



118-0172017-002

Agenda Item **No. 5(b)**
Meeting of July 18, 2017

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Nadia Sesay, Interim Executive Director

SUBJECT: Authorizing an Exclusive Negotiations Agreement and a Predevelopment Loan Agreement in an amount not to exceed \$3,495,000, with Mercy Housing California 78, L.P., a California limited partnership, for the development of approximately 140 affordable family rental housing units (including one manager's unit) for extremely low and low-income families and a childcare facility at Mission Bay 6W, providing notice that this approval is within the scope of the Mission Bay Redevelopment Project approved under the Mission Bay Final Subsequent Environmental Impact Report ("FSEIR"), a program EIR, and adopting environmental review findings pursuant to the California Environmental Quality Act; Mission Bay South Redevelopment Project Area

EXECUTIVE SUMMARY

Edwin M. Lee
MAYOR

Nadia Sesay
**INTERIM
EXECUTIVE DIRECTOR**

Marilyn Mondejar
CHAIR

Miguel Bustos
Leah Pimentel
Mara Rosales
Darshan Singh
COMMISSIONERS

On February 21, 2017, the Commission on Community Investment and Infrastructure ("Commission") passed Resolution No. 07-2017, which approved the selection of Mercy Housing California ("Developer") for the development of approximately 140 affordable family rental housing units (including one manager's unit) for extremely low and low-income families, including approximately 35 units set aside for households voluntarily relocating from HOPE SF public housing sites and a childcare facility at Mission Bay 6W (the "Site" or "MBS 6W") in the Mission Bay South Redevelopment Project Area. OCII staff issued a request for proposals ("RFP") for MBS 6W on August 23, 2016 that required a development program serving low-income households earning up to 60% Area Median Income ("AMI") as defined by the Mayor's Office of Housing and Community Development for low income families as well as a childcare facility space.

On June 2, 2017, the Citywide Affordable Housing Loan Committee considered and approved a loan request of \$3.495 million for predevelopment activities for MBS 6W. The Developer is now seeking to enter into an Exclusive Negotiations Agreement and Predevelopment Loan Agreement in order to commence predevelopment activities.

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Staff recommends authorizing an Exclusive Negotiations Agreement and a Predevelopment Loan Agreement, in an amount not to exceed \$3.495 million.

DISCUSSION

Affordable Housing Development in the Mission Bay and Project Area Update

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 four times to modify the development plan on several parcels.

The enforcement of the North and South OPA's as amended will result in 6,514 residential units, with 29% or approximately 1,916 units set aside as affordable*. The affordable units 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.

In Mission Bay North, with the recent completion of 360 Berry Street (N4P3 or Eviva), 698 inclusionary and OCII-sponsored units have been completed.

In Mission Bay South, 150 affordable units have been completed at 1180 4th Street project which houses 100 low income households and 50 formerly homeless families and 200 units have been completed at Block 7 West (588 Mission Bay Boulevard North); 868 affordable units remain to be completed, including OCII-sponsored development Block 6 East (626 Mission Bay Boulevard North), which is the neighboring block to MBS 6W.

Mission Bay Affordable Housing Development			
# of Affordable Units	Mission Bay North	Mission Bay South	Mission Bay North and South
BUILT	698	350	1,048
PLANNED	-	725	725
UNDER CONSTRUCTION	<u>0</u>	<u>143*</u>	<u>143*</u>
TOTAL	698	1,218	1,916

*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.

In total and as shown in the table above, 1,048 affordable units have been completed and 868 units (including the additional 110 allowable affordable units) remain to be completed in the Mission Bay Project Areas.

The Mission Bay Affordable Housing Policy ("Housing Policy"), Resolution 194-98 (September 17, 1998), establishes that OCII rental projects are affordable on average to households earning up to 60% of Area Median Income ("AMI"). As an example and based on 2017 figures, income for a family of four at 60% of AMI as published by the Mayor's Office of Housing and Community Development would be \$69,200 per year with a monthly rent restricted to no more than \$1,730 for a three-bedroom unit.

Mission Bay Block 6W Program

The MBS 6W planned program is outlined below:

Programming	MBS 6W
Unit Mix	35 1-BED 70 2- BED 35 3-BED 140 units total *(may change with addition of a maximum of five 4- and 5-bedroom units)
Population	Low and extremely low income families 35 units set aside for households voluntarily relocating from public housing sites
AMI Restrictions	30% TCAC – 60% MOHCD
Amenities	• Childcare facility on ground floor with subsidized spots • Community serving commercial space on ground floor • Large exterior courtyard • Large community room with full kitchen • On-site parking in covered podium garage

The project will be a 140-unit development for extremely low and low-income families; 35 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"). The Project will be comprised of 35 one-bedroom units, 70 two-bedroom units, 35 three-bedroom units and one (1) manager's unit. Contingent on design and costs, a maximum total of five large units (consisting of four- and five-bedrooms) may be added to the site's design in order to help meet the CRL unit size replacement obligation related to the Alice Griffith Public Housing Revitalization Project. The 104 units for extremely low and low income families will be restricted between 30% of the Area Median Income ("AMI") as set by the Tax Credit Allocation Committee ("TCAC") and 60% of the AMI as used by the Mayor's Office of Housing and Community Development ("MOHCD"). The 35 units set aside for households moving from

public housing will be restricted at 30% MOHCD AMI and will be supported with project based section 8 vouchers. If these vouchers cannot be obtained, these units will revert to a set aside for formerly homeless families which will be supported by the Local Operating Subsidy Program ("LOSP"). The Project will include a ground floor childcare center, 28 parking spaces (0.2:1 ratio) and 2 car share spaces, a large landscaped courtyard, a 1,000 square foot community-serving commercial space, large community room with a kitchen, children's play space, services offices, onsite laundry and bike parking. The residential courtyard will abut to the outdoor play area for the childcare space, creating a large outdoor area and the large community room will overlook the Commons park system across Mission Bay Boulevard North, visually connecting the MBS 6W community with a public open space amenity.

Concept Design

MBS 6W's building massing includes four wings along each of the blocks' frontages / urban edges. 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. A four story building with stacked flats and stoops lines the pedestrian mews that separates MBS 6W with Block 6E. The four different building nodes are adjoined through the central courtyard space.

The site will be served by a 28-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. The 0.2 ratio is in line with other Mission Bay 100% affordable developments, which range from 0 to 0.38 spaces per unit and seeks to balance parking availability and project financial feasibility.

The units will be built through three different building types (I, III and V) and exterior materials will be economical with premium materials used to highlight architectural elements.

Neighborhood Amenities, Site Parking and Transit Access

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 MBS 6W or reachable by a short bike ride or a few stops on the T Line, including a Safeway supermarket located at 4th and King Streets. The MBS 6W 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 4th Street between King and Townsend streets. In addition, the recently expanded Muni 55-16th street bus line passes directly southeast of the site at Mission Bay Boulevard South and 4th Street.

The current plan for parking at the site is 28 spaces plus two car share spaces, which represents a 0.20 per unit ratio. To increase parking would result in the loss of affordable housing units as well as childcare space and increased costs due to a larger podium size.

Green Building Features

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. Green roofs and 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.

Marketing and Leasing Preferences

All units will be financed with tax credits and will be restricted and affordable to families earning no more than 60% of the Area Median Income as defined by MOHCD. Occupancy priorities will be the following 1) Certificate of Preference Holders; 2) Ellis Act Housing Preference ("EAHP") certificate holders, which may be updated to the Displaced Tenant Housing Preference ("DTHP"), should the OCII Commission adopt that policy in the future 3) San Francisco residents or workers; and 4) members of the general public.

Predevelopment Loan

On June 2, 2017, the Citywide Affordable Housing Loan Committee approved a \$3,495,000 predevelopment loan request to commence predevelopment activities. This predevelopment loan will allow the Developer to work with the architecture team of Paulett Taggart Architects to develop the design through to construction drawings (to project entitlements), along with survey and engineering work, legal costs, due diligence studies, and developer fee. The predevelopment loan terms include a rate of 3% simple interest, and the predevelopment loan will convert to a permanent loan at construction loan closing, subject to future Commission approval. Additionally, the Developer will comply with OCII's Small Business Enterprise and Equal Opportunity policies and a maximum developer fee amount of \$500,000 will be available to the Developer during the predevelopment period.

A more thorough evaluation of the predevelopment funding request can be found in the attached Citywide Loan Committee Loan Evaluation (the "Loan Evaluation"; Attachment 2). In particular, the Loan Evaluation includes several loan conditions to assist the Developer in achieving its due diligence during the ENA period. The final predevelopment loan agreement includes the following terms and conditions:

1. Borrower will work with OCII's or MOHCD's Construction Supervisor and OCII's Design Review and Housing team to refine the design details of the buildings to implement vigorous cost containment measures to a financially feasible level. Borrower must obtain OCII staff approval of updated cost estimate prior to forwarding Schematic Design for OCII approval.
2. Borrower 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.

3. Borrower will cooperate with OCII and competitively solicit a general contractor with the intent of creating a joint venture or similar partnership opportunity, to the extent practicable and economically feasible, between a general contractor and an OCII-recognized SBE contractor. Furthermore, Borrower shall cooperate and require the general contractor to exercise good faith efforts to select subcontractors who either are small business enterprises (SBE) or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs.
4. Borrower will review its projected operating budget and soft costs to ensure that costs are managed to OCII's approval.
5. Borrower will analyze its competitiveness for the Federal Home Loan Bank's Affordable Housing Program and California Department of Housing and Community Development'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.
6. Borrower will work with OCII to determine a services provider and with OCII and the HOPE SF leadership team to draft a services plan.
7. Borrower will work with the Housing Authority to confirm that the income restrictions associated with the Project Based Section 8 units are appropriate for the intended population and if not, will adjust the income restrictions to a higher AMI. Borrower will also cooperate with the Housing Authority on any components of the lease-up process for the 24 Project Based Section 8 units, as necessary.
8. Borrower will issue out 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. Borrower will work with selected childcare provider to design the warm shell for the childcare space and associated outdoor area.
9. Borrower will enter into a letter of intent to lease with Blue Bear School of Music or a similar community-serving tenant for the ground floor community-serving commercial space.

MBS 6W's current estimated hard costs of \$570,271 per unit, while in line with recent MOHCD and OCII projects, are relatively high. The project must show per unit costs below a certain threshold in order to be eligible for tax credits and tax exempt bonds, a crucial aspect of project financing. As such condition #1 will be closely adhered to during the predevelopment stage and OCII staff will work closely with the Developer team to continue to refine the design of the project and contain costs.

Exclusive Negotiations Agreement (“ENA”)

The ENA enables the Developer to pursue predevelopment activities leading to the execution of a long-term ground lease for MBS 6W. Per the ENA, the Developer has paid to OCII the cash sum of One Thousand Dollars (\$1,000) as an earnest money deposit. An additional \$9,000 will be due to OCII at the time of the execution of the ENA. The total \$10,000 is considered the Performance Deposit, which will be held by OCII until construction completion. The term of the ENA is through January 18, 2019, unless modified by any extension or early termination. The ENA allows for extension up to a maximum of 12 months to be approved by the Executive Director in the event the project incurs unexpected delays. The ENA further defines a series of milestones that will result in the execution of a ground lease for the Site between OCII and the Developer (“Ground Lease”) which will be presented to the OCII Commission for consideration at the end of 2018. It also authorizes the OCII Executive Director to enter into an option to ground lease for the Site, a form of which is attached to the ENA. Milestones include:

- submission of design concept drawings acceptable to OCII;
- submission of a preliminary financing plan which is acceptable to OCII;
- submission of schematic design drawings acceptable to OCII;
- identification of a general contractor and obtaining a cost estimate based on the schematic design acceptable to OCII; and,
- submission of design development documents and cost estimates
- execution of ground lease

The ENA is included with this memorandum as Attachment 3.

Project Schedule

The concept design drawings, along with the preliminary financing plan were submitted to OCII during the RFP process in November of 2016. Going forward, a general contractor and a cost estimate are anticipated to be selected and obtained by August 9, 2017 and must be submitted no later than October 2017, and design development documents are anticipated to be completed by April of 2018.

According to the current schedule, staff expects to return to the Commission for schematic design approval for MBS 6W in either December 2017. The Developer intends to apply for a multifamily housing revenue bond allocation and Low Income Housing Tax Credits and then will start construction in March of 2019; construction is anticipated to be completed by the end of 2020.

EQUAL OPPORTUNITY PROGRAM AND COMPLIANCE WITH OCII POLICIES

The Developer shall comply with OCII's Nondiscrimination in Contracts, Minimum Compensation and Health Care Accountability policies and will work closely with contract compliance staff to comply with the Small Business Enterprise (SBE) Program on this development.

During the construction phase of this project, the Developer is committed to meeting OCII's requirements and goals which include the 50% SBE construction subcontracting participation goal, payment of prevailing wages and the 50% local construction workforce hiring goal. In its competitive selection of a general contractor, the Developer will evaluate the possibility, to the extent practicable and economically feasible, of requiring a joint venture or similar partnership opportunity between the general contractor and an OCII-recognized SBE contractor looking to building capacity.

The Developer team and its workforce consultant Success Center SF, working closely with the OCII Contract Compliance team, released an RFQ for Architects & Engineers and Consultants & Professional Services on April 19, 2017. A well-attended pre-submittal conference was held on May 5, 2017 to provide an overview of the RFQ and process. Responses to the professional services RFQ were due on May 23, 2017 with interviews following in June and the final selection of consultants have been completed in July 2017.

An RFQ for pre-construction services was released on May 24, 2017 and responses were due on June 21, 2017. The Developer team has evaluated responses is currently undergoing interviews. As mentioned earlier, it is expected that a general contractor for preconstruction services will be selected by August 2017.

MISSION BAY CITIZENS ADVISORY COMMITTEE

As previously mentioned, a member of the Mission Bay Citizens Advisory Committee ("Mission Bay CAC") was included in the submittal review and interview process. Before bringing the selection of Mercy Housing California to the Commission for approval, staff presented the recommended team to Mission Bay CAC on February 9, 2017. At that meeting, the CAC recommended MBS 6W Development Team to the OCII Commission for approval, which was obtained on February 21, 2017. OCII staff will work with a representative CAC member to ensure that the CAC has an opportunity to learn about and provide comment on the project's design. Staff will recommend a final schematic design for presentation to the OCII Commission approval in December 2017.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The predevelopment loan agreement and the ENA facilitate the development of the MBS 6W project, which 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"), certified by the former San Francisco Redevelopment Agency Commission on September 17, 1998 by Resolution No. 182-98. This action requires no further environmental review beyond the FSEIR pursuant to the State CEQA Guidelines Section 15180, 15162 and 15163 since it does not involve new significant environmental effects or a substantial increase in the severity of previously identified significant impacts, no substantial changes have occurred with respect to the circumstances under which the project 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 no new information of substantial importance relating to the development of affordable housing on MBS 6W has become available that would require further environmental review.

NEXT STEPS

Staff will return to the OCII Commission later this year for schematic design approval and in early 2019 for the approvals of a permanent gap loan and long-term ground lease.

(Originated by Gretchen Heckman, Development Specialist)



Nadia Sesay
Interim Executive Director

- Attachment 1: OCII Commission Mission Bay Block 6W Developer Selection Memo – February 21, 2017
- Attachment 2: Loan Evaluation – June 2, 2017
- Attachment 3: Exclusive Negotiations Agreement
- Attachment 4: Predevelopment Loan Agreement
- Attachment 5: Location Map



Attachment 1

118-0042017-002

Agenda Item **No. 5(d)**
Meeting of February 21, 2017

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Nadia Sesay, OCII Interim Executive Director

SUBJECT: Selecting Mercy Housing California for the development of 140 affordable rental housing units (including one manager's unit) for low income families and a childcare facility at Mission Bay South Block 6W; Mission Bay South Redevelopment Project Area

EXECUTIVE SUMMARY

On August 20, 2016, OCII staff released a Request for Proposals ("RFP") to develop and operate affordable rental housing units for low income families as well as a childcare facility space on Mission Bay South Block 6 West in the Mission Bay South Redevelopment Project Area. On November 11, 2016, five proposals were received in response to the RFP. All five submittals met the minimum threshold requirements for consideration and thus all five teams were invited to interview. Interviews were held on January 11th and 12th 2017 and were conducted by a seven-person Evaluation Panel. The Evaluation Panel completed all five interviews, discussed each team and scored each team using predetermined scoring criteria as listed in the RFP. Given the outcome of the Evaluation Panel's scoring, OCII staff is recommending nonprofit affordable housing developer Mercy Housing California with Paulett Taggart Architects for selection.

DISCUSSION

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 four times to modify the development plan on several parcels.

The enforcement of the North and South OPA's as amended will result in 6,514 residential units, with 29% or approximately 1,916 units set aside as affordable*. The affordable units are comprised

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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.

In Mission Bay North, with the recent completion of 360 Berry Street (N4P3 or Eviva), 698 inclusionary and OCII-sponsored units have been completed.

In Mission Bay South, 150 affordable units have been completed at 1180 4th Street project which houses 100 low income households and 50 formerly homeless families; 1,068 affordable units remain to be completed, including OCII-sponsored developments Block 7 West (588 Mission Bay Boulevard North) and Block 6 East (626 Mission Bay Boulevard North), which is the neighboring block to 6W.

Mission Bay Affordable Housing Development			
# of Affordable Units	Mission Bay North	Mission Bay South	Mission Bay North and South
BUILT	698	150	848
PLANNED	-	725	725
UNDER CONSTRUCTION OR PLANNED	<u>0</u>	<u>343*</u>	<u>343*</u>
TOTAL	698	1,218	1,916

*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.

In total and as shown in the table above, 848 affordable units have been completed and 1,068 units (including the additional 110 allowable affordable units) remain to be completed in the Mission Bay Project Area.

The Mission Bay Affordable Housing Policy ("Housing Policy"), Resolution 194-98 (September 17, 1998), establishes that OCII rental projects are affordable on average to households earning up to 60% of Area Median Income ("AMI"). As an example and based on 2016 figures, income for a family of four at 60% of AMI as published by the Mayor's Office of Housing and Community Development would be \$64,600 per year with a monthly rent restricted to no more than \$1,615 for a three-bedroom unit.

RFP

On August 20, 2016 OCII staff released an RFP offering an Affordable Housing Parcel (OCII's stand-alone 100% affordable developments) for development: Mission Bay South Block 6 West ("MBS 6W" or "6W") is an approximately a 49,436 square foot rectangular site bounded by China Basin Street to the north, Merrimac Street to the west, Mission Bay Boulevard North to the south and Block 6E, a 143-unit affordable housing project designed by Mithun Solomon and being constructed by Tenderloin Neighborhood Development Corporation, to the east.

Extensive notification of the RFP was provided to community groups, developers, contractors (including Small Business Enterprises and minority- and woman-owned contractors), other community stakeholders through OCII's Citizens Advisory Committees email lists, Mayor's Office of Housing and Community Development's ("MOHCD") RFP/RFQ interest email list and newspaper advertising. The RFP was available on OCII's website.

In order to ensure expedited development, OCII sought submittals from qualified teams comprised of: a Qualified Housing Developer, a design architect and a property manager (together, the "Applicant") to develop, manage and operate a maximum number of units of affordable family rental housing on Block 6W. The Mission Bay South Owners Participation Agreement defines Qualified Housing Developer as a non-profit organization, governmental or quasi-governmental agency or a limited partnership in which one of the general partners is a non-profit organization. Under the Housing Policy, preference will be given to nonprofit housing development corporations headquartered in San Francisco. The selected Applicant will be required to select its other consultants and contractors in accordance with the OCII's Small Business Enterprise Program.

Furthermore, upon completion of these projects, OCII's assets related to the sites will be transferred to MOHCD, which is the designated Housing Successor Agency under Dissolution Law. MOHCD reviewed the RFP and was represented on the Evaluation Panel, and will also review and comment on the project's financial underwriting and funding and disposition documents in order to ensure a smooth transition to MOHCD at project completion.

Development Program

The RFP asked that submittals accomplish the following criteria:

- Provide for the development of rental housing affordable to low-income families while minimizing local financial subsidy according to the below program requirements:

MBS Block 6W Development Program Guidelines	
Number of units	A maximum number of units presented in a high quality, livable design based on Design for Development standards
Area Median Income and General population	Up to 60% unadjusted AMI as defined by MOHCD (tiering below that threshold required to serve Certificate of Preference holders) -Families
Unit mix	25% one-, 50% two- and 25% three- bedroom units
Special needs	The composition of the 25% special needs units should reflect the unit mix of the project overall
Childcare Space	Podium level dedicated indoor and outdoor space for 40 childcare slots
Parking	Maximum 1:1 parking ratio, lower ratio is recommended, plus at least one car sharing spot.

- Meet design standards pursuant to the 1) Mission Bay Design for Development as amended and (2) the Major Phase Application for Blocks 2-7 and 13 as amended.
- Meet additional design standards addressing general building elements such as: base activation, façade articulation, materials and colors, corners, roofs, etc.;

- Provide for private open space on-site; the applicant is encouraged to focus on outdoor courtyard spaces, community gardens, play spaces and other shared outdoor space to encourage a sense of community versus programming private balconies into their design;
- Provide a program that incorporates excellent, visually interesting design and financial feasibility; and,
- Incorporate “green” and sustainable building strategies in accordance with the City’s requirements.

Pre-submittal Meeting and Applicant Teams

On September 21, 2016 and as advertised prominently in the RFP document, a pre-submittal meeting was conducted by OCII housing, project area and design staff to review the requirements of the RFP and answer questions from prospective applicant teams. Thirty representatives of developers, service providers and architectural firms attended the meeting. A list of questions and answers resulting from pre-submittal meeting were distributed to prospective applicant teams who registered with OCII.

On November 10, 2016, the deadline for submitting proposals, the development teams listed below in alphabetical order, submitted proposals for the parcel. All teams’ proposals met the minimum threshold requirements and were interviewed:

- BRIDGE Housing (“BRIDGE”) with David Baker Architects
- Chinatown Community Development Corporation and Related California (“CCDC & Related”) with Fougerson Architects; for this partnership, the developer fee split would be 40% CCDC / 60% Related, with CCDC keeping long-term ownership of the project
- McCormack Baron Salazar & Young Community Developers (“MBS & YCD”) with Mithun | Solomon; for this partnership, the developer fee split would be 90% MBS / 10% YCD, with MBS keeping long-term ownership of the project
- Mercy Housing California (“Mercy”) with Paulett Taggart Architects
- Tenderloin Neighborhood Development Corporation (“TNDC”) with Pyatok Architects

Selection Process and Criteria

Each of the five proposals were reviewed by each member of the Evaluation Panel in advance of the interviews held at OCII’s offices on January 11th and 12th 2017. The Evaluation Panel members consisted of a representative from the Mission Bay Community Advisory Committee, a representative from the Mayor’s Office of Housing and Community Development, three OCII housing staff, one member of the OCII design team and the Project Manager for the Mission Bay Project Area. Two representatives from OCII’s Contract Compliance team were present to monitor the process and participated in scoring the Workforce and Contracting Action Plan sections of each submittal. The format of the interviews was as follows: a 20-minute presentation and 30-minute question and answer period to help the Evaluation Panel complete its evaluation.

