commission**”) and delegating to it state authority under the Redevelopment Dissolution Law), OCII is administering the enforceable obligations of the Former Agency.
- F. On January 24, 2014, the California Department of Finance (“**DOF**”) made a final and conclusive determination pursuant to Redevelopment Dissolution Law that the OPA, the Mission Bay South Tax Increment Allocation Pledge Agreement, and the Mission Bay South Allocation Pledge Agreement Housing are enforceable obligations that survive the dissolution of the Former Agency, and require OCII to administer the development authorized under the Mission Bay South Redevelopment Plan, OPA, and related South Plan Documents, including the obligation to fund construction of affordable housing on the Agency Affordable Housing Parcels.
- G. In 2015, the State of California adopted amendments to the Redevelopment Dissolution Law, codified at Health and Safety Code Section 34177.7, which authorized OCII to incur indebtedness for the purpose of funding development of affordable housing, including of the Agency Affordable Housing Parcels.
- H. On August 23, 2016, OCII issued a Housing Development Request for Proposals (the “**RFP**”) to develop and operate affordable rental housing units for low income families as well as a childcare facility space on the Site. On February 21, 2017, the Commission selected, by Resolution No. 7-2017, Mercy Housing California to develop the Project. Accordingly, the Commission approved, by Resolution No. 28-2017, an exclusive negotiations agreement (the “**ENA**”) by and between OCII and Tenant on July 18, 2017.

- I. Tenant intends to construct on the Site approximately one hundred fifty-two (152) units of low-income family rental housing (including one unrestricted manager's unit) and associated parking as well as ground floor space consisting of approximately 7,000 square feet of child care and community serving commercial space, as set forth in the Basic Concept and Schematic Designs for the Improvements approved on March 20, 2018 by Commission Resolution No. 008-2018, and further set forth in Design Development Documents for the Improvements, approved by the OCII on September 10, 2018, and as may be further revised in accordance with the Redevelopment Requirements. (the "**Improvements**" or "**Project**"). On February 9, 2018, the OCII Executive Director approved a Local-Serving Child Care Facility as a secondary use for approximately 4,400 square feet of the Commercial Premises.
- J. Thirty-eight (38) of the Residential Units (as defined herein) in the Project will be set aside as replacement units for households voluntarily relocating from San Francisco public housing sites (HOPE-SF Set Aside Units) and such units will be supported with project-based rental-subsidy vouchers pursuant to the Section 8 Program of the Housing and Community Development Act of 1974, which collectively will assist in funding of the operations of the Project (the "**Section 8 Subsidy**").
- K. Pursuant to authorization by Commission Resolution No.28-2017, OCII entered into a Predevelopment Loan Agreement with funds totaling Three Million Four-Hundred Ninety-Five Hundred Thousand Dollars (\$3,495,000) to Tenant to fund certain costs related to the development of the Project (the "**Predevelopment Loan**").
- L. On December 7, 2018, the Citywide Affordable Housing Loan Committee approved a loan to the Tenant for the development of the Project for an aggregate amount not to exceed \$47,361,690, which includes the Predevelopment Loan amount of \$3,495,000.
- M. On February 19, 2019, the OCII Commission approved a loan to the Tenant for the development of the Project in an aggregate amount not to exceed \$47,361,690, including the Predevelopment Loan amount (the "**OCII Loan**", the final amount of which shall be confirmed in accordance with the Loan Documents), pursuant to Commission Resolution No. 3-2019.
- N. In accordance with the OPA, on or before , 2019, Master Developer will transfer the Site to OCII.

- O. OCII now intends to lease the Site to Tenant in accordance with the terms of this Ground Lease.
- P. For purposes of implementation and to ensure consistency with the City's overall affordable housing goals and priorities, OCII has engaged the City's Mayor's Office of Housing and Community Development to provide construction monitoring and loan disbursement services for the Project, in cooperation with OCII.
- Q. Upon completion of the Project, OCII intends to assign its rights and obligations under this Ground Lease and the Loan Documents, together with conveyance of fee title to the Site, to MOHCD as the designated Housing Successor of the City and County of San Francisco under Board of Supervisors Resolution 11-12, as required by Redevelopment Dissolution Law and OCII's approved Long-Term Property Management Plan dated December 2015.

NOW THEREFORE, in consideration of the mutual obligations of the parties hereto, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Site, for the Term, and subject to the terms, covenants, agreements and conditions hereinafter set forth, to each and all of which Landlord and Tenant hereby mutually agree.

ARTICLE 1: DEFINITIONS

Terms used herein have the meanings given them when first used or as set forth in this Article 1, unless the context clearly requires otherwise.

- 1.01 "Area Median Income" (or "AMI")** means the area median income as determined by MOHCD (or any successor thereto), adjusted solely for actual household size and not adjusted for high cost as published in the document called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco" on an annual basis.
- 1.02 "Commercial Premises"** means approximately 7,000 square feet of the ground floor portion of the Improvements devoted to child care and other non-residential uses approved by Landlord.
- 1.03 "Construction Documents"** has the meaning given in Section 10.01.
- 1.04 "Conversion Date"** the date that the construction financing on the property converts to permanent financing.

- 1.05 “Critical Activity(ies)”** means a construction or professional services activity which, if delayed or extended, will delay Substantial Completion or the Final Completion Date.
- 1.06 “Effective Date”** means the date on which the Memorandum of Lease is recorded in the Official Records of the City and County of San Francisco.
- 1.07 “First Mortgage Lender”** means Bank of America, N.A., and upon the Conversion Date, California Community Reinvestment Corporation, or a bank or other entity holding the first deed of trust on the Leasehold Estate, and in the event of the bond financing, the bond trustee (if any) and the entity purchasing the bonds shall both be First Mortgage Lender.
- 1.08 “First Lease Payment Year”** means the calendar year in which the last (or 152nd individual) Certificate of Occupancy for residential dwelling unit(s) in the Project is issued. For the purposes of this Ground Lease, the number of days in the First Lease Payment Year shall be the number of days remaining in the calendar year from the date said last Certificate of Occupancy is issued.
- 1.09 “Former Agency”** has the meaning set forth in Recital A.
- 1.10 “General Partners”** means Tenant’s general partner(s).
- 1.11 “Ground Lease”** means this Ground Lease of the Site to the Tenant from Landlord, as amended from time to time.
- 1.12 “Improvements”** has the meaning set forth in Recital I.
- 1.13 “Investor Limited Partner”** means Bank of America, N.A., its successors and assigns.
- 1.14 “Landlord”** means the Successor Agency to the Redevelopment Agency of the City and County of San Francisco and its successors and/or assigns.
- 1.15 “Lease Year”** means each calendar year during the term hereof, beginning on January 1 and ending on December 31.
- 1.16 “Leasehold Estate”** means the estate held by the Tenant pursuant to and created by this Ground Lease.
- 1.17 “Leasehold Mortgage”** means any mortgage, deed of trust, trust indenture, letter of credit or other security instrument, including but not limited to the deeds of trust securing any Lender, and any assignment of the rents, issues and profits from the Leasehold Estate, or any portion thereof, which constitute a lien on the Leasehold

Estate and have been approved in writing by the Landlord.

- 1.18 “Lender”** means, collectively, Bank of America, N.A., Landlord, California Community Redevelopment Corporation, a California nonprofit public benefit corporation, and any other entity holding a Leasehold Mortgage.
- 1.19 “Loan Documents”** means that certain Amended and Restated Loan Agreement, Note, Deed of Trust, Declaration of Restrictions, and any other documents executed or delivered in connection with the OCII Loan, all dated August 16, 2019, as amended.
- 1.20 “Low-Income Households”** means a tenant household whose initial household income does not exceed eighty percent (80%) of median income, adjusted solely for actual household size and not adjusted for high cost, as published in the document called “Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco” by MOHCD (or any successor thereto) on an annual basis.
- 1.21 “MOHCD”** shall have the meaning given in Recital O and, under Redevelopment Dissolution Law, it is the housing successor that the City and County of San Francisco has designated by Board of Supervisors Resolution No. 11-12 (Jan. 26, 2012) .
- 1.22 “Occupant”** means any person or entity authorized by Tenant to occupy a residential unit on the Site, or any portion thereof.
- 1.23 “OCII Loan”** has the meaning set forth in Recital K.
- 1.24 “Partnership Agreement”** means the Amended and Restated Agreement of Limited Partnership of Tenant, by and among the General Partner, the Investor Limited Partner and the Special Limited Partner, as the same may be amended from time to time.
- 1.25 “Permitted Limited Partner”** means the Investor Limited Partner, successors to and/or assigns of Investor Limited Partner that are an affiliate of Investor Limited Partner, or any limited partner determined to be a Permitted Limited Partner in accordance with Section 19.02(c).
- 1.26 “Premises”** means the Site together with any Improvements thereon.
- 1.27 “Project”** has the meaning given in Recital I. If indicated by context, “**Project**”

means the leasehold interest in the Site and the fee interest in the Improvements on the Site.

- 1.28 “Redevelopment Requirements”** means, as defined in the OPA and its Attachment C (Mission Bay South Housing Program): (i) the Mission Bay South Redevelopment Plan, (ii) the Scope of Development, (iii) the Design for Development, (iv) those elements of the Construction Documents for which approval is required pursuant to the Design Review and Document Approval Procedure.
- 1.29 “Residential Units”** has the meaning given in Section 9.02.
- 1.30 “Site”** means the real property shown in the Site Legal Description, Attachment 1
- 1.31 “Special Limited Partner”** means Banc of America CDC Holding Company, Inc., a North Carolina corporation, and its successors and assigns.
- 1.32 “Subsequent Owner”** means any successor (including a Lender or an affiliate or assignee of a Lender as applicable) to the Tenant’s interest in the Leasehold Estate and the Improvements following a foreclosure, deed in lieu of foreclosure, or transfer to a Lender or its affiliate, and any successors to any such person or entity.
- 1.33 “Tenant”** means Mercy Housing California 78, L.P. or its permitted successors as holder of the leasehold estate in the Site and fee ownership of the Improvements, including a Subsequent Owner, where appropriate.

Whenever an Attachment is referenced, it means an attachment to this Ground Lease unless otherwise specifically identified. Whenever a section, article or paragraph is referenced, it is a reference to this Ground Lease unless otherwise specifically referenced.

ARTICLE 2: TERM

The term of this Ground Lease (“**Term**”) shall consist of the Initial Term and any Extended Term, as follows:

(a) Initial Term. The Term of this Ground Lease shall commence upon the Effective Date (and Tenant shall be entitled to possession of the Leasehold Estate as of such date) and shall end seventy-five (75) years from that date (the “**Initial Term**”), unless extended pursuant to subsection (b) below.

(b) Option for Extension. Provided that the Tenant is not in default of the terms of its obligations to Landlord either at the time of giving of an Extension Notice, as described in

subparagraph (c) below, or on the last day of the Initial Term (the “**Termination Date**”), the term of this Ground Lease may be extended at the option of the Tenant for one period of twenty-four (24) years (the “**Extended Term**”) as provided below.

(c) Notice of Extension. Not later than one hundred eighty (180) days prior to the Termination Date, the Tenant may notify the Landlord in writing that it wishes to exercise its option to extend the term of this Ground Lease (an “**Extension Notice**”). The Extended Term shall be for twenty-four (24) years from the Termination Date, which option the Tenant may exercise only once, for a total Term of not to exceed ninety-nine (99) years.

(d) Rent During Extended Term. Rent for the Extended Term will be as set forth in Article 4.

(e) Right of First Refusal. If, following the Term of this Ground Lease, or any extensions of this Ground Lease, the Landlord desires to sell its interest in the Site, the Tenant will have the right of first refusal to negotiate for the purchase of the Site provided that the Tenant agrees to maintain the Leasehold Estate as a low-income housing development consistent with the Declaration of Restrictions.

ARTICLE 3: FINANCING

Tenant shall submit to Landlord in accordance with the dates specified in the Schedule of Performance, Attachment 3, for approval by Landlord, evidence satisfactory to Landlord that Tenant has sufficient equity capital and commitments for construction and permanent financing, and/or such other evidence of capacity to proceed with the construction of the Improvements in accordance with this Ground Lease, as is acceptable to the Executive Director of OCII. By execution of this Agreement, Landlord hereby acknowledges and approves that Tenant has complied with the requirements set forth in this Article 3.

ARTICLE 4: RENT

4.01 Annual Rent

(a) Commencing in the First Lease Payment Year, Tenant shall pay Landlord Two Million Six Hundred Sixty Thousand Dollars (\$2,660,000.00) per year for lease of the Site, consisting of Base Rent and Residual Rent, as defined in Sections 4.02 and 4.03 below and subject to the provisions thereof, without offset of any kind and without necessity of demand, notice or invoice from the Landlord (together, “**Annual Rent**”). Landlord has determined that this rent accurately reflects ten percent (10%) of the unrestricted appraised value of the Site.

Annual Rent shall be re-determined on the fifteenth anniversary of the expiration of the First Lease Payment Year and every fifteen (15) years thereafter, and shall be equal to the greater of (i) Two Million Six Hundred Sixty Thousand Dollars (\$2,660,000.00) and (ii) ten percent (10%) of the appraised value of the Site as determined by an MAI appraiser selected by and at the sole cost of Tenant, provided that, if during the Term (and regardless of whether or not a redetermination of Annual Rent is then required pursuant to this provision), Tenant fails to operate the Site in accordance with the rent restrictions set forth in Attachment 9 after expiration of the cure periods provided in this Ground Lease and in addition to all remedies available to Landlord in this Ground Lease, including those in Section 19.04, Landlord may require that the Annual Rent be re-determined within sixty (60) days after the expiration of such cure period and every fifteen (15) years thereafter in an amount equal to ten percent (10%) of the unrestricted fair market value of the Site as determined by an MAI appraiser selected by and at the sole cost of the Tenant (the “Re-determined Annual Rent”).

(b) If the Tenant elects to exercise its option to an Extended Term, Annual Rent during the Extended Term shall be set by mutual agreement of the parties, taking into account the affordable housing restrictions contained in Section 9.02, project debt and the annual income expected to be generated by the Project. If the parties cannot agree on Annual Rent for the Extended Term, either party may invoke a neutral third-party process to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco taking into account the affordable housing restrictions contained in Section 9.02 or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. Provided, however, that after the neutral third party process, Tenant, in its sole discretion may rescind its Extension Notice if it does not wish to extend the term of this Ground Lease.

4.02 Base Rent

(a) “Base Rent”, means, in any given Lease Year commencing with the First Lease Payment Year, Fifteen Thousand Dollars (\$15,000). Base Rent shall be due and payable in arrears on January 31st following the Lease Year for which it is owed; provided, however, Base Rent for the First Lease Payment Year shall be due on the January 31st of the following calendar year, and shall be equal to Fifteen Thousand Dollars (\$15,000) times the number of days in the First Lease Payment Year, divided by three hundred sixty-five (365).

(b) “Project Income” means all income and receipts in any form received by Tenant from the operation of the Project, including rents, fees, deposits, commercial master lease payments, accrued interest disbursed from any reserve account required under this Ground Lease for a purpose other than that for which the reserve account was established, and reimbursements and other charges paid to Tenant in connection with the Project other than the insurance proceeds. Project Income shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances, condemnation proceeds, insurance proceeds used for the purpose of reconstructing all or part of the Project or interest accruing on any portion of the principal amount of the OCII Loan. Except as otherwise provided in Section 26.07(a), if the Project does not have sufficient Project Income to pay Base Rent in any given Lease Year after the payment of Project Expenses in items (a) through (h) in definition of Project Expenses, below, and Landlord has received written notice from Tenant regarding its inability to pay Base Rent from Project Income, the unpaid amount shall be deferred and all such deferred amounts shall accrue without interest until paid (“**Accrued Base Rent**”). The Accrued Base Rent shall be due and payable each year, to the extent available from Surplus Cash in accordance with Section 6.02(f).

(c) “Project Expenses” means the following costs, which may be paid from Project Income to the extent of available Project Income pursuant to the Annual Operating Budget established in the Loan Documents: (a) all charges incurred in the operation of the Project for utilities, real estate taxes and assessments and premiums for insurance required under this Ground Lease, the Loan Agreement or by any Lender; (b) salaries, wages and any other compensation due and payable to the employees or agents of Tenant employed in connection with the Project, including all related withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments; (c) required payments of interest and principal, if any, on the senior financing that has been approved by Landlord and is secured by either the Tenant’s interest in the Leasehold Estate, the Project constructed thereon, or both, and used to finance the Project; (d) all other expenses actually incurred to cover operating costs of the Project, including without limitation, supportive services (if any), maintenance and repairs; (e) credit adjuster payments including interest; (f) required, and necessary, deposits to the Replacement Reserve Account, Operating Reserve Account and any other reserve account as required under the Loan Documents; (g) the approved annual property management fees indicated in the Loan

Documents; (h) an initial issuer fee equal to 25 basis points on the total bond issuance or \$170,000, and an annual bond monitoring fee equal to the greater of 12.5 basis points on the outstanding bond amount or \$85,000 per year with no annual increases; (i) annual Base Rent payments; and (j) any extraordinary expenses reasonably approved in advance by the Landlord (other than expenses paid from any reserve account). Project Fees are not Project Expenses.

(d) “Project Fees” means (i) a combined annual asset management and partnership management fee in the amount of no less than \$25,000 and no more than \$45,320 in the first year of operations, and increasing by 3.5% annually, (ii) an limited partner asset management fee/annual investor services fee in the amount of \$5,000, and (iii) deferred developer fees approved by Landlord pursuant to the Loan Documents, as allowed by the San Francisco Mayor’s Office of Housing and Community Development Multifamily Affordable Housing Operating Fees Policy (effective April 1, 2016) and Policy on Development Fees For Tax Credit Projects (effective July 29, 2016, updated on July 20, 2018), both as may be amended from time to time.

(e) There shall be a late payment penalty of two percent (2%) for each month or any part thereof if Base Rent payment is delinquent. This penalty shall not apply to Accrued Base Rent pursuant to Section 4.02(b). The Tenant may request in writing that Landlord waive such penalties by describing the reasons for Tenant’s failure to pay Base Rent and Tenant’s proposed actions to ensure that Base Rent will be paid in the future. Landlord may, in its sole discretion, waive in writing all or a portion of such penalties if it finds that Tenant’s failure to pay Base Rent was beyond Tenant’s control and that Tenant is diligently pursuing reasonable solutions to such failure to pay.

4.03 Residual Rent

“Residual Rent” means, in any given Lease Year, commencing with the First Lease Payment Year an amount equal to Two Million Six Hundred Forty-Five Thousand Dollars \$2,645,000.00 subject to adjustment as provided in Sections 4.01(a) and (b). Residual Rent shall be due in arrears on or before June 1st of each Lease Year commencing with the First Lease Payment Year; provided however Residual Rent for the First Lease payment Year shall be due on the June 1st of the following calendar year, and shall be equal to shall be equal to: the difference of Base Rent subtracted from Annual Rent, which difference is then divided by three

hundred sixty five (365), which product is then multiplied by the number of days in the First Lease Payment Year. Except as otherwise provided in Section 26.07(a)(2)(C), Residual Rent for any year shall be payable only to the extent of Surplus Cash for such year as provided in Section 6.02(f), Residual Rent owed but unpaid as the result of insufficient Surplus Cash in any year shall not accrue, shall not be owed to Landlord and shall not become payable from Surplus Cash in any subsequent years. However, in the event that Surplus Cash is insufficient to pay the full amount of the Residual Rent, Tenant shall certify to Landlord in writing, no later than April 15th of the Lease Year in which the Residual Rent is due, that available Surplus Cash is insufficient to pay Residual Rent and Tenant shall provide to Landlord any supporting documentation reasonably requested by Landlord to allow Landlord to verify the insufficiency.

4.04 Surplus Cash

“**Surplus Cash**” means all Project Income in any given Lease Year remaining after payment of Project Expenses and Project Fees. The amount of Surplus Cash will be based on figures contained in audited financial statements. All permitted uses and distributions of Surplus Cash shall be governed by Section 6.02(f) of this Ground Lease.

4.05 Triple Net Lease

This Ground Lease is a triple net lease and the Tenant shall be responsible to pay all costs, charges, taxes, impositions and other obligations related thereto. If Landlord pays any such amounts, whether to cure a default or otherwise protect its interests hereunder, Landlord will be entitled to be reimbursed by Tenant the full amount of such payments as additional rent within thirty (30) days of written demand by Landlord. Failure to timely pay the additional rent shall be an Event of Default, subject to applicable notice and cure periods.

ARTICLE 5: LANDLORD COVENANTS

Landlord covenants and warrants that the Tenant and its subtenants shall have, hold and enjoy, during the Term, peaceful, quiet and undisputed possession of the Site leased without hindrance or molestation by or from anyone so long as the Tenant is not in default under this Ground Lease. Landlord represents that it is lawfully acting as the successor public agency to the Former Agency and is the fee simple owner of the Site. All necessary actions by any board of directors, managers, or other applicable persons necessary for the due authorization, execution, delivery and performance of this Ground Lease by the Landlord have been duly taken.

ARTICLE 6: TENANT COVENANTS

Tenant covenants and agrees for itself, and its successors and assigns to or of the Site, or any part thereof, that:

6.01 Limited Partnership/Authority

Tenant is a California limited partnership and has full rights, power and authority to enter into and perform its obligations under this Ground Lease.

6.02 Use of Site and Rents

During the Term of this Ground Lease, Tenant and such successors and assigns shall comply with the following requirements:

6.02(a) Permitted Uses

Except as provided in Sections 26.06 and 26.07, devote the Site to, exclusively and in accordance with, the uses specified in Article 9 of this Ground Lease, which are the only uses permitted by this Ground Lease.

6.02(b) Non-Discrimination

The tenant herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the tenant himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

6.02(c) Non-Discriminatory Advertising

All advertising (including signs) for sublease of the whole or any part of the Site shall include the legend "Equal Housing Opportunity" in type or lettering of easily legible size and design.

6.02(d) Access for Disabled Persons

Comply with all applicable laws providing for access for persons with disabilities, including, but not limited to, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

6.02(e) Lead Based Paint

Tenant agrees to comply with the regulations issued by the Secretary of HUD set forth in 24 CFR Part 35 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in certain residential structures undergoing federally assisted construction and require the elimination of lead-based paint hazards.

6.02(f) Permitted Uses of Surplus Cash

All annual Project Income shall be used to pay Project Expenses, including, but not limited to Base Rent, and Project Fees. Any cash remaining after payment of each and all of the above-mentioned obligations shall be deemed Surplus Cash. Provided Tenant is not currently in default (subject to applicable notice and cure periods) under the terms of this Ground Lease or the Loan Documents, Tenant shall use Surplus Cash to make the following payments:

Fifty percent (50%) of the Surplus Cash shall be distributed to Landlord (the "Landlord's Portion") and fifty percent (50%) of the Surplus Cash shall be distributed to Tenant, until the earlier to occur of (i) the fifteenth (15th) anniversary of the date the Project achieves One Hundred Percent Occupancy; or (ii) full payment of the Deferred Developer Fee (as defined in the Loan Documents). Thereafter, one-third (1/3) of Surplus Cash shall be distributed to the Tenant and the remaining two thirds (2/3) shall be distributed to Landlord as Landlord's Portion. Subject to consistency with the priority of application of Landlord's Portion as specified in the Loan Documents (which shall prevail in the event of conflict), at all times during the Term, Landlord's Portion will be applied first to Accrued Base Rent, and then toward repayment of the outstanding OCII Loan until the entire principal and accrued but unpaid interest on the OCII Loan, and repayment of outstanding principal and accrued and unpaid interest on any other debt permitted by Landlord to be payable from Surplus Cash, is repaid in full, and then payment of Landlord's Portion shall go toward Residual Rent until paid in full in accordance with the terms of this Ground Lease.

Upon cure of any default under this Ground Lease, Tenant shall be permitted to

receive payments of Surplus Cash as provided in this Section 6.02(f). Subject to the requirement for Tenant to pay Annual Rent to Landlord pursuant to the terms of this Ground Lease, and provided that all other payment obligations under this Lease have been met, Tenant shall have the exclusive right to deduct, claim, retain and enjoy any and all rental income appreciation, gain, depreciation, amortization and tax credits for federal and state tax purposes relating to all Improvements and any and all additions thereto, substitutions therefor, fixtures therein and other property relating thereto, and Landlord shall treat Tenant as the tax owner of the Improvements for federal and state income tax purposes and shall not file any tax returns inconsistent with this treatment.

6.03 Landlord Deemed Beneficiary of Covenants

In amplification, and not in restriction, of the provisions of the preceding subsections, it is intended and agreed that Landlord shall be deemed beneficiary of the agreements and covenants provided in this Article 6. Such agreements and covenants shall run in favor of Landlord for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether OCII has at any time been, remains, or is an owner of any land or interest therein to, or in favor of, which such agreements and covenants relate. Landlord shall have the right, in the event of any breach of any such agreements or covenants, in each case, after notice and the expiration of cure periods, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of covenants, to which it may be entitled.

ARTICLE 7: ANNUAL INCOME COMPUTATION AND CERTIFICATION

Forty-five (45) days after recordation of a Notice of Completion by the Tenant for the Project, and on May 31st of each year thereafter, Tenant will furnish to Landlord a list of all of the names of the persons who are Occupants of the Improvements, the specific unit which each person occupies, the household income of the Occupants of each unit, the household size and the rent being charged to the Occupants of each unit, subject to all applicable local, state and federal laws limiting or restricting the disclosure of such information. If any state or federal agency requires an income certification for Occupants of the Improvements containing the above-referenced information, Landlord agrees to accept such certification in lieu of Attachment 7 as meeting the requirements of this Ground Lease.

ARTICLE 8: CONDITION OF SITE - “AS IS”

Neither Landlord, nor any employee, agent or representative of Landlord has made any representation, warranty or covenant, expressed or implied, with respect to the Site, its physical condition, the condition of any improvements, any environmental laws or regulations, or any other matter, affecting the use, value, occupancy or enjoyment of the Site other than as set forth explicitly in this Ground Lease, and the Tenant understands and agrees that Landlord is making no such representation, warranty or covenant, expressed or implied; it being expressly understood that the Site is being leased in an “AS IS” condition with respect to all matters.

ARTICLE 9: IMPROVEMENTS AND PERMITTED USES

9.01 Scope of Development and Schedule of Performance

Tenant agrees to undertake and complete all physical construction on the Site as approved by OCII, in accordance with the Schedule of Performance, Attachment 3, subject to the provisions of Section 19.05. The Schedule of Performance may be modified at the request of the Tenant; however, any modification to the Schedule of Performance shall be at the reasonable discretion of the OCII Executive Director.

9.02 Permitted Uses and Occupancy Restrictions

The permitted uses of the Project are limited to one hundred and fifty-one (151) residential dwelling units (“Residential Units”), plus one (1) manager’s unit, ground floor common areas, open space and the Commercial Premises, a portion of which will be used as a Local-Serving Child Care Facility (provided that if, despite Tenant’s good faith efforts to lease the Commercial Premises to a licensed childcare provider, Tenant is unable to enter into a lease with a Local-Serving Childcare Facility, the failure to enter into a lease shall not constitute an Event of Default under this Ground Lease). In any event, use of the Commercial Premises shall be consistent with Redevelopment Requirements or other applicable law and is subject to approval by the Landlord in compliance with the Mayor’s Office of Housing and Community Development Commercial Space Underwriting Guidelines (Attachment 7), as amended from time to time. Upon the completion of construction, one hundred percent (100%) of the Residential Units in the Project (for the sake of clarity, not including the manager’s unit) shall be occupied or held vacant and available for rental by Low-Income Households (as that term is defined herein). Rent levels shall comply with the rent levels established in Attachment 9. In

the event that the Section 8 Subsidy with respect to the Project is terminated or reduced without replacement thereof by comparable rental subsidy, the occupancy and rent restrictions may be altered but only to the maximum extent required for the financial feasibility of the Project, as determined by the Landlord in its reasonable discretion in accordance with substantially similar underwriting criteria used by the Landlord to evaluate the Project's financial feasibility prior to the Closing Date, provided that in any event, 100% of the Residential Units shall at all times be occupied by Low-Income Households (as that term is defined herein) and the monthly rent paid by such Low-Income Households shall not exceed: (a) 30% of 80% of Area Median Income, (b) less utility allowance. In such event, the Landlord shall use good faith efforts to meet with Tenant within fifteen (15) days after Tenant's request to meet. The relief provided by this section shall not be construed as authorizing the Tenant to exceed any income or rent restriction imposed on the Project by CDLAC, CTCAC or other agreement, and the Tenant represents and warrants that it shall have obtained any necessary approvals or relief from any other applicable income and rent limitations prior to implementing the relief provided by this section. In addition, upon foreclosure under any Leasehold Mortgage (or acceptance of a deed in lieu thereof), and notwithstanding anything to the contrary contained in this Ground Lease, including, but not limited to Attachment 9, Attachment 9 shall no longer apply and the sole limitation on rental and occupancy of Residential Units shall be that 100% of the Residential Units shall at all times be occupied by Low-Income Households (as that term is defined herein) and the monthly rent paid by such Low-Income Households shall not exceed: (a) 30% of 80% of Area Median Income, (b) less utility allowance.

9.03 Marketing

Early outreach and marketing of the Residential Units shall comply, to the extent consistent with fair housing laws, with the early outreach and marketing requirements established in Article 6 "Marketing" in the Loan Agreement and related attachments S, T-1, and T-2. Through the Loan Agreement and related attachments, Tenant is required to submit a marketing plan to Landlord and MOHCD that addresses how it intends to affirmatively market units in the Project to Certificate of Preference ("COP") holders and also requires that Tenant, either through a third-party Access to Housing counseling organization as approved by MOHCD or on its own, conduct outreach to COP Holders, including making "support services staff available to provide assistance throughout the application process, as it may be needed, with the

goal of maximizing COP participation to the extent possible” and ensuring that COP holders “are aware that such assistance is available.” (“COP Outreach Obligation”) In addition to meeting these requirements, Tenant will also provide a report to the Commission on its compliance with the COP Outreach Obligation at least three months prior to construction completion and prior to the initiation of any tenant selection process.

ARTICLE 10: CONSTRUCTION OF IMPROVEMENTS

10.01 General Requirements and Rights of OCII

Construction documents for the construction of the Improvements by Tenant (the “**Construction Documents**”) shall be prepared by an architect that at all times during their work on the project holds a valid California Architect’s License from the State of California Architects Board, and shall be in conformity with the Redevelopment Requirements and this Ground Lease, including any limitations established in OCII's approval of the schematic drawings, if any, preliminary construction documents, and final construction documents for the Project, and all applicable Federal, State and local laws and regulations. The architect shall use, as necessary, members of associated design professions, including engineers and landscape architects.

10.02 OCII Approvals and Limitation Thereof

The Construction Documents must be approved by OCII in the manner set forth below:

10.02(a) Compliance with Redevelopment Plan and Ground Lease

OCII’s approval with respect to the Construction Documents is limited to determination of their compliance with the Redevelopment Requirements, the and this Ground Lease, including, if applicable, the scope of development. The Construction Documents shall be subject to general architectural review and guidance by OCII as part of this review and approval process.

10.02(b) OCII Does Not Approve Compliance with Construction Requirements

OCII’s approval is not directed to engineering or structural matters or compliance with building codes and regulations, the Americans with Disabilities Act, or any other applicable State or Federal law relating to construction standards or requirements.

10.02(c) OCII Determination Final and Conclusive

OCII's determination respecting the compliance of the Construction Documents with Redevelopment Requirements shall be final and conclusive (except that it makes no determination and has no responsibility for the matters set forth in Section 10.02(b), above).

10.03 Construction to be in Compliance with Construction Documents and Law

10.03(a) Compliance with City and OCII Approved Documents

The construction shall be in substantial compliance with the OCII-approved Construction Documents.

10.03(b) Compliance with Local, State and Federal Law

The construction shall be in strict compliance with all applicable local, State and Federal laws and regulations.

10.04 Approval of Construction Documents by OCII

Tenant shall submit and OCII shall approve or disapprove the Construction Documents referred to in this Ground Lease within the times established in the Schedule of Performance. Failure by OCII either to approve or disapprove within the times established in the Schedule of Performance shall entitle Tenant to a day-for-day extension of time for completion of any Critical Activities delayed as a direct result of OCII's failure to timely approve or disapprove the Construction Documents.

10.05 Disapproval of Construction Documents by OCII

If OCII disapproves the Construction Documents in whole or in part as not being in compliance with Redevelopment Requirements or this Ground Lease, Tenant shall submit new or corrected plans which are in compliance within thirty (30) days after written notification to it of disapproval, and the provision of this section relating to approval, disapproval and re-submission of corrected Construction Documents shall continue to apply until the Construction Documents have been approved by OCII ; provided, however, that in any event Tenant must submit satisfactory Construction Documents (i.e., approved by OCII) no later than the date specified therefor in the Schedule of Performance.

10.06 Closing Construction Documents To Be Approved by OCII

The final Construction Documents, including all drawings, specifications and other related documents necessary for the construction of the Improvements in accordance with the requirements of this Ground Lease must be approved by OCII (the "Closing Construction

Documents”).

10.07 Issuance of Building Permits

(a) Tenant shall have the sole responsibility for obtaining all necessary building permits and shall make application for such permits directly to the City's Department of Building Inspection. Tenant shall report permit status every thirty (30) days to OCII. Failure to timely file and to diligently pursue issuance of permits shall be a breach of this Ground Lease.

(b) The Tenant is advised that the Central Permit Bureau will forward all building permits to OCII for approval of compliance with Redevelopment Requirements. Since OCII's review of Construction Documents is limited (see Section 10.02a, above), its approval of compliance with Redevelopment Requirements is similarly limited and does not include Section 10.02b matters. OCII evidences such compliance by signing the permit and returning the permit to the Central Permit Bureau for issuance directly to the Tenant. Approval of any intermediate permit, however, is not approval of compliance with all Redevelopment Requirements necessary for a full and final building permit.

10.08 Performance and Payment Bonds

Prior to commencement of construction of the Improvements, and subject to the reasonable approval of OCII, Tenant shall deliver to OCII performance and payment bonds, each for the full value of the cost of construction of the Improvements, which bonds shall name, among other parties, OCII as co-obligee, or such other completion security which is acceptable to OCII.

10.09 OCII Approval of Changes after Commencement of Construction

With the exception of building permit addenda or public right of way improvements associated with the Project forwarded by the City to OCII for review in accordance with the Redevelopment Requirements, once construction has commenced, the only Construction Document matters subject to further review by OCII will be requests for any material changes in the Construction Documents. For purposes of determining materiality in the Construction Documents, any single change order of Ten Thousand Dollars (\$10,000) or more in value and any change order which causes the aggregate value of all change orders to exceed One Hundred Thousand Dollars (\$100,000) shall be considered material and require OCII's prior written approval unless waived by OCII. Unless otherwise specified by OCII in writing, permission to make such changes shall be requested by Tenant in writing directed to the OCII Housing

Manager (or to such other person as may be designated from time to time by OCII), and the OCII-assigned construction specialist staff will provide written approval or disapproval of each change order within ten (10) business days after receiving such request. Tenant shall notify the OCII-assigned construction specialist staff if a particular change order item impacts the critical path of the construction schedule and the OCII assigned construction management staff will accommodate an expedited review to the extent possible. If the request is disapproved, the reply must specify the reasons for the disapproval.

10.10 Times for Construction

Tenant agrees for itself, and its successors and assigns to or of the Leasehold Estate or any part thereof, that Tenant and such successors and assigns shall promptly begin and diligently prosecute to completion the redevelopment of the Site through the construction of the Improvements thereon, and that such construction shall in any event commence and thereafter diligently continue and shall be completed no later than the dates specified in the Schedule of Performance, unless such dates are extended by OCII, force majeure or Landlord's default.

10.11 Reports

Subsequent to commencement of construction of the Improvements and until completion, Tenant shall make a report in writing to OCII every three (3) months, in such detail as may reasonably be required by OCII, as to the actual progress of the Tenant with respect to such construction. During such period, the work of the Tenant shall be subject to inspection by representatives of OCII, at reasonable times and upon reasonable advance notice.

10.12 Access to Site

Tenant shall permit Landlord to access to the Leasehold Estate and the Project whenever and to the extent necessary to carry out the purposes of the provisions of this Ground Lease, at reasonable times and upon reasonable advance notice of no less than forty eight (48) hours and subject to the rights of tenants under any applicable leases or subleases.

10.13 Completion of Improvements by New Developer

In the event a Lender or a successor thereto forecloses, obtains a deed in lieu of foreclosure or otherwise realizes upon the Premises and undertakes construction of the Improvements (“**New Developer**”) (A) the New Developer shall not be bound by the provisions of the Schedule of Performance with respect to any deadlines for the completion of the Improvements but shall only be required to complete the Improvements in conformance with a

new Schedule of Performance to be agreed upon by the New Developer and Landlord, (B) such New Developer shall only be required to complete the Improvements in accordance with all applicable building codes and ordinances, and the OCII-approved Construction Documents with such changes that are mutually agreed upon by Landlord and the New Developer pursuant to Subsection (C) hereof; and (C) City and New Developer shall negotiate in good faith such reasonable amendments and reasonable modifications to the Schedule of Performance and Section 10 of this Ground Lease as the parties mutually determine to be reasonably necessary based upon the Redevelopment Requirements and the financial and construction conditions then existing.

ARTICLE 11: COMPLETION OF IMPROVEMENTS

11.01 Certificate of Completion – Issuance

Promptly after completion of the construction of the Improvements in accordance with the provisions of this Ground Lease, Tenant shall submit to OCII a Notice of Completion (“NOC”) and within fifteen (15) business days following OCII’s receipt of the NOC, OCII will furnish Tenant with a Certificate of Completion unless OCII refuses or fails to provide any certification in accordance with the provisions of Section 11.03. The issuance of a Certificate of Completion by OCII shall be a conclusive determination of satisfaction and termination of the agreements and covenants of this Ground Lease with respect to the obligation of Tenant, and its successors and assigns, to construct the Improvements in accordance with approved Closing Construction Documents and the dates for the beginning and completion thereof; provided, however, that such certification and such determination shall not constitute evidence of compliance with, or satisfaction of, any obligation of Tenant to any Lender, or any insurer of a mortgage, securing money loaned to finance the construction or any part thereof; provided further, that OCII issuance of any Certificate of Completion does not relieve Tenant or any other person or entity from any and all OCII requirements or conditions to occupancy of the Improvements, which requirements or conditions must be complied with separately.

11.02 Certifications to be Recordable

All certifications provided for in this section shall be in such form as will enable them to be recorded with the Recorder of the City.

11.03 Certification of Completion - Non-Issuance Reasons

If OCII shall refuse or fail to provide any certification in accordance with the provisions of Section 11.01, OCII shall provide Tenant with a written statement, within fifteen (15) business days after receipt of the Tenant's NOC, indicating in adequate detail in what respects Tenant has failed to complete the construction of the Improvements in accordance with the provisions of this Ground Lease or is otherwise in default hereunder and what measures or acts will be necessary, in the opinion of OCII, for Tenant to take or perform in order to obtain such certification.

ARTICLE 12: CHANGES TO THE IMPROVEMENTS

12.01 Post Completion Changes

Landlord has a particular interest in the Site and in the nature and extent of the permitted changes to the Improvements. Accordingly, it desires to and does hereby impose the following particular controls on the Site and on the Improvements: during the Term of this Ground Lease, neither Tenant, nor any voluntary or involuntary successor or assign, shall make or permit any Change in the Improvements, as Change is hereinafter defined, unless the express prior written consent for any Change shall have been requested in writing from Landlord and obtained, and, if obtained, upon such terms and conditions as Landlord may reasonably require. Landlord agrees not to unreasonably withhold or delay its response to such a request.

12.02 Definition of Change

“**Change**” as used in this Article means any material alteration, modification, addition and/or substitution of or to the Leasehold Estate, the Improvements, and/or the density of development which differs materially from that which existed upon the completion of construction of the Improvements in accordance with this Ground Lease, and shall include without limitation the exterior design, exterior materials and/or exterior color, and/or relocation or removal of either the control room, the transformer room, or both. For purposes of the foregoing, exterior shall mean and include the roof of the Improvements. Notwithstanding the foregoing, nothing in this Section 12.02 shall be construed to restrict the Tenant's and its subtenants right to (i) make non-material interior modifications, including, without limitation, modifications to and substitutions of interior décor, or repairs to or replacements of fixtures, appliances and other equipment relating to the Leasehold Estate or Improvements in the normal

course of operation and maintenance of the Premises as long as such replacements are of similar quality and provide the same level of service, or (ii) make or perform any repairs or modifications in an emergency situation in which a delay in such repairs or modifications could pose a safety hazard to tenants, the public, or adjoining property owners.

12.03 Enforcement

Landlord shall have any and all remedies in law or equity (including without limitation restraining orders, injunctions and/or specific performance), judicial or administrative, to enforce the provisions of this Article 12, including without limitation any threatened breach thereof or any actual breach or violation thereof.

ARTICLE 13: TITLE TO IMPROVEMENTS

Fee title to any Improvements shall be vested in Tenant and shall remain vested in Tenant during the Term of this Ground Lease. Subject to the rights of any Lenders and as further consideration for Landlord entering into this Ground Lease, at the expiration or earlier termination of this Ground Lease, fee title to all the Improvements shall vest in Landlord without further action of any party, without any obligation by Landlord to pay any compensation therefor to Tenant and without the necessity of a deed from Tenant to Landlord.

ARTICLE 14: ASSIGNMENT, SUBLEASE OR OTHER CONVEYANCE

14.01 Assignment, Sublease or Other Conveyance by Tenant

Subject to Article 26, Tenant may not cause or permit any voluntary transfer, assignment or encumbrance of its interest in the Site or Project or of any ownership interests in Tenant, or lease or permit a sublease on all or any part of the Project, other than the following permitted transfers: (a) transfers of the general partnership or manager's interest in Tenant to a nonprofit public benefit corporation approved in advance by Landlord; (b) removal and thereafter replacement of a general partner of Tenant in accordance with the terms of Tenant's limited partnership agreement (and if necessary, the temporary replacement thereof with an affiliate of the Investor Limited Partner), provided that within a period of one-hundred eighty (180) days after said removal (or other longer duration approved by Landlord in its sole discretion), Tenant shall have replaced the general partner with a 501(c)(3) tax-exempt nonprofit corporation (or a wholly-owned subsidiary thereof), subject to Landlord's reasonable approval of replacement general partner; (c) transfers of the limited partner or non-managing member interests in Tenant in accordance with the terms of the Tenant's partnership agreement; (d) leases, subleases or

occupancy agreements with occupants of the Residential Units, manager's unit, and the Commercial Premises made in accordance with this Ground Lease; (e) a foreclosure (or deed in-lieu thereof) under any Leasehold Mortgage; or (f) any transfer to a Subsequent Owner reasonably approved in advance by Landlord. Any other transfer, assignment, encumbrance or lease without Landlord's prior written consent will be voidable and, at Landlord's election, constitute an Event of Default under this Agreement. Landlord's consent to any specific assignment, encumbrance, lease or other transfer will not constitute its consent to any subsequent transfer or a waiver of any of Landlord's rights under this Agreement.

14.02 Assignment, Sublease or Other Conveyance by Landlord

The Parties acknowledge and agree that OCII, effective upon the issuance of the Certificate of Completion or some later date as determined by OCII, intends to transfer all of its rights, interests and obligations under this Ground Lease and the Loan Agreements, together with conveyance of fee title to the Site, to MOHCD as the designated Housing Successor of the City and County of San Francisco under Board of Supervisors Resolution 11-12, as required under Redevelopment Dissolution Law and OCII's approved Long-Term Property Management Plan dated December 2015. Tenant shall have no right to object and shall attorn to such assignee, and shall execute such instruments and take such actions as may be reasonably required to carry out OCII's intent. Upon assignment to MOHCD, all references herein to Landlord shall be deemed references to MOHCD.

Landlord will not encumber its fee interest in the Site. Landlord will require that any purchaser, assignee or transferee of Landlord's interest in the Site expressly assume all of the obligations of Landlord under this Ground Lease by a written instrument recordable in the Official Records of the City and County of San Francisco. This Ground Lease shall not be affected by any such sale or assignment, and Tenant shall attorn to any such purchaser or assignee. In the event that Landlord intends to sell all or any part of the Site, Landlord shall notify Tenant of the proposed terms of such sale not later than ninety (90) days before the anticipated close of escrow. Tenant shall have sixty (60) days from the giving of such notice to exercise a right of first refusal to purchase the Site on the same terms and conditions of such proposed sale.

ARTICLE 15: TAXES

Subject to any exemption available therefor, Tenant agrees to pay, or cause to be paid, prior to delinquency to the proper authority, any and all valid taxes, assessments and similar

charges imposed on the Site during the Term of this Ground Lease, including all taxes levied or assessed on the possession, use or occupancy of the Site. Tenant shall not be required to pay or discharge any taxes that are based on net or gross income (including any capital gain) or any value added, franchise, estate, inheritance, capital, doing business or similar taxes of the Landlord. Tenant shall not permit any such taxes, charges or other assessments to become a defaulted lien on the Site, Leasehold Estate or the Improvements thereon; provided, however, that in the event any such tax, assessment or similar charge is payable in installments, Tenant may make, or cause to be made, payment in installments; and, provided further, that Tenant may contest the legal validity or the amount of any tax, assessment or similar charge, through such proceedings as Tenant considers necessary or appropriate, and Tenant may defer the payment thereof so long as the validity or amount thereof shall be contested by Tenant in good faith and without expense to Landlord. In the event of any such contest, Tenant shall protect, defend and indemnify Landlord against all loss, cost, expense or damage resulting therefrom, and should Tenant be unsuccessful in any such contest, Tenant shall forthwith pay, discharge, or cause to be paid or discharged, such tax, assessment or other similar charge. Landlord shall furnish such information as Tenant shall reasonably request in connection with any such contest provided that such information is otherwise available to the public. Landlord hereby consents to Tenant applying for and obtaining any applicable exemptions from taxes or assessments levied on Tenant's interest in the Site.

Tenant shall have no obligation under this Section prior to the Effective Date, including but not limited to any taxes, assessments or other charges levied against the Property which are incurred prior to the Effective Date.

ARTICLE 16: UTILITIES

Tenant shall procure water and sewer service from the City and electricity, telephone, natural gas and any other utility service from the City or utility companies providing such services, and shall pay all connection and use charges imposed in connection with such services. As between Landlord and Tenant, Tenant shall be responsible for the installation and maintenance of all facilities required in connection with such utility services to the extent not installed or maintained by the City or the utility providing such service. Landlord shall join in the conveyance of grants of easement reasonably necessary for such utilities and the development of the Project.

ARTICLE 17: MAINTENANCE

Tenant, at all times during the Term hereof, shall maintain or cause to be maintained the Premises in good condition and repair to the reasonable satisfaction of Landlord, including the exterior, interior, substructure and foundation of the Improvements and all fixtures, equipment and landscaping from time to time located on the Site or any part thereof. Landlord shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Site or any buildings or improvements now or hereafter located thereon.

ARTICLE 18: LIENS

Tenant shall use its best efforts to keep the Premises free from any liens arising out of any work performed or materials furnished by itself or its subtenants. In the event that Tenant shall not cause the same to be released of record or bonded around within twenty (20) business days following written notice from Landlord of the imposition of any such lien, Landlord shall have, in addition to all other remedies provided herein and by law, the right but not the obligation to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All sums paid by Landlord for such purpose, and all reasonable expenses incurred by it in connection therewith, shall be payable to Landlord by Tenant on demand; provided, however, Tenant shall have the right, upon posting of an adequate bond or other security, to contest any such lien, and Landlord shall not seek to satisfy or discharge any such lien unless Tenant has failed so to do within ten (10) business days after the final determination of the validity thereof. In the event of any such contest, Tenant shall protect, defend, and indemnify Landlord against all loss, cost, expense or damage resulting therefrom. The provisions of this Section shall not apply prior to the Effective Date or to any liens arising prior to the Effective Date.

