

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

RESOLUTION NO. 11-2014
Adopted November 12, 2014

**CONDITIONALLY AUTHORIZING THE SUCCESSOR AGENCY TO ENTER INTO
AN ASSIGNMENT AND ASSUMPTION AGREEMENT WITH THE CITY AND
COUNTY OF SAN FRANCISCO (THE "CITY"), ACTING BY AND THROUGH THE
MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT, SO THAT A
\$250,000 LOAN AGREEMENT BETWEEN MISSION NEIGHBORHOOD CENTER
AND THE FORMER REDEVELOPMENT AGENCY MAY BE USED FOR
AFFORDABLE HOUSING PURPOSES, CONSISTENT WITH REDEVELOPMENT
DISSOLUTION LAW**

WHEREAS, On September 27, 1994, the Commission of the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, exercising its functions and powers and organized and existing under the Community Redevelopment Law of the State of California (the "SFRA"), approved by Resolution No. 195-94, a Community Development Investment Fund Loan Agreement with Mission Neighborhood Centers, Inc., a non-profit public benefit corporation ("MNC" or "Borrower") in the amount of \$250,000 (the "Loan") for acquisition of the properties at 3001-21 24th Street and 3-5 Balmy Alley for economic development purposes (the "Loan Agreement"); and,

WHEREAS, On February 1, 2012, the SFRA was dissolved pursuant to California Assembly Bill 26 ("AB 26") and the California Supreme Court's decision and order in the case entitled California Redevelopment Association et al. v. Ana Matosantos, and the successor entity to the SFRA became the City and County of San Francisco (the "City"). Four months later, in June 2012, the California State Legislature passed a follow-up bill to AB 26, commonly called Assembly Bill 1484 ("AB 1484") (together with AB 26, "Redevelopment Dissolution Law"); and,

WHEREAS, Under AB 1484, the successor entity to the SFRA became a public entity that is separate from the City (the "Successor Agency"). The Successor Agency is also known as the Office of Community Investment and Infrastructure, or OCII. Under Redevelopment Dissolution Law, the Successor Agency assumed all of the SFRA's enforceable obligations. The Successor Agency is charged with winding-down these enforceable obligations and disposing of all real property, pursuant to Redevelopment Dissolution Law, and subject to review by an oversight board and the California Department of Finance ("DOF"), which is the lead implementing agency under Redevelopment Dissolution Law. As a result of these legislative acts, the Successor Agency is a party to the Loan Agreement; and,

WHEREAS, On October 2, 2012, the Board of Supervisors, in its capacity as the legislative body of the Successor Agency, adopted Ordinance No. 215-12, acknowledging that OCII is a separate legal entity as a result of AB 1484, creating the Successor Agency Commission, also known as the Community Investment and Infrastructure Commission (the "Commission"), as the policy body of OCII, and delegating to the Commission the authority to act in place of the SFRA to among other matters, implement, modify, enforce and complete the SFRA's enforceable obligations, approval all contracts and actions related to the assets transferred to or retained by the Commission, including, without limitation, the authority to exercise land use, development, and design approval, consistent with the applicable enforceable obligations, and take any actions that the Redevelopment Dissolution Law requires or authorizes on behalf of the Successor Agency; and,

WHEREAS, The Loan was made in accordance with the SFRA's Community Development Investment Fund for the 24th Street Revitalization Program, which required that the acquisition provide economic benefits to the community in terms of (1) permanent job creation for low- and moderate-income persons and (2) provision of neighborhood-serving retail or regional attraction to support existing neighborhood businesses. SFRA Commission Resolution No. 221-92 (Oct. 20, 1992) described the source of funding for the 24th Street Revitalization Program as non-Community Development Block Grant, non-tax increment funds from the Yerba Buena Center Redevelopment Project Area; and,

WHEREAS, In November 1994, MNC acquired 3001-21 24th Street and 3-5 Balmy Alley, but has been unable to perform all of its obligations under the Loan Agreement because the Balmy Alley property could not be converted to commercial use due to its existing residential zoning and the 24th Street property required expensive structural upgrades. The Loan Agreement is still in effect and is secured by a deed of trust on 3001-21 24th Street and 3-5 Balmy Alley. The Loan Agreement provides for forgiveness upon maturity of the Loan if MNC has met all of the terms and conditions of the Loan Agreement; and

WHEREAS, Over the last several years, MOHCD has been working with MNC and Mercy Housing California on a proposed 35-unit affordable housing project for low- and very low-income households (the "Affordable Housing Project") on MNC's 24th Street property. The Affordable Housing Project, which will fulfill a critical housing need, has a funding gap and is therefore currently not financially feasible; and,