Proposals were evaluated using the selection criteria set forth in the RFP: (1) a total of up to 55 points were awarded for the proposed development concept and (2) up to 45 points for developer team experience and capacity, for an overall total of up to 100 points. A detailed breakdown of the RFP proposal criteria is provided below:

POINTS		CRITERIA
55		Proposed Development Concept
	25	Proposed Massing Concept: strength and constructability of proposed massing concept, number of units, conformance with the OPA, Major Phase, and the Design for Development
	20	Financial Feasibility & Level of OCII Subsidy
	10	Proposed Marketing Plan
45		Developer Team Experience and Capacity
	10	Developer experience in developing and marketing affordable housing <i>comparable</i> to the housing proposed in this RFP
	5	Developer experience with government assisted affordable housing programs and financing sources and/or "green" housing; Developer Workload Capacity
	10	Workforce and Contracting Action Plan
	10	Architect experience & capacity, including "green" housing
	10	Property Manager experience & capacity
100	100	Total Points

Results of the Selection Process

The proposals received were extremely strong and the Evaluation Panel scored the first three ranking teams very closely as is shown in the table below. Ultimately, the highest scoring proposal for MBS 6W was Mercy Housing California and Paulett Taggart Architect's submittal.

MBS 6W Scoring

Applicant Team	Total Score	Average Score
Mercy	678.0	96.9
MBS & YCD	670.0	95.7
TNDC	643.5	91.9
CCDC & Related	573.0	81.9
BRIDGE	536.5	76.6

For MBS 6W the Evaluation Panel scored Mercy Housing California and Paulett Taggart Architects, a woman-owned San Francisco based LBE, as the highest scoring in the Massing category. The Mercy team ultimately ranked higher than MBS & YCD because of its strength in the design category – for most other categories including financial feasibility, proposed marketing plan, developer experience in developing and financing similar buildings, architect experience in designing similar buildings and property management experience. Mercy tied for first with other Applicant teams, all of which are long-standing firms with deep experience in the City of San

Francisco or nationally. There was only one category in which Mercy scored second highest: the Workforce and Contracting Action Plan category, where compliance staff believes the Mercy team could work closer with their general contractor to increase construction subcontracting opportunities for SBEs based in San Francisco.

Below are three highlights of the Mercy proposal that the Evaluation Panel identified as extremely strong and unique amongst the other four proposals:

1. **Design and Massing.** Out of all of the proposals, Paulett Taggart Architects' design best met the requirements of the Design for Development Guidelines. The amount of on-site amenity space for residents such as community rooms, teen rooms, landscaped courtyards and common area decks as well as the inclusion of space for a community anchor such as Blue Bear School of Music was received positively by the Evaluation Panel. Overall the Evaluation Panel felt that there was a balance between providing affordable housing units and creating a beautiful, livable space where families could thrive and was noted that this project would be Paulett Taggart Architects' first prime architect role in the Mission Bay Project Area.
2. **Financial Feasibility.** The Mercy team proposed an alternative financing scenario whereby the project would be split into two different sub-projects, suitable for separate financing, which would increase the probability of the project moving forward if state financing were no longer available. In addition to the merits of this alternative proposal, Mercy provided a very thorough analysis of its financing assumptions and how it would score on state funding applications in an attempt to realistically manage OCII's subsidy per unit.
3. **Affordability / Income Tiering.** Part of the RFP programmatic requirements was to include income tiering at and below 60% AMI. The Mercy team was the only respondent to include non Local Operating Subsidy Payments ("LOSP") units set at below 40% AMI, specifically at 25% AMI, maximizing opportunities for extremely low income COP holders, as well as COP holders at 50 and 60% AMI.

Proposal Details

Mercy Housing California Submittal Details	
Number of units	140 including one manager's unit (104 non LOSP units, 35 LOSP units)
AMI Tiering	104 non LOSP units: 14% (15 units) at 25% TCAC AMI; 42% (44 units) at 50% TCAC AMI; 42% (45 units) at 60% MOHCD AMI
Parking	28 spaces plus 2 car share spaces (0.20 ratio); 1:1 bike storage
Amenities Space	Ground Floor Courtyard Ground Floor Multipurpose Room / Teen Room Ground Floor Community Room and Kitchen Podium Level Courtyard 2 nd and 6 th Floor Outdoor Space
Childcare Space	~5,600 sq ft interior space; ~3,200 sq ft outdoor space
Additional Space	~1,000 sq ft for nonprofit community use (Blue Bear School of Music)

Childcare Space

Childcare is an authorized secondary use in the residential district of the Mission Bay South Redevelopment Plan and OCII's Executive Director may authorize a "local serving childcare facility" upon making certain findings under

the Redevelopment Plan. While specific details on the mix of toddlers and infants still needs to be developed by Mercy, the childcare space provided in the proposal exceeds the square footage necessary for the minimum 40 children that was specified in the RFP and was thoughtfully located with the overall site plan. Paulett Taggart Architects also has significant experience designing childcare centers, specifically within housing.

Detail on Marketing Plan

The Mercy proposal included a thorough marketing plan showing a strong understanding of OCII's marketing processes and a commitment to outreach to COP holders. The marketing plan outlined a partnership with Access to Housing provider San Francisco Housing Development Corporation ("SFHDC") for rental readiness workshops and technical assistance for COP holders and the general public and Bayview Hunters Point Multipurpose Senior Services ("BHPMSS") for COP holder outreach. Staff felt that this marketing proposal took into account the importance of COP outreach, showed in-house expertise in this area and also noted a commitment to partnering to leverage the expertise of other organizations.

Detail on Workforce and Contracting Action Plan

The Mercy proposal included a comprehensive preliminary workforce action plan. The Mercy 6W project manager will act as lead in working with OCII to implement the WCAP and meet OCII's hiring goals during predevelopment and construction. The team also proposed working with Success Center San Francisco to conduct outreach and provide employment readiness workshops. The proposed WCAP also showed an extensive preliminary plan for record keeping and communication with OCII staff from predevelopment to pre-bidding and through construction. In terms of Mercy's past performance in this area, over a seven-year period, Mercy has worked or is working on five OCII stand-alone affordable housing projects with an overall SBE participation rate of 43.8% on professional services and construction contracts.

During the interview, OCII's contract compliance staff asked about potential partnerships with SBE's for both professional services and during construction. Paulett Taggart Architects has agreed to work with an associate architect on the project and Mercy Housing California expressed interest in working with a general contractor who would be willing to joint venture with a local SBE at some level on the construction contract. For preliminary cost estimating purposes, Mercy received an estimate of construction costs from Nibbi Brothers, who has experience in joint ventures based on their work on the Alice Griffith project in Candlestick Point and was able to estimate any potential cost impact of a joint venture. Although Mercy received an estimate from Nibbi Brothers, Mercy will select its eventual general contractor through a competitive proposal process.

Recommended Team Bio's

- **Developer and Property Manager:** Mercy Housing California will act as developer for Mission Bay 6W. Mercy Housing California is a part of a national organization formed in 1981 that builds affordable housing and provides property management and resident services in cities across the U.S. Mercy Housing California has recently developed or is developing the following OCII projects: Bayview Hill Gardens (72 units in the Bayview); Bill Sorro, formerly known as the Hugo (67 units in the SOMA Project Area); Mission Creek Senior (140 units in the Mission Bay North Project Area); 1180 4th Street (150 units in the Mission Bay South Project Area); and Transbay 6 and 7 (70 and 120 units, respectively, in the Transbay Project Area). Mercy Housing California provides supportive services in-house all of its affordable buildings in San Francisco, while working with external providers to support populations with more extensive needs.
- **Architect:** Paulett Taggart Architects will be the prime architect on the Mercy team. Paulett and her staff have been designing residential buildings, community facilities and private spaces in the Bay Area since 1986 under

"the premise that excellence in design not only enriches the lives of the people who live in, work in, and use our buildings, but also enhances the public realm and surrounding community." The firm is a woman-owned, San Francisco-based LBE. Paulett Taggart Architects has designed the following OCII and MOHCD projects: Hunters View Blocks 5 and 6 as Lead and 11 as Associate Architect (53 and 107 units as part of the HOPESF project); Plaza Apartments as Associate Architect (106 units in the SOMA Project Area); and Rich Sorro Commons as Associate Architect (100 units located in the Mission Bay North Project Area). Paulett Taggart Architects is also the prime architect on MOHCD's Parcel O development (108 units in Hayes Valley).

CAC

Staff presented the recommended team to the Mission Bay Community Advisory Committee on February 9, 2017. At that meeting, the CAC expressed their support of moving the recommended MBS 6W Development Team to the OCII Commission for approval.

NEXT STEPS

In the Spring of 2017, staff will request the Commission's authorization to enter in an ENA and predevelopment loan agreement with the recommended team, and in 2018 for the approval of a permanent gap loan and long-term ground lease.

(Originated by Gretchen Heckman, Development Specialist)



Nadia Sesay
Interim Executive Director

Exhibit A: MBS 6W Parcel Location

Exhibit B: Mercy's / Paulett Taggart Architect's Conceptual Design for MBS 6W

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

\$3,495,000

Predevelopment Loan

Evaluation of Request for:	Predevelopment Loan
Loan Committee Date:	June 2, 2017
Prepared By:	Gretchen Heckman
Source of Funds Recommended:	Mission Bay RPTTF and surplus proceeds from 1180 4 th Street (Mission Bay Block 13 East)
NOFA/PROGRAM/RFP:	OCII RFP
FY 16/17 ROPS Line:	405
Total Previous City Funds Committed:	None
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):	TBD; parcel is bordered by China Basin St, Mission Bay Blvd N, and Merrimac St	Ultimate Borrower Entity:	Mercy Housing California 78 L.P.

Project Summary:

Mercy Housing California 78 L.P. is requesting \$3,495,000 in predevelopment financing for Mission Bay South Block 6 West ("Block 6W"). The project will be a 140-unit development for extremely low and low-income families; 35 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"). The Project will be comprised of 35 one-bedroom units, 70 two-bedroom units, 35 three-bedroom units and one (1) manager's unit. Contingent on design and costs, a maximum total of five large units (consisting of four- and five-bedrooms) may be added to the site's design in order to help meet the CRL replacement obligation related to Alice Griffith. The 104 units for extremely low and low income families will be restricted at between 30% of the Area Median Income ("AMI") as set by the Tax Credit Allocation Committee ("TCAC") and 60% of the AMI as used by the Mayor's Office of Housing and Community Development ("MOHCD"). The 35 units set aside for households moving from public housing will be restricted at 30% MOHCD AMI, which is in line with current average household income at the Sunnysdale HOPE SF site, to ensure maximum affordability points on an Affordable Housing and Sustainable Communities ("AHSC") application. If an AHSC application is not obtained, the units will be restricted at a higher AMI level to ensure maximum flexibility in lease-up. The PBS8 units will be supported with project-based section 8 vouchers. If these vouchers cannot be obtained, these units will revert to a set-aside for formerly homeless families who will be supported by the Local Operating Subsidy Program ("LOSP"). The Project will include a ground floor childcare center, 28 parking spaces (0.2:1 ratio) and 2 car share spaces, a large landscaped courtyard, a 1,000 square foot community-serving commercial space, large community room with a kitchen, an outdoor multipurpose space, children's play space, services offices, onsite laundry and bike parking.

Sources for the Project are proposed as follows: Affordable Housing and Sustainable Communities ("AHSC"), 4% Low Income Housing Tax Credits, Affordable Housing Program ("AHP"), tax-exempt bonds, and an OCII loan.

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 s.f.):	1.13 acres / 49,436 s.f.
Number of Units:	140	Architect:	Paulett Taggart Architects
Total Residential Area:	125,575 s.f.	General Contractor:	TBD
Total Commercial Area:	6,671 s.f. (incl. childcare)	Property Manager:	Mercy Housing Management Group (MHM)
Total Building Area:	187,452 s.f.	Supervisor and District:	Sup. Kim - District 6
Land Owner:	FOCIL(will transfer to OCII)		
Total Development Cost (TDC):	\$99,228,036	Total Acquisition Cost:	N/A
TDC/unit:	\$708,772	TDC less land cost/unit:	\$708,772
Loan Amount Requested:	\$3,495,000	Request Amount / unit:	\$25,000

PRINCIPAL DEVELOPMENT ISSUES

- **Higher estimated development costs.** While development costs are within the cost control limitations imposed by CDLAC and TCAC, they are still on the high end, driven by an extremely high construction cost environment – hard costs have increased by 25% in the Bay Area since 2014. Given the early nature of the project, OCII staff will continue to work closely with the development team to understand drivers of those high costs and to reduce them wherever possible. An overheated construction market is affecting OCII/MOHCD projects in construction and predevelopment. As referenced in Attachment G: Comparison of City Investment in Other Housing Developments, hard construction costs per unit are at \$570,271 as compared to an average of \$557,528 per unit of all similar MOHCD/OCII projects in predevelopment. Total development costs are projected at \$708,772 per unit as compared to an average of \$691,511 per unit of all similar MOHCD/OCII projects in predevelopment. While the project is still in its concept phase, higher than typical costs identified already for the Project include:
 - 1) Total developer fee of \$5,826,541 to increase the amount of tax credit basis in the Project and thus reduce OCII's gap funding requirement by over \$800,000. Please see Section 5.5.2 for additional discussion; and,
 - 2) Reserves of over \$500,000: a) an HCD required \$242,322 transition reserve for the project-based voucher units; b) \$269,007 reserve for sidewalk maintenance due to ground-settling issues in Mission Bay; and,
 - 3) Higher projected financing costs due to higher interest rates than has been typical in the last several years (4% rate on the construction loan and 6% rate on the permanent loan); and,
 - 4) The Sponsor is also assuming a 4% escalation on hard costs in its estimate. A loan condition requires the sponsor to work to reduce per unit costs in close coordination with the OCII Construction Specialist and MOHCD Construction Supervisor, and requires OCII staff review and approval of a revised cost estimate prior to schematic design approval. Please see sections 4.4 Construction Supervisor's Evaluation and 7.5.1 Permanent Financing for additional discussion.
- **Competitiveness of AHSC funding.** While the City anticipated a weak cap and trade auction this month based upon the disappointing conclusion of the last auction round, results issued by the state on Thursday, May 25th were very encouraging. In collaboration with MOHCD and the City's consultant, the Sponsor is currently evaluating the competitiveness of an AHSC application, and determining its proposed transit project. If the Sponsor fails to secure an AHSC award, OCII's gap funding increases to \$318,688 a unit. Please see section 7.5.1 *Permanent Financing* for additional discussion.
- **Set aside Population and Coordination.** Currently, the Project plans to set aside 35 units as public housing replacement units for households voluntarily relocating from Sunnydale or Potrero Annex or Terrace HOPE SF sites in order to facilitate construction phasing at those locations. The HOPE SF Initiative is the Mayor's signature anti-poverty project that seeks to end intergenerational poverty and improve life outcomes for the City's long underserved and disconnected public housing residents through a resident-centered reparations approach; through HOPE SF, public housing units will be rebuilt alongside of new affordable and market rate units to create sustainable mixed income communities. In order to accommodate the relocatees at MBS 6W, project-based vouchers are needed to provide rental subsidy and services to support the relocating households. OCII, the Sponsor and the HOPE SF leadership team, will work together with the Housing Authority to determine the availability of vouchers, and if available, the Housing Authority's timing to release an RFP for the vouchers. If vouchers are not committed by schematic design approval date, these units will be LOSP units for formerly homeless households. Please see section 7.5.1 *Permanent Financing* for additional discussion.

At the time of Block 6W's RFP issuance, the set-aside population for the block was not finalized and thus the RFP did not ask for a service provider or preliminary services plan. Currently, the HOPE SF team is working to understand the potential needs of households volunteering to relocate from public housing communities undergoing a rebuild process through the HOPE SF initiative. Once a baseline services plan for all HOPE SF public replacement units is determined, Mercy and OCII will move forward with the selection of an appropriate services provider and create a draft services plan. Please see sections 4.6 *Services Space* and 4.7 *Target Population* for additional discussion.

SOURCES AND USES SUMMARY

Predevelopment Sources	Amount	Terms	Status
Acquisition	N/A (ground lease)		
OCII	\$3,495,000	55 years @ 3% Def	Not Committed
Total	\$3,495,000		
Permanent Sources	Amount	Terms	Status
OCII	\$28,601,164	55 yrs @ 3% / Res Rec	Not Committed
AHSC	\$16,015,221	55 yrs @ 3% / Res Rec	Not Committed
Tax Credit Equity	\$40,747,110	\$1.05 / credit	Not Committed
AHP	\$1,390,000	N/A	Not Committed
Conventional Mortgage	\$8,848,000	30 yrs @ 6%	Not Committed
Sponsor Equity	\$2,881,590	N/A	Committed
Deferred Developer Fee	\$744,951	Price per credit	Not Committed
Total	\$99,228,036		
Uses	Amount	Per Unit	Per SF
Acquisition	\$0	N/A	N/A
Hard Costs	\$79,837,941	\$570,271	\$431
Soft Costs	\$13,563,554	\$96,883	\$73
Developer Fee	\$5,826,541	\$41,618	\$31
Total	\$99,228,036	\$708,772	\$535

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	Project Name	# of Units	Housing Type	Date Completed
Mission Bay North	Rich Sorro Commons / Block N2-2	100	Family rental	2002
Mission Bay North	Mission Creek Senior Community / Block N3A-1	140	Senior rental (including 49 units for homeless seniors)	2006
Mission Bay North	Crescent Cove / Block N5	36 ⁽²⁾	Family rental	2007
Mission Bay North	Mission Walk / Blocks N4-A,N4-A2	131	Family for-sale	2009
Mission Bay South	1180 4th Street / Block 13 East	150	Family rental (including 50 units for homeless families)	2014
Mission Bay South	588 Mission Bay Boulevard North / Block 7 West	200	Family rental	2017
Mission Bay South	626 Mission Bay Boulevard North / Block 6 East	143	Family rental (including 29 units for homeless families)	2018 (under construction)
Mission Bay South	1150 Third Street / Block 3 East	101	Homeless Veterans (50 units) and Family rental (50 units)	2020 (planned)
TOTAL TO DATE		1,001		

⁽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.

⁽²⁾ 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.

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, 848 of those affordable units have been completed, leaving approximately 1,068 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 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.

RFP and Developer Selection Process

On August 20, 2016 OCII staff released the RFP for Mission Bay South Block 6 West.

The RFP required that all housing proposals meet the following criteria:

MBS Block 6W Development Program Guidelines	
Number of units	A maximum number of units presented in a high quality, livable design based on Design for Development standards
Area Median Income and General population	Up to 60% unadjusted AMI as defined by MOHCD (tiering below that threshold required to serve Certificate of Preference holders) -Families
Unit mix	25% one-, 50% two- and 25% three- bedroom units
Special needs	The composition of the 25% special needs units should reflect the unit mix of the project overall
Childcare Space	Podium level dedicated indoor and outdoor space for 40 childcare slots
Parking	Maximum 1:1 parking ratio, lower ratio is recommended, plus at least one car sharing spot.

The deadline for submitting proposals was November 10, 2016 and by that date OCII received five proposals from the following teams:

1. BRIDGE Housing with David Baker Architects
2. Chinatown Community Development Corporation and Related California with Fougeron Architects
3. McCormack Baron Salazar & Young Community Developers with Mithun | Solomon;
4. Mercy Housing California with Paulett Taggart Architects
5. Tenderloin Neighborhood Development Corporation with Pyatok Architects

Selection Process and Criteria

The Evaluation Panel, consisting of representatives from the Mayor's Office of Housing and Community Development, OCII design, project area and housing staff as well as a member of the Mission Bay Community Advisory Committee used the below scoring criteria to score and rank proposals:

<u>POINTS</u>		<u>CRITERIA</u>
55		Proposed Development Concept
	25	Proposed Massing Concept: strength and constructability of proposed massing concept, number of units, conformance with the OPA, Major Phase, and the Design for Development
	20	Financial Feasibility & Level of OCII Subsidy

	10	Proposed Marketing Plan
45		Developer Team Experience and Capacity
	10	Developer experience in developing and marketing affordable housing <u>comparable</u> to the housing proposed in this RFP
	5	Developer experience with government assisted affordable housing programs and financing sources and/or “green” housing; Developer Workload Capacity
	10	Workforce and Contracting Action Plan
	10	Architect experience & capacity, including “green” housing
	10	Property Manager experience & capacity
100	100	Total Points

Ultimately, the highest scoring proposal for MBS 6W was Mercy Housing California and Paulett Taggart Architect’s submittal. For MBS 6W the Evaluation Panel scored Mercy Housing California and Paulett Taggart Architects, a woman-owned San Francisco based LBE, as the highest scoring in the Massing category. The Mercy team ultimately ranked highest amongst the other proposals and teams because of its strength in the design category.

After the interviews and panel scoring, OCII staff recommended that Mercy Housing be selected to develop the Project. OCII staff received Commission approval to formally select Mercy Housing on February 21, 2017. Since that time, the Mercy team has met with OCII staff to discuss the development timeline, process, and obtain preliminary design feedback on the conceptual design for the site. The team will soon begin the process of procuring a full consultant team, and is working with OCII contract compliance staff to ensure the participation of local firms in the Project. They plan to shortlist all consultants by the beginning of the first quarter of 2017, and interview all of the consultants needed in the near term by the end of the quarter. The Mercy team and OCII staff will also work closely with a representative from the Mission Bay CAC as they work through Schematic Design.

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 37 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 property in the nearby Transbay District (280 Beale). 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, 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.

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 is in the process of assembling its consultant team and will perform a geotechnical analysis during predevelopment.
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 will obtain an Environmental Impact Report and submit to HUD to obtain environmental clearance through the National Environmental Policy Act (“NEPA”) before entering into a contract with the San Francisco Housing Authority for project-based vouchers. Mercy Housing will work with OCII staff to ensure that the mitigation monitoring measures for Block 6 West are appropriately documented and implemented. Also, the Sponsors will order a Phase I analysis for the property and a Phase II analysis, if necessary.
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:	Article 34 authority is needed and will be requested before the predevelopment loan is encumbered. Authority will be adjusted at a later date once the Project receives its allocation of project based vouchers.
Article 38:	Exempt. Project is new construction and is outside the exposure zone map area.
Accessibility:	Per TCAC standards, 10% of units will include mobility features and 4% will have communications features. All of the units will be adaptable.
Green Building:	Per the RFP, the building must either achieve a Green Point Rating of 125 or above, or LEED Gold rating. The design team will work with the Sponsors to ensure the Project meets one of these two thresholds.
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 to recycle grey water 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 will meet with SFPUC during the predevelopment period.

1.3. 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 in its entirety, and the Sponsor is developing within the guidelines.

1.4. Probable Maximum Loss.

N/A

1.5. Local/Federal Environmental Review.

The Sponsor will pursue securing project-based section 8 vouchers, and therefore, NEPA clearance will be required as the public housing replacement units will be provided on-site. CEQA clearance was obtained through the Mission Bay EIR.

1.6. Environmental Issues.

- Phase I/II Site Assessment Status and Results.

Once consultants have been sourced, the Sponsor will be responsible for conducting a Phase I study and Phase II study, if necessary.

- 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. 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.

1.7. 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.

1.8. Green Building. See above.

2. OTHER ENTITLEMENTS ISSUES

2.1. Community Support.

After the interview and scoring determination, OCII staff presented the Mercy Housing team and proposal to the Mission Bay CAC at their meeting on February 9, 2017. The CAC supports the Mercy Housing team and the proposed program for Block 6 West. The Sponsor will continue to meet periodically with the CAC as design of the Project progresses.

3. DEVELOPMENT PLAN

3.1.1. 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.

3.1.2. 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.

3.2. Proposed Design.

Mission Bay Block 6W’s building massing includes four wings along each of the blocks’ frontages / urban edges. 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 with Block 6E. The 4 different building nodes are adjoined through the central courtyard space.