ARTICLE 19: GENERAL REMEDIES

19.01 Application of Remedies

The provisions of this Article 19 shall govern the parties' remedies for breach of this Ground Lease.

19.02 Notice and Cure Rights for Tenant Limited Partner

(a) Landlord may not exercise its remedies under this Ground Lease for a default by the Tenant unless and until (i) Landlord has given written notice of any such default, in

accordance with the notice provisions of Article 38, to Tenant and each Permitted Limited Partner, and (ii) such default has not been cured within sixty (60) days following the giving of such notice or, if such default cannot be cured within such sixty (60) day period, such longer period as is reasonably necessary to cure such default, provided that such cure has been commenced within such sixty (60) day period and is being prosecuted diligently to completion. If a Permitted Limited Partner cannot cure a default due to an automatic stay in bankruptcy court because a general partner of the Tenant is in bankruptcy, any cure period will be tolled during the pendency of such automatic stay.

(b) Landlord will not exercise its remedy to terminate this Ground Lease if a Permitted Limited Partner is attempting to cure the default and such cure requires removal of a General Partner, so long as the Permitted Limited Partner is proceeding diligently to remove the defaulting General Partner in order to effect a cure of such default.

(c) Any limited partner not automatically deemed a Permitted Limited Partner under Section 1.25 that wishes to become a Permitted Limited Partner must provide fifteen (15) days written notice to Landlord in accordance with the notice provisions of this Ground Lease, setting forth a notice address and providing a copy of such notice to the Tenant and Tenant's General Partners. Such limited partner will become a Permitted Limited Partner upon the expiration of the fifteen (15) day period. A limited partner will not be afforded the protections of this section with respect to any default occurring prior to the time such limited partner becomes a Permitted Limited Partner.

19.03 Breach by Landlord

If Tenant believes a material breach of this Ground Lease has occurred, Tenant shall first notify Landlord in writing of the purported breach, giving Landlord sixty (60) days from receipt of such notice to cure such breach. In the event Landlord does not then cure or, if the breach is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and thereafter diligently prosecute such cure to completion, then Tenant shall be afforded all of its rights at law or in equity by taking any or all of the following remedies: (i) prosecuting an action for damages; (ii) seeking specific performance of this Ground Lease; or (iii) any other remedy available at law or equity.

19.04 Breach by Tenant

19.04(a) Default by Tenant

The following events, if not cured in the time periods set forth in Section 19.04(b) or this subparagraph (a) shall each constitute an “Event of Default” hereunder:

(1) Tenant fails to comply with the Permitted Uses and Occupancy Restrictions set forth in Section 9.02;

(2) Tenant voluntarily or involuntarily assigns, transfers or attempts to transfer or assign this Ground Lease or any rights in this Ground Lease, or in the Improvements, except as permitted by this Ground Lease;

(3) Tenant, or its successor in interest, fails to pay taxes or assessments in accordance with Article 15, or places or allows to be placed on the Site or its interest in the Site any encumbrance or lien in violation of this Ground Lease, or suffers any levy or attachment to be made, or any material supplier’s or mechanic’s lien or any other encumbrance or lien to attach in violation of the terms of this Ground Lease, and such taxes or assessments have not been paid, or the encumbrance or lien removed or discharged in accordance with the terms of this Ground Lease; provided, however, that Tenant shall have the right to contest any tax or assessment pursuant to Article 15 and Article 18 and, upon the posting of an adequate bond or other security, to contest any such lien or encumbrance. In the event of any such contest, Tenant shall protect, indemnify and hold Landlord harmless against all losses and damages, including reasonable attorneys’ fees and costs resulting therefrom;

(4) Tenant is adjudicated bankrupt or insolvent or makes a transfer in fraud of creditors, or make an assignment for the benefit of creditors, or bring or have brought against Tenant any action or proceeding of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act and, in the event such proceedings are involuntary, Tenant is not dismissed from the same within ninety (90) days thereafter; or, a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within ninety (90) days;

(5) Tenant breaches any other material provision of this Ground Lease;

(6) Tenant fails to pay any portion of Annual Rent when due in accordance with the terms

and provisions of this Ground Lease.

19.04(b) Notification and Landlord Remedies

Upon the occurrence of any Event of Default, Landlord shall notify Tenant, the Permitted Limited Partners, and each Lender in writing of the Tenant's purported breach, failure or act, giving Tenant sixty (60) days from receipt of such notice to cure such breach, failure or act. In the event Tenant, the Permitted Limited Partners or any Lender does not cure or, if the breach, failure or act is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and thereafter diligently prosecute such cure to completion, then, subject to the rights of any Lender and subject to Section 19.02 and Article 26, Landlord thereafter shall be afforded all of its rights at law or in equity, including any or all of the following remedies: (1) terminating in writing this Ground Lease; (2) prosecuting an action for damages; or (3) seeking specific performance of this Ground Lease; or (4) in the case of an Event of Default under Section 19.04(a)(1), increasing the Base Rent to the full amount of the Annual Rent in accordance with Section 4.02 above.

19.04(c) Limitation on Landlord Remedies

Notwithstanding the various remedies of Landlord pursuant to this Section 19.04 or any other provision of this Ground Lease, Landlord shall not have the right to terminate the Ground Lease during the "compliance period" (as defined in Section 42 of the Internal Revenue Code, as amended) of the Project.

19.05 Force Majeure

For the purposes of any of the provisions of this Ground Lease, neither OCII nor Tenant, as the case may be, shall be considered in breach or default of its obligations, nor shall there be deemed a failure to satisfy any conditions with respect to the beginning and completion of construction of the Improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations or satisfaction of such conditions, due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the Government (excluding OCII, MOHCD and the City), acts of terrorism, earthquakes, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, general scarcity of materials and unusually severe weather or delays of subcontractors due to such causes; it being the purposes and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for the

satisfaction of conditions to this Ground Lease including those with respect to construction of the Improvements, shall be extended for the period of the enforced delay; provided, however, that the party seeking the benefit of the provisions of this paragraph shall have notified the other party thereof in writing of the cause or causes thereof within thirty (30) days after the beginning of any such enforced delay and requested an extension for the period of the enforced delay; and, provided further, that this paragraph shall not apply to, and nothing contained in this paragraph shall extend or shall be construed to extend, the time of performance of any of Tenant's obligations to be performed prior to the commencement of construction, nor shall the failure to timely perform pre-commencement of construction obligations extend or be construed to extend Tenant's obligations to commence, prosecute and complete construction of the Improvements in the manner and at the times specified in this Ground Lease.

ARTICLE 20: DAMAGE AND DESTRUCTION

20.01 Casualty

If the Improvements or any part thereof are damaged or destroyed by any cause covered by any policy of insurance required to be maintained by Tenant hereunder, Tenant shall promptly commence and diligently complete the restoration of the Improvements as nearly as possible to the condition thereof prior to such damage or destruction; provided, however, that if more than twenty five percent (25%) of the Improvements are destroyed or are so damaged by fire or other casualty and if the insurance proceeds do not provide at least ninety percent (90%) of the funds necessary to accomplish the restoration or if the Improvements are materially damaged by an event or cause against which Tenant is not required to carry insurance, Tenant, with the prior written consent of each Lender, may terminate this Ground Lease within thirty (30) days after the later of (i) the date of such damage or destruction, or (ii) the date on which Tenant is notified of the amount of insurance proceeds available for restoration. In the event Tenant is required, or elects, to restore the Improvements, all proceeds of any policy of insurance required to be maintained by Tenant under this Ground Lease shall, subject to the rights of Lenders, be used by Tenant for that purpose and Tenant shall make up from its own funds or obtain additional financing as reasonably approved by OCII any deficiency between the amount of insurance proceeds available for the work of restoration and the actual cost thereof. In the event Tenant elects to terminate this Ground Lease pursuant to its right to do so under this Section 20.01, or elects not to restore the Improvements, the insurance proceeds shall be divided among OCII,

Tenant and any Lender in accordance with the provisions of Section 20.02. In the event Tenant is required or elects to restore the Improvements, the Tenant is hereby authorized and may enter into a settlement or consent to an adjustment of an insurance award, in its name and/or in the name of the Landlord, relating to such casualty, subject to any Lender's consent rights, if any.

20.02 Distribution of the Insurance Proceeds

In the event of an election by Tenant to terminate and surrender as provided in Section 20.01, the priority and manner for distribution of the proceeds of any insurance policy required to be maintained by Tenant hereunder shall be as follows:

- (a) First to the Lenders, in order of their priority, to control, disburse or apply to any outstanding loan amounts in accordance with the terms their respective Leasehold Mortgages;
- (b) Second, to pay for the cost of removal of all debris from the Site or adjacent and underlying property, and for the cost of any work or service required by any statute, law, ordinance, rule, regulation or order of any federal, state or local government, or any agency or official thereof, for the protection of persons or property from any risk, or for the abatement of any nuisance, created by or arising from the casualty or the damage or destruction caused thereby; and,
- (c) The remainder to Tenant.

20.03 Clean Up of Housing Site

In the event the Tenant terminates this Ground Lease pursuant to the provisions of Sections 20.01 and the proceeds of any insurance policy are insufficient to pay the clean-up and other costs described in Section 20.02(b), Tenant shall have the obligation to pay the portion of such costs not covered by the insurance proceeds.

ARTICLE 21: DAMAGE TO PERSON OR PROPERTY; HAZARDOUS SUBSTANCES; INDEMNIFICATION

21.01 Damage to Person or Property -General Indemnification

OCII shall not in any event whatsoever be liable for any injury or damage to any person happening on or about the Site, for any injury or damage to the Premises, or to any property of Tenant, or to any property of any other person, entity or association on or about the Site during the Term of this Ground Lease. Tenant shall defend, hold harmless and indemnify the OCII, the City and their respective commissioners, officers, agents, and employees, of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description

directly or indirectly arising from its tenancy, its use of the Site, and any of its operations activities thereon or connected thereto; provided, however, that this Article 21 shall not be deemed or construed to and shall not impose an obligation to indemnify and save harmless OCII, the City or any of their commissioners, officers, agents or employees from any claim, loss, damage, liability or expense, of any nature whatsoever, arising from or in any way related to or connected with any willful misconduct or gross negligence by the person or entity seeking such indemnity. In addition to Tenant's obligation to indemnify OCII, Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend OCII from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Tenant by OCII and continues at all times thereafter.

21.02 Hazardous Substances –Indemnification

(a) Tenant shall indemnify, defend, and hold OCII, the City and their respective commissioners, officers, agents and employees (individually, an "Indemnified Party" and collectively, the "Indemnified Parties") harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to (a) a violation of any Environmental Law occurring during the Term of this Ground Lease caused by Tenant, its employees, agents, affiliates or contractors, or (b) any Tenant Environmental Condition (as defined herein below); provided, however, that this Section 21.02(a) shall not be deemed or construed to, and shall not impose an obligation on Tenant to indemnify and save harmless the Indemnified Parties from, any claim, loss, damage, liability or expense, of any nature whatsoever, arising from or in any way related to or connected with any willful misconduct or gross negligence by any Indemnified Party.

(b) Landlord shall indemnify, defend, and hold the Tenant and its successors, employees, affiliates, agents, representatives and contractors (individually, a "Tenant Indemnified Party" and collectively, the "Tenant Indemnified Parties") harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Tenant Indemnified Party in

connection with, arising out of, in response to, or in any manner relating to a violation of any Environmental Law or Release of Hazardous Substances at the Site first existing or occurring prior to the Effective Date.

(c) For purposes of this Section 21.02, the following definitions shall apply:

(i) “Hazardous Substance” shall have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Agreement, 42 U.S.C. §9601(14), and in addition shall include, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls (“PCBs”), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code §25316 and §25281(d), all chemicals listed pursuant to the California Health & Safety Code §25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition shall not include substances which occur naturally on the Site at concentrations or levels naturally occurring on the Site or that are customarily used (in compliance with Environmental Laws) in apartment complexes or senior centers.

(ii) “Environmental Law” shall include all federal, state and local laws, regulations and ordinances governing hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee or community right-to-know requirements related to construction of the Improvements.

(iii) “Release” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance.

(iv) “Tenant Environmental Condition” shall mean the Release or threatened Release of Hazardous Substance and any condition of pollution, contamination or Hazardous-Substance-related nuisance at, on, under or from the Site which first exists or first occurs after the Effective Date and is caused by Tenant, or Tenant’s employees, agents, affiliates or contractors.

ARTICLE 22: INSURANCE

22.01 Insurance

Subject to approval by the OCII's Risk Manager of the insurers and policy forms Tenant must obtain and maintain, or caused to be maintained, the insurance and bonds as set forth in Attachment 10 throughout the Term of this Ground Lease at no expense to the OCII.

ARTICLE 23: COMPLIANCE WITH LEGAL REQUIREMENTS

Tenant shall at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, with the requirements of any board of fire underwriters or other similar body now or hereafter constituted, with any direction or occupancy certificate issued pursuant to any law by any public officer or officers, insofar as any thereof relates to or affects the condition, use or occupancy of the Site. In the event Tenant contests any of the foregoing, Tenant shall not be obligated to comply therewith to the extent that the application of the contested law, statute, ordinance, rule, regulation or requirement is stayed by the operation of law or administrative or judicial order and Tenant indemnifies Landlord against all loss, cost, expense or damage resulting from noncompliance.

ARTICLE 24: ENTRY

Landlord and its authorized agents shall have the right at all reasonable times during normal business hours and after forty-eight (48) hours written notice to Tenant (except in the event of an emergency when no written notice is required) and subject to the rights of tenants under leases or subleases of the Premises, to go on the Site for the purpose of inspecting the same or for the purpose of posting notices of non-responsibility, or for police or fire protection.

ARTICLE 25: MORTGAGE FINANCING

25.01 No Encumbrances Except for Development or Refinancing Purposes

Notwithstanding any other provision of this Ground Lease and subject to the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, Leasehold Mortgages (and encumbrances related to such Leasehold Mortgages or required by Project lenders, equity investors or HUD, including, but not limited to use agreements and regulatory agreements) are permitted to be placed upon the Leasehold Estate only for the purpose of securing loans of funds to be used for: (i) financing the acquisition of the Leasehold Estate

and the Improvements, and the design, renovation, reconstruction or construction of the Improvements; (ii) refinancing; and (iii) any other expenditures reasonably necessary and appropriate to acquire the Leasehold Estate and the Improvements and to own, develop, construct, renovate, or reconstruct the Improvements under this Ground Lease and/or in connection with the operation of the Improvements, and costs and expenses incurred or to be incurred by Tenant in furtherance of the purposes of this Ground Lease. Landlord hereby acknowledges OCII as a Lender and the deed of trust securing the OCII Loan is deemed an approved Leasehold Mortgage, and approves the City and County of San Francisco as “Governmental Lender, _____ its “Fiscal Agent” and as Bank of America, N.A. as “Funding Lender”, and deems the loan secured by the Construction and Permanent Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing of even date herewith made by Tenant for the benefit of the Government Lender, and assigned to Bank of America, N.A., as the Funding Lender, an approved Leasehold Mortgage.

25.02 Holder Not Obligated to Construct

The holder of any mortgage, deed of trust or other security interest authorized by Section 25.01 (“Holder” or “Lender”), including the successors or assigns of such Holder, is not obligated to complete any construction of the Improvements or to guarantee such completion; nor shall any covenant or any other provision of this Ground Lease be construed so to obligate such Holder. However, in the event the Holder does undertake to complete or guarantee the completion of the construction of the Improvements, subject to Section 26.06(ii), nothing in this Ground Lease shall be deemed or construed to permit or authorize any such Holder or its successors or assigns to devote the Site or any portion thereof to any uses, or to construct any Improvements thereon, other than those uses or Improvements authorized under Section 9.02. To the extent any Holder or its successors in interest wish to change such uses or construct different improvements, subject to Section 26.06(ii), that Holder or its successors in interest must obtain the written consent of OCII; provided, however, in such event Holder or any Subsequent Owner shall negotiate in good faith revisions to the approved plans, specifications and Schedule of Performance to the extent necessary or desirable to preserve the economic and practical feasibility of the Project.

25.03 Failure of Holder to Complete Construction

In any case where six (6) months after assumption of obligations pursuant to Section 25.02 above, a Lender, having first exercised its option to complete the construction, has not proceeded diligently with the resumption or preparatory activities in order to complete construction, OCII shall be afforded the rights against such Holder it would otherwise have against Tenant under this Ground Lease for events or failures occurring after such assumption, subject to any extensions of time granted pursuant to Section 10.13.

25.04 Default by Tenant and Landlord's Rights

25.04(a) Right of Landlord to Cure a Default or Breach by Tenant under a Leasehold Mortgage

In the event of an Event of Default or breach by Tenant in or of its obligations under any Leasehold Mortgage, and Tenant's failure to timely commence or diligently prosecute cure of such default or breach in accordance with Section 19.02, Landlord may, at its option, cure such breach or default at any time prior to one hundred nineteen (119) days after the date on which the Lender files a notice of default. In such event, Landlord shall be entitled to reimbursement from Tenant of all costs and expenses reasonably incurred by Landlord in curing the default or breach. Landlord shall also be entitled to a lien upon the Leasehold Estate or any portion thereof to the extent of such costs and disbursements. Any such lien shall be subject to the lien of any then-existing Leasehold Mortgage authorized by this Ground Lease, including any lien contemplated because of advances yet to be made. After ninety (90) days following the date of Lender filing a notice of default and expiration of all applicable cure periods of Tenant under the terms of the applicable loan documents, if such default shall remain uncured, or if Tenant shall not have begun prosecution of such cure, Landlord shall also have the right to assign Tenant's interest in the Ground Lease to another entity, subject to such Lender's and Permitted Limited Partner's written consent, but which consent may be conditioned, among other things, upon the assumption by such other entity of all obligations of the Tenant under the Leasehold Mortgage.

25.04(b) Notice of Default to Landlord

Tenant shall use its best efforts to require each Lender to give Landlord prompt written notice of any default or breach of Tenant's obligations under any Leasehold Mortgage and each Leasehold Mortgage shall so provide and shall also contain Landlord's right to cure as set forth in subsection (a), above.

25.05 Cost of Mortgage Loans to be Paid by Tenant

Tenant covenants and affirms that it shall bear all of the costs and expenses in connection with (i) the preparation and securing of any Leasehold Mortgage, (ii) the delivery of any instruments and documents and their filing and recording, if required, and (iii) all taxes and charges payable in connection with any Leasehold Mortgage.

ARTICLE 26: PROTECTION OF LENDER

26.01 Notification to Landlord

Promptly upon the creation of any Leasehold Mortgage and as a condition precedent to the existence of any of the rights set forth in this Article 26, each Lender shall give written notice to the Landlord of the Lender's address and of the existence and nature of its Leasehold Mortgage. The address of the initial Lenders' address is set forth in Article 38 hereof. Execution of Attachment 8 shall constitute Landlord's acknowledgement of Lender's having given such notice as is required to obtain the rights and protections of a Lender under this Ground Lease. Landlord hereby acknowledges that the First Mortgage Lender and Landlord are deemed to have given such written notice.

26.02 Lender's Rights to Prevent Termination

Each Lender shall have the right, but not the obligation, at any time prior to termination of this Ground Lease and without payment of any penalty other than the interest on unpaid rent, to pay all of the rents due hereunder, to effect any insurance, to pay any taxes and assessments, to make any repairs and improvements, to do any other act or thing required of Tenant hereunder, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent a termination of this Ground Lease to the same effect as if the same had been made, done and performed by Tenant instead of by Lender.

26.03 Lender's Rights When Tenant Defaults

Should any Event of Default under this Ground Lease occur, and not be cured within the applicable cure period, Landlord shall not terminate this Ground Lease nor exercise any other remedy hereunder unless it first gives written notice of such event of default to Lender and:

(i) If such event of default is a failure to pay a monetary obligation of Tenant, Lender shall have failed to cure such default within sixty (60) days from the date of written notice from the Landlord to Lender; or

(ii) If such event of default is not a failure to pay a monetary obligation of Tenant, Lender shall have failed, within one hundred eighty (180) days of receipt of said written notice, either (a) to remedy such default; or (b) to obtain title to Tenant's interest in the Site in lieu of foreclosure; or (c) to commence foreclosure or other appropriate proceedings in the nature thereof (including the appointment of a receiver) and thereafter diligently prosecute such proceedings to completion, in which case such event of default shall be remedied or deemed remedied in accordance with Article 26.04 below.

All rights of Landlord to terminate this Ground Lease as the result of the occurrence of any such Event of Default shall be subject to, and conditioned upon, Landlord having first given Lender written notice of such Event of Default and Lender having failed to remedy such default or acquire Tenant's Leasehold Estate created hereby or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in, and within the time specified by, this Section 26.03, and upon the Permitted Limited Partners having failed to proceed as permitted under Sections 19.02(b) or 26.06(iv).

26.04 Default Which Cannot be Remedied by Lender

Any Event of Default under this Ground Lease which in the nature thereof cannot be remedied by Lender (which Events of Default shall be deemed to include Events of Default relating to amounts due from Tenant to Landlord in respect to damages, indemnifications or other monetary amounts, other than Annual Rent, arising from the action or inactions of Tenant) shall be deemed to be remedied if (i) within one hundred eighty (180) days after receiving notice from the Landlord setting forth the nature of such Event of Default, or prior thereto, Lender shall have acquired Tenant's Leasehold Estate created hereby or shall have commenced foreclosure or other appropriate proceedings in the nature thereof, (ii) Lender shall diligently prosecute any such proceedings to completion, (iii) Lender shall have fully cured any Event of Default arising from failure to pay or perform any monetary obligation in accordance with the terms of this Ground Lease, and (iv) after gaining possession of the Improvements, Lender shall diligently proceed to perform all other obligations of Tenant as and when the same are due in accordance with the terms of this Ground Lease.

Notwithstanding anything to the contrary contained elsewhere herein, in no event shall any Lender have the obligation, or be required, as a condition to preventing the termination of

this Ground Lease, as a condition to obtaining a new lease or otherwise, to cure any breach by Tenant of its obligation, under Article 25.04 of this Ground Lease, to reimburse Landlord for all costs, expenses, advances and disbursements made or incurred by Landlord in connection with its cure of any breach or default under any Leasehold Mortgage (and all such breaches shall automatically be deemed cured upon a foreclosure under any Leasehold Mortgage (or acceptance of a deed in lieu thereof)).

26.05(a) Court Action Preventing Lender's Action

If Lender is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the times specified in Sections 26.03 and 26.04 above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition.

26.05(b) Lender's Rights Upon Termination.

If this Ground Lease is terminated for any reason (including, without limitation, a termination or rejection through any bankruptcy proceeding), Landlord shall give each Lender prompt written notice of such termination (“**Termination Notice**”). Upon written request by the most senior lender or by the Subsequent Owner thereof given within sixty (60) days from the date the Termination Notice is given or within sixty (60) days after the acquisition by Subsequent Owner of Tenant's interest in the Project, as applicable, Landlord shall enter into a new ground lease of the Project (the “**New Lease**”) with such Lender (or its designee) or the Subsequent Owner for the remainder of the Term with the same agreements, covenants, reversionary interests and conditions (except for any requirements which have been fulfilled by Tenant prior to termination) as are contained in the Ground Lease and the New Lease shall be recorded with a priority equal to the recording priority of the Ground Lease.

26.06 Lender's Rights to Record, Foreclose and Assign

Landlord hereby agrees with respect to any Leasehold Mortgage, that

(i) the Lender may cause same to be recorded and enforced, and upon foreclosure, sell and assign the Leasehold Estate created hereby to an assignee from whom it may accept a purchase price; provided however that: (a) except with respect to affiliates of a Lender, Lender obtains prior written approval from Landlord with respect to the selection of the assignee, which

approval shall not be unreasonably withheld, conditioned or delayed); and (b) the proposed assignee maintains the use restrictions of Section 9.02 and is controlled by a California nonprofit public benefit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code such that the Premises would, if leased by such entity, receive an exemption from state property taxes as provided under Section 214 of the California Revenue and Taxation Code. Lender, furthermore, may acquire title to the Leasehold Estate in any lawful way, and if the Lender, or an affiliate, shall become the assignee, may sell and assign said Leasehold Estate subject to Landlord approval as to the assignee or purchaser, which shall not be unreasonably withheld, conditioned or delayed, and to the Landlord's cure rights under Article 24.04(a); and

(ii) each Subsequent Owner shall take the Leasehold Estate subject to all of the provisions of this Ground Lease, and shall, so long as and only so long as it shall be the owner of such estate, except as provided elsewhere in this Ground Lease, assume all of the obligations of Tenant under this Ground Lease.

(iii) Landlord shall give to each Lender which has an outstanding Leasehold Mortgage a duplicate copy of all notices which Landlord may from time to time give to Tenant pursuant to this Ground Lease. No notice given to Tenant by Landlord shall become effective as to a Lender until Landlord has provided a duplicate copy of such notice to said Lender in accordance with Article 38.

(iv) any Permitted Limited Partners of Tenant shall have the same rights as any Lender under Sections 26.02, 26.03, 26.04 and 26.06 (iii), and any reference to a Lender in said section shall be deemed to include such limited partners; provided, however, that the rights of such limited partners shall be subordinate to the rights of any Lender.

26.07 Ground Lease Rent after Lender Foreclosure or Assignment

Upon foreclosure of a Leasehold Mortgage or assignment of the Leasehold Estate in lieu of such foreclosure, (i) any Accrued Base Rent and any Residual Rent that remains unpaid at the time of such foreclosure or assignment in lieu of foreclosure shall be forgiven by Landlord, and shall not be an obligation of the Lender or any other Subsequent Owner, and (ii) Annual Rent shall be set as follows:

(a) For so long as the Project is operated in accordance with the use and occupancy restrictions of Section 9.02, the following shall apply:

(1) The obligations of any Subsequent Owner other than a Lender (or

its affiliate) for payment of Annual Rent shall be as set forth for other Tenants in Article 4;

(2) The obligations for payment of Annual Rent of a Lender (or the affiliate of a Lender) who acquires the Leasehold Estate as a result of foreclosure of a Leasehold Mortgage or assignment of the Leasehold Estate in lieu of such foreclosure shall be as follows:

(A) For 180 days after foreclosure of a Leasehold Mortgage or assignment of the Leasehold Estate in lieu of such foreclosure, the obligations for payment of Annual Rent of the Lender (or such affiliate) shall be as set forth for other Tenants in Article 4;

(B) If, within 180 days after foreclosure of a Leasehold Mortgage or assignment of the Leasehold Estate in lieu of such foreclosure: (1) the Lender (or such affiliate) identifies as a potential assignee of the Leasehold Estate an entity that is controlled by, or includes a partner or member which is, a California nonprofit public benefit corporation that is exempt from tax under Section 501(c)(3) of the Internal Revenue Code such that the Leasehold Estate would, if leased by such entity, receive an exemption from state property taxes as provided under Section 214 of the California Revenue and Taxation Code, (2) Landlord has approved such entity (which approval shall not be unreasonably withheld, conditioned or delayed), and (3) Lender (or its affiliate) is engaged, diligently and in good faith, in negotiations with such entity for assignment of the Leasehold Estate, then, if requested by Lender, the obligations for payment of Annual Rent of the Lender (or such affiliate) shall continue to be as set forth for other Tenants in Article 4 for an additional sixty (60) days after the end of the one-hundred eighty (180) day period set forth in 26.07(a)(2)(A) above;

(C) From and after the date that Lender (or its affiliate) no longer qualifies under paragraph (A) or paragraph (B) of this Section 26.07(a)(2), but continues to operate the Project subject to the use and occupancy restrictions of Section 9.02, Base Rent shall accrue without regard to the amount of Surplus Cash and shall be payable by Lender (or such affiliate) in arrears on each January 31st in accordance with Section 4.02; provided, however, that payment of Base Rent thus accrued may, at the option of the Lender (or such affiliate), be deferred, with simple interest at six percent (6%) per annum until paid, until the first to occur of (x) assignment of the Leasehold Estate to a Subsequent Owner or (y) the date that is sixty days after the termination of this Ground Lease.

26.08 Permitted Uses after Lender Foreclosure

Notwithstanding the above, in the event of a foreclosure and transfer to a Subsequent

Owner, the Project shall be operated in accordance with the Declaration of Restrictions and residential and commercial uses specified in the schematic design, final construction documents, and the building permit with all addenda as approved by OCII.

26.09 Preservation of Leasehold Benefits

Until such time as a Lender notifies the Landlord in writing that the obligations of the Tenant under its loan documents have been satisfied, Landlord agrees:

(a) That the Landlord shall not voluntarily cancel or surrender this Ground Lease, or accept a voluntary cancellation or surrender of this Ground Lease by Tenant, or amend this Ground Lease to increase the obligations of the Tenant or the rights of Landlord thereunder, without the prior written consent of the Permitted Limited Partner and each Lender;

(b) That Landlord shall not enforce against a Lender any waiver or election validly made by the Tenant under this Ground Lease which has a material adverse effect on the value of the Leasehold Estate under this Ground Lease without the prior written consent of the Lender (which will not be unreasonably withheld, conditioned or delayed);

(c) That Landlord shall provide reasonable prior notice to each Lender of any proceedings for adjustment or adjudication of any insurance or condemnation claim involving the Premises and will permit each Lender to participate therein as an interested party.

26.10 No Merger

The Leasehold Estate in the Site pursuant to this Ground Lease shall not merge with the fee interest in the Improvements, notwithstanding ownership of the leasehold and the fee by the same person, without the prior written consent of each Lender.

26.11 Landlord Bankruptcy

(a) If a bankruptcy proceeding is filed by or against Landlord, Landlord shall immediately notify Tenant and each Lender of such filing and shall deliver a copy of all notices, pleadings, schedules, and similar materials regarding the bankruptcy proceedings to each Lender.

(b) Landlord acknowledges that (i) the Tenant seeks to construct improvements on the Site using proceeds of the loans provided by the Lenders, and (ii) it would be unfair to both the Tenant and the Lenders to sell the Site free and clear of the leasehold. Therefore, Landlord waives its right to sell the Landlord's fee interest in the Site pursuant to section 363(f) of the Bankruptcy Code, free and clear of the leasehold interest under this Ground Lease.

(c) If a bankruptcy proceeding is filed by or on behalf of Landlord, Landlord agrees

as follows: (i) the Tenant shall be presumed to have objected to any attempt by Landlord to sell the fee interest free and clear of the leasehold under this Ground Lease; (ii) if Tenant does not so object, each Lender shall have the right to so object on its own behalf or on behalf of the Tenant; and (iii) in connection with any such sale, the Tenant shall not be deemed to have received adequate protection under section 363(e) of the Bankruptcy Code, unless it shall have received and paid over to each Lender outstanding balance of the obligations under its respective loan.

(d) Landlord recognizes that the Lenders are authorized on behalf of the Tenant to vote, participate in or consent to any bankruptcy, insolvency, receivership or court proceeding concerning the leasehold interest under this Ground Lease.

ARTICLE 27: CONDEMNATION AND TAKINGS

27.01 Parties' Rights and Obligations to be Governed by Agreement

If, during the Term of this Ground Lease, there is any condemnation of all or any part of the Site or any interest in the Leasehold Estate is taken by condemnation, the rights and obligations of the parties shall be determined pursuant to this Article 27, subject to the rights of any Lender.

27.02 Total Taking

If the Site is totally taken by condemnation, this Ground Lease shall terminate on the date the condemnor has the right to possession of the Site.

27.03 Partial Taking

If any portion of the Site is taken by condemnation, this Ground Lease shall remain in effect, except that Tenant may, with the prior written consent of each Lender, elect to terminate this Ground Lease if, in Tenant's reasonable judgment, the remaining portion of the Improvements is rendered unsuitable for Tenant's continued use of the Site. If Tenant elects to terminate this Ground Lease, Tenant must exercise its right to terminate pursuant to this paragraph by giving notice to Landlord within thirty (30) days after the Landlord (or any other governmental entity) notifies Tenant of the nature and the extent of the taking. If Tenant elects to terminate this Ground Lease as provided in this Section 27.03, Tenant also shall notify Landlord of the date of termination, which date shall not be earlier than thirty (30) days nor later than six (6) months after Tenant has notified Landlord of its election to terminate; except that this Ground Lease shall terminate as to the portion so taken on the date the condemnor has the

right to possession of such portion of the Site if such date falls on a date before the date of termination as designated by Tenant. If Tenant does not terminate this Ground Lease within such thirty (30) day notice period, this Ground Lease shall continue in full force and effect.

27.04 Effect on Rent

If any portion of the Improvements is taken by condemnation and this Ground Lease remains in full force and effect, then on the date of taking the rent shall be equitably abated.

27.05 Restoration of Improvements

If there is a partial taking of the Improvements and this Ground Lease remains in full force and effect pursuant to Section 27.03, Tenant may, subject to the terms of each Leasehold Mortgage, use the proceeds of the taking to accomplish all necessary restoration to the Improvements.

27.06 Award and Distribution

Any compensation awarded, paid or received on a total or partial condemnation of the Site or threat of condemnation of the Site shall belong to and be distributed in the following order:

(a) First, to the extent required by a Lender in accordance with its loan documents, to pay the balance due on any outstanding Leasehold Mortgages and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals and lease residuals, to the extent provided therein;

(b) Second, to the Tenant in an amount equal to the fair market value of Tenant's interest in the Improvements and its leasehold interest in the Site (including, but not limited to, the value of Tenant's interest in all subleases to occupants of the Site), such value to be determined as it existed immediately preceding the earliest taking or threat of taking of the Site; and

(c) Third, to the Landlord.

27.07 Payment to Lenders

In the event the Improvements are subject to the lien of a Leasehold Mortgage on the date when any compensation resulting from a condemnation or threatened condemnation is to be paid to Tenant, such award shall be disposed of as provided in the Lender's loan documents.

ARTICLE 28: ESTOPPEL CERTIFICATE

Landlord or Tenant, as the case may be, shall execute, acknowledge and deliver to the

other and/or to Lender or Permitted Limited Partner, promptly (but not more than ten days) upon request, its certificate certifying (a) that this Ground Lease is unmodified and in full force and effect (or, if there have been modifications, that this Ground Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which rent and all other amounts due hereunder has been paid, (c) whether there are then existing any charges, offsets or defenses against the enforcement by Landlord or Tenant to be performed or observed and, if so, specifying the same, (d) whether there are then existing any defaults by Tenant or Landlord in the performance or observance by Tenant or Landlord of any agreement, covenant or condition hereof on the part of Tenant or Landlord to be performed or observed and whether any notice has been given to Tenant or Landlord of any default which has not been cured and, if so, specifying the same and such other information as may be reasonably requested by Tenant or any Lender.

ARTICLE 29: QUITCLAIM

Upon expiration or sooner termination of this Ground Lease, Tenant shall surrender the Site to Landlord and, at Landlord's request, shall execute, acknowledge, and deliver to Landlord a good and sufficient quitclaim deed with respect to any interest of Tenant in the Site. Title to the Improvements shall vest automatically in Landlord as provided in Article 13 herein.

ARTICLE 30: EQUAL OPPORTUNITY

Tenant agrees to comply with all of the Equal Opportunity Policies as described in Attachment 5 and will submit all documents required pursuant to the policies included in Attachment 5.

ARTICLE 31: OCII LABOR STANDARDS PROVISIONS

California Labor Code Section 1720 et seq. requires payment of prevailing wages for developments paid for in whole or in part out of public funds. Tenant agrees to pay or cause to be paid prevailing rates of wages in accordance with the requirements set forth in Attachment 5-3 and to comply with applicable provisions of the Labor Code.

ARTICLE 32: OCII MINIMUM COMPENSATION AND HEALTH CARE ACCOUNTABILITY POLICY

OCII find that it has a significant proprietary interest in the public parcel that is being leased to the Tenant pursuant to this Ground Lease. Tenant agrees that the Tenant and its subtenants, if any, will comply with the applicable provisions of the OCII's Minimum

Compensation Policy (“MCP”) and Health Care Accountability Policy (“HCAP”), adopted by Agency Resolution No. 168-2001 on September 25, 2001, as these policies may be amended from time to time (jointly, the “Policies”) as set forth in Attachments 5-5 and 5-6 respectively. Notwithstanding this requirement, the Parties recognize that the residential housing component of the Improvements is not subject to the Policies but the leasing and operations of the Non-residential Space is subject to the Policies.

ARTICLE 33: CONFLICT OF INTEREST

No commissioner, official, or employee of OCII shall have any personal or financial interest, direct or indirect, in this Ground Lease, nor shall any such commissioner, official, or employee participate in any decision relating to this Ground Lease which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested.

ARTICLE 34: NO PERSONAL LIABILITY

No commissioner, official, or employee of OCII shall be personally liable to Tenant or any successor in interest in the event of any default or breach by OCII or for any amount which may become due to Tenant or its successors or on any obligations under the terms of this Ground Lease. No partner of Tenant shall be personally liable to Landlord or any successor in interest in the event of any default or breach by Tenant or for any amount which may become due to Landlord or its successors or on any obligations under the terms of this Ground Lease.

ARTICLE 35: ENERGY CONSERVATION

Tenant agrees that it will use its best efforts to maximize provision of, and incorporation of, both energy conservation techniques and systems and improved waste-handling methodology in the construction of the Improvements.

ARTICLE 36: WAIVER

The waiver by Landlord or Tenant of any term, covenant, agreement or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement or condition herein contained, nor shall any custom or practice which may grow up between the parties in the administration of the terms hereof be construed to waive or to lessen the right of Landlord or Tenant to insist upon the performance by the other in strict accordance with the said terms. The subsequent acceptance of rent or any other sum of money

ARTICLE 37: TENANT RECORDS

ARTICLE 38: NOTICES AND CONSENTS

To Landlord: Office of Community Investment and Infrastructure
Successor Agency to the Redevelopment Agency of the City
and County of San Francisco
One South Van Ness, 5th Floor
San Francisco, CA 94103
Attn: Executive Director

With a copy to: Mayor's Office of Housing and Community Development
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: Director

691 China Basin Street
Page 48 of 131

c/o Mercy Housing California
1256 Market Street
San Francisco, CA 94102
Attn: Asset Management

With a copy to:

Gubb & Barshay LLP
505 14th Street, Suite 1050,
Oakland, CA 94612
Attn: Evan Gross

To First Mortgage Lender:

Bank of America, N.A.
100 North Tryon Street
Charlotte, NC 28255
[CONFIRM]

and after Conversion Date to:

California Community Reinvestment Commission
100 West Broadway, Suite 1000
Glendale, CA 91210
[CONFIRM]

To Investor Limited Partner:

Bank of America, N.A.
c/o Banc of America CDC Special Holding Company, Inc.
Tax Credit Equity Investment Asset Management
NC1-007-11-25
100 North Tryon Street
Charlotte, NC 28202
Attention: Nicole Baldon
Facsimile: 980/386-6662

With a copy to:

Sidley Austin LLP
555 West Fifth Street, Suite 4000
Los Angeles, CA 90013
Attn: Cynthia J. Christian

or to such other address with respect to either party as that party may from time to time designate by notice to the other given pursuant to the provisions of this Article 38. Any notice given pursuant to this Article 38 shall be effective on the date of delivery or the date delivery is refused as shown on the delivery receipt. For purposes of this Article 38, the Investor Limited Partner shall include Permitted Limited Partner(s).

ARTICLE 39: COMPLETE AGREEMENT

There are no oral agreements between Tenant and Landlord affecting this Ground Lease,

and this Ground Lease supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings between Tenant and Landlord with respect to the lease of the Site.

ARTICLE 40: HEADINGS

Any titles of the several parts and sections of this Ground Lease are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. “Paragraph” and “section” may be used interchangeably.

ARTICLE 41: SUCCESSORS AND ASSIGNS

This Ground Lease shall be binding upon and inure to the benefit of the successors and assigns of Landlord and Tenant and where the term “Tenant” or “Landlord” is used in this Ground Lease, it shall mean and include their respective successors and assigns; provided, however, that Landlord shall have no obligation under this Ground Lease to, nor shall any benefit of this Ground Lease accrue to, any unapproved successor or assign of Tenant where Landlord approval of a successor or assign is required by this Ground Lease.

ARTICLE 42: TIME OF THE ESSENCE.

Time is of the essence in the enforcement of the terms and conditions of this Ground Lease.

ARTICLE 43: PARTIAL INVALIDITY

If any provisions of this Ground Lease shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Ground Lease and all such other provisions shall remain in full force and effect.

ARTICLE 44: APPLICABLE LAW

This Ground Lease shall be governed by and construed pursuant to the laws of the State of California.

ARTICLE 45: ATTORNEYS’ FEES

If either of the parties hereto commences a lawsuit to enforce any of the terms of this Ground Lease, the prevailing party will have the right to recover its reasonable attorneys’ fees and costs of suit, including fees and costs on appeal, from the other party.

ARTICLE 46: EXECUTION IN COUNTERPARTS

This Ground Lease and any memorandum hereof may be executed in counterparts, each of which shall be considered an original, and all of which shall constitute one and the same instrument.

ARTICLE 47: RECORDATION OF MEMORANDUM OF GROUND LEASE

This Ground Lease shall not be recorded, but a memorandum of this Ground Lease shall be recorded. The parties shall execute the memorandum in form and substance as required by a title insurance company insuring Tenant's leasehold estate or the interest of any Leasehold Mortgagee, and sufficient to give constructive notice of the Ground Lease to subsequent purchasers and mortgagees. The form of memorandum of Ground Lease is attached hereto as Attachment 2.

ARTICLE 48: ATTACHMENTS

The following are attached to this Ground Lease and by this reference made a part hereof:

1. Legal Description of Site
2. Memorandum of Ground Lease
3. Schedule of Performance
4. Operational Rules for San Francisco Housing Lotteries and Rental Lease-Up Activities
5. Equal Opportunity Program
- 5-1. Small Business Enterprise (SBE) Agreement
- 5-2. Construction Workforce Agreement
- 5-3. Prevailing Wage Policy
- 5-4. Nondiscrimination in Contracts and Benefits
- 5-5. Health Care Accountability
- 5-6. Minimum Compensation
6. Income Computation and Certification
7. San Francisco Mayor's Office of Housing and Community Development Commercial Space Underwriting Guidelines
8. Consent to Leasehold Mortgage
9. Rent Restrictions

IN WITNESS WHEREOF, the Tenant and Landlord have executed this Ground Lease as of the day and year first above written.

Landlord:

Office of Community Investment
and Infrastructure, Successor Agency
to the Redevelopment Agency of the
City and County of San Francisco,
a public body, organized and existing
under the laws of the State of
California

By: _____
Nadia Sesay
Executive Director

TENANT:

Mercy Housing California 78, L.P.,
a California limited partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit
corporation,
its managing general partner

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____
James B. Morales
Deputy Director and General Counsel

Authorized by Landlord Resolution No. ____-2019, adopted _____, 2019

ATTACHMENT 1

Legal Description of the Site

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Leasehold estate as created by that certain lease dated March _____, 2019, made by and between the Office Of Community Investment and Infrastructure as Successor Agency to the San Francisco Redevelopment Agency, as lessor, and Mercy Housing California 78 L.P., a California limited partnership, as lessee, for the term of 75 years and upon the terms and conditions contained in said lease and subject to provisions contained in the lease which limit the right of possession, Memorandum of Ground Lease thereof recorded _____, 2019, in Official Records under Recorder's Serial Number 2019-_____ in and to the following:

Block 8711, Lot 20, as shown on the Map of Final Map Tract No. 3936, filed February 22, 2006, in Book BB of Maps, Pages 54 through 58, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California, and as amended by those certain Certificate of Corrections recorded October 12, 2006 as Instrument No. 2006-1269212, September 8, 2008 as Instrument No. 2008-1643842-00 and October 22, 2008 as Instrument No. 2008-1669876-00 of Official Records.

Assessor's LOT 020; BLOCK 8711

ATTACHMENT 2

Memorandum of Ground Lease

RECORDING REQUESTED BY:

Successor Agency to the Redevelopment
Agency of the City and County of San
Francisco, One South Van Ness Avenue,

WHEN RECORDED RETURN TO:

Free Recording Requested Pursuant to Government Code Section 27383
691 China Basin Street
San Francisco, CA 94107

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease ("Memorandum") is entered into as of this ___ day of _____ by and between the Office of Community Investment and Infrastructure, organized and existing under the laws of the State of California (the "Lessor") and Mercy Housing California 78, L.P. _____ (the "Lessee") with respect to that certain unrecorded Ground Lease dated as of _____, 2019, _____ (the "Ground Lease"), between Lessor and Lessee.

Pursuant to the Ground Lease, Lessor hereby leases to Lessee and Lessee leases from Lessor the real property described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"). The Initial Term of the Ground Lease shall commence on August 16, 2019 _____, and shall end on the date seventy five (75) years thereafter, with an Option for Extension for an additional twenty-four (24) year term to begin at the end of the Initial Term. Lessee is granted a right of first refusal to purchase a fee interest in the Property from Lessor under certain conditions more specifically described in Section 14.02 of the Ground Lease.

This Memorandum shall incorporate herein all of the terms and provisions of the Ground Lease as though fully set forth herein.

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the Ground Lease or grant of improvements, of which this is a memorandum.

Executed this ____ day of _____ 2019, at San Francisco, California.

LESSOR:

Office of Community Investment and Infrastructure
of the City and County of San Francisco,
a public body, organized and existing under the laws of the State of California

By: _____

Nadia Sesay

Its: Director

LESSEE:

Mercy Housing California 78, L.P.,
a California Limited Partnership

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its managing general partner

By: _____

Name: _____

Its: _____

ALL SIGNATURES MUST BE NOTARIZED

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Leasehold estate as created by that certain lease dated March _____, 2019, made by and between the Office Of Community Investment and Infrastructure as Successor Agency to the San Francisco Redevelopment Agency, as lessor, and Mercy Housing California 78 L.P., a California limited partnership, as lessee, for the term of 75 years and upon the terms and conditions contained in said lease and subject to provisions contained in the lease which limit the right of possession, Memorandum of Ground Lease thereof recorded _____, 2019, in Official Records under Recorder's Serial Number 2019-_____ in and to the following:

Block 8711, Lot 20, as shown on the Map of Final Map Tract No. 3936, filed February 22, 2006, in Book BB of Maps, Pages 54 through 58, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California, and as amended by those certain Certificate of Corrections recorded October 12, 2006 as Instrument No. 2006-1269212, September 8, 2008 as Instrument No. 2008-1643842-00 and October 22, 2008 as Instrument No. 2008-1669876-00 of Official Records.

