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

RESOLUTION NO. 2-2019

PURSUANT TO SECTION 34181(C) OF THE HEALTH AND SAFETY CODE, TRANSFERING TO THE MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT, AS HOUSING SUCCESSOR, AFFORDABLE HOUSING ASSETS, NAMELY THE PHASE II-III RENTAL TAX INCREMENT LOAN AGREEMENT BY AND BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO ("FORMER AGENCY") AND HUNTERS VIEW ASSOCIATES, L.P., A CALIFORNIA LIMITED PARTNERSHIP, A DECLARATION OF RESTRICTIONS, AND RELATED ENFORCEABLE OBLIGATIONS ASSOCIATED WITH THE HUNTERS VIEW PHASE IIA PROJECT

WHEREAS, In accordance with the Community Redevelopment Law, the City and County of San Francisco ("City"), acting through its Board of Supervisors, approved, by Ordinance No. 113-06 (May 16, 2006), a Redevelopment Plan for the Bayview Hunters Point Redevelopment Project Area (the "Project Area"); and,

WHEREAS, In cooperation with the City and the San Francisco Housing Authority, the Redevelopment Agency of the City and County of San Francisco ("Former Agency") undertook various actions to replace 267 extremely distressed, public housing units in Area B of the Project Area, generally known as 227-229 West Point Road, Lots 1 through 18 inclusive and Lots A, B, C and D, all as shown on Final Map No. 5461, Assessor's Lots 23 through 43 inclusive, Block 4624, which is owned and operated by the San Francisco Housing Authority (the "Project"); and,

WHEREAS, After providing funding for initial phases of the Project, the Former Agency approved, by Resolution No. 48-2011 (April 19, 2011), a Phase II-III Rental Loan Agreement for a total of $31,406,982 (the "Loan Agreement") for predevelopment and construction activities for Phases II and III of the Project (the "Phase II Project") and thus fulfill the Former Agency's commitment for completion of the multi-phased Project. (The Loan Agreement is Attachment 1 to the Oversight Board Memorandum accompanying this Resolution.) The source of the Former Agency's funds for the Loan Agreement was its Low and Moderate Income Housing Fund. The Loan Agreement required, among other things, the Former Agency to disburse, through ancillary agreements, funds upon certain conditions being met by the borrower, Hunters View Associates, L.P.; and,

WHEREAS, On February 1, 2012, California law dissolved all redevelopment agencies, including the Former Agency, pursuant to California Health and Safety Code Sections 34170 et seq. ("Redevelopment Dissolution Law"). By operation of law, the assets and obligations of the Former Agency, including the Loan Agreement, were transferred to 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 (the "Successor Agency" or "OCII"); and,

WHEREAS, The City elected, by Board of Supervisors Resolution No. 11-12 (Jan. 26, 2012), to retain the housing functions of the Former Agency and authorized the Mayor's Office of Housing and Community Development ("MOHCD") to function as the "housing successor" under Redevelopment Dissolution Law. Cal. Health and Safety Code § 34176; and,

WHEREAS, The Oversight Board of the City and County of San Francisco ("Oversight Board") initially approved, by Resolution No. 9-2013 (Sep. 23, 2013), the expenditure of funds under the Loan Agreement, as part of the Recognized Obligation Payment Schedule ("ROPS") 13-14B for the period of January to June 2013. The California Department of Finance approved the expenditure as described in line item no. 177 through its letter dated December 17, 2013 and the Loan Agreement has remained on approved-ROPS since that time; and,

WHEREAS, OCII approved, by Resolution No. 2-2014 (Jan. 7, 2014), a Disbursement Agreement with Hunters view Associates, L.P. and Hunters View Partners 2, L.P. for construction work related to the Phase IIA Project and also approved a Declaration of Restrictions requiring that Phase IIA remain available to low income tenants for fifty-five years. (The Declaration of Restrictions is Attachment 2 to the Oversight Board Memorandum accompanying this Resolution.) Approval of both the Disbursement Agreement and Declaration of Restrictions were in compliance with the Loan Agreement; and,

WHEREAS, The Phase IIA Project received its Certificate of Occupancy on April 31, 2017, is 100% occupied, and converted to permanent financing at the end of September 2018; and,

WHEREAS, The Redevelopment Dissolution Law defines "housing assets" as including any "restriction on the use of real property . . . acquired for low- and moderate-income housing purposes" and as "[a]ny loan . . . funded from the Low and Moderate Income Housing Fund . . . that require occupancy by persons of low or moderate as defined by the Community Redevelopment Law . . . ." Cal. Health & Safety Code § 34176 (e) (1) and (3). The Loan Agreement and Declaration of Restrictions for the Phase IIA Project satisfy these definitions of housing assets; and,