The site will be served by a 28-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 (I, III 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. Green roofs and 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: • 611 square feet for one-bedroom/one-bathroom units • 913 square feet for two-bedroom/one-bathroom units
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	• 1,161 square feet for three bedroom/one and a half- or two-bathroom units
Residential SF:	125,575
Circulation SF:	32,236
Parking Garage & Service SF:	13,686
Common Area SF:	9,284 interior; 14,145 exterior
Community Serving SF:	1,015
Childcare center SF:	5,656 interior; 3,203 exterior
Building Total SF:	187,452

3.3. Proposed Rehab Scope. N/A

3.4. Construction Supervisor/Construction Specialist's evaluation

Concept Plan Mission Bay Block 6 West

MOHCD Construction Management's description and comments on the preliminary site plan, design and cost are laid out below. These comments have been provided to the developer and design team much earlier than typical in an effort ensure the most cost effective design possible.

Budget. The per unit hard cost value of \$570,271 based upon the hard cost of \$79,837,941 which includes a 4% escalation factor, 8% bid and design contingency and a hard cost contingency of \$3,801,807, is 2% higher than the average hard cost of \$557,528 per unit MOHCD and OCII projects in predevelopment. While the MOHCD underwriting guidelines allow for a 10% combined bid and design contingency, because of the large size of this project, MOHCD construction management and OCII housing staff deemed an 8% contingency appropriate at this stage.

OCII staff has also compared the estimated project costs to the Mission Bay 6E project, which started construction in October of 2016. In order to "normalize" costs between the two projects, the cost of construction of the midblock break is added to MBS 6W (as the MBS 6E project is incurring those costs) and the project-based section 8 voucher reserve as well as the extra developer fee above the MOHCD/OCII cap are deducted. Once those adjustments have been made to the MBS 6W costs, MBS 6W's total development costs per unit are 8% higher than MBS 6E. Given that construction costs have escalated as high as 8% year over year in the past two years and there may have been slight cost increases in soft costs since those contracts were put in place, the difference in costs between the adjusted MBS 6W costs and the MBS 6E costs are not out of line.

Phase	Construction Closing (10/2016 constr. start date)	Predevelopment (est. 3/2019 constr. start date)	
	1300 4th Street	MBS 6W	% difference
Total Project Costs	\$92,304,925	\$99,228,036	8%
Per unit	\$645,489	\$708,772	10%
MidBlock Break Construction (add)		\$500,000	
PBS8 Transition Reserve (deduct)	-	(\$242,322)	
Developer Fee adj. (deduct)	-	(\$1,826,541)	
Total Adj. Project Costs	92,304,925	\$97,659,173	6%
Per unit	\$645,489	\$697,566	8%

Multiple Buildings Design – There are effectively four “wings” which represent effectively 5 separate buildings, which while meant to create diversity across the site could complicate the design, construction and security of the site. To ensure maximum cost efficiency, the design team will work closely with the Sponsor and OCII Construction Management and Design Review Staff to ensure that any complications in design, construction logistics and costs caused by the “wing” design are mitigated prior to Schematic Design approval. In order to prevent any potential security issues, there will be a desk position located on the China Basin Street entryway and fob access on the Mission Bay Boulevard North residential entry. The entryway onto the midblock break will be gated and will be primarily used as an exit.

First Floor Uses and activation of the street: The Merrimac façade at the first floor is almost entirely composed of non-active uses including the garage entry, car share, mechanical, electrical, transformer, trash room, stair tower, and maintenance rooms. The only active use is the community-serving commercial space and bike repair area on the Mission Bay Boulevard corner. The design team is currently looking at alternative uses to this façade, including moving trash and maintenance to the interior of the garage and adding housing units to the Merrimac façade.

Community Uses / Amenities: The Community building is currently located along Mission Bay Boulevard, facing the Commons Park system, and backs onto the interior ground level courtyard. This location capitalizes on these two adjacencies, and is also located across the residential courtyard entrance from the case management and services spaces on the corner of the Mews and Mission Bay Boulevard. While the building is not near to the entry and management space located on the China Basin Street side of the site, it has certain logic and merit. The multipurpose/teen pavilion is located in the center of the ground floor courtyard, with no connection to management (line of sight); however this location was determined in order to separate the childcare open space at the podium level courtyard from the ground floor courtyard and to create a viewpoint from the adjacent 6E development and midblock break. Upon additional conversations with Mercy and their architect, this space may be moved to adjoin to the community room to remove the extra costs associated with a standalone building. Additionally, while the exterior stair connecting the ground floor courtyard with the podium courtyard for the Merrimac Street building (above the parking structure) has been well utilized by residents on other Mercy properties, it will require residents with mobility disabilities to

cross the courtyard and enter the building using the elevator adjacent to the community room.

In the podium courtyard, the laundry room faces onto one corner of this courtyard, with the majority of this area being dedicated to planting areas (some community garden opportunities). It should be noted that there are a few units at this level that will have less privacy and experience more noise than upper floor units. However, other site plans have included units at the courtyard levels without issue, most notably at 1180 4th Street, a 100% affordable project also built by Mercy.

The Project's "buildings" are connected through the use of open air bridges and walkways. This design strategy reduces conditioned space and specifically fire-rated walls and therefore reduces certain costs, but increases costs in other regards such as increased need for building skin. Based on OCII/ MOHCD direction, the design team will also examine any expected windiness caused by the through-block openings.

3.5. Commercial Space.

A 5,656 square foot childcare center with associated outdoor space is planned for the ground floor space, across from the Children's Park along China Basin Street. The childcare space will accommodate a minimum of 40 children, inclusive of subsidized slots for low income families, with a preference for Mission Bay Block 6W residents. Mercy will issue an RFP for the childcare provider during schematic design development.

The Sponsor is also proposing to include a 1,015 SF space at the corner of Merrimac and Mission Bay Blvd for a satellite site of Blue Bear School of Music, a San Francisco-based nonprofit whose mission is to "empower people to play the music they love." 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, including the future residents of Mission Bay 6 West.

Per MOHCD's Commercial Space Policy, the Sponsor will provide a warm shell for both the childcare and community serving commercial space and each tenant will fund its own tenant improvements. Due to the smaller size and ancillary nature of the space, both spaces will remain part of the housing development rather than parceled into separate condominiums. Mercy is preliminarily estimating a rental rate of \$2.00 / s.f. a month for its community serving commercial space 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. This is more conservative than MOHCD's Commercial Space Policy and Underwriting Guidelines, which specify that a 50% vacancy rate should be assumed for Year 1 and that in subsequent years the vacancy rate should be assumed between 7% and 20%. Subsequent year vacancy rates will be adjusted as Mercy progresses with lease discussions with Blue Bear School of Music, and if there is excess cash flow due to lower projected vacancy rates and higher projected income, the Sponsor will look at its ability to increase permanent debt. 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. Commercial Income in Year 1 is projected at \$6,090, which will currently flow through the L.P.'s cash flow statement and thus help support the Project's operational costs.

3.6. Service Space.

As currently designed and planned, the services space will include the following:

- Case Management and Resident Services Offices (1,244 s.f.)

This space will be separate from the property's property management suite (1,019 s.f.) maintenance office (749 sq ft) and community room and kitchen (2,300 s.f.).

The Case Management and Resident Services Offices are located along the mid-block pedestrian mews, adjacent to the townhomes along that block. They provide privacy by through their physical separation from the community room and kitchen.

The sizes and location of these spaces will be vetted by the HOPE SF team and services provider to ensure that they help to meet the needs of households moving from public housing.

3.7. Target Population

Of the site's 140 units, 105, or 75%, will be provided to low-income families according to OCII's occupancy preferences (see table below). The balance of the units, 35, will be set aside for voluntary, permanent public housing relocatees from the Sunnydale or Potrero Terrace or Annex communities.

Service needs for the building could include crisis management, financial assistance, medical care, mental health or substance abuse services, services for children, academic/vocational assistance and support systems. To assist in meeting these needs, Resident Services staff will provide case management, engage families in support groups, provide advocacy services, make referrals and create linkages to outside services and provide outreach to and engagement with residents on a regular basis.

3.8. Marketing & Occupancy Preferences

3.8.1. OCII Family Units

OCII's marketing policies and procedures will apply to the 105 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). 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 Senior Services ("BSS") for its Early Outreach, with SFHDC providing rental readiness workshops through its Financial Empowerment Center and BSS providing COP outreach. BSS has successfully provided outreach services to many MOHCD and OCII projects in the past, which have translated into higher than average COP leaseholders. Recently, BSS'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 changes to the Marketing Plan or 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.

Marketing materials will include postcards and flyers detailing the development, 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	Ellis Act Housing Preference (or Displaced Tenant Housing Preference if adopted by OCII Commission)
3	San Francisco Residents or Workers
4	All others

3.8.2. Project-Based Voucher Units

The remaining 35 units, set aside for public housing replacement units for households voluntarily and permanently relocating from the Sunnydale or Potrero Terrace or Annex HOPE SF communities, will be leased through the San Francisco Housing Authority, in conjunction with the developer for each site, assuming a successful response to the Housing Authority’s RFP for the vouchers.

3.9. Relocation.

Block 6W is vacant, undeveloped land; relocation does not apply. Financing for the master development plans will cover the costs to move the 35 households from public housing to Block 6W.

4. 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	TBD	TBD	TBD
JV/other Architect	TBD	TBD	TBD
General Contractor	TBD	TBD	TBD
Owner’s Rep/Construction Manager	TBD	TBD	TBD
Financial Consultant	Community Economics Inc.	N	N
Other Consultant			
Legal	Gubb and Barshay	N	N

Property Manager	Mercy Housing	N	N
Services Provider	TBD	TBD	TBD

4.1. Outstanding Procurement Issues.

There are no outstanding procurement issues. Upon predevelopment loan approval, the Sponsor will work with OCII's Contract Compliance team to issue an RFP for the above mentioned consultants.

5. FINANCING PLAN (See Attachment F for Cost Comparison of City Investment in Other Housing Developments; See Attachment G and H for Sources and Uses)

5.1. Prior MOHCD/OCII Funding (this project and historical for the project):

There is no prior OCII funding. This predevelopment loan request will be the first sum of money extended to the project.

5.2. Disbursement Status.

No sums of money have yet been disbursed. However, the Project has incurred costs dating back to March 1, 2017. Loan Committee approves payment of costs earlier than the Commission on Community Investment and Infrastructure's ("CCII's") approval of the predevelopment loan agreement and Exclusive Negotiations Agreement ("ENA") so long as these previously incurred costs are deemed acceptable and correspond to the predevelopment budget attached herein.

5.3. Fulfillment of Loan Conditions.

N/A. Since no loans have yet been extended to the Project the Sponsor haven't been required to meet any loan conditions.

5.4. Proposed Predevelopment Financing

5.4.1. Predevelopment Sources Evaluation Narrative

The Proposed Predevelopment Loan is the only predevelopment source for the Project.

5.4.2. Predevelopment Uses Evaluation:

Predevelopment Budget		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Acquisition Cost is based on appraisal	N/A	Not applicable
Architecture and Engineering Fees are within standards	Y	The Sponsor is estimating that \$2,486,530 in architecture and survey and engineering fees will be spent during predevelopment
Bid Contingency is at least 5% of total hard costs	N	Bid Contingency is 4% (alongside a 4% plan check contingency) but given the large size of the project MOHCD construction management staff believes this is appropriate

Escalation amount is commensurate with time period until expected construction start, not to exceed 15%	Y	Escalation on hard costs is 4%
Construction Management Fees are within standards	Y	The construction management fee is \$40,000, the maximum amount allowed during predevelopment per MOHCD's underwriting guidelines
Developer Fee is within standards	Y for predevelopment; for perm a waiver is requested	The Sponsor is projecting to receive 15% of the non-at risk fee at closing (\$150,000) and 35% developer fee (\$350,000) during the predevelopment period in compliance with MOHCD's guidelines
Soft Cost Contingency is 10% per standards	Y	Soft Cost Contingency is 10%
Financing Costs are reasonable	N/A	At this time the Sponsor does not expect to seek predevelopment financing other than OCII

5.5. Potential Proposed Permanent Financing

Permanent financing is being presented to demonstrate the project's overall feasibility but not intended to be presented for Loan Committee approval at this time.

5.5.1. Permanent Sources Evaluation Narrative:

- **OCII Base Funding** - The current budget assumes an OCII subsidy of \$28.6M or \$204,294 a unit. Without HCD's AHSC funding, the OCII subsidy will increase to \$44.6M or \$318,688 a unit. The OCII subsidy will be used during predevelopment and construction.
- **LIHTC Equity** - The Sponsor is projecting LIHTC equity in the amount of \$40.7M, or \$289,101 per unit. LIHTC equity is assumed to generate \$1.05 per credit, which is based on recent tax credit price decreases driven by potential changes to the corporate tax rate and is MOHCD's agreed upon pricing for underwriting new projects. During the predevelopment period, OCII staff will work with the Sponsor and its financial advisor to achieve the best possible tax credit pricing and other loan terms for the project with the goal of maximizing leveraged sources.
- **HCD/AHSC:** The Sponsor is projecting an award of \$16.0M, or \$114,394 per unit. This assumes that the project will score competitively, that the affordable housing development can partner with a relevant nearby transit improvement project and that State funds will be available. Staff has included a loan condition specifying that the Developer must evaluate the competitiveness of this source of funds during the predevelopment period.

- **Bond-Financed Construction Loan** - The Sponsor is projecting a tax-exempt bond-financed construction loan of approximately \$53M at 4.0% interest rate. A 50% balance is assumed for the 22-month construction period and a 100% balance is assumed for the 6-month lease up period and conversion period.
- **Permanent Loan:** The Project budget currently includes a First Mortgage of \$8,848,000 sized using 2017 TCAC and MOHCD rents as well as 2017 contract amounts for project based vouchers, with an interest rate of 6.0% and a 30-year amortization period. The project's DSCR ranges from 1.16x to 1.09x across a 20-year period. If the project does not receive project-based vouchers, the amount of supportable debt would drop to approximately \$5.2M, which would increase OCII's required subsidy to \$230,706 per unit.
- **AHP:** At \$1,390,000 the Sponsor has assumed a per unit subsidy of \$10,000/unit which allows it to maximize its score for its AHP application (by not requesting a maximum amount of funds per unit). Staff has included a loan condition that the Developer evaluate the possibility of asking for a higher amount than \$10,000 / unit if the project appears to be competitive in other scoring categories. If MBS 6W is not competitive for AHP funds, OCII's subsidy would be \$29.9M or \$214,223 per unit (assuming it is competitive for AHSC).
- **Deferred Developer Fee:** The Sponsor is assuming a deferred developer fee of \$744,951 which will be recouped by Year 11. This amount of deferred fee is able to be recouped contingent on the project receiving project-based vouchers to support its cash flow.
- **GP Capital Contribution:** The Sponsor assumes a capital contribution of \$2.8M to the Project that enables it to leverage additional tax credit equity as it will be included in the project's tax credit basis. This amount is higher than MOHCD's recommended amount of \$500,000 but is being utilized to increase basis in the project and thus reduce OCII's subsidy. The Sponsor's financial consultant sized the GP Capital Contribution as approximately 50% of the total developer fee. It is their experience that the 50% level is acceptable to investors with Sponsors with strong balance sheets like Mercy.

5.5.2. Permanent Uses Evaluation:

Development Budget		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Hard Cost per unit are within standards	Y	\$570,271 / unit including hard cost, plan check and bid contingency and an 4% escalation. Costs will be monitored closely during the predevelopment period.

Construction Hard Cost Contingency is at least 5% (new construction) or 15% (rehab)	Y	Hard Cost Contingency is 5% Bid contingency is 4% Plan Check Contingency is 4%
Architecture and Engineering Fees are within standards	Y	Total architecture and engineering costs of \$3,583,800 are 4.4% of hard costs excluding contingency. These are based on the architect's estimate of costs but not on an actual contract.
Construction Management Fees are within standards	Y	The construction management fee is \$150,000, the maximum allowable per MOHCD's underwriting guidelines for a 140-unit project.
Developer Fee is within standards, see also disbursement chart below	N	Total Cash Dev Fee is \$2,200,000 (\$2 million as the base fee + \$200,000 as compensation for a large development, per OCII/MOHCD Underwriting Guidelines. See further details below.) Total At-Risk Cash Dev Fee is \$1,200,000 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 recommended amount, for a total developer fee of \$5,826,541.
Soft Cost Contingency is 10% per standards	Y	Soft Cost Contingency is 10%
Capitalized Operating Reserves are a minimum of 3 months	Y	Capitalized Operating Reserve is equal to 6 months of expenses + debt.
Capitalized Replacement Reserves are a minimum of \$1,000 per unit (Rehab only)	N/A	N/A
Transition Reserves	N	The Sponsor is including \$242,322 in transition reserves to account for HCD's requirement to capitalize two years' worth of operating deficit in the event the PBS8 contract is not renewed. If the Project does not receive AHSC funds this transition will no longer be required.

Cash Developer Fee Disbursement Schedule		
Payment Milestone	% of Project Mgmt Fee	Amount
At Acquisition or closing of preconstruction financing	15%	\$150,000
During or at end of Predevelopment	35%	\$350,000
By End of Construction	50%	\$500,000
Total Project Management Fee	100%	\$1,000,000
At Risk Fee*		\$1,200,000

Total Cash Developer Fee		<u>\$2,200,000</u>
GP Equity		\$500,000
GP Equity In Excess of MOHCD Recommended Amount		\$2,381,590
Deferred Developer Fee		\$744,951
Total Developer Fee		<u>\$5,826,541</u>

* Per MOHCD's Developer Fee Policy, the total Project Management fee will be \$1,000,000 and the total at risk fee will be \$1,200,000 (including the additional cash out allowed due to the project's larger size). 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.

Discussion on Developer Fee Waiver

140 units are planned for MBS 6W, which makes the developer potentially eligible for an additional \$400,000 (\$10,000 / unit above 100 units) in allowable in cash fee, per TCAC's "large project" fee rules and MOHCD's Developer Fee policy. MOHCD's policy states that the large project fee may be taken only if it does not require additional City subsidy to cover it. This test is more than met through the additional equity generated by the large project fee itself and the proposed deferred developer fee, which is fully allowed by MOHCD's policy. Note, however, that although the project could qualify to take the full \$400,000 in large project fees, it is only taking \$200,000 due to HCD's maximum fee limit of \$2,200,000 (per its latest set of Multifamily Regulations).

In addition to the fees described above, the Sponsor is requesting additional fees (\$1,826,541) up to a total proposed fee of \$5,826,541, and a corresponding waiver of MOHCD's fee cap of \$4,000,000, for the sole purpose of increasing basis and reducing OCII's gap. 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 dispersed back to the GP as developer fee. The waiver on MOHCD/OCII's \$4M developer fee cap will preserve City funding resources while still keeping the project far below TCAC's and CDLAC's cost containment limits. If the developer fee were to be capped at \$4,000,000, OCII's subsidy in the project could increase by more than \$800,000.

5.6. This Request/Phasing Narrative

Not applicable

6. PROJECT OPERATIONS (See Attachment I and J for Operating Budget and Proforma)

6.1. Annual Operating Budget

Since this is a predevelopment loan request, the annual operating budget is being presented to demonstrate the project's overall feasibility and is not intended to be presented for their approval at this time. Please see Attachment J.

6.2. Income

TCAC and MOHCD rents are based on 2017 levels and are shown in the chart below.

Unit Type	Proposed Number of Units	Proposed Avg. Sq. Feet	Rent (2017)	% AMI	Rent or Operating Subsidies
1BR	3	611	\$740	30% TCAC	
1BR	5	611	\$987	40% TCAC	
1BR	11	611	\$1,234	50% TCAC	
1BR	6	611	\$1,384	60% MOH	
1BR	10	611	\$2,583	30% MOH	PBS8
2 BR	9	913	\$888	30% TCAC	
2 BR	9	913	\$1,185	40% TCAC	
2 BR	22	913	\$1,483	50% TCAC	
2 BR	13	913	\$1,556	60% MOH	
2 BR	16	913	\$3,226	30% MOH	PBS8
3 BR	3	1,116	\$1,026	30% TCAC	
3 BR	4	1,116	\$1,369	40% TCAC	
3 BR	11	1,116	\$1,711	50% TCAC	
3 BR	8	1,116	\$1,730	60% MOH	
3 BR	9	1,116	\$3,797	30% MOH	PBS8
Total Units	139				

6.3. Annual Operating Expenses Evaluation.

Operating Proforma		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Debt Service Coverage Ratio is between minimum 1.10:1 and maximum 1.15:1 at year 15	Y	DSCR is at 1.15 at year 15. The DSCRs assume project based vouchers are obtained.
Debt Service Coverage Ratio stays above 1.00:1 for entirety of projected 20-year cash flow	Y	Per MOHCD's underwriting guidelines, the DSCR should be at least 1.0x in Year 17. At Year 17, the DSCR is 1.13x.
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 \$12,233 per unit per year, including services and excluding reserves or ground lease payments. These are slightly higher than the

		three operating comparables below due to potentially more complicated building systems in MBS 6W (driven by green standards in the revised AHSC guidelines) and an assumed maximum services budget per HCD's UMR limits. Sponsor will work to re-examine this budget and adjust downwards, if possible. <u>Comps Based on 2016 Actuals</u> 1. 10th & Mission (136 units, 32% LOSP, compl. 2010) <u>\$10,962</u> 2. 1180 4th Street (150 units, 33% LOSP, compl 2015) <u>\$11,513</u> 3. Transbay 7 (120 units, 20% public housing relocated households, under construction) <u>\$11,252</u>
Property Management Fee is at allowable HUD Maximum	Y	Total Property Management Fee is \$107,520 or \$64 PUPM in accordance with HUD's schedule
Property Management staffing level is reasonable per comparables	Y	1 FTE Property Manager 2 FTE Asst Property Managers 24/7 Desk Clerk (this position is tentative and will be decided upon through discussions with the HOPE SF, Sponsor and OCII teams) 1 FTE Maintenance Manager 1 FTE Maintenance Tech 2 FTE Janitors This level of property management staffing is consistent with LOSP buildings in the Sponsor's portfolio. The staffing structure will be reexamined during predevelopment given that 6W is planned as a PBS8 building.
Asset Management and Partnership Management Fees meet standards	Y	Annual AM Fee is \$21,900/yr Annual PM Fee is \$21,900/yr These amounts are consistent with HUD's most current published schedule and assume operations begin in 2020
Replacement Reserve Deposits meet or exceed TCAC minimum standards	Y	Replacement Reserves are \$500 per unit per year
Limited Partnership Asset Management Fee meets standards	N	This is set at \$5,000 a year with a 3.5% escalation to meet investor preferences as seen in Mercy's most recent closings

6.4. Capital Needs Assessment & Replacement Reserve Analysis

Not applicable

7. SUPPORT SERVICES

7.1. Services Plan.

During predevelopment, a services provider will be selected by OCII in partnership with the HOPE SF leadership team for Mission Bay Block 6W.

7.2. Service Budget.

Once a services provider is determined, a detailed services plan and corresponding budget will be created. Currently, \$146,089 annually is allocated for services based on the per unit per year maximum laid out in HCD's Uniform Multifamily Regulations, although those funds have not yet been programmed. The annual budget would be adequate for a full time Resident Services Coordinator and close to a full time case manager.

7.3. DPH/HSA Assessment of Service Plan and Budget.

See above.

8. THRESHOLD ELIGIBILITY REQUIREMENTS

The Request for Proposals defined minimum threshold requirements to be considered for selection. All five respondents to the RFP satisfied the minimum requirements for review and consideration.

9. RANKING CRITERIA

Please see RFP and Developer Selection Process section.

10. STAFF RECOMMENDATIONS

10.1. Proposed Loan/Grant Terms

Financial Description of Proposed Loan	
Loan Amount:	\$3,495,000
Loan Term:	The Repayment Term will begin on the date of execution of the loan and end at either (1) the close of construction financing for the Project or, (2) the Developer and OCII execute a construction/permanent loan agreement that incorporates the predevelopment and permanent loan amounts.
Loan Maturity Date:	This predevelopment loan will convert to a 55-year construction/permanent loan with a 3% interest rate
Loan Repayment Type:	Residual Receipts
Loan Interest Rate:	3% (In the event that it is possible to conform to the true debt analysis to the satisfaction of the investor and lender the OCII loan interest rate may be reduced to a rate as low as 0% subject to approval from the Director of MOHCD and the Executive Director of OCII.)