Assessor's LOT 020; BLOCK 8711

ATTACHMENT 3
Schedule of Performance

<u>No.</u>	<u>Performance Milestone</u>	<u>Estimated or Actual Date</u>	<u>Contractual Deadline</u>
A.	Prop I Noticing (if applicable)		
1	Acquisition/Predev Financing Commitment	<u>7/2017</u>	
2.	Site Acquisition	<u>4/2019</u>	<u>7/2019</u>
3.	Development Team Selection		
a.	Architect	<u>2/2017</u>	
b.	General Contractor	<u>7/2017</u>	
c.	Owner's Representative	<u>7/2017</u>	
d.	Property Manager	<u>2/2017</u>	
e.	Service Provider	<u>2/2017</u>	
4.	Design		
a.	Submittal of Schematic Design & Cost Estimate	<u>2/2018</u>	<u>2/2018</u>
b.	Submittal of Design Development & Cost Estimate	<u>7/2018</u>	
c.	Submittal of 50% CD Set & Cost Estimate	<u>11/2018</u>	
c.	Submittal of Bid Set & GMP Development	<u>12/2018</u>	
5.	Environ Review/Land-Use Entitlements		
a.	CEQA Environ Review Submission	<u>02/2018</u>	
b.	NEPA Environ Review Submission	<u>06/2018</u>	
c.	CUP/PUD/Variances Submission	<u>03/2018</u>	
6.	Permits		
a.	Building / Site Permit Application Submitted	<u>04/2018</u>	<u>04/2018</u>
b.	Addendum #1 Submitted	<u>10/2018</u>	
c.	Addendum #2 Submitted	<u>12/2018</u>	
7.	Request for Bids Issued	<u>12/2018</u>	
8.	Service Plan Submission		
a.	Preliminary	<u>12/2019</u>	
b.	Interim	<u>06/2020</u>	
c.	Update	<u>12/2020</u>	

9.	Additional City Financing		
b.	Gap Financing Application	<u>11/2018</u>	
10.	Other Financing		
a.	IIG Application	<u>3/2018</u>	
b.	Construction Financing RFP	<u>10/2018</u>	
c.	AHP Application	<u>3/2019</u>	
d.	CDLAC Application	<u>10/2018</u>	
e.	TCAC Application	<u>10/2018</u>	
g.	Other Financing Application: Project-Based Vouchers	<u>4/2018</u>	
11.	Closing		
a.	Construction Closing	<u>4/2019</u>	
b.	Permanent Financing Closing	<u>12/2021</u>	
12.	Construction		
a.	Notice to Proceed	<u>4/2019</u>	<u>5/2019</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>2/2021</u>	<u>7/2021</u>
13.	Marketing/Rent-up		
a.	Early Outreach Marketing Plan Submittal	<u>5/2019</u>	<u>8/2019</u>
b.	Obtain Approval of Early Outreach Marketing Plan	<u>7/2019</u>	
c.	Marketing and Tenant Selection Plan Submittal	<u>8/2019</u>	
d.	Obtain Approval of Marketing and Tenant Selection Plan	<u>2/2020</u>	
e.	Commence Marketing	<u>9/2020</u>	
f.	95% Occupancy	<u>6/2021</u>	<u>11/2021</u>
14.	Cost Certification	<u>4/2021</u>	
15.	Close Out MOH/OCII Loan(s)	<u>12/2021</u>	
16.	PIS Submittal for 8609	<u>1/2022</u>	

ATTACHMENT 4

Operational Rules for San Francisco Housing Lotteries and Rental Lease-up Activities

In order to implement consistent and transparent marketing practices for all affordable housing under the purview of the Office of Community Investment and Infrastructure (OCII/MOHCD) and its agent for implementation, the Mayor's Office of Housing and Community Development (MOHCD), the following policies and procedures have been adopted. The Tenant hereby acknowledges and agrees to follow these procedures as outlined below, and as may be updated from time to time.

If ever there is a conflict between a recorded development agreement and this document, the executed development agreement will prevail. Likewise, when state and federal funding sources conflict with anything outlined in these guidelines, they too shall prevail.

HOUSING PREFERENCE PROGRAMS

The Tenant hereby agrees that first preference in occupying units designated for Low-Income Households (Low Income Units) will be given to persons who have been issued a Residential Certificate of Preference (COP) and who meet all qualifications for the unit.

The Tenant further agrees that second preference in occupying units designated for Low-Income Households will be given to persons who have been issued a Displaced Tenant Housing Program (DTHP) Certificate and who meet all qualifications for the unit.

The Tenant further agrees that third preference in occupying units designated for Low-Income Households will be given to persons who reside or are employed in the City, and who meet all other qualifications for the unit.

For new residential developments going through the initial lease-up process, the DTHP priority shall apply to twenty percent (20%) of the Low Income Units. Thus, if the number of units available exceeds the number of qualified applicants who hold a COP or other preference as dictated by specific loan documents or marketing plan, the next priority will go to DTHP certificate holders for up to 20% of the total Low Income Units. The DTHP priority does not apply at initial lease-up or sale to buildings having four (4) or fewer Low Income Housing Units. However, the EAHP priority does apply to these same units upon re-rental.

Low Income Units with other occupancy priorities required by law, contract, or program rules may apply the COP and DTHP after other preferences, with COP holders being granted priority above DTHP certificate holders. Preferences required by a former Redevelopment Project Area Plan are not pre-empted by the COP Program or the Displaced Tenant Housing Preference Program. Preferences required by the LOHP, Direct Access to Housing Program, Housing First Program, or other government programs are not pre-empted by the Displaced Tenant Housing Preference Program.

Marketing Plan

The Tenant agrees to provide OCII/MOHCD with a complete and updated marketing plan at least forty-five (45) calendar days prior to accepting lease applications and at least one hundred

and twenty (120) calendar days prior to the anticipated close of escrow for ownership units or lease origination dates for rental units. The Marketing Plan as provided to OCII/MOHCD shall not be changed without providing OCII/MOHCD with fourteen (14) calendar days written notice.

New rental units shall be marketed for at least a 21-day period, including a listing on the OCII/MOHCD and MOHCD website and on the email housing alert system.

Outreach to Certificate Holders

OCII/MOHCD shall furnish the following:

- Address printed notices to COP Holders created by the Project Sponsor using an MOHCD template.
- Assistance to qualified tenants in filing COP applications or referral to an appropriate housing counseling organization

The Tenant agrees to:

- Create written notices to COP certificate holders advising them that units are available using a template provided by OCII/MOHCD.
- Mail the notices prior to the application period. For Office of Community Investment and Infrastructure (OCII) projects, Notices should be mailed at least 15 months before completion of construction as well as prior to the application period.
- Bear the full cost of the mailing.

Outreach to DTHP Certificate Holders

MOHCD shall furnish the following:

- A housing email alert service which provides notices to DTHP certificate holders advising them of available City Affordable Housing Units.
- Assistance to tenants in filing DTHP applications (when possible) or referral to an appropriate housing counseling organization.

Application Forms

All City Affordable Housing Project applications shall include the following questions:

- Do you have a Certificate of Preference from the San Francisco Redevelopment Agency?
- Do you have a Displaced Tenant Housing Preference Program certificate or an Ellis Act Housing Preference Program Certificate?
- Does one or more of the Household members currently live or work in San Francisco?

Applications for projects shall include the following notice placed prominently:

If eligibility for a preference cannot be verified or acceptable documentation to prove eligibility for a preference is not submitted, your Household will not receive the preference for which you indicate eligibility.

Verifying Complete Applications

On an ongoing basis as applications are received, Tenants will review them for completeness and communicate with applicants to request any additional required information. Once an application is complete, the Tenants will assign the application a lottery ticket number. Tenants will send the ticket or a copy or scan of the ticket to the applicant for their records.

Pre-Lottery Application Status Reports

At least every seven (7) calendar days, from the initial date applications are accepted, The Tenant shall supply MOHCD with a “status report” listing names and addresses of all Households that have submitted complete applications and assigned lottery ticket numbers.

No more than seven (7) calendar days after the application deadline, the Tenant must provide MOHCD with a complete list of all applicants’ names, addresses, whether they have indicated that they have a COP or DTHP certificate and whether they provided acceptable proof of the LWP. MOHCD will, in turn, confirm whether each listed applicant qualifies as a COP or DTHP certificate holder, or qualifies for preliminary status as living or working in San Francisco.

Lottery Procedures

Lotteries for City Affordable Housing Units shall be held in a public, accessible location that is arranged and paid for by the Tenant. Applicants shall be invited to attend lotteries, but attendance is not mandatory.

A representative of MOHCD shall conduct the lottery in tandem with the Tenant. MOHCD shall employ a publically available computer program to generate a random lottery rank for each and every complete application with no regard for the various preference pools. All applicants with lottery ticket numbers shall be assigned a lottery rank.

The list of all complete applications sorted by lottery rank number constitutes the ‘unranked’ lottery pool. However, several additional pools must be constructed including only those applicants who qualify for specific preferences. MOHCD will produce a ranked applicant list for each relevant preference pool. Applicants will be included in all preference pools for which they are eligible. Many applicants will be included in multiple preference pools. All DTHP certificate holders will be included in the LWP pool, if applicable, regardless of their current address at the time of application. Each of the preference pools will be sorted in lottery rank order using the same lottery rank numbers (i.e. there is no separate drawing for each pool, applicants receive only one lottery rank number which determines their position on each preference list. For example, an applicant with lottery rank number 10 would be in tenth position in the general pool but, they could also be in third position in the LWP pool and first position in the DTHP pool.)

Final Lottery List

No later than seven (7) days after the date on which the lottery is held, MOHCD and the Tenant shall publish the final lottery list including the lottery rank assigned to each applicant ticket number in the general pool list and the resulting ranked preference lists for each preference pool.

Lottery results shall be posted on either the MOHCD or DAHLIA-San Francisco Housing Portal, and shall not include the names of applicants but only the application ticket numbers.

Application Review

Applications shall not be reviewed for eligibility before a lottery, but only after the lottery ranking has been finalized.

The Tenant shall adhere to the rank order of each of the lottery preference pool lists when reviewing applications.

For the sake of efficiency, Tenant may request documentation from multiple applicants with similar rankings; however applicants will be approved or disqualified only in rank order by preference pool. Because of the complexity resulting from multiple overlapping preference pools, it is important that an available unit be offered to only one applicant. Proceeding through the list beginning with the applicant with the lowest lottery rank number in the first preference pool (generally the COP list), and moving through that list before proceeding to the next preference pool, the Project Sponsor will determine whether each applicant is eligible. Eligible applicants will be sent an acceptance letter and given the chance to select a unit before the next applicant in sequence is evaluated. An applicant that selects a unit will be removed from all subsequent preference pools and the general pool. If an applicant is disqualified or declines a unit, they will be removed from all subsequent preference pools and the general pool.

In the event that applicants utilizing DTHP certificates are approved for at least 20% of the total available City Affordable Housing Units in a Project, processing of applicants from the DTHP preference pool will be suspended and applicants from the next preference pool will be considered next. The ranked DTHP list will be maintained in case any of the selected DTHP certificate holders later withdraws, in which case the next sequential applicant on the DTHP pool list will be considered.

Response Deadline

An applicant who has been approved and notified in writing by the Tenant shall have at least seven (7) calendar days thereafter to enter into a lease agreement for the available unit or ten (10) calendar days to enter into a purchase agreement for the available unit, as applicable. If the applicant fails to affirmatively respond, the application shall be considered 'rejected' by the applicant. Rejection of the unit by an applicant must be shown on the current status report submitted to OCII/MOHCD on a weekly basis. Written notice shall be provided to applicants whose applications are closed due to a lack of response. Applicants may 'reject' units with no consequence for their eligibility for future City Affordable Housing Units.

Unit Assignment

Applicants shall be assigned or have the opportunity to choose among appropriate units in the order in which they are evaluated based on the ranked preference pools.

While Household composition may change after an applicant submits an application, Tenants shall verify that Household members who qualified the Household for any preferences are still included in the Household and sign the lease or purchase contract. In the event that Household composition changes in a way that results in a loss of any preference status, the Household will be removed from the relevant preference list and the available unit shall be offered to the next eligible Household.

In some cases, applicants who are eligible for the overall project may not qualify for any of the remaining available units because of Household size or income category requirements or other factors. If there is no appropriate unit available for the next eligible applicant, the applicant may maintain their position on the list while the Tenant processes the next eligible applicant for whom there is an appropriate available unit. Tenants need not complete all elements of eligibility screening once they have sufficient information to determine that no appropriate unit is available for an applicant.

Coordination Between OCII/MOHCD and Tenant

Because of the complexity in implementing the preference rules it is essential for OCII/MOHCD and Tenant to coordinate closely as applicants are evaluated.

In order to prepare to process applicants in the most efficient manor, Tenants may collect supporting documentation from applicants whose lottery position makes them likely to be considered soon. However, because of the complexity of the preference system, it will not always be possible to know which applicants will be considered next.

In order to facilitate this process, MOHCD will provide Tenants with an applicant tracking tool which identifies the first applicant as well as the likely next applicants in rank order. Tenants must use this tool to ensure that applicants are screened in the proper rank order.

The Tenant will process all applicants only in preference ranked order and communicate an Application Status back to OCII/MOHCD for each applicant processed before moving to consider the next eligible applicant. Application Status may include:

- ☐ Processing
- ☐ Approved
- ☐ Lease Signed(identify unit number)
- ☐ Disqualified/Withdrawn
- ☐ Appeal
- ☐ Compliance
- ☐ Waitlist

Disqualification and Appeals

Applicants who are not able to demonstrate eligibility shall be notified in writing of their disqualification. Disqualification letters shall inform applicants that they may appeal to

OCII/MOHCD with a request for Reconsideration within three (3) days from the date of receipt of the disqualification letter.

In the case of an appeal or request for reconsideration, the Tenant shall follow procedures outlined in this Manual and the project's Marketing Plan. Typically, this will require holding an appropriately sized unit for the disqualified Household while OCII/MOHCD or Tenant evaluates the request for reconsideration (within seven (7) days from receipt of the request).

Final Documentation

Within fourteen (14) calendar days after execution of a lease or sale by an applicant, the Project Sponsor shall supply MOHCD with a copy of the following for all DTHP and COP applicants:

- Signed copy of lease or ownership agreement
- Copy of complete application

Retention Policy

For MOHCD auditing purposes, Tenants are required to keep all supporting documents for each applicant that has been interviewed for at least one year after the interview.

Waitlists

For projects that fill vacancies from a waitlist the Tenant must put the following guidelines in place. The number of households on a waitlist should be no more than 300% of the number of affordable units. The minimum number of households on the waitlist should be no less than 30% of the number of affordable units. For example, for a project with 100 affordable units there should be a maximum of 300 households on the waitlist and a minimum of 30 households on the waitlist. If the number of households on the waitlist drops below 30% the Tenant must contact MOHCD to refresh the waitlist by submitting a new marketing plan. A marketing period will be commence, and a lottery conducted thereafter, to determine which households will fill the open vacancies on the waitlist. Households from subsequent lotteries will be placed after the households who were already on the waitlist.

Additionally, the Tenant must contact the households on the waitlist in writing annually to determine if they want to remain on the waitlist. If households do not respond they will be removed from the waitlist.

ATTACHMENT 5

1. Equal Opportunity Policies. Tenant shall comply with OCII's Equal Opportunity Policies and execute agreements and declarations attached hereto as part of this Attachment 5 which includes: Small Business Enterprise Agreement, Construction Workforce Agreement, Prevailing Wage Provisions (Labor Standards), Nondiscrimination in Contracts and Benefits, Minimum Compensation Policy, and Health Care Accountability Policy:

- (i) Small Business Enterprise (SBE) Policy (adopted by Resolution No. 43-2015) which requires execution of the SBE Agreement attached as Attachment 5-1;
- (ii) Construction Workforce, attached as set forth in Attachment 5-2;
- (iii) Prevailing Wage Provisions (Labor Standards) (adopted by Resolution No. 327-1985) attached as Attachment 5-3.
- (iv) Nondiscrimination in Contracts and Benefits (adopted by Resolution No. 175-1997) which requires execution of the Nondiscrimination in Contracts and Benefits Declaration Form attached as Attachment 5-4.
- (v) Minimum Compensation Policy (adopted by Resolution No. 168-2001) which requires execution of the Minimum Compensation Policy Declaration attached as Attachment 5-5.
- (vi) Health Care Accountability Policy (adopted by Resolution No. 168-2001) which requires execution of the Health Care Accountability Policy Declaration attached as Attachment 5-6.

2. Environmental Review. The Project must meet the requirements of the California Environmental Quality Act (Cal. Pub. Res. Code §§ 2100 *et seq.*) and implementing regulations.

3. Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no employee, agent, consultant, officer or official of Tenant or OCII who exercises or has exercised any function or responsibilities with respect to activities assisted by proceeds of the OCII Loan Funds, in whole or in part, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in or benefit from the activities assisted under this Agreement, or have an interest, direct or indirect, in any contract, subcontract or agreement with respect thereto, or in the proceeds thereunder either for himself/herself or for those with whom he/she has family or business ties, during his/her tenure and for one year thereafter. In order to carry out the purpose of this Section, Tenant must incorporate, or cause to be incorporated, in all contracts, subcontracts and agreements relating to activities assisted under the Agreement, a provision similar to that of this Section. Tenant will be responsible for obtaining compliance with conflict of interest provisions by the parties with whom it contracts and, in the event of a breach, Tenant must take prompt and diligent action to cause the breach to be remedied and compliance to be restored.

(b) Tenant represents that it is familiar with the provisions of Sections 1090 through 1097 and 87100 *et seq.* of the California Government Code, all of which relate to prohibited conflicts of interest in connection with government contracts. Tenant certifies that it knows of no facts that constitute a violation of any of these provisions and agrees to notify OCII

immediately if Tenant at any time obtains knowledge of facts constituting a violation.

(c) In the event of any violation of the conflict of interest prohibitions, Tenant agrees that OCII may refuse to consider any future application for funding from Tenant or any entity related to Tenant until the violation has been corrected to OCII's satisfaction, in OCII's sole discretion.

4. Disability Access. Tenant must comply with all applicable disability access Laws, including the Americans With Disabilities Act (42 U.S.C. §§ 1201 *et seq.*), Section 504 of the Rehabilitation Act (29 U.S.C. § 794) and the Fair Housing Amendments Act (42 U.S.C. §§ 3601 *et seq.*). Tenant is responsible for determining which disability access Laws apply to the Project, including those applicable due to the use of proceeds of the OCII Loan Funds. In addition, before occupancy of the Project, Tenant must provide to OCII a written reasonable accommodations policy that indicates how Tenant will respond to requests by disabled individuals for accommodations in Units and common areas of the Project.

5. Lead-Based Paint. Tenant must satisfy the requirements of Chapter 36 of the San Francisco Building Code ("Work Practices for Exterior Lead-Based Paint") and the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821 *et seq.*) and implementing regulations at 24 CFR part 35. Tenant must also comply with the provisions contained in 17 CCR 350000 *et seq.*, and 8 CCR 1532.1 and all other applicable Laws governing lead-based hazards.

6. Relocation. Tenant must meet any applicable requirements of the California Relocation Assistance Act (Cal. Gov. Code §§ 7260 *et seq.*) and implementing regulations in Title 25, Chapter 6 of the California Administrative Code and similar Laws.

7. Non-Discrimination in OCII Contracts and Benefits Policy.

(a) Tenant May Not Discriminate. In the performance of this Agreement, Tenant agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, height, weight, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Tenant, in any of Tenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services or membership in all business, social or other establishments or organizations operated by Tenant.

(b) Non-Discrimination in Benefits. Tenant does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or where the work is being performed for OCII or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with

a Governmental Agency under state or local law authorizing such registration, subject to the conditions set forth in the Agency's Nondiscrimination in Contracts Policy, adopted by Agency Resolution 175-97, as amended from time to time.

8. Public Disclosure.

(a) Tenant understands and agrees that under the State Public Records Law (Cal. Gov. Code §§ 6250 *et seq.*), this Agreement and any and all records, information and materials submitted to OCII or the City hereunder are public records subject to public disclosure. Tenant hereby authorizes OCII and the City to disclose any records, information and materials submitted to OCII or the City in connection with this Agreement as required by Law.

9. Compliance with Minimum Compensation Policy and Health Care Accountability Policy. Tenant agrees, as of the date of this Agreement and during the term of this Agreement, to comply with the provisions of the Agency's Minimum Compensation Policy and Health Care Accountability Policy (the "Policies"), adopted by Agency Resolution 168-2001, as such policies may be amended from time to time. Such compliance includes providing all "Covered Employees," as defined under Section 2.7 of the Policies, a minimum level of compensation and offering health plan benefits to such employees or to make payments to the City's Department of Public Health, or to participate in a health benefits program developed by the City's Director of Health.

10. Limitations on Contributions. Through execution of this Agreement, Tenant acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the Agency for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) the Mayor or members of the Board of Supervisors, (2) a candidate for Mayor or Board of Supervisors, or (3) a committee controlled by such office holder or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Tenant further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Tenant's board of directors; Tenant's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Tenant; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Tenant. Additionally, Tenant acknowledges that Tenant must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Tenant agrees to provide to OCII the names of each member of Tenant's general partner's (or, if applicable, general partner's managing members) board of directors; Tenant's general partner's (or, if applicable, general partner's managing members) chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Tenant's general partner (or, if applicable, general

partner's managing members); any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Tenant.

ATTACHMENT 5-1

SMALL BUSINESS ENTERPRISE AGREEMENT

The company or entity executing this Small Business Enterprise Agreement, by and through its duly authorized representative, hereby agrees to use good faith efforts to comply with all of the following:

I. PURPOSE. The purpose of entering into this Small Business Enterprise Program agreement (“**SBE Program**”) is to establish a set of Small Business Enterprise (“SBE”) participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in contracts by or at the behest of the Successor Agency to the San Francisco Redevelopment Agency (“**Agency**”) and/or the Agency-Assisted Contractor. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco-based SBEs before looking outside of San Francisco.

II. APPLICATION. The SBE Program applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract.

III. GOALS. The Agency’s SBE Participation Goals are:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

IV. TRAINEE HIRING GOAL. In addition to the goals set forth above in Section III, there is a trainee hiring goal for all design professionals (architects, engineers, planners, and environmental consultants) on contracts or subcontracts over \$100,000. The trainee hiring goal requires architects, engineers and other design professionals only to hire qualified San Francisco residents as trainees. The trainee hiring goal is based upon the total amount of the design professional’s contract as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 – \$99,000
1	\$ 100,000 – \$249,999
2	\$ 250,000 – \$499,999
3	\$ 500,000 – \$999,999
4	\$1,000,000 – \$1,499,999
5	\$1,500,000 – \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 – or more

A. Procedures For Trainee Hires

1. Compliance with the Trainee Hiring Goal

Design professionals will be deemed in compliance with this Agreement by meeting or exceeding the trainee hiring goal or by take the following steps in good faith towards compliance.

2. Execution and Incorporation of this Agreement to Sub-agreements

The Agency-Assisted Contractor shall execute this Agreement and shall incorporate by reference or attach this Agreement to its contract(s) with the architects, engineers and other design professionals. Thus, each design professional (regardless of tier) will be obligated to comply with the terms of this Agreement. The Agency-Assisted Contractor and/or the design professionals shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. Contact Educational Institutions

Each design professional shall call the City and County of San Francisco Office of Economic and Workforce Development (OEWD) or educational institution(s) and request referrals for the required trainee positions. The request will indicate generally: (1) the number of trainees sought; (2) the required skills set (keeping in mind that these are trainee positions); (3) a brief description of job duties; (4) the duration of the trainee period; and (5) any other information that would be helpful or necessary for the educational institution or OEWD to make the referral. The minimum duration of assignment is part-time for one semester. However, design professionals are strongly encouraged to offer longer trainee employment periods to allow a more meaningful learning experience. (For example, a half-time or full-time assignment over the summer.) Although the initial contact shall be made by phone, the educational institution(s) or OEWD may require the design professionals to send a confirming letter or complete its form(s). Each design professional is required to timely provide all of the information requested by the OEWD or educational institution(s) in order to get the referrals.

4. Response from Educational Institutions

Each educational institution may have a different way of referring applicants, such as: sending resumes directly to the design professional; having the applicant contact the design professional by phone; require design professionals to conduct on-campus interviews; or some other method. The timing and method of the response will normally be discussed with the design professional during the initial phone request. The design professional is required to follow the process set by the educational institution(s) in order to get the referrals.

5. Action by Design Professionals When Referrals Available

The design professional shall interview each applicant prior to making the decision to hire or not to hire. The design professional shall make the final determination whether the applicant is qualified for the trainee position and the ultimate hiring decision. The Agency strongly encourages the design professional to hire a qualified San Francisco resident referred by the educational institution(s). The design professional shall notify the educational institution in writing of the hiring decision.

6. Action by Design Professionals When Referrals Unavailable

If after contacting two or more educational institutions the design professional is informed that no San Francisco residents are currently available, then the design professional should wait thirty (30) days and contact the educational institutions a second time to inquire whether qualified San Francisco residents are currently available for hire as trainees. If no qualified San Francisco residents are currently available after the second request, then the design professional has fulfilled its obligation under this Agreement, provided that the design professional has acted in good faith. The design professional must retain its file on all of the steps it took to comply with this Section IV and submit a copy of its file to the Agency Compliance Officer upon request.

7. Action by Design Professional When No Response From Educational Institutions

If a design professional has not received a response to its request for referrals from any of the educational institutions within five (5) business days after the design professional has fully complied with the procedures, if any, set by the educational institution(s) for obtaining referrals, then the design professional should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause the educational institution(s) to respond to the design professional within five (5) business days of the Agency Compliance Officer being notified. If the design professional still has not received a response from the educational institution(s) after this additional five (5) business day period has run, then the design professional has fulfilled its obligation under this Section IV, provided that the design professional has acted in good faith. Each design professional must retain its file on all of the steps it took to comply with this Agreement and submit a copy of its file to the Agency Compliance Officer upon request.

8. Termination of Trainee for Cause

If at any time during the Term, it becomes necessary to terminate for cause a trainee who was hired under this Agreement and the design professional has not met the minimum duration requirements under this policy, then the design professional shall hire a new trainee by following the process set forth above.

B. Reporting Requirements For Trainee Hires

1. Reporting

Upon completion of the Term of the Agreement or the term of the design professional's contract with the Agency-Assisted Contractor, whichever is less, the design professional (i.e. Employer) shall fax or email a report to the Agency Compliance Officer stating in detail: (1) the names of the San Francisco resident(s) interviewed for trainee positions; (2) the date(s) of each interview; (3) the reasons for not hiring the San Francisco resident(s) interviewed; (4) the name, address, gender and racial/ethnic background of the successful candidate for the trainee position; and (5) the number of San Francisco residents hired as trainees.

2. Report on Terminations

In the event a San Francisco resident hired pursuant to this Agreement is terminated for cause, the responsible design professional shall within five (5) days fax or email a termination report to the Agency Compliance Officer stating in detail: (1) the name of the trainee(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); and (4) whether the design professional replaced the trainee(s).

V. TERM. The obligations of the Agency-Assisted Contractor and/or Contractor(s) with respect to SBE Program shall remain in effect until completion of all work to be performed by the Agency-Assisted Contractor in connection with the original construction of the site and any tenant improvements on the site performed by or at the behest of the Agency-Assisted Contractor unless another term is specified in the Agency-Assisted Contract or Contract.

VI. FIRST CONSIDERATION. First consideration will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: (1) Project Area SBEs, (2) San Francisco-based SBEs (outside an Agency Project or Survey Area, but within San Francisco), and (3) Non-San Francisco-based SBEs. Non-San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-San Francisco-based SBEs.

VII. ASSOCIATIONS AND JOINT VENTURES (JV). OCII will recognize JVs and Associations between non-SBE firms and SBE firms where the SBE partner performs at least 35% of the work defined in the JV or Association agreement, and receives at least 35% (or a proportionate share, whichever is higher) of the dollars to be earned by the JV or Association. Under this arrangement, OCII will deem the JV or Association to be an SBE for the purposes of meeting the SBE goal. Due to the technical nature of the disciplines and the various standards of each industry, OCII will not require a standardized agreement. However, each JV and Association agreement must be in writing and contain, at a minimum, the following terms:

- Define the management of the agreement between the parties;
- Define the technical and managerial responsibilities of each party;
- Define the scope of work to be performed by each party, and where possible identify the percentage and break-down of scope of work for each party;
- Identify any additional subcontractors or consultants that will perform the work under the agreement;
- Define the schedule, duration, and deliverable of the agreement;
- Detail the fee schedule, fee breakdown, or division of compensation;
- Specify insurance requirements and/or if each party shall maintain its own insurance;
- Specify how additional work or changes in scope shall be negotiated or determined and which party shall be responsible for notifying OCII of the changes;
- Specify how claims and disputes will be resolved.

A copy of the JV or Association agreement must be provided to OCII for approval in order for the JV or Association to be recognized.

VIII. CERTIFICATION. The Agency no longer certifies SBEs but instead relies on the information provided in other public entities' business certifications to establish eligibility for the Agency's program. Only businesses certified by the Agency as SBEs whose certification has not expired and economically disadvantaged businesses that meet the Agency's SBE Certification Criteria will be counted toward meeting the participation goals. The SBE Certification Criteria are set forth in the SBE Policy.

IX. INCORPORATION. Each contract between the Agency, Agency-Assisted Contractor or Contractor on the one hand, and any subcontractor on the other hand, shall physically incorporate as an attachment or exhibit and make binding on the parties to that contract, a true and correct copy of this SBE Agreement.

X. DEFINITIONS. Capitalized terms not otherwise specifically defined in this SBE Agreement have the meaning set forth in the Agency's SBE Policy adopted on November 16, 2004 and amended on July 21, 2009 ("**Policy**") or as defined in the Agency-Assisted Contract or Contract. In the event of a conflict in the meaning of a defined term, the SBE Policy shall govern over the Agency-Assisted Contract or Contract which in turn shall govern over this SBE Agreement.

Affiliates means an affiliation with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business.

Agency-Assisted Contract means, as applicable, the Development and Disposition Agreement (“DDA”), Land Disposition Agreement (“LDA”), Lease, Loan and Grant Agreements, and other similar contracts, and agreement that the Agency executed with for-profit or non-profit entities.

Agency-Assisted Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed an Agency-Assisted Contract.

Agency Contract means personal services contracts, purchase requisitions, and other similar contracts and operations agreements that the Agency executes with for-profit or non-profit entities.

Amendment to a Pre-existing Contract means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy (“SBE Policy”) takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

Annual Receipts means “total income” (or in the case of a sole proprietorship, “gross income”) plus “cost of goods sold” as these terms are defined and reported on Internal Revenue Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

Arbitration Party means all persons and entities who attend the arbitration hearing pursuant to Section XIII, as well as those persons and entities who are subject to a default award provided that all of the requirements in Section XIII.L. have been met.

Association means an agreement between two parties established for the purpose of completing a specific task or project. The associate agreement shall provide the SBE associate a significant project management role and the SBE associate shall be recognized in marketing and collateral material. The Association shall be distinguished from traditional subcontracting arrangements via a written Association agreement that defines the management of the agreement, technical and managerial responsibilities of the parties, and defined scopes and percentages of work to be performed by each party with its own resources and labor force. Unlike the more formal Joint Venture, an Association does not require formation of a new business enterprise between the parties. The Associate agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Commercially Useful Function means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco (“City”) as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a “commercially useful function” unless the brokerage, referral or temporary employment services are

required and sought by the Agency.

Contract means any agreement between the Agency and a person(s), firm, partnership, corporation, or combination thereof, to provide or procure labor, supplies or services to, for, or on behalf of the Agency.

Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed a Contract.

Joint Venture means an entity established between two parties for the purposes of completing a venture or project. The Joint Venture agreement typically creates a separate business entity and requires acquisition of additional insurance for the newly created joint business entity. The Joint Venture agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Non-San Francisco-based Small Business Enterprise means a SBE that has fixed offices located outside the geographical boundaries of the City.

Office” or “Offices means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an “office” under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an “office.” The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an “as needed” basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

Project Area Small Business Enterprise means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area or Survey Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms’ location in a Project Area or Survey Area.

Project Area means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the Bayview Industrial Triangle, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, and Transbay.

San Francisco-based Small Business Enterprise means a SBE that: (a) has fixed offices located within the geographical boundaries of the City where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as

a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

Small Business Enterprise (SBE) means an economically disadvantaged business that: is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; has average gross annual receipts in the three years immediately preceding its application for certification as a SBE that do not exceed the following limits:

Industry	OCII SBE Size Standard
Construction Contractors	\$20,000,000
Specialty Construction Contractors	\$14,000,000
Suppliers (goods/materials/ equipment and general services)	\$10,000,000
Professional Services	\$2,500,000
Trucking	\$3,500,000

In addition, an economically disadvantaged business shall meet the other certification criteria described in Exhibit I of the SBE Policy in order to be considered an SBE by the Agency.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's three most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for Corporations) to calculate the firm's three year average annual gross receipts. In addition, the calculation of a firm's size shall include the receipts of all affiliates.

Once a business reaches the 3-year average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

Specialty Construction Contractor means a contractor licensed by the Contractors State License Board under the "C" classification license pursuant to California Business and Professions Code Section 7058.

Survey Area means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include the Bayview Hunters Point Redevelopment Survey Area C.

XI. GOOD FAITH EFFORTS TO MEET SBE GOALS Compliance with the following steps will be the basis for determining if the Agency-Assisted Contractor and/or Consultant has made good faith efforts to meet the goals for SBEs:

A. Outreach. Not less than 30 days prior to the opening of bids or the selection of contractors, the Agency-Assisted Contractor or Contractor shall:

1. **Advertise.** Advertise for SBEs interested in competing for the contract, in general circulation media, trade association publications, including timely use of the ***Bid and Contract Opportunities*** newsletter published by the City and County of San Francisco Purchasing Department and media focused specifically on SBE businesses such as the ***Small Business Exchange***, of the opportunity to submit bids or proposals and to attend a pre-bid meeting to learn about contracting opportunities.

2. **Request List of SBEs.** Request from the Agency's Contract Compliance Department a list of all known SBEs in the pertinent field(s), particularly those in the Project and Survey Areas and provide written notice to all of them of the opportunity to bid for contracts and to attend a pre-bid or pre-solicitation meeting to learn about contracting opportunities.

B. Pre-Solicitation Meeting. For construction contracts estimated to cost \$5,000 or more, hold a pre-bid meeting for all interested contractors not less than 15 days prior to the opening of bids or the selection of contractors for the purpose answering questions about the selection process and the specifications and requirements. Representatives of the Contract Compliance Department will also participate.

C. Follow-up. Follow up initial solicitations of interest by contacting the SBEs to determine with certainty whether the enterprises are interested in performing specific items involved in work.

D. Subdivide Work. Divide, to the greatest extent feasible, the contract work into small units to facilitate SBE participation, including, where feasible, offering items of the contract work which the Contractor would normally perform itself.

E. Provide Timely and Complete Information. The Agency-Assisted Contractor or Contractor shall provide SBEs with complete, adequate and ongoing information about the plans, specifications and requirements of construction work, service work and material supply work. This paragraph does not require the Agency-Assisted Contractor or Contractor to give SBEs any information not provided to other contractors. This paragraph does require the Agency Assisted Contractor and Contractor to answer carefully and completely all reasonable questions asked by SBEs and to undertake every good faith effort to ensure that SBEs understand the nature and the scope of the work.

F. Good Faith Negotiations. Negotiate with SBEs in good faith and demonstrate that SBEs were not rejected as unqualified without sound reasons based on a thorough investigation of their capacities.

G. Bid Shopping Prohibited. Prohibit the shopping of the bids. Where the Agency-Assisted Contractor or Contractor learns that bid shopping has occurred, it shall treat such bid shopping as a material breach of contract.

H. Other Assistance. Assist SBEs in their efforts to obtain bonds, lines of credit and insurance. (Note that the Agency has a Surety Bond Program that may assist SBEs in obtaining necessary bonding.) The Agency-Assisted Contractor or Contractor(s) shall require no more stringent bond or insurance standards of SBEs than required of other business enterprises.

I. Delivery Scheduling. Establish delivery schedules which encourage participation of SBEs.

J. Utilize SBEs as Lower Tier Subcontractors. The Agency-Assisted Contractor and its Contractor(s) shall encourage and assist higher tier subcontractors in undertaking good faith efforts to utilize SBEs as lower tier subcontractors.

K. Maximize Outreach Resources. Use the services of SBE associations, federal, state and local SBE assistance offices and other organizations that provide assistance in the recruitment and placement of SBEs, including the Small Business Administration and the Business Development Agency of the Department of Commerce. However, only SBEs certified by the Agency shall count towards meeting the participation goal.

L. Replacement of SBE. If during the term of this SBE Agreement, it becomes necessary to replace any subcontractor or supplier, the Agency's Contract Compliance Specialist should be notified prior to replacement due to the failure or inability of the subcontractor or supplier to perform the required services or timely delivery the required supplies, then First Consideration should be given to a certified SBE, if available, as a replacement.

XII. ADDITIONAL PROVISIONS

A. No Retaliation. No employee shall be discharged or in any other manner discriminated against by the Agency-Assisted Contractor or Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Agreement.

B. No Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of an Agency-Assisted Contract or Contract. The Agency-Assisted Contractor or Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

C. Compliance with Prompt Payment Statute. Construction contracts and subcontracts awarded for \$5,000 or more shall contain the following provision:

“Amounts for work performed by a subcontractor shall be paid within seven (7) days of receipt of funds by the contractor, pursuant to California Business and Professions Code Section 7108.5 *et seq.* Failure to include this provision in a subcontractor or failure to comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity.”

In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 *et seq.*), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

D. Submission Of Electronic Certified Payrolls. For any Agency-Assisted Contract which requires the submission of certified payroll reports, the requirements of Section VII of the Agency's Small Business Enterprise Policy shall apply. Please see the Small Business Enterprise Policy for more details.

XIII. PROCEDURES

A. Notice to Agency. The Agency-Assisted Contractor or Contractor(s) shall provide the Agency with the following information within 10 days of awarding a contract or selecting subconsultant:

1. the nature of the contract, e.g. type and scope of work to be performed;
2. the dollar amount of the contract;
3. the name, address, license number, gender and ethnicity of the person to whom the contract was awarded; And
4. SBE status of each subcontractor or subconsultant.

B. Affidavit. If the Agency-Assisted Contractor or Contractor(s) contend that the contract has been awarded to a SBE, the Agency-Assisted Contractor or Contractor(s) shall, at the same time also submit to the Agency a SBE Application for Certification and its accompanying Affidavit completed by the SBE owner. However, a SBE that was previously certified by the Agency shall submit only the short SBE Eligibility Statement.

C. Good Faith Documentation. If the 50% SBE Participation Goals are not met in each category (Construction, Professional Services and Suppliers), the Agency-Assisted Contractor or Contractor(s) shall meet and confer with the Agency at a date and time set by the Agency. If the issue of the Agency-Assisted Contractor's or Contractor's good faith efforts is not resolved at this meeting, the Agency-Assisted Contractor or Contractor shall submit to the Agency within five (5) days, a declaration under penalty of perjury containing the following documentation with respect to the good faith efforts ("**Submission**"):

1. A report showing the responses, rejections, proposals and bids (including the amount of the bid) received from SBEs, including the date each response, proposal or bid was received. This report shall indicate the action taken by the Agency-Assisted Contractor or Contractor(s) in response to each proposal or bid received from SBEs, including the reasons(s) for any rejections.
2. A report showing the date that the bid was received, the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the non-SBE contractor who was selected submitted more than one bid, the amount of each bid and the date that each bid was received shall be shown in the report. If the bidder asserts that there were reasons other than the respective amounts bid for not awarding the contract to an SBE, the report shall also contain an explanation of these reasons.
3. Documentation of advertising for and contacts with SBEs, contractor associations or development centers, or any other agency which disseminates bid and contract information to small business enterprises.
4. Copies of initial and follow-up correspondence with SBEs, contractor associations and other agencies, which assist SBEs.

5. A description of the assistance provided SBE firms relative to obtaining and explaining plans, specifications and contract requirements.
6. A description of the assistance provided to SBEs with respect to bonding, lines of credit, etc.
7. A description of efforts to negotiate or a statement of the reasons for not negotiating with SBEs.
8. A description of any divisions of work undertaken to facilitate SBE participation.
9. Documentation of efforts undertaken to encourage subcontractors to obtain small business enterprise participation at a lower tier.
10. A report which shows for each private project and each public project (without a SBE program) undertaken by the bidder in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars awarded to SBEs and the percentage of contract dollars awarded to non-SBEs.
11. Documentation of any other efforts undertaken to encourage participation by small business enterprises.

D. Presumption of Good Faith Efforts. If the Agency-Assisted Contractor or Contractor(s) achieves the Participation Goals, it will not be required to submit Good Faith Effort documentation.

E. Waiver. Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price.

F. SBE Determination. The Agency shall exercise its reasonable judgment in determining whether a business, whose name is submitted by the Agency-Assisted Contractor or Contractor(s) as a SBE, is owned and controlled by a SBE. A firm's appearance in any of the Agency's current directories will be considered by the Agency as prima facie evidence that the firm is a SBE. Where the Agency-Assisted Contractor or Contractor(s) makes a submission the Agency shall make a determination, as to whether or not a business which the Agency-Assisted Contractor or Contractor(s) claims is a SBE is in fact owned and controlled by San Francisco-based SBEs. If the Agency determines that the business is not a SBE, the Agency shall give the Agency-Assisted Contractor or Contractor a Notice of Non-Qualification and provide the Agency-Assisted Contractor or Contractor with a reasonable period (not to exceed 20 days) in which to meet with the Agency and if necessary make a Submission, concerning its good faith efforts. If the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to Section XIII.

G. Agency Investigation. Where the Agency-Assisted Contractor or Contractor makes a Submission and, as a result, the Agency has cause to believe that the Agency-Assisted Contractor or Contractor has failed to undertake good faith efforts, the Agency shall conduct an investigation, and after affording the Agency-Assisted Contractor or Contractor notice and an opportunity to be heard, shall recommend such remedies and sanctions as it deems necessary to correct any alleged violation(s). The Agency shall give the Agency-Assisted Contractor or Contractor a written Notice of Non-Compliance

setting forth its findings and recommendations. If the Agency-Assisted Contractor or Contractor disagrees with the findings and recommendations of the Agency as set forth in the Notice of Non-Compliance, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to this SBE Agreement.

XIV. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this SBE Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Agency-Assisted Contractor or Contractor shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying any entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Agency-Assisted Contractor and Contractor fail to file a timely Demand for Arbitration, the Agency-Assisted Contractor and Contractor shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. Parties' Participation. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Agency-Assisted Contractor or Contractor made an initial timely Demand for Arbitration pursuant to Section XIII.B. above.

D. Agency Request to AAA. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. Selection of Arbitrator. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. Setting of Arbitration Hearing. A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. Discovery. In arbitration proceedings hereunder, discovery shall be permitted in

accordance with Code of Civil Procedure §1283.05.

H. Burden of Proof. The burden of proof with respect to SBE status and/or Good Faith Efforts shall be on the Agency-Assisted Contractor and/or Contractor. The burden of proof as to all other alleged breaches by the Agency-Assisted Contractor and/or Contractor shall be on the Agency.

I. California Law Applies. Except where expressly stated to the contrary in this SBE Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. Arbitration Remedies and Sanctions. The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Agency-Assisted Contract or this SBE Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Agency-Assisted Contract or this SBE Agreement, other than those minor modifications or extensions necessary to enable compliance with this SBE Agreement.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the SBE Program requirements in the Agency-Assisted Contract or this SBE Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this SBE Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. Arbitrator's Decision. The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. Default Award; No Requirement to Seek an Order Compelling Arbitration. The

arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. Arbitrator Lacks Power to Modify. Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agency-Assisted Contract, this SBE Agreement or any other agreement between the Agency, the Agency-Assisted Contractor or Contractor or to negotiate new agreements or provisions between the parties.

N. Jurisdiction/Entry of Judgment. The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. Exculpatory Clause. Agency-Assisted Contractor or Contractor (regardless of tier) expressly waive any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Agency-Assisted Contractor or Contractor (regardless of tier) acknowledge and agree that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this SBE Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. Severability. The provisions of this SBE Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this SBE Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this SBE Agreement or the validity of their application to other persons or circumstances.

Q. Arbitration Notice: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO

**SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE
"ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.**

Agency

Agency-Assisted Contractor

XV. AGREEMENT EXECUTION

I, hereby certify that I have authority to execute this SBE Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency's 50% SBE Participation Goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name and Phone Number

ATTACHMENT 5-2

CONSTRUCTION WORK FORCE AGREEMENT

I. PURPOSE. This Agreement is entered into between the Tenant and the Office of Community Investment and Infrastructure (“OCII” or “Agency”), as successor agency to the San Francisco Redevelopment Agency for the purposes of ensuring participation of San Francisco residents and equal employment opportunities in the construction work force involved in constructing any of the phases upon the Site covered by the underlying agreement to which this Agreement is attached hereto.

II. DEFINITIONS.

The following definitions apply to this Agreement.

- A. “CityBuild” means the construction employment program of the Workforce Development Division of the San Francisco Office of Economic and Workforce Development (OEWD).
- B. "Contract" means any agreement in excess of \$10,000 between the Owner, its Contractors and a person to provide or procure labor, materials or services for the construction of the Owner Improvements, including a purchase order that requires installation of materials.
- C. "Contractor" means the Owner's general contractor, all prime contractors and all subcontractors (regardless of tier) having a Contract or subcontract in excess of \$10,000 and who employ persons in a Trade for construction of the Owner Improvements.
- D. "Owner Improvements" means improvements constructed in the Mission Bay South Area by the Owner.
- E. “Project Area Resident” means a San Francisco Resident who resides in a redevelopment area under the management of OCII.
- F. "San Francisco Resident" in the case of a new hire shall mean an individual who has lived in San Francisco for at least one week prior to submitting his/her initial application for employment to work on the Owner Improvements. In the case of a person employed by the Owner or its Contractor or Consultant prior to assignment to the Owner Improvements, this term shall mean a person who has lived in San Francisco for at least six months prior to the date he/she applied for a transfer to a position at the Owner Improvements or the date he/she was assigned to work on the Owner Improvements, whichever is earlier; or a person who establishes, to the satisfaction of the Agency, that he/she lived in San Francisco prior to applying for or being considered for a position with the Owner, Contractor or Consultant.

III. WORK FORCE GOALS.

The Owner agrees and will require each Contractor and all subcontractors to use good faith efforts to employ 50 percent of its construction workforce hires by trade and by hours from qualified San Francisco Residents with first consideration given to Project Area Residents. Owner and Contractors will be deemed in compliance with this Agreement and the Policy by meeting or exceeding the goal or by demonstrating good faith efforts toward compliance.

IV. GOOD FAITH EFFORTS.

A. Submission of Labor Force Projections and Other Data

The Contractor shall submit, to the extent available, labor force projections to the OCII Compliance Officer, or its agent, within two (2) weeks of contract award.

B. Submit Subcontractor Information Form

The Contractor shall submit to the Compliance Officer, or its agent, the Subcontractor Information Forms, twenty-four (24) hours prior to the preconstruction meeting. The Subcontractor Information Forms are available from the Compliance Officer upon request.

C. Preconstruction Meeting

The Contractor shall hold a preconstruction meeting which shall be attended by the Compliance Officer, CityBuild, all prime contractor(s) and all subcontractor(s). The preconstruction meeting shall be scheduled between two (2) days and thirty (30) days prior to the start of construction at a time and place convenient to all attendees. The purpose of the meeting is to discuss: the hiring goals, workforce composition, worker referral process, certified payroll reporting, procedure for termination and replacement of workers covered by this Agreement and to explore any anticipated problems in complying with the Agreement. All questions regarding how this Agreement applies to the Owner, Contractor, subcontractors and consultants should be answered at this meeting. Failure to hold or attend at least one (1) preconstruction meeting will be a breach of the Policy and this Agreement that may result in the Agency ordering a suspension of work until the breach has been cured. Suspension under this provision is not subject to arbitration.

D. Submit Construction Worker Request Form

For the Term of the Agreement, each time the Owner or Contractor seeks to hire workers for the construction or rehabilitation of improvements, they must first submit, by fax, email or hand delivery, an executed construction worker request form to CityBuild. Preferably this request will be submitted at least two (2) business days before the workers are needed. However, requests with less than two (2) business days notice will be accepted. The construction worker request form will indicate generally: the number of workers needed, duration needed, required skills or trade and date/time to report. The construction worker request form is available from the Compliance Officer upon request.

E. Response from CityBuild

CityBuild shall respond, in writing, via fax, email or hand delivery to each request

for construction workers. The response shall state that CityBuild was able to satisfy the request in full, in part or was unable to satisfy the request. CityBuild shall look to their own referral lists, as well as confer with CBOs in an attempt to find qualified Project Area Residents and San Francisco Residents. If CityBuild is able to satisfy the request in full or in part, it shall direct the qualified Project Area Resident(s) or San Francisco Resident(s) to report to the Contractor on the date and time indicated in the request. If CityBuild is unable to satisfy the request, then CityBuild shall send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

F. Action by Contractor When Referrals Available

The Owner or Contractor whose request has been satisfied in full or in part shall make the final determination of whether the Project Area Residents or San Francisco Residents are qualified for the positions and the ultimate hiring decision. The Agency strongly encourages the Contractor to hire the qualified Project Area Residents or San Francisco Residents referred by CityBuild. However, if the Contractor finds the Project Area Residents or San Francisco Residents are not qualified, then the Contractor shall send the Project Area Residents or San Francisco Residents back to CityBuild. Before the close of business on the same day, the Contractor shall fax or email a statement addressed to CityBuild stating in detail the reason(s) the Project Area Residents or San Francisco Residents were not qualified or the reason(s) for not hiring the Project Area Residents or San Francisco Residents. CityBuild shall, within one (1) business day of receipt of the fax or email, send new qualified Project Area Residents or San Francisco Residents that meet the legitimate qualifications set by the Contractor or alternatively, send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

G. Action by Contractor When Referrals Unavailable

If a Contractor receives a response from CityBuild stating that no qualified Project Area Residents or San Francisco Residents are currently available, then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any additional new construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request.