WHEREAS The Redevelopment Dissolution Law authorizes an oversight board to direct a successor agency to transfer housing assets to a housing successor consistent with the requirements of Section 34176 of the Health and Safety Code. Cal. Health & Safety Code § 34181 (c). Given that the Phase IIA Project is complete, the Loan Agreement and Declaration of Restrictions are no longer enforceable obligations of OCII, but rather are housing assets that should be transferred to MOHCD as the housing successor. Any proceeds that MOHCD receives from the housing assets will be maintained in its Low and Moderate Income Housing Asset Fund, as required under Section 34176 (d) of the Health and Safety Code; and

WHEREAS, OCII seeks to transfer to MOHCD the Loan Agreement, Declaration of Restrictions, and all ancillary documents through an Assignment and Assumption of Project Agreements; and,

WHEREAS, The Redevelopment Dissolution Law requires at least ten day notice to the public of an oversight board's consideration of an housing asset transfer. Cal. Health & Safety Code § 34181 (f). OCII has complied with this requirement by posting and distributing on August 30, 2019 the agenda for the Oversight Board meeting of September 9, 2019; and,

WHEREAS, The transfer of the Loan Agreement and Declaration of Restrictions to MOHCD is not a "project" under the California Environmental Quality Act ("CEQA") because it is an administrative activity of government that will not result in direct or indirect physical changes in the environment. CEQA Guidelines § 15378(b)(5); now, therefore, be it

RESOLVED, That the Oversight Board approves the transfer of the Loan Agreement, Declaration of Restrictions, and all ancillary documents to MOHCD as the Housing Successor and directs the OCII Executive Director to enter into the Assignment and Assumption Agreement, substantially in the form attached hereto, to assign the Loan Agreement, Declaration of Restrictions, and related ancillary documents to MOHCD, and to enter into any and all ancillary documents or take any additional actions necessary to consummate the transaction.

I hereby certify that the foregoing resolution was adopted by the Oversight Board at its meeting of September 9, 2019 .

_____

Board Secretary

Exhibit 1: Assignment and Assumption of Project Agreements

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property

The undersigned hereby declares this instrument to be exempt from Recording Fees (CA Govt. Code §27383 and §27388.1) and Documentary Transfer Tax (CA Rev. & Tax Code §11922 and S.F. Bus. & Tax Reg. Code §1105)

APN: Block 4624, Lots 51 and 52)

(Space above this line reserved for Recorder's use only)

ASSIGNMENT AND ASSUMPTION OF PROJECT AGREEMENTS

(Hunters View Phase IIA [227-229 West Point Road], Bayview Hunters Point Project Area)

This Assignment and Assumption Agreement of Project Agreements ("**Assignment**") is made and entered into as of this _____ day of _____, 2019 (the "**Assignment Effective Date**"), by and between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, also known as the Office of Community Investment and Infrastructure, a public body, organized and existing under the laws of the State of California ("**Assignor**" or "**Successor Agency**") 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 April 19, 2011, pursuant to Former Agency Resolution No. 48-2011, the Redevelopment Agency of the City and County of San Francisco (the "**Former Agency**") and Hunters View Associates, L.P., a California Limited Partnership ("**Borrower**") entered into that certain Phase II-III Rental Tax Increment Loan Agreement (the "**Loan Agreement**") pursuant to which the Former Agency agreed to provide up to $31,406,982 to Borrower (the "**Loan**") for predevelopment and construction activities for Phases II and III of the Hunters View Revitalization Project, consisting of Blocks 7 and 11-18, located in Area B of the Bayview Hunters Point Redevelopment Project Area ("**Project Area**"), on the site generally known as 227-229 West Point Road, Lots 1 through 18 inclusive and Lots A, B, C and D, all as shown on Final Map No. 5461, Assessor's Lots 23 through 43 inclusive, Block 4624, which is owned and operated by the San Francisco Housing Authority (the "SFHA").

B. To effectuate the Loan Agreement, the Former Agency, Successor Agency and Borrower entered into certain related recorded and unrecorded documents related to the development and operation of Hunters View Phase IIA (the "Project"). Together, the Loan

Agreement, Declaration of Restrictions and related recorded and unrecorded documents are the Hunters View Phase II Project Agreements ("Project Agreements"). The Project Agreements are more particularly described in Exhibit A attached hereto and incorporated herein. This Assignment also covers any and all documents not specifically listed on Exhibit A that are ancillary to the Project Agreements.