10.2. Recommended Developer Fee Disbursement Milestones

Disbursement Condition	Contractual Deadline	Amount to be Disbursed
ENA Execution/Secure Predevelopment Funding	8/6/2017	\$150,000
Submittal of schematic design & cost estimate	5/1/2018	\$87,500
Site permit application submitted	6/4/2018	\$87,500
Submittal of 50% CD set and cost estimate	1/10/2019	\$87,500
Building permit application submitted	2/10/2019	\$87,500

10.3. Recommended conditions prior to financing gap

- 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.
- 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.
- 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.
- 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.
- Sponsor will work with OCII to determine a services provider and with OCII and the HOPE SF leadership team to draft a services plan.
- Sponsor will work with the Housing Authority to confirm that the income restrictions associated with the PBS8 units are appropriate for the intended population and if not, will adjust the income restrictions to a higher AMI.
- 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.

- 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.

11. LOAN COMMITTEE MODIFICATIONS

LOAN COMMITTEE RECOMMENDATION

Approval indicates approval with modifications, when so determined by the Committee.

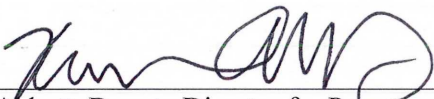
☒ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.



Olson Lee, Director
Mayor's Office of Housing

Date: 6/4/17

☒ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.



Kerry Abbott, Deputy Director for Programs
Department of Homelessness and Supportive Housing

Date: 6-2-17

☒ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.



Nadia Sesay, Interim Executive Director
Office of Community Investment and Infrastructure

Date: 6-2-17

Sally Oerth, Deputy Director

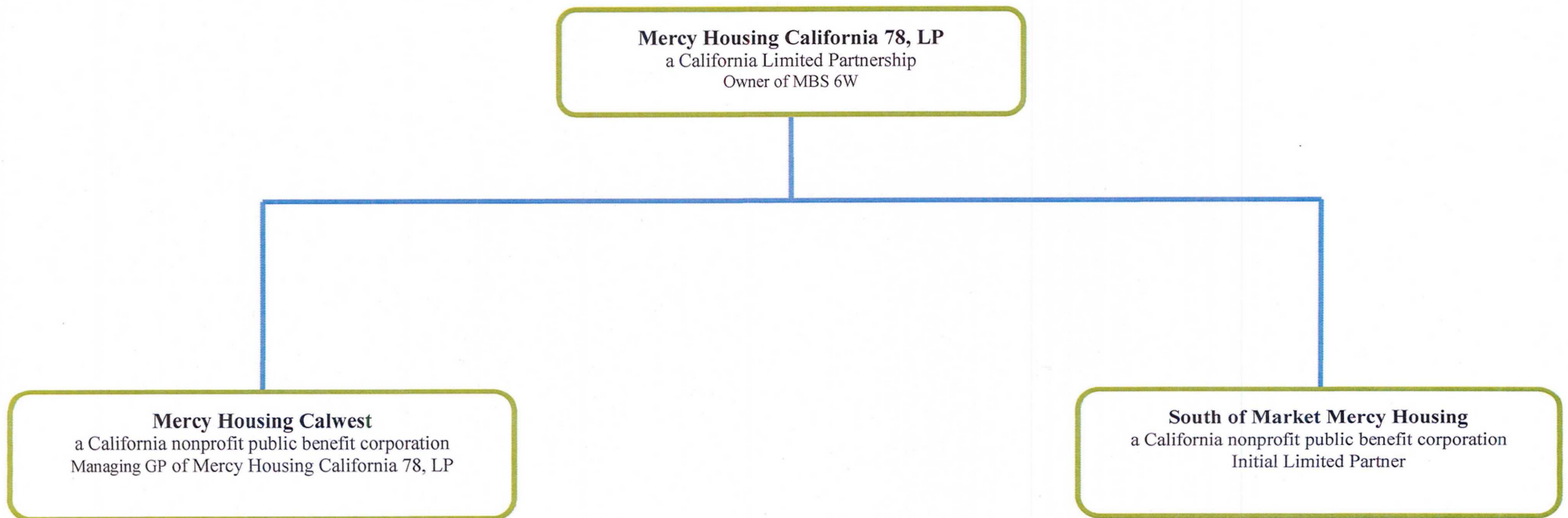
- Attachments:
- A. Project Milestones/Schedule
 - B. Borrower Org Chart
 - C. Developer Resumes
 - D. Asset Management Analysis of Sponsor
 - E. Site Map with amenities
 - F. Elevations and Floor Plans, if available
 - G. Comparison of City Investment in Other Housing Developments
 - H. Sources and 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)	<u>N/A</u>	<u>N/A</u>
1.	Acquisition/Predev Financing Commitment	<u>6/2/2017</u>	<u>N/A</u>
2.	Site Acquisition	<u>N/A</u>	<u>N/A</u>
3.	Development Team Selection		
a.	Architect	<u>11/10/2016</u>	<u>N/A</u>
b.	General Contractor	<u>6/30/2017</u>	<u>9/30/2017</u>
c.	Owner's Representative	<u>7/5/2017</u>	<u>10/5/2017</u>
d.	Property Manager	<u>11/10/2016</u>	<u>N/A</u>
e.	Service Provider	<u>9/15/2017</u>	<u>12/15/2017</u>
4.	Design		
a.	Submittal of Schematic Design & Cost Estimate	<u>11/1/2017 (OCII Commission 12/17/17)</u>	<u>12/1/2017 (OCII Commission date TBD)</u>
b.	Submittal of Design Development & Cost Estimate	<u>4/2/2018</u>	<u>6/2/2018</u>
c.	Submittal of 50% CD Set & Cost Estimate	<u>7/10/2018</u>	<u>9/10/2018</u>
d.	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	<u>10/5/2018</u>	<u>12/5/2018</u>
5.	Environ Review/Land-Use Entitlements		
a.	CEQA Environ Review Submission	<u>N/A</u>	
b.	NEPA Environ Review Submission	<u>8/1/2017</u>	<u>11/1/2017</u>
c.	CUP/PUD/Variances Submission	<u>N/A</u>	
6.	Permits		
a.	Building / Site Permit Application Submitted	<u>11/22/2017</u>	<u>1/22/2018</u>
b.	Addendum #1 Submitted	<u>8/10/2018</u>	<u>10/10/2018</u>
c.	Addendum #2 Submitted	<u>9/21/2018</u>	<u>11/21/2018</u>
7.	Request for Bids Issued	<u>12/17/2018</u>	<u>2/17/2018</u>
8.	Service Plan Submission		
a.	Preliminary	<u>11/15/2017</u>	<u>12/15/2018</u>
b.	Interim	<u>N/A</u>	
c.	Update / Final	<u>1/15/2019</u>	<u>Contractual for gap loan</u>

9.	Additional City Financing		
a.	Predevelopment Financing Application #2	<u>N/A</u>	
b.	Gap Financing Application	<u>7/15/2018</u>	<u>10/15/2018</u>
10.	Other Financing		
a.	AHSC Application	<u>Winter 2017-2018</u>	
b.	Construction Financing RFP	<u>8/20/2018</u>	<u>11/15/2018</u>
c.	AHP Application	<u>March 2018</u>	<u>March 2018</u>
d.	CDLAC Application	<u>8/31/2018</u>	<u>11/30/2018</u>
e.	TCAC Application	<u>8/31/2018</u>	<u>11/30/2018</u>
f.	HUD 202 or 811 Application	<u>N/A</u>	
g.	Selection of Tax Credit Investor	<u>12/21/2018</u>	<u>Contractual for gap loan</u>
11.	Closing		
a.	Construction Closing	<u>3/15/2019</u>	<u>Contractual for gap loan</u>
b.	Permanent Financing Closing	<u>9/27/2021</u>	<u>Contractual for gap loan</u>
12.	Construction		
a.	Notice to Proceed	<u>3/18/2019</u>	<u>Contractual for gap loan</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>12/21/2020</u>	<u>Contractual for gap loan</u>
13.	Marketing/Rent-up		
a.	Early Outreach Plan Submission	<u>4/15/2019</u>	<u>Contractual for gap loan</u>
b.	Marketing Plan Submission	<u>7/2/2020</u>	<u>Contractual for gap loan</u>
c.	Commence Marketing	<u>8/14/2020</u>	<u>Contractual for gap loan</u>
d.	95% Occupancy	<u>3/26/2021</u>	<u>Contractual for gap loan</u>
14.	Cost Certification	<u>3/15/2021</u>	<u>Contractual for gap loan</u>
15.	8609	<u>2/14/2022</u>	<u>Contractual for gap loan</u>
16.	Close Out MOH/OCII Loan(s)	<u>9/27/2021</u>	<u>Contractual for gap loan</u>

Attachment B: Borrower Org Chart



Attachment C: Developer Resumes

WILLIAM H. HO, Sr. Project Manager

- Oversee the construction, lease up, and permanent loan conversion of a 70 unit affordable family building that was built in close partnership with a 407 unit market rate development, under separate ownership, known as Transbay Block 6. Both buildings had shared permits and building systems as well as required balancing different funding demands and expectations.
- Secure construction and permanent financing as well as oversee construction of a 120 unit affordable family building in San Francisco's Transbay District.
- Oversee as well as contribute to various requests for qualifications/proposals to help grow the project development pipeline of the organization
- Work with various Mercy departments (e.g. Asset Management, Property Management, Resident Services) to ensure properties are well designed, built, and maintained
- Represent Mercy Housing to various public bodies, citizen groups, funders, and trade organizations as needed

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's California Asset Management staff will provide asset management staff for the asset management duties. Mercy's Denver compliance and accounting staff would continue to perform compliance and accounting duties for the CPI 1a project during operations.

Total Number of Projects and Average Number of Units Per Project Currently in Developer's Asset Management Portfolio

MHI's Asset management department currently oversees 126 buildings with 8,398 units in the state of California.

Developer's Current Asset Management Staffing Including Job Titles, Full Time Employees, an Organizational Chart and the Status of Each Position (filled/vacant)

MHI's Asset management department currently has a staff of 10 people. Four (4 FTEs) Asset Managers oversee the entire California portfolio. Four (4 FTEs) Asset Management Analysts provide support to the Asset managers. There is a Director of Portfolio Analysis (1 FTE) that oversees all of the analysts. The department head is the Senior Vice President of Portfolio Management (1 FTE) that oversees the entire department. All positions are currently filled and they are all full time. The breakdown of MHI's asset management staff positions is as follows:

- (1) Senior Vice President of Portfolio management
- (1) Director of Portfolio Analysis
- (4) Asset Managers
- (4) Asset management Analysts

Description of Scope and Range of Duties of Developer's Asset Management Team

MHI's Asset Management staff has oversight over all operations of the properties in the portfolio. All of the Asset Management staff mentioned above fall under the umbrella of the property management department. Asset Management reviews financials, approves budgets, approves substantial capital initiatives, is a part of the team that determines long term capital projects. The asset management staff oversee build out for all existing commercial spaces and do all of the reporting and communication to all of financial partners. Asset management approves all annual budgets for the properties and approve all operating reserve draws or internal line of credit requests when a property is short of cash and needs a temporary funding to meet property operations costs. Asset management submits grants and loan applications for the properties to secure or continue operating funding.

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 constant 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 for SF Projects

Asset Management staffing budget is \$1,585,000.

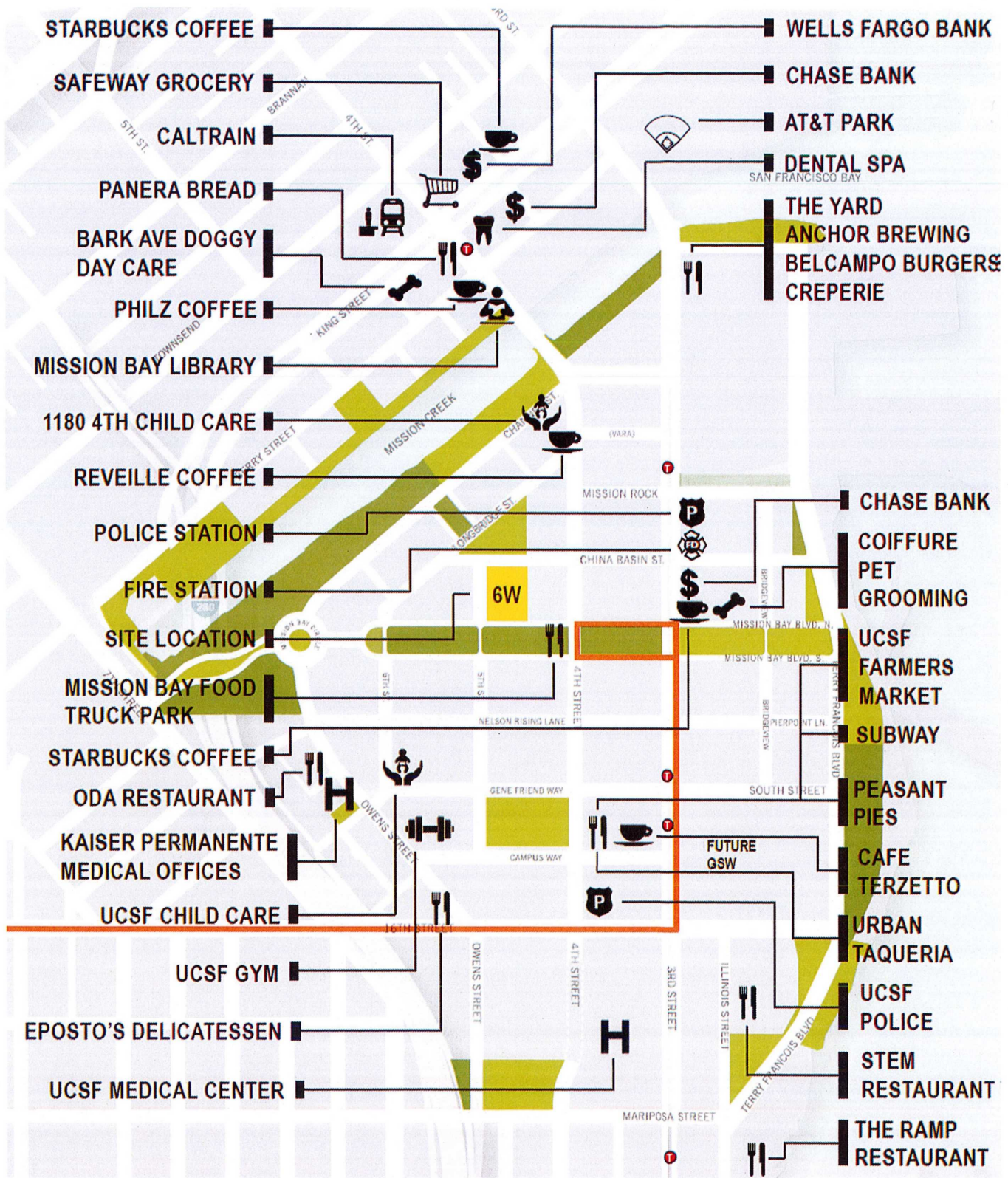
Number of Projects Expected to be in Developer's Asset Management Portfolio in 5 Years and, If Applicable, Plans to Augment Staffing to Manage Growing Portfolio

MHI anticipates that the portfolio will grow from 126 buildings to approximately 136 buildings in the next 5 years.

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 126 projects in California, the projects/AM staff ratio is 32, 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 4 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 16 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 17 and remain within the industry standard.

Attachment E: Site Map with amenities



- Site location
- Completed Open Space
- Future Open Space

- T MUNI T- Third Street Stop
- MUNI 55 Local Service

**MISSION BAY
AMENITIES**

MARCH 2016



Attachment F: Elevations and Floor Plans

Attachment G: Comparison of City Investment in Other Housing Developments

**Attachment H: Sources and Uses, Attachment I: Development Budget, Attachment
J: 1st Year Operating Budget, Attachment K 20 Year Cash Flow**

EXCLUSIVE NEGOTIATIONS AGREEMENT
Mission Bay South– Block 6W
Mission Bay South Redevelopment Project Area

THIS EXCLUSIVE NEGOTIATIONS AGREEMENT (hereinafter “**ENA**” or “**Agreement**”) dated as of July 18, 2017, is made 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**” or “**Successor Agency**”) and Mercy Housing California 78, L.P., a California limited partnership whose managing general partner is Mercy Housing Calwest (“**MHC**”), and its authorized successors and assigns (the “**Developer**”).

THIS AGREEMENT IS MADE WITH REFERENCE TO THE FOLLOWING FACTS AND CIRCUMSTANCES:

1. In accordance with the California Community Redevelopment Law (Health and Safety Code, section 33000 *et seq.*), the City and County of San Francisco (“**City**”), acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay South Redevelopment Project Area (the “**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 Successor Agency was responsible for implementing the Mission Bay South Redevelopment Plan.

2. Pursuant to California Health and Safety Code §§ 34170 *et seq.* (the “**Redevelopment Dissolution Law**”) and 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), the Successor Agency is responsible for implementing the Redevelopment Plan and fulfilling the enforceable obligations under the Mission Bay South Owner Participation Agreement (the “**OPA**”) between the Agency and FOCIL-MB, LLC (the “**Master Developer**”) (Nov. 16, 1998).

3. Under the OPA and its Mission Bay South Housing Program, the Master Developer is obligated to transfer to the Successor Agency approximately 12.2 acres of “building ready” land that has been remediated, graded and served by infrastructure so that the Successor Agency may develop affordable housing. The OPA identifies, at Exhibit F to the Mission Bay South Housing Program, the specific parcels that the Successor Agency is required to develop with affordable housing.

4. 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 Mission Bay South Block 6 West, identified as Block 8711, Lot 020 of that Final Map Np. 3936, recorded on February 22, 2006 and filed on pages 54-58 in Book BB of the County’s Survey Maps (the “**Site**”). The OPA identifies the Site as an affordable housing parcel. The Project will result in the construction of approximately 140 units to be leased to households earning no more than sixty percent of the unadjusted Area Median Income as established by the San Francisco Mayor’s Office of Housing and Community Development

(“MOHCD”) with twenty-five percent of the units to be set aside for households voluntarily relocating from HOPE SF public housing sites (the “Project”). The Project will also include a ground floor childcare facility and community spaces for residents. On February 21, 2017, the Commission selected, by Resolution No. 7-2017, Mercy Housing California to develop the Project. OCII and Developer intend to execute, subject to approval by the Commission, a predevelopment loan agreement substantially concurrently herewith.

5. At its meeting on July 18, 2017, the Commission authorized the OCII Executive Director to negotiate and execute this ENA with the Developer (the development entity formed by Mercy for the Site) to enable the Developer to pursue predevelopment activities for the construction and management of the Project. The ENA will further define a series of milestones that will result in the execution of an option to ground lease agreement and a long-term ground lease agreement for the Site between OCII and the Developer (“**Ground Lease**”) after public hearing and consideration by the Commission.

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, OCII and the Developer agree as follows:

1. Exclusive Right

For the Exclusive Negotiations Period set forth in Section 2 below, and subject to the terms and conditions of this Agreement, OCII and the Developer, acknowledging that time is of the essence, agree to negotiate diligently and in good faith with each other to enter into the Ground Lease providing for the ground lease of the Site to the Developer, sufficient to establish “site control” meeting the requirements of potential project lenders and the California Tax Credit Allocation Committee. OCII grants to the Developer the exclusive right to negotiate the Ground Lease (the “**Exclusive Right**”) during the exclusive negotiations period. OCII agrees not to solicit any other proposals or negotiate with any other developer with respect to the subject of the negotiations set forth herein.

The Developer and OCII acknowledge and agree that, under this Agreement, OCII is not committing itself or agreeing to: (a) enter into the Ground Lease or undertake any exchange or transfer of real property, any disposition of any real property interests to the Developer, (b) approve any land use entitlements, or (c) undertake any other acts or activities relating to the subsequent independent exercise of discretion by OCII or any agency, commission or department of the City. This Agreement does not constitute the disposition of property or the transfer of OCII’s or the City’s exercise of control over the Site. However, this Agreement allows the OCII Executive Director to enter into an Option to Ground Lease, in the form attached hereto as Attachment 4, for the Project Site in her sole discretion should certain conditions be met, as described below in Section 6(f).

2. Term.

(a) The term of the Agreement shall be from July 18, 2017 until January 18, 2019 (“**Initial Term**”), unless extended or earlier terminated pursuant to the provisions herein (the Initial Term, as modified by any extension or early termination, is the “**Exclusive Negotiations Period**”).

(b) If not otherwise terminated in accordance with its terms, this ENA shall terminate upon OCII’s execution of any Ground Lease approved by the Commission.

3. Negotiation Deposits; OCII/City Costs.

3.1 Negotiation Deposits.

(a) In connection with its selection by the OCII Commission as the Developer of the Site, in response to the RFP, the Developer has paid to OCII the cash sum of One Thousand Dollars (\$1,000) as an earnest money deposit (the “**Deposit**”). The Developer will pay to OCII an additional sum of Nine Thousand Dollars (\$9,000) in cash (the “**Additional Deposit**”) at the time it executes the ENA. The Additional Deposit shall be combined with the Deposit to form the performance deposit (“**Performance Deposit**”). Except as provided in Sections 3.1(a) and 3.1(b), the Performance Deposit shall be held by OCII until completion of construction of the Project.

(b) Subject to Section 3.1(b) below, if the parties fail to reach agreement on the Ground Lease despite the Developer’s good faith negotiations or if the Ground Lease is not approved by the OCII Commission, executed and delivered as contemplated hereby for any reason outside of the Developer’s control, and, in either instance, the Developer is not in default under this Agreement, then upon termination of this Agreement, OCII shall within 30 days return the Performance Deposit (together with interest actually accrued thereon) to the Developer.

(c) OCII shall retain the Performance Deposit, together with any and all accrued interest, if any of the following events occurs: (i) In the event the Developer is in default under the terms of the ENA, and has not cured such default within the period allowed and the Agency, in its sole discretion, has not expressly waived such default in writing, and the ENA is terminated; or (ii) In the event the parties fail to reach agreement because in the Agency’s reasonable judgment the Developer is not making a good faith effort to negotiate and fulfill its obligations under this ENA, or if the OP/DDA is not approved, executed and delivered as contemplated hereby for a reason reasonably determined by the Agency to be within the Developer’s control;

4. Extension of Exclusive Negotiations Period.

OCII’s Executive Director may extend, in her sole discretion, the Exclusive Negotiations Period for any period up to a total of an additional 12 months beyond the initial term to permit the completion of the negotiations or milestones under the Schedule of Performance, to comply with statutory public notice requirements or to extend for any delays due to challenges, appeals, litigation or actions opposing Developer’s project.

5. Obligations of the Developer.

5.1 Schedule of Performance; Scope of Development.

The Developer agrees that it shall diligently and in good faith negotiate with OCII a Ground Lease and related actions under this Agreement based on the development opportunity described in the RFP, the Schedule of Performance attached as Attachment 2 hereto, and the Scope of Development attached as Attachment 3 hereto. The Developer shall diligently pursue completion of milestones under the Schedule of Performance and additional benchmarks, if any, under this ENA in a timely fashion. The Schedule of Performance may be modified at the request of the Developer, subject to the approval of the OCII Executive Director in her sole discretion, so long as the modification does not exceed the extensions of Exclusive Negotiations Period authorized under Section 4 above.