H. Action by Contractor When No Response From CityBuild

If a Contractor has not received a response to its construction worker request from CityBuild within two (2) business days, then the Contractor should immediately advise the Compliance Officer by phone, fax or email. The Compliance Officer or his/her designee shall cause a response to be sent to the Contractor within two (2) business days of being notified. If the Contractor does not receive a response from

CityBuild within four (4) business days (the original two (2) business days plus the additional two (2) business days), then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request. This Policy is intended to provide qualified Project Area and San Francisco Residents with employment opportunities without causing undue delay in hiring needed construction workers.

I. Action by Contractor When No Response From Union

The Contractor should immediately advise the Compliance Officer by phone, fax or email when the Contractor has sent a qualified Project Area Resident or San Francisco Resident to a union hall for referral in accordance with a collective bargaining agreement and the union did not refer the qualified Project Area or San Francisco Resident back for employment or when the union referral process impedes the Contractor's ability to meet its obligations under this Policy. Nothing in this Policy shall be interpreted to interfere with or prohibit existing labor agreements or collective bargaining agreements.

J. Hiring Apprentices

A Contractor may meet part of the Construction Workforce Goal by hiring apprentices. However, hiring an apprentice does not satisfy or waive the trainee hiring obligation, if any, for design professionals. Unless otherwise permitted by law, apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training or the California Department of Industrial Relations, Division of Apprenticeship Standards. Credit towards compliance will only be given for paid apprentices actually working on the project. No credit is available for apprentices while receiving class room training. Under no circumstances shall the ratio of apprentices to journeymen in a particular trade or craft exceed 1:5.

K. Termination and Replacement of Referrals

If at any time it becomes necessary to terminate for cause a construction worker who was hired under this Policy, the Contractor shall notify CityBuild in writing via fax or email and submit a report of termination pursuant to Section (B)(4). If the Contractor intends to fill the vacant position, then the Contractor shall follow the process set forth in this Policy beginning at Section (A)(6).

V. **REPORTING REQUIREMENTS.**

A. Submission of Certified Payroll Reports

Each Contractor subject to this Policy shall submit to the Agency a certified payroll report for the preceding work week on each of its employees. The Owner is ultimately responsible for the submission of these reports by the Contractors. The

certified payroll report is due to the Agency by noon each Wednesday. To facilitate compliance, the Agency uses an online Project Reporting System (PRS) for submission of certified payroll reports. This system is available at no cost to the Contractor. Training and educational materials for PRS are available at no cost online and through the Compliance Officer. Contractors are required to report certified payroll using PRS. However, a waiver may be granted to any Contractors who do not have a computer or online access.

B. Additional Information

In order to prevent unlawful discrimination in the selection, hiring and termination of employees on the basis of race, ethnicity, gender or any other basis prohibited by law and to identify and correct such unlawful practices, the Agency will monitor and collect information on the ethnicity and gender of each construction worker and apprentice. If an identifiable pattern of apparent discrimination is revealed by this additional information, it will be treated as a breach of this Policy and may be addressed as set forth in the arbitration provisions included in Agency contracts.

C. Report on Terminations

In the event a Project Area Resident or San Francisco Resident hired pursuant to this Policy is terminated for cause, the responsible Contractor shall within two (2) days fax or email a termination report to CityBuild with a copy to the Compliance Officer stating in detail: (1) the name of the worker(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the Contractor replaced the construction worker(s); and (5) whether the replacement worker(s) were Project Area Resident(s) or San Francisco Resident(s).

D. Inspection of Records

The Owner and each Contractor shall make the records required under this Agreement available for inspection or copying by authorized representatives of the Agency and its designated Compliance Officer, and shall permit such representatives to interview construction workers and apprentices during working hours on the job.

E. Failure to Submit Reports

If a Contractor fails or refuses to provide the reports as required it will be treated as a breach of this Agreement and the Policy, and may be addressed under arbitration provisions pursuant to Article VII (Arbitration of Disputes) of this Agreement.

F. Submission of Good Faith Effort Documentation

If the Owner's or Contractor's good faith efforts are at issue, the Contractor shall provide the Agency or its designated Compliance Officer with the documentation of its efforts to comply with this Policy and the Agreement. The Owner or Contractor must maintain a current file of the names, addresses and telephone numbers of each Project Area Resident or San Francisco Resident applicant referral (whether a self-referral or a referral from a union, CBO or CityBuild referral) and what action was taken with respect to each such individual.

G. Coding Certified Payrolls

Each Contractor shall include, on the weekly payroll submissions, the proper job classification (as approved by the California Department of Industrial Relations), apprentice's craft (if applicable), skill level, protected class status, and domicile of each construction worker.

VI. RECORDKEEPING REQUIREMENTS.

Contractor shall comply with the requirements of California Labor Code Section 1776, as amended, regarding the keeping, filing and furnishing of certified copies of payroll records of wages paid to its employees and to the employees of its subcontractors of all tiers.

In addition, each Contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of Owner Improvements, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Owner Improvements. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident or disadvantaged worker, and the referral source or method through which the Contractor hired or retained that worker for work on the Owner Improvements (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method). Contractor may verify that a worker is a local resident through the worker's possession of a valid SF City ID Card or other government-issued identification. OCII may require additional records to be kept with regard to Contractor's compliance with this Agreement. All records described in this section shall at all times be open to inspection and examination by the duly authorized officers and agents of OCII, including representatives of the OEWD.

VII. ARBITRATION OF DISPUTES.

- A. Arbitration by AAA. Any dispute regarding this Construction Work Force Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.
- B. Demand for Arbitration. Where the Owner disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Owner shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Owner fails to file a timely Demand for Arbitration, the Owner shall be deemed to have accepted and to be

bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

- C. **Parties' Participation.** The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Owner made an initial timely Demand for Arbitration pursuant to Section VII.B. above.
- D. **Agency Request to AAA.** Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.
- E. **Selection of Arbitrator.** One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.
- F. **Setting of Arbitration Hearing.** A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.
- G. **Discovery.** In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.
- H. **Burden of Proof.** The burden of proof with respect to Construction Work Force compliance and/or Good Faith Efforts shall be on the Owner. The burden of proof as to all other alleged breaches by the Owner shall be on the Agency.
- I. **California Law Applies.** Except where expressly stated to the contrary in this Construction Work Force Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.
- J. **Arbitration Remedies and Sanctions.** The arbitrator may impose only the remedies and sanctions set forth below:
 - 1. Order specific, reasonable actions and procedures, in the form of a

temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Owner or this Construction Work Force Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Owner or this Construction Work Force Agreement, other than those minor modifications or extensions necessary to enable compliance with this Construction Work Force Agreement.
 3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the Agency's Work Force policy requirements. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.
 4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this Construction Work Force Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
 5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.
- K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.
- L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent

person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

- M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of this Construction Work Force Agreement or any other agreement between the Agency and Owner or to negotiate new agreements or provisions between the parties.
- N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.
- O. **Exculpatory Clause.** Owner expressly waives any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Owner acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this Construction Work Force Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.
- P. **Severability.** The provisions of this Construction Work Force Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Construction Work Force Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Construction Work Force Agreement or the validity of their application to other persons or circumstances.
- Q. **Arbitration Notice:** BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE

SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Owner

I, hereby certify that I have authority to execute this Construction Work Force Agreement on behalf of the Owner listed below and that Owner agrees to diligently exercise good faith efforts to comply with this Agreement to meet or exceed the construction work force participation goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name

Phone Number

ATTACHMENT 5-3

PREVAILING WAGE PROVISIONS **(LABOR STANDARDS)**

These Prevailing Wage Provisions (hereinafter referred to as "Labor Standards") apply to any and all construction of the Improvements as defined in the underlying agreement between the Tenant and OCII of which this Attachment and these Labor Standards are a part.

11.1 All Contracts and Subcontracts for construction and construction-related improvements shall contain the Labor Standards.

- (a) All specifications relating to the construction of the Improvements shall contain these Labor Standards and the Tenant shall have the responsibility to assure that all contracts and subcontracts, regardless of tier, incorporate by reference the specifications containing these Labor Standards. If for any reason said Labor Standards are not included, the Labor Standards shall nevertheless apply. The Tenant shall supply the Agency with true copies of each contract relating to the construction of the Improvements showing the specifications that contain these Labor Standards promptly after due and complete execution thereof and before any work under such contract commences. Failure to do shall be a violation of these Labor Standards.
- (b) Before close of escrow under the Agreement and as a condition to close of escrow, the Tenant shall also supply a written confirmation to the Agency from any construction lender for the Improvements that such construction lender is aware of these Labor Standards.

11.2 Definitions. The following definitions shall apply for purposes of this Exhibit H:

- (a) "Contractor" is the Tenant if permitted by law to act as a contractor, the general contractor, and any contractor as well as any subcontractor of any tier subcontractor having a contract or subcontract that exceeds \$10,000, and who employs Laborers, Mechanics, working foremen, and security guards to perform the construction on all or any part of the Improvements.
- (a) "Laborers" and "Mechanics" are all persons providing labor to perform the construction, including working foremen and security guards.
- (b) "Working foreman" is a person who, in addition to performing supervisory duties, performs the work of a Laborer or Mechanic during at least 20 percent of the work week.

11.3 Prevailing Wage.

- (a) All Laborers and Mechanics employed in the construction of the improvements will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by §5) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination (hereinafter referred to as the "Wage Determination") made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, sections 1770, 1773 and 1773.1, regardless of any contractual relationship which may be alleged to exist between the Contractor and such Laborers and Mechanics. A copy of the applicable Wage Determination is on file in the offices of the Agency.
- (b) All Laborers and Mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or Mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the Contractor's payroll records accurately set forth the time spent in each classification in which work is performed.
- (c) Whenever the wage rate prescribed in the Wage Determination for a class of Laborers or Mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.
- (d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any Laborer or Mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the Wage Determination, provided that the Executive Director of the Agency has found, upon the written request of the Contractor, made through the Contractor that the intent of the Labor Standards has been met. Records of such costs shall be maintained in the manner set forth in subsection (a) of §8. The Executive Director of the Agency may require the Contractor to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or program referred to above in subsection (b) of this §4. The interest shall be accumulated and shall be paid as determined by the Agency acting at its sole discretion.
- (e) Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

11.4

Permissible Payroll Deductions.

The following payroll deductions are permissible deductions. Any others require the approval of the Agency's Executive Director.

- (a) Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.
- (b) Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when case or its equivalent has been advanced to the employee in such manner as to give him or her complete freedom of disposition of the advanced funds.
- (c) Any garnishment, unless it is in favor of the Contractor (or any affiliated person or entity), or when collusion or collaboration exists.
- (d) Any contribution on behalf of the employee, to funds established by the Contractor, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met:
 - 1. The deduction is not otherwise prohibited by law; and
 - 2. It is either:
 - a. Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining or for the continuation of employment, or
 - b. Provided for in a bona fide collective bargaining agreement between the Contractor and representatives of its employees; and
 - 3. No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor (or any affiliated person or entity) in the form of commission, dividend or otherwise; and
 - 4. The deduction shall serve the convenience and interest of the employee.
- (e) Any authorized purchase of United States Savings Bonds for the employee.

- (f) Any voluntarily authorized repayment of loans from or the purchase of shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
- (g) Any contribution voluntarily authorized by the employee for the American Red Cross, United Way and similar charitable organizations.
- (h) Any payment of regular union initiation fees and membership dues, but not including fines or special assessments provided, that a collective bargaining agreement between the Contractor and representatives of its employees provides for such payment and the deductions are not otherwise prohibited by law.

11.5 Apprentices and Trainees. Apprentices and trainees will be permitted to work at less than the Mechanic's rate for the work they perform when they are employed pursuant to and are individually registered in an apprenticeship or trainee program approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any employee listed on a payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a Mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a Mechanic's hourly rate as specified in the Wage Determination. Apprentices or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the Wage Determination.

11.6 Overtime. No Contractor contracting for any part of the construction of the improvements which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such construction to work in excess of eight hours in any calendar day or in excess of 40 hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, whichever is greater.

11.7 Payrolls and Basic Records.

- (a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of its construction of the improvements and preserved for a period of one year thereafter for all Laborers and Mechanics it

employed in the construction of the improvements. Such records shall contain the name, address and social security number of each employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the wages of any Laborer or Mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program, the Contractor shall maintain records which show the costs anticipated or the actual costs incurred in providing such benefits and that the plan or program has been communicated in writing to the Laborers or Mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the Wage Determination.

- (b) 1. The Contractor shall submit to the Agency on each Wednesday at noon a copy of the payrolls for the week preceding the previous week in which any construction of the improvements was performed. The payrolls submitted shall set out accurately and completely all of the information required by the Agency's Optional Form, an initial supply of which may be obtained from the Agency. The Contractor if a prime contractor or the Contractor acting as the Contractor is responsible for the submission of copies of certified payrolls by all subcontractors; otherwise each Contractor shall timely submit such payrolls.

11.8 Each weekly payroll shall be accompanied by the Statement of Compliance that accompanies the Agency's Optional Form and properly executed by the Contractor or his or her agent, who pays or supervises the payment of the employees.

- (a) The Contractor shall make the records required under this §8 available for inspection or copying by authorized representatives of the Agency, and shall permit such representatives to interview employees during working hours on the job. On request the Executive Director of the Agency shall advise the Contractor of the identity of such authorized representatives.

11.9 **Occupational Safety and Health.** No Laborer or Mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her safety and health as determined under construction safety and health standards promulgated by Cal-OSHA or if Cal-OSHA is terminated, then by the federal OSHA.

11.10 **Equal Opportunity Program.** The utilization of apprentices, trainees, Laborers and Mechanics under this part shall be in conformity with the Agency's equal opportunity program set forth in Attachment 5 of this Lease Agreement.

- 11.11 Nondiscrimination Against Employees for Complaints.** No Laborer or Mechanic to whom the wage, salary or other Labor Standards of this Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to these Labor Standards.
- 11.12 Posting of Notice to Employees.** A copy of the Wage Determination referred to in subsection (a) of §4 together with a copy of a "Notice to Employees," in the form appearing on the last page of these Labor Standards, shall be given to the Contractor at the close of escrow. The Notice to Employees and the Wage Determination shall both be posted and maintained by the Contractor in a prominent place readily accessible to all applicants and employees performing construction of the improvements before construction commences. If such Notice and Wage Determination is not so posted or maintained, the Agency may do so.
- 11.13 Violation and Remedies.**
- (a) Liability to Employee for Unpaid Wages. The Contractor shall be liable to the employee for unpaid wages, overtime wages and benefits in violation of these Labor Standards.
 - (b) Stop Work--Contract Terms, Records and Payrolls. If there is a violation of these Labor Standards by reason of the failure of any contract or subcontract for the construction of the improvements to contain the Labor Standards as required by §2 ("Non-Conforming Contract"); or by reason of any failure to submit the payrolls or make records available as required by §8 ("Non-Complying Contractor"), the Executive Director of the Agency may, after written notice to the Contractor with a copy to the Contractor involved and failure to cure the violation within five working days after the date of such notice, stop the construction work under the Non-Conforming Contract or of the Non-Complying Contractor until the Non-Conforming Contract or the Non-Complying Contractor comes into compliance.
 - (c) Stop Work and Other Violations. For any violation of these Labor Standards the Executive Director of the Agency may give written notice to the Contractor, with a copy to the Contractor involved, which notice shall state the claimed violation and the amount of money, if any, involved in the violation. Within five working days from the date of said notice, the Contractor shall advise the Agency in writing whether or not the violation is disputed by the Contractor and a statement of reasons in support of such dispute (the "Notice of Dispute"). In addition to the foregoing, the Contractor, upon receipt of the notice of claimed violation from the Agency, shall with respect to any amount stated in the Agency notice withhold payment to the Contractor of the amount stated multiplied by 45 working days and shall with the Notice of Dispute, also advise the Agency that the moneys are being or will be withheld. If the Contractor fails to timely give a Notice of Dispute to the Agency or to advise

of the withhold, then the Executive Director of the Agency may stop the construction of the improvements under the applicable contract or by the involved Contractor until such Notice of Dispute and written withhold advice has been received.

Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Contractor shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14.

- (d) Withholding Certificates of Completion. The Agency may withhold any or all certificates of completion of the improvements provided for in this Agreement, for any violations of these Labor Standards until such violation has been cured.
- (e) General Remedies. In addition to all of the rights and remedies herein contained, but subject to arbitration, except as hereinafter provided, the Agency shall have all rights in law or equity to enforce these Labor Standards including, but not limited to, a prohibitory or mandatory injunction. Provided, however, the stop work remedy of the Agency provided above in subsection (b) and (c) is not subject to arbitration.

11.14 Arbitration of Disputes.

- (a) Any dispute regarding these Labor Standards shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further provisions thereof.
- (b) The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made a party to the arbitration. Any such person or entity not made a party in the demand for arbitration may intervene as a party and in turn may name any such person or entity as a party.
- (c) The arbitration shall take place in the City and County of San Francisco.
- (d) Arbitration may be demanded by the Agency, the Tenant or the Contractor.
- (e) With the demand for arbitration, there must be enclosed a copy of these Labor Standards, and a copy of the demand must be mailed to the Agency and the Contractor, or as appropriate to one or the other if the Contractor or the Agency is demanding arbitration. If the demand does not include the Labor Standards they are nevertheless deemed a part of the demand. With the demand if made by the Agency or within a reasonable time thereafter if not made by the Agency, the Agency shall transmit to the AAA a copy of the Wage Determination (referred to in §4) and copies of all notices sent or received by

the Agency pursuant to §13. Such material shall be made part of the arbitration record.

- (f) One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators of the AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the parties fail to select an arbitrator, within seven (7) days from the receipt of the panel, the AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within 30 days from appointment.
- (g) Any party to the arbitration whether the party participates in the arbitration or not shall be bound by the decision of the arbitrator whose decision shall be final and binding on all of the parties and any and all rights of appeal from the decision are waived except a claim that the arbitrator's decision violates an applicable statute or regulation. The decision of the arbitrator shall be rendered on or before 30 days from appointment. The arbitrator shall schedule hearings as necessary to meet this 30 day decision requirement and the parties to the arbitration, whether they appear or not, shall be bound by such scheduling.
- (h) Any party to the arbitration may take any and all steps permitted by law to enforce the arbitrator's decision and if the arbitrator's decision requires the payment of money the Contractor shall make the required payments and the Contractor shall pay the Contractor from money withheld.
- (i) Costs and Expenses. Each party shall bear its own costs and expenses of the arbitration and the costs of the arbitration shall be shared equally among the parties.

11.15 Non-liability of the Agency. The Contractor and each Contractor acknowledge and agree that the procedures hereinafter set forth for dealing with violations of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for the construction of the improvements, in determining the time for commencement and completion of construction and in proceeding with construction work. Accordingly the Contractor, and any Contractor, by proceeding with construction expressly waives and is deemed to have waived any and all claims against the Agency for damages, direct or indirect, arising out of these Labor Standards and their enforcement and including but not limited to claims relative to stop work orders, and the commencement, continuance or completion of construction.

ATTACHMENT 5-4

	OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE (OCII) (SUCCESSOR TO THE SAN FRANCISCO REDEVELOPMENT AGENCY) DECLARATION FORM Nondiscrimination in Contracts and Benefits

Section A

Is your company/organization currently certified by the City and County of San Francisco in compliance with Administrative Code 12B Equal Benefits Ordinance and will your company/organization ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts? If yes, please indicate below, skip Section B, and execute the Declaration in Section C. If no, please skip Section A and complete Sections B and C.

- ☐ My company/organization is certified and compliant with the 12B Equal Benefits Ordinance of the City and County of San Francisco and there has been no change in our 12B Declaration since certification. My company/organization agrees to ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts. (Please check box to affirm, if applicable)

Section B

1. Nondiscrimination—Protected Classes

- a. Is it your company/organization's policy that you will not discriminate against your employees, applicants for employment, employees of the Office of Community Investment and Infrastructure (successor to the San Francisco Redevelopment Agency) (Agency), or City and County of San Francisco (City), or members of the public for the following reasons:

• Race	☐ Yes	☐ No
• color	☐ Yes	☐ No
• Creed	☐ Yes	☐ No
• Religion	☐ Yes	☐ No
• ancestry	☐ Yes	☐ No
• national origin	☐ Yes	☐ No
• Age	☐ Yes	☐ No
• sex	☐ Yes	☐ No
• sexual orientation	☐ Yes	☐ No
• gender identity	☐ Yes	☐ No
• marital status	☐ Yes	☐ No
• domestic partner status	☐ Yes	☐ No
• Disability	☐ Yes	☐ No
• AIDS or HIV status	☐ Yes	☐ No

- b. Do you agree to insert a similar nondiscrimination provision in any subcontract you enter into for the performance of a substantial portion of the contract that you have with the Agency or the City?
- ☐ Yes ☐ No

If you answered "no" to any part of Question 1a or 1b, the Agency or the City cannot do business with you.

2. Nondiscrimination—Equal Benefits (Question 2 does not apply to subcontracts or subcontractors)

- a. Do you provide, or offer access to, any benefits to employees with spouses or to spouses of employees?
- ☐ Yes ☐ No
- b. Do you provide, or offer access to, any benefits to employees with domestic partners (Partners) or to domestic partners of employees?
- ☐ Yes ☐ No

If you answered "no" to both Questions 2a and 2b, skip 2c and 2d, and sign, date and return this form. If you answered "yes" to Question 2a or 2b, continue to 2c.

- c. If "yes," please indicate which ones. This list is not intended to be exhaustive. Please list any other benefits you provide (even if the employer does not pay for them).

Benefit	Yes, for Spouses	Yes, for Partners	No
• Medical (health, dental, vision)	☐	☐	☐
• Pension	☐	☐	☐
• Bereavement	☐	☐	☐
• Family leave	☐	☐	☐
• Parental leave	☐	☐	☐
• Employee assistance programs	☐	☐	☐
• Relocation and travel	☐	☐	☐
• Company discounts, facilities, events	☐	☐	☐
• Credit union	☐	☐	☐
• Child care	☐	☐	☐
• Other _____	☐	☐	☐
• Other _____	☐	☐	☐

- d. If you answered "yes" to Question 2a or 2b, and in 2c indicated that you do not provide equal benefits, you may still comply with the Policy if you have taken all reasonable measures to end discrimination in benefits, have been unable to do so, and now provide employees with a cash equivalent.

- (1) Have you taken all reasonable measures? ☐ Yes ☐ No
- (2) Do you provide a cash equivalent? ☐ Yes ☐ No

3. Documentation for Nondiscrimination in Benefits (Questions 2c and 2d only)

If you answered "yes" to any part of Question 2c or Question 2d, you must attach to this form those provisions of insurance policies, personnel policies, or other documents you have which verify your compliance with Question 2c or Question 2d. Please include the policy sections that list the benefits for which you indicated "yes" in Question 2c. If documentation does not exist, attach an explanation, e.g., some of your personnel policies are unwritten. If you answered "yes" to Question 2d(1) complete and attach form SFRA/CC-103, "Nondiscrimination in Benefits—Reasonable Measures Affidavit," which is available from the Agency. You need not document your "yes" answer to Question 1a or Question 1b.

Section C

I declare (or certify) under penalty of perjury that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this _____ day of _____, 20____, at _____, _____.
(City) (State)

Name of Company/Organization: _____

Doing Business As (DBA): _____

Also Known As (AKA): _____

General Address: _____

Remittance Address (if different from above): _____

Name of Signatory: _____ Title: _____
(Please Print)

Signature: _____

Phone Number: _____ Federal Tax Identification Number: _____

Approximate number of employees in the U.S.: _____ Vendor Number: _____
(if known)

- ☐ Check here if your address has changed.
- ☐ Check here if your organization is a non-profit.
- ☐ Check here if your organization is a governmental entity.

THIS FORM MUST BE RETURNED WITH THE ORIGINAL SIGNATURE

Please return this form to: Office of Community Investment and Infrastructure (successor to the San Francisco Redevelopment Agency), One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103

ATTACHMENT 5-5

MINIMUM COMPENSATION POLICY (MCP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (OCII) (Successor Agency to the San Francisco Redevelopment Agency) adopted the Minimum Compensation Policy (MCP), which became effective on September 25, 2001. The MCP requires contractors and subcontractors to provide the following to their employees covered by the MCP on OCII contracts and subcontracts for services: for contractors with employees performing work in San Francisco, the Commercial Business MCP wage rate shall be no less than \$17.00 per hour effective November 11, 2018. The Nonprofit MCP wage rate is \$15.00 per hour effective July 1, 2018. The Minimum Compensation rate is adjusted on January 1 each year. Furthermore, 12 paid days off per year (or cash equivalent) and 10 days off without pay per year shall be offered.

The OCII may require contractors to submit reports on the number of employees affected by the MCP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the MCP will have the following effect:

- in each contract, the contractor will agree to abide by the MCP and to provide its employees the minimum benefits the MCP requires, and to require its subcontractors subject to the MCP to do the same.
- if a contractor does not provide the MCP minimum benefits, OCII can award a contract to that contractor only if the contract is exempt under the MCP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII's contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the MCP to your covered employees, and will ensure that your subcontractors also subject to the MCP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the MCP, available from the OCII's Contract Compliance Department at (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 1 South Van Ness, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the MCP to our covered employees, and will ensure that our subcontractors also subject to the MCP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

ATTACHMENT 5-6

HEALTH CARE ACCOUNTABILITY POLICY (HCAP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (“OCII”) (as Successor Agency to the Redevelopment Agency) adopted the San Francisco Health Care Accountability Policy (the “HCAP”), which became effective on September 25, 2001. The HCAP requires contractors and subcontractors that provide services to OCII, contractors and subcontractors that enter into leases with OCII, and parties providing services to tenants and sub-tenants on OCII property to choose between offering health plan benefits to their employees or making payments to OCII or directly to their employees.

Specifically, contractors can either: (1) offer the employee minimum standard health plan benefits approved by the OCII Commission; (2) pay OCII \$5.15 per hour for each hour the employee works on the covered contract or subcontract or on property covered by a lease (but not to exceed \$206 in any week) and OCII will appropriate the money for staffing and other resources to provide medical care for the uninsured (rates and amounts effective July 1, 2018 and subject to annual change).

The OCII may require contractors to submit reports on the number of employees affected by the HCAP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the HCAP will have the following effect:

- in each contract, the contractor will agree to abide by the HCAP and to provide its employees the minimum benefits the HCAP requires, and to require its subcontractors to do the same.
- if a contractor does not provide the HCAP’s minimum benefits, OCII can award a contract to that contractor **only if** the contract is exempt under the HCAP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII’s contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII’s contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the HCAP to your covered employees, and will ensure that your subcontractors also subject to the HCAP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the HCAP, available from the OCII’s Contract Compliance Department at: (415) 749-2400.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 1 South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the HCAP to our covered employees, and will ensure that our subcontractors also subject to the HCAP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

ATTACHMENT 6

Income Computation and Certification

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ Recertification ☐ Other _____

Effective Date:

Move-in Date:

(MM/DD/YYYY)

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ BIN #: _____

Address: _____ Unit Number: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$

Add totals from (A) through (D), above

TOTAL INCOME (E): \$

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$	\$
Enter Column (H) Total			Passbook Rate	
If over \$5000			\$ _____ X 2.00%	= (J) Imputed Income \$
Enter the greater of the total of column I, or J: imputed income			TOTAL INCOME FROM ASSETS (K)	\$

(L) Total Annual Household Income from all Sources [Add (E) + (K)]	\$

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ Signature (Date)	_____ (Date)	_____ Signature
_____ Signature (Date)	_____ (Date)	_____ Signature

PART V. DETERMINATION OF INCOME ELIGIBILITY**RECERTIFICATION ONLY:**

TOTAL ANNUAL HOUSEHOLD INCOME
FROM ALL SOURCES:
From item (L) on page 1

\$

Household Meets
Income Restriction
at:

☐ 60% ☐ 50%
☐ 40% ☐ 30%
☐ ____%

Current Income Limit x 140%:

\$

Household Income exceeds 140% at
recertification:
☐ Yes ☐ No

Current Income Limit per Family Size: \$

Household Income at Move-in: \$

Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Rent \$
Utility Allowance \$

Rent Assistance:

\$

Other non-optional charges:

\$

GROSS RENT FOR UNIT:
(Tenant paid rent plus Utility Allowance &
other non-optional charges)

\$

Unit Meets Rent Restriction at:

☐ 60% ☐ 50% ☐ 40% ☐ 30% ☐ ____%

Maximum Rent Limit for this unit: \$

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ yes ☐ no

If yes, Enter student explanation*
(also attach documentation)

Enter
1-4

*Student Explanation:

- 1 TANF assistance
- 2 Job Training Program
- 3 Single parent/dependent child
- 4 Married/joint return

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit ☐

See Part V above.

b. HOME ☐

Income Status

☐ ≤ 50% AMGI
☐ ≤ 60% AMGI
☐ ≤ 80% AMGI
☐ OI**

c. Tax Exempt ☐

Income Status

☐ 50% AMGI
☐ 60% AMGI
☐ 80% AMGI
☐ OI**

d. AHDP ☐

Income Status

☐ 50% AMGI
☐ 80% AMGI
☐ OI**

e. _____ ☐

(Name of Program)

Income Status

☐ _____
☐ _____
☐ OI**

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Move-in Date	Enter the date the tenant has or will take occupancy of the unit.
Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
BIN #	Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
Address	Enter the address of the building.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of Household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and social security number or alien registration number for each occupant.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).

TOTALS Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K) Enter the greater of the total in Column (I) or (J)

Row (L) Total Annual Household Income From all Sources Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources Enter the number from item (L).

Current Income Limit per Family Size Enter the Current Move-in Income Limit for the household size.

Household income at move-in For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Household size at move-in

Household Meets Income Restriction Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Current Income Limit x 140% For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

Part VI - Rent

Tenant Paid Rent Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).

Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check “yes”. If at least one household member is not a full time student, check “no”.

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

**Full time is determined by the school the student attends.*

Part VIII – Program Type

Mark the program(s) for which this household’s unit will be counted toward the property’s occupancy requirements. Under each program marked, indicate the household’s income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit See Part V above.

HOME If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household’s designation.

Tax Exempt If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household’s designation.

- AHDP If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation.
- Other If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

ATTACHMENT 7

Mayor's Office of Housing and Community Development Commercial Space Underwriting Guidelines (Effective February 2, 2018)

Mayor's Office of Housing and Community Development Commercial Space Underwriting Guidelines

Effective February 2, 2018

A. Applicability

The following Commercial Space Underwriting Guidelines (Guidelines) are intended to assist applicants for capital financing to prepare financing requests to the Mayor's Office of Housing and Community Development (MOHCD). They apply to new construction projects only. These Guidelines will also be used by MOHCD staff for purposes of evaluating funding requests and presenting them to the Citywide Affordable Housing Loan Committee for consideration. The Loan Committee maintains the right to set final terms and conditions for commitment of funds based on the actual circumstances of each project. MOHCD reserves the right to review and approve any requests for variations to these Guidelines. These Guidelines are subject to change.

B. Goals

1. To repay the City for costs related to the development of commercial spaces located within City-funded affordable housing properties.
2. To create vibrant neighborhoods, especially for those experiencing displacement of low-income residents, by facilitating the development of commercial space for Public Benefit and Community Serving Commercial Uses.
3. To recognize the dynamism and relationship to market conditions in commercial real estate that is not found in affordable housing while also mitigating against the market risk inherent in this dynamism.

C. Definitions

1. **Affiliated Entity:** An entity that is either controlled by the Housing Owner, controls the Housing Owner, or is under common control with Housing Owner. Control, as used in the previous sentence, means the ownership, directly or indirectly, of the right to vote in or direct the ordinary operations of the entity.
2. **Commercial Space:** An entire undifferentiated commercial area for Public Benefit Use, Community Serving Commercial Use, or Commercial Use. If the Project is subdivided, then the Commercial Space would be a condominium or air rights parcel, separate from the Residential Space. It is possible to have more than one Commercial Space in a Project because the developer intends different uses (for example, a space finished to Warm Shell and where use will be Public Benefit Use, while another area is finished to Cold Shell and Commercial Use is intended). A Commercial Space may be demised into more than one Individual Tenant Space as appropriate.
3. **Commercial Use:** A land use, typically retail or other sales and services use, with the sole or chief emphasis on making financial gain and that is not a Public Benefit Use or Community Serving Commercial Use as defined below. Commercial Uses shall not include uses that, in MOHCD's sole discretion, are inconsistent with fostering a stable environment for families and children, including, but not limited to, bars, liquor stores,

tobacco product stores, recreational cannabis shops (medical cannabis dispensaries may be permitted in MOHCD's sole discretion, but only to the extent permitted by funding sources and applicable local, state, and federal law) or other uses that cater exclusively to adults.

4. **Commercial Entity:** A legal entity, separate from the Housing Owner, who may either master lease the Commercial Space from the Housing Owner or ground lease the Commercial Space directly from the City, as provided in Permitted Legal Structures, below.
5. **Commercial Project Costs:** The total of all hard and soft costs associated with the development of the Commercial Space.
6. **Community Serving Commercial Use:** A land use, typically retail or other sales and services use, that provides a direct benefit to the community, e.g. a food market with affordable and healthy produce and other goods, community banking, or other neighborhood serving uses that have a demonstrated benefit to the residents of the Project, as determined by MOHCD in its sole discretion.
7. **Commercial Space Master Tenant:** A Commercial Entity that is an Affiliated Entity and that leases the Commercial Space from the Housing Owner and subleases Individual Tenant Space(s) to Individual Commercial Tenant(s).
8. **Housing Owner:** The owner of the residential improvements at the Project.
9. **Cold Shell:** Commercial Space improvements as defined in detail under Item 18.
10. **Individual Commercial Tenant:** An occupant of Commercial Space rented from the Housing Owner or Commercial Entity (depending on legal structure).
11. **Individual Tenant Space:** Demised portion of the Commercial Space for lease to an Individual Commercial Tenant.
12. **Net Commercial Cash Flow:** Commercial Operating Income less the Commercial Operating Expenses for a Lease Year (or portion thereof). **Commercial Operating Expenses** means the reasonable and customary expenses of reasonable operating and routine maintenance and repair expenses incurred by the Housing Owner or Commercial Entity (depending on legal structure) in the operation of the Commercial Space, debt service, and MOHCD-approved reserves. **Commercial Operating Income** means all income and receipts in any form received by the Housing Owner or Commercial Entity (depending on legal structure) from the operation of the Commercial Space, including rents, fees, deposits, and reimbursements.
13. **Project:** A mixed-use, multifamily residential and commercial project built with substantial reliance on City funding, which may include one or more subdivided residential condominium/air rights parcels and commercial condominium/air rights parcels.
14. **Public Benefit Use:** A land use, typically programs or services, that primarily benefits low-income persons, is implemented by one or more 501(c)(3) public benefit

corporations, and has been identified by the City or community as a priority use. Examples include, but are not limited to, childcare centers, adult day health centers, nonprofit office space, public libraries, supportive services for the residents of the affordable housing development, health clinics that serve the local community at no or low cost, arts-related spaces that provide programs, and classes and/or exhibition spaces available to community members at no or low cost.

- 15. Residential Space:** The entire undifferentiated residential area for future demising and occupancy by residential tenants. If the Project is subdivided, then the Residential Space would be a condominium or air rights parcel, separate from the Commercial Space(s).
- 16. Tenant Improvement Allowance:** A budget allowance sized to accommodate the build out of Warm Shell improvements, which MOHCD may approve when the Individual Commercial Tenant/s is unknown at construction loan closing.
- 17. Warm Shell:** Commercial Space improvements as defined in detail under Item 18.
- 18. *Detailed definition of Cold Shell and Warm Shell improvements (see next page)***

<u>Scope/Trade</u>	<u>Cold Shell</u>	<u>Warm Shell (Cold Shell plus the following)</u> (Note: The cost of Warm Shell improvements should be included in the development budget either as a specific scope of work, if known, or as a Tenant Improvement Allowance, subject to MOHCD approval.)
Walls/Doors	Exterior/perimeter walls and doors. Exterior/perimeter walls must be finished with gyp and fire taping to Code. No partition walls or doors.	Partition walls and doors to Individual Tenant Space/s. Partition walls, doors and locks for bathrooms based on Individual Commercial Tenants and Code requirements.
Finish	Exposed concrete slab with rough-in Plumbing, depressed to allow for anticipated use (floor sinks, drains). Temporary ramps for Certificate of Completion, as required.	Finished floor to minimum specification of Individual Commercial Tenant or exposed slab with clearance to install flooring to level landing at door. Wall and ceiling finish, lighting and finish specialties in bathrooms.
Specialties	Code required signage. Exterior commercial signage program developed and approved by Planning and MOHCD.	Bathroom accessories. Exterior signage design, infrastructure, fabrication and installation.
Structural	Anchors for drop-ceiling. Anchors must be cast-in slab 4' on center in each direction. Coring or block-out for assumed HVAC rough-in.	Code required ramps and railings to assumed final finish floor and level landing at entrance(s).
Elevator	No	As required.

Mechanical	Stub out for heat-pump, space on roof for equipment, and pad (or sidewall where possible). Fire rated shaft for later ducting of restaurant hood(s); supply air / louver on exterior wall.	Venting of bathrooms and all other plumbing fixtures. Ductwork to connect location of heatpump to exterior. Code required smoke control. In the case of an approved restaurant use, minimum of one (1) grease duct plus make up air (MUA) duct to accommodate Type 1 hood. Type 2 hood shaft and venting may be considered. Does not include water heating and all other mechanical equipment.
Gas	Stub-out for gas and gas meter in meter room.	Submeters based on establishment of Individual Tenant Space/s.
Plumbing	Stub-out for domestic water supply and water meter in meter room. Storm sewer 4". Stub out all plumbing (supply and waste) to bathroom location(s). No finish.	Water meters based on establishment of Individual Commercial Tenant/s. Distribute domestic water, waste and vents to plumbing fixture locations within Individual Tenant Space/s. Finish plumbing.
Electrical	200A-600A 3 phase service. Meter in electrical room with service to Commercial Space. Stub out and conduit on ceiling for mechanical. Perimeter walls to have wall receptacles. Light fixtures in space connected to house meter to meet Certificate of Completion requirements only. Emergency lighting battery back-up.	Submeters based on established Individual Commercial Tenant/s and extension of stub-outs to Individual Tenant Space/s. Installation of sub panel at Individual Tenant Space/s.
Telco	Two (2) 2" conduits from MPOE to space for telecom/data/security. Temporary security camera connected to residential system until Commercial Space is occupied.	

Fire Protection/ Alarm	Building Fire Alarm shall be sized and zoned to include Commercial Space. State and Local SFFD Code requirements for Completion and Certificate of Occupancy must be met. Sprinkler shall be installed, activated and monitored.	Zoning of Fire Alarm to Individual Tenant Space/s and re-configuration / programming of main building fire panel.
Site Work	No	No

D. Permitted Legal Structures

a. Each of the following legal structures may be used for a Project, as permitted by MOHCD, taking into account the location of the Project, the community that the Project intends to serve, financing requirements and restrictions, and the capacity and expertise of the developer and Housing Owner. These Guidelines assume MOHCD owns the land on which the Project is located. In the rare scenario in which that is not the case, MOHCD and the Housing Owner will adjust these Guidelines accordingly to achieve the Goals articulated in Paragraph B and the same financing principles related to the use of MOHCD funds.

1. No Subdivision; Single Ground Lease. The real property is not subdivided and the entire property is ground leased to Housing Owner.

a. Direct Leases: Housing Owner leases directly to Individual Commercial Tenant(s); or

b. Commercial Master Lease: Housing Owner leases the Commercial Space to the Commercial Entity (which must be an Affiliated Entity) (the “Commercial Space Master Tenant”). The Commercial Space Master Tenant would then sublease the Individual Tenant Space(s) to Individual Commercial Tenant(s).

2. Subdivision. The real property is subdivided into a separate residential condominium or air rights parcel and a separate commercial condominium or air rights parcel (or subdivided into more than one separate parcels of either use).

a. Single Ground Lease. The real property is subdivided, and the City ground leases the entire property to the Housing Owner.

(i) Direct Leases: Housing Owner retains ownership of the leasehold for the Commercial Space and leases directly to Individual Commercial Tenant(s); or

(ii) Commercial Master Lease: Housing Owner retains ownership of the leasehold for the Commercial Space and leases the Commercial Space to a Commercial Space Master Tenant. The Commercial Space Master Tenant would then sublease the Individual Tenant Space(s) to Individual Commercial Tenant(s).

b. Separate Ground Leases.

(i) The City ground leases the Residential Space to the Housing Owner. The City separately ground leases the Commercial Space to the Commercial Entity. The Commercial Entity may or may not be an Affiliated Entity.

(ii) Where the Commercial Entity is a for-profit company, not related to the Housing Owner, and the Commercial Space will be used for Commercial Use, the City’s strong preference is that the subdivision be in the form of a condominium as opposed to an air rights parcel.

E. Underwriting Guidelines for All Permitted Legal Structures

1. The eligible uses of MOHCD Funds for Commercial Project Costs are:

- a. **Hard Costs:** Subject to approval by MOHCD, Borrower may request the use of MOHCD funds for the following:
 - i. **Commercial Uses:** Cold Shell only. However, MOHCD may provide funding for Warm Shell improvements required to be installed concurrent with residential construction (e.g. restaurant flue shafts with grease ducts and access panels on each floor, drain lines and anchor bolts installed in PT floor and ceiling slabs). If Housing Owner is working with the Commercial Entity or an Individual Commercial Tenant before or during construction, Housing Owner may install ducting to the exterior (roof or louvers on building exterior) as a reimbursable cost to Housing Owner by the Commercial Entity or the Individual Commercial Tenant. Costs for all Cold Shell and Warm Shell improvements must be repaid to MOHCD, in full or in part, through non-housing sources, according to the requirements set forth in Section I below.
 - ii. **Community Serving Commercial Uses:** Cold Shell and Warm Shell. Borrower is required to seek funding from other City and private sources, such as commercial loans, OEWD or the Child Care Fund, New Market Tax Credits, etc., as appropriate for the proposed use for the purpose of reducing funding required from MOHCD.
 - iii. **Public Benefit Uses:** Cold Shell and Warm Shell. Borrower is required to seek funding from other City and private sources such as commercial loans, OEWD or the Child Care Fund, New Market Tax Credits, etc. as appropriate for the proposed use, for the purpose of reducing funding required from MOHCD.
- b. **Soft Costs:** Subject to MOHCD approval and evaluated based on industry standards and market conditions for comparable projects and uses, including:
 - Construction management and consulting fees for coordination of tenant improvements with shell construction
 - Commercial broker fee
 - Commercial space lease-up reserve
 - Commercial space replacement reserve
 - Commercial space developer fee (see developer fee policy below)
 - Market analysis as is required by MOHCD
 - Future tenant improvements reserve
 - Pro rata share of Project development costs associated with Commercial Space (for example, financing costs and legal fees)

2. Conditions of MOHCD Funds.

- a. Market Analysis: Developer shall provide MOHCD a third party prepared market analysis (e.g. from a broker, appraiser, or market analyst) to determine appropriate terms for Market Rents, Rent Growth, Annual Rent Adjustments, Rent Concessions and/or Tenant Improvement Allowances, Vacancy, Expenses, Expense Growth, Management Fees, Leasing Agent Fees, and Reserves.
- b. Operating Budget. Developer shall provide the Housing Owner's or Commercial Entity's (depending on legal structure) commercial operating budget based on proposed use and market conditions consistent with the third party prepared Market Analysis provided for the project as defined above in 2.a. Commercial rents charged must be sufficient to cover all direct, shared, and allocated costs attributable to commercial use, including, but not limited to: pro-rata share of cleaning, maintenance and utility costs for shared bathrooms and hallways; pro-rata share of maintenance of fire sprinkler and fire alarm systems; pro-rata share of cleaning, maintenance and repair of the trash room; pro-rata share of maintenance and repair of the sidewalk, street trees and bike racks; pro-rata share of hydro-jetting of the sewer laterals; and pro-rata share of back-flow testing of the water lines. Commercial operating expenses shall include all utilities payable by the property for the Commercial Space, commercial property management and asset management fees, commercial operating and replacement reserves, and property taxes and insurance attributable to the Commercial Space.
- c. Leases and Letters of Intent. The Commercial Master Lease and business terms for Direct Leases and subleases are subject to review and approval by MOHCD, in accordance with the Market Analysis and these Guidelines.

F. Commercial Space Developer Fee

1. Commercial Uses: The lesser of \$100,000 or 15% of the non-residential depreciable basis, so long as the sum of the Commercial Space Developer Fee and the Residential Developer Fee do not exceed the developer fee limits allowed by TCAC. A one-time additional \$50,000 incremental fee will be allowed for completion of the condominium or air rights subdivision, subject to MOHCD approval of the subdivision and legal structure. The Commercial Space Developer Fee is payable only from non-MOHCD sources, e.g. commercial loan proceeds or transfer of the leasehold estate in the Commercial Space, etc.
2. Public Benefit Uses and Community Serving Uses: The lesser of \$250,000 or 15% of the non-residential depreciable basis, so long as the sum of the Commercial Space Developer Fee and the Residential Developer Fee do not exceed the developer fee limits allowed by TCAC. A one-time additional \$50,000 in fee will be allowed for completing the condominium or air rights subdivision, subject to MOHCD approval of the subdivision and legal structure. Half of the Commercial Space Developer Fee is payable

only from non-MOHCD sources, e.g. commercial loan proceeds, grants, or transfer of the leasehold estate in the Commercial Space.

3. Commercial Space Developer Fee; Net Developer Fee Maximums. To the extent allowable by TCAC, the Commercial Space Developer Fee is in addition to the net developer fee maximums pursuant to MOHCD Developer Fee Guidelines.

G. Change in Use

Change in use from Public Benefit Use or Community Serving Commercial Use to Commercial Use requires approval by MOHCD and will result in required repayment of the costs of Warm Shell improvements funded by MOHCD loan(s). Repayment will be calculated by amortizing the MOHCD-funded costs over the useful life of the improvements and sized based on the number of years the improvements did not serve a Public Benefit or Community Serving Commercial Use.

H. Single Ground Lease Additional Guidelines

The following ground lease terms apply where the City ground leases the entire property to the Housing Owner, whether or not the property has been subdivided.

1. Direct Lease
 - a. **40% City/60% Housing Owner:** 40% of Net Commercial Cash Flow will be paid by Housing Owner to City in the form of increased ground lease payment of Residual Rent (see MOHCD Policy on Ground Leases for defined terms). Housing Owner will retain 60% of Net Commercial Cash Flow.
 - b. Limit on Commercial Revenue: City recommends tax counsel guidance to avoid issues of unrelated business income.
2. Commercial Master Lease
 - a. **40% City/60% Affiliated Entity:** 40% of Net Commercial Cash Flow will be paid by Commercial Entity to Housing Owner and subsequently paid to City in the form of increased ground lease payment of Residual Rent. 60% of Net Commercial Cash Flow is payable to the Commercial Entity (ie. the Commercial Space Master Tenant). The Commercial Entity must be an Affiliated Entity.
 - b. Limit on Commercial Revenue: City recommends tax counsel guidance to avoid issues of unrelated business income.