WHEREAS, In February 2014, MNC made a request to OCII to forgive the Loan so that it could reinvest the funds in the Affordable Housing Project. OCII determined that it could not forgive the Loan for the following reasons: (1) MNC has not met its obligations under the Loan Agreement to use the properties for economic development purposes, for the reasons state above; and (2) forgiveness of the loan would not comply with Redevelopment Dissolution Law, which directs successor agencies to "[e]nforce all former redevelopment agency rights for the benefit of

taxing entities, including but not limited to, continuing to collect loans, rents, and other revenues that were due to the redevelopment agency” (Cal. Health & Safety Code § 34177 (f)), and make findings that the forgiveness of the loan “would be in the best interests of the taxing entities” (Cal. Health & Safety Code § 34181 (e)); and,

WHEREAS In support of MNC’s efforts to develop the Affordable Housing Project, OCII worked with MNC and MOHCD to develop a transaction that is consistent with Redevelopment Dissolution Law. As part of the proposed transaction, MNC agreed that it would sell its Balmy Alley property and contribute a total of \$250,000 of the sales proceeds, which represents the Loan, to the Affordable Housing Project. OCII in turn would assign the Loan Agreement to MOHCD, at its request. The Assignment and Assumption Agreement, attached as Exhibit A, simply transfers all of OCII rights and interests in the Loan Agreement to MOHCD. MOHCD would then work with MNC to revise the term and scope of the Loan Agreement to fit the needs of the Affordable Housing Project; and,

WHEREAS, MOHCD has requested that OCII assign the Loan Agreement to MOHCD for purposes consistent with the development of the Affordable Housing Project. In its request, attached as Exhibit B, MOHCD explained that San Francisco is currently facing a severe affordable housing crisis, with median rents and sales prices among the highest in the state, and that the funding of affordable housing projects in areas like the Mission District, which is encountering significant economic displacement of businesses and residents, is a high priority. The request also outlined Mayor Ed Lee’s goal of creating 30,000 new or rehabilitated units, including 10,000 permanently affordable units; and,

WHEREAS, The housing crisis is further compounded by the Successor Agency’s unfunded obligation to replace 5,842 low- and moderate-income housing units that were destroyed during urban renewal (1955-1975) and have not yet been replaced; and,

WHEREAS, Consistent with Redevelopment Dissolution Law, assignment of the Loan Agreement to MOHCD would help fill the Affordable Housing Project’s funding gap, thereby facilitating the development of affordable housing, a critical need in San Francisco and a benefit to the taxing entities, and furthermore will wind down the Former Agency’s activities by transferring responsibility for administering the Loan to MOHCD; and,

WHEREAS, Assignment of the Loan Agreement was approved by the Commission on November 4, 2014 by Resolution No. 90-2014; and,

WHEREAS, Assignment of the Loan Agreement also requires the review and approval of the Oversight Board and the California Department of Finance to determine compliance with the Redevelopment Dissolution Law’s standard that modifications of existing agreements are in the best interest of the taxing entities (Cal. Health & Safety Code § 34181 (e)); and

WHEREAS, Authorizing the Assignment and Assumption Agreement, which will assign the Loan Agreement to the City, will not independently result in a physical change in the environment. This action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3); now, therefore, be it

RESOLVED, The Oversight Board, hereby finds, for the reasons stated above, that the Assignment and Assumption Agreement would be in the best interests of the taxing entities, and authorizes the Successor Agency to enter into an Assignment and Assumption Agreement, substantially in the form attached hereto, with the City and County of San Francisco, acting by and through the Mayor's Office of Housing and Community Development, to assign the Loan Agreement with Mission Neighborhood Centers to the City for affordable housing purposes, consistent with Redevelopment Dissolution Law, and conditioned upon review and approval by the California Department of Finance, and furthermore authorizes the Successor Agency to enter into any and all ancillary documents and take any additional actions necessary to consummate the transaction.

Exhibit A: Draft Assignment and Assumption Agreement

Exhibit B: Letter from Kate Hartley, Deputy Director of MOHCD, dated October 22, 2014

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of November 12, 2014.


Interim Oversight Board Secretary

**ASSIGNMENT AND ASSUMPTION OF
COMMUNITY DEVELOPMENT INVESTMENT FUND LOAN AGREEMENT**

This Assignment and Assumption of the Community Development Investment Fund Loan Agreement (the “Assignment and Assumption Agreement”) is dated as of this ___ day of _____, 2014, by and between the Successor Agency to the Redevelopment Agency of City and County of San Francisco, a public body organized and existing under the laws of the State of California (the “Successor Agency” or “Assignor”), and the City and County of San Francisco (the “City”), a municipal corporation, acting by and through the Mayor’s Office of Housing and Community Development (“MOHCD” or “Assignee”).