5.2 Other Obligations of Developer.

(a) The Developer shall be required under this ENA to comply with applicable law and policies, including the requirements of all City and OCII ordinances, resolutions, regulations or other regulatory approvals with respect to the planning, design, and approvals necessary for developing the Site. These requirements include, without limitation, OCII's Small Business Enterprise Program (including, but not limited to, the selection of consultants during the pre-development period), Labor Standards and Prevailing Wages Provisions, Minimum Compensation Policy, and Health Care Accountability Policy.

(b) In addition, the Developer shall comply with the terms of the OPA, Design for Development, and the Design Review and Document Approval Procedures and any amendments thereto. The Developer shall also be responsible for submitting a request for a secondary use determination for a Local-Serving Child Care Facility under Section 302 of the Mission Bay South Redevelopment Plan and a preliminary marketing plan in compliance with the MOHCD and OCII requirements for the Project. At the request of OCII and/or the City and at the Developer's sole expense, which funds may come from the Predevelopment Loan Agreement, the Developer shall prepare (or cause expert consultants approved by OCII to prepare) and submit all reports, studies or other information reasonably necessary to obtain regulatory approvals, excluding privileged attorney-client communications, or confidential or proprietary information.

(c) The Developer shall commit sufficient financial and personnel resources required to undertake and complete the development of the Project at the Site as a priority project and to fulfill the Developer's obligations under this Agreement in an expeditious fashion.

(d) In making any entry onto the Site, neither the Developer nor any of its agents, contractors or representatives shall interfere with or obstruct the permitted, lawful use of the Site by its tenants or occupants, if any, or the conduct of their business operations thereon.

5.3 Indemnity.

5.3.1 To the fullest extent permitted by law, the Developer shall hold harmless, defend at its own expense, and indemnify OCII, the City and their respective commissioners, officers, agents and employees (individually or collectively, an "Indemnified Party") against any and all losses, of every kind, nature and description directly or indirectly arising out of, or connected with Developer's obligations under this ENA, except to the extent caused by the willful misconduct or the gross negligence of the Indemnified Party. For purposes of this Section, losses will include, but not be limited to: (a) any default by the Developer in the observance or performance of any of the Developer's obligations under the ENA (including, without limitation, those obligations set forth in Section 5.2 above), (b) any failure of any representation by the Developer to be correct in all material respects when made, (c) injury or death to persons or damage to property or other loss occurring on or in connection with the Developer's activities pursuant to this ENA, whether caused by the negligence or any other act or omission of the Developer and its officers, agents and employees, (d) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnified Party that relates to or arises out of the Developer's performance under the ENA or the development of the Site by the Developer, or any transaction contemplated by, or the relationship between the Developer and OCII under the ENA, (e) any

failure of the Developer or its agents or contractors to comply with all applicable environmental requirements relating to the development of the Site, or (f) 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, which 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 (e) above, provided that no Indemnified Party shall be entitled to indemnification under this Section for matters caused solely by such Indemnified Party's gross negligence or willful misconduct. In the event any action or proceeding is brought against an Indemnified Party by reason of a claim arising out of any loss for which the Developer has indemnified the Indemnified Party, and upon written notice from such Indemnified Party, the Developer shall at its sole expense answer and otherwise defend such action or proceeding using counsel approved in writing by the Indemnified Party. The Indemnified Party shall 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 Indemnified Party in connection with the matters covered by this Agreement. The provisions of this paragraph shall survive the termination of this Agreement.

5.3.2 The Developer shall further indemnify the Indemnified Party against any release, spill or escape of Hazardous Materials (as defined below) on or about the Site caused by the Developer or its agents, contractors or representatives; except for losses resulting from the gross negligence or willful misconduct of any of the Indemnified Parties. For purposes hereof, "Hazardous Material" means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or under Section 25281 or 25316 of the California Health & Safety Code; any "hazardous waste" as defined in Section 25117 or listed under Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing improvements on the Site, or are naturally occurring substances on, in or about the Site; and petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

5.3.3 The indemnity shall include, without limitation, the Developer's obligation to pay reasonable Attorney's Fees and Costs (as defined in Section 11.7) and fees of consultants and experts, laboratory costs, and related costs, as well as the Indemnified Party's costs of investigating any loss.

5.4 Insurance.

(a) Developers' Insurance. Without in any way limiting the Developers' indemnification obligations under this Agreement, and subject to reasonable approval by OCII of the insurers and policy forms, Developer shall obtain and maintain, or cause to be obtained and maintained at no cost to OCII, the following insurance during the Term, unless otherwise provided in this Agreement:

(b) Minimum Scope of Insurance. Coverage shall be at least as broad as:

(i.) Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01 01) or other form approved by OCII.

(ii.) Insurance Services Office Automobile Liability coverage, code 1 (form number CA 00 01 – “any auto”) or other form approved by OCII.

(iii.) Workers’ Compensation insurance as required by the State of California and Employer’s Liability Insurance.

(iv.) Professional Liability Insurance: Developer must require that all architects, engineers, and surveyors that it directly contracts with for the Project have liability insurance covering their negligent acts, errors and omissions. Developer must provide OCII with copies of consultants’ insurance certificates showing such coverage.

(c) Minimum Limits of Insurance. The Developer shall maintain limits no less than:

(i.) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit (\$4,000,000). Applicable Umbrella or Excess Liability limits may be used to meet the terms of this paragraph.

(ii.) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

(iii.) Workers’ Compensation and Employer’s Liability: Workers’ Compensation limits as required by the State of California and Employers Liability limits of \$1,000,000 for bodily injury by accident and \$1,000,000 per person and in the annual aggregate for bodily injury by disease.

(iv.) Professional Liability Insurance: \$2,000,000 per claim and in the annual aggregate. If the Developer’s Professional Liability Insurance is “claims made” coverage, these minimum limits shall be maintained by the Contractor for no less than five (5) years beyond completion of the Scope of Services.

(d) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions 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 Contractor shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(e) Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(i.) The “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” are to be covered as additional insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Developer; and liability arising out of work or operations performed by or on behalf of the Developer.

(ii.) For any claims related to this Contract, the Developer’s insurance coverage must be primary insurance 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 Developer’s insurance and shall not contribute with it.

(iii.) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the OCII, the City and County of San Francisco, and their respective commissioners, members, officers, agents or employees.

(iv.) Each insurance policy required by this clause must be endorsed to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits except after (30) thirty days prior written notice by certified mail, return receipt requested, has been given to OCII.

(v.) Developer hereby grants to OCII a waiver of any right to subrogation which any insurer of said Developer may acquire against OCII by virtue of the payment of any loss under such insurance. Developer agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not OCII has received a waiver of subrogation endorsement from the insurer.

(viii.) If any of the required policies provide coverage on a claims-made basis: The retroactive date must be shown and must be before the date of the contract or the beginning of contract work.

a. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the contract work.

b. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Developer must purchase “extended reporting” coverage for a minimum of five years after completion of contract work.

(f) Acceptability of Insurers. Insurance is to be placed with insurers with a current A. M. Best’s rating of no less than A:VII, unless otherwise approved by OCII.

(g) Verification of Coverage. Developer must furnish OCII with certificates of insurance effecting coverage before or at the time of execution of this ENA. The certificates and 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 affecting the coverage required by these specifications at any time.

(h) Design Professionals, Subcontractors and Consultants Insurance. Development Team's architects, engineers and surveyors shall maintain professional liability insurance with minimum limits of \$2,000,000 per claim and \$2,000,000 in the annual aggregate covering all professional negligent acts, errors and omissions. Development Team shall cause its general contractor and all subcontractors and consultants to maintain workers' compensation, automobile liability, and commercial general liability insurance in the amounts and in accordance with the requirements listed above, as applicable, unless otherwise approved by the OCII's Risk Manager. Development Team must furnish OCII with general contractor's, architects' and engineers' certificates of insurance and original endorsements effecting coverage required by this paragraph

(i) Review. The insurance coverage required under this Section shall be evaluated by OCII for adequacy if and when the Term of this Agreement is extended. OCII may require Developer 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.

5.5 Force Majeure

The occurrence of any of the following events shall excuse performance of such obligations of Developer as are rendered impossible to perform while such event continues: acts of God; strikes; lockouts; labor disputes; inability to obtain labor, materials or reasonable substitutes therefor; governmental restrictions, regulations or controls; judicial orders; enemy or hostile governmental actions; civil commotions; fire or other casualty; nonperformance by OCII which prevents the performance of Developer; and other causes beyond the control of the Developer. The occurrence of such events shall excuse performance only in the event that the Developer has provided written notice to OCII within thirty (30) days after the occurrence or commencement of the event of force majeure and such excuse shall terminate thirty (30) days after the termination of the event giving rise to the delay. However, under no circumstances shall this force majeure provision apply to Developer's indemnification and defense obligations under Section 5.3 and/or Developer's insurance obligations under Section 5.4 above.

6. Obligations of OCII.

Subject to the provisions of Section 8, OCII agrees as follows:

- (a) Subject to environmental review under the California Environmental Quality Act ("CEQA") and the National Environmental Protection Act ("NEPA"), as applicable, the public review process and all required governmental approvals, as further provided in this Agreement, OCII shall

use good faith efforts to diligently negotiate, prepare and submit for approval the Ground Lease.

- (b) Subject to environmental review under CEQA and the NEPA as applicable, the public review process and all required governmental approvals, as further provided in this Agreement, OCII shall use good faith efforts to acquire fee title to the Site from Master Developer.
- (c) OCII shall make available all public record studies and other documents in its possession as necessary to perform the Developer's due diligence investigations of the Site, provided that OCII makes no representations or warranties whatsoever regarding the completeness or accuracy of such information and the Developer must perform its own independent analysis.
- (d) OCII shall reasonably cooperate with the Developer in obtaining access to the Site from the Master Developer for the purpose of performing tests, surveys and inspections, and obtaining data necessary or appropriate to negotiate the Ground Lease provided, however, the Developer shall give prior written notice to OCII of any such entry. Subject to any required approval from Master Developer, OCII shall provide the Developer with the same rights of access to the Site that OCII may have from time to time during the Exclusive Negotiations Period, subject to all applicable laws and regulations.
- (e) OCII shall reasonably cooperate with the Developer in the provision of information necessary for and assistance in the filing, processing and obtaining of land use entitlements and regulatory approvals, and, to the extent required by law, join with the Developer as a co-applicant in the filing for such approvals, but neither OCII nor the City shall be required to satisfy any conditions for any approval, except as may be specifically agreed to by OCII, or the City, as applicable.
- (f) OCII Executive Director shall, at her reasonable discretion, enter into an Option to Ground Lease with Developer if Developer is in conformance with the obligations described in Article 5 and if such Option is necessary to secure Project financing.

7. Non-Assignment.

7.1 Definitions.

For purposes of this Section and where such initially capitalized terms are elsewhere used in this Agreement, the following term shall have the meaning given below:

“Significant Change” means any dissolution, merger, consolidation or other reorganization, or any issuance, sale, assignment, hypothecation or other transfer of legal or beneficial interests in the Developer.

7.2 Non-Assignment.

OCII and the Developer acknowledge and agree that OCII is entering into this Agreement and granting the Exclusive Right to the Developer on the basis of the particular experience,

financial capacity, skills and capabilities of the Developer and its members. The Exclusive Right is personal to the Developer, is not assignable and the Agreement shall not be assigned or transferred except by the prior written consent of OCII, which may be given, withheld or conditioned in OCII's sole and absolute discretion.

8. Default and Remedies.

8.1 Events of Default by the Developer.

The occurrence of any of the following shall constitute an event of default on the part of the Developer after OCII gives notice of the default specifying in reasonable detail the basis for the determination of the default:

- (a) Failure to pay any sums due under this Agreement within thirty (30) days after written notice by OCII.
- (b) Failure to perform or abide by any material provision of this Agreement, including a performance milestone contained in the ENA Schedule of Performance.
- (c) Any material breach of any representation and warranty made by the Developer under Section 9 or any other provision of this Agreement.
- (d) Any assignment, attempted assignment or Significant Change in violation of Section 7.2.
- (e) Any filing of a petition to have the Developer or any affiliate of Developer adjudicated insolvent and unable to pay its debts as they mature or a petition for reorganization liquidation or arrangement under any bankruptcy or insolvency law, or any assignment for the benefit of creditors, or seeking appointment of a trustee, receiver, liquidator of the Developer or any substantial part of the Developer's assets, if such petition is not dismissed within sixty (60) days.
- (f) The debarment or prohibition of the Developer from doing business with any federal, state or local governmental agency, or any debarment or prohibition of any affiliate of the Developer from doing business with any federal, state or local governmental agency to the extent such debarment or prohibition of the affiliate could affect the redevelopment of the Site as contemplated hereby.
- (g) Failure to procure or maintain any of the insurance coverage required hereunder so that there is a lapse in required coverage and such breach is not cured within two (2) days.
- (h) The occurrence of an uncured default under the terms of the Predevelopment Loan Agreement.
- (i) Failure to notify OCII of any material adverse change in the financial condition of the Developer that affects the Developer's ability to complete the Project.

8.2 Remedies of OCII.

(a) In the event of a default by the Developer, except as otherwise provided in this ENA, the Developer shall have thirty (30) days from the receipt of written notice from OCII to cure such default, or, if such default cannot reasonably be cured within such 30-day period, the Developer shall commence action to cure such failure within such 30-day period and diligently and continuously prosecute such action to completion, but in any event no longer than 90 days from the receipt of written notice from OCII to cure such default.

(b) If, after the time provided in Section 8.2(a) above, Developer has not cured the default, OCII may exercise any or all of the following exclusive remedies available to it under this Agreement: (i) terminating the ENA, (ii) retaining the Performance Deposit; and/or (iii) exercising its rights under the Work Product security described below in Section 8.2 (c). If OCII chooses to terminate the ENA, OCII shall provide written notice to Developer of such termination, the ENA shall be terminated as of the date of the notice, and neither party shall have any rights against or liability to the other, except those provisions that are specified to survive such termination shall remain in full force and effect.

(c) Plans, Specifications, Reports and Studies. If OCII terminates this ENA, then subject to the proprietary rights of their authors and any confidentiality agreements and privileges recognized by applicable law, the Developer shall deliver to OCII copies of any and all reports, studies, document lists and plans regarding the redevelopment of the Site in the Developer's possession or prepared by or on behalf of the Developer (the Developer's "**Work Product**"). The Developer shall deliver its Work Product within ten (10) days after written demand from OCII, which obligation shall survive the termination of this Agreement. OCII may use the Work Product for any purpose relating to the Site, provided that OCII shall release the Developer and the Developer's contractor, architect, engineer and other consultants from any losses arising out of the OCII's use of such documents except to the extent that OCII retains any of them and they agree to such continued liability. The Developer and OCII acknowledge that the Work Product also serves as security pursuant to the Predevelopment Loan Agreement and that the provisions of Sections 3.1 and 24.21 of the Predevelopment Loan Agreement shall govern the assignment of the Work Product to OCII.

8.3 Termination and Developer's Risk.

The Developer acknowledges and agrees that, except as otherwise provided under the Predevelopment Loan Agreement, it is proceeding at its own risk and expense until such time as the Ground Lease is approved and without any assurance that the Ground Lease will be approved.

8.4 Damages.

The parties have agreed that OCII's actual damages in the event of a failure to approve, execute and deliver the Ground Lease due to a default by the Developer would be extremely difficult or impracticable to determine. After negotiation, the parties have agreed that, considering all the circumstances existing on the date of this ENA, the amount of the Performance Deposit together with all accrued interest thereon, as herein provided, is a reasonable estimate of the damages that OCII would incur in such event.

IF THE PARTIES DO NOT REACH AGREEMENT ON THE GROUND LEASE OR THE GROUND LEASE IS NOT APPROVED, EXECUTED AND DELIVERED AS CONTEMPLATED HEREBY DUE, IN EITHER INSTANCE, TO ANY DEFAULT BY THE DEVELOPER UNDER

THIS ENA, THEN, WITHOUT LIMITING ANY OF ITS OTHER REMEDIES HEREUNDER, AT LAW OR IN EQUITY, OCII SHALL BE ENTITLED TO RETAIN THE PERFORMANCE DEPOSIT, TOGETHER WITH ALL ACCRUED INTEREST THEREON, AS HEREIN PROVIDED, AS LIQUIDATED DAMAGES. BY PLACING THEIR RESPECTIVE INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS ENA WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

INITIALS: OCII _____ Developer _____

9. Representations and Warranties of the Developer.

9.1 Representations and Warranties.

The Developer represents, warrants and covenants as follows:

(a) Valid Existence; Good Standing. Developer is a California limited partnership duly organized and validly existing under the laws of the State of California. The Developer has all requisite power and authority to own its property and conduct its business as presently conducted. The Developer has made all filings and is in good standing in the jurisdiction of the State of California.

(b) Authority. The Developer has all requisite power and authority to execute and deliver this Agreement and the agreements contemplated by this Agreement and to carry out and perform all of the terms and covenants of this Agreement.

(c) No Limitation on Ability to Perform. Neither the Developer's partnership agreement or any other agreement or law in any way prohibit, limit or otherwise affect the right or power of the Developer to enter into and perform all of the terms and covenants of this Agreement. The Developer is not a party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument, which could prohibit, limit or otherwise affect the same. No consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person or entity is required for the due execution, delivery and performance by the Developer of this Agreement or any of the terms and covenants contained in this Agreement. There are no pending or threatened suits or proceedings or undischarged judgments affecting the Developer before any court, governmental agency, or arbitrator which might materially adversely affect the enforceability of this Agreement, the ability of the Developer to perform the transactions contemplated by this Agreement or the business, operations, assets or condition of the Developer.

(d) Valid Execution. The execution and delivery of this Agreement and the agreements contemplated hereby by the Developer have been duly and validly authorized by all necessary actions. This Agreement will be a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms. The Developer will provide to OCII a written resolution of the Developer authorizing the execution of this Agreement and the agreements contemplated by this Agreement.

(e) Defaults. The execution, delivery and performance of this Agreement do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (A) any agreement, document or instrument to which the Developer may be bound

or affected, (B) any law, statute, ordinance, regulation, or (C) the partnership agreement of the Developer.

(f) Meeting Financial Obligations; Material Adverse Change. The Developer is meeting its current liabilities as they mature; no federal or state tax liens have been filed against it; and the Developer is not in default or claimed default under any agreement for borrowed money. The Developer shall immediately notify OCII of any material adverse change in the financial condition of the Developer that affect the Developer's ability to complete the Project and such material adverse change shall constitute a default under this Agreement, subject to the cure and remedy provisions of Section 8.

(g) Conflicts of Interest. The Developer is familiar with conflict of interest requirements, including (i) Section 87100 *et seq.* of the California Government Code, which provides that no member, official or employee of OCII, may have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to this Agreement which affects her or his personal interest or the interests of any corporation, partnership or association in which she or he is interested directly or indirectly and (ii) OCII's Personnel Policy, which prohibits former OCII employees and consultants from working on behalf of another party on a matter in which they have participated personally and substantially unless OCII consents to such scope of work. As to the provisions referred to in clause (i), the Developer does not know of any facts that constitute a violation of such provisions. As to the policy in clause (ii), the Developer has disclosed to OCII in writing any and all personnel or consultants covered by such policy as of the date of this Agreement, and concurrently herewith the OCII Commission has elected to waive or not to waive the conflict as to such specific personnel or consultants.

(h) Skill and Capacity. The Developer has the skill, resources and financial capacity to acquire, manage and fully redevelop the Site consistent with the development opportunity described in the RFP.

(i) Consultants. As of the date of this Agreement, the Developer has retained the following consultants in connection with the proposed redevelopment of the Site: Paulett Taggart Architects (planning and architecture), Community Economics Incorporated (financial consulting), and Gubb & Barshay LLP (tax attorney). The Developer shall promptly notify OCII of the termination of any consultant previously approved by OCII, and the Developer shall, to the extent required to fulfill its obligations under this Agreement, replace such consultant with a new consultant reasonably approved by OCII. In addition, the Developer shall promptly notify OCII of the addition of any new consultant associated with the Project. Nothing herein shall limit the provisions of subsection (g) above regarding conflicts of interest.

(j) Not Prohibited from Doing Business. The Developer (nor any affiliates of any of the foregoing) have been debarred or otherwise prohibited from doing business with any local, state or federal governmental agency.

(k) Business Licenses. The Developer has obtained all licenses required to conduct its business in the City and is not in default of any fees or taxes due to the City.

(l) No Claims. The Developer does not have any claim, and shall not make any claim, against OCII and the City, or either of them, or against the Site, or any present or future interest of OCII or the City therein, directly or indirectly, by reason of: any aspect of the

RFP or the developer selection process; any statements, representations, acts or omissions made by OCII's and/or City's respective officers, commissioners, employees or agents with regard to the Site or any aspect of the negotiations under this Agreement; and OCII's exercise of discretion, decision and judgment in conformance with this Agreement.

9.2 Continued Accuracy.

If at any time during the Exclusive Negotiations Period any event or circumstance occurs that would render inaccurate or misleading any of the foregoing representations or warranties, the Developer shall immediately notify OCII thereof. It will be an event of default without the requirement of OCII notice specified in Section 8.1, above, if the Developer does not cure such inaccuracy within ten (10) days from the date on which the Developer was obligated to notify OCII and OCII shall have the rights and remedies provided in this Agreement, at equity and in law.

9.3 Survival.

The representations and warranties in this Section 9 shall survive any termination of this Agreement.

10. Notices.

A notice or communication under this Agreement by either party to the other shall be sufficiently given or delivered if dispatched by hand or by registered or certified mail, postage prepaid, addressed as follows:

- (i) In the case of a notice or communication to OCII:

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

OCII General Counsel:
Office of Community Investment and Infrastructure
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: James B. Morales
james.morales@sfgov.org

- (ii) And in the case of a notice or communication sent to the Developer:

Mercy Housing California
1360 Mission Street, Suite 300
San Francisco, CA 94103
Attn: Executive Director

For the convenience of the parties, copies of notice may also be given by email.

Every notice given to a party hereto, pursuant to the terms of this Agreement, must state (or must be accompanied by a cover letter that states) substantially the following:

- (a) the Section of this Agreement pursuant to which the notice is given and the action or response required, if any;
- (b) if applicable, the period of time within which the recipient of the notice must respond thereto;
- (c) if approval is being requested, shall be clearly marked “Request for Approval under the Mission Bay South Redevelopment Project Area, Mission Bay Block 6W, Exclusive Negotiations Agreement;” and
- (d) if a notice of disapproval or an objection, which requires reasonableness, shall specify with particularity the reasons therefor.

Any mailing address or email address may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

11. General Provisions.

11.1 Amendments.

This Agreement may be amended or modified only by a written instrument executed by OCII and the Developer.

11.2 Severability.

If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the foregoing, in the event that any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the parties shall promptly modify, amend or suspend this Agreement, or any portion of this Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the parties to this Agreement and to the Developer before such conflict with federal or state law. However, if such amendment, modification or suspension would deprive OCII or the Developer

of the substantial benefits derived from this Agreement or make performance unreasonably difficult or expensive, then the affected party may terminate this Agreement upon written notice to the other party. In the event of such termination, neither party shall have any further rights nor obligations under this Agreement except as otherwise provided herein.

11.3 Non-Waiver.

No waiver made by either party with respect to the performance, or manner or time of performance, or any obligation of the other party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived to the extent of such waiver, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

11.4 Non-Liability.

No member, official, agent or employee of OCII or the City will be personally liable to the Developer, or any successor in interest (if and to the extent permitted under this Agreement), in an event of default by OCII or for any amount that may become due to the Developer or successor or on any obligations under the terms of this Agreement. No director, officer, agent or employee of the Developer will be personally liable to OCII in an event of default by the Developer or for any amount that may become due to OCII or on any obligations under the terms of this Agreement.