I. Separate Ground Leases Additional Guidelines

The following MOHCD commercial loan repayment and commercial ground lease terms apply where the property has been subdivided, the City ground leases the Residential Space to the Housing Owner, and the City ground leases the Commercial Space(s) to the Commercial Entity(ies).

1. Reimbursement to MOHCD of Commercial Project Costs depends on the ownership structure and the type of use, as follows:

- a. Public Benefit Uses, Community Serving Commercial Uses, and Commercial Uses when the Commercial Entity is an Affiliated Entity:

Within the earlier of 90 days after 75% occupancy is achieved for Commercial Space or one year after the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy for the Commercial Space, the Commercial Entity must obtain a commercial loan commitment to repay MOHCD for all Commercial Project Costs included in MOHCD financing. The terms for any repayment source that requires a lien against the Commercial Space are subject to MOHCD approval. The commercial loan must close within 90 days following the issuance of a loan commitment. In the event that the commercial loan is not large enough to fully repay MOHCD for Commercial Project Costs, MOHCD will retain a second position Deed of Trust against the Commercial Space, securing a Note in the amount of any unpaid balance. Any outstanding balance on a MOHCD commercial loan will be payable upon refinance or transfer of the Commercial Space.

- b. Commercial Uses when the Commercial Entity is an unrelated third-party:

The Commercial Entity must repay MOHCD for all Commercial Project Costs included in MOHCD financing at close of purchase of the leasehold interest in the commercial condominium/air rights parcel and/or execution of the commercial ground lease. The terms for any repayment source that requires a lien against the Commercial Space are subject to MOHCD approval.

2. Commercial Space Ground Lease Payment and Payment on Any Outstanding MOHCD Commercial Loan

- a. Public Benefit Uses & Community Serving Commercial Uses: Annual ground lease payment equal to 40% of Net Commercial Cash Flow. However, if there is an outstanding MOHCD commercial loan, the 40% Net Commercial Cash Flow will first be used to pay down the MOHCD commercial loan and then to the annual ground lease payment. Commercial Entity will retain 60% of Net Commercial Cash Flow.
- b. Commercial Uses: Annual ground lease payment equal to market rent based on current comparable leases. Sizing of Base Rent and Residual Rent to be negotiated. If there is an outstanding MOHCD commercial loan (only applicable when the Commercial Entity is an Affiliated Entity), 40% Net Commercial Cash Flow will be used to pay off the MOHCD commercial loan and then go towards payment of Residual Rent, if applicable. Commercial Entity will retain 60% of Net Commercial Cash Flow.

3. Any transfer or sale of the Housing Owner's or Commercial Owner's ground lease interest in the Commercial Space parcel is subject to MOHCD approval as ground lessor. If the Project was developed as air rights parcels, MOHCD may require that the air rights subdivision be converted to condominiums before the Commercial Space may be transferred to an unaffiliated for-profit entity for Commercial Use.

4. Ground Lease Term: To be negotiated based on Market Analysis (see section E.2.a. for requirements for Market Analysis.)

ATTACHMENT 8

Consent To Leasehold Mortgage

Date:

Office of Community Investment and Infrastructure, Successor to San Francisco Redevelopment Agency
Attn: Executive Director
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

RE: _____, San Francisco (LEASEHOLD MORTGAGE)

Dear Sir or Madam:

Pursuant to Section 26.01 of the _____ Ground Lease, dated _____, between the Office of Community Investment and Infrastructure (“Successor Agency”) and _____, we are formally requesting the Successor Agency’s consent to our placing a leasehold mortgage upon the leasehold estate of the above referenced development. The following information is provided in order for the Successor Agency to provide its consent:

Lender:	_____
Principal Amount:	_____
Interest:	_____
Term:	_____

Attached hereto are unexecuted draft loan documents, including the loan agreement, promissory note, and all associated security agreements which we understand are subject to the review and approval by the Successor Agency. Furthermore, we are willing to supply any additional documentation related to the leasehold mortgage which the Successor Agency deems necessary.

Sincerely,

Printed Name and Title

enc.

By signing this letter, the Successor Agency consents to the leasehold mortgage, pursuant to the terms and conditions of Section 26.01 of the _____ Ground Lease dated _____.

Office of Community Investment and Infrastructure

Printed Name and Title

ATTACHMENT 9

Rent Restrictions*

	40% SF AMI		50% SF AMI		60% SF AMI	65% SF AMI		80% SF AMI	Manager's Unit	TOTAL
	Non-PBV units	PBV	Non-PBV units	PBV	Non-PBV units	Non-PBV units	PBV	Non-PBV units		
Studio	3		2		3	2				10
1	8	4	6	1	7	3	1	4		34
2	3	12	5	12	25	9	2	8	1	77
3	1	4	4	1	11	4	1	3		29
4			1							1
5			1							1
TOTAL	15	20	19	14	46	18	4	15	1	152
	35		33		46	22		15	1	152

*AMI is based on MOHCD established rates.

The total amount for rent and utilities (with the maximum allowance for utilities determined by the San Francisco Housing Authority) charged to a Qualified Tenant may not exceed:

(i) thirty percent (30%) of the applicable Median Income set forth above, adjusted for household size; or

(ii) the fair market rent established by the San Francisco Housing Authority for Qualified Tenants holding Section 8 vouchers or certificates.

Maximum Rent and utilities charged to each Qualified Tenant may not exceed the corresponding amounts for the AMI's set forth in the table above as established annually by MOHCD. Rents for all Units may be increased once annually in accordance with any increase in the rents according to MOHCD's "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco," published on an annual basis, based upon the maximum applicable target AMIs provided in the table above. The Project rents and utility allowances will be established based on established rents and utility allowances for the appropriate year of the commencement of marketing of the Project.

With OCII's prior written approval and in accordance with maximum rent limitations set forth above and all applicable restrictions, Rent increases for Units exceeding the amounts permitted above will be permitted in order to recover increases in Project Expenses, but in no event may single or aggregate increases exceed ten percent (10%) per year, unless such an increase is contemplated in a OCII-approved temporary relocation plan or when the increase is caused by an increase in certified income. OCII approval for such rent increases that are necessary to meet all approved Project Expenses and financial obligations shall not be unreasonably withheld.

ATTACHMENT 10

Insurance Requirements

Subject to approval by the OCII Risk Manager of the insurers and policy forms, Tenant must obtain and maintain, or caused to be maintained, the insurance and bonds as set forth in this Exhibit F throughout the Compliance Term of this Agreement, or in accordance with the timeframes stated herein, at no expense to OCII.

- A. **Overview of Coverage Requirements.** The following table summarizes required insurance policies and documentation. Please see Section B of this Exhibit F for more detailed descriptions of policy requirements.

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Commercial General Liability (see Section B.1)	\$1,000,000 per occurrence/ \$2,000,000 aggregate*	Tenant's design and professional contractors; and Tenant (prior to start of construction)	Additional insured (see Section G)
	\$10,000,000 per occurrence/ \$10,000,000 aggregate*	Tenant (upon construction start), general contractor, and subcontractors to the general contractor	
Automobile Liability (see Section B.2)	\$1,000,000 per occurrence*	Tenant and Tenant's contractors	Additional insured (see Section G)
Worker's Compensation and Employer's Liability (see Section B.3)	As per statute for Workers Comp; \$1,000,000 per accident; \$1,000,000 per employee; and in aggregate for bodily injury by disease as respects Employers Liability*	Tenant and Tenant's contractors	Waiver of subrogation
Professional Liability (see Section B.4)	\$2,000,000 per claim/ \$2,000,000 aggregate	Tenant if engaged in any eligible design-related activities; and Tenant's design and professional contractors	None
Crime/Dishonesty (see Section B.5)	\$3,000,000 per loss	Tenant	Loss payee endorsement
Pollution Liability/Asbestos (see Section B.6)	\$1,000,000 per claim/ \$2,000,000 aggregate	Tenant or Tenant's construction contractor(s)	Additional insured (see Section G)
Builder's Risk – During Construction (see Section B.7a)	100% of replacement value	Tenant	Loss payee endorsement

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Property Insurance – After Construction Completion (see Section B.7b)	100% of replacement value	Tenant or Tenant’s property manager	Loss payee endorsement
Performance and Payment Bonds (see Section B.8)	100% of contract value	Tenant’s construction contractors	OCII and Tenant named as dual obligees

** Umbrella, excess liability policy, or owner controlled insurance program (OCIP) may be used to meet limits (see Section D)*

B. Minimum Scope and Limits of Insurance. Tenant and/or Tenant’s Contractors must maintain insurance with limits no less than:

- 1) Commercial General Liability coverage, under Insurance Services Office occurrence form CG 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). Limits set forth below, combined single limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; broad form property damage; explosion, collapse and underground (XCU); products and completed operations. Umbrella, Excess Liability, or an Owner Controlled Insurance Policy may be used to meet the terms of this section.
 - a. Before the start of demolition/construction if the Site is unoccupied, Tenant and Tenant’s Contractors will maintain coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit. These limit requirements apply to Tenant’s design and professional contractors throughout the required coverage period;
 - b. During demolition/construction and occupancy of the Site and ongoing operations of the Project, Tenant and its Construction Contractors and/or Property Manager will maintain coverage of not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence and Ten Million Dollars (\$10,000,000) annual aggregate limit;
- 2) Automobile Liability coverage for all owned, non-owned, scheduled, and hired automobiles under Insurance Services Office form number CA 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). If Tenant does not own any automobiles, Tenant must provide OCII a written statement confirming that no automobiles are owned, and OCII will accept an Automobile Insurance policy providing coverage for Symbol 8 (hired autos) and Symbol 9 (non-owned autos), with additional insured endorsement. One Million Dollars (\$1,000,000) per accident for bodily injury and property damage, combined single limit.

- 3) Worker's Compensation and Employer's Liability as required by the State of California. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). Employer's Liability coverage must provide limits of One Million Dollars (\$1,000,000) for bodily injury each accident; and not less than One Million Dollars (\$1,000,000) per employee; and One Million Dollars (\$1,000,000) in the annual aggregate for bodily injury by disease. If the Tenant does not have any employees, then evidence of Workers' Compensation and Employers Liability coverage required herein must be provided by either the Project Sponsor(s) or the General Partner of the Partnership, in lieu of such coverage being provided by the Tenant. Additionally, the Tenant must provide a written statement confirming that the Tenant does not have employees.
- 4) Professional Liability (Errors and Omissions) insurance, applicable to the Tenant's licensed design and professional contractors (architects, engineers, surveyors and other eligible consultants) and to the Tenant only if the Tenant or Sponsor has any employees providing design or engineering services. Two Million Dollars (\$2,000,000) for each claim and in the annual aggregate limit covering negligent acts, errors or omissions in connection with professional services to be provided in connection with the Project. If the Professional Liability insurance is "claims made" coverage, these minimum limits shall be maintained for no less than five (5) years beyond completion of the scope of services performed. Any deductible over One Hundred Thousand Dollars (\$100,000) each claim must be reviewed by OCII Risk Management.

Design professionals who utilize the services of subcontractors or consultants to complete work in connection with this project are required to assess the risks associated with such contractors and, with the authorization of the Tenant, determine and verify the appropriate level of coverage provided by the subcontractor or consultant. The design professional and the Tenant shall assume costs and expenses that may be incurred in fulfilling any indemnity obligations as to itself or any subcontractors or consultants for whom the design professional and/or the Tenant are legally liable in the absence of adequate subcontractor or consultant coverage.

- 5) Crime Policy or Fidelity Bond (Employee Dishonesty Coverage) covering Tenant and Developer's officers and employees against employee dishonesty, forgery & alteration, theft of money & securities, and theft via electronic means, endorsed to cover third party fidelity, covering all officers and employees with respect to the Funding Amount. Three Million Dollars (\$3,000,000) each loss, with any deductible not to exceed Fifty Thousand Dollars (\$50,000). Tenant must provide an endorsement naming OCII as an additional obligee or loss payee.

Application of Crime Insurance Proceeds. Tenant shall promptly notify OCII of any claim under the required Crime Insurance Policy. OCII may retain from the proceeds of the required Crime Insurance Policy, a sufficient amount of the proceeds to pay the Funding Amount, if any, and shall pay the balance to Tenant. For the avoidance of doubt, OCII shall have no right or claim to the proceeds of the required Crime Insurance Policy in excess of the Funding Amount.

- 6) Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than One Million Dollars (\$1,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) aggregate per policy period of one year,

this coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Tenant's construction contractor to maintain these minimum limits for no less than three (3) years beyond completion of the Project.

7) Property Insurance

- a. Builder's Risk Insurance during the course of any construction, special form coverage, excluding earthquake and flood, for one hundred percent (100%) of the replacement value of all completed improvements and OCII property in the care, custody and control of Tenant or its contractor, including coverage in transit and storage off-site, with a deductible not to exceed Fifty Thousand Dollars (\$50,000) each loss, including OCII as loss payee. Builder's Risk must be maintained by the Tenant or the Tenant must cause its general contractor to maintain this insurance.
- b. Property Insurance after completion of construction, special form coverage, excluding earthquake and flood, but including vandalism and malicious mischief, and including boiler and machinery insurance, for one hundred percent (100%) of the replacement value of all furnishings, fixtures, equipment, improvements, alterations and property of every kind located on or appurtenant to the Site, including coverage for loss of rental income due to an insured peril for twelve (12) months, with a deductible not to exceed Twenty Five Thousand Dollars (\$25,000) each loss, including OCII as a loss payee. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us").

- 8) Performance and Payment Bonds for eligible construction contractors during construction and/or rehabilitation, each in the amount of one hundred percent (100%) of contract amounts, naming OCII and Tenant as dual obligees, or other completion security approved by OCII in its sole discretion. OCII has approved issuance of a Completion Guaranty by an affiliate of Tenant to Tenant's institutional lender as completion security.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of those required for policies stated herein must be declared to and approved by OCII. At the option of OCII, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees; or Tenant shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- D. Umbrella, Excess Liability, and Owner Controlled Insurance Policies (OCIP). An Umbrella and/or Excess Liability policy(ies) or an OCIP may be used to reach the Commercial General Liability, Workers' Compensation, and/or Automobile Liability coverage limits required herein. The Umbrella/Excess Liability/OCIP policy(ies) must appropriately schedule any such underlying policy(ies).
- E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise approved by OCII's Risk Manager.

F. General Requirements.

- 1) If the Tenant maintains additional coverages and/or higher limits than the minimums shown in this Exhibit F, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Tenant.
- 2) The policies required herein, with the exception of Professional Liability and Workers Compensation, shall be primary insurance and non-contributory as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees shall be in excess of Tenant's insurance and shall not contribute with it.
- 3) Each insurance policy required herein must be endorsed (if endorsement is available) to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by mail has been given to OCII. Should the insurance carrier not be able to provide such notice, then the responsibility to provide the notice to OCII shall be borne by the policyholder.
- 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees.
- 5) Approval of Tenant's insurance by OCII will not relieve or decrease the liability of Tenant under this Agreement.
- 6) OCII and its officers, agents and employees will not be liable for any required premium under any policy maintained by Tenant.
- 7) All claims based on acts, omissions, injury or damage occurring or arising in whole or in part during the policy period must be covered. If any required insurance is provided under a claims-made policy, coverage must be maintained continuously for a period ending no less than five (5) years after recordation of a notice of completion for builder's risk or the Compliance Term for general liability and property insurance.

G. Verification of Coverage. Tenant must furnish OCII with certificates of insurance and original endorsements evidencing coverage required by this clause. The certificates and applicable endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by OCII before work commences. OCII reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time. Tenant shall require and verify that its contractors and consultants maintain the required policies as stated herein. Tenant must furnish OCII with copies of certificates and endorsements upon request. All certificates shall include the following:

- 1) Identify the following as the certificate holder:

Successor Agency to the Redevelopment Agency of the City and County
of San Francisco
Office of Community Investment and Infrastructure
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

- 2) Identify the name of the insurance policy holder (Tenant, Developer, or Contractor), the Project name, and the Project address.
- 3) For policies in which OCII is required to be named as an additional insured, loss payee, dual obligee, or named on a waiver of subrogation, the policy shall name “Office of Community Investment and Infrastructure/Successor Agency to the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees” on the certificate and on the attached endorsement or certificate.

H. Review. OCII reserves the right to modify the insurance coverage under this Section, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances consistent with OCII’s Risk Management Policy. The insurance coverage required under this Section shall be evaluated by OCII for adequacy from time to time. OCII may require Tenant to increase the insurance limits and/or forms of coverage in its reasonable discretion provided that such limits and/or coverage is generally available at commercially reasonable rates.

Attachment 3: Loan Evaluation

Citywide Affordable Housing Loan Committee

San Francisco Mayor's Office of Housing and Community Development
Department of Homelessness and Supportive Housing
Office of Community Investment and Infrastructure

Mission Bay South Block 6W

Gap Loan: \$43,866,690

Evaluation of Request for:

Permanent Gap Loan

Loan Committee Date:

December 7, 2018

Prepared By:

Annie Wong

Source of Funds Recommended:

Bond Proceeds: \$43,866,690

NOFA/PROGRAM/RFP:

Mission Bay South Block 6 West RFP

ROPS Line:

405

Total Previous Funds Committed:

\$3,495,000 (Bond Proceeds)

Applicant/Sponsor Name:

Mercy Housing California ("Mercy Housing")

EXECUTIVE SUMMARY

Sponsor Information:

Project Name:	Mission Bay South Block 6W	Sponsor(s):	Mercy Housing California
Project Address (w/ cross St):	691 China Basin Street San Francisco, CA 94158	Ultimate Borrower Entity:	Mercy Housing California 78 L.P.

Project Summary:

Mercy Housing California 78 L.P. is requesting gap financing in the amount of up to \$43,866,690 for Mission Bay South Block 6 West ("Block 6W" or the "Project"). Including \$3,495,000 predevelopment funds previously committed, OCII's total subsidy would be \$47,361,690. However if the Sponsor receives \$1,510,000 in anticipated AHP funding, then OCII's total subsidy would be reduced to \$45,851,690. The Project is a 152-unit development for extremely-low to low-income families; 38 units will be set aside as public housing replacement units for households voluntarily relocating from Sunnysdale or Potrero Annex or Terrace HOPE SF sites. The Project includes 10 studios, 34 one-bedroom units, 76 two-bedroom units, 29 three-bedroom units, 1 four-bedroom unit, 1 five-bedroom unit, and 1 two-bedroom manager's unit. Implementing TCAC's new "income averaging" regulations, the units will be restricted at between 40% and 80% of the Area Median Income ("AMI") as published by the Mayor's Office of Housing and Community Development ("MOHCD"). The Project's average AMI is 56% MOHCD AMI. The 38 units set aside for households moving from HOPESF sites will be supported with project-based Section 8 vouchers (PBVs).

The Project includes a ground floor childcare center, 26 parking spaces (0.2:1 ratio) and curbside 2 car share spaces, a large landscaped courtyard, roughly 1,000 square foot in community-serving commercial space, a large community room with a kitchen, a multipurpose teen room, children's play space, services offices, onsite laundry and bike parking.

Sources for the Project are proposed as follows: 4% Low Income Housing Tax Credits, tax-exempt bonds, an OCII loan, Infill and Infrastructure Grant ("IIG"), and Affordable Housing Program ("AHP."). Construction financing is anticipated to close end of April 2019 with construction starting shortly thereafter.

Project Description:

Construction Type:	Type V (Townhomes along pedestrian mews); Type III (Mission Bay Blvd, Merrimac wings); Type I (China Basin wing)	Project Type:	New Construction
Number of Stories:	4 (Type V), 6 (Type III), 7 (Type I)	Lot Size (acres and sf):	1.13 acres / 49,436 s.f.
Number of Units:	152	Architect:	Paulett Taggart Architects
Total Residential Area:	178,050 sf	General Contractor:	Cahill
Total Child Care and Community Serving Commercial Area:	7,098 sf	Property Manager:	Mercy Housing Management Group (MHM)
Total Building Area:	185,148 sf	Supervisor and District:	Sup. Kim - District 6
Land Owner:	FOCIL(will transfer to OCII)		
Total Development Cost (TDC):	119,543,062	Total Acquisition Cost:	N/A
TDC/unit:	\$786,468	TDC less land cost/unit:	\$786,468
Loan Amount Requested:	Up to \$43,866,690 (for a total gap loan request of \$47,361,690)	Request Amount / unit:	\$288,597
HOME Funds?	No		

PRINCIPAL DEVELOPMENT ISSUES

1. **Total Development Cost and OCII Subsidy** – At \$786,468, the Project has higher than average per unit costs of projects currently in the City’s pipeline. However, backing out the \$3,400,000 in developer fee that the Sponsor is contributing back to the Project through GP equity, the TDC/unit is \$764,099 and only 4% higher than the average of the current projects in predevelopment. The project also has high hard cost due in part to poor soil conditions in Mission Bay that requires piles driven 200+ feet to bedrock. For a full description of factors contributing to the Project’s high hard costs, see Section 4.4.

Including previously committed predevelopment funding, OCII’s total subsidy is \$47,361,690, or \$311,590 per unit. This per unit subsidy is higher than the average per unit subsidy of the projects currently in the City’s pipeline. This is due in part to OCII’s decision to decline pursuing Affordable Housing and Sustainable Communities (AHSC) funding for this Project in favor of other projects in the MOHCD queue, which resulted in a roughly \$10 million funding gap that the Sponsor and OCII have since worked closely together to fill, including successfully pursuing IIG funding from HCD. Furthermore, backing out the AHP amount, the subsidy per unit is \$301,656, which is within 11% of the average of the current projects in predevelopment. See Sections 4.4 and 6.4.1 for additional information.

2. **Recycled Water Ordinance** – The Project falls within the boundaries of the City’s designated recycled water use area, and therefore is required to comply with the City’s Recycled Water Ordinance. The current design and budget for the Project includes dual pipe. OCII and Sponsor will continue to track the status/applicability of the Recycled Water Ordinance as the Project progresses and if the Project is later exempted from the ordinance, OCII and Sponsor may eliminate dual pipe for the Project to the extent feasible.
3. **Bid Timing** – The current hard cost budget is based on a cost estimate for the 50% Construction Documents (CDs). Sponsor and OCII is comfortable moving forward with this gap loan request based on the 50% CDs cost estimate because the development budget still includes 3% bid, 1% plan check, and 5% hard cost contingencies all within MOHCD underwriting guidelines. OCII’s construction representative and staff will continue to review the construction drawings and cost estimates as they progress and work with Sponsor to engage in further value engineering should estimates escalate beyond the contingencies currently budgeted.

Additionally, in order to advance the construction schedule to deliver housing quicker in line with the Mayor’s Housing Directive goals, Sponsor will take out a \$1.5M line of credit (LOC) to cover the cost of indicator piles prior to construction start. See Sections 4.4 and 6.4.1 for additional information.

4. **Income Range** – This Project will be one of the first in the City of San Francisco to take advantage of the new 2018 federal and state Low Income Housing Tax Credits (LIHTC) regulations, which allow LIHTC projects to include units targeted to households making up to 80% of AMI as long as the project’s average targeting does not exceed 59% AMI. See Section 7.2.3 for additional information.
5. **AHP** – The Sponsor will apply for the maximum AHP funds it can secure, in the Spring of 2019. If successful, the OCII loan amount will be reduced by the amount of the AHP award. See Section 6.4.1 for additional information.

SOURCES AND USES SUMMARY

Predevelopment Sources	Amount	Terms	Status
OCII Predev Loan	\$3,495,000	3% Def/ Term Ends July 18, 2020	Committed
Total	\$3,495,000		

Permanent Sources	Amount	Terms	Status
TE Perm Loan - A	\$5,840,000	30/16 yrs @ 6% / Periodic	Not Com
TE Perm Loan - B	\$8,601,000	20 yrs @ 6% / Periodic	Not Com
OCII Gap *	\$45,851,690	55 yrs @ 3% / Res Rec	This Request
AHP - FHLB*	\$1,510,000	55 yrs @ 0% / Forgivable	Not Com
HCD IIG - Sponsor Loan	\$5,000,000	55 yrs @ 0% / Res Rec	Committed
Deferred Dev Fee	\$1,180,000	N/A	Not Com
Sponsor Equity	\$3,400,000	N/A	Not Com
Tax Credit Equity	\$48,160,372	\$1.00 per Credit	Not Com
Total	\$119,543,062		

Uses	Amount	Per Unit	Per SF
Acquisition	\$0	\$0	\$0
Hard Costs	\$92,035,980	\$605,500	\$497
Soft Costs	\$20,107,082	\$132,283	\$109
Developer Fee	\$7,400,000	\$48,684	\$40
Total	\$119,543,062	\$786,468	\$646

*Note: The above table assumes the Project is successful in receiving AHP funds. Should those funds not be available to the Project, then OCII's total subsidy would be \$47,361,690.

1. BACKGROUND

1.1. Project History Leading to This Request.

Housing Production in the Mission Bay Project Area

Block 6 West is part of the 303-acre Mission Bay redevelopment district that was administered by the former San Francisco Redevelopment Agency ("SFRA" or "Agency"). Pursuant to state law redevelopment agencies throughout the State of California were eliminated on February 1, 2012, California Health and Safety Code §§34161 et seq (the "Redevelopment Dissolution Law"). OCII is the Successor Agency to SFRA and is responsible for implementing SFRA's enforceable obligations. On January 24, 2014, the California Department of Finance ("DOF") determined "finally and conclusively" that the Mission Bay South OPA and tax allocation pledge agreement are enforceable obligations under AB 26 and AB 1484. FOCIL-MB, LLC ("FOCIL") is the Master Developer of the Mission Bay redevelopment district.

The Project will be the fifth Agency Affordable Housing Parcel in the Mission Bay South Redevelopment Project Area, and the ninth affordable housing development in the overall Mission Bay Project Area:

Location	Site	Project Name	# of Units	Housing Type	Date Completed
Mission Bay North	Block N2-2	Rich Sorro Commons	100	Family rental	2002
	Block N3A-1	Mission Creek Senior Community	140	Senior rental (including 49 units for homeless seniors)	2006
	Block N5	Crescent Cove	36 ¹	Family rental	2007
	Blocks N4-2, N4A-2	Mission Walk	131	Family for-sale	2009
Mission Bay South	Block 13 East	1180 4th Street	150	Family rental (including 50 units for homeless families)	2014
	Block 7 West	588 Mission Bay Boulevard North	200	Family rental	2017
	Block 6 East	626 Mission Bay Boulevard North	143	Family rental (including 29 units for homeless families)	2018
	Block 3 East	1150 Third Street	119 ²	Homeless veteran individuals and families (62 units) and family rental (57 units)	2019
	Block 6 West	691 China Basin Street	152	Family rental (including 25% of units for HOPE SF or homeless families)	Subject Property
	Block 9	410 China Basin Street	141 ³	Homeless individuals rental units	2021 (Predevelopment)
TOTAL			1,312		

¹ 36 units out of total 234 restricted units built at the Crescent Cove development were OCII-sponsored. The remaining 198 restricted units are Master Developer inclusionary units.

² Project under construction.

³ Projected.

The Mission Bay North and South project area includes the development of 6,514 housing units, with 1,916 units (29%) set aside as affordable.¹ To date, 1,191 of those affordable units have been completed, leaving approximately 725 affordable units to be developed. The development of the OCII-sponsored units will be subsidized through a minimum of 20% tax increment affordable housing set-aside generated by Mission Bay North and South, along with excess tax increment not needed for public infrastructure development, as required by the Mission Bay

¹ The MBS OPA requires OCII to construct a base number of 1,108 affordable housing units. In addition, Section 3.6 of the MBS Housing Program (Attachment 3 to the MBS OPA) allows for OCII to construct an additional 110 affordable housing units, pending assessment of the development impacts and any necessary approvals, for a maximum total of 1,218 affordable housing units.

South Owner Participation Agreement (“OPA”). The majority of the 1,916 affordable units will be developed on OCII Affordable Housing Parcels contributed by the Master Developer to OCII pursuant to the Mission Bay OPA. The Project site is part of this land contribution.

1.2. Borrower/Grantee Profile. (See Attachment B for Borrower Org Chart; See Attachment C for Developer Resume and Attachment D for Asset Management Analysis)

The Borrower entity will be Mercy Housing California 78, L.P., a limited partnership formed by parent entity Mercy Housing California to manage, own and operate the Project.

Mercy Housing California (“MHC”) has been developing and owning affordable housing in San Francisco for 30 years. MHC owns and operates 48 buildings that it developed in San Francisco for families, seniors, disabled, and the formerly homeless in San Francisco, including two properties in Mission Bay (1180 Fourth St and Mission Creek Senior Housing) as well as one multi building property in the nearby Transbay District (Natalie Gubb Commons). MHC also has 4 additional properties under construction in San Francisco and 5 in pre-construction.

MHC has a long history of working in successful development and ownership partnerships that include partnerships with childcare providers, medical clinics, and senior centers. MHC has negotiated a variety of ownership and financing structures, including air rights lot splits, master-leases, etc., in order to make these partnerships work. At Transbay 7, the shell for a childcare is owned by the partnership and master leased to a Mercy affiliate that then subleases it to South of Market Child Care. The childcare shell is built out by the partnership and the warm shell is being financed by OCII. Alternatively, at Vera Haile Senior Housing and at Westbrook Plaza, MHC negotiated air rights lot splits that respectively allowed St. Anthony’s to rebuild its dining hall and the South of Market Clinic to build its new clinic with New Market Tax Credits.

MHC also has extensive experience with green design and green building criteria that ranges from green roofs, solar hot water and electric, and recycled storm water. This commitment to green building extends into operations with compositing and recycling training programs as well as a Healthy Home Guide to educate residents about green building features and green maintenance.

MHC’s property management affiliate, Mercy Housing Management Group (“MHM”), will manage the property after construction is complete. MHM currently manages 37 properties in San Francisco with populations that range from formerly homeless, to seniors and frail elders, persons with disabilities and families. MHM manages 500 units serving the formerly homeless populations including 50 at 1180 Fourth Street.

Mercy Housing California is also the developer for the Sunnydale HOPE SF site, rendering it suitable for the development of the Project given its unique knowledge of the planned set-aside population and its working relationship with the San Francisco Housing Authority staff assigned to HOPE SF projects.

Please see Attachment C Developer Resumes for more details on the team’s project management experience.

2. SITE (See Attachment E for Site map with amenities)

Site Description	
Zoning:	Zoning for the site is form-based and is governed by the Redevelopment Plan for the Mission Bay South Redevelopment Project and the Design for Development for the Mission Bay South Project Area. Height limits are calculated as averaged by block (not parcel) and are as follows: 55' on Merrimac and China Basin Streets and 65' on Mission Bay Boulevard. 100% lot coverage is allowed up to a maximum height of 40'; above 40', 75% lot coverage is allowed.
Maximum units allowed by current zoning (N/A if rehab):	The maximum number of units on the site is based on form-based zoning
Number of units added or removed (rehab only, if applicable):	N/A
Seismic (if applicable):	Seismic Zone 4
Soil type:	According to the Mission Bay Subsequent Environmental Impact Report ("SEIR"), Block 6 West was within Mission Bay before it was filled and still contains shallow water. Existing data at the site and in the vicinity indicate there is about 15 to 30 feet of fill. The fill is typically composed of clay, sand and gravel mixtures with cobbles, boulders and debris. Groundwater ranges from 4 to 10 feet below the ground surface and is most typically encountered 7 feet below the ground surface. The fill is underlain by weak compressible clay known as Bay Mud with thicknesses of 90 to 120 feet at the western end of the site and 70 to 100 feet at the eastern end of the site. Below the Bay Mud, interlayered stiff to hard clay and dense sand are typically encountered. Bedrock grades from a high point of 160 feet below the ground surface to 220 feet below the ground surface in a general direction of southwest to northeast. The development team has assembled its consultant team and has performed a geotechnical analysis during predevelopment. See Environment Review section below for more details.
Environmental Review:	As part of its actions on September 17, 1998 establishing the Mission Bay Redevelopment Project Areas, the Redevelopment and Planning Commissions certified the Final Subsequent Environmental Impact Report ("FSEIR"), adopted findings under the California Environmental Quality Act ("CEQA"), adopted a series of mitigation measures, and established a comprehensive system for mitigation

	monitoring. The Board of Supervisors and other City departments adopted similar findings and mitigation monitoring plans. The Sponsor has obtained environmental clearance through the National Environmental Policy Act (“NEPA”) in anticipation of entering into a contract with the San Francisco Housing Authority for project-based vouchers. Mercy Housing has and will continue to work with OCII staff to ensure that the mitigation monitoring measures for Block 6 West are appropriately documented and implemented. The Article 22A analysis recommend the following: • Methane Mitigation System during construction and operation • Asbestos investigation of soil prior to construction • Procedures to address handling and management of contaminated soil and waste • Dust Mitigation Plan • Health and Safety Plan for workers
Adjacent uses (North):	Mission Bay Kids Park and MB360, a 172 market rate unit development.
Adjacent uses (South):	P13 of Mission Commons park system to the south, which currently is being used for soccer fields.
Adjacent uses (East):	Mission Bay Block 6E, a 143- unit affordable rental community located on the same block and separated by a 30 foot landscaped public walkway to the east.
Adjacent uses (West):	MB360, 188 market-rate rental units across Merrimac Street.
Neighborhood Amenities within 0.5 miles:	Supermarkets: There is a Safeway supermarket located at 4th and King Streets just 0.4 mile from the site. The second closest supermarket is located at 4th and Harrison Streets just 0.8 mile away from the site. Pharmacy: 2 Pharmacies are located within a half mile of the site – one Walgreens at 4th and Townsend Streets and Safeway at 4th and King Streets. Library: The Mission Bay Public Library is located 3.5 blocks (0.3 mile) from the site. Parks: Mission Creek Park can be accessed 2 blocks from the site; Children’s park, which is nearly completed, is 2.5 blocks from the site; a dog park is located 4 blocks from the site; and the Bay Trail can be accessed only 2 blocks from the development.
Public Transportation within 0.5 miles:	The site is located two blocks from the Muni Third Street Mission Rock Light Rail station and approximately six blocks from the San Francisco Caltrain station on 4 th Street between King and

	Townsend streets. In addition, the recently expanded Muni 55-16 th street bus line passes directly southeast of the site at Mission Bay Boulevard South and 4 th Street.
Article 34:	Authorization received February 2018.
Article 38:	Exempt. Project is new construction and is outside the exposure zone map area.
Accessibility:	Per TCAC standards, 10% of units include mobility features and 4% have communications features. All of the units are adaptable.
Green Building:	The Project is targeting a gold certification from GreenPoint with a target rating of 135.6.
Recycled Water:	Not exempt. The Project does fall within the boundaries of the designated recycled water use area, and therefore it will be required to comply with the City's Recycled Water Ordinance. As such, the Sponsors will be required to install purple pipe within the Project.
Storm Water Management:	Developments that disturb 5,000 square feet or more of the ground surface must comply with the Stormwater Design Guidelines and submit a Stormwater Control Plan to the SFPUC for review. Development team has had a preliminary meeting with SFPUC and received comments in October. The development team will provide responses during the final stormwater plan submission at 90-100% CD's.

2.1. Zoning. Land use restrictions and design guidelines in Mission Bay South are defined in the Mission Bay South Design for Development. The Design for Development document supersedes the San Francisco Planning Code, and the Sponsor is developing within the guidelines.

2.2. Probable Maximum Loss. N/A

2.3. Local/Federal Environmental Review. The environmental review for NEPA was completed on July 16, 2018 and the Project received the Authority to Use Grant Funds from HUD on August 6, 2018. CEQA clearance was obtained through the Mission Bay EIR.

2.4. Environmental Issues. Environmental investigations at the Site indicate concentrations of arsenic, asbestos, cobalt, lead, mercury, and nickel that exceed their respective regulatory criteria. Because these soils pose a significant impact to human health and the environment they will be excavated and off-hauled or remain under paved areas as a cap. Additionally, methane gas is a known issue and a methane mitigation system will be developed.

Phase I/II Site Assessment Status and Results. A Phase I study was completed by AEW Engineering, Inc. in December 2017. A Phase II ESA was conducted as part of SFDPH's Article 22A by AEW Engineering, Inc. in July 2018. The Article 22A compliance report from SFPDH confirmed that they concur with AEW's recommendations listed in the Environmental Review section of the above table.

Archeological Testing Plan. As part of the Project's NEPA environmental review findings, Sponsor is required to conduct a full archeological testing plan at the site. Archeological core

sampling will occur in December 2018 and an archeological monitoring plan will be implemented during underground work.

2.5. Potential/Known Hazards. Soil contaminants currently exist in the Project Area and are assumed to exist at the Site. The principal chemicals that have been detected in the Project Area are petroleum hydrocarbons and inorganic compounds (e.g. heavy metals). Additionally, asbestos was detected in the soil primarily from serpentine rock, which was imported to fill Mission Bay. Because of this, it is estimated that approximately 10,000 tons of soil will be excavated and off-hauled. No significant concentrations of Volatile Organic Compounds were detected in soil or groundwater. Limited concentrations of select volatiles such as benzene were found around the former petroleum storage facilities in the Mission Bay South Redevelopment Project Area, but are not expected to affect the Site. None of the chemicals were detected at concentrations that would pose a threat to human health following the completion of the planned development in the Project Area.

2.6. Adjacent uses and neighborhood amenities.

The Mission Bay neighborhood is rich in transit, open space, retail and entertainment amenities. The neighborhood is well-served by public transit, including the existing CalTrain railroad station located at the southwest corner of Fourth and Townsend Street and Muni's Third Street Light-rail T line, which runs directly to the City's financial district. There are also numerous neighborhood serving retail and food destinations within walking distance of Block 6W or reachable by a short bike ride or a few stops on the T Line.

2.7. Green Building. See above.

3. OTHER ENTITLEMENTS ISSUES

3.1. Community Support.

The Mercy Housing team presented Schematic Designs to the Mission Bay CAC at their meeting on March 8, 2018. The CAC supported the designs for Block 6 West and the Sponsor will continue to meet periodically with the CAC as design of the Project progresses.

4. DEVELOPMENT PLAN

4.1. Site Control.

FOCIL-MB, LLC ("FOCIL"), the master developer of Mission Bay South, currently owns the site. Pursuant to the Mission Bay Owner's Participation Agreement ("OPA"), the site will be transferred at no cost to OCII for the development of affordable housing. The OPA requires a 100-day notice to FOCIL to express OCII's intent to exercise a Memorandum of Option transferring ownership of the site to OCII.

4.1.1. Proposed Property Ownership Structure

After FOCIL transfers the Site to OCII, OCII will ground lease the site to the limited partnership created by Mercy Housing prior to construction. Thus, OCII will retain ownership of the land until the Project is transferred to MOHCD after permanent conversion, and the Limited Partnership will own the improvements. The ground lease will be a 75-year initial term with an option to extend for another 24 years and will require \$15,000 annually in base rent, in accordance with MOHCD's Policy on Ground Leases.

4.2. Proposed Design.

The building will be located on a currently vacant lot in San Francisco's Mission Bay neighborhood at 691 China Basin Street. The development will consist of four wings that flank a central courtyard. The tallest wing will have a height of seven stories while the shortest wing will consist of four stories. The Project will include the following construction types: Type IA, Type IIIA, and Type VA. MBS6W will have a total of approximately 185,148 square feet of building space which will include: community rooms, property/service offices, 26 car parking spaces and 130 bike parking spaces.

There are two primary civic faces, one with the tallest elements faces China Basin Street and the Children's Park and the second faces Mission Bay Commons. The seven-story China Basin Wing is the tallest portion of the block and features a façade and corner stair tower as a termination to the urban view corridor that originates across the channel in Mission Bay North as well as the childcare center on the ground floor, directly adjacent to the Children's Park. The Mission Bay Boulevard façade features storefront windows in the community room as well as the community serving commercial space and the Merrimac façade, because of its length, is broken up into three blocks separated by exterior pedestrian bridges. The more residential 4-story building with stacked flats and stoops lines the pedestrian mews that separates Mission Bay Block 6W from Block 6E. The 4 different building nodes are adjoined through the central courtyard space.

The site will be served by a 26-space (representing a 0.2 ratio) podium parking garage at grade, with the entrance located off of Merrimac Street, mirroring the garage entrance to the market rate residential building across the street. OCII staff guided applicants towards a lower than 0.4 parking ratio; the 0.2 ratio is in line with other Mission Bay 100% affordable developments, which range from 0 to 0.38 spaces per unit.

The units will be built through three different building types (IA, IIIA and V) to maximize cost efficiency and exterior materials will be economical with premium materials used to highlight architectural elements.

Natural ventilation and the use of daylight are maximized through large operable windows, and over 50% of units have window locations that facilitate cross-ventilation and sunlight. Bioretention planters will assist with stormwater management and a solar thermal system and solar photovoltaic infrastructure will be incorporated into the building to help off-set carbon energy usage.

Avg Unit SF by type:	Average unit sizes are above TCAC minimums for each unit type. Specific sizes are below: • 481 GSF for studio/one-bathroom units • 599 GSF for one-bedroom/one-bathroom units • 831 GSF for two-bedroom/one-bathroom units • 1,172 GSF for three bedroom/one and a half- or two-bathroom units • 1,446 GSF for a four bedroom/two-bathroom unit • 1,743 GSF for a five bedroom/two-bathroom unit
Residential SF:	116,511
Circulation SF:	33,716

Parking Garage & Service SF:	14,608
Common Area SF:	5,854 interior; 7,361 exterior
Community Serving SF:	1,093
Childcare center SF:	4398 interior; 1,607 exterior
Building Total SF:	185,148

4.3. Proposed Rehab Scope.

N/A

4.4. Construction Supervisor/Construction Specialist's evaluation

Using the 50% Construction Documents, OCII's Construction Representative has performed an analysis of drawings and estimated construction costs for the proposed development of 691 China Basin Street. The development of 691 China Basin Street includes approx. 7,000 square feet of child care and community serving commercial space in addition to 152 units and associated residential community spaces. This Project is designed as 1-2 stories of Type IA concrete podium, with 4-5 stories of Type IIIA construction above. The proposed design takes advantage of a site configured on the western parcel surrounded by China Basin Street, Merrimac Street, Mission Bay Boulevard and a mid-block pedestrian mews. To increase efficiency of the site and to better activate the ground floor, units were added to the ground floor podium and to the townhomes lining the mid-block break. 10 studio units were also added into the building to achieve greater economies of scale.

The current cost assumptions reflect an approximate \$605,500 construction per unit, which are slightly higher than, but still within 10% of, the average for current projects in the pipeline. The cost per bedroom at \$313,048 is actually 14% lower than the average of \$364,217 and the per square footage cost of \$496 is on par with comparable construction. While the overall project costs are largely driven by an overheated construction market, other factors that have contributed to the higher costs of this Project are:

1. The Mission Bay neighborhood is built atop a filled-in section of the San Francisco Bay and therefore the soil bearing conditions at the site are very poor. As a result, the building foundation is more complex. It will consist of a system of piles which be driven down 200+ feet all the way to the underlying bedrock. The costs associated with the driven piles total roughly \$3.6M or \$23,830 per unit.
2. The previously installed, city-owned (but owner-maintained) sidewalks were not built atop piles and as a result many building sites in the neighborhood experienced sidewalk settlement due to the aforementioned poor soils in the area. The Project budget includes approximately \$300,000 set aside as a "Sidewalk Maintenance Reserve" for long-term asset management.
3. The Project includes six different unit templates (studios, 1's, 2's, 3's, 4, and 5 bedroom units) and a high number of larger units with 29 three-bedroom units, 1 four-bedroom unit and 1 five-bedroom unit (the latter two units were included to continue fulfilling OCII's bedroom size Community Redevelopment Law (CRL) replacement obligations relating to

the Alice Griffith Revitalization Project) out of 152 total units. The wide array of unit templates and the high ratio of larger unit sizes both contribute to a higher per unit TDC.

4. The soil in Mission Bay contains a number of hazardous materials that will need mitigation. Because of this an estimated 10,000 tons of hazardous soil will need to be excavated and taken to an appropriate landfill and a methane barrier will need to be installed beneath the foundation.
5. The Project is located in within the boundaries of the City's designated recycled water use area, and therefore it will be required to comply with the City's Recycled Water Ordinance. As such, the Sponsors will be required to install dual piping ("purple pipe") within the Project at an added cost of approximately \$255,000.

The current cost estimates are prepared by Cahill Contractors, the preconstruction services contractor, and are based upon the 50% Construction Documents. From approval of Schematic Designs to the approval of the 100% Design Development drawings, the Sponsor and Cahill have worked w/OCII staff to reduce the hard cost budget through multiple rounds of value engineering resulting in approx. \$840,000 in savings. For example, exterior materials are primarily comprised of economic building materials (cement, plaster, cementitious panels and lap siding), while premium materials are reserved for the northwest corner stair tower, to highlight this important corner element. Contingencies currently held include \$2,418,034 in Bid and \$902,124 Plan Check and are commensurate with MOHCD guidelines.

Going forward, the project team will need to submit the GMP bid to OCII for review and close monitoring of costs prior to executing a GMP contract. If necessary, should the construction costs increase beyond the current estimated escalation, staff will work with Sponsor and the General Contractor on further cost containment measures.

4.5. Community Serving Commercial Space.

The Project includes a 4,376 square foot childcare center with associated outdoor space and approximately 1,093 SF in community serving commercial space intended for a satellite site of Blue Bear School of Music. In line with the MOHCD Commercial Underwriting Guidelines, due to the smaller size and ancillary nature of the spaces, both spaces will remain part of the housing development rather than parceled into separate condominiums. The Sponsor intends to lease these spaces directly to the tenants through the limited partnership. However, as in the case of Transbay Block 7, if the investor/lender requires further distance from the commercial tenants Mercy Commercial is willing to be the master tenant and sublet to tenants. Any such master lease will be subject to OCII/MOHCD review and approval through the Final Financial Plan.

The child care space will be located at the ground floor, across from the Children's Park along China Basin Street. The child care space will accommodate approximately 40 children, inclusive of subsidized slots for low income families, with a preference for Mission Bay Block 6W residents. Mercy issued an RFP for the childcare provider on September 13, 2017 and subsequently selected Kai Ming Head Start on October 27, 2017.

The Blue Bear space will be located at the ground floor at the corner of Merrimac and Mission Bay Blvd. Blue Bear, whose primary campus is located at Ft. Mason, will use this space for music classes for both market rate and lower income families and individuals, with a preference for the future residents of Mission Bay 6 West.

Per MOHCD's Commercial Underwriting Guidelines, the Sponsor will provide a warm shell for both the childcare and community serving commercial space, which are currently projected to cost \$961,079 collectively. Each tenant will fund its own tenant improvements (TI).

Per OCII's usual practice, the childcare space, because it will feature subsidized slots and a preference for MBS 6W residents, will have a nominal lease rate (\$1.00 a year) but will cover all of its operating expenses through a triple net structure. Sponsor entered into an Intent to Lease Agreement with Kai Ming on December 18, 2017 and anticipates that the lease agreement will be executed in Fall 2019. The child care TI designs are currently being priced by Cahill Contractors. Kai Ming has been working closely with the Low Income Investment Fund (LIIF) and will access funds from LIIF, various public agencies, foundations, and private donors to support the build out of their space.

To ensure that Blue Bear or another non-profit who will occupy the community serving commercial space is sustainable for their operations, Mercy is proposing a rental rate of \$1.00/s.f. a month through a triple-net lease and assumes that 25% of that revenue will go towards expenses and a 50% chance that the space will be vacant at any given time. Sponsor is assuming a 50% commercial vacancy rate based on what they project other lenders will require for their underwriting. As a condition of approval of this loan, Mercy will revisit the vacancy rate assumptions after an investor/lender is brought on board and after further lease discussions with Blue Bear.