C. On February 1, 2012, California law dissolved all redevelopment agencies, including the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic ("**Former Agency**"), pursuant to California Health and Safety Code Sections 34170 et seq. ("**Redevelopment Dissolution Law**"). By operation of law, the assets of the Former Agency were transferred to the Successor Agency, which also assumed all of the Former Agency's enforceable obligations, including the Loan Agreement. Under Redevelopment Dissolution Law, the Successor Agency is charged with winding down the affairs and disposing of the assets and properties of the Former Agency, subject to review by an oversight board and the California Department of Finance ("**DOF**").

D. The Board of Supervisors of the City and County of San Francisco (the "**Board of Supervisors")** elected, under California Health and Safety Code Section 34176 (a) (1) and Resolution No. 11-12 (Jan. 26, 2012), to retain certain housing functions of the Former Agency and designated the Mayor's Office of Housing and Community Development ("MOHCD") to perform those housing functions and to accept the housing assets of the Former Agency as the housing successor to the Former Agency ("**Housing Successor**").

E. Under Redevelopment Dissolution Law and Ordinance No. 215-12 (Oct. 4, 2012), the Successor Agency retained projects and sites that were not yet complete, referred to as OCII's "Retained Housing Obligations". The Loan Agreement and the Declaration of Restrictions are Retained Housing Obligations.

F. Redevelopment Dissolution Law requires successor agencies to former redevelopment agencies to transfer, to housing successors, "housing assets," which include any real property, interest in, or restriction on the use of real property that was acquired for low- and moderate-income housing purposes and "[a]ny loan . . . funded from the Low and Moderate Income Housing Fund . . . that require occupancy by persons of low or moderate as defined by the Community Redevelopment Law . . . ." Cal. Health & Safety Code § 34176 (e) (1) and (3).

G. The Board of Supervisors authorized, under Resolution No. 51-17 (March 10, 2017), the City to accept, from the Successor Agency, Completed Housing Assets referenced in the "Existing Known Universe of OCII Housing Assets to Transfer to MOHCD" ("Known Housing Assets") and to execute appropriate documents to complete the transfer of housing assets. The Hunters View Phase II is listed on the Known Housing Assets.

H. Assignor and Assignee now wish to enter into the Assignment to transfer all right, title, interest, obligations, duties, and responsibilities of the Assignor under the Project Agreements 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. 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 the Project Agreements.

2. Assignor has provided to Assignee a complete and accurate copy of the Project Agreements and any amendments thereto.

3. As of the Assignment Effective Date, Assignee assumes all of the Assignor's obligations under the Project Agreements, including all covenants and conditions therein, and shall indemnify, defend and hold Assignor harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation reasonable attorneys' fees), originating on or after the Assignment Effective Date and arising out of the Assignor's obligations under the Project Agreements.

4. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

5. All notices required to be provided to Assignor under the Project Agreements shall now be delivered to the following notice address:

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

6. This Assignment shall become effective on the date on which both parties have duly executed this Assignment.

Assignor and Assignee have executed this Agreement as of the day and year first written 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:_____
Nadia Sesay
Executive Director

APPROVED AS TO FORM:

By:_____
James B. Morales
General Counsel

Authorized by Oversight Board Resolution No. __-2019, adopted _____, 2019 and Board of Supervisors Resolution No. 51-17, approved March 10, 2017

ASSIGNEE:

City and County of San Francisco, a municipal corporation

By:_____
Daniel Adams
Acting Director
Mayor's Office of Housing and Community Development

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

By:_____
Deputy City Attorney

EXHIBIT A
Project Agreements
(Hunters View Phase II, 227-229 West Point Road, Bayview Hunters Point Project Area)

	Agreement	Recorded in the Official Records of the City and County of San Francisco	Recorder's Document Number	Assessor's Parcel Number
1.	SFRA Tax Increment Phase II-III Rental Loan Agreement	Unrecorded	N/A	4624-51 & 52
2.	Declaration of Restrictions, dated December 16, 2014	Recorded	2015-K006782-00	4624-51 & 52 4624-51 & 52
3.	Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated December 16, 2014	Recorded	2015-K006783-00	
4.	Disbursement Agreement	Unrecorded	N/A	
5.	Agreement to Subordinate to RAD Use Agreement	Recorded	2015-K006792-00	4624- 51 & 52
6.	Subordination and Intercreditor Agreement	Recorded	2015-K006779-00	4624- 51 & 52