11.5 Successors and Assigns; Third Party Beneficiary.

This Agreement shall inure to the benefit of and bind the respective successors and assigns of OCII and the Developer, subject to the limitations on assignment by the Developer set forth in Section 7 above. This Agreement is for the exclusive benefit of the parties hereto and not for the benefit of any other person and shall not be deemed to have conferred any rights, express or implied, upon any other person.

11.6 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California. As part of the consideration for OCII's entering into this Agreement, the Developer agrees that all actions or proceedings arising directly or indirectly under this Agreement may, at OCII's sole option, be litigated in courts located within the County of San Francisco, State of California, and the Developer expressly consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon the Developer wherever the Developer may then be located, or by certified or registered mail directed to the Developer at the address set forth in this Agreement.

11.7 Attorneys' Fees and Costs.

If either party fails to perform any of its respective obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default or in enforcing or establishing its rights under this Agreement, including, without limitation, court costs and reasonable Attorneys' Fees and Costs (as defined below).

Any such Attorneys' Fees and Costs incurred by either party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be several from the other provisions of this Agreement and to survive and not be merged into any such judgment. For purposes of this Agreement, the reasonable fees of attorneys of OCII counsel shall be based on the fees regularly charged by private attorneys who have the equivalent number of years of experience in the relevant subject matter and who practice in law firms in the City.

"Attorneys' Fees and Costs" means any and all attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, attachment preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and the costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, fees and costs associated with execution upon any judgment or order, and costs on appeal.

11.8 Interpretation of Agreement.

(a) Attachments. Whenever an "Attachment" is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All such Attachments are incorporated herein by reference.

(b) Captions. Whenever a section, article or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

(c) Words of Inclusion. The use of the term "including," "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(d) References. Wherever reference is made to any provision, term or matter "in this Agreement," "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered, section or paragraph of this Agreement or any specific subdivision thereof.

(e) Recitals. In the event of any conflict or inconsistency between the recitals and any of the remaining provisions of this Agreement, the remaining provisions of this Agreement shall prevail.

(f) No Presumption Against Drafter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party

that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the purposes of the parties and this Agreement.

11.9 Entire Agreement.

This Agreement, including the Attachments, contains all the representations and the entire agreement between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Agreement. No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either party or any other person and no court or other body shall consider those drafts in interpreting this Agreement.

11.10 Time for Performance.

(a) Expiration. All performance dates, including cure dates, expire at 5:00 p.m., San Francisco, California time, on the performance or cure date.

(b) Weekends and Holidays. A performance date, which falls on a Saturday, Sunday, or City holiday is deemed extended to the next working day.

(c) Days for Performance. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

(d) Time of the Essence. Time is of the essence with respect to each provision of this Agreement, including, without limitation, each milestone set forth in the attached Schedule of Performance.

11.11 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

11.12 Approvals and Consents.

Unless this Agreement otherwise expressly provides, all approvals, consents or determinations to be made by or on behalf of (i) OCII under this Agreement shall be made by the OCII's Executive Director or her designee and (ii) the Developer under this Agreement shall be made by the President of Mercy Housing Calwest (the "**Developer Representative**") or such other employee or agent of the Developer as the Developer may designate to act as the Developer Representative for a particular matter. Unless otherwise herein provided, whenever approval, consent or satisfaction is required of a party pursuant to this Agreement, it shall not be unreasonably withheld or delayed. The reasons for disapproval shall be stated in reasonable detail in writing. Approval by the Developer or OCII to or of any act or request by the other shall not be deemed to waive or render unnecessary approval to or of any similar or subsequent acts or requests.

11.13 Real Estate Commissions.

The Developer and OCII each represents to the other that it engaged no broker, agent or finder in connection with this Agreement or the transactions contemplated hereby. In the event

any broker, agent or finder makes a claim, the party through whom such claim is made agrees to indemnify the other party from any Losses arising out of such claim.

11.14 Survival.

Following expiration of the Exclusive Negotiations Period, this Agreement shall be deemed terminated and of no further force and effect except for any provision which, by its express terms, survive the expiration or termination of this Agreement. Upon termination of this Agreement (other than a termination due to a default by OCII), the Developer shall furnish copies of plans, specifications, studies and reports to OCII as provided in Section 8.2(c).

11.15 Nondiscrimination and Small Business Enterprise Policy.

(a) 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 this Agreement. The Developer 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). 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 to clients or the general public.

(b) The Developer will, in all solicitations or advertisements for employees placed by it or on its behalf, state it is an equal opportunity employer.

(c) The Developer will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

(d) If the Developer intends to utilize subcontractors in the provision of services under this Agreement, it must consult with OCII's Contract Compliance Division and comply with all the applicable provisions of OCII's Purchasing Policy and Procedures in regard to subcontracting pursuant to the Small Business Enterprise Policy.

(e) The Developer agrees not to discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, and shall comply fully with all provisions of the OCII's Nondiscrimination in Contracts Policy, adopted by Resolution No. 175-97, as such Policy may be amended from time to time.

(f) The Developer shall provide all services to the public under this Contract in facilities that are accessible to persons with disabilities as required by state and federal law.

11.16 Compliance With Minimum Compensation Policy And Health Care Accountability Policy.

The Developer agrees, as of the date of this Contract and during the term of this Contract, to comply with the provisions of OCII's Minimum Compensation Policy and Health Care Accountability Policy (the "**Policies**"), adopted by 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 and County of San Francisco's Department of Public Health, or to participate in a health benefits program developed by the City and County of San Francisco's Director of Health.

11.17 Relationship of the Parties.

The subject of this Agreement is a private development with neither party acting as the agent of the other party in any respect. None of the provisions in this Agreement shall be deemed to render OCII a partner in the Developer's business, or joint venturer or member in any joint enterprise with the Developer.

11.18 Cooperation.

In connection with this Agreement, the Developer and OCII shall reasonably cooperate with one another to achieve the objectives and purposes of this Agreement. In so doing, the Developer and OCII shall each refrain from doing anything that would render its performance under this Agreement impossible and each shall do everything that this Agreement contemplates that the Party shall do to accomplish the objectives and purposes of this Agreement.

(signatures begin on following page)

IN WITNESS WHEREOF, OCII and the Developer have duly executed and delivered this Agreement as of the date first written above.

OCII, as 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
Interim Executive Director

DEVELOPER:

Mercy Housing California 78, a California
Limited Partnership

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

By: _____
Barbara Gualco
Vice President

APPROVED AS TO FORM:

By: _____
James B. Morales
Agency General Counsel

Authorized by OCII Resolution No. xx-2017, adopted July 18, 2017.

EXCLUSIVE NEGOTIATIONS AGREEMENT

LIST OF ATTACHMENTS

ATTACHMENT 1	Site Description
ATTACHMENT 2	ENA Schedule of Performance
ATTACHMENT 3	ENA Scope of Development
ATTACHMENT 4	Form of Option to Ground Lease

ATTACHMENT 1

Site Description

Real property in the City and County of San Francisco, State of California, described as follows:

Mission Bay Block 6W is located in the Mission Bay South Redevelopment Area, and is a flat parcel approximately 49,436 square foot lot. The block's frontage is as follows: 179.75 feet along China Basin Street and Mission Bay Boulevard North 275.03 feet along an unnamed mid-block break, and Merrimac Street. The Block is currently vacant.

ATTACHMENT 2

ENA Schedule of Performance

No.	Task	Deadline	Completed
1.	Submit a preliminary financing plan acceptable to OCII.	11.10.16	11.10.16
2.	Submit design concept drawings acceptable to OCII as described in Attachment 3.	11.10.16	11.10.16
3.	Submit schematic design drawings acceptable to OCII. The submission shall include the items specified in Attachment 3.	11.1.17	
4.	Identify a general contractor and obtain a cost estimate based on the schematic design acceptable to OCII.	6.30.17	
5.	Submit design development documents and cost estimates. The submission shall include the items specified in Attachment 3 unless otherwise amended.	4.02.18	
6.	Execution of Option to Enter into Ground Lease for CDLAC Application	8.15.18	
7.	Execution of Ground Lease Agreement.	3.01.19	

ATTACHMENT 3

ENA Scope of Development

The development will include construction of approximately 140 units of family rental housing for very low- and low-income families, including 25% of units set aside for households voluntarily relocating from the Sunnydale or Potrero HOPESF public housing sites. Units will be affordable to households earning between 30% and 60% of area median income (as defined by either TCAC or MOHCD). The Project's unit mix will be 35 one-bedrooms, 70 two-bedrooms 35 three-bedrooms with 1-4 four-bedrooms and 1 five-bedroom, depending on design and cost feasibility. Unit sizes will be approximately:

- 500 to 575 square feet for one-bedroom/one-bathroom units
- 850 to 925 square feet for two-bedroom/one-bathroom units
- 1,050 to 1,150 square feet for three bedroom/one and a half- or two-bathroom units
- 1,200-1,400 square feet for four bedroom/two bathroom units
- 1,475-1,725 square feet for five bedroom/two bathroom units

The development team must include ground floor interior and exterior childcare space for a minimum of 40 slots as well as 1,000 square feet of space leased to a community serving entity and seek a secondary use determination for a Local-Serving Child Care Facility under Section 302 of the Mission Bay South Redevelopment Plan.

The project may include 24-hour property management and supportive services designed to serve the prospective residents. Services will be designed to serve families relocating from public housing and low-income families. Services may include, but are not limited to, creating community, mental health counseling and related services, and will be available to tenants of the Project, the nature and extent of which shall be determined by the sponsor in cooperation with the Mayor's HOPESF team and OCII. The Project requires a robust marketing plan that will outreach to Certificate of Preference holders and low-income families, and which will facilitate the lease-up of the Project to all residents.

Development amenities will include:

- A community room with kitchen;
- Exterior gathering and recreation spaces and open space in adherence with the Mission Bay South Design for Development Guidelines;
- Ground floor interior and exterior childcare space;
- Offices/Meeting rooms to facilitate provision of supportive services;
- Bicycle Parking;
- Podium garage parking;
- One car sharing spot located on the street; and
- At least one laundry room sufficient to meet the needs of the number of units built in the site.

ATTACHMENT 4

OPTION TO GROUND LEASE AGREEMENT

OPTION TO GROUND LEASE AGREEMENT

This Option to Ground Lease Agreement (the "**Agreement**") is entered into as of this ____ day of _____, 20____, by and between 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 (the "**Successor Agency**" or "**OCII**") and Mercy Housing 78 L.P., a California limited partnership, and its permitted assignees hereunder ("**Optionee**"), with reference to the following facts:

RECITALS

A. The former Redevelopment Agency and FOCIL-MB, LLC, a Delaware limited liability company ("FOCIL" or "Owner") are the parties to that certain Mission Bay South Owner Participation Agreement dated November 16, 1998 (the "South OPA") recorded on December 3, 1998 in the Official Records of the City and County of San Francisco as Document 98-G477258. The South OPA provides for the redevelopment of certain real property owned by FOCIL which is located in the South Plan Area, which is bounded by Seventh Street, Mariposa Street, relocated Terry Francois Boulevard and China Basin Channel and containing approximately two hundred thirty-eight (238) acres of land (as more particularly described in the South OPA).

B. Pursuant to Attachment C – Mission Bay South Housing Program, of the South OPA (the "Housing Program") approximately twenty-eight (28) acres in the South Plan Area are designated for development by FOCIL with up to three thousand (3,000) Residential Units (the "Total Units"). OCII anticipates development by Qualified Housing Developers of up to eleven hundred (1,100) affordable units (the "Affordable Housing Units"). The Affordable Housing Units will be built on up to 12.2 acres (forty-two percent (42%) of the total housing acreage in the South Plan Area) which land is to be contributed to OCII by FOCIL. FOCIL may develop up to nineteen hundred (1,900) Market Rate Residential Units as the remainder of the Total Units allowed to be developed in the South Plan Area.

C. FOCIL is the fee owner of that certain property located in the City and County of San Francisco ("**City**") identified as Block 8711, Lot 20 of that certain Final Map Tract No. 3936, recorded on February 22, 2006 and filed on pages 54-58 in Book BB of the County's Survey Maps and known as Mission Bay Block 6W (the "**Property**").

D. Pursuant to the South OPA including the Housing Program, the Owner is required from time to time to designate certain property as Agency Affordable Housing parcels, and to grant to OCII an option, on specified terms and conditions, to acquire such Agency Affordable Housing Parcels for the development and construction of Affordable Housing Units.

E. Pursuant to the Memorandum of Option dated June 22, 2007 recorded on July 5, 2007 in the Official Records of the City and County of San Francisco as Document 2007-I413535-00, FOCIL has designated OCII and OCII has accepted the designation of the real property Block 8711, Lot 20 of that certain Final Map Tract No. 3936 and more particularly described in Exhibit A attached hereto as an Agency Affordable Housing parcel, and FOCIL

granted to OCII an option to acquire fee title to such property upon the terms and conditions contained in the Housing Program.

F. The OPA requires affordable housing and market rate housing to be developed concurrently pursuant to calculations described in Section 2.6 of Attachment C – Mission Bay South Housing Program and more particularly described in Exhibit B attached hereto.

G. The Optionee is a limited partnership comprised of its managing general partner, Mercy Housing Calwest and a to-be-determined limited partner. The Optionee desires to develop the Property with approximately 140 multifamily units available to extremely low income, low income, and households relocating from either the Sunnydale or Potrero Terrace and Annex HOPESF communities, including certain ancillary uses (“the **Project**”) on a portion of the **Property**.

H. The Optionee intends to develop the Project with 4% Low Income Housing Tax Credits and tax-exempt bonds, local funds, and other sources, as necessary.

I. In order to apply for Project financing, Optionee desires to obtain from OCII, and OCII desires to grant to Optionee, upon the specific terms and conditions set forth in this Agreement, the exclusive right and option to lease the Property.

NOW, THEREFORE, IN CONSIDERATION OF RECITALS HEREOF AND THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

AGREEMENT

SECTION 1. Grant of Option. OCII grants to Optionee the option to ground lease the Property for the consideration and under the terms and conditions set forth in this Agreement (the “**Option**”).

SECTION 2. Term of Option: Exercise.

a. **Term and Extension of Term.** The term of the Option shall be for a period commencing on the date of this Agreement and ending on or before January 18, 2019, (the “**Initial Term**”) unless extended (the Initial Term, plus any extension, referred to herein as the “**Term**”). So long as the Optionee is not then in default under this agreement or any other agreements with OCII, Optionee may request up to two 6 month extensions of the Initial Term by giving written notice, accompanied by payment of One Dollar (\$1.00) (the “**Extension Payment**”), to OCII, at any time prior to the expiration of the Initial Term. The extension is subject to the approval of the OCII Executive Director. The Extended Term shall commence on 12:01 A.M. on the day immediately following the expiration of the Initial Term and shall end on July 18, 2019. During the Term, Optionee and OCII staff agree to negotiate in good faith to complete all of the terms and conditions of the ground lease of the Property from OCII to Optionee consistent with this Agreement (upon completion of such negotiations, the “**Ground Lease**”). The final terms of the Ground Lease must be agreed to by Optionee and OCII, and

approved by the OCII Commission, before Optionee's exercise of the Option. The Term shall end on the dates set forth above or, if earlier, on the effective date of the Ground Lease.

b. Exercise of Option. At any time following approval of the Ground Lease by the OCII Commission and before the expiration of the Term, so long as the Optionee is not then in default under this agreement or any other agreements with OCII, Optionee may exercise the Option by giving written notice to OCII (the "**Option Notice**"). The form of Ground Lease, as drafted by staff, will be subject to approval by the OCII Commission.

c. Expiration. The Option shall expire at midnight on the last day of the Term. If the expiration date of the Term falls on a Saturday, Sunday or legal holiday in the State of California, then the Option may be exercised on the next following business day. Upon termination of the Option and a written request by OCII, Optionee shall sign and deliver a quitclaim deed or such other document as may be reasonably required by OCII to evidence the termination of the Option.

SECTION 3. Option Consideration. The Option is granted in consideration of Optionee's obligation to negotiate in good faith for the Ground Lease and for the advancement of the Project. The Option consideration is related to the Option only and in no way relates to Ground Lease payments that will be owed to OCII.

SECTION 4. Ground Lease of the Project Property. OCII staff shall prepare the initial form of ground lease substantially in the form used by OCII for projects in which OCII is the fee owner of a particular property that will be developed for affordable housing. The Ground Lease shall be in accordance with the following:

a. Term of Ground Lease. The Ground Lease shall become effective immediately following the full execution by the parties and shall end seventy-five (75) years from the date of construction completion of the Project, provided that the tenant shall have an option to extend the term for an additional twenty-four (24) years for no additional consideration (but rent shall continue during any extended term as set forth below).

b. Taxes and Assessments. The tenant shall be responsible for the payment of any and all property taxes and assessments levied against the leasehold estate and the Property during the entire term of the Ground Lease subject to any abatement available therefrom.

c. Project Use. The Property shall be used during the term of the Ground Lease only for affordable housing, specifically the construction, operation, maintenance and repair or reconstruction of a multifamily residential development with approximately 140 units available to extremely low income and low income families, as well as certain ancillary uses. The maximum rent and income levels shall be set at no greater than 60% of area median income, defined as the area median income as determined by the United States Department of Housing and Urban Development for the San Francisco area, adjusted solely for household size, but not high housing cost area. If required by the Project's tax credit investor based on the Project's residual analysis test, and if approved by the OCII Executive Director in his or her reasonable discretion, the Ground Lease may permit increases in the maximum rent and income

levels after the 55th year of the Ground Lease term, but such increases shall be limited only to the extent necessary to satisfy the tax credit investor's residual analysis test.

d. Rent. The tenant shall pay the landlord annual rent in the amount of ten percent (10%) of the land value of the Property (as determined by a MAI appraiser selected by, and at the sole cost of, the tenant, and set in the Ground Lease), consisting of \$15,000 in base rent and the remainder in residual rent. The residual rent shall be payable only to the extent proceeds are available from the Project. The annual rent shall be adjusted on the fifteenth (15th) anniversary of the expiration of the first full calendar year of the lease term, and every fifteen (15) years thereafter, and shall be equal to ten percent (10%) of then appraised value of the land as determined by a MAI appraiser selected by, and at the sole cost of, the tenant. Any such adjustment shall be made to the residual rent and not the base rent. If required by the Project's tax credit investor based on the Project's residual analysis test, and if approved by the MOHCD Director in his or her reasonable discretion, residual rent shall only be payable after full repayment of any residual-receipts loan provided by OCII.

e. Construction and Operation of the Project. The tenant shall be responsible, at its sole cost, for construction, operation, and maintenance of the Project during the Ground Lease term.

f. Title to the Property. The Ground Lease shall provide that OCII will own fee title to the land comprising the Property, and the Optionee will own fee title to all improvements constructed or otherwise located on the land, during the Ground Lease term.

g. Disposition of Improvements at End of Lease. At the end of the Ground Lease term, fee title to all the improvements shall vest in OCII without further action of any party, without any obligation by OCII to pay any compensation therefor to the tenant and without the necessity of a deed from the tenant to OCII.

h. Mortgagee Protections. The Ground Lease shall include standard mortgagee protection provisions.

i. Defaults; Right to Cure. OCII will provide any notice of any defaults under the Ground Lease to the tenant's limited partners and lenders, and allow any such parties the right to cure a default by the tenant under the Ground Lease. Pursuant to the terms of the Ground Lease, OCII shall not be entitled to terminate the Ground Lease following any uncured default by the tenant during the fifteen (15) year tax credit compliance period for the Project, except if such default is failure to pay rent.

j. Encumbrances. The Ground Lease will permit the tenant to encumber its leasehold interest in the Property to secure any loans deemed necessary by the tenant, as approved by OCII. Any funds from a loan secured by the Property must be used in or on the Property.

SECTION 5. Closing.

a. Expenses. All expenses, fees or costs (except attorneys' fees and costs) incurred in connection with the Ground Lease of the Property, including but not limited to city and county documentary transfer tax, conveyance taxes, recording charges (if any), and costs

of title insurance shall be borne by the Optionee. Each party shall bear its own attorneys' fees and costs incurred in connection with negotiation and execution of this Agreement and the Ground Lease.

b. Proration of Taxes. Real property taxes on the Property shall be prorated as of the date of closing of the Ground Lease.

c. Title Insurance. The closing of the Ground Lease shall be conditioned on the issuance to the tenant of an ALTA leasehold policy of title insurance, from a title company chosen by the tenant, insuring the tenant's leasehold interest in the Property subject only to reasonable exceptions approved by the tenant.

SECTION 6. Notices. All notices or other communications made pursuant to this Agreement shall be in writing and shall be deemed properly delivered, given or served to the parties at the following addresses when (i) mailed by certified mail, postage prepaid, return receipt requested; (ii) sent by express delivery service, charges prepaid with a delivery receipt; or (iii) personally delivered when a delivery receipt is obtained:

OCII: Office of Community Investment and Infrastructure
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: Executive Director

OCII General Counsel: Office of Community Investment and Infrastructure
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: James B. Morales

Optionee: Mercy Housing 78, L.P.
c/o Mercy Housing California
1360 Mission Street, Suite 300
San Francisco, CA 94103
Attn: Executive Director

All notices so delivered, mailed or sent shall be deemed received as of the date shown on the delivery receipt as the date of delivery, the date delivery was refused or the date the notice was returned as undeliverable. Either party may change its address for the purposes of this paragraph by giving prior written notice of the change to the other party in the manner provided in this Section 6. Any notice required under this Agreement that is sent by a Party shall be sent to, or contemporaneously copied to, all of the other Parties.

SECTION 7. Assignment of Option. Without the prior written consent of OCII, Optionee may assign its rights and obligations under this Agreement to any limited liability company in which Mercy Housing California, a California nonprofit public benefit corporation, or its corporate affiliate is the managing general partner, or a limited partnership in

which Mercy Housing California or its corporate affiliate is a general partner. All other transfers by Optionee shall require the prior written consent of OCII.

SECTION 8. Binding Effect. This Agreement and its terms and conditions shall bind upon and inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

SECTION 9. Time. Time is of the essence of this Agreement.

SECTION 10. Further Documents. Upon the reasonable request of the other party, each party will execute, acknowledge and deliver or cause to be executed, acknowledged and delivered, such further instruments and documents as may be reasonably necessary in order to carry out the intent and purpose of this Agreement, including escrow instructions.

SECTION 11. Commission. Each party to this Agreement represents to the other party that it has not engaged or used the services of any person, firm or corporation that may claim a broker's commission or finder's fee upon execution of this Agreement or the Ground Lease, and each party to this Agreement agrees to hold the other party harmless from any loss, damage, expense or liability, including attorney's fees, resulting from any claim by any person, firm or corporation based upon its having acted as broker or finder on behalf of said indemnifying party.

SECTION 12. Captions. The captions of the paragraphs of this Agreement are for convenience and reference only, and the words contained in the captions shall in no way be held to explain, modify, amplify or aid in the interpretations, constructions or meaning of the provisions of this Agreement.

SECTION 13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement.

SECTION 14. Entire Agreement; Signatures. This Agreement contains the entire agreement between the parties respecting the matters set forth, and supersedes all prior agreements between the parties respecting the matters set forth.

SECTION 15. Attorneys' Fees. In any action between Optionee and OCII to enforce or interpret any of the terms of this Agreement, the prevailing party shall be entitled to recover costs of suit and expenses including, without limitation, reasonable attorneys' fees.

SECTION 16. Effective Date. Notwithstanding anything to the contrary contained herein, this Agreement shall not be effective until the date on which the OCII Commission enacts a resolution approving and authorizing this Agreement and the transactions contemplated hereby, following execution of this Agreement by both parties.