WITNESSETH

- A. On September 27, 1994, the Commission of the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, exercising its functions and powers and organized and existing under the Community Redevelopment Law of the State of California (the “SFRA”), approved by Resolution No. 195-94, a Community Development Investment Fund Loan Agreement with Mission Neighborhood Centers, Inc., a non-profit public benefit corporation (“MNC” or “Borrower”) in the amount of \$250,000 (the “Loan”) for acquisition of the properties at 3001-21 24th Street and 3-5 Balmy Alley for economic development purposes (the “Loan Agreement”). The Loan Agreement was executed by Borrower and SFRA on November 16, 1994. The Loan was also evidenced by a Promissory Note executed by Borrower dated November 16, 1994 (the “Note”), and secured by a deed of trust on 3001-21 24th Street and 3-5 Balmy Alley dated November 16, 1994 and recorded on November 28, 1994 in the San Francisco County official records as Instrument No. 94-F717567-00 (the “Deed of Trust”, and together with the Loan Agreement and Note, the “Loan Documents”); and
- B. On February 1, 2012, the SFRA was dissolved pursuant to California Assembly Bill 26 (“AB 26”) and the California Supreme Court’s decision and order in the case entitled California Redevelopment Association et al. v. Ana Matosantos, and the successor entity to the SFRA became the City and County of San Francisco (the “City”). Four months later, in June 2012, the California State Legislature passed a follow-up bill to AB 26, commonly called Assembly Bill 1484 (“AB 1484”) (together with AB 26, “Redevelopment Dissolution Law”); and

- C. Under AB 1484, the successor entity to the SFRA became a public entity that is separate from the City (the “Successor Agency”). The Successor Agency is also known as the Office of Community Investment and Infrastructure, or OCII. Under Redevelopment Dissolution Law, the Successor Agency assumed all of the SFRA’s enforceable obligations. The Successor Agency is charged with winding-down these enforceable obligations and disposing of all real property, pursuant to Redevelopment Dissolution Law, and subject to review by an oversight board and the California Department of Finance (“DOF”), which is the lead implementing agency under Redevelopment Dissolution Law. As a result of these legislative acts, the Successor Agency is a party to the Loan Agreement; and
- D. The Loan was made in accordance with the SFRA’s Community Development Investment Fund for the 24th Street Revitalization Program, which required that the acquisition provide economic benefits to the community in terms of (1) permanent job creation for low- and moderate-income persons and (2) provision of neighborhood-serving retail or regional attraction to support existing neighborhood businesses. SFRA Resolution No. 221-92 (Oct. 20, 1992) described the source of funding for the 24th Street Revitalization Program as non-Community Development Block Grant, non-tax increment funds from the Yerba Buena Center Redevelopment Project Area; and
- E. In November 1994, MNC acquired 3001-21 24th Street and 3-5 Balmy Alley, but has been unable to perform all of its obligations under the Loan Agreement because the Balmy Alley property could not be converted to commercial use due to its existing residential zoning and the 24th Street property required expensive structural upgrades. The Loan Documents are still in effect. The Loan Agreement provides for forgiveness upon maturity of the Loan if MNC has met all of the terms and conditions of the Loan Agreement; and
- F. Over the last several years, MOHCD has been working with MNC and Mercy Housing California on a proposed 35-unit affordable housing project for low- and very low-income households (the “Affordable Housing Project”) on MNC’s 24th Street property. The Affordable Housing Project, which will fulfill a critical housing need, has a funding gap and is therefore currently not financially feasible; and
- G. In February 2014, MNC made a request to OCII to forgive the Loan so that it could reinvest the funds in the Affordable Housing Project. OCII determined that it could not forgive the Loan for the following reasons: (1) MNC has not been able to meet all of its obligations

under the Loan Documents to use the properties for economic development purposes for the reasons described in Recital E above; and (2) forgiveness of the loan would not comply with Redevelopment Dissolution Law, which directs successor agencies to “[e]nforce all former redevelopment agency rights for the benefit of taxing entities, including but not limited to, continuing to collect loans, rents, and other revenues that were due to the redevelopment agency” (Cal. Health & Safety Code § 34177 (f)), and make findings that the forgiveness of the loan “would be in the best interests of the taxing entities” (Cal. Health & Safety Code § 34181 (e)); and