Blue Bear has stated that \$1.00/s.f. rent will allow them to serve 50% non-paying clients, with a preference for the future residents of Mission Bay South 6W. While there are limited service oriented spaces in Mission Bay to provide comparable rents, Mercy's Commercial Project Manager has seen costs for neighborhood retail between \$3.00 and \$3.25 per square foot. Sponsor has not yet entered into an Intent to Lease Agreement with Blue Bear but will do so prior to closing. Sponsor anticipates that the lease agreement will be executed in Fall 2019. The estimated TI for the community serving commercial space is \$110,000. Blue Bear has not begun fundraising yet but have a proven track record of bringing in major donors as well as supporting expanded operations through their normal lines of business.

Mercy's commercial efforts are led by Nancy Conover who has extensive experience in commercial leasing and project management with Mercy Housing. Kai Ming's commercial efforts are led by Susanna Leung, Facilities Manager and their architect, Karen Smith from Asian Neighborhood Design. Blue Bear's commercial efforts are led by their Executive Director, Dr. Steven Savage, and their architect William Duncanson from BAR Architects.

4.6. Service Space.

As currently designed, the services space will include the following:

- Resident Services Office (196 s.f.)
- Property Management suite (846 s.f.)
- Multi-purpose teen room (521 s.f.)
- Community room and kitchen (1,310 s.f.)
- Property's maintenance office (404 s.f.)

The Resident Services Office is located along the courtyard with close proximity to the multi-purpose teen room and community room. As further discussed in Section 8.1 Services Plan, the staffing for this Project will include a 1.0 FTE Resident Service Coordinator (on-site) as well as a 0.6 FTE Mercy Housing Case Manager (off-site). The Resident Service Coordinator will

occupy the Resident Services Office and the Case Manager will be able to utilize the multi-purpose teen room or conference room space in the property management suite for office hours.

In addition, the Project Sponsor owns and operates the nearby 1180 4th Street development, which includes supportive services from the Episcopal Community Services of San Francisco and additional services space should Block 6W residents require more than is currently anticipated for this development.

The sizes and location of these spaces have been vetted by the HOPE SF team to ensure that they help to meet the service needs of all households, including those moving from public housing.

4.7. Target Population

Of the site's 152 units, 113, or 74%, will be provided to low-income families according to OCII's occupancy preferences (see table below). Of the balance of the units, 38 will be set aside for voluntary, permanent relocation of public housing residents of from the Sunnysdale or Potrero Terrace communities and 1 manager's unit.

4.8. Marketing & Occupancy Preferences

4.8.1. OCII Family Units

OCII's marketing policies and procedures will apply to the 113 lottery family units.

No later than 30 days following the start of construction the Sponsor will submit to OCII for its review and approval an outreach plan for initial marketing of the units (the "Early Outreach Plan") to COP holders. Early outreach pursuant to the Early Outreach Plan must start within 3 months of construction start. Mercy is proposing to use San Francisco Housing Development Corporation ("SFHDC") and Bayview Hunters Point Multipurpose Senior Services ("BHPMSS") for its Early Outreach, with SFHDC providing rental readiness workshops through its Financial Empowerment Center and BHPMSS providing concentrated outreach. BHPMSS has successfully provided outreach services to many MOHCD and OCII projects in the past, which have resulted in higher COP holder placements. Recently, BHPMSS's outreach services resulted in 26 COP holder residents living at OCII's Dr. Davis Senior Residences project located in the Bayview neighborhood. The organization works with all population types: seniors, families and individuals of all ages with a focus on the Bayview and Western Addition neighborhoods.

The Sponsor will submit a draft Marketing Plan and Tenant Selection Plan ("Marketing and Tenant Selection Plans") no later than 6 months prior to the projected construction completion date. The developer must obtain OCII's approval of the Marketing Plan and the Tenant Selection Plan, and must market and rent the units in the manner set forth in the Marketing Plan and the Tenant Selection Plan both as approved by OCII and MOHCD.

Marketing materials will include postcards and flyers detailing the development, types of units/bedroom count, its amenities, anticipated income limits, rents, and occupancy preferences. Mercy and its Early Outreach partners will work with MOHCD to notify certificate of preference ("COP") holders of the housing opportunity.

Per the Mission Bay Affordable Housing Policy, adopted September 17, 1998 by Resolution 194-98, the Sponsors will be required to give occupancy preference to Agency COP holders, followed by San Francisco residents and workers.

- Preferences:

	FAMILY UNITS
	Applicant Category
1	Certificate of Preference holders
2	Displaced Tenant Housing Preference ²
3	San Francisco Residents or Workers
4	Members of the General Public

Parking will be allocated in lottery ranked order, which will include taking into consideration Reasonable Accommodation requests.

4.8.2. Project-Based Voucher Units

The remaining 38 units will have a preference for households voluntarily and permanently relocating from the Sunnydale or Potrero Terrace or Potrero Annex HOPE SF communities and will be leased through the San Francisco Housing Authority, in conjunction with the developer for each site.

4.9. Relocation.

Block 6W is vacant, undeveloped land; relocation does not apply. The costs to move the 38 households from public housing to Block 6W will be covered by the individual HOPE SF project's master development budget and will not be borne by this Project.

5. DEVELOPMENT TEAM

Development Team			
Consultant Type	Name	SBE/LBE	Outstanding Procurement Issues
Project Manager	William Ho, Mercy Housing	N	N
Architect	Paulett Taggart Architects	Y	N
Landscape Architect	GLS Landscape Architects	Y	N
JV/other Architect	Studio VARA	Y	N
General Contractor	Cahill Contractors	N	N
Owner's Rep/Construction Manager	Regent Construction Management	Y	N
Financial Consultant	Community Economics Inc.	N	N
Other Consultant			
Legal	Gubb and Barshay	N	N
Property Manager	Mercy Housing	N	N
Services Provider	Mercy Housing Management Group	N	N

² The Displaced Tenant Housing Preference program (DTHP Program) is intended to benefit tenants displaced by Ellis Act Evictions, Owner Move In Evictions or Fires. The preference applies to 20% of units within a project for initial sale, re-sale, initial leases and subsequent leases.

5.1. Outstanding Procurement Issues.

There are no outstanding procurement issues. Sponsor has and will continue to work with OCII's Contract Compliance team to ensure that the Project complies with OCII's SBE and construction workforce policies.

6. FINANCING PLAN (See Attachment F for Cost Comparison of City Investment in Other Housing Developments; See Attachment G and H for Sources and Uses)

6.1. Prior MOHCD/OCII Funding (this Project and historical for the Project):

The Citywide Loan Committee approved a \$3,495,000 predevelopment loan on June 2, 2017. Following the Loan Committee's approval, the OCII Commission approved the predevelopment funding at its July 18, 2017 meeting. As is the OCII practice, the predevelopment loan will roll into the permanent loan for an aggregate loan total not to exceed \$47,361,690.

Loan Type/ Program	Loan Date	Loan Amount	Interest Rate	Maturity Date	Repayment Terms	Outstanding Principal Balance	Accrued Interest to Date
LMIHF	07/18/17	\$3,495,000	3.00%	07/18/2020	Deferred	\$2,170,665.84	\$23,368
Total		\$3,495,000				\$2,170,665.84	\$23,368

6.2. Disbursement Status.

As of November 20, 2018, OCII has disbursed \$2,170,665.84 out of the total \$3,495,000 predevelopment loan and the remaining balance is \$1,324,334.16. Interest accrued to date is approximately \$23,368.

6.3. Fulfillment of Loan Conditions.

- Sponsor will work with MOHCD's Construction Supervisor, OCII's Design Review and Housing team to reexamine the design of the buildings to implement vigorous cost containment measures to a financially feasible level. Sponsor must obtain OCII staff approval of updated cost estimate prior to forwarding Schematic Design for OCII approval. *Status: Completed.*
- Sponsor will issue an RFP for a general contractor according to OCII's Contract Compliance specifications, will obtain cost estimates from the selected contractor and will work with their architectural team to ensure that the site's development costs are managed, to OCII's approval. *Status: Completed.*
- Sponsor will review its projected operating budget and soft costs to ensure that costs are managed, to OCII's approval. If any changes are made that would increase the estimated cash flow of the Project, Sponsor will increase the assumed amount of permanent debt. *Status: Completed.*
- Sponsor will work with MOHCD and the City's AHSC consultant to analyze its competitiveness for FHLB's AHP program and HCD's Affordable Housing and Sustainable Communities and if competitive, apply to each program to leverage funds in addition to OCII's forthcoming gap loan and 4% tax credits. *Status: Complete. OCII directed Sponsor to not pursue AHSC funding and instead pursue*

HCD's Infill and Infrastructure Grant funding. Sponsor secured an IIG funding award and will apply for AHP in the Spring 2019 funding round.

- Sponsor will work with OCII to determine a services provider and with OCII and the HOPE SF leadership team to draft a services plan. *Status: In Process; Sponsor is proposing to have Mercy Housing Management Group provide resident services and has a draft services plan developed from the Transbay 7 (Natalie Gubb) resident services plan model and discussions to date at the HOPE SF Working Group meetings.*
- Sponsor will work with the Housing Authority to confirm that the income restrictions associated with the PBV units are appropriate for the intended population and if not, will adjust the income restrictions to a higher AMI. *Status: Complete.*
- Sponsor will issue an RFP, developed in conjunction with the Office of Early Care and Education, for a childcare provider who is able to provide a high percentage of subsidized slots. Sponsor will work with selected childcare provider to design the warm shell for the childcare space and associated outdoor area. *Status: Complete.*
- Sponsor will enter into a letter of intent to lease with Blue Bear School of Music or a similar tenant for the ground floor community-serving commercial space, and further refine assumptions regarding operating costs, projected income, and vacancy rates. *Status: In Process; Sponsor will execute a Letter of Intent to lease prior to closing.*

6.4. Permanent Sources Narrative.

6.4.1. Permanent Sources Evaluation Narrative: Proposed permanent financing is tax-exempt bonds and 4% Low Income Housing Tax Credits, General Partner equity (assuming a price of \$1.00 per credit), Federal Home Loan Bank Affordable Housing Program funds to be bridged by OCII, permanent debt (two tranches: one serviced by residential NOI only and the other by Section 8 PBVs), Infill and Infrastructure Grant (IIG) funding, and OCII permanent financing.

The Sponsor recently submitted a joint application to CDLAC and TCAC, which will be reviewed by both entities at their respective December 12, 2018 allocation meeting. If awarded an allocation and approved by Loan Committee, construction financing is anticipated to close in April 2019 with construction starting shortly thereafter.

The Sponsor is currently soliciting bids from investors and lenders and as per usual MOHCD/OCII practice, staff must review the responding bids prior to the selection of an investor or lender. Since the investor/lender has not yet been selected, the proforma currently reflects a more conservative pricing at \$1.00 per credit and 6% interest rate on the permanent loan(s) and 5.5% interest rate on the construction loan. Staff recommends including a condition that requires reducing the OCII loan amount by any additional equity and/or permanent debt that may be generated from more favorable terms post investor/lender selection.

The Sponsor has not yet applied for AHP because the Project was not competitive for the 2018 AHP round. The Sponsor will apply for \$1,510,000 from the Federal Home Loan Bank's Affordable Housing Program (AHP) in 2019 when the Project is under construction. If, as anticipated, the Project is able to secure AHP funds, it would reduce OCII's contribution by the amount of the award.

Given the construction loan closing schedule and the AHP application schedule, the Sponsor will take out a \$1.5M line of credit (LOC) to cover the cost of indicator piles prior to construction start to continue advancing the Project in line with the Mayor's Housing Directive. The line of credit will have an interest rate of 5-6% and is expected to be drawn down in January 2019. The developer currently has predevelopment loan interest amount of \$25,000 in their development budget to cover this loan for three to four months, depending on interest rate, until OCII gap funds are made available for repayment.

6.4.2. HOME Funds Narrative:

There are no HOME funds in this Project.

6.4.3. Permanent Uses Evaluation:

Development Budget		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Hard Cost per unit are within standards	N	At \$605,500/unit this Project is higher than the average in the City's current pipeline. However, as previously discussed, there are a number of factors driving this cost, including poor soil conditions necessitating piles driven potentially 200+ feet down to bedrock and a high number or larger bedroom units.
Construction Hard Cost Contingency is at least 5% (new construction) or 15% (rehab)	Y	Hard Cost Contingency is 5%.
Architecture and Engineering Fees are within standards	Y	
Construction Management Fees are within standards	Y	Proposed total Construction Management Fee of \$191,108 is within MOHCD guidelines.
Developer Fee is within standards, see also disbursement chart below	N	Total Cash Dev Fee is \$2,820,000 (\$2.2 million as the base fee + \$10,000 for each unit above 100 + \$100,000 in Commercial Developer Fee) Sponsor is requesting a waiver on MOHCD's requirement that the total Developer Fee be capped at \$4,000,000. To increase basis, the Sponsor is requesting a GP Contribution in excess of the MOHCD minimum of \$500,000, for a total developer fee of \$7,400,000. See detailed discussion below.

Soft Cost Contingency is 10% per standards	N	Soft Cost Contingency is budgeted for 6.5%. Staff is comfortable with this amount since a majority of soft cost expenses are now known.
Capitalized Operating Reserves are a minimum of 3 months	Y	Capitalized Operating Reserve is equal to 3 months.
Sidewalk Maintenance Reserve	Y	Reserve for sidewalk repair and maintenance to account for potential soil sinking at Mission Bay.

Developer Fee Disbursement Schedule		
Payment Milestone	% of Project Mgmt Fee	Amount
At closing of initial pre-development financing	13.6%	\$150,000
During or at end of Predevelopment	36.3%	\$400,000
Construction Close	20%	\$220,000
At 50% Completion of Construction	10%	\$110,000
At Completion of Construction	10%	\$110,000
At Project Close Out	10%	\$110,000
Total Project Management Fee	100%	\$1,100,000
At 95% lease up and draft cost Certification	20%	\$344,000
At Permanent Conversion	50%	\$860,000
At Project Close Out	30%	\$516,000
Total At-Risk Fee		\$1,720,000
Total Cash Developer Fee		<u>\$2,820,000</u>
Deferred Fee		\$1,180,000
GP Equity		\$3,400,000
Total Developer Fee		<u>\$7,400,000</u>

Discussion on Developer Fee Waiver

The proposed Total Developer Fee exceeds the maximum allowed under the MOHCD developer fee policy. MOHCD allows for the lesser of \$4M or 10% of eligible basis, which for this Project \$4M is the lesser of the two. Staff requests waiving the limitation on the maximum Total Developer Fee because it includes a capital contribution from the Sponsor of \$3.4M in the form of GP equity, which enables the Project to leverage additional tax credit equity and thereby reduce OCII's subsidy. Backing out the GP equity, Sponsor's combined Total Cash Fee and Deferred Fee is \$4M. A breakdown of each component of the fee follows:

Total Cash Developer Fee

- **Total Project Management Fee** - \$1,100,000, half of the \$2.2M base cash out fee amount allowed per MOHCD policy.
- **Total At-Risk Fee** - \$1,720,000, which includes:
 - \$1,100,000: the remaining half of the base cash-out fee
 - \$520,000: additional cash-out fee of \$10,000 per unit above 100, which may be taken only if it does not require additional City subsidy to cover it. This test is more than met through the additional \$1.53M in equity generated by the additional fee, the deferred developer fee, and the GP Equity above \$500,000 going into basis.
 - \$100,000: Commercial Developer Fee. The Project includes Community Serving Commercial Space and thus under MOHCD Commercial Underwriting Guidelines, Sponsor is entitled to take \$250,000 in fee, only half of which is payable by MOHCD/OCII, i.e. \$125,000. Sponsor has elected to take a lower fee of \$100,000 for the Community Serving Commercial Space.

The At-Risk Fee will be held back from distribution in order to cover any cost overruns that exceed the contingency amounts held in the Sponsor's budget, per MOHCD's Developer Fee Policy.

Deferred Fee

The Sponsor is assuming a deferred developer fee of \$1,180,000 which will be recouped by Year 11. Similar to the additional cash-out fee, Sponsor may only take deferred fee if it does not require additional City subsidy to cover it. To test this, staff calculated the net present value of the loss of cash flow to the City (i.e. the difference between receiving 66% vs. 50% of cash flow) from Year 1 to 11, which roughly equated to \$340,000. Again, this test is met through the additional \$1.53M in equity generated by the additional fee, the deferred developer fee, and the GP Equity above \$500,000 going into basis. Even after subtracting the \$520,000 in additional fee and the \$340,000 loss in NPV of cash flow, the additional equity generated would be \$667,029.

GP Equity

The Sponsor is proposing to include \$3,400,000 in additional fee for the sole purpose of increasing basis and reducing OCII's gap. The equity generated from this additional fee (assuming a credit rate of 3.32% x \$1.00 per credit multiplied by 10 years) is equal to \$1,128,800 and reduces the OCII subsidy by the equivalent amount. The sponsor contribution portion of developer fee will be transferred from the GP to the LP at escrow during permanent conversion. The funds will then be disbursed back to the GP as developer fee.

6.5. This Request/Phasing Narrative

Not applicable. This Project is not phased.

7. PROJECT OPERATIONS (See Attachment I and J for Operating Budget and Proforma)

7.1. Annual Operating Budget

The total annual operating expenses, including community-serving commercial space operating expenses, are \$11,715 per unit per year (PUPY). Residential operating expenses are consistent with other developments in OCII and MOHCD's portfolio.

7.2. AMI Unit Mix

Unit Type	Proposed Number of Units	Proposed Avg. Sq. Feet	Tenant Paid Max. Rent (excl. utilities)	Max MOHCD AMI	Rent or Operating Subsidies
studio	3	432	770	40%	
studio	2	432	1027	50%	
studio	3	432	1244	60%	
studio	2	432	1283	65%	
1BR	8	534	825	40%	
1BR	6	534	1100	50%	
1BR	7	534	1420	60%	
1BR	3	534	1375	65%	
1BR	4	534	1894	80%	
1BR	4	534	825	40%	PBVs
1BR	1	534	1100	50%	PBVs
1BR	1	534	1375	65%	PBVs
2BR	3	763	990	40%	
2BR	5	763	1320	50%	
2BR	25	763	1599	60%	
2BR	9	763	1650	65%	
2BR	8	763	2131	80%	
2BR	12	763	990	40%	PBVs
2BR	12	763	1320	50%	PBVs
2BR	2	763	1650	65%	PBVs
3BR	1	1100	1143	40%	
3BR	4	1100	1525	50%	
3BR	11	1100	1776	60%	
3BR	4	1100	1906	65%	
3BR	3	1100	2368	80%	
3BR	4	1100	1143	40%	PBVs
3BR	1	1100	1525	50%	PBVs
3BR	1	1100	1906	65%	PBVs
4BR	1	1298	1599	50%	
5BR	1	1613	1718	50%	
2BR	1	763			
Total Units	152				

7.2.1. MOHCD AMI v. TCAC AMI

The original unit mix presented in the predevelopment loan for this Project included units restricted at 30%, 40% and 50% of AMI as set by TCAC. In order to ensure proper City asset management of these units in the future, those AMIs have been translated into AMIs as set by MOHCD. For FY2018, 30% TCAC AMI translates to roughly 40% MOHCD AMI, 40% TCAC AMI translates to roughly 50% MOHCD AMI, and 50% TCAC AMI

translates to roughly 65% MOHCD AMI. This explains the 22 units restricted to 65% MOHCD AMI in the above chart because those units were previously represented as 50% TCAC AMI.³ See chart below for an alternative summary of the unit mix in the Project.

	40% SF AMI/30% TCAC		50% SF AMI/40% TCAC		60% SF AMI	65% SF AMI/50% TCAC		80% SF AMI	Manager's Unit	TOTAL
	Non- PBV units	PBV	Non- PBV units	PBV	Non- PBV units	Non- PBV units	PBV	Non- PBV units		
Studio	3		2		3	2				10
1	8	4	6	1	7	3	1	4		34
2	3	12	5	12	25	9	2	8	1	77
3	1	4	4	1	11	4	1	3		29
4			1							1
5			1							1
TOTAL	15	20	19	14	46	18	4	15	1	152
	35		33		46	22		15	1	152

7.2.2. Section 8 Project Based Vouchers

As previously stated, the Project was awarded 38 Section 8 project based vouchers (PBV) from SFHA, which will provide rental subsidy in the amount of \$850,412 annually (\$22,379 PUPY) for 20 years.

HUD recently reduced the SFHA Fair Market Rents (FMRs) by 10% for FY2019. While there is an effort underway by SFHA to restore the higher FMRs and payment standards (via an appeal, backed up by a regional rent study, both of which will need HUD approval), the Project is currently underwritten to the new, lower payment standards which reflect 110% of HUD's FY2019 FMRs.

7.2.3. Income Ranges

As previously stated, this Project will be one of the first affordable housing projects in the City to implement "income averaging". In March 2018, Congress approved the omnibus appropriations bill which included a change to Section 42 of the Internal Revenue Code allowing "income averaging," under which LIHTC projects may include units targeted to households making up to 80% of AMI as long as the project's average targeting does not exceed 59% AMI. In response, TCAC adopted emergency regulation changes in May 16, 2018 meeting to implement this provision in a manner that maintains the state's current income targeting requirements that go beyond the minimum federal standard.

³ Note that this "translation" from TCAC to MOHCD AMIs is not an exact conversion; for example, the current TCAC rents for a 50% 1 bedroom unit does not translate to 65% MOHCD rents and is in fact less than 60% MOHCD rent.

While MOHCD's formal policy on implementing the new federal and state (TCAC) regulations is forthcoming, senior staff at MOHCD and OCII agree to implement the new regulations with the following guidelines:

- A. The rents are pegged to the Unadjusted AMIs as determined by MOHCD;
- B. The maximum AMI allowed in a project is 80% MOHCD AMI; and
- C. The project overall does not exceed 60% MOHCD AMI on average.

The Project currently includes 15 units, or 10% of the Project, targeted to households earning up to 80% MOHCD AMI and is averaging 56% MOHCD AMI overall. Staff recommends implementing income averaging because, in addition to consistency with TCAC policy, it:

1. Allows for a more mixed-income community within a single project by allowing a broader range of AMIs.
2. Increases project financial feasibility by reducing the gap subsidy required from OCII. Sponsor ran an alternative scenario without income averaging in which the number of units at 40%, 50%, and 60% AMI remained the same but all the other units above 60% AMI were capped at 60% AMI. By incorporating income averaging, the development team calculated that the OCII subsidy for this project would be reduced by approximately \$1.5 million.
3. Allows OCII, without added cost to OCII, to create more Certificate of Preference (COP) opportunities at both the lower and higher income tiers and allows greater flexibility in housing public housing households voluntarily relocating to MBS 6W who might otherwise be over-income.

Going forward, Sponsor will use the more restrictive of the two funding sources when calculating rent increases. For example, if in Year 5 the rents for a TCAC 30% AMI unit is lower than the rents for a MOHCD 40% AMI unit, Sponsor will charge the lesser of the two amounts. Sponsor will also need to maintain 60% MOHCD AMI average affordability throughout the term of the ground lease and Declaration of Restrictions, and such requirement will be reflected in OCII's loan documents.

7.3. Annual Operating Expenses Evaluation.

Operating Proforma		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Debt Service Coverage Ratio stays above 1:1 through Year 17	Y	DSCR is 1.15 at Year 1 and 1.36 at Year 17.
Vacancy meets TCAC Standards	Y	Vacancy is 5%
Annual Income Growth is increased at 2.5% per year	Y	Income escalation factor is 2.5%
Annual Operating Expenses are increased at 3.5% per year	Y	Expenses escalation factor is 3.5%

Base year operating expenses per unit are reasonable per comparables	Y	Total Operating Expenses are \$11,715 per unit.
Property Management Fee is at allowable HUD Maximum	Y	Total Property Management Fee is \$116,736 or \$64 PUPM and complies with HUD standard.
Property Management staffing level is reasonable per comparables	Y	1.0 FTE Manager, 2.0 FTE Asst. Managers, 1.0 FTE Maintenance Manager, 1.0 FTE Maintenance Tech, 2.0 FTE Janitors.
Asset Management and Partnership Management Fees meet standards	Y	Annual AM Fee is \$21,900/yr (above the line) Annual PM Fee is \$23,420/yr (below the line)
Replacement Reserve Deposits meet or exceed TCAC minimum standards	Y	Replacement Reserves are \$400 per unit per year.
Limited Partnership Asset Management Fee meets standards	Y	\$5,000 per year (below the line)

8. SUPPORT SERVICES

8.1. Services Plan.

Mercy Housing Management Group will provide residents services for the site. Staffing will include a 1.0 FTE Resident Service Coordinator as well as a 0.6 FTE Mercy Housing Case Manager to focus on the success of the 38 HOPE SF households.

Consistent with the approach used at Natalie Gubb Commons (Transbay Block 7) for serving HOPE SF relocated residents the need for a case manager will be evaluated annually and funds for this position may be reallocated for other support purposes with the approval of the HOPE SF team.

Sponsor has submitted a draft services plan to OCII reflecting the above. Staff recommends that as a condition of loan approval, a final services plan must be approved by the MOHCD's Director of Public Housing Initiatives, in consultation with HOPE SF Director no later than 12 months after construction start.

8.2. Service Budget.

Service Line Item	Budget	Note
Resident Services Coordinator (RSC)	\$60,000.00	1.0 FTE
RSC Payroll Taxes & Benefits	\$19,200.00	32%
Service Supplies + Training	\$9,500.00	Based on TB7
Supervision	\$10,500.00	.1 FTE RS Manager
Part time Case Manager for Hope SF/Sunnydale PBV households + benefit	\$45,000 \$14,400	0.6 FTE
Total	\$158,600	Max allowed per HCD (\$1,051/unit)

8.3. DPH/HSA Assessment of Service Plan and Budget.

Not Applicable. The Project is not intended to serve families with intensive service needs.

9. THRESHOLD ELIGIBILITY REQUIREMENTS

The Sponsor met the threshold criteria for the RFP published August 20, 2016.

10. STAFF RECOMMENDATIONS

10.1. Proposed Loan/Grant Terms

Financial Description of Proposed Loan	
Loan Amount:	\$47,361,690
Loan Term:	55 years
Loan Maturity Date:	2074
Loan Repayment Type:	Residual Receipts
Loan Interest Rate:	3% (OCII may reduce depending on capital account analysis)

10.2. Recommended Loan Conditions

- a. Developer will continue to work with OCII staff and financial advisor to determine the most appropriate financial plan for the Project that conforms to MOHCD Underwriting Guidelines, applicable HUD regulations, and HOPE SF principles. This final financial plan ("FFP") will be approved by the OCII Executive Director.
- b. Allow OCII Executive Director to decrease the interest rate as part of the FFP to 0%, should the Project need it after review of capital account analysis at the time of the close of construction financing.
- c. OCII must review and approve the investor and lender selection for the Project. Developer must allow OCII/MOHCD staff and its financial advisor to communicate directly, with borrower participation in such communication, with prospective and selected lenders/investors. Sponsor to submit debt and equity proposals for review and approval by OCII/MOHCD. Should Sponsor secure more favorable tax credit pricing and interest rate(s) post invest/lender selection, the OCII loan will be reduced by a commensurate amount.
- d. Beginning in 2019, Sponsor to apply for maximum AHP eligible loan until successful or ineligible; upon award of AHP loan OCII's loan amount will be reduced by the amount of the AHP award.
- e. Sponsor to reduce or apply contingencies at milestones consistent with MOHCD policy/guideline. Sponsor to repay OCII loan by amount of unused contingency or reduce OCII loan amount prior to loan closing.
- f. Sponsor will continue to monitor the status of the City's Recycled Water Ordinance prior to construction start. If the ordinance is rescinded in time for the Project to

- realize any cost savings, Sponsor will eliminate dual piping from the Project and OCII's loan amount will be reduced by any applicable cost savings to the Project.
- g. Sponsor to submit a revised services plan no later than 12 months after construction start, to be reviewed and approved by OCII and MOHCD Director of Public Housing Initiatives.
- h. Sponsor must execute a Letter of Intent or Intent to Lease Agreement for the community serving commercial space prior to construction closing and Sponsor to provide quarterly updates on the status of tenant fundraising for Tenant Improvements of the child care and community serving commercial space. This summary should include a list of committed, pending and prospective sources of funds.
- i. At FFP, Sponsor will adjust the vacancy rate assumption of the community serving commercial space to below 50% after further lease discussions with Blue Bear.

11. LOAN COMMITTEE MODIFICATIONS

LOAN COMMITTEE RECOMMENDATION

Approval indicates approval with modifications, when so determined by the Committee.

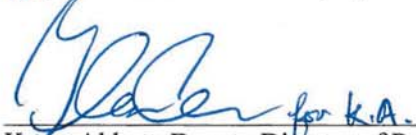
☒ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.



Kate Hartley, Director
Mayor's Office of Housing and Community Development

Date: 12/7/18

☒ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.



Kerry Abbott, Deputy Director of Programs
Department of Homelessness and Supportive Housing

Date: 12/7/2018

☒ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.



for Nadia Sesay, Executive Director
Office of Community Investment and Infrastructure

Date: 12-7-18

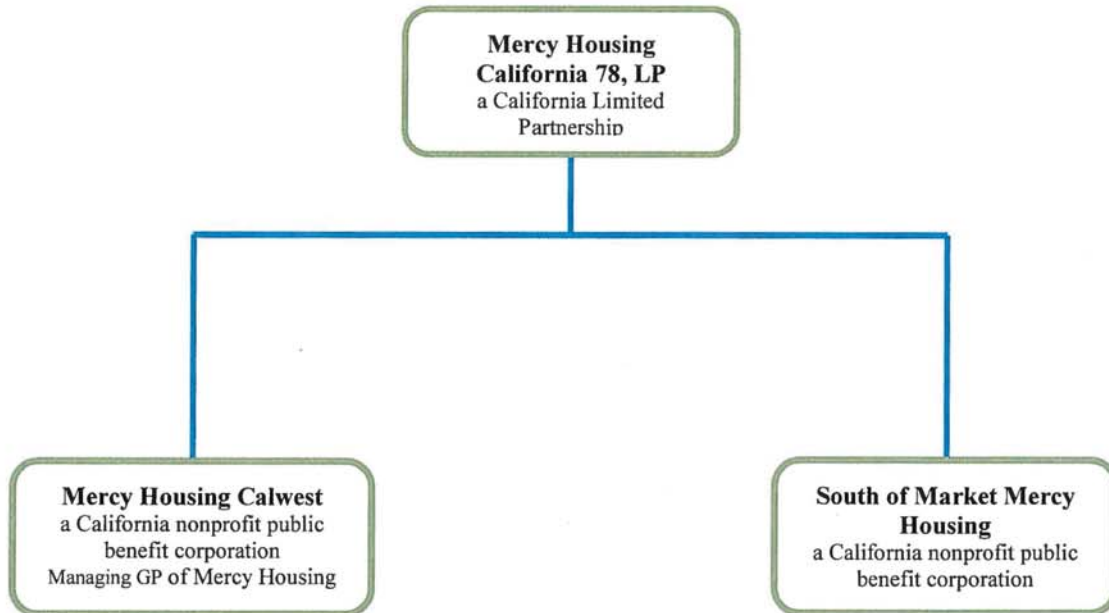
- Attachments:
- A. Project Milestones/Schedule
 - B. Borrower Org Chart
 - C. Developer Resumes
 - D. Asset Management Analysis of Sponsor
 - E. Site Map with amenities
 - F. Elevations and Floor Plans, if available
 - G. Comparison of City Investment in Other Housing Developments
 - H. Sources and Uses
 - I. Development Budget
 - J. 1st Year Operating Budget
 - K. 20-year Operating Pro Forma

Attachment A: Project Milestones and Schedule

No.	Performance Milestone	Estimated or Actual Date	Contractual Deadline
A.	Prop I Noticing (if applicable)		
1.	Acquisition/Predev Financing Commitment	<u>7/2017</u>	
2.	Site Acquisition	<u>12/2018</u>	<u>3/2019</u>
3.	Development Team Selection		
a.	Architect	<u>2/2017</u>	
b.	General Contractor	<u>7/2017</u>	
c.	Owner's Representative	<u>7/2017</u>	
d.	Property Manager	<u>2/2017</u>	
e.	Service Provider	<u>2/2017</u>	
4.	Design		
a.	Submittal of Schematic Design & Cost Estimate	<u>2/2018</u>	<u>2/2018</u>
b.	Submittal of Design Development & Cost Estimate	<u>7/2018</u>	
c.	Submittal of 50% CD Set & Cost Estimate	<u>11/2018</u>	
c.	Submittal of Bid Set & GMP Development	<u>12/2018</u>	
5.	Environ Review/Land-Use Entitlements		
a.	CEQA Environ Review Submission	<u>02/2018</u>	
b.	NEPA Environ Review Submission	<u>06/2018</u>	
c.	CUP/PUD/Variances Submission	<u>03/2018</u>	
6.	Permits		
a.	Building / Site Permit Application Submitted	<u>04/2018</u>	<u>04/2018</u>
b.	Addendum #1 Submitted	<u>10/2018</u>	
c.	Addendum #2 Submitted	<u>12/2018</u>	
7.	Request for Bids Issued	<u>12/2018</u>	
8.	Service Plan Submission		
a.	Preliminary	<u>12/2019</u>	
b.	Interim	<u>06/2020</u>	
c.	Update	<u>12/2020</u>	
9.	Additional City Financing		
b.	Gap Financing Application	<u>11/2018</u>	

10.	Other Financing		
a.	IIG Application	<u>3/2018</u>	
b.	Construction Financing RFP	<u>10/2018</u>	
c.	AHP Application	<u>3/2019</u>	
d.	CDLAC Application	<u>10/2018</u>	
e.	TCAC Application	<u>10/2018</u>	
g.	Other Financing Application: Project-Based Vouchers	<u>4/2018</u>	
11.	Closing		
a.	Construction Closing	<u>4/2019</u>	
b.	Permanent Financing Closing	<u>12/2021</u>	
12.	Construction		
a.	Notice to Proceed	<u>4/2019</u>	<u>7/2019</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>2/2021</u>	<u>5/2021</u>
13.	Marketing/Rent-up		
a.	Marketing Plan Submission	<u>5/2019</u>	<u>8/2019</u>
b.	Commence Marketing	<u>9/2020</u>	
c.	95% Occupancy	<u>6/2021</u>	<u>9/2021</u>
14.	Cost Certification	<u>4/2021</u>	
15.	Close Out MOH/OCII Loan(s)	<u>12/2021</u>	
16.	PIS Submittal for 8609	<u>1/2022</u>	

Attachment B: Borrower Org Chart



Attachment C: Developer Resume

WILLIAM H. HO, Sr. Project Manager

- Oversee the entitlements, design, finance, construction, and lease up of various mixed-use and multi-family housing developments in the San Francisco Bay Area
- Represent Mercy Housing in various mixed-income joint venture projects, ranging from 400+ to 600+ residential units, with market rate development partners
- Manage the development of affordable tax credit and tax exempt bond financed affordable residential developments that vary in size from 70 units to 150+ residential unit

BARBARA GUALCO, Vice President of the Corporation / Director of Real Estate Development

Direct the multi-family housing and commercial development work in the San Francisco office of a national leader in the acquisition and production of quality affordable multi-family housing developments. Currently overseeing 15 developments, with a budget of \$380 Million. Responsibilities include developing an acquisitions strategy, negotiating site control; conducting market and demographic analysis, feasibility assessments, preliminary land use analysis, asset repositioning and work-outs; obtaining neighborhood acceptance and land use approvals; managing the bidding and design process; assembling public equity and private debt financing for complex tax credit and bond financing packages. Responsible for the selection and management of retained development team professionals from financing, legal, design, construction and management disciplines. Manage and assist a staff of 7 development professionals.

Attachment D: Asset Management Evaluation of Project Sponsor

Mercy Housing California (MHC) will assume asset management duties for Mission Bay South 6 West (MBS6W). Asset Management falls under the National Portfolio Management department of Mercy Housing Inc, which is led by Senior Vice President Melissa Clayton.

Total Number of Projects and Average Number of Units Per Project Currently in Developer's Asset Management Portfolio

California represents the largest portion of the portfolio with 143 properties across the state; 48 Mercy owned and occupied properties are located in the City of San Francisco.

Developer's Current Asset Management Staffing Including Job Titles, Full Time Employees, an Organizational Chart and the Status of Each Position (filled/vacant)

Yelena Zilberfayn is the Associate Director of Asset Management at Mercy Housing where she has worked for the past 18 years, 5 of which in the Asset Management Department, and is responsible for a portfolio of real estate assets serving families, seniors, and special needs individuals. She leads a team of four Asset Managers, three in San Francisco, one in Sacramento. Two Asset Management Analysts based in the National Office in Denver, CO, are supporting Yelena's team. Yelena is located in the San Francisco office and interfaces directly with Doug Shoemaker, President of Mercy Housing California (MHC), and Jennifer Dolin, Vice President of Operations of MHC. Yelena and her team act as Mercy Housing's representatives in relation to the physical and financial status of each asset and protect its financial health and long-term viability.

Mercy's portfolio management also includes Transaction Team comprised of 2 staff devoted to other specialized needs such as the Year 15 buy out and the refinance of properties.

All positions are currently filled and they are all full time. The breakdown of the Bay Area asset management staff positions is as follows:

- (1) Associate Director of Asset Management
- (1) Director of Portfolio Analysis
- (4) Asset Managers
- (2) Asset Management Analysts

Each Asset Manager oversees a portfolio of up to 25 assets. The Asset Managers in the San Francisco office currently have 75 assets in their portfolio. Eight of these properties are in predevelopment, under construction or in rehab in the City of San Francisco, including one in Colma. In San Francisco, Asset Managers manage fewer than the maximum of 25 assets in order to free up capacity for future developments. Once development is complete, a San Francisco based Asset Manager will assume asset management duties for Mission Bay South 6 West.

Description of Scope and Range of Duties of Developer's Asset Management Team

Asset Management staff has oversight over all operations of the properties. The portfolio is analyzed monthly through the Portfolio Scorecard, which looks at physical and economic occupancy, trade and intercompany payables. In addition, the team performs quarterly risk ratings according to Affordable Housing Investment Council (AHIC) standards, of every property to evaluate occupancy, reserves,

management, capital needs and available reserves. If a property is placed on the watchlist, there is a quarterly meeting with the Asset Management team, Mercy Housing Management Group and Mercy Housing California President to find a solution to get the property off the watchlist.

Asset Managers are responsible for tracking all capital needs on their portfolio on a quarterly basis as part of Mercy's watchlist process. They are assisted by various staff of Mercy Housing Management Group, including the Regional Facilities Manager and the various Area Directors of Operations assigned to the properties. Using various analysis including our watchlist and budget planning, reviewing CNAs, and Reserve analysis, the Asset Managers determine when the necessary capital needs can be completed in the short and long term.

The analyst team submits reserve replacement requests bi-annually. In addition, the analyst team helps with the compliance with financing requirements and various reporting regulatory requirements by sending quarterly and annual reporting to investors and funders.

Portfolio preservation planning is accomplished through balancing the use of reserves with the payment of scheduled partnership and deferred development fees through cash flow.

The transaction team handles some of the longer term needs of the portfolio such as Year 15 analysis and investor buyout and a property restructuring such as a refinance.

Description of Developer's Coordination Between Asset Management and Other Functional Teams, Including Property Management, Accounting, Compliance, Facilities Management, etc.

There is constant coordination between Property Management, related departments and Asset Management. Asset management oversees all aspects of operations so there is ongoing coordination with property management on a daily basis in regards to those issues. Asset and Property Management work together on the annual audits and budgets. In addition, there is constant coordination around cash management and the financial oversight of the property. There is also contact around preparation of the financials. Asset Management and Compliance primarily coordinate around compliance issues that directly affect ownership and the partnership. Asset management and facilities coordinate around preparation the budget and capital projects. The Asset Management staff also coordinates around emergencies.

Developer's Budget for Asset Management Team Shown as Cost Center (nationwide)

Asset Management staffing budget is \$1,827,161.

Number of Projects Expected to be in Developer's Asset Management Portfolio in 5 Years and, If Applicable, Plans to Augment Staffing to Manage Growing Portfolio

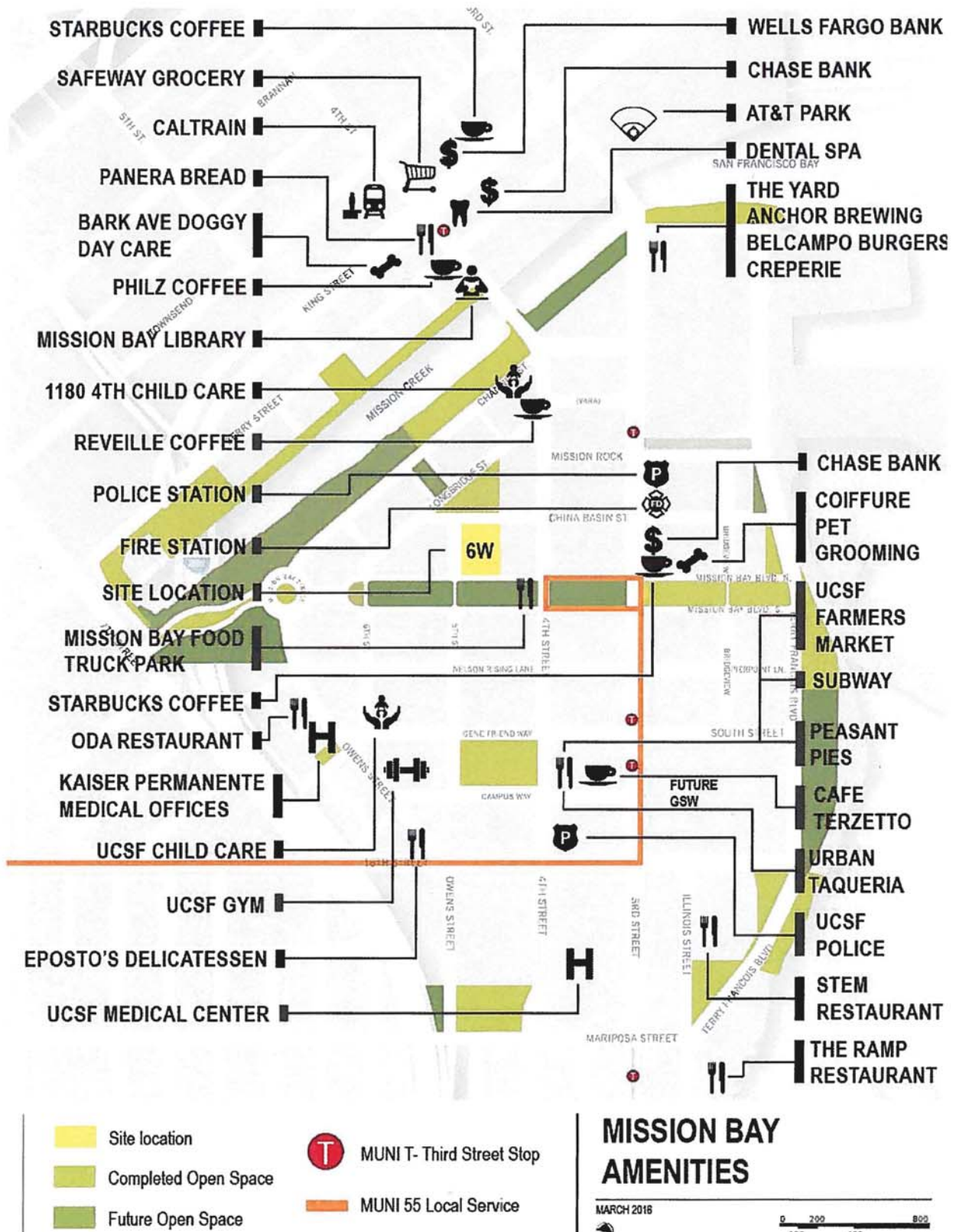
Mercy Housing anticipates that the portfolio will grow from 143 buildings to approximately 153 buildings in the next 5 years. Two new Asset Manager positions based in San Francisco were added mid-2017.

MOHCD Asset Management Staff's Final Assessment of Developers Asset Management Capacity

The Developer's description of their asset management functions, duties and coordination with related teams within the organization demonstrates an adequate asset management operation for their existing portfolio. With 4 FTE asset managers and a portfolio of 143 projects in California, the projects/AM staff ratio is 36, which is considered high based on the industry standard of 20-25 taught by NeighborWorks

America; however, the Developer's asset management staff also includes 1 FTE Associate Director of Asset Management, 1 FTE Director of Portfolio Analysis, and 2 FTE asset management analysts who support the asset managers. Assuming that the full range of asset management responsibilities are covered by the asset managers and the asset management analysts, a total of 8 FTEs provides asset management services at a ratio of 18 projects per staff person, not including staff supervision and oversight. With an increase of 10 projects in the Developer's portfolio anticipated over the next 5 years, the ratio will increase to 19 and remain within the industry standard.