IN WITNESS WHEREOF, Optionee and OCII have executed this Agreement 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
Interim Executive Director

APPROVED AS TO FORM:

By: _____
James B. Morales
General Counsel

OPTIONEE:

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: _____
Barbara Gualco
Vice President

EXHIBIT A

Property Description

Real property in the City and County of San Francisco, State of California, described as follows:

Mission Bay Block 6W is located in the Mission Bay South Redevelopment Area, and is a flat parcel approximately 49,436 square foot lot. The block's frontage is as follows: 179.75 feet along China Basin Street and Mission Bay Boulevard North 275.03 feet along an unnamed mid-block break, and Merrimac Street. The Block is currently vacant.

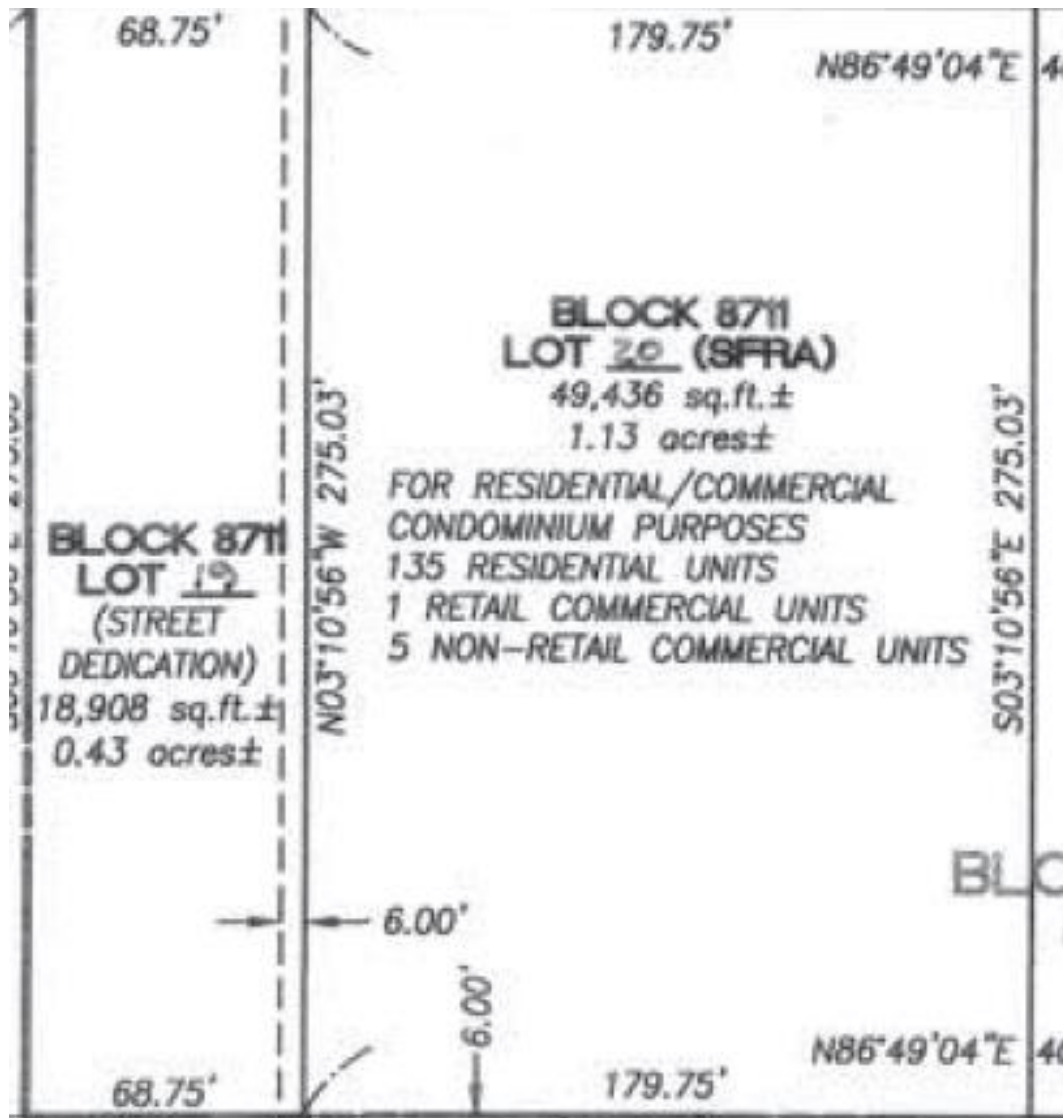
EXHIBIT B -1

Context Map



EXHIBIT B -2

Site Plan



LOAN AGREEMENT

By and Between

**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND
COUNTY OF SAN FRANCISCO,**
a public body, corporate and politic

and

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

for

Mission Bay South Block 6W
\$3,495,000

Dated as of July 18, 2017

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LOAN AGREEMENT
Mission Bay South – Block 6W
Mission Bay South Redevelopment Project Area

THIS LOAN AGREEMENT ("Agreement" or "Loan") is entered into as of July 18, 2017 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, corporate and politic ("Successor Agency" or "OCII"), and Mercy Housing California 78, L.P., a California limited partnership whose managing general partner is Mercy Housing Calwest ("MHC"), its authorized successors and assigns ("Borrower").

RECITALS

A. In accordance with the California Community Redevelopment Law (Health and Safety Code, section 33000 et seq.) ("CRL"), the City and County of San Francisco ("City"), acting through its Board of Supervisors, approved a Redevelopment Plan for the Mission Bay South Redevelopment Project Area (the "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 Successor Agency was responsible for implementing the Mission Bay South Redevelopment Plan.

B. Pursuant to California Health and Safety Code §§ 34170 et seq. (the "Redevelopment Dissolution Law") and 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), the Successor Agency is responsible for implementing the Redevelopment Plan and fulfilling the enforceable obligations under the Mission Bay South Owner Participation Agreement (the "OPA") between the Agency and FOCIL-MB, LLC (the "Master Developer") (Nov. 16, 1998).

C. Under the OPA and its Mission Bay South Housing Program, the Master Developer is obligated to transfer to the Successor Agency approximately 12.2 acres of "building ready" land that has been remediated, graded and served by infrastructure so that the Successor Agency may develop affordable housing. The OPA identifies, at Exhibit F to the Mission Bay South Housing Program, the specific parcels that the Successor Agency is required to develop with affordable housing.

D. 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 Mission Bay South Block 6 West, identified as Block 8711, Lot 020 of that Final Map Np. 3936, recorded on February 22, 2006 and filed on pages 54-58 in Book BB of the County's Survey Maps (the "Site"). The OPA identifies the Site as an affordable housing parcel. The Project will result in approximately 140 units to be leased to households earning no more than sixty percent of the unadjusted Area Median Income as established by the San Francisco Mayor's Office of Housing and Community Development ("MOHCD") with twenty-five percent of the units to be set aside for households voluntarily relocating from HOPE SF public housing sites (the "Project"). The Project will also include a ground floor childcare

facility and community spaces for residents. On February 21, 2017, the Commission selected, by Resolution No. 7-2017, selected Mercy Housing California to develop the Project. Accordingly, OCII and Borrower intend to execute an exclusive negotiations agreement (the "ENA") substantially concurrently herewith, subject to approval of the ENA by the Commission.

E. On June 2, 2017, the Citywide Affordable Housing Loan Committee (the "Loan Committee") reviewed OCII staff's evaluation of the request for funding and recommended that OCII provide Borrower with a predevelopment loan of funds (the "Funds") subject to certain terms and conditions that are included in this Agreement. .

F. OCII has approved, by Resolution No. xx-2017, a loan to the Borrower in an initial amount of Three Million Four Hundred and Ninety Five Thousand Dollars (\$3,495,000.00) (the "Funding Amount") under this Agreement to fund certain costs related to the Project. The Oversight Board of the City and County of San Francisco and the California Department of Finance have approved, under Redevelopment Dissolution Law, this expenditure in the Recognized Obligation Payment Schedule for July 1, 2016 to June 30, 2017 ("ROPS 16 – 17") (Oversight Board Resolution No. 1-2016 (January 25, 2016)).

G. Under Redevelopment Dissolution Law, OCII must transfer completed affordable housing assets to MOHCD, as the Housing Successor designated under Board of Supervisors Resolution No. 11-12 (January 26, 2012) and Section 34176 of the California Health and Safety Code. If and when Borrower completes the Project and upon permanent financial conversion, OCII intends to transfer the affordable housing loan obligation, asset, and ground lease to MOHCD.

H. Borrower shall use the Funding Amount to pay for Predevelopment Activities associated with development of the Project.

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:

"**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 hereof.

"**Agreement Date**" means the date written in the first paragraph hereof.

"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 OCII 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 whose managing general partner is Mercy Housing Calwest ("MHC"), 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 Agreement Date.

"City" means the City and County of San Francisco, a municipal corporation, represented by the Mayor, acting by and through MOHCD. 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.

"CRL" has the meaning set forth in Recital A.

"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.

"Disbursement" 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.

"ENA" has the meaning set forth in Recital C.

"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.

"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.

"Funding Amount" has the meaning set forth in Recital E.

"Funds" has the meaning set forth in Recital D.

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

"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.

"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.

"**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.

"**Indemnity**" shall have the meaning set forth in Article 23.

"**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 D.

"**Loan Closing**" means the date on which all conditions to closing of the loan under Section 4.3 have been met and Borrower and OCII authorize recordation of the Deed of Trust and Declaration of Restrictions.

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

"**Loss**" or "**Losses**" includes any loss, liability, claims, damages, costs, expenses or charges, including reasonable attorneys' fees and costs, arising from all acts or omissions of Borrower or its officers, agents, or employees in rendering services under this Agreement.

"**Maturity Date**" has the meaning set forth in Section 3.1.

"**Median Income**" means area median income as determined by HUD for the San Francisco area, adjusted solely for household size, but not high housing cost area.

"**MOHCD**" means the Mayor's Office of Housing and Community Development or its successor.

"**Note**" means the promissory note executed by Borrower in favor of OCII in the original principal amount of the Funding Amount.

"**OCII**" means 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.

"**OCII Documents**" means this Agreement, the Note, 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.

"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.

"Project" means the development described in Recital C. If indicated by the context, "Project" means the Site and the improvements developed on the Site.

"Public Benefit Purposes" means activities or programs that primarily benefit low-income persons, are implemented by one or more nonprofit 501(c)3 public benefit organizations, or have been identified by OCII, a City agency or a community planning process as a priority need in the neighborhood in which the Project is located.

"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.

"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.

"Site" means the real property described in Recital C of this Agreement.

"Table" or **"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.

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

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

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

ARTICLE 2 FUNDING.

2.1 Funding Amount. OCII agrees to lend to Borrower a maximum principal amount of Three Million Four Hundred and Ninety Five Thousand Dollars (\$3,495,000.00) (the "Funding Amount") in order to finance predevelopment costs associated with the Project and described in Exhibit B-1 ("Predevelopment Activities"). The Funding Amount will be disbursed according to the terms and subject to the conditions set forth in this Agreement.

2.2 Use of Funds. Borrower acknowledges that the 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. Predevelopment expenses incurred by Borrower beginning April 1, 2017 that are consistent with Exhibit B-1 are reimbursable to Borrower. Such expenses are subject to all conditions of a Expenditure Request, including review and approval by OCII in accordance with the terms of this Agreement.

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.

ARTICLE 3 TERMS. Borrower's repayment obligations with respect to the Funding Amount will be evidenced and governed by the Note, which will govern in the event of any conflicting provision in this Agreement.

3.1 Maturity Date. Borrower must repay all amounts owing under the OCII Documents on the date that is the earliest to occur of: (i) the close of construction financing for the Project, or (ii) the date the Borrower and OCII execute a permanent loan agreement that incorporates the Loan Amount and all accrued interest, or (iii) three (3) years from the Agreement Date (the "**Maturity Date**"). Notwithstanding the foregoing, if Borrower's failure to close the construction financing by the Maturity Date is not caused by Borrower's acts or omissions, whether direct or indirect, and if Borrower has acted in good faith and no event has occurred and is continuing that constitutes or with the passage of time would constitute, an Event of Default under any of the OCII Documents, then in such an event, Borrower shall deliver to OCII all of the Work Product, the Note shall be deemed satisfied in full and Borrower shall be deemed to be released from all obligation or liability with respect to this Agreement and the Loan.

3.2 Intentionally Omitted.

3.3 Interest. The outstanding principal balance of the Loan will bear simple interest at a rate of three percent (3%) per annum, as provided in the Note. If a Construction/Permanent Loan for the Project from OCII is subsequently approved by OCII Commission the parties acknowledge that the Borrower may request and OCII may approve a reduced interest rate in order to maintain Project feasibility.

3.4 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.

3.5 Repayment of Principal and Interest. Subject to Section 3.1 above, the outstanding principal balance of the Loan will be due and payable on the Maturity Date according to the terms set forth in full in the Note.

3.6 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 of all activities associated with the Project, 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 new information so provided in its reasonable discretion.

3.7 Additional OCII Approvals. 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 be granted 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. 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.

3.8 Additional Borrower Covenants. There are no borrower covenants in addition to those specified in 4.5 Disbursements (d).

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. The disbursement schedule may be revised at the request of the Borrower, subject to the written approval of the OCII Executive Director prior to the Loan Closing if needed to ensure the repayment of the Loan complies with applicable financing requirements.

4.2 Closing. In the event Borrower does not satisfy all of the conditions to closing the Loan within a reasonable time, as determined by the OCII in its sole discretion, OCII may declare this Agreement to be null and void.

4.3 Conditions Precedent to Closing. OCII will authorize the close of the Loan upon satisfaction of the conditions in this Section.

(a) 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) the Opinion; (iv) the Authorizing Resolutions; and (v) any other OCII Documents reasonably requested by OCII.

(b) Borrower must have delivered to OCII Borrower's Charter Documents.

(c) Borrower must have delivered to OCII insurance certificates prior to closing and endorsements within 90 days post closing and before starting work, in addition to, if requested by OCII, copies of policies for all insurance required under Exhibit F of this Agreement.

4.4 Intentionally Omitted.

4.5 Disbursements. OCII's obligation to approve any expenditure of Funds after Loan Closing is subject to Borrower's satisfaction of the following conditions precedent.

(a) 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: (1) 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 Loan Amount in the aggregate may be made with the express written approval of OCII's Housing Manager; and (2) 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 Loan

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 that covers rehabilitation or construction costs, Borrower must have certified to OCII that the Project complies with the labor standards set forth in Exhibit E, Section 1, if applicable.

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 and shall require amendment thereto. The OCII Executive Director may amend the Schedule of Performance (in his/her sole discretion) to allow the time of performance to be extended for up to six (6) months from the original date set forth in the Schedule of Performance. Any amendments to the Schedule of Performance allowing for extensions of performance beyond said six (6) month period will require approval of the Agency Commission.

4.7 Additional Terms and Conditions. During the predevelopment period and as described below, Borrower shall comply with the following loan conditions based on OCII's requirements and the Citywide Affordable Housing Loan Committee's Recommendations in reviewing and approving the Project's Loan Evaluation on June 2, 2017.

- (i) Borrower will work with OCII's or MOHCD's Construction Supervisor and OCII's Design Review and Housing team to refine the design details of the buildings to implement vigorous cost containment measures to a financially feasible level. Borrower must obtain OCII staff approval of updated cost estimate prior to forwarding Schematic Design for OCII approval.
- (ii) Borrower 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.
- (iii) Borrower will cooperate with OCII and competitively solicit a general contractor with the intent of creating a joint venture or similar partnership opportunity, to the extent practicable and economically feasible, between a general contractor and an OCII-recognized SBE contractor. Furthermore, Borrower shall cooperate and require the general contractor to exercise good faith efforts to select subcontractors who either are small business enterprises

(SBE) or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs.

- (iv) Borrower will review its projected operating budget and soft costs to ensure that costs are managed to OCII's approval.
- (v) Borrower will analyze its competitiveness for the Federal Home Loan Bank's Affordable Housing Program and California Department of Housing and Community Development'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.
- (vi) Borrower will work with OCII to determine a services provider and with OCII and the HOPE SF leadership team to draft a services plan.
- (vii) Borrower will work with the Housing Authority to confirm that the income restrictions associated with the Project Based Section 8 units are appropriate for the intended population and if not, will adjust the income restrictions to a higher AMI. Borrower will also cooperate with the Housing Authority on any components of the lease-up process for the 24 Project Based Section 8 units, as necessary.
- (viii) Borrower will issue out 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. Borrower will work with selected childcare provider to design the warm shell for the childcare space and associated outdoor area.
- (ix) Borrower will enter into a letter of intent to lease with Blue Bear School of Music or a similar community-serving tenant for the ground floor community-serving commercial space.

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 INTENTIONALLY OMITTED

ARTICLE 6 INTENTIONALLY OMITTED

ARTICLE 7 INTENTIONALLY OMITTED

ARTICLE 8 INTENTIONALLY OMITTED

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 construction, rehabilitation and/or operation of the Project, including the requirements of the CRL, Redevelopment Plan , OCII Policies, 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.

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 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.

10.2 Monthly Reporting. 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 until the Project has finalized its Form 8609.

10.3 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.

10.4 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 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.

10.5 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 any OCII Document, Borrower agrees that duly authorized representatives of OCII (which shall include 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 10.6.

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

ARTICLE 11 INTENTIONALLY OMITTED.

ARTICLE 12 INTENTIONALLY OMITTED.

ARTICLE 13 INTENTIONALLY OMITTED.

ARTICLE 14 INTENTIONALLY OMITTED.

ARTICLE 15 DEVELOPER FEES.

15.1 Amount. OCII has approved the payment of cash fees in an amount not to exceed Two Million Two Hundred Thousand and No/100 Dollars (\$2,200,000.00), to be distributed to Developer for the Predevelopment Activities of the Project ("Developer Fees"). The cash amount available for the predevelopment period shall not exceed Five Hundred Thousand and No/100 Dollars (\$500,000.00). The total Developer Fee of \$5,826,521 consists of the cash fees mentioned above as well as \$744,951 in deferred fees and \$2,881,590 in Sponsor Equity. All Developer Fees will be paid in accordance with the Developer Fee Schedule attached hereto as Exhibit N.

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 of a general partner of Borrower in accordance with the terms of Borrower's limited partnership agreement. Any other transfer, assignment, encumbrance or lease without OCII's prior written consent, which shall be made by the Executive Director in her sole discretion, 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.

ARTICLE 17 INSURANCE AND BONDS.

17.1 Borrower's Insurance. Subject to approval by OCII's Deputy Director for Finance and Administration 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 throughout the term of this Agreement 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.

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 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) intentionally omitted; 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) Borrower is in default of its obligations with respect to the Ground Lease, once executed, or any funding obligation (other than the Loan) for the Project, and the default remains uncured following the expiration of any applicable cure period; or

(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) intentionally omitted; 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 that occurs in the financial condition or operations of Borrower, that has a material adverse impact on the Project that is not cured or addressed according to the time periods and conditions set forth in this Section 19.1 (c); or

(m) intentionally omitted; or

(n) intentionally omitted; 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, including but not limited to the ENA, and the default remains uncured following the expiration of any applicable cure periods.

19.2 Remedies. During the pendency of an uncured Event of Default, OCII may exercise, in its sole discretion, 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 the following:

(a) OCII 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 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 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.

(h) OCII may acquire any Work Product as described in Section 24.21 of this Agreement.

19.3 Force Majeure. The occurrence of any of the following events shall excuse performance of any obligations of OCII or Borrower to the extent that the events cause enforced delays in the performance of a party's obligations under this Agreement: 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, to the best of the Borrower's knowledge, 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.

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

(g) 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 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. Any notice sent by email will be accompanied by a written notice and email notices will not be effective unless accompanied by a written notice. 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, 5th Floor
San Francisco, CA 94103
Attn: Executive Director

To OCII General Counsel: Office of Community Investment and Infrastructure
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: Agency General Counsel
Email: james.morales@sfgov.org

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

To City Attorney's Office: Deputy City Attorney
San Francisco City Attorney's Office
City Hall, Rm. 234
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102-4682
Attn: Heidi J. Gewertz

To Borrower: Mercy Housing California
1360 Mission Street, Suite 300
San Francisco CA 94103
Attn: Executive Director
Email: dshoemaker@mercyhousing.org

With a copy to: Gubb & Barshay LLP
505 14th Street, Suite 1050
Oakland, CA 94612
Attn: Evan Gross, Esq.
Email: egross@gubbandbarshay.com

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.

ARTICLE 22 HAZARDOUS SUBSTANCES.

22.1 Borrower's Representations. Intentionally omitted.

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 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, promptly following the occurrence of any such event, notice of the discovery by Borrower of any event rendering any representation contained in this Section incorrect in any respect if made at the time of such discovery.

ARTICLE 23 INDEMNITY.

23.1 Borrower's Obligations. To the fullest extent permitted by law, Borrower shall hold harmless, defend at its own expense, and indemnify OCII, the City, and their respective officers, agents and employees (individually or collectively, an "Indemnatee") against any and all Losses, of every kind, nature and description directly or indirectly arising out of, or connected with Borrower's obligations under this Agreement, except to the extent caused by the willful misconduct or the gross negligence of the Indemnatee. For purposes of this Article, Losses will include, but not be limited to: (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 Losses occurring on or in connection with Borrower's activities pursuant to this Agreement, whether caused by the negligence or any other act or omission of Borrower ; (d) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any

Indemnatee that relates to or arises out of the OCII Documents, the Loan, the Predevelopment Activities or any transaction contemplated by, or the relationship between Borrower and OCII or Borrower and the City or any action or inaction by OCII or the City under, the OCII Documents; (e) the occurrence of any Environmental Activity or any failure of the Borrower to comply with all applicable Environmental Laws relating to the Project or the Site; (f) 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; (g) 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 22.2; or (h) 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. In the event any action or proceeding is brought against an Indemnatee by reason of a claim arising out of any Loss for which Borrower has indemnified the Indemnitees, and upon written notice from Indemnatee, Borrower shall at its sole expense answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnatee. Each Indemnatee shall 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 Indemnatee 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. For purposes of this Section, "Borrower" shall include Borrower, its officers, employees, agents, contractors and/or subcontractors.

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 Intentionally Omitted

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.

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 Borrower consists of more than one person or entity, each is jointly and severally liable to OCII for the faithful performance of this Agreement.

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 and to the extent that the City Attorney's Office represents OCII or the City as the successor to this Agreement, the 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. Borrower must provide written notice of the replacement of: the manager, executive director, director of housing development, director of property management and/or any equivalent position of either member of the general partner or the manager of the general partner, within thirty (30) days after the effective date of such replacement.

24.20 Borrower's Board of Directors. Borrower or its managing general partner (or managing member of its managing 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, 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 or any sub-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 sub-borrowers or other persons or entities implementing the Project to ensure that OCII obtains the rights set forth in this Section.

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

24.24 Assignment. OCII and Borrower hereby acknowledge and agree that, effective upon the completion of the Project, as determined by OCII and MOHCD, all of OCII's rights, interests and obligations under this Agreement shall be assigned to MOHCD. OCII and

Borrower hereby agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this Section 24.24. Upon assignment to MOHCD, all references herein to OCII shall be deemed references to MOHCD.

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

EXHIBITS

A	Site Description
B-1	Table of Sources and Uses of Funds
B-2	Intentionally Omitted
B-3	Intentionally Omitted
C	Intentionally Omitted
D	Intentionally Omitted
E	Contract Compliance Policies
F	Insurance Requirements
G	Lobbying/Debarment Certification Form
H	Intentionally Omitted
I	Intentionally Omitted
J	Intentionally Omitted
K	Intentionally Omitted
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	Promissory Note

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

OCII:

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: _____

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: _____

Nadia Sesay
Interim Executive Director

Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____
James B. Morales, Deputy Director
and General Counsel

EXHIBIT A
Site Description

Real property in the City and County of San Francisco, State of California, described as follows:

Mission Bay Block 6W is located in the Mission Bay South Redevelopment Area, and is a flat parcel approximately 49,436 square foot lot. The block's frontage is as follows: 179.75 feet along China Basin Street and Mission Bay Boulevard North 275.03 feet along an unnamed mid-block break, and Merrimac Street. The Block is currently vacant.