- H. In support of MNC’s efforts to develop the Affordable Housing Project, OCII worked with MNC and MOHCD to develop a transaction that is consistent with Redevelopment Dissolution Law. As part of the proposed transaction, MNC agreed that it would sell its Balmy Alley property and contribute a total of \$250,000 of the sales proceeds, which represents the Loan, to the Affordable Housing Project. OCII in turn would assign the Loan Documents to MOHCD, at its request. MOHCD agreed to then work with MNC to revise the term and scope of the Loan Documents to fit the needs of the Affordable Housing Project; and
- I. MOHCD has requested that OCII assign the Loan Documents to MOHCD for purposes consistent with the development of the Affordable Housing Project. In its request, MOHCD explained that San Francisco is currently facing a severe affordable housing crisis, with median rents and sales prices among the highest in the state, and that the funding of affordable housing projects in areas like the Mission District, which is encountering significant economic displacement of businesses and residents, is a high priority. The request also outlined Mayor Ed Lee’s goal of creating 30,000 new or rehabilitated units, including 10,000 permanently affordable units; and
- J. On November 4, 2014, the Successor Agency Commission approved, by Resolution No. ___-2014, the Assignment and Assumption Agreement, subject to the approval of the Oversight Board and DOF. Subsequently, on November 12, 2014, the Oversight Board, consistent with its authority under AB 26, by Resolution No. ___-2014, also approved the Assignment and Assumption Agreement. Both the Successor Agency Commission and the Oversight Board determined that assignment of the Loan Documents to MOHCD would help fill the Affordable Housing Project’s funding gap and would thereby benefit the taxing entities through the development of affordable housing, a critical need in San Francisco, and wind down the Former Agency’s activities by transferring responsibility for developing the Affordable Housing Project and administering the Loan to MOHCD; and

- K. Under Redevelopment Dissolution Law, DOF must receive notice and information about all Oversight Board actions, which do not take effect until DOF has either not requested review within five days of the notice or requested review and approved the action within 40 days of its review request. On November 12, 2014, the Successor Agency provided a copy of Oversight Board Resolution No. ____-2014 to DOF, which _____; and
- L. Assignor and Assignee now wish to enter into the Assignment and Assumption Agreement to transfer all right, title, interest, obligations, duties, and responsibilities of the Assignor under the Loan Documents to Assignee.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment. The Assignor does hereby irrevocably and unconditionally assign, transfer, set over and convey unto the Assignee all of the Assignor's right, title, privilege and interest in and to the Loan Documents; and
2. Assumption. The Assignee does hereby assume all right, title, interest, obligations, duties, and responsibilities of the Assignor under the Loan Documents; and
3. Purpose of Assignment. This Assignment is made to allow Assignee, as the City's primary funder of affordable housing and the Housing Successor under Redevelopment Dissolution Law, to renegotiate, amend, or otherwise replace the Loan Documents for the purpose of facilitating and funding the development of affordable housing at 3001-21 24th Street and/or other locations, as determined by MOHCD; and
4. Further Instruments. The Assignor and the Assignee hereby agree that they will, from time to time, execute and deliver such further instruments as may be reasonably required to implement and effectuate the purpose of the Assignment and Assumption Agreement; and
5. Successors and Assigns. This Assignment and Assumption Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Assignor and Assignee; and

6. Authority. Assignor and Assignee each represent and warrant to the other party that it is fully empowered and authorized to execute and deliver this Assignment and Assumption Agreement, and the individual signing the Assignment and Assumption Agreement on behalf of such party represents and warrants to the other party that he or she is full empowered and authorized to do so; and
7. Counterparts. This Assignment and Assumption Agreement may be executed in any number of counterparts, all of which, together, shall constitute the original agreement; and
8. Governing Law. This Assignment and Assumption Agreement shall be governed by and construed in accordance with the laws of the State of California. The parties agree that all actions or proceedings arising directly or indirectly under this Assignment and Assumption Agreement shall be litigated in courts located with the County of San Francisco, State of California; and
9. Entire Agreement. This Assignment and Assumption Agreement contains the entire agreement between the parties with respect to the subject matter of this Assignment and Assumption Agreement. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded by this Assignment and Assumption Agreement. No prior drafts of this Assignment and Assumption Agreement or changes from those drafts to the executed version of this Assignment and Assumption 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 Assignment and Assumption Agreement; and

This Assignment and Assumption Agreement is effective on either (a) the date on which the Oversight Board approves it if DOF does not request to review it within the five-day statutory review period provided under Redevelopment Dissolution Law, or (b) the date on which DOF approves this Assignment and Assumption Agreement if DOF does request to review it within the five-day statutory review period provided under Redevelopment Dissolution Law.

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IN WITNESS WHEREOF, the parties hereto have executed this Assignment and Assumption Agreement on the date indicated above.