Attachment E: Site Map with amenities



Attachment F: Elevations and Floor Plans

① RENDERING VIEW OF MISSION BAY BOULEVARD WING, ALONG MERRIMAC STREET



② RENDERING VIEW OF CHINA BASIN WING & STAIR TOWER



40.00E

RENDERINGS

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FILE NO: 2018.08.08
SCALE: 1/8" = 1'-0"

DATE: 2018.08.08
FILE NO: 2018.08.08
SCALE: 1/8" = 1'-0"

DATE	2018.08.08
FILE NO	2018.08.08
SCALE	1/8" = 1'-0"

75%
CONSTRUCTION
DOCUMENTS

MISSION BAY SOUTH - BLOCK 6W
MERCY HOUSING CALIFORNIA
691 CHINA BASIN STREET, SAN FRANCISCO, CALIFORNIA
PERMIT NO. 2018 0419 6818



1000 LANTANA DRIVE
SAN FRANCISCO, CA 94109
P: 415.774.1000
F: 415.774.1001
WWW.MHCALIFORNIA.COM

RENDERING, VIEW OF NEWS WING ALONG MISSION BAY BOULEVARD ①

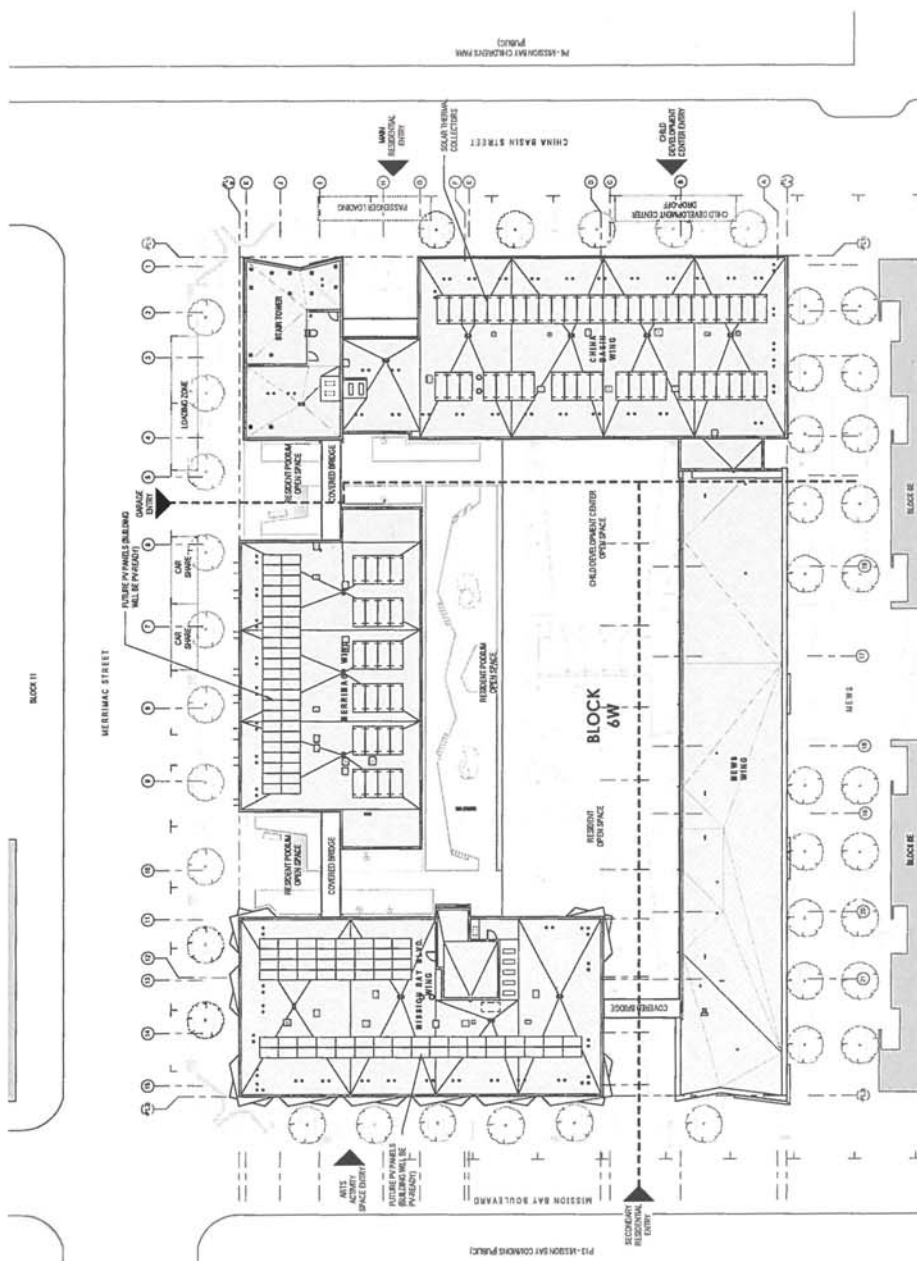


RENDERING, VIEW OF BLOCK 6W COURTYARD ENTRY ALONG MISSION BAY BLVD. ②



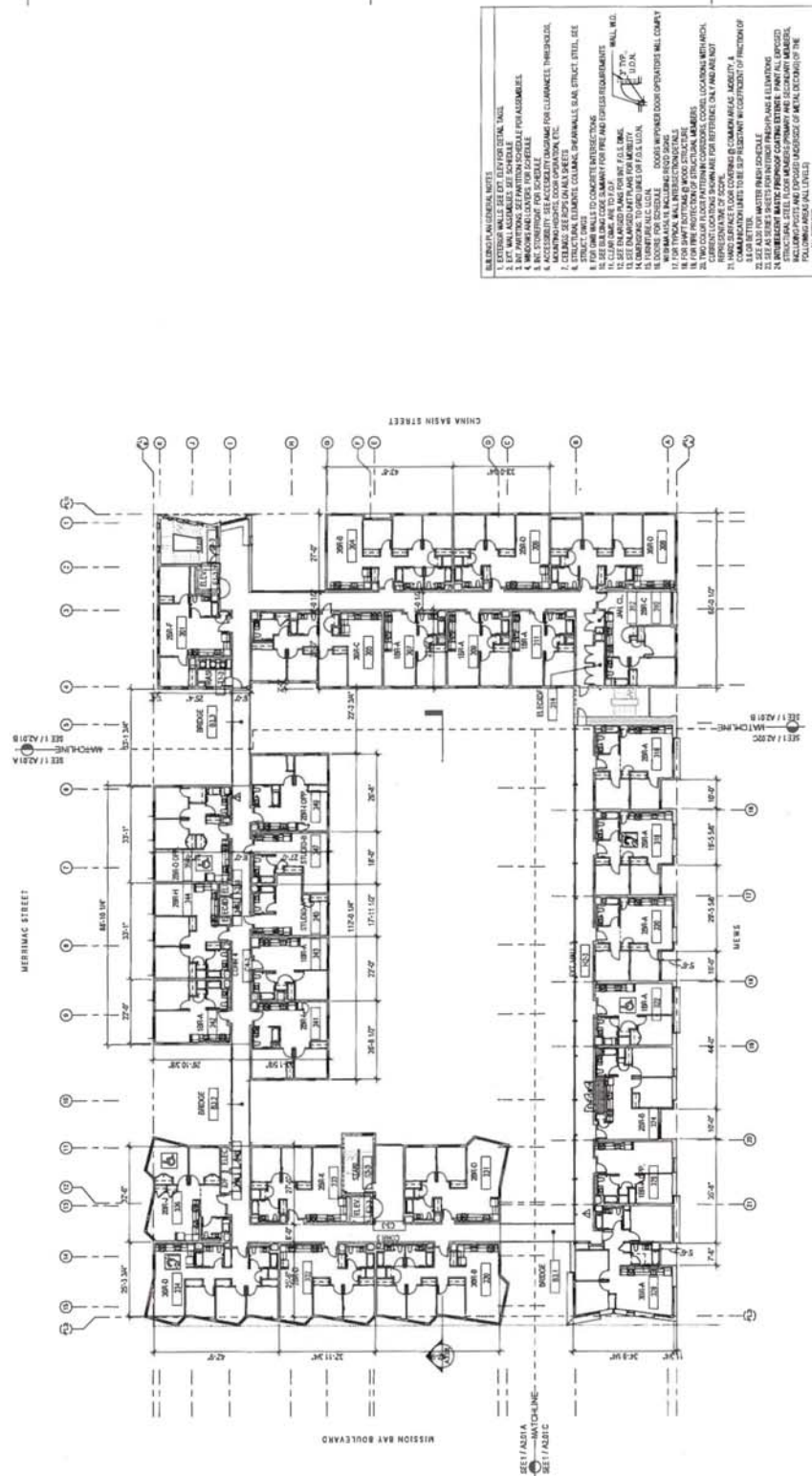
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LEVEL I - OVERALL ①

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LEVEL 3 - OVERALL ①
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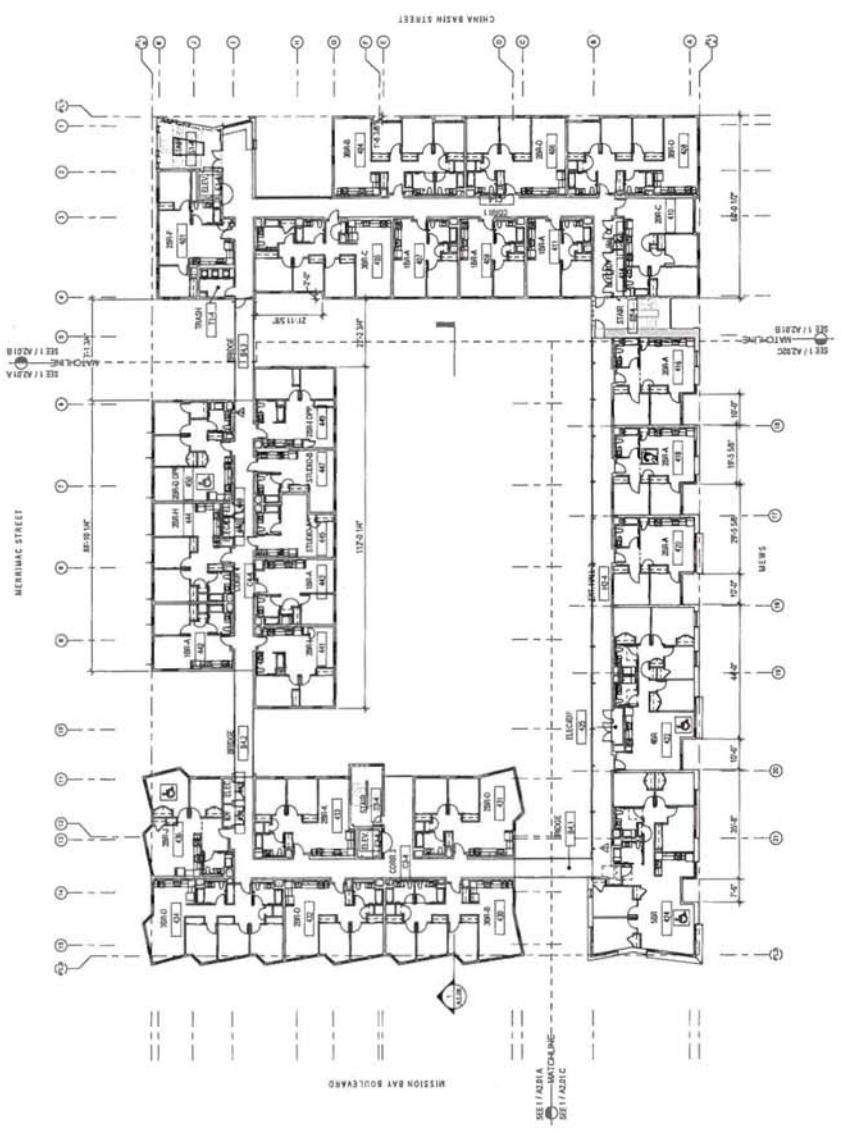


MISSION BAY SOUTH - BLOCK 6W
MERCY HOUSING CALIFORNIA
691 CHINA BASIN STREET, SAN FRANCISCO, CALIFORNIA
PERMIT NO. 2018 0419 6818

75% CONSTRUCTION DOCUMENTS	
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MISSION BAY SOUTH - BLOCK 6W
MERCY HOUSING CALIFORNIA
691 CHINA BASIN STREET, SAN FRANCISCO, CALIFORNIA
PERMIT NO. 2018 0419 6818

75% CONSTRUCTION DOCUMENTS



LEVEL 4 - OVERALL
1/16" = 1'-0"

LEGEND
--- PROPERTY LINE
--- MATCHLINE

FLOOR PLAN - LEVEL 4

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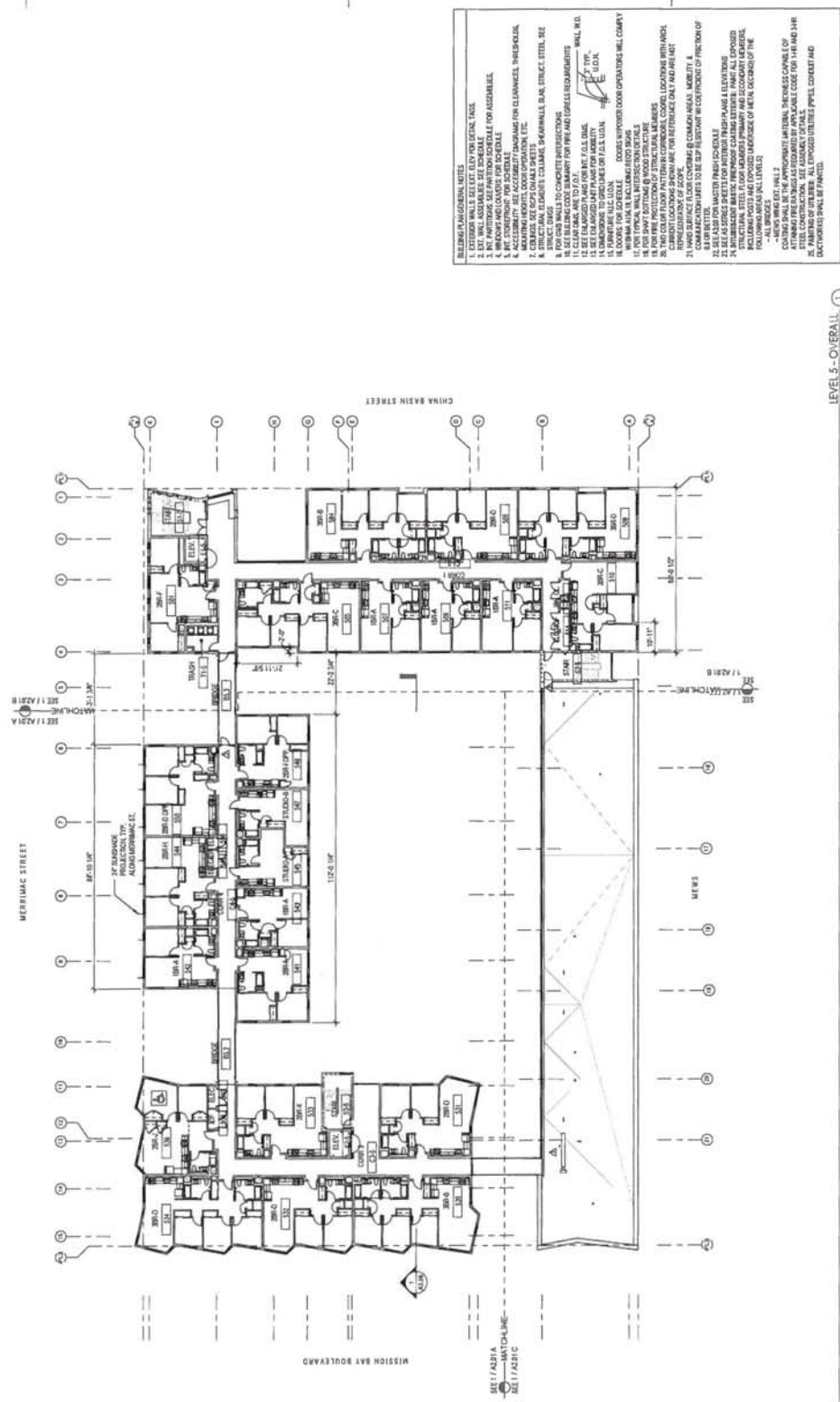
MISSION BAY SOUTH - BLOCK 6W
MERCY HOUSING CALIFORNIA
691 CHINA BASIN STREET, SAN FRANCISCO, CALIFORNIA
PERMIT NO. 2018 0419 6818

75% CONSTRUCTION DOCUMENTS

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NO. 9	FOUNDATION	10/1/18
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NO. 18	FOUNDATION	10/1/18
NO. 19	FOUNDATION	10/1/18
NO. 20	FOUNDATION	10/1/18
NO. 21	FOUNDATION	10/1/18
NO. 22	FOUNDATION	10/1/18
NO. 23	FOUNDATION	10/1/18
NO. 24	FOUNDATION	10/1/18
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NO. 97	FOUNDATION	10/1/18
NO. 98	FOUNDATION	10/1/18
NO. 99	FOUNDATION	10/1/18
NO. 100	FOUNDATION	10/1/18

MISSION BAY SOUTH - BLOCK 6W
MERCY HOUSING CALIFORNIA
691 CHINA BASIN STREET, SAN FRANCISCO, CALIFORNIA
PERMIT NO. 2018 0419 6818

75% CONSTRUCTION DOCUMENTS



LEVEL 5 - OVERALL 1/16" = 1'-0"

LEGEND
--- PROPERTY LINE
--- MATCHLINE

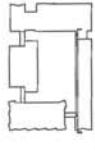
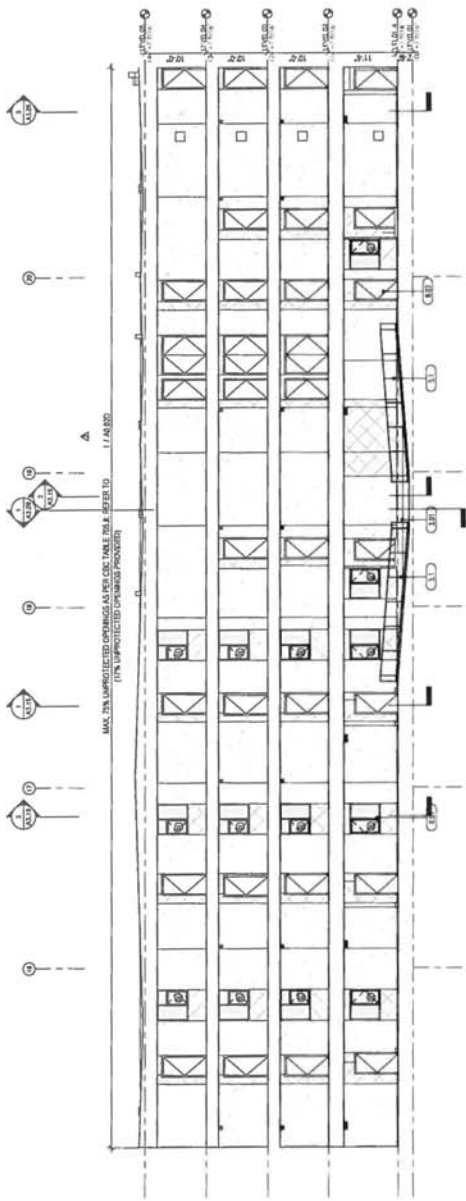
MISSION BAY SOUTH - BLOCK 6W
MERCY HOUSING CALIFORNIA
691 CHINA BASIN STREET, SAN FRANCISCO, CALIFORNIA
PERMIT NO. 2018 0419 6818

75% CONSTRUCTION DOCUMENTS

#	LEGEND - FINISHES	FINISH TEXT
000	STRUCTURAL CONCRETE (FORM PAINT)	
010	METAL GUARDRAIL	
020	ALUMINUM WINDOW	
030	ALUMINUM DOOR	
040	ALUMINUM WINDOW	
050	METAL DOOR AND FRAME	
060	CONCRETE CURB	

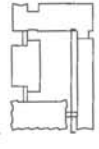
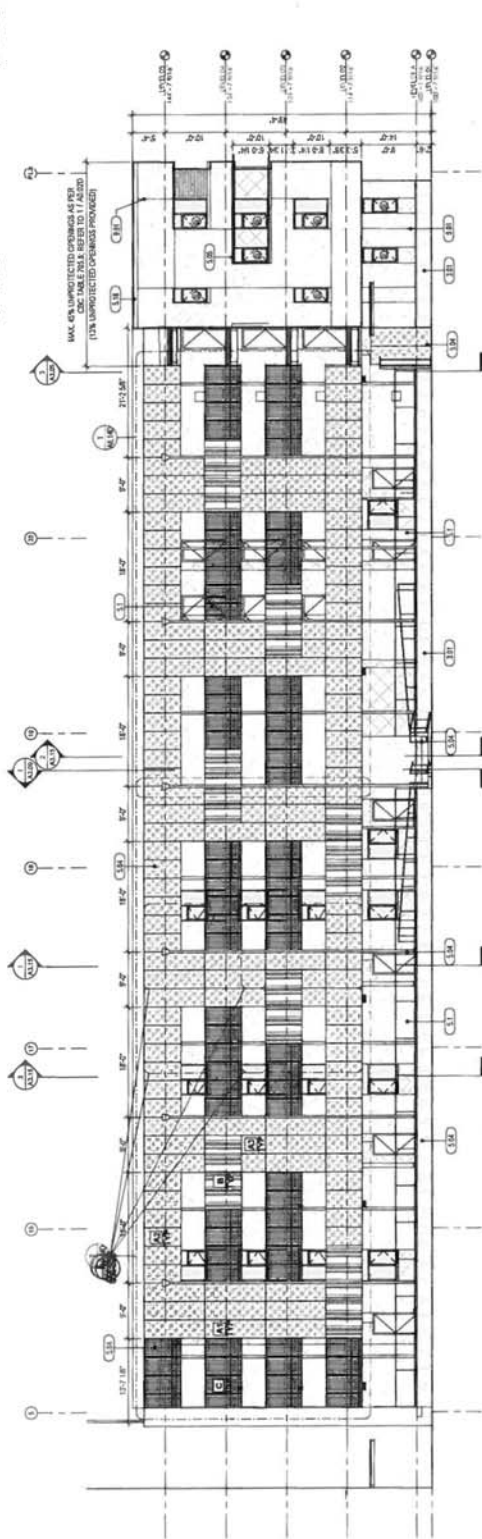
EXTERIOR MATERIALS / LEGEND	
	CEMENT PLASTER
	FIBER CEMENT PANEL - COLOR 1
	FIBER CEMENT PANEL - COLOR 2
	FIBER CEMENT PANEL - COLOR 3
	FIBER CEMENT PANEL - COLOR 4
	LVP STONE
	RANDOM CONCRETE
	CORRUGATED METAL SIDING
	PERFORATED METAL PANEL - ANTENNA 1
	PERFORATED METAL PANEL - ANTENNA 2
	METAL MESH PANEL
	OPAQUE GLASS
	TRANSPARENT GLASS
	YELLOW TRANSLUCENT GLASS
	YELLOW OPAQUE GLASS
	PLASTIC IMBEDDED CONCRETE (SEE 103.1)

GENERAL PANEL PATTERNS / LEGEND	
	PERFORATED METAL PANEL - ANTENNA
	PERFORATED METAL PANEL - ANTENNA
	PERFORATED METAL PANEL - ANTENNA
	PERFORATED METAL PANEL - ANTENNA
	PERFORATED METAL PANEL - ANTENNA
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	PERFORATED METAL PANEL - ANTENNA
	PERFORATED METAL PANEL - ANTENNA
	PERFORATED METAL PANEL - ANTENNA



REF PLAN

ELEVATION - EAST COURTYARD - WALKWAY ELEVATION - EAST COURTYARD - WALKWAY ELEVATION



REF PLAN

ELEVATION - EAST COURTYARD

ELEVATION - MERRIMAC WING SOUTH ②
1.18" x 10"

Attachment G: Comparison of City Investment in Other Housing Developments

Family Rental Housing Cost Comparison

Updated 11/26/2018

PROJECTS COMPLETED

Project Name	Address	Lot sq ft	Comp. Date	# of Units	# of BR's	Res. #	Non-Res.	Total	Acq. Cost ¹	Const. Cost ²	Soft Cost ³	Total Project Costs	Total Dev. Cost w/o land	Local Subsidy ⁴	Comments
Alice Griffin Phase 1	2700 Ambrose Walk Dr. - B.4	54,195	May-17	93	184	111,863	28,173	140,036	0	48,774,861	11,267,378	18,669,024	61,042,239	19,801,371	Type V over Type I Podium
Alma Griffin Phase 2	2600 Ambrose Walk Dr. B. 2	53,924	Apr-17	91	192	110,238	138,782	249,020	0	48,774,861	11,267,378	18,669,024	61,042,239	19,801,371	Type V over Type I Podium
Numbers View Phase II - B1 7 & 11	227-229 West Point Rd	82,703	May-17	107	230	117,023	23,657	140,680	0	57,809,803	8,272,003	18,737,243	76,549,046	19,737,243	Mixed Townhome stepping development and Type III over Type I Podium
Numbers View Phase II - Block 10	146 West Point Road	52,333	Apr-17	72	144	245,865	210,003	455,868	0	46,348,657	8,272,003	18,737,243	64,348,642	19,737,243	Type III over Type I Podium
Numbers Bay Black - West	588 Mission Bay Blvd. N.	43,580	Apr-17	200	200	108,417	5,000	113,417	0	75,817,211	14,084,157	18,737,243	94,512,068	18,737,243	Type V over Type I Podium
Numbers Bay Black - East	588 Mission Bay Blvd. S.	43,580	Apr-17	200	200	108,417	5,000	113,417	0	75,817,211	14,084,157	18,737,243	94,512,068	18,737,243	Type V over Type I Podium
Township 7 - N. 4th & S. 4th	222 3rd St	29,209	Oct-18	120	208	113,261	5,000	118,261	33,000	58,665,599	10,314,459	25,540,000	73,270,427	25,540,000	3 Buildings - Type I Podium, 4.3 stories (Puddle structural system) plus Chicago steel
Completed Projects:	Average:	46,275		168	184	113,262	17,807	131,069	3,384,000	50,872,919	10,345,108	61,818,128	61,818,128		

PROJECTS UNDER CONSTRUCTION

Project Name	Address	Lot sq ft	Comp. Date	# of Units	# of BR's	Res. #	Non-Res.	Total	Acq. Cost ¹	Const. Cost ²	Soft Cost ³	Total Project Costs	Total Dev. Cost w/o land	Local Subsidy ⁴	Comments
Mission Family Housing	1535 Mission	18,200	Jul-18	68	134	82,483	5,955	88,438	1,551,039	37,183,790	6,589,453	45,224,282	43,724,837	35,150,400	Type III & V over Type I Podium, 4.3 stories, Mission Bay sales and infrastructure
Mission Bay B1 & E1	628 Mission Bay Blvd. North	30,250	Aug-18	143	278	182,065	9,119	191,184	148,125	74,588,328	15,223,807	66,710,364	68,586,684	35,760,000	Type III & V over Type I Podium, 4.3 stories, Mission Bay sales and infrastructure
Palmer Block X (Vertical Only)	229th and Commercial	30,000	Dec-19	72	139	86,569	28,852	115,421	20,100	53,023,454	12,769,230	17,892,684	80,685,368	17,892,684	Type III & V over Type I Podium, 4.3 stories, Mission Bay sales and infrastructure
Edy and Taylor Family Housing	222 Taylor	27,544	Jan-19	113	211	109,440	21,056	129,496	9,500,000	52,187,261	14,837,459	76,324,750	86,162,209	23,052,146	Type IB - 8 story, extensive PCLE regional switch required
Campanella Parcel Q	1477-1487 Campanella Ave	21,757	Jan-20	55	102	75,101	75,101	150,202	0	33,327,716	10,072,197	43,399,913	43,399,913	9,652,147	Type IV - 5 stories over grade podium parking
Under Construction:	Average:	30,519		84	172	104,530	13,342	117,872	15,018,641	50,242,116	11,894,488	67,145,245	67,145,245	20,770,587	

PROJECTS IN PREDEVELOPMENT

Project Name	Address	Lot sq ft	Start Date (predevelopment)	# of Units	# of BR's	Res. #	Non-Res.	Total	Acq. Cost ¹	Const. Cost ²	Soft Cost ³	Total Project Costs	Total Dev. Cost w/o land	Local Subsidy ⁴	Comments
88 Broadway - Family Housing	88 Broadway	38,812	Jan-19	125	221	101,432	8,841	110,273	17,878,000	73,626,021	11,103,244	92,607,265	90,729,265	55,040,879	Type III & V over Type I Podium (3.6 stories)
Candlestick Point 10a	1000 Candlestick Point Dr. E. / Highway W.	67,190	Jan-22	156	373	158,514	84,012	242,526	0	100,458,934	20,016,894	120,475,828	120,475,828	65,080,319	Type III over Type I Podium incl. 80 parking spaces, 13,400' retail
Candlestick Point 11a	Candlestick Point Dr. E. / Highway W.	67,190	Aug-22	176	355	159,995	40,110	200,105	0	110,260,957	23,227,697	133,521,024	133,521,024	66,656,056	3.5 stories of Type II and V over Type I incl. structured play & retail - design refinements
775 Davis - Senior Housing	775 Davis	10,165	Jan-19	53	54	28,245	12,221	40,466	0	28,833,960	8,025,768	37,559,728	37,559,728	21,807,464	Type III & V over Type I Podium (2.6 stories) - Senior
4845 Mission	4845 Mission	63,127	Jan-22	114	182	119,569	6,300	125,869	12,000,000	76,707,054	13,329,476	102,036,530	102,036,530	27,786,294	NO CURRENT COSTING DATA, ahead of Type I Podium (2.6 stories) - Senior
2007 Folson Street	2007 Folson Street	29,075	Nov-18	127	252	117,810	11,810	129,620	134,831	104,145,560	15,100,172	150,031,463	150,031,463	37,869,110	8 story Type II - V, V, Chicagoans Community Hub with W&A's incorporation of 200AM
1907 Folson Street	1907 Folson Street	36,500	Nov-18	157	262	113,432	48,142	161,574	8,776,800	90,718,797	15,171,486	115,665,263	115,665,263	44,845,740	8 story Type II - V, V, Chicagoans Community Hub with W&A's incorporation of 200AM
1907 Folson Street	1907 Folson Street	36,500	Nov-18	157	262	113,432	48,142	161,574	8,776,800	90,718,797	15,171,486	115,665,263	115,665,263	44,845,740	8 story Type II - V, V, Chicagoans Community Hub with W&A's incorporation of 200AM
490 South Van Ness	490 S. Van Ness Avenue	14,250	Nov-18	81	121	57,639	28,895	86,534	10,500,000	47,200,237	13,383,411	78,084,048	78,084,048	29,892,030	Type IA - 7 stories over podium basement
500 Turk Street	500 Turk Street	32,203	Jan-21	105	138	84,000	30,837	114,837	15,000	59,870,837	19,515,869	79,401,706	79,401,706	29,000,000	Type III over Type I Podium (2.6 stories) - TI development weather radiant exterior
1064 Mission Street	1064 Mission Street	19,884	Sep-19	106	186	82,202	26,728	108,931	13,749,439	51,185,115	22,746,009	87,580,563	87,580,563	20,474,721	Type I 8 stories on unrestrained site
Chet Avenue & Judith	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
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1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-2 Type I with 6,000' retail etc. & 20,000' clinic + uses (6,400')
1064 Mission Street	1064 Mission Street	50,663	Apr-20	259	259	152,584	25,863	178,447	0	118,200,079	27,188,829	145,388,908	145,388,908	42,265,649	Type IIIA factory built over IA-

Attachment H: Sources and Uses

Intentionally Omitted

Attachment I: Development Budget

# Units:	182
# Bedrooms:	294
# Beds:	

SOURCE#	Total Sources							Comments
	48,951,890	1,510,000	46,180,372	9,000,000	9,848,000	8,601,000	2,400,000	
NAME OF SOURCE:	PHILIP AHP (OCI Bonds)	LP Equity	RD - Sponsor Loan	1st Mortgage - Tranche A	2nd Mortgage - Tranche B	GP Contribution	Deferred Dev Fee	

USERS[illegible]

CONSTRUCTION (HARD COSTS)

Item/Contingency Description	12/31/2001	1/31/2002	4/30/2002	7/31/2002	10/31/2002	12/31/2002	1/31/2003	4/30/2003	7/31/2003	10/31/2003	12/31/2003	1/31/2004	4/30/2004	7/31/2004	10/31/2004	12/31/2004	1/31/2005	4/30/2005	7/31/2005	10/31/2005	12/31/2005	1/31/2006	4/30/2006	7/31/2006	10/31/2006	12/31/2006	1/31/2007	4/30/2007	7/31/2007	10/31/2007	12/31/2007	1/31/2008	4/30/2008	7/31/2008	10/31/2008	12/31/2008	1/31/2009	4/30/2009	7/31/2009	10/31/2009	12/31/2009	1/31/2010	4/30/2010	7/31/2010	10/31/2010	12/31/2010	1/31/2011	4/30/2011	7/31/2011	10/31/2011	12/31/2011	1/31/2012	4/30/2012	7/31/2012	10/31/2012	12/31/2012	1/31/2013	4/30/2013	7/31/2013	10/31/2013	12/31/2013	1/31/2014	4/30/2014	7/31/2014	10/31/2014	12/31/2014	1/31/2015	4/30/2015	7/31/2015	10/31/2015	12/31/2015	1/31/2016	4/30/2016	7/31/2016	10/31/2016	12/31/2016	1/31/2017	4/30/2017	7/31/2017	10/31/2017	12/31/2017	1/31/2018	4/30/2018	7/31/2018	10/31/2018	12/31/2018	1/31/2019	4/30/2019	7/31/2019	10/31/2019	12/31/2019	1/31/2020	4/30/2020	7/31/2020	10/31/2020	12/31/2020	1/31/2021	4/30/2021	7/31/2021	10/31/2021	12/31/2021	1/31/2022	4/30/2022	7/31/2022	10/31/2022	12/31/2022	1/31/2023	4/30/2023	7/31/2023	10/31/2023	12/31/2023	1/31/2024	4/30/2024	7/31/2024	10/31/2024	12/31/2024	1/31/2025	4/30/2025	7/31/2025	10/31/2025	12/31/2025	1/31/2026	4/30/2026	7/31/2026	10/31/2026	12/31/2026	1/31/2027	4/30/2027	7/31/2027	10/31/2027	12/31/2027	1/31/2028	4/30/2028	7/31/2028	10/31/2028	12/31/2028	1/31/2029	4/30/2029	7/31/2029	10/31/2029	12/31/2029	1/31/2030	4/30/2030	7/31/2030	10/31/2030	12/31/2030	1/31/2031	4/30/2031	7/31/2031	10/31/2031	12/31/2031	1/31/2032	4/30/2032	7/31/2032	10/31/2032	12/31/2032	1/31/2033	4/30/2033	7/31/2033	10/31/2033	12/31/2033	1/31/2034	4/30/2034	7/31/2034	10/31/2034	12/31/2034	1/31/2035	4/30/2035	7/31/2035	10/31/2035	12/31/2035	1/31/2036	4/30/2036	7/31/2036	10/31/2036	12/31/2036	1/31/2037	4/30/2037	7/31/2037	10/31/2037	12/31/2037	1/31/2038	4/30/2038	7/31/2038	10/31/2038	12/31/2038	1/31/2039	4/30/2039	7/31/2039	10/31/2039	12/31/2039	1/31/2040	4/30/2040	7/31/2040	10/31/2040	12/31/2040	1/31/2041	4/30/2041	7/31/2041	10/31/2041	12/31/2041	1/31/2042	4/30/2042	7/31/2042	10/31/2042	12/31/2042	1/31/2043	4/30/2043	7/31/2043	10/31/2043	12/31/2043	1/31/2044	4/30/2044	7/31/2044	10/31/2044	12/31/2044	1/31/2045	4/30/2045	7/31/2045	10/31/2045	12/31/2045	1/31/2046	4/30/2046	7/31/2046	10/31/2046	12/31/2046	1/31/2047	4/30/2047	7/31/2047	10/31/2047	12/31/2047	1/31/2048	4/30/2048	7/31/2048	10/31/2048	12/31/2048	1/31/2049	4/30/2049	7/31/2049	10/31/2049	12/31/2049	1/31/2050	4/30/2050	7/31/2050	10/31/2050	12/31/2050	1/31/2051	4/30/2051	7/31/2051	10/31/2051	12/31/2051	1/31/2052	4/30/2052	7/31/2052	10/31/2052	12/31/2052	1/31/2053	4/30/2053	7/31/2053	10/31/2053	12/31/2053	1/31/2054	4/30/2054	7/31/2054	10/31

SOFT COSTS

Architecture & Design									
Architect Design Fees	181,437								181,437 Includes Associate Architect Fees
Director, Subconsultants to the Architect (incl. Fees)	852,116								852,116
Architect Construction Admin	688,364								688,364
Plancheckers	45,000								45,000
Additional Services	80,845								80,845
Sub-Total Architect Contract	2,447,762	0	0	0	0	0	0	0	2,447,762
Other Third Party design consultants (not included under Architect contract)									Consultants not covered under architect contract, name consultant type and contract amount
Total Architecture & Design	3,447,762	0	0	0	0	0	0	0	3,447,762
Engineering & Environmental Studies									
Survey	31,400								31,400
Geotechnical studies	181,600								181,600
Phase I & II Reports	50,000								50,000
CEQA / CEIS/Noise and Vibration consultants									
WQA / DRI Reports	22,568								22,568
CNA/PM (indefinite)	0								0
Other environmental consultants	447,893								447,893
Total Engineering & Environmental Studies	721,718	0	0	0	0	0	0	0	721,718
Financing Costs									
Construction Financing Costs									
Construction Loan Origination Fee	473,886								473,886
Construction Loan Interest				5,379,832					5,379,832
Fire & Bonding	50,000								50,000 Includes Architect Assist and ECR
CDAC & CDAC Fees	27,118								27,118
Bond Underwrite Fees	368,442								368,442 Fee = Fees during construction
Other Bond Cost of Insurance	30,000								30,000 Consultant / Lender Costs, Max.
Other Lender Costs / Project Loan Interest	12,000								12,000
Sub-Total Construction Financing Costs	961,423	0	0	5,379,832	0	0	0	0	6,326,443
Permanent Financing Costs									
Permanent Loan Origination Fee	181,830								181,830
Credit Enhance & Asset Fee									0
Title & Recording	10,000								10,000
Sub-Total Perm Financing Costs	177,830	0	0	0	0	0	0	0	177,830
Total Financing Costs	1,133,343	0	0	5,379,832	0	0	0	0	6,498,376
Legal Costs									
Attorney Legal fees	10,000								10,000
Land Use / CEQA Attorney fees									
LA, CA, County Counsel	30,000								30,000
Bond Counsel	50,000								50,000
Construction Lender Counsel	130,000								130,000
Insurance / Lender Counsel	85,000								85,000
Other Legal (specify)									0
Total Legal Costs	290,000	0	0	0	0	0	0	0	290,000
Other Development Costs									
Appraisal	10,000								10,000
Market Study	10,000								10,000
Insurance	369,087								369,087
Property Taxes									0
Assessment / Audit	20,000								20,000
Organizational Costs	5,000								5,000
Entitlement / Permit Fees	1,029,564								1,029,564 Permits & Impact Fees
Marketing / Rent-up	408,431								408,431
Partnership	304,000								304,000
PG&E / Utility Fees	145,000								145,000
CDAC Asset Appr / Monitor Fees	112,283								112,283
Financial Consultant fees	45,000								45,000 \$10K under CDK
Construction Management Fees / Owner's Rep	191,158								191,158
Security Bonds/Contributions	0								0
Reclosure	0								0
Other (specify)	0								0
Other (specify)	0								0
Other (specify)	0								0
Total Other Development Costs	2,847,438	0	0	0	0	0	0	0	2,847,438
Soft Cost Contingency									
Contingency (Arch, Engr, Fin, Legal & Other Dept)	880,831								880,831 Should be either 10% or 15% of total soft costs
TOTAL SOFT COSTS	6,448,879	0	0	5,379,832	0	0	0	0	14,609,969

RESERVES

Operating Expenses		733,209				733,209
Expatriation Expenses						0
Lease Income/with Expenses						0
Other Income Maintenance Revenue		298,003				298,003
Other Income						0
Other (Losses)						0
Income Statement	0	1,468,934	0	0	0	1,468,934

DEVELOPMENT COSTS

Developer Fee - Contract Fee at Milestones	1,100,000									1,100,000
Developer Fee - Cash-out At Risk		1,720,000								1,720,000
Developer Fee - GP Equity (also show as source)				2,450,000						2,450,000
Developer Fee - Deferred (also show as source)						1,180,000				1,180,000
Development Consultant Fees										0
Other (specify)										0
TOTAL DEVELOPER COSTS	1,180,000	0	1,720,000	0	0	0	2,450,000	1,180,000	0	7,480,000

TOTAL DEVELOPMENT COST

Development Cost/Unit by Source	201,876	9,834	316,843	32,895	38,421	56,580	22,368	7,793	788,404
Development Cost/Unit as % of TDC by Source	38.4%	1.7%	49.2%	4.2%	4.9%	7.2%	2.8%	1.0%	100.0%

Acquisition Cost Unit by Source

Construction Cost (inc Const Contingency)/Unit By Source	234,249	9,924	209,826	32,895	3,059	56,586	0	0	635,348
Construction Cost (inc Const Contingency)/SF	192.31	8.16	245.16	27.01	2.51	46.49	0.00	0.00	521.60

City SubkeyAInt

Construction Bond Amount

Construction Loan Term (in months)	30 months
Construction Loan Interest Rate (as %)	9.50%

Attachment J: 1st Year Operating Budget

Application Date: 10/24/2018 Project Name: Mission Bay Block 8 West
 Total # Units: 162 Project Address: 681 China Basin Street
 First Year of Operations (provide data assuming that Year 1 is a full year, i.e. 12 months of operations): 2021 Project Sponsor: Mercy Housing California
 TCAC Income Limits in Use!

INCOME	Total	Comments
Residential - Tenant Rents	1,912,524	Links from Year Prog - Rent & Line Mtg Worksheet
Residential - Tenant Assistance Payments (Non-CSP)	1,389,264	Links from Year Prog - Rent & Line Mtg Worksheet
Commercial Rent	12,861	0%
Residential Parking	0	Links from Vehicles & Other Income Worksheet
Manufactured Home Income	0	Links from Vehicles & Other Income Worksheet
Supportive Services Income	0	
Interest Income - Project Operations	0	Links from Vehicles & Other Income Worksheet
Lundry and Vending	38,260	Links from Vehicles & Other Income Worksheet
Tenant Charges	8,848	Links from Vehicles & Other Income Worksheet
Manufactured Residential Income	0	Links from Vehicles & Other Income Worksheet
Other Commercial Income	0	Links from Commercial Op Budget Worksheet
Withdrawal from Capitalized Reserve (deduct to operating budget)		
Gross Potential Income	3,343,897	
Vacancy Loss - Residential - Tenant Rents	(65,676)	Vacancy loss is 5% of Tenant Rents
Vacancy Loss - Residential - Tenant Assistance Payments	(63,463)	Vacancy loss is 5% of Tenant Assistance Payments
Vacancy Loss - Commercial	(8,431)	Links from Commercial Op Budget Worksheet
EFFECTIVE GROSS INCOME	3,192,427	PUPA: 31,863

OPERATING EXPENSES		
Management		
Management Fee	115,736	1st Year to be set according to HUD schedule
Asset Management Fee	21,860	
Sub-total Management Expenses	138,636	PUPA: 913
Salaries/Benefits		
Office Salaries	69,760	
Manager's Salary	74,800	
Health Insurance and Other Benefits	82,253	
Other Salaries/Benefits	147,260	
Administrative Staff Fee Unit		
Sub-total Salaries/Benefits	394,873	PUPA: 2,543
Administration		
Advertising and Marketing	2,130	
Office Expenses	35,570	
Office Rent	0	
Legal Expense - Property	13,000	
Audit Expense	11,200	
Bookkeeping/Accounting Services	17,328	
Rent Debt	0	
Miscellaneous	2,880	
Sub-total Administration Expenses	81,938	PUPA: 534
Utilities		
Electricity	62,251	
Water	87,490	
Gas	63,000	
Power	124,218	
Sub-total Utilities	344,959	PUPA: 3,232

Taxes and Licenses		
Real Estate Taxes	3,800	
Payroll Taxes	66,088	
Manufactured Taxes, Licenses and Permits	1,800	
Sub-total Taxes and Licenses	71,688	PUPA: 476
Insurance		
Property and Liability Insurance	156,840	
Fidelity Bond Insurance	22,396	
Worker's Compensation	22,396	
Director's & Officer's Liability Insurance		
Sub-total Insurance	178,316	PUPA: 1,177

Maintenance & Repair		
Paint	173,222	
Roofing	22,300	
Concrete	65,296	
Garage and Trash Removal	88,616	
Security Payroll/Contract	6,300	
HVAC, Brewery and Maintenance	9,600	
Vehicle and Maintenance Equipment Operation and Repair	1,200	
Maintenance Operating and Maintenance Expenses	11,200	Includes CAM for menu
Sub-total Maintenance & Repair Expenses	467,744	PUPA: 3,642

Supportive Services	158,701	Per HCD Guidelines
Commercial Expenses	3,740	Links from Commercial Op Budget Worksheet
TOTAL OPERATING EXPENSES	1,780,483	PUPA: 11,715

Reserves/Ground Lease Base Rent/Bond Fees		
Ground Lease Base Rent	15,000	Ground lease with MOHCD. (Provide additional comments here, if needed)
Bond Maintenance Fee		
Replacement Reserve Deposit	60,800	
Operating Reserve Deposit		
Other Required Reserve 1 Deposit		
Other Required Reserve 2 Deposit		
Required Reserve Deposits, Commercial	0	Links from Commercial Op Budget Worksheet
Sub-total Reserves/Ground Lease Base Rent/Bond Fees	75,800	PUPA: 489

TOTAL OPERATING EXPENSES (w/ Reserve/Gl. Base Rent/Bond Fees)	1,856,483	PUPA: 12,214

NET OPERATING INCOME (INCOME minus OP EXPENSES)	1,335,944	PUPA: 8,789

DEBT SERVICE/STAY PAYMENTS (Hard debt/Unmortgaged loans)		
Hard Debt - First Lender	420,165	TE Perm Loan - A (Provide additional comments here, if needed)
Hard Debt - Second Lender (HCD Program 0.42% pmt. or other 2nd Lien)	739,443	TE Perm Loan - B (Provide additional comments here, if needed)
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)	0	(Provide additional comments here, if needed)
Hard Debt - Fourth Lender	0	(Provide additional comments here, if needed)
Commercial Hard Debt Service	0	Links from Commercial Op Budget Worksheet
TOTAL HARD DEBT SERVICE	1,159,608	PUPA: 1,839

CASH FLOW (PCH minus DEBT SERVICE)	176,336	
USES OF CASH FLOW BELOW (This section shows GSCR)	1.18	
USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL		
"Below-the-line" Asset Mtg Fee (not common in new projects, see policy)		
Partnership Management Fee (see policy for limits)	23,420	2nd
Investor Services Fee (aka "LP Asset Mtg Fee") (see policy for limits)	5,000	1st
Other Payments		
Non-amortizing Loan Front - Lender 1 (detail lender in comments here)		(Provide additional comments here, if needed)
Non-amortizing Loan Front - Lender 2 (detail lender in comments here)		(Provide additional comments here, if needed)
Deferred Developer Fee (Enter amt <= Max Fee from call 1133)	73,958	Def. Developer Fee split 50% (Provide additional comments here, if needed)
TOTAL PAYMENTS PRECEDING MOHCD	102,278	PUPA: 674

RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)	73,958	

Residual Receipts Calculation		
Does Project have a MOHCD Residual Receipt Obligation?	Yes	Project has MOHCD ground lease?
Will Project Other Developer Fee?	Yes	
Max Deferred Developer Fee/Borrower % of Residual Receipts in Yr 1	50%	Max Deferred Developer Fee Amt (Use for data entry above. Do not link): 73,958
% of Residual Receipts available for distribution to soft debt lenders in	50%	

Soft Debt Lenders with Residual Receipts Obligations	(Select lender and program from drop-down)	Total Principal Amt	Dist. % of Soft Debt Lease
MOHCD-GSCC - Soft Debt Loans	All MOHCD-GSCC Loans available from mtg. notes	\$44,785,414	89.91%
MOHCD-GSCC - Ground Lease Value	Ground Lease	\$150,000	0.33%
HCD (not debt case) - Lender 3			0.00%
Other Soft Debt Lender - Lender 4			0.00%
Other Soft Debt Lender - Lender 5			0.00%

MOHCD RESIDUAL RECEIPTS DEBT SERVICE		
MOHCD Residual Receipts Amount Due	73,958	50% of residual receipts, multiplied by 100% - MOHCD's pro rata share of all soft debt
Proposed MOHCD Residual Receipts Amount to Loan Repayment	73,958	Entire/overdue amount of residual receipts proposed for loan repayment
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease	0	If applicable, MOHCD residual receipts and due LEAS are proposed for loan repay.

REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE	0	

NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE		
HCD Residual Receipts Amount Due	0	
Lender 4 Residual Receipts Due	0	
Lender 5 Residual Receipts Due	0	
Total Non-MOHCD Residual Receipts Debt Service	0	

REMAINDER (should be zero unless there are distributions below)	0	
Owner Dispositions/Incentive Management Fee	0	
Other Distributions/Notes	0	
Final Balance (should be zero)	0	

Attachment K: 20-year Operating Proforma

Mission Bay Block 6 West

Total # Units: 152

TCAC Income Limits In Use!