EXHIBIT B-1

Table of Sources and Uses of Funds

Application Date:	5/12/17	# Units:	140
Project Name:	Mission Bay Block 6 West	# Bedrooms:	280
Project Address:	Block 8711, Lot 020	# Beds:	
Project Sponsor:	Mercy Housing California		

SOURCES	3,495,000	-	-	-	Total Sources 3,495,000
Name of Sources:	MOHCD/OCII				

USES

ACQUISITION

Acquisition cost or value					0
Demolition					0
Legal/Closing costs					0
Broker's fee					0
TOTAL ACQUISITION	0	0	0	0	0

CONSTRUCTION (HARD COSTS)

Site Work

Environmental Remediation					0
Grading/Earthwork					0
Underpinning/shoring					0
Total Site Work	0	0	0	0	0
Unit Construction/Rehab					0
Parking					0
Landscaping					0
Overhead/Profit/Gen'l Conditions					0
TOTAL CONSTRUCTION COSTS	0	0	0	0	0

Construction Contingency					0
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SOFT COSTS

Architecture/Engineering

Design	2,356,530				
Construction Administration					
Printing					
Total Arch./Engineer. Fees	2,356,530	0	0	0	2,356,530

Survey & Engineering Studies

Survey	20,000				20,000
Geotechnical studies	85,000				85,000
Phase I & II Reports	25,000				25,000
Total Survey & Engineering	130,000	0	0	0	130,000

Financing Costs

Predevelopment Financing Costs					
Predev. Loan Application Fee					0
Predev. Loan Interest	5,000				5,000
Title & Recording					0
<i>Sub-total Predev. Financing Costs</i>	<i>5,000</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>5,000</i>
Construction Financing Costs					
Construction Loan Origination Fee					0
Construction Loan Interest					0
Title & Recording					0
<i>Sub-total Const. Financing Costs</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
Permanent Financing Costs					
Permanent Loan Origination Fee					0
Credit Enhance. & Appl. Fee					0
Title & Recording					0
<i>Sub-total Perm. Financing Costs</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
Total Financing Costs	5,000	0	0	0	5,000

Legal Costs

Lender Legal Pd. By Applicant					0
Tax Credit Attorney					0
Developer Legal Counsel	15,000				15,000
Total Legal Costs	15,000	0	0	0	15,000
Appraisal	15,000				15,000
Property Taxes					0
Insurance					0
Relocation					0
TCAC Appl/Alloc/Monitor Fees	98,207				98,207
CEQA Environmental Review					0
Entitlement/Permit Fees	200,000				200,000
Marketing/Rent-up					0
Furnishings					0
Market Study	10,000				10,000
NEPA/106 Review	60,000				60,000
Other (specify)					0
<i>Sub-total Soft Costs</i>	<i>2,889,737</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>2,889,737</i>
Soft Cost Contingency	170,263				170,263
TOTAL SOFT COSTS	3,060,000	0	0	0	3,060,000

RESERVES

Operating Reserves					0
Replacement Reserves					0
Other (specify)					0
Other (specify)					0
Other (specify)					0
Other (specify)					0
TOTAL RESERVES	0	0	0	0	0

DEVELOPER COSTS

Developer Overhead/Profit (Fee)	350,000				350,000
Development Consultant Fees					0
Financial Consultant Fees					0
Construction Management Fee	40,000				40,000
Project Administration					0
Other (specify)					0
TOTAL DEVELOPER COSTS	390,000	0	0	0	390,000
Syndication Costs	45,000				45,000

TOTAL DEVELOPMENT COST	3,495,000	0	0	0	3,495,000
Development Cost/Unit	24,964	0	0	0	24,964

EXHIBIT B-2
Intentionally Omitted

EXHIBIT B-3
Intentionally Omitted

EXHIBIT C
Intentionally Omitted.

EXHIBIT D
Intentionally Omitted.

EXHIBIT E

1. Equal Opportunity Policies. Borrower shall comply with OCII's Equal Opportunity Policies:

- (i) Small Business Enterprise (SBE) Policy (adopted by Resolution No. 43-2015, July 7, 2015);
- (ii) Construction Workforce Agreement;
- (iii) Prevailing Wage Policy (adopted by Resolution No. 327-1985 Nov. 12, 1985);
- (iv) Nondiscrimination in Contracts and Benefits (adopted by Resolution No. 175-1997);
- (v) Health Care Accountability Policy (adopted by Resolution No. 168-2001); and
- (vi) Minimum Compensation Policy (adopted by Resolution No. 168-2001).

Copies of the aforementioned policies are available on the OCII website at <http://sfocii.org/policies-and-procedures>

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, and any other environmental reviews as required by any federal funding sources obtained, including the National Environmental Policy Act ("NEPA").

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.*) and the Agency Public Records Policy, 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. 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 F
Insurance Requirements

Borrower must procure and maintain for the duration of the Contract, including any extensions, insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work under this Contract by the Borrower, its agents, representatives, employees or subcontractors. If the Borrower maintains additional coverages and/or higher limits than the minimums shown in this Article 10, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Borrower.

B. Minimum Scope of Insurance. Coverage must be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).
- (2) Insurance Services Office Automobile Liability coverage, code 1 (form number CA 00 01-any auto).
- (3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- (4) Professional Liability Insurance appropriate to the Borrower's profession covering all negligent acts, errors and omissions.

C. Minimum Limits of Insurance. Borrower must maintain limits no less than:

- 1) General Liability:
 - a. For contracts not involving demolition or construction, or during phases of contracts prior to demolition or construction: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit (\$4,000,000). Applicable Umbrella or Excess Liability limits may be used to meet the terms of this paragraph.
- 2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- 3) Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of \$1,000,000 for bodily injury by accident and \$1,000,000 per person and in the annual aggregate for bodily injury by disease. (Required only if Borrower has employees).

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions 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.

E. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- 1) The “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” are to be covered as additional insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Borrower; and liability arising out of work or operations performed by or on behalf of the Borrower.
- 2) For any claims related to this Contract, the Borrower’s insurance coverage must be primary insurance 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) 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.
- 4) Each insurance policy required by this clause must be endorsed 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 certified mail, return receipt requested, has been given to OCII.
- 5) Borrower hereby grants to OCII a waiver of any right to subrogation which any insurer of said Borrower may acquire against OCII by virtue of the payment of any loss under such insurance. Borrower agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not OCII has received a waiver of subrogation endorsement from the insurer.
- 6) If any of the required policies provide coverage on a claims-made basis:
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the contract of work.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Borrower must purchase “extended reporting” coverage for a minimum of five years after completion of contract work.

F. Acceptability of Insurers. Insurance is to be placed with insurers with a current A. M. Best’s rating of no less than A:VII, unless otherwise approved by OCII’s Risk Manager.

G. Verification of Coverage. Borrower must furnish OCII with certificates of insurance and with original endorsements evidencing coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by OCII. 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.

H. Design Professionals, Subcontractors and Consultants Insurance. Borrower's architects, engineers and surveyors shall maintain professional liability insurance with minimum limits of \$2,000,000 per claim and \$2,000,000 in the annual aggregate covering all professional negligent acts, errors and omissions. Borrower shall cause its general contractor and all subcontractors and consultants to maintain workers' compensation, automobile liability, and commercial general liability insurance in the amounts and in accordance with the requirements listed above, as applicable, unless otherwise approved by the OCII's Risk Manager. Borrower must furnish OCII with general contractor's, architects' and engineers' certificates of insurance and original endorsements effecting coverage required by this paragraph.

I. Review. The insurance coverage required under this Section shall be evaluated by OCII for adequacy from time to time. OCII may require Developer 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 Agreement 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.

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

By: _____

Name: _____

Title: _____

EXHIBIT H
Intentionally Omitted.

EXHIBIT I
Intentionally Omitted

EXHIBIT J
Intentionally Omitted

EXHIBIT K
Intentionally Omitted

EXHIBIT L
Schedule of Performance

	Performance Milestone	Estimated or Actual Date	Contractual Deadline
A.	Prop I Noticing (if applicable)	<u>N/A</u>	<u>N/A</u>
	Acquisition/Predev Financing Commitment	<u>6/2/2017</u>	<u>N/A</u>
2.	Site Acquisition	<u>N/A</u>	<u>N/A</u>
3.	Development Team Selection		
a.	Architect	<u>11/10/2016</u>	<u>N/A</u>
b.	General Contractor	<u>8/9/2017</u>	<u>9/30/2017</u>
c.	Owner's Representative	<u>7/5/2017</u>	<u>10/5/2017</u>
d.	Property Manager	<u>11/10/2016</u>	<u>N/A</u>
e.	Service Provider	<u>9/15/2017</u>	<u>12/15/2017</u>
4.	Design		
a.	Submittal of Schematic Design & Cost Estimate	<u>11/1/2017 (OCII Commission 12/17/17)</u>	<u>12/1/2017 (OCII Commission date TBD)</u>
b.	Submittal of Design Development & Cost Estimate	<u>4/2/2018</u>	<u>6/2/2018</u>
c.	Submittal of 50% CD Set & Cost Estimate	<u>7/10/2018</u>	<u>9/10/2018</u>
d.	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	<u>10/5/2018</u>	<u>12/5/2018</u>
5.	Environ Review/Land-Use Entitlements		
a.	CEQA Environ Review Submission	<u>N/A</u>	
b.	NEPA Environ Review Submission	<u>8/1/2017</u>	<u>11/1/2017</u>
c.	CUP/PUD/Variances Submission	<u>N/A</u>	
6.	Permits		
a.	Building / Site Permit Application Submitted	<u>11/22/2017</u>	<u>1/22/2018</u>
b.	Addendum #1 Submitted	<u>8/10/2018</u>	<u>10/10/2018</u>
c.	Addendum #2 Submitted	<u>9/21/2018</u>	<u>11/21/2018</u>
7.	Request for Bids Issued	<u>12/17/2018</u>	<u>2/17/2018</u>
8.	Service Plan Submission		
a.	Preliminary	<u>11/15/2017</u>	<u>12/15/2018</u>

b.	Interim	<u>N/A</u>	
c.	Update / Final	<u>1/15/2019</u>	<u>Contractual for gap loan</u>
9.	Additional City Financing		
a.	Predevelopment Financing Application #2	<u>N/A</u>	
b.	Gap Financing Application	<u>7/15/2018</u>	<u>10/15/2018</u>
10.	Other Financing		
a.	AHSC Application	<u>Winter 2017-2018</u>	
b.	Construction Financing RFP	<u>8/20/2018</u>	<u>11/15/2018</u>
c.	AHP Application	<u>March 2018</u>	<u>March 2018</u>
d.	CDLAC Application	<u>8/31/2018</u>	<u>11/30/2018</u>
e.	TCAC Application	<u>8/31/2018</u>	<u>11/30/2018</u>
f.	HUD 202 or 811 Application	<u>N/A</u>	
g.	Selection of Tax Credit Investor	<u>12/21/2018</u>	<u>Contractual for gap loan</u>
11.	Closing		
a.	Construction Closing	<u>3/15/2019</u>	<u>Contractual for gap loan</u>
b.	Permanent Financing Closing	<u>9/27/2021</u>	<u>Contractual for gap loan</u>
12.	Construction		
a.	Notice to Proceed	<u>3/18/2019</u>	<u>Contractual for gap loan</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>12/21/2020</u>	<u>Contractual for gap loan</u>
13.	Marketing/Rent-up		
a.	Early Outreach Plan Submission	<u>4/15/2019</u>	<u>Contractual for gap loan</u>
b.	Marketing Plan Submission	<u>7/2/2020</u>	<u>Contractual for gap loan</u>
c.	Commence Marketing	<u>8/14/2020</u>	<u>Contractual for gap loan</u>
d.	95% Occupancy	<u>3/26/2021</u>	<u>Contractual for gap loan</u>
14.	Cost Certification	<u>3/15/2021</u>	<u>Contractual for gap loan</u>
15.	8609	<u>2/14/2022</u>	<u>Contractual for gap loan</u>
16.	Close Out MOH/OCII Loan(s)	<u>9/27/2021</u>	<u>Contractual for gap loan</u>

EXHIBIT M
OCII Monthly Project Update Form

OCII MONTHLY PROJECT UPDATE FORM

Please complete this Monthly Project Update and email the Word document to the Project Manager, with a copy to Gretchen Heckman (gretchen.heckman@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.

I. THE PURPOSE OF THESE UPDATES IS TO TRACK PROJECT PROGRESS

1. *During the 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:	

1. 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):	
Projects OCII gap commitment (excluding OCII funding committed to date): Expected date when OCII gap funding needed: Month: Year:	
Procurement and bidding (architect, consultants and contractors):	
Entitlements, permits and utilities (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, that 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 ONLY
Major issues, delays, etc.:
Items for discussion with Director:

EXHIBIT N

Developer Fee Schedule

Cash Developer Fee Disbursement Schedule		
Payment Milestone	% of Project Mgmt Fee	Amount
At Acquisition or closing of preconstruction financing	15%	\$150,000
During or at end of Predevelopment	35%	\$350,000
By End of Construction	50%	\$500,000
Total Project Management Fee	100%	\$1,000,000
At Risk Fee*		\$1,200,000
Total Cash Developer Fee		<u>\$2,200,000</u>
GP Equity		\$500,000
GP Equity In Excess of MOHCD Recommended Amount		\$2,381,590
Deferred Developer Fee		\$744,951
Total Developer Fee		<u>\$5,826,541</u>

* Per MOHCD's Developer Fee Policy, the total Project Management fee will be \$1,000,000 and the total at risk fee will be \$1,200,000 (including the additional cash out allowed due to the project's larger size). 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.

Discussion on Developer Fee Waiver

140 units are planned for MBS 6W, which makes the developer potentially eligible for an additional \$400,000 (\$10,000 / unit above 100 units) in allowable in cash fee, per TCAC's "large project" fee rules and MOHCD's Developer Fee policy. MOHCD's policy states that the large project fee may be taken only if it does not require additional City subsidy to cover it. This test is more than met through the additional equity generated by the large project fee itself and the proposed deferred developer fee, which is fully allowed by MOHCD's policy. Note, however, that although the project could qualify to take the full \$400,000 in large project fees, it is only taking \$200,000 due to HCD's maximum fee limit of \$2,200,000 (per its latest set of Multifamily Regulations).

In addition to the fees described above, the Sponsor is requesting additional fees (\$1,826,541) up to a total proposed fee of **\$5,826,541**, and a corresponding waiver of MOHCD's fee cap of \$4,000,000, for the sole purpose of increasing basis and reducing OCII's gap. 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 dispersed back to the GP as developer fee. The waiver on MOHCD/OCII's \$4M developer fee cap will preserve City funding resources while still keeping the project far below TCAC's and CDLAC's cost containment limits. If the developer fee were to be capped at \$4,000,000, OCII's subsidy in the project could increase by approximately just over \$800,000.

EXHIBIT O
ASSIGNMENT OF WORK PRODUCT

Assignment of Architects and Engineers Agreement Plans and Specifications

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 Architects 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 approximately 140 units of affordable rental housing at Mission Bay South Block 6 West, identified as Block 8711, Lot 20 of that certain Final Map Tract No. 3936, recorded on February 22, 2006 and filed on pages 54-58 in Book BB of the County's Survey Maps and known as Mission Bay Block 6W ("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 \$3,495,000.00.

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

IN WITNESS WHEREOF, Borrower has caused this Assignment to be executed
on _____, 2017.

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: _____

Barbara Gualco
Vice President

EXHIBIT P
CONSENT TO ASSIGNMENT OF WORK PRODUCT
Consent to Assignment

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 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 Architects ("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 approximately 140 units of affordable rental housing at Mission Bay South Block 6 West, identified as Block 8711, Lot 20 of that certain Final Map Tract No. 3936, recorded on February 22, 2006 and filed on pages 54-58 in Book BB of the County's Survey Maps ("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 amounts of \$3,495,000.00.

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 to date for the Plans and accordingly hereby waives his/her lien rights, if any, for services rendered to date 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 including all services rendered on Borrower's behalf.

Dated: _____, 2017

ARCHITECT:

Paulett Taggart Architects

By: _____

Name: _____

Title: _____

(signatures continue on following page)

ENGINEER:

By: _____

Name: _____

Title: _____

EXHIBIT Q

Promissory Note

PROMISSORY NOTE

Principal Amount: \$3,495,000

San Francisco, CA

Date: July 18, 2017

FOR VALUE RECEIVED, the undersigned, CANDLESTICK POINT 11A, a California limited partnership ("Maker"), hereby promises to pay to the order 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 ("OCII", including any successors or assigns), or holder (as the case may be, "Holder"), the principal sum of Three Million Four Hundred and Ninety Five Thousand and No/100 Dollars (\$3,495,000.00)(the "Funding Amount"), or so much of the Funding Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below, together with interest thereon, as provided in this Note.

1. Agreement. This Secured Promissory Note ("Note") is given under the terms of a Loan Agreement by and between Maker and Holder (the "Agreement") dated as of the date set forth above, which Agreement is incorporated herein by reference. Definitions and rules of interpretation set forth in the Agreement apply to this Note. In the event of any inconsistency between the Agreement and this Note, this Note will control.

2. Interest. Interest will accrue on the principal balance outstanding under this Note from time to time at the rate of three percent (3%) per annum, simple interest, from the date of disbursement of funds by Holder through the date of full payment of all amounts owing under the OCII Documents. If a Construction/Permanent Loan for the Project from OCII is subsequently approved by OCII Commission the parties acknowledge that the Borrower may request and OCII may approve a reduced interest rate in order to maintain Project feasibility.

3. Default Interest Rate. Upon the occurrence of an Event of Default under any OCII Document, interest will be deemed to have accrued on the outstanding principal balance of the Loan at a compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the date on which Maker receives written notice from Holder of the Event of Default through the earlier of: (x) the date on which the Event of Default is cured; or (y) the date on which all amounts due under the OCII Documents are paid to Holder. Maker acknowledges and agrees that the default interest that must be paid in the event of an Event of Default pursuant to this Section represents a reasonable sum considering all the circumstances existing on the date of this Note and represents a fair and reasonable estimate of the costs that will be sustained by Holder if Maker defaults. Maker further agrees that proof of actual damages would be costly and inconvenient and that default interest will be paid without prejudice

to Holder's right to collect any other amounts to be paid or to exercise any of its other rights or remedies under any OCII Document.

4. Repayment of Funding Amount. Maker must repay all amounts owing under the OCII Documents in accordance with Section 3.1 of the Agreement.

All Payments will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan. The unpaid principal balance of the Loan, together with all accrued and unpaid interest and unpaid costs and fees incurred, will be due and payable on the Maturity Date, as such term is defined in the Agreement. Any Payment Date, including the Maturity Date, that falls on a weekend or holiday will be deemed to fall on the next succeeding business day.

If this Note becomes due and payable, and provided no Event of Default under any of the OCII Documents is then continuing, the Maker may satisfy this Note in full by either (i) making payment in full; or (ii) delivering to the Holder all of the following: (x) the Work Product, as such term is defined in the Agreement, (y) an absolute and unconditional assignment to the Holder of all of Maker's right, title and interest in and to said Work Product; and (z) the written consent to such assignment of any architect, engineer or other person or firm that has any right, title or interest in or to the Work Product, to the extent Maker is able to obtain such consent using commercially reasonable efforts.

5. Security. Maker's obligations under this Note are secured by, the pledge of Work Product given in the Assignment of Work Product.

6. Terms of Payment.

6.1 All Payments must be made in currency of the United States of America then lawful for payment of public and private debts.

6.2 All Payments must be made payable to Holder and mailed or delivered in person to Holder's office at One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103, or to any other place Holder from time to time designates.

6.3 In no event will Maker be obligated under the terms of this Note to pay interest exceeding the lawful rate. Accordingly, if the payment of any sum by Maker pursuant to the terms of this Note would result in the payment of interest exceeding the amount that Holder may charge legally under applicable state and/or federal law, the amount by which the payment exceeds the amount payable at the lawful interest rate will be deducted automatically from the principal balance owing under this Note.

6.4 Maker waives the right to designate how Payments will be applied pursuant to California Civil Code Sections 1479 and 2822. Holder will have the right in its sole discretion to determine the order and method of application of Payments to obligations under this Note.

6.5 Subject to this Section, Holder will not seek or obtain judgment against Maker for the payment of any amounts due under this Note following a judicial or nonjudicial foreclosure of the Deed of Trust, or exercise of Holder's rights under the Assignment of Work Product, and Holder's sole recourse against Maker for any default under this Note will be limited to the collateral for the Loan, *provided, however*, that this Section will be deemed void and of no effect if Maker challenges Holder's right to foreclose following an Event of Default in any legal proceeding on the grounds that the OCII Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover from Maker sums incurred by Holder as a result of Maker's fraud, willful misrepresentation, misapplication of funds (including Loan Funds and Rents (as defined in the Deed of Trust)), waste or negligent or intentional damage to the collateral for the Loan.

6.6 This Note may be prepaid in whole or in part at any time, and from time to time, without penalty provided that notice is given to Holder no later than ninety (90) days prior to prepayment.

7. Default.

7.1 Any of the following will constitute an Event of Default under this Note:

(a) Maker fails to make any Payment required under this Note within ten (10) days of the date it is due; or

(b) the occurrence of any other Event of Default under the Agreement or other instrument securing the obligations of Maker under this Note or under any other agreement between Maker and Holder with respect to the Loan subject to all applicable notice and cure rights.

7.2 Upon the occurrence of any Event of Default, without notice to or demand upon Maker, which are expressly waived by Maker (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by Maker and any notices or demands specified in the OCII Documents), Holder may exercise all rights and remedies available under this Note, the Agreement or otherwise available to Holder at law or in equity. Maker acknowledges and agrees that Holder's remedies include the right to accelerate the Maturity Date by declaring the outstanding principal balance of the Loan, together with all accrued and unpaid interest and unpaid fees and costs incurred, due and payable immediately, in which case, the Maturity Date will be superseded and replaced by the date established by Holder.

8. Waivers.

8.1 Maker expressly agrees that the term of this Note or the date of any payment due hereunder may be extended from time to time with Holder's consent, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Maker.

8.2 No extension of time for any Payment made by agreement by Holder with any person now or hereafter liable for the payment of this Note will operate

to release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part.

8.3 The obligations of Maker under this Note are absolute, and Maker waives any and all rights to offset, deduct or withhold any Payments or charges due under this Note for any reason whatsoever.

9. Miscellaneous Provisions.

9.1 All notices to Holder or Maker must be given in the manner and at the addresses set forth in the Agreement, or to the addresses Holder and/or Maker hereafter designate in accordance with the Agreement.

9.2 In the event of any legal proceedings arising from the enforcement of or a default under this Note or in any bankruptcy proceeding of Maker, the non-prevailing party promises to pay all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the proceeding, as provided in the Agreement.

9.3 This Note may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

9.4 This Note is governed by and must be construed in accordance with the laws of the State of California, without regard to the choice of law rules of the State.

9.5 Time is of the essence in the performance of any obligations hereunder.

"MAKER"

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: _____

Attachment 5: Site Location



LEGEND:

- | | | | |
|---|---------------------------|---|---------------------|
|  | Public Facility |  | UCSF Campus |
|  | Parks |  | UCSF Medical Center |
|  | Retail |  | Commercial Office |
|  | Residential / Market Rate | | |
|  | Residential / Affordable | | |
|  | Hotel / Residential | | |