ASSIGNOR:

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: _____
Tiffany Bohee
Executive Director

APPROVED AS TO FORM:

By: _____
James B. Morales
General Counsel

Authorized by Successor Agency Resolution No. 90-2014, adopted November 4, 2014 and Oversight Board Resolution No. ____-2014, adopted November 12, 2014.

ACKNOWLEDGEMENT:

Mission Neighborhood Centers, Inc.

By: _____
Santiago Ruiz
Executive Director

ASSIGNEE:

City and County of San Francisco, a municipal corporation

By: _____
Olson Lee
Director
Mayor's Office of Housing and
Community Development

APPROVED AS TO FORM:
Dennis J. Herrera, City Attorney

By: _____
Evan Gross
Deputy City Attorney

Mayor's Office of Housing and Community Development
City and County of San Francisco

Exhibit B



Edwin M. Lee
Mayor

Olson Lee
Director

October 22, 2014

Commissioners of the Office of Community Investment and Infrastructure
Office of Community Investment and Infrastructure
Success Agency to the San Francisco Redevelopment Agency
1 South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

Dear Honorable Commissioners,

I am requesting that the Office of Community Investment and Infrastructure (“OCIF”) assign a loan agreement between the former Redevelopment Agency and Mission Neighborhood Centers, Inc. (“MNC”), to the Mayor’s Office of Housing and Community Development (“MOHCD”) so that MOHCD may work with MNC and other interested parties in developing affordable housing at the site subject to the loan agreement. The former agency and now MOHCD have been in discussions with MNC about an affordable housing project at this site for several years, but the dissolution of the redevelopment agency has delayed and complicated the transaction. In light of the current housing crisis and the imminent due date for the loan repayment, there is a new urgency to restructure the loan agreement for affordable housing purposes.

As you know, San Francisco is currently facing a severe affordable housing crisis. Median rents and sales prices are among the highest in the state, even though San Francisco has consistently exceeded the housing production goals set by the state and has used local funds to assist affordable housing development. On average, households in San Francisco spend almost 40% of their annual income on housing, a figure that is significantly higher than the recommended 30%. To address the crisis, Mayor Ed Lee has set a goal of bringing 30,000 new or rehabilitated units online by 2020, including 10,000 permanently affordable units, through a variety of mechanisms, including developing new affordable housing for seniors, transitional aged youth, families, and those requiring supportive services, adding affordable housing tied to market-rate developments, building capacity through land acquisition for future development, and preserving existing affordable housing including at-risk small sites.

The funding of affordable housing projects in areas like the Mission District, which is encountering significant economic displacement of businesses and residents, is a high priority. To that end, MOHCD has been working with MNC and Mercy Housing California on a proposed affordable housing project (the "Project") on land that MNC owns at 3001-3021 24th Street (the "24th Street Property") in the Mission District. The Project, which will fulfill a critical housing need, has a funding gap and is currently not financially feasible.

As you know, in 1994 the former San Francisco Redevelopment Agency made a loan to MNC in the amount of \$250,000 (the "Agency Loan") for the acquisition of the 24th Street Site and the adjacent property at 3-5 Balmy Alley (the "Balmy Property") for on-site economic development purposes. However, after the loan closed, it was discovered that the Balmy Property could not be converted to commercial use due to its existing zoning, and that the 24th Street Property required structural upgrades that were prohibitively expensive. As a result, MNC did not perform its obligations under the terms of the loan agreement. Currently, the Agency Loan is still in place and is secured by a deed of trust on the 24th Street Property and the Balmy Property; its terms allow for full forgiveness when the loan matures in November 2014 only if MNC has complied with the terms of the loan.

To help fill the Project's funding gap, MNC has agreed to sell the Balmy Property and contribute a total of \$250,000 of the sales proceeds, which represents the Agency Loan, to the Project. In order to facilitate this sale, the contribution of the Agency Loan to the Project, and the ultimate development of the Project, MOHCD is formally requesting an assignment of the Agency Loan to MOHCD. It is my understanding that such an assignment would require the approval of the Commission on Community Investment and Infrastructure, the Oversight Board, and the California Department of Finance, and would therefore need to meet the strict standards of Redevelopment Dissolution Law. Consistent with Redevelopment Dissolution Law, assignment of the Agency Loan to MOHCD would help fill the Project's funding gap and would thereby benefit the taxing entities through the development of affordable housing, a critical need in San Francisco's Mission District, and wind down the former redevelopment agency's activities by transferring responsibility for developing the Project and administering the Agency Loan to MOHCD.

Thank you for your consideration.

Sincerely,



Kate Hartley
Deputy Director - Housing