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
		2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
INCOME											
	% annual increase (related to annual inc assumptions)										
Residential - Tenant Rents	2.5%	1,912,524	1,960,337	2,009,349	2,059,579	2,111,095	2,163,545	2,217,841	2,272,200	2,328,125	2,385,460
Residential - Tenant Assistance Payments (Non-LOSP)	2.5%	1,369,264	1,423,995	1,480,585	1,539,055	1,599,445	1,661,825	1,726,275	1,792,895	1,861,705	1,932,835
Commercial Space	2.5%	12,981	13,261	13,543	13,827	14,113	14,401	14,691	14,983	15,277	15,573
Residential Parking	2.5%	-	-	-	-	-	-	-	-	-	-
Miscellaneous Rent Income	2.5%	-	-	-	-	-	-	-	-	-	-
Property Services Income	2.5%	-	-	-	-	-	-	-	-	-	-
Interest Income - Project Operations	2.5%	-	-	-	-	-	-	-	-	-	-
Laundry and Vending	2.5%	39,260	40,242	41,248	42,279	43,335	44,416	45,522	46,654	47,812	49,000
Tenant Charges	2.5%	9,666	10,256	10,864	11,490	12,133	12,794	13,472	14,167	14,879	15,600
Miscellaneous Residential Income	2.5%	-	-	-	-	-	-	-	-	-	-
Other Commercial Income	2.5%	-	-	-	-	-	-	-	-	-	-
Withdrawal from Capitalized Reserve (deposit to operating account)	n/a	-	-	-	-	-	-	-	-	-	-
Gross Potential Income											
Vacancy Loss - Residential - Tenant Rents	n/a	(25,621)	(26,017)	(26,417)	(26,821)	(27,229)	(27,641)	(28,057)	(28,477)	(28,899)	(29,325)
Vacancy Loss - Residential - Tenant Assistance Payments	n/a	(49,441)	(51,200)	(52,983)	(54,791)	(56,624)	(58,482)	(60,365)	(62,273)	(64,206)	(66,164)
Vacancy Loss - Commercial	n/a	(8,437)	(8,643)	(8,851)	(9,061)	(9,273)	(9,487)	(9,703)	(9,921)	(10,141)	(10,363)
EFFECTIVE GROSS INCOME											
3,192,427 3,272,238 3,353,678 3,435,352 3,517,916 3,601,433 3,685,557 3,770,325 3,855,697 3,941,820											
OPERATING EXPENSES											
Management											
Management Fee	3.5%	118,738	122,822	126,963	131,161	135,417	139,732	144,107	148,542	153,037	157,592
Asset Management Fee	3.5%	138,636	143,888	149,191	154,546	159,954	165,416	170,933	176,506	182,135	187,819
Sub-total Management Expenses											
Salaries/Benefits											
Office Salaries	3.5%	88,760	92,002	95,293	98,634	102,025	105,466	108,957	112,498	116,089	119,730
Manager's Salary	3.5%	74,800	77,418	80,093	82,825	85,614	88,460	91,364	94,326	97,346	100,424
Health Insurance and Other Benefits	3.5%	82,255	85,132	88,111	91,193	94,378	97,666	101,057	104,552	108,151	111,854
Other Salaries/Benefits	3.5%	147,282	152,414	157,749	163,287	168,930	174,678	180,531	186,489	192,552	198,720
Administrative Rent-Free Unit	3.5%	-	-	-	-	-	-	-	-	-	-
Sub-total Salaries/Benefits											
Administration											
Advertising and Marketing	3.5%	2,120	2,194	2,271	2,350	2,431	2,514	2,600	2,688	2,778	2,869
Office Supplies	3.5%	39,270	40,615	42,000	43,427	44,896	46,408	47,963	49,561	51,202	52,887
Office Rent	3.5%	-	-	-	-	-	-	-	-	-	-
Legal Expense - Property	3.5%	12,000	12,420	12,855	13,305	13,770	14,250	14,745	15,255	15,780	16,320
Audit Expense	3.5%	11,200	11,562	11,928	12,298	12,672	13,050	13,432	13,818	14,208	14,601
Bookkeeping/Accounting Services	3.5%	17,328	17,924	18,562	19,212	19,864	20,560	21,301	22,048	22,811	23,580
Bad Debt	3.5%	-	-	-	-	-	-	-	-	-	-
Miscellaneous	3.5%	2,860	2,981	3,105	3,232	3,362	3,495	3,631	3,769	3,910	4,054
Sub-total Administration Expenses											
Utilities											
Electricity	3.5%	62,261	64,430	66,683	69,019	71,438	73,940	76,526	79,197	81,954	84,797
Water	3.5%	87,400	90,456	93,653	96,902	100,264	103,740	107,331	111,037	114,860	118,799
Gas	3.5%	63,100	65,265	67,487	69,766	72,102	74,495	76,946	79,455	82,022	84,647
Sewer	3.5%	134,218	138,914	143,778	148,708	153,704	158,766	163,898	169,099	174,369	179,708
Sub-total Utilities											
Taxes and Licenses											
Real Estate Taxes	3.5%	3,800	3,933	4,071	4,213	4,361	4,513	4,670	4,832	5,000	5,172
Payroll Taxes	3.5%	86,098	88,401	90,795	93,279	95,853	98,517	101,271	104,115	107,049	110,073
Miscellaneous Taxes, Licenses and Permits	3.5%	1,500	1,553	1,607	1,663	1,721	1,782	1,844	1,909	1,975	2,044
Sub-total Taxes and Licenses											
Insurance											
Property and Liability Insurance	3.5%	158,540	162,019	165,600	169,283	173,068	176,955	180,946	185,042	189,243	193,550
Property Bond Insurance	3.5%	-	-	-	-	-	-	-	-	-	-
Worker's Compensation	3.5%	22,368	23,182	23,991	24,805	25,624	26,448	27,277	28,111	28,950	29,794
Director's & Officer's Liability Insurance	3.5%	-	-	-	-	-	-	-	-	-	-
Sub-total Insurance											
Maintenance & Repair											
Payroll	3.5%	173,232	179,295	185,570	191,957	198,458	205,074	211,805	218,651	225,612	232,689
Supplies	3.5%	22,300	23,081	23,866	24,654	25,446	26,242	27,042	27,846	28,654	29,466
Contractors	3.5%	95,998	99,831	103,693	107,584	111,504	115,453	119,431	123,438	127,474	131,539
Garbage and Trash Removal	3.5%	88,818	91,718	94,688	97,728	100,838	103,918	107,068	110,288	113,568	116,908
Security Patrol/Contract	3.5%	8,200	8,521	8,848	9,180	9,517	9,859	10,206	10,558	10,915	11,276
HVAC Repairs and Maintenance	3.5%	8,600	8,908	9,224	9,546	9,873	10,205	10,542	10,884	11,231	11,583
Vehicle and Maintenance Equipment Operation and Repairs	3.5%	1,220	1,262	1,305	1,349	1,393	1,438	1,483	1,528	1,573	1,619
Miscellaneous Operating and Maintenance Expenses	3.5%	11,200	11,562	11,928	12,298	12,672	13,050	13,432	13,818	14,208	14,601
Sub-total Maintenance & Repair Expenses											
Supportive Services	3.5%	158,701	164,256	170,004	175,956	182,113	188,485	195,067	201,860	208,874	216,009
Commercial Expenses	3.5%	-	-	-	-	-	-	-	-	-	-
TOTAL OPERATING EXPENSES											
1,780,883 1,843,067 1,907,512 1,974,275 2,043,378 2,114,893 2,189,918 2,268,526 2,349,819 2,433,888											
RESERVES/ROUND LEASE BASE RENT/BOND FEES											
Ground Lease Base Rent		15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Bond Monitoring Fee		-	-	-	-	-	-	-	-	-	-
Replacement Reserve Deposit		60,800	60,800	60,800	60,800	60,800	60,800	60,800	60,800	60,800	60,800
Operating Reserve Deposit		-	-	-	-	-	-	-	-	-	-
Other Required Reserve 1 Deposit		-	-	-	-	-	-	-	-	-	-
Other Required Reserve 2 Deposit		-	-	-	-	-	-	-	-	-	-
Required Reserve Deposits, Commercial		-	-	-	-	-	-	-	-	-	-
Sub-total Reserves/Ground Lease Base Rent/Bond Fees											
75,800 75,800 75,800 75,800 75,800 75,800 75,800 75,800 75,800 75,800											
TOTAL OPERATING INCOME (w/ Reserves/GL Base Rent/Bond Fees)											
1,856,483 1,918,807 1,983,312 2,059,579 2,138,193 2,219,188 2,303,714 2,392,518 2,485,611 2,583,688											
NET OPERATING INCOME (INCOME minus OP EXPENSES)											
1,335,844 1,333,431 1,370,565 1,387,483 1,404,157 1,420,556 1,436,830 1,452,436 1,467,790 1,482,760											
DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)											
Hard Debt - First Lender		420,185	420,185	420,185	420,185	420,185	420,185	420,185	420,185	420,185	420,185
Hard Debt - Second Lender (HCD Program 5.42% p.m. or other 2nd Lender)		739,443	739,443	739,443	739,443	739,443	739,443	739,443	739,443	739,443	739,443
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)		-	-	-	-	-	-	-	-	-	-
Hard Debt - Fourth Lender		-	-	-	-	-	-	-	-	-	-
Commercial Hard Debt Service		-	-	-	-	-	-	-	-	-	-
TOTAL HARD DEBT SERVICE											
1,159,628 1,159,628 1,159,628 1,159,628 1,159,628 1,159,628 1,159,628 1,159,628 1,159,628 1,159,628											
CASH FLOW (NOI minus DEBT SERVICE)											
176,216 153,809 210,937 227,875 244,549 260,948 277,847 295,290 313,163 331,572											
USES OF CASH FLOW BELOW (This row also shows DSCR)											
DSCR: 1.18 1.17 1.18 1.2 1.21 1.23 1.24 1.25 1.27 1.28											
Uses that PRECEDE MOHCD DEBT SERVICE in WATERFALL											
Reserve-the-line Asset Mgt fee (uncommon in new projects, see policy)	3.5%	23,420	24,123	24,798	25,444	26,071	26,681	27,275	27,854	28,418	28,967
Partnership Management Fee (see policy for limits)	3.0%	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)		-	-	-	-	-	-	-	-	-	-
Other Payments		-	-	-	-	-	-	-	-	-	-
Non-amortizing Loan Print - Lender 1		-	-	-	-	-	-	-	-	-	-
Non-amortizing Loan Print - Lender 2		-	-	-	-	-	-	-	-	-	-
Deferred Developer Fee (Enter amt <= Max Fee from row 131)		73,958	62,350	60,818	60,798	60,785	60,771	60,757	60,742	60,727	60,712
TOTAL PAYMENTS PRECEDING MOHCD											
102,378 111,472 120,242 128,110 137,126 146,323 155,688 165,221 174,924 184,700											
DEBT RECEIPTS (CASH FLOW minus payments PRECEDING MOHCD)											
Does Project have a MOHCD Residual Receipt Obligation?	Yes	Year 15 is year indicated below									
Will Project Defeat Developer Fee?	Yes	2025									
1st Residual Receipts Split - Lender/Deferred Developer Fee	50%/50%										
2nd Residual Receipts Split - Lender/Owner	67%/33%										
Max Deferred Developer Fee	Year 15 (Use for data entry above. Do not link)	73,958	62,350	60,818	60,798	60,785	60,771	60,757	60,742	60,727	60,712
MOHCD Residual Receipts Debt Service	Def't Loans	73,958	156,308	248,924	343,990	452,418	567,502	686,437	819,308	966,422	1,101,205
MOHCD Residual Receipts Amount Due											
100.00%	Allocation per pro-rata share of all self-paid loans, and MOHCD residual receipts policy	73,958	82,350	90,818	99,788	109,185	119,115	129,314	139,812	150,613	161,724
Proposed MOHCD Residual Receipts Amount to Loan Repayment		73,958	82,350	90,818	99,788	109,185	119,115	129,314	139,812	150,613	161,724
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease	Pro-rated Total MOHCD Amt Due Less Loan Repayment	-	-	-	-	-	-	-	-	-	

Mission Bay Block 6 West

Total # Units: 152

			Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	
			2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	
INCOME			% annual increase (related to annual inc expenses)	Total	Total	Total	Total	Total	Total	Total	Total	Total	
Residential - Tenant Rents	2.5%		2,448,192	2,509,387	2,572,132	2,636,435	2,702,349	2,769,860	2,839,153	2,910,131	2,982,695	3,057,467	
Residential - Tenant Assistance Payments (Non-LoP)	2.5%	Section B PEV	1,778,375	1,822,835	1,868,449	1,915,116	1,962,964	2,012,079	2,062,525	2,113,329	2,165,778	2,220,347	
Commercial Spots	2.5%		13,265	13,285	13,285	13,285	13,285	13,285	13,285	13,285	13,285	13,285	
Residential Parking	2.5%		-	-	-	-	-	-	-	-	-	-	
Manufacturing Rent Income	2.5%		-	-	-	-	-	-	-	-	-	-	
Supervisory Services Income	2.5%		-	-	-	-	-	-	-	-	-	-	
Interest Income - Project Operations	2.5%		-	-	-	-	-	-	-	-	-	-	
Laundry and Vending	2.5%		50,256	51,513	52,800	54,120	55,473	56,860	58,282	59,739	61,232	62,763	
Tenant Charges	2.5%		12,185	12,189	12,193	12,196	12,113	12,458	12,627	12,798	12,970	13,147	
Manufacturing Rental Income	2.5%		-	-	-	-	-	-	-	-	-	-	
Other Commercial Income	2.5%		-	-	-	-	-	-	-	-	-	-	
Withdrawal from Capitalized Reserve (disposal to operating account)	n/a	Use Post Reserve Section below as applicable	-	-	-	-	-	-	-	-	-	-	
Gross Potential Income			4,362,884	4,415,135	4,520,596	4,632,728	4,748,211	4,866,584	4,987,817	5,112,263	5,239,797	5,370,419	
Vacancy Loss - Residential - Tenant Rents	n/a	Enter formulas manually per minutes with policy annual increasing vacancy loss	(122,415)	(125,473)	(128,607)	(131,832)	(135,117)	(138,460)	(141,856)	(145,307)	(148,744)	(152,273)	
Vacancy Loss - Residential - Tenant Assistance Payments	n/a		(88,919)	(91,142)	(93,424)	(95,759)	(98,140)	(100,569)	(103,039)	(105,550)	(108,103)	(110,697)	
Vacancy Loss - Commercial	n/a		(8,243)	(8,243)	(8,243)	(8,243)	(8,243)	(8,243)	(8,243)	(8,243)	(8,243)	(8,243)	
EFFECTIVE GROSS INCOME			4,084,923	4,186,880	4,291,386	4,396,503	4,500,302	4,602,843	4,706,198	4,804,437	4,907,632	5,009,897	
OPERATING EXPENSES													
Management													
Management Fee	3.5%	1st Year to be set according to HUD schedule	184,658	197,431	178,399	182,872	188,080	195,574	202,418	209,503	216,820	224,425	
Asset Management Fee	3.5%	per MOHCD policy	30,692	31,873	33,092	34,351	35,649	36,980	37,474	38,303	39,470	42,103	
Sub-total Management Expenses			195,350	201,404	209,489	216,821	224,469	232,364	240,383	248,807	257,815	266,528	
Salaries/Benefits													
Office Salaries	3.5%		128,615	131,047	133,634	140,381	150,276	159,843	169,160	178,260	188,128	197,727	
Manager's Salary	3.5%		108,513	109,209	111,228	116,884	121,078	125,318	129,702	134,242	138,940	143,803	
Health Insurance and Other Benefits	3.5%		118,299	120,087	124,200	128,645	133,142	137,802	142,626	147,617	152,784	158,133	
Other Salaries/Benefits	3.5%		207,726	214,998	222,500	230,308	238,389	246,712	255,247	264,284	273,814	283,588	
Administrative Rent-Free Unit	3.5%		-	-	-	-	-	-	-	-	-	-	
Sub-total Salaries/Benefits			557,879	577,333	593,861	616,213	637,894	660,215	683,317	707,233	731,986	757,879	
Administration													
Advertising and Marketing	3.5%		2,890	3,266	3,230	3,318	3,432	3,582	3,678	3,826	3,938	4,078	
Office Expenses	3.5%		50,175	51,921	53,749	55,650	57,527	59,382	61,218	63,037	64,841	66,633	
Office Rent	3.5%		-	-	-	-	-	-	-	-	-	-	
Legal Expense - Property	3.5%		18,927	17,530	18,133	18,787	19,474	20,194	20,938	21,708	22,501	23,320	
Legal Expense - General	3.5%		19,779	19,322	18,824	17,918	18,129	18,784	19,421	20,109	21,032	21,818	
Bookkeeping/Accounting Services	3.5%		24,443	25,268	26,184	27,100	28,048	29,020	30,047	31,088	32,187	33,313	
Rent Debt	3.5%		4,082	4,205	4,352	4,504	4,662	4,826	4,994	5,168	5,350	5,537	
Manufacturing Rent	3.5%		114,397	116,401	122,543	126,834	131,279	135,867	140,623	145,540	150,639	155,911	
Sub-total Administration Expenses			314,977	324,853	338,617	352,113	365,441	378,641	391,722	404,703	417,614	430,469	
Utilities													
Electricity	3.5%		87,811	90,885	94,066	97,308	100,769	104,362	107,442	111,720	115,631	119,678	
Water	3.5%		124,281	127,821	132,007	136,860	141,474	146,425	151,560	156,885	162,345	168,077	
Gas	3.5%		68,885	69,878	70,927	72,031	73,189	74,374	75,582	76,813	78,067	79,344	
Sewer	3.5%		18,235	18,651	19,014	19,408	19,839	20,298	20,786	21,304	21,851	22,426	
Sub-total Utilities			288,292	300,415	306,014	312,466	319,472	326,913	334,760	342,919	351,403	359,853	
Taxes and Licenses													
Real Estate Taxes	3.5%		5,300	5,548	5,742	5,943	6,151	6,366	6,586	6,820	7,058	7,306	
Payroll Taxes	3.5%		83,224	86,488	89,864	93,359	96,978	100,720	104,594	108,607	112,758	117,054	
Manufacturing Taxes, Licenses and Permits	3.5%		3,118	3,186	3,267	3,349	3,435	3,513	3,595	3,682	3,768	3,864	
Sub-total Taxes and Licenses			100,700	104,224	107,872	111,648	115,550	119,600	123,766	128,118	132,680	137,344	
Insurance													
Property and Liability Insurance	3.5%		220,815	228,544	236,543	244,832	253,390	262,219	271,438	280,939	290,771	300,848	
Leasehold Improvements	3.5%		-	-	-	-	-	-	-	-	-	-	
Workers Compensation	3.5%		31,562	32,867	33,842	35,028	36,262	37,521	38,804	40,194	41,600	43,056	
Directors & Officers' Liability Insurance	3.5%		-	-	-	-	-	-	-	-	-	-	
Sub-total Insurance			252,407	261,241	270,385	279,868	289,643	299,780	310,273	321,132	332,372	344,005	
Maintenance & Repair													
Payroll	3.5%		244,301	252,613	261,785	270,927	280,419	290,204	299,385	309,860	319,777	330,238	
Supplies	3.5%		31,458	32,657	33,887	34,878	35,927	37,060	38,268	40,021	41,422	42,872	
Contractors	3.5%		134,434	139,129	143,889	148,729	154,250	159,864	165,482	171,098	177,011	183,275	
Garbage and Trash Removal	3.5%		125,002	129,377	133,805	138,562	143,442	148,443	153,589	158,937	164,603	170,564	
Security Guard/Contract	3.5%		8,887	9,198	9,520	9,853	10,198	10,556	10,924	11,308	11,702	12,114	
HVAC Repairs and Maintenance	3.5%		13,542	14,018	14,508	15,014	15,536	16,083	16,649	17,239	17,832	18,458	
Vehicle and Maintenance Equipment Operation and Repairs	3.5%		1,893	1,792	1,813	1,877	1,942	2,010	2,081	2,154	2,229	2,304	
Manufacturing Operation and Maintenance Expenses	3.5%		15,769	16,312	16,824	17,318	17,839	18,384	18,941	19,510	20,094	21,532	
Sub-total Maintenance & Repair Expenses			575,163	593,294	611,129	629,874	649,013	668,511	707,822	731,788	757,340	783,888	
Supportive Services													
Commercial Expenses	3.5%		223,882	231,899	239,880	248,201	256,886	265,980	275,185	284,817	294,783	305,103	
			4,570	4,730	4,896	5,067	5,243	5,428	5,618	5,815	6,018	6,229	
TOTAL OPERATING EXPENSES			2,311,389	2,399,743	2,490,734	2,584,910	2,682,382	2,783,265	2,887,679	3,195,748	3,307,599	3,423,365	
Reserves/Ground Lease Base Rent/Bond Fees			see info										
Ground Lease Base Rent			15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	
Bond Maintenance Fee			-	-	-	-	-	-	-	-	-	-	
Imprecement Reserve Deposit			60,800	60,800	60,800	60,800	60,800	60,800	60,800	60,800	60,800	60,800	
Operating Reserve Deposit			-	-	-	-	-	-	-	-	-	-	
Other Required Reserve 1 Deposit			-	-	-	-	-	-	-	-	-	-	
Other Required Reserve 2 Deposit			-	-	-	-	-	-	-	-	-	-	
Residual Reserve Deposits, Commercial			-	-	-	-	-	-	-	-	-	-	
Sub-total Reserves/Ground Lease Base Rent/Bond Fees			73,800	73,800	73,800	73,800	73,800	73,800	73,800	73,800	73,800	73,800	
TOTAL OPERATING EXPENSES (w/ Reserves/Gl, Base Rent/Bond Fees)			2,387,629	2,473,543	2,564,534	2,660,710	2,756,182	2,857,065	3,163,478	3,271,548	3,381,399	3,498,165	
PUPA (w/ Reserves/Gl, Base Rent/Bond Fees)			see info										
NET OPERATING INCOME (INCOME minus OP EXPENSES)			1,487,284	1,511,337	1,534,852	1,537,788	1,556,120	1,561,778	1,572,719	1,585,889	1,593,232	1,600,891	
DEBT SERVICE/MUST PAY PAYMENTS ("hard debt" amortized loans)													
Hard Debt - First Lender			420,165	420,165	420,165	420,165	420,165	420,165	420,165	420,165	420,165	420,165	
Hard Debt - Second Lender (HCD Program 0.42% pmt, or other 2nd Lender)			738,443	738,443	738,443	738,443	738,443	738,443	738,443	738,443	738,443	738,443	
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)			-	-	-	-	-	-	-	-	-	-	
Hard Debt - Fourth Lender			-	-	-	-	-	-	-	-	-	-	
Commercial Hard Debt Service			-	-	-	-	-	-	-	-	-	-	
TOTAL HARD DEBT SERVICE			1,158,608	1,158,608	1,158,608	1,158,608	1,158,608	1,158,608	1,158,608	1,158,608	1,158,608	1,158,608	
CASH FLOW (NOI minus DEBT SERVICE)			337,886	351,729	385,244	378,177	390,812	402,170	411,581	423,281	432,624	441,885	
USES OF CASH FLOW BELOW (This row also shows DSCR)			DSCR: 1.29 1.3 1.31 1.32 1.34 1.35 1.36 1.37 1.38										
USES THAT PRECEDE MOHCD SERVICE IN WATERFALL			see info										
Below-the-line Asset Mat fee (uncommon in new projects, see policy)	3.5%	per MOHCD policy	30,128	30,870	31,681	32,442	33,223	-	-	-	-	-	
Interim Management Fee (see policy for limits)	3.0%	per MOHCD policy	5,000	5,000	5,000	5,000	5,000	-	-	-	-	-	
Investor Service Fee (aka "1.5 Asset Mgt Fee"), (see policy for limits)	3.0%	per MOHCD policy no annual increase	-	-	-	-	-	-	-	-	-	-	
Other Payments			-	-	-	-	-	-	-	-	-	-	
Non-amortizing Loan Pmt - Lender 1		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-	
Non-amortizing Loan Pmt - Lender 2		Enter comments re: annual increase, etc.	-	-	-	-	-	-	-	-	-	-	
Deferred Developer Fee (Enter amt <= Max Fee from preceding)		Enter comments re: annual increase, etc.	78,995	-	-	-	-	-	-	-	-	-	
TOTAL PAYMENTS PRECEDING MOHCD			(114,172)	(31,678)	(36,681)	(27,442)	(38,263)	-	-	-	-	-	
RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)			223,564	319,850	328,563	345,743	332,548	402,170	411,111	423,281	432,624	441,885	
Does Project have a MOHCD Residual Receipt Obligation?			Yes	Year 13 is year indicated below									
Will Project Develop Developer Fee?			Yes	Year 2035									
Proposed MOHCD Residual Receipt Spft - Lender/Deferred Developer Fee			60% / 33%	60% / 33%									
2nd Residual Receipt Spft - Lender/Owner			Max Deferred Developer Fee Amt (Use for data entry above. Do not link)	78,995									
MOHCD Residual Receipts DEBT SERVICE			Debt Loans	1,160,000	1,160,000	1,160,000	1,160,000	1,160,000	-	-	-	-	
MOHCD Residual Receipts Amount Due			100.00%	Allocation per pro rata share of all debt debt	223,565	215,567	219,092	227,183	234,836	268,113	275,407	283,187	288,418
Proposed MOHCD Residual Receipts Amount to Loan Repayment			100.00%	Allocation per pro rata share of all debt debt	223,565	215,567	219,092	227,183	234,836	268,113	275,407	283,187	288,418
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease			0.00%	Allocation per pro rata share of all debt debt	-	-	-	-	-	-	-	-	-
NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE			0.00%	No HCD Financing	-	-	-	-	-	-	-	-	-
HCD Residual Receipts Amount Due			0.00%	-	-	-	-	-	-	-	-	-	-
Lender 4 Residual Receipts Due			0.00%	-	-	-	-	-	-	-	-	-	-
Lender 5 Residual Receipts Due			0.00%	-	-	-	-	-	-	-	-	-	-



VIEW OF CHINA BASIN WING & STAIR TOWER



VIEW OF BLOCK 6W COURTYARD ENTRY ALONG MISSION BAY BLVD. ①

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CONSULTANTS:

MISSION BAY BLOCK 6W

PERSPECTIVE - COURTYARD ENTRY

mercyHOUSING

PAUL F. T. TANGART

A0.6B



VIEW OF MISSION BAY BOULEVARD WING, ALONG MERRIMAC STREET ②



VIEW OF MEWS WING ALONG MISSION BAY BOULEVARD ①

2/7/2018 4:13:37 PM

CONSULTANTS:

PERSPECTIVE VIEW - MEWS WING

MISSION BAY BLOCK 6W

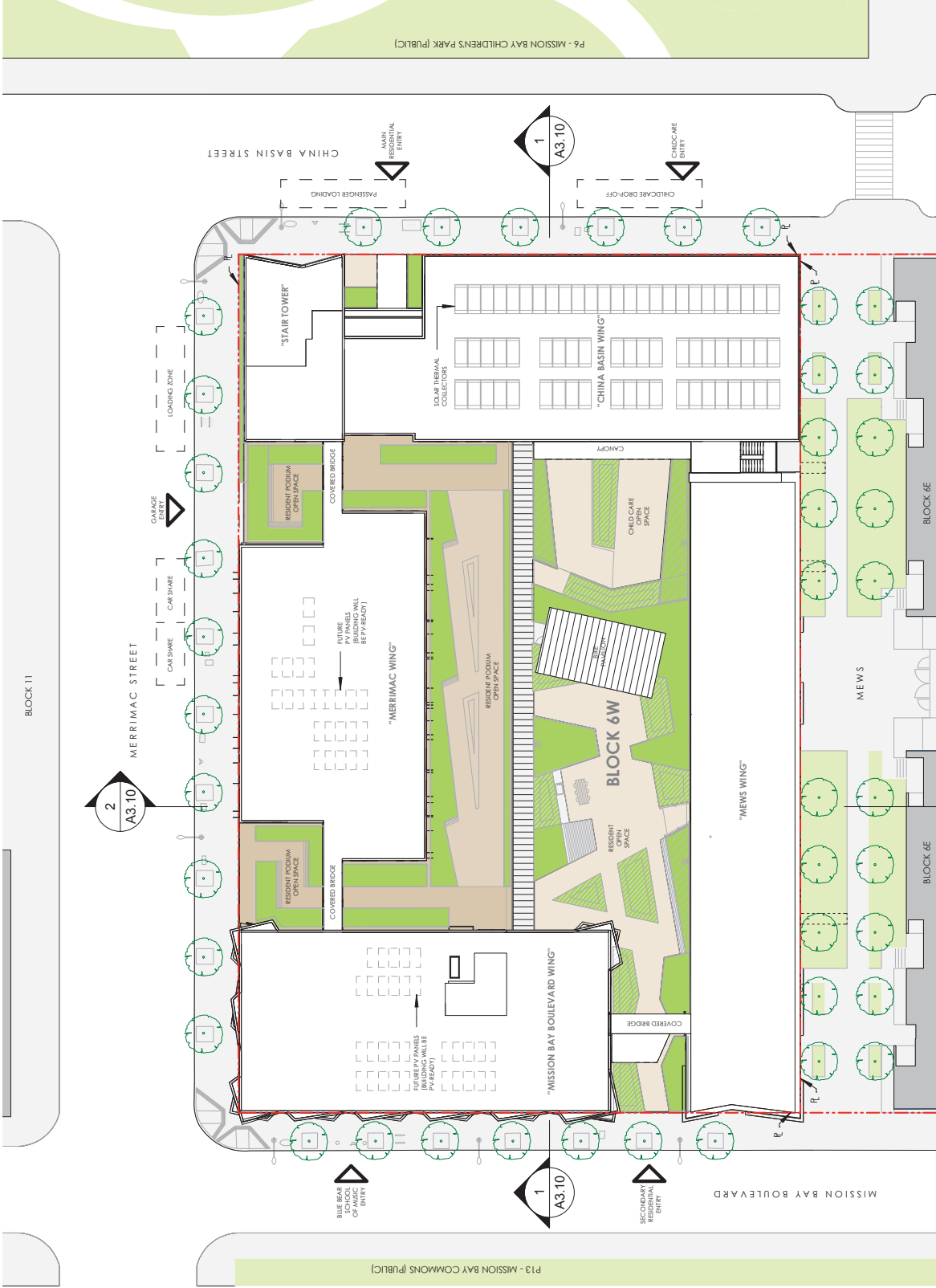
mercy housing

PAULFELT TAGGART

A0.6D

LEGEND

----- PROPERTY LINE

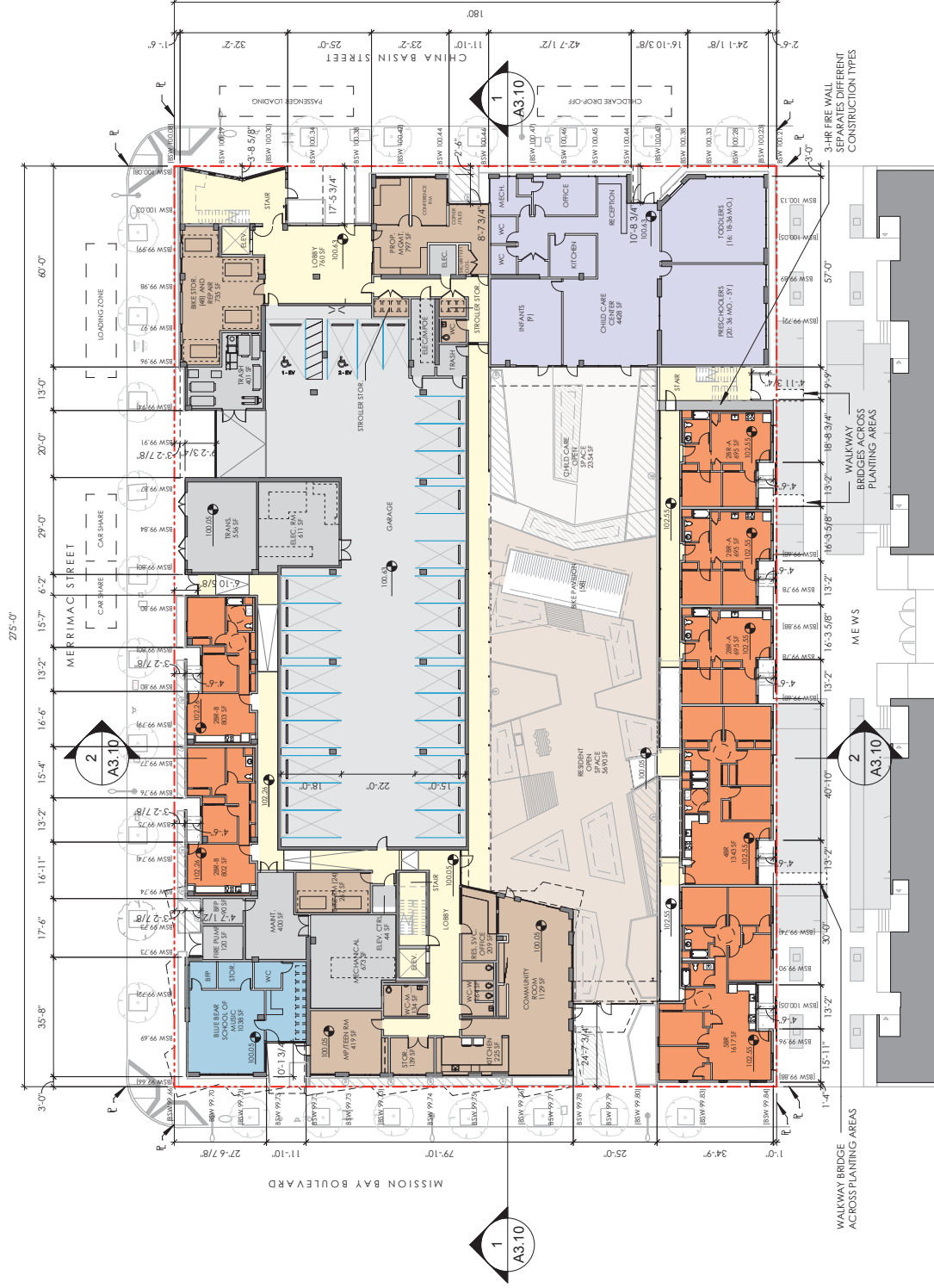
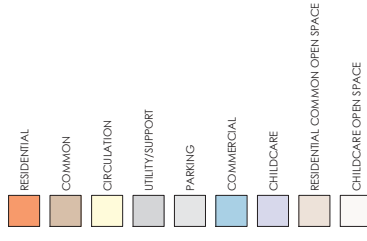


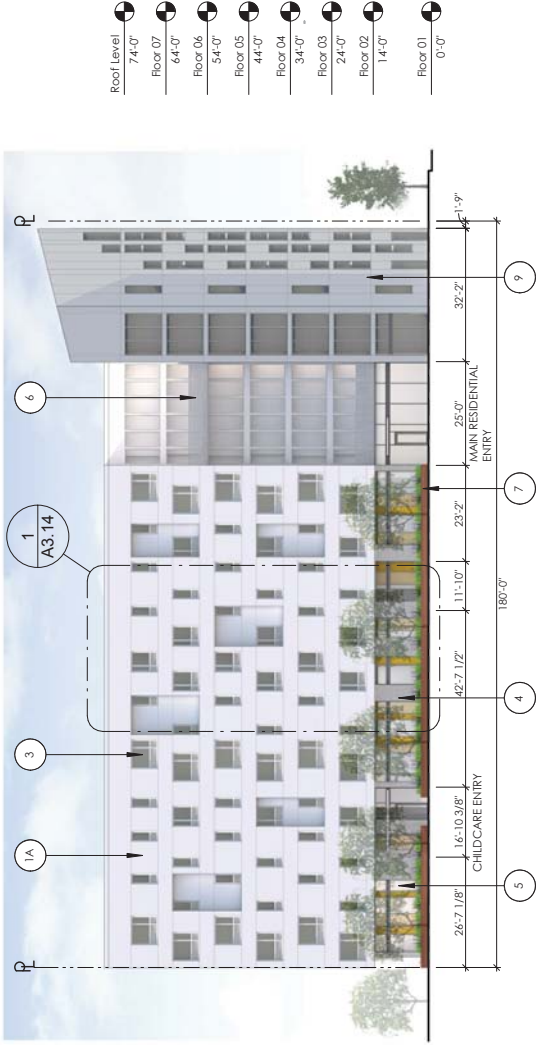
SITE PLAN - CONTEXT



LEGEND

- - - - - PROPERTY LINE
 [BSW 100] BACK OF SIDEWALK ELEVATION,
 PER CIVIL SURVEY
 [BSW 100] BACK OF SIDEWALK ELEVATION,
 FROM MISSION BAY BLOCK 6 EAST
 DESIGN DRAWINGS
 (MEWS TO BE SURVEYED UPON
 COMPLETION OF CONSTRUCTION)
 BSW 100 BACK OF SIDEWALK ELEVATION,
 INFERRED FROM CIVIL SURVEY OR
 MISSION BAY BLOCK 6 EAST
 DESIGN DRAWINGS





ELEVATION - CHINA BASIN STREET
1" = 30'-0"

MATERIAL:	1	3	4	5	6	7	9
BASIS OF DESIGN:	CEMENT PLASTER	WINDOW ALL-WEATHER ALUM. NAUFN	BOARDFORM CONCRETE	STOREFRONT KAWNEER	GUARDRAIL BOX MODERN	PLANTER SEE LANDSCAPE DRAWINGS	METAL CLADDING MORIN CONCEALED FASTENER
IMAGE:							
FINISH/COLOR:	BM SUPER WHITE OC-1 52 1A	CLEAR ANODIZED	MILLION - CLEAR ANODIZED GLAZING 1 - CLEAR GLAZING 2 - TRANSLUCENT GLAZING 3 - YELLOW TRANSLUCENT GLAZING 4 - YELLOW OPAQUE		CLEAR ANODIZED	CORTEN STEEL	BRIGHT SILVER (METALLIC)



- Floor 07 64'-0"
- Floor 06 54'-0"
- Floor 05 44'-0"
- Floor 04 34'-0"
- Floor 03 24'-0"
- Floor 02 14'-0"
- Floor 01 0'-0"

ELEVATION - MISSION BAY BOULEVARD 1

1" = 30'-0"

MATERIAL:
BASIS OF DESIGN:

CEMENT PLASTER

IMAGE:



FINISH/COLOR:

BM SUPER WHITE OC-152 (1A)

CEMENTITIOUS PANEL
JAMES HARDIE FIBER
CEMENT PANEL



BM CHELSEA GRAY HC-168 (2A)
SW REPOSE GRAY 7015 (2B)
BM SUNSHINE 2021-30 (2C)

WINDOW

ALL-WEATHER ALUM. NALFIN



CLEAR ANODIZED

BOARDFORM CONCRETE



STOREFRONT

KAWNEER



MULLION - CLEAR ANODIZED
GLAZING 1 - CLEAR
GLAZING 2 - TRANSLUCENT
GLAZING 3 - YELLOW TRANSLUCENT
GLAZING 4 - YELLOW OPAQUE

GUARDRAIL

BOX MODERN



CLEAR ANODIZED

PLANTER

SEE LANDSCAPE DRAWINGS



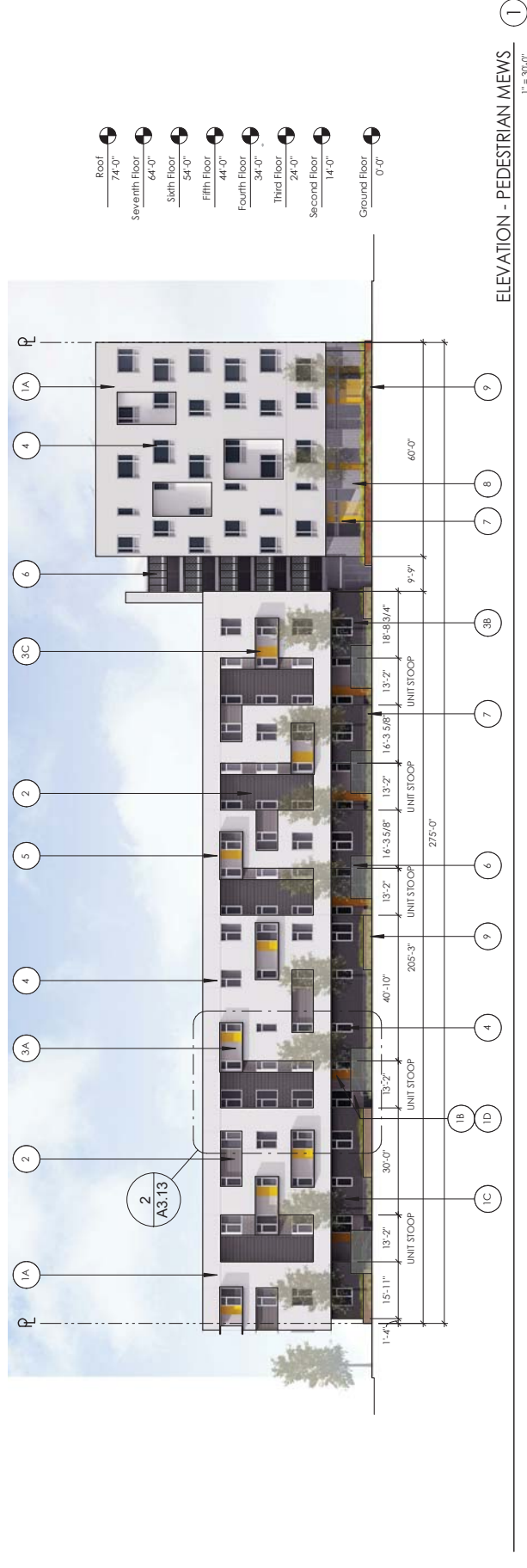
CORTEN STEEL

SHADOW BOX

GALVANIZED PAINTED METAL



SW URBANE BRONZE 7048



MATERIAL:	CEMENT PLASTER	CEMENTITIOUS PANEL	CEMENTITIOUS PANEL	WINDOW	SHADOW BOX	GUARDRAIL	STOREFRONT	BOARDFORM CONCRETE	PLANTER
BASE OF DESIGN:		JAMES HARDIE FIBER CEMENT PANELS/JAMES HARDIE FIBER CEMENT	ALL-WEATHER ALUM. NAILFIN	GALVANIZED PAINTED METAL	BOX MODERN	KAWNEER	SEE LANDSCAPE DRAWINGS		

IMAGE:



FINISH/COLOR:



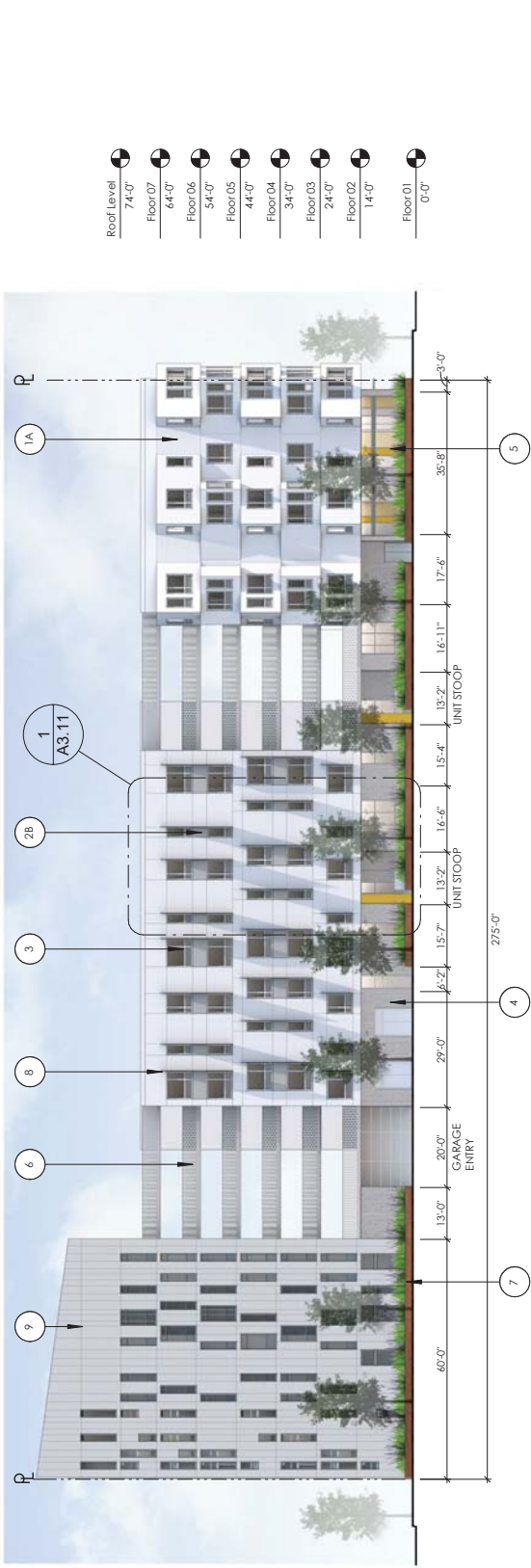
MULLION - CLEAR ANODIZED
GLAZING 1 - CLEAR
GLAZING 2 - TRANSLUCENT
GLAZING 3 - YELLOW TRANSLUCENT
GLAZING 4 - YELLOW OPAQUE

CLEAR ANODIZED

SW URBANE BRONZE 7048

CLEAR ANODIZED

CORTEN STEEL



ELEVATION - MERRIMAC STREET ①
1"=30'-0"

MATERIAL:
BASIS OF DESIGN:

METAL CLADDING
MORIN CONCEALED FASTENER

SHADOW BOX
GALVANIZED PAINTED METAL

PLANTER
SEE LANDSCAPE DRAWINGS

GUARDRAIL
BOX MODERN

STOREFRONT
KAWNEER

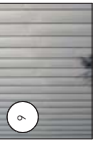
BOARDFORM CONCRETE

WINDOW
ALL-WEATHER ALUM. NAILFIN

CEMENTITIOUS PANEL
JAMES HARDIE FIBER
CEMENT PANEL

CEMENT PLASTER

IMAGE:



FINISH/COLOR:

BM SUPER WHITE OC-132 ①A

BM CHELSEA GRAY HC-168 2A

SW REPOSE GRAY 701 5 2B

BM SUNSHINE 2021-30 2C

CLEAR ANODIZED

CLEAR ANODIZED

CORTEN STEEL

BRIGHT SILVER (METALLIC)

SW URBANE BRONZE 704-8

MULLION - CLEAR ANODIZED
GLAZING 1 - CLEAR
GLAZING 2 - TRANSLUCENT
GLAZING 3 - YELLOW TRANSLUCENT
GLAZING 4 - YELLOW OPAQUE

Attachment 5: Mission Bay South Block 6W – Transit and Amenities Maps



Attachment 7: Professional Services Firm Biographies

6W SBE Bios

1. Paulett Taggart Architects (PTA)

Paulett Taggart founded PTA in 1986 with the premise that excellence in design enhances the public realm and enriches the lives of a buildings users. The firm has a long history of working on affordable multi-family housing developments, civic buildings, and non-profit spaces. PTA is a San Francisco Small Business Enterprise (SBE), Local Business Enterprise (LBE), and Woman owned Business Enterprise (WBE).

2. Studio Vara

Incorporated in 2013, Studio VARA is a San Francisco based design firm. Accordingly, the firm looks to the city's diverse landscape as both a foundation and a muse for its designs. Studio VARA is 50% minority-woman owned and Local Business Enterprise (LBE) certified. Previous projects include 626 Mission Bay North Blvd.

3. Structus (35% JV with KPFF)

STRUCTUS is a consulting engineering firm specializing in structural engineering and design of buildings and special structures. Since its establishment in 1987, the firm has successfully completed an array of major projects including Buildings (civic, educational, healthcare, housing, and justice facilities), bridge/transportation projects, water/wastewater projects, pier and waterfront projects, and seismic retrofit/historic preservation projects. STRUCTUS is minority owned and certified as an LBE with the City and County of San Francisco, and as a DBE with the State of California. Recent OCII projects include Transbay Block 5, Transbay Block 8, Transbay Block 9, and Candlestick Redevelopment CP-02.

4. Regent Construction Management

Incorporated in San Francisco in 2007, Regent Construction Management supports projects within the Engineering, Accounting, Research, and Management Services sector. Regent Construction Management is minority-owned and LBE certified.

5. Divis Consulting (Geotech associate)

Divis Consulting was formed in San Francisco in 2004 and incorporated in 2007 to provide project management, engineering, construction observation, and subsurface investigation services as both a subconsultant to geotechnical engineering firms and as a prime consultant to individuals and private/public entities. Divis Consulting's experience includes multi-family housing, mid to high-rise commercial, infrastructure, public facilities and medical facilities. San Francisco projects include Mission Bay Block 1 and Transbay Block 8.

6. GLS Landscape

GLS Landscape / Architecture was established in San Francisco in 1993, specializing in the integration of landscape with architecture, urban design and infrastructure. With 12 employees, located in the heart of the Mission District, GLS holds a certificate with the City as an SBE. Past projects with OCII include Hunters View Redevelopment Phases 1 and 2, Broadway-Sansome Affordable Housing, Renee Cazenave Apartments at Transbay Block 11A, Transbay Block 9, Mission Bay Block 7, and 1110-1190 4th Street (in Mission Bay).